

APPENDIX C: EVIDENCE OF INTERNAL EXPLOSIONS

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“Oklahoma City Bombing: America’s Reichstag Fire,”—(excerpts)
—Philip O’Halloran, editor; and Charles Bennett, associate editor.

It would seem that the risk involved in defusing a bomb is high enough and the act of defusing a bomb is elaborate enough that reports of a bomb having been defused should not come out of nowhere and then disappear. Captain Ken Raus of the Oklahoma City Police Bomb Squad, who was involved at the scene, told *Relevance* “ ... there were several other bomb technicians working independently and we all funneled our information to the FBI.” Bill Martin, the Public Information Officer at the Oklahoma City Police Department, confirmed sketchy reports that several containers of mercury fulminate (an explosive accelerant) were discovered inside the building. He surmised that they may have been used routinely by the ATF in their explosives work ...



Written Statement of Sam Cohen

[See Appendix A]

DATE: June 29, 1995

Due to circumstances beyond my control regarding the Uni-Bomber [sic] and the conditions at the Los Angeles airport, my flight to Oklahoma City could not be guaranteed. I regret that I will not be able to give this statement in person at the press conference in Oklahoma City Friday, June 30 at 11:00 a.m. Instead, I am issuing this written statement:

“I believe that the demolitions charges in the building were placed inside at certain key concrete columns and did the primary damage to the Murrah Federal Building. It would have been absolutely impossible and against the laws of nature for a truck full of fertilizer and fuel oil—no matter how much of it was used—to bring the building down. I concur with the opinion that an investigation by the Oklahoma State Legislature is absolutely necessary to get at the truth of what actually caused the tragedy in Oklahoma City.”

If you should have further questions or wish to obtain more information from Mr. Cohen, you may do so by contacting him at his home:

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**Transcript of Press Conference
(Excerpts Only of the Testimony of Benton K. Partin)***

*See biographical information in Appendix A

DATE: Friday, June 30, 1995

TIME: 11:00 a.m. - 1:00 p.m.

PLACE: State Capitol Building, Room 432A

2300 North Lincoln Blvd.

Oklahoma City, OK 73105

PARTICIPANTS IN THIS EXCERPT:

State Representative Charles Key, District 90

Brig. Gen. Benton K. Partin (USAF, Retired)

Members of the Media

CHARLES KEY: I appreciate the press being here today. Just by way of introduction, let me introduce myself. My name is Charles Key. I'm a State Representative here in Oklahoma City, representing House District 90. I've served now in the legislature for nine-and-a-half years.

During my first year in office, as many legislators do, one of the first things they do is hire a secretary. And that's what I did. I hired a friend of mine, a lady named Diana Day, and she was a friend of mine and also the sister of one of my closest friends. She worked for a year here in the State Capitol and then went to work for the Department of Housing and Urban Development. She lost her life on April 19, like many other people did, and left grieving family members as so many others did, and also a son. And I know that even though that was an experience that I never have gone through before, the people that actually lost loved ones are the ones that really suffered, and I can't compare to that. But that's how I began to become interested in this situation.

Last night we had a meeting with some of the victims, and we learned that many of those people—probably the majority—on their biggest complaint was the slow response from all of the assistance that's been set up for those individuals. And we heard a lot of angry comments and a lot of requests, and we learned a lot. We didn't know that there were the kind of problems that there are. So we'll be working to try to expedite that process and do anything that we can do.

After the bombing, I, along with others, began to notice inconsistencies in the government's explanations and the investigative units' explanations of what took place at the Murrah Federal

Building. Many of those of course, widely circulated in the media, were being accepted. As time went by, I began to look at some of those ideas and see other sources for some of the explanations for the bombing. I questioned those. I didn't accept them right away.

What I did was, I went to those individuals that have done examinations and analysis of the bombing on April 19, and I talked to those individuals. I looked at their examinations thoroughly. I looked at their credentials, and I found that they were men that had expertise and impeccable credentials in the areas that are necessary to make judgments on an event like took place here in Oklahoma City.

After personally contacting them, I'm convinced that the government has not been forthright about several aspects of what took place on April 19, including the kind of explosion, what kind of bomb, the number of bombs, and other important factors. I believe that it is important that the people of this State, of this nation—in particular, the victims—know what the truth was. These individuals, some of them are with me here this morning and they'll speak in just a moment. You'll have a chance to ask them questions. But let me just briefly tell you what we believe, and also what we're not saying.

We're not saying that there's a conspiracy. I want to make that perfectly clear. We're saying that there is another explanation for what's happened, and what we've been told does not add up to what many, many experts say took place.

We believe that an ammonium nitrate bomb, typically called ANFO in the explosives industry, could not have done that damage to the Murrah Federal Building.

We also believe that the seismographic information clearly shows, according to seismologists and the experts that have knowledge in this area, show more than one event, and that there are witnesses who claim that they clearly heard more than one explosion.

And also, because an ammonium nitrate bomb could not have done that damage alone, or at all, there had to be another explosion—because of the pattern of damage—to bring the building down as it came down.

We have left copies for the press of statements from many of these experts in the back. You can get those and read those and contact those individuals.

I want to introduce to you in just a minute three of the men that I want to talk in great detail about their opinions and their expertise in this area.

Today, there is General Benton Partin here. He will make a presentation about his analysis. He has an extensive background in development of explosives and other types of technology

I'm calling for the Speaker of the House to appoint a Select Committee to investigate what happened here in Oklahoma City. I think we have a right to know what happened. I think we can investigate this to bring about the truth in this incident like the people in this State deserve to know. And I think it's appropriate for those reasons.

It also would not be infringement, or it would not impede the investigation in any way. And the reason for that is because these issues that we're discussing and bringing forward are already in the public domain.

At this time I want to introduce you to General Partin and let him make his presentation ... And then we'll be glad to answer questions, any question that you may have. General Partin ...

MEDIA #1: Could we ask you to sit down where Charles was?

MEDIA #2: I think to use all the mikes, it's better to sit here.

BRIG. GEN. BENTON K. PARTIN: Can everyone see this chart? I reside in Alexandria, Virginia, right by Mount Vernon. And I spent thirty-one years in the Air Force; twenty-five years of that was in research and development in weapons. I went through extensive training, technical training, in the weapons area and all of the associated technologies.

I started out working in the Ballistics Research Laboratories, building the warheads, testing them against all kinds of targets. And I served in the Air Force assistance command level twice, the Air Staff level twice, and in the Office of the Secretary of Defense in this particular area. And I was the first chairman of the Air Commission Requirements and Development Committee which harmonized the requirements for the Army, Navy, Air Force, and the Marine Corps. We were into all of the air weapons that all four services use.

When I saw the damage to the building, and with my knowledge of explosives, demolitions, and what you could do and what you can't do with explosives, I had a problem—a big problem—very quickly. You can't destroy hard targets with blast. It just doesn't work. And reinforced columns in the building are hard targets.

Let me just give you a little case in point. When we were developing the laser-guided bomb, we decided to test it against a moving tank. You've got a tank instrumented on remote control, and we

dropped a Mark 84 laser-guided bomb against that tank. It hit a little behind and a little to the right. It was closer to that tank than that truck bomb was to the closest column to the truck bomb.

If you watch the 35,000 frames-per-second film, you see the blast envelope completely enshroud the tank. All the detonation marks, the fireball, the tank was completely in it. As the tank moved on, you could see it exit from that dust cloud, the smoke cloud, still going, still running. The only thing that happened to the tank was, the antenna was knocked off that gave us remote control. So we didn't have any more control over the tank, and it went on across the field and wound up in a ditch a quarter of a mile away. And if you closely watch that fast-X picture, you see a big black crow exiting from that smoke cloud.

Gentlemen, the human body can withstand about eighty-five pounds per square inch of blast. And the crow, even if he didn't look like he was in too good of a shape, but he was in flight. I don't know how close he was to the actual detonation, but he survived that blast.

Now, I spent much of my career working on precision-guided weapons because I knew what you can do and what you can't do with explosives against hard targets. Now, a twenty-four-inch reinforced concrete column is a hard target. It is a very hard target.

I got all the information I could about the structure of the building, the columns, the layout, and the position—the supposed position—of the truck bomb, and I made a layout and I did some analysis to determine how realistic it was to have brought down the columns in the pattern it was brought down in. Can everyone see this with their cameras?

At first when I did this, I was concerned, and I was preparing a report and a letter to go to the Senate and the House because I felt somebody needed to take an independent investigation, because what was coming out of Oklahoma was not consistent with reality. It just was not consistent with reality.

I distributed a letter to about twenty-five Senators and thirty-five Congressmen—it was fifty-eight, I think, letters that I hand-delivered to all those offices, trying to get them to take some initiative action to see that the proper forensic investigation was done by an independent body before that building was brought down.

At that particular time it was some question about the precise location of the column, about the truck bomb. I said, well, if it was the truck bomb that did the damage, it would have had to have been located somewhere adjacent to this column which I will label A3.

There are thirteen columns in each row, and there are two in this, and I labeled the columns: this row A, this row B, this row, C, and column A, one through eleven, to the other side.

Actually, the truck bomb was just beyond A4, over at this point. But to reach into the building—the building is really relatively symmetrical here with respect to damage. So you would expect symmetry with respect to detonation and with respect to the damage and the detonation.

Now, with the truck bomb over here—and I stated in the letter to the Senate and the House—I said if it was the truck bomb that did the damage in Row B—column row B—then the maximum reach would have been relatively adjacent to B because, if you look at the circles, they're pretty flat reaching back here. That's the constant level of pressure. And you see that they're not too different between B2, B3, and B4. So you would have to consider it marginal if, in fact, that column was brought down by the truck.

But when you move the truck—the bomb—over here to beyond A4 where the center of the crater is, then you would have to have brought down—the maximum reach of that would have been near B4 or B5. And it should have brought B4 down, B5 and on B3. And because of the steep gradient in pressure, you have a big, big difference between the impulses that column B3 saw, and column B4 and B5.

You don't need to go any further than that. That's ipso facto evidence that column B3 had to have had a demolition charge on it. There's just no other explanation. Not in my book. Now, if you'll look at some pictures that ... I'll show you a picture later that shows the stub of column B3 was broken off down below.

Now, across the front of the building was a very large header which [indiscernible] sort of reflected over here to the right. And every other column, every odd column—columns A3, A5, A7, and A9—go from that header to the ground. And the columns under that header are much larger than the columns going up. All of the columns across the front, from the header up, are the twenty-four-inch columns. All of these are the same size. They're all the same size column.

Now, if you had the reach, the ability, to bring down ... and let me just look at the profiles. Ammonium nitrate does not detonate at the velocity of C4. Those explosions are around 20,000 feet per second. That's a quarter of an inch a microsecond. That's the speed of a satellite in orbit.

Ammonium nitrate detonates at a velocity a little more than half, maybe 1400 or 1500 feet per second, which is considerably less.

And when you detonate ammonium nitrate, your detonation pressure is on the order of about a half a million pounds per square inch. And 4800 pounds of ammonium nitrate would give you a ball of—if it was in a sphere—that's the maximum energy you could get out of it if it was a nicely compacted sphere and you detonated it from the inside out, that's the maximum energy you would be able to get out of it. So that's essentially what I did, the maximum that you could possibly do.

You would have had this four-and-a-half foot sphere of ammonium nitrate. Your detonation pressure inside would have been about a half a million pounds per square inch. By the time it reached the first column, you're down in the order of 2300 feet if it was right straight in front of it. But if it was off to the side, you're down to around 600 pounds per square inch. Again, that would have been for A5. It would actually have been more than that because A4 does not go to the ground; so, you would have been considerably farther. You probably would have been up here to the 300 or 500 pounds-per-square-inch region if it were here, and that was the distance over at A5.

But right here, if it were in front of A3, your pressure would have been down to between 300 ... and it would have been somewhere in the region of 300 to 500 pounds per square inch if it were stuck here, and the closest one would have been column A5, not A3.

Now, if you have the ability, and looking at these impulses way out here, from this location out to A7, just beyond A7, you're down to eleven pounds per square inch. Eleven pounds per square inch! You move into the next row in, you're at eighteen pounds per square inch, and here you're at forty.

Now, if you move the truck bomb over here, you say there would be somewhere around in this range here between forty and eighteen pounds, maybe thirty pounds per square inch by that time over here at column A7. Gentlemen, that's not enough to bring down a heavy, reinforced concrete column. If you think it is, you're just kidding yourself.

The yield strength for reinforced concrete is about 3500 pounds per square inch, and compression about 600 pounds per square inch on the backside of a moving column where it's intended [indiscernible]. So you're down in the region of the backside breaking point of the back of the beam.

But any time you're loading something with explosives and from a blast, it is so short that the reaction of whatever that blast is going against is primarily inertial. In other words, if you have a column and you hit that column with a blast, there are two things tending

to restrain the blast: the structure itself and the inertia. It's like a baseball bat. Maybe you [hit] a baseball with a bat. It's the inertial force that you feel through that bat handle. It's the same thing with the explosive loading or blast loading. You have the inertial force always, dealing with explosives, far exceeds the structural forces.

Now, in most demolition work, you stick the explosives right against the column or whatever you're trying to bring down so that when that wave of deformation sweeps through the explosives where you have about a half a million pounds per square inch in that detonation weight—if you have that up against a reinforced concrete column, that pressure wave penetrates and sweeps through that reinforced column. And you're so far above the yield strength—maybe a hundred times almost above the yield strength of the concrete—when that wave moves through the concrete, it essentially turns it into dust or sand. It's not a structural failure. It's not a fracture. You just essentially turn that area into sand.

If you're depending on, back of here, where you're dealing with blast pressures and what hits the building is far less than the yield strength of the material, it will fail structurally with you, where you have the explosives in direct contact and that blast, the shock wave from that explosive penetrates the column directly at the very, very high pressure which is above the yield strength.

I hope I'm not getting too technical with you, but you need to understand this to understand the difference between blast loading from a distance and from demolition charges which are put right up against the column. You know, when they brought down the remains of that building, they used less than 200 pounds of explosives, and I don't know ... it's 150, 200 pounds, 200 different little charges, and there they drilled holes into the columns so that that wave of deformation would sweep through the column directly from the explosives. And that's what really tears it up and destroys the structural integrity.

Now, if the bomb ... let's just go back and talk about the truck bomb. Presuming you had a truck bomb, you would have expected it to have been here, but no, it was over here. The most maximum reach would have been to B4 or B5, but B3 is still up. So I don't think anybody can question, if you look at the details and analysis, it had to be a demolition charge on B3.

Now, let's just suppose that you could reach out here and bring down column A7—and you're talking about pressures—if the bomb were right here, you're talking about pressures on the order of between eighteen and fifty pounds per square inch, which is very small. But let's just suppose it did bring that column down. If

it brought that column down, you should have wiped out every column in this row. If you had the strength to bring A7 down, you would have taken out every one in the B row. Every one.

And you would probably have had a little better potential for doing it inside than outside because the shock wave going from here, column A7, would be seeing more of a side-on wave, and your side-on wave pressure is less than your face-on pressure. Your face of the column would have been seeing side-on pressure. This side would have been seeing face-on pressure reaching into the building, but a lot of that would have been bouncing off. So you're in sort of a side-on perspective here instead of a face-on. If the thing had gone off here, you were in a face-on position here and the pressure would have been higher.

So you would have to say if you had brought that column down by the truck bomb, you would have had to have wiped out this row, and it didn't happen. It's just totally incompatible with bringing down this row of columns from the truck bomb and not getting those. The second is that column B3 is not in the right position. Somebody jokingly said they parked the truck in front of the wrong column. Well, you could say they put the demolition charge on the wrong column just as well.

I don't know. I don't know what happened. All I can say is the B column, from an analytical point of view, had to have had a demolition charge on it. It couldn't have been explosives stacked out somewhere in the building unless it was a humongous amount of explosives, which would have done far more damage than was evident in that building because it just wouldn't reach. Because a smaller charge against that column wouldn't have brought column B3 down.

So you have the incompatibility. Either you did this or not. If you did this thing, you should have wiped out this column. And you look at the pressures, you don't have the energy to reach out to those columns down there and bring them down with one blast. Your pressure is just too far off.

I think a lot of people get confused about explosives and what you can do and what you can reach. The pressure falls off and the impulse falls off one over the distance cubed. And that's why it falls off from a half a million pounds here to about eleven pounds per square inch.

And if you look over here on the front of the building, all of the strips of metal in the windows—I guess the glass has all gone out—but those metal strips are all still there. Very light metal. If you had had any type of pressure that was capable of bringing down that

column, all of that stuff would have been stripped off the front of the building.

Now, let me turn this over to talk about what we see in the actual building, okay? Looking at the damage from the building, this is not a good picture, but the early on ... to see that day. If you look from the top of the floor, from the roof line even, all the way to the ground floor, everything on every floor petals downward. You have the same fault line from the ceiling. It goes all the way to the ground. That tells you one thing. The bottom of those columns were cut off and the whole thing dropped straight down, and your fracture line across the front is consistent all the way to the ground.

And if you look at the other side—the fracture line of the roof line here that sort of dimpled-in—probably it goes back a little further than that. But if you look at this bay here, this bay is held by this wall and this wall. The business here tends to fall down and break along this line. But you're holding this bay, floor, or roof, or whatever on two sides. In this area, this bay area here, it's being held on three sides. This side, this side, and this side. And that's why you have this scalloped area here, a very large scalloped area. The column had the bottom cut out from under it and it just dropped straight down.

Now, if you look at ... this is not the best picture, but ... the area behind this column and this column—the second floor and the third floor are completely out, just like in the Trade Center building bombing. Around this column and this column on the second floor and the third floor, the floor levels are completely removed from the columns. There is nothing around those columns. They are standing there dead. Could I have one of the other charts, pictures there that show the bottoms of those columns?

Now, interesting. If you look at this picture, it's been somewhat cleaned up. All of the petaling stuff is gone. But the columns are twenty-four-inch square reinforced concrete columns. But look—this is the column B3 that has completely gone and disappeared. But this is column A3 and column A4. Now, those columns have furring strips around them and sheet rock around them, and you can see that the sheet rock—the furring strips and the sheet rock—are still around those columns. What's the damage? What kind of pressure did they see?

You know, if you had seen pressures sufficient and inertial force, momentum imparted to have taken out those columns, you would never see the sheet rock still on those columns there. And that was right straight in on both sides. The B column is gone. But the small

demolition charges around the columns don't reach out very far for damage except for right where they're doing the damage.

So I think this proves, from my conclusions ... and let me just go back and refer to this picture again—the header that went across the front and was closest to the bomb truck—because this header, you see it landed across here and across here and across here. It is a humongous column. It is very large. If you look at the column with a magnifying glass—and I've looked at a lot of pictures of that column—and there is no damage on that column. You don't see any latent damage on the column, on that header across there anywhere—none. None. So it was not in a region with sufficient pressure that exceeded the yield strength of the concrete, which is quite low compared to steel and other things. So there's no damage.

But if you look carefully right here at this point, this is the first column. This is the column that goes to the ground, column A3. A3 goes to the ground and you can see it sticking up, and you can see the end of the header on this side—well, you can't see it in this picture. They've got this ramp over it, but I've seen some of the pictures where that ramp is not over it. You have the ends of both of that header is gone and the column has gone down to somewhere between the first and second floor.

If I were going to use demolition charges to bring down this building and reproduce all of the evidence that I see, I would have put a demolition charge at the header of column B3, column B5 and column B7, and I'd have stuck it on the third floor level, right at that header. And you would have separated it at that joint. If you had done that at the top of column B3, column B2 and B4 would come down automatically because there's nothing under them. If you do that at column 5, column 2 [sic (4)] and column 6 would come down. If you do it to column 7, columns 6 and columns 8 would come down with it.

So three demolition charges across the header insure ... would make me think there was a demolition charge at that header. And a demolition charge on column B3, and the truck bomb out front to fuz things up and give you a lot of noise, would have done everything you see having been done there.

Now, that's my analysis, and I've looked at many, many bomb-damage assessments against all kinds of things, and from all I see, that's the only way I know you could reproduce the results there.

MEDIA #1: General, when you say a demolition charge on this column B3, what kind of charge are you talking about?

PARTIN: Well, any ... any high-velocity military explosive would do that.

MEDIA #1: How did it get there?

PARTIN: I don't know how it got there. I cannot ... I won't get into speculation on what happened. All I'm trying to do is analyze what I see on a damage assessment to what is there.

MEDIA #2: Where did you learn how to do these kinds of assessments? Is it your experience? Your test experience?

PARTIN: Well, as I said before, I have a degree in chemical engineering, and I have a degree in aeronautical engineering. But [in] aeronautical engineering, I got a master's [degree]. It was eight quarters of armament engineering. Normally, you get a master's with three quarters of work, right? I had an eight-quarter program in armament engineering where you learned explosive train design, all kinds of analysis of explosives, explosive effectiveness, and so forth.

Then I worked in the Ballistic Research Laboratories at Aberdeen Proving Ground. I did the first design development work for the continuous model warhead for the Bomark missile. I had them fabricated, tested, and brought them down to Socorro, New Mexico, and tested them in a range and field we have down there, got my results, went back to BRL and went to another iteration of the design. And I blew up many, many targets.

And I can just give you a point that nobody has mentioned, and let me just make this clear. We've done an experiment looking at a surface-to-air missile warhead against a fighter aircraft, which is a fairly high-density fighter. And we had a big concrete pad, and on that pad we put about a six-inch piece of armor that is about as long as this table and twice as wide—many, many times. And on that we put 500 pounds of an explosive, and we suspended over it between three towers a fighter aircraft fifty feet above it, suspended between those towers, and we set the 500 pounds off to determine the blast damage against an aircraft, okay?

The plane was fifty feet above. You have 500 pounds on the ground, but because of that hard back, you had a perfectly reflected wave. So you had the equivalent of 1000 pounds of explosives, not 500—a thousand pounds of explosives. And the only thing you could see done to the damage of that airplane from the ground, the little, light flimsy ailerons were slightly damaged. The elevator was slightly damaged, and the horizontal stabilizer on one side was canted about five or ten degrees. That was the only witnessable damage to the ground from the implodement of 1000 pounds.

Now, how does that relate here? No one has said anything about this, but when you set off a very large explosive charge close to the ground, where you backed up with concrete or something hard so you cannot anticipate a lot of energy and it rebounds, the reflected

wave catches up with the outgoing wave because you're going through hot gases, and reinforces it fairly quickly. So, it wasn't a perfect back-up like I was using when we did set off that charge against the aircraft, but it was somewhere approaching.

So maybe you weren't quite a factor of two times the 4800 pounds which they said was there. Maybe you were somewhere down around ... maybe instead of two times forty-eight or 9600 pounds, you may have been somewhere in the order of 7000 pounds implodement, because the ground reflects that detonation wave and reinforces the outgoing wave so that you really have the equivalent of more than what they said was in the truck.

Now, if you look at that damage and say, well, what difference does it make whether you had 4800 pounds or 7000 pounds, what you're talking about is in this region that's [indiscernible] at eighteen pounds per square inch, you're maybe having thirty pounds per square inch. Still not adequate to do the job. Okay?

MEDIA #3: I have a question. Is this your first trip to Oklahoma City?

PARTIN: No. No.

MEDIA #3: Have you examined the site?

PARTIN: I would love to have examined the site.

MEDIA #3: But you didn't examine the site?

PARTIN: I did not examine the site. I would have loved to have. The site was not available.

MEDIA #3: Well, don't ... wouldn't you agree that a physical examination of the site would have given you a much more thoroughly ...

PARTIN: No. No, not really, because the conclusions that I came to, I did not need to see the site. The thing I really wanted to do, and the right thing I felt really should be done, someone should defer or delay bringing that building down until somebody went in there and looked to see where the demolition charges were and how many there were. Because if you could go in and look, you would see everywhere you had a demolition charge, the surface or the residual—the stub of a column, or the column that was coming down, or wherever the demolition charge was—you could very, very easily see a texture that is characteristic of being in contact with the explosive. A very quick, cursory examination would have determined that.

MEDIA #4: Other than photographs and media reports, what evidence have you used to compile your study?

PARTIN: Nothing. Nothing. I didn't need anything else to come to the conclusions I came to here.

MEDIA #5: So, General, the FBI and all their investigators who went through the building are wrong, and you, with all due respect to your expertise, just looking at pictures, are correct and the FBI is wrong.

PARTIN: Well, I don't have an FBI report that says specifically what they did and what their analyses were. I don't have that FBI report. I think most people who have had the kind of background I have had could have sat down and done the same analysis that I did and would come to the same conclusions.

Now, if you had the shattering intensity of a blast to have done the kind of damage you're talking about having done here, that big header column shows absolutely no evidence of it. None. You can look at the stub of column A3. Look at the stub of column A3. You don't see that shattering effect either. You can see the reinforcement rods sticking out of the column where it was destroyed. Now, what it was destroyed from? Was it a demolition charge?

See, demolition charges in contact with concrete like that, you can get away with a fairly small charge.

MEDIA #6: Well, what do you think happened? I mean, I know you think there was an explosion inside the building as well. What is your scenario? I know you must have thought about that.

PARTIN: My scenario is simple. If you look at the letter that I wrote to the Senators and Congressmen, I asked the question, would it have been possible for somebody to have done that from the outside? And I said, why, sure. Those columns are right accessible to the sidewalk, every one of them.

But if you look at the stub there on column A3, it's still standing up there. And if anybody had put a demolition charge on that, they certainly wouldn't have gotten a stepladder and put it up on something halfway up the column. It would have been like ...

MEDIA #7: So, you're saying there was an explosion outside and inside simultaneously?

PARTIN: Pardon me?

MEDIA #7: There were two explosions, one outside and one inside going off at the same time.

PARTIN: I would expect anybody who was putting down demolition charges anywhere would have used something like primer cord and run them together and set them all off at one time.

MEDIA #8: General, what you're talking about here is ... I know Representative Key has said let's not get into this issue of conspiracy. But that's not what we're saying. But you are suggesting literally an inside job. In your letter to Senator Nickles, you raised the question:

Who stands to profit from this act? And you had a fairly lengthy answer. Can you kind of describe that for us?

PARTIN: Well, look. I will get into this. And not one time ... And some gentleman stood up last night and absolutely misquoted me. He misquoted the letter, to say I was blaming something on the government.

MEDIA #9: I did not.

PARTIN: And you're saying an inside job.

MEDIA #9: No. I quoted the letter. I quoted the letter.

PARTIN: You misquoted me, sir.

MEDIA #9: No, I did not.

PARTIN: You were deceptively misquoting me.

MEDIA #9: No. No, I did not.

PARTIN: You were lying.

MEDIA #9: No, I did not.

PARTIN: You surely did. You said I said the government did it.

MEDIA #9: Well, you want to talk about what's in the letter? I'll ... we can talk about it.

PARTIN: I said there was a high probability, a high level of confidence, that you had demolition charges on that column.

MEDIA #9: You also said ...

PARTIN: I didn't say anything about the government, an inside, or anything. I went to length ... I said in that thing ... I specifically said it could have been orchestrated from anywhere in the world. That's what the letter says. And if you misrepre ... you were lying last night.

MEDIA #9: I was not. I resent that.

PARTIN: Well, the thing said, I said in the letter that it could have been orchestrated from anywhere in the world. I have watched many things like that that have happened. I quoted in there the assassination of Dr. Gaitain in Bogota, Columbia to upset the Interamerican Defense Corps which was meeting there. It was orchestrated from Moscow through Cuba to Bogota. They had someone—local dupe, a local patsy—assassinate Dr. Gaitain. They immediately killed the assassin. They immediately flooded the country with flyers produced by six different presses and blamed the assassination of Dr. Gaitain, who was a liberal left-eye in Bogota, and blamed it on the conservative government in power. The people started burning and sacking Bogota and forced the Interamerican Defense Board to flee to a military installation. It was done to precipitate a reaction.

And I resent it when people stand up and misquote me, and misrepresent what I said. I didn't say the government did it. I said this could have been orchestrated anywhere in the world, and there are resources in many, many countries to have accomplished that, and they could have done it from somewhere, anywhere.

MEDIA #10: General, would we be misquoting you or misparaphrasing you if we said that you think this was done to reflect attention or set up a relation to focus attention in a direction other than the true source of the explosion? In other words, was it done, set up in such a way that people would conclude that somebody other than the people truly responsible were the ones who did it?

PARTIN: I wouldn't say that at all. And now let's get into opinions, okay? I've talked about facts and what I've done from an analytical point of view. Now let's talk about opinions. Just give me about five minutes and I'll explain something to you.

In my many years in the military, in weapons-systems development, I've found two things that give you a basis for long-term and long-range prediction. When you lay down the requirements for a weapons system, it takes you roughly ten years to bring in a weapons system. When the D-1 was starting, the requirements laid down, before you got money and everything to do the program, it normally takes about ten years before you have a fighting force in the field ready to do something. If you're going to keep it around for twenty years or ten years, what is your crystal ball for looking out there twenty to thirty years in the future to see what your operational scenarios are going to be?

I've never found but two things that were useful. One was the extrapolation of technology, and the second thing was the global program for transforming the world into a world social system, published in 1928, approved in the night by the Congress in the meeting in Moscow in 1928. They worked from 1919 to 1928 to perfect that program and how to implement it.

The next Party Congress in '35, they reviewed it. The only thing they changed was they put a little more emphasis on what they called the United Popular Front. One: they divided the world into three different kinds of countries with different strategies to be used in different countries based on their vulnerabilities.

For the United States and most of the Western hemisphere, the strategies for transitioning countries was a war of national liberation. There is a whole section in their documents dealing with the strategy and tactics of a war of national liberation. I could give all of you the references to them; you could go look them up and study it yourself.

The strategy for the United States was a war of national liberation because they considered us to have oppressed nations within. Canada: the war of national liberation is based on the French Separatists. In Ireland, it's the Protestant vs. the Catholic. In Africa, in Rowanda, it was the Tutsi vs. the Hutu tribes. And you can go on and on.

Many of these revolutions have gone on to completion. Castro's was strictly a war of national liberation. There are some other things that I could go into detail, but the problem is wars of national liberation—and there are many of them going on around the world—it's not just here. If you don't read, you don't understand this. If you read, I hope you read some material and you'll look at what's going on in these wars of national liberation. That is the source of terrorism.

Now, in the United States ... and you look at the rest of the world and their program—not our program, *their* program— it's their documentation. It's their official documents that they have approved by a World Congress of their leaders. In the United States, they have been in the preparatory phase. The first step is this preparatory phase. It is long-term. It exacerbates the conflict thesis. It is nonviolent. It is organizational. It is generating the hostilities to carry on a revolution later.

Then at the appropriate hour they move into the period of escalating violence. You start off with political assassinations, kidnappings for ransom, urban guerrilla warfare. A lot of the things that you see going on in the drug business is orchestrated in this way.

Then you move on up into the higher levels of violence until you have power to take over control of the government. Castro took over in early 1960, right? He moved ... in 1960 he completed the period of escalating violence.

The next period is the period of exploitation. In other words, you use that country—once you have captured it—to move against the next contiguous country or the next target country, to keep the keep the political offices from trying to rush a hard link. Then people don't get too worried about it.

So if you look at what's going on in this country, they're getting close to the period of escalating violence. If you noticed, within the last twelve months, all the little factional groups out in the Southwest have gone under one command. In Mexico you had your first revolutionary violence last year ... er, this year. You are moving toward the period of escalating violence.

There are two things you're always trying to do before you move to the period of escalating violence. One is you try to remove the

death penalty, because if people are going to be involved in revolutionary activities, they get caught, they might get executed. But if you remove the death penalty, the worst thing they have to fear is being locked up, and when the revolution goes to completion, they may become the President like Mandela or Fidel Castro, you see. So they don't really fear being locked up as long as the revolution is going to completion and they'll be free. But the death penalty is even intimidating.

The second thing they always try to do is to disarm the people. In that way several hundred thousand professional people, industrialists, and business people are no threat to the revolution. But ten million armed and independent farmers are a terror to the revolution. And that's why there's a big effort and push to deny you your Second Amendment rights.

Now, looking at the United States right now here today, I mentioned who orchestrated all of the killings in this country in 1992, 1993, and 1994. The way was prepared to get the Assault Weapons Bill through. There were a lot of senseless killings, and I mentioned them in that letter.

Now, today, you have had before the Senate and the House an Anti-Terrorism Bill that was put over there in January. I've talked to many people on the Hill in both the Senate and the House, and they were all of the opinion before that bomb went off that there was ... that the FBI had all of the authority that they needed to contain terrorism. And if you ask me, if they had the authority to do what they did in Waco or Ruby Creek [sic (Ridge)], I think they may have had too much authority, or they were exercising authority that they really didn't have.

But now you have this Anti-Terrorism Bill. And when the bomb went off in Oklahoma City, Republicans and Democrats in the Senate and in the House were jumping all over each other trying to get a bill out, even bypassing the Senate and bypassing the committees. And if you don't think that what happened in Oklahoma had tremendous impact across the United States with respect to focusing on getting that piece of legislation out ...

Now, if you were sitting somewhere else in the world, orchestrating a war of national liberation, would you want to exercise some little thing like this that you could do—a little thing like you did in Oklahoma—to affect legislation that would impose further gross restrictions on the people, which we have never seen in this country?

Let me just read you one thing. Now, this sort of thing goes on, and if you don't think people do things to affect legislation in the

United States, let's just let me read you this. This is a book. It's brand new, out by Anatoliy Golitsyn. He's a high-level KGB defector. He's the highest-level KGB defector we ever had. I wrote a book in 1967 on the Sino-Soviet conflict—*Cooperation and the Risks in Force Structure Planning*—where I concluded that the implementation of the so-called Sino-Soviet split was a hoax, with infinite chaos to the implementation of that program.

He wrote a book called *New Lies for Old* in 1980, published in 1984, and he said the Sino-Soviet split was a disinformation program, and it was the key disinformation strategy on which all other disinformation strategies depended. But yet the official position of the United States government all during that time was that the Sino-Soviet split was sort of a keystone in United States policy.

Now, let me just read this. This is what he had to say, what we have going on right now in Chechnya. We have violence, a lot of violence inside of Russia.

The Kremlin's Objectives in the Chechnya Crisis:

The timing of the Chechnya Crisis is an essential key to understanding the strategic objectives which underlie it. The Crisis falls closely on the Republican Congressional victory which is possibly pacifist in the reversal of the United States military rundown. Contrived and televised in Russian, military bungling during the Chechnya campaign has sent a strong message to the West that Russian military leaders are divided among themselves, that there is widespread incompetence and low morale in the army, factors which demonstrate that it can be discounted as a serious military adversary in the foreseeable future. The message is intended to influence U.S. Congressional debate on the subject of Russian military potential and the size of U.S. forces required to maintain the balance within it.

Now, if they will do that inside of the Soviet Union to affect Congress, would they not set off—or somebody pushing wars of national liberation—set off the bomb here?

MEDIA #11: In your opinion, do you think that the Oklahoma City bombing
... .

MEDIA #12: General, excuse me just a second, if I may. Might I ask you to sit back down, because we're not going to be able to share your answers with our audience otherwise.

MEDIA #11: Well, in your opinion, is the Oklahoma City bombing the result of leftist forces who are attempting to get passed legislation on the federal level to crack down on something?

PARTIN: Whoever it is—it's a noted big issue, to do what was done—you must readily admit, it had a gigantic impact on trying to get that legislation through.

MEDIA #12: It says in your letter: "Since the Oklahoma City bombing, this country has seen one of the most intense, most pervasive psychopolitical campaigns against the so-called Christian Right that has ever occurred before in this country ... "

PARTIN: I would invite every one of you to go into the library and get the most popular news magazines—get a half a dozen—and track them for the first three weeks after that detonation and you will see precisely what I mean. You won't get that impact on just seeing them on news off the TV every now and then. But go get five or six of the most popular news magazines in the library for the three weeks after the bombing, and you come to your own conclusions.

MEDIA #12: Well, you're concluding ... Are you believing that this ... of the left and attacks on the right? Is it coming from the left? All of the talk, was it coming from the right?

PARTIN: Well, that's the propaganda, you see. That's the disinformation program. Let me make one ... you all need to know one thing. How many of you know about Pavlov and his dog? You ring the bell, you feed the dog, you ring the bell, you feed the dog, and the saliva flows whether you feed the dog or not. There are two other levels of that experiment that most people are not aware of.

He took the same dog. He put him in a bare room with a light bulb. And he would take a stick. He would turn the light out and he would beat the dog. Turn the light out and beat the dog. With a long stick he couldn't hit the dog in the corner. The dog's only defense mechanism was dive to the corner. So you turned the light off, beat the dog, turn the light off, the dog dives to the corner. So you have him conditioned to two things: the bell and the food, which is good; and the light going off and being beaten with the cane, which is bad.

Now, you take the same dog and put him in a bare room and you simultaneously ring the bell and turn off the light. So what does the dog do? He stands there and quivers. He does nothing. You have induced what the psychiatric world calls a catatonic state.

And the media providing the truth with the lie compounded produces a catatonic state in your own reactions. You don't know whether to believe this or whether to believe that. You have the truth compounding with the lie coming from the media, which you'd like to believe. So what's your reaction? Do nothing. Half the people in this country don't even vote.

MEDIA #13: General, with all due respect, I'd like to come back for just a minute to the bombing.

PARTIN: Okay.

MEDIA #13: In your background, what you have said—a fairly lengthy background you've laid out for us here about how the Communists operate, what they attempt to do and so forth. Are you implying to us that this bombing was part of a Communist plot to take over this country?

PARTIN: I am not implying that. I am saying there is a program. Now, does this contribute to it? Yes, it contributes to it. Was it orchestrated from Moscow? Was it orchestrated by Cuba? Was it orchestrated from Podunk somewhere? I don't know. I don't know. That's for people who are investigating it.

But you start out with the premise that this thing was done by someone who hasn't had too much experience in explosions. Start off with the premise that the Jerry Falwells and the right-wing Christian talk radios and talk radios ... I don't know if anybody in here is from the talk radios or TV programs ... I don't know. If you start off with the premise that they are the bad guys, then you're going to be running in one direction. If you want to keep your options open ... All I'm saying is, you ought to keep your options open and look at all aspects of this to try to determine what happened. Go after the truth. Don't get any preconceived opinions out there. Go after the truth. And that was the only thing I was asking—with respect to having the United States Senate and House try to get an independent investigation—was just to look at those column stubs to see whether they were brought down by demolition charges or whether they were brought down by blast loading.

And I think from all I've seen and the more pictures ... I've looked at a lot of stuff down here. It sure wasn't brought down by blast loading.

MEDIA #14: Well, what is the truth?

PARTIN: Well, I don't have it. I think I would have been able to give you a lot more truth if I had had access to that building and could have looked at all those column stubs.

MEDIA #15: I thought you said it didn't make any difference that you didn't get to look.

PARTIN: Well, look, as far as this analysis goes, that's right. But do I want to say ... can I stand up and say that there were three ... there were four demolition charges and a bomb out front? I say that's the only way I know that I could reproduce the damage. There may have been more demolition charges.

MEDIA #16: Is there any possibility that the column in Row B could have been of inferior construction and so it failed while others closer did not?

PARTIN: I'm sorry, I didn't get your question.

MEDIA #16: Is there any possibility of inferior construction explaining why the column in Row B failed whereas others did not?

PARTIN: Look. Always, and I think you're about the hundredth person who has asked this question: "Did some contractor skimp and have a lean mixture out there and screw up the concrete?" You have building inspectors in Oklahoma that don't permit that sort of thing. If you look at the pictures there, the top of that column, you can see that the concrete is well peeled away from the reinforcement rods.

CHARLES KEY: Let me say this: I think the most important thing about that question is that we don't know that. And we can't know because the site has been cleared off. And if that's an answer as to how this damage happened, I would say that one might as well go into the far world of speculation because it can't be backed up and proven ...

MEDIA #17: General Partin, if I may, just to be sure, would you spell your name for me, please sir.

PARTIN: P-A-R-T-I-N.

MEDIA #17: And first name?

PARTIN: Benton. I go by Ben.

MEDIA #17: B-E-N-T-O-N?

PARTIN: Yes, sir.

MEDIA #17: Thank you.

PARTIN: Thank you.

[End of General Partin's portion of the press conference]

Rodger A. Raubach Ph.D
P.O.Box 3042 , Casper , WY. 82602-3042
Phone: (307)-235-5266 ; FAX: (307)-237-2500

18 July 1995

Brigadier Gen. Benton K. Partin
8908 Captains Row
Alexandria , VA. 22308

Dear Gen. Partin:

Earlier today I received a copy of your report on the bombing in Oklahoma City, entitled "Bomb Damage Analysis of the Alfred P. Murrah Federal Building, Oklahoma City". This report was dated July 13, 1995.

I read this report carefully and examined the exhibits appended to the text. Your observations and photographic analysis are meticulous in the extreme, and you are to be commended for your insights regarding the effects of blast vs. distance from the detonation.

The major points of the report which I believe need to be emphasized are: (1) the fact that rebar reinforcing rods were broken but appear to be embedded in concrete; (2) very little concrete appears to have been crushed by the blast. These observations alone are at extreme variance with the hypothesis of a single large truck bomb containing ANFO. For the large (4800 lb.) ammonium nitrate bomb to have caused the damage, there would be huge amounts of sand generated from the crushed concrete around the columns wherein the rebar was fractured.

I took the liberty of checking with the leading concrete supplier in my area in order to confirm the compressive yield figure that you used, that being 3500 psi. What I was told about concrete was very interesting. A 3500 psi figure is extremely low for structural concrete. A properly mixed and cured structure of the type dealt with in your report would probably have a yield strength of 5600 psi.

In conclusion, General, I find myself in awe of the technical achievement that your report represents. I can find no scientific flaws in either your observations or your conclusions. I am, therefore, in full agreement with the conclusion of strategically placed small explosive charges being responsible for the destruction of the building.

We can only hope and pray that a few good men and women in our Congress will heed your report and take action that results in the punishment of the real guilty parties responsible for this heinous crime against the American people, and that these same few good people are able to stem the abrogation of any more of our Constitutional rights.

Please keep up the good work that you are doing for your countrymen. It is an honor to be able to correspond with you on this matter and perhaps to be of some small service to our country, the Constitutional Republic, to which many of us have sworn to defend to the best of our abilities.

If I may be of any further assistance, please contact me at any time. Looking forward to your response, I remain

Very Truly Yours,


Rodger A. Raubach Ph.D.

Tab 9

Letter from Rodger A. Raubach, Ph.D.
July 18, 1995

To: General Partin
From: Sam Gronning
Re: Explosion at Oklahoma City

Dear General,

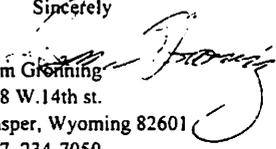
I've read your report and it follows what I believe completely.

I have been a blaster for over thirty years and there is no doubt in my mind that ANFO could not have been by itself the medium for that powerful an explosion. Enhanced in one way or another, maybe, but not by itself. And even enhanced at that distance, I would doubt that an external explosion could have created that extensive damage at the reported weight of the bomb.

I don't know what is going on here, but someone is trying to put the blame for this disaster somewhere other than where it really lies. I don't know where that is, nor do I understand what the motivation for that deception could be. What I do know is what I see, and what I see is not the truth.

Maybe incompetence lies at the bottom of all the hype. Whatever it is, I hope that you get to the bottom of it all.

Sincerely


Sam Gronning
338 W.14th st.
Casper, Wyoming 82601
307 234-7050

Letter from Sam Gronning, Explosives Expert

**Bomb Damage Analysis Of
Alfred P. Murrah Federal Building
Oklahoma City, Oklahoma**

July 30, 1995

by

Benton K. Partin
Brigadier Gen. USAF (Ret.)

8908 Captains Row
Alexandria, Virginia 22308
703-780-7652

**Bomb Damage Analysis of Alfred P. Murrah Federal Building
Oklahoma City, Oklahoma—July 30, 1995
by Benton K. Partin**

Benton K. Partin
Brigadier Gen. USAF (Ret.)
8908 Captains Row
Alexandria, Virginia 22308
703-780-7652

INFO
COPY

July 30, 1995

Sen. Trent Lott
United States Senate
487 Senate Russell Office Building
Washington, DC 20510-2403

Dear Sen. Lott:

The attached report contains conclusive proof that the bombing of the Alfred P. Murrah Federal Building, Oklahoma City, Oklahoma, was not caused solely by the truck bomb. Evidence shows that the massive destruction was primarily the result of four demolition charges placed at critical structural points at the third floor level.

Weapons Experience: I do not offer such an analytical conclusion lightly. I have spent 25 years in research, design, development, test and management of weapons development. This included: hands-on work at the Ballistic Research Laboratories; Commander of the Air Force Armament Technology Laboratory, and ultimately management responsibility for almost every non-nuclear weapon device in the Air Force (at the Air Force System command, Air Staff and the Office of the Secretary of Defense (OSD) levels). I was also the first chairman of the OSD joint service Air Munitions Requirements and Development Committee. (A more detailed resume appears at Tab 1.)

Observations in Oklahoma City: To verify earlier analysis, I visited Oklahoma City during the last week of June. There I had the opportunity to view hundreds of photographs taken throughout the cleanup operation as the layers of debris were cleared away. The photos present irrefutable evidence that at least four demolition charges were set off at four critical columns of the reinforced concrete structure at the floor level of the third floor.

Conclusion: Based on my experience in weapons development and bomb damage analysis, and on my review of all evidence available, I can say, with a high level of confidence, that the damage pattern on the reinforced concrete superstructure could not possibly have been attained from the single truck bomb. The total incompatibility of this pattern of destruction with a single truck bomb lies in the simple,

2

incontrovertible fact that some of the columns collapsed that should not have collapsed if the damage were caused solely by a truck bomb, and, conversely, some of the columns were left standing that should have collapsed if the damage had been caused solely by the truck bomb.

It is my hope and request that, as a Member of Congress, you will support a Congressional investigation to determine the true initiators of this bombing, which could not have occurred the way in which it has been portrayed as having happened. Further, it is requested that you defer action and reserve judgment on so-called anti-terrorism legislation that has serious civil liberties implications, and which would not be passed except for the Oklahoma City bombing until the causes of the Oklahoma City disaster are determined by independent investigators.

Both the Federal Building in Oklahoma and the Trade Center in New York (See New York Times, October 28, 1993, p. A1) show evidence of a counter-terrorism sting gone wrong.

No government law enforcement agency should be permitted to demolish, smash and bury evidence of a counter-terrorism sting operation, sabotage or terrorist attack without a thorough examination by an independent, technically competent agency.

If an aircraft crashed because of a bomb, or a counter-terrorism sting or an FAA Controller error, the FAA would not be permitted to gather and bury the evidence. The National Safety Transportation Board would have been called in to conduct an investigation and where possible every piece of debris would have been collected and arrayed to determine cause of failure.

To remove all ambiguity with respect to the use of supplementary demolition charges, the FBI should be required to release the high quality surveillance color TV camera tape of the Murrah building bombing on April 19, 1995.

It is my observation that the effort required to bomb the A. P. Murrah Federal Building in Oklahoma City pales in comparison with the effort to cover up evidence in Oklahoma and the media's withholding of vital information from the American people.

Sincerely yours,



Benton K. Partin
Brigadier Gen. USAF (Ret.)

BKP:aw
Enclosure

**Bomb Damage Analysis Of
Alfred P. Murrah Federal Building
Oklahoma City, Oklahoma**

On April 19, 1995, the Alfred P. Murrah Federal Building, Oklahoma City, Oklahoma was bombed, causing extensive damage to the structure, the loss of 168 innocent lives, the victimization of the families of those who lost loved ones, hundreds of non-fatal injuries, and substantial property damage in the vicinity.

The media and the Executive branch reported that the sole source of the devastation was a single truck bomb consisting of 4,800 pounds of ammonium nitrate, transported to the location in a Ryder Truck and parked in front of the building. It is impossible that the destruction to the building could have resulted from such a bomb alone.

To cause the damage pattern that occurred to the Murrah building, there would have to have been demolition charges at several supporting column bases, at locations not accessible from the street, to supplement the truck bomb damage. Indeed, a careful examination of photographs showing the collapsed column bases reveals a failure mode produced by demolition charges and not by a blast from the truck bomb.

To understand what caused the damage to the Murrah Building, one needs to understand some basics about the use and nature of explosives.

First, blast through air is a very inefficient energy coupling mechanism against heavily reinforced concrete beams and columns.

Second, blast damage potential initially falls off more rapidly than an inverse function of the distance cubed. That is why in conventional weapons development, one seeks accuracy over yield for hard targets. That is also why in the World Trade Center bombing (where the only source of blast damage was a truck bomb) the column in the middle of the bombed-out cavity was relatively untouched, although reinforced concrete floors were completely stripped away for several floors above and below the point of the bomb's detonation (see *Time Magazine*, 3-8-93, page 35).

By contrast, heavily reinforced concrete structures can be destroyed effectively through detonation of explosives in contact with the reinforced concrete beams and

columns. For example, the entire building remains in Oklahoma City were collapsed with 100-plus relatively small charges inserted into drilled holes in the columns. The total weight of all charges was on the order of 200 pounds.

The detonation wave pressure (1,000,000 to 1,500,000 pounds per square inch) from a high detonation velocity contact explosive sweeps into the column as a wave of compressive deformation. Since the pressure in the wave of deformation far exceeds the yield strength of the concrete (about 3,500 pounds per square inch) by a factor of approximately 300, the concrete is turned into granular sand and dust until the wave dissipates to below the yield strength of the concrete. This leaves a relatively smooth but granular surface, with protruding, bare reinforcement rods—a distinctive signature of damage by contact explosives. The effect of the contact explosive on the reinforcement rods themselves can only be seen under microscopic metallurgical examination. (The rods are inertially confined during the explosion and survive basically intact because of their much higher yield strength and plasticity.)

When a reinforced concrete structure is damaged through air shock coupling and the pressure is below the compressive yield strength of the concrete, the failure mode is generally compressive structural fracture on one side and tensile fracture on the other—both characterized by cracks and rough fracture surfaces. Such a surface texture is very different from the relatively smooth granular surface resulting from contact explosives.

Analysis of Graphic Evidence

Tab 2 is a cross section view of the building looking from the west. The very large header or cross beam is shown at the north edge of the third floor. A large but smaller header is seen at the recessed north edge of the second floor with a brace beam extending out to the large columns in Row A. The front of the whole building is glass.

