S._____

IN THE SENATE OF THE UNITED STATES

Mr. Hatch (for himself, Mr. Sessions, Mr. Graham of South Carolina, Mr. Cornyn, and Mr. Kyl) introduced the following bill; which was read twice and referred to the Committee on _______

A BILL

To combat narco-terrorism, to dismantle narco-terrorist criminal enterprises, to disrupt narco-terrorist financing and money laundering schemes, to enact national drug sentencing reform, to prevent drug trafficking to children, to deter drug-related violence, to provide law enforcement with the tools needed to win the war against narco-terrorists and major drug traffickers, and for other purposes.

1   Be it enacted by the Senate and House of Representa-
2   tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Vital Interdiction of Criminal Terrorist Organizations Act of 2003" or the "VICTORY Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Severability clause.

TITLE I—COMBATING NARCO-TERRORISTS WHO AID AND SUPPORT TERRORISTS OR TERRORIST ORGANIZATIONS

Sec. 101. Prohibition of narco-terrorism.
Sec. 102. Narco-terrorist criminal enterprises.
Sec. 103. Increased civil and criminal penalties for persons and entities who facilitate financing of narco-terrorists and terrorists.

TITLE II—PREVENTING AND PUNISHING INTERNATIONAL MONEY LAUNDERING

Subtitle A—Prohibiting Money Laundering Through Hawalas, "Reverse" Money Laundering, and Other Money Laundering Schemes

Sec. 201. Preventing narco-terrorists from laundering money using hawalas.
Sec. 202. Interstate transportation of criminal proceeds and "reverse" money laundering by currency couriers.
Sec. 203. Freezing bank accounts of persons arrested for money laundering and bulk cash smuggling.
Sec. 204. Procedure for issuing subpoenas in money laundering cases.
Sec. 205. Using blank checks in bearer form to smuggle money.
Sec. 206. Treating electronic funds as fungible property.
Sec. 207. Making domestic money laundering statute apply to "reverse" money laundering.
Sec. 208. Making international money laundering statute apply to tax evasion.
Sec. 209. Section 1957 violations involving commingled funds and structured transactions.
Sec. 210. Charging money laundering as a course of conduct.
Sec. 211. Laundering the proceeds of foreign crimes.
Sec. 212. Illegal money transmitting businesses.
Sec. 213. Definition of public official.
Sec. 214. Other specified activity for money laundering.

Subtitle B—Recovering and Confiscating Criminal Proceeds

Sec. 221. Criminal forfeiture for money laundering conspiracies.
Sec. 222. Fungible property.
Sec. 223. Forfeiting the proceeds of foreign crimes.
Sec. 224. Recovery of criminal proceeds from third parties.
Sec. 225. Restraint of proceeds of foreign crime.
Sec. 226. Extraterritorial jurisdiction.
Sec. 227. Availability of tax records.
Sec. 228. Civil order to repatriate assets.
Sec. 229. Forfeiture for failure to report large cash transactions.
Sec. 230. Assets of persons committing terrorist acts against foreign countries.
Sec. 231. Technical amendment to restore wiretap authority for certain money laundering offenses.
Sec. 232. Knowledge that the property is the proceeds of a specific felony.
Sec. 233. Discovery procedure for locating laundered money.
Sec. 234. Authorization to share recovered property with cooperating foreign governments.
Sec. 235. Criminal forfeiture of property in government custody.
Sec. 236. Non-abatement of criminal forfeiture when defendant dies pending appeal.
Sec. 237. Miscellaneous minor and technical amendments.
Sec. 238. Venue for prisoner challenges to seizure of crime proceeds.
Sec. 239. Restoring criminal proceeds to victims.
Sec. 240. Affording property owners a hearing on the seizure of real property.
Sec. 241. Jurisdiction of magistrates.
Sec. 242. Technical amendment regarding the procedures for criminal forfeiture.
Sec. 244. Minor amendments to the Civil Asset Forfeiture Reform Act of 2000.
Sec. 245. Collection of criminal forfeiture judgment.
Sec. 246. Property detained at the border.
Sec. 247. Exemption from liability for attorney fees in international money laundering cases.
Sec. 248. Technical correction regarding forfeiture authority for Secretary, Homeland Security.
Sec. 249. Rule 32.2.
Sec. 250. Forfeiture of the value of drugs seized.
Sec. 251. Forfeiture of facilitating property in narco-terrorism cases and property traceable to such property.
Sec. 252. Forfeiture of instrumentalities of terrorism, fraud, and other offenses.

TITLE III—NATIONAL DRUG SENTENCING REFORM

Sec. 301. Sentencing guideline conforming changes and enhancements for acts of violence during the course of a drug trafficking offense.
Sec. 302. Increase in sentence for aggravating factors.
Sec. 303. Removing sentencing cap on drug traffickers who facilitate the availability and distribution of large quantities of illegal drugs.
Sec. 304. Additional serious drug offenses as armed career criminal act predicates.
Sec. 305. Limit on sentencing of certain defendants in drug trafficking cases.
Sec. 306. Restoration of orderly gradation of sentences to punish large-scale drug traffickers.
Sec. 307. Conforming sentencing guidelines to conspiracy law.
Sec. 308. Elderly, nonviolent prisoner pilot program.
Sec. 309. Emergency amendment authority.

TITLE IV—PROTECTING CHILDREN FROM DRUG TRAFFICKERS AND PREVENTING DRUG-RELATED VIOLENT CRIME

Sec. 401. Murder and other violent crimes committed during and in relation to a drug trafficking crime.
Sec. 402. Protection of children from drug traffickers.
TITLE V—PROVIDING THE TOOLS NEEDED TO WIN THE WAR AGAINST NARCO-TERRORISM, DRUG TRAFFICKERS WHO SELL TO CHILDREN, AND VIOLENT DRUG TRAFFICKERS

Sec. 501. Predicate crimes for authorization of interception of wire, oral, and electronic communications.
Sec. 502. Limiting application of statutory exclusionary rule where law enforcement agents act in good faith.
Sec. 503. Administrative subpoenas for terrorism investigations.
Sec. 504. Administrative subpoenas to apprehend fugitives.
Sec. 505. Expanded jurisdiction to issue orders to intercept communications.

SEC. 2. SEVERABILITY CLAUSE.

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 circumstances shall not be affected thereby.

TITLE I—COMBATING NARCO-TERRORISTS WHO AID AND SUPPORT TERRORISTS OR TERRORIST ORGANIZATIONS

SEC. 101. PROHIBITION OF NARCO-TERRORISM.

Part A of the Controlled Substance Import and Export Act (21 U.S.C. 951 et seq.) is amended by inserting after section 1010 the following:

"NARCO-TERRORISTS WHO AID AND SUPPORT TERRORISTS OR FOREIGN TERRORIST ORGANIZATIONS"

"Sec. 1010A."
“(a) PROHIBITED ACTS.—Any person who, in a circumstance described in subsection (c), manufactures, distributes, imports, exports, or possesses with intent to distribute or manufacture a controlled substance, flunitrazepam, or listed chemical, or attempts or conspires to do so, knowing or intending that such activity, directly or indirectly, aids or provides support, resources, or anything of pecuniary value to—

(1) a foreign terrorist organization; or

(2) any person or group involved in the planning, preparation for, or carrying out of, a terrorist offense,

shall be punished as provided under subsection (b).

“(b) PENALTIES.—

“(1) IN GENERAL.—Any person who violates subsection (a) shall be sentenced to—

“(A)(i) a term of imprisonment of not less than 20 years and not more than life; or

“(ii) if death or serious bodily injury results from the use of a controlled substance, a term of imprisonment of not less than 30 years and not more than life;

“(B) a fine not to exceed—

“(i) $4,000,000, if the defendant is an individual; or
“(ii) $10,000,000, if the defendant is not an individual; and

“(C) a term of supervised release of not less than 5 years.

“(2) PRIOR CONVICTION FOR FELONY DRUG OFFENSE.—Any person who violates subsection (a) after a prior conviction of such person for a felony drug offense becomes final, shall be sentenced to—

“(A)(i) a term of imprisonment of not less than 30 years and not more than life; or

“(ii) if death or serious bodily injury results from the use of a controlled substance, a term of life imprisonment;

“(B) a fine not to exceed—

“(i) $8,000,000, if the defendant is an individual; or

“(ii) $20,000,000, if the defendant is not an individual; and

“(C) a term of supervised release of not less than 10 years.

“(c) JURISDICTION.—A United States district court shall have jurisdiction over an offense described in subsection (a) if—

“(1) the offense takes place in the United States; or
“(2) the offense takes place outside of the United States and—

“(A) the perpetrator is—

“(i) a national of the United States;

or

“(ii) a stateless person whose habitual residence is in the United States;

“(B) the offense—

“(i) was directed toward, or resulted in, the carrying out of a terrorist offense—

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

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

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

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

“(V) in an attempt to compel the United States to do or abstain from doing any act; or

“(ii) is committed—

“(I) on board an aircraft, which is registered under the laws of the United States at the time the offense is committed or is operated by the United States; or

“(II) on board a vessel of the United States (as defined in section 3(b) of the Maritime Drug Enforcement Act (46 U.S.C. 1903(b)) or on board a vessel subject to the jurisdiction of the United States (as defined in section 3(c) of that Act); or

“(C) the foreign terrorist organization has been designated pursuant to the authority granted under the Immigration and Nationality Act.

“(d) ACTS COMMITTED OUTSIDE TERRITORIAL JURISDICTION OF UNITED STATES.—This section is in-
tended to reach prohibited acts, which are committed out-
side the territorial jurisdiction of the United States.

“(e) PROOF REQUIREMENTS.—The prosecution shall
not be required to prove that any defendant knew that
an organization was designated as a ‘foreign terrorist or-
ganization’ under the Immigration and Nationality Act.

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

“(1) ANYTHING OF PECUNIARY VALUE.—The
term ‘anything of pecuniary value’ has the meaning
given the term in section 1958(b)(1) of title 18,
United States Code.

“(2) NATIONAL OF THE UNITED STATES.—The
term ‘national of the United States’ has the meaning
given the term in section 101(a)(22) of the Immi-
gration and Nationality Act (8 U.S.C. 1101(a)(22)).

