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95TH CONGRESS
1ST SESSION

S. 1437

ACQUISITIONS

IN THE SENATE OF THE UNITED STATES

MAY 2 (legislative day, APRIL 28), 1977

Mr. McCLELLAN (for himself and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To codify, revise, and reform title 18 of the United States Code; and for other purposes.

1 *Be it enacted by the Senate and House of Representatives of the*
2 *United States of America in Congress assembled, That this Act may*
3 *be cited as the "Criminal Code Reform Act of 1977".*

4 **TITLE I—CODIFICATION, REVISION, AND REFORM**
5 **OF TITLE 18**

6 SEC. 101. Title 18 of the United States Code, which may be cited as
7 "18 U.S.C. §—" or as "Federal Criminal Code §—", is amended
8 to read as follows:

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5 **"§ 101. General Purpose**

6 "The general purpose of this title is to establish justice in the con-
 7 text of a federal system by:

8 "(a) defining and providing notice of conduct that indefensi-
 9 bly causes or threatens harm to those individual or public interests
 10 for which federal protection, through the criminal justice system,
 11 is appropriate;

12 "(b) prescribing appropriate sanctions for engaging in such
 13 conduct that will:

14 "(1) deter such conduct;

15 "(2) protect the public from persons who engage in such
 16 conduct;

17 "(3) assure just punishment for such conduct;

18 "(4) promote the correction and rehabilitation of persons
 19 who engage in such conduct; and

20 "(c) establishing a system of fair and expeditious procedures
 21 for:

22 "(1) investigating such conduct by means that will lead
 23 to the identification of persons who have engaged in such
 24 conduct and that will safeguard persons who have not en-
 25 gaged in such conduct;

26 "(2) determining the guilt or innocence of persons charged
 27 with engaging in such conduct; and

28 "(3) imposing merited sanctions upon persons found
 29 guilty of such conduct.

1 **“§ 102. General Principle of Criminal Liability**

2 “A person commits an offense under this title only if:

3 “(a) he directly or indirectly engages in conduct, or under a pro-
4 vision of chapter 4 is responsible for conduct, described as an offense
5 in a section set forth in part II of this title;6 “(b) the circumstances, if any, described in the section exist at the
7 time of the conduct;8 “(c) the results, if any, described in the section are caused by the
9 conduct;10 “(d) the states of mind described in the section, or required by the
11 provisions of chapter 3, exist with respect to the described conduct,
12 circumstances, and results; and13 “(e) a defense or an affirmative defense that is properly raised and
14 that is described in the section, described in a general-provisions sec-
15 tion made applicable to the section, or otherwise recognized by law,
16 did not exist at the time of the conduct.17 **“§ 103. Application**18 “Except as otherwise provided, the provisions of this title apply
19 to prosecutions under any Act of Congress other than:20 “(a) an Act of Congress applicable exclusively in the District
21 of Columbia;

22 “(b) the Canal Zone Code; or

23 “(c) the Uniform Code of Military Justice (10 U.S.C. 801 et
24 seq.).25 This title does not apply to an Act of Congress described in subsection
26 (a), (b), or (c) except in an instance in which specific reference is
27 made to such an Act.28 **“§ 104. Civil Remedies and Powers Unimpaired**

29 “Except as otherwise provided, nothing in this title affects:

30 “(a) the availability or terms of any civil or administrative
31 remedy or penalty;32 “(b) the power of a court, through civil proceedings, to compel
33 compliance with its order, decree, process, writ, or rule; or34 “(c) the authority of a court to direct the compensation of a
35 complainant for loss.36 **“Subchapter B.—Matters Relating to Construction**

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“111. General Definitions.

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1 **“§ 111. General Definitions**

2 “As used in this title and in the Federal Rules of Criminal Proce-
3 dure and in the Rules of Procedure for the Trial of Minor Offenses
4 before United States Magistrates, unless the meaning is modified or
5 replaced by a definition set forth in another section for a application to
6 a limited portion of this title, or unless a different meaning is otherwise
7 plainly required :

8 “‘abet’ includes counsel, induce, procure, and command ;

9 “‘actor’ means the person, or one of the persons, who engaged
10 in the conduct charged, whether or not such person is the defend-
11 ant or a defendant in the case ;

12 “‘affirmative defense’ means a defense specifically designated
13 as an affirmative defense that the defendant has the burden of
14 proving by a preponderance of the evidence as prescribed by Rule
15 25.1 of the Federal Rules of Criminal Procedure ;

16 “‘agent’ means a person authorized to act on behalf of another
17 person or a government, and, in the case of an organization or a
18 government, includes (a) a partner, director, officer, manager,
19 and representative ; and (b), except for the purpose of receipt of
20 service of process, a servant and employee ;

21 “‘aid’ includes facilitate ;

22 “‘aircraft’ includes any craft designed for navigation in air or
23 in space ;

24 “‘ammunition’ includes an ammunition or cartridge case, a
25 primer, a bullet, and a propellant substance designed for use in a
26 firearm ;

27 “‘anything of pecuniary value’ means (a) anything of value in
28 the form of money, a negotiable instrument, a commercial in-
29 terest, or anything else the primary significance of which is eco-
30 nomic advantage ; or (b) any other property or service that has
31 a value in excess of \$100 ;

32 “‘anything of value’ means any direct or indirect gain or ad-
33 vantage, or anything that might reasonably be regarded by the
34 beneficiary as a direct or indirect gain or advantage, including a
35 direct or indirect gain or advantage to any other person ;

36 “‘associate nation’ means a nation at war with a foreign power
37 with which the United States is at war ;

38 “‘attorney for the government’ means a United States attorney,
39 an assistant United States attorney, a special assistant United
40 States attorney, a special assistant to the Attorney General, or

1 any other attorney of the Department of Justice authorized by
2 statute, or by a rule, regulation, or order issued pursuant thereto.
3 to act as an attorney for the government;

4 " 'Attorney General' means the Attorney General of the United
5 States, and, unless issued in conjunction with a reference to another
6 specified officer of the Department of Justice, includes any officer
7 of the Department of Justice authorized to act for or on behalf of
8 the Attorney General;

9 " 'bar to prosecution' means a ground for terminating a prose-
10 cution in favor of a defendant on a ground unrelated to guilt or
11 innocence;

12 " 'bodily injury' includes (a) a cut, abrasion, bruise, burn, or
13 disfigurement; (b) physical pain; (c) illness; (d) impairment
14 of the function of a bodily member, organ, or mental faculty;
15 and (e) any other injury to the body no matter how temporary;

16 " 'building' means an immovable or movable structure that is
17 at least partially enclosed, or a separate part of such a structure,
18 and that is designed for use, or used, in whole or in part, as (a)
19 an individual's permanent or temporary home or place of lodging;
20 (b) a place for persons to engage in matters pertaining to govern-
21 ment, an occupation or a business or a profession, education,
22 religion, or entertainment; or (c) a place for the storage of
23 property within which, because of its size or other characteristics,
24 it is apparent that an individual could be present;

25 " 'Canal Zone' includes (a) the area designated as the Canal
26 Zone by sections 1 and 2 of title 2 of the Canal Zone Code; and
27 (b) the corridor over which the United States exercises juris-
28 diction pursuant to the provisions of Article IX of the General
29 Treaty of Friendship and Cooperation between the United States
30 of America and the Republic of Panama, signed March 2, 1936,
31 to the extent that the application to the corridor of the provisions
32 of this title is consistent with the nature of the rights of the United
33 States in the corridor as provided by treaty;

34 " 'chapter' means a chapter of this title;

35 " 'class', when used to refer by letter designation to a particular
36 category of felony or misdemeanor, means a felony or misde-
37 meanor carrying the incidents assigned to such designation by
38 the provisions of part III of this title;

39 " 'commission of an offense', or a variant thereof, includes the
40 attempted commission of an offense, the consummation of an

1 offense, and any immediate flight after the commission of an
2 offense;

3 " 'communicate' means to impart or transfer information, or
4 otherwise to make information available by any means, to a per-
5 son or to the general public;

6 " 'conduct' includes any act, any omission, and any possession;

7 " 'conduct constituting an offense', or a variant thereof using the
8 term 'crime' or 'felony' instead of 'offense', means conduct with
9 the state of mind, under the circumstances, and with the results,
10 required for the commission of the offense;

11 " 'consent' includes willing assent, but does not include assent
12 given by a person (a) who is legally incompetent to authorize the
13 conduct assented to; (b) who is a member of a category of per-
14 sons whose improvident consent is sought to be prevented by the
15 law describing the offense; (c) who is, by reason of age, mental
16 disease or defect, or intoxication, manifestly unable, or known by
17 the actor to be unable, to make a reasonable judgment as to the
18 nature or harmfulness of the conduct assented to; or (d) whose
19 assent is induced by force, threat, intimidation, or deception;

20 " 'court' includes a presiding judge;

21 " 'court of the United States' means the Supreme Court of the
22 United States, a United States Court of Appeals, a United
23 States District Court established pursuant to 28 U.S.C. 132, the
24 United States District Court for the District of the Canal Zone,
25 the District Court of Guam, the District Court of the Virgin
26 Islands, the United States Court of Claims, the Tax Court of the
27 United States, the United States Customs Court, the United States
28 Court of Customs and Patent Appeals, or the United States Court
29 of Military Appeals;

30 " 'crime' means a felony or a misdemeanor, but not an
31 infraction;

32 " 'crime of violence' means (a) an offense that has as an element
33 of the offense the use, attempted use, or threatened use of physical
34 force against the person or property of another; or (b) any other
35 offense that is a felony and that, by its nature, involves a sub-
36 stantial risk that physical force against the person or prop-
37 erty of another may be used in the course of committing the
38 offense;

39 " 'dangerous weapon' means (a) a firearm; (b) a destructive
40 device; or (c) any other weapon, device, instrument, material, or

1 substance, whether animate or inanimate, that is used or as
2 intended to be used is capable of producing death or serious bodily
3 injury;

4 " 'defense' includes (a) anything specifically designated as a
5 defense by a statute, or by a regulation, rule, or order issued pur-
6 suant thereto; or (b) a specific exception, exclusion, or exemption
7 from criminal liability described in a statute outside this title, or
8 in a regulation, rule, or order issued pursuant thereto;

9 " 'destructive device' means an explosive, an incendiary mate-
10 rial, a poisonous or infectious material in a form that can readily
11 be used to cause serious bodily injury, or a material that can be
12 used to cause a nuclear incident as defined in section 11 of the
13 Atomic Energy Act of 1954, as amended (42 U.S.C. 2014(q));
14 and includes a bomb, grenade, mine, rocket, missile, or similar
15 device containing an explosive, an incendiary material, or a ma-
16 terial that can be used as a chemical, biological, or radiological
17 weapon;

18 " 'dwelling' means an immovable or movable structure that is
19 at least partially enclosed, or a separate part of such a structure,
20 and that is designed for use, or used, in whole or in part, as an
21 individual's permanent or temporary home or place of lodging;

22 " 'element of the offense' means any (a) conduct; (b) state of
23 mind; (c) existing circumstance; or (d) result; that is specified
24 by the section describing the offense or that, with respect to
25 a state of mind, is required by section 303 for the commission
26 of the offense;

27 " 'enterprise' includes any business undertaking by an organi-
28 zation or group;

29 " 'explosive' means a chemical compound, a mechanical mix-
30 ture, or any other combination of materials, in proportions, quan-
31 tities, or packaging that may be exploded by operation of fire,
32 friction, concussion, percussion, nuclear fission, or nuclear fusion;

33 " 'felony' means an offense for which a term of imprisonment
34 of more than one year is authorized by a federal statute, or would
35 be authorized if a circumstance giving rise to federal jurisdiction
36 existed, or, if qualified by the word 'state', 'local', or 'foreign', an
37 offense for which such a term is authorized by such state, local, or
38 foreign law;

39 " 'finance' includes providing indirect financing;

40 " 'firearm' means a weapon that can expel, or that can readily be

1 converted to expel, a projectile by the action of an explosive or a
2 flammable rocket propellant, and includes such a weapon, loaded
3 or unloaded, commonly referred to as a gun, pistol, revolver, rifle,
4 shotgun, machine gun, bazooka, or cannon;

5 "‘foreign commerce’ means commerce between a state and a
6 foreign country, or from a state to a foreign country, or from a
7 foreign country to a state, or between places in the same state
8 through a foreign country;

9 "‘foreign dignitary’ means (a) the chief of state or head of
10 government, or the political equivalent, of a foreign power; (b)
11 an officer of cabinet rank, or equivalent or higher rank, of a
12 foreign power; (c) an ambassador of a foreign power; (d) the
13 chief executive officer of an international organization; or (e) a
14 person who has previously served in any such capacity;

15 "‘foreign official’ means (a) a foreign dignitary; or (b) a per-
16 son of foreign nationality who is duly notified to the United States
17 as an officer or employee of a foreign power;

18 "‘foreign power’ includes (a) a foreign government, faction,
19 party, or military force, or persons purporting to act as such,
20 whether or not recognized by the United States; and (b) an in-
21 ternational organization;

22 "‘found guilty’ includes acceptance by a court of a plea of
23 guilty or nolo contendere;

24 "‘government’ means (a) the government of a nation, a state,
25 or a political subdivision thereof; (b) a branch of the foregoing,
26 including the executive, legislative, and judicial branches; or
27 (c) a government agency;

28 "‘government agency’ means (a) a subdivision of the executive,
29 legislative, judicial, or other branch of a government, including a
30 department, independent establishment, commission, administra-
31 tion, authority, board, and bureau; or (b) a corporation or other
32 legal entity established by, and subject to control by, a govern-
33 ment or governments for the execution of a governmental or inter-
34 governmental program;

35 "‘group’ includes (a) an assemblage of persons; and (b) an
36 association of persons, whether or not a legal entity;

37 "‘high seas’ means, in accordance with international law, those
38 parts of the sea that are not included in the territorial sea or in
39 the internal waters of a nation or state;

1 “‘immediate family’ of a designated individual means (a) his
2 spouse, parent, brother, sister, or child, or a person to whom he
3 stands in loco parentis; or (b) any other person living in his house-
4 hold and related to him by blood or marriage;

5 “‘incite’, or a variant thereof, means to urge other persons to
6 engage imminently in conduct in circumstances under which there
7 is a substantial likelihood of imminently causing such conduct;

8 “‘includes’ is to be read as if the phrase ‘but is not limited to’
9 were also set forth;

10 “‘individual’ means a human being who has been born and who
11 has not died;

12 “‘in fact’ means, in accordance with the provisions of section
13 303(a) (1), that the matter to which the phrase applies is not a
14 matter as to which a state of mind must be proved;

15 “‘infraction’ means an offense for which a term of imprison-
16 ment of five days or less is authorized by a federal statute, or would
17 be authorized if a circumstance giving rise to federal jurisdiction
18 existed, or, if qualified by the word ‘state’ or ‘local’, an offense for
19 which such a term is authorized by such state or local law;

20 “‘intentional’, or a variant thereof, has the meaning pre-
21 scribed in section 302(a);

22 “‘international organization’ means a public international orga-
23 nization designated as such pursuant to section 1 of the Inter-
24 national Organizations Immunities Act (22 U.S.C. 288);

25 “‘internationally protected person’ has the meaning prescribed
26 in section 2 of the Act for the Prevention and Punishment of
27 Crimes Against Internationally Protected Persons, as amended
28 by section 221 of the Criminal Code Reform Act of 1977;

29 “‘interstate commerce’ means commerce between one state and
30 another state, or from one state to another state, or between places
31 in the same state through another state;

32 “‘intoxication’ means a disturbance of a mental or physical
33 capacity resulting from the introduction of alcohol or a drug or
34 other substance into the body;

35 “‘judge’ means any judicial officer, and includes a justice of the
36 Supreme Court and a magistrate;

37 “‘juror’ means a grand juror or a petit juror, and includes a
38 person who has been selected or summoned as a prospective
39 juror;

1 “‘knowing’, or a variant thereof, has the meaning prescribed
2 in section 302(b);

3 “‘law enforcement officer’ means a public servant authorized by
4 law or by a government agency to conduct or engage in the preven-
5 tion, detection, investigation, or prosecution of an offense;

6 “‘local’ means of or pertaining to a political subdivision within
7 a state;

8 “‘locality’ means a political subdivision within a state;

9 “‘mail’ includes a post card, postal card, letter, envelope, parcel,
10 package, newspaper, magazine, circular, advertising matter, or
11 mailbag or mail container, or anything contained therein (a) that
12 has been left for collection in or adjacent to an authorized
13 depository for mail matter; (b) that is under the care, custody,
14 or control of the United States Postal Service; or (c) that, having
15 been under the care, custody, or control of the United States
16 Postal Service, has not been delivered to the person to whom it
17 was addressed;

18 “‘military’ means relating to the armed forces or their support-
19 ing agencies, whether land, sea, or air forces, in either an offensive
20 or a defensive capacity;

21 “‘misdemeanor’ means an offense for which a term of imprison-
22 ment of one year or less, but more than five days, is authorized by
23 a federal statute, or would be authorized if a circumstance giving
24 rise to federal jurisdiction existed, or, if qualified by the word
25 ‘state’, ‘local’, or ‘foreign’, an offense for which such a term is
26 authorized by such state, local, or foreign law;

27 “‘motor vehicle’ means a self-propelled vehicle designed to
28 run on land but not on rails;

29 “‘national credit institution’ means (a) a bank with deposits
30 insured by the Federal Deposit Insurance Corporation; (b) an
31 institution with accounts insured by the Federal Savings and Loan
32 Insurance Corporation; (c) a credit union with accounts insured
33 by the Administrator of the National Credit Union Administra-
34 tion; (d) a Federal home loan bank or a member, as defined in
35 section 2 of the Federal Home Loan Bank Act, as amended (12
36 U.S.C. 1422), of the Federal home loan bank system; or (e) a
37 bank, banking association, land bank, intermediate credit bank,
38 bank for cooperatives, production credit association, land bank
39 association, mortgage association, trust company, savings bank, or
40 other banking or financial institution organized or operating
41 under the laws of the United States;

1 “‘national defense emergency’ means a national emergency
2 that is proclaimed in accordance with title II of the National
3 Emergencies Act (50 U.S.C. 1621 et seq.) and that involves mili-
4 tary combat operations undertaken in connection with an actual
5 or imminent war or armed attack by a foreign power against the
6 United States or its armed forces;

7 “‘negligent’, or a variant thereof, has the meaning prescribed
8 in section 302(d);

9 “‘objective’, when used with reference to a criminal conspiracy,
10 includes the commission of a crime, escape from the scene of a
11 crime, distribution of the fruits of a crime, and any measure for
12 concealing, or obstructing justice in relation to, any aspect of
13 the conspiracy;

14 “‘offense’ means conduct for which a term of imprisonment or a
15 fine is authorized by a federal statute, or would be authorized if
16 a circumstance giving rise to federal jurisdiction existed, or, if
17 qualified by the word ‘state’, ‘local’, or ‘foreign’, conduct for
18 which a term of imprisonment or a criminal fine is authorized by
19 such state, local, or foreign law;

20 “‘official action’ means a decision, opinion, recommendation,
21 judgment, vote, or other conduct involving an exercise of discre-
22 tion by a public servant in the course of his employment;

23 “‘official detention’ means (a) detention by a public servant, or
24 under the direction of a public servant, following arrest; follow-
25 ing surrender in lieu of arrest; following a charge or conviction
26 of an offense, or an allegation or finding of juvenile delinquency;
27 following commitment as a material witness; following civil com-
28 mitment in lieu of criminal proceedings or pending resumption of
29 criminal proceedings being held in abeyance; or pending extra-
30 dition, deportation, or exclusion; or (b) custody by a public serv-
31 ant, or under direction of a public servant, for purposes incident
32 to the foregoing, including transportation, medical diagnosis or
33 treatment, court appearance, work, and recreation; ‘official de-
34 tention’ does not include supervision or other restrictions (other
35 than custody during specified hours or days) after release pending
36 trial or appeal, pursuant to the provisions of subchapter A of
37 chapter 35; after release on probation, pursuant to the provisions
38 of chapter 21; after release on parole, pursuant to the provisions
39 of subchapter D of chapter 38; or after release following a finding
40 of juvenile delinquency, pursuant to the provisions of subchapter
41 A of chapter 36;

1 “‘official guest of the United States’ means a person of foreign
2 nationality who has been designated by the Secretary of State as
3 an official guest of the United States and who is in the United
4 States pursuant to such designation;

5 “‘official proceeding’ means a proceeding, or a portion thereof,
6 that is or may be heard before (a) a government branch or agency;
7 or (b) a public servant who is authorized to take oaths, including
8 a judge, a chairman of a legislative committee or subcommittee,
9 a referee, a hearing examiner, an administrative law judge, and a
10 notary;

11 “‘omission’ means a failure by a person to perform an act that
12 he has a legal duty to perform;

13 “‘organization’ means a legal entity, other than a government,
14 established or organized for any purpose, and includes a cor-
15 poration, company, association, firm, partnership, joint stock
16 company, foundation, institution, trust, estate, society, union,
17 club, church, and any other association of persons;

18 “‘paragraph’ means a paragraph of the subsection or subdivi-
19 sion in which the term is used;

20 “‘person’ means (a) an individual; or (b), except when used to
21 refer to the victim of an offense involving death or bodily in-
22 jury, an organization;

23 “‘President’ means (a) the President of the United States; or
24 (b) a person who is acting as President, under the Constitution
25 and laws of the United States;

26 “‘President-elect’ means the person who appears to be the suc-
27 cessful candidate for the office of President, as ascertained from
28 the results of the general election held to determine the electors of
29 President and Vice President pursuant to 3 U.S.C. 1 and 2;

30 “‘property’ means anything of value, and includes (a) real
31 property, including things growing on, affixed to, and found in
32 land; (b) tangible or intangible personal property, including
33 rights, privileges, interests, and claims; and (c) services; except
34 that, if used to refer to the object or possible object of damage,
35 does not include intangible property or services;

36 “‘property of another’ means property in which a person or
37 government has an interest upon which the actor is not privileged
38 to infringe without consent, whether or not the actor also has an
39 interest in the property;

1 “‘public facility’ includes (a) a facility of public or government
2 communication, transportation, energy supply, water supply, or
3 sanitation; (b) a facility of a police, fire, or public health agency;
4 (c) a facility designed for use, or used, as a means of national
5 defense; and (d) a part of any such facility or any property,
6 structure, or apparatus used in connection with or in support of
7 any such facility;

8 “‘public servant’ means an officer, employee, adviser, consultant,
9 juror, or other person authorized to act for or on behalf of a gov-
10 ernment or serving a government, and includes a person who has
11 been elected, nominated, or appointed to be a public servant; a
12 federal ‘public servant’ does not include a District of Columbia
13 public servant;

14 “‘railroad vehicle’ means a locomotive or car designed to
15 run on rails;

16 “‘reckless’, or a variant thereof, has the meaning prescribed
17 in section 302(c);

18 “‘section’ means a section within a chapter of this title;

19 “‘self-induced intoxication’ means intoxication caused by a
20 substance that the actor knowingly introduces into his body with
21 knowledge that it has, or with reckless disregard of the risk that
22 it may have, a tendency to cause intoxication;

23 “‘serious bodily injury’ means bodily injury which involves (a)
24 a substantial risk of death; (b) unconsciousness; (c) extreme
25 physical pain; (d) protracted and obvious disfigurement; or (e)
26 protracted loss or impairment of the function of a bodily member,
27 organ, or mental faculty;

28 “‘services’ means anything of value resulting from a person’s
29 physical or mental labor or skill, or from the use, possession, or
30 presence of property, and includes (a) repairs or improvements to
31 property; (b) professional services; (c) private or public or gov-
32 ernment communication, transportation, energy, water, or sani-
33 tation services; (d) lodging accommodations; and (e) admissions
34 to places of exhibition or entertainment;

35 “‘solicit’, when used in the description of an offense, includes
36 importune, approach with a request or plea, and try to obtain by
37 asking for; and is not limited to the conduct constituting an
38 offense under section 1003 (Criminal Solicitation);

39 “‘state’ means a state of the United States, the District of
40 Columbia, Puerto Rico, the Canal Zone, the Virgin Islands,

1 American Samoa, Johnston Island, Midway Island, Wake Island,
2 Guam, Kingman's Reef, or any other territory or possession of
3 the United States;

4 "state of mind' has the meaning set forth in section 301(a);

5 "stolen' property means property that has been the subject
6 of any criminal taking, including theft, executing a fraudulent
7 scheme, robbery, extortion, and blackmail, as those offenses are
8 described in this title;

9 "subchapter' means a subchapter of the chapter in which the
10 term is used;

11 "subdivision' means a subdivision of the rule in which the
12 term is used;

13 "subparagraph' means a subparagraph of the paragraph in
14 which the term is used;

15 "subsection' means a subsection of the section in which the
16 term is used;

17 "this title' means title 18 of the United States Code;

18 "traffic' means (a) to sell, transfer, distribute, dispense, or
19 otherwise dispose of to another person as consideration for any-
20 thing of value; or (b) to buy, receive, possess, or obtain control of
21 with intent to do any of the foregoing;

22 "United States,' when used in a geographic sense, includes (a)
23 all states; (b) all places subject to the special territorial jurisdic-
24 tion of the United States that are described in section 203 (a) (4)
25 and (a) (5); (c) all waters subject to the admiralty and maritime
26 jurisdiction of the United States; and (d) the airspace overlying
27 such states, places, and waters;

28 "United States,' when used in other than a geographic sense,
29 means the government of the United States;

30 "United States official' means a federal public servant who is
31 the President, the President-elect, the Vice President, the Vice
32 President-elect, a member of Congress, a member-elect of Con-
33 gress, a delegate or a commissioner of Congress, a delegate-elect
34 or a commissioner-elect of Congress, a Justice of the Supreme
35 Court, or a member of the executive branch of government of
36 cabinet rank;

37 "value,' when stated in monetary terms, means the aggregate
38 value in terms of (a) face, par, or market value; (b) original or
39 replacement cost; or (c) wholesale or retail price; whichever of
40 the foregoing is greatest;

1 “‘vehicle’ means a motor vehicle, railroad vehicle, vessel, or
2 aircraft;

3 “‘vessel’ means a self-propelled or wind-propelled craft de-
4 signed to navigate on or under water;

5 “‘Vice President-elect’ means (a) the person who appears to
6 be the successful candidate for the office of Vice President, as
7 ascertained from the results of the general election held to deter-
8 mine the electors of the President and Vice President pursuant to
9 3 U.S.C. 1 and 2; or (b) the person who is nominated by the
10 President for the office of Vice President pursuant to the pro-
11 visions of the Twenty-fifth Amendment to the Constitution of the
12 United States;

13 “‘violate’ means to engage in conduct that is described as an
14 offense proscribed, prohibited, declared unlawful, or made subject
15 to a criminal penalty; and

16 “‘war’ means (a) a war declared by Congress pursuant to sec-
17 tion 8 of Article I of the Constitution of the United States; (b)
18 a war declared by a foreign power against the United States;
19 (c) an armed attack by a foreign power against the United States
20 or its armed forces; or (d) a situation in which armed forces of
21 the United States are engaged in hostilities, or in which their
22 imminent involvement in hostilities is clearly indicated by the
23 circumstances, and concerning which the President has submitted
24 or is required to submit a report to the Congress pursuant to sec-
25 tion 4 of the War Powers Resolution (50 U.S.C. 1543).

26 **“§ 112. General Principles of Construction**

27 “(a) CONSTRUCTION IN GENERAL.—The provisions of this title shall
28 be construed in accordance with the fair import of their terms to
29 effectuate the general purposes of this title.

30 “(b) TITLES, HEADINGS, AND PARENTHETICAL EXPLANATIONS.—A
31 title, heading, or parenthetical explanation shall not be construed as
32 limiting or otherwise affecting the scope or application of the language
33 of the chapter, subchapter, section, subsection, rule, or subdivision in
34 which it appears or to which it refers.

35 “(c) NAMES OF OFFENSES.—A term that commonly is employed
36 generically to refer to a kind of offense or to a group of offenses, but
37 that also is employed as a title of a section describing an offense, shall
38 be construed in its generic sense when it is used outside such section
39 without reference to the number of such section.

40 “(d) NUMBER, GENDER, AND TENSE.—A term:

1 sufficient to establish the existence of federal jurisdiction over the
 2 offense. Proof of more than one of such circumstances does not
 3 increase the number of offenses that may be found to have been
 4 committed. If federal jurisdiction over an offense exists by virtue
 5 of its commission during another offense, jurisdiction also exists
 6 over any lesser included offense.

7 “(2) If, in a section describing an offense, there is no separate
 8 subsection in which one or more circumstances are specified as
 9 giving rise to federal jurisdiction over the offense, there is federal
 10 jurisdiction over the offense if it is committed within:

11 “(A) the general jurisdiction of the United States;

12 “(B) the special jurisdiction of the United States; or

13 “(C) the extraterritorial jurisdiction of the United States

14 to the extent applicable under section 204;

15 unless the offense is described as a violation of a statute outside
 16 this title, or of a regulation, rule, or order issued pursuant thereto,
 17 in which case there is federal jurisdiction over the offense to the
 18 extent applicable under that statute.

19 “(c) JURISDICTION NOT AN ELEMENT OF OFFENSE.—The existence of
 20 federal jurisdiction is not an element of the offense.

21 **“§ 202. General Jurisdiction of the United States**

22 “An offense is committed within the general jurisdiction of the
 23 United States if it is committed within the United States.

24 **“§ 203. Special Jurisdiction of the United States**

25 “An offense is committed within the special jurisdiction of the
 26 United States if it is committed within the special territorial juris-
 27 diction, the special maritime jurisdiction, or the special aircraft juris-
 28 diction of the United States, as set forth in subsections (a), (b), or
 29 (c).

30 “(a) SPECIAL TERRITORIAL JURISDICTION.—The special territorial
 31 jurisdiction of the United States includes:

32 “(1) real property that is reserved or acquired for the use
 33 of the United States and that is under the exclusive or concurrent
 34 jurisdiction of the United States, and a place purchased or
 35 otherwise acquired by the United States with the consent of the
 36 legislature of the state in which such place is located for the
 37 erection of a building or other structure;

38 “(2) an unorganized territory or a possession of the United
 39 States;

1 “(3) the Indian country, as defined in section 231(a) of the
2 criminal Code Reform Act of (25 U.S.C. —);

3 “(4) an island, a rock, or a key that may, at the discretion of
4 the President, be considered as appertaining to the United States;
5 and

6 “(5) a facility for exploration or exploitation of natural re-
7 sources constructed or operated on or above the outer continental
8 shelf as defined in section 2(a) of the Outer Continental Shelf
9 Lands Act (43 U.S.C. 1331(a)).

10 “(b) SPECIAL MARITIME JURISDICTION.—The special maritime juris-
11 diction of the United States includes:

12 “(1) the high seas;

13 “(2) any other waters within the admiralty and maritime juris-
14 diction of the United States and outside the jurisdiction of any
15 state;

16 “(3) a vessel within the admiralty and maritime jurisdiction
17 of the United States, and outside the jurisdiction of any state,
18 that belongs in whole or in part to:

19 “(A) the United States;

20 “(B) a state or locality;

21 “(C) a citizen of the United States; or

22 “(D) an organization created by or under the laws of the
23 United States or of a state; and

24 “(4) a vessel registered, licensed, or enrolled under the laws
25 of the United States, that is upon the waters of any of the Great
26 Lakes or the waters connecting them, or upon the Saint Lawrence
27 River where it constitutes the international boundary line.

28 “(c) SPECIAL AIRCRAFT JURISDICTION.—The special aircraft jurisdic-
29 tion of the United States includes:

30 “(1) an aircraft that belongs in whole or in part to:

31 “(A) the United States;

32 “(B) a state or locality;

33 “(C) a citizen of the United States; or

34 “(D) an organization created by or under the laws of the
35 United States or of a state;

36 “(2) a civil aircraft of the United States, as defined in section
37 101 of the Federal Aviation Act of 1958, as amended (49 U.S.C.
38 1301);

1 “(3) a public aircraft of the United States, as defined in section
2 101 of the Federal Aviation Act of 1958, as amended (49 U.S.C.
3 1301);

4 “(4) any other aircraft within the United States;

5 “(5) any other aircraft outside the United States:

6 “(A) that has its next scheduled destination or last point
7 of departure in the United States, and that next lands in the
8 United States; or

9 “(B) that has an ‘offense’, as defined in the Convention
10 for the Suppression of Unlawful Seizure of Aircraft, com-
11 mitted aboard, and that lands in the United States with the
12 alleged offender still aboard; and

13 “(6) any other aircraft leased without crew to a lessee who has
14 his principal place of business in the United States, or, if the lessee
15 has no principal place of business, who has his permanent resi-
16 dence in the United States;

17 during the period that such aircraft is in flight, which is, for the pur-
18 pose of this subsection, from the moment when all the external doors
19 of such aircraft are closed following embarkation until the moment
20 when any such door is opened for disembarkation, or, in the case of
21 a forced landing, until a competent authority takes over the responsi-
22 bility for the aircraft and for the persons and property aboard.

23 **“§ 204. Extraterritorial Jurisdiction of the United States**

24 “Except as otherwise expressly provided by statute, or by treaty or
25 other international agreement, an offense is committed within the
26 extraterritorial jurisdiction of the United States if it is committed
27 outside the general or special jurisdiction of the United States and:

28 “(a) the offense is a crime of violence and the victim or in-
29 tended victim is:

30 “(1) a United States official; or

31 “(2) a federal public servant outside the United States for
32 the purpose of performing his official duties;

33 “(b) the offense is treason, sabotage against the United States,
34 espionage, disseminating national defense information, or dis-
35 seminating or receiving classified information;

36 “(c) the offense consists of:

37 “(1) counterfeiting or forgery of, or uttering of a counter-
38 feited or forged copy of, or issuing without authority, a seal,
39 currency, security instrument of credit, stamp, passport, or

1 public document that is or that purports to be issued by the
2 United States;

3 "(2) perjury or false swearing in a federal official proceed-
4 ing;

5 "(3) making a false statement in a federal government
6 matter or a federal government record;

7 "(4) bribery or graft involving a federal public servant;

8 "(5) fraud against the United States or theft of property
9 in which the United States has an interest;

10 "(6) impersonation of a federal public servant;

11 "(7) any obstruction or impairment of a federal govern-
12 ment function, if committed by a national or resident of the
13 United States;

14 "(d) the offense consists of the manufacture or distribution of
15 narcotics or other drugs for import into, or eventual sale or dis-
16 tribution within, the United States;

17 "(e) the offense consists of entry of persons or property into the
18 United States;

19 "(f) the offense consists of possessing an explosive in a United
20 States Government building;

21 "(g) the offense is committed in whole or in part within the
22 United States and the accused participates outside the United
23 States, or the offense constitutes an attempt, a conspiracy, or a
24 solicitation to commit a crime within the United States;

25 "(h) the offense is committed by a federal public servant, other
26 than a member of the armed forces who is subject to court-martial
27 jurisdiction for the offense at the time he is charged with the of-
28 fense, who is outside the United States because of his official
29 duties; or by a member of his household residing abroad because
30 of such public servant's official duties; or by a person accompany-
31 ing the military forces of the United States;

32 "(i) the offense is committed by or against a national of the
33 United States at a place outside the jurisdiction of any nation;
34 or

35 "(j) the offense is comprehended by the generic terms of, and
36 is committed under circumstances specified by, a treaty or other
37 international agreement, to which the United States is a party,
38 that provides for, or requires the United States to provide for,
39 federal jurisdiction over such offense.

1 **“§ 205. Federal Jurisdiction Generally Not Preemptive**

2 “(a) **IN GENERAL.**—Except as otherwise expressly provided, the
3 existence of federal jurisdiction over an offense does not, in itself,
4 preclude:

5 “(1) a state or local government from exercising its concurrent
6 jurisdiction to enforce its laws applicable to the conduct involved;

7 “(2) an Indian tribe, band, community, group, or pueblo from
8 exercising its concurrent jurisdiction in Indian country to enforce
9 its laws applicable to the conduct involved; or

10 “(3) a court-martial, military commission, court of inquiry,
11 provost court, or other military court of the United States from
12 exercising its concurrent jurisdiction to enforce the law applicable
13 to the conduct involved pursuant to the Uniform Code of Military
14 Justice (10 U.S.C. 801 et seq.), any other federal statute, or the
15 law of war.

16 “(b) **PREEMPTIVE JURISDICTION OVER CERTAIN OFFENSES.**—Upon
17 order of the Attorney General, the assertion of federal jurisdiction:

18 “(1) over an offense:

19 “(A) that has as a victim or intended victim a United
20 States official, a foreign official or a member of his imme-
21 diate family, or an official guest of the United States; and

22 “(B) that is described in:

23 “(i) section 1601 (Murder), 1602 (Manslaughter),
24 1603 (Negligent Homicide), 1611 (Maiming), 1612 (Ag-
25 gravated Battery), 1613 (Battery), 1614 (Menacing),
26 1621 (Kidnapping), 1622 (Aggravated Criminal Re-
27 straint), or 1623 (Criminal Restraint); or

28 “(ii) section 1001 (Criminal Attempt), 1002 (Crimi-
29 nal Conspiracy), or 1003 (Criminal Solicitation) if a
30 crime that was an objective of the attempt, conspiracy,
31 or solicitation is an offense set forth in subparagraph
32 (A); or

33 “(2) over an offense that is described in:

34 “(A) subchapter B of chapter 15;

35 “(B) section 1355 (Trading in Public Office); or

36 “(C) section 1503 (Interfering with a Federal Benefit),
37 1504 (Unlawful Discrimination), or 1616 (Communicating
38 a Threat), to the extent that it involves conduct proscribed
39 by the Federal Election Campaign Act of 1971, as amended
40 (2 U.S.C. 431 et seq.);

1 shall suspend, to the extent indicated in the order, the exercise of
 2 jurisdiction by a state or local government, under any state or local
 3 law applicable to the conduct involved, until the order is rescinded
 4 by the Attorney General.

5 **"Chapter 3.—CULPABLE STATES OF MIND**

"Sec.

"301. State of Mind Generally.

"302. 'Intentional', 'Knowing', 'Reckless', and 'Negligent' States of Mind.

"303. Proof of State of Mind.

6 **"§ 301. State of Mind Generally**

7 "(a) STATE OF MIND DEFINED.—As used in this title, 'state of mind'
 8 means the mental state required to be proved with respect to conduct,
 9 an existing circumstance, or a result set forth in a section describing an
 10 offense.

11 "(b) TERMS USED TO DESCRIBE STATES OF MIND.—The terms used to
 12 describe the different states of mind are 'intentional', 'knowing', 'reck-
 13 less', and 'negligent', and variants thereof.

14 "(c) STATES OF MIND APPLICABLE TO CONDUCT, AN EXISTING CIR-
 15 CUMSTANCE, AND A RESULT.—The states of mind that may be specified
 16 as applicable to:

17 "(1) conduct are either 'intentional' or 'knowing';

18 "(2) an existing circumstance are either 'knowing', 'reckless',
 19 or 'negligent'; and

20 "(3) a result are either 'intentional', 'knowing', 'reckless', or
 21 'negligent'.

22 **"§ 302. 'Intentional', 'Knowing', 'Reckless', and 'Negligent' States
 23 of Mind**

24 "The following definitions apply with respect to an offense set forth
 25 in any federal statute:

26 "(a) 'INTENTIONAL'.—A person's state of mind is intentional with
 27 respect to:

28 "(1) his conduct if it is his conscious objective or desire to
 29 engage in the conduct;

30 "(2) a result of his conduct if it is his conscious objective or de-
 31 sire to cause the result.

32 "(b) 'KNOWING'.—A person's state of mind is knowing with respect
 33 to:

34 "(1) his conduct if he is aware of the nature of his conduct;

35 "(2) an existing circumstance if he is aware or believes that
 36 the circumstance exists;

37 "(3) a result of his conduct if he is aware or believes that his
 38 conduct is substantially certain to cause the result.

1 “(c) ‘RECKLESS’.—A person’s state of mind is reckless with re-
2 spect to:

3 “(1) an existing circumstance if he is aware of a risk that the
4 circumstance exists but disregards the risk;

5 “(2) a result of his conduct if he is aware of a risk that the
6 result will occur but disregards the risk;

7 except that awareness of the risk is not required if its absence is due
8 to self-induced intoxication. The risk must be of such a nature and
9 degree that to disregard it constitutes a gross deviation from the
10 standard of care that a reasonable person would exercise in such a
11 situation.