Tab 3 shows the architectural layout of the first floor of the Murrah Building and the location of the truck bomb with superimposed circles of roughly equal levels of damage potential. The explosive force drops rapidly (initially proportional to one over the distance cubed) as the shock front travels farther and farther away from the truck bomb. After the release wave, the shock front will propagate proportional to one over the distance squared.

The maximum possible yield from 4800 pounds of ammonium nitrate would be obtained if it were in a compressed sphere and detonated from the center. That would produce a 4.4 foot diameter sphere of detonation products at about 500,000 pounds per

square inch. By the time the blast wave hits the closest column, the pressure would have fallen off to about 375 pounds per square inch. That would be far below the 3500 pound compressive yield strength of the concrete. Any column or beam failure from the truck bomb would therefore have been from blast wave structural loading and not from any wave of deformation in the concrete.

The basic building structure consists of three rows of columns (35 feet apart) with eleven columns in each row (20 feet apart). The four corner columns have an external clamshell-like structure for air ducts, etc. If we label the column rows A, B, and C from front to back, and number the columns 1 through 11 from left to right, then columns A2, A3, A4, A5, A6, A7, A8, and B3 collapsed, essentially vertically. Tab 2 shows a very large reinforced concrete header at the floor level of the third floor of column row A. Much larger columns extend from the header down for the odd-numbered columns, i.e., A3, A5, A7, and A9. The even- and odd-numbered columns extended from the top of the building down to the header. The foundation of the building is a heavy, reinforced concrete slab with no sub-levels.

From the potential damage contours on Tab 3, and assuming the single truck bomb, the pressure and impulse for collapsed columns B4, B5 and A7 are all in the 25 to 35 pounds per square inch region. However, the much smaller and closer columns, B4 and B5, are still standing, while the much larger column A7 is down. Column B3 is down with 42 percent less pressure and impulse than columns B4. These facts are sufficient reason to know that columns B3 and A7 had demolition charges on them. Moreover, there is not sufficient blast impulse at that range to collapse any of the three. In fact, columns B2, B4 and B5 all have the sheet rock and furring strip finish still intact on the second and third floors except where damaged by falling debris.

The large header across the front of the building at the third floor of Row A was not blown back into the building as one may expect from such a large bomb. The header came straight down but rolled backward 90 degrees because the columns above the header rested off center toward the back.

Analysis of Photographic Evidence

A careful examination of photos showing the "A" row columns and the large header from the third floor reveals absolutely no air blast shock wave fracture, which is consistent with the pressure fall-off with distance from the truck bomb. The cleaned-up building structure (Tab 4) shows that the failure line across the roof goes all the way to the

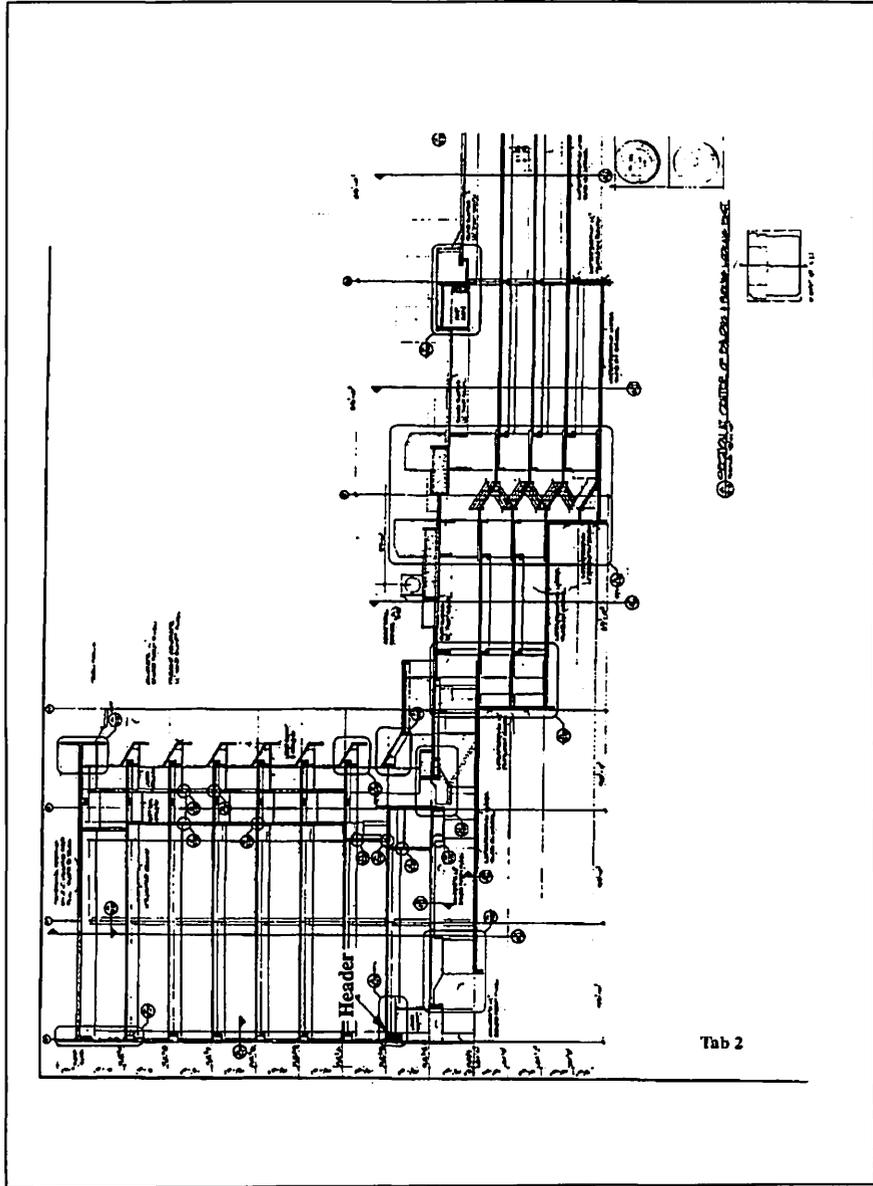
ground except around columns B₄ and B₅ at the second and third floor levels. Reinforcement rods stripped out of beams and floors extend straight down on all floors. Columns A₃, A₅, A₇, and B₃ collapsed straight down as the apparent result of demolition charges at the column juncture with the third floor for column B₃ and with the third floor level header for columns A₃, A₅, and A₇. The even numbered columns (A₂, A₄, A₆, and A₈) in Row A collapsed straight down because they were supported at the third floor by the header, which necessarily failed with the demolition of its conjunctions with columns A₃, A₅, and A₇. When columns A₂ through A₈ collapsed straight down, the roof and floor fracture lines at all floors acted as an instant hinge line, which would have given all floors collapsing down a slight tug toward column row B. Because of the collapse of column B₃, the floors were cropped closer to the north side of columns B₄, B₅, which resulted in damage by falling debris to sheet rock on columns B₄ and B₅ at the third floor level.

The so-called "pit" area behind columns B₄ and B₅ was caused either by the blast from the truck bomb pushing out the ceilings of the first and second floors or from the demolition charge on column B₃. From the third floor it would look like a "pit" into which much debris fell. The blast pressure in this area would have been sufficient to exceed the ultimate yield design strength of the floor. There were large areas at this pressure being held only by the floor-thick, reinforced concrete around the 20-inch reinforced concrete columns in the B row. The floor of the first floor could not be blown downward, because it was a heavy concrete slab on compacted earth. The ceilings of the first and second floors nearer the truck between the A and B column rows could also have been blown upward initially.

Although the truck bomb had insufficient power to destroy columns, the bomb was clearly responsible for ripping out some floors at the second and third floor levels.

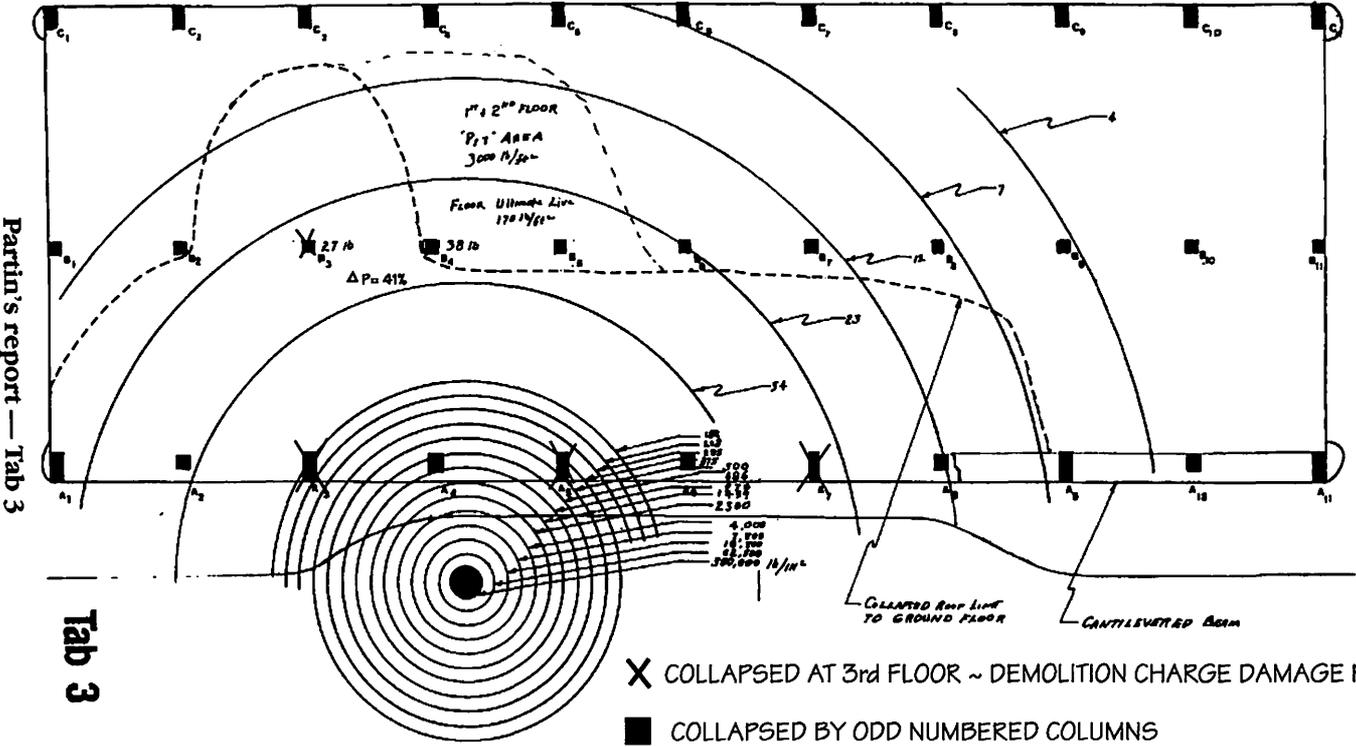
Photographic Evidence of Demolition Charges

Turning next to the demolition charges in the building, refer to the picture at Tab 5. Here you see column A₉ with no spalling as one would expect with the blast pressures involved and the decorative indents are unmarred. Note also the grooves at the top of the column and across the header. When the demolition charge on column A₇ went off, the charge instantly left a 40 foot cantilevered header supporting column A₈. Cascading columns and beams from above probably snapped off the end with a clear structural fracture, including rugged cracks and rough surfaces. There is a large unseen beam extending from behind the column, between the decorative grooves, back to the first floor header. This beam adds considerable rigidity to the lower odd-numbered columns in Row A.



Partin's report — Tab 2

A P MURRAH BUILDING



Partin's report — Tab 3

Tab 3

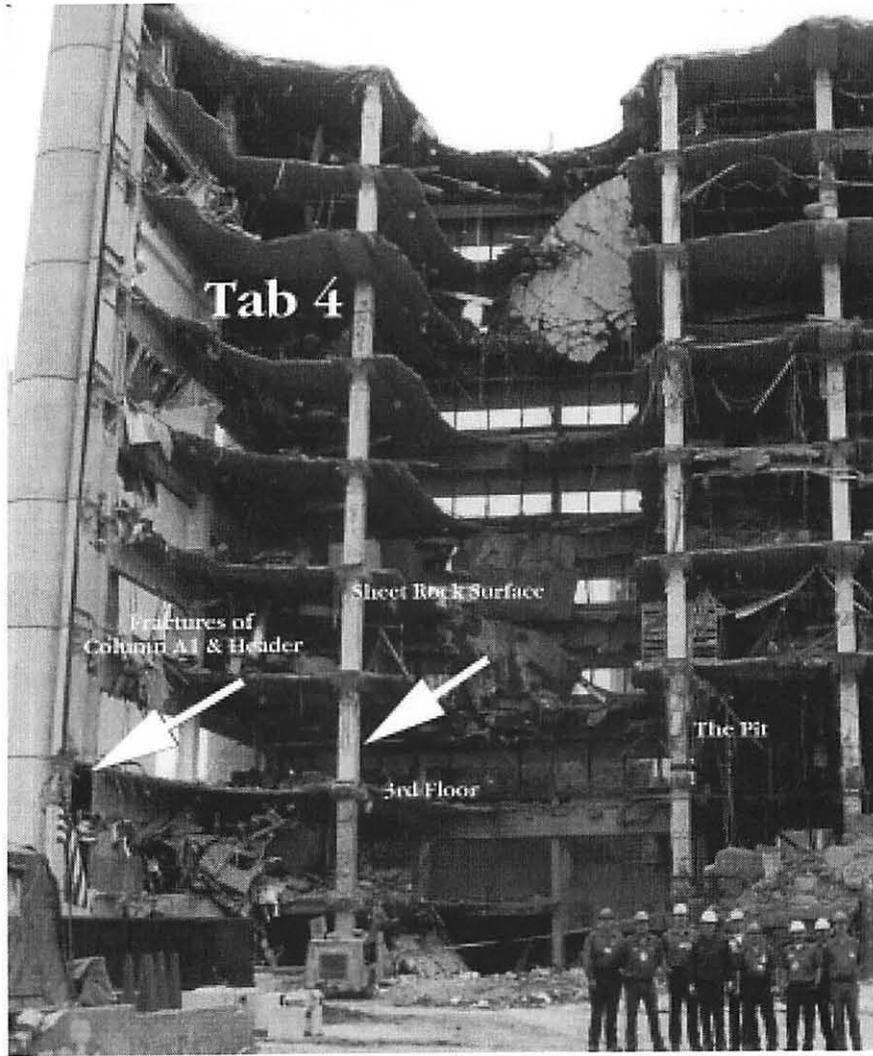


PHOTO BY OSCAR JOHNSON

Partin's report — Tab 4

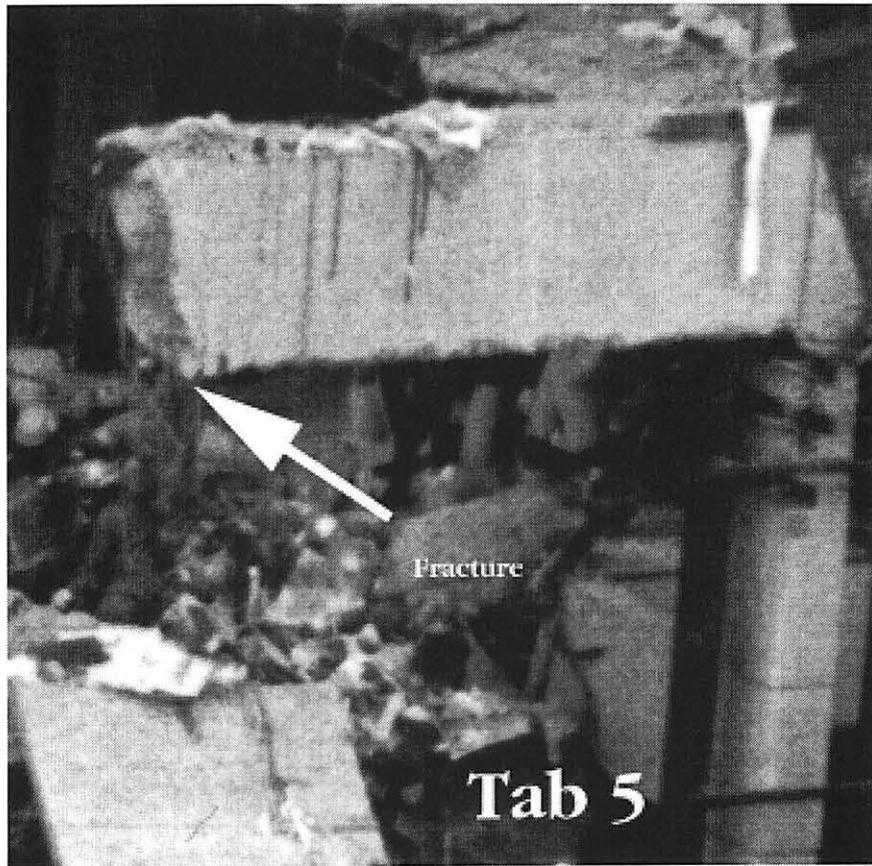


PHOTO BY OSCAR JOHNSON

Partin's report — Tab 5 (detail)



PHOTO BY OSCAR JOHNSON

Partin's report — Tab 5 (detail)

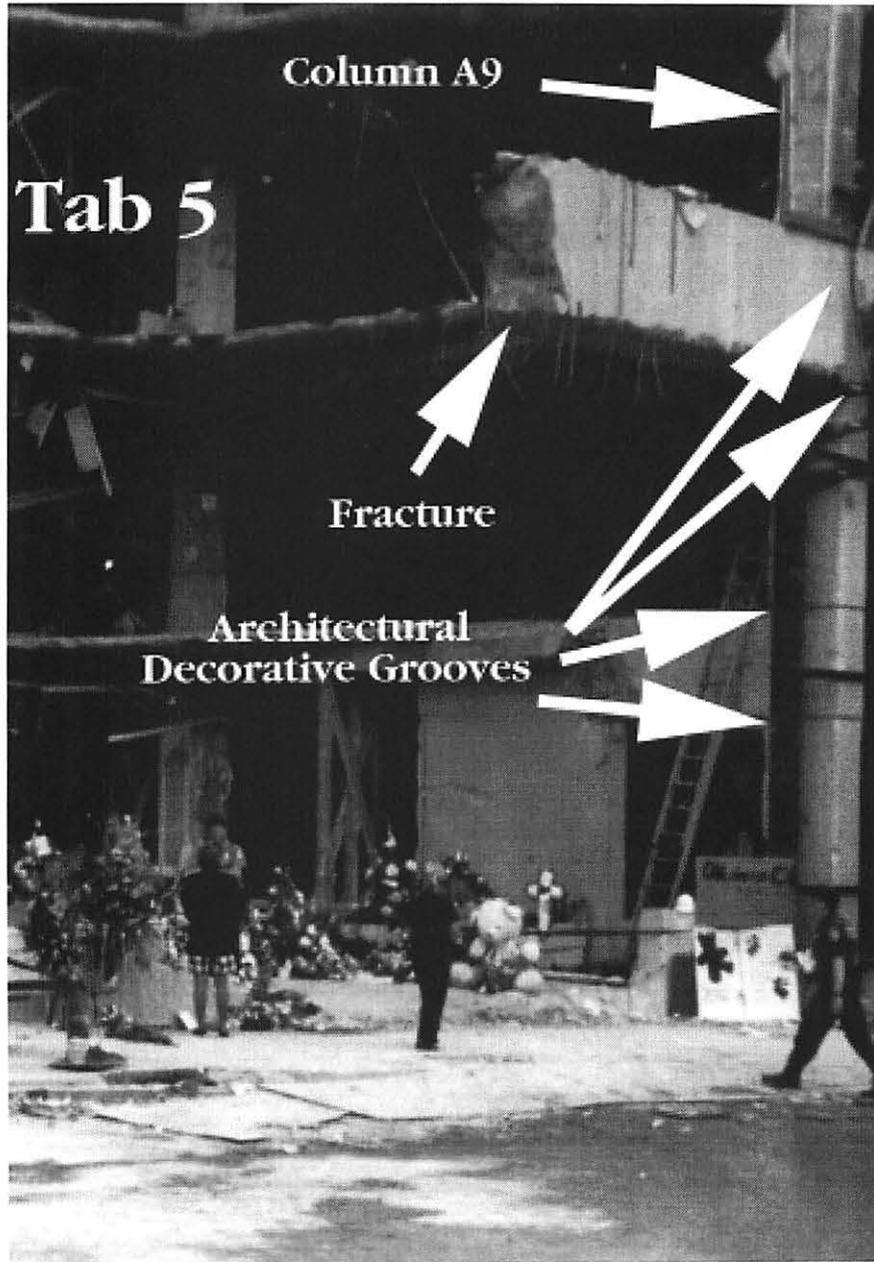


PHOTO BY OSCAR JOHNSON

Partin's report — Tab 5 (detail)

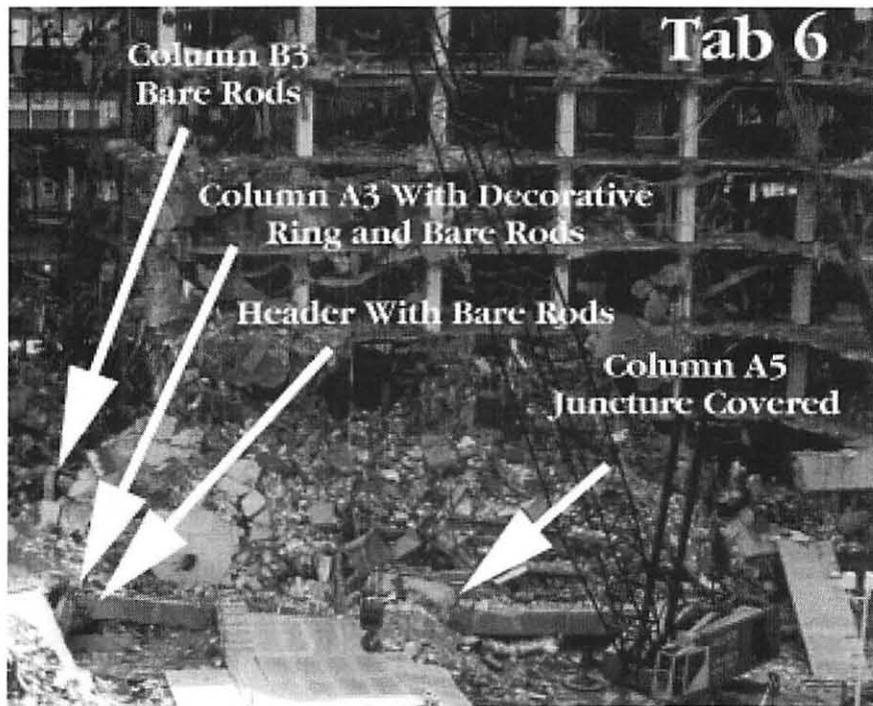


PHOTO BY OSCAR JOHNSON

Partin's report — Tab 6

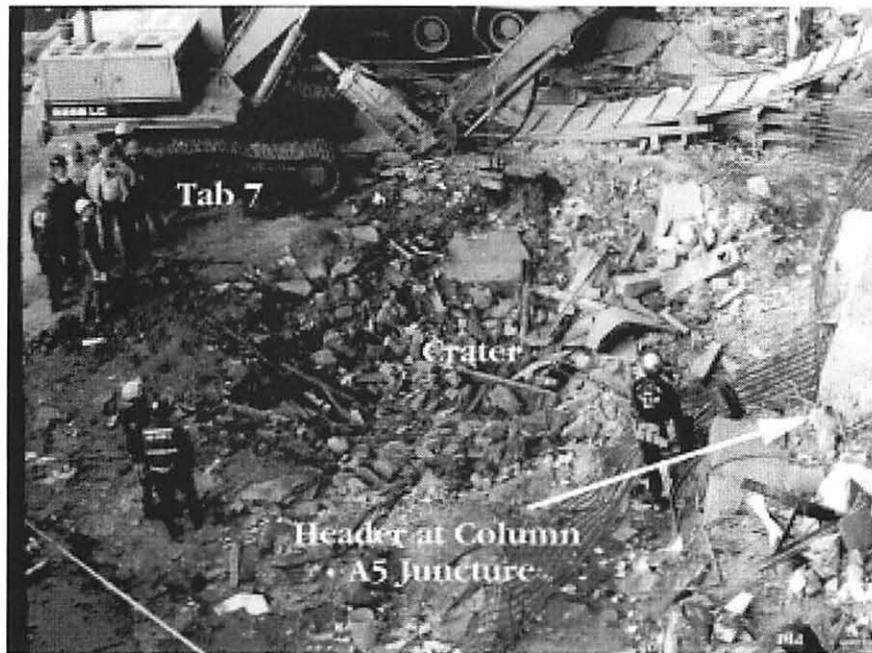


PHOTO BY OSCAR JOHNSON

Partin's report — Tab 7

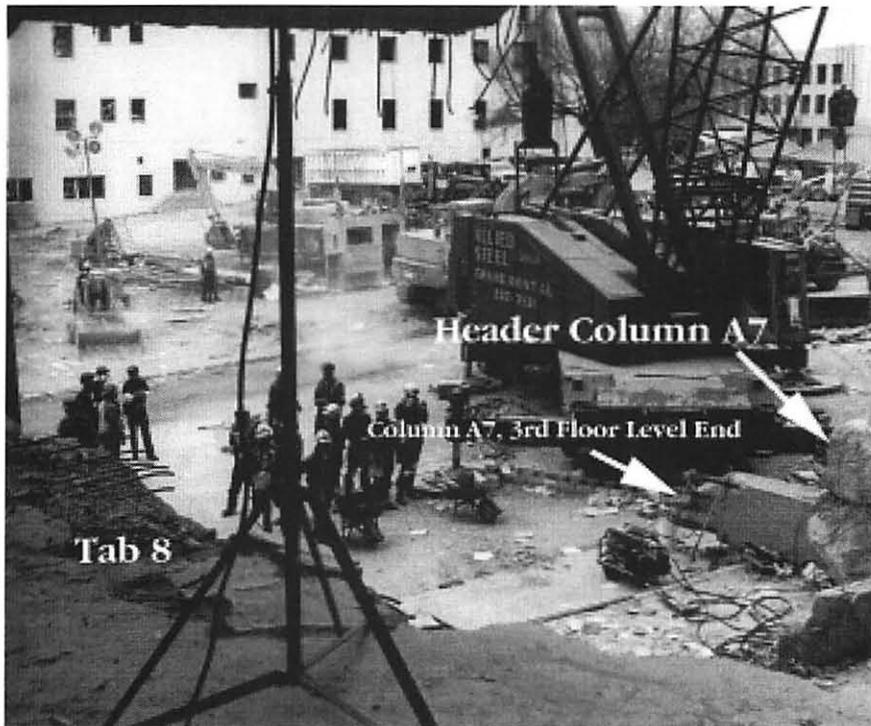


PHOTO BY OSCAR JOHNSON

Partin's report — Tab 8

APPENDIX D: PRIOR KNOWLEDGE



United States Attorney
District of [REDACTED]

September 14, 1994

[REDACTED]

*From
Dress Release
9/10/95*

Re: Letter of Immunity

Dear Mr. [REDACTED]

This letter is to memorialize the agreement between you and the United States of America, by the undersigned Assistant United States Attorney. The terms of this agreement are as follows:

1. You have contacted the U.S. Marshals Service on today's date indicating that you have information concerning a conspiracy and/or attempt to destroy United States court facilities in [REDACTED] and possibly other cities.
2. The United States agrees that any statement and/or information that you provide relevant to this conspiracy/ conspiracies or attempts will not be used against you in any criminal proceeding. Further, the United States agrees that no evidence derived from the information or statements provided by you will be used in any way against you.
3. In return for this grant of use/derivative use immunity, you agree to fully and completely cooperate with all federal law enforcement authorities in the [REDACTED] regarding your knowledge of and participation in any crimes and/or related activities. All statements and any testimony you give pursuant to this agreement will be protected by use/derivative use immunity as stated in paragraph 2 above.
4. If you make or give any false statements or testimony at any time, this agreement becomes null and void. The decision as to whether a violation of this agreement has occurred remains solely in the discretionary judgment of the Office of the United States Attorney for the [REDACTED]
5. If this agreement is violated, any statement made or testimony given by you during the course of this investigation and agreement will no longer be protected by any kind of immunity and you may be prosecuted for any crime of which the United States has knowledge, including knowledge obtained by your own

U.S. Department of Justice, Letter of Immunity

September 14, 1994

Page 1

statements and/or testimony. Additionally, the information you provide may also be used to impeach your testimony during and future court proceedings related to this investigation, should there be any.

If you agree to accept the terms of this agreement as set forth in the above paragraphs, you should acknowledge your acceptance by signing below. By signing this agreement you are not only accepting this agreement but are also stating that you have carefully read and fully understood this agreement and voluntarily accept all of its terms and provisions. By signing this document, you further agree that no additional promises or conditions have been entered into by either party and only the specific terms of this document are the subject of this agreement.

Sincerely,

[Redacted]
United States Attorney

By: [Redacted]
Assistant United States Attorney

Date: [Redacted] 1994

READ AND ACCEPTED:
[Redacted]

[Redacted]
Date

***Star-Ledger*, Newark, New Jersey, March 22, 1995**

“Lawmen Get Warning of Plot on U.S. Targets,” by Robert Rudolph

U.S. law-enforcement authorities have obtained information that Islamic terrorists may be planning suicide attacks against federal courthouses and government installations in the United States.

The attacks, it is feared, would be designed to attract worldwide press attention through the murder of innocent victims.

The *Star-Ledger* has learned that U.S. law-enforcement officials have received a warning that a “fatwa,” a religious ruling similar to the death sentence targeting author Salman Rushdie, has been issued against federal authorities as a result of an incident during the trial last year of four persons in the bombing on the World Trade Center in New York.

The disclosure was made in a confidential memorandum issued by the U.S. Marshals Service in Washington calling for stepped-up security at federal facilities throughout the nation.

The “fatwa” was allegedly sanctioned by an unidentified Islamic Imam, or holy man, in retaliation for what was perceived as a religious “insult” against Islamic fundamentalists by federal law-enforcement officers.

According to the memo, the information about the threat was obtained from an unidentified “informed source” who said the death sentence was specifically directed against U.S. Marshals Service personnel.

The informant reported that the threat was issued because deputy U.S. Marshals allegedly “insulted” Islam “by stepping on a copy of the Koran,” the Islamic holy book, during a scuffle with several prisoners convicted in the World Trade Center bombing.

The Feb. 26, 1993 blast, the first major act of foreign terrorism ever committed on U.S. soil, rocked the heart of New York’s financial district, killing six persons and injuring hundreds more.

The four convicted in that case were sentenced to life imprisonment without parole.

According to the source, Iranian-supported extremists have “made it clear that steps are being taken to strike at the Great Satan,” a phrase that has been used to describe the United States.

The Marshals Service memo said the agency believes that “there is sufficient threat potential to request that a heightened level of security awareness and caution be implemented at all Marshals Service-protected facilities nationwide.”

Government sources say authorities in New Jersey are taking the danger seriously and have increased security at key federal facilities in the state, including all federal courthouses.

"This stuff is being taken seriously," one source declared.

Even more strenuous security precautions are being taken in New York, where 12 persons, including the blind fundamentalist Sheik Omar Abdul-Rahman, are currently on trial on charges of conspiring to wage a war of urban terrorism against the United States by blowing up the United Nations, FBI headquarters and the tunnels between New York and New Jersey.

Sources say security personnel there have been more than doubled for the trial.

It was learned, however, that authorities are fearful that Washington may be the primary focus of any terrorist attacks.

The memo, issued by Eduardo Gonzalez, director of the U.S. Marshals Service, warns that attacks may be designed to "target as many victims as possible and draw as much media coverage as possible" to the fundamentalist cause.

At the same time, the memo warns that a "fundamental change" has been instituted in terrorist plans for the treatment of hostages.

"The terrorists, possible suicide bombers, will not engage in negotiations," the memo warned, and said "once the press is on the scene, the new plans call for blowing everyone up."

The memo also reports that authorities have received information that a similar death sentence has been issued against Siddiq Ibrahim Siddiq Ali, who has confessed to conspiring with Sheik Rahman and the others now on trial in New York.

The source reportedly told authorities that in carrying out the threat against Siddiq Ali, "collateral damage" as well as suicide and the murder of innocents "is incidental to such a sacred action."

Oregonian, Portland, Oregon, April 20, 1995

"If He'd Been At Work ... " by Dave Hogan

As a federal judge whose office faces across the street at the Alfred P. Murrah Federal Building in Oklahoma City, Wayne Alley felt lucky that he didn't go to his office Wednesday.

Alley, who was born and raised in Portland, had taken the rare opportunity to work at home.

"Of all the days for this to happen, it's absolutely an amazing coincidence," Alley said in a telephone interview from his home.

The judge said the bombing came just a few weeks after security officials had warned him to take extra precautions. "Let me just say that within the past two or three weeks, information has been disseminated ... that indicated concerns on the part of people who ought to know that we ought to be a little bit more careful," he said.

Alley, who started his law career in Portland, said he was cautioned to be on the lookout for “people casing homes or wandering about in the courthouse who aren’t supposed to be there, letter bombs. There has been an increased vigilance.”

He said he was not given an explanation for the concern.

Asked if this might have just been a periodic security reminder, he said, “My subjective impression was there was a reason for the dissemination of these concerns.”

An FBI spokesman in Oklahoma told reporters during a news conference that he was not aware of any warning.

Only some members of Alley’s staff were as lucky as he was Wednesday. Still, the force of the blast smashed the windows of his office, and one of his law clerks was injured by the flying glass.

Alley attended Washington High School in Portland and was a law clerk for an Oregon Supreme Court justice.

Despite the damage to his office, Alley said the destruction of a child-care center in the Federal Building hit him hardest. He said his son and daughter-in-law in Oklahoma City had a baby 4½ months ago, and they had considered using the facility before deciding on other child care.

“The thought that our grandchild might have been in there was the thing that was the most chilling about all of this,” the judge said.

Panola Watchman, Carthage, Texas, April 23, 1995

“Bombing Leaves Family Worried for Older Sister,”
by Sherry Koonce—(excerpts)

As word of Oklahoma City’s devastating explosion spread across the nation Wednesday, here in Panola County news of the bomb’s blast vibrated down phone lines to set a stage of terror for a Carthage woman whose family worked in the targeted federal buildings. ...

Pat’s older sister, Norma, is employed at the county courts federal building immediately behind the targeted Alfred P. Murrah Federal Building. ...

By 1 p.m. Norma was able to get a call through, but it would be much later in the afternoon before the family members were calm enough to recount details of their harrowing experiences. ...

When the explosion occurred around 9 a.m. Norma stated she had already been at work for over an hour.

“The day was fine, everything was normal when I arrived at 7:45 to begin my day at 8 a.m., but as I walked through my building’s parking lot, I remember seeing a bomb squad. I really did not think much about it—especially when we did not hear anymore about it,” Norma explained.

But her own words would ring ominous just minutes after she said them.

“There was some talk about the bomb squad among employees in our office. We did wonder what it was doing in our parking lot. Jokingly, I said, ‘Well, I guess we’ll find out soon enough,’” Norma recalled.

In recounting her experience at the time of the blast, Norma said it was and continues to be unreal and indescribable. ...

“People were not running and at first there were just a handful of us on the street. We were walking fast and everyone seemed to be in a daze. We were simply shocked and confused about what had happened.

“Then someone said, ‘It had to be a bomb,’” she continued, “and then we all knew. I remember the bomb squad in our parking lot and knew what had happened.” ...

***Relevance*, September 1995, Vol. 2, No. 111, p. 8.**

“Oklahoma City: Cracks Form in the Cover-Up” (excerpts)

— Philip M. O’Halloran, editor; and Charles Bennett, associate editor.

FBI Warns Fire Department—Perhaps the information was discounted for good reason or the transmittal of the warning to appropriate authorities was bungled. Surely this is possible, bureaucratic ineptitude being what it is. But this flies in the face of the latest piece of evidence. Two dispatchers within the Oklahoma City Fire Department have admitted that the FBI had advance warning

of a looming terrorist attack. The dispatchers disclosed this information to Glen Wilburn, the stepfather of Edye Smith, who lost her two young boys in the bombing. Like Edye, he has been dissatisfied with official government explanations for the events of April 19th and their aftermath. Mr. Wilburn has been tirelessly investigating the case for months, working closely with local researchers. ...

Recently while exploring several persistent rumors, Wilburn visited the Oklahoma City Fire Department Headquarters where he asked personnel about sketchy reports he had received concerning a forewarning of the bomb attack. Dispatcher Carla Robberson and Chief Dispatcher Harvey Weathers disclosed to Wilburn that an Assistant Fire Chief Gaines had received a call on Friday, April 14, 1995 from the FBI warning of a possible terrorist act. They stated that Gaines had then alerted Dispatcher Carl Purcer of the warning. Wilburn told *Relevance* that when he asked Gaines about the warning, Gaines denied having received it. When he confronted Chief Dispatcher Weathers about Gaines’ denial he quotes Weathers as saying, “You asked me and I told you. I don’t lie for anybody. There’s a lot of people who just don’t want to get involved in this thing.”

Stonewalling the “Secondary” Investigations—Glen Wilburn then attempted to confront Gaines with Weathers’ account, but he had left the office. The

next day he was told that Gaines had gone on vacation. *Relevance* attempted to contact Weathers but the dispatch office informed us that he too had gone on leave. We later called dispatchers Robberson and Purcer who, we learned, were also on leave. Shortly after his initial visit to the fire station, Mr. Wilburn returned and attempted to talk with Dispatcher Purcer who had taken the original call from Chief Gaines. Purcer would not discuss the issue and referred him to another supervisor named Bunch, who informed Wilburn that if he wanted any further statements from the Department's employees he would have to obtain a lawyer and go through a city attorney.

...

When Wilburn expressed interest in examining the dispatch logs, he was referred again to the city attorney. Researcher Pat Briley told *Relevance* that such official stonewalling has been endemic since the bomb went off. He and other local investigators and concerned citizens have been unsuccessfully attempting to obtain the Police Department logs of calls made in the week prior to the attack. FOIA requests have been filed by local reporters and the police have still refused to release them, which they can continue to do—unless and until someone takes them to court. The only other alternative is for McVeigh's or Nichols' attorneys to subpoena the individuals involved. ...

On September 13, 1995 investigative reporter Brad Edwards of KFOR Channel 4 in Oklahoma City aired accounts of three witnesses who claim that agents of the Bureau of Alcohol, Tobacco and Firearms (ATF) told them they were warned not to come to work on the morning of the bombing. Ever since the bombing, rumors of the advance warning have swirled around the city, culminating in the stunning statements made on national television by Edye Smith, whose only two children were killed in the blast. ... [S]he wanted answers as to why none of the fifteen ATF agents assigned to the building were killed and only two sustained minor injuries.

In late August, Edwards succeeded in securing taped testimony of key witnesses at the site of the bombing who reported that BATF agents admitted to them that the agency had received advance warning and that the agents at the Murrah building were told not to come in to work on April 19th. ... None of these individuals wished for their names to be revealed.

Moments after word of the bombing spread across Oklahoma City, the first witness rushed with his employer (who is identified as "witness number two") to the scene of the bombing in search of his wife, who worked inside the Credit Union at the Federal Building (and was severely injured). When he arrived at the building, he asked an ATF agent on the scene what had happened. The witness told Edwards:

"He started getting a little bit nervous and tried reaching somebody on the two-way radio. He couldn't get anybody, and I told him I wanted an answer right then and he said they were in debriefing and the agents had been in

there, they had been tipped by their pagers not to come in to work that day. Plain as day, out of his mouth, those were the words he said.”

Witness number one did not specify any further details, such as when the debriefing took place, but witness number two described the ATF agent’s statements to his employee’s injured wife who had emerged from the building:

“And basically what he told her was that he thought they had received a tip that morning—of the bomb.”

Yet another witness, a female rescue worker active on the morning of the bombing, recalled talking with an ATF agent at the bomb site:

“I asked if his office was in the building and he said ‘yes’ and I asked if there were any ATF agents that were still in the building and he said, ‘No, we weren’t here.’”

... [T]he Washington office of the ATF denied the above allegations as “absolutely untrue.” Agency director McGaw said that the ATF offices throughout the country were concerned about the second anniversary of Waco, and “tried to be more observant” although not about terrorism: “We were thinking about demonstrations and things like that.” Which raises the possibility that the ATF, in trying to avoid the hassles of minor demonstrations, could be taking the fall for the FBI or Federal Marshal’s failure to clear the building. ...

Station KFOR offered to discuss the credibility of their witnesses’ reports with the ATF; the agency refused, stating they had “no more to say on the subject.”

... We now have the two worst terrorist incidents in U.S. history [the World Trade Center bombing and the Oklahoma City bombing] taking place two years apart with significant foreknowledge by government law-enforcement agencies in both instances.

... As one witness told Edwards, “If they were tipped, why wasn’t anybody else? There was a lot of people—good people—died down there and if they knew, they should’ve let everybody else know.” ...



**Press Release—State Representative Charles Key
October 24, 1995 (excerpts)**

... Also, the issue of prior knowledge on the part of some government agencies is a matter that is directly related to the existence of other individuals involved in this tragedy. We now know that at least some in the FBI and ATF had reason to believe that an attack on a federal facility was a real possibility ...



Press Conference, October 24, 1995 (excerpts)

GLEN WILBURN: I've just got a short statement here that I'll read. Since April 19, I have observed the most obvious and blatant attempt by the judicial system—and specifically the U.S. attorney's office and the Federal Bureau of Investigation—to deceive not only the public but the grand jurors as to the truth of the events and the perpetrators regarding the bombing.

The first and perhaps most important aspect regards the prior knowledge of the BATF and the FBI as to the high degree of danger that existed that day, and was most likely amplified by the—quote—“sting operation” conducted unsuccessfully the night before.

Lester Martz, the agent in charge of the Dallas ATF office, has confirmed the existence of a sting operation the night before and, quote, “The bad guys didn't show up.”

We have witnesses that confirm that the bomb squad was working the Murrah Building and the Federal Courthouse Building between 7 a.m. and 8:30 a.m. that morning. You'll note that in one of the hand-outs ... that's just one of the witnesses that saw that going on up there.

Fire Department personnel have confirmed for us that they were warned on Friday before the bombing of—quote—“a possible terrorist act”—unquote— by the Federal Bureau of Investigation.

We now have learned from Chief Hansen that all communication tapes have been destroyed from that Friday before the bombing through the morning of the bombing. They taped over them. ...

If I could summarize my thoughts for the past six months as to why we're being deceived, it would be in the exact words of the grand juror in his transcript ... The juror states—quote—“Well, he was either a government agent or a government informant. Either way, they just ... that means they've got prior knowledge of the bombing, and that's what they can't afford. They can't afford to have that out.” Unquote. This is a quote straight from the grand juror who, if you read the morning paper, you all know who I'm talking about.

MEDIA: Could you identify yourself, sir?

GLEN WILBURN: My name is Glen Wilburn. Chase and Coltane Smith, my grandsons, were killed in the bombing.

MEDIA: Okay. [Now speaking to State Representative Charles Key:] I'm a little bit confused ... and as I got the statement from Mr. Wilburn and you, now there is consideration that there was prior knowledge by government officials that a terrorist act on the building

was going to occur, and they had a sting operation the night before. That doesn't seem like it's consistent. I mean, which was it? Were there ... were the bombs placed in the building? And if they knew of the act, I'm sure they searched the building.

CHARLES KEY: Well, Ron, I don't know. The answer, again, as we have said for months now, to a lot of these questions is "I don't know." And that's why we need to have a thorough investigation, regardless of whether or not there were other bombs intentionally placed in that building with the intention of bringing that building down, as opposed to illegal explosives stored in there by a government agency. The building, the remains of the building, if it were properly and thoroughly examined, especially by an independent team of investigators, may answer those questions. And it surely should have been thoroughly examined before the building was brought down. And I would hope that the county grand jury that will be impaneled will subpoena that evidence and information so that they can examine the remains of the building, and maybe finally once and for all answer those questions, and we can get to the bottom of whether or not there were multiple explosions, what kind of explosions they were, where were they placed, etc.

MEDIA: So what you're saying really is that you don't trust the people with the legal authority and responsibility for investigating and prosecuting this case.

CHARLES KEY: I wouldn't make a general statement like that, but when you know that you have certain specific individuals, U.S. prosecutors, who have intentionally kept information from the grand jury in the investigation procedure, how can you trust them?

MEDIA: Mr. Key, with regard to advance knowledge on the part of federal agencies about this, in the video tapes that we've reviewed from our local networks on the day of the bombing, sometime between, say, noon and one o'clock, Channel 4 interviewed terrorist expert Dr. Randall Heather. And he came right out and said that he knew that the FBI had received a phone call about the prior bomb threat, and I wondered if you personally had spoken with him and gotten a statement about that, or how he says he knew that information.

CHARLES KEY: No, we haven't talked to him. But his video-tape-recorded statement speaks for itself. We do know that the Oklahoma City Fire Department received a call from the FBI to be on alert for a possible bomb threat the Friday before April 19. We have other people who had conversations with ATF agents the morning—thirty minutes after the bombing—the morning of, in which the ATF agents said there was a prior warning the day before and that's why there weren't hardly any ATF agents around. You couldn't find any. And

other information that points to, very clearly, prior knowledge of an impending bombing.

MEDIA: But Charles, wasn't in fact there a lot of speculation prior to April 19, not just in Oklahoma City but all over the country, that something was going to occur? There was stuff on the Internet and stuff about the anniversary of Waco. And so why is any of this surprising?

CHARLES KEY: Well, when you put it in that context, it may not be, Ron. But see, you have to look at all of these bits of information and facts. It's not just that there were things on the Internet, or that April 19 had some significance because of Waco, or anything else. So therefore, we somehow dream up that there was a call from the FBI to the Oklahoma City Fire Department. Or that you have a bomb expert on TV who said, "Yes, there was prior warning and here's how it happened." You see, we didn't dream those things up. Those things actually happened. Those things took place and they've been verified. So it's not just the Internet. It's not just some people out there saying, "Gosh, something's probably going to happen on April 19." It's the fact that these other people who have been verified and taped on both audio and video that there was prior warning. There's no question about it.

MEDIA: Prior warning of what? That somebody was going to drive up in a Ryder truck?

CHARLES KEY: That it was believed that a bombing of a federal building in Oklahoma City might very well occur ... [I]t seems like instead of looking at the facts and trying to find the truth, we've gotten on some path to justify the positions that have already been taken. And now we're trying to prove the positions we've already taken. And therefore, anyone who comes forward and seems to go against what the federal investigators have already proposed took place, we say, "Well, those witnesses aren't credible," because it goes against the grain of what the federal government is trying to claim really took place. Again, the federal grand jury, or any grand jury, exists to find the truth by talking to all of the witnesses that they deem necessary and legitimate to talk to. We're not talking about the trial here. We're talking about gathering information.

MEDIA: I understand. But I guess what a lot of people would have a problem with what you describe is what possible motive would the federal government, the FBI, have in covering up something ... a deed as dastardly as this when most people demand justice and the facts, and the right people being brought to the bar. What possible motive?

CHARLES KEY: Well, I hate to bring up past cases that have proved to be similar in some respects to this case, possibly this case. But let's

look at very recent cases like Ruby Ridge or Waco. As those cases were investigated and it was determined that federal investigators and agents covered up information because of their own mistakes, if you remember, they didn't come forward and say, "Gosh, we goofed up and we made mistakes, and therefore we're going to confess right up front here and get it all out in the open." No, they denied it all along. So now that we enter into the area of speculation, if there were any federal agents, any government agents at any level that had any kind of involvement in this, intentionally or unintentionally, and there is a liability, that may very well be the reason they want to cover this up, because they don't want that to be revealed if they can keep it from being revealed.

MEDIA: You are now speculating that federal agents might have been involved in the bombing?

CHARLES KEY: No, I'm not.

MEDIA: Then what are you speculating?

CHARLES KEY: Well, again, the question was, why would they not bring this information out? Why would they cover it up? And the reason could be that there is someone that has some involvement in this, either through a sting operation like Mr. Wilburn stated, or maybe illegally stored explosives, but not intentionally to destroy the building and harm human life, or ... well, the scenario could go on and on, whether it was intentional involvement or just negligence of some kind.

MEDIA: So you are not speculating it could have been intentional involvement in the bombing by federal agents.

CHARLES KEY: I'm just saying that's one of the possibilities. You're talking about intentional, and you're talking about unintentional involvement. You've got negligence on one part, and you've got intentional acts on the other hand.

MEDIA: Can you think of any reason at all why federal eyewitnesses would be any more or less credible than any other witnesses?

CHARLES KEY: I cannot. Especially in light of what we have learned in this case.

MEDIA: There is a reference in here [referring to the official press release] to destroyed documents. Which, what documents are you referring to?

CHARLES KEY: We're not referring to any documents specifically. That's just a general statement. Another way we could state that would be to say any information—whether it's documents, witnesses, or any other kind of information, whether it was audio or video.

MEDIA: Like those tapes that the Fire Department taped over?

CHARLES KEY: Yes. The tapes which now have been taped over by the Fire Department. I don't understand that. Why wouldn't you keep the tapes, the audio tapes, of calls coming in to your office, police or fire, on probably the most important tragic event in Oklahoma history? They've been tape-recorded over. Now, I don't know if there is a criminal act there. But that is an example of something that could be looked at by a grand jury.

MEDIA: Is it their practice there to use the tapes over and over and over?

CHARLES KEY: It may very well be. But again, I ask all of you and anyone else, the most important day in Oklahoma history with regard to a criminal act and in other aspects, wouldn't you keep that information? Wouldn't due diligence require that you not tape over that information that day? I think it would. Hindsight is 20/20, but I know if I had done that, I sure wouldn't do it again.

MEDIA: You said earlier that the Fire Department has confirmed that there was a warning about a bomb?

CHARLES KEY: Yes.

MEDIA: Who? What person?

CHARLES KEY: You can call Chief Gaines, Chief Hansen, Assistant Chief Weathers. I believe a dispatcher named Purcer can tell you, and then there were people in the offices there that know about this.

MEDIA: Were all of these people warned? Were all of these people talked to, or did they just overhear a conversation? How do they know?

CHARLES KEY: Well, conversations have been engaged in by those of us who have been working, collaborating together on this, and all of these people have knowledge, specific knowledge, about the warning that they received from the FBI. I will leave it to the press to go ask those people and talk to them. It was not hearsay or just loose talk. I would not mention that if I was not absolutely sure and convinced of it. I wouldn't present it to you publicly.

MEDIA: And what was the nature of this warning? Who called?

CHARLES KEY: There is no question that they received a call from the FBI warning them of a possible terrorist bombing at a federal facility in Oklahoma City.