“(3) TERRORIST OFFENSE.—The term ‘ter-
rorist offense’ means—

“(A) an act which constitutes an offense
within the scope of a treaty, as defined under
section 2339C(e)(7) of title 18, United States
Code, which has been implemented by the
United States;

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

“(4) TERRORIST ORGANIZATION.—The term ‘terrorist organization’ has the meaning given the term in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)).”.

SEC. 102. NARCO-TELERORIST CRIMINAL ENTERPRISES.

Part A of the Controlled Substance Import and Export Act (21 U.S.C. 951 et seq.) is amended by inserting after section 1010A (as added by section 101) the following:

“NARCO-TELERORIST KINGPINS

“SEC. 1010B.

“(a) PROHIBITED ACTS; PENALTIES.—

“(1) IN GENERAL.—Any person who engages in a narco-terrorist continuing enterprise shall be—

“(A) imprisoned for a period of not less than 40 years and not more than life;

“(B) if the defendant is an individual, subject to a fine in an amount not greater than

$4,000,000; and
“(C) if the defendant is other than an individual, subject to a fine in an amount not greater than $10,000,000.

“(2) ENHANCED PENALTY.—Any person who, after being convicted of a felony drug offense or crime of violence, who engages in, or works in furtherance of, a narco-terrorist continuing enterprise, shall be—

“(A) imprisoned for a period of not less than 50 years and not more than life;

“(B) if the defendant is an individual, subject to a fine in an amount not greater than $8,000,000; and

“(C) if the defendant is other than an individual, subject to a fine in an amount not greater than $20,000,000.

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

“(1) PERSON ENGAGED IN A NARCO-TERRORIST CONTINUING ENTERPRISE.—The term ‘person engaged in a narco-terrorist continuing enterprise’ means a person who violates section 1010A if such violation is a part of a continuing series of violations of section 1010A—
“(A) which are undertaken by such person in concert with not less than 5 persons, to whom such person occupies a position of organizer, supervisor, or any other position of management; and

“(B) from which such person obtains substantial income or resources.

“(2) CONTINUING SERIES OF VIOLATIONS.—The term ‘a continuing series of violations’ means not less than 3 violations of section 1010A.

“(c) ACTS COMMITTED OUTSIDE UNITED STATES.—This section is intended to reach prohibited acts, which are committed outside of the territorial jurisdiction of the United States.”.

SEC. 103. INCREASED CIVIL AND CRIMINAL PENALTIES FOR PERSONS AND ENTITIES WHO FACILITATE FINANCING OF NARCO-TELESTORS AND TERRORISTS.


(1) in subsection (a), by striking “$10,000” and inserting “$50,000”; and

(2) in subsection (b), by striking “$50,000, or, if a natural person, may be imprisoned for not more than ten years” and inserting “$100,000, or, if a
natural person, may be imprisoned for not more than 20 years”.

TITLE II—PREVENTING AND PUNISHING INTERNATIONAL MONEY LAUNDERING

Subtitle A—Prohibiting Money Laundering Through Hawalas, “Reverse” Money Laundering, and Other Money Laundering Schemes

SEC. 201. PREVENTING NARCO-TERRORISTS FROM LAUNDERING MONEY USING HAWALAS.

Section 1956 of title 18, United States Code, is amended by adding at the end the following:

“(j) MONEY LAUNDERING.—

“(1) IN GENERAL.—For purposes of paragraphs (1) and (2) of subsection (a), a transaction, transportation, transmission, or transfer of funds shall be considered to involve the proceeds of specified unlawful activity if the transaction, transportation, transmission, or transfer is part of a set of parallel or dependent transactions, any 1 of which involves the proceeds of specified unlawful activity.
“(2) Defined Term.—As used in this section, the term ‘dependent transaction’ means a trans-
action that—

“(A) completes or complements another transaction; or

“(B) would not have occurred but for an-
other transaction.”.

SEC. 202. INTERSTATE TRANSPORTATION OF CRIMINAL
PROCEEDS AND “REVERSE” MONEY LAUN-
DERING BY CURRENCY COURIERS.

Section 5332 of title 31, United States Code, is
amended—

(1) in subsection (a)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

“(2) Concealment in Vehicle.—Any person who conceals more than $10,000 in currency on his
person or in any vehicle, in any compartment or con-
tainer within any vehicle, or in any container placed
in a common carrier, and transports, attempts to
transport, or conspires to transport such currency in
or affecting interstate commerce on any public road
or highway, or on any bus, train, airplane, vessel, or
other common carrier, knowing that the currency
was derived from some form of unlawful activity, or
knowing that the currency was intended to be used
to promote some form of unlawful activity, shall be
subject to punishment pursuant to subsection (b).”;
(2) in subsection (b)(1), by striking “5” and in-
serting “10”; and
(3) by adding at the end the following:
“(d) AUTHORITY TO INVESTIGATE.—Violations of
this section may be investigated by—
“(1) the Attorney General;
“(2) the Secretary of the Treasury;
“(3) the Secretary of the Department of Home-
land Security; and
“(4) the United States Postal Service.”.

SEC. 203. FREEZING BANK ACCOUNTS OF PERSONS AR-
RESTED FOR MONEY LAUNDERING AND BULK
CASH SMUGGLING.

Section 5317 of title 31, United States Code, is
amended by adding at the end the following:
“(d) TEMPORARY FREEZE OF BANK ACCOUNT.—
“(1) IN GENERAL.—If any person is arrested or
charged in connection with any offense under this
chapter, or any offense under section 1956, 1957, or
1960 of title 18 (relating to the movement of funds
into or out of the United States), the Attorney General may apply to any Federal judge or magistrate judge in the district in which the arrest is made, or the charges are filed, for an ex parte order restraining any account held by the person arrested or charged for not more than 30 days. This time period may be extended for good cause shown at a hearing conducted in the manner provided in rule 43(e) of the Federal Rules of Civil Procedure.

“(2) CONTENTS OF APPLICATION.—The application for the restraining order referred to in paragraph (1) shall—

“(A) identify the offense for which the person has been arrested or charged;

“(B) identify the location and description of the accounts to be restrained; and

“(C) state that the restraining order is needed to prevent the removal of the funds in the account by the person arrested or charged, or by others associated with such person, during the time needed by the Government to conduct such investigation as may be necessary to establish whether there is probable cause to believe that the funds in the accounts are subject
to forfeiture in connection with the commission
of any criminal offense.

“(3) RELEASE OF FUNDS.—At the expiration of
the period of restraint described in paragraph (1),
the financial institution holding the funds that have
been subject to restraint shall be free to release
those funds at the direction of the account holder
unless the Government has obtained a seizure war-
rant, a restraining order, or an arrest warrant in
rem pursuant to the Supplemental Rules for Certain
Admiralty and Maritime Claims.

“(4) DEFINITIONS.—For purposes of this
section—

“(A) the term ‘account’ includes any ac-
count (as defined in paragraphs (1) and (2) of
section 5318A(e)) at any financial institution;
and

“(B) the term ‘account held by the person
arrested or charged’ includes an account held in
the name of such person, and any account over
which such person has effective control as a sig-
natary or otherwise.”.
SEC. 204. PROCEDURE FOR ISSUING SUBPOENAS IN MONEY LAUNDERING CASES.

(a) In General.—Section 5318 of title 31, United States Code, is amended—

(1) by redesignating subsection (l), as added by section 359 of the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 (115 Stat. 328), as subsection (m); and

(2) by adding at the end the following:

“(n) Procedure for Issuing Subpoenas.—The Attorney General may issue a subpoena in the manner set forth in section 3486 of title 18—

“(1) in any situation in which subsection (k) applies; or

“(2) in any investigation of a violation of section 5316, 5324, 5331, or 5332 of this title or section 1956, 1957, or 1960 of title 18.”.

(b) Grand Jury Subpoenas.—Section 5318(k)(3)(A) of title 31, United States Code, is amended—

(1) in clause (i), by striking “related to such correspondent account”; and

(2) by adding at the end the following:

“(iii) Grand Jury or Trial subpoena.—A subpoena issued by the Attor-
ney General under clause (i) may be a grand jury or a trial subpoena.”

(c) FAIR CREDIT REPORTING ACT AMENDMENT.—Section 604(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681b(a)(1)) is amended by inserting before the period at the end “, or an investigative subpoena issued pursuant to section 5318 of title 31, United States Code”.

(d) OBSTRUCTION OF JUSTICE.—Section 1510(b) of title 18, United States Code, is amended—

(1) in paragraph (2)(A), by inserting “or an investigative subpoena issued pursuant to section 5318 of title 31” after “grand jury subpoena”; and

(2) in paragraph (3)(B), by inserting “, an investigative subpoena issued pursuant to section 5318 of title 31,” after “grand jury subpoena”.

(e) RIGHT TO FINANCIAL PRIVACY ACT OF 1978.—Section 1120(b)(1) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3420(b)(1) is amended—

(1) by inserting “, or an investigative subpoena issued pursuant to section 5318 of title 31, United States Code,” after “grand jury subpoena”; and

(2) by inserting “or to the Government” after “to the grand jury”.

June 27, 2003
SEC. 205. USING BLANK CHECKS IN BEARER FORM TO SMUGGLE MONEY.

Section 5316 of title 31, United States Code, is amended by adding at the end the following:

“(e) MONETARY INSTRUMENTS WITH AMOUNT LEFT BLANK.—For purposes of this section, a monetary instrument in bearer form that has the amount left blank so that the amount could be filled in by the bearer, shall be considered to have a value equal to the value of the funds in the account on which the monetary instrument is drawn at the time it was being transported.”.

SEC. 206. TREATING ELECTRONIC FUNDS AS FUNGIBLE PROPERTY.

Section 5317(c) of title 31, United States Code, is amended—

(1) in paragraph (2), by striking “Any property” and inserting the following:

“(A) IN GENERAL.—Any property”; and

(2) by adding at the end the following:

“(B) FUNGIBLE PROPERTY.—In any civil forfeiture action brought pursuant to this section, section 5332, or section 981(a)(1)(A) of title 18, currency, precious metals, gem stones, and funds held in any account at any financial institution in electronic form shall be considered fungible property identical to other property lo-
declared in the same place or account at an earlier
time.

