

H.R. 3162 - USA PATRIOT ACT of 2001

SECTION-BY-SECTION ANALYSIS

TITLE I: ENHANCING DOMESTIC SECURITY

Section 101: Counterterrorism fund -- establishes a counterterrorism fund to rebuild any Justice Department component that has been damaged or destroyed as a result of a terrorism incident; provide support for investigations and to pay terrorism-related rewards; and conduct terrorism threat assessments. *Not in Administration proposal*

Section 102: Sense of Congress condemning discrimination against Arab and Muslim Americans - *Not in Administration proposal*

Section 103: Increased funding for the FBI's technical support center – Authorizes \$200 million for each of FY 2002, 2003, and 2004 for the technical support center. *Not in Administration proposal*

Section 104: Requests for military assistance to enforce prohibition in certain emergencies – Allows military to assist state and local law enforcement with domestic chemical weapons emergencies. *Not in Administration proposal*

Section 105: Expansion of National Electronic Crime Task Force Initiative – Directs the Secret Service to develop a national network with electronic crime task forces based on the New York Electronic Crime Task Force model. *Not in Administration proposal*

Section 106: Presidential Authority – Expands International Economic Emergency Powers Act to allow the President to confiscate and vest properties of an enemy when United States is engaged in military hostilities or has been subject to an attack by that enemy. It allows classified information, used to make a determination regarding national security or terrorism cases, to be submitted *ex parte* and in camera to the reviewing court of such determinations. *Same as Administration Proposal.*

TITLE II: ENHANCED SURVEILLANCE PROCEDURES

Section 201: Authority to Intercept Wire, Oral, and Electronic Communications Relating to Terrorism – Adds terrorism offenses to the list of predicates for obtaining title III wiretaps. *Not in Administration proposal.*

Section 202: Authority to Intercept Wire, Oral, and Electronic Communications Relating to Computer Fraud and Abuse Offenses – Adds computer fraud and abuse offenses to the list of predicates for obtaining title III wiretaps. *Not in Administration proposal.*

Section 203: Authority to Share Criminal Investigative Information – Allows intelligence information obtained in grand jury proceedings to be shared with any law enforcement, intelligence, immigration, or national security personnel as long as notice is given to the court after the disclosure. Recipient can only use information in conduct of their duties subject to disclosure limitations in current law. Intelligence information obtained from wiretaps can be shared with law enforcement, intelligence, immigration, or national security personnel. Recipients can use the information only in the conduct of their duties and are subject to the limitations in current law of unauthorized disclosure of wiretap information. Attorney General must establish procedures for the release of this information in the case of a U.S. person. Intelligence information obtained in intelligence operations can be disclosed to intelligence personnel in performance of their duties. *Narrowed Administration proposal to limit scope of personnel eligible to receive information and other limitations noted above. In case of grand jury information, limited proposal to require notification to court after disclosure.*

Section 204: Clarification of Intelligence Exceptions from Limitations on Interception and Disclosure of Wire, Oral, and Electronic Communications -- Explicitly carves out foreign intelligence surveillance operations from the protections of ECPA. *Same as Administration proposal.*

Section 205: Employment of Translators by the FBI – Authorizes the FBI to expedite employment of translators. *Not in Administration proposal.*

Section 206: Roving Surveillance Authority under FISA – Expands FISA court orders to allow “roving” surveillance in manner similar to Title III wiretaps. *Same as Administration proposal.*

Section 207: Duration of FISA Surveillance of Non-United States Persons who are Agents of a Foreign Power -- Currently, the duration for a FISA surveillance may initially be ordered for no longer than 90 days but later can be extended to one year. This section changes the initial period for electronic surveillance from 90 to 120 days and extensions from 90 days to one year; and for searches from 45 to 90 days. *Narrower than Administration proposal which sought to eliminate the initial 90-day limitation and authorize surveillance for up to one year from the outset.*

Section 208: Designation of Judges – Increases number of FISA judges from 7 to 11 and requires that at least 3 judges reside within 20 miles of the District of Columbia. *Not in Administration proposal.*