12 “(d) ‘NEGLIGENT’.—A person’s state of mind is negligent with re-
13 spect to:

14 “(1) an existing circumstance if he ought to be aware of a risk
15 that the circumstance exists;

16 “(2) a result of his conduct if he ought to be aware of a risk
17 that the result will occur.

18 The risk must be of such a nature and degree that to fail to perceive
19 it constitutes a gross deviation from the standard of care that a rea-
20 sonable person would exercise in such a situation.

21 **“§ 303. Proof of State of Mind**

22 “Except as otherwise expressly provided, the following provisions
23 apply to an offense under any federal statute:

24 “(a) **REQUIRED PROOF OF STATE OF MIND.**—A state of mind must be
25 proved with respect to each element of an offense, except that:

26 “(1) no state of mind must be proved with respect to a par-
27 ticular element of an offense if that element is specified in the
28 description of the offense as existing or occurring ‘in fact’; and

29 “(2) no state of mind must be proved with respect to any ele-
30 ment of an offense described in a statute outside this title, or
31 described in this title as a violation of a statute outside this title,
32 or described in a regulation or rule issued pursuant to such a
33 statute, if the description of the offense does not specify any state
34 of mind with respect to that element and the legislative purpose
35 of the statute does not compel a contrary interpretation.

36 “(b) **REQUIRED STATE OF MIND FOR AN ELEMENT OF AN OFFENSE IF**
37 **NOT SPECIFIED.**—Except as provided in subsection (a), if an element
38 of an offense is described without specifying the required state of mind,
39 the particular state of mind that must be proved with respect to:

40 “(1) conduct is ‘knowing’;

1 “(2) an existing circumstance is ‘reckless’; and

2 “(3) a result is ‘reckless’.

3 “(c) **SATISFACTION OF STATE OF MIND REQUIREMENT BY PROOF OF**
4 **OTHER STATE OF MIND.**—If the state of mind required to be proved
5 with respect to an element of an offense is:

6 “(1) ‘knowing’, this requirement can be satisfied alternatively
7 by proof of an ‘intentional’ state of mind;

8 “(2) ‘reckless’, this requirement can be satisfied alternatively by
9 proof of an ‘intentional’ or ‘knowing’ state of mind;

10 “(3) ‘negligent’, this requirement can be satisfied alternatively
11 by proof of an ‘intentional’, ‘knowing’, or ‘reckless’ state of mind.

12 “(d) **MATTERS OF LAW REQUIRING NO PROOF OF STATE OF MIND.**—

13 “(1) **EXISTENCE OF OFFENSE.**—Proof of knowledge or other
14 state of mind is not required with respect to:

15 “(A) the fact that particular conduct constitutes an offense
16 or is required by, or violates, a statute or a regulation, rule,
17 or order issued pursuant thereto;

18 “(B) the fact that particular conduct is described in a sec-
19 tion of this title; or

20 “(C) the existence, meaning, or application of the law
21 determining the elements of an offense.

22 “(2) **JURISDICTION, VENUE, AND GRADING MATTERS.**—Proof of
23 state of mind is not required with respect to any matter that is
24 solely a basis for federal jurisdiction, for venue, or for grading.

25 “(3) **MATTERS DESIGNATED A QUESTION OF LAW.**—Proof of state
26 of mind is not required with respect to any matter that is des-
27 ignated as a question of law.

28 “(e) **MATTERS PERTAINING TO BARS OR DEFENSES REQUIRING NO**
29 **PROOF OF STATE OF MIND.**—Proof of state of mind is not required with
30 respect to an element of a bar to prosecution, defense, or affirmative
31 defense.

32 **“Chapter 4.—COMPLICITY**

“Sec.

“401. Liability of an Accomplice.

“402. Liability of an Organization for Conduct of an Agent.

“403. Liability of an Agent for Conduct of an Organization.

“404. General Provisions for Chapter 4.

33 **“§ 401. Liability of an Accomplice**

34 “(a) **LIABILITY IN GENERAL.**—A person is criminally liable for an
35 offense based upon the conduct of another person if:

36 “(1) he knowingly aids or abets the commission of the offense
37 by the other person; or

1 “(2) acting with the state of mind required for the commission
2 of the offense, he causes the other person to engage in conduct
3 that would constitute an offense if engaged in personally by the
4 defendant or any other person.

5 “(b) LIABILITY AS COCONSPIRATOR.—A person is criminally liable
6 for an offense based upon the conduct of another person if:

7 “(1) he and the other person engage in an offense under section
8 1002 (Criminal Conspiracy);

9 “(2) the other person engages in the conduct in furtherance of
10 the conspiracy; and

11 “(3) the conduct is authorized by the agreement or it is reason-
12 ably foreseeable that the conduct would be performed in further-
13 ance of the conspiracy.

14 **“§ 402. Liability of an Organization for Conduct of an Agent**

15 “An organization is criminally liable for an offense if the conduct
16 constituting the offense, in whole or in part:

17 “(a) is conduct of its agent, and such conduct:

18 “(1) occurs in the performance of matters within the scope
19 of the agent's employment or within the scope of the agent's
20 actual, implied, or apparent authority; or

21 “(2) is thereafter ratified or adopted by the organization;
22 or

23 “(b) involves a failure by the organization or its agent to dis-
24 charge a specific duty of conduct imposed on the organization,
25 by law.

26 **“§ 403. Liability of an Agent for Conduct of an Organization**

27 “(a) CONDUCT ON BEHALF OF AN ORGANIZATION.—A person is crimi-
28 nally liable for an offense based upon conduct that he engages in or
29 causes in the name of an organization or on behalf of an organization to
30 the same extent as if he engaged in or caused the conduct in his own
31 name or on his own behalf.

32 “(b) OMISSION TO PERFORM A DUTY OF AN ORGANIZATION.—Except as
33 otherwise expressly provided, whenever a duty to act is imposed upon
34 an organization by a statute, or by a regulation, rule, or order issued
35 pursuant thereto, an agent of the organization having significant re-
36 sponsibility for the subject matter to which the duty relates is crimi-
37 nally liable for an offense based upon an omission to perform the duty, if
38 he has the state of mind required for the commission of the offense, to
39 the same extent as if the duty were imposed upon him directly.

1 “(2) an existing circumstance is ‘reckless’; and

2 “(3) a result is ‘reckless’.

3 “(c) **SATISFACTION OF STATE OF MIND REQUIREMENT BY PROOF OF**
4 **OTHER STATE OF MIND.**—If the state of mind required to be proved
5 with respect to an element of an offense is:

6 “(1) ‘knowing’, this requirement can be satisfied alternatively
7 by proof of an ‘intentional’ state of mind;

8 “(2) ‘reckless’, this requirement can be satisfied alternatively by
9 proof of an ‘intentional’ or ‘knowing’ state of mind;

10 “(3) ‘negligent’, this requirement can be satisfied alternatively
11 by proof of an ‘intentional’, ‘knowing’, or ‘reckless’ state of mind.

12 “(d) **MATTERS OF LAW REQUIRING NO PROOF OF STATE OF MIND.**—

13 “(1) **EXISTENCE OF OFFENSE.**—Proof of knowledge or other
14 state of mind is not required with respect to:

15 “(A) the fact that particular conduct constitutes an offense
16 or is required by, or violates, a statute or a regulation, rule,
17 or order issued pursuant thereto;

18 “(B) the fact that particular conduct is described in a sec-
19 tion of this title; or

20 “(C) the existence, meaning, or application of the law
21 determining the elements of an offense.

22 “(2) **JURISDICTION, VENUE, AND GRADING MATTERS.**—Proof of
23 state of mind is not required with respect to any matter that is
24 solely a basis for federal jurisdiction, for venue, or for grading.

25 “(3) **MATTERS DESIGNATED A QUESTION OF LAW.**—Proof of state
26 of mind is not required with respect to any matter that is des-
27 ignated as a question of law.

28 “(e) **MATTERS PERTAINING TO BARS OR DEFENSES REQUIRING NO**
29 **PROOF OF STATE OF MIND.**—Proof of state of mind is not required with
30 respect to an element of a bar to prosecution, defense, or affirmative
31 defense.

32 **“Chapter 4.—COMPLICITY**

“Sec.

“401. Liability of an Accomplice.

“402. Liability of an Organization for Conduct of an Agent.

“403. Liability of an Agent for Conduct of an Organization.

“404. General Provisions for Chapter 4.

33 **“§ 401. Liability of an Accomplice**

34 “(a) **LIABILITY IN GENERAL.**—A person is criminally liable for an
35 offense based upon the conduct of another person if:

36 “(1) he knowingly aids or abets the commission of the offense
37 by the other person; or

1 “(2) acting with the state of mind required for the commission
2 of the offense, he causes the other person to engage in conduct
3 that would constitute an offense if engaged in personally by the
4 defendant or any other person.

5 “(b) LIABILITY AS COCONSPIRATOR.—A person is criminally liable
6 for an offense based upon the conduct of another person if:

7 “(1) he and the other person engage in an offense under section
8 1002 (Criminal Conspiracy);

9 “(2) the other person engages in the conduct in furtherance of
10 the conspiracy; and

11 “(3) the conduct is authorized by the agreement or it is reason-
12 ably foreseeable that the conduct would be performed in further-
13 ance of the conspiracy.

14 **“§ 402. Liability of an Organization for Conduct of an Agent**

15 “An organization is criminally liable for an offense if the conduct
16 constituting the offense, in whole or in part:

17 “(a) is conduct of its agent, and such conduct:

18 “(1) occurs in the performance of matters within the scope
19 of the agent's employment or within the scope of the agent's
20 actual, implied, or apparent authority; or

21 “(2) is thereafter ratified or adopted by the organization;

22 or

23 “(b) involves a failure by the organization or its agent to dis-
24 charge a specific duty of conduct imposed on the organization
25 by law.

26 **“§ 403. Liability of an Agent for Conduct of an Organization**

27 “(a) CONDUCT ON BEHALF OF AN ORGANIZATION.—A person is crimi-
28 nally liable for an offense based upon conduct that he engages in or
29 causes in the name of an organization or on behalf of an organization to
30 the same extent as if he engaged in or caused the conduct in his own
31 name or on his own behalf.

32 “(b) OMISSION TO PERFORM A DUTY OF AN ORGANIZATION.—Except as
33 otherwise expressly provided, whenever a duty to act is imposed upon
34 an organization by a statute, or by a regulation, rule, or order issued
35 pursuant thereto, an agent of the organization having significant re-
36 sponsibility for the subject matter to which the duty relates is crimi-
37 nally liable for an offense based upon an omission to perform the duty, if
38 he has the state of mind required for the commission of the offense, to
39 the same extent as if the duty were imposed upon him directly.

1 “(c) RECKLESS FAILURE TO SUPERVISE CONDUCT OF AN ORGANIZA-
2 TION.—A person responsible for supervising particular activities on
3 behalf of an organization who, by his reckless failure to supervise ad-
4 equately those activities, permits or contributes to the commission of
5 an offense by the organization is criminally liable for the offense, ex-
6 cept that if the offense committed by the organization is a felony the
7 person is liable under this subsection only for a Class A misdemeanor.

8 **“§ 404. General Provisions for Chapter 4**

9 “(a) TREATMENT AS PRINCIPAL.—A person whose criminal liability
10 is based upon section 401, 402, or 403 may be charged, tried, and pun-
11 ished as a principal.

12 “(b) DEFENSES PRECLUDED.—It is not a defense to a prosecution in
13 which the criminal liability of the defendant is based upon section
14 401, 402, or 403 that:

15 “(1) the defendant does not belong to the category of persons
16 who by definition are the only persons capable of committing the
17 offense directly; or

18 “(2) the person for whose conduct the defendant is criminally
19 liable has been acquitted, has not been prosecuted or convicted,
20 has been convicted of a different offense, was incompetent or
21 irresponsible, or is immune from or otherwise not subject to
22 prosecution.

23 **“Chapter 5.—BARS AND DEFENSES**

“Subchapter

“A. General Provisions.

“B. Bars to Prosecution.

24 **“Subchapter A.—General Provisions**

“Sec.

“501. General Principle Governing Existence of Bars and Defenses.

“502. Application and Scope of Bars and Defenses.

25 **“§ 501. General Principle Governing Existence of Bars and De-**
26 **fenses**

27 “Except as otherwise required by the Constitution or by a federal
28 statute, the existence of a bar to a prosecution under any federal
29 statute, or the existence of a defense or affirmative defense to a pros-
30 ecution under any federal statute, including a defense or an affirmative
31 defense of mistake of fact or law, insanity, intoxication, duress, exer-
32 cise of public authority, protection of persons, protection of property,
33 unlawful entrapment, and official misstatement of law, shall be deter-
34 mined by the courts of the United States according to the principles

1 of the common law as they may be interpreted in the light of reason
2 and experience.

3 **“§ 502. Application and Scope of Bars and Defenses**

4 “The bars to prosecution, defenses, and affirmative defenses set forth
5 in this title are not exclusive, but the general subject matters covered
6 constitute bars or defenses only to the extent described.

7 **“Subchapter B.—Bars to Prosecution**

“Sec.

“511. Time Limitations.

“512. Immaturity.

8 **“§ 511. Time Limitations**

9 “(a) **BAR TO PROSECUTION.**—It is a bar to prosecution under any
10 federal statute that the prosecution was commenced after the appli-
11 cable period of limitation.

12 “(b) **APPLICABLE PERIOD GENERALLY.**—Except for a prosecution for
13 a Class A felony or for an offense described in section 1121(a) (1)
14 (Espionage), which may be commenced at any time, and except as
15 otherwise provided in this section, a prosecution for an offense must
16 be commenced, if the offense is:

17 “(1) a felony or a misdemeanor, within five years after the com-
18 mission of the offense;

19 “(2) an infraction, within one year after the commission of the
20 offense.

21 “(c) **EXTENDED PERIOD FOR CONCEALABLE OFFENSES.**—If the period
22 prescribed in subsection (b) has expired, and if not more than three
23 years have passed since the date of such expiration, a prosecution may
24 nevertheless be commenced:

25 “(1) for an offense in which a material element is either fraud
26 or a breach of a fiduciary obligation, at any time within one year
27 after the facts relating to the offense became known to, or reason-
28 ably should have become known by, a federal public servant who
29 is charged with responsibility for acting with respect to such cir-
30 cumstances and who is not himself an accomplice in the offense;

31 “(2) for an offense based on official conduct in office by a
32 public servant, at any time during which the defendant is a public
33 servant or within two years after he ceases to be a public servant;
34 or

35 “(3) for an offense based on concealment of assets of a bank-
36 rupt or other debtor, at any time until the debtor has received
37 a discharge or until a discharge has been denied.

1 “(d) **TIME WHEN OFFENSE COMMITTED.**—Except as otherwise pro-
2 vided by statute, for purposes of this section the commission of an
3 offense occurs:

4 “(1) if the offense is other than a continuing offense, on the
5 occurrence of the last remaining element of the offense; or

6 “(2) if the offense is a continuing offense involving:

7 “(A) criminal conspiracy, on the day of the occurrence of
8 the most recent conduct to effect any objective of the con-
9 spiracy for which the defendant is responsible, or on the day
10 of the frustration of the last remaining objective of the con-
11 spiracy, or on the day the conspiracy is terminated or finally
12 abandoned;

13 “(B) a failure, neglect, or refusal to register, on the day the
14 defendant registers as required, or on the day the duty to reg-
15 ister ceases; or

16 “(C) a prolonged course of conduct which the statute
17 plainly appears to treat as a continuing offense, on the day
18 the course of conduct terminates.

19 “(e) **COMMENCEMENT OF PROSECUTION.**—For purposes of this sec-
20 tion, the filing of a complaint before a judicial officer empowered to
21 issue a warrant, or the filing of an indictment or information, com-
22 mences a prosecution for the offense charged and for any necessarily
23 included offense. A prosecution for an offense necessarily included in
24 the offense charged shall be considered to have been timely commenced,
25 even though the period of limitation for such included offense has
26 expired, if the period of limitation has not expired for the offense
27 charged and if there was, after the close of the evidence at the trial,
28 sufficient evidence as a matter of law to sustain a conviction of the
29 offense charged.

30 “(f) **EXTENDED PERIOD FOR COMMENCEMENT OF NEW PROSECUTION.**—
31 If a timely complaint, indictment, or information is dismissed for any
32 error, defect, insufficiency, or irregularity, a new prosecution may be
33 commenced within six months after the dismissal becomes final even
34 though the period of limitation has expired at the time of the dismissal
35 or will expire within six months thereafter.

36 “(g) **SUSPENSION OF PERIOD OF LIMITATION.**—The period of limita-
37 tion does not run while the person who committed or who is criminally
38 liable for an offense is absent from the United States or is a fugitive.

1 **“§ 512. Immaturity**

2 “It is a bar to prosecution under any federal statute, other than a
3 prosecution for an offense described in section 1601 (a) (1) or (a) (2)
4 (Murder), that at the time of the commission of the offense charged
5 the defendant was less than sixteen years old. This section does not
6 bar a proceeding against such person as a juvenile delinquent pursuant
7 to the provisions of subchapter A of chapter 36.

8 **“PART II.—OFFENSES**

“Chapter

“10. OFFENSES OF GENERAL APPLICABILITY

“11. OFFENSES INVOLVING NATIONAL DEFENSE

“12. OFFENSES INVOLVING INTERNATIONAL AFFAIRS

“13. OFFENSES INVOLVING GOVERNMENT PROCESSES

“14. OFFENSES INVOLVING TAXATION

“15. OFFENSES INVOLVING INDIVIDUAL RIGHTS

“16. OFFENSES INVOLVING THE PERSON

“17. OFFENSES INVOLVING PROPERTY

“18. OFFENSES INVOLVING PUBLIC ORDER, SAFETY, HEALTH, AND WELFARE

9 **“Chapter 10.—OFFENSES OF GENERAL APPLICABILITY**

“Sec.

“1001. Criminal Attempt.

“1002. Criminal Conspiracy.

“1003. Criminal Solicitation.

“1004. General Provisions For Chapter 10.

10 **“§ 1001. Criminal Attempt**

11 “(a) OFFENSE.—A person is guilty of an offense if, acting with the
12 state of mind otherwise required for the commission of a crime, he
13 intentionally engages in conduct that, in fact, amounts to more than
14 mere preparation for the commission of the crime, and that indicates
15 his intent that the crime be completed.

16 “(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prose-
17 cution under this section that, under circumstances manifesting a
18 voluntary and complete renunciation of his criminal intent, the de-
19 fendant avoided the commission of the crime attempted by abandon-
20 ing his criminal effort and, if mere abandonment was insufficient to
21 accomplish such avoidance, by taking affirmative steps that prevented
22 the commission of the crime.

23 “(c) DEFENSE PRECLUDED.—It is not a defense to a prosecution under
24 this section:

25 “(1) that it was factually or legally impossible for the actor
26 to commit the crime, if the crime could have been committed had
27 the circumstances been as the actor believed them to be; or

28 “(2) that the crime attempted was completed.

1 “(d) **PROOF.**—In a prosecution under this section, any special proof
2 provision that is specified in this title as applicable to the crime
3 attempted is applicable also to an offense described in this section,
4 unless a different application is plainly required.

5 “(e) **GRADING.**—An offense described in this section is an offense of
6 the same class as the crime attempted, except that, if the crime at-
7 tempted is a Class A felony, an offense described in this section is a
8 Class B felony.

9 “(f) **JURISDICTION.**—There is federal jurisdiction over an offense
10 described in this section if the crime attempted is a federal crime with
11 regard to which federal jurisdiction :

12 “(1) is not limited to certain specified circumstances; or

13 “(2) is limited to certain specified circumstances and any such
14 circumstance exists or has occurred, or would exist or occur if
15 the crime attempted were committed.

16 **“§ 1002. Criminal Conspiracy**

17 “(a) **OFFENSE.**—A person is guilty of an offense if he agrees with
18 one or more persons to engage in conduct, the performance of which
19 would constitute a crime or crimes, and he or one of such persons in
20 fact engages in any conduct with intent to effect any objective of the
21 agreement.

22 “(b) **AFFIRMATIVE DEFENSE.**—It is an affirmative defense to a prose-
23 cution under this section that, under circumstances manifesting a vol-
24 untary and complete renunciation of his criminal intent, the defendant
25 prevented the commission of every crime that was an objective of the
26 conspiracy.

27 “(c) **DEFENSES PRECLUDED.**—It is not a defense to a prosecution
28 under this section that one or more of the persons with whom the
29 defendant is alleged to have conspired has been acquitted, has not been
30 prosecuted or convicted, has been convicted of a different offense, was
31 incompetent or irresponsible, or is immune from or otherwise not
32 subject to prosecution.

33 “(d) **GRADING.**—An offense described in this section is an offense of
34 the same class as the most serious crime that was an objective of the
35 conspiracy, except that if the most serious crime that was an objective
36 of the conspiracy is a Class A felony, an offense described in this
37 section is a Class B felony.

1 “(e) JURISDICTION.—There is federal jurisdiction over an offense
2 described in this section if any objective of the conspiracy is a federal
3 crime with regard to which federal jurisdiction:

4 “(1) is not limited to certain specified circumstances; or

5 “(2) is limited to certain specified circumstances and any such
6 circumstance exists or has occurred, or would exist or occur if any
7 crime that is an objective of the conspiracy were committed.

8 **“§ 1003. Criminal Solicitation**

9 “(a) OFFENSE.—A person is guilty of an offense if, with intent that
10 another person engage in conduct constituting a crime, and, in fact,
11 under circumstances strongly corroborative of that intent, he com-
12 mands, entreats, induces, or otherwise endeavors to persuade such other
13 person to engage in such conduct.

14 “(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prose-
15 cution under this section that, under circumstances manifesting a
16 voluntary and complete renunciation of his criminal intent, the de-
17 fendant prevented the commission of the crime solicited.

18 “(c) DEFENSE PRECLUDED.—It is not a defense to a prosecution under
19 this section that the person solicited could not be convicted of the
20 crime because he lacked the state of mind required for the commis-
21 sion of the crime, because he was incompetent or irresponsible, or
22 because he is immune from prosecution or otherwise not subject to
23 prosecution.

24 “(d) GRADING.—An offense described in this section is an offense
25 of the class next below that of the crime solicited.

26 “(e) JURISDICTION.—There is federal jurisdiction over an offense
27 described in this section if the crime solicited is a federal crime with
28 regard to which federal jurisdiction:

29 “(1) is not limited to certain specified circumstances; or

30 “(2) is limited to certain specified circumstances and any such
31 circumstance exists or has occurred, or would exist or occur if the
32 crime solicited were committed.

33 **“§ 1004. General Provisions for Chapter 10**

34 “(a) DEFINITION.—As used in this chapter, a renunciation is not
35 ‘voluntary and complete’ if it is motivated in whole or in part by:

36 “(1) a belief that a circumstance exists that increases the prob-
37 ability of detection or apprehension of the defendant or another

1 participant in the crime, or that makes more difficult the consum-
2 mation of the crime; or

3 “(2) a decision to postpone the commission of the crime until
4 another time or to substitute another victim or another but similar
5 objective.

6 “(b) **INAPPLICABILITY TO CERTAIN OFFENSES.**—It is not an offense
7 under this chapter:

8 “(1) to attempt to commit, to conspire to commit, or to solicit
9 the commission of:

10 “(A) an offense described in section 1001 (Criminal At-
11 tempt), 1002 (Criminal Conspiracy), or 1003 (Criminal
12 Solicitation);

13 “(B) an offense described in section 1202 (Conspiracy
14 against a Foreign Power) or 1764 (Antitrust Offenses); or

15 “(C) an offense described outside this title that consists
16 of an attempt, a conspiracy, or a solicitation; or

17 “(2) to attempt to commit, to conspire to commit unless it was
18 in fact completed, or to solicit the commission of, an offense
19 described in section 1115(a) (3) (Obstructing Military Recruit-
20 ment or Induction), 1116(a) (1) (Inciting or Aiding Mutiny, In-
21 subordination, or desertion), or 1831(a) (1) (Leading a Riot).

22 **“Chapter 11.—OFFENSES INVOLVING NATIONAL**
23 **DEFENSE**

“Subchapter

“A. Treason and Related Offenses.

“B. Sabotage and Related Offenses.

“C. Espionage and Related Offenses.

“D. Miscellaneous National Defense Offenses.

24 **“Subchapter A.—Treason and Related Offenses**

“Sec.

“1101. Treason.

“1102. Armed Rebellion or Insurrection.

“1103. Engaging in Para-Military Activity.

25 **“§ 1101. Treason**

26 “(a) **OFFENSE.**—A person is guilty of an offense if, while owing
27 allegiance to the United States, he:

28 “(1) adheres to the foreign enemies of the United States and
29 intentionally gives them aid and comfort; or

30 “(2) levies war against the United States.

31 “(b) **PROOF.**—In a prosecution under this section, a person may
32 not be convicted unless the evidence against him includes the testi-

1 mony of two witnesses to the same overt act, or unless he makes a con-
2 fession in open court.

3 “(c) GRADING.—An offense described in this section is a Class A
4 felony.

5 **“§ 1102. Armed Rebellion or Insurrection**

6 “(a) OFFENSE.—A person is guilty of an offense if he engages in
7 armed rebellion or armed insurrection:

8 “(1) against the authority of the United States or a state
9 with intent to:

10 “(A) overthrow, destroy, supplant, or change the form of
11 the government of the United States; or

12 “(B) sever a state’s relationship with the United States;

13 or

14 “(2) against the United States with intent to oppose the
15 execution of any law of the United States.

16 “(b) GRADING.—An offense described in this section is:

17 “(1) a Class B felony in the circumstances set forth in sub-
18 section (a) (1);

19 “(2) a Class C felony in the circumstances set forth in sub-
20 section (a) (2).

21 **“§ 1103. Engaging in Para-Military Activity**

22 “(a) OFFENSE.—A person is guilty of an offense if he engages in the
23 acquisition, caching, or use of weapons, or in the training of other
24 persons in the use of weapons, by or on behalf of an organization or
25 group of ten or more persons that has as a purpose the taking over or
26 control of, or the unauthorized assumption of the function of, a federal
27 or state government agency, by force or threat of force.

28 “(b) GRADING.—An offense described in this section is a Class D
29 felony.

30 **“Subchapter B.—Sabotage and Related Offenses**

“Sec.

“1111. Sabotage.

“1112. Impairing Military Effectiveness.

“1113. Violating an Emergency Regulation.

“1114. Evading Military or Alternative Civilian Service.

“1115. Obstructing Military Recruitment or Induction.

“1116. Inciting or Aiding Mutiny, Insubordination, or Desertion.

“1117. Aiding Escape of a Prisoner of War or an Enemy Alien.

31 **“§ 1111. Sabotage**

32 “(a) OFFENSE.—A person is guilty of an offense if, with intent to
33 impair, interfere with, or obstruct the ability of the United States or

1 an associate nation to prepare for or to engage in war or defense
2 activities, he:

3 “(1) damages, tampers with, contaminates, defectively makes,
4 or defectively repairs:

5 “(A) any property used in, or particularly suited for use
6 in, the national defense that is owned by, or is under the care,
7 custody, or control of, the United States or an associate nation,
8 or that is being produced, manufactured, constructed, re-
9 paired, transported, or stored for the United States or an
10 associate nation;

11 “(B) any facility that is engaged in whole or in part, for
12 the United States or an associate nation, in:

13 “(i) furnishing defense materials or services; or

14 “(ii) producing raw material necessary to the support
15 of a national defense production or mobilization pro-
16 gram; or

17 “(C) any public facility used in, or designated and par-
18 ticularly suited for use in, the national defense; or

19 “(2) delivers any property described in paragraph (1) (A) that
20 has been damaged, tampered with, contaminated, defectively
21 made, or defectively repaired.

22 “(B) a service of a public facility used in, or designated
23 and particularly suited for use in, the national defense.

24 “(b) GRADING.—An offense described in this section is:

25 “(1) a Class A felony if the offense:

26 “(A) is committed in time of war; and

27 “(B) causes damage to or impairment of a major weapons
28 system or a means of defense, warning, or retaliation against
29 large scale attack;

30 “(2) a Class B felony if the offense:

31 “(A) is committed in time of war in any case other than
32 that described in paragraph (1) (B); or

33 “(B) is committed during a national defense emergency;

34 “(3) a Class C felony in any other case.

35 **“§ 1112. Impairing Military Effectiveness**

36 “(a) OFFENSE.—A person is guilty of an offense if, in reckless dis-
37 regard of the risk that his conduct would impair, interfere with, or
38 obstruct the ability of the United States or an associate nation to
39 prepare for or to engage in war or defense activities, he engages in
40 conduct described in paragraph (1) or (2) of section 1111(a).

1 “(b) GRADING.—An offense described in this section is:

2 “(1) a Class C felony if the offense:

3 “(A) is committed in time of war; and

4 “(B) causes damage to or impairment of a major weapons
5 system or a means of defense, warning, or retaliation against
6 large scale enemy attack;

7 “(2) a Class D felony if the offense:

8 “(A) is committed in time of war in any case other than
9 that described in paragraph (1); or

10 “(B) is committed during a national defense emergency;

11 “(3) a Class E felony in any other case.

12 **“§ 1113. Violating an Emergency Regulation**

13 “(a) OFFENSE.—A person is guilty of an offense if he violates section
14 2 of title II of the Act of June 15, 1917, as amended (50 U.S.C. 192)
15 (relating to promulgation of regulations concerning the anchorage and
16 movement of vessels during a national emergency).

17 “(b) GRADING.—An offense described in this section is a Class D
18 felony.

19 **“§ 1114. Evading Military or Alternative Civilian Service**

20 “(a) OFFENSE.—A person is guilty of an offense if:

21 “(1) knowing that he is under a duty imposed by a federal
22 statute governing military service, or by a regulation, rule, order,
23 or presidential proclamation issued pursuant thereto:

24 “(A) to register for military service;

25 “(B) to report for and submit to examination to determine
26 his availability for military or alternative civilian service;

27 “(C) to report for and submit to induction into military
28 service; or

29 “(D) to report for and perform alternative civilian service;
30 he fails, neglects, or refuses to do so; or

31 “(2) with intent:

32 “(A) to avoid or delay the performance of the military
33 or alternative civilian service obligation of himself or another
34 person imposed by a federal statute governing military serv-
35 ice, or by a regulation, rule, order, or presidential proclama-
36 tion issued pursuant thereto; or

37 “(B) to obstruct the proper determination of the existence
38 or nature of such an obligation;

39 he engages in conduct constituting an offense under section
40 1343(a) (1) (Making a False Statement).

1 “(b) GRADING.—An offense described in this section is:

2 “(1) a Class D felony if the offense is committed in time of
3 war;

4 “(2) a Class E felony in any other case, except as provided in
5 paragraph (3); or

6 “(3) a Class A misdemeanor under the circumstances set forth
7 in subsection (a) (1) (A) if it occurs exclusively during a period
8 in which only previously deferred registrants are subject to
9 induction.

10 **“§ 1115. Obstructing Military Recruitment or Induction**

11 “(a) OFFENSE.—A person is guilty of an offense if, in time of war
12 and with intent to hinder, interfere with, or obstruct the recruitment,
13 conscription, or induction of a person into the armed forces of the
14 United States, he:

15 “(1) creates a physical interference or obstacle to the recruit-
16 ment, conscription, or induction;

17 “(2) uses force, threat, intimidation, or deception against a
18 public servant of a government agency engaged in the recruit-
19 ment, conscription, or induction; or

20 “(3) incites others to engage in conduct constituting an offense
21 under section 1114 (Evading Military or Alternative Civilian
22 Service).

23 “(b) GRADING.—An offense described in this section is a Class D
24 felony.

25 **“§ 1116. Inciting or Aiding Mutiny, Insubordination, or Desertion**

26 “(a) OFFENSE.—A person is guilty of an offense if:

27 “(1) with intent to bring about mutiny, insubordination, re-
28 fusal of duty, or desertion by members of the armed forces of the
29 United States, he incites such members to engage in mutiny, insub-
30 ordination, refusal of duty, or desertion;

31 “(2) he aids or abets the commission or attempted commission
32 of mutiny or desertion by a member of the armed forces of the
33 United States; or

34 “(3) he interferes with, hinders, delays, or prevents the dis-
35 covery, apprehension, prosecution, conviction, or punishment of
36 a member of the armed forces of the United States, knowing
37 that such member has deserted, or is charged with or being sought
38 for desertion, by engaging in any conduct described in subpara-
39 graphs (A) through (D) of section 1311(a) (1) (Hindering Law
40 Enforcement).

- 1 “(b) GRADING.—An offense described in this section is:
 2 “(1) a Class C felony in the circumstances set forth in sub-
 3 section (a) (1) if:
 4 “(A) the offense is committed in time of war; or
 5 “(B) the persons incited are engaged, or about to be en-
 6 gaged, in combat;
 7 “(2) a Class D felony:
 8 “(A) in the circumstances set forth in subsection (a) (1) in
 9 any case other than that described in paragraph (1); or
 10 “(B) in the circumstances set forth in subsection (a) (2);
 11 “(3) a Class E felony in the circumstances set forth in subsec-
 12 tion (a) (3).

13 **“§ 1117. Aiding Escape of a Prisoner of War or an Enemy Alien**

- 14 “(a) OFFENSE.—A person is guilty of an offense if he:
 15 “(1) aids or abets the escape or attempted escape of a person
 16 being held in the custody of the United States or an associate
 17 nation as a prisoner of war or as an enemy alien; or
 18 “(2) interferes with, hinders, delays, or prevents the discovery
 19 or apprehension of:
 20 “(A) a prisoner of war or an enemy alien, knowing that
 21 such prisoner or alien has escaped from the custody of the
 22 United States or an associate nation; or
 23 “(B) an enemy alien, knowing that such alien is being
 24 sought for detention by the United States or an associate
 25 nation;
 26 by engaging in any conduct described in subparagraphs (A)
 27 through (D) of section 1311(a) (1) (Hindering Law Enforce-
 28 ment).

- 29 “(b) GRADING.—An offense described in this section is a Class D
 30 felony.

31 **“Subchapter C.—Espionage and Related Offenses**

“Sec.

“1121. Espionage.

“1122. Disseminating National Defense Information.

“1123. Disseminating Classified Information.

“1124. Receiving Classified Information.

“1125. Failing to Register as a Person Trained in a Foreign Espionage System.

“1126. Failing to Register as, or Acting as, a Foreign Agent.

32 **“§ 1121. Espionage**

- 33 “(a) OFFENSE.—A person is guilty of an offense if he violates:
 34 “(1) section 201 of the Espionage and Sabotage Act of 1954
 35 (relating to gathering or delivering defense information to aid
 36 a foreign government), as amended by section 245 of the Criminal
 37 Code Reform Act of 1977 (50 U.S.C. —) ; or

1 “(2) section 224(a) or 225 of the Atomic Energy Act of 1954,
2 as amended (42 U.S.C. 2274(a) or 2275) (relating to communi-
3 cation and receipt of restricted data with intent to injure the
4 United States or to secure an advantage to a foreign nation).

5 “(b) GRADING.—Notwithstanding the provisions of sections 2201(b),
6 2201(c), and 2301(b), the authorized sentence for a defendant found
7 guilty of violating:

8 “(1) subsection (a) (1) is the sentence set forth in section 201
9 of the Espionage and Sabotage Act of 1954 (relating to gather-
10 ing or delivering defense information to aid a foreign govern-
11 ment), as amended by section 252 of the Criminal Code Reform
12 Act of 1977 (50 U.S.C. —);

13 “(2) subsection (a) (2) is the sentence set forth in section 224(a)
14 or 225 of the Atomic Energy Act of 1954, as amended (42
15 U.S.C. 2274(a) or 2275).

16 **“§ 1122. Disseminating National Defense Information**

17 “(a) OFFENSE.—A person is guilty of an offense if he violates:

18 “(1) section 18 of the Subversive Activities Control Act of 1950
19 (relating to gathering, transmitting, or losing national defense
20 information), as amended by section 251 of the Criminal Code
21 Reform Act of 1977 (50 U.S.C. —); or

22 “(2) section 224(b) of the Atomic Energy Act of 1954, as
23 amended (42 U.S.C. 2274(b)) (relating to communication of re-
24 stricted data with reason to believe the data will be used to injure
25 the United States or to secure an advantage to a foreign nation).

26 “(b) GRADING.—Notwithstanding the provisions of sections 2201
27 (b), 2201(c), and 2301(b), the authorized sentence for a defendant
28 found guilty of violating:

29 “(1) Subsection (a) (1) is the sentence set forth in section 18
30 of the Subversive Activities Control Act of 1950 (relating to
31 gathering, transmitting, or losing national defense information),
32 as amended by section 251 of the Criminal Code Reform Act of
33 1977 (50 U.S.C. —);

34 “(2) subsection (a) (2) is the sentence set forth in section 224
35 (b) of the Atomic Energy Act of 1954, as amended (42 U.S.C.
36 2274(b)).

1 **“§ 1123. Disseminating Classified Information**

2 “(a) OFFENSE.—A person is guilty of an offense if he violates:

3 “(1) section 24 of the Act of October 31, 1951 (65 Stat. 719)
4 (relating to disclosure of classified information), as amended by
5 section 253 of the Criminal Code Reform Act of 1977 (50 U.S.C.
6 —); or

7 “(1) subsection (a) (1) is the sentence set forth in section 24 of
8 1950, as amended (50 U.S.C. 783(b)) (relating to communication
9 of classified information by a federal public servant).

10 “(b) GRADING.—Notwithstanding the provisions of sections 2001
11 (b), 2201(c), and 2301(b), the authorized sentence for a defendant
12 found guilty of violating:

13 (1) subsection (a) (1) is the sentence set forth in section 24 of
14 the Act of October 31, 1951 (65 Stat. 719) (relating to disclosure
15 of classified information), as amended by section 253 of the Crimi-
16 nal Code Reform Act of 1977 (50 U.S.C. —);

17 “(2) subsection (a) (2) is the sentence set forth in section 4 of
18 the Subversive Activities Control Act of 1950, as amended (50
19 U.S.C. 783).

20 **“§ 1124. Receiving Classified Information**

21 “(a) OFFENSE.—A person is guilty of an offense if he violates:

22 “(1) section 4(c) of the Subversive Activities Control Act of
23 1950, as amended (50 U.S.C. 783(c)) (relating to the receipt of
24 classified information by a foreign agent or a member of a com-
25 munist organization); or

26 “(2) section 227 of the Atomic Energy Act of 1954 (42 U.S.C.
27 2277) (relating to disclosure of restricted data).

28 “(b) GRADING.—Notwithstanding the provisions of sections 2201
29 (b), 2201(c), and 2301(b), the authorized sentence for a person con-
30 victed of violating:

31 “(1) subsection (a) (1) is the sentence set forth in section 4
32 of the Subversive Activities Control Act of 1950, as amended (50
33 U.S.C. 783);

34 “(2) subsection (a) (2) is the sentence set forth in section 227
35 of the Atomic Energy Act of 1954 (42 U.S.C. 2277).

36 **“§ 1125. Failing to Register as a Person Trained in a Foreign
37 Espionage System**

38 “(a) OFFENSE.—A person is guilty of an offense if he:

39 “(1) fails to register with the Attorney General as required
40 by section 2 of the Act of August 1, 1956 (50 U.S.C. 851) (relating

1 to registration of persons trained in foreign espionage systems) ;
2 or

3 “(2) violates a regulation or rule issued pursuant to the au-
4 thority conferred in section 5 of the Act of August 1, 1956
5 (50 U.S.C. 854) (relating to promulgation of regulations and
6 rules for registration of persons trained in foreign espionage
7 systems).

8 “(b) GRADING.—An offense described in this section is a Class D
9 felony.

10 **“§ 1126. Failing to Register as, or Acting as, a Foreign Agent**

11 “(a) OFFENSE.—A person is guilty of an offense if:

12 “(1) being an agent of a foreign principal, he fails to register
13 with the Attorney General as required by section 2 of the Foreign
14 Agents Registration Act of 1938, as amended (22 U.S.C. 612) ;

15 “(2) he violates a provision of section 4(a) or 5, or a provision
16 of section 7 relating to a violation of section 4(a) or 5, of the
17 Foreign Agents Registration Act of 1938, as amended (22 U.S.C.
18 614(a), 615, or 617), or a regulation, rule, or order issued pur-
19 suant thereto; or

20 “(3) being a federal public servant, he is or acts as an agent
21 of a foreign principal required to register under the Foreign
22 Agents Registration Act of 1938, as amended (22 U.S.C. 611 et
23 seq.), in violation of 5 U.S.C. 9109.