“(C) BURDEN OF PROOF.—In any case de-
scribed under subparagraph (B)—

“(i) the Government shall not be re-
quired to identify the specific property in-
volved in the offense that is the basis for
the forfeiture; and

“(ii) the removal and replacement of
the property involved in such offense with
identical property shall not be a defense.”.

SEC. 207. MAKING DOMESTIC MONEY LAUNDERING STAT-
UTE APPLY TO “REVERSE” MONEY LAUN-
DERING.

Section 1957 of title 18, United States Code, is
amended—

(1) in the header, by inserting “or in sup-
port of criminal activity” after “specified
unlawful activity”; and

(2) in subsection (a)—

(A) by inserting “(1)” before “Whoever”;

and

(B) by adding at the end the following:

“(2) Whoever, in any of the circumstances de-
scribed under subsection (d), engages or attempts to
engage in a monetary transaction involving property
of a value greater than $10,000, with the intent to
promote the carrying on of specified unlawful activ-
ity, shall be fined under this title, imprisoned for a
term of years not to exceed the statutory maximum
for the activity being promoted, or both.”.

SEC. 208. MAKING INTERNATIONAL MONEY LAUNDERING
STATUTE APPLY TO TAX EVASION.

Section 1956(a)(2)(A) of title 18, United States
Code, is amended—

(1) by striking “to promote” and inserting
“to—
“(i) promote”; and
(2) by adding at the end the following:
“(ii) engage in conduct constituting a vio-
lation of section 7201 or 7206 of the Internal
Revenue Code of 1986; or”.

SEC. 209. SECTION 1957 VIOLATIONS INVOLVING COMMIN-
GED FUNDS AND STRUCTURED TRANS-
ACTIONS.

Section 1957(f) of title 18, United States Code, is
amended—

(1) in paragraph (2), by striking “and” at the
end;
(2) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(4) the term ‘monetary transaction in criminally derived property of a value greater than $10,000’ includes——

“(A) a monetary transaction involving the transfer, withdrawal, encumbrance, or other disposition of more than $10,000 from a bank account in which more than $10,000 in proceeds of specified unlawful activity have been commingled with other funds;

“(B) a series of monetary transactions in amounts under $10,000 that exceed $10,000 in the aggregate and that are closely related to each other in terms of such factors as time, the identity of the parties involved, the nature and purpose of the transactions and the manner in which they are conducted; and

“(C) any financial transaction described in section 1956(j) that involves more than $10,000 in proceeds of specified unlawful activity; and

“(5) the term ‘monetary transaction involving property of a value greater than $10,000’ includes
a series of monetary transactions in amounts under
$10,000 that exceed $10,000 in the aggregate and
are closely related to each other in terms of time,
the identity of the parties involved, the nature and
purpose of the transactions, and the manner in
which such transactions are conducted.”.

SEC. 210. CHARGING MONEY LAUNDERING AS A COURSE OF
CONDUCT.

Section 1956(h) of title 18, United States Code, is
amended—

(1) by inserting “(1)” before “Any person”;

(2) by striking “or section 1957” and inserting
“, section 1957, or section 1960”; and

(3) by adding at the end the following:
“(2) Multiple violations of this section that are part
of the same scheme or continuing course of conduct may
be charged in a single count in an indictment or informa-
tion.”.

SEC. 211. LAUNDERING THE PROCEEDS OF FOREIGN
CRIMES.

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

(1) in clause (v), by striking “or” at the end;

(2) in clause (vi), by adding “or” at the end;
(3) by adding at the end the following:

“(vii) any act or activity that would constitute a specified unlawful activity under this paragraph if committed within the jurisdiction of the United States or any State;”.

SEC. 212. ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) TECHNICAL AMENDMENTS.—Section 1960 of title 18, United States Code, is amended—

(1) in the heading, by striking “unlicensed” and inserting “illegal”;

(2) in subsection (a), by striking “unlicensed” and inserting “illegal”; and

(3) in subsection (b)(1)—

(A) by striking “unlicensed” and inserting “illegal”; and

(B) in subparagraph (C), by striking “to be used to be used” and inserting “to be used”.

(b) DEFINITION OF BUSINESS TO INCLUDE HAWALAS AND MONEY BROKERS FOR DRUG CARTELS.—

Section 1960(b) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking “and” at the end;
(2) in paragraph (3), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(4) the term ‘business’ includes any person or association of persons, formal or informal, licensed or unlicensed, that provides money transmitting services outside of the conventional financial institutions system on behalf of any third party in return for remuneration or other consideration.”.

(c) General Intent Requirement for Section 1960(b)(1)(B).—Section 1960(b)(1)(B) of title 18, United States Code, is amended by inserting before the semicolon the following: “, whether or not the defendant knew that the operation was required to comply with such registration requirements”.

(d) Authority To Investigate.—Section 1960 of title 18, United States Code, is amended by adding at the end the following:

“(c) Violations of this section may be investigated by—

“(1) the Attorney General;

“(2) the Secretary of the Treasury;

“(3) the Secretary of the Department of Homeland Security; and

“(4) the United States Postal Service.”.
SEC. 213. DEFINITION OF PUBLIC OFFICIAL.

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

(1) in paragraph (8), by striking the period at the end and inserting ‘‘; and’’; and

(2) by adding at the end the following:

‘‘(9) the term ‘public official’ means any officer or employee of a government or any department, agency, or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality, or for or on behalf of any such public international organization.’’.

SEC. 214. OTHER SPECIFIED ACTIVITY FOR MONEY LAUNDERING.

(a) Amendments to RICO.—Section 1961(1) of title 18, United States Code, is amended—

(1) in subparagraph (A), by inserting ‘‘burglary, embezzlement’’, after ‘‘robbery,’’;

(2) in subparagraph (B)—

(A) by inserting ‘‘and 1470’’ after ‘‘1461–1465’’;

(B) by striking ‘‘1588’’ and inserting ‘‘1592’’;
(C) by inserting “section 1960 (relating to unlicensed money transmitting businesses)”, before “sections 2251,”; and

(D) by inserting “2252A,” after “2252,”;

(3) in subparagraph (D), by striking “fraud in the sale of securities” and inserting “fraud in the purchase or sale of securities”; and

(4) in subparagraph (F), by inserting “or 274A” after “274”.

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

(1) by striking “2339A or 2339B” and inserting “2339A, 2339B, or 2339C”; and

(2) by inserting before the semicolon at the end the following: “, or section 208 of the Social Security Act (42 U.S.C. 408) (relating to obtaining funds through misuse of a social security number)”.

(c) PROTECTION OF NATURAL RESOURCES AND CULTURAL ASSETS.—Section 1956(c)(7) of title 18, United States Code, as amended by subsection (b), is further amended—

(1) in subparagraph (E)—

(A) by striking “; or” and inserting “, or the Clean Air Act (42 U.S.C. 7401 et seq.), or any wildlife protection offense, as defined in

June 27, 2003
section 44”, after “the Resources Conservation and Recovery Act (42 U.S.C. 6901 et seq.”;

(2) in subparagraph (F), by adding “or” after the semicolon; and

(3) by inserting after subparagraph (F) the following:


(d) WILDLIFE PROTECTION OFFENSE.—

(1) Chapter 3 of title 18, United States Code, is amended by inserting after section 43 the following:

“§ 44. Definition of Wildlife Protection Offense

“(a) IN GENERAL.—As used in this title, the term ‘wildlife protection offense’ means any act that may be prosecuted as a criminal offense, which constitutes any violation of—

“(1) a provision of this chapter;

“(2) any Act listed in subsection (b); or

“(3) any regulation promulgated under the authority of such Act.
“(b) WILDLIFE PROTECTION ACTS.—The statutes referred to in subsection (a) are—

“(1) the Lacey Act (16 U.S.C. 701 and 18 U.S.C. 42);

“(2) the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.)

“(3) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

“(4) the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.);

“(5) the African Elephant Conservation Act (16 U.S.C. 4201 et seq.);


“(7) the Bald and Golden Eagle Protection Act (16 U.S.C. 668 et seq.);

“(8) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

“(9) the Migratory Bird Hunting Stamp Act (16 U.S.C. 718 et seq.);

“(10) the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.);

“(12) the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd et seq.);


“(14) the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 et seq.); or

“(15) the Antarctic Marine Living Resources Convention (16 U.S.C. 2431 et seq.).

(b) TECHNICAL AND CONFORMING AMENDMENT.—

The table of sections for chapter 3 of title 18, United States Code, is amended by inserting after the item relating to section 43 the following new item:

“44. Definition of wildlife protection offense.”.

Subtitle B—Recovering and Confiscating Criminal Proceeds

SEC. 221. CRIMINAL FORFEITURE FOR MONEY LAUNDERING CONSPIRACIES.

Section 982(a)(1) of title 18, United States Code, is amended by striking “of this title,” and inserting “, or a conspiracy to commit any such offense,”.

SEC. 222. FUNGIBLE PROPERTY.

(a) IN GENERAL.—Section 984(b) of title 18, United States Code, is amended to read as follows:

“(b) The provisions of this section may be invoked only if the action for forfeiture was commenced by the seizure or restraint of the property, or by the filing of a com-
plaint, within 2 years of the completion of the offense that
is the basis for the forfeiture.”.

(b) Money Laundering With Gem Stones.—Section 984(a)(1) of title 18, United States Code, is amended by striking “precious metals” and inserting “precious metals or stones”.

SEC. 223. FORFEITING THE PROCEEDS OF FOREIGN CRIMES.

Section 981(a)(1)(B)(i) of title 18, United States Code, is amended to read as follows:

“(i) involves any violation of foreign law that would constitute an offense for which property could be forfeited under Federal law if the offense were committed in the United States, or any other conduct described in section 1956(c)(7)(B);”.

SEC. 224. RECOVERY OF CRIMINAL PROCEEDS FROM THIRD PARTIES.