Section 209: Seizure of Voice Mail Pursuant to Warrants -- Provides that voice mails can be accessed by the government with a court order in the same way e-mails currently can be accessed and authorizes nationwide service with a single search warrant for voice mails. *Same as Administration proposal.*

Section 210: Scope of Subpoenas for Records of Electronic Communications -- Broadens the types of records that law enforcement can subpoena from electronic communications service

providers by requiring providers to disclose the means and source of payment, including any bank account or credit card numbers, pursuant to a subpoena. *Same as Administration proposal.*

Section 211: Clarification of Scope – Broadens the scope of the subscriber records disclosure statutes to treat cable companies that provide Internet service the same as other Internet Service Providers and telephone companies. *Modified Administration proposal to specify that targets do not receive advance notice of wiretap order and amends title 47 to accomplish same purpose as administration proposal.*

Section 212: Emergency Disclosure of Electronic Communications -- Permits Internet Service Providers to disclose voluntarily stored electronic communications of subscribers in the event immediate danger or death or serious bodily injury to a person requires such disclosure. Also otherwise allows law enforcement to compel disclosure to third parties using a court order or a search warrant. *Same as Administration proposal.*

Section 213: Authority for Delaying Notice of Execution of a Warrant -- Broadens authority of law enforcement to delay notification of search warrants in criminal investigation if prior notification would have an adverse result and if notification is given a reasonable period after the search. Based on codification of Second Circuit decision. *Narrower than Administration proposal, which would have permitted delay as law enforcement saw fit.*

Section 214: Pen Register and Trap and Trace Authority under FISA -- Currently, when the Attorney General or a designated attorney for the government applies for a pen register or trap and trace device under FISA, the application must include a certification by the applicant that (1) the information obtained would be relevant to an on-going intelligence investigation, and (2) the information demonstrates that the phone covered was used in communication with someone involved in terrorism or intelligence activities that may violate U.S. criminal law or with a foreign power or its agent whose communication is believed to concern terrorism or intelligence activities that could violate U.S. criminal laws. The conference report deletes second prong, but limits the use of these tools to protection against international terrorism or clandestine intelligence activities and provide that the use of these tools may not be based solely on First Amendment activities. *Narrower than Administration proposal, which would have simply removed second prong.*

Section 215: Access to Records and Other Items under FISA – (1) requires a FISA court order to obtain business records; (2) limits the use of this authority to investigations to protect against international terrorism or clandestine intelligence activities; and (3) provides that investigations of U.S. persons may not be based solely on First Amendment activities. *Administration had sought to substitute an administrative subpoena requirement.*

Section 216: Authorities Relating to the Use of Pen Register and Trap and Trace Devices – Extends the pen/trap provisions so they apply not just to telephone communications but also to Internet traffic, so long as they exclude “content.” Excludes ISP’s from liability, gives Federal courts the authority to grant orders that are valid anywhere in the United States instead of just

their own jurisdictions, and provides for a report to Congress on this “Carnivore” device. *Makes a number of improvements over Administration proposal, including exclusion of content, exclusion of ISP liability, and Carnivore report.*

Section 217: Interception of Computer Trespasser Communications – Allows persons “acting under color of law” to intercept communications if the owner of a computer authorizes it, and the person acting under color of law is acting pursuant to a lawful investigation. Section 815 also excludes service provider subscribers from definition of trespasser, limits interception authority to only those communications through the computer in question. *None of the limitations described in second sentence were included in Administration proposal.*

Section 218: Foreign Intelligence Information -- Permits FISA surveillance and search requests if they are for a “significant” intelligence gathering purpose (rather than “the” purpose under current law). *Narrower than Administration proposal, which would have allowed FISA surveillance if intelligence gathering was merely “a” purpose.*

Section 219: Single Jurisdiction Search Warrants for Terrorism – Permits Federal judges to issue search warrants having nationwide effect for investigations involving terrorism. *Same as Administration proposal.*