MEDIA: Who was the specific person that the FBI called and gave that information?

CHARLES KEY: My understanding is it was Chief Gaines.

MEDIA: Okay. Thank you.

MEDIA: And who from the FBI called?

CHARLES KEY: I don't know that.

MEDIA: Does Chief Gaines know who called him?

CHARLES KEY: I'm sure that he probably does. And I think Assistant Chief Weathers would also be another good source to back up that story. I'll just tell you what Chief Weathers told Glen Wilburn. He said that, yes, there was a call that came in that day from the FBI to be on the alert for a possible terrorist attack on a federal building. And he said, "I'll tell anybody that. I'm not going to lie for anyone." That's an exact quote. I applaud someone like that for standing up like the grand juror is standing up to tell the truth about what they know. And that's what Assistant Chief Weathers said about this situation.

MEDIA: And that phone call came when?

CHARLES KEY: The Friday before Wednesday the 19th. Thank you. I appreciate you coming.

404 ♡ *Oklahoma City: Day One*

**APPENDIX E: ANTI-TERRORISM
LEGISLATION**

October 31, 1995

To: All Murrah Building Victims,
Survivors and Families

From: Diane Leonard, Glenn Seidl, Dallas and Sharon Davis, Beverly Rankin, Liz Thomas, Judy Walker, Kay Ice, Dan McKinney, Connie Williams, Nicole Williams, Carolyn Templin, Todd McCarthy, Joyce McCarthy

Subject: Meeting Tues., Nov. 7, 1995, to discuss pending legislation to shorten the death penalty appeal process.

Having lost loved ones ourselves in the Murrah Building bombing, we first want to assure you that we are aware of the deep pain you have felt for these past six months. We extend to you our deepest and most heartfelt sympathy.

Following the bombing, as we searched for a sense of direction and purpose, it occurred to us that one thing we might do is to become involved in efforts to assure a speedy and swift justice for those who murdered our loved ones. We are writing this letter because we want to inform you about efforts that a group of victims' families and survivors have undertaken to shorten the death penalty appeals process, and to ask you to help us if you are so inclined. In short, we are interested in creating a federal appellate process where the victims and their families rights are respected, not just the murderers.

Glenn Seidl approached Attorney General Drew Edmondson with this idea in mind, and asked the attorney general if anything could be done to shorten the appeal times in death penalty cases. Attorney General Edmondson told us that there was pending legislation in Congress to reform what's called the Habeas Corpus appeal process. We learned that, according to a study by a bi-partisan commission led by former Supreme Court Justice Lewis F. Powell, 60 percent of the unnecessary delay in the appeals process occurs during the federal Habeas Corpus process.

For many years, victims' rights groups, prosecutors and others across the nation have fought to reform the Habeas Corpus process, shortening appeals on the state and federal level. Habeas Corpus reform provisions will significantly reduce the appeal process and expedite the imposition of the death sentence of convicted murderers on death row.

Murderers convicted for the Oklahoma City bombing, like others sentenced to death, either in a federal or a state prosecution, will be able to exploit the current abuses of the

Letter to All Murrah Building Victims, October 31, 1995

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federal Habeas Corpus system. Because the proposed Habeas Corpus reforms are procedural, they will shorten the appeals of all current cases, including the Murrah Bombing case.

Last May, Attorney General Edmondson was successful in shortening the state level appeals process in Oklahoma by urging and obtaining passage of H.B. 1659. Effective November 1, 1995, a death row inmate's appeal time will now be reduced by an average of 3-5 years. This state reform, like the proposed federal reform, will apply to McVeigh and Nichols when District Attorney Bob Macy obtains death sentences in state court, following the federal trials. (See Mr. Macy's letter to Senator Hatch attached)

On June 4th, 1995, our group of bombing survivors and families of those who died, flew to Washington, D.C. to urge the U.S. Senate and President Clinton to implement federal Habeas Corpus Reform. This Reform is a provision in the Anti-Terrorism Bill. On June 7th, 1995, the Senate passed this Bill. The Attorney General told us that he has no doubt this was passed only because of the message brought by the survivors and the victims families. (See attached news articles)

However, we are now very concerned that our victory in the Senate, which we thought at the time to be the pivotal vote, will not necessarily mean that the reforms will become law. It has now been over five months since the passage in the Senate, and the U.S. House of Representatives has still not acted to adopt any form of the Anti-Terrorism Bill that permits the Habeas Reform to become law. It appears that some Congressmen are very concerned about passing any form of the Anti-Terrorism Bill because of the controversies over the Waco Hearings and Ruby Ridge. Opponents of the Anti-Terrorism Bill and Habeas Corpus Reform are very powerful, and include the American Civil Liberties Union, the National Association of Criminal Defense Attorneys, the National Rifle Association, and other powerful groups.

Our position is simply this: Whatever the concerns - work it out. Some form of anti-terrorism must be passed in order to reform Habeas.

We are now preparing to convince the U.S. House of Representatives to pass the Anti-Terrorism Bill as soon as possible, without watering down the Habeas Corpus Reform provision that passed in the Senate.

The families and survivors we have been working with have raised the concern that others would want to help if they knew of our efforts. We have been reluctant to reach out to you because we do not want anyone to feel pressured if, for whatever reason, they choose not to participate. We will not attempt to contact anyone personally, but will be available at all times to answer any questions. If you are interested in participating, please feel to contact Assistant Attorney General Richard Wintory or his Legal Assistant, Susan Hanna, at 522-4389 or 522-4390, or Administrative Assistant Gerald Adams, 522-4422. The attorney general's office has served as a source of information and support for our efforts, and has provided other technical assistance for our group.

Further, we are planning a meeting on Tuesday, November 7th, 1995, at 7:00 p.m., at St. Luke's United Methodist Church, 222 N.W. 15th Street, Room 210, Oklahoma City, Oklahoma, to discuss details of Habeas Corpus Reform, what we have accomplished so far, and how we hope to get this passed in the U.S. House. We will answer your questions to the best of our ability. No one will be cornered, pressured or otherwise put upon. The meeting is closed to the general public and the media. However, if you have any friends or family, or know of anyone else interested in this issue, that may want to come to this meeting, they are more than welcome to attend.

We look forward to meeting you and answering any questions you may have.

Sincerely,

Paul J. McCarthy

Kay Lee
Don McKinney

Judy Walker 728-8202

Jim Hanson 360-4278
Suevely Rankin 495-2045

Sharon Davis 621-2564

Diane Leland 246-1201

Glenn A. Seidl 275-4375

Cornie S. Williams 392-3371

Joyce McArthur 340-9276

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RAY C. ELLIOTT
SHERIFF OF OKLAHOMA COUNTY

JOHN J. POLSKY
SHERIFF OF ADAMS COUNTY

ROBERT L. MITCHELL
SHERIFF OF BARTON COUNTY

May 24, 1995

Senator Orin G. Hatch
Chairman Judiciary
S.D.-224 Dirksen Senate Office
Washington, D.C. 20514-6275

Dear Senator Hatch:

The purpose of this letter is to express my support for the inclusion of the provisions for reform of Federal Habeas Corpus authored by Senator Spector and you in the Anti-terrorism Bill, S735. Apparently some persons have raised questions about the appropriateness of this measure. Specifically, I have been told that there are some who do not see the importance of these reform measures in cases, such as the Oklahoma City bombing, which will initially be prosecuted by Federal Court.

There are two points I would like to make in response to those questions. First, immediately following the trial or trials in Federal Court, I shall, working in cooperation with the United States Department of Justice and the federal law enforcement agencies investigating the bombing of the Alfred P. Murrah Building, prosecute in Oklahoma State Court the cowards responsible for murdering innocent people in the area surrounding the federal building. And I shall seek the death penalty. We must never forget that this bombing took several lives and injured dozens of persons in the neighborhood and businesses near the building. The State of Oklahoma has an overwhelming, compelling interest to seek and obtain the maximum penalty allowable by law for the senseless and cowardly killings. Not only is it in the interest of the State, it is my sworn duty to seek those sanctions, and I intend to fully carry out my responsibilities.

Letter to Senator Orin G. Hatch
from Oklahoma County District Attorney Robert Macy
May 24, 1995
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The reform measures contained in the Spector, Hatch, Dole Habeas Corpus Reform measures contained in S738 will in my judgment significantly curb the abuse and delays inherent in current habeas practice. Every day of delay represents a victory for these cowardly cold blooded killers and another day of defeat and suffering for the victims and all other Americans who cry out for justice.

Secondly, your reform provisions will also create significant time savings during appeals from federal convictions as well. Examples of this include:

- time limitations on when habeas petitions may be filed;
- time deadlines on when federal courts must rule on habeas petitions;
- a requirement that federal courts prioritize consideration of capital appeals;
- reform of the abuses inherent in the probable cause process;
- limitations on second and successive petitions.

As Chairman of the Board of Directors of the National District Attorney's Association I am proud to inform you that America's prosecutors speak with one voice and that we are calling upon you and your colleagues to set your priorities and enact reforms which will provide to every convicted murderer the rights guaranteed by the constitution, but absolutely no further consideration or delay than is constitutionally required.

Respectfully,

Robert H. Macy
Robert H. Macy
District Attorney

RHM/ja

END

Letter to Senator Orin G. Hatch
from Oklahoma County District Attorney Robert Macy
May 24, 1995
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Digest of Contents, S. 735

S.735

PUBLIC LAW: 104-132, (signed 04/24/96)

SPONSOR:

Sen. Dole, (introduced 04/27/95)

DIGEST:

(REVISED AS OF 04/15/96—Conference report filed in House)

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Antiterrorism and Effective Death Penalty Act of 1996—Title I: Habeas Corpus Reform—Amends the Federal judicial code to establish a one-year statute of limitations for habeas corpus actions brought by State prisoners.

(Sec. 102) Specifies that: (1) there shall be no right of appeal from a final order in a habeas corpus proceeding; and (2) unless a circuit justice or judge issues a certificate of appealability, any appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State or Federal court. Permits such certificate to issue only if the applicant has made a substantial showing of the denial of a constitutional right.

(Sec. 104) Provides that if the applicant has failed to develop the factual basis of a claim in State court proceedings, the Federal court shall not hold an evidentiary hearing on the claim unless: (1) the claim relies on a new rule of constitutional law, made retroactive by the Supreme Court, that was previously unavailable or on a factual predicate that could not have been previously discovered through the exercise of due diligence; and (2) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable fact finder would have found the applicant guilty of the underlying offense.

(Sec. 105) Sets forth provisions regarding: (1) the statute of limitations for motions; and (2) limits on second or successive applications.

(Sec. 107) Sets forth special habeas corpus procedures in capital cases. Requires (with exceptions): (1) a district court to render a final determination of an application for habeas corpus brought in a capital case not later than 180 days after the date on which the application is filed; and (2) a court of appeals to hear and render a final determination of any appeal of an order granting or denying such petition within 120 days after the date on which the reply brief is filed and to decide whether to grant a petition or other request for rehearing en banc within 30 days after the date on which the petition for rehearing is filed.

Requires the Administrative Office of United States Courts (Administrative Office) to submit to the Congress an annual report on the compliance by the courts of appeals with the time limitations under this section.

(Sec. 108) Amends the Controlled Substances Act (CSA) to allow the court, upon a finding that investigative, expert, or other services are reasonably necessary for the representation of a defendant in a criminal action in which a defendant is charged with a crime punishable by death and in certain post-conviction proceedings, to authorize the defendant's attorneys to obtain such services and order the payment of fees and expenses. Prohibits any ex parte proceeding, communication, or request (proceeding) from being considered unless a proper showing is made concerning the need for

confidentiality. Requires that any such proceeding be transcribed and made a part of the record available for appellate review.

Title II: Justice for Victims—Subtitle A: Mandatory Victim Restitution—Mandatory Victims Restitution Act of 1996—Amends the Federal criminal code to require the court to order restitution of the victim when a convicted defendant is being sentenced for specified offenses (see Sec. 204). Authorizes the court to order restitution in certain other cases. Makes specified procedures (see Sec. 206) applicable to all orders of restitution.

(Sec. 203) Requires the court to provide, as an explicit condition of a sentence of probation, that the defendant make restitution as ordered, pay the assessment imposed, and notify the court of any material change in his or her economic circumstances that might affect his or her ability to pay restitution, fines, or special assessments.

Repeals certain restrictions on the court's authority to order the making of restitution.

(Sec. 204) Directs the court to order, in addition to any other penalty authorized by law, that the defendant make restitution to the victim of the offense or, if the victim is deceased, to the victim's estate.

Defines "victim" as a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered, including any person directly harmed by the defendant's criminal conduct in the course of an offense that involves a scheme, conspiracy, or pattern of criminal activity. Permits a legal guardian or the representative of the victim's estate (other than the defendant), another family member, or any other person appointed as suitable by the court to assume the victim's rights in the case of a victim who is under age 18, incompetent, incapacitated, or deceased.

Sets forth provisions regarding: (1) restitution to persons other than the victim; (2) the form and amount of restitution; and (3) plea agreements not resulting in a conviction.

Requires restitution in all sentencing proceedings for convictions of, or plea agreements relating to charges for, any offense: (1) that is a crime of violence, an offense against property (including fraud), or an offense relating to tampering with consumer products; or (2) in which an identifiable victim has suffered a physical injury or pecuniary loss. Makes exceptions where the number of identifiable victims is so large as to make restitution impracticable or where determining complex issues of fact or the amount of the victim's losses would create an excessive burden on the sentencing process.

(Sec. 205) Authorizes the court, when sentencing a defendant convicted of specified CSA offenses, to order that the defendant make restitution to any

victim of such offense. Specifies that a participant in an offense may not be considered a victim of the offense.

Directs the court, in determining whether to order restitution, to consider the amount of the loss sustained by each victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. Permits the court to decline to order restitution upon determining that the complication and prolongation of the sentencing process resulting from fashioning such an order outweighs the need to provide restitution to any victims.

Sets forth provisions regarding situations in which there is no identifiable victim. Directs that an order of restitution in such case be based on the amount of public harm caused by the offense. Limits the amount of such restitution ordered to the amount of the fine ordered for the offense charged in the case. Directs that such restitution be distributed as follows: 65 percent to the State entity designated to administer crime victim assistance in the State in which the crime occurred and 35 percent to the State entity designated to receive Federal substance abuse block grant funds.

Directs: (1) that certain penalty assessments or fines take precedence over a restitution order; (2) that requests for community restitution be considered in all plea agreements negotiated by the United States; and (3) the United States Sentencing Commission (the Commission) to promulgate guidelines to assist courts in determining the amount of restitution that may be ordered.

Prohibits: (1) the court from making an award if it appears likely that such award would interfere with a forfeiture under the Federal criminal code or the CSA; and (2) any restitution from being ordered under this section until such time as the Commission promulgates its guidelines.

Makes conforming changes to the Violence Against Women Act of 1994 and to telemarketing fraud provisions of the Federal criminal code.

(Sec. 206) Revises procedures for the issuance and enforcement of restitution orders. Directs the court to: (1) order the probation officer to obtain and include in the presentence report, or in a separate report, information sufficient for the court to exercise its discretion in fashioning a restitution order (including a complete accounting of the losses to each victim, any restitution owed pursuant to a plea agreement, and information relating to the economic circumstances of each defendant); and (2) disclose to both the defendant and the attorney for the Government all portions of the report pertaining to such matters. Directs the probation officer to inform the court if the number or identity of victims cannot be reasonably ascertained, or if other circumstances exist that make such requirement impracticable.

Makes specified provisions of the Federal criminal code and Rule 32(c) of the Federal Rules of Criminal Procedure the only rules applicable to proceedings for the issuance and enforcement of restitution orders.

Directs: (1) the attorney for the Government, upon the request of the probation officer but not later than 60 days prior to the date initially set for sentencing and after consulting (to the extent practicable) with all identified victims, to promptly provide the probation officer with a listing of the amounts subject to restitution; and (2) the probation officer, prior to submitting the presentence report, to provide specified notice to identified victims and provide each victim with an affidavit form to submit.

Sets forth provisions regarding: (1) each defendant preparing and filing with the probation officer an affidavit fully describing the defendant's financial resources; (2) the court's authority to require additional documentation or hear testimony; (3) the privacy of any records filed or testimony heard; (4) final determination of the victim's losses and subsequent discovery of further losses; (5) court referral of issues arising in connection with proposed restitution orders to a magistrate judge or special master; and (6) resolution of disputes as to the proper amount or type of restitution.

Directs the court to order restitution to each victim in the full amount of each victim's losses as determined by the court without consideration of the defendant's economic circumstances.

Sets forth further requirements, including provisions regarding the form of payments, situations involving multiple defendants, a prohibition on considering the fact that a victim has received compensation with respect to a loss from insurance or any other source in determining the amount of restitution, notification of material changes in the defendant's economic circumstances, and such adjustment of the payment schedule as the interests of justice require.

Specifies that: (1) a defendant's conviction for an offense involving the act giving rise to a restitution order shall estop the defendant from denying the essential allegations of that offense in any subsequent Federal civil proceeding or State civil proceeding, to the extent consistent with State law, brought by the victim; (2) a restitution order may be enforced by the United States, as specified; and (3) an order of in-kind restitution in the form of services shall be enforced by the probation officer.

Directs the clerk of the court, at the request of a victim named in a restitution order, to issue an abstract of judgment certifying that a judgment has been entered in favor of such victim in the amount specified in the order. Specifies that upon registering, recording, docketing, or indexing such abstract, it shall be a lien on the property of the defendant, subject to specified limitations.

Specifies that a sentence that imposes an order of restitution is a final judgment notwithstanding the fact that such sentence can be subsequently

corrected, appealed and modified, amended, or adjusted under specified provisions, or that the defendant may be resentenced.

(Sec. 207) Amends Rule 32(b) of the Federal Rules of Criminal Procedure to require that: (1) a presentence investigation and report, or other report containing information sufficient for the court to enter an order of restitution, be required in any case in which restitution is required to be ordered; and (2) a presentence report contain, in appropriate cases, information sufficient for the court to enter an order of restitution.

Adds restitution to existing provisions governing the imposition of a fine in Federal criminal cases. Directs the court to impose a fine or other monetary penalty only to the extent that such fine or penalty will not impair the ability of the defendant to make restitution required to a victim other than the United States. Sets forth provisions regarding payment schedules, notification to the court of material changes in the defendant's economic circumstances, and default on a restitution fine or payment.

Adds restitution provisions to provisions governing the post sentence administration of fines, including collection. Makes it the responsibility of each victim to notify the Attorney General or the appropriate court entity of any change in the victim's mailing address while restitution is still owed. Directs that the confidentiality of any information relating to a victim be maintained. Sets priorities for the disbursement of money received from a defendant.

Revises provisions regarding civil remedies for satisfaction of an unpaid fine to authorize the United States to enforce a judgment imposing a fine in accordance with the practices and procedures for the enforcement of a civil judgment under Federal or State law. Sets forth provisions regarding: (1) the enforcement of such judgments; (2) termination of liability; (3) liens and the effect of filing notice of a lien; (4) inapplicability of the discharge of debt in bankruptcy proceedings; and (5) applicability of specified provisions to the enforcement of an order of restitution.

Authorizes the court, upon a finding that the defendant is in default on a payment of a fine or restitution, to revoke probation or a term of supervised release, modify the terms or conditions of a probation or a term of supervised release, resentence a defendant, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, enter or adjust a payment schedule, or take any other action necessary to obtain compliance with the order of a fine or restitution.

Allows any hearing arising out of such default to be conducted by a magistrate judge, subject to de novo review by the court. Requires that proceedings in which the participation of a defendant who is confined in a correctional facility is required or permitted be conducted by telephone,

video conference, or other communications technology without removing the prisoner from the facility.

Prohibits incarcerating a defendant solely on the basis of inability to make payments because of indigency.

(Sec. 209) Requires the Attorney General to ensure that: (1) in all plea agreements negotiated by the United States, consideration is given to requesting that the defendant provide full restitution to all the victims; and (2) restitution orders are enforced to the fullest extent of the law.

(Sec. 210) Doubles the special assessments on persons convicted of a felony in Federal cases.

Subtitle B: Jurisdiction for Lawsuits Against Terrorist States—Amends the Federal judicial code to make exceptions to: (1) foreign sovereign immunity for certain cases in which money damages are sought against a foreign government for personal injury or death caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources to terrorists (but sets a ten-year statute of limitation, subject to equitable tolling principles, and directs the court to limit discovery that the Attorney General certifies will interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action, subject to specified restrictions); and (2) immunity from attachment with respect to a foreign state or an agency or instrumentality of such state.

Subtitle C: Assistance to Victims of Terrorism—Justice for Victims of Terrorism Act of 1996—Amends the Victims of Crime Act of 1984 (VCA) to authorize the Director of the Office of Justice Assistance to make supplemental grants to States: (1) to provide compensation and assistance to State residents who, while outside U.S. territorial boundaries, are victims of a terrorist act or mass violence and are not eligible for compensation under the Omnibus Diplomatic Security and Antiterrorism Act of 1986; and (2) for eligible crime victim compensation and assistance programs to provide emergency relief, including crisis response efforts, assistance, training, and technical assistance, for the benefit of victims of terrorist acts or mass violence occurring within the United States and funding to U.S. Attorney's Offices for use in coordination with State victims compensation and assistance efforts in providing emergency relief.

Revises provisions of such Act to: (1) authorize the Director, if the sums available in the Crime Victims Fund are sufficient to fully provide grants to the States, to retain any portion of the Fund that was deposited during a fiscal year that was in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as an emergency reserve; (2) prohibit such reserve from exceeding \$50 million; and (3) permit the emergency reserve to be used for supplemental grants and to supplement the

funds available to provide grants to States for compensation and assistance in years in which supplemental grants are needed.

Amends such Act to: (1) permit any amount awarded as part of a grant that remains unspent at the end of a fiscal year in which the grant is made to be expended for the purpose for which the grant is made during the two succeeding fiscal years, at the end of which period any remaining unobligated sums in excess of \$500,000 shall be returned to the Treasury (with any remaining unobligated sums in an amount less than \$500,000 to be returned to the Fund); and (2) define “base amount” for purposes of crime victim assistance to mean \$500,000 and for the territories of the Northern Mariana Islands, Guam, American Samoa, and the Republic of Palau, \$200,000, with the latter’s share governed by the Compact of Free Association between the United States and the Republic of Palau.

(Sec. 233) Amends the VCA to provide for the compensation of victims of terrorism.

Designates the Federal building at 1314 LeMay Boulevard, Ellsworth Air Force Base, South Dakota, as the Cartney McRaven Child Development Center.

(Sec. 234) Amends the VCA to: (1) prohibit payments to delinquent criminal debtors by State crime victim compensation programs; and (2) exclude victim assistance from income for purposes of determining eligibility for Federal benefits.

(Sec. 235) Directs the trial court in criminal cases where the venue is moved out of State more than 350 miles from the location in which those proceedings originally would have taken place, to order closed circuit televising of the proceedings for viewing by such persons whom the court determines have a compelling interest and who are otherwise unable to view the proceedings by reason of the inconvenience and expense caused by the change of venue. Limits access to such broadcast. Specifies that: (1) the signal so transmitted shall be under the control of the court at all times and shall only be transmitted subject to the terms and conditions imposed by the court; (2) no public broadcast or dissemination shall be made of that signal (and, in the event any tapes are produced in carrying out such provision, such tapes shall be the property of the court and kept under seal); and (3) any violations shall be punishable as contempt of court. Authorizes the Administrative Office to accept donations to enable the courts to carry out such provision.

Title III: International Terrorism Prohibitions—Subtitle A: Prohibition on International Terrorist Fundraising—Amends the Immigration and Nationality Act (INA) to authorize the Secretary of State, in consultation with the Secretary of the Treasury (Secretary) and the Attorney General, to designate an organization as a terrorist organization upon finding that the

organization is a foreign organization that engages in terrorist activity and such activity threatens the security of U.S. nationals or U.S. national security.

Sets forth provisions regarding: (1) procedures for such designation, including notification to specified congressional leaders, and the freezing of assets; (2) creation of an administrative record and the handling of classified information; (3) the period of designation; (4) revocation by Act of Congress, revocation based on a change in circumstances, and the effect of revocation; (5) use of the designation in a trial or hearing; (6) judicial review of such designation.

(Sec. 303) Sets penalties for knowingly providing, or attempting or conspiring to provide, material support or resources to a foreign terrorist organization. Requires any financial institution that becomes aware that it has possession of, or control over such funds and report to the Secretary the existence of such funds, with exceptions. Establishes civil penalties for knowingly failing to comply with such provision.

Sets forth provisions regarding: (1) injunctions; (2) extraterritorial Federal jurisdiction; (3) investigations; and (4) the discovery and handling of classified information in civil proceedings brought by the United States.

Subtitle B: Prohibition on Assistance to Terrorist States—Imposes penalties upon U.S. persons who engage in a financial transaction with a country knowing or having reasonable cause to know that such country has been designated under the Export Administration Act as a country supporting international terrorism, with exceptions.

(Sec. 322) Directs the Administrator of the Federal Aviation Administration to continue in effect the requirement that a foreign air carrier must adopt and use a security program approved by the Administrator. Prohibits the Administrator from approving such a program unless it requires the foreign air carrier in its operations to and from U.S. airports to adhere to the identical security measures that the Administrator requires air carriers serving the same airports to adhere to. Specifies that such requirement shall not be interpreted to limit the ability of the Administrator to impose additional security measures on a foreign air carrier or an air carrier when the Administrator determines that a specific threat warrants such additional measures.

(Sec. 323) Modifies existing provisions setting penalties for providing material support to terrorists, including by: (1) eliminating language that excludes from the definition of “material support or resources” humanitarian assistance to persons not directly involved in violations; and (2) adding language to exclude from such definition medicine or religious materials.

(Sec. 324) Makes findings regarding international terrorism, including that the President should use all necessary means, including covert action and military force, to destroy international infrastructure used by international terrorists.

(Sec. 325) Amends: (1) the Foreign Assistance Act of 1961 to authorize the President to withhold assistance to the governments of countries that aid (including providing military equipment to) terrorist states, with exceptions by presidential waiver when in the national interest; and (2) the International Financial Institutions Act to direct the Secretary to instruct the U.S. executive director of each international financial institution to oppose assistance by such institutions to terrorist states.

(Sec. 328) Revises Foreign Assistance Act provisions regarding antiterrorism assistance to permit arms and ammunition to be provided under such provisions only if they are directly related to antiterrorism assistance. Limits the value of equipment and commodities provided. Repeals a prohibition on using such funds for personnel compensation or benefits.

Makes up to \$3 million in any fiscal year available to procure explosives detection devices and other counterterrorism technology and for joint counterterrorism research and development projects on such technology conducted with the North Atlantic Treaty Organization (NATO) and major non-NATO allies under the auspices of the Technical Support Working Group of the Department of State. Sets a \$1 million limit on assistance provided to a foreign country for counterterrorism efforts in any fiscal year, subject to specified conditions.

(Sec. 329) Defines “assistance” to mean assistance (excluding international disaster assistance) to or for the benefit of a government of any country that is provided by any means on terms more favorable than generally available in the applicable market.

(Sec. 330) Amends the Arms Export Control Act to prohibit assistance under such Act in a fiscal year to a country that the President determines and certifies to the Congress, by May 15 of the calendar year in which that fiscal year begins, is not cooperating fully with U.S. antiterrorism efforts, subject to presidential waiver if the transaction is essential to U.S. national security interests.

Title IV: Terrorist and Criminal Alien Removal and Exclusion—Subtitle A: Removal of Alien Terrorists—Amends the INA to establish procedures for the removal of alien terrorists.

Directs the Chief Justice of the United States to publicly designate five district court judges from five of the U.S. judicial circuits to constitute a court with jurisdiction to conduct removal proceedings.

Sets forth provisions regarding: (1) terms of such judges; (2) designation of the chief judge of the removal court; and (3) the expeditious and confidential nature of such proceedings.

Authorizes the Attorney General: (1) to seek removal of an alien terrorist by filing an application with the removal court that contains specified information, such as a statement of the facts and circumstances relied on by the

Department of Justice (DOJ) to establish probable cause that the alien is a terrorist, that the alien is present in the United States, and that removal under normal immigration procedures would pose a risk to U.S. national security; and (2) to dismiss a removal action under this title at any stage of the proceeding.

Allows a single judge of the removal court, in determining whether to grant an application, to consider, *ex parte* and *in camera*, in addition to the information contained in the application: (1) other (including classified) information presented under oath or affirmation; and (2) testimony received in any hearing on the application of which a verbatim record shall be kept.

Sets forth provisions regarding: (1) the approval or denial of an order; and (2) the exclusivity of this title with respect to the rights of the alien regarding removal and expulsion, if an order is issued granting the application.

Directs that, where the application is approved, a removal hearing be conducted as expeditiously as practicable and be open to the public. Sets forth provisions regarding: (1) notice; (2) rights in the hearing, including the right to counsel, to introduce evidence, and (subject to specified limitations) to examine witnesses; (3) subpoenas (but denies aliens access to classified information); (4) discovery; (5) arguments; (6) burden of proof; (7) rules of evidence; (8) determination of deportation; (9) written orders; (10) no right to ancillary relief; (11) appeals; (12) custody and release pending a removal hearing; and (13) custody and release after a removal hearing, including criminal penalty for reentry of alien terrorists and elimination of custody review by habeas corpus.

Subtitle B: Exclusion of Members and Representatives of Terrorist Organizations—Makes being a member or representative of a foreign terrorist organization a basis for exclusion from the United States under the INA.

(Sec. 412) Grants the Secretary of State authority to waive requirements concerning notice of denial of a visa application, or for admission or adjustment of status, in the case of a particular alien or any class or classes of excludable aliens, with exceptions.

(Sec. 413) Denies specified deportation relief for alien terrorists.

(Sec. 414) Deems an alien present in the United States, who has not been admitted after inspection under the INA, to be seeking entry and admission, and subject to examination and exclusion.

Subtitle C: Modification to Asylum Procedures—Prohibits the Attorney General from granting asylum to an alien excludable as a terrorist unless the Attorney General determines that the individual seeking asylum will not be a danger to U.S. security.

(Sec. 422) Authorizes the examining immigration officer, upon determining that an alien seeking entry is excludable under specified provisions (with

respect to misrepresentation or insufficient documentation) and does not indicate either an intention to apply for asylum or a fear of persecution, to order the alien excluded from the United States without further hearing or review.

Directs the Attorney General to promulgate regulations to provide for the immediate review by a supervisory asylum office at the port of entry of a determination that an alien does not have a credible fear of persecution.

(Sec. 423) Sets forth provisions regarding limits on judicial review, including preclusion of collateral attacks on the validity of orders of exclusion, special exclusion, or deportation pursuant to this title.

Subtitle D: Criminal Alien Procedural Improvements—Revises the seven-year residency defense against a deportation or exclusion order to permit deportation or exclusion of a permanent resident alien who has been sentenced (currently, imprisoned) to five or more years for an aggravated felony.

(Sec. 432) Permits the Attorney General to authorize an application to a Federal court of competent jurisdiction for, and a judge of such court to grant an order authorizing, disclosure of information contained in the alien's application for adjustment of status to be used: (1) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated; (2) for criminal law enforcement purposes against the alien whose application is to be disclosed; or (3) to discover information leading to the location or identity of the alien.

(Sec. 433) Amends the Violent Crime Control and Law Enforcement Act of 1994 to: (1) rename the criminal alien tracking center as the criminal alien identification system; (2) specify that the system shall be used to identify and locate deportable aliens who have committed aggravated felonies; and (3) transfer the system from the Attorney General to the Commissioner of the Immigration and Naturalization Service (INS).

(Sec. 434) Amends the Federal criminal code to: (1) bring certain alien smuggling-related crimes under the purview of the Racketeer Influenced and Corrupt Organizations Act; and (2) authorize wiretaps for alien smuggling investigations.

(Sec. 436) Amends the INA to: (1) expand the criteria for deportation for crimes of moral turpitude; and (2) permit the use of electronic and telephonic media in deportation hearings.

(Sec. 438) Directs the Attorney General and the Commissioner of Immigration and Naturalization to develop an interior (home country) repatriation program.

(Sec. 439) Amends the INA to authorize deportation of nonviolent offenders prior to Federal or State sentence completion.

(Sec. 440) Authorizes State and local law enforcement officials, to the extent permitted by relevant State and local law, to arrest and detain an illegal alien who has previously been convicted of a felony in the United States and who has been deported from or left the United States after such conviction, after obtaining appropriate confirmation from the INS of such individual's status, for such time as may be required for the INS to take that individual into Federal custody for purposes of deporting or removing the alien from the United States.

Directs the Attorney General to cooperate with the States to assure that information in the Attorney General's control, including information in the National Crime Information Center, that would assist State and local law enforcement officials in carrying out such duties is made available to such officials.

(Sec. 441) Revises INA provisions regarding terrorism to provide that any final order of deportation against an alien who is deportable by reason of having committed specified criminal offenses shall not be subject to review by any court. Makes such an order final upon the earlier of a determination by the Board of Immigration Appeals affirming such order or the expiration of the period in which the alien is permitted to seek review of such order by the Board.

Expands the range of offenses for which the Attorney General shall take an alien convicted of a crime into custody upon release (currently, limited to aggravated felonies) for deportation as expeditiously as possible. Repeals provisions under which the Attorney General may release an alien who demonstrates that he or she is not a threat to the community and is likely to appear before any scheduled hearings.

Revises provisions regarding: (1) nonapplicability of requirements that aliens be ineligible for visas and excluded from admission into the United States if such aliens are deportable by reason of having committed specified criminal offenses (currently, limited to those convicted of one or more aggravated felonies and having served at least five years' imprisonment for such felonies); and (2) the definition of "aggravated felony" to expand its scope.

Specifies that when a final order of deportation under administrative process is made against any alien who is deportable by reason of having committed a specified criminal offense, the Attorney General shall have 30 days within which to effect the alien's departure from the United States and shall have sole and unreviewable discretion to waive such provision for aliens who are cooperating with law enforcement authorities or for purposes of national security.

(Sec. 442) Limits collateral attacks on deportation orders.

(Sec. 443) Subjects a conditional permanent resident alien convicted of an aggravated felony to expedited deportation.

(Sec. 444) Sets forth provisions regarding the extradition of aliens who have committed crimes of violence against U.S. nationals. Makes certain Federal criminal code provisions regarding extradition of fugitives applicable to such aliens.

Title V: Nuclear, Biological, and Chemical Weapons Restrictions—Subtitle A: Nuclear Materials—Revises Federal criminal code provisions regarding prohibited transactions involving nuclear materials to cover specified actions involving nuclear byproduct material and actions knowingly causing substantial damage to the environment.

Expands jurisdiction by making such prohibitions applicable where an offender or victim is a U.S. national or a U.S. corporation or other legal entity. Repeals a requirement for jurisdiction that at the time of the offense the nuclear material must have been in use, storage, or transport for peaceful purposes.

Modifies the definition of “nuclear material” to mean material containing any plutonium (currently, with an isotopic concentration not in excess of 80 percent plutonium 238).

(Sec. 503) Directs the Attorney General and the Secretary of Defense to jointly conduct a study and report to the Congress on the number and extent of thefts from military arsenals of firearms, explosives, and other materials that are potentially useful to terrorists.

Subtitle B: Biological Weapons Restrictions—Amends the Federal criminal code to include within the scope of prohibitions regarding biological weapons attempts, threats, and conspiracies to acquire a biological agent, toxin, or delivery system for use as a weapon. Authorizes the United States to obtain an injunction against the threat to engage in prohibited conduct with respect to such prohibitions.

Redefines: (1) “biological agent” to cover certain biological products that may be engineered as a result of biotechnology or certain naturally occurring or bioengineered components of a microorganism, virus, infectious substance, or biological product; (2) “toxin” to include the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule; and (3) “vector” to include certain molecules, including recombinant molecules, or biological products that may be engineered as a result of biotechnology.

Revises provisions regarding the use of weapons of mass destruction to cover threats to use such weapons and the use of any biological agent, toxin, or vector.

Directs the Secretary of Health and Humans Services to: (1) establish and maintain a list of each biological agent that has the potential to pose a severe threat to public health and safety; and (2) provide for the establishment and enforcement of safety procedures for the transfer of listed biological agents, safeguards to prevent access to such agents for use in

domestic or international terrorism or for any other criminal purpose, the establishment of procedures to protect the public safety in the event of a transfer or potential transfer of a biological agent in violation of the safety procedures or safeguards established, and appropriate availability of biological agents for research, education, and other legitimate purposes.

Subtitle C: Chemical Weapons Restrictions—Amends the Federal criminal code to set penalties with respect to any person who, without lawful authority, uses or attempts or conspires to use a chemical weapon against: (1) a U.S. national while such national is outside the United States; (2) any person within the United States; or (3) any property that is owned, leased, or used by the United States, whether the property is within or outside of the United States.

Directs the President to establish an interagency task force to determine the feasibility and advisability of establishing a facility that recreates both an urban environment and a suburban environment in such a way as to permit the effective testing, training, and evaluation of government personnel who are responsible for responding to the use of chemical and biological weapons in the United States. Expresses the sense of the Congress that such facility, if established, shall be: (1) under the jurisdiction of the Secretary of Defense; and (2) located at a principal facility of the Department of Defense for the testing and evaluation of the use of chemical and biological weapons during any period of armed conflict.

Title VI: Implementation of Plastic Explosives Convention—Prohibits: (1) the manufacture, importation, exportation, shipment, transport, transfer, receipt, or possession of any plastic explosive which does not contain a detection agent, with exceptions; and (2) any person (other than a U.S. agency or the National Guard of any State) possessing any plastic explosive on the effective date of this Act from failing to report to the Secretary the quantity of such explosives possessed, the manufacturer or importer, and any identification marks.

(Sec. 604) Sets forth: (1) penalties for violation of this title; and (2) affirmative defenses.

(Sec. 606) Amends the Tariff Act of 1930 to require the seizure and forfeiture of a plastic explosive which does not contain a detection agent.

Title VII: Criminal Law Modifications to Counter Terrorism—**Subtitle A: Crimes and Penalties**—Amends the Federal criminal code to increase penalties for: (1) conspiracies involving explosives; (2) specified terrorism crimes, including carrying weapons or explosives on an aircraft; and (3) the use of explosives or arson.

(Sec. 702) Imposes penalties for acts of terrorism transcending national boundaries, including creating a substantial risk of serious bodily injury to another by attempting or conspiring to destroy or damage any structure, conveyance, or other real or personal property within the United States in

violation of State or Federal law. Sets forth provisions regarding proof requirements, extraterritorial jurisdiction, the statute of limitations, and detention.

(Sec. 703) Expands a provision regarding destruction or injury of property within special maritime and territorial jurisdiction to cover any structure, conveyance, or other real or personal property.

(Sec. 704) Revises provisions prohibiting injuring property of a foreign government to set penalties for conspiring to kill, kidnap, maim, or injure people in a foreign government.

(Sec. 706) Subjects whoever transfers explosive materials, knowing or having reasonable cause to believe that such materials will be used to commit a crime of violence or a drug trafficking crime, to the same penalties as may be imposed for a first conviction for the use or carrying of an explosive material.

(Sec. 707) Prohibits the possession, or pledge or acceptance as security for a loan, of stolen explosive materials moving in interstate or foreign commerce.

(Sec. 709) Directs the Attorney General to study and report to the Congress concerning: (1) the extent to which there is available to the public material that instructs how to make bombs, destructive devices, and weapons of mass destruction and the extent to which information gained from such material has been used in incidents of domestic and international terrorism; (2) the likelihood that such information may be used in future terrorism incidents; (3) the application of existing Federal laws to such material, any need and utility for additional laws, and an assessment of the extent to which the First Amendment protects such material and its private and commercial distribution.

Subtitle B: Criminal Procedures—Makes penalties imposed upon an individual committing an offense on an aircraft in flight outside the special aircraft jurisdiction of the United States applicable regardless of whether such individual is later found in the United States. Grants jurisdiction over such an offense if: (1) a U.S. national was or would have been on board the aircraft; (2) an offender is a U.S. national; or (3) an offender is found in the United States.

Provides that if the victim of specified offenses is an internationally protected person outside the United States, the United States may exercise jurisdiction if: (1) the victim is a representative, officer, employee, or agent of the United States; (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.

(Sec. 722) Provides that there is U.S. jurisdiction over specified maritime violence: (1) regardless of whether the activity is prohibited by the State in which it takes place; and (2) committed by a U.S. national or by a stateless

person whose habitual residence is in the United States, regardless of whether the activity takes place on a ship flying the flag of a foreign country or outside the United States.

(Sec. 723) Sets penalties for conspiring to commit various terrorism-related offenses.

(Sec. 724) Expands Federal jurisdiction over bomb threats.

(Sec. 725) Modifies prohibitions regarding the use of weapons of mass destruction to include threats to use such weapons and to specify that, to violate such prohibitions, such use must be without lawful authority and the results of such use (or threat) must affect (would have affected) interstate or foreign commerce.

Includes within the definition of “weapon of mass destruction” any weapon designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors.

Imposes penalties (including the death penalty, if death results) upon any U.S. national who, without lawful authority and outside the United States, uses, threatens, attempts, or conspires to use a weapon of mass destruction.

(Sec. 726) Adds terrorism offenses to the money laundering statute.

(Sec. 727) Sets penalties for: (1) killing or attempting to kill any U.S. officer engaged in, or on account of, the performance of official duties or any person assisting such an officer or employee; and (2) threatening to assault, kidnap, or murder former Federal officers and employees.

Specifies that Federal criminal code provisions regarding influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member shall not interfere with the investigative authority of the United States Secret Service.

Revises a provision regarding the meaning of the term “deadly or dangerous weapon” in the prohibition against assaulting Federal officers or employees to include a weapon intended to cause death or danger but that fails to do so by reason of a defective component.

(Sec. 728) Includes among the aggravating factors for homicide that the defendant intentionally killed or attempted to kill more than one person in a single criminal episode.

(Sec. 729) Specifies that the time period in which a detention hearing must be held does not include weekends and legal holidays.

(Sec. 730) Directs the Commission to amend the sentencing guidelines so that the adjustment relating to international terrorism only applies to Federal crimes of terrorism.

(Sec. 731) Excludes from the definition of “electronic information” for purposes of wiretap-related definitions electronic funds transfer information

stored by a financial institution in a communications system used for the electronic storage and transfer of funds.

(Sec. 732) Directs the Secretary to conduct a study of: (1) the tagging of explosive materials for purposes of detection and identification; (2) the feasibility and practicability of rendering common chemicals used to manufacture explosive materials inert and of imposing controls on certain precursor chemicals used to manufacture explosive materials; and (3) State licensing requirements for the purchase and use of commercial high explosives. Prohibits inclusion of black or smokeless powder among the explosive materials considered within any such study or regulation proposed thereunder. Requires the Secretary, in conducting: (1) such study to consult with Federal, State, and local officials with expertise in the area of chemicals used to manufacture explosive materials; and (2) any portion of such study relating to the regulation and use of fertilizer as a pre-explosive material, to consult with and receive input from nonprofit fertilizer research centers.

Sets forth provisions regarding: (1) reporting requirements; (2) hearings; and (3) regulations for the addition of tracer elements to explosive materials manufactured in or imported into the United States under specified circumstances.

Title VIII: Assistance to Law Enforcement—Subtitle A: Resources and Security—Authorizes the Attorney General and the Secretary to support law enforcement training activities in foreign countries, subject to the concurrence of the Secretary of State, for the purpose of improving the effectiveness of the United States in investigating and prosecuting transnational offenses.

(Sec. 802) Expresses the sense of the Congress that each recipient of any sum authorized to be appropriated by this Act should use the money to purchase American-made products.

(Sec. 803) Authorizes the Attorney General and the Secretary to prohibit: (1) any vehicles from parking or standing on any street or roadway adjacent to any building in the District of Columbia used by law enforcement authorities subject to their jurisdiction, that is in whole or in part owned, possessed, or leased to the Federal Government; and (2) any person or entity from conducting business on any property immediately adjacent to any such building.

(Sec. 804) Requires: (1) a provider of wire or electronic communication services or a remote computing service, upon the request of a governmental entity, to take all necessary steps to preserve records and other evidence in its possession pending the issuance of a court order or other process; and (2) that such records be retained for a 90-day period, which shall be extended for an additional 90-day period upon a renewed request by the governmental entity.

(Sec. 805) Directs the Commission to: (1) review and report to the Congress on the deterrent effect of existing guideline levels as they apply to prohibitions against accessing a Federal interest computer without authorization, exceeding authorized access to further a fraud and obtain anything of value, or damaging a computer or program under specified circumstances; and (2) promulgate guidelines that will ensure that individuals convicted of such offenses are incarcerated for not less than six months.

(Sec. 806) Establishes the Commission on the Advancement of Federal Law Enforcement. Sets forth the duties of such Commission, including reviewing, evaluating, and recommending congressional action on: (1) Federal law enforcement priorities for the 21st century, including Federal law enforcement capability to investigate and deter adequately the threat of terrorism facing the United States; (2) the manner in which significant Federal criminal law enforcement operations are conceived, planned, coordinated, and executed; (3) the independent accountability mechanisms that exist, if any, and their efficacy to investigate, address, and correct Federal law enforcement; and (4) the extent to which Federal law enforcement agencies coordinate with State and local law enforcement agencies on operations and programs that directly affect the latter's geographical jurisdiction.

(Sec. 807) Directs the Secretary to: (1) study the use and holding of U.S. currency in foreign countries; and (2) develop useful estimates of the amount of counterfeit U.S. currency that circulates outside the United States each year.

Requires the Secretary to develop an effective international evaluation audit plan. Sets forth provisions regarding: (1) timetables for the submission of a detailed written summary of the plan and the first and subsequent audits; (2) reporting requirements; and (3) a sunset provision.

Directs the Secretary of State to: (1) consider in a timely manner the Secretary's request for the placement of such number of Secret Service agents as the Secretary considers appropriate in posts in overseas embassies; and (2) reach an agreement with the Secretary on such posts as soon as possible, but not later than December 31, 1996.

Directs the Commission to amend the sentencing guidelines to provide an appropriate enhancement of the punishment for a defendant convicted of counterfeiting U.S. currency outside the United States.

(Sec. 808) Directs the Attorney General to: (1) collect data for the calendar year 1990 and each succeeding calendar year thereafter, relating to crimes and incidents of threats and acts of violence against Federal, State, and local government employees and their families in the performance of their lawful duties; (2) establish guidelines for the collection of such data; and (3) publish an annual summary of the data collected, which shall otherwise be used only for research and statistical purposes. Specifies that the Attorney General, the Secretary of State, and the Secret Service are not required to

participate in any statistical reporting activity regarding any threats made against any individual for whom that official or the Service is authorized to provide protection.

(Sec. 809) Directs the Secretary to conduct a study and make recommendations concerning: (1) the extent and nature of the deaths and serious injuries of law enforcement officers in the line of duty during the last decade; (2) whether current passive defensive strategies, such as body armor, are adequate to counter the criminal use of firearms against law officers; and (3) the calibers of ammunition that are sold in the greatest quantities, their common uses, the calibers commonly used for civilian defensive or sporting uses that would be affected by any prohibition on non-law enforcement sales of such ammunition if such ammunition is capable of penetrating minimum level bullet resistant vests, and recommendations for increases in body armor capabilities to further protect law enforcement from that threat. Authorizes appropriations.

(Sec. 810) Directs the Attorney General and the Director of the Federal Bureau of Investigation (FBI) to study all applicable laws and guidelines relating to electronic surveillance and the use of pen registers and other trap and trace devices and to report to the Congress: (1) findings and recommendations for the use of electronic surveillance of terrorist or other criminal organizations and for any legal modifications; (2) a summary of instances in which Federal law enforcement authorities may have abused electronic surveillance powers and recommendations (if needed) for constitutional safeguards relating to the use of such powers; and (3) a summary of efforts to use current wiretap authority.

Subtitle B: Funding Authorizations for Law Enforcement—Directs the Attorney General to: (1) enhance the technical support center and tactical operations of the FBI; (2) create an FBI counterterrorism and counterintelligence fund for costs associated with the investigation of terrorism cases; (3) improve the instructional, operational support, and construction of the FBI Academy; (4) construct an FBI laboratory; and (5) increase personnel to support counterterrorism activities. Authorizes the FBI Director to expand the combined DNA Identification System (CODIS) to include Federal crimes and crimes committed in the District of Columbia.

Authorizes the Attorney General to make grants to eligible States to be used by the chief executive officer of the State, in conjunction with units of local government, other States, or any combination thereof, to establish, develop, update, or upgrade: (1) computerized identification systems that are compatible and integrated with the databases of the FBI's National Crime Information Center; (2) the capability to analyze deoxyribonucleic acid in a forensic laboratory in ways that are compatible and integrated with CODIS; and (3) automated fingerprint identification systems that are compatible and integrated with the FBI's Integrated Automated Fingerprint Identification System. Conditions grant eligibility on a State requirement that persons

convicted of a felony of a sexual nature provide a specimen for DNA analysis.

Authorizes appropriations for FBI activities to combat terrorism and provides for the allocation of funds among the States.

(Sec. 812) Authorizes appropriations: (1) to help meet the increased needs of the United States Customs Service and INS, including for the detention and removal of alien terrorists; and (2) for the Drug Enforcement Administration (DEA) to fund anti-violence crime initiatives, to fund initiatives to address major violators of Federal anti-drug statutes, and to enhance or replace DEA infrastructure.

(Sec. 815) Authorizes appropriations for DOJ to hire additional Assistant U.S. Attorneys and attorneys within the Criminal Division and to provide for increased security at courthouses and other facilities in which Federal workers are employed. Authorizes the Attorney General to pay rewards and receive from any department or agency funds for the payment of rewards to any individual who assists DOJ in performing its functions.

(Sec. 816) Authorizes appropriations for: (1) Department of the Treasury law enforcement agencies to augment counterterrorism efforts; (2) the Secret Service; (3) the United States Park Police; (4) the Judiciary; and (5) specialized training and equipment to enhance the capability of metropolitan fire and emergency service departments to respond to terrorist attacks.

(Sec. 820) Authorizes appropriations to the National Institute of Justice's Office of Science and Technology to: (1) provide to foreign countries facing an imminent danger of terrorist attack that threatens the U.S. national interest or U.S. nationals assistance in obtaining explosive detection devices and other counterterrorism technology, conducting research and development projects on such technology, and testing and evaluating counterterrorism technologies in those countries; and (2) develop technologies that can be used to combat terrorism, develop standards to ensure the adequacy of products produced and compatibility with relevant national systems, and identify and assess requirements for technologies to assist State and local law enforcement in the national program to combat terrorism.

