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WHITE HOUSE STAFFING MEMORANDUM

DATE: 2-9 ACTION/CONCURRENCE/COMMENT DUE BY: 2-9 3pm

SUBJECT: Counter-terrorism Legislation - Pres. message & Fact Sheet

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	QUINN	<input type="checkbox"/>	<input type="checkbox"/>
PANETTA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RASCO	<input checked="" type="checkbox"/>	<input type="checkbox"/>
McLARTY	<input type="checkbox"/>	<input type="checkbox"/>	RUBIN	<input type="checkbox"/>	<input type="checkbox"/>
ICKES	<input type="checkbox"/>	<input type="checkbox"/>	SEGAL	<input type="checkbox"/>	<input type="checkbox"/>
BOWLES	<input type="checkbox"/>	<input type="checkbox"/>	STEPHANOPOULOS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
RIVLIN	<input type="checkbox"/>	<input type="checkbox"/>	TYSON	<input type="checkbox"/>	<input type="checkbox"/>
EMANUEL	<input type="checkbox"/>	<input type="checkbox"/>	WEBSTER	<input type="checkbox"/>	<input type="checkbox"/>
GEARAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	WILLIAMS	<input type="checkbox"/>	<input type="checkbox"/>
GIBBONS	<input type="checkbox"/>	<input type="checkbox"/>	REED →	<input checked="" type="checkbox"/>	<input type="checkbox"/>
GRIFFIN	<input type="checkbox"/>	<input type="checkbox"/>	<u>Clerk</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
HALE	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
HERMAN	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
LAKE	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
LINDSEY	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
MIKVA	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
McCURRY	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
McGINTY	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

REMARKS: This legislation needs to be transmitted to Congress today. If you have any

RESPONSE: comment, please let us know right away.

John
JOHN D. PODESTA
Assistant to the President
and Staff Secretary
Ext. 2702



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

February 9, 1995

95 FEB 9 11:43

MEMORANDUM FOR JOHN A. PODESTA

FROM:

James C. Murr
Assistant Director for
Legislative Reference

SUBJECT:

Presidential Transmittal of the "Omnibus
Counterterrorism Act of 1995"

As requested by Al Maldon, White House Office of Legislative Affairs, attached is a legislative proposal -- the "Omnibus Counterterrorism Act of 1995" -- that has been prepared for the President to transmit to the Congress. As proposed in the President's State of the Union Address, this proposal is designed to strengthen the ability of the United States to deter terrorist acts and punish those who aid or abet any international terrorist activity in the United States.

This package contains two originals and ten copies of: The Presidential Transmittal Message to the Congress; the legislative proposal; a section-by-section analysis, and a Fact Sheet.

These materials were prepared by the Department of Justice and have been reviewed and approved by this Office, the White House Offices of Counsel and Legislative Affairs, the National Security Council, and the Domestic Policy Council. The materials were also reviewed and approved by the Departments of the Treasury, State, Transportation, and Energy, the Central Intelligence Agency, and the Nuclear Regulatory Commission.

Attachments

TO THE CONGRESS OF THE UNITED STATES:

I am pleased to transmit today for your immediate consideration and enactment the "Omnibus Counterterrorism Act of 1995." Also transmitted is a section-by-section analysis. This legislative proposal is part of my Administration's comprehensive effort to strengthen the ability of the United States to deter terrorist acts and punish those who aid or abet any international terrorist activity in the United States. It corrects deficiencies and gaps in current law.

Some of the most significant provisions of the bill will:

- Provide clear Federal criminal jurisdiction for any international terrorist attack which might occur in the United States.
- Provide Federal criminal jurisdiction over terrorists who use the United States as the place from which to plan terrorist attacks overseas.
- Provide a workable mechanism, utilizing U.S. District Court Judges appointed by the Chief Justice, to deport expeditiously alien terrorists without risking the disclosure of national security information or techniques.
- Provide a new mechanism for preventing fund-raising in the United States that supports international terrorist activities overseas.
- Implement an international treaty requiring the insertion of a chemical agent into plastic explosives when manufactured to make them detectable.

The fund-raising provision includes a licensing mechanism under which funds can only be transferred based on a strict showing that the money will be used exclusively for religious, charitable, literary, or educational purposes and will not be diverted for terrorist activity. The bill also includes numerous relatively technical, but highly important, provisions which will facilitate investigations and prosecutions of terrorist crimes.

It is the Administration's intent that Section 101 confer Federal jurisdiction only over international terrorism offenses. The Administration will work with Members of Congress to ensure the language in the bill is consistent with that intent.

I urge the prompt and favorable consideration of this legislative proposal by the Congress.

THE WHITE HOUSE,

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

February 9, 1995

"Omnibus Counterterrorism Act of 1995"

FACT SHEET

The President today transmitted to the Congress proposed legislation entitled the "Omnibus Counterterrorism Act of 1995." This legislation is part of the initiative the President announced in the State of the Union message on January 24, 1995. The legislation will strengthen the United States' hand in combatting terrorists, whether they strike at home or abroad, and is further evidence of the Administration's determination to improve the Nation's ability to hunt down terrorists and bring them to justice.

Some of the most significant provisions of this comprehensive effort will:

Provide clear Federal criminal jurisdiction for any international terrorist attack which might occur in the United States.

- This proposal provides a more certain and comprehensive basis for the Federal Government to respond to future acts of international terrorism carried out within the United States.
- It creates a new Federal crime relating to acts of international terrorism involving any of the following types of conduct occurring within the United States:
 - murder, kidnapping, maiming, assault resulting in serious bodily injury, assault with a dangerous weapon; and
 - destroying or damaging any structure, conveyance, or other real or personal property.
- The statute would be utilized only when the Attorney General concludes and certifies that the offense: (a) transcended national boundaries; and (b) was of a terrorist nature (i.e., intended to coerce, intimidate, or retaliate against a government or civilian population).
- The proposal also:
 - facilitates pretrial detention for persons charged with this offense (by creating a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of the community and the appearance of the defendant); and

- amends the Federal electronic surveillance statute to facilitate the use of court-authorized roving electronic surveillance in investigating violations of this statute.

Provide Federal criminal jurisdiction over terrorists who use the United States as the place from which to plan terrorist attacks overseas.

- It makes it a crime for any person within the United States to undertake any act in furtherance of the following types of overseas criminal activity:
 - murdering, kidnapping, or maiming; or
 - injuring or destroying any railroad, canal, bridge, airport or other public utility, public conveyance or public structure, or any religious, educational, or cultural property.
- This provision, in combination with the terrorist fund-raising and alien deportation provisions of this bill, will serve to ensure that the United States is not used as a support base for acts of terrorism carried out in other countries.

Provide a workable mechanism to deport expeditiously alien terrorists without risking the disclosure of national security information or techniques.

- This proposal contains comprehensive procedures to facilitate the expeditious deportation of alien terrorists.
- It provides a balanced set of procedures that:
 - afford the alien fundamental fairness; and
 - afford the Government a reasonable basis to avoid the public disclosure of sensitive national security information.
- The proposal creates a special court made up of five U.S. district court judges appointed by the Chief Justice of the United States.

Provide a new mechanism for preventing fund-raising in the United States that supports international terrorist activities overseas.

- This provision authorizes the Government to regulate or prohibit any person or organization within the United States from raising or providing funds for use by any foreign organization designated by the President as engaged in terrorist activities.

- The legislation provides a licensing mechanism under which funds can be transferred based on a showing that the money will be used exclusively for religious, charitable, literary, or educational purposes.

Implement an international treaty requiring the insertion of a chemical agent into plastic explosives when manufactured to make them detectable.

- This provision implements the Convention on the Marking of Plastic Explosives for Purposes of Detection (March 1, 1991), which is an international response, in the aftermath of the terrorist bombing of Pan Am Flight 103, designed to avert terrorist disasters.
- The provision makes it unlawful to manufacture or to receive, possess, or transfer any plastic explosive which does not contain a detection agent.

Contain numerous relatively technical, but highly important, provisions which will facilitate investigations and prosecutions of terrorist crimes.

These provisions include:

- Addition of terrorism offenses to the list of predicate offenses under the Racketeering Influenced and Corrupt Organizations (RICO) statute and the Federal money laundering statute.
- Addition of terrorism offenses to the list of statutes which are subject to court-authorized electronic surveillance.
- Increased penalties for conspiracies to commit terrorist offenses.
- Jurisdictional clarifications to ensure that, where a United States national is the victim or perpetrator of an extraterritorial terrorist offense, the defendant can be charged prior to being present in the United States.
- Amendment of existing laws relating to attacks against Federal employees to cover attacks against former employees where the offense is motivated by their prior performance of official duties.