24 “(b) DEFINITIONS.—As used in this section, ‘agent of a foreign prin-
25 cipal’ and ‘foreign principal’ have the meanings set forth in section
26 1 of the Foreign Agents Registration Act of 1938, as amended (22
27 U.S.C. 611).

28 “(c) GRADING.—An offense described in this section is:

29 “(1) a Class D felony in the circumstances set forth in sub-
30 section (a) (1) or (a) (2) ;

31 “(2) a Class E felony in the circumstances set forth in sub-
32 section (a) (3).

33 **“Subchapter D.—Miscellaneous National Defense Offenses**

“Sec.

“1131. Atomic Energy Offenses.

34 **“§ 1131. Atomic Energy Offenses**

35 “(a) OFFENSE.—A person is guilty of an offense if he violates any of
36 the following provisions of the Atomic Energy Act of 1954, as
37 amended:

38 “(1) section 57 (42 U.S.C. 2077) (relating to unauthorized
39 dealing in special nuclear material) ;

1 “(b) **DEFINITION.**—As used in this section, ‘military attack or expedition’ against a foreign power means:

2 “(1) any manned or unmanned warlike assault upon:

3 “(A) the territory of such foreign power;

4 “(B) the inhabitants or property in the territory of such foreign power, or

5 “(C) a vessel or aircraft of such foreign power; or

6 “(2) any organized warlike invasion of the territory of such foreign power whether launched from or carried on by land, sea, or air.

7 “(c) **GRADING.**—An offense described in this section is a Class D felony.

8 **“§ 1202. Conspiracy against a Foreign Power**

9 “(a) **OFFENSE.**—A person is guilty of an offense if, within the United States, he agrees with one or more persons to engage in conduct outside the United States, the performance of which would involve:

10 “(1) the death of a foreign official of a foreign power with which the United States is not at war; or

11 “(2) damage to or destruction of property owned by, or under the care, custody, or control of, a foreign power with which the United States is not at war, or a public facility located within the jurisdiction of such foreign power;

12 and he or one of such persons in fact engages in conduct with intent to effect any objective of the agreement.

13 “(b) **DEFENSES PRECLUDED.**—It is not a defense to a prosecution under this section that one or more of the persons with whom the defendant is alleged to have conspired has been acquitted, has not been prosecuted or convicted, has been convicted of a different offense, was incompetent or irresponsible, or is immune from or otherwise not subject to prosecution.

14 “(c) **GRADING.**—An offense described in this section is a Class D felony.

15 **“§ 1203. Entering or Recruiting for a Foreign Armed Force**

16 “(a) **OFFENSE.**—A person is guilty of an offense if, within the United States, he:

17 “(1) contracts to enter the armed forces of a foreign power; or

18 “(2) induces another person to contract to enter the armed forces of a foreign power.

1 “(b) **AFFIRMATIVE DEFENSE.**—It is an affirmative defense to a
2 prosecution under this section that:

3 “(1) the foreign power was an associate nation and the person
4 who contracted to enter its armed forces was not a citizen of the
5 United States; or

6 “(2) the foreign power was not then at war with the United
7 States and the person who contracted to enter its armed forces
8 was a citizen of the foreign power, and, in the case of a prosecu-
9 tion under subsection (a)(2), the person who induced the other
10 person to contract to enter its armed forces was also a citizen
11 of the foreign power.

12 “(c) **GRADING.**—An offense described in this section is a Class E
13 felony.

14 **“§ 1204. Violating Neutrality by Causing Departure of a Vessel
15 or Aircraft**

16 “(a) **OFFENSE.**—A person is guilty of an offense if, during a war in
17 regard to which the United States is a neutral nation, he engages in
18 conduct that causes the departure from the United States of a vessel
19 or aircraft:

20 “(1) that is equipped as, or that is capable of service as, a war-
21 ship or warplane, with knowledge that it may be used in the
22 service of a belligerent foreign power;

23 “(2) that is the subject of a detention order issued pursuant to
24 a federal statute designed to restrict or control the delivery of
25 vessels, aircraft, goods, or services to belligerent foreign powers,
26 or a regulation or rule issued pursuant thereto; or

27 “(3) that, in fact, has not been issued the clearance required by
28 a federal statute designed to restrict or control the delivery of ves-
29 sels, aircraft, goods, or services to belligerent foreign powers, or
30 a regulation, rule, or order issued pursuant thereto.

31 “(b) **GRADING.**—An offense described in this section is a Class D
32 felony.

33 **“§ 1205. Disclosing a Foreign Diplomatic Code or Correspondence**

34 “(a) **OFFENSE.**—A person is guilty of an offense if he communicates
35 to any person:

36 “(1) a diplomatic code of a foreign government, or any in-
37 formation or matter prepared in such a code; or

38 “(2) any information or matter intercepted while in the process

1 mission in the United States;
2 to which he obtained access as a federal public servant.

3 of transmission between a foreign government and its diplomatic

4 “(b) DEFINITIONS.—As used in this section:

5 “(1) ‘information’ includes any property from which informa-
6 tion may be obtained; and

7 “(2) ‘intercept’ has the meaning set forth in section 1525(d).

8 “(c) GRADING.—An offense described in this section is a Class E
9 felony.

10 **“§ 1206. Engaging in an Unlawful International Transaction**

11 “(a) Offense.—A person is guilty of an offense if he violates:

12 “(1) section 5 of the United Nations Participation Act of 1945,
13 as amended (22 U.S.C. 287c) (relating to economic and communi-
14 cation sanctions called for by the United Nations Security Council
15 and ordered by the President);

16 “(2) section 7 of the Neutrality Act of 1939, as amended (22
17 U.S.C. 447) (relating to transactions involving securities or obli-
18 gations of belligerent foreign powers);

19 “(3) section 38 of the Arms Export Control Act (22 U.S.C.
20 2778) (relating to regulation of the export and import of defense
21 articles and defense services);

22 “(4) section 3(a) or 5(b) of the Trading with the Enemy Act,
23 as amended (50 U.S.C. App. 3(a) or 5(b)) (relating to trade
24 with an enemy or an ally of an enemy of the United States); or

25 “(5) section 6(b) of the Export Administration Act of 1969
26 (50 U.S.C. App. 2405(b)) (relating to the export of prohibited
27 goods and technological information to certain nations);

28 with intent to conceal any matter from a government agency author-
29 ized to administer such statute, or with knowledge that such conduct
30 obstructs or impairs the administration of such statute or of any fed-
31 eral government function.

32 “(b) GRADING.—An offense described in this section is a Class D
33 felony.

34 **“Subchapter B.—Offenses Involving Immigration, Natural-
35 ization, and Passports**

“Sec.

“1211. Unlawfully Entering the United States as an Alien.

“1212. Smuggling an Alien into the United States.

“1213. Hindering Discovery of an Alien Unlawfully in the United States.

“1214. Unlawfully Employing an Alien.

“1215. Fraudulently Acquiring or Improperly Using Evidence of Citizenship.

“1216. Fraudulently Acquiring or Improperly Using a Passport.

“1217. General Provisions for Subchapter B.

1 **“§ 1211. Unlawfully Entering the United States as an Alien**

2 “(a) OFFENSE.—A person is guilty of an offense if, being an alien,
3 he:

4 “(1) enters the United States at a time or place other than
5 a time or place designated for such entry under a federal statute,
6 or a regulation, rule, or order issued pursuant thereto;

7 “(2) eludes examination or inspection by an immigration
8 officer;

9 “(3) obtains entry into the United States by fraud; or

10 “(4) enters, or is present in, the United States after having
11 been deported from the United States under an order of exclusion
12 or deportation.

13 “(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prose-
14 cution under subsection (a) (4) that:

15 “(1) the Attorney General had expressly consented to the
16 alien’s reapplying for admission to the United States, prior to his
17 reembarkation at a place outside the United States or prior to his
18 application for admission from foreign contiguous territory; or

19 “(2) the alien had previously been deported under an order of
20 exclusion and he was not required by a federal statute, or a
21 regulation, rule, or order issued pursuant thereto, to obtain the
22 advance consent described in paragraph (1).

23 “(c) GRADING.—An offense described in this section is:

24 “(1) a Class D felony if the actor uses a passport, certificate of
25 naturalization or citizenship, immigrant or nonimmigrant visa,
26 border crossing identification card, alien registration receipt card,
27 or other document prescribed by statute or regulation for entry
28 into, or as evidence of an authorized stay in, the United States,
29 that is counterfeited or forged or that pertains to another person;
30 or

31 “(2) a Class E felony if the offense is committed in the circum-
32 stances set forth in subsection (a) (4) and the alien previously has
33 been convicted of that offense or of any federal, state, or foreign
34 felony;

35 “(3) a Class B misdemeanor in any other case.

36 **“§ 1212. Smuggling an Alien into the United States**

37 “(a) OFFENSE.—A person is guilty of an offense if he brings into
38 the United States an alien who he knows is:

39 “(1) not admitted for entry into the United States by an immi-
40 gration officer; or

1 “(2) not lawfully entitled to enter or reside within the United
2 States.

3 “(b) GRADING.—An offense described in this section is:

4 “(1) a Class D felony if the actor engages in the described
5 conduct:

6 “(A) as consideration for the receipt, or in expectation
7 of the receipt, of anything of pecuniary value; or

8 “(B) with knowledge that the alien intends to engage,
9 in the United States, in conduct constituting a federal or state
10 felony;

11 “(2) a Class E felony ~~in any other case~~ if the actor engages in
12 the described conduct knowing that the alien is a member of
13 the class of aliens that, in fact, is excludable from the United
14 States under section 212(a) (27), (28), or (29) of the Immigra-
15 tion and Nationality Act of 1952, as amended (8 U.S.C. 1182(a)
16 (27), (28), or (29));

17 “(3) a Class A misdemeanor in any other case.

18 **“§ 1213. Hindering Discovery of an Alien Unlawfully in the United**
19 **States**

20 “(a) OFFENSE.—A person is guilty of an offense if he interferes with,
21 hinders, delays, or prevents the discovery or apprehension of an alien,
22 knowing that such alien is unlawfully within the United States, by
23 engaging in any conduct described in subparagraphs (A) through (D)
24 of section 1311(a) (1) (Hindering Law Enforcement).

25 “(b) GRADING.—An offense described in this section is:

26 “(1) a Class E felony if the actor engages in the conduct:

27 “(A) as consideration for the receipt, or in expectation of
28 the receipt, of anything of pecuniary value;

29 “(B) with knowledge that the alien intends to engage, in
30 the United States, in conduct constituting a federal or state
31 felony;

32 “(C) with intent to obtain anything of value for placing the
33 alien in the employ of another; or

34 “(D) with intent that the alien be employed or continued
35 in the employ of an enterprise operated for profit;

36 “(2) a Class A misdemeanor in any other case.

37 **“§ 1214. Unlawfully Employing an Alien**

38 “(a) OFFENSE.—A person is guilty of an offense if, being a farm
39 labor contractor who has failed to obtain a certificate of registration,

1 or whose certificate has been suspended or revoked, pursuant to the
 2 Fair Labor Contractor Registration Act of 1963, as amended (7 U.S.C.
 3 2041 et seq.), he violates section 6(f) of the Act (7 U.S.C. 2045(f))
 4 (relating to employing the services of an alien not entitled to accept
 5 employment), or a regulation, rule, or order issued pursuant thereto.

6 “(b) GRADING.—An offense described in this section is a Class E
 7 felony.

8 **“§ 1215. Fraudulently Acquiring or Improperly Using Evidence**
 9 **of Citizenship**

10 “(a) OFFENSE.—A person is guilty of an offense if he:

11 “(1) obtains for any person, by fraud, United States naturaliza-
 12 tion, the creation of a record of permanent residence in the United
 13 States, or the issuance of a certificate or other documentary
 14 evidence of United States naturalization or citizenship;

15 “(2) uses a certificate or other documentary evidence of
 16 United States naturalization or citizenship, or a copy or duplicate
 17 thereof, that was unlawfully obtained; or

18 “(3) uses a certificate or other documentary evidence of
 19 United States naturalization or citizenship that was issued to an-
 20 other person, or a copy or duplicate thereof, as showing naturali-
 21 zation or citizenship of any person other than the person for
 22 whom it was lawfully issued.

23 “(b) GRADING.—An offense described in this section is a Class E
 24 felony.

25 **“§ 1216. Fraudulently Acquiring or Improperly Using a Passport**

26 “(a) OFFENSE.—A person is guilty of an offense if he:

27 “(1) obtains the issuance or verification of a United States
 28 passport by fraud;

29 “(2) uses a United States passport, the issuance or verification
 30 of which was unlawfully obtained; or

31 “(3) uses a United States passport that was issued for the use
 32 of another person.

33 “(b) GRADING.—An offense described in this section is a Class E
 34 felony.

35 **“§ 1217. General Provisions for Subchapter B**

36 “(a) DEFINITIONS.—As used in this subchapter:

37 “(1) ‘alien’, ‘application for admission’, ‘border crossing identi-
 38 fication card’, ‘entry’, ‘immigration officer’, ‘passport’, ‘United
 39 States’, ‘immigrant visa’, and ‘nonimmigrant visa’ have the mean-

1 ings prescribed in section 101 of the Immigration and Nationality
2 Act, as amended (8 U.S.C. 1101), and 'alien' includes an alien
3 'crewman' as defined in that Act;

4 “(2) 'fraud' includes conduct described in sections 1301(a) and
5 1343(a)(1) (A) through (E).

6 “(b) **PROOF OF MATERIALITY.**—To the extent that materiality is an
7 element of an offense described in section 1211 through 1216, the
8 provisions of section 1345(b)(2) that apply to section 1343 (Making
9 a False Statement) apply also to such sections.

10 “(c) **EXCEPTION.**—The provisions of section 289 of the Act of
11 June 27, 1952 (8 U.S.C. 1359), apply to this subchapter.

12 **“Chapter 13.—OFFENSES INVOLVING GOVERNMENT**
13 **PROCESSES**

“Subchapter

“A. General Obstructions of Government Functions.

“B. Obstructions of Law Enforcement.

“C. Obstructions of Justice.

“D. Contempt Offenses.

“E. Perjury, False Statements, and Related Offenses.

“F. Official Corruption and Intimidation.

14 **“Subchapter A.—General Obstructions of Government**
15 **Functions**

“Sec.

“1301. Obstructing a Government Function by Fraud.

“1302. Obstructing a Government Function by Physical Interference.

“1303. Impersonating an Official.

16 **“§ 1301. Obstructing a Government Function by Fraud**

17 “(a) **OFFENSE.**—A person is guilty of an offense if he intentionally
18 obstructs or impairs a government function by defrauding the govern-
19 ment in any manner.

20 “(b) **GRADING.**—An offense described in this section is a Class D
21 felony.

22 “(c) **JURISDICTION.**—There is federal jurisdiction over an offense
23 described in this section if the government function is a federal govern-
24 ment function.

25 **“§ 1302. Obstructing a Government Function by Physical Inter-**
26 **ference**

27 “(a) **OFFENSE.**—A person is guilty of an offense if, by means of
28 physical interference or obstacle, he intentionally obstructs or impairs
29 a government function involving:

30 “(1) the performance by a federal public servant of an official
31 duty;

1 “(2) the performance by an inspector of a specific duty imposed
2 by a federal statute, or by a regulation, rule, or order issued
3 pursuant thereto;

4 “(3) the delivery of mail; or

5 “(4) the exercise of a right, or the performance of a duty, under
6 a court order, judgment, or decree.

7 “(b) DEFENSE.—It is a defense to a prosecution under this section
8 that the government function was:

9 “(1) unlawful; and

10 “(2) conducted by a public servant who was not acting in good
11 faith.

12 “(c) GRADING.—An offense described in this section is a Class A
13 misdemeanor.

14 “(d) JURISDICTION.—There is federal jurisdiction over an offense
15 described in this section if the government function is a federal gov-
16 ernment function.

17 **“§ 1303. Impersonating an Official**

18 “(a) OFFENSE.—A person is guilty of an offense if he pretends to be
19 a public servant or a foreign official and purports to exercise the au-
20 thority of such public servant or foreign official.

21 “(b) DEFENSE PRECLUDED.—It is not a defense to a prosecution
22 under this section that the pretended capacity did not exist or that
23 the pretended authority could not legally or otherwise have been exer-
24 cised or conferred.

25 “(c) GRADING.—An offense described in this section is a Class E
26 felony.

27 “(d) JURISDICTION.—There is federal jurisdiction over an offense
28 described in this section if:

29 “(1) the pretended capacity or authority is that of a federal
30 public servant; or

31 “(2) the pretended capacity or authority is that of a foreign
32 official and the offense is committed within the general jurisdiction
33 of the United States or within the special jurisdiction of the
34 United States.

35 **“Subchapter B.—Obstructions of Law Enforcement**

“Sec.

“1311. Hindering Law Enforcement.

“1312. Bail Jumping.

“1313. Escape.

“1314. Providing or Possessing Contraband in a Prison.

“1315. Flight to Avoid Prosecution or Appearance as a Witness.

1 **“§ 1311. Hindering Law Enforcement**

2 **“(a) OFFENSE.**—A person is guilty of an offense if he:

3 **“(1)** interferes with, hinders, delays, or prevents, the discovery,
4 apprehension, prosecution, conviction, or punishment of another
5 person, knowing that such other person has committed a crime,
6 or is charged with or being sought for a crime, by:

7 **“(A)** harboring the other person or concealing him or his
8 identity;

9 **“(B)** providing the other person with a weapon, money,
10 transportation, disguise, or other means of avoiding or mini-
11 mizing the risk of discovery or apprehension;

12 **“(C)** warning the other person of impending discovery or
13 apprehension; or

14 **“(D)** altering, destroying, mutilating, concealing, or re-
15 moving a record, document, or other object; or

16 **“(2)** aids another person to secrete, disguise, or convert the
17 proceeds of a crime or otherwise to profit from a crime.

18 **“(b) AFFIRMATIVE DEFENSE.**—It is an affirmative defense to a prose-
19 cution under subsection (a) (1) (C), and to a prosecution under any
20 section incorporating by reference the provisions of subparagraph (C)
21 of subsection (a) (1), that warning was made solely in an effort to
22 bring the other person into compliance with the law.

23 **“(c) DEFENSE PRECLUDED.**—It is not a defense to a prosecution under
24 this section that the record, document, or other object would have been
25 legally privileged or would have been inadmissible in evidence.

26 **“(d) GRADING.**—An offense described in this section is:

27 **“(1)** a Class D felony if the other person’s crime is a Class A,
28 B, or C felony, and the actor knows the general nature of the
29 crime or is reckless with regard to the general nature of the crime;

30 **“(2)** a Class E felony if:

31 **“(A)** the other person’s crime is a Class D felony, and
32 the actor knows the general nature of the conduct constitut-
33 ing such crime or is reckless with regard to the general
34 nature of such conduct; or

35 **“(B)** the defendant committed the offense as consideration
36 for the receipt, or in expectation of the receipt, of anything
37 of pecuniary value;

38 **“(3)** a Class A misdemeanor in any other case.

39 **“(e) JURISDICTION.**—There is federal jurisdiction over an offense
40 described in this section if the crime that the other person has com-

1 mitted, is charged with, is being sought for, or is seeking to profit
2 from, is a crime over which federal jurisdiction exists.

3 **“§ 1312. Bail Jumping**

4 “(a) OFFENSE.—A person is guilty of an offense if, after having been
5 released pursuant to the provisions of subchapter A of chapter 35 or
6 of subchapter A of chapter 36:

7 “(1) he fails to appear before a court as required by the
8 conditions of his release; or

9 “(2) he fails to surrender for service of sentence pursuant to
10 a court order.

11 “(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a
12 prosecution under this section that uncontrollable circumstances
13 prevented the defendant from appearing or surrendering and that
14 the defendant did not contribute to the creation of such circumstances
15 in reckless disregard of the requirement that he appear or surrender.

16 “(c) GRADING.—An offense described in this section is:

17 “(1) a Class D felony if the person was released:

18 “(A) in connection with a charge of a Class A, B, C, or D
19 felony; or

20 “(B) while awaiting sentence or pending review of sen-
21 tence, appeal, or certiorari after conviction of any crime;

22 “(2) a Class E felony if the person was released in connection
23 with a charge of a Class E felony; or

24 “(3) a Class A misdemeanor if the person was released in
25 connection with a charge of a misdemeanor or for appearance as a
26 material witness.

27 **“§ 1313. Escape**

28 “(a) OFFENSE.—A person is guilty of an offense if he:

29 “(1) escapes from official detention; or

30 “(2) fails to return to official detention following temporary
31 leave, granted for a specified purpose or a limited period, pur-
32 suant to the terms under which such leave was granted.

33 “(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prose-
34 cution under this section that the bringing about or maintaining of the
35 official detention was illegal, or that the committing or detaining au-
36 thority lacked jurisdiction, if:

37 “(1) the offense did not involve escape from a prison or other
38 facility used for official detention;

39 “(2) the offense did not involve a substantial risk of harm to the
40 person or property of another; and

1 “(3) the official detention was not in good faith.

2 “(c) GRADING.—An offense described in this section is:

3 “(1) a Class D felony if the actor was in official detention:

4 “ (A) on a charge of, or as a result of an arrest for, a felony;

5 or

6 “ (B) pursuant to his conviction of an offense other than an
7 adjudication of juvenile delinquency;

8 “(2) a Class A misdemeanor in any other case.

9 “(d) JURISDICTION.—There is federal jurisdiction over an offense
10 described in this section if:

11 “(1) the official detention resulted from an arrest made, or an
12 order or process issued, under the laws of the United States;

13 “(2) the escape is from official detention by a federal public
14 servant; or

15 “(3) the escape is from official detention in a federal facility.

16 **“§ 1314. Providing or Possessing Contraband in a Prison”**

17 “(a) OFFENSE.—A person is guilty of an offense if, in violation of a
18 statute, or a regulation, rule, or order issued pursuant thereto:

19 “(1) he provides to an inmate of an official detention facility,
20 or introduces into an official detention facility:

21 “(A) a firearm or destructive device;

22 “(B) any other weapon or object that may be used as a
23 weapon or as a means of facilitating escape;

24 “(C) a narcotic drug as defined in section 102 of the Con-
25 trolled Substances Act (21 U.S.C. 802); or

26 “(D) a controlled substance, other than a narcotic drug,
27 as defined in section 102 of the Controlled Substances Act
28 (21 U.S.C. 802), or an alcoholic beverage; or

29 “(E) United States currency; or

30 “(2) being an inmate of an official detention facility, he makes,
31 possesses, procures, or otherwise provides himself with

32 “(A) anything described in paragraph (1); or

33 “(B) any other object.

34 “(b) GRADING.—An offense described in this section is:

35 “(1) a Class C felony if the object is anything set forth in
36 paragraph (1) (A);

37 “(2) a Class D felony if the object is anything set forth in
38 paragraph (1) (B) or (1) (C);

39 “(3) a Class A misdemeanor if the object is anything set forth
40 in paragraph (1) (D) or (1) (E);

1 “(4) a Class B misdemeanor if the object is any other object.

2 “(c) JURISDICTION.—There is federal jurisdiction over an offense
3 described in this section if the official detention facility is a federal
4 facility.

5 “§ 1315. Flight to Avoid Prosecution or Appearance as a Witness

6 “(a) OFFENSE.—A person is guilty of an offense if he leaves a state
7 or local jurisdiction with intent to avoid :

8 “(1) criminal prosecution, or official detention after conviction,
9 for an attempt to commit, a conspiracy to commit, or the commis-
10 sion of a state or local felony in such jurisdiction ;

11 “(2) appearing as a witness, giving testimony, or producing a
12 record, document, or other object in an official proceeding in which
13 a state or local felony in such jurisdiction is charged or being in-
14 vestigated ; or

15 “(3) contempt proceedings, or criminal prosecution, or official
16 detention after conviction, for failure to appear as a witness, to
17 give testimony, or to produce a record, document, or other object
18 in an official proceeding in which a state or local felony in such
19 jurisdiction is charged or being investigated.

20 “(b) DEFENSE PRECLUDED.—It is not a defense to a prosecution
21 under this section that the testimony, or the record, document, or other
22 object, would have been legally privileged or would have been inadmis-
23 sible in evidence.

24 “(c) GRADING.—An offense described in this section is a Class E
25 felony.

26 “(d) JURISDICTION.—There is federal jurisdiction over an offense
27 described in this section if movement of the actor across a state or
28 United States boundary occurs in the commission of the offense.

29 “Subchapter C.—Obstructions of Justice

“Sec.

“1321. Witness bribery.

“1322. Corrupting a Witness or an Informant.

“1323. Tampering with a Witness or an Informant.

“1324. Retaliating against a Witness or an Informant.

“1325. Tampering with Physical Evidence.

“1326. Improperly Influencing a Juror.

“1327. Monitoring Jury Deliberations.

“1328. Demonstrating to Influence a Judicial Proceeding.

30 “§ 1321. Witness Bribery

31 “(a) OFFENSE.—A person is guilty of an offense if he :

32 “(1) offers, gives, or agrees to give to another person ; or

33 “(2) solicits, demands, accepts, or agrees to accept from another
34 person ;

1 anything of value in return for an agreement or understanding that
 2 the testimony of the recipient will be influenced in an official pro-
 3 ceeding.

4 “(b) DEFENSES PRECLUDED.—It is not a defense to a prosecution
 5 under this section that:

6 “(1) an official proceeding was not pending or about to be
 7 instituted; or

8 “(2) the defendant, or other recipient or proposed recipient of
 9 the thing of value, by the same conduct also committed an offense
 10 described in section 1722 (Extortion), 1723 (Blackmail), or 1731
 11 (Theft).

12 “(c) GRADING.—An offense described in this section is a Class C
 13 felony.

14 “(d) JURISDICTION.—There is federal jurisdiction over an offense
 15 described in this section if:

16 “(1) the official proceeding is or would be a federal official
 17 proceeding;

18 “(2) the United States mail or a facility of interstate or foreign
 19 commerce is used in the planning, promotion, management, execu-
 20 tion, consummation, or concealment of the offense, or in the dis-
 21 tribution of the proceeds of the offense; or

22 “(3) movement of a person across a state or United States
 23 boundary occurs in the planning, promotion, management, execu-
 24 tion, consummation, or concealment of the offense, or in the dis-
 25 tribution of the proceeds of the offense.

26 **“§ 1322. Corrupting a Witness or an Informant**

27 “(a) OFFENSE.—A person is guilty of an offense if he:

28 “(1) offers, gives, or agrees to give to another person, or solicits,
 29 demands, accepts, or agrees to accept from another person, any-
 30 thing of value for or because of any person’s:

31 “(A) testimony in an official proceeding;

32 “(B) withholding testimony, or withholding a record,
 33 document, or other object, from an official proceeding;

34 “(C) engaging in conduct constituting an offense under
 35 section 1325 (Tampering with Physical Evidence);

36 “(D) evading legal process summoning him to appear as a
 37 witness, or to produce a record, document, or other object, in
 38 an official proceeding;

39 “(E) absenting himself from an official proceeding to
 40 which he has been summoned by legal process; or

1 “(2) offers, gives, or agrees to give anything of value to another
2 person for or because of any person’s hindering, delaying, or pre-
3 venting the communication to a law enforcement officer of in-
4 formation relating to an offense or a possible offense.

5 “(b) DEFENSE PRECLUDED.—It is not a defense to a prosecution
6 under this section that:

7 “(1) an official proceeding was not pending or about to be
8 instituted;

9 “(2) the testimony, or the record, document, or other object,
10 would have been legally privileged or would have been inad-
11 missible in evidence; or

12 “(3) the defendant, or other recipient or proposed recipient
13 of the thing of value, by the same conduct also committed an of-
14 fense described in section 1722 (Extortion), 1723 (Blackmail),
15 or 1731 (Theft).

16 “(c) GRADING.—An offense described in this section is a Class E
17 felony.

18 “(d) JURISDICTION.—There is federal jurisdiction over an offense
19 described in this section if:

20 “(1) the official proceeding is or would be a federal official
21 proceeding;

22 “(2) the law enforcement officer is a federal public servant
23 and the information relates to a federal offense or a possible fed-
24 eral offense;

25 “(3) the United States mail or a facility of interstate or for-
26 eign commerce is used in the planning, promotion, management,
27 execution, consummation, or concealment of the offense, or in
28 the distribution of the proceeds of the offense; or

29 “(4) movement of a person across a state or United States
30 boundary occurs in the planning, promotion, management, execu-
31 tion, consummation, or concealment of the offense, or in the dis-
32 tribution of the proceeds of the offense.

33 **“§ 1323. Tampering with a Witness or an Informant**

34 “(a) OFFENSE.—A person is guilty of an offense if he:

35 “(1) uses force, threat, intimidation, or deception with intent to:

36 “(A) influence the testimony of another person in an of-
37 ficial proceeding; or

38 “(B) cause or induce another person to:

39 “(i) withhold testimony, or withhold a record, docu-
40 ment, or other object, from an official proceeding;

1 “(ii) engage in conduct constituting an offense under
2 section 1325 (Tampering with Physical Evidence);

3 “(iii) evade legal process summoning him to appear as
4 a witness, or to produce a record, document, or other
5 object, in an official proceeding; or

6 “(iv) absent himself from an official proceeding to
7 which he has been summoned by legal process; or

8 “(C) hinder, delay, or prevent the communication to a law
9 enforcement officer of information relating to an offense or a
10 possible offense; or

11 “(2) does any other act with intent to influence improperly, or
12 to obstruct or impair, the:

13 “(A) administration of justice;

14 “(B) administration of a law under which an official pro-
15 ceeding is being or may be conducted; or

16 “(C) exercise of a legislative power of inquiry.

17 “(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prose-
18 cution under subsection (a) (1) (A) that the conduct engaged in to
19 threaten or to intimidate consisted solely of lawful conduct and that
20 the defendant's sole intention was to compel or induce the other per-
21 son to testify truthfully.

22 “(c) DEFENSE PRECLUDED.—It is not a defense to a prosecution under
23 this section that:

24 “(1) an official proceeding was not pending or about to be insti-
25 tuted; or

26 “(2) the testimony, or the record, document, or other object,
27 would have been legally privileged or would have been inadmissi-
28 ble in evidence.

29 “(d) GRADING.—An offense described in this section is:

30 “(1) a Class D felony in the circumstances set forth in sub-
31 section (a) (1);

32 “(2) a Class E felony in the circumstances set forth in sub-
33 section (a) (2).

34 “(e) JURISDICTION.—There is federal jurisdiction over an offense
35 described in this section if:

36 “(1) the official proceeding is or would be a federal official
37 proceeding; or

38 “(2) the law enforcement officer is a federal public servant and
39 the information relates to a federal offense or a possible federal
40 offense;

1 “(3) the administration of justice, administration of a law, or
2 exercise of a legislative power of inquiry relates to a federal
3 government function;

4 “(4) the United States mail or a facility of interstate or foreign
5 commerce is used in the planning, promotion, management, execu-
6 tion, consummation, or concealment of the offense, or in the distri-
7 bution of the proceeds of the offense; or

8 “(5) movement of a person across a state or United States
9 boundary occurs in the planning, promotion, management, execu-
10 tion, consummation, or concealment of the offense or in the distri-
11 bution of the proceeds of the offense.

12 **“§ 1324. Retaliating against a Witness or an Informant**

13 “(a) OFFENSE.—A person is guilty of an offense if he:

14 “(1) engages in conduct that causes bodily injury to another
15 person or damages the property of another person because of:

16 “(A) any testimony given, or any record, document, or other
17 object produced, by a witness in an official proceeding; or

18 “(B) any information relating to an offense or a possible
19 offense given by a person to a law enforcement officer; or

20 “(2) improperly subjects another person to economic loss or
21 injury to his business or profession because of any matter de-
22 scribed in subparagraph (A) or (B) of paragraph (1).

23 “(b) GRADING.—An offense described in this section is a Class A
24 misdemeanor.

25 “(c) JURISDICTION.—There is federal jurisdiction over an offense
26 described in this section if:

27 “(1) the official proceeding is a federal official proceeding;

28 “(2) the law enforcement officer is a federal public servant and
29 the information relates to a federal offense or a possible federal
30 offense;

31 “(3) the United States mail or a facility of interstate or foreign
32 commerce is used in the planning, promotion, management, execu-
33 tion, consummation, or concealment of the offense, or in the
34 distribution of the proceeds of the offense; or

35 “(4) movement of a person across a state or United States
36 boundary occurs in the planning, promotion, management, execu-
37 tion, consummation, or concealment of the offense, or in the distri-
38 bution of the proceeds of the offense.

39 **“§ 1325. Tampering with Physical Evidence**

40 “(a) OFFENSE.—A person is guilty of an offense if he alters, de-
41 stroys, mutilates, conceals, or removes a record, document, or other

1 object, with intent to impair its integrity or its availability for use in
2 an official proceeding.

3 “(b) DEFENSE PRECLUDED.—It is not a defense to a prosecution un-
4 der this section that:

5 “(1) an official proceeding was not pending or about to be
6 instituted; or

7 “(2) the record, document, or other object would have been
8 legally privileged or would have been inadmissible in evidence.

9 “(c) GRADING.—An offense described in this section is a Class E
10 felony.

11 “(d) JURISDICTION.—There is federal jurisdiction over an offense
12 described in this section if the official proceeding is or would be a fed-
13 eral official proceeding.

14 **“§ 1326. Improperly Influencing a Juror**

15 “(a) OFFENSE.—A person is guilty of an offense if he communicates
16 in any way with a juror, or a member of a juror’s immediate family,
17 with intent to influence improperly the official action of the juror.

18 “(b) GRADING.—An offense described in this section is a Class A
19 misdemeanor.

20 “(c) JURISDICTION.—There is federal jurisdiction over an offense
21 described in this section if the juror is a federal juror.

22 **“§ 1327. Monitoring Jury Deliberations**

23 “(a) OFFENSE.—A person is guilty of an offense if he intentionally:

24 “(1) records the proceedings of a grand or petit jury while the
25 jury is deliberating or voting; or

26 “(2) listens to or observes the proceedings of a grand or petit
27 jury, of which he is not a member, while the jury is deliberating
28 or voting.

29 “(b) DEFENSE.—It is a defense to a prosecution under subsection
30 (a) (1) that the actor was a juror of the jury that was deliberating or
31 voting and that he was taking notes in connection with, and solely for
32 the purpose of facilitating his performance of, his official duties.

33 “(c) GRADING.—An offense described in this section is a Class B
34 misdemeanor.

35 “(d) JURISDICTION.—There is federal jurisdiction over an offense
36 described in this section if the grand or petit jury is a federal jury.

37 **“§ 1328. Demonstrating to Influence a Judicial Proceeding**

38 “(a) OFFENSE.—A person is guilty of an offense if, with intent to
39 influence another person in the discharge of his duties in a judicial

1 proceeding, he pickets, parades, displays a sign, uses a sound amplify-
2 ing device, or otherwise engages in a demonstration:

3 “(1) in a building housing a court of the United States;

4 “(2) after being advised that such conduct is an offense, on the
5 grounds of, or within 200 feet of, a building housing a court of the
6 United States; or

7 “(3) in, or on the grounds of, or after being advised that such
8 conduct is an offense, within 200 feet of, a building occupied or
9 used by such other person.

10 “(b) **AFFIRMATIVE DEFENSE.**—It is an affirmative defense to a prosec-
11 ution under subsection (a) (2) that the defendant’s conduct:

12 “(1) did not occur while any judicial proceeding was in progress
13 or within one-half hour before or after such proceedings; and

14 “(2) did not constitute:

15 “(A) making unreasonable noise;

16 “(B) obstructing the entry to or exit from a building hous-
17 ing a court of the United States; or

18 “(C) threatening or placing another person in fear that
19 any person would be subjected to bodily injury or kidnap-
20 ping, or that any property would be damaged.

21 “(c) **GRADING.**—An offense described in this section is a Class B
22 misdemeanor.

23 “(d) **JURISDICTION.**—There is federal jurisdiction over an offense
24 described in this section if the judicial proceeding is a federal judicial
25 proceeding.

26 **“Subchapter D.—Contempt Offenses**

“Sec.

“1331. Criminal Contempt.

“1332. Failing to Appear as a Witness.

“1333. Refusing to Testify or to Produce Information.

“1334. Obstructing a Proceeding by Disorderly Conduct.

“1335. Disobeying a Judicial Order.

27 **“§ 1331. Criminal Contempt**

28 “(a) **OFFENSE.**—A person is guilty of an offense if he:

29 “(1) misbehaves in the presence of a court or so near to it as to
30 obstruct the administration of justice;

31 “(2) disobeys or resists a writ, process, order, rule, decree, or
32 command of a court; or

33 “(3) as an officer of a court, misbehaves in an official trans-
34 action.

35 “(b) **AFFIRMATIVE DEFENSE.**—It is an affirmative defense to a prosec-
36 ution under subsection (a) (2) that the writ, process, order, rule,

1 decree, or command was clearly invalid and that the defendant did
2 not have a reasonable opportunity to obtain a judicial review or a
3 stay thereof prior to the disobedience or resistance charged.

4 “(c) **POWER TO PROSECUTE.**—A prosecution for an offense described
5 in this section may be commenced by the court, the authority of which
6 was the subject of the contempt, or by the Attorney General with the
7 concurrence of the court.

8 “(d) **SUCCESSIVE PROSECUTIONS.**—A prosecution for an offense under
9 this section is not a bar to a subsequent prosecution for an offense un-
10 der another federal statute if the conduct charged as criminal con-
11 tempt under this section also constitutes an offense under such other
12 statute, or a regulation, rule, or order issued pursuant thereto. In a
13 subsequent prosecution the defendant shall receive credit for any time
14 spent in custody and any fine paid by him as a result of the prior
15 criminal contempt proceeding.

16 “(e) **GRADING.**—An offense described in this section is a Class B
17 misdemeanor. Notwithstanding the provisions of section 2201, the de-
18 fendant may be sentenced to pay a fine in any amount deemed just
19 by the court if the offense involves disobedience of or resistance to
20 the court’s temporary restraining order, preliminary injunction,
21 or final order other than an order for the payment of money.

22 “(f) **JURISDICTION.**—There is federal jurisdiction over an offense
23 described in this section if the court is a court of the United States.

24 **§ 1332. Failing to Appear as a Witness**

25 “(a) **OFFENSE.**—A person is guilty of an offense if he fails to comply
26 with an order:

27 “(1) to appear at a specified time and place as a witness in an
28 official proceeding;

29 “(2) to remain at a specified place where he is to appear as a
30 witness in an official proceeding; or

31 “(3) to be sworn or to make an equivalent affirmation as a wit-
32 ness in an official proceeding.

33 “(b) **BAR TO PROSECUTION.**—It is a bar to a prosecution under this
34 section that the official proceeding was conducted under the authority
35 of Congress or of either House of Congress and that a certification
36 pursuant to the provisions of section 104 of the Revised Statutes, as
37 amended (2 U.S.C. 194), had not been issued.

38 “(c) **AFFIRMATIVE DEFENSE.**—It is an affirmative defense to a pros-
39 ecution under subsection (a) (1) or (a) (2) that uncontrollable cir-

1 cumstances prevented the defendant from appearing at the specified
 2 time and place or from remaining at the specified place, and that the
 3 defendant did not contribute to the creation of such circumstances in
 4 reckless disregard of the requirement to appear or remain.

5 “(d) GRADING.—An offense described in this section is a Class E
 6 felony.

7 “(e) JURISDICTION.—There is federal jurisdiction over an offense
 8 described in this section if the official proceeding is a federal official
 9 proceeding.

10 **“§ 1333. Refusing to Testify or to Produce Information**

11 “(a) OFFENSE.—A person is guilty of an offense if:

12 “(1) in an official proceeding that is conducted under the
 13 authority of Congress or of either House of Congress, he:

14 “(A) refuses to answer a question, after the presiding
 15 officer has directed him to answer and advised him that his
 16 refusal to do so might subject him to criminal prosecution; or

17 “(B) fails to comply with an order to produce a record,
 18 document, or other object;

19 and the question or object is in fact pertinent to the subject
 20 under inquiry; or

21 “(2) in any other official proceeding, he:

22 “(A) refuses to answer a question after a federal court or
 23 federal judge, or, in a proceeding that is conducted before a
 24 United States magistrate or referee in bankruptcy, the presid-
 25 ing officer, has directed him to answer and advised him that
 26 his refusal to do so might subject him to criminal prosecution;
 27 or

28 “(B) fails to comply with an order to produce a record,
 29 document, or other object.