(Sec. 822) Amends the Omnibus Crime Control and Safe Streets Act of 1968 to authorize the Director of the Bureau of Justice Assistance to make grants under the drug control and system improvement grant program to develop and implement antiterrorism training programs and to procure equipment for use by local law enforcement authorities. Authorizes appropriations.

(Sec. 823) Permits appropriations for activities authorized in this subtitle to be made from the Violent Crime Reduction Trust Fund.

Title IX: Miscellaneous—Declares that all the territorial sea of the United States is part of the United States, is subject to its sovereignty, and, for purposes of Federal criminal jurisdiction, is within its special maritime and

territorial jurisdiction. Provides that whoever commits specified crimes on, above, or below any portion of the U.S. territorial sea which would be punishable if committed within the jurisdiction of the State, territory, possession, or district in which the location would be situated if boundaries were extended seaward, shall be guilty of a like offense and subject to a like punishment.

(Sec. 902) Prohibits a Federal, State, or local government agency from using a voter registration card (or other related document) that evidences registration for an election for Federal office as evidence to prove U.S. citizenship.

(Sec. 903) Amends the Federal criminal code to add provisions requiring that information regarding fees for representation in any case be made available to the public.

Revises CSA provisions regarding attorney compensation to direct that appointed counsel be compensated at an hourly rate of not more than \$125 for in-court and out-of-court time. Authorizes the Judicial Conference to raise the maximum for hourly payment according to a specified formula. Limits fees and expenses paid for investigative, expert, and other reasonably necessary services authorized to \$7,500, with exceptions.

(Sec. 904) Makes the provisions of, and amendments to, this Act severable.

[end of digest]

Public Law 104-132*
104th Congress
S.732

110 Stat. 1214

An Act

To deter terrorism, provide justice for victims, provide for an effective death penalty,
and for other purposes.

*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 and Effective
Death Penalty Act of 1996”.

SEC. 2. TABLE OF CONTENTS.

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* As published in *United States Code Service, Lawyers Edition*, Issue No.6,
June 1996

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- Sec. 303. Prohibition on terrorist fundraising.
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- Sec. 401. Alien terrorist removal.
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- Sec. 411. Exclusion of alien terrorists.
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- Sec. 502. Expansion of scope and jurisdictional bases of nuclear materials prohibitions.
- Sec. 503. Report to Congress on thefts of explosive materials from armories.
 - Subtitle B—Biological Weapons Restrictions
- Sec. 511. Enhanced penalties and control of biological agents.
 - Subtitle C—Chemical Weapons Restrictions
- Sec. 521. Chemical weapons of mass destruction; study of facility for training and evaluation of personnel who respond to use of chemical or biological weapons in urban and suburban areas.

TITLE VI—IMPLEMENTATION OF PLASTIC EXPLOSIVES CONVENTION

- Sec. 601. Findings and purposes.
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TITLE VII—CRIMINAL LAW MODIFICATIONS TO COUNTER TERRORISM

Subtitle A—Crimes and Penalties

- Sec. 701. Increased penalty for conspiracies involving explosives.
- Sec. 702. Acts of terrorism transcending national boundaries.
- Sec. 703. Expansion of provision relating to destruction or injury of property within special maritime and territorial jurisdiction.
- Sec. 704. Conspiracy to harm people and property overseas.
- Sec. 705. Increased penalties for certain terrorism crimes.
- Sec. 706. Mandatory penalty for transferring an explosive material knowing that it will be used to commit a crime of violence.
- Sec. 707. Possession of stolen explosives prohibited.
- Sec. 708. Enhanced penalties for use of explosives or arson crimes.
- Sec. 709. Determination of constitutionality of restricting the dissemination of bomb-making instructional materials.

Subtitle B—Criminal Procedures

- Sec. 721. Clarification and extension of criminal jurisdiction over certain terrorism offenses overseas.
- Sec. 722. Clarification of maritime violence jurisdiction.
- Sec. 723. Increased and alternate conspiracy penalties for terrorism offenses.
- Sec. 724. Clarification of Federal jurisdiction over bomb threats.
- Sec. 725. Expansion and modification of weapons of mass destruction statute.
- Sec. 726. Addition of terrorism offenses to the money laundering statute.
- Sec. 727. Protection of Federal employees; protection of current or former officials, officers, or employees of the United States.
- Sec. 728. Death penalty aggravating factor.
- Sec. 729. Detention hearing.
- Sec. 730. Directions to Sentencing Commission.
- Sec. 731. Exclusion of certain types of information from definitions.
- Sec. 732. Marking, rendering inert, and licensing of explosive materials.

TITLE VIII—ASSISTANCE TO LAW ENFORCEMENT

Subtitle A—Resources and Security

- Sec. 801. Overseas law enforcement training activities.
- Sec. 802. Sense of Congress.
- Sec. 803. Protection of Federal Government buildings in the District of Columbia.
- Sec. 804. Requirement to preserve record evidence.
- Sec. 805. Deterrent against terrorist activity damaging a Federal interest computer.
- Sec. 806. Commission on the Advancement of Federal Law Enforcement.
- Sec. 807. Combatting international counterfeiting of United States currency.
- Sec. 808. Compilation of statistics relating to intimidation of Government employees.
- Sec. 809. Assessing and reducing the threat to law enforcement officers from the criminal use of firearms and ammunition.
- Sec. 810. Study and report on electronic surveillance.

Subtitle B—Funding Authorizations for Law Enforcement

- Sec. 811. Federal Bureau of Investigation.
- Sec. 812. United States Customs Service.
- Sec. 813. Immigration and Naturalization Service.
- Sec. 814. Drug Enforcement Administration.
- Sec. 815. Department of Justice.
- Sec. 816. Department of the Treasury.
- Sec. 817. United States Park Police.
- Sec. 818. The Judiciary.
- Sec. 819. Local firefighter and emergency services training.
- Sec. 820. Assistance to foreign countries to procure explosive detection devices and other counterterrorism technology.
- Sec. 821. Research and development to support counterterrorism technologies.

Sec. 822. Grants to State and local law enforcement for training and equipment.
 Sec. 823. Funding source.

TITLE IX—MISCELLANEOUS

Sec. 901. Expansion of territorial sea.
 Sec. 902. Proof of citizenship.
 Sec. 903. Representation fees in criminal cases.
 Sec. 904. Severability.

TITLE I—HABEAS CORPUS REFORM**SEC. 101. FILING DEADLINES.**

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

“(d)(1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

“(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

“(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

“(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

“(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

“(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.”.

SEC. 102. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

“§ Sec. 2253. Appeal

“(a) In a habeas corpus proceeding or a proceeding under section 2255 before a district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit in which the proceeding is held.

“(b) There shall be no right of appeal from a final order in a proceeding to test the validity of a warrant to remove to another district or place for commitment or trial a person charged with a criminal offense against the United States, or to test the validity of such person’s detention pending removal proceedings.

“(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from—

“(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court; or

“(B) the final order in a proceeding under section 2255.

“(2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

“(3) The certificate of appealability under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).”

SEC. 103. AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

“Rule 22. Habeas corpus and section 2255 proceedings

“(a) APPLICATION FOR THE ORIGINAL WRIT.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application shall be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge shall not be permitted. The applicant may, pursuant to section 2253 of title 28, United States Code, appeal to the appropriate court of appeals from the order of the district court denying the writ.

“(b) CERTIFICATE OF APPEALABILITY.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, an appeal by the applicant for the writ may not proceed unless a district or a circuit judge issues a certificate of appealability pursuant to section 2253(c) of title 28, United States Code. If an appeal is taken by the applicant, the district judge who rendered the judgment shall either issue a certificate of appealability or state the reasons why such a certificate should not issue. The certificate or the statement shall be forwarded to the court of appeals with the notice of appeal and the file of the proceedings in the district court. If the district judge has denied the certificate, the applicant for the writ may then request issuance of the certificate by a circuit judge. If such a request is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or its representative, a certificate of appealability is not required.”

SEC. 104. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended—

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

“(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that—

“(A) the applicant has exhausted the remedies available in the courts of the State; or

“(B)(i) there is an absence of available State corrective process;

or

“(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

“(2) An application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.

“(3) A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the State, through counsel, expressly waives the requirement.”;

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following new subsection:

“(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—

“(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

“(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.”;

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

“(e)(1) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

“(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that—

“(A) the claim relies on—

“(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

“(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

“(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.”; and

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

(h) Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for an applicant who is or becomes financially unable to afford counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

“(i) The ineffectiveness or incompetence of counsel during Federal or State collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254.”.

SEC. 105. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second and fifth undesignated paragraphs;

and

(2) by adding at the end the following new undesignated paragraphs:

“A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

“(1) the date on which the judgment of conviction becomes final;

“(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

“(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

“(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

“Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

“A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain—

“(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

“(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.”

SEC. 106. LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.

(a) **CONFORMING AMENDMENT TO SECTION 2244(a).**—Section 2244(a) of title 28, United States Code, is amended by striking “and the petition” and all that follows through “by such inquiry.” and inserting “, except as provided in section 2255.”

(b) **LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.**—Section 2244(b) of title 28, United States Code, is amended to read as follows:

“(b)(1) A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed.

“(2) A claim presented in a second or successive habeas corpus application under section 2254 that was not presented in a prior application shall be dismissed unless—

“(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

“(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

“(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

“(3)(A) Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

“(B) A motion in the court of appeals for an order authorizing the district court to consider a second or successive application shall be determined by a three-judge panel of the court of appeals.

“(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection.

“(D) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.

“(E) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.

“(4) A district court shall dismiss any claim presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section.”

SEC. 107. DEATH PENALTY LITIGATION PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 28, UNITED STATES CODE.— Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

“CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

“Sec.

“2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.

“2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.

“2263. Filing of habeas corpus application; time requirements; tolling rules.

“2264. Scope of Federal review; district court adjudications.

“2265. Application to State unitary review procedure.

“2266. Limitation periods for determining applications and motions.

“§ 2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

“(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

“(b) This chapter is applicable if a State establishes by statute, rule of its court of last resort, or by another agency authorized by

State law, a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

“(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

“(1) appointing one or more counsels to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

“(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

“(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

“(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

“(e) The ineffectiveness or incompetence of counsel during State or Federal post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254. This limitation shall not preclude the appointment of different counsel, on the court’s own motion or at the request of the prisoner, at any phase of State or Federal post-conviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

“§ 2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

“(a) Upon the entry in the appropriate State court of record of an order under section 2261(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application shall recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

“(b) A stay of execution granted pursuant to subsection (a) shall expire if—

“(1) a State prisoner fails to file a habeas corpus application under section 2254 within the time required in section 2263;

“(2) before a court of competent jurisdiction, in the presence of counsel, unless the prisoner has competently and knowingly waived such counsel, and after having been advised of the consequences, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254; or

“(3) a State prisoner files a habeas corpus petition under section 2254 within the time required by section 2263 and fails to make a substantial showing of the denial of a Federal right or

is denied relief in the district court or at any subsequent stage of review.

“(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution in the case, unless the court of appeals approves the filing of a second or successive application under section 2244(b).

“§ 2263. Filing of habeas corpus application; time requirements; tolling rules

“(a) Any application under this chapter for habeas corpus relief under section 2254 must be filed in the appropriate district court not later than 180 days after final State court affirmance of the conviction and sentence on direct review or the expiration of the time for seeking such review.

“(b) The time requirements established by subsection (a) shall be tolled—

“(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

“(2) from the date on which the first petition for post-conviction review or other collateral relief is filed until the final State court disposition of such petition; and

“(3) during an additional period not to exceed 30 days, if—

“(A) a motion for an extension of time is filed in the Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus application under section 2254; and

“(B) a showing of good cause is made for the failure to file the habeas corpus application within the time period established by this section.

“§ 2264. Scope of Federal review; district court adjudications

“(a) Whenever a State prisoner under capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall only consider a claim or claims that have been raised and decided on the merits in the State courts, unless the failure to raise the claim properly is—

“(1) the result of State action in violation of the Constitution or laws of the United States;

“(2) the result of the Supreme Court’s recognition of a new Federal right that is made retroactively applicable; or

“(3) based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim for State or Federal post-conviction review.

“(b) Following review subject to subsections (a), (d), and (e) of section 2254, the court shall rule on the claims properly before it.

“§ 2265. Application to State unitary review procedure

“(a) For purposes of this section, a ‘unitary review’ procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter shall apply,

as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

“(b) To qualify under this section, a unitary review procedure must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2261(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

“(c) Sections 2262, 2263, 2264, and 2266 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State ‘post-conviction review’ and ‘direct review’ in such sections shall be understood as referring to unitary review under the State procedure. The reference in section 2262(a) to ‘an order under section 2261(c)’ shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the 180-day limitation period under section 2263 shall be deferred until a transcript is made available to the prisoner or counsel of the prisoner.

“§ 2266. Limitation periods for determining applications and motions

“(a) The adjudication of any application under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters.

“(b)(1)(A) A district court shall render a final determination and enter a final judgment on any application for a writ of habeas corpus brought under this chapter in a capital case not later than 180 days after the date on which the application is filed.

“(B) A district court shall afford the parties at least 120 days in which to complete all actions, including the preparation of all pleadings and briefs, and if necessary, a hearing, prior to the submission of the case for decision.

“(C)(i) A district court may delay for not more than one additional 30-day period beyond the period specified in subparagraph (A), the rendering of a determination of an application for a writ of habeas corpus if the court issues a written order making a finding, and stating the reasons for the finding, that the ends of justice that would be served by allowing the delay outweigh the best interests of the public and the applicant in a speedy disposition of the application.

“(ii) The factors, among others, that a court shall consider in determining whether a delay in the disposition of an application is warranted are as follows:

“(I) Whether the failure to allow the delay would be likely to result in a miscarriage of justice.

“(II) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate briefing within the time limitations established by subparagraph (A).

“(III) Whether the failure to allow a delay in a case that, taken as a whole, is not so unusual or so complex as described in subclause (II), but would otherwise deny the applicant reasonable time to obtain counsel, would unreasonably deny the applicant or the government continuity of counsel, or would deny counsel for the applicant or the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

“(iii) No delay in disposition shall be permissible because of general congestion of the court’s calendar.

“(iv) The court shall transmit a copy of any order issued under clause (i) to the Director of the Administrative Office of the United States Courts for inclusion in the report under paragraph (5).

“(2) The time limitations under paragraph (1) shall apply to—

“(A) an initial application for a writ of habeas corpus;

“(B) any second or successive application for a writ of habeas corpus; and

“(C) any redetermination of an application for a writ of habeas corpus following a remand by the court of appeals or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

“(3)(A) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

“(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

“(B) The State may enforce a time limitation under this section by applying for a writ of mandamus to the Supreme Court.

“(5)(A) The Administrative Office of the United States Courts shall submit to Congress an annual report on the compliance by the district courts with the time limitations under this section.”

“(B) The report described in subparagraph (A) shall include copies of the orders submitted by the district courts under paragraph (1)(B)iv).

“(C)(1)(A) A court of appeals shall hear and render a final determination of any appeal of an order granting or denying, in whole or in part, an application brought under this chapter in a capital case not later than 120 days after the date on which the reply brief is filed, or if no reply brief is filed, or if no reply brief is filed, not later than 120 days after the date on which the answering brief is filed.

“(B)(i) A court of appeals shall decide whether to grant a petition for rehearing or other request for rehearing en banc not later than 30 days after the date on which the petition for rehearing is filed unless a responsive pleading is required, in which case the court shall decide whether to grant the petition not later than 30 days after the date on which the responsive pleading is filed.

“(ii) If a petition for rehearing or rehearing en banc is granted, the court of appeals shall hear and render a final determination of the appeal not later than 120 days after the date on which the order granting rehearing or rehearing en banc is entered.

“(2) The time limitations under paragraph (1) shall apply to—

“(A) an initial application for a writ of habeas corpus;

“(B) any second or successive application for a writ of habeas corpus; and

“(C) any redetermination of an application for a writ of habeas corpus or related appeal following a remand by the court of appeals en banc or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

“(3) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

“(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

“(B) The State may enforce a time limitation under this section by applying for a writ of mandamus to the Supreme Court.

“(5) The administrative Office of the United States Courts shall submit to Congress an annual report on the compliance by the courts of appeals with the time limitations under this section.”

(b) TECHNICAL AMENDMENT.—The part analysis for part IV of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

“154. Special habeas corpus procedures in capital cases 2261.”.

(c) EFFECTIVE DATE.—Chapter 154 of title 28, United States Code (as added by subsection (a)) shall apply to cases pending on or after the date of enactment of this Act.

SEC. 108. TECHNICAL AMENDMENT.

Section 408(q) of the Controlled Substances Act (21 U.S.C. 848(q)) is amended by amending paragraph (9) to read as follows:

“(9) 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 and, if so authorized, shall order the payment of fees and expenses therefor under paragraph (10). 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 for appellate review.”.

TITLE II—JUSTICE FOR VICTIMS

Subtitle A—Mandatory Victim Restitution

SEC. 201. SHORT TITLE.

This subtitle may be cited as the “Mandatory Victims Restitution Act of 1996”.

SEC. 202. ORDER OF RESTITUTION.

Section 3556 of title 18, United States Code, is amended—

- (1) by striking “may” and inserting “shall”; and
- (2) by striking “sections 3663 and 3664.” and inserting “section 3663A, and may order restitution in accordance with section 3663. The procedures under section 3664 shall apply to all orders of restitution under this section.”.

SEC. 203. CONDITIONS OF PROBATION.

Section 3563 of title 18, United States Code, is amended—

- (1) in subsection (a)—
 - (A) in paragraph (3), by striking “and” at the end;
 - (B) in the first paragraph (4) (relating to conditions of probation for a domestic crime of violence), by striking the period and inserting a semicolon;
 - (C) by redesignating the second paragraph (4) (relating to conditions of probation concerning drug use and testing) as paragraph (5);
 - (D) in paragraph (5), as redesignated, by striking the period at the end and inserting a semicolon; and
 - (E) by inserting after paragraph (5), as redesignated, the following new paragraphs:
 - “(6) that the defendant—
 - “(A) make restitution in accordance with sections 2248, 2259, 2264, 2327, 3663, 3663A, and 3664; and
 - “(B) pay the assessment imposed in accordance with section 3013; and
 - “(7) that the defendant will notify the court of any material change in the defendant’s economic circumstances that might affect the defendant’s ability to pay restitution, fines, or special assessments.”; and
- (2) in subsection (b)—
 - (A) by striking paragraph (2);
 - (B) by redesignating paragraphs (3) through (22) as paragraphs (2) through (21), respectively; and
 - (C) by amending paragraph (2), as redesignated, to read as follows:
 - “(2) make restitution to a victim of the offense under section 3556 (but not subject to the limitation of section 3663(a) or 3663A(c)(1)(A));”.

SEC. 204. MANDATORY RESTITUTION.

(a) **IN GENERAL.**—Chapter 232 of title 18, United States Code, is amended by inserting immediately after section 3663 the following new section:

“§ 3663A. Mandatory restitution to victims of certain crimes

“(a)(1) Notwithstanding any other provision of law, when sen-

tencing a defendant convicted of an offense described in subsection (c), the court shall order, in addition to, or in the case of a misdemeanor, in addition to or in lieu of, any other penalty authorized by law, that the defendant make restitution to the victim of the offense or, if the victim is deceased, to the victim's estate.

"(2) For the purposes of this section, the term 'victim' means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.

"(3) The court shall also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.

"(b) The order of restitution shall require that such defendant—

"(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—

"(A) return the property to the owner of the property or someone designated by the owner; or

"(B) if return of the property under subparagraph (A) is impossible, impracticable, or inadequate, pay an amount equal to—

"(i) the greater of—

"(I) the value of the property on the date of the damage, loss, or destruction; or

"(II) the value of the property on the date of sentencing, less

"(ii) the value (as of the date the property is returned) of any part of the property that is returned;

"(2) in the case of an offense resulting in bodily injury to a victim—

"(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including non-medical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

"(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

"(C) reimburse the victim for income lost by such victim as a result of such offense;

"(3) in the case of an offense resulting in bodily injury that results in the death of the victim, pay an amount equal to the cost of necessary funeral and related services; and

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses incurred during participation in the investigation or prosecution of the

offense or attendance at proceedings related to the offense.

“(c)(1) This section shall apply in all sentencing proceedings for convictions of, or plea agreements relating to charges for, any offense—

“(A) that is—

“(i) a crime of violence, as defined in section 16;

“(ii) an offense against property under this title, including any offense committed by fraud or deceit; or

“(iii) an offense described in section 1365 (relating to tampering with consumer products); and

“(B) in which an identifiable victim or victims has suffered a physical injury or pecuniary loss.

“(2) In the case of a plea agreement that does not result in a conviction for an offense described in paragraph (1), this section shall apply only if the plea specifically states that an offense listed under such paragraph gave rise to the plea agreement.

“(3) This section shall not apply in the case of an offense described in paragraph (1)(A)(ii) if the court finds, from facts on the record, that—

“(A) the number of identifiable victims is so large as to make restitution impracticable; or

“(B) determining complex issues of fact related to the cause or amount of the victim’s losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process.

“(d) An order of restitution under this section shall be issued and enforced in accordance with section 3664.”

(b) CLERICAL AMENDMENT.—The analysis for chapter 232 of title 18, United States Code, is amended by inserting immediately after the matter relating to section 3663 the following:

“3663A. Mandatory restitution to victims of certain crimes.”

SEC. 205. ORDER OF RESTITUTION TO VICTIMS OF OTHER CRIMES.

(a) IN GENERAL.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking “(a)(1) The court” and inserting “(a)(1)(A) The court”;

(B) by inserting “, section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863) (but in no case shall a participant in an offense under such sections be considered a victim of such offense under this section),” before “or section 46312,”;

(C) by inserting “other than an offense described in section 3663A(c),” after “title 49,”;

(D) by inserting before the period at the end the following: “, or if the victim is deceased, to the victim’s estate”;

(E) by adding at the end the following new subparagraph:

“(B)(i) The court, in determining whether to order restitution under this section, shall consider—

“(I) the amount of the loss sustained by each victim as a result of the offense; and

“(II) the financial resources of the defendant, the financial

needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate.

"(ii) To the extent that the court determines that the complication and prolongation of the sentencing process resulting from the fashioning of an order of restitution under this section outweighs the need to provide restitution to any victims, the court may decline to make such an order."; and

(F) by amending paragraph (2) to read as follows:

"(2) For the purposes of this section, the term 'victim' means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.";

(2) by striking subsections (c) through (i); and

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

"(c)(1) Notwithstanding any other provision of law (but subject to the provisions of subsections (a)(1)(B) (i)(II) and (ii), when sentencing a defendant convicted of an offense described in section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863), in which there is no identifiable victim, the court may order that the defendant make restitution in accordance with this subsection.

"(2)(A) An order of restitution under this subsection shall be based on the amount of public harm caused by the offense, as determined by the court in accordance with guidelines promulgated by the United States Sentencing Commission.

"(B) In no case shall the amount of restitution ordered under this subsection exceed the amount of the fine ordered for the offense charged in the case.

"(3) Restitution under this subsection shall be distributed as follows:

"(A) 65 percent of the total amount of restitution shall be paid to the State entity designated to administer crime victim assistance in the State in which the crime occurred.

"(B) 35 percent of the total amount of restitution shall be paid to the State entity designated to receive Federal substance abuse block grant funds.

"(4) The court shall not make an award under this subsection if it appears likely that such award would interfere with a forfeiture under chapter 46 of this title or under the Controlled Substances Act (21 U.S.C. 801 et seq.).

"(5) Notwithstanding section 3612(c) or any other provision of law, a penalty assessment under section 3013 or a fine under subchapter C of chapter 227 shall take precedence over an order of restitution under this subsection.

"(6) Requests for community restitution under this subsection may be considered in all plea agreements negotiated by the United

States.

“(7)(A) The United States Sentencing Commission shall promulgate guidelines to assist courts in determining the amount of restitution that may be ordered under this subsection.

“(B) No restitution shall be ordered under this subsection until such time as the Sentencing Commission promulgates guidelines pursuant to this paragraph.

“(d) An order of restitution made pursuant to this section shall be issued and enforced in accordance with section 3664.”

(b) **SEXUAL ABUSE.**—Section 2248 of title 18, United States Code, is amended—

- (1) in subsection (a), by inserting “or 3663A” after “3663”;
- (2) in subsection (b)—

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

“(1) **DIRECTIONS.**—The order of restitution under this section shall direct the defendant to pay to the victim (through the appropriate court mechanism) the full amount of the victim’s losses as determined by the court pursuant to paragraph (2).”;

(B) by amending paragraph (2) to read as follows:

“(2) **ENFORCEMENT.**—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.”;

- (C) in paragraph (4), by striking subparagraphs (c) and (D); and

(D) by striking paragraphs (5) through (10);

- (3) by striking subsections (c) through (e); and

- (4) by redesignating subsection (f) as subsection (c).

(c) **SEXUAL ABUSE AND OTHER EXPLOITATION OF CHILDREN.**—Section 2259 of title 18, United States Code, is amended—

- (1) in subsection (a), by inserting “or 3663A” after “3663”;
- (2) in subsection (b)—

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

“(1) **DIRECTIONS.**—The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim’s losses as determined by the court pursuant to paragraph (2).”;

“(2) **ENFORCEMENT.**—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.”;

- (C) in paragraph (4), by striking subparagraphs (c) and (D); and

(D) by striking paragraphs (5) through (10);

- (3) by striking subsections (c) through (e); and

- (4) by redesignating subsection (f) as subsection (c).

(d) **DOMESTIC VIOLENCE.**—Section 2264 of title 18, United States Code, is amended—

- (1) in subsection (a), by inserting “or 3663A” after “3663”;
- (2) in subsection (b)—

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

“(1) **DIRECTIONS.**—The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim’s losses as determined by the court pursuant to paragraph (2).”;

(B) by amending paragraph (2) to read as follows:

“(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.”;

(C) in paragraph (4), by striking subparagraphs (c) and (D); and

(D) by striking paragraphs (5) through (10);

(3) by striking subsections (c) through (g); and

(4) by adding at the end the following new subsection (c):

“(c) VICTIM DEFINED.—For purposes of this section, the term ‘victim’ means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim’s estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.”.

(e) TELEMARKETING FRAUD.—Section 2327 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting “or 3663A” after “3663”;

(2) in subsection (b)—

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

“(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay to the victim (through the appropriate court mechanism) the full amount of the victim’s losses as determined by the court pursuant to paragraph (2).”;

(B) by amending paragraph (2) to read as follows:

“(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.”;

(C) in paragraph (4), by striking subparagraphs (c) and (D); and

(D) by striking paragraphs (5) through (10);

(3) by striking subsections (c) through (e); and

(4) by redesignating subsection (f) as subsection (c).

SEC. 206. PROCEDURE FOR ISSUANCE OF RESTITUTION ORDER.

(a) IN GENERAL.—Section 3664 of title 18, United States Code, is amended to read as follows:

“§ 3664. Procedure for issuance and enforcement of order of restitution

“(a) For orders of restitution under this title, the court shall order the probation officer to obtain and include in its presentence report, or in a separate report, as the court may direct, information sufficient for the court to exercise its discretion in fashioning a restitution order. The report shall include, to the extent practicable, a complete accounting of the losses to each victim, any restitution owed pursuant to a plea agreement, and information relating to the economic circumstances of each defendant. If the number or identity of victims cannot be reasonably ascertained, or other circumstances exist that make this requirement clearly impracticable, the probation officer shall so inform the court.

“(b) The court shall disclose to both the defendant and the attor-

ney for the Government all portions of the presentence or other report pertaining to the matters described in subsection (a) of this section.

“(c) The provisions of this chapter, chapter 227, and Rule 32(c) of the Federal Rules of Criminal Procedure shall be the only rules applicable to proceedings under this section.

“(d)(1) Upon the request of the probation officer, but not later than 60 days prior to the date initially set for sentencing, the attorney for the Government, after consulting, to the extent practicable, with all identified victims, shall promptly provide the probation officer with a listing of the amounts subject to restitution.

“(2) The probation officer shall, prior to submitting the presentence report under subsection (a), to the extent practicable—

“(A) provide notice to all identified victims of—

“(i) the offense or offenses of which the defendant was convicted;

“(ii) the amounts subject to restitution submitted to the probation officer;

“(iii) the opportunity of the victim to submit information to the probation officer concerning the amount of the victim’s losses;

“(iv) the scheduled date, time, and place of the sentencing hearing;

“(v) the availability of a lien in favor of the victim pursuant to subsection (m)(1)(B); and

“(vi) the opportunity of the victim to file with the probation officer a separate affidavit relating to the amount of the victim’s losses subject to restitution; and

“(B) provide the victim with an affidavit form to submit pursuant to subparagraph (A)(vi).

“(3) Each defendant shall prepare and file with the probation officer an affidavit fully describing the financial resources of the defendant, including a complete listing of all assets owned or controlled by the defendant as of the date on which the defendant was arrested, the financial needs and earning ability of the defendant and the defendant’s dependents, and such other information that the court requires relating to such other factors as the court deems appropriate.

“(4) After reviewing the report of the probation officer, the court may require additional documentation or hear testimony. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

“(5) If the victim’s losses are not ascertainable by the date that is 10 days prior to sentencing, the attorney for the Government or the probation officer shall so inform the court, and the court shall set a date for the final determination of the victim’s losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

“(6) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate judge or special master

for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

“(e) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant’s dependents, shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

“(f)(1)(A) In each order of restitution, the court shall order restitution to each victim in the full amount of each victim’s losses as determined by the court and without consideration of the economic circumstances of the defendant.

“(B) In no case shall the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source be considered in determining the amount of restitution.

“(2) Upon determination of the amount of restitution owed to each victim, the court shall, pursuant to section 3572, specify in the restitution order the manner in which, and the schedule according to which, the restitution is to be paid, in consideration of—

“(A) the financial resources and other assets of the defendant, including whether any of these assets are jointly controlled;

“(B) projected earnings and other income of the defendant;

and
“(C) any financial obligations of the defendant; including obligations to dependents.

“(3)(A) A restitution order may direct the defendant to make a single, lump-sum payment, partial payments at specified intervals, in-kind payments, or a combination of payments at specified intervals and in-kind payments.

“(B) A restitution order may direct the defendant to make nominal periodic payments if the court finds from facts on the record that the economic circumstances of the defendant do not allow the payment of any amount of a restitution order, and do not allow for the payment of the full amount of a restitution order in the foreseeable future under any reasonable schedule of payments.

“(4) An in-kind payment described in paragraph (3) may be in the form of—

“(A) return of property;

“(B) replacement of property; or

“(C) if the victim agrees, services rendered to the victim or a person or organization other than the victim.

“(g)(1) No victim shall be required to participate in any phase of a restitution order.

“(2) A victim may at any time assign the victim’s interest in restitution payments to the Crime Victims Fund in the Treasury without in any way impairing the obligation of the defendant to make such payments.

“(h) If the court finds that more than 1 defendant has contributed to the loss of a victim, the court may make each defendant liable for payment of the full amount of restitution or may apportion liabil-

ity among the defendants to reflect the level of contribution to the victim's loss and economic circumstances of each defendant.

"(i) If the court finds that more than 1 victim has sustained a loss requiring restitution by a defendant, the court may provide for a different payment schedule for each victim based on the type and amount of each victim's loss and accounting for the economic circumstances of each victim. In any case in which the United States is a victim, the court shall ensure that all other victims receive full restitution before the United States receives any restitution.

"(j)(1) If a victim has received compensation from insurance or any other source with respect to a loss, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) Any amount paid to a victim under an order of restitution shall be reduced by any amount later recovered as compensatory damages for the same loss by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(k) A restitution order shall provide that the defendant shall notify the court and the Attorney General of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution. The court may also accept notification of a material change in the defendant's economic circumstances from the United States or from the victim. The Attorney General shall certify to the court that the victim or victims owed restitution by the defendant have been notified of the change in circumstances. Upon receipt of the notification, the court may, on its own motion, or the motion of any party, including the victim, adjust the payment schedule, or require immediate payment in full, as the interests of justice require.

"(l) A conviction of a defendant for an offense involving the act giving rise to an order of restitution shall estop the defendant from denying the essential allegations of that offense in any subsequent Federal civil proceeding or State civil proceeding, to the extent consistent with State law, brought by the victim.

"(m)(1)(A)(i) An order of restitution may be enforced by the United States in the manner provided for in subchapter C of chapter 227 and subchapter B of chapter 229 of this title; or

"(ii) by all other available and reasonable means.

"(B) At the request of a victim named in a restitution order, the clerk of the court shall issue an abstract of judgment certifying that a judgment has been entered in favor of such victim in the amount specified in the restitution order. Upon registering, recording, docketing, or indexing such abstract in accordance with the rules and requirements relating to judgments of the court of the State where the district court is located, the abstract of judgment shall be a lien on the property of the defendant located in such State in the same manner and to the same extent and under the same conditions as a judgment of a court of general jurisdiction in that State.

"(2) An order of in-kind restitution in the form of services shall be enforced by the probation officer.

“(n) If a person obligated to provide restitution, or pay a fine, receives substantial resources from any source, including inheritance, settlement, or other judgment, during a period of incarceration, such person shall be required to apply the value of such resources to any restitution or fine still owed.

“(o) A sentence that imposes an order of restitution is a final judgment notwithstanding the fact that—

“(1) such a sentence can subsequently be—

“(A) corrected under Rule 35 of the Federal Rules of Criminal Procedure and section 3742 of chapter 235 of this title;

“(B) appealed and modified under section 3742;

“(C) amended under section 3664(d)(3); or

“(D) adjusted under section 3664(k), 3572, or 3613A;

or

“(2) the defendant may be resentenced under section 3565 or 3614.

“(p) Nothing in this section or sections 2248, 2259, 2264, 2327, 3663, and 3663A and arising out of the application of such sections, shall be construed to create a cause of action not otherwise authorized in favor of any person against the United States or any officer or employee of the United States.’

“(b) TECHNICAL AMENDMENT—The item relating to section 3664 in the analysis for chapter 232 of title 18, United States Code, is amended to read as follows:

“3664. Procedure for issuance and enforcement of order of restitution.”.

SEC. 207. PROCEDURE FOR ENFORCEMENT OF FINE OR RESTITUTION ORDER.

(a) AMENDMENT OF FEDERAL RULES OF CRIMINAL PROCEDURE.—Rule 32(b) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (1), by adding at the end the following:

“Notwithstanding the preceding sentence, a presentence investigation and report, or other report containing information sufficient for the court to enter an order of restitution, as the court may direct, shall be required in any case in which restitution is required to be ordered.”; and

(2) in paragraph (4)—

(A) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(B) by inserting after subparagraph (E), the following new subparagraph:

“(F) in appropriate cases, information sufficient for the court to enter an order of restitution.”.

(b) FINES—Section 3572 of title 18, United States Code, is amended—

(1) in subsection (b) by inserting “other than the United States,” after “offense,”;

(2) in subsection (d)—

(A) in the first sentence, by striking “A person sentenced to pay a fine or other monetary penalty” and inserting “(1) A person sentenced to pay a fine or other monetary penalty, including restitution,”;

(B) by striking the third sentence; and

(C) by adding at the end the following:

“(2) If the judgment, or, in the case of a restitution order, the

order, permits other than immediate payment, the length of time over which scheduled payments will be made shall be set by the court, but shall be the shortest time in which full payment can reasonably be made.

“(3) A judgment for a fine which permits payments in installments shall include a requirement that the defendant will notify the court of any material change in the defendant’s economic circumstances that might affect the defendant’s ability to pay the fine. Upon receipt of such notice the court may, on its own motion or the motion of any party, adjust the payment schedule, or require immediate payment in full, as the interests of justice require.”;

(3) in subsection (f), by inserting “restitution” after “special assessment,”;

(4) in subsection (h), by inserting “or payment of restitution” after “A fine”; and

(5) in subsection (i)—

(A) in the first sentence, by inserting “or payment of restitution” after “A fine”; and

(B) by amending the second sentence to read as follows:

“Notwithstanding any installment schedule, when a fine or payment of restitution is in default, the entire amount of the fine or restitution is due within 30 days after notification of the default, subject to the provisions of section 3613A.”.

(c) POSTSENTENCE ADMINISTRATION.—

(1) PAYMENT OF A FINE OR RESTITUTION.—Section 3611 of title 18, United States Code, is amended—

(A) by amending the heading to read as follows:

“§3611. Payment of a fine or restitution”;

and

(B) by striking “or assessment shall pay the fine or assessment” and inserting “, assessment, or restitution, shall pay the fine, assessment, or restitution”.

(2) COLLECTION.—Section 3612 of title 18, United States Code, is amended—

(A) by amending the heading to read as follows:

“§3612. Collection of unpaid fine or restitution”;

(B) in subsection (b)(1)—

(i) in the matter preceding subparagraph (A), by inserting “or restitution order” after “fine”;

(ii) in subparagraph (c), by inserting “or restitution order” after “fine”;

(iii) in subparagraph (E), by striking “and”;

(iv) in subparagraph (F)—

(I) by inserting “or restitution order” after “fine”; and

(II) by striking the period at the end and inserting “; and”; and

(v) by adding at the end the following new subparagraph:

“(G) in the case of a restitution order, information sufficient to identify each victim to whom restitution is owed. It shall be the responsibility of each victim to notify the Attorney General, or the appropriate entity of the court, by means of a form to be provided by the Attorney General or

the court, of any change in the victim's mailing address while restitution is still owed the victim. The confidentiality of any information relating to a victim shall be maintained.”;

(C) in subsection (c)—

(i) in the first sentence, by inserting “or restitution” after “fine”; and

(ii) by adding at the end the following: “Any money received from a defendant shall be disbursed so that each of the following obligations is paid in full in the following sequence:

“(1) A penalty assessment under section 3013 of title 18, United States Code.

“(2) Restitution of all victims.

“(3) All other fines, penalties, costs, and other payments required under the sentence.”;

(D) in subsection (d)—

(i) by inserting “or restitution” after “fine”; and

(ii) by striking “is delinquent, to inform him that the fine is delinquent” and inserting “or restitution is delinquent, to inform the person of the delinquency”;

(E) in subsection (e)—

(i) by inserting “or restitution” after “fine”; and

(ii) by striking “him that the fine is in default” and inserting “the person that the fine or restitution is in default”;

(F) in subsection (f)—

(i) in the heading, by inserting “and restitution” after “on fines”; and

(ii) in paragraph (1), by inserting “or restitution” after “any fine”;

(G) in subsection (g), by inserting “or restitution” after “fine” each place it appears; and

(H) in subsection (i), by inserting “and restitution” after “fines”.

(3) CIVIL REMEDIES.—Section 3613 of title 18, United States Code, is amended to read as follows:

“§3613. Civil remedies for satisfaction of an unpaid fine

“(a) ENFORCEMENT.—The United States may enforce a judgment imposing a fine in accordance with the practices and procedures for the enforcement of a civil judgment under Federal law or State law. Notwithstanding any other Federal law (including section 207 of the Social Security Act), a judgment imposing a fine may be enforced against all property or rights to property of the person fined, except that—

“(1) property exempt from levy for taxes pursuant to section 6334(a) (1), (2), (3), (4), (5), (6), (7), (8), (10), and (12) of the Internal Revenue Code of 1986 shall be exempt from enforcement of the judgment under Federal law;

“(2) section 3014 of chapter 176 of title 28 shall not apply to enforcement under Federal law; and

“(3) the provisions of section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673) shall apply to enforcement of the judgment under Federal law or State law.

“(b) TERMINATION OF LIABILITY.—The liability to pay a fine shall terminate the later of 20 years from the entry of judgment or 20 years

after the release from imprisonment of the person fined, or upon the death of the individual fined.

“(c) LIEN.—A fine imposed pursuant to the provisions of subchapter C of chapter 227 of this title, or an order of restitution made pursuant to sections 2248, 2259, 2264, 2327, 3663, 3663A, or 3664 of this title, is a lien in favor of the United States on all property and rights to property of the person fined as if the liability of the person fined were a liability for a tax assessed under the Internal Revenue Code of 1986. The lien arises on the entry of judgment and continues for 20 years or until the liability is satisfied, remitted, set aside, or is terminated under subsection (b).

“(d) EFFECT OF FILING NOTICE OF LIEN.—Upon filing of a notice of lien in the manner in which a notice of tax lien would be filed under section 6323(f) (1) and (2) of the Internal Revenue Code of 1986, the lien shall be valid against any purchaser, holder of a security interest, mechanic’s lien or judgment lien creditor, except with respect to properties or transactions specified in subsection (b), (c), or (d) of section 6323 of the Internal Revenue Code of 1986 for which a notice of tax lien properly filed on the same date would not be valid. The notice of lien shall be considered a notice of lien for taxes payable to the United States for the purpose of any State or local law providing for the filing of a notice of a tax lien. A notice of lien that is registered, recorded, docketed, or indexed in accordance with the rules and requirements relating to judgments of the courts of the State where the notice of lien is registered, recorded, docketed, or indexed shall be considered for all purposes as the filing prescribed by this section. The provisions of section 3201(e) of chapter 176 of title 28 shall apply to liens filed as prescribed by this section.

“(e) DISCHARGE OF DEBT INAPPLICABLE.—No discharge of debts in a proceeding pursuant to any chapter of title 11, United States Code, shall discharge liability to pay a fine pursuant to this section, and a lien filed as prescribed by this section shall not be voided in a bankruptcy proceeding.

“(f) APPLICABILITY TO ORDER OF RESTITUTION.—In accordance with section 3664(m)(1)(A) of this title, all provisions of this section are available to the United States for the enforcement of an order of restitution.”

(4) DEFAULT.—Chapter 229 of title 18, United States Code, is amended by inserting after section 3613 the following new section:

“§3613A. Effect of default

“(a)(1) Upon a finding that the defendant is in default on a payment of a fine or restitution, the court may, pursuant to section 3565, revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, resentence a defendant pursuant to section 3614, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, enter or adjust a payment schedule, or take any other action necessary to obtain compliance with the order of a fine or restitution.

“(2) In determining what action to take, the court shall consider the defendant’s employment status, earning ability, financial re-

sources, the willfulness in failing to comply with the fine or restitution order, and any other circumstances that may have a bearing on the defendant's ability or failure to comply with the order of a fine or restitution.

"(b)(1) Any hearing held pursuant to this section may be conducted by a magistrate judge, subject to de novo review by the court.

"(2) To the extent practicable, in a hearing held pursuant to this section involving a defendant who is confined in any jail, prison, or other correctional facility, proceedings in which the prisoner's participation is required or permitted shall be conducted by telephone, video conference, or other communications technology without removing the prisoner from the facility in which the prisoner is confined."

(5) RESENTENCING.—Section 3614 of title 18, United States Code, is amended—

(A) in the heading, by inserting "or restitution" after "fine";

(B) in subsection (a), by inserting "or restitution" after "fine"; and

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

"(c) EFFECT OF INDIGENCY.—In no event shall a defendant be incarcerated under this section solely on the basis of inability to make payments because the defendant is indigent."

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter B of chapter 229 of title 18, United States Code, is amended to read as follows:

"Sec.

"3611. Payment of a fine or restitution.

"3612. Collection of an unpaid fine or restitution.

"3613. Civil remedies for satisfaction of an unpaid fine.

"3613A. Effect of default.

"3614. Resentencing upon failure to pay a fine or restitution.

"3615. Criminal default."

SEC. 208. INSTRUCTION TO SENTENCING COMMISSION.

Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to reflect this subtitle and the amendments made by this subtitle.

SEC. 209. JUSTICE DEPARTMENT REGULATIONS.

Not later than 90 days after the date of enactment of this subtitle, the Attorney General shall promulgate guidelines, or amend existing guidelines, to carry out this subtitle and the amendments made by this subtitle and to ensure that—

(1) in all plea agreements negotiated by the United States, consideration is given to requesting that the defendant provide full restitution to all victims of all charges contained in the indictment or information, without regard to the counts to which the defendant actually pleaded; and

(2) orders of restitution made pursuant to the amendments made by this subtitle are enforced to the fullest extent of the law.

SEC. 210. SPECIAL ASSESSMENTS ON CONVICTED PERSONS.

Section 3013(a)(2) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking "\$50" and inserting "not less than \$100"; and

(2) in subparagraph (B), by striking “\$200” and inserting “not less than \$400”.

SEC. 211. EFFECTIVE DATE.

The amendments made by this subtitle shall, to the extent constitutionally permissible, be effective for sentencing proceedings in cases in which the defendant is convicted on or after the date of enactment of this Act.

Subtitle B—Jurisdiction for Lawsuits Against Terrorist States

SEC. 221. JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES.

(a) EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY FOR CERTAIN CASES.— Section 1605 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “or” at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting “; or”; and

(C) by adding at the end the following new paragraph:

“(7) not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that the court shall decline to hear a claim under this paragraph—

“(A) if the foreign state was not designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) at the time the act occurred, unless later so designated as a result of such act; and

“(B) even if the foreign state is or was so designated, if—

“(i) the act occurred in the foreign state against which the claim has been brought and the claimant has not afforded the foreign state a reasonable opportunity to arbitrate the claim in accordance with accepted international rules of arbitration; or

“(ii) the claimant or victim was not a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act) when the act upon which the claim is based occurred.”; and

(2) by adding at the end the following:

“(e) For purposes of paragraph (7) of subsection (a)—

“(1) the terms “torture” and “extrajudicial killing” have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991;

“(2) the term ‘hostage taking’ has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages; and

“(3) the term ‘aircraft sabotage’ has the meaning given that term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.

“(f) No action shall be maintained under subsection (a)(7) unless the action is commenced not later than 10 years after the date on which the cause of action arose. All principles of equitable tolling, including the period during which the foreign state was immune from suit, shall apply in calculating this limitation period.

“(g) LIMITATION ON DISCOVERY.—

“(1) IN GENERAL.—(A) Subject to paragraph (2), if an action is filed that would otherwise be barred by section 1604, but for subsection (a)(7), the court, upon request of the Attorney General, shall stay any request, demand, or order for discovery on the United States that the Attorney General certifies would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action, until such time as the Attorney General advises the court that such request, demand, or order will no longer so interfere.

“(B) A stay under this paragraph shall be in effect during the 12-month period beginning on the date on which the court issues the order to stay discovery. The court shall renew the order to stay discovery for additional 12-month periods upon motion by the United States if the Attorney General certifies that discovery would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action.

“(2) SUNSET.—(A) Subject to subparagraph (B), no stay shall be granted or continued in effect under paragraph (1) after the date that is 10 years after the date on which the incident that gave rise to the cause of action occurred.

“(B) After the period referred to in subparagraph (A), the court, upon request of the Attorney General, may stay any request, demand, or order for discovery on the United States that the court finds a substantial likelihood would—

“(i) create a serious threat of death or serious bodily injury to any person;

“(ii) adversely affect the ability of the United States to work in cooperation with foreign and international law enforcement agencies in investigating violations of United States law; or

“(iii) obstruct the criminal case related to the incident that gave rise to the cause of action or undermine the potential for a conviction in such case.

“(3) EVALUATION OF EVIDENCE.—The court’s evaluation of any request for a stay under this subsection filed by the Attorney General shall be conducted *ex parte* and *in camera*.

“(4) BAR ON MOTIONS TO DISMISS.—A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

“(5) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States.”

(b) EXCEPTION TO IMMUNITY FROM ATTACHMENT.—

(1) **FOREIGN STATE.**—Section 1610(a) of title 28, United States Code, is amended—

(A) by striking the period at the end of paragraph (6) and inserting “, or”; and

(B) by adding at the end the following new paragraph:
“(7) the judgment relates to a claim for which the foreign state is not immune under section 1605(a)(7), regardless of whether the property is or was involved with the act upon which the claim is based.”

(2) **AGENCY OR INSTRUMENTALITY.**—Section 1610(b)(2) of title 28, United States Code, is amended—

(A) by striking “or (5)” and inserting “(5), or (7)”; and

(B) by striking “used for the activity” and inserting “involved in the act”.

(c) **APPLICABILITY.**—The amendments made by this subtitle shall apply to any cause of action arising before, on, or after the date of the enactment of this Act.

Subtitle C—Assistance to Victims of Terrorism

SEC. 231. SHORT TITLE.

This subtitle may be cited as the “Justice for Victims of Terrorism Act of 1996”.

SEC. 232. VICTIMS OF TERRORISM ACT.

(a) **AUTHORITY TO PROVIDE ASSISTANCE AND COMPENSATION TO VICTIMS OF TERRORISM.**—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404A the following new section:

“SEC. 1404B. COMPENSATION AND ASSISTANCE TO VICTIMS OF TERRORISM OR MASS VIOLENCE.

“(a) **VICTIMS OF ACTS OF TERRORISM OUTSIDE THE UNITED STATES.**—The Director may make supplemental grants as provided in section 1404(a) to States to provide compensation and assistance to the residents of such States who, while outside of the territorial boundaries of the United States, are victims of a terrorist act or mass violence and are not persons eligible for compensation under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

“(b) **VICTIMS OF TERRORISM WITHIN THE UNITED STATES.**—The Director may make supplemental grants as provided in section 1404(d)(4)(B) to States for eligible crime victim compensation and assistance programs to provide emergency relief, including crisis response efforts, assistance, training, and technical assistance, for the benefit of victims of terrorist acts or mass violence occurring within the United States and may provide funding to United States Attorney’s Offices for use in coordination with State victim compensation and assistance efforts in providing emergency relief.”

(b) **FUNDING OF COMPENSATION AND ASSISTANCE TO VICTIMS OF TERRORISM, MASS VIOLENCE, AND CRIME.**—Section 1402(d)(4) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(4)) is amended to read as follows:

“(4)(A) If the sums available in the Fund are sufficient to

fully provide grants to the States pursuant to section 1403(a)(1), the Director may retain any portion of the Fund that was deposited during a fiscal year that was in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as an emergency reserve. Such reserve shall not exceed \$50,000,000.

“(B) The emergency reserve referred to in subparagraph (A) may be used for supplemental grants under section 1404B and to supplement the funds available to provide grants to States for compensation and assistance in accordance with sections 1403 and 1404 in years in which supplemental grants are needed.”.