Date: 05/14/95 Time: 12:58

Chronology of Oklahoma City Bombing and Aftermath

A chronology of the Oklahoma City bombing:

April 19: Explosion at 9:02 a.m. CDT destroys Alfred P. Murrah Federal Building; 75 minutes later, Timothy McVeigh stopped for driving without license plate near Billings, Okla., and jailed after he is found to be carrying a concealed weapon. By the end of the day, known death toll reached 31.

April 20: FBI releases sketches of John Doe 1 and 2; investigators determine the bomb was in a Ryder truck rented in Junction City, Kan.; death count 52.

April 21: Shortly before he was to be released, McVeigh is recognized as a bombing suspect and charged in the bombing; after initial court appearance, McVeigh is taken to federal prison in El Reno, Okla.; Terry Nichols surrenders in Herington, Kan., and he and his brother, James, are held as material witnesses; FBI agents conduct searches in Kingman, Ariz.; President Clinton declares a national day of mourning for April 23; death toll 78.

April 22: Rescue efforts continue at the building.

April 23: Memorial service with Clinton, Attorney General Janet Reno, the Rev. Billy Graham; nurse Rebecca Anderson, who was helping in rescue, dies of head injuries.

April 24: McVeigh's court-appointed attorneys ask to be taken off case; death count reaches 80.

April 25: FBI releases enhanced sketch of John Doe 2; death count 96.

April 26: Federal judge orders Terry Nichols moved to Oklahoma; Clinton upgrades bombing to major disaster; death count 98.

April 27: U.S. magistrate orders McVeigh held without bail.

April 28: Death count 121, including 15 children.

April 29: Death count 124.

April 30: Death count 134.

May 1: Death count 139; FBI releases third sketch, a profile, of John Doe 2; search for evidence focuses on Kansas fishing lake; FBI raids trailer home in Kingman, Ariz., and carries away boxes and crates.

May 2: Death count at 141; FBI takes Gary Alan Land and Robert Jacks into custody in Carthage, Mo., but releases them after 18 hours; a U.S. magistrate in Milan, Mich., orders James Nichols held on explosives charge unrelated to Oklahoma case; Clinton asks Congress for \$142 million to pay to investigate the bombing, raze the federal building and establish replacement offices; federal grand jury meets at Tinker Air Force Base.

May 3: Death count reaches 146, including 16 children.

May 4: Search of building called off at 11:50 p.m with death toll placed at 167, including 19 children and the nurse killed during rescue effort; two bodies left in rubble.

May 5: Rescue workers return to scene for memorial service; Clinton expands his April 26 disaster declaration.

May 6: Relatives of victims visit site.

May 8: Oklahoma congressional delegation says building should be razed; memorial services for Christy Rosas and Virginia Thompson, whose bodies remain in building; U.S. District Judge David Russell names Stephen Jones as McVeigh's new attorney.

May 9: General Services Administration says building will be brought down by implosion.

May 10: Terry Nichols is charged in bombing and brought to El Reno.

May 11: Terry Nichols makes initial court appearance,

Date: 05/05/95 Time: 08:56

Democratic Lawmakers Slam Taxpayer-Funded Marksmanship Program

WASHINGTON (AP) Democrats want the Pentagon to stop a program that teaches civilians how to shoot guns, alleging it may have helped train marksmen for renegade militia groups.

Sens. Frank Lautenberg, D-N.J., and Dianne Feinstein, D-Calif., said on Thursday Congress should rescind the \$2.5 million appropriated this year for the Pentagon's Civilian Marksmanship Program.

An identical proposal advanced in the last Congress by Lautenberg got only 30 votes. But after last month's bombing in Oklahoma City, lawmakers are focusing on the anti-government rhetoric of militia groups such as those linked with bombing suspect Timothy McVeigh.

Lautenberg and Feinstein cited reports that the program may have inadvertently provided weapons and ammunition to private militia groups.

``The American people have a right to know that their tax dollars are not being used to train people who pose a threat to law-abiding citizens and to peace and order in this country,'' Lautenberg said in a Senate floor speech. ``The military does not need a ready supply of ordinary civilians who know how to shoot a rifle.''

The Lautenberg-Feinstein effort matches legislation filed in the House by Rep. Carolyn Maloney, D-N.Y., in January, well before the bombing.

Rep. Paul Gillmor, R-Ohio, scoffed at the proposal, saying lawmakers were stretching to connect programs they oppose with the Oklahoma bombing.

``It is amazing the depth to which people will sink to use the Oklahoma City tragedy for their own political ends,'' Gillmor said.

Tanya Metaksa, the National Rifle Association's chief lobbyist, countered that the program is for young people, ``not for militia or so-called militia people.''

Begun in 1903, soon after the Spanish-American War, the Civilian Marksmanship Program was established to ensure a citizenry trained in firearms in case more people were needed for military service. These days, the program promotes rifle training for civilians through a system of affiliated clubs and other organizations and sponsors shooting competitions.

Lautenberg has asked Defense Secretary William Perry to suspend the marksmanship program and investigate whether militias have used it to their own advantage. In its budget proposal for fiscal 1996, the Clinton administration sought no funds for the marksmanship program.

APNP-05-05-95 0857EDT

THE DOLE-HATCH TERRORISM BILL
(Substitute For S. 735)

The Dole-Hatch substitute bill, by failing to include some essential Administration proposals and weakening other Administration provisions, fails to provide law enforcement with the tools it needs to protect this nation against terrorism.

1. No Enhanced Electronic Surveillance: The bill fails to include Administration proposals to enhance law enforcement's ability to conduct lawful electronic surveillance through use of multi-point wiretaps, expanded circumstances under which wiretaps can be authorized, and enhanced emergency wiretap authority.
2. Weakens Law Enforcement Powers: Unlike the Administration proposal, the Dole-Hatch bill hampers law enforcement by forcing the FBI to seek and obtain time-consuming and burdensome court orders in order to obtain necessary records information in foreign counter-terrorist investigations, including credit reports, hotel and motel records, common carrier records, and storage facility and car rental information -- the same information available to used car salesmen on demand and to law enforcement in routine criminal cases by grand jury subpoena.
3. Ties Law Enforcement's Hands in Dealing with Most Deadly Terrorist Situations: The Dole-Hatch bill contains no provision, as proposed by the Administration bill, for allowing military experts to assist law enforcement when dealing with chemical and biological terrorism.
4. Guts Explosive Tracing Ability: The Dole-hatch bill guts the Administration requirement that explosive materials contain taggants to facilitate law enforcement's ability to obtain essential tracing information during a bombing investigation. It also hampers effective study of how best to implement this provision by assigning responsibility for conducting the study of explosives taggants to the Attorney General rather than the Bureau of Alcohol, Tobacco and Firearms which has the expertise and knowledge in this field.
5. Fails to Fund Essential Law Enforcement Needs: Provisions hamper the FBI's ability to conduct judge-authorized wiretaps in locations which utilize new digital technology by failing to fund the very bipartisan initiative which Congress passed last year which would have provided law enforcement with the tools to conduct important investigations into the 21st century. It also fails to authorize funds for hiring additional Department of Justice Criminal Division attorneys to handle the increased responsibilities faced by the Department of Justice under proposed legislation.
6. Soft on Crime Committed With Firearms - Fails to include a provision to require a mandatory penalty for transferring a firearm knowing that it will be used to commit a crime of violence and to increase penalties for violations of the National Firearms Act,

including illegal possession of machineguns and silencers.

7. Weakens Ability to Deport and Prosecute Alien Terrorists: The Dole-Hatch alien removal provisions, unlike those proposed by the Administration, hamper law enforcement because they would not permit the Attorney General to retain those who are subject to deportation but are needed to testify in court as prosecution witnesses and does not allow consideration of past terrorist activity as basis of deportation.

8. Weak on Terrorist Fundraising: The Dole-Hatch bill makes it easier for terrorist organizations to raise funds. It weakens the Administration provision by providing enhanced review rights for determinations against terrorist fundraising. It also requires the Secretary of State to provide classified information to terrorist groups, would afford such groups a forum in United States Courts and creates a mechanism which makes it wholly unworkable to prevent fund-raising by such groups. At the same time, the provisions fail to provide a licensing scheme which would permit United States citizens to donate money for humanitarian causes -- such as children's hospitals -- which might be associated with a terrorist group.

Technology Used to Tag Explosives Gets Second Look After Bombing

By John Schwartz
Washington Post Staff Writer

Imagine, if you can stomach it, the scene of a *future* terrorist blast. Amid the wreckage, investigators use ultraviolet lamps to illuminate tiny color-coded plastic chips that they then sweep up.

Reading the color sequence under a microscope, investigators quickly determine the type of explosive, the manufacturer and even the date it was produced—essential information in tracking down the culprits.

Sound futuristic? The system was tested successfully more than 15 years ago, but languished in the face of opposition from the National Rifle Association (NRA) and explosives manufacturers.