30 “(b) DEFINITIONS.—As used in this section:

31 “(1) ‘federal court’ includes a court martial, military commis-
 32 sion, court of inquiry, provost court, and any other military court
 33 of the United States;

34 “(2) ‘federal judge’ includes a military judge as defined in
 35 section 801(10) of title 10.

36 “(c) BAR TO PROSECUTION.—It is a bar to a prosecution under sub-
 37 section (a) (1) that a certification pursuant to the provisions of sec-
 38 tion 104 of the Revised Statutes, as amended (2 U.S.C. 194), had not
 39 been issued.

1 “(d) **AFFIRMATIVE DEFENSE.**—It is an affirmative defense to a prosecution:
2

3 “(1) under this section that the defendant was legally privileged
4 to refuse to answer the question or to produce the record, document,
5 or other object; or

6 “(2) under subsection (a) (1) (B) or (a) (2) (B) that uncontrollable
7 circumstances prevented the defendant from producing the record, document,
8 or other object, and that the defendant did not contribute to the creation of such
9 circumstances in reckless disregard of the requirement to produce the record,
10 document, or other object.
11

12 “(e) **PROOF.**—In a prosecution under this section, whether a matter is
13 pertinent under subsection (a) (1) is a question of law.

14 “(f) **GRADING.**—An offense described in this section is a Class E
15 felony.

16 “(g) **JURISDICTION.**—There is federal jurisdiction over an offense
17 described in this section if the official proceeding is a federal official
18 proceeding.

19 **“§ 1334. Obstructing a Proceeding by Disorderly Conduct**

20 “(a) **OFFENSE.**—A person is guilty of an offense if he obstructs
21 or impairs an official proceeding by means of unreasonable noise, by
22 means of violent or tumultuous behavior or disturbance, or by similar
23 means.

24 “(b) **GRADING.**—An offense described in this section is a Class B
25 misdemeanor.

26 “(c) **JURISDICTION.**—There is federal jurisdiction over an offense
27 described in this section if the official proceeding is a federal official
28 proceeding.

29 **“§ 1335. Disobeying a Judicial Order**

30 “(a) **OFFENSE.**—A person is guilty of an offense if he disobeys or
31 resists a court's temporary restraining order, preliminary injunction,
32 or final order other than an order for the payment of money.

33 “(b) **AFFIRMATIVE DEFENSE.**—It is an affirmative defense to a prosecution
34 under this section that the temporary restraining order, preliminary injunction,
35 or final order was clearly invalid and that the defendant did not have a reasonable
36 opportunity to obtain a judicial review or a stay thereof prior to the disobedience
37 or resistance charged.

38 “(c) **GRADING.**—An offense described in this section is a Class E
39 felony. Notwithstanding the provisions of section 2201, the defendant
40 may be sentenced to pay a fine in any amount deemed just by the court.

1 person has been advised that making such a statement
2 is an offense;

3 “(B) makes a material written statement that is false;

4 “(C) omits or conceals a material fact in a written state-
5 ment;

6 “(D) submits or invites reliance on a material writing or
7 recording that is false, forged, altered, or otherwise lacking
8 in authenticity;

9 “(E) submits or invites reliance on a sample, specimen,
10 map, photograph, boundary-mark, or other object that is mis-
11 leading in a material respect; or

12 “(F) fraudulently uses a trick, scheme, or device that is
13 misleading in a material respect;

14 “(2) in a credit institution record, with intent to deceive or
15 harm the government or a person, he, as an agent of such credit
16 institution, engages in any conduct described in subparagraphs
17 (B) through (F) of paragraph (1); or

18 “(3) with intent to influence the action of a credit institution,
19 he engages in any conduct described in subparagraphs (B)
20 through (F) of paragraph (1).

21 “(b) GRADING.—An offense described in this section is:

22 “(1) a Class E felony, except as provided in paragraph (2);

23 “(2) a Class A misdemeanor if the statement was given to a law
24 enforcement officer during the course of an investigation of an
25 offense or a possible offense and the statement consisted of a
26 denial, unaccompanied by any other false statement, that the
27 declarant committed or participated in the commission of such
28 offense.

29 “(c) JURISDICTION.—There is federal jurisdiction over an offense
30 described in this section if:

31 “(1) the government is the government of the United States;

32 “(2) the government is a state, local, or foreign government
33 and the falsity constituting the offense is that the declarant is a
34 citizen of the United States; or

35 “(3) the credit institution is a national credit institution.

36 **“§ 1344. Tampering with a Government Record**

37 “(a) OFFENSE.—A person is guilty of an offense if he alters, destroys,
38 mutilates, conceals, removes, or otherwise impairs the integrity or
39 availability of a government record.

1 “(b) GRADING.—An offense described in this section is:

2 “(1) a Class E felony, except as provided in paragraph (2);

3 “(2) a Class A misdemeanor if the government record is of
4 the kind described in section 1345(a)(3)(B).

5 “(c) JURISDICTION.—There is federal jurisdiction over an offense
6 described in this section if the government record is a federal govern-
7 ment record.

8 **“§ 1345. General Provisions for Subchapter E**

9 “(a) DEFINITIONS.—As used in this subchapter:

10 “(1) ‘credit institution record’ means a record, book, or state-
11 ment of a credit institution that is kept in the usual course of
12 business by an agent of such institution;

13 “(2) ‘oath or equivalent affirmation’ includes a written unsworn
14 declaration, certificate, verification, or statement described in sec-
15 tion 1746 of title 28, United States Code;

16 “(3) ‘government matter’ means a matter within the jurisdic-
17 tion, including investigative jurisdiction, of a government agency,
18 and includes a government record;

19 “(4) ‘government record’ means a record, document, or other
20 object: (A) belonging to, or received or kept by, a government
21 for information or record purposes; or (B) required to be kept
22 by a person pursuant to a statute, or a regulation, rule, or order
23 issued pursuant thereto;

24 “(5) ‘official proceeding’ means a proceeding in which a federal
25 law authorizes an oath to be administered; and

26 “(6) ‘statement’ means an oral or written declaration or repre-
27 sentation, including a declaration or representation of opinion,
28 belief, or other state of mind; for purposes of sections 1341 and
29 1342, a written statement made ‘under oath or equivalent affirma-
30 tion’ includes a written statement that, with the declarant’s knowl-
31 edge, purports to have been made under oath or equivalent affirma-
32 tion.

33 “(b) PROOF.—

34 “(1) In a prosecution under section 1341 or 1342, proof of
35 the falsity of a statement need not be made by any particular
36 number of witnesses or by documentary, direct, or any other
37 particular kind of evidence.

38 “(2) In a prosecution under section 1341 or 1343, or under any
39 section incorporating by reference any provision of section 1343,
40 a falsification, omission, concealment, forgery, alteration, or other

1 misleading matter is material, regardless of the admissibility of
 2 the statement or object under the rules of evidence, if it could
 3 have impaired, affected, impeded, or otherwise influenced the
 4 course, outcome, or disposition of the matter in which it is made,
 5 or, in the case of a record, if it could have impaired the integrity
 6 of the record in question. Whether a matter is material under
 7 the circumstances is a question of law.

8 “(3) In a prosecution under :

9 “(A) section 1341 or 1342, if, in one or more official pro-
 10 ceedings, a person under oath or equivalent affirmation makes
 11 or affirms; or

12 “(B) section 1343(a)(1)(B), if, in one or more govern-
 13 ment matters, a person makes;

14 statements which are inconsistent to the degree that one of them
 15 is necessarily false, both having been made within the applicable
 16 period of time limitations, the indictment, information, or other
 17 charge may set forth the statements in a single count alleging
 18 that the defendant knew or was aware of the risk that one or
 19 the other of the statements was false. Proof that the defendant
 20 made such statements constitutes prima facie evidence that he
 21 knew, or was aware of the risk, that one or the other of the state-
 22 ments was false, and such proof is sufficient for conviction. Under
 23 section 1341 or 1343, both such statements must be material.

24 “(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prose-
 25 cution under :

26 “(1) section 1341 or 1342 that the actor clearly and expressly
 27 retracted the falsification in the course of the same official proceed-
 28 ing in which it was made if he did so before it became manifest
 29 that the falsification had been or would be exposed and before the
 30 falsification substantially impaired, affected, impeded, or other-
 31 wise influenced the course, outcome, or disposition of the official
 32 proceeding or of a related government matter ;

33 “(2) section 1343 (a) (1) or (a) (3) that the actor clearly and
 34 expressly retracted the falsification and communicated the retrac-
 35 tion to the same individual, agency, or institution to which the
 36 falsification had been communicated, if he did so within seven
 37 calendar days after the falsification had been received by the indi-
 38 vidual, agency, or institution, and if he did so before it became
 39 manifest that the falsification had been or would be exposed and
 40 before the falsification substantially impaired, affected, impeded,

1 or otherwise influenced the course, outcome, or disposition of the
 2 government matter or credit institution action, or of a related
 3 government matter or official proceeding.

4 "(d) DEFENSE PRECLUDED.—It is not a defense to a prosecution
 5 under section 1341 or 1342 that the oath or affirmation was adminis-
 6 tered or taken in an irregular manner or that the declarant was not
 7 authorized to make the statement.

8 "Subchapter F.—Official Corruption and Intimidation

"Sec.

"1351. Bribery.

"1352. Graft.

"1353. Trading in Government Assistance.

"1354. Trading in Special Influence.

"1355. Trading in Public Office.

"1356. Speculating on Official Action or Information.

"1357. Tampering with a Public Servant.

"1358. Retaliating against a Public Servant.

"1359. General Provisions for Subchapter F.

9 "§ 1351. Bribery

10 "(a) OFFENSE.—A person is guilty of an offense if:

11 "(1) he offers, gives, or agrees to give to a public servant; or

12 "(2) as a public servant, he solicits, demands, accepts, or agrees
 13 to accept from another person;

14 anything of value in return for an agreement or understanding that
 15 the recipient's official action as a public servant will be influenced
 16 thereby, or that the recipient will violate a legal duty as a public
 17 servant.

18 "(b) GRADING.—An offense described in this section is a Class C
 19 felony.

20 "(c) JURISDICTION.—There is federal jurisdiction over an offense
 21 described in this section if:

22 "(1) the offense is committed within the special jurisdiction of
 23 the United States;

24 "(2) the official action or legal duty involved is that of a federal
 25 public servant;

26 "(3) the United States mail or a facility of interstate or foreign
 27 commerce is used in the planning, promotion, management, execu-
 28 tion, consummation, or concealment of the offense, or in the dis-
 29 tribution of the proceeds of the offense;

30 "(4) movement of a person across a state or United States
 31 boundary occurs in the planning, promotion, management, execu-
 32 tion, consummation, or concealment of the offense, or in the dis-
 33 tribution of the proceeds of the offense; or

1 “(5) the offense occurs during the commission of an offense,
2 over which federal jurisdiction exists, that is described in section
3 1403 (Alcohol and Tobacco Tax Offenses), 1722 (Extortion), 1804
4 (Loansharking), 1811 (Trafficking in an Opiate), 1812 (Traffick-
5 ing in Drugs), 1841 (Engaging in a Gambling Business), or 1843
6 (Conducting a Prostitution Business).

7 **“§ 1352. Graft**

8 “(a) OFFENSE.—A person is guilty of an offense if:

9 “(1) he offers, gives, or agrees to give to a public servant or
10 former public servant; or

11 “(2) as a public servant, or former public servant, he solicits,
12 demands, accepts, or agrees to accept from another person;
13 anything of pecuniary value for or because of an official action taken
14 or to be taken, a legal duty performed or to be performed, or a legal
15 duty violated or to be violated by the public servant or former public
16 servant.

17 “(b) GRADING.—An offense described in this section is a Class E
18 felony.

19 “(c) JURISDICTION.—There is federal jurisdiction over an offense
20 described in this section if a circumstance specified in section 1351(c)
21 exists or has occurred.

22 **“§ 1353. Trading in Government Assistance**

23 “(a) OFFENSE.—A person is guilty of an offense if:

24 “(1) he offers, gives, or agrees to give to a public servant; or

25 “(2) as a public servant he solicits, demands, accepts, or agrees
26 to accept from another person;

27 anything of pecuniary value intended as consideration for advice or
28 other assistance in preparing or promoting a bill, contract, claim, or
29 other matter that is or may become subject to official action by such
30 public servant.

31 “(b) GRADING.—An offense described in this section is a Class E
32 felony.

33 “(c) JURISDICTION.—There is federal jurisdiction over an offense
34 described in this section if the public servant is a federal public servant.

35 **“§ 1354. Trading in Special Influence**

36 “(a) OFFENSE.—A person is guilty of an offense if he:

37 “(1) offers, gives, or agrees to give to another person; or

38 “(2) solicits, demands, accepts, or agrees to accept from an-
39 other person;

1 anything of pecuniary value intended as consideration for exerting,
 2 or causing another person to exert, special influence upon a public
 3 servant with respect to his taking an official action or his performing
 4 a legal duty as a public servant.

5 “(b) DEFINITION.—As used in this section, the term ‘special in-
 6 fluence’ means influence by reason of a relationship to the public
 7 servant by common ancestry or by marriage, or by reason of position
 8 as a public servant or as a political party official.

9 “(c) GRADING.—An offense described in this section is a Class E
 10 felony.

11 “(d) JURISDICTION.—There is federal jurisdiction over an offense
 12 described in this section if the official action or legal duty involved
 13 is that of a federal public servant.

14 **“§ 1355. Trading in Public Office**

15 “(a) OFFENSE.—A person is guilty of an offense if he:

16 “(1) offers, gives, or agrees to give to another person; or

17 “(2) solicits, demands, accepts, or agrees to accept from an-
 18 other person;

19 anything of pecuniary value intended as consideration for approval,
 20 disapproval, or assistance by a public servant or political party of-
 21 ficial in the appointment, employment, advancement, or retention
 22 of any person as a public servant.

23 “(b) GRADING.—An offense described in this section is a Class E
 24 felony.

25 “(c) JURISDICTION.—There is federal jurisdiction over an offense
 26 described in this section if the appointment, employment, advance-
 27 ment, or retention involved is that of a federal public servant.

28 **“§ 1356. Speculating on Official Action or Information**

29 “(a) OFFENSE.—A person is guilty of an offense if as a public servant,
 30 or within one year after his service as a public servant terminates, and
 31 in contemplation of the taking of an official action by himself as a
 32 public servant or by an agency with which he is or has been serving
 33 as a public servant, or in reliance on information to which he has or
 34 had access only in his capacity as a public servant, he:

35 “(1) acquires or disposes of a pecuniary interest in any prop-
 36 erty, transaction, or enterprise that may be affected by such of-
 37 ficial action or information; or

38 “(2) provides information with intent to aid another person
 39 in acquiring or disposing of such an interest.

1 “(b) GRADING.—An offense described in this section is a Class A
2 misdemeanor.

3 “(c) JURISDICTION.—There is federal jurisdiction over an offense
4 described in this section if:

5 “(1) the public servant is or was a federal public servant; or

6 “(2) the agency is a federal government agency.

7 **“§ 1357. Tampering with a Public Servant**

8 “(a) OFFENSE.—A person is guilty of an offense if he:

9 “(1) uses force, threat, intimidation, or deception with intent
10 to influence a public servant with respect to his taking an official
11 action or performing a legal duty as a public servant; or

12 “(2) communicates:

13 “(A) a threat to commit a crime of violence upon the
14 person of the President or a potential successor to the Presi-
15 dency; or

16 “(B) information, that he knows to be false, that a crime
17 described in subparagraph (A) is imminent or in progress;
18 under circumstances in which the threat or information may rea-
19 sonably be understood as an expression or reflection of serious
20 purpose.

21 “(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a pros-
22 ecution under subsection (a) (1) that the conduct used to threaten or
23 to intimidate consisted solely of lawful conduct and that the defend-
24 ant’s sole intention was to compel or induce the public servant to take
25 official action properly or to perform his legal duty properly.

26 “(c) GRADING.—An offense described in this section is a Class E
27 felony.

28 “(d) JURISDICTION.—There is federal jurisdiction over an offense
29 described in:

30 “(1) subsection (a) (1) if the public servant is a federal public
31 servant; or

32 “(2) subsection (a) (2) if the offense is committed within:

33 “(A) the general jurisdiction of the United States;

34 “(B) the special jurisdiction of the United States; or

35 “(C) the extraterritorial jurisdiction of the United States
36 to the extent applicable under section 204.

37 **“§ 1358. Retaliating Against a Public Servant**

38 “(a) OFFENSE.—A person is guilty of an offense if he:

39 “(1) engages in conduct that causes bodily injury to another
40 person or damages the property of another person; or

1 “(2) improperly subjects another person to economic loss or
2 injury to his business or profession;
3 because of an official action taken or a legal duty performed by a public
4 servant, or because of the status of a person as a public servant.

5 “(b) GRADING.—An offense described in this section is:

6 “(1) a Class E felony in the circumstances set forth in sub-
7 section (a) (1);

8 “(2) a Class A misdemeanor in the circumstances set forth in
9 subsection (a) (2).

10 “(c) JURISDICTION.—There is federal jurisdiction over an offense
11 described in this section if the public servant is a federal public
12 servant.

13 **“§ 1359. General Provisions for Subchapter F**

14 “(a) DEFINITIONS.—

15 “(1) As used in this subchapter:

16 “(A) ‘anything of value’ and ‘anything of pecuniary value’
17 do not include (i) concurrence in official action in the course
18 of legitimate compromise between public servants; or (ii)
19 support, including a vote, in any primary, general, or special
20 election campaign solicited by a candidate solely by means of
21 representation of his position on a public issue;

22 “(B) ‘political party official’ means a person who holds a
23 position or office in a political party, whether by election, ap-
24 pointment, or otherwise;

25 “(C) ‘potential successor to the Presidency’ means (i) the
26 President-elect; (ii) the Vice President; (iii) if there is no
27 Vice President, the person next in order of succession to the
28 office of President; or (iv) the Vice President-elect;

29 “(D) ‘public servant’ includes a person who has been offi-
30 cially informed that he will be nominated or appointed to be
31 a public servant.

32 “(2) As used in sections 1351 through 1356, ‘federal public
33 servant’ includes a District of Columbia public servant.

34 “(b) DEFENSES PRECLUDED.—It is not a defense to a prosecution
35 under:

36 “(1) section 1351, 1352, 1354, or 1356 that the recipient was not
37 qualified to act, whether because he had not yet assumed office,
38 because he lacked authority or jurisdiction, or because of any other
39 reason; or

1 “(2) sections 1351 through 1355 that the defendant, or other
2 recipient or proposed recipient of the thing of value, by the same
3 conduct also committed an offense described in section 1722 (Ex-
4 tortion), 1723 (Blackmail), or 1731 (Theft).

5 **“Chapter 14.—OFFENSES INVOLVING TAXATION**

“Subchapter

“A. Internal Revenue Offenses.

“B. Customs Offenses.

6 **“Subchapter A.—Internal Revenue Offenses**

“Sec.

“1401. Tax Evasion.

“1402. Disregarding a Tax Obligation.

“1403. Alcohol and Tobacco Tax Offenses.

“1404. Definitions for Subchapter A.

7 **“§ 1401. Tax Evasion**

8 “(a) OFFENSE.—A person is guilty of an offense if, with intent to
9 evade liability for a tax or the payment of a tax, he:

10 “(1) files a tax return that understates the tax;

11 “(2) removes or conceals an asset, knowing that the tax is due
12 or may become due;

13 “(3) fails to account for, or to pay over when due, a tax pre-
14 viously collected or withheld, or a payment received from or on
15 behalf of another person with the understanding that it would be
16 turned over to the United States for tax purposes;

17 “(4) alters, destroys, mutilates, conceals, or removes any prop-
18 erty under the care, custody, or control of the United States; or

19 “(5) otherwise acts in any manner to evade liability for, or
20 payment of, the tax.

21 “(b) GRADING.—An offense described in this section is:

22 “(1) a Class C felony if the tax liability involved is in excess
23 of \$100,000;

24 “(2) a Class D felony if the tax liability involved is \$100,000 or
25 less;

26 “(3) a Class E felony if no tax liability is involved.

27 **“§ 1402. Disregarding a Tax Obligation**

28 “(a) OFFENSE.—A person is guilty of an offense if he:

29 “(1) fails to file when due a tax return or an information return
30 that he is required to file;

31 “(2) engages in an occupation or enterprise without having
32 registered, or without having purchased a stamp, as required
33 under the Internal Revenue Code of 1954, as amended;

34 “(3) fails to withhold or collect a tax that he is required to
35 withhold or collect under the Internal Revenue Code of 1954, as
36 amended;

1 “(4) fails to furnish to an employee a true statement regarding
2 a tax withheld from the employee’s remuneration, as required
3 under section 6051 of the Internal Revenue Code of 1954, as
4 amended (26 U.S.C. 6051);

5 “(5) claims a personal exemption, to which he knows he is not
6 entitled, in an income tax return; or

7 “(6) fails to deposit collected taxes in a special bank account
8 as required, after notice, under section 7512 of the Internal Reve-
9 nue Code of 1954, as amended (26 U.S.C. 7512), or, after having
10 deposited funds in such an account, pays any of them to any per-
11 son other than an authorized agent of the United States.

12 “(b) GRADING.—An offense described in this section is:

13 “(1) a Class A misdemeanor in the circumstances set forth in
14 subsection (a) (1) through (a) (4);

15 “(2) a Class B misdemeanor in the circumstances set forth in
16 subsection (a) (5) or (a) (6).

17 “§ 1403. Alcohol and Tobacco Tax Offenses

18 “(a) OFFENSE.—A person is guilty of an offense if he violates any
19 of the following provisions of the Internal Revenue Code of 1954, as
20 amended:

21 “(1) section 5601(a) (26 U.S.C. 5601(a)) (relating to unregis-
22 tered stills, the application and bonding of distillers, and unlawful
23 conduct in the production or use of distilled spirits);

24 “(2) section 5602 (26 U.S.C. 5602) (relating to evasion of tax
25 imposed on distilled spirits);

26 “(3) section 5603(a) (26 U.S.C. 5603(a)) (relating to mainte-
27 nance of required documents or alteration or destruction of such
28 documents);

29 “(4) section 5607 (26 U.S.C. 5607) (relating to unlawful con-
30 duct concerning any denatured distilled spirits withdrawn free
31 of tax);

32 “(5) section 5661(a) (26 U.S.C. 5661(a)) (relating to failure
33 to pay tax imposed on wine and failure to comply with other
34 statutes and regulations concerning bonding and gallonage taxes
35 on wine);

36 “(6) section 5671 (26 U.S.C. 5671) (relating to evasion of tax
37 imposed on beer and failure to keep and file required brewers’
38 records);

39 “(7) section 5604(a) (26 U.S.C. 5604(a)) (relating to un-
40 stamped containers of distilled spirits and unlawful conduct
41 involving stamps, stamped containers, or distilled spirits);

1 “(8) section 5605 (26 U.S.C. 5605) (relating to return of mate-
2 rials used in the manufacture of distilled spirits or from which dis-
3 tilled spirits may be recovered) ;

4 “(9) section 5608 (26 U.S.C. 5608) (relating to fraudulent
5 claims for an allowance of drawback on distilled spirits and re-
6 landing of distilled spirits shipped for exportation) ;

7 “(10) section 5682 (26 U.S.C. 5682) (relating to breaking of
8 locks or gaining of access to any place under the lock or seal of
9 an internal revenue agent) ;

10 “(11) section 5691(a) (26 U.S.C. 5691(a)) (relating to non-
11 payment of special taxes concerning liquor, beer, or manufacture
12 of stills) ; or

13 “(12) section 5762(a) (26 U.S.C. 5762(a)) (relating to refusal
14 to pay or evasion of a tax imposed on tobacco related products,
15 maintenance of true and accurate records, and unlawful conduct
16 concerning tobacco-related products, stamps, or packages).

17 “(b) GRADING.—An offense described in this section is :

18 “(1) a Class D felony in the circumstances set forth in sub-
19 section (a) (1) through (a) (6) ;

20 “(2) a Class E felony in the circumstances set forth in subsec-
21 tion (a) (7) through (a) (12).

22 **“§ 1404. Definitions for Subchapter A**

23 “As used in this subchapter :

24 “(a) ‘liability for a tax or the payment of a tax’ means liability
25 for, or payment of, the entire tax or any part thereof ;

26 “(b) ‘payment’ includes collection ;

27 “(c) ‘tax’ means a tax imposed by a federal statute, an exaction
28 denominated a ‘tax’ by a federal statute, and any penalty, addition
29 to tax, additional amount, or interest thereon ; but does not include
30 a tariff or customs duty, or a toll, levy, or charge that is not de-
31 nominated a ‘tax’ by a federal statute ;

32 “(d) ‘tax return’ means a written report of a taxpayer’s tax
33 obligation that is required to be filed by a federal statute, or a
34 regulation, rule, or order issued pursuant thereto ; and includes a
35 report of taxes withheld or collected, an income tax return, an
36 estate or gift tax return, an excise tax return, and any other tax
37 return of an individual or organization required to file a return
38 or to pay a tax in conjunction with a tax return ; but does not
39 include an interim report, an information return, or a return of
40 estimated tax.

1 **"Subchapter B.—Customs Offenses**

"Sec.

"1411. Smuggling.

"1412. Trafficking in Smuggled Property.

"1413. Receiving Smuggled Property.

"1414. General Provisions for Subchapter B.

2 **"§ 1411. Smuggling**

3 "(a) OFFENSE.—A person is guilty of an offense if he:

4 "(1) introduces into the United States an object, the introduc-
5 tion of which a federal statute, or a regulation, rule, or order
6 issued pursuant thereto:

7 "(A) prohibits absolutely; or

8 "(B) prohibits conditionally and all conditions for its in-
9 troduction into the United States have not been complied
10 with; or

11 "(2) evades assessment or payment when due of the customs
12 duty upon an object being introduced into the United States; or

13 "(3) evades an examination by the government of an object be-
14 ing introduced into the United States.

15 "(b) GRADING.—An offense described in this section is:

16 "(1) a Class D felony if the value of the object, or the duty
17 that was due or that would have been due on the object, exceeds
18 \$500;

19 "(2) a Class E felony if introduction of the object is prohibited,
20 either absolutely or conditionally, because it may cause, or may be
21 used to cause, bodily injury or property damage;

22 "(3) a Class A misdemeanor if the value of the object, or the
23 duty that was due or that would have been due on the object, ex-
24 ceeds \$100 but is not more than \$500;

25 "(4) a Class B misdemeanor in any other case in which duty
26 was due or would have been due on the object;

27 "(5) a Class C misdemeanor in any other case.

28 **"§ 1412. Trafficking in Smuggled Property**

29 "(a) OFFENSE.—A person is guilty of an offense if he traffics in an
30 object that has been unlawfully introduced into the United States, such
31 introduction having been in violation of section 1411.

32 "(b) GRADING.—An offense described in this section is an offense of
33 the same class as that specified in section 1411(b) for the smuggling
34 of the same kind of object.

35 **"§ 1413. Receiving Smuggled Property**

36 "(a) OFFENSE.—A person is guilty of an offense if he buys, receives,
37 possesses, or obtains control of an object that has been unlawfully in-

1 introduced into the United States, such introduction having been in
2 violation of section 1411.

3 “(b) **AFFIRMATIVE DEFENSE.**—It is an affirmative defense to a prose-
4 cution under this section that the defendant bought, received, pos-
5 sessed, or obtained control of the object with intent to report the matter
6 to an appropriate law enforcement officer.

7 “(c) **GRADING.**—An offense described in this section is an offense of
8 the class next below that specified in section 1411 (b) for the smuggling
9 of the same kind of object.

10 **“§ 1414. General Provisions for Subchapter B**

11 “(a) **DEFINITIONS.**—As used in this subchapter :

12 “(1) ‘customs territory of the United States’ has the meaning
13 set forth in general headnote 2 to the Tariff Schedules of the
14 United States;

15 “(2) ‘introduce’ means import, transport, bring into the United
16 States from any place outside the United States, or into the cus-
17 toms territory of the United States from any place outside the
18 customs territory of the United States but within the United
19 States;

20 “(3) ‘object’ includes any article, good, ware, and merchandise,
21 whether animate or inanimate;

22 “(b) **PROOF.**—In a prosecution under section 1412 or 1413:

23 “(1) possession of an object recently smuggled into the United
24 States, unless satisfactorily explained, constitutes prima facie evi-
25 dence that the person in possession was aware of the risk that it
26 had been smuggled or in some way participated in its smuggling;

27 “(2) the purchase or sale of an object recently smuggled into
28 the United States at a price substantially below its fair market
29 value, unless satisfactorily explained, constitutes prima facie evi-
30 dence that the person buying or selling the property was aware of
31 the risk that it had been smuggled.

32 “(c) **DETERMINING DUTY.**—Smugglings committed pursuant to one
33 scheme or course of conduct may be charged as one offense, and the
34 value of, or the duty owing on, the objects introduced may be aggre-
35 gated in determining the grade of the offense.

36 **“Chapter 15.—OFFENSES INVOLVING INDIVIDUAL**
37 **RIGHTS**

“Subchapter

“A. Offenses Involving Civil Rights.

“B. Offenses Involving Political Rights.

“C. Offenses Involving Privacy.

1 **"Subchapter A.—Offenses Involving Civil Rights**

"Sec.

"1501. Interfering with Civil Rights.

"1502. Interfering with Civil Rights under Color of Law.

"1503. Interfering with a Federal Benefit.

"1504. Unlawful Discrimination.

"1505. Interfering with Speech or Assembly Related to Civil Rights Activities.

"1506. Strikebreaking.

2 **"§ 1501. Interfering with Civil Rights**

3 "(a) OFFENSE.—A person is guilty of an offense if he intentionally:

4 " (1) deprives another person of; or

5 " (2) injures, oppresses, threatens, or intimidates another per-
6 son:

7 " (A) in the free exercise or enjoyment of; or

8 " (B) because of his having exercised;

9 a right, privilege, or immunity in fact secured to such other person
10 by the Constitution or laws of the United States.

11 "(b) PROOF.—In a prosecution under this section, whether the dep-
12 rivation, injury, oppression, threat, or intimidation concerns a right,
13 privilege, or immunity secured by the Constitution or laws of the
14 United States is a question of law.

15 "(c) GRADING.—An offense described in this section is a Class A
16 misdemeanor.

17 **"§ 1502. Interfering with Civil Rights under Color of Law**

18 "(a) OFFENSE.—A person is guilty of an offense if, acting under
19 color of law, he engages in any conduct constituting an offense de-
20 scribed in a section in chapter 16 or 17, and thereby deprives another
21 person of a right, privilege, or immunity in fact secured to such other
22 person by the Constitution or laws of the United States.

23 "(b) PROOF.—In a prosecution under this section, whether the dep-
24 rivation concerns a right, privilege, or immunity secured by the Con-
25 stitution or laws of the United States is a question of law.

26 "(c) GRADING.—An offense described in this section is a Class A
27 misdemeanor.

28 **"§ 1503. Interfering with a Federal Benefit**

29 "(a) OFFENSE.—A person is guilty of an offense if, by force or
30 threat of force, he intentionally injures, intimidates, or interferes
31 with another person because such other person is or has been, or in
32 order to intimidate any person from:

33 "(1) applying for, participating in, or enjoying a benefit, privi-
34 lege, service, program, facility, or activity provided by, adminis-
35 tered by, or wholly or partly financed by, the United States;

1 “(2) applying for or enjoying employment, or a perquisite
2 thereof, by a federal government agency;

3 “(3) serving as a grand or petit juror in a court of the United
4 States or attending court in connection with possible service as
5 such a grand or petit juror;

6 “(4) voting or qualifying to vote, qualifying or campaigning
7 as a candidate for elective office, or qualifying or acting as a
8 poll watcher or other election official, in a primary, general, or
9 special election;

10 “(5) affording another person or class of persons opportunity
11 to participate, or protection in order to participate, in any benefit
12 or activity described in this section; or

13 “(6) aiding or encouraging another person or class of persons
14 to participate in any benefit or activity described in this section.

15 “(b) GRADING.—An offense described in this section is a Class A
16 misdemeanor.

17 “§ 1504. Unlawful Discrimination

18 “(a) OFFENSE.—A person is guilty of an offense if, by force or threat
19 of force, he intentionally injures, intimidates, or interferes with an-
20 other person:

21 “(1) because of such other person’s race, color, sex, religion, or
22 national origin and because such other person is or has been, or in
23 order to intimidate any person from:

24 “(A) applying for, participating in, or enjoying, a benefit,
25 privilege, service, program, facility, or activity provided or
26 administered by a state or locality;

27 “(B) applying for or enjoying employment, or a perqui-
28 site thereof, by a state or local government agency;

29 “(C) serving as a grand or petit juror in a state or locality
30 or attending court in connection with possible service as such
31 a grand or petit juror;

32 “(D) enrolling in or attending a public school or public
33 college;

34 “(E) applying for or enjoying the goods, services, privi-
35 leges, facilities, or accommodations of:

36 “(i) an inn, hotel, motel, or other establishment that
37 provides lodging to transient guests;

38 “(ii) a restaurant, cafeteria, lunchroom, lunch
39 counter, soda fountain, or other facility that serves the
40 public and that is principally engaged in selling food
41 or beverages for consumption on the premises;

1 “(iii) a gasoline station;

2 “(iv) a motion picture house, theater, concert hall,
3 sports arena, stadium, or other place of exhibition or
4 entertainment that serves the public; or

5 “(v) any other establishment that serves the public,
6 that is located within the premises of an establishment
7 described in this subparagraph or that has located within
8 its premises such an establishment, and that holds itself
9 out as serving patrons of such an establishment;

10 “(F) applying for or enjoying the services, privileges, fa-
11 cilities, or accommodations of a common carrier utilizing any
12 kind of vehicle;

13 “(G) traveling in or using a facility of interstate com-
14 merce;

15 “(H) applying for or enjoying employment, or a perqui-
16 site thereof, by a private employer or joining or using the
17 services or advantages of a labor organization, hiring hall, or
18 employment agency; or

19 “(I) selling, purchasing, renting, financing, or occupying a
20 dwelling; contracting or negotiating for the sale, purchase,
21 rental, financing or occupation of a dwelling; or applying for
22 or participating in a service, organization, or facility relating
23 to the business of selling or renting dwellings; or

24 “(2) because such other person is or has been, or in order to in-
25 timidate any person from:

26 “(A) affording another person or class of persons oppor-
27 tunity to participate, or protection in order to participate,
28 without discrimination on account of race, color, sex, re-
29 ligion, or national origin, in any benefit or activity described
30 in this section; or

31 “(B) aiding or encouraging another person or class of per-
32 sons to participate, without discrimination on account of race,
33 color, sex, religion, or national origin, in any benefit or ac-
34 tivity described in this section.

35 “(b) DEFENSE.—It is a defense to a prosecution under subsection
36 (a) (1) (E) (i) that:

37 “(1) the defendant was the proprietor of the establishment in-
38 volved or an agent acting on behalf of the proprietor;

39 “(2) the establishment was located within a building containing
40 not more than five rooms for rent or hire; and

1 “(3) the building was occupied by the proprietor as his resi-
2 dence.

3 “(c) GRADING.—An offense described in this section is a Class A
4 misdemeanor.

5 **“§ 1505. Interfering with Speech or Assembly Related to Civil**
6 **Rights Activities**

7 “(a) OFFENSE.—A person is guilty of an offense if, by force or threat
8 of force, he intentionally injures, intimidates, or interferes with an-
9 other person because he is or has been, or in order to intimidate him or
10 any other person from, participating in speech or assembly opposing
11 a denial of opportunity to participate:

12 “(1) in a benefit or activity described in section 1503; or

13 “(2) in a benefit or activity described in section 1504, without
14 discrimination on account of race, color, sex, religion, or national
15 origin.

16 “(b) GRADING.—An offense described in this section is a Class A
17 misdemeanor.

18 **“§ 1506. Strikebreaking**

19 “(a) OFFENSE.—A person is guilty of an offense if, by force or threat
20 or force, he intentionally obstructs or interferes with:

21 “(1) peaceful picketing by employees in the course of a bona
22 fide labor dispute affecting wages, hours, or conditions of labor; or

23 “(2) the exercise by employees of rights of self-organization or
24 collective bargaining.

25 “(b) GRADING.—An offense described in this section is a Class A
26 misdemeanor.

27 “(c) JURISDICTION.—There is federal jurisdiction over an offense
28 described in this section if movement of any person across a state or
29 United States boundary occurs in the commission of the offense.

30 **“Subchapter B.—Offenses Involving Political Rights**

“Sec.

“1511. Obstructing an Election.

“1512. Obstructing Registration.

“1513. Obstructing a Political Campaign.

“1514. Interfering with a Federal Benefit for a Political Purpose.

“1515. Misusing Authority over Personnel for a Political Purpose.

“1516. Soliciting a Political Contribution as a Federal Public Servant or in a
Federal Building.

“1517. Making a Political Contribution as a Foreign National.

“1518. Making an Excess Campaign Expenditure.

“1519. Definitions for Subchapter B.

31 **“§ 1511. Obstructing an Election**

32 “(a) OFFENSE.—A person is guilty of an offense if, in connection
33 with a primary, general, or special election to nominate or elect a
34 candidate for a federal office, he:

1 “(1) obstructs or impairs the lawful conduct of such election;

2 “(2) offers, gives, or agrees to give anything of value to an-
3 other person for or because of any person’s voting, refraining
4 from voting, or voting for or against such candidate; or

5 “(3) solicits, demands, accepts, or agrees to accept anything of
6 value for or because of any person’s voting, refraining from vot-
7 ing, or voting for or against such candidate.

8 “(b) GRADING.—An offense described in this section is a Class E
9 felony.

10 **“§ 1512. Obstructing Registration**

11 “(a) OFFENSE.—A person is guilty of an offense if, in connection
12 with registration to vote at a primary, general, or special election to
13 nominate or elect a candidate for a federal office, he:

14 “(1) obstructs or impairs the lawful conduct of such registra-
15 tion;

16 “(2) offers, gives, or agrees to give anything of value to an-
17 other person for or because of any person’s registering to vote;

18 “(3) solicits, demands, accepts, or agrees to accept anything of
19 value for or because of any person’s registering to vote; or

20 “(4) gives information, that he knows to be false, to estab-
21 lish his eligibility to vote.

22 “(b) GRADING.—An offense described in this section is a Class A
23 misdemeanor.

24 **“§ 1513. Obstructing a Political Campaign**

25 “(a) OFFENSE.—A person is guilty of an offense if, during a cam-
26 paign preceding a primary, general, or special election to nominate
27 or elect a candidate for a federal office, and with intent to influence
28 the outcome of such election, he:

29 “(1) engages in conduct constituting a crime under any section
30 of this title;

31 “(2) engages in conduct constituting a felony under a law of
32 the state in which the conduct occurs; or

33 “(3) publishes or distributes a statement concerning a candi-
34 date for federal office that does not contain, or that misrepresents,
35 the name of the person or organization responsible for the pub-
36 lication or distribution.

37 “(b) GRADING.—An offense described in this section is:

38 “(1) a Class E felony in the circumstances set forth in sub-
39 section (a) (1) or (a) (2);

1 “(2) a Class A misdemeanor in the circumstances set forth in
2 subsection (a) (3).

3 **“§ 1514. Interfering With a Federal Benefit for a Political Purpose**

4 “(a) OFFENSE.—A person is guilty of an offense if, with intent to
5 interfere with, restrain, or coerce another person in the exercise of
6 his right to vote at a primary, general, or special election to nominate
7 or elect a candidate for a federal, state, or local office, he:

8 “(1) grants or threatens to grant to any other person;

9 “(2) withholds or threatens to withhold from any other per-
10 son; or

11 “(3) deprives or threatens to deprive any other person of;
12 the benefit of a federal program or a federally supported program
13 or a federal government contract.

14 “(b) GRADING.—An offense described in this section is a Class A
15 misdemeanor.

16 **“§ 1515. Misusing Authority over Personnel for a Political**
17 **Purpose**

18 “(a) OFFENSE.—A person is guilty of an offense if, as a federal
19 public servant, he:

20 “(1) promotes, fails to promote, demotes, or discharges;

21 “(2) recommends the promotion, non-promotion, demotion, or
22 discharge of; or

23 “(3) changes in any manner, or promises or threatens to change,
24 the official position or compensation of;
25 another federal public servant, for or because of any person's giving,
26 withholding, or neglecting to make a political contribution.