Section 1956(b) of title 18, United States Code, is amended by adding at the end the following:

“(5) Recovery of transferred property.—

“(A) In general.—If property involved in a violation of subsection (a) or section 1957, 1960, or 1962, or a conspiracy to commit any
such offense, is transferred to a third party who is not a bona fide purchaser for value, the United States may file a civil action against the transferee to recover the property, or a sum of money equal to the value of the property immediately before the transfer, plus interest from the time of the transfer.

“(B) VENUE.—Venue for an action under subparagraph (A) shall lie in any district in which the criminal violation or the transfer of the property occurred.”.

SEC. 225. RESTRAINT OF PROCEEDS OF FOREIGN CRIME.

Section 981(b)(4) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking “an offense that would give rise to the forfeiture of property in the United States under this section or under the Controlled Substances Act,” and inserting “conduct that may be the basis for a forfeiture action that has been, or could be, filed in a Federal court under this section or under the Controlled Substances Act or that may be the basis for a foreign forfeiture judgment enforceable in the United States under section 2467 of title 28,”; and

(2) by adding at the end the following:
“(C) If property subject to restraint under subparagraph (A) is located in more than 1 district, a court in any district in which the property is located may enter an order under subparagraph (A) regarding property located in that district and any other district.”.

SEC. 226. EXTRATERRITORIAL JURISDICTION.

Section 1956(f)(1) of title 18, United States Code, is amended by inserting before the semicolon the following: “or has an effect in the United States”.

SEC. 227. AVAILABILITY OF TAX RECORDS.

Section 6103 of the Internal Revenue Code of 1986 (relating to confidentiality of returns) is amended—

(1) in subsection (a)(3), by inserting “subsection (i)(9),” after “subsection (e)(1)(D)(iii),”;

and

(2) in subparagraph (i)—

(A) in paragraph (1)(A)(i), by inserting “or related civil forfeiture” after “Federal criminal statute”;

(B) in paragraph (1)(B)(iii), by inserting “or civil forfeiture investigation or proceeding” after “Federal criminal investigation or proceeding”; and

(C) by adding at the end the following:
“(9) EMPLOYEE OF THE DEPARTMENT OF JUSTICE.—For the purposes of this subsection, an employee of the Department of Justice includes a government contractor who is personally and directly engaged in the activities described in this subsection under the supervision of the Department of Justice.”.

SEC. 228. CIVIL ORDER TO REPATRIATE ASSETS.

Section 983(j) of title 18, United States Code, is amended by adding at the end the following:

“(5) ORDER TO REPATRIATE AND DEPOSIT.—

“(A) IN GENERAL.—Pursuant to its authority to enter a pretrial restraining order under this section, the court may order a party or claimant to repatriate any property that may be seized and forfeited, and to deposit that property, pending trial, in the registry of the court, or with the United States Marshals Service or the Secretary of the Treasury, in an interest-bearing account, as appropriate.

“(B) FAILURE TO COMPLY.—Failure to comply with an order under this paragraph shall be punishable as a civil or criminal contempt of court, and may also result in an enhancement of the sentence of a criminal defend-
ant subject to such an order under the obstruction of justice provision of the Federal sentencing guidelines.”.

SEC. 229. FORFEITURE FOR FAILURE TO REPORT LARGE CASH TRANSACTIONS.

Section 5317(c) of title 31, United States Code, is amended—

(1) in paragraph (1)(A), by striking “or 5324 of this title” and inserting “5324, or 5331”; and

(2) in paragraph (2), by striking “or 5324 of this title” and inserting “5324, or 5331”.

SEC. 230. ASSETS OF PERSONS COMMITTING TERRORIST ACTS AGAINST FOREIGN COUNTRIES.

Section 981(a)(1) of title 18, United States Code, is amended—

(1) in subparagraph (G)—

(A) in clause (ii), by deleting “or” at the end;

(B) in clause (iii), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(iv) of any individual, entity, or organization engaged in planning or perpetrating any act of international terrorism (as defined in section 2331) against any international organiza-
tion (as defined in section 209(b) of the State
Department Basic Authorities Act of 1956 (22
U.S.C. 4309(b)) or against any foreign govern-
ment, its citizens or residents, or their prop-
erty.”; and

(2) in subparagraph (H), by adding at the end
the following: “Property that is located beyond the
territorial boundaries of the United States shall not
be subject to forfeiture under subparagraph (G)(iv)
unless an act in furtherance of planning or perpetra-
tion of an act of international terrorism occurred
within the jurisdiction of the United States.”.

SEC. 231. TECHNICAL AMENDMENT TO RESTORE WIRETAP
AUTHORITY FOR CERTAIN MONEY LAUN-
DERING OFFENSES.

(a) MONEY LAUNDERING.—Section 2516(1)(c) of
title 18, United States Code, is amended by inserting “sec-
tion 1960 (relating to illegal money transmitting busi-
nesses),” before “section 659”.

(b) CURRENCY REPORTING OFFENSES.—Section
2516(1)(g) of title 18, United States Code, is amended
to read as follows:

“(g) any offense punishable under section 5322,
5324 or 5332 of title 31, United States Code (deal-
ing with the reporting and illegal structuring of currency transactions);’’.

SEC. 232. KNOWLEDGE THAT THE PROPERTY IS THE PROCEEDS OF A SPECIFIC FELONY.

(a) INTENT TO CONCEAL OR DISGUISE.—Sections 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (1)(B)(i), by striking “specified unlawful activity” and inserting “some form of unlawful activity”; and

(2) in paragraph (2)(B)(i), by striking “specified unlawful activity” and inserting “some form of unlawful activity”.

(b) PROCEEDS OF A FELONY.—Section 1956(c)(1) of title 18, United States Code, is amended by inserting “, and regardless of whether or not the person knew that the activity constituted a felony” before the semicolon at the end.

SEC. 233. DISCOVERY PROCEDURE FOR LOCATING LAUNDERED MONEY.

Section 413(m) of the Controlled Substances Act (21 U.S.C. 853(m)) is amended by inserting before the period at the end the following: “to the extent that the provisions of the Rule are consistent with the purposes for which discovery is conducted under this subsection. Because this subsection applies only to matters occurring after the de-
fendant has been convicted and the property of the defend-
ant has been declared forfeited, the provisions of Rule 15
requiring the presence of the defendant at the deposition
of any other witness, or a waiver by the defendant of a
right to be present, shall not apply”.

SEC. 234. AUTHORIZATION TO SHARE RECOVERED PRO-
ERTY WITH COOPERATING FOREIGN GOV-
ERNMENTS.

(a) In General.—Section 981(i)(1) of title 18,
United States Code, is amended by striking “this chapter”
and inserting “any provision of Federal law”.

(b) Conforming Amendments.—Section 511(e)(1)
of the Controlled Substances Act (21 U.S.C. 881(e)(1))
is amended—

(1) in subparagraph (C), by adding “or” after
the semicolon;

(2) in subparagraph (D), by striking “; or” and
inserting a period; and

(3) by striking subparagraph (E).

SEC. 235. CRIMINAL FORFEITURE OF PROPERTY IN GOV-
ERNMENT CUSTODY.

Section 413(f) of the Controlled Substances Act (21
U.S.C. 853(f)) is amended—

(1) by striking “The Government” and insert-
ing the following:
“(1) The Government”; and

(2) by adding at the end the following:

“(2) If property subject to criminal forfeiture under this section is already in the custody of the United States or any agency thereof, it shall not be necessary to seize or restrain the property for the purpose of criminal forfeiture.

“(3) If the seizure warrant is obtained after the property to be seized has been listed in an indictment or criminal information or related bill of particulars, the requirement that the warrant be executed within 10 days under Rule 41, Federal Rules of Criminal Procedure, shall not apply.”.

SEC. 236. NON-ABATEMENT OF CRIMINAL FORFEITURE WHEN DEFENDANT DIES PENDING APPEAL.

Section 413 of the Controlled Substances Act (21 U.S.C. 853), as amended by sections 234 and 236, is further amended by adding at the end the following:

“(r) NON-ABATEMENT OF FORFEITURE ORDER.—An order of forfeiture that has been made part of a criminal sentence under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners, regardless of any appeal that may be pending at the time of death.”.
SEC. 237. MISCELLANEOUS MINOR AND TECHNICAL AMENDMENTS.

(a) Criminal Forfeiture.—Section 982(b)(2) of title 18, United States Code, is amended by striking “The substitution” and inserting “With respect to a forfeiture under subsection (a)(1), the substitution”.

(b) Definition of Financial Institution.—Section 5312(a)(2) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (Y) and (Z) as subparagraphs (Z) and (AA), respectively; and

(2) by inserting after subparagraph (X) the following:

“(Y) a bail bondsman;”.

(c) Technical Amendment to Section 1957.—Section 1957 of title 18, United States Code, is amended—

(1) in subsection (a), by striking “engages or attempts to engage in” and inserting “conducts or attempts to conduct”; and

(2) in subsection (f)—

(A) in paragraph (2), by striking “and” at the end;

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

(C) by inserting at the end the following:
“(4) the term ‘conducts’ has the meaning given the term in section 1956.”.

(d) Obstruction of Justice.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting “, a subpoena issued pursuant to section 1782 of title 28,” before “or a Department of Justice subpoena”.

(e) Technical Corrections to USA PATRIOT Act.—

(1) USA PATRIOT Act.—Section 322 of Public Law 107–56 is amended by striking “title 18” and inserting “title 28”.

(2) Title 18.—Title 18, United States Code, is amended—

(A) in section 981(k), by striking “foreign bank” each place it appears and inserting “foreign bank or financial institution”; and

(B) in section 1956(b), by striking “described in paragraph (2)” each place it appears.

(3) Title 31.—Chapter 53 of title 31, United States Code, is amended—

(A) in section 5312(a)(3)(C), by striking “5333” and inserting “5331”; and

(B) in section 5318(k)(1)(B) by striking “(f)” and inserting “(e)”;

June 27, 2003
(C) in section 5324(b), by striking “5333” each place it appears and inserting “5331”; and
(D) in section 5332(a)(1), by striking “article of luggage” and inserting “article of luggage or mail”.