Only Switzerland requires that explosives carry the plastic bits, known as "taggants." And although bomb experts warn that the technology won't solve all problems with explosives, they contend that it could have been making an important contribution to forensics for more than a decade.

Richard G. Livesay, 74, conceived of taggants when he was a chemistry professor at Whitewater State University in Wisconsin. He later developed the technology at 3M Corp. The federal government performed a two-year test involving 7 million pounds of explosives. The test involved two kinds of tagging: "identification" tags to help trace explosives after the fact, and "detection" tags that would emit a nontoxic gas to make it easy to find explosives before they are detonated.

In 1977, when the Bureau of Alcohol, Tobacco and Firearms (ATF) reported the results of its tests, it estimated that the cost of adding

identifying taggants to high explosives would be no more than two cents per pound of explosives—a figure that manufacturers say is still close to the mark. At the time, the agency said that military explosives and such common compounds as ammonium nitrate (used in the Oklahoma City bombing) are "rarely in

crime and would not be tagged," though many of the compounds necessary to set them off would have been.

That test program even led to a Baltimore criminal conviction, according to ATF records. In May 1979, Robert J. Riffe was killed in the explosion of a co-worker's truck. Detectives found taggants from the 7-million-pound test batches—sold as part of general commerce—in the wreckage and traced the bomb to a Martinsburg, W.Va., dealer. James L. McFillin Sr. was arrested and convicted of charges related to the bombing and death in December 1979.

Rex D. Davis, then ATF director, called taggants "a breakthrough technology to help solve explosives crimes."

But Congress cut the funding for the taggant program in 1980, and ordered ATF to stop working on the technology. The NRA claimed that tagging gunpowder and other materials used to reload ammunition might affect the performance and stability of bullets; explosives manufacturers complained that the technology would be too expensive for too little forensic gain because most criminal blasts involve explosives that would not be tagged. The technology idled at 3M; eventually Livesay bought the licensing rights and started his own company, Microtrace, to market the technology to industries looking for ways to keep track of their products and beat counterfeiters.

In the wake of the Oklahoma City bombing, taggants are getting a second look for crime. The Clinton administration has said it will propose that the ATF study the technology as part of a broader look at controlling terrorism; Senate Majority Leader Robert J. Dole (R-Kan.) has introduced a bill that would call for substantially the same studies.

Many supporters of the technology say that it already has been studied thoroughly. Charles Faulkner, general counsel for Microtrace, said, "Our company's position is the studies have already been done." But Ralph C. Os-

trowski, chief of the arson and explosives division of ATF, said, "It would be important for us to at least assess the state of the technology and the research and development that has

been done in the last 15 years. We need to get ourselves up to speed."

An NRA spokesman said the organization's opposition to taggants had nothing to do with their use in high explosives, "We're not the explosives lobby." If questions about the stability of ammunition made with taggants can be resolved, the spokesman said, "we'd have no problems at all" with renewing the issue.

Switzerland's experience—even though it uses 2.5 million pounds of explosives each year, compared with the 4 billion pounds used in the United States—belies the notion that taggants adversely affect explosives or cost too much, said Tony Fainberg, a senior associate with the congressional Office of Technology Assessment.

"If you want to find people who are interested in things like cost, safety and reliability, the Swiss are

paragons of virtue in all these areas—and they seem to be good customers for the technology," Fainberg said. Taggants have been credited with identifying the manufacturer in 566 cases of bombings or explosives seizures over a 10-year period.

But taggants "aren't a panacea," Fainberg said. "Taggants are probably a good idea and they certainly have a use," he said, but many terrorists manufacture their own wares, and caches of untagged explosives will still be available long after any tagging program might go into effect.

In fact, many factors make regulating explosives a daunting task, experts said. A wide range of substances can be used to make bombs; even grain silos explode occasionally when grain dust and air come together in the proper amounts, said Jimmie Oxley, a professor of chemistry at the New Mexico Institute of Mining and Technology. Oxley said it would be

way that could lead to their firing.

"I have been advised that I can't talk to anyone because the matter is pending," Mrs. Klipfel said.

They filed a lawsuit in October accusing the ATF of failing to respond to their accusations.

"There is an ongoing case, so I'm sorry but I can't talk about this," their attorney, David Schippers, said yesterday.

"If the facts were known, and it becomes necessary to prove it, I can prove that they did absolutely nothing wrong," he added.

Both are 20-year bureau veterans. Mr. Casali won the ATF's highest honor for heroism for actions during a shootout with Miami drug dealers in which one agent was killed.

impossible to control every substance that can be used to make bombs. "What are they going to do—ban the sale of urea so you can't de-ice your sidewalk in the winter?"

Not only are the materials for making bombs common, but the information on bomb making is also very widespread. Explosives are covered in military training, many college chemistry courses, and can be found in books available in most libraries and on some computer bulletin boards.

A number of small publishers also put out books with explicit bomb-making instructions. One such publisher is Loompanics Unlimited of Port Townsend, Wash. Its 1994 list contained a book entitled "Kitchen Improvised Fertilizer Explosives";

that title has been dropped from the 1995 edition. The catalogue says that such books are sold "for informational purposes only."

Despite the limitations of the technology and the broad availability of uncontrolled materials and information, explosives experts contend that tagging could be a valuable aid in the fight against terrorism.

"We're sorry to see what happened in Oklahoma City—nobody wants to see that," said Microtrace counsel Faulkner. "But it's kind of a 'we told you so' situation."

Such arguments rankle J. Christopher Ronay, president of the Institute of Makers of Explosives and a former head of the FBI's explosives laboratory. Noting the quick arrest of suspect Timothy James McVeigh,

Ronay said "without taggants, we do a pretty darned good job," and added that "Oklahoma City was not a commercial explosive and wouldn't have been tagged."

The safety and effectiveness of tags has not yet been proved, Ronay said. The tiny plastic chips can be difficult to find after a blast, and the possibility of contamination between crime scenes could help defense attorneys to ensnarl any trial in technical minutiae, he said.

Also, he said, the pennies-per-pound cost of adding taggants can sharply increase the cost of bulk explosives, which can cost pennies per pound. His organization supports other measures, such as requiring a license to buy explosives.

Ronay said his organization would work with Congress to study the issue and would follow the lawmakers' wishes. But he said, "This is a social problem, it's not a science problem. You can't solve it with the application of technology—at least not yet."

Quiet Descends as Recovery Efforts Cease

Final Oklahoma City Death Toll Stands at 167 as Rescuers Struggle With Emotions

By Karl Vick
Washington Post Staff Writer

OKLAHOMA CITY, May 5—After 16 days punctuated by drilling and shouts and the static of two-way radios, the only sounds outside the Alfred P. Murrah Federal Building this afternoon were the shuffling of boots on pavement, and the quiet click hard hats make when the men underneath them hug.

Their final effort to remove victims completed, the rescue workers of Oklahoma City gathered with the volunteers who sustained them for a memorial service at the scene of what is now officially the deadliest act of domestic terrorism in American history.

The final toll from the April 19 truck bomb detonated just outside the federal building was 167 dead, most of them federal workers. The total includes 164 men, wom-

en and children whose bodies were pulled from the nine-story federal building and a structure opposite it, a nurse struck by falling debris after rushing to the scene to help, and two women whose bodies are believed to be still under concrete slabs that could not be safely moved.

Rescue officers held out distant hope of recovering the bodies of the two women, workers in the third-floor credit union, and sprayed the rubble over them with fluorescent orange paint for careful examination after the building is razed. But leaving anybody behind was painful.

"I personally felt anguish. Still do," said state medical examiner operations director Ray Blakeney, eyes glistening as he read the final toll. "But I don't think we can let that overshadow what all the people were able to

accomplish. We were able to return 164 people to their families."

Families of victims will participate in a private service at the bomb site Saturday. Today's service technically was restricted to those holding security passes for the checkpoints that until today extended for blocks around the blast site. But with the search officially over at 11:50 Thursday night, the perimeter was pulled to within a few feet of ground zero, and local people quietly lined up behind it.

Inside, the rescuers formed a small sea of blue jackets and black jumpsuits with big yellow letters identifying agencies housed in the building where people died at their desks—ATF, FBI, U.S. CUSTOMS—as well as those that participated in the rescue—Okla-

homa City Police, Puget Sound Task Force, and so on.

They heard prayers, and bagpipes, and Gov. Frank A. Keating (R) say, "We cannot understand why it happened." Then they walked one last time toward the chain-link gates and heard the people gathered 20-deep behind them.

The applause started with the approach of the first men in blue jackets and kept up without falter for at least 10 minutes, a warm, stirring sound that embraced every woman and man who walked under the traffic light punctured by the blast and into the aisle that formed down the center of Northwest Fifth Street.

"We're not heroes. I've said that time and time again," said Maj. Dwayne Dolittle of the Oklahoma City Fire Department, tears streaming down both cheeks. "We're different people. We're not heroes."