27 “(b) GRADING.—An offense described in this section is a Class A
28 misdemeanor.

29 **“§ 1516. Soliciting a Political Contribution as a Federal Public**
30 **Servant or in a Federal Building**

31 “(a) OFFENSE.—A person is guilty of an offense if:

32 “(1) as a federal public servant, he:

33 “(A) solicits a political contribution from another person
34 whom he knows to be a federal public servant; or

35 “(B) makes a political contribution to another person
36 whom he knows to be a federal public servant, in response to
37 a solicitation; or

38 “(2) he solicits or receives a political contribution in a federal
39 building or facility.

1 “(b) **AFFIRMATIVE DEFENSE.**—It is an affirmative defense to a prose-
2 cution under this section that both the public servant soliciting the
3 political contribution or making the political contribution in response
4 to a solicitation and the public servant solicited for or receiving such
5 contribution are members of, members-elect of, or candidates for,
6 Congress.

7 “(c) **GRADING.**—An offense described in this section is a Class A
8 misdemeanor.

9 **“§ 1517. Making a Political Contribution as a Foreign National**

10 “(a) **OFFENSE.**—A person is guilty of an offense if:

11 “(1) as a foreign national, he makes or promises to make a po-
12 litical contribution; or

13 “(2) he solicits, accepts, or receives a political contribution from
14 a foreign national or from a foreign power.

15 “(b) **GRADING.**—An offense described in this section is a Class E
16 felony.

17 **“§ 1518. Making an Excess Campaign Expenditure**

18 “(a) **OFFENSE.**—A person is guilty of an offense if:

19 “(1) he violates section 9035 of the Presidential Primary
20 Matching Payment Account Act (26 U.S.C. 9035) (relating to
21 campaign expense limitations); or

22 “(2) as an officer or member of a ‘political committee’, as defined
23 in the Presidential Primary Matching Payment Account Act
24 (26 U.S.C. 9032(8)), he consents to an expenditure in violation of
25 section 9035 (relating to campaign expense limitations) of that
26 Act.

27 “(b) **GRADING.**—An offense described in this section is a Class E
28 felony.

29 **“§ 1519. Definitions for Subchapter B**

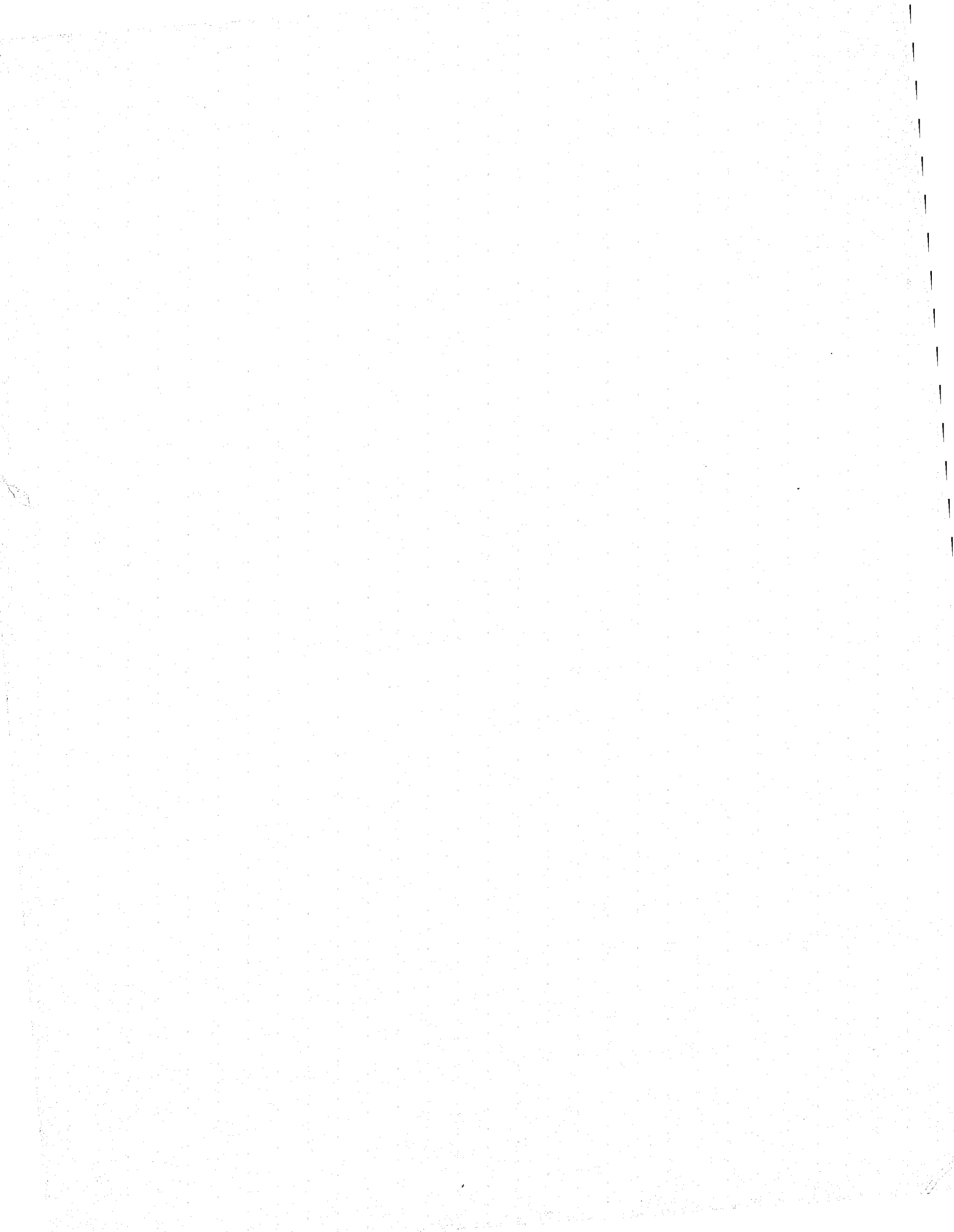
30 “As used in this subchapter:

31 “(a) ‘anything of value’ does not include nonpartisan physical
32 activities or services to facilitate registration or voting;

33 “(b) ‘federal office’ means the office of President or Vice-Presi-
34 dent of the United States, or Senator or Representative in, or
35 Delegate or Resident Commissioner to, the Congress of the United
36 States;

37 “(c) ‘foreign national’ means:

38 “(1) a ‘foreign principal’ as defined in section 1 of the
39 Foreign Agents Registration Act of 1938, as amended (22



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1 U.S.C. 611), but does not include a person who is a citizen of
2 the United States; or

3 “(2) a person who is not a citizen of the United States and
4 who is not lawfully admitted for permanent residence within
5 the meaning set forth in section 101 of the Immigration and
6 Nationality Act, as amended (8 U.S.C. 1101);

7 “(d) ‘political contribution’ means:

8 “(1) as used in section 1515 and 1517, anything of value
9 used or to be used for the nomination or election of any
10 person to federal, state, or local office; and

11 “(2) as used in section 1516, a ‘contribution’ as defined in
12 the Federal Election Campaign Act (2 U.S.C. 431(e)).

13 **“Subchapter C.—Offenses Involving Privacy**

“Sec.

“1521. Eavesdropping.

“1522. Trafficking in an Eavesdropping Device.

“1523. Possessing an Eavesdropping Device.

“1524. Intercepting Correspondence.

“1525. Revealing Private Information Submitted for a Government Purpose.

“1526. Definition for Subchapter C.

14 **“§ 1521. Eavesdropping**

15 “(a) OFFENSE.—A person is guilty of an offense if he intentionally:

16 “(1) intercepts a private oral communication by means of an
17 eavesdropping device without the prior consent of a party to the
18 communication; or

19 “(2) discloses to another person, or uses, the contents of a
20 private oral communication, knowing that such contents were ob-
21 tained by conduct described in paragraph (1).

22 “(b) DEFENSE.—It is a defense to a prosecution under this section
23 that the private oral communication was being transmitted over the
24 facilities of a communications common carrier; and

25 “(1) the defendant was an agent of the carrier, acting in the
26 usual course of his employment, who was engaged in:

27 “(A) service observing for mechanical or service quality
28 control checks; or

29 “(B) any other activity necessarily incident to the rendi-
30 tion of service by the carrier or relating to the discovery of
31 theft or the carrier’s service; or

32 “(2) the defendant was acting in the usual course of his employ-
33 ment and was engaged in supervisory service observing.

34 “(c) GRADING.—An offense described in this section is a Class D
35 felony.

1 **“§ 1522. Trafficking in an Eavesdropping Device**

2 “(a) OFFENSE.—A person is guilty of an offense if he intentionally:

3 “(1) produces, manufactures, imports, or traffics in an eaves-
4 dropping device, knowing that its design renders it primarily use-
5 ful for surreptitious interception of private oral communications;
6 or

7 “(2) advertises an eavesdropping device, knowing that:

8 “(A) its design renders it primarily useful for surrepti-
9 tious interception of private oral communications, or

10 “(B) such advertising promotes the use of such device for
11 surreptitious interception of private oral communications.

12 “(b) DEFENSES.—It is a defense to a prosecution under this section
13 that the defendant was:

14 “(1) a communications common carrier, an agent of such
15 a carrier, or a person under contract with such a carrier, and was
16 acting for a purpose set forth in section 1521 (b) (2) ; or

17 “(2) a person acting within the scope of a federal, state, or local
18 government contract.

19 “(c) GRADING.—An offense under this section is a Class D felony.

20 “(d) JURISDICTION.—There is federal jurisdiction over an offense
21 described in this section if:

22 “(1) the offense is committed within the special jurisdiction of
23 the United States;

24 “(2) the device is sent through the United States mail, or is
25 moved across a state or United States boundary, in the commis-
26 sion of the offense; or

27 “(3) the advertisement is sent through the United States mail,
28 or is moved across a state or United States boundary, or is trans-
29 mitted by a communications facility that operates in interstate or
30 foreign commerce, in the commission of the offense.

31 **“§ 1523. Possessing an Eavesdropping Device**

32 “(a) OFFENSE.—A person is guilty of an offense if, with intent that
33 it be used in the course of conduct constituting an offense under section
34 1521 or 1522, he possesses an eavesdropping device.

35 “(b) DEFENSES.—It is a defense to a prosecution under this section
36 that the defendant was:

37 “(1) a communications common carrier, an agent of such a
38 carrier, or a person under contract with such a carrier, and was
39 in possession of the eavesdropping device for a purpose set forth
40 in section 1521 (b) (2) ; or

1 “(2) a person in possession of the eavesdropping device within
2 the scope of a federal, state, or local government contract.

3 “(c) GRADING.—An offense described in this section is a Class A
4 misdemeanor.

5 “(d) JURISDICTION.—There is federal jurisdiction over an offense
6 described in this section if a circumstance specified in section 1522
7 (d) (1) or (d) (2) exists or has occurred.

8 **“§ 1524. Intercepting Correspondence**

9 “(a) OFFENSE.—A person is guilty of an offense if he intentionally:

10 “(1) intercepts private correspondence without the prior con-
11 sent of the sender or the intended recipient; or

12 “(2) discloses to another person, or uses, the contents of private
13 correspondence, knowing that such contents were obtained by
14 conduct described in paragraph (1).

15 “(b) DEFENSE.—It is a defense to a prosecution under this section
16 that the private correspondence was being transmitted over the facili-
17 ties of a communications common carrier; and

18 “(1) the defendant was an agent of the carrier, acting in the
19 usual course of his employment, who was engaged in:

20 “(A) service observing for mechanical or service quality
21 control checks; or

22 “(B) any other activity necessarily incident to the ren-
23 dition of service by the carrier or relating to the discovery
24 of theft of the carrier's service; or

25 “(2) the defendant was acting in the usual course of his em-
26 ployment and was engaged in supervisory service observing.

27 “(c) GRADING.—An offense described in this section is a Class E
28 felony.

29 “(d) JURISDICTION.—There is federal jurisdiction over an offense
30 described in this section if:

31 “(1) the private correspondence is mail; or

32 “(2) the private correspondence is being transmitted over the
33 facilities of a communications common carrier.

34 **“§ 1525. Revealing Private Information Submitted for a Govern-
35 ment Purpose**

36 “(a) OFFENSE.—A person is guilty of an offense if, in violation of
37 a specific duty imposed upon him as a public servant or former public
38 servant by a statute, or by a regulation, rule, or order issued pursuant
39 thereto, he discloses information, to which he has or had access only
40 in his capacity as a public servant, that had been provided to the

1 government by another person, other than a public servant acting in
2 his official capacity, solely in order to comply with :

3 “(1) a requirement of an application for a patent, copyright,
4 license, employment, or benefit; or

5 “(2) a specific duty imposed by law upon such other person.

6 “(b) GRADING.—An offense described in this section is a Class A
7 misdemeanor.

8 “(c) JURISDICTION.—There is federal jurisdiction over an offense
9 described in this section if the public servant or former public servant
10 acquired the information as a federal public servant.

11 **“§ 1526. Definitions for Subchapter C**

12 “As used in this subchapter :

13 “(a) ‘communications common carrier’ has the meaning set
14 forth for the term ‘common carrier’ in section 3(h) of the Act of
15 June 19, 1934, as amended (47 U.S.C. 153(h)) ;

16 “(b) ‘contents’, when used with respect to a communication,
17 includes information, obtained from the communication itself,
18 that concerns the existence, substance, purport, or meaning of
19 the communication, or the identity of a party to the communi-
20 cation ;

21 “(c) ‘eavesdropping device’ means an electronic, mechanical, or
22 other device or apparatus that can be used to intercept a private
23 oral communication, other than a telephone or telegraph instru-
24 ment or facility or any associated component or equipment, fur-
25 nished to a subscriber or user by a communications common
26 carrier in the usual course of its business and being used in a man-
27 ner for which it was designed ;

28 “(d) ‘intercept’ means to acquire the contents of a communi-
29 cation in the course of its transmission to a party to the communi-
30 cation or before its receipt by the intended recipient, and includes
31 the acquisition of such contents by simultaneous transmission or
32 by recording ;

33 “(e) ‘private correspondence’ means a communication, other
34 than speech, sent by a person exhibiting an expectation, under
35 circumstances reasonably justifying the expectation, that such
36 communication is not subject to being intercepted, opened, or
37 read, other than by an agent of a communications common car-
38 rier acting in the usual course of the business of such carrier,
39 until received by the intended recipient, and includes telecom-

1 munications and mail other than a post card, postal card, news-
2 paper, magazine, circular, or advertising matter:

3 “(f) ‘private oral communication’ means speech uttered by a
4 person exhibiting an expectation, under circumstances reasonably
5 justifying the expectation, that such speech is not subject to
6 overhearing;

7 “(g) ‘record’ means to register sound by an electronic, mechan-
8 ical, or other device in a manner that will permit its reproduction.

9 **“Chapter 16.—OFFENSES INVOLVING THE PERSON**

 “Subchapter

 “A. Homicide Offenses.

 “B. Assault Offenses.

 “C. Kidnapping and Related Offenses.

 “D. Hijacking Offenses.

 “E. Sex Offenses.

10 **“Subchapter A.—Homicide Offenses**

 “Sec.

 “1601. Murder.

 “1602. Manslaughter.

 “1603. Negligent Homicide.

11 **“§ 1601. Murder**

12 “(a) OFFENSE.—A person is guilty of an offense if:

13 “(1) he engages in conduct by which he knowingly causes the
14 death of another person;

15 “(2) he engages in conduct by which he causes the death of
16 another person under circumstances in fact manifesting extreme
17 indifference to human life; or

18 “(3) in fact during the commission of an offense described in
19 section 1101 (Treason), 1102 (Armed Rebellion or Insurrection),
20 1111 (Sabotage), 1121 (Espionage), 1313 (Escape), 1601(a) (1)
21 or (a) (2) (Murder), 1611 (Maiming), 1621 (Kidnapping), 1622
22 (Aggravated Restraint), 1631 (Aircraft Hijacking), 1641 (Rape),
23 1701 (Arson), 1711 (Burglary), or 1721 (Robbery) that he com-
24 mits either alone or with one or more other participants, he or
25 another person engages in conduct that in fact causes the death
26 of a person other than one of the participants in such underlying
27 offense.

28 “(b) DEFENSE.—It is a defense to a prosecution under subsection
29 (a) (1) that the death was caused under circumstances, for which the
30 defendant was not responsible, that:

31 “(1) caused the defendant to lose his self-control; and

32 “(2) would be likely to cause an ordinary person to lose his
33 self-control to at least the same extent.

1 “(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a pros-
2 ecution under subsection (a) (3) that the death was not a reasonably
3 foreseeable consequence of:

4 “(1) the underlying offense; or

5 “(2) the particular circumstances under which the underlying
6 offense was committed.

7 “(d) GRADING.—An offense described in this section is a Class A
8 felony.

9 “(e) JURISDICTION.—There is a federal jurisdiction over an offense
10 described in this section if:

11 “(1) the offense is committed within the special jurisdiction of
12 the United States;

13 “(2) the offense is committed against:

14 “(A) a United States official;

15 “(B) a federal public servant who is engaged in the per-
16 formance of his official duties and who is a judge, a juror, a
17 law enforcement officer, an employee of an official detention
18 facility, an employee of the United States Probation Service,
19 or a person designated for coverage under this section in
20 regulations issued by the Attorney General;

21 “(C) a foreign dignitary, or a member of his immediate
22 family, who is in the United States;

23 “(D) a foreign official who is in the United States on of-
24 ficial business, or a member of his immediate family who is in
25 the United States in connection with the visit of such official;

26 or

27 “(E) an official guest of the United States; or

28 “(F) an internationally protected person;

29 “(3) the offense is committed by transmitting a dangerous
30 weapon through the United States mail; or

31 “(4) the offense occurs during the commission of an offense, over
32 which federal jurisdiction exists, that is described in section 1101
33 (Treason), 1102 (Armed Rebellion or Insurrection), 1111 (Sabotage),
34 1112 (Impairing Military Effectiveness), 1121 (Espionage),
35 1302 (Obstructing a Government Function by Physical Interfer-
36 ence), 1313 (Escape), 1323 (Tampering with a Witness or an In-
37 formant), 1324 (Retaliating against a Witness or an Informant),
38 1357 (Tampering with a Public Servant), 1358 (Retaliating
39 against a Public Servant), 1501 (Interfering with Civil Rights),
40 1502 (Interfering with Civil Rights under Color of Law), 1503

1 (Interfering with a Federal Benefit), 1504 (Unlawful Discrimination), 1505 (Interfering with Speech or Assembly Related to
2 Civil Rights Activities), 1621 (Kidnapping), 1622 (Aggravated
3 Criminal Restraint), 1631 (Aircraft Hijacking), 1701 (Arson),
4 1702 (Aggravated Property Destruction), 1711 (Burglary), 1712
5 (Criminal Entry), 1713 (Criminal Trespass), 1721 (Robbery),
6 1722 (Extortion), or 1804 (Loansharking).
7

8 **"§ 1602. Manslaughter**

9 "(a) OFFENSE.—A person is guilty of an offense if:

10 "(1) he engages in conduct by which he causes the death of an-
11 other person; or

12 "(2) he engages in conduct by which he knowingly causes the
13 death of another person under circumstances that would consti-
14 tute an offense under section 1601(a) (1) except for the existence
15 of circumstances in fact constituting a defense under section
16 1601(b).

17 "(b) GRADING.—An offense described in this section is a Class C
18 felony.

19 "(c) JURISDICTION.—There is federal jurisdiction over an offense
20 described in this section if a circumstance specified in section 1601 (e)
21 exists or has occurred.

22 **"§ 1603. Negligent Homicide**

23 "(a) OFFENSE.—A person is guilty of an offense if he engages in
24 conduct by which he negligently causes the death of another person.

25 "(b) GRADING.—An offense described in this section is a Class D
26 felony.

27 "(c) JURISDICTION.—There is federal jurisdiction over an offense
28 described in this section if a circumstance specified in section 1601
29 (e) exists or has occurred.

30 **"Subchapter B.—Assault Offenses**

"Sec.

"1611. Maiming.

"1612. Aggravated Battery.

"1613. Battery.

"1614. Menacing.

"1615. Terrorizing.

"1616. Communicating a Threat.

"1617. Reckless Endangerment.

"1618. General Provisions for Subchapter B.

31 **"§ 1611. Maiming**

32 "(a) OFFENSE.—A person is guilty of an offense if, by physical
33 force, he intentionally causes serious bodily injury, that is permanent
34 or likely to be permanent, to another person.

1 “(b) GRADING.—An offense described in this section is a Class C
2 felony.

3 “(c) JURISDICTION.—There is federal jurisdiction over an offense
4 described in this section if:

5 “(1) the offense is committed within the special jurisdiction of
6 the United States;

7 “(2) the offense is committed against:

8 “(A) a United States official;

9 “(B) a federal public servant who is engaged in the per-
10 formance of his official duties and who is a judge, a juror, a
11 law enforcement officer, an employee of an official detention
12 facility, an employee of the United States Probation Service,
13 or a person designated for coverage under this section in
14 regulations issued by the Attorney General;

15 “(C) a foreign dignitary, or a member of his immediate
16 family, who is in the United States;

17 “(D) a foreign official who is in the United States on offi-
18 cial business, or a member of his immediate family who is in
19 the United States in connection with the visit of such official;

20 or

21 “(E) an official guest of the United States; or

22 “(F) an internationally protected person;

23 “(3) the offense is committed by transmitting through the
24 United States mail a dangerous weapon; or

25 “(4) the offense occurs during the commission of an offense,
26 over which federal jurisdiction exists, that is described in section
27 1101 (Treason), 1102 (Armed Rebellion or Insurrection), 1111
28 (Sabotage), 1112 (Impairing Military Effectiveness), 1121 (Es-
29 pionage), 1302 (Obstructing a Government Function by Physical
30 Interference), 1313 (Escape), 1323 (Tampering with a Witness
31 or an Informant), 1324 (Retaliating against a Witness or an
32 Informant), 1357 (Tampering with a Public Servant), 1358 (Re-
33 taliating against a Public Servant), 1501 (Interfering with Civil
34 Rights), 1502 (Interfering with Civil Rights under Color of
35 Law), 1503 (Interfering with a Federal Benefit), 1504 (Unlawful
36 Discrimination), 1505 (Interfering with Speech or Assembly
37 Related to Civil Rights Activities), 1621 (Kidnapping), 1622
38 (Aggravated Criminal Restraint), 1631 (Aircraft Hijacking),
39 1701 (Arson), 1702 (Aggravated Property Destruction), 1711
40 (Burglary), 1712 (Criminal Entry), 1713 (Criminal Trespass),
41 1721 (Robbery), 1722 (Extortion), or 1804 (Loansharking).

1 **“§ 1612. Aggravated Battery**

2 “(a) OFFENSE.—A person is guilty of an offense if, by physical force,
3 he causes serious bodily injury to another person.

4 “(b) GRADING.—An offense described in this section is a Class D
5 felony.

6 “(c) JURISDICTION.—There is federal jurisdiction over an offense
7 described in this section if a circumstance specified in section 1611(c)
8 exists or has occurred.

9 **“§ 1613. Battery**

10 “(a) OFFENSE.—A person is guilty of an offense if, by physical force,
11 he causes bodily injury to another person.

12 “(b) GRADING.—An offense described in this section is:

13 “(1) a Class A misdemeanor unless it is committed in the course
14 of an unarmed fight or affray that was entered into mutually;

15 “(2) a Class C misdemeanor in any other case.

16 “(c) JURISDICTION.—There is federal jurisdiction over an offense
17 described in this section if a circumstance specified in section 1611
18 (c) (1), (c) (2), or (c) (3) exists or has occurred.

19 **“§1614. Menacing**

20 “(a) OFFENSE.—A person is guilty of an offense if he engages in
21 physical conduct by which he intentionally places another person in
22 fear of imminent bodily injury.

23 “(b) GRADING.—An offense described in this section is a Class A
24 misdemeanor.

25 “(c) JURISDICTION.—There is federal jurisdiction over an offense
26 described in this section if a circumstance specified in section 1611(c)
27 (1) or (c) (2) existed or has occurred.

28 **“§ 1615. Terrorizing**

29 “(a) OFFENSE.—A person is guilty of an offense if he communicates:

30 “(1) a threat to commit, or to continue to commit, a crime of
31 violence or unlawful conduct dangerous to human life; or

32 “(2) information, that he knows to be false, that the commis-
33 sion of a crime of violence is imminent or in progress or that a cir-
34 cumstance dangerous to human life exists or is about to exist;
35 and thereby causes any person to be in sustained fear for his or another
36 person's safety; causes evacuation of a building, a public structure, or
37 a facility of transportation; or causes other serious disruption to the
38 public.

1 “(b) GRADING.—An offense described in this section is:

2 “(1) a Class D felony in the circumstances set forth in sub-
3 section (a) (1) if it causes any person to be in sustained fear that
4 he or another will be killed, maimed, kidnaped, or raped:

5 “(2) a Class E felony in any other case.

6 “(c) JURISDICTION.—There is federal jurisdiction over an offense
7 described in this section if:

8 “(1) a circumstance specified in section 1611(c) exists or has
9 occurred;

10 “(2) the United States mail is used in the commission of the
11 offense;

12 “(3) the threat or information is transmitted in interstate or
13 foreign commerce;

14 “(4) the threat or information concerns property that is owned
15 by, or is under the care, custody, or control of, a public facility
16 that operates in interstate or foreign commerce; or

17 “(5) the threat or information concerns property that is owned
18 by, or is under the care, custody, or control of, the United States.

19 **“§1616. Communicating a Threat**

20 “(a) OFFENSE.—A person is guilty of an offense if, with intent
21 to alarm or harass another person, he communicates:

22 “(1) a threat to commit or to continue to commit a crime of
23 violence, or unlawful conduct dangerous to human life; or

24 “(2) information, that he knows to be false, that the commis-
25 sion of a crime is imminent or in progress or that a circumstance
26 dangerous to human life exists or is about to exist.

27 “(b) GRADING.—An offense described in this section is:

28 “(1) a Class A misdemeanor if the threat or information con-
29 cerns a crime, conduct, or circumstance dangerous to human life;

30 “(2) a Class B misdemeanor in any other case.

31 “(c) JURISDICTION.—There is federal jurisdiction over an offense
32 described in this section if:

33 “(1) a circumstance specified in section 1615 (c) (2), (c) (3),
34 (c) (4), or (c) (5) exists or has occurred; or

35 “(2) the offense is committed within the special jurisdiction of
36 the United States.

37 **“§ 1617. Reckless Endangerment**

38 “(a) OFFENSE.—A person is guilty of an offense if he engages in
39 conduct by which he places or may place another person in danger of
40 death or serious bodily injury.

1 “(b) GRADING.—An offense described in this section is:

2 “(1) a Class D felony if the circumstances manifest extreme
3 indifference to human life;

4 “(2) a Class E felony in any other case.

5 “(c) JURISDICTION.—There is federal jurisdiction over an offense
6 described in this section if:

7 “(1) the offense is committed within the special jurisdiction of
8 the United States; or

9 “(2) the offense occurs during the commission of any other
10 offense over which federal jurisdiction exists.

11 **“§ 1618. General Provisions for Subchapter B**

12 “(a) DEFINITION.—As used in this subchapter, ‘public structure’
13 means a structure, whether or not enclosed, where persons assemble
14 for purposes of government, an occupation or a business or a profes-
15 sion, education, religion, or entertainment.

16 “(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prose-
17 cution under:

18 “(1) section 1613 or 1614 that the conduct charged was consented
19 to by the person injured or placed in fear; and

20 “(2) section 1611, 1612, or 1617 that the conduct charged was
21 consented to by the person injured or endangered and that the
22 injury and conduct charged were:

23 “(A) reasonably foreseeable hazards of joint participation
24 by the actor and such other person in a lawful athletic con-
25 test or competitive sport; or

26 “(B) reasonably foreseeable hazards of:

27 “(i) an occupation, a business, or a profession; or

28 “(ii) medical treatment or medical or scientific experi-
29 mentation conducted by professionally approved methods
30 and such other person had been made aware of the risks
31 involved prior to giving consent.

32 **“Subchapter C.—Kidnapping and Related Offenses**

“Sec.

“1621. Kidnapping.

“1622. Aggravated Criminal Restraint.

“1623. Criminal Restraint.

“1624. General Provisions for Subchapter C.

33 **“§ 1621. Kidnapping**

34 “(a) OFFENSE.—A person is guilty of an offense if he restrains
35 another person with intent to:

36 “(1) hold him for ransom or reward;

37 “(2) use him as a shield or hostage;

1 “(3) commit a felony; or

2 “(4) interfere with the performance of a government function.

3 “(b) GRADING.—An offense described in this section is:

4 “(1) a Class A felony if the actor does not voluntarily release
5 the victim alive and in a safe place prior to trial;

6 “(2) a Class C felony in any other case.

7 “(c) JURISDICTION.—There is federal jurisdiction over an offense
8 described in this section if:

9 “(1) the offense is committed within the special jurisdiction of
10 the United States;

11 “(2) the offense is committed against:

12 “(A) a United States official;

13 “(B) a federal public servant who is engaged in the per-
14 formance of his official duties and who is a judge, a juror, a
15 law enforcement officer, an employee of an official detention
16 facility, an employee of the United States Probation Service,
17 or a person designated for coverage under this section in
18 regulations issued by the Attorney General;

19 “(C) a foreign dignitary or a member of his immediate
20 family, who is in the United States;

21 “(D) a foreign official who is in the United States on offi-
22 cial business, or a member of his immediate family who is in
23 the United States in connection with the visit of such offi-
24 cial; or

25 “(E) an official guest of the United States; or

26 “(F) an internationally protected person;

27 “(3) movement of the victim across a state or United States
28 boundary occurs in the commission of the offense; or

29 “(4) the offense occurs during the commission of an offense,
30 over which federal jurisdiction exists, that is described in section
31 1101 (Treason), 1102 (Armed Rebellion or Insurrection), 1111
32 Sabotage), 1121 (Espionage), 1203 (Entering or Recruiting for a
33 Foreign Armed Force), 1213 (Hindering Discovery of an Alien
34 Unlawfully in the United States), 1302 (Obstructing a Govern-
35 ment Function by Physical Interference), 1313 (Escape), 1323
36 (Tampering with a Witness or an Informant), 1324 (Retaliating
37 against a Witness or an Informant), 1357 (Tampering with a
38 Public Servant), 1358 (Retaliating against a Public Servant).
39 1501 (Interfering with Civil Rights), 1502 (Interfering with
40 Civil Rights under Color of Law), 1503 (Interfering with a Fed-

1 eral Benefit), 1504 (Unlawful Discrimination), 1505 (Interfering
2 with Speech or Assembly Related to Civil Rights Activities), 1701
3 (Arson), 1702 (Aggravated Property Destruction), 1711 (Bur-
4 glary), 1712 (Criminal Entry), 1713 (Criminal Trespass), 1721
5 (Robbery), 1722 (Extortion), or 1804 (Loansharking).

6 **“§ 1622. Aggravated Criminal Restraint**

7 “(a) OFFENSE.—A person is guilty of an offense if he restrains an-
8 other person:

9 “(1) under circumstances that in fact expose him to a risk of
10 serious bodily injury;

11 “(2) by secreting and holding him in a place where he is not
12 likely to be found;

13 “(3) by endangering or threatening to endanger the safety
14 of any person; or

15 “(4) by holding him in a condition of involuntary servitude,
16 slavery, or peonage.

17 “(b) GRADING.—An offense described in this section is a Class D
18 felony.

19 “(c) JURISDICTION.—There is federal jurisdiction over an offense
20 described in:

21 “(1) subsection (a) (1), (a) (2), or (a) (3), if a circumstance
22 specified in section 1621(c) exists or has occurred;

23 “(2) subsection (a) (4), if the offense is committed within the
24 general jurisdiction of the United States or within the special
25 jurisdiction of the United States.

26 **“§ 1623. Criminal Restraint**

27 “(a) OFFENSE.—A person is guilty of an offense if he restrains an-
28 other person.

29 “(b) GRADING.—An offense described in this section is a Class A
30 misdemeanor.

31 “(c) JURISDICTION.—There is federal jurisdiction over an offense
32 described in this section if a circumstance specified in section 1621(c)
33 (1), (c) (2), or (c) (3) exists or has occurred.

34 **“§ 1624. General Provisions for Subchapter C**

35 “(a) DEFINITIONS.—As used in this subchapter:

36 “(1) ‘consent’ does not include assent given by the victim
37 if in fact he is less than fourteen years old or is incompetent and
38 if his parent, guardian, or other person responsible for his wel-
39 fare, has not acquiesced in the movement or confinement;

1 “(2) ‘restrain’ means to restrict the movement of a person un-
2 lawfully and without consent, so as to interfere with his liberty,
3 by:

4 “(A) removing him from his place of residence or busi-
5 ness; or

6 “(B) confining him in any place or moving him from one
7 place to another, unless such confinement or movement is
8 trivial.

9 “(b) **AFFIRMATIVE DEFENSE.**—It is an affirmative defense to a
10 prosecution under sections 1621 through 1623 that the actor is a
11 parent or guardian of the person restrained and that the person re-
12 strained is less than eighteen years old.

13 **“Subchapter D.—Hijacking Offenses**

“Sec.

“1631. Aircraft Hijacking.

“1632. Commandeering a Vessel.

14 **“§ 1631. Aircraft Hijacking**

15 “(a) **OFFENSE.**—A person is guilty of an offense if he seizes or
16 exercises control over an aircraft by force, threat, intimidation, or
17 deception.

18 “(b) **GRADING.**—An offense described in this section is a Class B
19 felony.

20 “(c) **JURISDICTION.**—There is federal jurisdiction over an offense
21 described in this section if:

22 “(1) the offense is committed within the special aircraft juris-
23 diction of the United States; or

24 “(2) the offense is committed, by means other than deception,
25 outside the special aircraft jurisdiction of the United States, and:

26 “(A) the offense is committed aboard an aircraft ‘in flight’,
27 as defined in section 203(c);

28 “(B) the place of take-off or the place of landing of the
29 aircraft is situated outside the territory of the nation in which
30 the aircraft is registered; and

31 “(C) the actor is afterwards found in the United States.

32 **“§ 1632. Commandeering a Vessel**

33 “(a) **OFFENSE.**—A person is guilty of an offense if he seizes or exer-
34 cises control over a vessel by force, threat, intimidation, or deception.

35 “(b) **GRADING.**—An offense described in this section is:

36 “(1) a Class D felony if the defendant is a member of the crew
37 of the vessel or the offense is committed on the high seas;

1 “(2) a Class E felony in any other case.

2 “(c) JURISDICTION.—There is federal jurisdiction over an offense
3 described in this section if the offense is committed within the special
4 maritime jurisdiction of the United States.

5 **“Subchapter E.—Sex Offenses**

“Sec.

“1641. Rape.

“1642. Sexual Assault.

“1643. Sexual Abuse of a Minor.

“1644. Sexual Abuse of a Ward.

“1645. Unlawful Sexual Contact.

“1646. General Provisions for Subchapter E.

6 **“§ 1641. Rape**

7 “(a) OFFENSE.—A person is guilty of an offense if he engages in a
8 sexual act with another person who is not his spouse, and:

9 “(1) compels the other person to participate in such act:

10 “(A) by force; or

11 “(B) by threatening or placing the other person in fear
12 that any person will imminently be subjected to death, seri-
13 ous bodily injury, or kidnapping;

14 “(2) has substantially impaired the ability of the other person
15 to appraise or control conduct by administering or employing a
16 drug or intoxicant, or by other means, without the knowledge or
17 against the will of such other person; or

18 “(3) the other person is, in fact, less than twelve years old.

19 “(b) GRADING.—An offense described in this section is a Class C
20 felony.

21 “(c) JURISDICTION.—There is federal jurisdiction over an offense de-
22 scribed in this section if:

23 “(1) the offense is committed within the special jurisdiction of
24 the United States; or

25 “(2) the offense occurs during the commission of an offense, over
26 which federal jurisdiction exists, that is described in section 1323
27 (Tampering with a Witness or an Informant), 1324 (Retaliating
28 against a Witness or an Informant), 1357 (Tampering with a
29 Public Servant), 1358 (Retaliating against a Public Servant),
30 1501 (Interfering with Civil Rights), 1502 (Interfering with
31 Civil Rights under Color of Law), 1601 (Murder), 1602 (Man-
32 slaughter), 1611 (Maiming), 1612 (Aggravated Battery), 1613
33 (Battery), 1621 (Kidnapping), 1622 (Aggravated Criminal Re-
34 straint), 1623 (Criminal Restraint), 1631 (Aircraft Hijacking),
35 1644 (Sexual Abuse of a Ward), 1711 (Burglary), 1712 (Criminal

1 Entry), 1713 (Criminal Trespass), 1721 (Robbery), 1722 (Extor-
2 tion), or 1843 (Conducting a Prostitution Business).

3 **“§ 1642. Sexual Assault**

4 “(a) OFFENSE.—A person is guilty of an offense if he engages in a
5 sexual act with another person who is not his spouse, and:

6 “(1) knows that the other person is incapable of understanding
7 the nature of the conduct;

8 “(2) knows that the other person is physically incapable of
9 resisting, or of declining consent to, the sexual act;

10 “(3) knows that the other person is unaware that a sexual act
11 is being committed;

12 “(4) knows that the other person participates because of a mis-
13 taken belief that the actor is married to the other person; or

14 “(5) compels the other person to participate by any threat or
15 by placing the other person in fear.

16 “(b) GRADING.—An offense described in this section is a Class D
17 felony.

18 “(c) JURISDICTION.—There is federal jurisdiction over an offense
19 described in this section if the offense is committed:

20 “(1) within the special jurisdiction of the United States;

21 “(2) in the circumstances set forth in subsection (a) (1), (a)
22 (2), or (a) (3), and occurs during the commission of an offense,
23 over which federal jurisdiction exists, that is described in section
24 1621 (Kidnapping), 1622 (Aggravated Criminal Restraint), 1623
25 (Criminal Restraint), 1644 (Sexual Abuse of a Ward), 1711
26 (Burglary), 1712 (Criminal Entry), 1713 (Criminal Trespass),
27 or 1843 (Conducting a Prostitution Business); or

28 “(3) in the circumstances set forth in subsection (a) (5), and a
29 circumstance specified in section 1641 (c) (2) exists or has occurred.

30 **“§ 1643. Sexual Abuse of a Minor**

31 “(a) OFFENSE.—A person is guilty of an offense if he engages in a
32 sexual act with another person who is not his spouse, who in fact is
33 less than sixteen years old, and who in fact is at least five years
34 younger than the actor.

35 “(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prose-
36 cution under this section that the actor reasonably believed the other
37 person to be sixteen years old or older.

38 “(c) GRADING.—An offense described in this section is:

39 “(1) a Class E felony if the actor is twenty-one years old or
40 older;

41 “(2) a Class A misdemeanor in any other case.

1 “(d) JURISDICTION.—There is federal jurisdiction over an offense
2 described in this section if:

3 “(1) the offense is committed within the special jurisdiction
4 of the United States; or

5 “(2) the offense occurs during the commission of an offense
6 over which federal jurisdiction exists, that is described in section
7 1621 (Kidnapping), 1622 (Aggravated Criminal Restraint), 1623
8 (Criminal Restraint), 1644 (Sexual Abuse of a Ward), 1711
9 (Burglary), 1712 (Criminal Entry), 1713 (Criminal Trespass),
10 or 1843 (Conducting a Prostitution Business).

11 **“§ 1644. Sexual Abuse of a Ward**

12 “(a) OFFENSE.—A person is guilty of an offense if he engages in a
13 sexual act with another person who is not his spouse, who is in official
14 detention, and who is under the custodial, supervisory, or disciplinary
15 authority of the actor.

16 “(b) GRADING.—An offense described in this section is a Class A
17 misdemeanor.

18 “(c) JURISDICTION.—There is federal jurisdiction over an offense
19 described in this section if:

20 “(1) the offense is committed within the special jurisdiction
21 of the United States;

22 “(2) the official detention is under the laws of the United
23 States;

24 “(3) the official detention is in a federal facility; or

25 “(4) the actor is a federal public servant.

26 **“§ 1645. Unlawful Sexual Contact**

27 “(a) OFFENSE.—A person is guilty of an offense if he engages in
28 sexual contact with another person who is not his spouse, or causes
29 such other person to engage in sexual contact with him, under circum-
30 stances that would constitute an offense under section 1641, 1642, 1643,
31 or 1644 if such contact involved a sexual act.