(c) CRIME VICTIMS FUND AMENDMENTS.—

(1) UNOBLIGATED FUNDS.—Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended—

(A) in subsection (c), by striking “subsection” and inserting “chapter”; and

(B) by amending subsection (e) to read as follows:

“(e) AMOUNTS AWARDED AND UNSPENT.—Any amount awarded as part of a grant under this chapter that remains unspent at the end of a fiscal year in which the grant is made may be expended for the purpose for which the grant is made at any time during the 2 succeeding fiscal years, at the end of which period, any remaining unobligated sums in excess of \$500,000 shall be returned to the Treasury. Any remaining unobligated sums in an amount less than \$500,000 shall be returned to the Fund.”.

(2) BASE AMOUNT.—Section 1404(a)(5) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(5)) is amended to read as follows:

“(5) As used in this subsection, the term “base amount” means—

“(A) except as provided in subparagraph (B), \$500,000; and

“(B) for the territories of the Northern Mariana Islands, Guam, American Samoa, and the Republic of Palau, \$200,000, with the Republic of Palau’s share governed by the Compact of Free Association between the United States and the Republic of Palau.”.

SEC. 233. COMPENSATION OF VICTIMS OF TERRORISM.

(a) REQUIRING COMPENSATION FOR TERRORIST CRIMES.—Section 1403(d)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(d)(3)) is amended—

(1) by inserting “crimes involving terrorism,” before “driving while intoxicated”; and

(2) by inserting a comma after “driving while intoxicated”.

(b) FOREIGN TERRORISM.—Section 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)(6)(B)) is amended by inserting “are outside of the United States (if the compensable crime is terrorism, as defined in section 2331 of title 18, United States Code), or” before “are States not having”.

(c) DESIGNATION OF CARTNEY MCRAVEN CHILD DEVELOPMENT CENTER.—

(1) DESIGNATION.—

(A) IN GENERAL.—The Federal building at 1314 LeMay Boulevard, Ellsworth Air Force Base, South Dakota, shall be known as the “Cartney McRaven Child Development

Center”.

(B) **REPLACEMENT BUILDING.**— If, after the date of enactment of this Act, a new Federal building is built at the location described in subparagraph (A) to replace the building described in the paragraph, the new Federal building shall be known as the “Cartney McRaven Child Development Center”.

(2) **REFERENCES.**—Any reference in a law, map, regulation, document, paper, or other record of the United States to a Federal building referred to in paragraph (1) shall be deemed to be a reference to the “Cartney McRaven Child Development Center”.

(d) **EFFECTIVE DATE.**—This section and the amendments made by this section shall take effect 1 year after the date of enactment of this Act.

SEC. 234. CRIME VICTIMS FUND.

(a) **PROHIBITION OF PAYMENTS TO DELINQUENT CRIMINAL DEBTORS BY STATE CRIME VICTIM COMPENSATION PROGRAMS.**—

(1) **IN GENERAL.**—Section 1403(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)) is amended—

(A) by striking “and” at the end of paragraph (7);

(B) by redesignating paragraph (8) as paragraph (9);

and

(C) by inserting after paragraph (7) the following new paragraph:

“(8) such program does not provide compensation to any person who has been convicted of an offense under Federal law with respect to any time period during which the person is delinquent in paying a fine, other monetary penalty, or restitution imposed for the offense; and”.

(2) **APPLICATION OF AMENDMENT.**—Section 1403(b)(8) of the Victims of Crime Act of 1984, as added by paragraph (1) of this section, shall not be applied to deny victims compensation to any person until the date on which the Attorney General, in consultation with the Director of the Administrative Office of the United States Courts, issues a written determination that a cost-effective, readily available criminal debt payment tracking system operated by the agency responsible for the collection of criminal debt has established cost-effective, readily available communications links with entities that administer Federal victim compensation programs that are sufficient to ensure that victim compensation is not denied to any person except as authorized by law.

(b) **EXCLUSION FROM INCOME FOR PURPOSES OF MEANS TESTS.**—Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by inserting after subsection (b) the following new subsection:

“(c) **EXCLUSION FROM INCOME FOR PURPOSES OF MEANS TESTS.**—Notwithstanding any other law, for the purpose of any maximum allowed income eligibility requirement in any Federal, State, or local government program using Federal funds that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) that becomes necessary to an applicant for such assistance in full or in part because of the commission of a crime against the applicant, as determined by the Director, any amount of crime victim

compensation that the applicant receives through a crime victim compensation program under this section shall not be included in the income of the applicant until the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime.”

SEC. 235. CLOSED CIRCUIT TELEVISED COURT PROCEEDINGS FOR VICTIMS OF CRIME.

(a) In General.—Notwithstanding any provision of the Federal Rules of Criminal Procedure to the contrary, in order to permit victims of crime to watch criminal trial proceedings in cases where the venue of the trial is changed—

(1) out of the State in which the case was initially brought;

and

(2) more than 350 miles from the location in which those proceedings originally would have taken place;

the trial court shall order closed circuit televising of the proceedings to that location, for viewing by such persons the court determines have a compelling interest in doing so and are otherwise unable to do so by reason of the inconvenience and expense caused by the change of venue.

(b) LIMITED ACCESS.—

(1) GENERALLY.—No other person, other than official court and security personnel, or other persons specifically designated by the court, shall be permitted to view the closed circuit televising of the proceedings.

(2) EXCEPTION.—The court shall not designate a person under paragraph (1) if the presiding judge at the trial determines that testimony by that person would be materially affected if that person heard other testimony at the trial.

(c) RESTRICTIONS.—

(1) The signal transmitted pursuant to subsection (a) shall be under the control of the court at all times and shall only be transmitted subject to the terms and conditions imposed by the court.

(2) No public broadcast or dissemination shall be made of the signal transmitted pursuant to subsection (a). In the event any tapes are produced in carrying out subsection (a), such tapes shall be the property of the court and kept under seal.

(3) Any violations of this subsection, or any rule or order made pursuant to this section, shall be punishable as contempt of court as described in section 402 of title 18, United States Code.

(d) DONATIONS.—The Administrative Office of the United States Courts may accept donations to enable the courts to carry out subsection (a).

(e) CONSTRUCTION.—

(1) Nothing in this section shall be construed—

(i) to create in favor of any person a cause of action against the United States or any officer or employees thereof, or

(ii) to provide any person with a defense in any action in which application of this section is made.

(f) DEFINITION.—As used in this section, the term “State” means any State, the District of Columbia, or any possession or territory of the United States.

(g) **RULES.**—The Judicial Conference of the United States, pursuant to its rule making authority under section 331 of title 28, United States Code, may promulgate and issue rules, or amend existing rules, to effectuate the policy addressed by this section. Upon the implementation of such rules, this section shall cease to be effective.

(h) **EFFECTIVE DATE.**—This section shall only apply to cases filed after January 1, 1995.

SEC. 236. TECHNICAL CORRECTION.

Section 1402(d)(3)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(3)(B)) is amended by striking “1404A” and inserting “1404(a)”.

TITLE III—INTERNATIONAL TERRORISM PROHIBITIONS

Subtitle A—Prohibition on International Terrorist Fundraising

SEC. 301. FINDINGS AND PURPOSE.

(a) **FINDINGS.**—The Congress finds that—

(1) international terrorism is a serious and deadly problem that threatens the vital interests of the United States;

(2) the Constitution confers upon Congress the power to punish crimes against the law of nations and to carry out the treaty obligations of the United States, and therefore Congress may by law impose penalties relating to the provision of material support to foreign organizations engaged in terrorist activity;

(3) the power of the United States over immigration and naturalization permits the exclusion from the United States of persons belonging to international terrorist organizations;

(4) international terrorism affects the interstate and foreign commerce of the United States by harming international trade and market stability, and limiting international travel by United States citizens as well as foreign visitors to the United States;

(5) international cooperation is required for an effective response to terrorism, as demonstrated by the numerous multilateral conventions in force providing universal prosecutive jurisdiction over persons involved in a variety of terrorist acts, including hostage taking, murder of an internationally protected person, and aircraft piracy and sabotage;

(6) some foreign terrorist organizations, acting through affiliated groups or individuals, raise significant funds within the United States, or use the United States as a conduit for the receipt of funds raised in other nations; and

(7) foreign organizations that engage in terrorist activity are so tainted by their criminal conduct that any contribution to such an organization facilitates that conduct.

(b) **PURPOSE.**—The purpose of this subtitle is to provide the Federal Government the fullest possible basis, consistent with the Constitution, to prevent persons within the United States, or subject to the jurisdiction of the United States, from providing material support or resources to foreign organizations that engage in terrorist activities.

SEC. 302. DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by adding at the end the following:

“SEC. 219. DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.

“(a) DESIGNATION.—

“(1) IN GENERAL.— The Secretary is authorized to designate an organization as a foreign terrorist organization in accordance with this subsection if the Secretary finds that—

“(A) the organization is a foreign organization;

“(B) the organization engages in terrorist activity (as defined in section 212(a)(3)(B)); and

“(C) the terrorist activity of the organization threatens the security of United States nationals or the national security of the United States.

“(2) PROCEDURE.—

“(A) NOTICE.—Seven days before making a designation under this subsection, the Secretary shall, by classified communication—

“(i) notify the Speaker and Minority Leader of the House of Representatives, the President pro tempore, Majority Leader, and Minority Leader of the Senate, and the members of the relevant committees, in writing, of the intent to designate a foreign organization under this subsection, together with the findings made under paragraph (1) with respect to that organization, and the factual basis therefor; and

“(ii) seven days after such notification, publish the designation in the Federal Register.

“(B) EFFECT OF DESIGNATION.—

“(i) For purposes of section 2339B of title 18, United States Code, a designation under this subsection shall take effect upon publication under subparagraph (A).

“(ii) Any designation under this subsection shall cease to have effect upon an Act of Congress disapproving such designation.

“(C) FREEZING OF ASSETS.—Upon notification under paragraph (2), the Secretary of the Treasury may require United States financial institutions possessing or controlling any assets of any foreign organization included in the notification to block all financial transactions involving those assets until further directive from either the Secretary of the Treasury, Act of Congress, or order of court.

“(3) RECORD.—

“(A) IN GENERAL.— In making a designation under this subsection, the Secretary shall create an administrative record.

“(B) CLASSIFIED INFORMATION.— The Secretary may consider classified information in making a designation under this subsection. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).

“(4) PERIOD OF DESIGNATION.—

“(A) IN GENERAL.—Subject to paragraphs (5) and (6), a designation under this subsection shall be effective for all purposes for a period of 2 years beginning on the effective date of the designation under paragraph (2)(B).

“(B) REDESIGNATION.—The Secretary may redesignate a foreign organization as a foreign terrorist organization for an additional 2-year period at the end of the 2-year period referred to in subparagraph (A) (but not sooner than 60 days prior to the termination of such period) upon a finding that the relevant circumstances described in paragraph (1) still exist. The procedural requirements of paragraphs (2) and (3) shall apply to a redesignation under this subparagraph.

“(5) REVOCATION BY ACT OF CONGRESS.—The Congress, by an Act of Congress, may block or revoke a designation made under paragraph (1).

“(6) REVOCATION BASED ON CHANGE IN CIRCUMSTANCES.—

“(A) IN GENERAL.—The Secretary may revoke a designation made under paragraph (1) if the Secretary finds that—

“(i) the circumstances that were the basis for the designation have changed in such a manner as to warrant revocation of the designation; or

“(ii) the national security of the United States warrants a revocation of the designation.

“(B) PROCEDURE.—The procedural requirements of paragraphs (2) through (4) shall apply to a revocation under this paragraph.

“(7) EFFECT OF REVOCATION.—The revocation of a designation under paragraph (5) or (6) shall not affect any action or proceeding based on conduct committed prior to the effective date of such revocation.

“(8) USE OF DESIGNATION IN TRIAL OR HEARING.—If a designation under this subsection has become effective under paragraph(1)(B), a defendant in a criminal action shall not be permitted to raise any question concerning the validity of the issuance of such designation as a defense or an objection at any trial or hearing.

“(b) JUDICIAL REVIEW OF DESIGNATION.—

“(1) IN GENERAL.— Not later than 30 days after publication of the designation in the Federal Register, an organization designated as a foreign terrorist organization may seek judicial review of the designation in the United States Court of Appeals for the District of Columbia Circuit.

“(2) BASIS OF REVIEW.— Review under this subsection shall be based solely upon the administrative record, except that the Government may submit, for ex parte and in camera review, classified information used in making the designation.

“(3) SCOPE OF REVIEW.— The Court shall hold unlawful and set aside a designation the court finds to be—

“(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

“(B) contrary to constitutional right, power, privilege, or immunity; or

“(C) in excess of statutory jurisdiction, authority, or limitation, or short of statutory right.

“(4) JUDICIAL REVIEW INVOKED.—The pendency of an action for judicial review of a designation shall not affect the application of this section, unless the court issues a final order setting aside the designation.

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

“(1) the term “classified information” has the meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);

“(2) the term “national security” means the national defense, foreign relations, or economic interests of the United States;

“(3) the term “relevant committees” means the Committees on the Judiciary, Intelligence, and Foreign Relations of the Senate and the Committees on the Judiciary, Intelligence, and International Relations of the House of Representatives; and

“(4) the term “Secretary” means the “Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General.”

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act, relating to terrorism, is amended by inserting after the item relating to section 218 the following new item:

“Sec. 219. Designation of foreign terrorist organizations.”

SEC. 303. PROHIBITION ON TERRORIST FUNDRAISING.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following new section:

“§ 2339B. Providing material support or resources to designated foreign terrorist organizations

“(a) PROHIBITED ACTIVITIES.—

“(1) UNLAWFUL CONDUCT.—Whoever, within the United States or subject to the jurisdiction of the United States, knowingly provides material support or resources to a foreign terrorist organization, or attempts or conspires to do so, shall be fined under this title or imprisoned not more than 10 years, or both.

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

“(A) retain possession of, or maintain control over, such funds; and

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

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

“(A) \$50,000 per violation; or

“(B) twice the amount of which the financial institution was required under subsection (a)(2) to retain possession or control.

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

“(d) EXTRATERRITORIAL JURISDICTION.— There is extraterritorial Federal jurisdiction over an offense under this section.

“(e) INVESTIGATIONS.—

“(1) IN GENERAL.—The Attorney General shall conduct any investigation of a possible violation of this section, or of any license, order, or regulation issued pursuant to this section.

“(2) COORDINATION WITH THE DEPARTMENT OF THE TREASURY.—The Attorney General shall work in coordination with the Secretary in investigations relating to—

“(A) the compliance or noncompliance by a financial institution with the requirements of subsection (a)(2); and

“(B) civil penalty proceedings authorized under subsection (b).

“(3) REFERRAL.—Any evidence of a criminal violation of this section arising in the course of an investigation by the Secretary or any other Federal agency shall be referred immediately to the Attorney General for further investigation. The Attorney General shall timely notify the Secretary of any action taken on referrals from the Secretary, and may refer investigations to the Secretary for remedial licensing or civil penalty action.

“(f) CLASSIFIED INFORMATION IN CIVIL PROCEEDINGS BROUGHT BY THE UNITED STATES.—

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

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

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

“(ii) substitute a summary of the information for such classified documents; or

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

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

“(C) DENIAL OF REQUEST.—If the court enters an order denying a request of the United States under this paragraph, the United States may take an immediate, interlocutory appeal in accordance with paragraph (5). For purposes of such an appeal, the entire text of the documents to which the request relates, together with any transcripts of arguments made ex parte to the court in connection therewith, shall be maintained under seal and delivered to the appellate court.

“(2) INTRODUCTION OF CLASSIFIED INFORMATION; PRECAUTIONS BY COURT.—

“(A) EXHIBITS.—To prevent unnecessary or inadvertent disclosure of classified information in a civil proceeding

brought by the United States under this section, the United States may petition the court *ex parte* to admit, in lieu of classified writings, recordings, or photographs, one or more of the following:

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

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

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

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

“(3) TAKING OF TRIAL TESTIMONY.—

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

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

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

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

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

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

“(5) INTERLOCUTORY APPEAL.—

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

“(i) authorizing the disclosure of classified information;

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

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

“(B) EXPEDITED CONSIDERATION.—

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

“(ii) APPEALS PRIOR TO TRIAL.—If an appeal is of an order made prior to trial, an appeal shall be taken not later than 10 days after the decision or order ap-

pealed from, and the trial shall not commence until the appeal is resolved.

“(iii) APPEALS DURING TRIAL.—If an appeal is taken during trial, the trial court shall adjourn the trial until the appeal is resolved, and the court of appeals—

“(I) shall hear argument on such appeal not later than 4 days after the adjournment of the trial;

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

“(III) shall render its decision not later than 4 days after argument on appeal; and

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

“(C) EFFECT OF RULING.—An interlocutory appeal and decision shall not affect the right of the defendant, in a subsequent appeal from a final judgment, to claim as error reversal by the trial court on remand of a ruling appealed from during trial.

“(6) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and State secrets privilege.

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

“(1) the term ‘classified information’ has the meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);

“(2) the term ‘financial institution’ has the same meaning as in section 5312(a)(2) of title 31, United States Code;

“(3) the term ‘funds’ includes coin or currency of the United States or any other country, traveler’s checks, personal checks, bank checks, money orders, stocks, bonds, debentures, drafts, letters of credit, any other negotiable instrument, and any electronic representation of any of the foregoing;

“(4) the term ‘material support or resources’ has the same meaning as in section 2339A;

“(5) the term ‘Secretary’ means the Secretary of the Treasury; and

“(6) the term ‘terrorist organization’ means an organization designated as a terrorist organization under section 219 of the Immigration and Nationality Act.”.

(b) CLERICAL AMENDMENT TO TABLE OF SECTIONS.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end the following new item:

“2339B. Providing material support or resources to designated foreign terrorist organizations.”.

(c) TECHNICAL AMENDMENT.—

(1) NEW ITEM.—Chapter 113B of title 18, United States Code, relating to torture, is redesignated as chapter 113C.

(2) TABLE OF CHAPTERS.—The table of chapters for part I of title 18, United States Code, is amended by striking “113B. Torture” and inserting “113C. Torture”.

Subtitle B—Prohibition on Assistance to Terrorist States

SEC. 321. FINANCIAL TRANSACTIONS WITH TERRORISTS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after the section 2332c added by section 521 of this Act the following new section:

“§ 2332d. Financial transactions

“(a) OFFENSE.—Except as provided in regulations issued by the Secretary of the Treasury, in consultation with the Secretary of State, whoever, being a United States person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act (50 U.S.C. App. 2405) as a country supporting international terrorism, engages in a financial transaction with the government of that country, shall be fined under this title, imprisoned for not more than 10 years, or both.

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

“(1) the term ‘financial transaction’ has the same meaning as in section 1956(c)(4); and

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

“(A) United States citizen or national;

“(B) permanent resident alien;

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

“(D) any person in the United States.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after the item added by section 521 of this Act the following new item:

“2332d. Financial transactions.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective 120 days after the date of enactment of this Act.

SEC. 322. FOREIGN AIR TRAVEL SAFETY.

Section 44906 of title 49, United States Code, is amended to read as follows:

“§ 44906. Foreign air carrier security programs

“The Administrator of the Federal Aviation Administration shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that a foreign air carrier must adopt and use a security program approved by the Administrator. The Administrator shall not approve a security program of a foreign air carrier under section 129.25, or any successor regulation, unless the security program requires the foreign air carrier in its operations to and from airports in the United States to adhere to the identical security measures that the Administrator requires air carriers serving the same airports to adhere to. The foregoing requirement shall not be interpreted to limit the ability of the Administrator to impose additional security measures on a foreign air carrier or an air carrier when the Administrator determines that a specific threat warrants such additional measures. The Administrator shall prescribe regulations to carry out this section.”.

SEC. 323. MODIFICATION OF MATERIAL SUPPORT PROVISION.

Section 2339A of title 18, United States Code, is amended to read as follows:

“§ 2339A. Providing material support to terrorists

“(a) OFFENSE.—Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 37, 81, 175, 351, 831, 842 (m) or (n), 844 (f) or (i), 956, 1114, 1116, 1203, 1361, 1362, 1363, 1366, 1751, 2155, 2156, 2280, 2281, 2332, 2332a, 2332b, or 2340A of this title or section 46502 of title 49, or in preparation for, or in carrying out, the concealment from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.

“(b) DEFINITION.—In this section, the term “material support or resources” means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.”.

SEC. 324. FINDINGS.

The Congress finds that—

(1) international terrorism is among the most serious transnational threats faced by the United States and its allies, far eclipsing the dangers posed by population growth or pollution;

(2) the President should continue to make efforts to counter international terrorism a national security priority;

(3) because the United Nations has been an inadequate forum for the discussion of cooperative, multilateral responses to the threat of international terrorism, the President should undertake immediate efforts to develop effective multilateral responses to international terrorism as a complement to national counter terrorist efforts;

(4) the President should use all necessary means, including covert action and military force, to disrupt, dismantle, and destroy international infrastructure used by international terrorists, including overseas terrorist training facilities and safe havens;

(5) the Congress deplores decisions to ease, evade, or end international sanctions on state sponsors of terrorism, including the recent decision by the United Nations Sanctions Committee to allow airline flights to and from Libya despite Libya’s noncompliance with United Nations resolutions; and

(6) the President should continue to undertake efforts to increase the international isolation of state sponsors of international terrorism, including efforts to strengthen international sanctions, and should oppose any future initiatives to ease sanctions on Libya or other state sponsors of terrorism.

SEC. 325. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT AID TERRORIST STATES.

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.) is amended by adding immediately after section 620F the following new section:

“SEC. 620G PROHIBITION ON ASSISTANCE TO COUNTRIES THAT AID TERRORIST STATES.

“(a) **WITHHOLDING OF ASSISTANCE.**—The President shall withhold assistance under this Act to the government of any country that provides assistance to the government of any other country for which the Secretary of State has made a determination under section 620A.

“(b) **WAIVER.**—Assistance prohibited by this section may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including—

- “(1) a statement of the determination;
- “(2) a detailed explanation of the assistance to be provided;
- “(3) the estimated dollar amount of the assistance; and
- “(4) an explanation of how the assistance furthers United States national interests.”.

SEC. 326. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT PROVIDE MILITARY EQUIPMENT TO TERRORIST STATES.

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.) is amended by adding immediately after section 620G the following new section:

“SEC. 620H. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT PROVIDE MILITARY EQUIPMENT TO TERRORIST STATES.

“(a) **PROHIBITION.**—

“(1) **IN GENERAL.**—The President shall withhold assistance under this Act to the government of any country that provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for the purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), or 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

“(2) **APPLICABILITY.**—The prohibition under this section with respect to a foreign government shall terminate 1 year after that government ceases to provide lethal military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after the date of enactment of this Act.

(b) **WAIVER.**—Notwithstanding any other provision of law, assistance may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including—

- “(1) a statement of the determination;
- “(2) a detailed explanation of the assistance to be provided;
- “(3) the estimated dollar amount of the assistance; and

“(4) an explanation of how the assistance furthers United States national interests.”.

SEC. 327. OPPOSITION TO ASSISTANCE BY INTERNATIONAL FINANCIAL INSTITUTIONS TO TERRORIST STATES.

The International Financial Institutions Act (22 U.S.C. 262c et seq.) is amended by inserting after section 1620 the following new section:

“SEC. 1621. OPPOSITION TO ASSISTANCE BY INTERNATIONAL FINANCIAL INSTITUTIONS TO TERRORIST STATES.

“(a) **IN GENERAL.**—The Secretary of the Treasury shall instruct the United States executive director of each international financial institution to use the voice and vote of the United States to oppose any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

“(b) **DEFINITION.**—For purposes of this section, the term ‘international financial institution’ includes—

“(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund;

“(2) wherever applicable, the Inter-American Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund; and

“(3) any similar institution established after the date of enactment of this section.”.

SEC. 328. ANTITERRORISM ASSISTANCE.

(a) **FOREIGN ASSISTANCE ACT.**—Section 573 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa-2) is amended—

(1) in subsection (c), by striking “development and implementation of the antiterrorism assistance program under this chapter, including”;

(2) by amending subsection (d) to read as follows:

“(d)(1) Arms and ammunition may be provided under this chapter only if they are directly related to antiterrorism assistance.

“(2) The value (in terms of original acquisition cost) of all equipment and commodities provided under this chapter in any fiscal year shall not exceed 30 percent of the funds made available to carry out this chapter for that fiscal year.”; and

(3) by striking subsection (f).

(b) **ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVES DETECTION DEVICES AND OTHER COUNTERTERRORISM TECHNOLOGY.**—

(1) Subject to section 575(b), up to \$3,000,000 in any fiscal year may be made available—

(A) to procure explosives detection devices and other counterterrorism technology; and

(B) for joint counterterrorism research and development projects on such technology conducted with NATO and major non-NATO allies under the auspices of the Technical Support Working Group of the Department of State.

(2) As used in this subsection, the term “major non-NATO allies” means those countries designated as major non-NATO allies for purposes of section 2350a(i)(3) of title 10, United States Code.

(c) ASSISTANCE TO FOREIGN COUNTRIES.—Notwithstanding any other provision of law (except section 620A of the Foreign Assistance Act of 1961) up to \$1,000,000 in assistance may be provided to a foreign country for counterterrorism efforts in any fiscal year if—

(1) such assistance is provided for the purpose of protecting the property of the United States Government or the life and property of any United States citizen, or furthering the apprehension of any individual involved in any act of terrorism against such property or persons; and

(2) the appropriate committees of Congress are notified not later than 15 days prior to the provision of such assistance.

SEC. 329. DEFINITION OF ASSISTANCE.

For purposes of this title—

(1) the term “assistance” means assistance to or for the benefit of a government of any country that is provided by grant, concessional sale, guaranty, insurance, or by any other means on terms more favorable than generally available in the applicable market, whether in the form of a loan, lease, credit, debt relief, or otherwise, including subsidies for exports to such country and favorable tariff treatment of articles that are the growth, product, or manufacture of such country; and

(2) the term “assistance” does not include assistance of the type authorized under chapter 9 of part 1 of the Foreign Assistance Act of 1961 (relating to international disaster assistance).

SEC. 330. PROHIBITION ON ASSISTANCE UNDER ARMS EXPORT CONTROL ACT FOR COUNTRIES NOT COOPERATING FULLY WITH UNITED STATES ANTITERRORISM EFFORTS.

Chapter 3 of the Arms Export Control Act (22 U.S.C. 2771 et seq.) is amended by adding at the end the following:

“SEC. 40A. TRANSACTIONS WITH COUNTRIES NOT FULLY COOPERATING WITH UNITED STATES ANTITERRORISM EFFORTS.—

“(a) PROHIBITED TRANSACTIONS.—No defense article or defense service may be sold or licensed for export under this Act in a fiscal year to a foreign country that the President determines and certifies to Congress, by May 15 of the calendar year in which that fiscal year begins, is not cooperating fully with United States antiterrorism efforts.

“(b) WAIVER.—The President may waive the prohibition set forth in subsection (a) with respect to a specific transaction if the President determines that the transaction is important to the national interests of the United States.”.

**TITLE IV—TERRORIST AND CRIMINAL
ALIEN REMOVAL AND EXCLUSION**

Subtitle A—Removal of Alien Terrorists

SEC. 401. ALIEN TERRORIST REMOVAL.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by adding at the end the following new title:

“TITLE V—ALIEN TERRORIST REMOVAL PROCEDURES

SEC. 501. DEFINITIONS.

“As used in this title—

“(1) the term ‘alien terrorist’ means any alien described in section 241(a)(4)(B);

“(2) the term ‘classified information’ has the same meaning as in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);

“(3) the term ‘national security’ has the same meaning as in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App.);

“(4) the term ‘removal court’ means the court described in section 502;

“(5) the term ‘removal hearing’ means the hearing described in section 504; and

“(6) the term ‘removal proceeding’ means a proceeding under this title.

“SEC. 502. ESTABLISHMENT OF REMOVAL COURT.

“(a) DESIGNATION OF JUDGES.—The Chief Justice of the United States shall publicly designate 5 district court judges from 5 of the United States judicial circuits who shall constitute a court that shall have jurisdiction to conduct all removal proceedings. The Chief Justice may, in the Chief Justice’s discretion, designate the same judges under this section as are designated pursuant to section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)).

“(b) TERMS.—Each judge designated under subsection (a) shall serve for a term of 5 years and shall be eligible for redesignation, except that of the members first designated—

“(1) 1 member shall serve for a term of 1 year;

“(2) 1 member shall serve for a term of 2 years;

“(3) 1 member shall serve for a term of 3 years; and

“(4) 1 member shall serve for a term of 4 years.

“(c) CHIEF JUDGE.—

“(1) DESIGNATION.—The Chief Justice shall publicly designate one of the judges of the removal court to be the chief judge of the removal court.

“(2) RESPONSIBILITIES.—The chief judge shall—

“(A) promulgate rules to facilitate the functioning of the removal court; and

“(B) assign the consideration of cases to the various judges on the removal court.

“(d) EXPEDITIOUS AND CONFIDENTIAL NATURE OF PROCEEDINGS.—The provisions of section 103(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(c)) shall apply to removal proceedings in the same manner as they apply to proceedings under that Act.

“SEC. 503. REMOVAL COURT PROCEDURE.

“(a) APPLICATION.—

“(1) IN GENERAL.—In any case in which the Attorney General has classified information that an alien is an alien terrorist, the Attorney General may seek removal of the alien under this

title by filing an application with the removal court that contains—

“(A) the identity of the attorney in the Department of Justice making the application;

“(B) a certification by the Attorney General or the Deputy Attorney General that the application satisfies the criteria and requirements of this section;

“(C) the identity of the alien for whom authorization for the removal proceeding is sought; and

“(D) a statement of the facts and circumstances relied on by the Department of Justice to establish probable cause that—

“(i) the alien is an alien terrorist;

“(ii) the alien is physically present in the United States; and

“(iii) with respect to such alien, removal under title II would pose a risk to the national security of the United States.

“(2) FILING.—An application under this section shall be submitted *ex parte* and *in camera*, and shall be filed under seal with the removal court.

“(b) RIGHT TO DISMISS.—The Attorney General may dismiss a removal action under this title at any stage of the proceeding.

“(c) CONSIDERATION OF APPLICATION.—

“(1) BASIS FOR DECISION.—In determining whether to grant an application under this section, a single judge of the removal court may consider, *ex parte* and *in camera*, in addition to the information contained in the application—

“(A) other information, including classified information, presented under oath or affirmation; and

“(B) testimony received in any hearing on the application, of which a verbatim record shall be kept.

“(2) APPROVAL OF ORDER.—The judge shall issue an order granting the application, if the judge finds that there is probable cause to believe that—

“(A) the alien who is the subject of the application has been correctly identified and is an alien terrorist present in the United States; and

“(B) removal under title II would pose a risk to the national security of the United States.

“(3) DENIAL OF ORDER.—If the judge denies the order requested in the application, the judge shall prepare a written statement of the reasons for the denial, taking all necessary precautions not to disclose any classified information contained in the Government’s application.

“(d) EXCLUSIVE PROVISIONS.—If an order is issued under this section granting an application, the rights of the alien regarding removal and expulsion shall be governed solely by this title, and except as they are specifically referenced in this title, no other provisions of this Act shall be applicable.

“SEC. 504. REMOVAL HEARING.

“(a) IN GENERAL.—

“(1) EXPEDITIOUS HEARING.—In any case in which an application for an order is approved under section 503(c)(2), a removal hearing shall be conducted under this section as expeditiously as practicable for the purpose of determining whether

the alien to whom the order pertains should be removed from the United States on the grounds that the alien is an alien terrorist.

“(2) PUBLIC HEARING.—The removal hearing shall be open to the public.

“(b) NOTICE.—An alien who is the subject of a removal hearing under this title shall be given reasonable notice of—

“(1) the nature of the charges against the alien, including a general account of the basis for the charges; and

“(2) the time and place at which the hearing will be held.

“(c) RIGHTS IN HEARING.—

“(1) RIGHT OF COUNSEL.—The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent the alien. Such counsel shall be appointed by the judge pursuant to the plan for furnishing representation for any person financially unable to obtain adequate representation for the district in which the hearing is conducted, as provided for in section 3006A of title 18, United States Code. All provisions of that section shall apply and, for purposes of determining the maximum amount of compensation, the matter shall be treated as if a felony was charged.

“(2) INTRODUCTION OF EVIDENCE.—Subject to the limitations in subsection (e), the alien shall have a reasonable opportunity to introduce evidence on the alien’s own behalf.

“(3) EXAMINATION OF WITNESSES.—Subject to the limitations in subsection (e), the alien shall have a reasonable opportunity to examine the evidence against the alien and to cross-examine any witness.

“(4) RECORD.—A verbatim record of the proceedings and of all testimony and evidence offered or produced at such a hearing shall be kept.

“(5) REMOVAL DECISION BASED ON EVIDENCE AT HEARING.—The decision of the judge regarding removal shall be based only on that evidence introduced at the removal hearing.

“(d) SUBPOENAS.—

“(1) REQUEST.—At any time prior to the conclusion of the removal hearing, either the alien or the Department of Justice may request the judge to issue a subpoena for the presence of a named witness (which subpoena may also command the person to whom it is directed to produce books, papers, documents, or other objects designated therein) upon a satisfactory showing that the presence of the witness is necessary for the determination of any material matter. Such a request may be made *ex parte* except that the judge shall inform the Department of Justice of any request for a subpoena by the alien for a witness or material if compliance with such a subpoena would reveal classified evidence or the source of that evidence. The Department of Justice shall be given a reasonable opportunity to oppose the issuance of such a subpoena.

“(2) PAYMENT FOR ATTENDANCE.—If an application for a subpoena by the alien also makes a showing that the alien is financially unable to pay for the attendance of a witness so requested, the court may order the costs incurred by the process and the fees of the witness so subpoenaed to be paid from funds appropriated for the enforcement of title II.

“(3) NATIONWIDE SERVICE.—A subpoena under this subsection may be served anywhere in the United States.

“(4) WITNESS FEES.—A witness subpoenaed under this subsection shall receive the same fees and expenses as a witness subpoenaed in connection with a civil proceeding in a court of the United States.

“(5) NO ACCESS TO CLASSIFIED INFORMATION.—Nothing in this subsection is intended to allow an alien to have access to classified information.

“(e) DISCOVERY.—

“(1) IN GENERAL.—For purposes of this title—

“(A) discovery of information derived pursuant to the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), or otherwise collected for national security purposes, shall not be authorized if disclosure would present a risk to the national security of the United States;

“(B) an alien subject to removal under this title shall not be entitled to suppress evidence that the alien alleges was unlawfully obtained; and

“(C) section 3504 of title 18, United States Code, and section 1806(c) of title 50, United States Code, shall not apply if the Attorney General determines that public disclosure would pose a risk to the national security of the United States because it would disclose classified information or otherwise threaten the integrity of a pending investigation.

“(2) PROTECTIVE ORDERS.—Nothing in this title shall prevent the United States from seeking protective orders and from asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and State secrets privileges.

“(3) TREATMENT OF CLASSIFIED INFORMATION.—

“(A) USE.—The judge shall examine, ex parte and in camera, any evidence for which the Attorney General determines that public disclosure would pose a risk to the national security of the United States or to the security of any individual because it would disclose classified information.

“(B) SUBMISSION.—With respect to such information, the Government shall submit to the removal court an unclassified summary of the specific evidence that does not pose that risk.

“(C) APPROVAL.—Not later than 15 days after submission, the judge shall approve the summary if the judge finds that it is sufficient to enable the alien to prepare a defense. The Government shall deliver to the alien a copy of the unclassified summary approved under this subparagraph.

“(D) DISAPPROVAL.—

“(i) IN GENERAL.—If an unclassified summary is not approved by the removal court under subparagraph (c), the Government shall be afforded 15 days to correct the deficiencies identified by the court and submit a revised unclassified summary.

“(ii) REVISED SUMMARY.—If the revised unclassified summary is not approved by the court within 15

days of its submission pursuant to subparagraph (c), the removal hearing shall be terminated.

“(f) ARGUMENTS.—Following the receipt of evidence, the Government and the alien shall be given fair opportunity to present argument as to whether the evidence is sufficient to justify the removal of the alien. The Government shall open the argument. The alien shall be permitted to reply. The Government shall then be permitted to reply in rebuttal.

“(g) BURDEN OF PROOF.—In the hearing, it is the Government’s burden to prove, by the preponderance of the evidence, that the alien is subject to removal because the alien is an alien terrorist.

“(h) RULES OF EVIDENCE.—The Federal Rules of Evidence shall not apply in a removal hearing.

“(i) DETERMINATION OF DEPORTATION.—If the judge, after considering the evidence on the record as a whole, finds that the Government has met its burden, the judge shall order the alien removed and detained pending removal from the United States. If the alien was released pending the removal hearing, the judge shall order the Attorney General to take the alien into custody.

“(j) WRITTEN ORDER.—At the time of issuing a decision as to whether the alien shall be removed, the judge shall prepare a written order containing a statement of facts found and conclusions of law.

“(k) NO RIGHT TO ANCILLARY RELIEF.—At no time shall the judge consider or provide for relief from removal based on—

“(1) asylum under section 208;

“(2) withholding of deportation under section 243(h);

“(3) suspension of deportation under subsection (a) or (e) of section 244;

“(4) adjustment of status under section 245; or

“(5) registry under section 249.

“SEC. 505. APPEALS.

“(a) APPEAL OF DENIAL OF APPLICATION FOR REMOVAL PROCEEDINGS.—

“(1) IN GENERAL.—The Attorney General may seek a review of the denial of an order sought in an application filed pursuant to section 503. The appeal shall be filed in the United States Court of Appeals for the District of Columbia Circuit by notice of appeal filed not later than 20 days after the date of such denial.

“(2) RECORD ON APPEAL.—The entire record of the proceeding shall be transmitted to the Court of Appeals under seal, and the Court of Appeals shall hear the matter *ex parte*.

“(3) STANDARD OF REVIEW.—The Court of Appeals shall—

“(A) review questions of law *de novo*; and

“(B) set aside a finding of fact only if such finding was clearly erroneous.

“(b) APPEAL OF DETERMINATION REGARDING SUMMARY OF CLASSIFIED INFORMATION.—

“(1) IN GENERAL.—The United States may take an interlocutory appeal to the United States Court of Appeals for the District of Columbia Circuit of—

“(A) any determination by the judge pursuant to section 504(e)(3); or

“(B) the refusal of the court to make the findings permitted by section 504(e)(3).

“(2) RECORD.—In any interlocutory appeal taken pursuant to this subsection, the entire record, including any proposed order of the judge, any classified information and the summary of evidence, shall be transmitted to the Court of Appeals. The classified information shall be transmitted under seal. A verbatim record of such appeal shall be kept under seal in the event of any other judicial review.

“(c) APPEAL OF DECISION IN HEARING.—

“(1) IN GENERAL.—The decision of the judge after a removal hearing may be appealed by either the alien or the Attorney General to the United States Court of Appeals for the District of Columbia Circuit by notice of appeal filed not later than 20 days after the date on which the order is issued. The order shall not be enforced during the pendency of an appeal under this subsection.

“(2) TRANSMITTAL OF RECORD.—In an appeal or review to the Court of Appeals pursuant to this subsection—

“(A) the entire record shall be transmitted to the Court of Appeals; and

“(B) information received in camera and ex parte, and any portion of the order that would reveal the substance or source of such information, shall be transmitted under seal.

“(3) EXPEDITED APPELLATE PROCEEDING.—In an appeal or review to the Court of Appeals under this subsection—

“(A) the appeal or review shall be heard as expeditiously as practicable and the court may dispense with full briefing and hear the matter solely on the record of the judge of the removal court and on such briefs or motions as the court may require to be filed by the parties;

“(B) the Court of Appeals shall issue an opinion not later than 60 days after the date of the issuance of the final order of the district court;

“(C) the court shall review all questions of law de novo; and

“(D) a finding of fact shall be accorded deference by the reviewing court and shall not be set aside unless such finding was clearly erroneous.

“(d) CERTIORARI.—Following a decision by the Court of Appeals pursuant to subsection (c), the alien or the Attorney General may petition the Supreme Court for a writ of certiorari. In any such case, any information transmitted to the Court of Appeals under seal shall, if such information is also submitted to the Supreme Court, be transmitted under seal. Any order of removal shall not be stayed pending disposition of a writ of certiorari, except as provided by the Court of Appeals or a Justice of the Supreme Court.

“(e) APPEAL OF DETENTION ORDER.—

“(1) IN GENERAL.—Sections 3145 through 3148 of title 18, United States Code, pertaining to review and appeal of a release or detention order, penalties for failure to appear, penalties for an offense committed while on release, and sanctions for violation of a release condition shall apply to an alien to whom section 507(b)(1) applies. In applying the previous sentence—

“(A) for purposes of section 3145 of such title an appeal shall be taken to the United States Court of Appeals for the District of Columbia Circuit; and

“(B) for purposes of section 3146 of such title the alien shall be considered released in connection with a charge of an offense punishable by life imprisonment.

(2) NO REVIEW OF CONTINUED DETENTION.—The determinations and actions of the Attorney General pursuant to section 507(b)(2)(c) shall not be subject to judicial review, including application for a writ of habeas corpus, except for a claim by the alien that continued detention violates the alien’s rights under the Constitution. Jurisdiction over any such challenge shall lie exclusively in the United States Court of Appeals for the District of Columbia Circuit.

“SEC. 506. CUSTODY AND RELEASE PENDING REMOVAL HEARING.

“(a) UPON FILING APPLICATION.—

“(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Attorney General may—

“(A) take into custody any alien with respect to whom an application under section 503 has been filed; and

“(B) retain such an alien in custody in accordance with the procedures authorized by this title.

“(2) SPECIAL RULES FOR PERMANENT RESIDENT ALIENS.—

“(A) RELEASE HEARING.—An alien lawfully admitted for permanent residence shall be entitled to a release hearing before the judge assigned to hear the removal hearing. Such an alien shall be detained pending the removal hearing, unless the alien demonstrates to the court that the alien—

“(i) is a person lawfully admitted for permanent residence in the United States;

“(ii) if released upon such terms and conditions as the court may prescribe (including the posting of any monetary amount), is not likely to flee; and

“(iii) will not endanger national security, or the safety of any person or the community, if released.

“(B) INFORMATION CONSIDERED.—The judge may consider classified information submitted in camera and ex parte in making a determination whether to release an alien pending the removal hearing.

“(3) RELEASE IF ORDER DENIED AND NO REVIEW SOUGHT.—

“(A) IN GENERAL.—Subject to subparagraph (B), if a judge of the removal court denies the order sought in an application filed pursuant to section 503, and the Attorney General does not seek review of such denial, the alien shall be released from custody.

“(B) APPLICATION OF REGULAR PROCEDURES.—Subparagraph (A) shall not prevent the arrest and detention of the alien pursuant to title II.

“(b) CONDITIONAL RELEASE IF ORDER DENIED AND REVIEW SOUGHT.—

“(1) IN GENERAL.—If a judge of the removal court denies the order sought in an application filed pursuant to section 503 and the Attorney General seeks review of such denial, the judge shall release the alien from custody subject to the least restrictive condition, or combination of conditions, of release described in section 3142(b) and clauses (i) through (xiv) of section 3142(c)(1)(B) of title 18, United States Code, that—

“(A) will reasonably assure the appearance of the alien at any future proceeding pursuant to this title; and

“(B) will not endanger the safety of any other person or the community.

“(2) NO RELEASE FOR CERTAIN ALIENS.—If the judge finds no such condition or combination of conditions, as described in paragraph (1), the alien shall remain in custody until the completion of any appeal authorized by this title.

“SEC. 507. CUSTODY AND RELEASE AFTER REMOVAL HEARING.—

“(a) RELEASE.—

“(1) IN GENERAL.—Subject to paragraph (2), if the judge decides that an alien should not be removed, the alien shall be released from custody.

“(2) CUSTODY PENDING APPEAL.—If the Attorney General takes an appeal from such decision, the alien shall remain in custody, subject to the provisions of section 3142 of title 18, United States Code.

“(b) CUSTODY AND REMOVAL.—

“(1) CUSTODY.—If the judge decides that an alien shall be removed, the alien shall be detained pending the outcome of any appeal. After the conclusion of any judicial review thereof which affirms the removal order, the Attorney General shall retain the alien in custody and remove the alien to a country specified under paragraph (2).

“(2) REMOVAL.—

“(A) IN GENERAL.—The removal of an alien shall be to any country which the alien shall designate if such designation does not, in the judgment of the Attorney General, in consultation with the Secretary of State, impair the obligation of the United States under any treaty (including a treaty pertaining to extradition) or otherwise adversely affect the foreign policy of the United States.

“(B) ALTERNATE COUNTRIES.—If the alien refuses to designate a country to which the alien wishes to be removed or if the Attorney General, in consultation with the Secretary of State, determines that removal of the alien to the country so designated would impair a treaty obligation or adversely affect United States foreign policy, the Attorney General shall cause the alien to be removed to any country willing to receive such alien.

“(C) CONTINUED DETENTION.—If no country is willing to receive such an alien, the Attorney General may, notwithstanding any other provision of law, retain the alien in custody. The Attorney General, in coordination with the Secretary of State, shall make periodic efforts to reach agreement with other countries to accept such an alien and at least every 6 months shall provide to the attorney representing the alien at the removal hearing a written report on the Attorney General’s efforts. Any alien in custody pursuant to this subparagraph shall be released from custody solely at the discretion of the Attorney General and subject to such conditions as the Attorney General shall deem appropriate.

“(D) FINGERPRINTING.—Before an alien is removed from the United States pursuant to this subsection, or pursuant to an order of exclusion because such alien is

excludable under section 212(a)(3)(B), the alien shall be photographed and fingerprinted, and shall be advised of the provisions of section 276(b).

“(c) CONTINUED DETENTION PENDING TRIAL.—

“(1) DELAY IN REMOVAL.—The Attorney General may hold in abeyance the removal of an alien who has been ordered removed, pursuant to this title, to allow the trial of such alien on any Federal or State criminal charge and the service of any sentence of confinement resulting from such a trial.

“(2) MAINTENANCE OF CUSTODY.—Pending the commencement of any service of a sentence of confinement by an alien described in paragraph (1), such an alien shall remain in the custody of the Attorney General, unless the Attorney General determines that temporary release of the alien to the custody of State authorities for confinement in a State facility is appropriate and would not endanger national security or public safety.

“(3) SUBSEQUENT REMOVAL.—Following the completion of a sentence of confinement by an alien described in paragraph (1), or following the completion of State criminal proceedings which do not result in a sentence of confinement of an alien released to the custody of State authorities pursuant to paragraph (2), such an alien shall be returned to the custody of the Attorney General who shall proceed to the removal of the alien under this title.

“(d) APPLICATION OF CERTAIN PROVISIONS RELATING TO ESCAPE OF PRISONERS.—For purposes of sections 751 and 752 of title 18, United States Code, an alien in the custody of the Attorney General pursuant to this title shall be subject to the penalties provided by those sections in relation to a person committed to the custody of the Attorney General by virtue of an arrest on a charge of a felony.

“(e) RIGHTS OF ALIENS IN CUSTODY.—

“(1) FAMILY AND ATTORNEY VISITS.—An alien in the custody of the Attorney General pursuant to this title shall be given reasonable opportunity, as determined by the Attorney General, to communicate with and receive visits from members of the alien’s family, and to contact, retain, and communicate with an attorney.

“(2) DIPLOMATIC CONTACT.—An alien in the custody of the Attorney General pursuant to this title shall have the right to contact an appropriate diplomatic or consular official of the alien’s country of citizenship or nationality or of any country providing representation services therefore. The Attorney General shall notify the appropriate embassy, mission, or consular office of the alien’s detention.”

(b) JURISDICTION OVER EXCLUSION ORDERS FOR ALIEN TERRORISTS.—Section 106(b) of the Immigration and Nationality Act (8 U.S.C. 1105a(b)) is amended by adding at the end the following sentence: “Jurisdiction to review an order entered pursuant to the provisions of section 235(c) concerning an alien excludable under section 212(a)(3)(B) shall rest exclusively in the United States Court of Appeals for the District of Columbia Circuit.”

(c) CRIMINAL PENALTY FOR REENTRY OF ALIEN TERRORISTS.—Section 276(b) of such Act (8 U.S.C. 1326(b)) is amended—

(1) by striking “or” at the end of paragraph (1),

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

(3) by inserting after paragraph (2) the following new paragraph:

“(3) who has been excluded from the United States pursuant to section 235(c) because the alien was excludable under section 212(a)(3)(B) or who has been removed from the United States pursuant to the provisions of title V, and who thereafter, without the permission of the Attorney General, enters the United States, or attempts to do so, shall be fined under title 18, United States Code, and imprisoned for a period of 10 years, which sentence shall not run concurrently with any other sentence.”

(d) TABLE OF CONTENTS.—The Immigration and Nationality Act is amended by adding at the end of the table of contents the following:

“TITLE V—ALIEN TERRORIST REMOVAL PROCEDURES

“Sec. 501. Definitions.

“Sec. 502. Establishment of removal court.

“Sec. 503. Removal court procedure.

“Sec. 504. Removal hearing.

“Sec. 505. Appeals.

“Sec. 506. Custody and release pending removal hearing.

“Sec. 507. Custody and release after removal hearing.”

(e) ELIMINATION OF CUSTODY REVIEW BY HABEAS CORPUS.—Section 106(a) of the Immigration and Nationality Act (8 U.S.C. 1105a(a)) is amended—

(1) in paragraph (8), by adding “and” at the end;

(2) in paragraph (9), by striking “; and” at the end and inserting a period; and

(3) by striking paragraph (10).

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to all aliens without regard to the date of entry or attempted entry into the United States.

Subtitle B—Exclusion of Members and Representatives of Terrorist Organizations

SEC. 411. EXCLUSION OF ALIEN TERRORISTS.

Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) in clause (i)—

(A) in subclause (I), by striking “or” at the end;

(B) in subclause (II), by inserting “is engaged in or” after “believe,”; and

(C) by inserting after subclause (II) the following:

“(III) is a representative (as defined in clause (iv)) of a foreign terrorist organization, as designated by the Secretary under section 219, or

“(IV) is a member of a foreign terrorist organization, as designated by the Secretary under section 219,”; and

(2) by adding at the end the following:

“(iv) REPRESENTATIVE DEFINED.—As used in this paragraph, the term “representative” includes an officer, official,

or spokesman of an organization, and any person who directs, counsels, commands, or induces an organization or its members to engage in terrorist activity.”.

SEC. 412. WAIVER AUTHORITY CONCERNING NOTICE OF DENIAL OF APPLICATION FOR VISAS.