It was not a distinction worth making to a community that has welled with so much emotion, and that found a place to put it in the block-shouldered men who in essence cleaned its wound. More than two weeks after what Keating called "this savage act" the most striking thing about Oklahoma City remains how gentle people have become with one another.

The bomb site engenders an almost palpable reverence. "It's kind of strange here," said Kenneth Nichols from behind his camcorder two blocks from where his grandnephew died. "It's quiet. Nobody's talking loud."

"And all the windows are broken," said Veradean, his wife.

The explosion came at 9:02 a.m., and was apparently timed to catch people just settling down to work. It did its worst damage in the Social Security office where firefighters found bodies that had been driven through cinder-block walls. But what tested the limits of grief from the

first day was the day-care center called America's Kids one floor up, where most of the 19 children died.

Three infants who had been in cribs lined against the window were among the final bodies recovered Thursday night, and the relief among the rescue crews was obvious.

"You don't get emotional until afterward," Oklahoma City firefighter David Bradbury told reporters after today's service, as his 13-month old son Jake grabbed at their microphones. "You go home, and you have your baby. . . ." He didn't finish.

In bringing 450 tons of concrete onto Fifth Street, the bomb fashioned from fertilizer and fuel oil created a ragged atrium in the space once occupied by workers for the U.S. Departments of Health and Human Services, Defense, Transportation, Agriculture and Housing and Urban Development.

It "pancaked" the floors where Small Business Administration officials worked onto the desks of military recruits—two and three floors below. Recovery workers found three and four floors in the space of one story of piled concrete, and burrowing from the top learned what office they had reached from the letterhead found in the rubble.

The final death toll includes the

remains of no one Oklahoma officials did not expect to find in the wreckage, such as passersby or one of the bombers, who officials at one point speculated may have been killed as well. Even so, it ranks as the second-largest mass murder in U.S. history. Only the arsonist who ignited a Hartford, Conn., circus tent July 6, 1944, killed more people, 168.

With the recovery effort so consuming, that fact has not really sunk in here. Counselors say it will.

"I'm afraid our work is pretty much cut out for us," said Mindy Lynn Balkler, president of the local chapter of Parents of Murdered Children and Other Survivors of Homicide Victims. "I think the community is beginning to understand that this is not a disaster of what we call an act of God, but the will of someone who intended great harm."



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D C 20530

9104 NEOR

FACSIMILE COVER SHEET

TO: Bruce Reed

FAX NO.: 456-5557

FROM: Nicholas M. Gess, Dept. of Justice, Leg. Affairs

PHONE NO.: 616-6484

FAX NO: _____

DATE 4/18/95

NO OF PAGES: 29 (EXCLUDING COVER)

COMMENTS: This is the terrorism legislative proposal not including the numbers. This has not been cleared through OMB.

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

- (a) Chapter 206, Title 18, United States Code, is amended--
 - (1) by redesignating section 3127 as section 3128; and
 - (2) by adding the following new section 3127:

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

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

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

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

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

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

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

- (1) to renumber section 3128 as redesignated; and
- (2) by adding after the item relating to section 3126 the following:

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

foreign

**DISCLOSURE OF INFORMATION AND CONSUMER REPORTS TO FBI FOR
COUNTERINTELLIGENCE PURPOSES**

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

§ 624. Disclosures to FBI for counterintelligence purposes

As defined in Bank Secrecy Act

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

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

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

"(A) is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978) or a person who is not a United States person (as defined in such section 101) and is an official of a foreign power; or

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"(B) is an agent of a foreign power and is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve a violation of criminal statutes of the United States.

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

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

"(2) there is information giving reason to believe that the consumer has been, or is about to be, in contact with a foreign power or an agent of a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978).

"(c) COURT ORDER FOR DISCLOSURE OF CONSUMER REPORTS.--Notwithstanding section 604 or any other provision of this title, if requested in writing by the Director of the Federal Bureau of Investigation, or a designee of the

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Director, a court may issue an order ex parte directing a consumer reporting agency to furnish a consumer report to the Federal Bureau of Investigation, upon a showing in camera that--

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

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

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

"(B) is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

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

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

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reporting agency or officer, employee, or agent of a consumer reporting agency shall include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such information or a consumer report.

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

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

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

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administrative proceeding to enforce the provisions of this Act. Nothing in this section shall be construed to authorize or permit the withholding or information from the Congress.

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

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

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

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

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

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

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

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

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

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

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court, may be recovered."

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

"624. Disclosures to FBI for counterintelligence purposes."

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

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

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

Members of the Uniformed Services

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

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

(b) Section 115(a)(2) of title 18, United States Code, is amended by inserting ", or threatens to assault, kidnap, or murder, any person who formerly served as a person designated in

paragraph (1), or" after "assaults, kidnaps, or murders, or
attempts to kidnap or murder".

Storage Facilities + car + truck records

SEC. ACCESS TO RECORDS OF COMMON CARRIERS AND PUBLIC ACCOMMODATION FACILITIES IN FOREIGN COUNTERINTELLIGENCE AND COUNTERTERRORISM CASES

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

"CHAPTER 122 -- ACCESS TO CERTAIN RECORDS

"Sec. 2720. Access to records of common carriers in counterintelligence and counterterrorism cases.

Conform throughout

"(a) Any common carrier or public accommodation facility shall comply with a request for records in its possession made pursuant to this section by the Federal Bureau of Investigation when the Director or his designee (whose rank shall be no lower than Assistant Special Agent in Charge) certifies in writing to the common carrier or public accommodation facility that such records are sought for foreign counterintelligence purposes and that there are specific and articulable facts giving reason to believe the person to whom the records sought pertain is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(b) No common carrier or public accommodation facility, or any officer, employee or agent of such carrier or facility shall disclose to any person, other than those officers, agents or employees of the carrier or facility necessary to fulfill the requirement to disclose the information to the Federal Bureau of Investigation under

this section, that the Federal Bureau of Investigation has sought or obtained the records requested.

"(c) As used in this chapter--

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

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

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

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

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

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

(3) whether controls can be imposed on certain precursor chemicals used to manufacture explosive materials.

In conducting the study, the Secretary shall consult with the Attorney General, other federal, State, and local law enforcement officials with expertise in this area, and other experts. Such study shall be completed within months after the enactment of this Act and shall be submitted to the Congress and made available to the public. Such study may include, if appropriate, recommendations for legislation.

(b) There are authorized to be appropriated for the study and recommendations described in paragraph (a), a total of \$ for fiscal year 1995 and all fiscal years thereafter.

SEC. AUTHORITY FOR WIRETAPS IN ANY TERRORISM-RELATED FELONY

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

- (1) by striking "and" at the end of paragraph (n);
- (2) by striking the period at the end of paragraph (o) and inserting "; and"; and

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

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

*Add
Explosives
to wiretap
Section 842*

SEC. USE OF FRUITS OF WIRETAPS CONDUCTED BY FOREIGN GOVERNMENTS.

(a) Chapter 119 of title 18, United States Code, is amended by adding a new section 2514, as follows:

"2514. Use of extraterritorial interceptions by foreign governments".

"(1) Use of information lawfully received under United States law from the interception of wire, oral or electronic communications outside the United States by a foreign government without the connivance or participation of any officer or employee of the United States or person acting at the direction thereof shall be admissible, and the information or derivative information therefrom may be disclosed, in any proceeding held under the authority of the United States or any state or political subdivision thereof.

"(2) Information described in subsection (1) that the government alleges could affect the national security shall have the same protection now afforded by law to confidential informants.".

(b) The chapter analysis for chapter 119 of title 18, United States Code, is amended by inserting before the item relating to section 2515 the following:

"2514. Use of extraterritorial interceptions by foreign governments".

SEC. LIMITATION OF STATUTORY EXCLUSIONARY RULE.

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

↓
Bad Faith
Language?

SEC. TEMPORARY EMERGENCY WIRETAP AUTHORITY INVOLVING
TERRORISTIC CRIMES.

Section 2518(7)(a)(iii) of title 18, United States Code, is amended by inserting "or domestic or international terrorist organizations" after "organized crime".

SEC. EXPANDED AUTHORITY FOR ROVING WIRETAPS

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

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

(a) the application is by a federal investigative or law enforcement officer, and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, an Assistant Attorney General or an Acting Assistant Attorney General; and

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

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

SEC. ENHANCED ACCESS TO TELEPHONE BILLING RECORDS

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

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

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

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

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

SEC. REQUIREMENT TO PRESERVE EVIDENCE

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

"(f) Requirement to preserve evidence. -- A provider of wire or electronic communication services or a remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records and other evidence in its possession pending the issuance of a court order or other process."