32 “(b) GRADING.—An offense described in this section is of a class
33 two grades below that of the corresponding offense in section 1641,
34 1642, 1643, or 1644.

35 “(c) JURISDICTION.—There is federal jurisdiction over an offense
36 described in this section if there would be federal jurisdiction over
37 the corresponding offense described in section 1641, 1642, 1643, or 1644.

38 **“§ 1646. General Provisions for Subchapter E**

39 “(a) DEFINITIONS.—As used in this subchapter:

40 “(1) ‘sexual act’ means conduct between human beings consist-
41 ing of contact between the penis and the vulva, the penis and the

1 anus, the mouth and the penis, or the mouth and the vulva; for
2 purposes of this paragraph, contact involving the penis occurs
3 upon penetration, however slight;

4 “(2) ‘sexual contact’ means a touching of the sexual or other
5 intimate parts of a person to arouse or gratify the sexual desire
6 of any person;

7 “(3) ‘spouse’ means a person with whom the actor is living as
8 husband and wife, regardless of the legal status of their relation-
9 ship, and does not include a husband or wife living apart under
10 a judicial decree of separation.

11 “(b) PROOF.—In a prosecution under section 1641 through 1645:

12 “(1) corroboration of the victim’s testimony is not required;
13 and

14 “(2) except as otherwise required by the Constitution, evidence
15 relating to the victim’s prior or subsequent sexual behavior is not
16 admissible.

17 **“Chapter 17.—OFFENSES INVOLVING PROPERTY**

“Subchapter

“A. Arson and Other Property Destruction Offenses.

“B. Burglary and Other Criminal Intrusion Offenses.

“C. Robbery, Extortion, and Blackmail.

“D. Theft and Related Offenses.

“E. Counterfeiting, Forgery, and Related Offenses.

“F. Commercial Bribery and Related Offenses.

“G. Investment, Monetary, and Antitrust Offenses.

18 **“Subchapter A.—Arson and Other Property Destruction**
19 **Offenses**

“Sec.

“1701. Arson.

“1702. Aggravated Property Destruction.

“1703. Property Destruction.

“1704. General Provisions for Subchapter A.

20 **“§ 1701. Arson**

21 “(a) OFFENSE.—A person is guilty of an offense if, by fire or explo-
22 sion, he:

23 “(1) damages a public facility; or

24 “(2) damages substantially a building or a public structure.

25 “(b) GRADING.—An offense described in this section is a Class C
26 felony.

27 “(c) JURISDICTION.—There is federal jurisdiction over an offense
28 described in this section if:

29 “(1) the offense is committed within the special jurisdiction of
30 the United States;

31 “(2) the property that is the subject of the offense is owned by,
32 or is under the care, custody, or control of, the United States; is

1 being produced, manufactured, constructed, or stored for the
2 United States; or is subject to a security interest held by the
3 United States;

4 “(3) the property that is the subject of the offense is located
5 within the United States and is owned by, or is under the care,
6 custody, or control of:

7 “(A) a foreign power;

8 “(B) a foreign dignitary, or a member of his immediate
9 family, who is in the United States;

10 “(C) a foreign official who is in the United States on
11 official business, or a member of his immediate family who
12 is in the United States in connection with the visit of such
13 official; or

14 “(D) an official guest of the United States; or

15 “(E) an internationally protected person;

16 “(4) the property that is the subject of the offense is moving in
17 interstate or foreign commerce, or constitutes or is a part of an
18 interstate or foreign shipment;

19 “(5) the property that is the subject of the offense is used in
20 an activity affecting interstate or foreign commerce, and is dam-
21 aged by a destructive device;

22 “(6) the property that is the subject of the offense is owned by,
23 or is under the care, custody, or control of, an organization receiv-
24 ing financial assistance from the United States, and is damaged
25 by a destructive device;

26 “(7) the property that is the subject of the offense is owned
27 by, or is under the care, custody, or control of, a public facility
28 that operates in interstate or foreign commerce;

29 “(8) the United States mail or a facility of interstate or for-
30 eign commerce is used in the planning, promotion, management,
31 execution, consummation, or concealment of the offense, or in the
32 distribution of the proceeds of the offense;

33 “(9) movement of a person across a state or United States
34 boundary occurs in the planning, promotion, management, execu-
35 tion, consummation, or concealment of the offense, or in the dis-
36 tribution of the proceeds of the offense; or

37 “(10) the offense occurs during the commission of an offense,
38 over which federal jurisdiction exists, that is described in section
39 1302 (Obstructing a Government Function by Physical Interfer-
40 ence), 1313 (Escape), 1323 (Tampering with a Witness or an In-

1 formant), 1324 (Retaliating against a Witness or an Informant),
 2 1357 (Tampering with a Public Servant), 1358 (Retaliating
 3 against a Public Servant), 1501 (Interfering with Civil Rights),
 4 1502 (Interfering with Civil Rights under Color of Law), 1503
 5 (Interfering with a Federal Benefit), 1504 (Unlawful Discrimi-
 6 nation), 1505 (Interfering with Speech or Assembly Related to
 7 Civil Rights Activities); 1722 (Extortion); or 1804 (Loan-
 8 sharking).

9 **“§ 1702. Aggravated Property Destruction**

10 “(a) OFFENSE.—A person is guilty of an offense if he:

11 “(1) damages a public facility;

12 “(2) damages property and thereby causes a significant inter-
 13 ruption or impairment of a function of a public facility; or

14 “(3) damages property in an amount that in fact exceeds \$500.

15 “(b) GRADING.—An offense described in this section is:

16 “(1) a Class D felony:

17 “(A) in the circumstances set forth in subsection (a) (1)
 18 or (a) (2); or

19 “(B) in the circumstances set forth in subsection (a) (3)
 20 if the damage exceeds \$100,000;

21 “(2) a Class E felony in any other case.

22 “(c) JURISDICTION.—There is federal jurisdiction over an offense
 23 described in this section if:

24 “(1) a circumstance specified in section 1701(c) exists or has
 25 occurred; or

26 “(2) the property is mail.

27 **“§ 1703. Property Destruction**

28 “(a) OFFENSE.—A person is guilty of an offense if he damages
 29 property.

30 “(b) GRADING.—An offense described in this section is:

31 “(1) a Class A misdemeanor if:

32 “(A) the damage exceeds \$100; or

33 “(B) the property is mail other than a newspaper, maga-
 34 zine, advertising matter, or circular;

35 “(2) a Class B misdemeanor in any other case.

36 “(c) JURISDICTION.—There is federal jurisdiction over an offense
 37 described in this section if:

38 “(1) a circumstance specified in section 1701(c) (1) through
 39 (c) (9) exists or has occurred; or

40 “(2) the property is mail.

1 **“§ 1704. General Provisions for Subchapter A**

2 “(a) **DEFINITION.**—As used in this subchapter, ‘public structure’
3 means a structure, whether or not enclosed, where persons assemble
4 for purposes of government, an occupation or a business or a pro-
5 fession, education, religion, or entertainment.

6 “(b) **AFFIRMATIVE DEFENSE.**—It is an affirmative defense to a prose-
7 cution under section 1701, 1702, or 1703 that the actor believed that
8 his conduct was consented to by all holders of a legal interest in all
9 property damaged and that he was not reckless in so believing.

10 “(c) **PROOF.**—In a prosecution under section 1701, 1702, or 1703,
11 in establishing that property constitutes or is part of an interstate or
12 foreign shipment within the meaning of section 1701(c) (4), proof
13 of the designation in a way bill or other shipping document of the
14 places from which and to which a shipment was made creates a
15 presumption that the property was shipped or was being shipped as
16 indicated by such document.

17 **“Subchapter B.—Burglary and Other Criminal Intrusion**
18 **Offenses**

“Sec.

“1711. Burglary.

“1712. Criminal Entry.

“1713. Criminal Trespass.

“1714. Stowing Away.

“1715. Possessing Burglar's Tools.

“1716. Definitions for Subchapter B.

19 **“§ 1711. Burglary**

20 “(a) **OFFENSE.**—A person is guilty of an offense if at night, with
21 intent to engage in conduct constituting a crime other than a crime
22 set forth in this subchapter, and without privilege, he enters or remains
23 surreptitiously within, a dwelling that is the property of another.

24 “(b) **GRADING.**—An offense described in this section is a Class C
25 felony.

26 “(c) **JURISDICTION.**—There is federal jurisdiction over an offense
27 described in this section if:

28 “(1) the offense is committed within the special jurisdiction
29 of the United States;

30 “(2) the dwelling is owned by, or is under the care, custody,
31 or control of, the United States; or

32 “(3) the dwelling is located within the United States and is
33 owned by, or is under the care, custody, or control of:

34 “(A) a foreign power;

35 “(B) a foreign dignitary who is in the United States; or

36 “(C) an official guest of the United States.

1 **“§ 1712. Criminal Entry**

2 “(a) **OFFENSE.**—A person is guilty of an offense if, with intent to
3 engage in conduct constituting a crime other than a crime set forth
4 in this subchapter, and without privilege, he enters or remains sur-
5 repetitiously within, a building or vehicle that is the property of
6 another.

7 “(b) **GRADING.**—An offense described in this section is a Class D
8 felony.

9 “(c) **JURISDICTION.**—There is federal jurisdiction over an offense
10 described in this section if:

11 “(1) the offense is committed within the special jurisdiction
12 of the United States;

13 “(2) the building or vehicle is owned by, or is under the care,
14 custody, or control of, the United States;

15 “(3) the building contains a United States post office or postal
16 facility, and, if the actor’s entering or remaining was in a part
17 of the building other than that in which the post office was located,
18 the conduct intended would have affected the post office itself or
19 something therein;

20 “(4) the building contains a national credit institution, and,
21 if the actor’s entering or remaining was in a part of the build-
22 ing other than that in which the credit institution was located,
23 the conduct intended would have affected the credit institution
24 itself or something therein;

25 “(5) the vehicle contains mail, or property that is moving in
26 interstate or foreign commerce, or property that constitutes or
27 is a part of an interstate or foreign shipment; or

28 “(6) the building or vehicle is located within the United States
29 and is owned by, or is under the care, custody, or control of:

30 “(A) a foreign power;

31 “(B) a foreign dignitary who is in the United States; or

32 “(C) an official guest of the United States.

33 **“§ 1713. Criminal Trespass**

34 “(a) **OFFENSE.**—A person is guilty of an offense if, knowing that
35 he is not privileged to do so, he enters, or remains within or on,
36 premises that are the property of another.

37 “(b) **AFFIRMATIVE DEFENSE.**—It is an affirmative defense to a prose-
38 cution under this section that the actor’s conduct was consented to by
39 a holder of a possessory interest in the premises.

1 “(c) GRADING.—An offense described in this section is:

2 “(1) a Class A misdemeanor if the premises are highly secured
3 government premises, or consist of a dwelling;

4 “(2) a Class B misdemeanor if the premises are so enclosed or
5 secured as manifestly to exclude intruders, or consist of a building
6 other than a dwelling;

7 “(3) a Class C misdemeanor if the premises consist of a place as
8 to which notice prohibiting trespass is:

9 “(A) communicated to the actor by a person in charge of
10 the premises or by another authorized person; or

11 “(B) posted in a manner reasonably likely to come to the
12 attention of intruders;

13 “(4) an infraction in any other case.

14 “(d) JURISDICTION.—There is federal jurisdiction over an offense
15 described in this section if:

16 “(1) the offense is committed within the special jurisdiction of
17 the United States;

18 “(2) the premises are owned by, or are under the care, custody,
19 or control of, the United States;

20 “(3) the premises are located within the United States and are
21 owned by, or are under the care, custody, or control of:

22 “(A) a foreign power;

23 “(B) a foreign dignitary who is in the United States; or

24 “(C) an official guest of the United States;

25 “(4) the premises consist of a vehicle that contains mail, or
26 property that is moving in interstate or foreign commerce, or
27 property that constitutes or is a part of an interstate or foreign
28 shipment; or

29 “(5) the premises consist of public domain land, National Park
30 System land, or National Wildlife Refuge System land, that has
31 been closed to the public pursuant to a regulation issued by the
32 Secretary of the Interior, or consist of national forest land that
33 has been closed to the public pursuant to a regulation issued by
34 the Secretary of Agriculture.

35 **“§ 1714. Stowing Away**

36 “(a) OFFENSE.—A person is guilty of an offense if, with intent to
37 obtain transportation, he secretes himself aboard a vessel or aircraft
38 that is the property of another and he is aboard the vessel or aircraft
39 when it leaves the point of embarkation.

1 “(b) GRADING.—An offense described in this section is a Class A
2 misdemeanor.

3 “(c) JURISDICTION.—There is federal jurisdiction over an offense
4 described in this section if:

5 “(1) the offense is committed within the special jurisdiction of
6 the United States; or

7 “(2) movement of the actor across a state or United States
8 boundary occurs in the commission of the offense.

9 **“§ 1715. Possessing Burglar’s Tools**

10 “(a) OFFENSE.—A person is guilty of an offense if, with intent that
11 it be used in the course of conduct constituting an offense under section
12 1711, 1712, 1713, or 1714, he possesses an object that is designed for, or
13 commonly used for, the facilitation of a forcible entry in the course of
14 such an offense.

15 “(b) GRADING.—An offense described in this section is a Class A
16 misdemeanor.

17 “(c) JURISDICTION.—There is federal jurisdiction over an offense
18 described in this section if the offense is committed within the special
19 jurisdiction of the United States.

20 **“§ 1716. Definitions for Subchapter B**

21 “As used in this subchapter:

22 “(a) ‘highly secured’ premises means continuously guarded
23 premises where display of visible identification is required of per-
24 sons while they are on the premises;

25 “(b) ‘night’ means the period between thirty minutes after
26 sunset and thirty minutes before sunrise;

27 “(c) ‘premises’ includes a building, a structure, other real prop-
28 erty, and a vehicle.

29 **“Subchapter C.—Robbery, Extortion, and Blackmail**

“Sec.

“1721. Robbery.

“1722. Extortion.

“1723. Blackmail.

“1724. General Provisions for Subchapter C.

30 **“§ 1721. Robbery**

31 “(a) OFFENSE.—A person is guilty of an offense if he takes property
32 of another from the person or presence of another by force and vio-
33 lence, or by threatening or placing another person in fear that any
34 person will imminently be subjected to bodily injury.

35 “(b) GRADING.—An offense described in this section is a Class C
36 felony.

1 “(c) JURISDICTION.—There is federal jurisdiction over an offense de-
2 scribed in this section if:

3 “(1) the offense is committed within the special jurisdiction
4 of the United States;

5 “(2) the property is owned by, or is under the care, custody, or
6 control of, the United States; is being produced, manufactured,
7 constructed, or stored for the United States; or is subject to a
8 security interest held by the United States;

9 “(3) the property is owned by, or is under the care, custody,
10 or control of, a national credit institution;

11 “(4) the property is mail;

12 “(5) the offense in any way or degree affects, delays, or ob-
13 structs interstate or foreign commerce or the movement of an
14 article or commodity in interstate or foreign commerce;

15 “(6) the property is moving in interstate or foreign commerce,
16 constitutes or is a part of an interstate or foreign shipment, or is
17 in a pipeline system that extends across a state or United States
18 boundary or in a storage facility of such a system;

19 “(7) movement of a person across a state or United States
20 boundary occurs in the planning, promotion, management, execu-
21 tion, consummation, or concealment of the offense, or in the dis-
22 tribution of the proceeds of the offense; or

23 “(8) the offense is committed against:

24 “(A) a foreign dignitary, or a member of his immediate
25 family, who is in the United States;

26 “(B) a foreign official who is in the United States on offi-
27 cial business, or a member of his immediate family who is in
28 the United States in connection with the visit of such official;

29 or

30 “(C) an official guest of the United States.

31 **“§ 1722. Extortion**

32 “(a) OFFENSE.—A person is guilty of an offense if he obtains prop-
33 erty of another:

34 “(1) by threatening or placing another person in fear that any
35 person will be subjected to bodily injury or kidnapping or that
36 any property will be damaged; or

37 “(2) under color of official right.

38 “(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a pros-
39 ecution under subsection (a)(1) that the threatened or feared in-

1 jury or damage was minor and was incidental to peaceful picketing or
2 other concerted activity in the course of a bona fide labor dispute.

3 “(c) GRADING.—An offense described in this section is:

4 “(1) a Class C felony in the circumstances set forth in subsection
5 (a) (1);

6 “(2) a Class E felony in the circumstances set forth in subsection
7 (a) (2).

8 “(d) JURISDICTION.—There is federal jurisdiction over an offense
9 described in this section if:

10 “(1) a circumstance specified in section 1721(c) exists or has
11 occurred;

12 “(2) the United States mail or a facility of interstate or for-
13 eign commerce is used in the planning, promotion, management,
14 execution, consummation, or concealment of the offense, or in the
15 distribution of the proceeds of the offense;

16 “(3) the offense is committed by a federal public servant acting
17 under color of office;

18 “(4) the offense is committed by a person pretending to be a
19 federal public servant, a former federal public servant, or a for-
20 eign official;

21 “(5) the offense is committed to collect an extension of credit,
22 as defined in section 1806(c);

23 “(6) the property consists of any part of the compensation of
24 a person employed in the construction, completion, repair, or re-
25 furbishing of a federal public building, federal public work, or
26 building financed in whole or in part by a loan or grant from the
27 United States, and is obtained by threatening or placing any
28 person in fear in relation to that person’s employment; or

29 “(7) the property is obtained by threatening or placing a per-
30 son in fear in relation to any person’s employment under a grant
31 or contract of assistance pursuant to the Economic Opportunity
32 Act of 1964, as amended (42 U.S.C. 2701 et seq.).

33 **“§ 1723. Blackmail**

34 “(a) OFFENSE.—A person is guilty of an offense if he obtains prop-
35 erty of another by threatening or placing another person in fear that
36 any person will:

37 “(1) engage in conduct constituting a crime other than a crime
38 described in section 1722;

39 “(2) accuse any person of a crime;

1 “(3) procure the dismissal of any person from employment,
2 or refuse to employ or renew a contract of employment of any
3 person;

4 “(4) improperly subject any person to economic loss or injury
5 to his business or profession;

6 “(5) expose a secret or publicize an asserted fact, whether
7 true or false, with intent to subject any person, living or dead,
8 to hatred, contempt, or ridicule, or to impair his personal, finan-
9 cial, professional, or business reputation; or

10 “(6) take or withhold official action as a public servant, or
11 cause a public servant to take or withhold official action.

12 “(b) DEFENSE.—It is a defense to a prosecution under this section,
13 other than a prosecution under subsection (a) (1), that the defendant:

14 “(1) reasonably believed his conduct to be justified; and

15 “(2) intended solely to compel or induce the other person to
16 take lawful and reasonable action to prevent or remedy the as-
17 serted wrong that prompted the defendant’s conduct; and

18 “(3) with respect to an offense under subsection (a) (2), reason-
19 ably believed that the threatened accusation was true.

20 “(c) GRADING.—An offense described in this section is:

21 “(1) a Class C felony if the property has a value in excess of
22 \$100,000;

23 “(2) a Class D felony if:

24 “(A) the property has a value in excess of \$500 but not more
25 than \$100,000; or

26 “(B) regardless of its monetary value, the property consists
27 of:

28 “(i) a firearm, ammunition, or a destructive device;

29 “(ii) a vehicle;

30 “(iii) a record or other document owned by, or under
31 the care, custody, or control of, the United States;

32 “(iv) a counterfeiting implement designed for the
33 making of a written instrument of the United States;

34 “(v) a key or other implement designed to provide ac-
35 cess to mail or to property owned by, or under the care,
36 custody, or control of, the United States; or

37 “(vi) mail other than a newspaper, magazine, circular,
38 or advertising matter;

39 “(3) a Class A misdemeanor if the property has a value in
40 excess of \$100 but not more than \$500;

1 “(4) a Class B misdemeanor in any other case.

2 “(d) JURISDICTION.—There is federal jurisdiction over an offense
3 described in this section if:

4 “(1) a circumstance specified in section 1721(c) or section 1722
5 (c) (2) through (c) (7) exists or has occurred;

6 “(2) the fear in subsection (a) (1) or (a) (2) involves a federal
7 crime; or

8 “(3) the fear in subsection (a) (6) involves federal official
9 action.

10 **“§ 1724. General Provisions for Subchapter C**

11 “(a) DEFINITIONS.—As used in this subchapter:

12 “(1) ‘counterfeiting implement’ has the meaning set forth in
13 section 1746(b);

14 “(2) ‘written instrument’ has the meaning set forth in section
15 1746(i).

16 “(b) PROOF.—In a prosecution under section 1722 or 1723(a) (1),
17 (a) (3), or (a) (4), for the purpose of showing that words or other
18 methods of communication employed as a means of obtaining the prop-
19 erty in fact carried a threat, the court may permit the introduction of
20 evidence concerning the reputation of the defendant in any community
21 of which the victim was a member at the time of the offense charged.

22 “(c) DEFENSE PRECLUDED.—It is not a defense to a prosecution under
23 section 1722 or 1723 that the defendant, by the same conduct, also
24 committed an offense described in section 1321 (Witness Bribery),
25 1322 (Corrupting a Witness or an Informant), 1351 (Bribery), 1352
26 (Graft), 1353 (Trading in Government Assistance), 1354 (Trading
27 in Special Influence), 1355 (Trading in Public Office), or 1731
28 (Theft).

29 **“Subchapter D.—Theft and Related Offenses**

“Sec.

“1731. Theft.

“1732. Trafficking in Stolen Property.

“1733. Receiving Stolen Property.

“1734. Executing a Fraudulent Scheme.

“1735. Bankruptcy Fraud.

“1736. Interfering with a Security Interest.

“1737. Fraud in a Regulated Industry.

“1738. General Provisions for Subchapter D.

30 **“§ 1731. Theft**

31 “(a) OFFENSE.—A person is guilty of an offense if he obtains or uses
32 the property of another with intent:

33 “(1) to deprive the other of a right to the property or a benefit
34 of the property; or

1 “(2) to appropriate the property to his own use or to the use of
2 another person.

3 “(b) GRADING.—An offense described in this section is:

4 “(1) a Class C felony if the property has a value in excess of
5 \$100,000;

6 “(2) a Class D felony if:

7 “(A) the property has a value in excess of \$500 but not
8 more than \$100,000; or

9 “(B) regardless of its monetary value, the property con-
10 sists of:

11 “(i) a firearm, ammunition, or a destructive device;

12 “(ii) a vehicle, except as provided in paragraph (4);

13 “(iii) a record or other document owned by, or under
14 the care, custody, or control of, the United States;

15 “(iv) a counterfeiting or forging implement designed
16 for the making of a written instrument of the United
17 States;

18 “(v) a key or other implement designed to provide
19 access to mail or to property owned by, or under the care,
20 custody, or control of, the United States; or

21 “(vi) mail other than a newspaper, magazine, circular,
22 or advertising matter;

23 “(3) a Class A misdemeanor if the property has a value in
24 excess of \$100 but not more than \$500;

25 “(4) a Class B misdemeanor if:

26 “(A) the property has a value of \$100 or less; or

27 “(B) the property is a motor vehicle or a vessel, the de-
28 fendant is less than eighteen years old, and the defendant's
29 intent involved deprivation or appropriation of a temporary
30 rather than a permanent nature.

31 “(c) JURISDICTION.—There is federal jurisdiction over an offense
32 described in this section if:

33 “(1) the offense is committed within the special jurisdiction of
34 the United States;

35 “(2) the property is owned by, or is under the care, custody,
36 or control of, the United States; is being produced, manufactured,
37 constructed, or stored for the United States; or is subject to a
38 security interest held by the United States;

39 “(3) the offense is committed by a federal public servant acting
40 under color of office;

1 “(4) the offense is committed by a person pretending to be a
2 federal public servant, a former federal public servant, or a for-
3 eign official;

4 “(5) the property is obtained upon a representation that it will
5 be used to cause a federal public servant to take or withhold of-
6 ficial action;

7 “(6) the property has a value of \$2,500 or more and is obtained
8 through the use of one or more counterfeited, fictitious, altered,
9 forged, lost, or stolen credit cards in a transaction or series of
10 transactions affecting interstate or foreign commerce;

11 “(7) the property is mail;

12 “(8) the property is moving in interstate or foreign commerce,
13 constitutes or is a part of an interstate or foreign shipment, or is
14 in a pipeline system that extends across a state or United States
15 boundary or in a storage facility of such a system;

16 “(9) the property has a value of \$5,000 or more, or is a vehicle,
17 and is moved across a state or United States boundary in the com-
18 mission of the offense;

19 “(10) the property is owned by, or is under the care, custody,
20 or control of, a national credit institution;

21 “(11) the offense is committed by a misrepresentation of United
22 States ownership, guarantee, insurance, or other interest of the
23 United States with respect to the property involved;

24 “(12) the offense is committed by impersonation of a creditor
25 of the United States;

26 “(13) the property: (A) is owned by, or is under the care,
27 custody, or control of, an Indian tribe, band, community, group,
28 or pueblo that is subject to a federal statute relating to Indian
29 affairs, or a corporation, association, or group organized under
30 any such statute; or (B) is the subject of a grant, subgrant, con-
31 tract, or subcontract pursuant to the Indian Self-Determination
32 and Education Assistance Act (88 Stat. 2203) or the Act of
33 April 16, 1934, as amended (25 U.S.C. 452 et seq.), and the offense
34 is committed by an agent of a recipient of such a grant, subgrant,
35 contract, or subcontract;

36 “(14) the property is owned by, or is under the care, custody,
37 or control of, an employee benefit plan subject to a provision of
38 title I of the Employee Retirement Income Security Act of 1974
39 (29 U.S.C. 1001 et seq.);

1 “(15) the property is owned by, or is under the care, custody, or
2 control of, a trust fund established by an employer or by an em-
3 ployee organization as defined in section 3(4) of the Employee
4 Retirement Income Security Act of 1974 (29 U.S.C. 1002(4))
5 to provide a benefit to the members of an employee organization
6 or to their families;

7 “(16) the property is owned by, or is under the care, custody, or
8 control of, a labor organization as defined in section 3(i) and (j)
9 of the Labor-Management Reporting and Disclosure Act of 1959
10 (29 U.S.C. 402(i) and (j)), and the offense is committed by an
11 officer, member, or employee of, or a person connected in any
12 capacity with, such organization;

13 “(17) the offense is committed in connection with a loan,
14 advance of credit, or mortgage insured by the United States
15 Department of Housing and Urban Development;

16 “(18) the offense is committed by an agent or receiver of, or a
17 person connected in any capacity with, a small business investment
18 company, as defined in section 103 of the Small Business Invest-
19 ment Act of 1958, as amended (15 U.S.C. 662), and the property
20 is owned by, or is under the care, custody, or control of, such
21 small business investment company;

22 “(19) the property is owned by, or is under the care, custody, or
23 control of, a registered investment company, as defined in section
24 3(a) of the Investment Company Act of 1940, as amended (15
25 U.S.C. 80a-3(a));

26 “(20) the offense is committed by a futures commission mer-
27 chant as defined in section 2(a) of the Commodity Exchange Act,
28 as amended (7 U.S.C. 2), or by an agent thereof, and (A) the
29 property is that of a customer and is received by such futures
30 commission merchant to margin, guarantee, or secure trades or
31 contracts of any customer; or (B) the property has accrued to a
32 customer as the result of trades or contracts;

33 “(21) the property is owned by, or is under the care, custody, or
34 control of, an organization engaged in interstate commerce as a
35 common carrier, and the offense is committed (A) by a president,
36 director, officer, or manager of such common carrier; or (B) by
37 an agent of such common carrier riding in a vehicle of such
38 common carrier that is moving in interstate commerce;

39 “(22) the offense is committed by an agent of, or a person con-
40 nected in any capacity with, an agency receiving financial assist-

1 ance under the Economic Opportunity Act of 1964, as amended
2 (42 U.S.C. 2701 et seq.), and the property is the subject of a grant
3 or contract of assistance pursuant to such Act;

4 “(23) the property consists of any part of the compensation of
5 a person employed in the construction, completion, repair, or re-
6 furbishing of a federal public building, federal public work, or
7 building financed in whole or in part by a loan or grant from the
8 United States, and is obtained or retained by fraud in relation to
9 that person’s employment;

10 “(24) the offense is committed by a trustee, receiver, custodian,
11 marshal, or other court officer and the property consists of a part
12 of the estate of a bankrupt against whom a petition has been filed
13 under the Bankruptcy Act of 1898, as amended (11 U.S.C. 1 et
14 seq.);

15 “(25) the property consists of a part of a grant, contract, or
16 other form of assistance received, directly or indirectly, from the
17 Law Enforcement Assistance Administration, pursuant to title I
18 of the Omnibus Crime Control and Safe Streets Act of 1968, as
19 amended (42 U.S.C. 3701 et seq.);

20 “(26) the property (A) consists of a coupon, or of an authoriza-
21 tion to purchase card, defined in section 3(c) and (m) of the Food
22 Stamp Act of 1964, as amended (7 U.S.C. 2012(c) and (m)); or
23 (B) is obtained by the use of such a coupon that has been obtained
24 in violation of this section, that has been counterfeited in viola-
25 tion of section 1741, or that has been forged in violation of section
26 1742;

27 “(27) the property consists of agricultural products stored or
28 to be stored in a licensed warehouse pursuant to the United States
29 Warehouse Act (7 U.S.C. 241 et seq.), and licensed receipts have
30 been or are to be issued for such products;

31 “(28) the property consists of money paid under a law admin-
32 istered by the Veterans’ Administration for the benefit of a minor,
33 an incompetent, or another beneficiary, and the offense is com-
34 mitted by a fiduciary of such beneficiary;

35 “(29) the property consists of money, a security, or another
36 asset of the Securities Investor Protection Corporation;

37 “(30) the property consists of a note, stock certificate, treasury
38 stock certificate, bond, debenture, or interest coupon, or a blank
39 certificate of any of the foregoing, and is under the care, custody,

1 or control of a member of, or an organization insured by, the
2 Securities Investor Protection Corporation; or

3 “(31) the property is a payment made pursuant to section
4 801 of the Presidential Election Campaign Fund Act, as amended
5 (26 U.S.C. 9001 et seq.) or pursuant to section 9037 of the Presi-
6 dential Primary Matching Payment Account Act (26 U.S.C.
7 9037), and the offense is committed by a person to whom such pay-
8 ment is made or to whom a portion of such payment is transferred.

9 “(32) the property is provided or insured under part B of title
10 IV of the Higher Education Act of 1965, as amended (20 U.S.C.
11 1071 et seq.)

12 **“§ 1732. Trafficking in Stolen Property**

13 “(a) OFFENSE.—A person is guilty of an offense if he traffics in
14 property of another that has been stolen.

15 “(b) GRADING.—An offense described in this section is an offense of
16 the same class as that specified in section 1731(b) for the theft of the
17 same kind of property.

18 “(c) JURISDICTION.—There is federal jurisdiction over an offense
19 described in this section if a circumstance specified in section 1731(c)
20 exists or has occurred.

21 **“§ 1733. Receiving Stolen Property**

22 “(a) OFFENSE.—A person is guilty of an offense if he buys, receives,
23 possesses, or obtains control of property of another that has been
24 stolen.

25 “(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prose-
26 cution under this section that the defendant bought, received, pos-
27 sessed, or obtained control of the property with intent to report the
28 matter to an appropriate law enforcement officer or to the owner of
29 the property.

30 “(c) GRADING.—An offense described in this section is an offense of
31 the class next below that specified in section 1731(b) for the theft of
32 the same kind of property.

33 “(d) JURISDICTION.—There is federal jurisdiction over an offense
34 described in this section if a circumstance specified in section 1731(c)
35 exists or has occurred.

36 **“§ 1734. Executing a Fraudulent Scheme**

37 “(a) OFFENSE.—A person is guilty of an offense if:

38 “(1) having devised a scheme or artifice:

39 “(A) to defraud; or

40 “(B) to obtain property of another by means of a false or
41 fraudulent pretense, representation, or promise;

1 he engages in conduct with intent to execute such scheme or
2 artifice; or

3 “(2) he transfers, or receives anything of value for, a right to
4 participate in a pyramid sales scheme, or receives compensation
5 from a pyramid sales scheme.

6 “(b) DEFINITIONS.—As used in this section:

7 “(1) ‘anything of value’ does not include:

8 “(A) payment made for sales demonstration equipment;

9 “(B) material furnished on a non-profit basis for use in
10 making sales and not for resale;

11 “(C) time or effort spent in pursuit of sales or recruiting
12 activities; or

13 “(D) payment having an aggregate value of \$100 or less
14 when calculated on an annual basis;

15 “(2) ‘compensation’ includes payment based on a sale or dis-
16 tribution made to a person who is a participant in a pyramid
17 sales scheme or who, upon such payment, obtains the right to
18 become a participant, but does not include payment based on a
19 retail sale to an ultimate consumer;

20 “(3) ‘conduct’ includes a failure to state a fact necessary to
21 avoid making a statement misleading;

22 “(4) ‘pyramid sales scheme’ means a plan or operation, whether
23 or not involving the sale or distribution of property, that includes
24 a means of increasing participation in the plan or operation under
25 which a participant, upon payment of anything of value, obtains
26 a right to receive compensation:

27 “(A) for his introduction of another person into par-
28 ticipation in such plan or operation; or

29 “(B) for such other person’s introduction of another per-
30 son into participation in such plan or operation;

31 “(5) ‘sale or distribution’ includes a lease, rental, or consign-
32 ment.

33 “(c) DEFENSE PRECLUDED.—It is not a defense to a prosecution under
34 subsection (a) (2) that:

35 “(1) the plan or operation limits the number of persons who
36 may participate, or imposes conditions with respect to the eligibil-
37 ity of participants; or

38 “(2) upon payment of anything of value a participant obtains,
39 in addition to the right to receive compensation as described in
40 subsection (b) (2), any other property.

1 “(d) GRADING.—An offense described in this section is:

2 “(1) a Class D felony in the circumstances set forth in sub-
3 section (a) (1);

4 “(2) a Class E felony in the circumstances set forth in sub-
5 section (a) (2).

6 “(e) JURISDICTION.—There is federal jurisdiction over an offense de-
7 scribed in this section if, in the commission of the offense, the actor:

8 “(1) uses or causes the use of the United States mail;

9 “(2) uses or causes the use of any interstate or foreign com-
10 munication facility, including a facility of wire, radio, or tele-
11 vision communication; or

12 “(3) travels in, or causes or induces any other person to travel
13 in, or to be transported in, interstate or foreign commerce.

14 **“§ 1735. Bankruptcy Fraud**

15 “(a) OFFENSE.—A person is guilty of an offense if, with intent to
16 deceive a court or an officer thereof or to deceive or harm a creditor of
17 a bankrupt, he:

18 “(1) transfers or conceals property belonging to the estate of
19 a bankrupt;

20 “(2) receives a material amount of property from a bankrupt
21 after the filing of a bankruptcy proceeding;

22 “(3) transfers or conceals, in contemplation of a bankruptcy
23 proceeding, his own property or the property of another;

24 “(4) transfers or conceals, in contemplation of a state insol-
25 vency proceeding, his own property or the property of another;

26 “(5) alters, destroys, mutilates, conceals, or makes a false entry
27 in a document affecting or relating to the property or affairs of a
28 bankrupt, or withholds such a document from the receiver,
29 trustee, or other officer of the court entitled to its possession; or

30 “(6) offers, gives, or agrees to give, or solicits, demands, accepts,
31 or agrees to accept, anything of value for or because of acting
32 or forbearing to act, or having acted or forborne to act, in a
33 bankruptcy proceeding.

34 “(b) DEFINITIONS.—As used in this section:

35 “(1) ‘bankrupt’ means a debtor by or against whom a petition
36 has been filed pursuant to the Bankruptcy Act of 1898, as amended
37 (11 U.S.C. 1 et seq.), and, for purposes of subsection (a) (4), a
38 debtor who is the subject of a state insolvency proceeding;

39 “(2) ‘bankruptcy proceeding’ means a proceeding, arrangement,
40 or plan pursuant to the Bankruptcy Act of 1898, as amended (11
41 U.S.C. 1 et seq.);

1 “(3) ‘harm’ means to cause loss, deprivation, or reduction in
2 value, with respect to any economic benefit.

3 “(c) GRADING.—An offense described in this section is:

4 “(1) a Class D felony if the property has a value in excess of
5 \$500;

6 “(2) a Class E felony in any other case.

7 “(d) JURISDICTION.—There is federal jurisdiction over an offense
8 described in:

9 “(1) subsection (a) (4) if the offense in any way or degree
10 affects, delays, or obstructs interstate or foreign commerce or the
11 movement of an article or commodity in interstate or foreign
12 commerce;

13 “(2) subsection (a) (1), (a) (2), (a) (3), (a) (5), or (a) (6) if
14 the offense is committed within:

15 “(A) the general jurisdiction of the United States;

16 “(B) the special jurisdiction of the United States; or

17 “(C) the extraterritorial jurisdiction of the United States
18 to the extent applicable under section 204.

19 **“§ 1736. Interfering With a Security Interest**

20 “(a) OFFENSE.—A person is guilty of an offense if, holding a legal
21 interest in property subject to a security interest, he deprives the holder
22 of the security interest of a right to the property or a benefit of the
23 property by removing, concealing, encumbering, transferring, or con-
24 verting such property.

25 “(b) GRADING.—An offense described in this section is:

26 “(1) a Class D felony if the value of the deprivation of the
27 right or benefit exceeds \$100,000;

28 “(2) a Class E felony if the value of the deprivation of the
29 right or benefit exceeds \$500 but is not more than \$100,000;

30 “(3) a Class A misdemeanor in any other case.

31 “(c) JURISDICTION.—There is federal jurisdiction over an offense
32 described in this section if:

33 “(1) the offense is committed within the special jurisdiction
34 of the United States; or

35 “(2) the property is subject to a security interest held by the
36 United States.

37 **“§ 1737. Fraud in a Regulated Industry**

38 “(a) OFFENSE.—A person is guilty of an offense if, with intent to
39 defraud, he:

40 “(1) uses or reveals information relative to a formula of a prod-
41 uct in fact acquired under the authority of section 3 of the Fed-

1 eral Insecticide, Fungicide, and Rodenticide Act of 1972, as
2 amended (7 U.S.C. 1361(b));

3 “(2) violates section 912 of the Housing and Urban Develop-
4 ment Act of 1970 (12 U.S.C. 1709-2) or section 239(b) of the
5 National Housing Act, as added by section 302 of the Act of
6 August 1, 1968 (12 U.S.C. 1715z-4(b) (relating to equity skim-
7 ming in federally insured mortgages of single or multiple family
8 dwellings); or

9 “(3) violates the provisions of section 1404 of the Interstate
10 Land Sales Full Disclosure Act (15 U.S.C. 1703) (relating to the
11 sale or lease of lots in real estate subdivisions), or a regulation,
12 rule, or order issued pursuant thereto;

13 “(b) GRADING.—An offense described in this section is a Class E
14 felony.

15 **“§ 1738. Consumer Fraud**

16 “(a) OFFENSE.—A person is guilty of an offense if, with intent to
17 deceive or defraud a purchaser, he:

18 “(1) offers or advertises property for sale to a purchaser,
19 knowing that such property will not be sold as so offered or
20 advertised; or

21 “(2) makes a material statement that is false, concerning
22 property that he offers or advertises for sale, sells, or has sold to
23 a purchaser, with respect to:

24 “(A) the purchaser’s need for the property;

25 “(B) the nature of the property, including its origin; its
26 age; its grade, quality, style, or model; its ingredients or
27 components; its quantity; its performance or safety charac-
28 teristics; or its uses or benefits;

29 “(C) the sponsorship or approval of the property;

30 “(D) the comparison between the price or quality of the
31 property and that of similar property offered or advertised
32 for sale by the same or another person;

33 “(E) the prior ownership of the property;

34 “(F) the purchaser’s need for the repair or replacement of
35 the property;

36 “(G) the person’s completion of the repair or replacement
37 of the property; or

38 “(H) the purchaser’s rights, privileges, or remedies with
39 regard to the property.

1 “(b) DEFINITIONS.—As used in this section :

2 “(1) ‘purchaser’ includes a potential purchaser and an actual
3 or potential lessee, assignee, or other transferee of property in
4 exchange for anything of value; and

5 “(2) ‘sale’, or a variant thereof, includes a lease, assignment,
6 or other transfer of property in exchange for anything of value.