Section 220: Nationwide Service of Search Warrants for Electronic Evidence -- Permits a single court having jurisdiction over the offense to issue a search warrant for e-mail that would be valid in anywhere in the United States. *Narrower than Administration proposal in that it limits forum shopping problem by limiting to courts with jurisdiction over the offense.*

Section 221: Trade Sanctions (IR Committee) – Adds Taliban to list of entities potentially subject to sanctions and retains congressional oversight in current law. *Far narrower than Administration proposal which would have undermined the congressional approval requirement, conferring upon the President control of agricultural and medical exports “to all designated terrorists and narcotics entities wherever they are located.”*

Section 222: Assistance to Law Enforcement Agencies – Prohibits technology mandates on entities to comply with this Act. Provides for cost reimbursement of entities assisting law enforcement with title III pen trap orders. *This safeguard was not in Administration Proposal*

Section 223: Civil Liability for Certain Unauthorized Disclosures -- Increases civil liability for unauthorized disclosure of pen trap, wiretap, stored communications or FISA information. Also requires administrative discipline of officials who engage in such unauthorized disclosures. *Rep. Frank added this civil liberties safeguard pursuant to an amendment.*

Section 224: Sunset – 201, 202, 203(b), 204, 206, 207, 209, 212, 214, 215, 217, 218, 220, will sunset in four years -- at the end December 31, 2005. Conference agreement to narrow those investigations that survive sunset to particular investigations based on offenses occurring prior to

sunset. No sunset provided in Administration proposal or Senate bill. The four-year sunset is an improvement over the five-year sunset in the House bill.

Section 225: Immunity for Compliance with FISA Wiretap – Provides immunity for civil liability from subscribers, tenants, etc. for entities that comply with FISA wiretap orders. *Not in Administration proposal.*

– dropped Administration proposal allowing FBI to use wiretap information on U.S. citizens it obtained overseas in violation of the Fourth Amendment.

TITLE III: FINANCIAL INFRASTRUCTURE

Other provisions to be supplied by Financial Services conference. Provisions below from House Judiciary Committee bill.

Section 301: Laundering The Proceeds of Terrorism – Expands the scope of predicate offenses for laundering the proceeds of terrorism to include “providing material support or resources to terrorist organizations,” as that crime is defined in 18 U.S.C. § 2339B of the criminal code. *Same as Administration proposal.*

Section 302: Extraterritorial Jurisdiction [International Relations Committee] – Applies the financial crimes prohibitions to conduct committed abroad in situations where the tools or proceeds of the offense pass through or are in the United States. *Same as Administration proposal.*

– dropped Administration proposal to allow broad disclosure of tax information to Justice and Treasury Departments.

– dropped Administration proposal allowing pre-trial restraint in all criminal forfeiture cases.

– dropped provision carving out tobacco companies from RICO liability for foreign excise taxes.

– dropped provision making it a criminal offense to misrepresent your identification when opening bank account.

TITLE IV: PROTECTING THE BORDER

SUBTITLE A – PROTECTING THE NORTHERN BORDER

Section 401: Ensuring Adequate Personnel on the Northern Border: Authorizes the waiver of any FTE cap on personnel assigned to the INS to address the national security on the Northern Border. *This provision was added at the request of Senator Leahy and Congressman Conyers to ensure the protection of the U.S.-Canadian border.*

Section 402: Northern Border Personnel: Authorizes the appropriation of funds necessary to triple the number of Border Patrol, INS and Customs Service personnel in each State along the northern border. The bill also authorizes \$50 million each to the INS and Customs Services for purposes of making improvements in technology for monitoring the northern border and acquiring additional equipment at the northern border. *This provision was added at the request of Senator Leahy and Congressman Conyers to ensure the protection of the U.S.-Canadian border.*

Section 403: Requiring Sharing by the Federal Bureau of Investigation of Certain Criminal Record Extracts with Other Federal Agencies in Order to Enhance Border Security: Requires the Justice Department and FBI to provide the State Department and INS information contained in its National Crime Information Center files to permit INS and State to better determine whether a visa applicant has a criminal history record. *The bill retains the Administration's proposal.*