SEC. EXPANSION OF WEAPONS OF DESTRUCTION STATUTE TO
INCLUDE ALL CHEMICAL WEAPONS

Section 2332a(b)(2) of title 18, United States Code, is
amended --

- (1) by striking "or" at the end of subparagraph (C);
- (2) by striking the period and inserting "; or" at the end
of subparagraph (D); and
- (3) by adding a new subparagraph (E), as follows:

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

SEC. PERMISSION TO REQUEST MILITARY ASSISTANCE WITH RESPECT
TO OFFENSES INVOLVING WEAPONS OF MASS DESTRUCTION

(a) Sections 175 and 2332a of title 18, United States Code, are each amended by adding a new subsection (c), as follows:

"(c) Military assistance. -- The provisions of section 831(d) and (e) of this title (relating to the assistance of the Secretary of Defense in the enforcement of offenses involving prohibited transactions with nuclear materials) shall also apply to this section."

SEC. MANDATORY PENALTY FOR TRANSFER OF A FIREARM OR AN
EXPLOSIVE TO BE USED IN COMMITTING CERTAIN CRIMES.

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

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

(2) by striking "not more than 10 years" and inserting "not less than 10 years".

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

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

SEC. POSSESSION OF STOLEN EXPLOSIVES

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

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

SEC. . STATUTE OF LIMITATIONS FOR CERTAIN WEAPON OFFENSES.

Section 6531 of the Internal Revenue Code of 1986 (26 U.S.C. 6531) is amended by striking "except that the period of limitation shall be six years" and inserting "except that the period of limitation shall be five years for offenses described in section 5861 (relating to firearms) and the period of limitation shall be six years".

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

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

- (1) the tagging of explosive materials for purposes of detection and identification;
- (2) whether common chemicals used to manufacture explosive materials can be rendered inert; and
- (3) whether controls can be imposed on certain precursor chemicals used to manufacture explosive materials.

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

(b) There are authorized to be appropriated for the study and recommendations contained in paragraph (a), a total of \$ _____ for fiscal year 1995 and all fiscal years thereafter.

*State: view
federal?
potential?*

Such sums?

- Adding penalty language from current law (10 yrs / 250,000).

↳ Also, explosives defined in law.

A BILL

To amend title 18, United States Code, so as to clarify the power of the Attorney General to make rewards to any individual who assists the Department of Justice in performing its functions, and for other purposes.

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

SEC. 101.

Title 18, United States Code, is hereby amended by adding the following section:

Section 3059B. General reward authority of the Attorney General

(a) Notwithstanding any other provision of law, the Attorney General in his discretion may authorize the payment of a reward by ^{the} ~~any~~ Department ^{of Justice} ~~or agency~~ to any individual who assists the Department of Justice in performing its functions. *and to receive funds from other agencies*

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

(c) A determination made by the Attorney General as to whether to authorize an award under this section and as to the

amount of any reward authorized shall be final and conclusive,
and no court shall have power or jurisdiction to review it.

SEC. ____ . AMENDMENTS TO ELECTRONIC SURVEILLANCE PRIVACY ACT

Section 2516(1)(c), title 18, United States Code, is amended by inserting after the words "section 224 (bribery in sporting contests" the words "section 842 (relating to explosives violations,".

Analysis

Currently, Title III of the Omnibus Crime Control and Safe Streets Act of 1968, specifically 18 U.S.C. § 2516(1)(c), includes as an enumerated predicate offense for purposes of obtaining authorization for electronic surveillance explosives violations of 18 U.S.C. § 844. Generally, section 844 covers the unlawful use of explosives to kill or injure or intimidate any individual or to damage or destroy any building, vehicle or property in commerce.

Title III does not include as an enumerated predicate offense explosives violations of 18 U.S.C. § 842. Generally, section 842 violations involve manufacturing, dealing in, and importing explosive materials without a license and the unlawful distribution of explosive materials. The amendment would include violations of section 842 as predicate offenses under section 2516(1)(c).

Proposed ATF change to
workups
Substitute

PROPOSED APPROPRIATIONS ACT LANGUAGE RE: REWARDS

Any funds made available to the Attorney General heretofore or hereafter in any act shall not be subject to the spending limitations contained in any other provision of law authorizing rewards, provided that any reward of \$100,000 or more may not be made without the personal approval of the President or the Attorney General, and such approval may not be delegated.

↓
Add appropriation
language to FY95 Sup.

10:15
4-25-95

Pat's Bipartisan Terrorism Mtg.

PG: Tease out what we're thinking Leg wise + Adm. act.

GS: 7-10 days - 100 tons of concrete by hand

- ↳ can't go much faster
- ↳ work on new provisions w/you w/ Terrorism Bill
- ↳ Funeral tomorrow of Agent
- ↳ Maybe 5pm mtg. tomorrow.

BR: let you know what we're thinking.

- ↳ reiterate steps from this weekend.
- ↳ new PRQ; agencies are working through new requests - investigative tools; prosecutorial; + resources

↳ mention of the Domestic Security Guidelines (40% Search)

BL/OMB: \$100 million a year on civil penalties to fund; familiar w/ the fact that it's funded through Victims Panel.

Biden/Specter
HR 68

Roh's Office: Working w/ Hatch on S.3 + Terrorism Bill

- ↳ Give us the language you have → w/in a day?
- ↳ Counter Terrorism Center → Adm. action? - yes.

Ron K. FISA procedure for Domestic Security

- Dale: prior notice on changes to DS guidelines.
- ↳ helpful to pass resolution
 - ↳ public info on guidelines

Dennis Dale: introduce bill this week? hearings Thursday?

- ↳ right after products liability.
- ↳ Dale/Hatch, yes bipartisan, committee? - up to Biden.
- Cynthia: Givehude depends on focus of bill.
- ↳ Sean Documentation on costs!!

way we would approach public assistance.

Since the creation of aid to families with dependent children, public aid has been regarded as an entitlement. If you meet the requirements for eligibility, you receive the cash, with no strings attached.

The current system has been rightly maligned by persons from all walks of life, including researchers, advocates, pastors, politicians, and even the recipients. The system is impersonal, inefficient and encourages continued dependency. Recipients can continue to receive cash month after month after month without having to think about their futures, and without being given any help in thinking what they might do to become self-sufficient.

Our proposal changes that way of thinking and requires something from the recipients in return for benefits. By the year 2003, 90 percent of recipients would be required to sign a binding contract with the State. The contract would outline the specific steps that each recipient will take to move off of welfare and into self-sufficiency. The contract states clearly when benefits will end. If a recipient fails to live up to the terms of the agreement at any time, benefits will be reduced and ultimately terminated.

I believe a large reason for the malaise and stagnation in today's welfare programs is that we have not required anything in return for benefits. This one way street, this lack of reciprocity, has bred an ethic of dependence rather than a work ethic. The only way we can turn this around is to require something in return for the generosity of the American taxpayer. Most Americans believe our Government has a responsibility to help families in need, but also believe that individuals have a responsibility to help themselves. This plan will help people who want to help themselves to create a better life.

The contractual arrangement between recipients and the State—representing the taxpayer donors—is the only requirement we would impose on the States. I believe it is fundamental to ensuring that we move people from welfare into productive private sector work. The House-passed bill requires States to implement a number of ideas that make good sense, but this notion of a contract is not among them. I am concerned that if we do not require that recipients of public assistance work, or behave responsibly, or take steps to wean themselves from public assistance in every case, then our efforts at reform will result in more of the same. The principle that Senator HARKIN and I have agreed on that should govern welfare reform efforts at every level is this: Public assistance is a two-way street. If you want to receive benefits, you must work and behave responsibly in return.

That said, we have also learned that our Nation's Governors are far ahead of Washington in generating reform ideas and in implementing them. Currently

States must undertake a lengthy and cumbersome waiver process in order to obtain permission to implement common sense reforms. States that want to require welfare recipients to obtain preventive health care for their children, or to ensure that their children stay in school, or wish to allow recipients to keep more of their earnings from a part-time job—good ideas all—must now obtain a waiver from HHS. This is costly, time-consuming, and silly. Our bill permits States to implement any one, a combination of, or all of a variety of options to reform welfare without permission from the feds.

The current system penalizes work and saving by placing severe restrictions on outside income and on assets. Our plan permits States, at their discretion, to increase the earnings limits and amounts families can save prior to losing benefits. We also permit States to disregard the income of a teenage worker in the family. The current system encourages a high rate of teenage unemployment among AFDC households. The last thing stressed, low-income neighborhoods need is more unemployed teenagers.

One of the major problems low-income families face today is cycling on and off welfare. Mothers who leave welfare must often return within a matter of months, because their child-care arrangements have fallen through or because they simply cannot make their bills. Our bill would extend transitional child care benefits from 1 year to 2. We permit States to allow families to keep more outside income before losing benefits, and to save more prior to leaving welfare so that the transition from welfare to work runs more smoothly.