7 “(c) GRADING.—An offense described in this section is a class A
8 misdemeanor.

9 “(d) JURISDICTION.—There is federal jurisdiction over an offense
10 described in this section if:

11 “(1) the offense is committed within the special jurisdiction of
12 the United States; or

13 “(2) a circumstance specified in section 1734(e) exists or has
14 occurred and the property offered or advertised for sale, or as
15 to which a false statement is made, has a value of \$10,000 or more
16 when considered either alone or as one of a series of such offerings,
17 advertisements, or statements.

18 **“§ 1739. General Provisions for Subchapter D**

19 “(a) DEFINITIONS.—As used in this subchapter :

20 “(1) ‘counterfeiting implement’ and ‘forging implement’ have
21 the meanings set forth in section 1746 (b) and (d) ;

22 “(2) ‘obtains or uses’ means any manner of :

23 “(A) taking or exercising control over property ;

24 “(B) making an unauthorized use, disposition, or transfer
25 of property ; or

26 “(C) obtaining property by fraud ;

27 and includes conduct heretofore known as theft, stealing, larceny,
28 purloining, abstracting, embezzlement, misapplication, misap-
29 propriation, conversion, obtaining money or property by false
30 pretenses, fraud, deception, and all other conduct similar in
31 nature ;

32 “(3) ‘written instrument’ has the meaning set forth in section
33 1746(i).

34 “(b) PROOF.—In a prosecution under section 1731, 1732, or 1733 :

35 “(1) possession of property recently stolen, unless satisfactor-
36 ily explained, constitutes prima facie evidence that the person
37 in possession of the property was aware of the risk that it had
38 been stolen or that he in some way participated in its theft ;

39 “(2) the purchase or sale of stolen property at a price sub-
40 stantially below its fair market value, unless satisfactorily ex-

1 plained, constitutes prima facie evidence that the person buying
2 or selling the property was aware of the risk that it had been
3 stolen;

4 “(3) in establishing that property constitutes or is part of an
5 interstate or foreign shipment within the meaning of section
6 1731(c) (8), proof of the designation in a way bill or other ship-
7 ping document of the places from which and to which a ship-
8 ment was made creates a presumption that the property was
9 shipped or was being shipped as indicated by such document.

10 “(c) **BAR TO PROSECUTION.**—It is a bar to prosecution under sec-
11 tions 1731, 1732, and 1733 that:

12 “(1) the subject of the offense was intangible property owned
13 by, or under the care, custody, or control of, the United States;

14 “(2) the defendant obtained or used the property solely for
15 the purpose of disseminating it to the public, and did not derive
16 anything of value from obtaining, using, or disseminating it;
17 and

18 “(3) the property was not obtained by means of conduct con-
19 stituting an offense under section 1521 (Eavesdropping), 1524
20 Intercepting Correspondence), 1711 (Burglary), 1712 (Criminal
21 Entry, or 1713 (Criminal Trespass), or constituting a trespass
22 under civil law.

23 **“Subchapter E.—Counterfeiting, Forgery, and Related**
24 **Offenses**

“Sec.

“1741. Counterfeiting.

“1742. Forgery.

“1743. Criminal Endorsement of a Written Instrument.

“1744. Criminal Issuance of a Written Instrument.

“1745. Trafficking in a Counterfeiting Implement.

“1746. Definitions for Subchapter E.

25 **“§ 1741. Counterfeiting**

26 “(a) **OFFENSE.**—A person is guilty of an offense if, with intent to
27 deceive or harm another person or a government, he makes, utters, or
28 possesses a counterfeited written instrument.

29 “(b) **GRADING.**—An offense described in this section is:

30 “(1) a Class C felony if the written instrument is or purports
31 to be:

32 “(A) a written instrument of the United States; or

33 “(B) a security;

34 “(2) a Class D felony in any other case.

35 “(c) **JURISDICTION.**—There is federal jurisdiction over an offense
36 described in this section if:

1 “(1) the offense is committed within the special jurisdiction of
2 the United States;

3 “(2) the written instrument is or purports to be:

4 “(A) made or issued by or under the authority of, or guar-
5 anteed by, the United States;

6 “(B) a security made or issued by or under the authority of
7 a foreign government;

8 “(C) a security or a tax stamp, and is moved across a state
9 or United States boundary in the commission of the offense;

10 “(D) a security issued by a national credit institution, and
11 the offense is committed by an agent of such institution; or

12 “(E) a security that is a note, stock certificate, treasury
13 stock certificate, bond debenture, or interest coupon, made or
14 issued by an organization or by a state or local government; or

15 “(3) the government intended to be deceived or harmed is the
16 government of the United States.

17 **“§ 1742. Forgery**

18 “(a) OFFENSE.—A person is guilty of an offense if, with intent to
19 deceive or harm another person or a government, he makes, utters, or
20 possesses a forged written instrument.

21 “(b) GRADING.—An offense described in this section is:

22 “(1) a Class C felony if the written instrument is or purports
23 to be:

24 “(A) an obligation of the United States; or

25 “(B) an instrument that has a value in excess of \$100,000;

26 “(2) A Class D felony if the written instrument is or purports
27 to be:

28 “(A) made or issued by or under the authority of, or guar-
29 anteed by, the United States, a state or local government, or
30 a foreign government; or

31 “(B) an instrument that has a value in excess of \$500 but
32 not more than \$100,000;

33 “(3) a Class E felony in any other case.

34 “(c) JURISDICTION.—There is federal jurisdiction over an offense
35 described in this section if:

36 “(1) the offense is committed within the special jurisdiction
37 of the United States;

38 “(2) the written instrument is or purports to be:

39 “(A) made or issued by or under the authority of, or
40 guaranteed by, the United States;

1 “(B) a security made or issued by or under the authority
2 of a foreign government;

3 “(C) a security or a tax stamp, and is moved across a state
4 or United States boundary in the commission of the offense; or

5 “(D) a security issued by a national credit institution, and
6 the offense is committed by an agent of such institution; or

7 “(E) a security that is a note, stock certificate, treasury
8 stock certificate, bond, debenture, or interest coupon, made or
9 issued by an organization or by a state or local government; or

10 “(3) the government intended to be deceived or harmed is the
11 government of the United States.

12 **“§ 1743. Criminal Endorsement of a Written Instrument**

13 “(a) OFFENSE.—A person is guilty of an offense if, with intent to
14 deceive or harm another person or a government, he:

15 “(1) signs or endorses a written instrument purportedly on be-
16 half of another person or a government without authority to do
17 so; or

18 “(2) utters or possesses a written instrument that has been so
19 signed or endorsed.

20 “(b) GRADING.—An offense described in this section is:

21 “(1) a Class C felony if the written instrument is or purports
22 to be:

23 “(A) an obligation of the United States; or

24 “(B) an instrument that has a value in excess of \$100,000;

25 “(2) a Class D felony if the written instrument is or purports
26 to be:

27 “(A) made or issued by or under the authority of, or guar-
28 anteed by, the United States, a state or local government, or a
29 foreign government; or

30 “(B) an instrument that has a value in excess of \$500 but
31 not more than \$100,000;

32 “(3) a Class E felony in any other case.

33 “(c) JURISDICTION.—There is federal jurisdiction over an offense
34 described in this section if:

35 “(1) the offense is committed within the special jurisdiction of
36 the United States;

37 “(2) the written instrument is or purports to be:

38 “(A) made or issued by or under the authority of, or guar-
39 anteed by, the United States;

1 “(B) a security made or issued by or under the authority
2 of a foreign government;

3 “(C) a security or a tax stamp, and is moved across a
4 state or United States boundary in the commission of the
5 offense;

6 “(D) a security issued by a national credit institution, and
7 the offense is committed by an agent of such institution, or

8 “(E) a security that is a note, stock certificate, treasury
9 stock certificate, bond, debenture, or interest coupon, made
10 or issued by an organization or by a state or local govern-
11 ment; or

12 “(3) the government intended to be deceived or harmed is the
13 government of the United States.

14 **“§ 1744. Criminal Issuance of a Written Instrument**

15 “(a) OFFENSE.—A person is guilty of an offense if, with intent to
16 deceive or harm another person or a government, he:

17 “(1) issues a written instrument without authority; or

18 “(2) utters or possesses a written instrument that has been so
19 issued.

20 “(b) GRADING.—An offense described in this section is a Class D
21 felony.

22 “(c) JURISDICTION.—There is federal jurisdiction over an offense
23 described in this section if:

24 “(1) the offense is committed within the special jurisdiction of
25 the United States;

26 “(2) the written instrument is or purports to be:

27 “(A) made or issued by or under the authority of, or
28 guaranteed by, the United States;

29 “(B) a security made or issued by or under the authority of
30 a foreign government;

31 “(C) a security issued by a national credit institution,
32 and the offense is committed by an agent of such institution;

33 or

34 “(3) the government intended to be deceived or harmed is the
35 government of the United States.

36 **“§ 1745. Trafficking in a Counterfeiting Implement**

37 “(a) OFFENSE.—A person is guilty of an offense if he:

38 “(1) makes or traffics in a counterfeiting or forging implement;

39 or

1 “(2) possesses a counterfeiting or forging implement with in-
2 tent that it be used in making a counterfeited or forged written
3 instrument.

4 “(b) GRADING.—An offense described in this section is:

5 “(1) a Class C felony if the implement is designed for or suited
6 for the making of a counterfeited or forged obligation of the
7 United States;

8 “(2) a Class D felony in any other case.

9 “(c) JURISDICTION.—There is federal jurisdiction over an offense
10 described in this section if:

11 “(1) the offense is committed within the special jurisdiction
12 of the United States;

13 “(2) the implement is designed for or suited for the making of:

14 “(A) a written instrument purporting to be made or issued
15 by or under the authority of, or guaranteed by, the United
16 States;

17 “(B) a security purporting to be made or issued by or
18 under the authority of a foreign government; or

19 “(C) a security that is a note, stock certificate, treasury
20 stock certificate, bond, debenture, or interest coupon, made or
21 issued by an organization or by a state or local government;

22 or

23 “(3) the implement which is the subject of the offense is moved
24 across a state or United States boundary in the commission of
25 the offense.

26 **“§ 1746. Definitions for Subchapter E**

27 **“As used in this subchapter:**

28 “(a) ‘counterfeited written instrument’ means a written instru-
29 ment that purports to be genuine but is not, because it has been
30 falsely made or manufactured in its entirety;

31 “(b) ‘counterfeiting implement’ means an engraving, plate,
32 hub, stone, paper, tool, die, mold, ink, photograph, negative, or
33 other implement or impression designed for or suited for the mak-
34 ing of a counterfeited written instrument;

35 “(c) ‘forged written instrument’ means a written instrument
36 that purports to be genuine but is not because it: (1) has been
37 falsely altered, completed, signed, or endorsed; (2) contains a
38 false addition thereto or insertion therein; or (3) is a combina-
39 tion of parts of two or more genuine written instruments;

1 “(d) ‘forging implement’ means an engraving, plate, hub,
2 stone, paper, tool, die, mold, ink, photograph, negative, or other
3 implement or impression designed for or suited for the making of
4 a forged written instrument;

5 “(e) ‘obligation of the United States’ means a bond, certificate
6 of indebtedness, national bank currency, Federal Reserve note,
7 Federal Reserve bank note, coupon, United States note,
8 Treasury note, gold certificate, silver certificate, fractional note,
9 certificate of deposit, stamp, canceled stamp, postage meter
10 stamp, coin, gold or silver bar coined or stamped at a mint or
11 assay office of the United States, or other representation of value
12 of any denomination, issued pursuant to a federal statute, except
13 a bill, money order, check, or draft for money, drawn by or upon
14 an authorized officer of the United States;

15 “(f) ‘security’ means (1) an obligation of the United States;
16 (2) a note, stock certificate, treasury stock certificate, bond,
17 debenture, interest coupon, bill, check, draft, warrant, money
18 order, money order blank, traveler’s check, letter of credit, ware-
19 house receipt, negotiable bill of lading, evidence of indebtedness,
20 certificate of interest in or participation in any profit-sharing
21 agreement, collateral-trust certificate, preorganization certificate
22 or subscription, transferable share, investment contract, voting-
23 (trust certificate, or certificate of interest in tangible or intangible
24 property; (3) an instrument evidencing ownership of goods,
25 wares, or merchandise; (4) a certificate for, receipt for, or
26 warrant or right to subscribe to or purchase any of the fore-
27 going; (5) an obligation, bank note, bill, coin, or bar issued by
28 a foreign government and intended by the law or usage of such
29 government to circulate as money; (6) a security of a foreign gov-
30 ernment; (7) a postage stamp, revenue stamp, or uncanceled
31 stamp, whether or not demonetized, issued by a foreign govern-
32 ment; or (8) any other written instrument commonly known as
33 a security;

34 “(g) ‘tax stamp’ includes a tax stamp, tax token, tax meter im-
35 print, or any similar evidence of an obligation running to a gov-
36 ernment or of the discharge of such an obligation;

37 “(h) ‘utter’ means to issue, authenticate, transfer, publish, sell,
38 deliver, transmit, present, display, use, certify, or otherwise give
39 currency to;

1 “(C) a bank holding company, a savings and loan holding
2 company, or a person controlling a financial institution in
3 such a manner as to be a bank holding company or a savings
4 and loan holding company under the Bank Holding Com-
5 pany Act Amendments of 1956, as amended (12 U.S.C.
6 1841), or the Savings and Loan Holding Company Amend-
7 ments of 1967 (12 U.S.C. 1730a);

8 “(D) a prime contractor holding a negotiated contract
9 entered into by the United States government for the fur-
10 nishing of supplies, materials, equipment, or services of any
11 kind, or a subcontractor, as defined in section 2 of the Act
12 of March 8, 1946, as amended (41 U.S.C. 52), holding a sub-
13 contract under such a prime contract;

14 “(E) an authorized committee or an eligible candidate, as
15 defined in the Presidential Election Campaign Fund Act
16 (26 U.S.C. 9002 (1) and (4)), and the conduct relates to a
17 qualified campaign expenses, as defined in such Act (26 U.S.C.
18 9002(11)); or

19 “(F) an authorized committee or candidate, as defined in
20 the Presidential Primary Matching Payment Account Act
21 (26 U.S.C. 9032 (1) and (2)), and the conduct relates to a
22 qualified campaign expense, as defined in such Act (26
23 U.S.C. 9032(9));

24 “(2) movement of a person across a state or United States
25 boundary occurs in the planning, promotion, management, execu-
26 tion, consummation, or concealment of the offense, or in the
27 distribution of the proceeds of the offense; or

28 “(3) the United States mail or a facility of interstate or foreign
29 commerce is used in the planning, promotion, management, execu-
30 tion, consummation, or concealment of the offense, or in the
31 distribution of the proceeds of the offense.

32 **“§ 1752. Labor Bribery**

33 “(a) OFFENSE.—A person is guilty of an offense if:

34 “(1) being an employer, he offers, gives, or agrees to give any-
35 thing of value to a labor organization, or to an officer, agent, or
36 counsel of a labor organization, for or because of the recipient's
37 conduct in any transaction or matter concerning such organiza-
38 tion;

39 “(2) he offers, gives, or agrees to give anything of value to:

40 “(A) an administrator, agent, trustee, or counsel of an
41 employee benefit plan;

1 “(B) an employer, agent, or counsel of an employer, any
2 of whose employees are covered by such a plan;

3 “(C) an agent or counsel of an employee organization, any
4 of whose members are covered by such a plan; or

5 “(D) a person who, or an agent or counsel of an organiza-
6 tion that, provides benefit plan services;

7 for or because of the recipient's conduct relating to any trans-
8 action or matter concerning such plan;

9 “(3) he offers, gives, or agrees to give anything of value to an
10 officer, agent, trustee, or counsel of a labor organization for or be-
11 cause of the recipient's conduct relating to:

12 “(A) the admission of any person to membership or to a
13 class of membership, or the issuance to any person of the
14 indicia of membership or of a class of membership, in the
15 labor organization;

16 “(B) the work placement of any person by the labor or-
17 ganization; or

18 “(C) any transaction or matter concerning the expenditure,
19 transfer, investment, or other use of the funds, money, secu-
20 rities, property, or other assets of the labor organization; or

21 “(4) he solicits, demands, accepts, or agrees to accept anything
22 of value, the offering of which constitutes an offense described
23 in subsection (a) (1), (a) (2), or (a) (3).

24 “(b) DEFINITIONS.—As used in this section:

25 “(1) ‘administrator’ has the meaning set forth in section (3)
26 (16) (A) of the Employee Retirement Income Security Act of
27 1974 (29 U.S.C. 1002(16) (A));

28 “(2) ‘anything of value’ does not include bona fide salary,
29 wages, fees, or other compensation paid in the usual course of
30 business;

31 “(3) ‘employee organization’ has the meaning set forth in
32 section 3(4) of the Employee Retirement Income Security Act
33 of 1974 (29 U.S.C. 1002(4));

34 “(4) ‘employee benefit plan’ includes (A) the meaning set
35 forth in section 3(3) of the Employee Retirement Income Secu-
36 rity Act of 1974 (29 U.S.C. 1002(3)); and (B) any trust fund
37 established by an employer or by an employee organization, or by
38 both, to provide any benefit to the members of the organization
39 or to their families;

1 “(5) ‘employer’ includes a group or association of employers,
2 and a person acting directly or indirectly as an employer or as an
3 agent of or in the interest of an employer;

4 “(6) ‘labor organization’ has the meaning set forth in section 3
5 of the Labor-Management Reporting and Disclosure Act of 1959
6 (29 U.S.C. 402(i));

7 “(7) ‘officer’, when used with respect to a labor organization,
8 has the meaning set forth in section 3(n) of the Labor-Management
9 Reporting and Disclosure Act of 1959 (29 U.S.C. 402(n));

10 “(8) ‘work placement’ means a scheme, system, or method
11 whereby members of a labor organization or other persons gain
12 employment or are referred for employment, and includes any
13 such scheme, system, or method that establishes a priority or preference
14 upon the basis of (A) seniority within the labor organization; (B) experience or competency in a particular trade or
15 field of employment; (C) length of employment in a particular
16 trade or field of employment or with specified employers or within
17 a particular geographical area; (D) performance on an examination relating to an individual’s ability to perform work in
18 a particular trade or field of employment; (E) the date of registration on a list of persons available for work.

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20
21
22 “(c) GRADING.—An offense described in this section is a Class E
23 felony.

24 “(d) JURISDICTION.—There is federal jurisdiction over an offense
25 described in this section if the employer or labor organization is engaged
26 in, or the employee benefit plan covers employees engaged in, an
27 industry that affects interstate or foreign commerce.

28 “§ 1753. Sports Bribery

29 “(a) OFFENSE.—A person is guilty of an offense if, with intent improperly to affect the outcome, result, or margin of victory of a publicly exhibited sporting contest:
30
31

32 “(1) he offers, gives, or agrees to give anything of value to a
33 participant, official, or other person associated with the contest; or

34 “(2) as a participant, official, or other person associated with
35 the contest, he solicits, demands, accepts, or agrees to accept anything
36 of value.

37 “(b) DEFINITION.—As used in this section, ‘publicly exhibited
38 sporting contest’ means a contest open to the public in any sport involving
39 human beings or animals, whether as individual participants

1 or teams of participants, the occurrence of which is publicly an-
2 nounced in advance of the event.

3 “(c) GRADING.—An offense described in this section is a Class E
4 felony.

5 “(d) JURISDICTION.—There is federal jurisdiction over an offense
6 described in this section if:

7 “(1) the United States mail or a facility of interstate or for-
8 eign commerce is used in the planning, promotion, management,
9 execution, consummation, or concealment of the offense, or in the
10 distribution of the proceeds of the offense; or

11 “(2) movement across a state or United States boundary by the
12 actor, or by a participant, official, or other person associated with
13 the sporting contest, occurs in the planning, promotion, manage-
14 ment, execution, consummation, or concealment of the offense, or
15 in the distribution of the proceeds of the offense.

16 “Subchapter G.—Investment, Monetary, and Antitrust
17 Offenses

“Sec.

“1761. Securities Offenses.

“1762. Monetary Offenses.

“1763. Commodities Exchange Offenses.

“1764. Antitrust Offenses.

18 “§ 1761. Securities Offenses

19 “(a) OFFENSE.—A person is guilty of an offense if he:

20 “(1) violates any of the following provisions of:

21 “(A) the Securities Act of 1933, as amended:

22 “(i) section 5, as amended (15 U.S.C. 77e) (relating
23 to the sale of unregistered securities);

24 “(ii) section 17, as amended (15 U.S.C. 77q) (relat-
25 ing to fraud in the offer and sale of securities); or

26 “(iii) section 23 (15 U.S.C. 77w) (relating to unlaw-
27 ful representations);

28 “(B) the Trust Indenture Act of 1939, as amended:

29 “(i) section 306, as added by the Act of August 3,
30 1939, as amended (15 U.S.C. 77fff) (relating to the sale
31 of unregistered debt securities without qualified trust
32 indentures); or

33 “(ii) section 324, as added by the Act of August 3,
34 1939, as amended (15 U.S.C. 77xxx) (relating to un-
35 lawful representations); or

1 “(C) the Securities Exchange Act of 1934, as amended:

2 “ (i) section 9(a) (1) through (5) (15 U.S.C. 78i(a)
3 (1) through (5)) (relating to manipulation of the price
4 of securities on a national securities exchange); or

5 “ (ii) section 10(b) (15 U.S.C. 78j(b)), by violating a
6 provision of 17 C.F.R. § 240.10b-5 (relating to fraud in
7 the purchase and sale of securities);

8 “(2) makes a false statement of a material fact, or omits to
9 state a material fact required to be stated or necessary to make a
10 statement not misleading, in a registration statement, offering
11 circular, report, application, or other document filed or required
12 to be filed, or kept or required to be kept, under:

13 “(A) the Securities Act of 1933, as amended (15 U.S.C.
14 77a et seq.);

15 “(B) the Trust Indenture Act of 1939, as amended (15
16 U.S.C. 77aaa et seq.);

17 “(C) the Securities Exchange Act of 1934, as amended
18 (15 U.S.C. 78a et seq.);

19 “(D) the Public Utility Holding Company Act of 1935,
20 as amended (15 U.S.C. 79 et seq.);

21 “(E) the Investment Company Act of 1940, as amended
22 (15 U.S.C. 80a-1 et seq.); or

23 “(F) section 203 or 204 of the Investment Advisers Act
24 of 1940, as amended (15 U.S.C. 80b-3 or 80b-4);

25 “(3) violates:

26 “(A) any of the following provisions of the Securities
27 Exchange Act of 1934, as amended:

28 “ (i) section 7(c), (d), or (f), as amended (15 U.S.C.
29 78g(c), (d), or (f) (relating to margin and credit fi-
30 nancing of securities transactions);

31 “ (ii) section 10(a) (15 U.S.C. 78j(a)) (relating to
32 short sales of securities and use of stop-loss orders on na-
33 tional securities exchanges);

34 “ (iii) section 14(a), as amended (15 U.S.C. 78n(a)),
35 by violating a provision of 17 C.F.R. § 240.14a-9 (relat-
36 ing to solicitation of proxies);

37 “ (iv) section 14(c), as amended (15 U.S.C. 78n(c)),
38 by violating a provision of 17 U.S.C. § 240.14c-6 (re-
39 lating to false information statements);

1 “(v) section 14(e), as amended (15 U.S.C. 78n(e))
2 (relating to fraudulent tender offers for securities); or

3 “(vi) section 16(c), as amended (15 U.S.C. 78p(c))
4 (relating to short sales of securities by officers, directors,
5 and principal shareholders);

6 “(B) section 12(h) of the Public Utility Holding Com-
7 pany Act of 1935 (15 U.S.C. 797(h)) (relating to the pro-
8 hibition of political contributions by public utility holding
9 companies and their subsidiaries);

10 “(C) any of the following provisions of the Investment
11 Company Act of 1940, as amended :

12 “(i) section 7 (15 U.S.C. 80a-7) (relating to trans-
13 actions by unregistered investment companies);

14 “(ii) section 17(a), (d), or (e) (15 U.S.C. 80a-17(a),
15 (d), or (e)), or a rule thereunder (relating to conflicts
16 of interest in the acquisition or disposition of property
17 and securities by registered investment companies and
18 their affiliates and by joint enterprises and profit sharing
19 plans involving such persons);

20 “(iii) section 21, as amended (15 U.S.C. 80a-21)
21 (relating to loans by registered investment companies to
22 controlling shareholders or to others contrary to the
23 policies of such companies);

24 “(iv) section 206 (1), (2), or (3) of the Investment
25 Advisers Act of 1940, as amended (15 U.S.C. 80b-6 (1),
26 (2), or (3)) (relating to fraud by investment advisers);
27 or

28 “(4) fails to file a report or document required to be filed under :

29 “(A) section 16(a) of the Securities Exchange Act of 1934,
30 as amended (15 U.S.C. 78p(a)) (relating to ownership re-
31 ports by officers, directors, and major shareholders of regis-
32 tered corporations);

33 “(B) section 17(a) of the Public Utility Holding Company
34 Act of 1935 (15 U.S.C. 79q) (relating to ownership reports
35 of officers, directors, and major shareholders of registered
36 public utility holding companies); or

37 “(C) section 30(f) of the Investment Company Act of
38 1940, as amended (15 U.S.C. 80a-29(f)) (relating to owner-
39 ship reports of officers, directors, and major shareholders of
40 registered closed end investment companies).

1 “(b) **PROOF.**—The provisions of section 1345 that apply to section
2 1343 (Making a False Statement) apply also to this section.

3 “(c) **GRADING.**—An offense described in this section is:

4 “(1) a Class D felony in the circumstances set forth in subsec-
5 tion (a) (1);

6 “(2) a Class E felony in the circumstances set forth in subsec-
7 tion (a) (2), (a) (3), or (a) (4);

8 **“§ 1762. Monetary Offenses**

9 “(a) **OFFENSE.**—A person is guilty of an offense if he fails to file a
10 report, or to make or maintain a record, as required under:

11 “(1) section 411 of the National Housing Act, as added by
12 section 102 of the Act of October 26, 1970 (12 U.S.C. 1730d) (re-
13 lating to records and reports by institutions insured by the Federal
14 Savings and Loan Insurance Corporation);

15 “(2) section 21 of the Federal Deposit Insurance Act, as added
16 by section 101 of the Act of October 26, 1970 (12 U.S.C. 1829b)
17 (relating to records and reports by banks insured by the Federal
18 Deposit Insurance Corporation);

19 “(3) chapter 2 of title I of the Act of October 26, 1970 (12
20 U.S.C. 1951 et seq.) (relating to records and reports by uninsured
21 banks and institutions); or

22 “(4) the Currency and Foreign Transactions Reporting Act
23 (31 U.S.C. 1051 et seq.) (relating to records and reports con-
24 cerning domestic currency transactions, exports and imports of
25 monetary instruments, and foreign monetary transactions).

26 “(b) **GRADING.**—An offense described in this section is:

27 “(1) a Class D felony if the offense is committed:

28 “(A) in furtherance of any other violation of federal law;

29 or

30 “(B) as part of a pattern of illegal activity involving
31 transactions exceeding \$100,000 in any twelve-month period;

32 “(2) a Class A misdemeanor in any other case.

33 Notwithstanding the provisions of section 2201(b) (1), the authorized
34 fine is \$500,000 if the offense is a Class D felony and \$100,000 if the
35 offense is a Class A misdemeanor.

36 **“§ 1763. Commodities Exchange Offenses**

37 “(a) **OFFENSE.**—A person is guilty of an offense if he violates:

38 (1) section 9(a) of the Commodity Exchange Act, as amended
39 (7 U.S.C. 13(b)) (relating to the manipulation of the price of a
40 commodity in interstate commerce), or section 9(c) or (d) of that

1 Act (7 U.S.C. 13(d) or (e)) (relating to transactions in commod-
 2 ity futures by commissioners, employees, or agents of the Com-
 3 modity Futures Trading Commission); or

4 "(2) the eleventh paragraph of section 25(a) of the Act of
 5 December 23, 1913, as added by the Act of December 24, 1919 (12
 6 U.S.C. 617) (relating to the prohibition on the use of corporate
 7 funds to manipulate the price of a commodity by an agent of a
 8 corporation organized to do foreign banking).

9 "(b) GRADING.—An offense described in this section is a Class E
 10 felony.

11 **"§ 1764. Antitrust Offenses**

12 "(a) OFFENSE.—A person is guilty of an offense if he violates sec-
 13 tion 1, 2, or 3 of the Sherman Act of July 2, 1890, as amended (15
 14 U.S.C. 1, 2, or 3) (relating to agreements in restraint of trade and
 15 monopolizing trade).

16 "(b) GRADING.—An offense described in this section is a Class E
 17 felony. Notwithstanding the provisions of section 2201(b)(2), the
 18 authorized fine for a corporation is \$1,000,000, or the alternative au-
 19 thorized fine set forth in section 2201(c).

20 **"Chapter 18.—OFFENSES INVOLVING PUBLIC ORDER,
 21 SAFETY, HEALTH, AND WELFARE**

"Subchapter

"A. Organized Crime Offenses.

"B. Drug Offenses.

"C. Explosives and Firearms Offenses.

"D. Riot Offenses.

"E. Gambling, Obscenity, and Prostitution Offenses.

"F. Public Health Offenses.

"G. Miscellaneous Offenses.

22 **"Subchapter A.—Organized Crime Offenses**

"Sec.

"1801. Operating a Racketeering Syndicate.

"1802. Racketeering.

"1803. Washing Racketeering Proceeds.

"1804. Loansharking.

"1805. Facilitating a Racketeering Activity by Violence.

"1806. Definitions for Subchapter A.

23 **"§ 1801. Operating a Racketeering Syndicate**

24 "(a) OFFENSE.—A person is guilty of an offense if he organizes,
 25 owns, controls, manages, directs, finances, or otherwise participates in
 26 a supervisory capacity in a racketeering syndicate.

27 "(b) PROOF.—In a prosecution under this section, proof that a per-
 28 son has shared in the proceeds from a racketeering syndicate to the
 29 extent of \$5,000 or more in any thirty day period constitutes prima
 30 facie evidence that the person has organized, owned, controlled, man-

1 aged, directed, financed, or otherwise participated in a supervisory
2 capacity in such syndicate.

3 "(c) GRADING.—An offense described in this section is a Class B
4 felony.

5 **"§ 1802. Racketeering**

6 "(a) OFFENSE.—A person is guilty of an offense if, through a pat-
7 tern of racketeering activity, he acquires or maintains an interest in,
8 or conducts, an enterprise.

9 "(b) GRADING.—An offense described in this section is a Class B
10 felony.

11 **"§ 1803. Washing Racketeering Proceeds**

12 "(a) OFFENSE.—A person is guilty of an offense if, by using or in-
13 vesting proceeds from a pattern of racketeering activity, he acquires
14 or maintains an interest in, or establishes or conducts, an enterprise.

15 "(b) DEFENSE.—It is a defense to a prosecution under this section
16 that the proceeds were used to purchase securities of the enterprise on
17 the open market without intent to control or participate in the control
18 of the enterprise, or to assist another person to do so, if the securities
19 of the enterprise held by the purchaser, the members of his immediate
20 family, and his or their accomplices in any pattern of racketeering ac-
21 tivity after such purchase do not amount in the aggregate to one per-
22 cent or more of the outstanding securities of any one class, and do not
23 confer, either in law or in fact, the power to elect one or more directors
24 of the enterprise.

25 "(c) GRADING.—An offense described in this section is a Class C
26 felony.

27 **"§ 1804. Loansharking**

28 "(a) OFFENSE.—A person is guilty of an offense if he:

29 "(1) makes or finances an extortionate extension of credit;

30 "(2) makes or finances an extension of credit:

31 "(A) having, in fact, an aggregate value in excess of \$100,
32 including unpaid interest or similar charges and any other
33 outstanding extensions of credit to the same debtor;

34 "(B) carrying a rate of interest that exceeds an annual rate
35 of forty-five percent, calculated according to the actuarial
36 method of allocating payments between principal and interest
37 under which a payment is applied first to the accumulated
38 interest and the balance is applied to the unpaid principal;
39 and

1 “(C) concerning which the repayment, or the performance
2 of any promise given in return, would not in fact be enforce-
3 able through civil judicial process against the debtor:

4 “(i) in the jurisdiction within which the debtor, if an
5 individual, resided at the time the extension of credit was
6 made; or

7 “(ii) in every jurisdiction within which the debtor, if
8 an organization, was incorporated or qualified to do busi-
9 ness at the time the extension of credit was made;

10 “(3) collects a repayment of an extension of credit that was
11 made or financed unlawfully, such making or financing having
12 been in violation of subsection (a) (1) or (a) (2); or

13 “(4) retaliates against any person for failing to repay an exten-
14 sion of credit made or financed in violation of subsection (a) (1)
15 or (a) (2) by subjecting any person to bodily injury, kidnapping,
16 or injury to reputation, or by damaging property.

17 “(b) **PROOF.**—In a prosecution under subsection (a) (1), if evidence
18 is introduced tending to show the existence of the circumstances de-
19 scribed in subsection (a) (2) (B) or (a) (2) (C), and direct evidence
20 is not available to show the understanding of the creditor and the
21 debtor concerning the possible consequences of a delay in making re-
22 payment or a failure to make repayment, for the purpose of showing
23 that understanding the court may permit the introduction of evidence
24 concerning the reputation as to collection practices of the creditor in
25 any community of which the debtor was a member at the time of the
26 extension of credit.

27 “(c) **GRADING.**—An offense described in this section is:

28 “(1) a Class C felony in the circumstances set forth in subsection
29 (a) (1);

30 “(2) a Class D felony in the circumstances set forth in subsec-
31 tion (a) (2);

32 “(3) a Class E felony in the circumstances set forth in subsec-
33 tion (a) (3) or (a) (4).

34 **“§ 1805. Facilitating a Racketeering Activity by Violence**

35 “(a) **OFFENSE.**—A person is guilty of an offense if, with intent to
36 facilitate a racketeering activity, he engages in any conduct constitut-
37 ing an offense under a section in subchapter A or B of chapter 16.

38 “(b) **DEFINITION.**—As used in this section, ‘racketeering activity’
39 does not include conduct constituting a felony under section 1601 (Mur-
40 der, 1602 (Manslaughter), 1611 (Maiming), 1612 (Aggravated Bat-

1 tery), or 1615 (Terrorizing), or under a state statute relating to
2 murder.

3 “(c) GRADING.—An offense described in this section is a Class D
4 felony.

5 “(d) JURISDICTION.—There is federal jurisdiction over an offense
6 described in this section if:

7 “(1) the United States mail or a facility of interstate or foreign
8 commerce is used in the planning, promotion, management, execu-
9 tion, consummation, or concealment of the offense, or in the
10 distribution of the proceeds of the offense; or

11 “(2) movement of a person across a state or United States
12 boundary occurs in the planning, promotion, management, execu-
13 tion, consummation, or concealment of the offense or in the dis-
14 tribution of the proceeds of the offense.

15 **“§ 1806. Definitions for Subchapter A**

16 “As used in this subchapter:

17 “(a) ‘creditor’ means a person who makes an extension of
18 credit, or who claims by, under, or through a person making an
19 extension of credit;

20 “(b) ‘debtor’ means a person to whom an extension of credit
21 is made, or a person who guarantees the repayment of an exten-
22 sion of credit or who undertakes to indemnify the creditor against
23 loss from a failure to repay the extension of credit;

24 “(c) ‘extension of credit’ means a loan, a renewal of a loan, or
25 a tacit or express agreement concerning the deferment of the
26 repayment or satisfaction of a debt or claim, however the loan
27 or renewal or agreement arose, whether it is acknowledged or
28 disputed, and whether it is valid or invalid;

29 “(d) ‘extortionate extension of credit’ means an extension of
30 credit with respect to which it is the understanding of the creditor
31 and the debtor, at the time it is made, that delay in making re-
32 payment or failure to make repayment could result in the use of
33 force, or in threatening or placing any person in fear that any
34 person will be subjected to bodily injury, kidnapping, or injury
35 to reputation, or that any property will be damaged;

36 “(e) ‘pattern of racketeering activity’ means two or more sep-
37 arate acts of racketeering activity, at least one of which oc-
38 curred after the effective date of this subchapter, that
39 have the same or similar purposes, results, participants, victims,

1 or methods of commission, or otherwise are interrelated by dis-
2 tinguishing characteristics and are not isolated events;

3 “(f) ‘racketeering activity’ means:

4 “(1) conduct constituting a felony under section 1321
5 (Witness Bribery), 1322 (Corrupting a Witness or an In-
6 formant), 1323 (Tampering with a Witness or an Informant),
7 1351 (Bribery), 1352 (Graft), 1403 (Alcohol and To-
8 bacco Tax Offenses), 1411 (Smuggling), 1412 (Trafficking in
9 Smuggled Property), 1601 (Murder), 1602 (Manslaughter),
10 1611 (Maiming), 1612 (Aggravated Battery), 1615 (Ter-
11 rorizing), 1621 (Kidnapping), 1701 (Arson), 1711 (Bur-
12 glary), 1712 (Criminal Entry), 1721 (Robbery), 1722 (Extor-
13 tion), 1723 (Blackmail), 1731 (Theft), 1732 (Trafficking
14 in Stolen Property), 1734 (Executing a Fraudulent Scheme),
15 1735 (Bankruptcy Fraud), 1741 (Counterfeiting), 1742
16 (Forgery), 1745 (Trafficking in a Counterfeiting Imple-
17 ment), 1751 (Commercial Bribery), 1752 (Labor Bribery),
18 1753 (Sports Bribery), 1761 (Securities Offenses), 1762
19 (Monetary Offenses), 1804 (Loansharking), 1811 (Traffick-
20 ing in an Opiate), 1812 (Trafficking in Drugs), 1821 (Explo-
21 sives Offenses), 1822 (Firearms Offenses), 1841 (Engaging
22 in a Gambling Business), or 1843 (Conducting a Prostitution
23 Business);

24 “(2) conduct constituting a felony under a state statute
25 relating to murder, kidnapping, arson, robbery, bribery, ex-
26 tortion, trafficking in narcotics or other dangerous drugs, or
27 engaging in a gambling business; or

28 “(3) conduct defined as ‘racketeering activity’ in former
29 18 U.S.C. 1961(1) (B), (C), or (D) (part of section 901(a)
30 of the Organized Crime Control Act of 1970).

31 “(g) ‘racketeering syndicate’ means a group of five or more per-
32 sons who, individually or collectively, engage on a continuing
33 basis in conduct constituting racketeering activity, other than
34 racketeering activity consisting solely of conduct constituting a
35 felony under section 1841 (Engaging in a Gambling Business) or
36 1843 (Conducting a Prostitution Business) or under the law of a
37 state relating to engaging in a gambling business;

38 “(h) ‘repayment’ includes (1) a return, in whole or in part, of
39 an extension of credit, and (2) a payment of interest on, or of a
40 charge for, an extension of credit.

1 **"Subchapter B.—Drug Offenses**

"Sec.

"1811. Trafficking in an Opiate.

"1812. Trafficking in Drugs.

"1813. Possessing Drugs.

"1814. Violating a Drug Regulation.

"1815. General Provisions for Subchapter B.

2 **"§ 1811. Trafficking in an Opiate**

3 "(a) OFFENSE.—A person is guilty of an offense if he:

4 "(1) manufactures or traffics in an opiate;

5 "(2) creates or traffics in a counterfeit substance containing an
6 opiate;7 "(3) imports or exports an opiate, or possesses an opiate aboard
8 a vehicle arriving in or departing from the United States or the
9 customs territory of the United States; or10 "(4) manufactures or traffics in an opiate for import into the
11 United States.

12 "(b) GRADING.—An offense described in this section is:

13 "(1) a Class B felony if:

14 "(A) the opiate weighs 100 grams or more;

15 "(B) the offense consists of distributing the opiate to a
16 person who is less than eighteen years old and who is at least
17 five years younger than the defendant; or18 "(C) the offense is committed after the defendant had been
19 convicted of a felony under federal, state, or foreign law
20 relating to an opiate, or while he was on release pending trial
21 for an offense described in subsection (a);

22 "(2) a Class C felony in any other case.