Section 404: Limited Authority to Pay Overtime: Strikes certain prohibitions on the paying of overtime to INS employees. *This provision was added at the request of Senator Leahy and Congressman Conyers to ensure the protection of the U.S.-Canadian border.*

Section 405: Report on the Integrated Automated Fingerprint Identification System for Points of Entry and Overseas Consular Posts: Requires the Justice Department to report to Congress on the feasibility of enhancing the FBI's Integrated Automated Fingerprint Identification System and other identification systems. *The bill retains the Administration's proposal.*

SUBTITLE B: ENHANCED IMMIGRATION PROVISIONS

Section 411: Definitions Relating to Terrorism: Broadens the terrorism ground of inadmissibility to include (a) any representative of a political or social group that publicly endorses terrorist activity in the United States, (b) a person who uses his position of prominence within a country to endorse terrorist activity or persuade others to support terrorist activity, (c) the spouses and children of persons engaged in terrorism, and (d) any other person the Secretary of State or Attorney General determines has been associated with a terrorist organization and who intends to engage in activities that could endanger the welfare, safety, or security of the United States.

This bill broadens the definition of "terrorist activity" to include the use, not only of explosives and firearms, but other dangerous devices as well. Further, it broadens the definition of a terrorist "engaging in a terrorist activity" to include anyone who affords material support to an organization that the individual knows or should know is a terrorist organization, regardless of whether or not the purported purpose for the support is related to terrorism. It also broadens the types of organizations that may be designated or redesignated a foreign terrorist organization by the Secretary of State to comport with definitions of terrorism found elsewhere in the law.

The bill limits the Administration's proposal on the inadmissibility and deportability grounds for providing material support , which are critical to protect people (such as supporters of the IRA

or ANC) who give or solicit funds currently or in the past for humanitarian purposes without any knowledge or intent that the funds be used for terrorist activities. The bill makes it an inadmissible and deportable offense for contributing funds or material support to, or soliciting funds for or membership in, an organization that has been designated as a terrorist organization by the Secretary of State pursuant to 8 U.S.C. 1189 or by publication in the Federal Register. In the case of non-designated terrorist organization, however, a limitation was added whereby an alien is not inadmissible or deportable if he demonstrates that he did not know or reasonably should not have known that the funds, material support or solicitation would further terrorist activity. Additionally, either the Secretary of State or the Attorney General can waive this ground of inadmissibility or deportability. The bill also limits the retroactive application of this provision in that a person who provides material support to a designated organization prior to the time of its designation as a terrorist organization shall be treated as if any material support was provided to a non-designated organization.

The bill also adds a waiver provision that permits the Attorney General or consular officer to waive the bar to admission for spouses and children if the person did not know or should not reasonably have known that the principal alien was engaged in terrorism or if the spouse or child has renounced the activity causing the alien to be inadmissible.

Section 412: Changes in Designation of Foreign Terrorist Organizations: Expands the ability of the Attorney General to mandatorily detain those aliens that he certifies may pose a threat to national security, pending the outcome of criminal or removal proceedings. *The bill completely revises the Administration's proposal to better balance the law enforcement needs of the Attorney General with the protection of aliens' civil liberties.*

The Attorney General may detain a person he certifies as suspected of involvement in terrorism. The standard of certification that the Attorney General needs to meet is increased to a showing of "reasonable grounds to believe" that the alien is deportable or inadmissible as provided in the terrorism provisions. Only the Attorney General or the Deputy Attorney General has the authority to make a certification under this provision. It is otherwise non-delegable to any other official (the original proposal permitted the delegation of this new authority to numerous Justice Department and INS officials).

The Attorney General is now required to bring removal or criminal charges against anyone detained under this section within 7 days, eliminating the indefinite detention language in the Administration's proposal. If an alien is not charged within 7 days he must be released. During removal or criminal proceedings, the Attorney General must review the appropriateness of the certification every 6 months.