We provide a menu of welfare reform options, but leave it up to the States to decide which combination will best suit their needs. I hope the version that is eventually passed by the Senate will expand State flexibility, not restrict it further. We recognize that our plan is not the be all and end all of welfare reform. I will be open to other options that expand State flexibility and innovation. But I believe this bill contains many good ideas which are not being widely discussed and hope to draw the attention of my colleagues to those ideas.

I commend the efforts of my friend from Iowa and urge other Senators to review our bipartisan effort as we begin debating this contentious issue. ●

By Mr. DOLE (for himself, Mr. HATCH, Mr. NICKLES, Mr. THURMOND, Mr. SIMPSON, Mr. BROWN, Mr. KYL, and Mr. GRAMM):

S. 735. A bill to prevent and punish acts of terrorism, and for other purposes; read the first time.

ANTITERRORISM LEGISLATION

Mr. DOLE. Mr. President, America will not be intimidated by the madmen who masterminded last week's vicious and cowardly bomb attack in Oklahoma City.

America will not be paralyzed into inaction by those who have committed this evil deed.

And, yes, justice will be rendered. The guilty will be punished. And America—slowly, but with determination—will begin to heal herself.

Our job today is not to dwell on the past, but to look to the future—to lay the foundation for a comprehensive antiterrorism plan for America. We must take every reasonable step, every responsible action, to reduce the chances that other, similar tragedies will occur elsewhere in the United States.

That is why I am pleased today to join with the chairman of the Judiciary Committee, Senator HATCH, and with my distinguished colleague from Oklahoma, Senator NICKLES, in introducing the Comprehensive Terrorism Prevention Act of 1995.

Many of the provisions of this act were contained in S. 3, the anticrime bill introduced by Senate Republicans last January: Increased penalties for those who conspire to commit firearms and explosives offenses; expanded extradition authority for the attorney general; the Alien Terrorist Removal Act, designed to deport alien terrorists in a prompt manner without disclosing vital national security information; and increased funding for Federal law enforcement, including the FBI.

Today's legislation also contains comprehensive habeas corpus reform, which is something the Senator from Utah, the chairman of the committee, has long sought, which should go a long way in preventing violent criminals from gaming the system—with more delays, more unnecessary appeals, and more grief for the victims of crime and their families.

In fact, the President said justice is going to be swift. I am not certain how swift it is going to be if they can appeal and appeal and appeal in the event they are apprehended, tried and convicted—continued appeals for 7, 8, 10, 15 years in some cases.

During a recent television interview, the President did say we needed strong, comprehensive habeas reform so that those who committed this evil deed will get what they deserve—punishment that is swift, certain, and severe. This legislation will help accomplish this goal.

With respect to international efforts to counter terrorism, the legislation expands efforts to isolate the worst of the rogue regimes: State sponsors of terrorism. It would make it easier to support international antiterrorism efforts. We need to send a strong signal to our allies and our adversaries—if you are with us in fighting the scourge of terrorism, we will try to help—but if you are aiding terrorists and terrorist states, it is no more business as usual.

Finally, this legislation contains many of the reforms sought by President Clinton himself—prohibitions on

fundraising for foreign terrorist organizations; the tagging of plastic explosives to make them more detectable; and amendments to the Fair Credit Reporting Act to ease access to financial and credit reports in terrorism cases.

The bottom line is that fighting terrorism is not, and should not be, a partisan issue. America must stand together—Democrats and Republicans, liberals and conservatives—to confront the terrorist threat wherever it may exist.

And, of course, I look forward to working with President Clinton and with my distinguished colleague, Senator DASCHLE, in refining this proposal, and perhaps considering other worthy proposals, to strengthen America's antiterrorism hand. Today's legislation is not the end but the beginning of the process that hopefully will lead to a strong antiterrorism action plan for our country.

And I have been reminded today that we want to look back at the legislation we pass a year from now or 2 years from now and know that it is just as good then as it may appear to be now. In other words, we should not be carried away because of the emotion of the moment. And I know that under the leadership of the distinguished chairman of the Judiciary Committee that will not happen.

But, Mr. President, as we move forward with legislation, let me add a cautionary note: No legislation can make America completely safe. In a free society, there is no such thing as absolute security. We must work to make our country safer from the terrorist threat, but there are no guarantees that every terrorist, every madman, can be stopped. The American people deserve the straight story, and the straight story is that America is not an impregnable fortress.

Let me also say that there has been a great deal of speculation about the so-called Attorney General guidelines. These guidelines are the internal Justice Department policies that govern if, and when, the FBI can monitor and infiltrate domestic organizations suspected of being engaged in terrorist activities. Some say the guidelines are too restrictive and, in fact, hamstring the FBI. Others argue that the guidelines go too far.

This is a complex issue, and one made more complex and more urgent by the fact that our constitutional liberties are at stake. Before rushing to judgment, we should get all the facts out on the table: Have the guidelines been effective? Do they provide adequate authority to the FBI to monitor the activities of domestic terrorist organizations? Have there been any instances when an FBI agent sought authority to initiate an investigation and this authority was denied? And if so, why?

In my view, we should hear from the law enforcement professionals themselves first before drawing any conclusions. And that is why this legislation

asks the Director of the FBI to provide Congress with a detailed report on the adequacy of the guidelines and any other laws regulating the surveillance of suspected terrorist groups operating within the United States. In other words, let us get the facts first and then let us make decisions later. Let us not rush to judgment without all the facts.

Let me say that in this bill—and the Senator from Utah may discuss it also—we left out the provision as far as expanding the authority of the military. That was in the President's request. We have not seen the draft language. But I think that is another area where we want to be very, very careful, before we start bringing the military into law enforcement areas. And I believe my colleague from Utah agrees.

It is reported in the paper this morning "to allow the military to participate in domestic law enforcement." That may sound good on the face of it, but I think there are a lot of pitfalls there and a lot of dangers. We better be certain we look at this before we do anything by statute. So hopefully that will be a subject of extensive hearings in the Judiciary Committee.

Finally, I join all of my Senate colleagues in extending our thoughts and prayers to the good people of Oklahoma City. The self-sacrifice and heroism they have displayed in the past week has been an inspiration to us all. They have been doing their duty. It is now our obligation to lay the groundwork for an America that is more secure for all of her citizens.

As I understand, Mr. President, the Senator from Utah will now speak on this issue.

Mr. HATCH. I wish to congratulate the distinguished majority leader for excellent leadership in this area among so many others. Without his leadership and without his prime sponsorship of this bill, I do not think we would be nearly as far along as we are.

We were both down at the White House yesterday with the President, and we both committed to working with the President to making sure that this bill is everything the President would like to have. In addition, we have added some things that we think will strengthen the bill in many ways including the habeas corpus provision.

Mr. President, I rise today to introduce, along with the distinguished majority leader, the Comprehensive Terrorism Prevention Act of 1995. The Nation continues to mourn the tragic loss of life suffered last week in Oklahoma City.

I want to commend all the men and women who have been involved in the rescue effort. Their courage and devotion to duty stands in stark contrast to this cowardly act of terrorism.

I also salute the swift and efficient work of the Federal, State, and local law enforcement officials who are working tirelessly to solve this crime. We must not rest until all the perpetrators are discovered and punished.

President Clinton was right when he called the people who committed this act "evil cowards." According to the twisted set of values of these individuals, they will push their agenda even when it means killing a 6-month-old infant—or nearly killing a 3-year-old boy like Brandon Denny, whose brother held his hand and wished him well after brain surgery last Thursday. There is no room in a free society for individuals who attempt instead to effect change through violence and who are willing to murder innocent people to make a political statement.

For years, I have been fighting for legislation to strengthen our counterterrorism efforts. Last week's heinous attack only underscores the need to give Federal law enforcement officials the tools to prevent and detect future terrorist attempts. Legislation is needed—and needed now. If those responsible for this act thought they could intimidate the United States, they were dead wrong.

Today, we are introducing the Comprehensive Terrorism Prevention Act of 1995. Our legislation adds several crucial provisions to our Nation's antiterrorism laws, and embodies much of the legislative recommendations called for by President Clinton.

First, our bill enhances the penalties for engaging in certain terrorist acts, and extends the crime of conspiracy to certain terrorist crimes, something that has not been done before, and will make it easier for law enforcement to find these terrorists, ferret them out, and get them sent to court.

Second, our bill will give the President greater tools to fight terrorism on an international level, as well as the domestic level. It provides foreign aid to countries that either aid or provide military equipment to terrorist states, eases the restrictions on the provision of antiterrorism assistance to foreign nations, and prohibits the transfer to terrorist states of technology or products which the Secretary of State determines can be used to promote or conduct terrorism.

Third, our bill will give our law enforcement officials and courts the tools they need to remove alien terrorists from our midst without jeopardizing national security or the lives of law enforcement personnel. It allows for a special deportation hearing and in camera, ex parte review by a secret panel of Federal judges when the disclosure in open court of Government evidence would pose a threat to national security.