Section 212(b) of the Immigration and Nationality Act (8 U.S.C. 1182(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting each new subparagraph 2 ems to the right;

(2) by striking “If” and inserting “(1) Subject to paragraphs (2) and (3), if”; and

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

“(2) The Secretary of State may waive the requirements of paragraph (1) with respect to a particular alien or any class or classes of excludable aliens.

“(3) Paragraph (1) does not apply to any alien excludable under paragraph (2) or (3) of subsection (a).”.

SEC. 413. DENIAL OF OTHER RELIEF FOR ALIEN TERRORISTS.

(a) **WITHHOLDING OF DEPORTATION.**—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended by adding at the end the following new sentence: “For purposes of subparagraph (D), an alien who is described in section 241(a)(4)(B) shall be considered to be an alien for whom there are reasonable grounds for regarding as a danger to the security of the United States.”.

(b) **SUSPENSION OF DEPORTATION.**—Section 244(a) of such Act (8 U.S.C. 1254(a)) is amended by striking “section 241(a)(4)(D)” and inserting “subparagraph (B) or (D) of section 241(a)(4)”.

(c) **VOLUNTARY DEPARTURE.**—Section 244(e)(2) of such Act (8 U.S.C. 1254(e)(2)) is amended by inserting “under section 241(a)(4)(B) or” after “who is deportable”.

(d) **ADJUSTMENT OF STATUS.**—Section 245(c) of such Act (8 U.S.C. 1255(c)) is amended—

(1) by striking “or” before “(5)”, and

(2) by inserting before the period at the end the following:

“, or (6) an alien who is deportable under section 241(a)(4)(B)”.

(e) **REGISTRY.**—Section 249(d) of such Act (8 U.S.C. 1259(d)) is amended by inserting “and is not deportable under section 241(a)(4)(B)” after “ineligible to citizenship”.

(f) **WAIVER.**—Section 243(h) of such Act (8 U.S.C. 1253(h)) is amended by adding at the end the following:

“(3) Notwithstanding any other provision of law, paragraph (1) shall apply to any alien if the Attorney General determines, in the discretion of the Attorney General, that—

“(A) such alien’s life or freedom would be threatened, in the country to which such alien would be deported or returned, on account of race, religion, nationality, membership in a particular social group, or political opinion; and

“(B) the application of paragraph (1) to such alien is necessary to ensure compliance with the 1967 United Nations Protocol Relating to the Status of Refugees.”.

(g) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act and shall

apply to applications filed before, on, or after such date if final action has not been taken on them before such date.

SEC. 414. EXCLUSION OF ALIENS WHO HAVE NOT BEEN INSPECTED AND ADMITTED.

(a) **IN GENERAL.**—Section 241 of the Immigration and Nationality Act (8 U.S.C. 1251) is amended by adding at the end the following new subsection:

“(d) Notwithstanding any other provision of this title, an alien found in the United States who has not been admitted to the United States after inspection in accordance with section 235 is deemed for purposes of this Act to be seeking entry and admission to the United States and shall be subject to examination and exclusion by the Attorney General under chapter 4. In the case of such an alien the Attorney General shall provide by regulation an opportunity for the alien to establish that the alien was so admitted.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than 180 days after the date of the enactment of this Act.

Subtitle C—Modification to Asylum Procedures

SEC. 421. DENIAL OF ASYLUM TO ALIEN TERRORISTS.

(a) **IN GENERAL.**—Section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)) is amended by adding at the end the following: “The Attorney General may not grant an alien asylum if the Attorney General determines that the alien is excludable under subclause (I), (II), or (III) of section 212(a)(3)(B)(i) or deportable under section 241(a)(4)(B), unless the Attorney General determines, in the discretion of the Attorney General, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and apply to asylum determinations made on or after such date.

SEC. 422. INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.

(a) **IN GENERAL.**—Subsection (b) of section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended to read as follows:

“(b)(1)(A) If the examining immigration officer determines that an alien seeking entry—

“(i) is excludable under section 212(a)(6)(c) or 212(a)(7),
and

“(ii) does not indicate either an intention to apply for asylum under section 208 or a fear of persecution, the officer shall order the alien excluded from the United States without further hearing or review.

“(B) The examining immigration officer shall refer for an interview by an asylum officer under subparagraph (c) any alien who is excludable under section 212(a)(6)(c) or 212(a)(7) and has indicated an intention to apply for asylum under section 208 or a fear of persecution.

“(C)(i) An asylum officer shall promptly conduct interviews of aliens referred under subparagraph (B).

“(ii) If the officer determines at the time of the interview that an alien has a credible fear of persecution (as defined in clause (v)), the alien shall be detained for an asylum hearing before an asylum officer under section 208.

“(iii)(I) Subject to subclause (II), if the officer determines that the alien does not have a credible fear of persecution, the officer shall order the alien excluded from the United States without further hearing or review.

“(II) The Attorney General shall promulgate regulations to provide for the immediate review by a supervisory asylum office at the port of entry of a determination under subclause (I).

“(iv) The Attorney General shall provide information concerning the asylum interview described in this subparagraph to aliens who may be eligible. An alien who is eligible for such interview may consult with a person or persons of the alien’s choosing prior to the interview or any review thereof, according to regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not delay the process.

“(v) For purposes of this subparagraph, the term “credible fear of persecution” means (I) that it is more probable than not that the statements made by the alien in support of the alien’s claim are true, and (II) that there is a significant possibility, in light of such statements and of such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208.

“(D) As used in this paragraph, the term “asylum officer” means an immigration officer who—

“(i) has had professional training in country conditions, asylum law, and interview techniques; and

“(ii) is supervised by an officer who meets the condition in clause (i).

“(E)(i) An exclusion order entered in accordance with subparagraph (A) is not subject to administrative appeal, except that the Attorney General shall provide by regulation for prompt review of such an order against an alien who claims under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, after having been warned of the penalties for falsely making such claim under such conditions, to have been lawfully admitted for permanent residence.

“(ii) In any action brought against an alien under section 275(a) or section 276, the court shall not have jurisdiction to hear any claim attacking the validity of an order of exclusion entered under subparagraph (A).

“(2)(A) Except as provided in subparagraph (B), if the examining immigration officer determines that an alien seeking entry is not clearly and beyond a doubt entitled to enter, the alien shall be detained for a hearing before a special inquiry officer.

“(B) The provisions of subparagraph (A) shall not apply—

“(i) to an alien crewman,

“(ii) to an alien described in paragraph (1)(A) or (1)(c)(iii)(I),

or

“(iii) if the conditions described in section 273(d) exist.

“(3) The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take

the alien whose privilege to enter is so challenged, before a special inquiry officer for a hearing on exclusion of the alien.”

(b) **CONFORMING AMENDMENT.**—Section 237(a) of such Act (8 U.S.C. 1227(a)) is amended—

(1) in the second sentence of paragraph (1), by striking “Deportation” and inserting “Subject to section 235(b)(1), deportation”, and

(2) in the first sentence of paragraph (2), by striking “If” and inserting “Subject to section 235(b)(1), if”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the first day of the first month that begins more than 180 days after the date of the enactment of this Act.

SEC. 423. JUDICIAL REVIEW.

(a) **PRECLUSION OF JUDICIAL REVIEW.**—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) by amending the section heading to read as follows: “JUDICIAL REVIEW OF ORDERS OF DEPORTATION AND EXCLUSION, AND SPECIAL EXCLUSION”; and

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

“(e)(1) Notwithstanding any other provision of law, and except as provided in this subsection, no court shall have jurisdiction to review any individual determination, or to entertain any other cause or claim, arising from or relating to the implementation or operation of section 235(b)(1). Regardless of the nature of the action or claim, or the party or parties bringing the action, no court shall have jurisdiction or authority to enter declaratory, injunctive, or other equitable relief not specifically authorized in this subsection nor to certify a class under Rule 23 of the Federal Rules of Civil Procedure.

“(2) Judicial review of any cause, claim, or individual determination covered under paragraph (1) shall only be available in habeas corpus proceedings, and shall be limited to determinations of—

“(A) whether the petitioner is an alien, if the petitioner makes a showing that the petitioner’s claim of United States nationality is not frivolous;

“(B) whether the petitioner was ordered specially excluded under section 235(b)(1)(A); and

“(C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence and is entitled to such review as is provided by the Attorney General pursuant to section 235(b)(1)(E)(i).

“(3) In any case where the court determines that an alien was not ordered specially excluded, or was not properly subject to special exclusion under the regulations adopted by the Attorney General, the court may order no relief beyond requiring that the alien receive a hearing in accordance with section 236, or a determination in accordance with section 235(c) or 273(d).

“(4) In determining whether an alien has been ordered specially excluded, the court’s inquiry shall be limited to whether such an order was in fact issued and whether it relates to the petitioner.”

(b) **PRECLUSION OF COLLATERAL ATTACKS.**—Section 235 of such Act (8 U.S.C. 1225) is amended by adding at the end the following new subsection:

“(d) In any action brought for the assessment of penalties for improper entry or re-entry of an alien under section 275 or section 276, no court shall have jurisdiction to hear claims collaterally attacking the validity of orders of exclusion, special exclusion, or deportation entered under this section or sections 236 and 242.”

(c) CLERICAL AMENDMENT.—The item relating to section 106 in the table of contents of such Act is amended to read as follows:

“Sec. 106. Judicial review of orders of deportation and exclusion, and special exclusion.”.

Subtitle D—Criminal Alien Procedural Improvements

SEC. 431. ACCESS TO CERTAIN CONFIDENTIAL IMMIGRATION AND NATURALIZATION FILES THROUGH COURT ORDER.

(a) CONFIDENTIALITY OF INFORMATION.—Section 245A(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)) is amended—

(1) by inserting “(i)” after “except the Attorney General”; and

(2) by inserting after “Title 13” the following: “and (ii) may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used—

“(I) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated; or

“(II) for criminal law enforcement purposes against the alien whose application is to be disclosed.”.

(b) APPLICATIONS FOR ADJUSTMENT OF STATUS.—Section 210(b) of the Immigration and Nationality Act (8 U.S.C. 1160(b)) is amended—

(1) in paragraph (5), by inserting “, except as allowed by a court order issued pursuant to paragraph (6) of this subsection” after “consent of the alien”; and

(2) in paragraph (6), by inserting the following sentence before “Anyone who uses”: “Notwithstanding the preceding sentence, the Attorney General may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant an order authorizing, disclosure of information contained in the application of the alien to be used for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated, or for criminal law enforcement purposes against the alien whose application is to be disclosed or to discover information leading to the location or identity of the alien.”.

SEC. 432. CRIMINAL ALIEN IDENTIFICATION SYSTEM.

Section 130002(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322) is amended to read as follows:

“(a) OPERATION AND PURPOSE.—The Commissioner of Immigration and Naturalization shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien identification system. The

criminal alien identification system shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.”.

SEC. 433. ESTABLISHING CERTAIN ALIEN SMUGGLING-RELATED CRIMES AS RICO-PREDICATE OFFENSES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by inserting “section 1028 (relating to fraud and related activity in connection with identification documents) if the act indictable under section 1028 was committed for the purpose of financial gain,” before “section 1029”;

(2) by inserting “section 1542 (relating to false statement in application and use of passport) if the act indictable under section 1542 was committed for the purpose of financial gain, section 1543 (relating to forgery or false use of passport) if the act indictable under section 1543 was committed for the purpose of financial gain, section 1544 (relating to misuse of passport) if the act indictable under section 1544 was committed for the purpose of financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) if the act indictable under section 1546 was committed for the purpose of financial gain, sections 1581-1588 (relating to peonage and slavery),” after “section 1513 (relating to retaliating against a witness, victim, or an informant),”;

(3) by striking “or” before “(E)”; and

(4) by inserting before the period at the end the following: “, or (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain”.

SEC. 434. AUTHORITY FOR ALIEN SMUGGLING INVESTIGATIONS.

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

(1) by striking “and” at the end of paragraph (n),

(2) by redesignating paragraph (o) as paragraph (p), and

(3) by inserting after paragraph (n) the following new paragraph:

“(o) a felony violation of section 1028 (relating to production of false identification documents), section 1542 (relating to false statements in passport applications), section 1546 (relating to fraud and misuse of visas, permits, and other documents) of this title or a violation of section 274, 277, or 278 of the Immigration and Nationality Act (relating to the smuggling of aliens); or”.

SEC. 435. EXPANSION OF CRITERIA FOR DEPORTATION FOR CRIMES OF MORAL TURPITUDE.

(a) IN GENERAL.—Section 241(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(II)) is amended to read as follows:

“(II) is convicted of a crime for which a sentence of one year or longer may be imposed,”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

SEC. 436. MISCELLANEOUS PROVISIONS.

(a) **USE OF ELECTRONIC AND TELEPHONIC MEDIA IN DEPORTATION HEARINGS.**—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: “; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien”.

(b) **CODIFICATION.**—

(1) Section 242(i) of such Act (8 U.S.C. 1252(i)) is amended by adding at the end the following: “Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.”.

(2) Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416) is amended by striking “and nothing in” and all that follows through “1252(i)”.

(3) The amendments made by this subsection shall take effect as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416).

SEC. 437. INTERIOR REPATRIATION PROGRAM.

Not later than 180 days after the date of enactment of this Act, the Attorney General and the Commissioner of Immigration and Naturalization shall develop and implement a program in which aliens who previously have illegally entered the United States not less than 3 times and are deported or returned to a country contiguous to the United States will be returned to locations not less than 500 kilometers from that country’s border with the United States.

SEC. 438. DEPORTATION OF NONVIOLENT OFFENDERS PRIOR TO COMPLETION OF SENTENCE OF IMPRISONMENT.

(a) **IN GENERAL.**—Section 242(h) of the Immigration and Nationality Act (8 U.S.C. 1252(h)) is amended to read as follows:

“(h)(1) Except as provided in paragraph (2), an alien sentenced to imprisonment may not be deported until such imprisonment has been terminated by the release of the alien from confinement. Parole, supervised release, probation, or possibility of rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation.

“(2) The Attorney General is authorized to deport an alien in accordance with applicable procedures under this Act prior to the completion of a sentence of imprisonment—

“(A) in the case of an alien in the custody of the Attorney General, if the Attorney General determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), and (ii) such deportation of the alien is appropriate and in the best interest of the United States; or

“(B) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), (ii) such deportation is appropriate and in the best interest of the State, and (iii) submits a written request to the Attorney General that such alien be so deported.

“(3) Any alien deported pursuant to this subsection shall be notified of the penalties under the laws of the United States relating to the reentry of deported aliens, particularly the expanded penalties for aliens deported under paragraph (2).”

(b) REENTRY OF ALIEN DEPORTED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding at the end the following new subsection:

“(c) Any alien deported pursuant to section 242(h)(2) who enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien’s reentry) shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release. Such alien shall be subject to such other penalties relating to the reentry of deported aliens as may be available under this section or any other provision of law.”

SEC. 439. AUTHORIZING STATE AND LOCAL LAW ENFORCEMENT OFFICIALS TO ARREST AND DETAIN CERTAIN ILLEGAL ALIENS.

(a) IN GENERAL.—Notwithstanding any other provision of law, to the extent permitted by relevant State and local law, State and local law enforcement officials are authorized to arrest and detain an individual who—

(1) is an alien illegally present in the United States; and

(2) has previously been convicted of a felony in the United States and deported or left the United States after such conviction, but only after the State or local law enforcement officials obtain appropriate confirmation from the Immigration and Naturalization Service of the status of such individual and only for such period of time as may be required for the Service to take the individual into Federal custody for purposes of deporting or removing the alien from the United States.

(b) COOPERATION.—The Attorney General shall cooperate with the States to assure that information in the control of the Attorney General, including information in the National Crime Information Center, that would assist State and local law enforcement officials in carrying out duties under subsection (a) is made available to such officials.

SEC. 440. CRIMINAL ALIEN REMOVAL.

(a) JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a(a)(10)) is amended to read as follows:

“(10) Any final order of deportation against an alien who is deportable by reason of having committed a criminal offense covered in section 241(a)(2) (A)(iii), (B), (c), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate of-

fenses are covered by section 241(a)(2)(A)(i), shall not be subject to review by any court.”.

(b) FINAL ORDER OF DEPORTATION DEFINED.—Section 101(a) of such Act (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

“(47)(A) The term “order of deportation” means the order of the special inquiry officer, or other such administrative officer to whom the Attorney General has delegated the responsibility for determining whether an alien is deportable, concluding that the alien is deportable or ordering deportation.

“(B) The order described under subparagraph (A) shall become final upon the earlier of—

“(i) a determination by the Board of Immigration Appeals affirming such order; or

“(ii) the expiration of the period in which the alien is permitted to seek review of such order by the Board of Immigration Appeals.”.

(c) ARREST AND CUSTODY.—Section 242(a)(2) of such Act is amended—

(1) in subparagraph (A)—

(A) by striking “(2)(A) The Attorney” and inserting “(2) The Attorney”;

(B) by striking “an aggravated felony upon” and all that follows through “of the same offense” and inserting “any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i), upon release of the alien from incarceration, shall deport the alien as expeditiously as possible”; and

(C) by striking “but subject to subparagraph (B)”;

(2) by striking subparagraph (B).

(d) CLASSES OF EXCLUDABLE ALIENS.—Section 212(c) of such Act (8 U.S.C. 1182(c)) is amended—

(1) by striking “The first sentence of this” and inserting “This”; and

(2) by striking “has been convicted of one or more aggravated felonies” and all that follows through the end and inserting “is deportable by reason of having committed any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i).”.

(e) AGGRAVATED FELONY DEFINED.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), as amended by section 222 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416), is amended—

(1) in subparagraph (J), by inserting “, or an offense described in section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses),” after “corrupt organizations”;

(2) in subparagraph (K)—

(A) by striking “or” at the end of clause (i),

(B) by redesignating clause (ii) as clause (iii), and

(C) by inserting after clause (i) the following new clause:

“(ii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transporta-

tion for the purpose of prostitution) for commercial advantage; or”;

(3) by amending subparagraph (N) to read as follows:

“(N) an offense described in paragraph (1)(A) or (2) of section 274(a) (relating to alien smuggling) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;”;

(4) by amending subparagraph (O) to read as follows:

“(O) an offense (i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 18 months;”;

(5) in subparagraph (P), by striking “15 years” and inserting “5 years”, and by striking “and” at the end;

(6) by redesignating subparagraphs (O), (P), and (Q) as subparagraphs (P), (Q), and (U), respectively;

(7) by inserting after subparagraph (N) the following new subparagraph:

“(O) an offense described in section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph;”;

(8) by inserting after subparagraph (Q), as so redesignated, the following new subparagraphs:

“(R) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which a sentence of 5 years” imprisonment or more may be imposed;

“(S) an offense relating to obstruction of justice, perjury or subornation of perjury, or bribery of a witness, for which a sentence of 5 years” imprisonment or more may be imposed;

“(T) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years” imprisonment or more may be imposed; and”.

(f) EFFECTIVE DATE.—The amendments made by subsection (e) shall apply to convictions entered on or after the date of the enactment of this Act, except that the amendment made by subsection (e)(3) shall take effect as if included in the enactment of section 222 of the Immigration and Nationality Technical Corrections Act of 1994.

(g) DEPORTATION OF CRIMINAL ALIENS.—Section 242A(a) of such Act (8 U.S.C. 1252a) is amended—

(1) in paragraph (1)—

(A) by striking “aggravated felonies (as defined in section 101(a)(43) of this title)” and inserting “any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i).”;

(B) by striking “, where warranted,”;

(2) in paragraph (2), by striking “aggravated felony” and all that follows through “before any scheduled hearings.” and

inserting “any criminal offense covered in section 241(a)(2)(A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i).”

(h) **DEADLINES FOR DEPORTING ALIEN.**—Section 242(c) of such Act (8 U.S.C. 1252(c)) is amended—

(1) by striking “(c) When a final order” and inserting “(c)(1) Subject to paragraph (2), when a final order”; and

(2) by inserting at the end the following new paragraph:

“(2) When a final order of deportation under administrative process is made against any alien who is deportable by reason of having committed a criminal offense covered in section 241(a)(2)(A)(iii), (B), (C), or (D) or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i), the Attorney General shall have 30 days from the date of the order within which to effect the alien’s departure from the United States. The Attorney General shall have sole and unreviewable discretion to waive the foregoing provision for aliens who are cooperating with law enforcement authorities or for purposes of national security.”

SEC. 441. LIMITATION ON COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.

(a) **IN GENERAL.**—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding at the end the following new subsection:

“(d) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

“(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

“(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

“(3) the entry of the order was fundamentally unfair.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to criminal proceedings initiated after the date of enactment of this Act.

SEC. 442. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) **ADMINISTRATIVE HEARINGS.**—Section 242A(b) of the Immigration and Nationality Act (8 U.S.C. 1252a(b)), as added by section 130004(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), is amended—

(1) in paragraph (2)—

(A) by striking “and” at the end of subparagraph (A) and inserting “or”, and

(B) by amending subparagraph (B) to read as follows:

“(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.”;

(2) in paragraph (3), by striking “30 calendar days” and inserting “14 calendar days”;

(3) in paragraph (4)(B), by striking “proceedings” and inserting “proceedings”;

(4) in paragraph (4)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively; and

(B) by adding after subparagraph (C) the following new subparagraphs:

“(D) such proceedings are conducted in, or translated for the alien into, a language the alien understands;

“(E) a determination is made for the record at such proceedings that the individual who appears to respond in such a proceeding is an alien subject to such an expedited proceeding under this section and is, in fact, the alien named in the notice for such proceeding;”

(5) by adding at the end the following new paragraph:

“(5) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in the Attorney General’s discretion.”

(b) **LIMIT ON JUDICIAL REVIEW.**—Subsection (d) of section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a), as added by section 130004(b) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), is amended to read as follows:

“(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.”

(c) **PRESUMPTION OF DEPORTABILITY.**—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by inserting after subsection (b) the following new subsection:

“(c) **PRESUMPTION OF DEPORTABILITY.**—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States.”

(d) **EFFECTIVE DATE.**—The amendments made by this section shall become effective no later than 60 days after the publication by the Attorney General of implementing regulations that shall be published on or before January 1, 1997.

SEC. 443. EXTRADITION OF ALIENS.

(a) **SCOPE.**—Section 3181 of title 18, United States Code, is amended—

(1) by inserting “(a)” before “The provisions of this chapter”; and

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

“(b) The provisions of this chapter shall be construed to permit, in the exercise of comity, the surrender of persons, other than citizens, nationals, or permanent residents of the United States, who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies, in writing, that—

“(1) evidence has been presented by the foreign government that indicates that had the offenses been committed in the United States, they would constitute crimes of violence as defined under section 16 of this title; and

“(2) the offenses charged are not of a political nature.

“(c) As used in this section, the term “national of the United States” has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).”

(b) FUGITIVES.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after “United States and any foreign government,” the following: “or in cases arising under section 3181(b),”;

(2) in the first sentence by inserting after “treaty or convention,” the following: “or provided for under section 3181(b),”;

and
(3) in the third sentence by inserting after “treaty or convention,” the following: “or under section 3181(b),”.

TITLE V—NUCLEAR, BIOLOGICAL, AND CHEMICAL WEAPONS RESTRICTIONS

Subtitle A—Nuclear Materials

SEC. 501. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) nuclear materials, including byproduct materials, can be used to create radioactive dispersal devices that are capable of causing serious bodily injury as well as substantial damage to property and to the environment;

(2) the potential use of nuclear materials, including byproduct materials, enhances the threat posed by terrorist activities and thereby has a greater effect on the security interests of the United States;

(3) due to the widespread hazards presented by the threat of nuclear contamination, as well as nuclear bombs, the United States has a strong interest in ensuring that persons who are engaged in the illegal acquisition and use of nuclear materials, including byproduct materials, are prosecuted for their offenses;

(4) the threat that nuclear materials will be obtained and used by terrorist and other criminal organizations has increased substantially since the enactment in 1982 of the legislation that implemented the Convention on the Physical Protection of Nuclear Material, codified at section 831 of title 18, United States Code;

(5) the successful efforts to obtain agreements from other countries to dismantle nuclear weapons have resulted in increased packaging and transportation of nuclear materials, thereby decreasing the security of such materials by increasing the opportunity for unlawful diversion and theft;

(6) the trafficking in the relatively more common, commercially available, and usable nuclear and byproduct materials creates the potential for significant loss of life and environmental damage;

(7) report trafficking incidents in the early 1990's suggest that the individuals involved in trafficking in these materials from Eurasia and Eastern Europe frequently conducted their black market sales of these materials within the Federal Republic of Germany, the Baltic States, the former Soviet Union, Central Europe, and to a lesser extent in the Middle European countries;

(8) the international community has become increasingly concerned over the illegal possession of nuclear and nuclear byproduct materials;

(9) the potentially disastrous ramifications of increased access to nuclear and nuclear byproduct materials pose such a significant threat that the United States must use all lawful methods available to combat the illegal use of such materials;

(10) the United States has an interest in encouraging United States corporations to do business in the countries that comprised the former Soviet Union, and in other developing democracies;

(11) protection of such United States corporations from threats created by the unlawful use of nuclear materials is important to the success of the effort to encourage business ventures in these countries, and to further the foreign relations and commerce of the United States;

(12) the nature of nuclear contamination is such that it may affect the health, environment, and property of United States nationals even if the acts that constitute the illegal activity occur outside the territory of the United States, and are primarily directed toward foreign nationals; and

(13) there is presently no Federal criminal statute that provides adequate protection to United States interests from nonweapons grade, yet hazardous radioactive material, and from the illegal diversion of nuclear materials that are held for other than peaceful purposes.

(b) PURPOSE.—The purpose of this title is to provide Federal law enforcement agencies with the necessary means and the maximum authority permissible under the Constitution to combat the threat of nuclear contamination and proliferation that may result from the illegal possession and use of radioactive materials.

SEC. 502. EXPANSION OF SCOPE AND JURISDICTIONAL BASES OF NUCLEAR MATERIALS PROHIBITIONS.

Section 831 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “nuclear material” each place it appears and inserting “nuclear material or nuclear byproduct material”;

(B) in paragraph (1)—

(i) in subparagraph (A), by inserting “or to the environment” after “property”; and

(ii) so that subparagraph (B) reads as follows:

“(B) circumstances exist, or have been represented to the defendant to exist, that are likely to cause the death or serious bodily injury to any person, or substantial damage to property or to the environment;” and

(C) in paragraph (6), by inserting “or to the environment” after “property”;

(2) in subsection (c)—

(A) so that paragraph (2) reads as follows:

“(2) an offender or a victim is—

“(A) a national of the United States; or

“(B) a United States corporation or other legal entity;”;

(B) in paragraph (3)—

(i) by striking “at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and”; and

(ii) by striking “or” at the end of the paragraph;

(C) in paragraph (4)—

(i) by striking “nuclear material for peaceful purposes” and inserting “nuclear material or nuclear byproduct material”; and

(ii) by striking the period at the end of the paragraph and inserting “; or”; and

(D) by adding at the end the following new paragraph: “(5) either—

“(A) the governmental entity under subsection (a)(5) is the United States; or

“(B) the threat under subsection (a)(6) is directed at the United States.”; and

(3) in subsection (f)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking “with an isotopic concentration not in excess of 80 percent plutonium 238”; and

(ii) in subparagraph (C), by striking “uranium” and inserting “enriched uranium, defined as uranium”;

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(C) by inserting after paragraph (1) the following new paragraph:

“(2) the term “nuclear byproduct material” means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;”;

(D) in paragraph (4), as redesignated, by striking “and” at the end;

(E) in paragraph (5), as redesignated, by striking the period at the end and inserting a semicolon; and

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

“(6) the term “national of the United States” has the same meaning as in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

“(7) the term “United States corporation or other legal entity” means any corporation or other entity organized under the laws of the United States or any State, Commonwealth, territory, possession, or district of the United States.”.

SEC. 503. REPORT TO CONGRESS ON THEFTS OF EXPLOSIVE MATERIALS FROM ARMORIES.

(a) **STUDY.**—The Attorney General and the Secretary of Defense shall jointly conduct a study of the number and extent of thefts from military arsenals (including National Guard armories) of firearms, explosives, and other materials that are potentially useful to terrorists.

(b) **REPORT TO THE CONGRESS.**—Not later than 6 months after the date of enactment of this Act, the Attorney General and the Secretary of Defense shall jointly prepare and transmit to the Congress a report on the findings of the study conducted under subsection (a).

Subtitle B— Biological Weapons Restrictions

SEC. 511. ENHANCED PENALTIES AND CONTROL OF BIOLOGICAL AGENTS.

(a) **FINDINGS.**—The Congress finds that—

(1) certain biological agents have the potential to pose a severe threat to public health and safety;

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

(3) the transfer and possession of potentially hazardous biological agents should be regulated to protect public health and safety; and

(4) efforts to protect the public from exposure to such agents should ensure that individuals and groups with legitimate objectives continue to have access to such agents for clinical and research purposes.

(b) **CRIMINAL ENFORCEMENT.**—Chapter 10 of title 18, United States Code, is amended—

(1) in section 175(a), by inserting “or attempts, threatens, or conspires to do the same,” after “to do so,”;

(2) in section 177(a)(2), by inserting “threat,” after “attempt,”; and

(3) in section 178—

(A) in paragraph (1), by striking “or infectious substance” and inserting “infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product”;

(B) in paragraph (2)—

(i) by inserting “the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule” after “means”;

(ii) by striking “production—” and inserting “production, including—”;

(iii) in subparagraph (A), by inserting “or biological product that may be engineered as a result of biotechnology” after “substance”; and

(iv) in subparagraph (B), by inserting “or biological product” after “isomer”; and

(C) in paragraph (4), by inserting “, or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology,” after “organism”.

(c) **TERRORISM.**—Section 2332a(a) of title 18, United States Code, is amended by inserting “, including any biological agent, toxin, or vector (as those terms are defined in section 178)” after “destruction”.

(d) **REGULATORY CONTROL OF BIOLOGICAL AGENTS.**—

(1) **LIST OF BIOLOGICAL AGENTS.**—

(A) **IN GENERAL.**—The Secretary shall, through regulations promulgated under subsection (f), establish and maintain a list of each biological agent that has the potential to pose a severe threat to public health and safety.

(B) **CRITERIA.**—In determining whether to include an agent on the list under subparagraph (A), the Secretary shall—

(i) consider—

(I) the effect on human health of exposure to the agent;

(II) the degree of contagiousness of the agent and the methods by which the agent is transferred to humans;

(III) the availability and effectiveness of immunizations to prevent and treatments for any illness resulting from infection by the agent; and

(IV) any other criteria that the Secretary considers appropriate; and

(ii) consult with scientific experts representing appropriate professional groups.

(e) **REGULATION OF TRANSFERS OF LISTED BIOLOGICAL AGENTS.**—The Secretary shall, through regulations promulgated under subsection (f), provide for—

(1) the establishment and enforcement of safety procedures for the transfer of biological agents listed pursuant to subsection (d)(1), including measures to ensure—

(A) proper training and appropriate skills to handle such agents; and

(B) proper laboratory facilities to contain and dispose of such agents;

(2) safeguards to prevent access to such agents for use in domestic or international terrorism or for any other criminal purpose;

(3) the establishment of procedures to protect the public safety in the event of a transfer or potential transfer of a biological agent in violation of the safety procedures established under paragraph (1) or the safeguards established under paragraph (2); and

(4) appropriate availability of biological agents for research, education, and other legitimate purposes.

(f) **REGULATIONS.**—The Secretary shall carry out this section by issuing—

(1) proposed rules not later than 60 days after the date of enactment of this Act; and

(2) final rules not later than 120 days after the date of enactment of this Act.

(g) **DEFINITIONS.**—For purposes of this section—

(1) the term “biological agent” has the same meaning as in section 178 of title 18, United States Code; and

(2) the term “Secretary” means the Secretary of Health and Human Services.

Subtitle C—Chemical Weapons Restrictions

SEC. 521. CHEMICAL WEAPONS OF MASS DESTRUCTION; STUDY OF FACILITY FOR TRAINING AND EVALUATION OF PERSONNEL WHO RESPOND TO USE OF CHEMICAL OR BIOLOGICAL WEAPONS IN URBAN AND SUBURBAN AREAS.

(a) CHEMICAL WEAPONS OF MASS DESTRUCTION.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after section 2332b as added by section 702 of this Act the following new section:

“§ 2332c. Use of chemical weapons

“(a) PROHIBITED ACTS—

“(1) OFFENSE.—A person shall be punished under paragraph (2) if that person, without lawful authority, uses, or attempts or conspires to use, a chemical weapon against—

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

“(B) any person within the United States; or

“(C) any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States.

“(2) PENALTIES.—A person who violates paragraph (1)—

“(A) shall be imprisoned for any term of years or for life; or

“(B) if death results from that violation, shall be punished by death or imprisoned for any term of years or for life.

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

“(1) the term “national of the United States” has the same meaning as 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 or intended to cause widespread death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals or precursors of toxic or poisonous chemicals.

(b) STUDY OF FACILITY FOR TRAINING AND EVALUATION OF PERSONNEL WHO RESPOND TO USE OF CHEMICAL OR BIOLOGICAL WEAPONS IN URBAN AND SUBURBAN AREAS.—

(1) FINDINGS.—The Congress finds that—

(A) the threat of the use of chemical and biological weapons by Third World countries and by terrorist organizations has increased in recent years and is now a problem of worldwide significance;

(B) the military and law enforcement agencies in the United States that are responsible for responding to the use of such weapons require additional testing, training, and evaluation facilities to ensure that the personnel of such agencies discharge their responsibilities effectively; and

(C) a facility that recreates urban and suburban locations would provide an especially effective environment in

which to test, train, and evaluate such personnel for that purpose.

(2) **STUDY OF FACILITY**—

(A) **IN GENERAL**.—The President shall establish an interagency task force to determine the feasibility and advisability of establishing a facility that recreates both an urban environment and a suburban environment in such a way as to permit the effective testing, training, and evaluation in such environments of government personnel who are responsible for responding to the use of chemical and biological weapons in the United States.

(B) **DESCRIPTION OF FACILITY**.—The facility considered under subparagraph (A) shall include—

(i) facilities common to urban environments (including a multistory building and an underground rail transit system) and to suburban environments;

(ii) the capacity to produce controllable releases of chemical and biological agents from a variety of urban and suburban structures, including laboratories, small buildings, and dwellings;

(iii) the capacity to produce controllable releases of chemical and biological agents into sewage, water, and air management systems common to urban areas and suburban areas;

(iv) chemical and biocontaminant facilities at the P3 and P4 levels;

(v) the capacity to test and evaluate the effectiveness of a variety of protective clothing and facilities and survival techniques in urban areas and suburban areas; and

(vi) the capacity to test and evaluate the effectiveness of variable sensor arrays (including video, audio, meteorological, chemical, and biosensor arrays) in urban areas and suburban areas.

(C) **SENSE OF CONGRESS**.—It is the sense of Congress that the facility considered under subparagraph (A) shall, if established—

(i) be under the jurisdiction of the Secretary of Defense; and

(ii) be located at a principal facility of the Department of Defense for the testing and evaluation of the use of chemical and biological weapons during any period of armed conflict.

(c) **CLERICAL AMENDMENT**.—The table of sections at the beginning of chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after the item added by section 702 of this Act that relates to section 2332b the following new item:

“2332c. Use of chemical weapons.”.

TITLE VI—IMPLEMENTATION OF PLASTIC EXPLOSIVES CONVENTION

SEC. 601. FINDINGS AND PURPOSES.

(a) **FINDINGS**.—The Congress finds that—

(1) plastic explosives were used by terrorists in the bombings of Pan American Airlines flight number 103 in December 1988 and UTA flight number 722 in September 1989;

(2) plastic explosives can be used with little likelihood of detection for acts of unlawful interference with civil aviation, maritime navigation, and other modes of transportation;

(3) the criminal use of plastic explosives places innocent lives in jeopardy, endangers national security, affects domestic tranquility, and gravely affects interstate and foreign commerce;

(4) the marking of plastic explosives for the purpose of detection would contribute significantly to the prevention and punishment of such unlawful acts; and

(5) for the purpose of deterring and detecting such unlawful acts, the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991, requires each contracting State to adopt appropriate measures to ensure that plastic explosives are duly marked and controlled.

(b) PURPOSE.—The purpose of this title is to fully implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

SEC. 602. DEFINITIONS.

Section 841 of title 18, United States Code, is amended by adding at the end the following new subsections:

“(o) “Convention on the Marking of Plastic Explosives” means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

“(p) “Detection agent” means any one of the substances specified in this subsection when introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

“(1) Ethylene glycol dinitrate (EGDN), $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;

“(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB), $C_6H_{12}(NO_2)_2$, molecular weight 176, when the minimum concentration in the finished explosive is 0.1 percent by mass;

“(3) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

“(4) Ortho-Mononitrotoluene (o-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass; and

“(5) any other substance in the concentration specified by the Secretary, after consultation with the Secretary of State and the Secretary of Defense, that has been added to the table in part 2 of the Technical Annex to the Convention on the Marking of Plastic Explosives.

“(q) “Plastic explosive” means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form has a vapor pressure less than 10^{-4} Pa at a temperature of 25° C., is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature.”

SEC. 603. REQUIREMENT OF DETECTION AGENTS FOR PLASTIC EXPLOSIVES.

Section 842 of title 18, United States Code, is amended by adding at the end the following new subsections:

“(1) It shall be unlawful for any person to manufacture any plastic explosive that does not contain a detection agent.

“(m)(1) It shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive that does not contain a detection agent.

“(2) This subsection does not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by or on behalf of any agency of the United States performing military or police functions (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

“(n)(1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive that does not contain a detection agent.

“(2) This subsection does not apply to—

“(A) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by any person during the period beginning on that date and ending 3 years after that date of enactment; or

“(B) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

“(o) It shall be unlawful for any person, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on the date of enactment of this subsection, to fail to report to the Secretary within 120 days after such date of enactment the quantity of such explosives possessed, the manufacturer or importer, any marks of identification on such explosives, and such other information as the Secretary may prescribe by regulation.”

SEC. 604. CRIMINAL SANCTIONS.

Section 844(a) of title 18, United States Code, is amended to read as follows:

“(a) Any person who violates any of subsections (a) through (i) or (l) through (o) of section 842 shall be fined under this title, imprisoned for not more than 10 years, or both.”

SEC. 605. EXCEPTIONS.

Section 845 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting “(l), (m), (n), or (o) of section 842 and subsections” after “subsections”; and

(B) in paragraph (1), by inserting before the semicolon “, and which pertain to safety”; and

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

“(c) It is an affirmative defense against any proceeding involving subsections (l) through (o) of section 842 if the proponent proves by a preponderance of the evidence that the plastic explosive—

“(1) consisted of a small amount of plastic explosive intended for and utilized solely in lawful—

“(A) research, development, or testing of new or modified explosive materials;

“(B) training in explosives detection or development or testing of explosives detection equipment; or

“(C) forensic science purposes; or

“(2) was plastic explosive that, within 3 years after the date of enactment of the Antiterrorism and Effective Death Penalty Act of 1996, will be or is incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police functions (including any military reserve component) or the National Guard of any State, wherever such device is located.

“(3) For purposes of this subsection, the term “military device” includes, but is not restricted to, shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades, perforators, and similar devices lawfully manufactured exclusively for military or police purposes.”.

SEC. 606. SEIZURE AND FORFEITURE OF PLASTIC EXPLOSIVES.

Section 596(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1595a(c)(1)) is amended—

(1) in subparagraph (B), by striking “or” at the end;

(2) in subparagraph (c), by striking the period and inserting “; or”; and

(3) by adding at the end the following new subparagraph:

“(D) is a plastic explosive, as defined in section 841(q) of title 18, United States Code, which does not contain a detection agent, as defined in section 841(p) of such title.”.

SEC. 607. EFFECTIVE DATE.

Except as otherwise provided in this title, this title and the amendments made by this title shall take effect 1 year after the date of enactment of this Act.

TITLE VII—CRIMINAL LAW MODIFICATIONS TO COUNTER TERRORISM

Subtitle A—Crimes and Penalties

SEC. 701. INCREASED PENALTY FOR CONSPIRACIES INVOLVING EXPLOSIVES.

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

“(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense the commission of which was the object of the conspiracy.”

SEC. 702. ACTS OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.

(a) OFFENSE.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after section 2332a the following new section:

“§ 2332b. Acts of terrorism transcending national boundaries

“(a) PROHIBITED ACTS.—

“(1) OFFENSES.—Whoever, involving conduct transcending national boundaries and in a circumstance described in subsection (b)—

“(A) kills, kidnaps, maims, commits an assault resulting in serious bodily injury, or assaults with a dangerous weapon any person within the United States; or

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

“(2) TREATMENT OF THREATS, ATTEMPTS AND CONSPIRACIES.—Whoever threatens to commit an offense under paragraph (1), or attempts or conspires to do so, shall be punished under subsection (c).

“(b) JURISDICTIONAL BASES.—

“(1) CIRCUMSTANCES.—The circumstances referred to in subsection (a) are—

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

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

“(C) the victim, or intended victim, is the United States Government, a member of the uniformed services, or any official, officer, employee, or agent of the legislative, execu-

tive, or judicial branches, or of any department or agency, of the United States;

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

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

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

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

“(c) PENALTIES.—

“(1) PENALTIES.—Whoever violates this section shall be punished—

“(A) for a killing, or if death results to any person from any other conduct prohibited by this section, by death, or by imprisonment for any term of years or for life;

“(B) for kidnapping, by imprisonment for any term of years or for life;

“(C) for maiming, by imprisonment for not more than 35 years;

“(D) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years;

“(E) for destroying or damaging any structure, conveyance, or other real or personal property, by imprisonment for not more than 25 years;

“(F) for attempting or conspiring to commit an offense, for any term of years up to the maximum punishment that would have applied had the offense been completed; and

“(G) for threatening to commit an offense under this section, by imprisonment for not more than 10 years.

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

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

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

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

“(e) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction—

“(1) over any offense under subsection (a), including any threat, attempt, or conspiracy to commit such offense; and

“(2) over conduct which, under section 3, renders any person an accessory after the fact to an offense under subsection (a).

“(f) INVESTIGATIVE AUTHORITY.—In addition to any other investigative authority with respect to violations of this title, the Attorney General shall have primary investigative responsibility for all Federal crimes of terrorism, and the Secretary of the Treasury shall assist the Attorney General at the request of the Attorney General. Nothing in this section shall be construed to interfere with the authority of the United States Secret Service under section 3056.

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

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

“(2) the term “facility of interstate or foreign commerce” has the meaning given that term in section 1958(b)(2);

“(3) the term “serious bodily injury” has the meaning given that term in section 1365(g)(3);

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

“(5) the term “Federal crime of terrorism” means an offense that—

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

“(B) is a violation of—

“(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 (relating to biological weapons), 351 (relating to congressional, cabinet, and Supreme Court assassination, kidnapping, and assault), 831 (relating to nuclear materials), 842 (m) or (n) (relating to plastic explosives), 844(e) (relating to certain bombings), 844 (f) or (i) (relating to arson and bombing of certain property), 956 (relating to conspiracy to injure property of a foreign government), 1114 (relating to protection of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to injury of Government property or contracts), 1362 (relating to destruction of communication lines, stations, or systems), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366 (relating to destruction of an energy facility), 1751 (relating to Presidential and Presidential staff assassination, kidnapping, and assault), 2152 (relating to injury of fortifications, harbor defenses, or defensive sea areas), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156

(relating to production of defective national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and other violence against United States nationals occurring outside of the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture);

“(ii) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284); or

“(iii) section 46502 (relating to aircraft piracy) or section 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after the item relating to section 2332a the following new item:

“2332b. Acts of terrorism transcending national boundaries.”

(c) STATUTE OF LIMITATIONS AMENDMENT.—Section 3286 of title 18, United States Code, is amended—

(1) by striking “any offense” and inserting “any non-capital offense”;

(2) by striking “36” and inserting “37”;

(3) by striking “2331” and inserting “2332”;

(4) by striking “2339” and inserting “2332a”; and

(5) by inserting “2332b (acts of terrorism transcending national boundaries),” after “(use of weapons of mass destruction),”.

(d) PRESUMPTIVE DETENTION.—Section 3142(e) of title 18, United States Code, is amended by inserting “, 956(a), or 2332b” after “section 924(c)”.

SEC. 703. EXPANSION OF PROVISION RELATING TO DESTRUCTION OR INJURY OF PROPERTY WITHIN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

Section 1363 of title 18, United States Code, is amended by striking “any building,” and all that follows through “shipping” and inserting “any structure, conveyance, or other real or personal property”.

SEC. 704. CONSPIRACY TO HARM PEOPLE AND PROPERTY OVERSEAS.

(a) IN GENERAL.—Section 956 of chapter 45 of title 18, United States Code, is amended to read as follows:

“§ 956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country

“(a)(1) Whoever, within the jurisdiction of the United States, conspires with one or more other persons, regardless of where such other person or persons are located, to commit at any place outside the United States an act that would constitute the offense of murder, kidnapping, or maiming if committed in the special maritime and territorial jurisdiction of the United States shall, if any of the con-

spirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be punished as provided in subsection (a)(2).

“(2) The punishment for an offense under subsection (a)(1) of this section is—

“(A) imprisonment for any term of years or for life if the offense is conspiracy to murder or kidnap; and

“(B) imprisonment for not more than 35 years if the offense is conspiracy to maim.

“(b) Whoever, within the jurisdiction of the United States, conspires with one or more persons, regardless of where such other person or persons are located, to damage or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, airport, airfield, or other public utility, public conveyance, or public structure, or any religious, educational, or cultural property so situated, shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be imprisoned not more than 25 years.”

(b) CLERICAL AMENDMENT.—The item relating to section 956 in the table of sections at the beginning of chapter 45 of title 18, United States Code, is amended to read as follows:

“956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country.”

SEC. 705. INCREASED PENALTIES FOR CERTAIN TERRORISM CRIMES.

(a) IN GENERAL.—Title 18, United States Code, is amended—

(1) in section 114, by striking “maim or disfigure” and inserting “torture (as defined in section 2340), maim, or disfigure”;

(2) in section 755, by striking “two years” and inserting “5 years”;

(3) in section 756, by striking “one year” and inserting “five years”;

(4) in section 878(a), by striking “by killing, kidnapping, or assaulting a foreign official, official guest, or internationally protected person”;

(5) in section 1113, by striking “three years” and inserting “seven years”; and

(6) in section 2332(c), by striking “five” and inserting “ten”.

(b) PENALTY FOR CARRYING WEAPONS OR EXPLOSIVES ON AN AIRCRAFT.—Section 46505 of title 49, United States Code, is amended—

(1) in subsection (b), by striking “one year” and inserting “10 years”; and

(2) in subsection (c), by striking “5” and inserting “15”.

SEC. 706. 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 new subsection:

“(o) Whoever knowingly transfers any explosive materials, knowing or having reasonable cause to believe that such explosive materials will be used to commit a crime of violence (as defined in section 924(c)(3)) or drug trafficking crime (as defined in section 924(c)(2)) shall be subject to the same penalties as may be imposed under sub-

section (h) for a first conviction for the use or carrying of an explosive material.”.

SEC. 707. POSSESSION OF STOLEN EXPLOSIVES PROHIBITED.

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. 708. ENHANCED PENALTIES FOR USE OF EXPLOSIVES OR ARSON CRIMES.

a) IN GENERAL.—Section 844 of title 18, United States Code, is amended—

(1) in subsection (e), by striking “five” and inserting “10”;

(2) by amending subsection (f) to read as follows:

“(f)(1) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other personal or real property in whole or in part owned or possessed by, or leased to, the United States, or any department or agency thereof, shall be imprisoned for not less than 5 years and not more than 20 years, fined under this title, or both.

“(2) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct, directly or proximately causes personal injury or creates a substantial risk of injury to any person, including any public safety officer performing duties, shall be imprisoned for not less than 7 years and not more than 40 years, fined under this title, or both.

“(3) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct directly or proximately causes the death of any person, including any public safety officer performing duties, shall be subject to the death penalty, or imprisoned for not less than 20 years or for life, fined under this title, or both.”;

(3) in subsection (h)—

(A) in the first sentence, by striking “5 years but not more than 15 years” and inserting “10 years”; and

(B) in the second sentence, by striking “10 years but not more than 25 years” and inserting “20 years”; and

(4) in subsection (i)—

(A) by striking “not more than 20 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,” and inserting “not less than 5 years and not more than 20 years, fined under this title”; and

(B) by striking “not more than 40 years, fined the greater of a fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,” and inserting “not less than 7 years and not more than 40 years, fined under this title”.

(b) CONFORMING AMENDMENT.—Section 81 of title 18, United States Code, is amended by striking “fined under this title or impris-

oned not more than five years, or both” and inserting “imprisoned for not more than 25 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, or both”.

(c) STATUTE OF LIMITATION FOR ARSON OFFENSES.—

(1) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following new section:

“§ 3295. Arson offenses

“No person shall be prosecuted, tried, or punished for any non-capital offense under section 81 or subsection (f), (h), or (i) of section 844 unless the indictment is found or the information is instituted not later than 10 years after the date on which the offense was committed.”

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

“3295. Arson offenses.”

(3) CONFORMING AMENDMENT.—Section 844(i) of title 18, United States Code, is amended by striking the last sentence.

SEC. 709. DETERMINATION OF CONSTITUTIONALITY OF RESTRICTING THE DISSEMINATION OF BOMB-MAKING INSTRUCTIONAL MATERIALS.

(a) STUDY.—The Attorney General, in consultation with such other officials and individuals as the Attorney General considers appropriate, shall conduct a study concerning—

(1) the extent to which there is available to the public material in any medium (including print, electronic, or film) that provides instruction on how to make bombs, destructive devices, or weapons of mass destruction;

(2) the extent to which information gained from such material has been used in incidents of domestic or international terrorism;

(3) the likelihood that such information may be used in future incidents of terrorism;

(4) the application of Federal laws in effect on the date of enactment of this Act to such material;

(5) the need and utility, if any, for additional laws relating to such material; and

(6) an assessment of the extent to which the first amendment protects such material and its private and commercial distribution.

(b) REPORT.—

(1) REQUIREMENT.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section.

(2) AVAILABILITY.—The Attorney General shall make the report submitted under this subsection available to the public.

Subtitle B—Criminal Procedures

SEC. 721. CLARIFICATION AND EXTENSION OF CRIMINAL JURISDICTION OVER CERTAIN TERRORISM OFFENSES OVERSEAS.