After criminal or removal proceedings are completed, an alien must be removed from the country or released. In the limited number of cases where a person is removable but cannot be removed, the Attorney General must review every 6 months whether the person must be detained on the basis of being a threat to the national security or the community. An alien can only be

detained for additional 6 month periods if the release would threaten the national security or the safety of the community.

The bill strengthens the habeas corpus procedures to ensure that the merits of the Attorney General's certification and the criminal and removal proceedings are subject to judicial review. The bill also ensures that judicial review is conducted in proximity to where the alien is being held to ensure adequate legal representation. Habeas corpus petitions can be filed and heard in the Federal district court where the alien is detained with any appeal to the D.C. Circuit Court of Appeals.

Section 413: Multilateral Cooperation Against Terrorists: Enhances the Government's ability to combat terrorism and crime worldwide by providing new exceptions to the laws regarding disclosure of information from visa records. The bill grants the Secretary of State discretion to provide such information to foreign officials on a case-by-case basis for the purpose of fighting international terrorism or other crimes. It also allows the Secretary to provide countries with which he negotiates specific agreements to have more general access to information from the State Department's lookout databases where the country will use such information only to deny visas to persons seeking to enter its territory. *The bill retains the Administration's proposal.*

Section 414: Visa Integrity and Security: Includes a sense of the Congress that in light of the terrorist attacks, the Attorney General must expedite the implementation of the integrated entry and exit data system authorized by Congress in 1996. *Not in Administration's proposal.*

Section 415: Participation of Office of Homeland Security on Entry Task Force: Includes the Office of Homeland Security in the development and implementation of the integrated entry and exit data system authorized by Congress in 1996. *Not in Administration's proposal.*

Section 416: Foreign Student Monitoring Program: Requires the Attorney General to fully implement and expand foreign student monitoring program authorized by Congress in 1996. *Not in Administration's proposal.*

Section 417: Machine Readable Passports: Requires the Secretary of State to perform annual audits and report to Congress on the implementation of the machine-readable passport program. *Not in Administration's proposal.*

Section 418: Prevention of Consulate Shopping: Requires the Secretary of State to review how consular officers issue visas to determine if consular shopping is a problem. *Not in Administration's proposal.*

SUBTITLE C: PRESERVATION OF IMMIGRATION BENEFITS FOR VICTIMS OF TERRORISM

Adds new subtitle (sections 421-428) to the Administration's proposal to preserve the immigration benefits of the victims of the September 11th terrorist attacks and their family members. For some families, spouses and children may lose their immigration status due to the death or serious injury of a family member. These family members are facing deportation because they are out of status: they no longer qualify for their current immigration status or are no longer eligible to complete the application process because their loved one was killed or injured in the September 11 terrorist attack. Others are threatened with the loss of their immigration status, through no fault of their own, due to the disruption of communications and transportation that has resulted directly from the terrorist attacks. Because of these disruptions, people have been and will be unable to meet important deadlines, which will mean the loss of eligibility for certain benefits and the inability to maintain lawful status, unless the law is changed. The bill:

- Creates a new special immigrant status for people who were in the process of securing permanent residence through a family member who died, was disabled, or lost employment as a result of the terrorist activities of September 11, 2001;
- Provides a temporary extension of status to people who are present in the United States on a "derivative status" (the spouse or minor child) of a non-immigrant who was killed or injured on September 11, 2001;
- Provides remedies for people who will be adversely effected or will lose their right to apply for benefits because of their inability to meet certain deadlines through no fault of their own and as a result of the September 11, 2001 terrorist attack (visa waiver, diversity lottery, advance parole and voluntary departure);
- Provides immigration relief to the widows/widowers and orphan children of citizens and legal permanent residents who were killed in the September 11 attacks by allowing applications for permanent resident status to be adjudicated;
- Prevents children from aging out of eligibility for immigration benefits were the delay was the result of the September 11 attacks;
- Provides for temporary administrative relief to allow the family of people who were killed or seriously injured in the terrorist attacks who are not otherwise covered by this subtitle; and
- Prohibits any benefits from being provided to anyone culpable for the terrorist attacks on September 11 or any family member of such person.