Fourth, it reforms our habeas corpus laws so that we can be sure that President Clinton's promise that punishment be swift is kept.

Fifth, our bill includes provisions making it a crime to knowingly provide material support to the terrorist functions of groups designated by a Presidential finding to be engaged in terrorist activities.

I am sensitive to the concerns, as is the majority leader, of some that this

provision impinges on freedoms protected by the first amendment. And, the first amendment has no greater champion than the distinguished majority leader and certainly myself. I have worked to ensure that this provision will not violate the Constitution or place inappropriate restrictions on cherished first amendment freedoms. Nothing in this provision prohibits the free exercise of religion or speech, or impinges on the freedom of association. Moreover, nothing in the Constitution provides the right to engage in violence against fellow citizens. Aiding and financing terrorist bombings is not constitutionally protected activity. Additionally, I have to believe that honest donors to any organization would want to know if their contributions were being used for such scurrilous purposes.

Our bill provides for numerous other needed improvements in the law to fight the scourge of terrorism, including the authorization in additional appropriations—nearly \$1.6 billion—to Federal law enforcement to beef up counterterrorism efforts and increasing the maximum rewards permitted for information concerning international terrorism.

I would note that many of the provisions in this bill enjoy broad, bipartisan support and, in several cases, have passed the Senate on previous occasions. Indeed, many of the provisions in this bill have the active support of the Clinton administration. And I believe, as the President reads this bill, he will support the whole bill.

The people of the United States and around the world must know that this is an issue that transcends politics and political parties. Our resolve in this matter must be clear: our response to the terrorist threat, and to acts of terrorism, will be certain, swift, and unified.

Mr. President, ours is a free society. Our liberties, the openness of our institutions, and our freedom of movement are what make America a Nation we are willing to defend. These freedoms are cherished by virtually every American.

But this freedom is not without its costs. Because we are so open, we are vulnerable to those who would take advantage of our liberty to inflict terror on us. The horrific events of last week in Oklahoma City tragically demonstrate the price we pay for our liberty. Indeed, anyone who would do such an act, and call it a defense of liberty, mocks that word.

We must now redouble our efforts to combat terrorism and to protect our citizens. A worthy first step in the enactment of these sound provisions to provide law enforcement with the tools to fight terrorism.

Again, I thank our majority leader. Without him, we would not be this far along. Without him, this bill would not be nearly as good. Without his leadership, it probably would have grave difficulties. But with his leadership and

with the work that he and his staff have put in, along with staff of other members of the Judiciary Committee, we have a bill that we believe is sound. We believe it is efficient. We believe it is fair. We believe it takes care of constitutional rights and liberties. And we believe that it will solve the problem in the future and give law enforcement the tools and the teeth in order to take the big bite of out of terrorism worldwide, but especially in our country that needs to be taken.

I urge all of our colleagues to support this legislation and again I thank our distinguished majority leader.

ADDITIONAL COSPONSORS

S. 45

At the request of Mr. FEINGOLD, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 45, a bill to amend the Helium Act to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes.

S. 240

At the request of Mr. DOMENICI, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Michigan [Mr. ABRAHAM], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 240, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act.

S. 256

At the request of Mr. DOLE, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 434

At the request of Mr. KOHL, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 434, a bill to amend the Internal Revenue Code of 1986 to increase the deductibility of business meal expenses for individuals who are subject to Federal limitations on hours of service.

S. 571

At the request of Mrs. BOXER, the names of the Senator from Washington [Mrs. MURRAY] and the Senator from Maine [Ms. SNOWE] were added as cosponsors of S. 571, a bill to amend title 10, United States Code, to terminate entitlement of pay and allowances for members of the Armed Forces who are sentenced to confinement and a punitive discharge or dismissal, and for other purposes.

S. 726

At the request of Mr. MCCAIN, the name of the Senator from New York

[Mr. D'AMATO] was added as a cosponsor of S. 726, a bill to amend the Iran-Iraq Arms Non-Proliferation Act of 1992 to revise the sanctions applicable to violations of that act, and for other purposes.

SENATE RESOLUTION 112—COMMENDING THE SENATE ENROLLING CLERK UPON HIS RETIREMENT

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 112

Whereas Brian Hallen will retire from the United States Senate after almost 30 years of Government service;

Whereas he served the United States Senate for over 20 years; the last 9 years as the Enrolling Clerk;

Whereas his dedication to the United States Senate resulted in the computerization of the engrossing and enrolling process;

Whereas he has performed the duties of his office with remarkable diligence, perseverance, efficiency and intelligence;

Whereas he has faithfully performed his duties serving all Members of the Senate and House of Representatives with great professional integrity; and

Whereas Brian Hallen has earned the respect, affection and esteem of the United States Senate: Now, therefore, be it

Resolved, That the United States Senate commends Brian Hallen for his long, faithful and exemplary service to his country and to the Senate.

SEC. 2. The Secretary shall transmit a copy of this resolution to Brian Hallen.

AMENDMENTS SUBMITTED

THE COMMON SENSE LEGAL STANDARDS REFORM ACT OF 1995; COMMON SENSE PRODUCT LIABILITY REFORM ACT OF 1995

MCCONNELL (AND OTHERS) AMENDMENT NO. 603

Mr. MCCONNELL (for himself, Mr. LIEBERMAN, and Mrs. KASSEBAUM) proposed an amendment to amendment No. 596 proposed by Mr. GORTON to the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes: as follows:

At the end of the pending amendment, add the following new title:

TITLE ___—HEALTH CARE LIABILITY REFORM

SEC. ___01. SHORT TITLE.

This title may be cited as the "Health Care Liability Reform and Quality Assurance Act of 1995".

Subtitle A—Health Care Liability Reform

SEC. ___11. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.—The civil justice system of the United States is a costly and inefficient mechanism for resolving claims of health care liability and compensating injured patients and the problems associated with the current

THE OMNIBUS COUNTERTERRORISM ACT OF 1995 STRENGTHENING AMERICA'S HAND AGAINST TERRORISM

The Clinton Administration introduced legislation (S.390, H.R.896) on February 9, 1995 to strengthen the United States' hand in combatting terrorists, whether they strike at home or abroad. The Administration seeks to improve our ability to hunt down terrorists and bring them to justice.

- ◆ **Clear Federal Criminal Jurisdiction to Provide a More Certain and Comprehensive Response to Terrorism.** The proposed legislation gives the federal government more tools to combat future acts of international terrorism within the United States. Among its many provisions, included are:
 - A new federal crime relating to acts of international terrorism, that can be used subject to certification by the Attorney General*, which incorporates state criminal violations and involves any of the following conduct within the United States:
 - * murder, kidnapping, maiming, assault resulting in serious bodily injury, assault with a dangerous weapon.
 - * destroying or damaging any structure, conveyance, or other real or personal property.
 - Facilitation of pre-trial detention for persons charged with this offense by creating a rebuttable presumption that the safety of the community and/or the appearance of the defendant in court cannot be assured.
 - Facilitation of the use of court-authorized roving electronic surveillance in investigating violations of this statute by amending the federal electronic surveillance statute.
- ◆ **America Must Not be the Support Base from which Acts of Terror are Masterminded and Carried Out Abroad.** The proposed legislation would outlaw any person within the United States from undertaking any act in furtherance of the following overseas criminal activity:
 - * murder, kidnap, maiming
 - * Injury or destruction of any railroad, canal, bridge, airport or other public utility, public conveyance, or public structure, or any religious educational, or cultural property.

* The Attorney General must conclude and certify that the offense a) transcended national boundaries; and b) was of a terrorist nature.

- ◆ **America Must not be Used to Bankroll Terrorism.** Unless it can be explicitly shown that money would be used for religious, charitable, literary or educational purposes, the proposed legislation authorizes the U.S. Government to regulate or prohibit any person or organization within the United States from raising or providing funds for terrorist organizations or activities.
- ◆ **Improving Deportation Procedures so that America is not the Veil Behind which Terrorists Hide.** The proposed legislation contains comprehensive procedures to facilitate the expeditious deportation of alien terrorists. It does so while adhering to standards of fundamental fairness and affording the government a reasonable basis to avoid public disclosure of sensitive national security information. Such hearings would be heard before a special court made up of five U.S. district court judges appointed by the Chief Justice of the United States.
- ◆ **Avoiding another Pan Am 103 -- Demanding that all Plastic Explosives be Manufactured with Detection Agents.** This proposal would implement the international Convention on the Marking of Plastic Explosives. The provision would represent America's commitment in ensuring that we avert future tragedies like the bombing of Pan Am 103. It would make it unlawful to manufacture or to receive, possess, or transfer any plastic explosive which does not contain a detection agent.
- ◆ **Strengthening our Ability to help investigate and prosecute terrorist crimes.** The proposed legislation contains a number of relatively technical but highly important provisions including:
 - * Addition of terrorism offenses to the list of predicate offenses under the Racketeering Influenced and Corrupt Organizations (RICO) statute and the federal money laundering statute.
 - * Addition of terrorism offenses to the list of statutes which are subject to court-authorized electronic surveillance.
 - * Increased penalties for conspiracies to commit terrorist offenses.
 - * Jurisdictional clarifications to ensure that, where a United States national is the victim or perpetrator of an extraterritorial terrorist offense, the defendant can be charged prior to being present in the United States.
 - * Amendment to the existing laws relating to attacks against federal employees to cover attacks against former employees where the offense is motivated by their prior performance of official duties.