(a) AIRCRAFT PIRACY.—Section 46502(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking “and later found in the United States”;

(2) so that paragraph (2) reads as follows:

“(2) There is jurisdiction over the offense in paragraph (1) if—

“(A) a national of the United States was aboard the aircraft;

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

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

and

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

“(3) For purposes of this subsection, the term ‘national of the United States’ has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).”

(b) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.—Section 32(b) of title 18, United States Code, is amended—

(1) by striking “, if the offender is later found in the United States,”; and

(2) by inserting at the end the following: “There is jurisdiction over an offense under this subsection if a national of the United States was on board, or would have been on board, the aircraft; an offender is a national of the United States; or an offender is afterwards found in the United States. For purposes of this subsection, the term ‘national of the United States’ has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act.”

(c) MURDER OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 1116 of title 18, United States Code, is amended—

(1) in subsection (b), by adding at the end the following:

“(7) ‘National of the United States’ has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).”; and

(2) in subsection (c), by striking the first sentence and inserting the following: “If the victim of an offense under subsection

(a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.”

(d) PROTECTION OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 112 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting “national of the United States,” before “and”; and

(2) in subsection (e), by striking the first sentence and inserting the following: “If the victim of an offense under subsection

(a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the

United States, or (3) an offender is afterwards found in the United States.”

(e) THREATS AND EXTORTION AGAINST FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 878 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting “national of the United States,” before “and”; and

(2) in subsection (d), by striking the first sentence and inserting the following: “If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.”

(f) KIDNAPPING OF INTERNATIONALLY PROTECTED PERSONS.—Section 1201(e) of title 18, United States Code, is amended—

(1) by striking the first sentence and inserting the following: “If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.”; and (2) by adding at the end the following: “For purposes of this subsection, the term ‘national of the United States’ has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).”

(g) VIOLENCE AT INTERNATIONAL AIRPORTS.—Section 37(b)(2) of title 18, United States Code, is amended—

(1) by inserting “(A)” before “the offender is later found in the United States”; and

(2) by inserting “; or (B) an offender or a victim is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)))” after “the offender is later found in the United States”.

(h) BIOLOGICAL WEAPONS.—Section 178 of title 18, United States Code, is amended—

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

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

(3) by adding the following at the end:

“(5) the term ‘national of the United States’ has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).”

SEC. 722. CLARIFICATION OF MARITIME VIOLENCE JURISDICTION.

Section 2280(b)(1)(A) of title 18, United States Code, is amended—

(1) in clause (ii), by striking “and the activity is not prohibited as a crime by the State in which the activity takes place”; and

(2) in clause (iii), by striking “the activity takes place on a ship flying the flag of a foreign country or outside the United States,”.

**SEC. 723. INCREASED AND ALTERNATE CONSPIRACY
PENALTIES FOR TERRORISM OFFENSES.**

(a) TITLE 18 OFFENSES.—

(1) Sections 32(a)(7), 32(b)(4), 37(a), 115(a)(1)(A), 115(a)(2), 1203(a), 2280(a)(1)(H), and 2281(a)(1)(F) of title 18, United States Code, are each amended by inserting “or conspires” after “attempts”.

(2) Section 115(b)(2) of title 18, United States Code, is amended by striking “or attempted kidnapping” both places it appears and inserting “, attempted kidnapping, or conspiracy to kidnap”.

(3)(A) Section 115(b)(3) of title 18, United States Code, is amended by striking “or attempted murder” and inserting “, attempted murder, or conspiracy to murder”.

(B) Section 115(b)(3) of title 18, United States Code, is amended by striking “and 1113” and inserting “, 1113, and 1117”.

(b) AIRCRAFT PIRACY.—

(1) Section 46502(a)(2) of title 49, United States Code, is amended by inserting “or conspiring” after “attempting”.

(2) Section 46502(b)(1) of title 49, United States Code, is amended by inserting “or conspiring to commit” after “committing”.

**SEC. 724. CLARIFICATION OF FEDERAL JURISDICTION OVER
BOMB THREATS.**

Section 844(e) of title 18, United States Code, is amended by striking “commerce,” and inserting “interstate or foreign commerce, or in or affecting interstate or foreign commerce.”

**SEC. 725. EXPANSION AND MODIFICATION OF WEAPONS OF
MASS DESTRUCTION STATUTE.**

Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in the subsection heading, by inserting “AGAINST A NATIONAL OF THE UNITED STATES OR WITHIN THE UNITED STATES” after “OFFENSE”;

(B) by striking “uses, or attempts” and inserting “, without lawful authority, uses, threatens, or attempts”; and

(c) in paragraph (2), by inserting “, and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce” before the semicolon at the end;

(2) in subsection (b), by striking subparagraph (B) and inserting the following:

“(B) any weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;”;

(3) by redesignating subsection (b) as subsection (c); and

(4) by inserting after subsection (a) the following new subsection:

“(b) OFFENSE BY NATIONAL OF THE UNITED STATES OUTSIDE OF THE UNITED STATES.—Any national of the United States who, without lawful authority, uses, or threatens, attempts, or conspires to use,

a weapon of mass destruction 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 by imprisonment for any term of years or for life.”

SEC. 726. ADDITION OF TERRORISM OFFENSES TO THE MONEY LAUNDERING STATUTE.

Section 1956(c)(7) of title 18, United States Code, is amended—
(1) in subparagraph (B), by amending clause (ii) to read as follows:

“(ii) murder, kidnapping, robbery, extortion, or destruction of property by means of explosive or fire;” and
(2) in subparagraph (D)—

(A) by inserting after “an offense under” the following: “section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member),”;

(B) by inserting after “section 215 (relating to commissions or gifts for procuring loans),” the following: “section 351 (relating to congressional or Cabinet officer assassination),”;

(C) by inserting after “section 798 (relating to espionage),” the following: “section 831 (relating to prohibited transactions involving nuclear materials), section 844 (f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce),”;

(D) by inserting after “section 875 (relating to interstate communications),” the following: “section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),”;

(E) by inserting after “section 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution),” the following: “section 1111 (relating to murder), section 1114 (relating to murder of United States law enforcement officials), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons),”;

(F) by inserting after “section 1203 (relating to hostage taking),” the following: “section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),”;

(G) by inserting after “section 1708 (relating to theft from the mail),” the following: “section 1751 (relating to Presidential assassination),”;

(H) by inserting after “2114 (relating to bank and postal robbery and theft),” the following: “section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),”;

(I) by striking “or section 2320” and inserting “section 2320”; and

(J) by striking “of this title” and inserting the following: “, section 2332 (relating to terrorist acts abroad against

United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries), or section 2339A (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code.”

**SEC. 727. PROTECTION OF FEDERAL EMPLOYEES;
PROTECTION OF CURRENT OR FORMER
OFFICIALS, OFFICERS, OR EMPLOYEES OF THE
UNITED STATES.**

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

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

“Whoever kills or attempts to kill any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance, shall be punished—

“(1) in the case of murder, as provided under section 1111;

“(2) in the case of manslaughter, as provided under section 1112; or

“(3) in the case of attempted murder or manslaughter, as provided in section 1113.”

(b) **THREATS AGAINST FORMER OFFICERS AND EMPLOYEES.**—

(1) **IN GENERAL.**—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”.

(2) **LIMITATION.**—Section 115 of title 18, United States Code, is amended by adding at the end the following:

“(d) This section shall not interfere with the investigative authority of the United States Secret Service, as provided under sections 3056, 871, and 879 of this title.”

(c) **AMENDMENT TO CLARIFY THE MEANING OF THE TERM DEADLY OR DANGEROUS WEAPON IN THE PROHIBITION ON ASSAULT ON FEDERAL OFFICERS OR EMPLOYEES.**—Section 111(b) of title 18, United States Code, is amended by inserting “(including a weapon intended to cause death or danger but that fails to do so by reason of a defective component)” after “deadly or dangerous weapon”.

SEC. 728. DEATH PENALTY AGGRAVATING FACTOR.

Section 3592(c) of title 18, United States Code, is amended by inserting after paragraph (15) the following new paragraph:

“(16) **MULTIPLE KILLINGS OR ATTEMPTED KILLINGS.**—The defendant intentionally killed or attempted to kill more than one person in a single criminal episode.”

SEC. 729. DETENTION HEARING.

Section 3142(f) of title 18, United States Code, is amended by inserting “(not including any intermediate Saturday, Sunday, or legal holiday)” after “five days” and after “three days”.

SEC. 730. DIRECTIONS TO SENTENCING COMMISSION.

The United States Sentencing Commission shall forthwith, in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired, amend the sentencing guidelines so that the chapter 3 adjustment relating to international terrorism only applies to Federal crimes of terrorism, as defined in section 2332b(g) of title 18, United States Code.

SEC. 731. EXCLUSION OF CERTAIN TYPES OF INFORMATION FROM DEFINITIONS.

Section 2510 of title 18, United States Code, is amended—

(1) in paragraph (12)—

(A) by striking “or” at the end of subparagraph (B);

(B) by adding “or” at the end of subparagraph (c); and

(C) by adding at the end the following new subparagraph:

“(D) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds;” and

(2) in paragraph (16)—

(A) by adding “or” at the end of subparagraph (D);

(B) by striking “or” at the end of subparagraph (E);

and

(C) by striking subparagraph (F).

SEC. 732. MARKING, RENDERING INERT, AND LICENSING OF EXPLOSIVE MATERIALS.

(a) STUDY.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Secretary of the Treasury (referred to in this section as the “Secretary”) shall conduct a study of—

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

(B) the feasibility and practicability of rendering common chemicals used to manufacture explosive materials inert;

(C) the feasibility and practicability of imposing controls on certain precursor chemicals used to manufacture explosive materials; and

(D) State licensing requirements for the purchase and use of commercial high explosives, including—

(i) detonators;

(ii) detonating cords;

(iii) dynamite;

(iv) water gel;

(v) emulsion;

(vi) blasting agents; and

(vii) boosters.

(2) EXCLUSION.—No study conducted under this subsection or regulation proposed under subsection (e) shall include black or smokeless powder among the explosive materials considered.

(b) CONSULTATION.—

(1) IN GENERAL.—In conducting the study under subsection (a), the Secretary shall consult with—

- (A) Federal, State, and local officials with expertise in the area of chemicals used to manufacture explosive materials; and
- (B) such other individuals as the Secretary determines are necessary.
- (2) FERTILIZER RESEARCH CENTERS.—In conducting any portion of the study under subsection (a) relating to the regulation and use of fertilizer as a pre-explosive material, the Secretary of the Treasury shall consult with and receive input from non-profit fertilizer research centers.
- (c) REPORT.—Not later than 30 days after the completion of the study conducted under subsection (a), the Secretary shall submit a report to the Congress, which shall be made public, that contains—
- (1) the results of the study;
 - (2) any recommendations for legislation; and
 - (3) any opinions and findings of the fertilizer research centers.
- (d) HEARINGS.—Congress shall have not less than 90 days after the submission of the report under subsection (c) to—
- (1) review the results of the study; and
 - (2) hold hearings and receive testimony regarding the recommendations of the Secretary.
- (e) REGULATIONS.—
- (1) IN GENERAL.—Not later than 6 months after the submission of the report required by subsection (c), the Secretary may submit to Congress and publish in the Federal Register draft regulations for the addition of tracer elements to explosive materials manufactured in or imported into the United States, of such character and in such quantity as the Secretary may authorize or require, if the results of the study conducted under subsection (a) indicate that the tracer elements—
 - (A) will not pose a risk to human life or safety;
 - (B) will substantially assist law enforcement officers in their investigative efforts;
 - (C) will not substantially impair the quality of the explosive materials for their intended lawful use;
 - (D) will not have a substantially adverse effect on the environment; and
 - (E) the costs associated with the addition of the tracers will not outweigh benefits of their inclusion.
 - (2) EFFECTIVE DATE.—The regulations under paragraph (1) shall take effect 270 days after the Secretary submits proposed regulations to Congress pursuant to paragraph (1), except to the extent that the effective date is revised or the regulation is otherwise modified or disapproved by an Act of Congress.

TITLE VIII—ASSISTANCE TO LAW ENFORCEMENT

Subtitle A—Resources and Security

SEC. 801. OVERSEAS LAW ENFORCEMENT TRAINING ACTIVITIES.

The Attorney General and the Secretary of the Treasury are authorized to support law enforcement training activities in foreign

countries, in consultation with the Secretary of State, for the purpose of improving the effectiveness of the United States in investigating and prosecuting transnational offenses.

SEC. 802. SENSE OF CONGRESS.

It is the sense of the Congress that, whenever practicable, each recipient of any sum authorized to be appropriated by this Act, should use the money to purchase American-made products.

SEC. 803. PROTECTION OF FEDERAL GOVERNMENT BUILDINGS IN THE DISTRICT OF COLUMBIA.

The Attorney General and the Secretary of the Treasury may prohibit—

(1) any vehicles from parking or standing on any street or roadway adjacent to any building in the District of Columbia used by law enforcement authorities subject to their jurisdiction, that is in whole or in part owned, possessed, or leased to the Federal Government; and

(2) any person or entity from conducting business on any property immediately adjacent to any building described in paragraph (1).

SEC. 804. REQUIREMENT TO PRESERVE RECORD EVIDENCE.

Section 2703 of title 18, United States Code, is amended by adding at the end the following new subsection:

“(f) REQUIREMENT TO PRESERVE EVIDENCE.—

“(1) IN GENERAL.—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.

“(2) PERIOD OF RETENTION.—Records referred to in paragraph (1) shall be retained for a period of 90 days, which shall be extended for an additional 90-day period upon a renewed request by the governmental entity.”.

SEC. 805. DETERRENT AGAINST TERRORIST ACTIVITY DAMAGING A FEDERAL INTEREST COMPUTER.

(a) REVIEW.—Not later than 60 calendar days after the date of enactment of this Act, the United States Sentencing Commission shall review the deterrent effect of existing guideline levels as they apply to paragraphs (4) and (5) of section 1030(a) of title 18, United States Code.

(b) REPORT.—The United States Sentencing Commission shall prepare and transmit a report to the Congress on the findings under the study conducted under subsection (a).

(c) AMENDMENT OF GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the sentencing guidelines to ensure any individual convicted of a violation of paragraph (4) or (5) of section 1030(a) of title 18, United States Code, is imprisoned for not less than 6 months.

SEC. 806. COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT.

(a) ESTABLISHMENT.—There is established a commission to be known as the “Commission on the Advancement of Federal Law En-

forcement” (hereinafter in this section referred to as the “Commission”).

(b) DUTIES.—The Commission shall review, ascertain, evaluate, report, and recommend action to the Congress on the following matters:

(1) The Federal law enforcement priorities for the 21st century, including Federal law enforcement capability to investigate and deter adequately the threat of terrorism facing the United States.

(2) In general, the manner in which significant Federal criminal law enforcement operations are conceived, planned, coordinated, and executed.

(3) The standards and procedures used by Federal law enforcement to carry out significant Federal criminal law enforcement operations, and their uniformity and compatibility on an interagency basis, including standards related to the use of deadly force.

(4) The investigation and handling of specific Federal criminal law enforcement cases by the United States Government and the Federal law enforcement agencies therewith, selected at the Commission’s discretion.

(5) The necessity for the present number of Federal law enforcement agencies and units.

(6) The location and efficacy of the office or entity directly responsible, aside from the President of the United States, for the coordination on an interagency basis of the operations, programs, and activities of all of the Federal law enforcement agencies.

(7) The degree of assistance, training, education, and other human resource management assets devoted to increasing professionalism for Federal law enforcement officers.

(8) The independent accountability mechanisms that exist, if any, and their efficacy to investigate, address, and to correct Federal law enforcement abuses.

(9) The degree of coordination among law enforcement agencies in the area of international crime and the extent to which deployment of resources overseas diminishes domestic law enforcement.

(10) The extent to which Federal law enforcement agencies coordinate with State and local law enforcement agencies on Federal criminal enforcement operations and programs that directly affect a State or local law enforcement agency’s geographical jurisdiction.

(11) Such other related matters as the Commission deems appropriate.

(c) MEMBERSHIP AND ADMINISTRATIVE PROVISIONS.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 5 members appointed as follows:

(A) 1 member appointed by the President pro tempore of the Senate.

(B) 1 member appointed by the minority leader of the Senate.

(C) 1 member appointed by the Speaker of the House of Representatives.

(D) 1 member appointed by the minority leader of the House of Representatives.

(E) 1 member (who shall chair the Commission) appointed by the Chief Justice of the Supreme Court.

(2) **DISQUALIFICATION.**—A person who is an officer or employee of the United States shall not be appointed a member of the Commission.

(3) **TERMS.**—Each member shall be appointed for the life of the Commission.

(4) **QUORUM.**—3 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(5) **MEETINGS.**—The Commission shall meet at the call of the Chair of the Commission.

(6) **COMPENSATION.**—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day, including travel time, during which the member is engaged in the performance of the duties of the Commission.

(d) **STAFFING AND SUPPORT FUNCTIONS.**—

(1) **DIRECTOR.**—The Commission shall have a director who shall be appointed by the Chair of the Commission.

(2) **STAFF.**—Subject to rules prescribed by the Commission, the Director may appoint additional personnel as the Commission considers appropriate.

(3) **APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.**—The Director and staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(e) **POWERS.**—

(1) **HEARINGS AND SESSIONS.**—The Commission may, for the purposes of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it. The Commission may establish rules for its proceedings.

(2) **POWERS OF MEMBERS AND AGENTS.**—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) **OBTAINING OFFICIAL DATA.**—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chair of the Commission, the head of that department or agency shall furnish that information to the Commission, unless doing so would threaten the national security, the health or safety of any individual, or the integrity of an ongoing investigation.

(4) **ADMINISTRATIVE SUPPORT SERVICES.**—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this title.

(f) **REPORT.**—The Commission shall transmit a report to the Congress and the public not later than 2 years after a quorum of the Commission has been appointed. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with the Commission's recommendations for such actions as the Commission considers appropriate.

(g) **TERMINATION.**—The Commission shall terminate 30 days after submitting the report required by this section.

SEC. 807. COMBATTING INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.

(a) **IN GENERAL.**—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary"), in consultation with the advanced counterfeit deterrence steering committee, shall—

(1) study the use and holding of United States currency in foreign countries; and

(2) develop useful estimates of the amount of counterfeit United States currency that circulates outside the United States each year.

(b) **EVALUATION AUDIT PLAN.**—

(1) **IN GENERAL.**—The Secretary shall develop an effective international evaluation audit plan that is designed to enable the Secretary to carry out the duties described in subsection (a) on a regular and thorough basis.

(2) **SUBMISSION OF DETAILED WRITTEN SUMMARY.**—The Secretary shall submit a detailed written summary of the evaluation audit plan developed pursuant to paragraph (1) to the Congress before the end of the 6-month period beginning on the date of the enactment of this Act.

(3) **FIRST EVALUATION AUDIT UNDER PLAN.**—The Secretary shall begin the first evaluation audit pursuant to the evaluation audit plan no later than the end of the 1-year period beginning on the date of the enactment of this Act.

(4) **SUBSEQUENT EVALUATION AUDITS.**—At least 1 evaluation audit shall be performed pursuant to the evaluation audit plan during each 3-year period beginning after the date of the commencement of the evaluation audit referred to in paragraph (3).

(c) **REPORTS.**—

(1) **IN GENERAL.**—The Secretary shall submit a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of each evaluation audit conducted pursuant to subsection (b) within 90 days after the completion of the evaluation audit.

(2) **CONTENTS.**—In addition to such other information as the Secretary may determine to be appropriate, each report submitted to the Congress pursuant to paragraph (1) shall include the following information:

(A) A detailed description of the evaluation audit process and the methods used to develop estimates of the amount of counterfeit United States currency in circulation outside the United States.

(B) The method used to determine the currency sample examined in connection with the evaluation audit and a statistical analysis of the sample examined.

(C) A list of the regions of the world, types of financial institutions, and other entities included.

(D) An estimate of the total amount of United States currency found in each region of the world.

(E) The total amount of counterfeit United States currency and the total quantity of each counterfeit denomination found in each region of the world.

(3) CLASSIFICATION OF INFORMATION.—

(A) IN GENERAL.—To the greatest extent possible, each report submitted to the Congress under this subsection shall be submitted in an unclassified form.

(B) CLASSIFIED AND UNCLASSIFIED FORMS.—If, in the interest of submitting a complete report under this subsection, the Secretary determines that it is necessary to include classified information in the report, the report shall be submitted in a classified and an unclassified form.

(d) SUNSET PROVISION.—This section shall cease to be effective as of the end of the 10-year period beginning on the date of the enactment of this Act.

(e) RULE OF CONSTRUCTION.—No provision of this section shall be construed as authorizing any entity to conduct investigations of counterfeit United States currency.

(f) FINDINGS.—The Congress hereby finds the following:

(1) United States currency is being counterfeited outside the United States.

(2) The One Hundred Third Congress enacted, with the approval of the President on September 13, 1994, section 470 of title 18, United States Code, making such activity a crime under the laws of the United States.

(3) The expeditious posting of agents of the United States Secret Service to overseas posts, which is necessary for the effective enforcement of section 470 and related criminal provisions, has been delayed.

(4) While section 470 of title 18, United States Code, provides for a maximum term of imprisonment of 20 years as opposed to a maximum term of 15 years for domestic counterfeiting, the United States Sentencing Commission has failed to provide, in its sentencing guidelines, for an appropriate enhancement of punishment for defendants convicted of counterfeiting United States currency outside the United States.

(g) TIMELY CONSIDERATION OF REQUESTS FOR CONCURRENCE IN CREATION OF OVERSEAS POSTS.—

(1) IN GENERAL.—The Secretary of State shall—

(A) consider in a timely manner the request by the Secretary of the Treasury for the placement of such number of agents of the United States Secret Service as the Secretary of the Treasury considers appropriate in posts in overseas embassies; and

(B) reach an agreement with the Secretary of the Treasury on such posts as soon as possible and, in any event, not later than December 31, 1996.

(2) COOPERATION OF TREASURY REQUIRED.—The Secretary of the Treasury shall promptly provide any information requested by the Secretary of State in connection with such requests.

(3) **REPORTS REQUIRED.**—The Secretary of the Treasury and the Secretary of State shall each submit, by February 1, 1997, a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate explaining the reasons for the rejection, if any, of any proposed post and the reasons for the failure, if any, to fill any approved post by such date.

(h) **ENHANCED PENALTIES FOR INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.**—Pursuant to the authority of the United States Sentencing Commission under section 994 of title 28, United States Code, the Commission shall amend the sentencing guidelines prescribed by the Commission to provide an appropriate enhancement of the punishment for a defendant convicted under section 470 of title 18 of such Code.

SEC. 808. COMPILATION OF STATISTICS RELATING TO INTIMIDATION OF GOVERNMENT EMPLOYEES.

(a) **FINDINGS.**—The Congress finds that—

(1) threats of violence and acts of violence against Federal, State, and local government employees and their families are increasing as the result of attempts to stop public servants from performing their lawful duties;

(2) these acts are a danger to the constitutional form of government of the United States; and

(3) more information is needed relating to the extent and nature of the danger to these employees and their families so that actions can be taken to protect public servants at all levels of government in the performance of their duties.

(b) **STATISTICS.**—The Attorney General shall collect data, for the calendar year 1990 and each succeeding calendar year thereafter, relating to crimes and incidents of threats of violence and acts of violence against Federal, State, and local government employees and their families in the performance of their lawful duties. Such data shall include—

(1) in the case of crimes against such employees and their families, the nature of the crime; and

(2) in the case of incidents of threats of violence and acts of violence, including verbal and implicit threats against such employees and their families, the deterrent effect on the performance of their jobs.

(c) **GUIDELINES.**—The Attorney General shall establish guidelines for the collection of the data under subsection (b), including a definition of the sufficiency of evidence of noncriminal incidents required to be reported.

(d) **USE OF DATA.**—

(1) **ANNUAL PUBLISHING.**—The Attorney General shall publish an annual summary of the data collected under this section.

(2) **USE OF DATA.**—Except with respect to the summary published under paragraph (1), data collected under this section shall be used only for research and statistical purposes.

(e) **EXEMPTION.**—The Attorney General, the Secretary of State, and the United States Secret Service is not required to participate in any statistical reporting activity under this section with respect to any direct or indirect threat made against any individual for whom that official or Service is authorized to provide protection.

SEC. 809. ASSESSING AND REDUCING THE THREAT TO LAW ENFORCEMENT OFFICERS FROM THE CRIMINAL USE OF FIREARMS AND AMMUNITION.

(a) The Secretary of the Treasury, in conjunction with the Attorney General, shall conduct a study and make recommendations concerning—

(1) the extent and nature of the deaths and serious injuries, in the line of duty during the last decade, for law enforcement officers, including—

(A) those officers who were feloniously killed or seriously injured and those that died or were seriously injured as a result of accidents or other non-felonious causes;

(B) those officers feloniously killed or seriously injured with firearms, those killed or seriously injured with, separately, handguns firing handgun caliber ammunition, handguns firing rifle caliber ammunition, rifles firing rifle caliber ammunition, rifles firing handgun caliber ammunition and shotguns;

(C) those officers feloniously killed or seriously injured with firearms, and killings or serious injuries committed with firearms taken by officers' assailants from officers, and those committed with other officers' firearms; and

(D) those killed or seriously injured because shots attributable to projectiles defined as "armor piercing ammunition" under section 921(a)(17)(B) (i) and (ii) of title 18, United States Code, pierced the protective material of bullet resistant vests and bullet resistant headgear;

(2) whether current passive defensive strategies, such as body armor, are adequate to counter the criminal use of firearms against law officers; and

(3) the calibers of ammunition that are—

(A) sold in the greatest quantities;

(B) their common uses, according to consultations with industry, sporting organizations and law enforcement;

(C) the calibers commonly used for civilian defensive or sporting uses that would be affected by any prohibition on non-law enforcement sales of such ammunition, if such ammunition is capable of penetrating minimum level bullet resistant vests; and

(D) recommendations for increase in body armor capabilities to further protect law enforcement from threat.

(b) In conducting the study, the Secretary shall consult with other Federal, State and local officials, non-governmental organizations, including all national police organizations, national sporting organizations and national industry associations with expertise in this area and such other individuals as shall be deemed necessary. Such study shall be presented to Congress twelve months after the enactment of this Act and made available to the public, including any data tapes or data used to form such recommendations.

(c) There are authorized to be appropriated for the study and recommendations such sums as may be necessary.

SEC. 810. STUDY AND REPORT ON ELECTRONIC SURVEILLANCE.

(a) **STUDY.**—The Attorney General and the Director of the Federal Bureau of Investigation shall study all applicable laws and guidelines relating to electronic surveillance and the use of pen registers and other trap and trace devices.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit a report to the Congress that includes—

(1) the findings of the study conducted pursuant to subsection (a);

(2) recommendations for the use of electronic devices in conducting surveillance of terrorist or other criminal organizations, and for any modifications in the law necessary to enable the Federal Government to fulfill its law enforcement responsibilities within appropriate constitutional parameters;

(3) a summary of instances in which Federal law enforcement authorities may have abused electronic surveillance powers and recommendations, if needed, for constitutional safeguards relating to the use of such powers; and

(4) a summary of efforts to use current wiretap authority, including detailed examples of situations in which expanded authority would have enabled law enforcement authorities to fulfill their responsibilities.

Subtitle B—Funding Authorizations for Law Enforcement

SEC. 811. FEDERAL BUREAU OF INVESTIGATION.

(a) IN GENERAL.—With funds made available pursuant to subsection (c)—

(1) the Attorney General shall—

(A) provide support and enhance the technical support center and tactical operations of the Federal Bureau of Investigation;

(B) create a Federal Bureau of Investigation counterterrorism and counterintelligence fund for costs associated with the investigation of cases involving cases of terrorism;

(C) expand and improve the instructional, operational support, and construction of the Federal Bureau of Investigation Academy;

(D) construct a Federal Bureau of Investigation laboratory, provide laboratory examination support, and provide for a command center;

(E) make grants to States to carry out the activities described in subsection (b); and

(F) increase personnel to support counterterrorism activities; and

(2) the Director of the Federal Bureau of Investigation may expand the combined DNA Identification System (CODIS) to include Federal crimes and crimes committed in the District of Columbia.

(b) STATE GRANTS.—

(1) AUTHORIZATION.—The Attorney General, in consultation with the Director of the Federal Bureau of Investigation, may make grants to each State eligible under paragraph (2) to be used by the chief executive officer of the State, in conjunction with units of local government, other States, or any combination thereof, to carry out all or part of a program to establish, develop, update, or upgrade—

(A) computerized identification systems that are compatible and integrated with the databases of the National Crime Information Center of the Federal Bureau of Investigation;

(B) the capability to analyze deoxyribonucleic acid (DNA) in a forensic laboratory in ways that are compatible and integrated with the combined DNA Identification System (CODIS) of the Federal Bureau of Investigation; and

(C) automated fingerprint identification systems that are compatible and integrated with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation.

(2) **ELIGIBILITY.**—To be eligible to receive a grant under this subsection, a State shall require that each person convicted of a felony of a sexual nature shall provide to appropriate State law enforcement officials, as designated by the chief executive officer of the State, a sample of blood, saliva, or other specimen necessary to conduct a DNA analysis consistent with the standards established for DNA testing by the Director of the Federal Bureau of Investigation.

(3) **INTERSTATE COMPACTS.**—A State may enter into a compact or compacts with another State or States to carry out this subsection.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—There are authorized to be appropriated for the activities of the Federal Bureau of Investigation, to help meet the increased demands for activities to combat terrorism—

- (A) \$114,000,000 for fiscal year 1997;
- (B) \$166,000,000 for fiscal year 1998;
- (C) \$96,000,000 for fiscal year 1999; and
- (D) \$92,000,000 for fiscal year 2000.

(2) **AVAILABILITY OF FUNDS.**—Funds made available pursuant to paragraph (1), in any fiscal year, shall remain available until expended.

(3) **ALLOCATION.**—

(A) **IN GENERAL.**—Of the total amount appropriated to carry out subsection (b) in a fiscal year—

- (i) the greater of 0.25 percent of such amount or \$500,000 shall be allocated to each eligible State; and
- (ii) of the total funds remaining after the allocation under clause (i), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this subparagraph as the population of such State bears to the population of all States.

(B) **DEFINITION.**—For purposes of this paragraph, the term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, except that for purposes of the allocation under this subparagraph, American Samoa and the Commonwealth of the Northern Mariana Islands shall be considered as one State and that for these purposes, 67 percent of the amounts allocated shall be

allocated to American Samoa, and 33 percent to the Commonwealth of the Northern Mariana Islands.

SEC. 812. UNITED STATES CUSTOMS SERVICE.

(a) **IN GENERAL.**—There are authorized to be appropriated for the activities of the United States Customs Service, to help meet the increased needs of the United States Customs Service—

- (1) \$8,000,000 for fiscal year 1997;
- (2) \$8,000,000 for fiscal year 1998;
- (3) \$8,000,000 for fiscal year 1999; and
- (4) \$7,000,000 for fiscal year 2000.

(b) **AVAILABILITY OF FUNDS.**—Funds made available pursuant to subsection (a), in any fiscal year, shall remain available until expended.

SEC. 813. IMMIGRATION AND NATURALIZATION SERVICE.

(a) **IN GENERAL.**—There are authorized to be appropriated for the activities of the Immigration and Naturalization Service, to help meet the increased needs of the Immigration and Naturalization Service, including the detention and removal of alien terrorists, \$5,000,000 for each of the fiscal years 1997, 1998, 1999, and 2000.

(b) **AVAILABILITY OF FUNDS.**—Funds made available pursuant to subsection (a), in any fiscal year, shall remain available until expended.

SEC. 814. DRUG ENFORCEMENT ADMINISTRATION.

(a) **ACTIVITIES OF DRUG ENFORCEMENT ADMINISTRATION.**—The Attorney General shall use funds made available pursuant to subsection (b) to—

- (1) fund antiviolenence crime initiatives;
- (2) fund initiatives to address major violators of Federal antidrug statutes; and
- (3) enhance or replace infrastructure of the Drug Enforcement Administration.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Drug Enforcement Administration, to help meet the increased needs of the Drug Enforcement Administration—

- (1) \$35,000,000 for fiscal year 1997;
- (2) \$40,000,000 for fiscal year 1998;
- (3) \$45,000,000 for fiscal year 1999; and
- (4) \$52,000,000 for fiscal year 2000.

(c) **AVAILABILITY OF FUNDS.**—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 815. DEPARTMENT OF JUSTICE.

(a) **IN GENERAL.**—The Attorney General shall use funds made available pursuant to subsection (b) to—

- (1) hire additional Assistant United States Attorneys and attorneys within the Criminal Division of the Department of Justice; and
- (2) provide for increased security at courthouses and other facilities in which Federal workers are employed.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section—

- (1) \$10,000,000 for fiscal year 1997;
- (2) \$10,000,000 for fiscal year 1998;

- (3) \$10,000,000 for fiscal year 1999; and
- (4) \$11,000,000 for fiscal year 2000.

(c) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

(d) EXEMPTION AUTHORITY.—Notwithstanding any other provision of law, section 102(b) of the Department of Justice and Related Agencies Appropriations Act, 1993 (Public Law 102-395), shall remain in effect until specifically repealed, subject to any limitation on appropriations contained in any Department of Justice Appropriation Authorization Act.

(e) GENERAL REWARD AUTHORITY OF THE ATTORNEY GENERAL.—

(1) IN GENERAL.—Chapter 203 of title 18, United States Code, is amended by adding immediately after section 3059A the following section:

“§ 3059B. General reward authority

“(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) Not later than 30 days after authorizing a reward under this section that exceeds \$100,000, the Attorney General 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 to authorize an award under this section and the amount of any reward authorized shall be final and conclusive, and not subject to judicial review.”.

SEC. 816. DEPARTMENT OF THE TREASURY.

(a) IN GENERAL.—There are authorized to be appropriated for Department of Treasury law enforcement agencies engaged in counterterrorism efforts to augment those efforts—

- (1) \$10,000,000 for fiscal year 1997;
- (2) \$10,000,000 for fiscal year 1998;
- (3) \$10,000,000 for fiscal year 1999; and
- (4) \$10,000,000 for fiscal year 2000.

(b) UNITED STATES SECRET SERVICE.—There are authorized to be appropriated for the activities of the United States Secret Service, to augment White House security and expand Presidential protection activities—

- (1) \$11,000,000 for fiscal year 1997;
- (2) \$11,000,000 for fiscal year 1998;
- (3) \$13,000,000 for fiscal year 1999; and
- (4) \$15,000,000 for fiscal year 2000.

SEC. 817. UNITED STATES PARK POLICE.

(a) IN GENERAL.—There are authorized to be appropriated for the activities of the United States Park Police, to help meet the increased needs of the United States Park Police, \$500,000 for each of the fiscal years 1997, 1998, 1999, and 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 818. THE JUDICIARY.

(a) **IN GENERAL.**—There are authorized to be appropriated to the Federal judiciary, to help meet the increased demands for judicial branch activities, including supervised release, and pretrial and probation services, resulting from the enactment of this Act—

- (1) \$10,000,000 for fiscal year 1997;
- (2) \$10,000,000 for fiscal year 1998;
- (3) \$10,000,000 for fiscal year 1999; and
- (4) \$11,000,000 for fiscal year 2000.

(b) **AVAILABILITY OF FUNDS.**—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 819. LOCAL FIREFIGHTER AND EMERGENCY SERVICES TRAINING.

(a) **GRANT AUTHORIZATION.**—The Attorney General, in consultation with the Director of the Federal Emergency Management Agency, may make grants to provide specialized training and equipment to enhance the capability of metropolitan fire and emergency service departments to respond to terrorist attacks.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for fiscal year 1997, \$5,000,000 to carry out this section.

SEC. 820. ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVE DETECTION DEVICES AND OTHER COUNTERTERRORISM TECHNOLOGY.

There are authorized to be appropriated to the National Institute of Justice Office of Science and Technology not more than \$10,000,000 for each of the fiscal years 1997 and 1998 to provide assistance to foreign countries facing an imminent danger of terrorist attack that threatens the national interest of the United States, or puts United States nationals at risk, in—

- (1) obtaining explosive detection devices and other counterterrorism technology;
- (2) conducting research and development projects on such technology; and
- (3) testing and evaluating counterterrorism technologies in those countries.

SEC. 821. RESEARCH AND DEVELOPMENT TO SUPPORT COUNTERTERRORISM TECHNOLOGIES.

There are authorized to be appropriated to the National Institute of Justice Office of Science and Technology not more than \$10,000,000 for fiscal year 1997, to—

- (1) develop technologies that can be used to combat terrorism, including technologies in the areas of—
 - (A) detection of weapons, explosives, chemicals, and persons;
 - (B) tracking;
 - (C) surveillance;
 - (D) vulnerability assessment; and
 - (E) information technologies;
- (2) develop standards to ensure the adequacy of products produced and compatibility with relevant national systems; and
- (3) identify and assess requirements for technologies to assist State and local law enforcement in the national program to combat terrorism.

SEC. 822. GRANTS TO STATE AND LOCAL LAW ENFORCEMENT FOR TRAINING AND EQUIPMENT

(a) AMENDMENT OF BYRNE GRANT PROGRAM.—Section 501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) is amended—

- (1) by striking “and” at the end of paragraph (24);
- (2) by striking the period at the end of paragraph (25) and inserting “; and”; and
- (3) by adding at the end the following new paragraph:
“(26) to develop and implement antiterrorism training programs and to procure equipment for use by local law enforcement authorities.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$25,000,000 for each of fiscal years 1997 through 2000 for grants under section 501 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) to be used for the development and implementation of antiterrorism training programs and to procure equipment for use by local law enforcement authorities.

SEC. 823. FUNDING SOURCE.

Appropriations for activities authorized in this subtitle may be made from the Violent Crime Reduction Trust Fund.

TITLE IX—MISCELLANEOUS

SEC. 901. EXPANSION OF TERRITORIAL SEA.

(a) TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.—The Congress declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, for purposes of Federal criminal jurisdiction is part of the United States, subject to its sovereignty, and is within the special maritime and territorial jurisdiction of the United States for the purposes of title 18, United States Code.

(b) ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.—Section 13 of title 18, United States Code, is amended—

- (1) in subsection (a), by inserting after “title,” the following: “or on, above, or below any portion of the territorial sea of the United States not within the jurisdiction of any State, Commonwealth, territory, possession, or district”; and
- (2) by adding at the end the following new subsection:

“(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Commonwealth, territory, possession, or district, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed, for purposes of subsection (a), to lie within the area of the State, Commonwealth, territory, possession, or district that it would lie within if the boundaries of such State, Commonwealth, territory, possession, or district were extended seaward to the outer limit of the territorial sea of the United States.”.

SEC. 902. PROOF OF CITIZENSHIP

Notwithstanding any other provision of law, a Federal, State, or local government agency may not use a voter registration card (or other related document) that evidences registration for an election

for Federal office, as evidence to prove United States citizenship.

SEC. 903. REPRESENTATION FEES IN CRIMINAL CASES.

(a) **IN GENERAL.**—Section 3006A of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

(B) by inserting after paragraph (3) the following:

“(4) **DISCLOSURE OF FEES.**—The amounts paid under this subsection, for representation in any case, shall be made available to the public.”; and

(2) in subsection (e) by adding at the end the following:

“(4) **DISCLOSURE OF FEES.**—The amounts paid under this subsection for services in any case shall be made available to the public.”.

(b) **FEES AND EXPENSES AND CAPITAL CASES.**—Section 408(q)(10) of the Controlled Substances Act (21 U.S.C. 848(q)(10)) is amended to read as follows:

“(10)(A) Compensation shall be paid to attorneys appointed under this subsection at a rate of not more than \$125 per hour for in-court and out-of-court time. Not less than 3 years after the date of the enactment of the Antiterrorism and Effective Death Penalty Act of 1996, the Judicial Conference 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 5305 of title 5 on 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.

“(B) Fees and expenses paid for investigative, expert, and other reasonably necessary services authorized under paragraph (9) 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.

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

(c) **EFFECTIVE DATE.**—The amendments made by this section apply to—

(1) cases commenced on or after the date of the enactment of this Act; and

(2) appellate proceedings, in which an appeal is perfected, on or after the date of the enactment of this Act.

SEC. 904. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

APPENDIX G: VIDEOTAPE REFERENCES

VIDEO TAPE NUMBER 00A

Time	Tape No. 00A ACTIVITY ON SCREEN KFOR Channel 4—Broadcast Video Coverage
0:00:00	[Tape is NOT nonstop—has “time skips”—begins at approximately 10:30 a.m.] Leader of tape
0:00:22	Reports on scene—2½ year old girl found, fair skin, red hair, blue eyes, needs surgery—must find the parents
0:01:11	Water-main break in the basement—fire department preparing to go in—Governor’s office reports eight dead—two men move injured woman using chair as a litter
0:01:50	News conference with Dr. Thomas Coniglione, Medical Director of St. Anthony Hospital—concerned about delay because of second bomb threat—says police confirmed presence of bombs, gives statistics, personnel status, and conditions—over 200 individuals treated at 8 hospitals—6 of the dead are children
0:07:41	Devin Scillian—“First bomb did go off ... second was found and defused.” Info about day care center—file footage from earlier in the day—disaster of international proportions
0:10:11	Water lines and gas mains broken—live electrical lines exposed—extreme danger—working to shut off utilities
0:10:42	Little red-haired girl’s mother found at another hospital, mother’s sister is with the child at this time, telephone number given for loved ones to seek information about missing persons
0:11:21	Don’t use mobile phones, lines are jammed—each call takes up a frequency
0:11:49	Evacuation of 50 Penn Place, Capitol Complex, federal buildings in other locations—Ft. Worth, IRS building in Boston
0:12:06	Mayor Ron Norick telephones KFOR, says the bomb was in a car, left eight-foot crater, compares to World Trade Center bombing
0:12:34	Kevin Ogle says: “Other explosives were put in cars that were driven into the parking garage” and is cut off abruptly by Devin Scillian talking about Beirut
0:12:55	Oklahoma Blood Bank has been deluged with donors—emergency blood donation centers set up at alternative locations—traffic is too snarled and lines too long—find another donation center if possible—lists other donor sites
0:14:01	Dan Threldkeld: FEMA has been activated on a regional level, dispatched by FBI. Red Cross asks that only trained medical personnel go to the bomb scene

Time	Tape No. 00A ACTIVITY ON SCREEN KFOR Channel 4—Broadcast Video Coverage
0:15:15	Lee Evans: At about 9:45 a.m., KFOR received phone call from someone saying they were from Nation of Islam, claimed responsibility for bombing—said it could happen elsewhere. Checked with Nation of Islam headquarters in Chicago, will have press conference later
0:16:15	Governor Frank Keating called President Clinton asking for an emergency declaration and more investigative and rescue workers. President says he is sending same team that investigated World Trade Center bombing in 1993
0:16:37	From newswire, Kevin Ogle reads that head of ATF now says the explosion appears to have been caused by a car bomb containing 1200 lbs. of explosives
0:17:15	Tara Blume: At triage center at NE 5 th and Harrison—no victims to treat because of other bomb threats, equipment and personnel gathered and waiting, ambulances lined up on both sides of the street waiting, area is also being set up to serve as a temporary morgue
0:18:43	From AP wire: Dr. Brian Espe of the U.S. Dept. of Agriculture says his entire staff of seven is lost, lucky to be alive—his co-worker Jack Gobin says it felt like an earthquake, but then the windows blew into his office. He had climbed under his desk and was not hurt
0:20:26	Security tightened everywhere—interview with survivor from the building—“rebar as big around as my arm bent like a pretzel”
0:21:30	Security tightened nationwide at all federal buildings because of copycats—said it was a car bomb, 1200 lbs. of explosives—map shown of the area—workers are now allowed back in the building
0:22:13	Two more bombs were found, the second ones larger than the first that blew up
0:23:20	NBC News live coverage—Mike McCurry, White House spokesman—praised federal response plan, James Lee Witt will head up FEMA operations, Dept. of Justice will coordinate with local law enforcement
0:26:26	ATF confirms Mayor Ron Norick’s account that it was a car bomb
0:26:28	Jayna Davis interviews Assistant Fire Chief Jon Hansen—estimates 900 people inside the building at the time of the explosions, slow to clear the building because of secondary collapses, are talking to victims, trying to get them out, dogs are working, floors are pancaked, buildings in a 6- or 7-block area have suffered structural damage, Hansen finds crankshaft blown half a block away
0:31:59	Mayor Ron Norick told his own account of the bombing—shown on file footage, asked about the car bomb, says searchers are going through the entire area, the eight-foot crater, explosion so fierce two cars melted together
0:34:06	Secondary blood donation centers established in Norman
0:36:30	File footage—comparisons to World Trade Center—eight fatalities so far, six children, review of events

Time	Tape No. 00A ACTIVITY ON SCREEN KFOR Channel 4—Broadcast Video Coverage
0:37:20	About other bombs—lists those found and defused, etc.
0:38:29	Triage at NE 5 th and Harrison (Oklahoma St.), Feed the Children coordinating with local restaurateurs, EMSA has triage at Couch and Harvey Streets, restaurant convention at the Myriad is gearing up to feed rescue and relief workers
0:40:30	Tom Brokaw interviews Neil Livingston, expert on terrorism and terrorist bombings—had recently given lectures in OKC on terrorist attacks
0:43:38	Stay off all phone lines—little red-haired girl named Rebecca Denny, mother has been found—brother Brandon still missing
0:43:55	From AP wire: Phoenix special search-and-rescue team is on the way
0:44:37	Interview by Uze Brown-Washington with Mr. Ramsey, whose son works for OKCPD as bicycle patrolman—his account of the explosions—300 officers drew their guns at the police station when the explosions occurred
0:47:25	[TAPED EARLIER, shown now] Interview with Carole Lawton, victim in shock—said she didn't hear a noise, but then the building began crumbling and the glass came in—during interview, the 10:30 a.m. bomb scare occurs—anchor says that second and third devices were found in the building
0:54:19	(approximately 1:00 p.m.) Interview with Dr. Randall Heather, terrorism expert from the University of Oklahoma—says FBI received a bomb threat last week, targets are symbolic, says defused bombs were recovered from the building—experts will be able to track bombers by working with unexploded devices
1:02:49	Lee Evans interviews Sen. Ernst Istook, who says explosion caused by a car bomb, says crater is 30 feet in diameter, says “It is the work of a sophisticated group using a sophisticated device. The work had to have been done by an explosives expert.”—footage shown of Dr. Espe's rescue from the building
1:04:29	Jeff Lazalier interviews Assistant Fire Chief Jon Hansen—asked about other devices, Hansen gives a non-answer, deals with secondary collapses, other building damage, emotional toll to firefighters and rescuers, critical incident stress debriefing
1:09:00	Theresa Green tells of interview with survivor—tells how he crawled out from the bottom floor of the basement, met two women on the way, got out together—other comments about no second wave of injured coming out of the building, medical personnel beginning to fear the worst
1:09:27	Meteorologists predicting rain—storm moving rapidly toward OKC from the southwest, high winds, hail, torrential rains, began setting up temporary shelters—delay in rescue because of bombs—now must deal with severe weather

Time	Tape No. 00A ACTIVITY ON SCREEN KFOR Channel 4—Broadcast Video Coverage
1:12:01	Lee Evans: Four doctors are sent from University Hospital to the scene with amputation kits—victims must be cut away from the rubble in order to remove them from the building
1:13:18	Evacuations at other federal buildings across the country—if you are not telephoned by your supervisor tomorrow, stay home—do not come to OKC
1:18:24	Uze Brown-Washington interviews Officer Adrian Neal of the Edmond Police Department—tells his story of helping with the search and rescue operations—rain is on the way
1:20:54	Two 23-month-old twin boys, Don and Ryan Hammond cannot find their parents—Norman blood center is full—no more medical personnel needed—other devices were found
1:23:00	Suzanne Steely downtown, live shots of the building
1:25:23	Telephone interview with C.A. Davis who was involved in rescue operation, working with blueprints at the building to get the utilities turned off—bringing in heavy equipment and cranes—live and file footage
1:27:50	Lee Evans: Hospitals on Disaster Alert, still prepared for second wave of injured, children who live in the evacuated area in OKC public schools will be taken to Wilson Elementary School. Parents should pick them up there. Counselors in the schools have been dispatched to help the children
1:29:53	Rebecca Denny's mother worked in the IRS Building; brother, Brandon, is still missing
1:30:07	Theresa Green interviews Bill Carpenter from out-patient counseling services at Baptist Hospital—dealing with trauma, post traumatic stress syndrome
1:32:53	Death toll has risen to 19 dead, 17 children, two adults
1:33:17	(approximately 1:30 p.m.)—medical personnel not needed, only the dead are being found now—Kent Ogle reports from the University Hospital Trauma Center—triage center is being disassembled
1:36:00	Another bomb threat—“Get back!”—media is moved back again
1:37:33	Personnel are first given an “all clear” and then moved back again. Reports of another explosive device found at the west corner of the Murrah Building; according to ATF officials, more bombs are found that are set to go off
1:38:17	Suzanne Steely story of the second bomb threat, reviews the confusion about this second bomb scare, says police did find another bomb, the building is being evacuated again, the bomb squad is on the scene again
1:40:13	(2:00 p.m.) Tara Blume interviews two nurses (Robin Gibson) at a triage center—it's been gruesome, but looks like now only dead will be found, very disheartening for the nurses