SEC. 238. VENUE FOR PRISONER CHALLENGES TO SEIZURE OF CRIME PROCEEDS.

(a) In General.—Section 983(e) of title 18, United States Code, is amended—

(1) in paragraph (3), by adding at the end the following: “If the person filing the motion was a defendant in a criminal prosecution related to the seizure of the property, the motion shall be filed in the district where such prosecution took place, or in the district where the property was seized.”; and

(2) by adding at the end the following:

“(6) Any person entitled to written notice in an judicial forfeiture proceeding under a civil forfeiture statute who does not receive such notice may file a motion to set aside the judgment of forfeiture with respect to that person’s interest in the property in accordance with the procedures for setting aside a non-judicial forfeiture, as set forth in paragraphs (1) through (5).”.

June 27, 2003
(b) Effective Date.—The provisions of section 983(e) of title 18, United States Code, shall apply to any motion to set aside a declaration or judgment of forfeiture if such motion is filed on or after August 23, 2000.

SEC. 239. RESTORING CRIMINAL PROCEEDS TO VICTIMS.

The amendments to section 981(e)(6) of title 18, United States Code, made by Public Law 106–185 (114 Stat. 202), relating to the restoration of criminally derived property to crime victims, shall apply to all cases pending on August 23, 2000, or commenced thereafter, regardless of the date of the offense or the date when the criminally derived property was recovered.

SEC. 240. AFFORDING PROPERTY OWNERS A HEARING ON THE SEIZURE OF REAL PROPERTY.

Section 985(e) of title 18, United States Code, is amended to read as follows:

“(e) If the court authorizes a seizure of real property under subsections (d)(1)(B)(ii), it shall afford the property owner an opportunity for a prompt post-seizure hearing to determine whether there was probable cause for the seizure.”.

SEC. 241. JURISDICTION OF MAGISTRATES.

Section 636(a) of title 28, United States Code, is amended—
(1) in paragraph (4), by striking “and” after the semicolon;

(2) in paragraph (5), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(6) all powers and duties conferred or imposed upon the courts by sections 981 through 986 of title 18, United States Code, in connection with forfeiture proceedings, but not including the conduct of the trial.”.

SEC. 242. TECHNICAL AMENDMENT REGARDING THE PROCEDURES FOR CRIMINAL FORFEITURE.

Section 2461(c) of title 28, United States Code, is amended by striking “in accordance with the procedures set forth in section 413 of the Controlled Substances Act (21 U.S.C. 853), other than subsection (d) of that section.” and inserting “in accordance with those Rules. The procedures set forth in section 413 of the Controlled Substances Act (21 U.S.C. 853), except for subsection (d) of that section, shall apply to all stages of the criminal forfeiture proceeding.”.


Section 3322(a) of title 18, United States Code, is amended by inserting before the period the following: “, including disclosing such information in a complaint, or
in an application for a seizure warrant or restraining order, or for use at any trial or hearing. Disclosure to an attorney for the Government under this section shall include disclosure to any Government employee or contractor regularly engaged in assisting the attorney to whom the information is disclosed in the conduct of civil litigation.”.

SEC. 244. MINOR AMENDMENTS TO THE CIVIL ASSET FORFEITURE REFORM ACT OF 2000.

(a) Section 981.—Section 981 of title 18, United States Code, as amended by this title, is further amended by adding at the end the following: “(l) The procedural provisions of this section shall apply to any civil forfeiture statute, as that term is defined in Section 983(i).”.

(b) Turnover Orders; Incarcerated Persons.—Section 983(a)(1) of title 18, United States Code, is amended—

(1) in subparagraph (A)(iv), by adding at the end the following: “In a State where the State or local law enforcement agency must obtain an order from a State court authorizing the turnover, the period from the date the law enforcement agency applies for the turnover order to the date when such
order is issued by the court shall not be included in the 90-day period.”; and

(2) in subparagraph (F), by inserting at the end the following: “The Government shall not be re-
quired to return property to a person who is incarcer.
ated.”.

(c) CRIMINAL INFORMATION.—Section 983(a)(3) of title 18, United States Code, is amended by striking “criminal indictment” each place it appears and inserting “criminal indictment or information”.

(d) ENDANGERED SPECIES AND OTHER CONTRA-
BAND.—Section 983(d)(4) of title 18, United States Code, is amended—

(1) by inserting “(A)” before “Notwith-
standing”; and

(2) by inserting the following at the end:

“(B) As used in this paragraph, the term ‘prop-
erty that it is illegal to possess’ includes—

“(i) animal or animal products protected
by any law enacted to conserve or protect en-
dangered species or other wildlife or natural re-
sources;

“(ii) historic or cultural artifacts, works of
art, archaeological or paleontological resources,
human remains, fossils and other things pro-
tected by any law enacted to preserve, protect, recover or restore historic or cultural resources; and

“(iii) any firearm, explosive, chemical agent or other instrumentality used to commit a crime of violence.”.

SEC. 245. COLLECTION OF CRIMINAL FORFEITURE JUDGMENT.

Section 413 of the Controlled Substances Act (21 U.S.C. 853), as amended by this title, is further amended by adding at the end the following:

“(s) COLLECTION OF CRIMINAL FORFEITURE JUDGMENT.—In addition to the authority otherwise provided under this section, an order of forfeiture may be enforced—

“(1) in the manner provided for the collection and payment of fines under subchapter B of chapter 229 of title 18, United States Code; or

“(2) in the same manner as a judgment in a civil action.”.

SEC. 246. PROPERTY DETAINED AT THE BORDER.

Section 983(a)(1) of title 18, United States Code, as amended by section 244(b), is further amended—

(1) in subparagraph (A), by adding at the end the following:
“(vi) In cases where property is detained at an international border or port of entry for the purpose of examination, testing, inspection, obtaining documentation or other investigation relating to the importation of the property into, or the exportation of the property out of, the United States, such period of detention shall not be included in the 60-day period described in clause (i). In such cases, the 60-day period shall begin to run when the period of detention is concluded, and a law enforcement agency of the United States determines that the property will be seized for the purpose of forfeiture to the United States.”; and

(2) in subparagraph (D)—

(A) in clause (iv), by striking “or” at the end;

(B) by redesignating clause (v) as clause (vi); and

(C) by inserting after clause (iv) the following:

“(v) initiation of a forfeiture proceeding before the seizing agency has received the results of a scientific test or laboratory analysis of the seized property that is material to the de-
termination whether the property is subject to
forfeiture; or”.

SEC. 247. EXEMPTION FROM LIABILITY FOR ATTORNEY
FEES IN INTERNATIONAL MONEY LAUNDERING CASES.

Section 2465 of title 28, United States Code, is
amended by adding at the end the following:

“(c) The United States shall not be liable for attorney
fees or other litigation costs under subsection (b)(1) if—

“(1) the Government established the forfeit-
ability of the property pursuant to section
981(a)(1)(A) of title 18, or any forfeiture provision
of chapter 53 of title 31, by a preponderance of the
evidence; and

“(2) the forfeiture action involved the move-
ment of funds across an international border or into
or out of an account at a foreign financial institu-
tion.”.

SEC. 248. TECHNICAL CORRECTION REGARDING FOR-
FEITURE AUTHORITY FOR SECRETARY,
HOMELAND SECURITY.

Section 981 of title 18, United States Code, as
amended by this title, is further amended—
(1) by inserting “, Secretary of Homeland Security” after “the Secretary of the Treasury” each place it appears; and

(2) in subsection (j)—

(A) in paragraph (1), by striking “and” at the end;

(B) in paragraph (2), by striking the period at the end and inserting “; and”; and

(C) by inserting at the end the following:

“(3) the term “Secretary of Homeland Security” means the Secretary of the Department of Homeland Security or his delegate.”.

SEC. 249. RULE 32.2.

Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure is amended by adding at the end the following: “If the court fails to include the order of forfeiture in the sentence of judgment, the Government, or the court on its own motion, may move at any time to correct the error pursuant to Rule 36.”.

SEC. 250. FORFEITURE OF THE VALUE OF DRUGS SEIZED.

Section 413(a) of the Controlled Substances Act (21 U.S.C. 853(a)), is amended by adding at the end the following: “In addition to any other money judgment that may be imposed under this section, a person who does not receive any proceeds from the sale, importation, or dis-
tribution of a controlled substance because the person is arrested, or the controlled substance is seized, before the sale, importation, or distribution is complete, shall pay a money judgment equal to the amount of money that would have been paid if such sale, importation, or distribution had been completed.”.

SEC. 251. FORFEITURE OF FACILITATING PROPERTY IN NARCO-TELESEISM CASES AND PROPERTY TRACEABLE TO SUCH PROPERTY.

(a) Conveyances.—Section 511(a)(4) of the Controlled Substances Act (21 U.S.C. 881(a)(4)) is amended by inserting before the period at the end the following: “, and any property that is traceable to such conveyances”.

(b) Negotiable Instruments, Securities, and Other Things of Value.—Section 511(a)(6) of the Controlled Substances Act (21 U.S.C. 881(a)(6)) is amended by striking “and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this subchapter” and inserting “all moneys, negotiable instruments, securities, and other things of value used, or intended to be used, to facilitate any violation of this subchapter, and any property traceable to such valuables.”.
(c) REAL PROPERTY.—Section 511(a)(7) of the Controlled Substances Act (21 U.S.C. 881(a)(7)) is amended by inserting before the period at the end the following: “, and any property that is traceable to such property”.

(d) AMMUNITION.—Section 511(a)(11) of the Controlled Substances Act (21 U.S.C. 881(a)(11)) is amended by inserting “, ammunition, holster, or other carrying case” before “used or intended to be used.”.

SEC. 252. FORFEITURE OF INSTRUMENTALITIES OF TERRORISM, FRAUD, AND OTHER OFFENSES.

Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:

“(I)(i) Any computer, photostatic reproduction machine, electronic communications device, or other material, article, apparatus, device, or thing made, possessed, fitted, used, or intended to be used on a continuing basis to commit a violation of section 513, 514, 1028, 1029, 1030, 1031, 1032, 1341, 1342, 1343, or 1344, or a conspiracy to commit such offense, and any property traceable to such property.