These provisions were added at the request of Congressman Conyers and Senator Kennedy.

TITLE V: REMOVING OBSTACLES TO INVESTIGATING TERRORISM

Section 501: Attorney General's Authority to Pay Rewards -- Ensures non-terrorism rewards are subject to budgetary caps. *From Leahy DOJ reauthorization bill, not in Administration's proposal.*

Section 502: Secretary of State Rewards (IR Committee) – Amends the Department of State's reward authority so that rewards may be offered for the identification or location of the leaders of a terrorist organization, increases the maximum amount of a award from \$5 million to \$10 million, and allows the Secretary to further to increase a reward to up \$25 million if the Secretary determines that offering the payment of such additional amount is important to the national interest. Also provides a sense of congress that the Secretary should offer a \$25 million award for Osama bin Laden and other leaders of the September 11th attack. Broadens the AG's authority to offer rewards without caps for information related to terrorism. *Based on Administration's proposal.*

Section 503: DNA Identification of Terrorists -- Requires persons convicted of terrorism offenses also to submit to DNA samples. *Same as Administration proposal (modified to include other crimes of violence).*

Section 504: Coordination with Law Enforcement – Allows Federal law enforcement conducting electronic surveillance or physical searches to consult with other Federal law enforcement officers to protect against hostile acts, terrorism, or intelligence activities. *Not in Administration proposal.*

Section 505: Miscellaneous National-Security Authorities – In counterintelligence investigations, the Director of the FBI or his designee, not lower than the Deputy Assistant Director, may request telephone, financial, or credit records of an individual if he certifies that the information sought is (1) relevant to an authorized foreign counterintelligence investigation, and (2) that there are “specific and articulable” facts finding that the person/entity from whom the information is sought is a foreign power or its agent. *Based on Administration's proposal, but limited to telephone records, financial and consumer reports.*

Section 506: Extension of Secret Service Jurisdiction – Allows Secret Service to coordinate with Justice Department to investigate offenses against U.S. government computers. *Not in Administration proposal.*

Section 507: Disclosure of Educational Records (Education and Workforce) – Allows the release of student education records if it is determined by the Attorney General or Secretary of Education (or their designee) that doing so could reasonably be expected to assist in investigating or preventing a federal terrorism offense or domestic or international terrorism. *Based on Administration's proposal, but Ed and Workforce agreed that AAG must get court order to obtain records and limited to terrorism cases.*

Section 508: Disclosure of NCES Information -- Same as 507, but covers surveys conducted by the Education Department. *Based on Administration proposal.*

TITLE VI: PROVIDING FOR VICTIMS AND PUBLIC SAFETY OFFICERS

SUBTITLE A: AID TO FAMILIES OF PUBLIC SAFETY OFFICERS

Section 611: Expedited Payment for Public Safety Officers Involved in the Prevention, Investigation, Rescue, or Recovery Efforts Related to a Terrorist Attack -- Expedites payment of benefits to victims, their families, and public safety officers. *Not in Administration proposal, added at the request of Rep. Nadler.*

Section 612: Technical Correction with Respect to Expedited Payments for Heroic Public Safety Officers – Makes technical correction to Nadler bill, which passed into law in mid-September 2001. *Not in Administration proposal, added at the request of Rep. Nadler.*

Section 613: Public Safety Officer Benefit Program Payment Increase. Increases public safety officer benefits from \$100,000 to \$250,000. *Not in Administration proposal.*

Section 614: Office of Justice Programs – Adds to the list of programs within OJP. *Not in Administration proposal.*

SUBTITLE B: AMENDMENTS TO THE VICTIMS OF CRIME ACT OF 1984

This subtitle makes changes to the administration of – and authorizes additional funding for – the crime victims fund. *Not in Administration's proposal.*