Clinton Administration Counterterrorism Initiative

I. Actions Already Announced by the President

1) Pass the Omnibus Counter-terrorism Act of 1995

This bill would provide clear Federal criminal jurisdiction for any international terrorist attack that might occur in the United States; provide Federal criminal jurisdiction over terrorists who use the United States as the place from which to plan terrorist attacks overseas; provide a workable mechanism, utilizing United States District Judges appointed by the Chief Justice, to deport expeditiously alien terrorists without risking the disclosure of national security information or techniques; provide a new mechanism for preventing fundraising in the United States that supports international terrorist activities overseas; and would implement an international treaty requiring the insertion of a chemical agent into plastic explosives when manufactured to make them detectable.

2) Provide more tools to federal law enforcement agencies fighting terrorism

- o Amend the Fair Credit Reporting Act to ease access to financial and credit reports in anti-terrorism cases. This legislation provides for disclosures by consumer reporting agencies to the FBI for counterintelligence and counterterrorism purposes. The FBI has no mechanism for obtaining credit reports for lead purposes in counterterrorism cases. These reports are available to used car dealers and other merchants. The FBI currently has authority under the Right to Financial Privacy Act of 1978 to obtain similar records pursuant to a "National Security Letter" signed by a high-ranking FBI official. The same procedures and safeguards would apply to credit records under this proposal.**
- o Amend Federal law to adopt, in national security cases the standard currently used in obtaining a "pen register" in a routine criminal case. This proposal would extend the relaxed standard for obtaining "pen registers" and "trap and trace" device orders which already exists in routine criminal cases, to national security cases. A "pen register" is a device which records the number dialed on a telephone. A "trap and trace" device is similar to "Caller ID," providing law enforcement with the telephone number from which a call originates. Neither "pen registers" nor "trap and trace" devices permit law enforcement to monitor the actual conversations being conducted. The current, higher-than-regular standard impedes the ability of the FBI to obtain surveillance coverage of terrorists and spies.**

- o Pass legislation to require hotel/motel and common carriers to provide records necessary for fighting terrorism. This proposal would require hotel/motel and common carriers such as airlines and bus companies to provide records to the FBI pursuant to authorized national security requests just as they must do now for virtually all state and local law enforcement. The FBI now must rely on the voluntary assistance of motel, hotel and other innkeepers or common carriers regarding records of terrorists who may have stayed at the establishment or used the common carrier. The FBI has found that, while some of these entities voluntarily provide such information, an increasing number refuse, absent a court order, a subpoena, or other legal protection. In a counterterrorism case being conducted pursuant to the Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations, there is no legal mechanism, e.g., subpoena, available to obtain these records.
 - o Fully fund the FBI's "digital telephony" initiative to assure court-authorized law enforcement access for electronic surveillance to digitized communications. This proposal would appropriate funds to implement recent amendments to statutes governing secure telephone data transmission (digital telephony). These amendments require telephone carriers to install and maintain sophisticated equipment which will permit law enforcement to continue to conduct legal electronic surveillance.
 - o Create and allocate funds for a special FBI counterterrorist and counterintelligence fund. This proposal will fund costs associated cases which arise in connection with terrorism crises, including logistics and other support.
 - o Create an interagency Domestic Counterterrorism Center headed by the FBI. This proposal will establish a partnership effort between the Justice Department, including the FBI, and other federal and state law enforcement authorities to coordinate counterterrorism efforts within the United States.
- 3) Conduct terrorism threat assessment of every federal facility in the country within the next 60 days. The President has directed the Attorney General to conduct this assessment and report her recommendations in 60 days. The assessment has already begun.
- 4) Direct GSA to replace the federal building in Oklahoma City.

- 5) Direct the FBI Director, the Attorney General, and the National Security Adviser to prepare a Presidential Decision Directive authorizing any and all further steps necessary to combat foreign and domestic terrorism.

II. New Legislative Proposals

1) INVESTIGATIONS

- o Hire approximately 1000 new agents, prosecutors, and other federal law enforcement and support personnel to investigate, deter, and prosecute terrorist activity.
- o Pass legislation to require, within 1 year, the inclusion of taggants in standard explosive device raw materials which will permit tracing of the materials post-explosion. This proposal would require the inclusion of microscopic particles in certain raw materials, thereby permitting law enforcement to trace the source of explosives even after a device has been detonated.
- o Require the BATF to study and report on: 1) the tagging of explosive materials for purposes of identification and detection; 2) whether common chemicals used to manufacture explosives can be rendered inert for use in explosives, and 3) whether controls can be imposed on certain precursor chemicals used to manufacture explosives. In light of recent bombing incidents, there is a need to develop technologies that will make it possible to detect concealed explosives. Additionally, if bombings do take place, a means of providing some clues is needed to lead investigators to those responsible for the explosion. Moreover, since explosives can be manufactured using common agricultural and household materials, it is important to determine whether such materials can be manufactured in a manner so that their use in explosives is unlikely. Finally, the study would determine whether any reasonable controls can be placed on precursor chemicals, e.g., ammonium nitrate, which have many legitimate uses.
- o Amend the Posse Comitatus Act to permit military participation in crime-fighting involving weapons of mass destruction. This proposal would amend Federal laws, which severely limit the role of the military in domestic law enforcement, to permit military participation in criminal cases involving chemical, biological and other weapons of mass destruction; areas in which the military has specialized expertise.

- o Amend the Electronic Communications Privacy Act of 1986 to constitutionally enhance use of electronic surveillance to fight terrorism. This proposal would: permit any federal felony to be used as a basis for an electronic surveillance order; ease restrictions on the use, in American court proceedings, of information from electronic surveillance conducted by foreign governments; forbid suppression of electronic surveillance evidence unless law enforcement acted in bad faith in obtaining the evidence; authorize emergency electronic surveillance in situations involving threats by domestic terrorist organizations; authorize roving wiretaps where it is not practical to specify the number of the phone to be tapped, such as where a target uses multiple pay phones; allow the FBI to obtain records of local telephone calls, without the need for a court order, as they can now obtain records of long-distance calls; and require telephone companies and/or service providers to preserve evidence until a court order could be obtained. None of these changes would alter the requirement for probable cause prior to engaging in electronic surveillance.

2) PROSECUTION

- o Amend Federal law to criminalize the use of all chemical weapons to include all forms of chemical weapons. This bill would amend federal law to include chemical weapons in non-gaseous form. Under existing law, chemical weapons in gaseous form are covered, but those which are in liquid or solid form are not. Thus, for example, an individual who introduces dioxin in solid form into the water supply of a city would not be chargeable under current law.
- o Make it illegal to possess explosives knowing that they are stolen. This proposal would conform explosives laws to existing firearms statutes, making it a crime to for an individual to possess explosives which the individual knows are stolen.
- o Extend the statute of limitations on the National Firearms Act to five (5) years. This proposal would extend from three (3) to five (5) years the statute of limitations for prosecution for violations of the National Firearms Act, which deals with explosive and incendiary bombs. This change brings the statute of limitations for these offenses in line with similar criminal provisions.

- o Provide the Secretary of Treasury authority to direct the use of Treasury Department aircraft to support emergency law enforcement situations. This proposal would authorize the Secretary of Treasury to authorize the use of Treasury Department aircraft in support of emergency law enforcement crises.
- o Amend reward authority statutes to reduce restrictions on making rewards. This proposal would provide the Attorney General authority to pay a reward which is not subject to the spending limitations contained in 18 U.S.C. §§ 3059 and 3072, provided that any reward of \$100,000 or more may not be made without the approval of the President or the Attorney General, and such approval may not be delegated.

3) **PENALTIES**

- o Increase the penalty for anyone convicted of transferring a firearm or explosive knowing that it will be used to commit a crime of violence or drug trafficking crime. This proposal will provide a mandatory penalty of not less than 10 years for any person who transfers a firearm knowing or having reasonable cause to believe that a firearm will be used to commit a crime of violence or drug-trafficking crime.
- o Amend 18 U.S.C. §111 to provide enhanced penalties for all current and former Federal Employees against terrorist attacks. The existing statute only protects enumerated categories of current Federal employees. The proposed statute would provide enhanced penalties for crimes against all current and former Federal employees, and their immediate families, when the crime is committed because of the official duties of the federal employee.