“(ii) Any conveyance used on 2 or more occasions to transport the instrumentalities used in the commission of a violation of section 1028 or 1029,
or a conspiracy to commit such offense, and any property traceable to such conveyance.

“(J) Any conveyance, chemicals, laboratory equipment, or other material, article, apparatus, device or thing made, possessed, fitted, used, or intended to be used to commit—

“(i) an offense punishable under Chapter 113B (relating to terrorism);

“(ii) a violation of Chapter 53 of the Internal Revenue Code of 1986 (relating to firearms);

“(iii) a violation of subsection (a)(1), (a)(3), (b), (c), (d), or (h)(1) of section 842, or any of the subsections (d) through (m) of section 844 (relating to explosives); or

“(iv) any other offense enumerated in section 2339A(a) or a conspiracy to commit any such offense, and any property traceable to such property.”.
TITLE III—NATIONAL DRUG SENTENCING REFORM

SEC. 301. SENTENCING GUIDELINE CONFORMING CHANGES AND ENHANCEMENTS FOR ACTS OF VIOLENCE DURING THE COURSE OF A DRUG TRAFFICKING OFFENSE.

Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines, commentary, and policy statements to ensure that the guidelines provide an appropriate enhancement of between 2 to 8 base offense levels, for each of the following factors, if the defendant, during the course of a drug trafficking offense—

(1) used violence;
(2) made a credible threat to use violence;
(3) directed or threatened the use of violence;
or
(4) possessed a firearm, or other dangerous weapon.

SEC. 302. INCREASE IN SENTENCE FOR AGGRAVATING FACTORS.

Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this sec-
tion, the United States Sentencing Commission shall re-
view and amend the Federal sentencing guidelines, com-
mentary, and policy statements for offenses involving con-
trolled substances to take into account the following im-
portant aggravating factors relating to the seriousness of
the offense and the culpability of the defendant:

(1) The defendant induced another person to
purchase, sell, transport, or store controlled sub-
stances, used impulse, fear, friendship, affection, or
some combination thereof to involve such person in
the offense, and such person was to receive little or
no compensation from the offense.

(2) The defendant maintained an establishment
for the manufacture or distribution of a controlled
substance, as generally described in section 406 of
the Controlled Substances Act (21 U.S.C. 856).

(3) The defendant distributed a controlled sub-
stance to a person under age 18, a person over age
64, or a pregnant individual, or involved a person
under age 18, a person over age 64, or a pregnant
individual in drug trafficking.

(4) The defendant bribed, or attempted to
bribe, a Federal, State, or local law enforcement of-
official in connection with a drug trafficking offense.
(5) The defendant committed the drug trafficking offense as part of a pattern of criminal conduct engaged in as a livelihood.

(6) The defendant had a prior conviction for a felony drug offense.

(7) The defendant was involved in the importation of a controlled substance into the United States.

SEC. 303. REMOVING SENTENCING CAP ON DRUG TRAFFICKERS WHO FACILITATE THE AVAILABILITY AND DISTRIBUTION OF LARGE QUANTITIES OF ILLEGAL DRUGS.

(a) In general.—The Guidelines Manual promulgated by the Sentencing Commission pursuant to section 994(a) of title 28, United States Code, is amended—

(1) in section 2D1.1

(A) in subsection (a)(3), by striking “, except that if the defendant receives an adjustment under § 3B1.2 (Mitigating Role), the base offense level under this subsection shall not be more than level 30”;

(B) in subsection (b), by striking paragraph (6); and

(C) in the Commentary, by striking Application Note 21; and
(2) in the Commentary to section 3B1.2, by striking Application Note 6.

(b) LIMITATION ON COMMISSION.—The Sentencing Commission shall not promulgate any amendment to alter or repeal the amendments made by this section.

SEC. 304. ADDITIONAL SERIOUS DRUG OFFENSES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(A)(ii) of title 18, United States Code, is amended by inserting before the semicolon the following: “, or which, if it had been prosecuted as a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) at the time of the offense and because of the type and quantity of the controlled substance involved, would have been punishable by a maximum term of imprisonment of not less than 10 years”.

SEC. 305. LIMIT ON SENTENCING OF CERTAIN DEFENDANTS IN DRUG TRAFFICKING CASES.

(a) LIMITATION ON APPLICABILITY OF STATUTORY MINIMUMS.—

(1) IN GENERAL.—Section 3553(f) of title 18, United States Code, is amended—

(A) by amending paragraph (1) to read as follows:
“(1) the defendant does not have any criminal history points, as determined under the Federal sentencing guidelines;”;

(B) in paragraph (4), by striking “and” at the end; and

(C) by striking paragraph (5) and inserting the following:

“(5) the defendant entered a timely plea of guilty to the offense of conviction;

“(6) not later than the time of the sentencing, the Government files a certification with the court stating that the defendant, in a timely manner—

“(A) plead guilty to the offense of conviction;

“(B) truthfully provided all information and evidence that the defendant has concerning the offense or offenses that were part of the same course of conduct or common scheme or plan, whether or not such information was previously known or used by the Government; and

“(C) testified fully and truthfully in all proceedings at the request of the Government, was prepared to do so, or has agreed to do so in the future; and”.

June 27, 2003
(2) Restoration of congressional intent concerning application of 18 U.S.C. 3553(f).—

(A) In general.—The Guideline Manual promulgated by the United States Sentencing Commission pursuant to section 994(a) of title 28, United States Code, is amended by repealing section 2D1.1(b)(6).

(B) Restriction.—The Sentencing Commission shall not promulgate any amendment that would alter or repeal the amendment under subparagraph (A).

(b) Reduction of sentences for defendants who qualify for minimal role adjustment and are first-time, non-violent offenders.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend, as appropriate, the Federal sentencing guidelines, commentary, and policy statements to ensure that if the defendant qualifies for a minimal role adjustment under section 3B1.2(a) of the guidelines and an adjustment under section 5C1.2 of the guidelines, the defendant shall be entitled to an additional reduction of 2 base offense levels if the defendant, at the sentencing hearing, estab-
lishes by a preponderance of the evidence that the
defendant—

(1) did not directly participate in the distribu-
tion of controlled substances;

(2) did not receive any significant compensation
or benefit as a result of the offense; and

(3) was not predisposed to commit the offense.

SEC. 306. RESTORATION OF ORDERLY GRADATION OF SEN-
TENCES TO PUNISH LARGE-SCALE DRUG
TRAFFICKERS.

(a) In General.—Pursuant to its authority under
section 994 of title 28, United States Code, and in accord-
ance with this section, the United States Sentencing Com-
mission shall, not later than 30 days after the date of en-
actment of this Act, amend section 2D1.1(c) of the Fed-
eral sentencing guidelines, and related policy statements—

(1) with respect to heroin, other Schedule I or
II opiates, cocaine, other Schedule I or II stimu-
lants, cocaine base, PCP, PCP (actual), LSD, other
schedule I or II hallucinogens, fentanyl, fentanyl
analogue, marijuana, hashish, and hashish oil, to re-
store base offense levels 40 and 42 as they existed
prior to amendment 505, which was promulgated by
the Sentencing Commission with an effective date of
November 1, 1994; and
(2) with respect to methamphetamine, methamphetamine (actual), “Ice”, amphetamine, amphetamine (actual), Schedule I or II depressants, and flunitrazepam, to provide for appropriate drug quantities to be assigned base offense levels 40 and 42, respectively, for amounts above the minimum amounts for these drugs under section 2D1.1(c)(1).

(b) Restriction.—The Sentencing Commission shall not promulgate any amendment that—

(1) alters or repeals the amendment described under subsection (a)(1); or

(2) is inconsistent with subsection (a)(2).


(a) Directive to United States Sentencing Commission.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall, not later than 180 days after the date of enactment of this Act, review and amend the Federal sentencing guidelines, policy statements, official commentary, and illustrations of conduct for which the defendant is accountable under section 1B1.3 to ensure that a defendant is accountable for “relevant conduct”, including—
(1) in the case of a criminal conspiracy (a criminal plan, scheme, endeavor, or enterprise undertaken by the defendant in concert with others, whether or not charged as a conspiracy) for the conduct (acts and omissions) of others that was—

(A) in furtherance of the conspiracy; and

(B) known to the defendant or reasonably foreseeable in connection with that conspiracy; and

(2) all conduct of members of a conspiracy prior to the defendant joining that conspiracy that was known to the defendant when he or she joined the conspiracy.

(b) CONFORMING AMENDMENTS.—The Sentencing Commission shall make appropriate conforming amendments to the Federal sentencing guidelines, policy statements, and commentary, consistent with the amendment made under subsection (a).

SEC. 308. ELDERLY, NONVIOLENT PRISONER PILOT PROGRAM.

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

(1) CRIME OF VIOLENCE.—The term “crime of violence” has the same meaning given the term in section 16 of title 18, United States Code.
(2) DESIGNATED FACILITY.—The term “designated facility” means a Federal penitentiary designated by the Attorney General as appropriate for the pilot program.

(3) DIRECTOR.—The term “Director” means the Director of the Bureau of Prisons.

(4) ELIGIBLE PRISONER.—The term “eligible prisoner” means a prisoner in the custody of the Bureau of Prisons who—

(A) is not less than 65 years of age;

(B) is serving a term of imprisonment after conviction for an offense other than a crime of violence and has served the greater of 10 years or ½ of the term of imprisonment;

(C) has not been convicted in the past of any Federal or State crime of violence, or any other Federal offense for which a sentencing enhancement was applied under section 301 or 302;

(D) has not been determined by the Bureau of Prisons, on the basis of information the Bureau uses to make custody classifications, and in the sole discretion of the Bureau, to have a history of violence;
(E) has not escaped, or attempted to escape, from the Bureau of Prisons facility; and

(F) has not been determined by the Director, pursuant to the disciplinary system of the Bureau of Prisons, to have committed an infraction involving an act of violence.

(5) **HOME DETENTION.**—The term “home detention” has the same meaning given the term in the Federal sentencing guidelines, and includes detention in a nursing home or other residential long-term care facility.

(6) **PILOT PROGRAM.**—The term “pilot program” means the pilot program carried out in accordance with this section.