TITLE VII: INCREASED INFORMATION SHARING

This Subtitle expands regional information sharing to facilitate Federal-state-local law enforcement responses to terrorism. *Not in Administration's proposal.*

TITLE VIII: STRENGTHENING THE CRIMINAL LAWS AGAINST TERRORISM

Section 801: Terrorist Attacks and Other Acts of Violence Against Mass Transportation Systems – Establishes a new Federal offense for attacking a mass transportation system. *Not in Administration proposal.*

Section 802: Definition of Domestic Terrorism – Creates a definition for “domestic terrorism” for the limited purpose of providing investigative authorities (i.e., court orders, warrants, etc.) for acts of terrorism within the territorial jurisdiction of the United States. Such offenses are those that are “(1) dangerous to human life and violate the criminal laws of the United States or any state; and (2) appear to be intended (or have the effect) – to intimidate a civilian population;

influence government policy intimidation or coercion; or affect government conduct by mass destruction, assassination, or kidnapping (or a threat of of).” *Same as Administration proposal.*

Section 803: Prohibition Against Harboring Terrorists – Makes it an offense when someone harbors or conceals another they know or should have known had engaged in or was about to engage in federal terrorism offenses. *Based on Administration’s proposal except that the final bill removes the suspicion prong that made it an offense to harbor someone merely suspected of engaging in terrorism.*

Section 804: Jurisdiction over Crimes Committed at U.S. Facilities Abroad -- Extends the special and maritime criminal jurisdiction of the United States to offenses committed abroad by or against U.S. nationals. *Same as Administration proposal except those actions involving military personnel are excluded per Rep. Scott’s amendment.*

Section 805: Material Support for Terrorism -- Permits prosecution under current crime of material support for terrorism to occur in “any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law,” and includes the provision of “monetary instruments” as “material support.” *Same as Administration’s proposal.*

Section 806: Assets of Terrorist Organizations – Extends forfeiture and confiscation authority to “all assets, foreign or domestic” that are owned or controlled by “any person, entity or organization engaged in planning or perpetuating any act of domestic terrorism or international terrorism against the United States, citizens or residents . . . or their property.” *Same as Administration proposal.*

Section 807: Technical Clarification Relating to Provision of Material Support to Terrorism -- Makes clear that whoever provides material support or resources to terrorists or foreign terrorists organizations may be subject to criminal liability under § 2339A or § 2339B. Moreover, proposed section 407 of the Administration’s legislation seemed to gut the congressional approval requirement and confer upon the President the independent power to impose agricultural and medical sanctions on terrorists “wherever they are located.” *Same as Administration proposal.*

Section 808: Definition of Federal Crime of Terrorism – Adds new highly egregious offenses to existing definition of “Federal crime of terrorism,” thereby ensuring that “coercing government” is an element of the offense along with other predicates. Also, added predicates are narrowed to those being the most egregious. *Significantly narrower than Administration’s proposal, which would have added more predicates and eliminated the requirement that the government prove the crime was committed to influence government. Final bill also eliminates freedom of press issue that could have made press disclosure of covert agents a terrorist offense.*

Section 809: No Statute of Limitation for Prosecuting Terrorism Offenses -- Provides that terrorism offenses may be prosecuted without time limitations, however, more focused list of

offenses will continue to carry an 8-year statute of limitations except where they resulted in, or created a risk of, death or serious bodily injury. *Administration proposal did not include more focused list subject to 8-year statute of limitation.*

Section 810: Alternative Maximum Penalties for Terrorism Crimes – Provides alternative maximum prison terms for terrorism crimes, including imprisonment for any term of years or for life. *Based on Administration's proposal, except modified to provide more measured increases in maximum penalties where appropriate, including life imprisonment or supervision only in cases in which the offense resulted in death.*