Time	Tape No. 00A ACTIVITY ON SCREEN KFOR Channel 4—Broadcast Video Coverage
1:42:52	Anthony Foster prepares to interview two nurses, Nicky Smith and Pam Burns with Passion Health Care—went into the building but could find no survivors, have started tagging bodies—the Murrah Building is now a morgue
1:44:54	Foster's interview with Nicky Smith and Pam Burns
1:47:36	Tara Blume: medics have started bringing out some bodies, interview with Governor Keating
1:53:02	Two black male children at Baptist Hospital Cafeteria cannot find their parents
1:56:27	All-points bulletin issued about two or three Middle Eastern men wearing blue jogging suits seen leaving the area in a brown pickup truck with tinted windows—suspects
1:57:51	Witnesses
2:02:12	Weather—Lee Evans: Nation of Islam headquarters in Chicago issued a statement
2:09:19	Second device may have been a training device used by the ATF offices in the Murrah Building
2:10:15	Interview with Gary Jenkins who worked in the morgue area
2:12:40	Newscasters stress only one explosion, also explain Nation of Islam is not Islam
2:13:33	Sonic Restaurants are collecting money for the bomb victims, two black boys lost at Baptist Hospital have been reunited with their family, Holiday Inn North donated rooms to relief workers, High Point Mental Health Facilities have donated counseling to all
2:14:30	List of 12 hospitals involved, weather report
2:17:00	Interview with Miss Chrys Moore, a medical worker, says over 150 still trapped in the building, most believed dead, dealing with gas leaks, two more undetonated bombs were found
2:19:20	Uze Brown-Washington—situation is sickening, amputations, talks about old military devices stored in the basement of the building
2:20:04	Old military shells—weather report
2:21:09	Weather reports—predicting 15 to 18 hours of rain
2:22:40	Southwest Medical Center doctor
2:23:14	Rebecca Denny's father is still looking for brother, Brandon
2:24:01	Lee Evans speaks about Chrys Moore, footage of her blood-stained hat
2:26:41	Jeff Lazalier: about law enforcement, U.S. Marshals, World Trade Center bombing
2:28:58	Profile of the Murrah Building day care center—footage from 1989 when it was called "Uncle Sam's Kids' Corner"—report by Anita Vanetti

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Time	Tape No. 00A ACTIVITY ON SCREEN KFOR Channel 4—Broadcast Video Coverage
2:31:10	Hospital treatment count—"Help for survivors will not be as necessary as space for the dead will be."
2:34:51	Raining downtown now
2:40:40	Announcement that Presidential press conference is scheduled for later in the afternoon
2:42:34	Tara Blume: speaks about Brad Riggin at ground zero—speaks with Galen Culver at SW Medical Center—hospital has gone off of "Code Black"
2:46:34	File footage of Carole Lawton
2:49:41	Jeff Lazalier with Larry Jones of Feed the Children
2:52:57	Asst. Fire Chief Jon Hansen says bomb threats are unconfirmed—ATF stored training ordnance in the building
2:53:54	Waiting for FBI news conference at the Civic Center
2:55:21	Anthony Foster at NW 5 th and Oklahoma triage center—workers are numb, told to leave the scene and go back to work
2:59:01	Comments by Governor Frank Keating
3:02:10	Interview with Dr. Stewart Beasley, clinical psychologist
3:05:00	Telephone number to call for information about loved ones

VIDEO TAPE NUMBER 00B

Time	Tape No. 00B ACTIVITY ON SCREEN KFOR Channel 4—"Unedited" Footage
0:00:00	Leader
0:00:05	Sound—scanner reports—videotaped from traveling car
0:00:24	Interview with ladies—heard a big boom, felt like an earthquake—learned it was an explosion—woman with injury to back of head
0:01:24	Screaming—group of wounded being treated, ambulance transports, sirens
0:02:20	Smoke, fire, tree with leaves, police moving a mother back who is looking for her child in the building
0:03:10	People inside the building seen moving around—east end on the second floor—another cop moves another mother back, second warning
0:03:57	White smoke—observers
0:04:11	Rebecca Denny being carried by female to ambulance, sirens, crying
0:04:46	Woman victim carried from the building by two men using a chair as a litter—directed to a different transport—lady cop in sunglasses walks past camera (who later caught Rebecca Anderson as she collapsed in the street)

Time	Tape No. 00B ACTIVITY ON SCREEN KFOR Channel 4—"Unedited" Footage
0:05:27	Victims seated on the ground, many wounded—man removes his shirt to cover a bleeding victim, woman in shock
0:06:05	Transport, stretchers, ambulances
0:06:20	Fire trucks arrive, sirens
0:06:30	Looking toward Regency Tower Apartments
0:07:08	Smoky area, fire, littered streets
0:07:48	Street medical assistance, transports, smoke, victims
0:08:13	Dr. Tom Coniglione, Medical Director of St. Anthony Hospital—other bombs in the area delaying rescue
0:10:10	Triage center, sound of scanner radio, wrapping wounds, injured in blankets, stretcher removals, evacuation instructions via radio, gas meter blowing gas at NW 5 th and Harvey
0:11:30	Man with two injured children at triage—all walking patients instructed to go to NW 6 th and Robinson for triage—on radio, report says "We just got a call from some people who called in from the second floor of the Federal Building said they were trapped."—wrapping chest wound—smoke—ambulance
0:13:08	Mounted police—sheriff's department—directing traffic and pedestrians
0:13:40	Streets—crying woman whose child is inside—black smoke seen over the rooftops—observers—littered streets
0:14:32	Triage—media woman says, "Such a nightmare! What a news day!"
0:14:56	Walking wounded—woman with injured hand and feet, patient in shock
0:15:25	Woman organizing employees and wounded, making sure all are accounted for—wounded, triage scenes—medics arriving, littered streets
0:16:36	Two walking wounded, small boy, day care at YMCA
0:17:02	The Kerr-McGee man
0:17:11	Building seen from behind the trees on the north side
0:17:26	Close view of interior damage
0:18:00	Gary Hunt and accomplice step from behind trees in front of the Murrah Building carrying some kind of electronic device with large, thick antenna—close up of the building—burning cars close up—triage scenes—lady who escaped—street scenes—end of tape

VIDEO TAPE NUMBER 00C

Time	Tape No. 00C ACTIVITY ON SCREEN Sheriff's Department Video
0:00:00	Leader—opening credits—crews waiting to go into the building—looking upward from street level to the top of the building—date and time video was copied for Rep. Charles Key—firetrucks at base of building
0:02:07	Pile of rubble against the Journal Record Building which used to be in front of the Murrah Building—firetrucks—waiting crews—pans from east to west upper floors—looks west toward Regency Tower Apartment—south side of Journal Record Building—parking lot—debris
0:04:30	SE corner of the Murrah Building—remains of the BATF office on the ninth floor—panning of other floors
0:04:56	Removal of Dr. Brian Espe down the extension ladder—approximately 9:45 a.m.—street level debris—work crews—worker inside the building—extension ladder work
0:08:33	Ruins of the Athenian Restaurant, just west of the Journal Record Building
0:09:08	Back of deceased victim, head covered—distant shot of Murrah Building
0:09:56	"Got another bomb over there—you want to move out of the way!"—10:30 a.m.—distant shot of Murrah Building shot from northeast corner, across the street
0:11:47	Pan shots east to west of the eight and ninth floors of the Murrah Building
0:12:40	Damage to the YMCA
0:13:41	Corner of NW 6 th and Robinson—east side of the Journal Record Building (temple side)—other damage
0:15:15	NW 6 th Street—north side of the Journal Record Building—north side of NW 6 th Street
0:15:51	Southwestern Bell Building—NW corner of NW 6 th and Robinson—camera looks east on NW 6 th Street
0:19:50	Looking west on NW 5 th Street—Murrah Building and Regency Tower Apartments
0:20:30	Organizing the troops for rescue operation
0:21:25	Sheriff's Bomb Disposal representative—"Y'all are way the hell too close!"
0:23:57	Victim under sheet in the rubble, hand exposed
0:24:35	Looking west on NW 5 th Street, past the Athenian Restaurant, toward Regency Tower Apartments
0:25:30	Section of vehicle damage and license plates in the parking lot of the Journal Record Building—south side parking lot—long section of tape—vehicle evidence
0:40:39	Walking west on NW 5 th Street toward the Regency Tower Apartments

Time	Tape No. 00C ACTIVITY ON SCREEN Sheriff's Department Video
0:41:32	Intersection of NW 5 th and Harvey, moving west
0:41:36	Same intersection, looking east; then south down Harvey; then west again
0:42:42	Post Office Resource Center, NW corner of NW 5 th and Harvey
0:42:48	Regency Tower Apartments, just west of Post Office Resource Center
0:43:30	More license plates from damaged vehicles on the south side of the Journal Record Building
0:43:54	Murrah Building from the NW corner
0:44:15	Close up of a car part from two angles
0:44:24	From in front of the Regency Tower Apartments, looking east toward the Murrah Building
0:44:32	The "axle"—one of many
0:45:16	Close up of numbers on "axle"
0:45:39	Close up of numbers on another automotive piece—between Regency Tower Apartments and the Post Office Resource Center
0:46:12	Close up of automotive part—parking lot of the Post Office Resource Center
0:46:26	Corner of NW 4 th Street and Harvey, panning from east to northeast and back
0:47:10	Front (south side) of Federal Courthouse—NW 4 th Street between Harvey and Robinson
0:47:24	NE corner of Murrah Building—"damage" to "original" videotape—let this tape roll—it corrects itself and reviews material
0:48:03	South side of Murrah Building, southeast corner
0:48:10	Automobile part located east of Murrah Building near NW 5 th and Broadway
0:48:38	Close up of auto part (same one)
0:49:00	Evidence—close up—east of Murrah Building near Broadway—brake part?
0:49:53	Close up of auto part
0:50:00	Inside business on NW 5 th Street, east of YMCA—evidence inside business, looking west down NW 5 th to Murrah Building
0:50:52	Close up of parts with numbers
0:51:09	Close up of lock
0:51:16	Murrah Building from a rooftop—possible from the roof of the C. R. Anthony Building at NW 6 th and Broadway
0:51:20	Close up of evidence on roof
0:51:46	Plaza between the Murrah Building and the Federal Courthouse—on rooftop?—SW corner of south side of Murrah Building

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Time	Tape No. 00C ACTIVITY ON SCREEN Sheriff's Department Video
0:52:16	Federal Courthouse
0:52:46	Ground level—south side of Murrah Building
0:53:26	Crews waiting to work, south side of Murrah Building—rain gear—around 3:00 p.m.—workers
0:54:29	Children's playground area, south side of the Murrah Building
0:54:40	Workers going into Murrah Building from the south side—dog handlers and dogs
0:55:41	Inside the underground parking area—some dark footage
0:59:04	Inside underground parking area with lights
1:01:27	Outside again—NW corner of Murrah Building—¼ circle pan from SE to W to N
1:02:30	Victim under sheet—SE side of Murrah Building—children's playground workers waiting on the south side
1:04:16	Workers waiting, north side of Murrah Building
1:04:45	Guns, ammo, packets, etc., removed from the north side mountain of debris
1:05:10	"Move back! Get out of here!" during removal of guns
1:09:35	Close up of firefighter removing packets
1:11:12	Victim found—north side of the building
1:11:38	Murrah Building south side—perimeter goes up
1:13:02	Removal of body from the north side—"damage" to "original"—keep rolling—tape reviews material
1:14:46	Workers waiting to go inside—south side of the Murrah Building
1:17:18	Close up of something inside the south side of the Murrah Building
1:17:50	South side—evening rains beginning (sunset was at 8:07 p.m.)—this is after sunset
1:20:46	Heavy rains and high winds—between 9:00 and 9:30 p.m.
1:23:30	"Back out!"—Two victims removed on gurneys
1:24:50	Talk of tornadoes—weather danger—blowing debris
1:25:36	Wind-blown flag atop Federal Courthouse—high winds
1:26:41	Tacked-on implosion footage from KWTW Channel 9
1:29:10	End of video

VIDEO TAPE NUMBER 00D

Time	TAPE No. 00D ACTIVITY ON SCREEN "Oklahoma City: What Really Happened"
0:00:00	Leader
0:00:14	Introduction by State Representative Charles Key—disclaimer
0:00:42	Background information—OKC is now famous for the most deadly terrorist act in American History
0:01:08	Opening title—comments by Charles Key, questions about the size of the bomb, reports of other explosive devices found in the building, questions about John Doe No. 2, references to remarks made by Gen. Partin at press conference of 06/30/95—decisions because of questions
0:03:31	Two kinds of people in the building—survivors and recoveries—Firefighter Mike Shannon comments from inside the building—FEMA footage—during first bomb scare had three survivors who had to be left behind
0:05:30	Interview with Toni and Earl Garrett—nurse who tagged bodies and her husband—Toni tagged over 120 victims on the first afternoon
0:06:37	Government officials claimed only one bomb, but building was evacuated several times—Toni tells of first bomb scare—at least four other people told Toni that they knew of other bombs, some saw another bomb removed—a timing device on one bomb removed from the building set to detonate ten minutes after the initial explosions—witnesses said it was an active bomb
0:08:19	Interview with Glen Wilburn—questions about explosives—witnesses told of BATF explosives being removed from the building in the days following the blasts—Wilburn's beliefs about the first bomb scare
0:09:23	Interview with John D. Cash—comments about Dick Miller, Assistant Fire Marshall for OKC Fire Marshall's Office—confirmed other explosive devices removed—discusses BATF training device statements
0:10:54	File footage from Sheriff's Department video showing removal of guns from the north side debris mound
0:11:09	J.D. Cash tells story about 2'x2'x2' box marked "High Explosives" full of percussion caps—Cash makes speculation about presence of C4 in the building—arsenal rooms on the 9 th floor and its contents
0:12:58	File footage of rescue operation
0:14:07	Comments about the 2 nd anniversary of Waco incident—was this date significant for BATF? Was there a bomb threat? Where were the BATF agents?
0:14:24	Interview with Pat Briley—discusses U.S. Marshal's 03/22/95 alert on all federal buildings by Director Gonzales because of threats from Arab terrorists—had to be approved by Janet Reno and FBI and BATF had to have been notified in advance—memo reported in <i>Star-Ledger</i> newspaper—article shown on screen

Time	TAPE No. 00D ACTIVITY ON SCREEN "Oklahoma City: What Really Happened"
0:16:25	Toni Garrett—there were bomb threats for two weeks before the bombing—BATF and FBI knew about it
0:16:51	Interview with Michael Hinton—tells about federal building evacuation before April 19—Federal Building had had bomb threat a week before
0:18:08	Glen Wilburn—comments about prior knowledge by federal officials—information from witnesses to Wilburn about prior bomb threats at the Federal Building during the week before—story of husband of victim who spoke with BATF agent outside the building who said no BATF agents were inside—bomb squad was in front of the building at 7:30 a.m. on April 19 according to witness reports
0:20:50	Is there a Middle Eastern connection? What about John Doe No. 2?
0:21:12	Glen Wilburn—discusses John Doe No. 2, Todd Bunting, comments about Elliott's testimony, two people with McVeigh at the body shop—discusses McVeigh's appearance at 10 th & Harvey tire shop
0:23:12	Interview with Mike Moroz—tells of his encounter with McVeigh at Johnny's Tire Store—says John Doe No. 2 was in the truck, McVeigh was wearing baseball cap backwards—truck came in from the west—three days after the bombing, Moroz was taken to the FBI line-up and allegedly identified McVeigh
0:26:13	File footage of rescue effort
0:26:28	John D. Cash—tells of an interview with the man from the Journal Record Building—saw the yellow Marquis in the parking lot with one person in the vehicle—sees Marquis now with two people racing toward him, jumps curb guards, identifies McVeigh and John Doe No. 2—says he helped FBI with their composite of JD2—license plate is Oklahoma plate dangling by one bolt—minutes later the Murrah Building explodes—exits west side of the building—sees Middle Eastern man in the intersection staring at the Murrah Building smiling from ear to ear
0:30:50	Charles Key interviewed by Chuck Allen—why jeopardize your political career? Government experts say ANFO bomb did the damage—other experts say no—comparison with Lebanon explosion—no intent to interfere with federal investigation—just deal with public information
0:33:23	Toni Garrett—about work at triage unit, volunteered to tag the bodies with another nurse and a doctor—describes horribly burned and mangled victim—at south side of the building saw people dead at their desks in the building—people blown out of the windows
0:35:44	Press conference of 06/30/95—General Benton Partin—some statements by Partin about the internally-placed explosives at the column bases—inability of the truck bomb to do the damage which was done to the Murrah building
0:41:09	Discussion of damage—inconsistent with truck bomb parked outside the building, quotes from Partin's letter—rear truck axle with VIN number from Sheriff's department video

Time	TAPE No. 00D ACTIVITY ON SCREEN "Oklahoma City: What Really Happened"
0:41:58	Brief intermission
0:42:17	Continuation—could there have been more than one explosion?
0:42:37	Interview with Dr. Raymond Brown at Sarkeys Energy Center, University of Oklahoma campus in Norman, OK—discusses seismic record from April 19
0:49:11	Was the Waco anniversary significant to the BATF? Did they have prior knowledge? Glen Wilburn comments on contradictory information received from local BATF agents and comments made by John Magaw
0:51:05	John D. Cash discusses BATF agent Alex MacCaulley's alleged "free fall" in the elevator of the building—elevator operators contradict the BATF statements—no elevators fell, no passengers were aboard
0:54:09	Toni and Earl Garrett discuss attitudes of federal agents at the triage center—FBI arrives and takes over—Toni and Earl are told to keep their mouths shut about the actual death toll
1:01:18	John D. Cash discusses federal intimidation of witnesses
1:02:08	Roger A. Raubach gives his opinion of Gen. Partin's position of the bombing—agrees that ANFO could not have destroyed the building
1:02:46	Mike Shannon remarks that most survivors were found against the north wall—not sure about the tie-in, but will be interesting to look at that aspect—crater covered with plywood
1:04:01	John D. Cash says truck brought down front of building and accidental explosion of alleged C4 took out the rest of the building—FALSE!!
1:05:51	Michael Hinton tells his story of being on the bus at the time of the explosions—two blasts, two pressure forces
1:07:00	John D. Cash discusses BATF arsenal room location and the rupturing of it
1:07:41	Toni Garrett—talked to a worker at Water Resources Board Building—heard two explosions
1:08:04	Disclaimer—why are witnesses talking?
1:08:21	Glen Wilburn's reason for talking
1:09:14	Toni and Earl Garrett's reason for talking
1:10:44	Dr. Raymond Brown's reason for talking
1:11:49	John D. Cash's reason for talking
1:12:29	Michael Hinton's reason for talking
1:13:27	Charles Key's reason for investigating
1:14:34	Conclusion—file footage—credits
1:16:18	End of video

VIDEO TAPE NUMBER 001

Time	TAPE No. 001 ACTIVITY ON SCREEN KWTV Channel 9—Broadcast Video
(04/19/95—3:30 p.m.—9:30 p.m.)	
0:00:00	Leader—tuning in—(tape begins between 3:30 p.m. and 4:00 p.m. CDT)
0:00:08	Red Cross counselor w/Tammy Payne—mental health
0:02:42	Dr. Stephen Sloan—Univ. of OK expert on domestic terrorism—soft target—sophisticated bomb and group—no connection with Waco Massacre anniversary
0:05:05	Shot of alleged “bomb car”
0:06:10	Sloan’s comments about sophistication of bomb—“very heavy level of sophistication”
0:07:06	Info about other bomb threats
0:07:48	Murrah Building—computer animation, before and after
0:08:15	More Dr. Sloan—symbolic target, balance between freedom of movement and security
0:09:45	Reported that ATF said bomb, possibly in a car
0:10:10	Rain is falling, wind is picking up
0:11:15	Hospital update about victims
0:12:48	Tammy Payne—about Medical Examiner—don’t call—physically go to 1 st Christian Church Family Crisis Assistance Center with information for information
0:13:33	Cancellations of community activities
0:14:07	Randy Renner downtown—rain, volunteerism, aerial shots, file footage—live shots of flapping debris—dangerous because of lightning earlier
0:17:10	Randy Renner—telephoto shot of firefighters in the building on 8 th floor
0:20:40	File footage from St. Anthony Hospital earlier in the day—emergency room drive-through—arrival of the injured
0:21:40	Cynthia Gunn interviews two Highway Patrol Troopers in the rain—1 unnamed, other is Craig Metcalf—reports from inside the building—can hear victims but can’t reach them—removal of children—shift changes now—about 2 nd bomb warning—did return after bomb warning to rescue a victim, still living—anger, cold-blooded murder
0:25:49	Seventeen children, 2 adults killed—total 19 dead, 300 taken to hospitals for treatment—setting up Helpline for telephone counseling
0:27:42	Jenifer Reynolds reads from AP Press Wire—all 15 BATF employees have survived

Time	TAPE No. 001 ACTIVITY ON SCREEN KWTV Channel 9—Broadcast Video
0:28:55	Tammy Payne—much rain at the television station—MWC Hospital report—do not use cellular phones, lines are jammed, emergency traffic being interrupted—mental health officials standing by to help—don't call the Medical Examiner's office, go to 1 st Christian Church for information about missing loved ones
0:30:51	Waiting for President Clinton's press conference—suspect information, 3 men, Middle Eastern, brown Chevy pickup truck description, allegedly rented from Dallas-Ft. Worth airport
0:31:37	Live at the scene—rain—workers at the building—telephoto lens view inside the building—pain relief to victims—difficulty removing victims safely
0:34:17	Helpline offered at TV Station—telephone number
0:34:34	Dr. Mary Ann Bauman—mental health panel of psychiatrists taking calls from the public—dealing with post traumatic stress, dealing with children—important to get help within first 24 hours—introduction of panel members
0:37:51	Getting ready for press conference—Robin Marsh at the OKC Civic Center—conference delayed because of call from Washington, DC—National Crisis Response Team setting up care-giving in OKC by experts from throughout U.S.
0:39:52	Back to station—end of innocence
0:40:15	Tammy Payne—Brigadier General Neal Balkan asks for all members of the Oklahoma Reserve Force to call headquarters to work—needed to work at the bomb site
0:40:50	Video shot by Greco <sp?> Productions (local production company)—scenes around the city, hospitals—repairs being made—glass companies replacing windows—fire company equipment and personnel from around the State—stay out of downtown OKC—all off ramps from highway have been closed
0:42:57	Dr. Mary Ann Bauman—calls from the public—reaction to the bombing—advice from doctors—dealing with visual impressions received by children—nightmares—dealing with sudden homelessness—helping rescuers to deal with events of the day—handling Post Traumatic Stress Syndrome—do not use alcohol to dull feelings of the day's activities—keep thoughts, images, memories, and feelings together as a mental whole—dealing with “survivor's guilt”—anger is an appropriate reaction to the bombing
0:51:30	Tammy Payne—17 children confirmed dead—estimates of 590 employees inside the building—file footage—quote from Sen. Don Nickles, makes a case for the death penalty—second bomb was found with timer set to detonate later—advice to children at home alone waiting for parents—“don't worry, mom and dad will be home soon, everything will be OK”

Time	TAPE No. 001 ACTIVITY ON SCREEN KWTV Channel 9—Broadcast Video
0:54:09	Kelly Ogle—numbers of people unaccounted for—40 federal workers, approx. 20 children—still waiting for press conference with the President and with local authorities
0:55:26	Information about suspect vehicle—late model Chevy pickup truck, brown, dark tinted windows, smoke colored bug shield—now only two suspects, ages, clothing, Middle Eastern—Arkansas authorities are alerted, not certain why
0:56:24	Robin Marsh at Civic Center—Bill Citty gave itinerary for conference—list of speakers—will discuss state, local, and federal involvement—FBI will be in charge of investigation—is it really a terrorist attack? Why in OKC?—Reminders of World Trade Center
0:58:14	OKC soft target—filler comments
0:58:42	Caller said it could not have been a car—had to have been a larger vehicle because amount of damage demands larger bomb than previously thought—stay open to that possibility—vehicle may be larger than originally estimated
0:59:15	Death toll now 20—58 people rescued during the day—carried out by rescuers in varying conditions—taken to area hospitals—expect death toll to rise
1:00:04	Computer animation again, review of details, file footage—downtown is closed—many felt and heard the blast—sound was sharper than thunder, saw the smoke—children in YMCA day care center near the Federal Building were also injured—National Guard is called out—Department of Public Safety has been mobilized—downtown area has been evacuated—a sweep near the 1 st Christian Church?? will get confirmation—this matter never mentioned again
1:02:14	Cynthia Gunn with Larry Jones of Feed the Children—supplies needed—don't come downtown—take supplies to 333 N. Meridian—families and relief workers will be fed meals—emotional toll about to hit—body bags being brought in—file footage—a solemn silence, despair—people need prayer and counseling—shock
1:06:00	President Clinton's News Conference Statement
1:08:23	Attorney General Janet Reno's News Conference Statement
1:11:00	Questions from the Press to Janet Reno
1:16:35	Robin Marsh at OKC Civic Center—introduction to the local press conference—waiting for local officials—two-minute warning—recap of President's and Reno's comments—death penalty remarks—file footage—Reno hesitant to call this a terrorist bombing, but local officials are certain that it was
1:19:00	Local Press Conference Introduction—instructions to the media about questions—more filler comments while waiting
1:20:22	Filler from station headquarters—review of suspect information and suspect vehicle—it is now 4:45 p.m.

Time	TAPE No. 001 ACTIVITY ON SCREEN KWTV Channel 9—Broadcast Video
1:21:57	Chief of Police Sam Gonzales' Comments—gives time of explosions as 9:04 a.m.—this is later changed by seismic reports—police have lead responsibility for perimeter control and traffic control—National Guard will also control perimeter—FBI is lead agency for investigating incident
1:23:50	Mayor Ron Norick's Comments—numbers to call if you were in the building at the time of the explosions—downtown area has been secured—thanks communities who have volunteered their services—gas lines cut off to the downtown area—water utilities also turned off—Norick requested National Guard around 11:30 a.m.—do not come downtown
1:27:18	Governor Frank Keating's Comments—ordered Army and Air National Guard to assist—Dept. of Public Safety asked to assist—declared state of emergency in OKC—emergency team will be in place around the clock to assist the “federal family”—thanks Clinton for his help—is sending in outside experts—thanks people of OKC for their outpouring of compassion and help
1:29:30	FBI Special Agent-in-Charge Bob Ricks' Comments—FEMA is running late—FBI is lead agency appointed by Clinton—no assumptions about perpetrators—many leads from those calling in
1:31:00	Question about suspects—information has been broadcast, what can Ricks tell us—Ricks says can't discuss the issue of suspects—hundreds of potential suspects
1:31:50	Question about numbers of victims—Fire Chief Gary Marrs' response—can offer confirmed numbers only—more fatalities in the building but unconfirmed
1:32:40	Question about numbers of people in building—Gary Marrs' response—accountability numbers are known by federal agencies
1:32:59	Comments about James Loftis and stability of the building—Gary Marrs' response
1:33:27	Signal Lost from Downtown Conference—back to the station news desk—telephone numbers to Mayor's office
1:34:00	Gary Marrs' discussing remains of building—one stairway remains
1:34:20	Questions about day care, numbers, etc.—Gary Marrs' response
1:34:39	Question about removal of those still trapped in building and other buildings—Gary Marrs' response
1:35:35	Gary Marrs—30% of building search completed
1:35:56	Questions to Bob Ricks about groups or reasons—no indications—cannot discuss
1:36:35	Questions to Bob Ricks about Waco connection—says no evidence of any connection, checking all leads—no possibility being excluded
1:37:00	Question about warnings—Bob Ricks says no prior warning to the FBI

Time	TAPE No. 001 ACTIVITY ON SCREEN KWTW Channel 9—Broadcast Video
1:37:12	Question about memo to U.S. Marshal Service—Bob Ricks denies knowing about it
1:37:25	Regional FEMA Director Buddy Young's Comments—expresses sympathy to the families and victims—setting up to support the local authorities
1:37:39	Signal Lost from Downtown Conference—filler comments
1:38:31	Continuation of Buddy Young's Comments
1:38:40	Question about other bombs—Bob Ricks says news was only rumors—says no other devices were found—second device does not exist
1:39:24	Question about car bomb—Bob Ricks says nobody knows yet—looks like a car bomb but nobody knows yet—crater 20-feet in diameter—wait for experts
1:40:06	Question about bomb threat—Bob Ricks says doesn't know about any bomb threat
1:40:10	Reports about two separate explosions—Bob Ricks says it was an echo effect
1:40:48	Question about military ordnance found in building—Bob Ricks says it had no link to the bombing, cannot account for it
1:41:08	Question about the rocket launcher—Bob Ricks says it will be looked into
1:41:39	Question about explosive used—Bob Ricks says ANFO possibility, calls it a high explosive
1:42:04	Question about calls claiming responsibility—Bob Ricks says cannot make conclusions yet
1:42:30	Bob Ricks says explosive highly powerful
1:42:44	Question about how experts will work—Bob Ricks' response
1:43:15	Question about depth of crater—Bob Ricks doesn't know
1:43:23	Question about how an explosion outside the building could cause so much damage inside—Bob Ricks says building front sheared off—bomb went up and out
1:32:50	Questions to Fire Chief Marrs about medical response, Marrs' response
1:44:35	Questions to Gary Marrs about procedure to search building
1:45:21	Question about underground Concourse safety—Gary Marrs' says no information about damage to Concourse
1:46:48	Questions about relief and damage to the building—Gary Marrs' response—medical, Red Cross, etc.
1:46:31	Question to Police Chief Sam Gonzales about children in day-care center
1:46:50	Question to Mayor Norick about repair efforts to downtown area
1:47:30	Question to Mayor Norick about area within the perimeter

Time	TAPE No. 001 ACTIVITY ON SCREEN KWTV Channel 9—Broadcast Video
1:47:48	Question to Mayor Norick about evacuation of downtown businesses
1:48:10	Question to Mayor Norick about injuries in surrounding buildings
1:48:27	Question to Mayor Norick about injury reports
1:48:37	Question to Mayor Norick about federal office injuries, evacuations, utilities turned off
1:49:15	Cut away from news conference to Cynthia Gunn downtown, interviewing Governor Frank Keating at the bomb site—Clinton asked Keating to help draft a national response to similar future incidents
1:53:03	Close of Press Conference at Civic Center—announcement about FBI handling all press releases in the future—recap by Robin Marsh
1:54:35	Back to the station—computer animation again—review of present conditions—may not be a car bomb—death toll
1:55:47	Randy Renner downtown—review of the day's events, file footage
1:57:18	From file footage, comments by worker from Kerr-McGee who rescued little boy
1:57:28	Randy Renner—file footage of victims being rescued—comments—work in the building at the present moment, cannot see much of the building—review of events
1:58:35	Back to the station—search dogs
2:00:06	Heidi Browning—reporting from downtown, Heidi tells her story, she was downtown at the time of the explosion—file footage
2:00:55	Footage of Edye Smith weeping at the scene
2:01:13	Statement by rescue volunteer
2:01:30	File footage, statements by rescue worker
2:01:44	Heidi Browning—medical personnel have been told to go home, no second wave of injured to treat, mentions speaking with Toni Garrett
2:02:14	Review of suspects and suspect vehicle, live aerial shot, mention of no-fly zone, comments about night operations
2:04:39	Review of President Clinton's comments, excerpts from his speech
2:05:51	Comments about terrorism, even in OKC
2:06:14	Gan Matthews interviews Dr. Stephen Sloan, domestic terrorism expert from Univ. of OK
2:07:13	Dr. Sloan's comments about state-sponsored terrorism, degree of sophistication of the explosion, symbolic target
2:08:17	Angela Buckelew at the 1 st Christian Church Family Crisis Assistance Center—bring photographs, identifying characteristics of missing loved ones—counselors, priests, and funeral directors present to help
2:09:09	Angela Buckelew interviews Dr. Ed Beckham <sp?>, he is quite emotional trying to discuss the events of the day

Time	TAPE No. 001 ACTIVITY ON SCREEN KWTV Channel 9—Broadcast Video
2:10:56	Back to the station—file footage—preparation for local evening news-cast
2:12:18	Special Edition of Newslines 9—Terror Hits Home—review of the day's events—believed to be a car bomb with ANFO—suspects
2:14:09	Hospital update of victims
2:14:29	Randy Renner downtown—describes the day's events—do not come downtown, emergency workers are out of patience, people will be escorted to jail—file footage
2:16:44	File footage—curbside interviews during the morning, comments from victims
2:20:02	Tammy Pratt with Asst. Fire Chief Jon Hansen (approx. 5:45 p.m.)
2:21:10	Tammy Pratt mentions Toni Garrett's comments
2:21:44	Toni Garrett—brief comments
2:22:22	Cynthia Gunn interview with Oklahoma Highway Patrol Trooper Joe Todd—he has a piece of the shattered granite—most unusual—makes comparison to World Trade Center explosion—(on screen shown as 5:47 p.m.)
2:23:51	Back to news desk—probably not a car bomb, will probably be a truck bomb—telephone number to call if you were in the building
2:24:43	Heidi Browning downtown—her story—she is numb—was downtown within minutes of explosions
2:25:15	File footage—curbside accounts—review of the events of the day—Edey Smith weeping—rescuers—the “angel” man—footage of the panic of the second bomb warning (on screen shown as 5:51 p.m.)
2:26:48	Interview with Jack Dockery <sp?>—his cousin was inside—he tells her story
2:27:37	Back to news desk—comments to Heidi—emotions of the day—review of Clinton's remarks
2:31:00	Comments by Governor Frank Keating—mentions other explosive devices found on the scene
2:31:34	Back to news desk—local officials say explosion was result of van or truck bomb—description of suspects and suspect vehicle—federal buildings across the country evacuated—helpline number
2:33:33	Angela Buckelew from 1 st Christian Church Family Crisis Assistance Center—people who cannot find family or friends—some unable to speak—a new list will soon be available of everyone taken to hospitals in any condition—file footage from St. Anthony Hospital moments after the blasts (on screen shows 5:59 p.m.)
2:35:54	Back to news desk—17 children killed, 20 people total

Time	TAPE No. 001 ACTIVITY ON SCREEN KWTV Channel 9—Broadcast Video
2:36:34	Dr. Mary Ann Bauman—helpline information—many people have called with questions—introduction of panel of psychiatrists and mental health experts—questions from the public—comments from the doctors—“survivor's guilt”—preventive mental health—how to work with youth groups—the need to ventilate feelings, to grieve
2:39:35	Aerial shot from helicopter taken moments before—thanks for community and media support—night operations getting set up—former 5-mile flight restriction lifted
2:41:00	Tammy Payne—how the public can help—Feed the Children—command post at 333 N. Meridian—need coffee, raincoats, tents, flashlights, batteries, umbrellas, CO-2 tanks, triage supplies—blood donations—FEMA help
2:42:55	Footage from Blood Bank—Red Cross—supplies being brought in
2:43:40	Gary England, meteorologist—weather report
2:46:06	Back to news desk—live shot of the building—death toll—anticipation of higher casualties—computer graphic—how to help
2:48:48	Heidi Browning downtown—review of the events of the day—file footage—other explosive devices—several bomb threats throughout the day—(on screen shows 6:15 p.m.)
2:53:10	(6:18 p.m.) Back to news desk—review of Clinton's remarks
2:55:43	Back to news desk—CBS Evening News will air for one hour at 7:00 p.m.—recap of death toll—file footage
2:57:47	Back to news desk—Comments by Dr. Espe and co-worker—review of events of the day—same computer graphics—review of suspects
2:58:56	Heidi Browning downtown—review and file footage—curbside interviews
3:00:47	Interview with Aren Almen, mother of Baby Baylee
3:01:00	Curbside interviews—“angel” man—back to Heidi Browning—other explosive devices found—search will continue all night—sightseers will be escorted to jail—(on screen shows 6:26 p.m.)—look on people's faces is shock, grief—extreme carnage
3:03:04	Back to news desk—call if you were in the building
3:03:26	File footage of the rescue of Dr. Brian Espe, interview with Espe and his co-worker (co-worker's “earthquake” comments come later during CBS Evening News—vibrations before the explosion—look ahead for that entry)
3:05:22	Randy Renner from downtown—“It's worse than anybody realizes”—file footage shot moments before—National Guard, police, firefighters on 2 nd & 3 rd floor—shot from due west of the building—Renner's account of his experience—second bomb warning panic footage—four bombs alleged—not prepared for what he saw
3:09:31	Back to the news desk—innocence lost as said by Dr. Stephen Sloan

Time	TAPE No. 001 ACTIVITY ON SCREEN KWTV Channel 9—Broadcast Video
3:09:55	Cynthia Gunn downtown at 7 th & Harvey Media Center—people are alive still trapped—only 30% of building has been searched—special equipment and searchers organizing for night operations—two amputations were performed to free victims from rubble
3:13:13	Angela Buckelew at 1 st Christian Church Family Crisis Assistance Center—families reviewing the new lists—a prayer service just ended—if you have missing friends or relatives, bring identifying characteristics or photographs of victims
3:14:07	Back to news desk—file footage from St. Anthony Hospital shortly after the explosions
3:15:35	Hospital update
3:16:35	Tamara Pratt downtown—interview with Senator Jim Inhofe
3:18:28	Footage of Toni Garrett's comments
3:18:53	Back to Tamara Pratt—not much movement visible inside the building
3:19:52	Back to news desk—footage from blood donation centers, interview with volunteer blood donor
3:20:38	Tammy Payne reviews information about suspects and suspect vehicle—Mitch Jelniker says Jon Hansen says survivors are still inside—story of Daina Bradley's leg amputation—info about available shelters and assistance, help line information
3:22:44	More information about Daina Bradley's leg amputation
3:23:30	Another review of Clinton's comments
3:26:02	Federal Buildings across the country evacuated, footage of those situations
3:26:36	Review of local press conference comments—Mayor Ron Norick, Governor Frank Keating, Fire Chief Gary Marrs
3:28:37	Jesse Gary downtown—interview with Representative Frank Lukas
3:30:28	Footage of repairs being made downtown to damage from bombing, comments from locals
3:32:09	Back to Jesse Gary—comments—described what he saw that morning from the helicopter just after the explosions
3:33:22	Heidi Browning from downtown—continuation of search, rescue, and repair—interview with James Loftis, design architect
3:35:16	CBS Evening News with Connie Chung—“Terror in the Heartland”—“has Middle East terrorism written all over it.”
3:37:34	Peter Van Sant <sp?>—review of the events, file footage
3:38:34	Dr. Espe's co-worker, Jack Gobin—remarks about vibrations before explosions
3:38:51	File footage—shot of vehicle believed to have carried the 1,500 lb. bomb—Bob Ricks' comments—bomb scare—“Luckily the report was untrue” (referring to other devices found in building)—Jon Hansen

Time	TAPE No. 001 ACTIVITY ON SCREEN KWTV Channel 9—Broadcast Video
3:40:36	Footage of Dr. Brian Espe's escape—comments
3:41:01	Governor Frank Keating's comments—file footage
3:41:26	Back to Connie Chung—interview with Mayor Ron Norick—"Is your city able to handle this?"
3:44:40	Scott Pelley—says Loftis says no danger of building collapse—comments about rescue effort—victims—day care center
3:46:48	Rita Braver at the White House—reviews Clinton's reaction and remarks, Leon Panetta—suggestions of closing Pennsylvania Avenue—involvement of Intelligence Community
3:49:37	Break back to news room—Mitch Jelniker
3:49:45	Heidi Browning downtown—rescue will continue all night
3:50:32	Helpline—Dr. Mary Ann Bauman—over 80 calls
3:51:03	Weather Update with Gary England—tornado warning in SW Oklahoma—movement ENE at 40 mph
3:51:51	Back to Connie Chung—interview with Frank Keating—his typical remarks—coordination of federal and state officials—two car bombs—he saw the axle—denies second devices found—one device in two cars—or two devices in two cars—"bull pens"—suspects from Middle East? Keating says might be a rumor that they are suspects—says everyone is a suspect
3:55:06	Jim Stewart with Justice Department opinions—says one of BATF's best bomb experts was two blocks from the scene, gave initial report—Janet Reno's comments—Ms. Toensing—FBI has had eight claims for responsibility—Oliver "Buck" Revell
3:56:45	John Roberts interviews James Fox, former FBI official in charge during World Trade Center bombing—evidence will be at the bottom of the crater—interrupted by tornado warning weather report—Fox interview continued—bombing's impact on American psyche
3:59:44	John Roberts interviews Jack McGeorge, former Secret Service agent—ANFO is a possibility, but he says it may be premature to assume that—residue should be present if ANFO—Roberts calls ANFO a "high explosion"—"witch's brew"—bomb signature possibilities
4:02:06	Back to newsroom—Dr. Mary Ann Bauman with the Helpline panel—death toll now 24, 17 of them children
4:03:08	Robin Marsh at the 1 st Christian Church Family Crisis Assistance Center—still looking for children from YMCA
4:03:52	Severe weather update—tornado watch and severe thunderstorm watch
4:04:40	Connie Chung—review of damage—offices—file footage
4:05:34	Interview with Asst. Fire Chief Jon Hansen—building unstable, "Have you saved anyone?"—"Can you handle this?"—"Are hospitals able to handle all the injured?"

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Time	TAPE No. 001 ACTIVITY ON SCREEN KWTW Channel 9—Broadcast Video
4:08:35	Remarks from Bob McNamara—survivors very lucky—file footage, interrupted by:
4:09:50	Tornado update with Gary England
4:10:24	Bob McNamara continued—to Jerry Bowen—bomb threats elsewhere in the United States—Janet Reno—“the new American anxiety”—UCLA professor—guard, L.A. bomb squad officer
4:13:01	Break—Dr. Mary Ann Bauman, calls from the community—death toll now 26, 17 of them children, 300 unaccounted for—about the day care center
4:14:35	Weather update—helpline number
4:15:56	John Roberts interviews David Martin at the Pentagon—the question of U.S. military retaliation if a foreign government was involved in OKC bombing—“there are times”—too soon to tell
4:17:39	John Roberts introduces Prof. Fouad Ajami, Middle East authority and Steven Emerson, author and terrorism expert
4:17:58	John Roberts interviews Steven Emerson—locking up suspects doesn't work—about state-sponsored terrorism—extremists in Islamic community
4:19:00	John Roberts interviews Prof. Fouad Ajami—trace the trail of terrorism to the U.S.—from 1980s, through Europe, into the United States, World Trade Center bombing—terrorists are “free-floating drifters”—more with Steven Emerson—in the heart of the “Great Satan” all Middle Eastern terrorists operate together—retailers of terror
4:21:38	Back to news desk—Gov. Frank Keating—“no secondary devices”
4:22:42	Dr. Mary Ann Bauman—helpline number—questions from the public
4:23:07	What can you do? Feed the Children needs—weather update
4:24:10	Connie Chung interviews Dr. Thomas Coniglione, Medical Director of St. Anthony Hospital—injury numbers—status—file footage—“How can you handle it all?”
4:26:40	Back to news desk, 26 dead—Dr. Mary Ann Bauman—over 100 calls from the community so far—weather update—“Feed the Children” need list
4:28:18	Richard Threldkeld—about America's loss of innocence and security—history of terrorist acts including Beirut, Japanese subway, Brian statement—interviews with unknowns about “why Oklahoma”—James Fox—religious, political zealots—file footage, World Trade Center—the openness of America is a threat to the country—“Look out America”
4:30:21	Connie Chung—file footage review of the events of the day—Toni Garrett—Dr. Espe's rescue
4:34:07	Back to the Channel 9 news desk—review of the events—weather update

Time	TAPE No. 001 ACTIVITY ON SCREEN KWTW Channel 9—Broadcast Video
4:35:33	8:00 p.m.—list of victims treated, or treated and released
4:39:18	Interview with Dr. Gary Massad about the scene and medical effort—involved in Daina Bradley's amputation
4:40:43	Interrupted for weather update
4:41:42	Robin Marsh at 1 st Christian Church with the Cooper family—6-month-old Antonio is missing—interviews with family members—photograph of the child
4:46:20	Heidi Browning downtown—it is raining now—spotlights on the building—file footage, interviews—300 unaccounted for
4:49:24	Thunderstorms intensifying—tornado warning—weather update
4:50:20	Back to news desk—continuation of interview with Dr. Gary Massad about Daina Bradley's amputation
4:53:00	Review suspects information even though FBI says there are no real suspects now, but no one is being ruled out
4:54:05	People were interviewed at Plaza Hotel about dark-complected, non-English speaking suspects, not Hispanic—suspects checked out early in the morning—no further information
4:54:59	Weather update
4:55:45	Dr. Mary Ann Bauman—interviews panel members about questions from the public—how to deal with the children and the schools—blood institute on Portland Avenue is still open—waiting time is six hours to donate—EMT called after child died in his arms—dealing with guilt
4:59:13	Back to news desk—review Antonio Cooper information, still waiting
5:00:02	Randy Renner downtown fighting the high winds and rain—debris blowing
5:00:30	Randy Renner interviews Becky Hernandez with Feed the Children—even pastors and counselors are shocked—lots of rain and high winds—rescue efforts continuing—wind causing problems for firefighters and rescuers
5:02:50	No new word on suspects
5:03:32	Robin Marsh—still waiting for information on 6-month-old Antonio Cooper
5:04:33	Call for help from Feed the Children—333 N. Meridian—list of items needed—1-800-741-1441
5:05:12	Numbers to call if you were in the building—ATF and FBI have sent in big teams to investigate
5:05:56	Robin Marsh—commotion at 1 st Christian Church—sheriff's officials apprehend man causing disturbance at the Family Assistance Center—great distress—emotionally overwrought—taken away from the scene—back to news desk

Time	TAPE No. 001 ACTIVITY ON SCREEN KWTV Channel 9—Broadcast Video
5:08:14	Randy Renner downtown—fire department has recovered three more people alive inside the building—wind is blowing very hard—rain is intense—lighting flashing—debris flying off of the building—concrete is falling off the building (around 8:35 p.m.)
5:12:26	Severe weather update—tornado on the ground just west of Ardmore—moving at 50 mph ENE—outflow from the storms that passed just to the east of OKC—back to the west another line of storms coming
5:14:17	Back to Randy Renner about three people found alive—all encouraged by the rescue
5:15:30	List of all victims treated at hospitals, or treated and released from hospitals—latest death toll, 26 dead 17 of them children, 300 missing—rescue response was superb—weather is very bad, rescuers are tired—all energized by the three survivors found—workers will be working all night—12 FEMA vehicles and trailers came from Dallas to work on the operation
5:20:47	Randy Renner has new video from the scene—federal workers picking up evidence—rubble, debris from areas surrounding the building—800 N. Hudson building shown making repairs—wind and rain hampering rescue effort and removing evidence—temperatures are dropping—effects the preservation of evidence
5:24:21	Mention of the World Trade Center bombing—finding the VIN on a piece of metal which “broke” the case in New York
5:24:35	Cynthia Gunn downtown—debris flapping in the wind—big excitement over the three survivors recently found
5:25:53	Helpline is available for anyone needing help and counseling—Dr. Mary Ann Bauman, calls from the public—youth want to know how to help
5:27:24	Weather update—tornado on the ground near Sulfur in Murray County moving east 55 mph—tornado warning in Carter County near Ardmore
5:27:57	Crater will help ATF track down the perpetrators—Dave Balut saw the crater and offers a report
5:28:20	Dave Balut—was present 15 min. after explosions—his footage of the scene
5:29:35	NW 7 th and Walker—wholesale automotive paint shop employee says: “I felt a kind of a rumble, and then a blast. I thought somebody had pulled through the front of our building, a truck or something. And then glass went everywhere throughout the whole building.”
5:31:13	What about the extensive tunnel system: The Conncourse? Dave Balut got to walk through part of the Conncourse near the Park Avenue area near Liberty Bank and near the Oklahoma County Courthouse—could not get near the Federal Courthouse—all doors locked, all blocked off. “It is going to be interesting to see, though, because that Murrah Building and the Federal Courthouse are connected to that tunnel system, and obviously if there was a crater 20-feet down in front of the building, I suspect that the tunnel system there is going to be affected as well.”

Time	TAPE No. 001 ACTIVITY ON SCREEN KWTV Channel 9—Broadcast Video
5:32:16	Robin Marsh at the 1 st Christian Church—folks are not giving up hope—a man came in searching for a friend of his who worked in the Marine Recruiting Center—the friend was from New Jersey—he had no family or close relatives in Oklahoma—nearing 9:00 p.m.—Ruby's Pre-School is providing free day care for children of families waiting for news if the children do not need to be in that tense and anxious situation—908 NE 30 th
5:33:13	Robin Marsh interviews Peggy Pringle, a minister from Bethany area—talks about counseling—has a list some of the missing people
5:34:54	Randy Renner downtown—no further word on three rescued earlier—cranes in front of the building—rescued removed from south side, impossible to remove victims from the north side because of devastation—file footage of ATF and FBI searching for evidence
5:37:55	Cynthia Gunn from downtown—encouraging news—rescue worker says there is one woman pinned in the basement—woman says there are two other people with her, does not know if they are alive or dead—working on trying to get her out—(around 9:00 p.m.)
5:39:30	Gov. Keating talking to press downtown—happy about live persons found, unhappy about the weather—workers check with supervisors to find out whether or not to go to work tomorrow
5:43:38	Ed Murray from the news room—back from St. Lukes Church (15 th & Robinson) where Red Cross has set up shelter and information center—has anyone seen 16-month-old Danielle Bell? Small missing child—description given—call in if child has been seen
5:45:15	Information on “get-away” car has changed—now looking for a small blue GM car instead of a late model brown Chevy pickup truck—instead or in addition to
5:45:37	Dr. Mary Ann Bauman with the Helpline—how to handle the images and feelings—how to help—talk about feelings—no problems are insignificant—everyone should talk
5:47:47	Cynthia Gunn from downtown—still working on rescuing the girl pinned in the basement—water still in the basement—about 24 rescuers in teams of 4, going floor to floor into the harder spaces to check
5:48:50	Rescuers will get counseling—will happen at end of each shift—standard procedure after initial period
5:49:24	Computer graphics (again) of the explosions
5:50:33	Robin Marsh from 1 st Christian Church—still waiting for word of loved ones—Antonio Cooper story
5:52:32	Heidi Browning downtown—basket on crane can be seen moving near the upper floors, searching, taking dog up, started at middle of building, four floors up, moving to the west side, rescuers calling out to someone in building

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Time	TAPE No. 001 ACTIVITY ON SCREEN KWTV Channel 9—Broadcast Video
5:55:34	Workers leave basket, go onto the fourth floor, taking dog with them—reaching down into a sack or bag for something—telephoto lens gives close look
5:58:28	Tamara Pratt—about the basket activities—chopper (Oklahoma Air One) activities spotlighting the area—lighting the building for the rescuers
5:59:57	Police source says FBI says they have found axle of the bomb car two blocks from the scene—1,000 to 1,200 lb. of explosive estimated—review of search efforts—helicopter overhead
6:02:42	National Guard has 40 MPs on duty at this time—chopper working perimeter security
6:03:30	News desk: call before you go to work tomorrow, Helpline number
6:04:02	Dr. Mary Ann Bauman—had close to 200 calls—no problems too small—children upset—need to be told that they are safe—focus on normal activities—let the children lead with questioning
6:06:15	Tamara Pratt downtown—chopper was spotting top of the building—not sure why
6:07:25	Heidi Browning—file video of rescuers going up to fourth floor—team workers going in the building
6:09:00	End of tape

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