(7) **TERM OF IMPRISONMENT.**—The term “term of imprisonment” includes multiple terms of imprisonment ordered to run consecutively or concurrently, which shall be treated as a single, aggregate term of imprisonment for purposes of this section.

(b) **PROGRAM ESTABLISHED.**—

(1) **IN GENERAL.**—Notwithstanding section 3624 of title 18, United States Code, or any other provision of law, the Director shall carry out a pilot program at 1 or more designated facilities, under which the Director shall, in accordance with para-
graph (2), place each prisoner who is determined to
be an eligible prisoner on home detention until the
date on which the term of imprisonment to which
the prisoner was sentenced expires.

(2) Timing of release.—In carrying out the
pilot program, the Director shall place an eligible
prisoner on home detention under paragraph (1)—

(A) with respect to a prisoner who is deter-
mined to be an eligible prisoner on or before the
date that is 90 days after the date of enactment
of this Act, not later than 180 days after the
date of enactment of this Act; and

(B) with respect to a prisoner who is de-
determined to be an eligible prisoner after the
date that is 90 days after the date of enactment
of this Act and before the date that is 3 years
and 91 days after such date of enactment, not
later than 90 days after the date of such deter-
mination.

(3) Violation of terms of home deten-
tion.—A violation of the terms of the home deten-
tion, including the commission of another Federal,
State, or local crime, shall result in the return of the
prisoner to the prior custody of that prisoner.

(c) Program Evaluation.—
(1) IN GENERAL.—The Director shall contract with an independent organization to monitor and evaluate the progress of each prisoner released under the pilot program during the 3-year period beginning on the date of such release.

(2) ANNUAL REPORT.—The organization described in paragraph (1) shall annually submit to the Director and to Congress a report on the pilot program, which shall include—

(A) an evaluation of the effectiveness of the pilot program in providing successful transition to eligible prisoners from incarceration to the community, including data relating to the recidivism rates for those prisoners; and

(B) the cost savings to the Federal Government resulting from the early removal of eligible prisoners from incarceration.

SEC. 309. EMERGENCY AMENDMENT AUTHORITY.

(a) IN GENERAL.—The United States Sentencing Commission shall—

(1) promulgate amendments in accordance with the directives in this Act and the procedure set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note), as though the authority under that Act had not expired; and
(2) pursuant to the emergency authority provided under paragraph (1), make such conforming amendments to the Federal sentencing guidelines, commentary, and policy statements as the Commission determines necessary to achieve consistency with other guideline provisions and applicable law.

(b) EFFECTIVE DATE.—The amendments made pursuant to this section shall apply to any offense committed on or after 180 days after the date of enactment of this Act.

TITLE IV—PROTECTING CHILDREN FROM DRUG TRAFFICKERS AND PREVENTING DRUG-RELATED VIOLENT CRIME

SEC. 401. MURDER AND OTHER VIOLENT CRIMES COMMITTED DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME.

(a) IN GENERAL.—Part D of the Controlled Substances Act (21 U.S.C. 841 et seq.) is amended by adding at the end the following:

“MURDER AND OTHER VIOLENT CRIMES COMMITTED DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME

“Sec. 424.
“(a) IN GENERAL.—Any person who, during and in relation to any drug trafficking crime, murders, kidnapes, maims, assaults with a dangerous weapon, commits assault resulting in serious bodily injury upon, or threatens to commit a crime of violence against, any individual, or attempts or conspires to do so, shall be punished, in addition and consecutive to the punishment provided for the drug trafficking crime—

“(1) in the case of murder, by death or imprisonment for not less than 30 years or for life, a fine under title 18, United States Code, or both;

“(2) in the case of kidnapping—

“(A) by imprisonment for not less than 30 years or for life, a fine under such title 18, or both; and

“(B) if death of any person results, by death or imprisonment for not less than 30 years or for life, a fine under such title 18, or both;

“(3) in the case of maiming, by imprisonment for not less than 15 years and not more than 50 years, a fine under such title 18, or both;

“(4) in the case of assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not less than 10 years and not
more than 30 years, a fine under such title 18, or both;

“(5) in the case of threatening to commit a crime of violence specified in paragraphs (1) through (4), by imprisonment for not less than 3 years and not more than 20 years, a fine under such title 18, or both;

“(6) in the case of attempting or conspiring to commit murder or kidnaping, by imprisonment for not more than 30 years, a fine under such title 18, or both; and

“(7) in the case of attempting or conspiring to commit a crime involving maiming, assault with a dangerous weapon, or assault resulting in serious bodily injury, by imprisonment for not more than 20 years, a fine under such title 18, or both.

“(b) VENUE.—A prosecution for a violation of this section may be brought in—

“(1) the judicial district in which the murder or other crime of violence occurred; or

“(2) any judicial district in which the drug trafficking crime may be prosecuted.

“(c) APPLICABLE DEATH PENALTY PROCEDURES.—

“(1) IN GENERAL.—A defendant who has been found guilty of an offense under this section for
which a sentence of death is provided shall be subject to the provisions of chapter 228 of title 18, United States Code.

“(2) LIMITATION.—If a death sentence is imposed under this section, such sentence shall not be in addition and consecutive to the punishment for the drug trafficking crime.

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

“(1) the term ‘crime of violence’ has the meaning given that term in section 924(c)(3) of title 18, United States Code; and

“(2) the term ‘drug trafficking crime’ has the meaning given that term in section 924(c)(2) of title 18, United States Code.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Controlled Substances Act is amended by inserting after the item relating to section 423, the following:

“Sec. 424. Murder and other violent crimes committed during and in relation to a drug trafficking crime.”.

SEC. 402. PROTECTION OF CHILDREN FROM DRUG TRAFFICKERS.

(a) DISTRIBUTION TO PERSONS UNDER 21 YEARS OF AGE; FIRST OFFENSE.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a)—
(A) by striking “involving the same controlled substance and schedule” and inserting “without regard to the type of controlled substance and schedule”; and

(B) by striking “not less than one year” and inserting “not less than 5 years”; and

(2) in subsection (b)—

(A) by striking “involving the same controlled substance and schedule” and inserting “without regard to the type of controlled substance and schedule”;

(B) by striking “after a prior conviction under subsection (a) of this section (or under section 303(b)(2) of the Federal Food, Drug, and Cosmetic Act as in effect prior to the effective date of section 701(b) of this Act)” and inserting “after a prior conviction for a felony drug offense”; and

(C) by striking “not less than one year” and inserting “not less than 10 years”.

(b) DISTRIBUTION OR MANUFACTURING IN OR NEAR SCHOOLS AND COLLEGES.—Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a)—

(A) by striking “within 100 feet of”; and
(B) by striking “not less than one year”
and inserting “not less than 5 years”; (2) in subsection (b)—
(A) by striking “within 100 feet of”;
(B) by striking “after a prior conviction
under subsection (a)” and inserting “after a prior conviction for a felony drug offense”;
(3) by striking “not less than three years” each place it appears and inserting “not less than 10 years”; and
(4) by amending subsection (c) to read as follows:
“(c)(1) Notwithstanding any other law, any person at least 18 years of age who knowingly and intentionally—
“(A) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to violate this section; or
“(B) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to assist in avoiding detection or apprehension for any offense under this section by any Federal, State, or local law enforcement official, is punishable by a term of imprisonment, a fine, or both, up to triple those authorized under section 401, except if a greater minimum sentence is otherwise provided
under section 401(b), a person shall be sentenced under this subsection to a term of imprisonment of not less than 10 years.

“(2) Any person who has previously been convicted for a felony drug offense shall be sentenced to a term of imprisonment of not less than 15 years for a subsequent violation of paragraph (1).”.

(c) Employment or Use of Persons Under 18 Years Old.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b), by striking “not be less than one year” and inserting “be not less than 10 years”;

(2) in subsection (c)—

(A) by striking “after a prior conviction under subsection (a) of this section” and inserting “after a prior conviction for a felony drug offense”; and

(B) by striking “not be less than one year” and inserting “be not less than 15 years”; and

(3) in subsection (d)—

(A) by striking “or (2)” and inserting “or (2)—”;

(B) by striking “younger.” and inserting “younger,”
(C) by striking “not more than five years” and inserting “not less than 5 years”.

(d) Amendments to Sentencing Guidelines.—

(1) In general.—Not more than 30 days after the date of enactment of this Act, the Sentencing Commission shall amend the sentencing guidelines, policy statements, and official commentary issued under section 994 of title 28, United States Code, to ensure that the base offense level for any felony violation of the Controlled Substances Act (21 U.S.C. 841 et seq.), or a felony violation of the Controlled Substances Import and Export Act (21 U.S.C. 851 et seq.)—

(A) is increased by 2 levels if any part of the offense or relevant conduct involved possessing, storing, using, or trafficking drugs—

(i) in or near the presence of a minor; or

(ii) in a location in which a minor resides for any period of time; and

(B) is increased by an additional 2 levels if the defendant was the parent or guardian of the minor.

(2) Limitation on applicability of statutory minimums.—Section 3553(f) of title 18,
United States Code, as amended by section 305, is further amended by adding at the end the following:

“(7) no part of the offense or relevant conduct—

“(A) involved possessing, storing, using, or trafficking drugs in or near the presence of a minor;

“(B) occurred in a location in which a minor resides for any period of time; or

“(C) involved conduct constituting an offense under section 418, 419, or 420 of the Controlled Substances Act (21 U.S.C. 859, 860, and 861).”.

TITLE V—PROVIDING THE TOOLS NEEDED TO WIN THE WAR AGAINST NARCO-TERRORISM, DRUG TRAFFICKERS WHO SELL TO CHILDREN, AND VIOLENT DRUG TRAFFICKERS

SEC. 501. PREDICATE CRIMES FOR AUTHORIZATION OF INTERCEPTION OF WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS.

Section 2516(1) of title 18, United States Code, is amended—
(1) in paragraph (q), by striking “or”;  

(2) by redesignating paragraph (r) as paragraph (s); and  

(3) by inserting after paragraph (q) the following:

“(r) any violation of section 424 of the Controlled Substances Act (relating to narco-terrorism, murder and violent crimes in furtherance of a drug trafficking crime); or”.