Section 811: Penalties for Terrorist Conspiracies -- Adds a new section to the terrorism chapter of the criminal code to provide that the maximum penalties for conspiracies to commit terrorism are equal to the maximum penalties authorized for the objects of such conspiracies (similar approach is found in the criminal code with respect to drug crimes). *Based on Administration proposal, except narrowed to add conspiracy provisions only to a few criminal statutes where appropriate, and to provide that the penalties for such conspiracies may not include death.*

Section 812: Post-Release Supervision of Terrorists -- Authorizes longer supervision periods, including lifetime supervision, for persons convicted of terrorism crimes (a similar approach is found in the drug crimes statute, which imposes a term of supervised release of at least 10 years, instead of 5 years, in cases where there is a prior conviction). *Narrower than the Administration's proposal because it contains more measured increases in maximum penalties where appropriate, including life imprisonment or supervision in cases in which the offense resulted in death.*

Section 813: Inclusion of Acts of Terrorism Crimes as Racketeering Activity – Provides that any terrorism-related crimes can be RICO predicates. *Same as Administration proposal.*

Section 814: Deterrence and Prevention of Cyberterrorism – Alters damage and civil liability triggers for computer hacking offenses. Also eliminates mandatory minimums in current law for computer hacking offenses. *Not in Administration proposal.*

Section 815: Additional Defense to Civil Actions Relating to Preserving Records in Response to Government Requests – Eliminates any ISP liability to customers for turning customer records over to law enforcement pursuant to any statutory authorization. *Not in Administration proposal.*

Section 816: Development and Support of Cybersecurity Forensic Capabilities – Requires the Attorney General to establish regional computer forensic laboratories. *Not in Administration proposal.*

Section 817: Biological Weapons -- Makes it an offense for a person to possess a biological weapon that is not reasonably justified, under the circumstances, by a prophylactic, protective, bona fide research, or other peaceful purpose. *Similar to Administration proposal except that*

provision stating that government does not have to establish mens rea of defendant has been removed in the conference report.

TITLE IX: IMPROVED INTELLIGENCE

Not in Administration proposal

Section 901: Responsibilities of Director of Central Intelligence Regarding Foreign Intelligence Collected under FISA -- Authorizes the Director of the CIA to establish requirements and priorities for collecting foreign intelligence, and to provide assistance to the Attorney General in ensuring that information derived from electronic surveillance or physical searches is properly disseminated. The DCI cannot direct, manage, or undertake electronic surveillance or physical search operations unless otherwise authorized by statute or executive order.

Section 902: Inclusion of International Terrorist Activities within Scope of Foreign Intelligence under the National Security Act -- Includes international terrorist activities within the scope of foreign intelligence under the National Security Act.

Section 903: Sense of Congress -- Sense of Congress on the establishment of intelligence relationships to acquire information on terrorists.

Section 904: Temporary Authority to Defer Submittal to Congress of Reports on Intelligence and Intelligence-Related Matters -- Grants DCI temporary authority to delay submittal of reports to Congress on intelligence matters.

Section 905: Disclosure to Director of Central Intelligence of Foreign Intelligence-Related Information with Respect to Criminal Investigations -- Requires the Attorney General to disclose to the CIA Director foreign intelligence acquired by the Justice Department in the course of a criminal investigation, except when disclosing such information would jeopardize an ongoing investigation.

Section 906: Foreign Terrorist Asset Tracking Center -- Requires the DCI, the AG, and the Secretary of the Treasury to report to Congress by February 1, 2002, on the desirability of a Foreign Asset Tracking Center to track terrorist assets.

Section 907: National Virtual Translation Center -- Requires the DCI and the FBI to report to Congress on the establishment of a National Virtual Translation Center.

Section 908: Training of Government Officials Regarding Identification and Use of Foreign Intelligence -- Requires DCI and AG to establish program to train officials to handle foreign intelligence information.

TITLE X: MISCELLANEOUS

Not in Administration proposal

Section 1001: Review of the Department of Justice -- Requires DOJ Inspector General to designate one official to receive complaints of civil liberties and civil rights abuses and to report such abuses to Congress semi-annually. *Added at Mr. Conyers' request.*