SEC. 502. LIMITING APPLICATION OF STATUTORY EXCLUSIVE RULE WHERE LAW ENFORCEMENT AGENTS ACT IN GOOD FAITH.

Chapter 119 of title 18, United States Code, is amended

(1) in section 2515—

(A) by striking “Whenever” and inserting the following:

“(a) IN GENERAL.—Whenever”; and

(B) by adding at the end the following:

“(b) EXCLUSION.—Subsection (a) shall not apply to the disclosure by the United States in a criminal trial or hearing or before a grand jury of the contents of a wire or oral communication, or evidence derived therefrom, unless the violation of this chapter involved bad faith by law enforcement.”; and
(2) in section 2518(10)(a), by inserting “A court may not grant a motion to suppress the contents of a wire or oral communication, or evidence derived therefrom, unless the court finds that the violation of this chapter involved bad faith by law enforcement.” after “grounds of the motion.”.

SEC. 503. ADMINISTRATIVE SUBPOENAS FOR TERRORISM INVESTIGATIONS.

Section 3486(a)(1)(A) of title 18, United States Code, is amended—

(1) by striking “of” and inserting “to”;

(2) in clause (i)—

(A) by striking “or (II)” and inserting the following:

“(II); and

(B) by striking “, the Attorney General” and inserting the following: “; or

“(III) any investigation under chapter 113B,

the Attorney General”.

SEC. 504. ADMINISTRATIVE SUBPOENAS TO APPREHEND FUGITIVES.

(a) In general.—Chapter 49 of title 18, United States Code, is amended by adding at the end the following:
§1075. Administrative subpoenas to apprehend fugitives

(a) DEFINITIONS.—In this section:

(1) FUGITIVE.—The term ‘fugitive’ means a person who—

(A) having been accused by complaint, information, or indictment under Federal law or having been convicted of committing a felony under Federal law, flees or attempts to flee from or evades or attempts to evade the jurisdiction of the court with jurisdiction over the felony;

(B) having been accused by complaint, information, or indictment under State law or having been convicted of committing a felony under State law, flees or attempts to flee from, or evades or attempts to evade, the jurisdiction of the court with jurisdiction over the felony;

(C) escapes from lawful Federal or State custody after having been accused by complaint, information, or indictment or having been convicted of committing a felony under Federal or State law; or

(D) is in violation of subparagraph (2) or (3) of the first undesignated paragraph of section 1073.
“(2) INVESTIGATION.—The term ‘investigation’ means, with respect to a State fugitive described in subparagraph (B) or (C) of paragraph (1), an investigation in which there is reason to believe that the fugitive fled from or evaded, or attempted to flee from or evade, the jurisdiction of the court, or escaped from custody, in or affecting, or using any facility of, interstate or foreign commerce, or as to whom an appropriate law enforcement officer or official of a State or political subdivision has requested the Attorney General to assist in the investigation, and the Attorney General finds that the particular circumstances of the request give rise to a Federal interest sufficient for the exercise of Federal jurisdiction pursuant to section 1075.

“(3) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

“(b) SUBPOENAS AND WITNESSES.—

“(1) SUBPOENAS.—In any investigation with respect to the apprehension of a fugitive, the Attorney General may subpoena witnesses for the purpose of the production of any records (including books, papers, documents, electronic data, and other tan-
gible and intangible items that constitute or contain evidence) that the Attorney General finds, based on articulable facts, are relevant to discerning the whereabouts of the fugitive. A subpoena under this subsection shall describe the records or items required to be produced and prescribe a return date within a reasonable period of time within which the records or items can be assembled and made available.

“(2) WITNESSES.—The attendance of witnesses and the production of records may be required from any place in any State or other place subject to the jurisdiction of the United States at any designated place where the witness was served with a subpoena, except that a witness shall not be required to appear more than 500 miles distant from the place where the witness was served. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

“(c) SERVICE.—

“(1) AGENT.—A subpoena issued under this section may be served by any person designated in the subpoena as the agent of service.
“(2) NATURAL PERSON.—Service upon a natural person may be made by personal delivery of the subpoena to that person or by certified mail with return receipt requested.

“(3) CORPORATION.—Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association that is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

“(4) AFFIDAVIT.—The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

“(d) CONTUMACY OR REFUSAL.—

“(1) IN GENERAL.—In the case of the contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person
to appear before the Attorney General to produce
records if so ordered.

“(2) CONTEMPT.—Any failure to obey the order
of the court may be punishable by the court as con-
tempt thereof.

“(3) PROCESS.—All process in any case to en-
force an order under this subsection may be served
in any judicial district in which the person may be
found.

“(4) RIGHTS OF SUBPOENA RECIPIENT.—Not
later than 20 days after the date of service of an ad-
ministrative subpoena under this section upon any
person, or at any time before the return date speci-
fied in the subpoena, whichever period is shorter,
such person may file, in the district in which the
subpoena was served, or such person resides, is
found, or transacts business, a petition to modify or
quash such subpoena on grounds that—

“(A) the terms of the subpoena are unrea-
sonable or oppressive;

“(B) the subpoena fails to meet the re-
quirements of this section; or

“(C) the subpoena violates the constitu-
tional rights or any other legal rights or privi-
lege of the subpoenaed party.
“(e) GUIDELINES.—

“(1) IN GENERAL.—The Attorney General shall issue guidelines governing the issuance of administrative subpoenas pursuant to this section.

“(2) REVIEW.—The guidelines required by this subsection shall mandate that administrative subpoenas may be issued only after review and approval of senior supervisory personnel of the relevant component of the Department of Justice, as determined by the Attorney General.

“(f) DELAYED NOTICE.—

“(1) IN GENERAL.—If an administrative subpoena is issued under this section to a provider of an electronic communication service (as defined in section 2510) or remote computing service (as defined in section 2711), the Attorney General may—

“(A) delay notification to the subscriber or customer to whom the record pertains, in accordance with section 2705(a); and

“(B) apply to a court, in accordance with section 2705(b), for an order commanding the provider of an electronic communication service or remote computing service, for such period as the court determines appropriate, not to notify
any other person of the existence of the subpoena or court order.

“(2) SUBPOENAS FOR FINANCIAL RECORDS.—If a subpoena is issued under this section to a financial institution for financial records of any customer of such institution, the Attorney General may apply to a court under section 1109 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3409) for an order to delay customer notice as otherwise required.

“(3) NONDISCLOSURE REQUIREMENTS.—

“(A) IN GENERAL.—Except as otherwise provided under paragraphs (1) and (2), a court may require the party to whom an administrative subpoena is directed to refrain from notifying any other party or person of the existence of the subpoena for 30 days.

“(B) EXTENSION.—The Attorney General may apply to a court for an order extending the nondisclosure period under subparagraph (A) as the court determines appropriate.

“(C) CRITERIA FOR EXTENSION.—A court shall enter an order under paragraph (2) if the court determines that there is reason to believe that notification of the existence of the adminis-
trative subpoena issued under this section will—

“(i) endanger the life or physical safety of an individual;

“(ii) facilitate the flight of an individual from prosecution, custody, or confinement after conviction;

“(iii) result in the destruction of, or tampering with, evidence;

“(iv) lead to the intimidation of potential witnesses; or

“(v) seriously jeopardize an investigation or unduly delay a trial.”.

“(g) IMMUNITY FROM CIVIL LIABILITY.—Any person, including officers, agents, and employees, who in good faith produce the records or items requested in a subpoena shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer, in compliance with the terms of a court order for nondisclosure.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 49 of title 18, United States Code, is amended by adding at the end the following:

“1075. Administrative subpoenas to apprehend fugitives.”.
SEC. 505. EXPANDED JURISDICTION TO ISSUE ORDERS TO INTERCEPT COMMUNICATIONS.

Chapter 119 of title 18, United States Code, is amended—

(1) in section 2510—

(A) in paragraph (9)—

(i) by amending subparagraph (a) to read as follows:

“(A) a judge of any district court of the United States (including a magistrate judge of such court) or any United States court of appeals with jurisdiction over the offense being investigated; and”; and

(ii) in subparagraph (b), by striking “(b)” and inserting “(B)”;

(B) in paragraph (20), by striking “and” at the end;

(C) in paragraph (21), by striking the period at the end and inserting “; and”; and

(D) by adding at the end the following:

“(22) the term ‘wireless’ means the use of electromagnetic waves (rather than some form of wire) to carry a signal over a communication path.”; and

(2) in section 2518(3), by striking “authorized by a Federal court within such jurisdiction” and inserting “or a device that employs wireless technology
in part to transmit wire, oral, or electronic communications, the interception of which is authorized by a Federal court”.

SEC. 506. DIRECTIVE TO UNITED STATES SENTENCING COMMISSION.

(a) In General.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines, commentary, and policy statements to implement the provisions of this Act and the amendments made by this Act.

(b) Requirements.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the creation of new criminal offenses to combat narco-terrorism, narco-terrorism financing schemes, money laundering schemes, drug trafficking to children, and violent crimes in furtherance of drug trafficking;

(2) ensure that the sentencing guidelines and policy statements reflect—

(A) the serious nature of the offenses and penalties set forth in this Act, and the amendments made by this Act;
(B) the intent of Congress to combat the
problems of narco-terrorism, narco-terrorism fi-
nancing schemes, and money laundering
schemes; and

(C) the need to deter, prevent, and punish
drug trafficking to children and violent crimes
in furtherance of drug trafficking;

(3) ensure that modifications to the sentencing
guidelines and policy statements are consistent with
the intent of Congress to deter, prevent, and enact
severe punishments for, the criminal offenses de-
described under paragraph (2);

(4) ensure that the guidelines and policy state-
tments include offense levels and enhancements that
are sufficient to deter, prevent, and punish criminals
who commit the offenses described under paragraph
(2);

(5) ensure reasonable consistency with other
relevant directives and other sentencing guidelines;

(6) make any necessary conforming changes to
the sentencing guidelines; and

(7) assure that the guidelines adequately meet
the purposes of sentencing set forth under section
3553(a)(2) of title 18, United States Code.