23 Notwithstanding the provisions of part III of this title, the court
24 may not sentence the defendant to probation but shall sentence him
25 to a term of imprisonment of not less than two years and to a term of
26 parole ineligibility of not less than two years, with the sentence to
27 run consecutively to any other term of imprisonment imposed upon
28 the defendant, unless the court finds that, at the time of the offense,
29 the defendant was less than eighteen years old; the defendant's mental
30 capacity was significantly impaired, although the impairment was not
31 such as to constitute a defense to prosecution; the defendant was under
32 unusual and substantial duress, although not such duress as would con-
33 stitute a defense to prosecution; or the defendant was an accomplice,
34 the conduct constituting the offense was principally the conduct of
35 another person, and the defendant's participation was relatively minor.

1 **“§ 1812. Trafficking in Drugs**

2 “(a) OFFENSE.—A person is guilty of an offense if he:

3 “(1) manufactures or traffics in a controlled substance other
4 than an opiate;

5 “(2) creates or traffics in a counterfeit substance other than a
6 counterfeit substance containing an opiate;

7 “(3) imports or exports a controlled substance other than an
8 opiate, or possesses a controlled substance other than an opiate
9 aboard a vehicle arriving in or departing from the United States
10 or the customs territory of the United States; or

11 “(4) manufactures or traffics in a controlled substance other
12 than an opiate, and other than a substance listed in Schedule III,
13 IV, or V, for import into the United States.

14 “(b) GRADING.—An offense described in this section is:

15 “(1) a Class C felony if the controlled substance is a narcotic
16 drug listed in Schedule I or II other than an opiate;

17 “(2) a Class D felony if the controlled substance is:

18 “(A) a substance listed in Schedule I or II other than:

19 “(i) a narcotic drug; or

20 “(ii) 300 grams or less of marihuana; or

21 “(B) a substance listed in Schedule III;

22 “(3) a Class E felony if the controlled substance is a substance
23 listed in Schedule IV;

24 “(4) a Class A misdemeanor if the controlled substance is:

25 “(A) a substance listed in Schedule V; or

26 “(B) 100 to 300 grams of marijuana;

27 “(5) a Class B misdemeanor if the controlled substance is less
28 than 100 grams of marijuana;

29 unless the offense consists of distributing the controlled substance to
30 a person who is less than eighteen years old and who is at least five
31 years younger than the defendant, in which case the offense is of the
32 class next above that otherwise specified.

33 **“§ 1813. Possessing Drugs**

34 “(a) OFFENSE.—A person is guilty of an offense if he possesses a
35 controlled substance, other than 10 grams or less of marihuana.

36 “(b) DEFENSE.—It is a defense to a prosecution under this section
37 that the controlled substance was obtained by the defendant from,
38 or pursuant to a valid prescription or order issued by, a practitioner
39 acting in the course of his professional practice.

- 1 “(c) GRADING.—An offense described in this section is:
 2 “(1) a Class D felony if the controlled substance is 100 grams
 3 or more of an opiate;
 4 “(2) a Class A misdemeanor if the controlled substance is:
 5 “(A) less than 100 grams of an opiate; or
 6 “(B) a substance other than an opiate or marihuana;
 7 “(3) a Class C misdemeanor in any other case, but, notwith-
 8 standing the provisions of section 2201 (b) or (c), the authorized
 9 fine is \$500.

10 **“§ 1814. Violating a Drug Regulation**

- 11 “(a) OFFENSE.—A person is guilty of an offense if he violates:
 12 “(1) section 402 (a) or (b) of the Controlled Substances Act
 13 (21 U.S.C. 842(a) or (b)) (relating to the dispensing and manu-
 14 facturing of controlled substances by registered manufacturers,
 15 distributors, and dispensers of controlled substances);
 16 “(2) section 403(a) (1), (2), (3), or (5) of the Controlled Sub-
 17 stances Act (21 U.S.C. 843(a) (1), (2), (3), or (5)) (relating to
 18 the distribution of controlled substances by registrants and the
 19 use of labeling implements to render a drug a counterfeit sub-
 20 stance); or
 21 “(3) section 1004 of the Controlled Substances Import and
 22 Export Act (21 U.S.C. 954) (relating to the importation for
 23 transshipment to another country of controlled substances).

- 24 “(b) GRADING.—An offense described in this section is:
 25 “(1) a Class E felony in the circumstances set forth in sub-
 26 section (a) (2);
 27 “(2) a Class A misdemeanor in the circumstances set forth in
 28 subsection (a) (1) or (a) (3).

29 **“§ 1815. General Provisions for Subchapter B**

- 30 “(a) DEFINITIONS.—As used in this subchapter:
 31 “(1) ‘controlled substance’, ‘counterfeit substance’, ‘distribute’
 32 (incorporated through the definition of the term ‘traffic’ in section
 33 111), ‘manufacture’, ‘marihuana’, ‘narcotic drug’, and ‘practi-
 34 tioner’ have the meanings set forth in section 102 of the Controlled
 35 Substances Act (21 U.S.C. 802);
 36 “(2) ‘customs territory of the United States’ has the meaning
 37 set forth in section 1001 of the Controlled Substances Import and
 38 Export Act (21 U.S.C. 951);
 39 “(3) ‘dispense’ (incorporated through the definition of the
 40 term ‘traffic’ in section 111) means to deliver a controlled sub-

1 stance to an ultimate user or research subject by, or pursuant to
 2 the order of, a practitioner, and includes the prescribing or ad-
 3 ministering of a controlled substance and the packaging, labelling,
 4 or compounding necessary to prepare the substance for such
 5 delivery;

6 “(4) ‘import’ means to import into the United States from any
 7 place outside the United States, or into the customs territory
 8 of the United States from any place outside the customs territory
 9 of the United States but within the United States;

10 “(5) ‘opiate’ means a mixture or substance containing a detect-
 11 able amount of any narcotic drug that is a controlled substance
 12 listed in Schedule I or II, other than a narcotic drug consisting
 13 of (A) coca leaves; (B) a compound, manufacture, salt, deriva-
 14 tive, or preparation of coca leaves; or (C) a substance chemically
 15 identical thereto;

16 “(6) ‘Schedule I’, ‘Schedule II’, ‘Schedule III’, ‘Schedule IV’,
 17 and ‘Schedule V’ refer to the schedules of controlled substances
 18 established by section 202 of the Controlled Substances Act (21
 19 U.S.C. 812).

20 “(b) DEFENSE.—It is a defense to a prosecution under section 1811,
 21 1812, or 1813 that the actor’s conduct was authorized by the provisions
 22 of the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Con-
 23 trolled Substances Import and Export Act (21 U.S.C. 951 et seq.).

24 **“Subchapter C.—Explosives and Firearms Offenses**

“Sec.

“1821. Explosives Offenses.

“1822. Firearms Offenses.

“1823. Using a Weapon in the Course of a Crime.

“1824. Possessing a Weapon aboard an Aircraft.

25 **“§ 1821. Explosives Offenses**

26 “(a) OFFENSE.—A person is guilty of an offense if he:

27 “(1) transports or possesses an explosive with intent that it be
 28 used, or with knowledge that it may be used, to commit a felony;

29 “(2) violates a provision included in subsection (a) through
 30 (k) of section 1103 of the Organized Crime Control Act of 1970,
 31 as amended by section 201 of the Criminal Code Reform Act of
 32 1977 (15 U.S.C. —) (relating to the regulation and licensing
 33 of the business of importing, manufacturing, or dealing in ex-
 34 plosive materials);

35 “(3) violates:

36 “(A) section 4472(14) of the Revised Statutes of the
 37 United States, as amended (46 U.S.C. 170 (14));

1 “(B) section 902(h) (2) of the Federal Aviation Act of
2 1958, as amended (49 U.S.C. 1472(h) (2)); or

3 “(C) section 110(b) of the Hazardous Materials Trans-
4 portation Act (49 U.S.C. 1809(b)); or

5 “(4) possesses an explosive in a government building.

6 “(b) DEFINITION.—As used in this section, ‘explosive’ includes a
7 destructive device; gunpowder, smokeless powder, or powder used
8 for blasting material; and a fuze; detonator, or other detonating
9 agent.

10 “(c) DEFENSE.—It is a defense to a prosecution under subsection
11 (a) (4) that the possession was in conformity with the written con-
12 sent of the government agency or person responsible for the manage-
13 ment of such building.

14 “(d) GRADING.—An offense described in this section is:

15 “(1) a Class D felony in the circumstances set forth in:

16 “(A) subsection (a) (1); or

17 “(B) subsection (a) (2) if the violation is of a provision
18 set forth in subsection (a) through (i) of section 1103 of the
19 Organized Crime Control Act of 1970, as amended (15
20 U.S.C. —);

21 “(2) a Class E felony in the circumstances set forth in sub-
22 section (a) (3);

23 “(3) a Class A misdemeanor in the circumstances set forth in:

24 “(A) subsection (a) (2) if the violation is of a provision
25 set forth in subsection (j) or (k) of section 1103 of the Orga-
26 nized Crime Control Act of 1970, as amended (15 U.S.C. —);

27 or

28 “(B) subsection (a) (4).

29 “(e) JURISDICTION.—There is federal jurisdiction over an offense
30 described in:

31 “(1) subsection (a) (1) if the explosive is being transported,
32 or has been transported, in interstate or foreign commerce;

33 “(2) subsection (a) (4) if the building is owned by, or is under
34 the care, custody, or control of the United States.

35 “§ 1822. Firearms Offenses

36 “(a) OFFENSE.—A person is guilty of an offense if he:

37 “(1) transports or possesses a firearm or ammunition with in-
38 tent that it be used, or with knowledge that it may be used, to
39 commit a felony;

40 “(2) violates section 103 or 104 of the Gun Control Act of 1968,
41 as amended by section 202 of the Criminal Code Reform Act of

1 1977 (15 U.S.C. —) (relating to the regulation and licensing of the
2 business of importing, manufacturing, or dealing in firearms or
3 ammunition);

4 “(3) violates section 5861 of the Internal Revenue Code of
5 1954, as amended (26 U.S.C. 5861) (relating to the registration
6 of importers, manufacturers, and dealers in firearms and the pay-
7 ment of a special occupational tax); or

8 “(4) violates section 1202 of the Omnibus Crime Control and
9 Safe Streets Act of 1968 (15 U.S.C. —) (relating to the receipt,
10 possession, or transportation of firearms by persons prohibited
11 from engaging in such conduct).

12 “(b) DEFINITION.—As used in this section, ‘firearm’ includes a
13 frame or receiver of a firearm and a firearm silencer or muffler.

14 “(c) GRADING.—An offense described in this section is:

15 “(1) a Class D felony in the circumstances set forth in subsec-
16 tion (a) (1), (a) (2), or (a) (3);

17 “(2) a Class E felony in the circumstances set forth in subsec-
18 tion (a) (4).

19 “(d) JURISDICTION.—There is federal jurisdiction over an offense
20 described in subsection (a) (1) if the firearm or ammunition is being
21 transported, or has been transported, in interstate or foreign commerce.

22 **“§ 1823. Using a Weapon in the Course of a Crime**

23 “(a) OFFENSE.—A person is guilty of an offense if, during the com-
24 mission of a crime, he:

25 “(1) displays or otherwise uses a firearm or a destructive device;

26 “(2) possesses a firearm or a destructive device; or

27 “(3) displays or otherwise uses:

28 “(A) a dangerous weapon other than a firearm or a destruc-
29 tive device; or

30 “(B) an imitation of a firearm or a destructive device.

31 “(b) GRADING.—An offense described in this section is:

32 “(1) a Class D felony in the circumstances set forth in subsec-
33 tion (a) (1);

34 “(2) a Class E felony in the circumstances set forth in subsec-
35 tion (a) (2) or (a) (3).

36 Notwithstanding the provisions of part III of this title, if the offense
37 is committed in the circumstance set forth in subsection (a) (1) or
38 (a) (2) the court may not sentence the defendant to probation but shall
39 sentence him to a term of imprisonment of not less than two years
40 for an offense described in subsection (a) (1) or one year for an

1 offense described in subsection (a) (2) and to a term of parole ineligi-
 2 bility of not less than two years for an offense described in subsection
 3 (a) (1) or one year for an offense described in subsection (a) (2), with
 4 the sentence to run consecutively to any other term of imprisonment
 5 imposed upon the defendant, unless the court finds that, at the time
 6 of the offense, the defendant was less than eighteen years old; the
 7 defendant's mental capacity was significantly impaired, although the
 8 impairment was not such as to constitute a defense to prosecution; the
 9 defendant was under unusual and substantial duress, although not
 10 such duress as would constitute a defense to prosecution; or the de-
 11 fendant was an accomplice, the conduct constituting the offense was
 12 principally the conduct of another person, and the defendant's partici-
 13 pation was relatively minor.

14 "(c) JURISDICTION.—There is federal jurisdiction over an offense
 15 described in this section if the offense occurs during the commission
 16 of any other offense described in this title over which federal jurisdic-
 17 tion exists.

18 **"§ 1824. Possessing a Weapon aboard an Aircraft**

19 "(a) OFFENSE.—A person is guilty of an offense if he possesses or
 20 secretes aboard an aircraft:

21 "(1) a dangerous weapon, other than a destructive device, that
 22 in fact is concealed and that is, or that would be, accessible to such
 23 person in flight; or

24 "(2) a destructive device that in fact is concealed.

25 "(b) DEFENSE.—It is a defense to a prosecution under this section
 26 that the actor's conduct was authorized under a regulation issued by
 27 the Administrator of the Federal Aviation Agency.

28 "(c) GRADING.—An offense described in this section is a Class A
 29 misdemeanor.

30 "(d) JURISDICTION.—There is federal jurisdiction over an offense
 31 described in this section if the offense is committed on an aircraft in,
 32 or intended for operation in, air transportation or intrastate air trans-
 33 portation as defined in section 101 of the Federal Aviation Act of 1958,
 34 as amended (49 U.S.C. 1301).

35 **"Subchapter D.—Riot Offenses**

"Sec.

"1831. Leading a Riot.

"1832. Providing Arms for a Riot.

"1833. Engaging in a Riot.

"1834. Definitions for Subchapter D.

1 **“§ 1831. Leading a Riot**2 **“(a) OFFENSE.**—A person is guilty of an offense if:3 **“(1)** he causes a riot by incitement, or during a riot he incites
4 participation in the riot; or5 **“(2)** during a riot he urges participation in, leads, or gives
6 commands, instructions, or directions in furtherance of, the riot.7 **“(b) GRADING.**—An offense described in this section is:8 **“(1)** a Class D felony if the riot involves persons in a facility
9 used for official detention;10 **“(2)** a Class E felony in any other case.11 **“(c) JURISDICTION.**—There is federal jurisdiction over an offense
12 described in this section if:13 **“(1)** the offense is committed within the special jurisdiction of
14 the United States;15 **“(2)** the riot involves persons in a federal facility used for
16 official detention; or17 **“(3)** movement of a person across a state or United States
18 boundary occurs in the execution or consummation of the offense.19 **“§ 1832. Providing Arms for a Riot**20 **“(a) OFFENSE.**—A person is guilty of an offense, if, with intent to
21 promote a riot, he supplies, or teaches the preparation or use of, a
22 firearm, a destructive device, or another dangerous weapon.23 **“(b) GRADING.**—An offense described in this section is:24 **“(1)** a Class D felony if it involves the supplying of a firearm
25 or a destructive device;26 **“(2)** a Class E felony in any other case.27 **“(c) JURISDICTION.**—There is federal jurisdiction over an offense
28 described in this section if:29 **“(1)** a circumstance specified in section 1831(c) exists or has oc-
30 curred; or31 **“(2)** the firearm, destructive device, or other dangerous weapon
32 supplied is moved across a state or United States boundary in the
33 commission of the offense.34 **“§ 1833. Engaging in a Riot**35 **“(a) OFFENSE.**—A person is guilty of an offense if he engages in
36 a riot.37 **“(b) GRADING.**—An offense described in this section is:38 **“(1)** a Class A misdemeanor if the riot involves persons in a
39 facility used for official detention;40 **“(2)** a Class B misdemeanor in any other case.

1 “(c) JURISDICTION.—There is federal jurisdiction over an offense
2 described in this section if:

3 “(1) the offense is committed within the special jurisdiction
4 of the United States;

5 “(2) the offense is committed in a federal facility used for of-
6 ficial detention; or

7 “(3) the riot obstructs a federal government function.

8 **“§ 1834. Definition for Subchapter D**

9 “As used in this subchapter, ‘riot’ means a public disturbance (a)
10 that involves ten or more persons as participants; (b) that involves
11 violent and tumultuous conduct on the part of the participants; and
12 (c) that causes, or creates a grave danger of imminently causing,
13 injury to persons or damage to property. ‘Riot’ does not include or-
14 derly and lawful conduct for the purpose of pursuing the legitimate
15 objectives of organized labor.

16 **“Subchapter E.—Gambling, Obscenity, and Prostitution Offenses**

“Sec.

“1841. Engaging in a Gambling Business.

“1842. Disseminating Obscene Material.

“1843. Conducting a Prostitution Business.

17 **“§ 1841. Engaging in a Gambling Business**

18 “(a) OFFENSE.—A person is guilty of an offense if he:

19 “(1) owns, controls, manages, supervises, directs, conducts,
20 finances, or otherwise engages in a gambling business;

21 “(2) receives lay-off wagers or otherwise provides reinsurance
22 in relation to persons engaged in gambling;

23 “(3) carries or sends:

24 “(A) a gambling device;

25 “(B) gambling information; or

26 “(C) gambling proceeds;

27 from within a state to any place outside the state; or

28 “(4) otherwise establishes, promotes, manages, or carries on an
29 enterprise involving gambling.

30 “(b) DEFINITIONS.—As used in this section:

31 “(1) ‘gambling business’ means a business involving gambling
32 of any kind that, in fact:

33 “(A) has five or more persons engaged in the business; and

34 “(B) has been in substantially continuous operation for a
35 period of thirty days or more, or has taken in \$2,000 or more
36 in any single day;

1 “(2) ‘gambling device’ means:

2 “(A) any device covered by section 1 of the Act of January
3 2, 1951, as amended (15 U.S.C. 1171), and not excluded by
4 section 9 (2) or (3) of the Act of January 2, 1951, as added
5 by section 6 of the Gambling Devices Act of 1962 (15 U.S.C.
6 1178 (2) or (3)); or

7 “(B) any record, paraphernalia, ticket, certificate, bill,
8 slip, token, writing, scratch sheet, or other means of carry-
9 ing on bookmaking, wagering pools, bingo or keno games, lot-
10 teries, policy, bolita, numbers, or similar games, or any equip-
11 ment for carrying on card or dice games other than cards or
12 dice used in such games;

13 “(3) ‘gambling information’ means information consisting of,
14 or assisting in, the placing of a bet or wager, or the purchase of a
15 ticket in a lottery or similar game of chance.

16 “(c) DEFENSE.—It is a defense to a prosecution:

17 “(1) under subsection (a) (1), (a) (2), or (a) (4) that the kind
18 of gambling business or enterprise, the manner in which the busi-
19 ness or enterprise was operated, and the defendant’s participation
20 therein, were legal in all states and localities in which it was
21 carried on, including any state and locality from which a customer
22 placed a wager with, or otherwise patronized, the gambling busi-
23 ness or enterprise, and any state and locality in which the wager
24 was received or to which it was transmitted.

25 “(2) under subsection (a) (3) that:

26 “(A) the gambling device was carried or sent into, or was
27 en route to, solely a state and locality in which the use of
28 such a device was legal;

29 “(B) the defendant was a common or public contract car-
30 rier, or an employee thereof, and was carrying the gambling
31 device in the usual course of business;

32 “(C) the defendant was a player or bettor and the gambling
33 device he was carrying or sending was solely a ticket or other
34 embodiment of his claim;

35 “(D) the transmission of the gambling information was
36 made solely in connection with news reporting;

37 “(E) the transmission of the gambling information was
38 solely from a state and locality in which such gambling was
39 legal into a state and locality in which such gambling was
40 legal; or

1 “(F) the gambling proceeds were obtained by the defendant
2 as a result of his lawful participation in gambling which was
3 legal in all states and localities in which it was carried on,
4 including any state and locality from which the defendant
5 placed a wager or otherwise participated in gambling activity,
6 and any state and locality in which his wager was received
7 or to which it was transmitted.

8 “(d) ESTABLISHING PROBABLE CAUSE.—If five or more persons are
9 engaged in a gambling business, and such business operates for two
10 or more successive days, then, solely for the purpose of obtaining war-
11 rants for arrests, interceptions of communications, and other searches
12 and seizures, probable cause that the business has taken in \$2,000 or
13 more in any single day shall be considered to be established.

14 “(e) GRADING.—An offense described in this section is:

15 “(1) a Class D felony in the circumstances set forth in subsec-
16 tion (a) (1) or (a) (2);

17 “(2) a Class E felony in the circumstances set forth in subsec-
18 tion (a) (3) or (a) (4).

19 “(f) JURISDICTION.—There is federal jurisdiction over an offense
20 described in:

21 “(1) subsection (a) (1) or (a) (2) if the offense is committed:

22 “(A) within the general jurisdiction of the United States;

23 “(B) within the special jurisdiction of the United States;

24 or

25 “(C) within the extraterritorial jurisdiction of the United
26 States to the extent applicable under section 204;

27 “(2) subsection (a) (3) or (a) (4) if:

28 “(A) the United States mail or a facility of interstate or
29 foreign commerce is used in the planning, promotion, man-
30 agement, execution, consummation, or concealment of the of-
31 fense, or in the distribution of the proceeds of the offense; or

32 “(B) movement of any person across a state or United
33 States boundary occurs in the planning, promotion, manage-
34 ment, execution, consummation, or concealment of the offense,
35 or in the distribution of the proceeds of the offense.

36 **“§ 1842. Disseminating Obscene Material**

37 “(a) OFFENSE.—A person is guilty of an offense if he:

38 “(1) disseminates obscene material:

39 “(A) to a minor; or

1 “(B) to any person in a manner affording no immediately
2 effective opportunity to avoid exposure to such material; or

3 “(2) commercially disseminates obscene material to any person.

4 (b) DEFINITIONS.—As used in this section:

5 “(1) ‘commercially disseminate’ means to disseminate for
6 profit;

7 “(2) ‘disseminate’ means:

8 “(A) to transfer, distribute, dispense, lend, display, ex-
9 hibit, send, or broadcast, whether for profit or otherwise; or

10 “(B) to produce, transport, or possess with intent to do any
11 of the foregoing;

12 “(3) ‘minor’ means an unmarried person less than seventeen
13 years old;

14 “(4) ‘obscene material’ means material that:

15 “(A) sets forth in a patently offensive way:

16 “(i) an explicit representation, or a detailed written
17 or verbal description, of an act of sexual intercourse, in-
18 cluding genital-genital, anal-genital, or oral-genital
19 intercourse, whether between human beings or between a
20 human being and an animal; of masturbation; or of
21 flagellation, torture, or other violence indicating a sado-
22 masochistic sexual relationship; or

23 “(ii) an explicit, close-up representation of a human
24 genital organ;

25 “(B) taken as a whole, appeals predominantly to the pru-
26 rient interest of:

27 “(i) the average person, applying contemporary com-
28 munity standards; or

29 “(ii) the average person within a sexually deviant
30 class of persons, if such material is designed for, and is
31 primarily disseminated to, such class of persons; and

32 “(C) taken as a whole, lacks serious artistic, scientific, lit-
33 erary, or political value.

34 “(c) AFFIRMATIVE DEFENSES.—It is an affirmative defense to a pros-
35 ecution under this section that dissemination of the material was
36 restricted to:

37 “(1) a person associated with an institution of higher learn-
38 ing, either as a member of the faculty or as an enrolled student,
39 teaching or pursuing a bona fide course of study, or conducting or

1 engaging in a bona fide research program, to which such material
2 is pertinent; or

3 “(2) a person whose receipt of such material was authorized in
4 writing by a licensed or certified psychiatrist, psychologist, or
5 medical practitioner.

6 “(d) GRADING.—An offense described in this section is a Class E
7 felony.

8 “(e) JURISDICTION.—There is federal jurisdiction over an offense
9 described in this section if:

10 “(1) the offense is committed within the special jurisdiction of
11 the United States;

12 “(2) the United States mail or a facility in interstate or for-
13 eign commerce is used in the commission of the offense; or

14 “(3) the material is moved across a state or United States
15 boundary.

16 **“§ 1843. Conducting a Prostitution Business**

17 “(a) OFFENSE.—A person is guilty of an offense if he owns, controls,
18 manages, supervises, directs, finances, procures patrons for, or recruits
19 participants in, a prostitution business.

20 “(b) DEFINITIONS.—As used in this section:

21 “(1) ‘prostitution’ means engaging in a sexual act, as defined in
22 section 1646(a)(1), as consideration for anything of pecuniary
23 value;

24 “(2) ‘prostitution business’ means a business in which a person
25 controls, manages, supervises, or directs the prostitution of an-
26 other person.

27 “(c) DEFENSE.—It is a defense to a prosecution under this section
28 that the prostitution business and the prostitution involved was legal
29 in all states and localities in which it was carried on.

30 “(d) GRADING.—An offense described in this section is:

31 “(1) a Class D felony if the business involves prostitution, or
32 recruiting for prostitution, of a person less than eighteen years
33 old;

34 “(2) a Class E felony in any other case.

35 “(e) JURISDICTION.—There is federal jurisdiction over an offense
36 described in this section if:

37 “(1) the offense is committed within the special jurisdiction of
38 the United States;

1 “(2) the United States mail or a facility of interstate or foreign
2 commerce is used in the planning, promotion, management, execu-
3 tion, consummation, or concealment of the offense, or in the dis-
4 tribution of the proceeds of the offense; or

5 “(3) movement of any person across a state or United States
6 boundary occurs in the planning, promotion, management, execu-
7 tion, consummation, or concealment of the offense, or in the dis-
8 tribution of the proceeds of the offense.

9 **“Subchapter F.—Public Health Offenses**

“Sec.

“1851. Fraud in a Health Related Industry.

“1852. Distributing Adulterated Food.

“1853. Environmental Pollution.

10 **“§ 1851. Fraud in a Health Related Industry**

11 “(a) OFFENSE.—A person is guilty of an offense if, with intent to
12 defraud, he violates:

13 “(1) section 9, 10, 11, 14, or 17 of the Poultry Products Inspec-
14 tion Act, as amended (21 U.S.C. 458, 459, 460, 463, or 466)
15 (relating to the marking, labeling, and packaging of poultry and
16 poultry products);

17 “(2) section 10, 11, 19, 20, 24, 201, 202, 203, or 204 of the Federal
18 Meat Inspection Act, as amended (21 U.S.C. 610, 611, 619, 620, 624,
19 641, 642, 643, or 644) (relating to the marking, labeling, and pack-
20 aging of meat and meat products);

21 “(3) section 8 of the Egg Products Inspection Act, as amended
22 (21 U.S.C. 1037) (relating to the marking, labeling, and pack-
23 aging of eggs and egg products); or

24 “(4) section 301 of the Federal Food, Drug, and Cosmetic Act,
25 as amended (21 U.S.C. 331) (relating to the adulteration and mis-
26 branding of a food, drug, device, or cosmetic).

27 “(b) GRADING.—An offense described in this section is a Class E
28 felony.

29 **“§ 1852. Distributing Adulterated Food**

30 “(a) OFFENSE.—A person is guilty of an offense if in the distribu-
31 tion of an adulterated article he violates:

32 “(1) section 9, 10, 11, 14, or 17 of the Poultry Products Inspec-
33 tion Act, as amended (21 U.S.C. 458, 459, 460, 463, or 466) (relat-
34 ing to the distribution of adulterated poultry and poultry prod-
35 ucts);

36 “(2) section 10, 11, 19, 20, 24, 201, 202, 203, or 204 of the Federal
37 Meat Inspection Act, as amended (21 U.S.C. 610, 611, 619, 620,

1 624, 641, 642, 643, or 644) (relating to the distribution of adulterated meat and meat products); or

2
3 “(3) section 8 of the Egg Products Inspection Act, as amended
4 (21 U.S.C. 1037) (relating to the distribution of adulterated eggs
5 and egg products).

6 “(b) DEFINITION.—The term ‘adulterated’, as used:

7 “(1) in subsection (a) (1) has the meaning set forth in section
8 4(g) of the Poultry Products Inspection Act, as amended (21
9 U.S.C. 453(g)), except for paragraph 8 thereof;

10 “(2) in subsection (a) (2) has the meaning set forth in section
11 2(m) of the Federal Meat Inspection Act, as amended (21 U.S.C.
12 601(m)), except for paragraph 8 thereof;

13 “(3) in subsection (a) (3) has the meaning set forth in section
14 4(a) of the Egg Products Inspection Act, as amended (21 U.S.C.
15 1033(a)), except for paragraph 8 thereof.

16 “(c) GRADING.—An offense described in this section is a Class E
17 felony.

18 “§ 1853. Environmental Pollution

19 “(a) OFFENSE.—A person is guilty of an offense if he violates:

20 “(1) section 309(c) (1) of the Federal Water Pollution Control
21 Act, as added by section 2 of the Act of October 18, 1972
22 (33 U.S.C. 1319(c) (1)) (relating to the control of water pollu-
23 tion and to permit conditions and limitations on water pollu-
24 tion);

25 “(2) section 113(c) (1) of the Clean Air Act, as added by
26 section 4(a) of the Clean Air Act Amendments of 1970, and
27 amended (42 U.S.C. 1857c-8(c) (1)) (relating to clean air stand-
28 ards and implementation plans and orders of the Administrator
29 under the Clean Air Act);

30 “(3) section 11(a) of the Noise Control Act of 1972, as amended
31 (42 U.S.C. 4910(a)) (relating to the manufacture, sale, and im-
32 portation of products that violate noise emission standards); or

33 “(4) section 3008(d) of the Solid Waste Disposal Act (42
34 U.S.C. 692(d)) (relating to transportation and disposal of haz-
35 ardous waste).

36 “(b) GRADING.—An offense described in this section is a Class A
37 misdemeanor in the circumstances set forth in:

38 “(1) subsection (a) (1), unless prior to the commission of the
39 offense the defendant has been convicted of an offense described

1 in subsection (a) (1), in which case the offense is a Class E felony.
 2 “(2) subsection (a) (2), unless prior to the commission of the
 3 offense the defendant has been convicted of an offense described
 4 in subsection (a) (2), in which case the offense is a Class E felony;
 5 “(3) subsection (a) (3), unless prior to the commission of the
 6 offense the defendant has been convicted of an offense described
 7 in subsection (a) (3), in which case the offense is a Class E felony;
 8 “(4) subsection (a) (4), unless prior to the commission of the
 9 offense the defendant has been convicted of an offense described in
 10 subsection (a) (4), in which case the offense is a Class E felony.
 11 Notwithstanding the provisions of section 2201(b), the maximum
 12 fine for a Class A misdemeanor described in this section is \$25,000
 13 per day of violation or the maximum fine otherwise available under
 14 section 2201 (b) or (c), whichever is higher, and the maximum fine
 15 for a Class E felony described in this section is \$50,000 per day of
 16 violation or the maximum fine otherwise available under section 2201
 17 (b) or (c), whichever is higher.

18 **“Subchapter G.—Miscellaneous Offenses**

“Sec.

“1861. Failing to Obey a Public Safety Order.

“1862. Violating State or Local Law in an Enclave.

19 **“§ 1861. Failing to Obey a Public Safety Order**

20 “(a) **OFFENSE.**—A person is guilty of an offense if he disobeys an
 21 order of a public servant to move, disperse, or refrain from specified
 22 activity in a particular place, and the order:

23 “(1) is issued in response to a fire, flood, riot, or other condition
 24 that creates a risk of serious injury to a person or serious damage
 25 to property; and

26 “(2) is, in fact, lawful and reasonably designed to prevent
 27 serious bodily injury to a person or serious damage to property.

28 “(b) **GRADING.**—An offense described in this section is an infraction.

29 “(c) **JURISDICTION.**—There is federal jurisdiction over an offense
 30 described in this section if:

31 “(1) the offense is committed within the special jurisdiction of
 32 the United States; or

33 “(2) the public servant is a federal public servant.

34 **“§ 1862. Violating State or Local Law in an Enclave**

35 “(a) **OFFENSE.**—A person is guilty of an offense if, in a place within
 36 the special territorial jurisdiction of the United States as described in
 37 section 203(a) (1), (a) (2), or (a) (3), he engages in conduct:

38 “(1) that constitutes an offense under the law then in force
 39 in the state or locality in which such place is located;

1 A sentence to pay a fine may be imposed in addition to any other
2 sentence.

3 “(c) ORGANIZATIONS.—An organization found guilty of an offense
4 shall be sentenced, in accordance with the provisions of section
5 2003, to:

6 “(1) probation as authorized by chapter 21; or

7 “(2) a fine as authorized by chapter 22.

8 A sentence to pay a fine may be imposed in addition to a sentence to
9 probation.

10 **“§ 2002. Presentence Reports**

11 “(a) PRESENTENCE INVESTIGATION AND REPORT BY PROBATION OFFI-
12 CER.—A probation officer appointed by the court shall make a presen-
13 tence investigation of a defendant found guilty of an offense and
14 shall report the results of the investigation to the court before the
15 imposition of sentence, pursuant to the provisions of Rule 32(c) of
16 the Federal Rules of Criminal Procedure.

17 “(b) PRESENTENCE STUDY AND REPORT BY BUREAU OF PRISONS.—If
18 the court, before or after its receipt of a report specified in subsection
19 (a) or (c), desires more information than is otherwise available to
20 it as a basis for determining the sentence to be imposed on a defendant
21 found guilty of a felony, it may order that the defendant be com-
22 mitted to the custody of the Bureau of Prisons for a period of
23 not more than sixty days. Such an order constitutes a provisional
24 sentence of imprisonment for the maximum term authorized by sec-
25 tion 2301(b) for the offense committed. The Bureau shall conduct a
26 complete study of the defendant during such period, inquiring into
27 such matters as the defendant’s previous delinquency or criminal ex-
28 periences; his social background; his capabilities; his mental, emo-
29 tional, and physical health; and the rehabilitative resources or pro-
30 grams that may be available to suit his needs. The period of com-
31 mitment may, in the discretion of the court, be extended for an
32 additional period of not more than sixty days. By the expiration
33 of the period of commitment, or by the expiration of any extension
34 granted by the court, the Bureau shall return the defendant to the
35 court for final sentencing, shall provide the court with a written report
36 of the results of the study, and shall make to the court whatever rec-
37 ommendations the Bureau believes will be helpful to a proper reso-
38 lution of the case. The report may include recommendations of the
39 Bureau concerning the category of offense and category of offender
40 set forth in the guidelines issued by the Sentencing Commission pur-

1 suant to 28 U.S.C. 994(a) (1) that it believes are applicable to the de-
 2 fendant's case. After receiving the report and the recommendations,
 3 the court shall proceed finally to sentence the defendant in accord-
 4 ance with the sentencing alternatives available under this chapter.

5 "(c) PRESENTENCE EXAMINATION AND REPORT BY PSYCHIATRIC
 6 EXAMINERS.—If the court, before or after its receipt of a report speci-
 7 fied in subsection (a) or (b), desires more information than is other-
 8 wise available to it as a basis for determining the mental condition
 9 of the defendant, it may order that the defendant undergo a psychi-
 10 atric examination by two or more examiners, and that the examiners
 11 provide the court with a written report, pursuant to the provisions
 12 of section 3614.

13 **"§ 2003. Imposition of a Sentence**

14 "(a) FACTORS TO BE CONSIDERED IN IMPOSING A SENTENCE.—The
 15 court, in determining the particular sentence to be imposed, shall
 16 consider:

17 "(1) the nature and circumstances of the offense and the history
 18 and characteristics of the defendant;

19 "(2) the need for the sentence imposed:

20 "(A) to afford adequate deterrence to criminal conduct;

21 "(B) to protect the public from further crimes of the
 22 defendant;

23 "(C) to reflect the seriousness of the offense, to promote
 24 respect for law, and to provide just punishment for the
 25 offense; and

26 "(D) to provide the defendant with needed educational or
 27 vocational training, medical care, or other correctional treat-
 28 ment in the most effective manner;

29 "(3) the sentencing range established for the applicable category
 30 of offense committed by the applicable category of defendant as
 31 set forth in the guidelines that are issued by the Sentencing Com-
 32 mission pursuant to 28 U.S.C. 994(a) (1) and that are in effect
 33 on the date the defendant committed the offense; and

34 "(4) any pertinent policy statement issued by the Sentencing
 35 Commission pursuant to 28 U.S.C. 994(a) (2).

36 "(b) STATEMENT OF REASONS FOR IMPOSING A SENTENCE.—The court,
 37 at the time of sentencing, shall state in open court the general reasons
 38 for its imposition of the particular sentence, and, if the sentence is
 39 outside the range described in subsection (a) (3), the reason for the
 40 imposition of a sentence outside such range.

1 **“§ 2004. Order of a Criminal Forfeiture**

2 “(a) FORFEITURE.—The court, in imposing a sentence on a defendant
3 who has been found guilty of an offense described in section 1801
4 (Operating a Racketeering Syndicate), 1802 (Racketeering), or 1803
5 (Washing Racketeering Proceeds), shall order, in addition to the
6 sentence that is imposed pursuant to the provisions of section 2001,
7 that the defendant forfeit to the United States any property constitut-
8 ing his interest in the racketeering syndicate or enterprise involved.

9 “(b) PROTECTIVE ORDERS.—At any time after the arrest of the de-
10 fendant for, or after the filing of an indictment or information charg-
11 ing, an offense for which a criminal forfeiture may be ordered under
12 subsection (a), the court may enter a restraining order or injunction,
13 may require a performance bond, and may take such other action as is
14 in the interest of justice, with respect to any property subject to
15 criminal forfeiture.

16 “(c) EXECUTION.—The Attorney General, upon such terms and con-
17 ditions as are in the interest of justice, shall seize property that a
18 defendant has been ordered to forfeit to the United States, and shall
19 dispose of such property as soon as commercially feasible, making due
20 provision for the rights of any innocent person. If any property can-
21 not be disposed of for value the rights to such property shall not revert
22 to the defendant.

23 “(d) APPLICABILITY OF CIVIL FORFEITURE PROVISIONS.—Except to
24 the extent that they are inconsistent with the provisions of this sec-
25 tion, all provisions of law relating to the remission or mitigation of
26 civil forfeitures of property for violation of the customs laws, the com-
27 promise of claims with respect to such property, the disposition of such
28 property, the proceeds from the sale of such property, and the award
29 of compensation to informants with respect to such property, shall
30 apply to criminal forfeitures ordered under this section. The duties
31 imposed upon a customs officer or any other person with respect
32 to the civil seizure, forfeiture, and disposition of property under the
33 customs laws shall, with respect to property that has been ordered
34 forfeited to the United States under this section, be performed by
35 the Attorney General.

36 **“§ 2005. Order of Notice to Victims**

37 “The Court, in imposing a sentence on an individual who has been
38 found guilty of an offense involving fraud or other deceptive prac-
39 tices, or on an organization that has been found guilty of any offense,
40 may order, in addition to the sentence that is imposed pursuant to the
41 provisions of section 2001, that the defendant give notice and explana-

1 tion of the conviction, in such form as the court may approve, to the
 2 class of persons or to the sector of the public affected by the conviction
 3 or financially interested in the subject matter of the offense, by mail,
 4 by advertising in designated areas or through designated media, or
 5 by other appropriate means. In determining whether to require the
 6 defendant to give such notice, the court shall consider the factors set
 7 forth in section 2003(a) to the extent that they are applicable.

8 **“§ 2006. Order of Restitution**

9 The court, in imposing a sentence on a defendant who has been
 10 found guilty of an offense causing bodily injury or property damage
 11 or other loss, may order, in addition to the sentence that is imposed
 12 pursuant to the provisions of section 2001, that the defendant make
 13 direct restitution to a victim of the offense in an amount and manner
 14 set by the court. The provisions of section 2202, 2203, 3812, and 3813
 15 apply to an order to pay restitution as they apply to a sentence to
 16 pay a fine.

17 **“§ 2007. Review of a Sentence**

18 “The review of a sentence imposed pursuant to section 2001 is gov-
 19 erned by the provisions of section 3725 and by the Federal Rules of
 20 Appellate Procedure.

21 **“§ 2008 Implementation of a Sentence**

22 “The implementation of a sentence imposed pursuant to section 2001
 23 is governed by the provisions of chapter 38.

24 **“Chapter 21.—PROBATION**

“Sec.

“2101. Sentence of Probation.

“2102. Imposition of a Sentence of Probation.

“2103. Conditions of Probation.

“2104. Running of a Term of Probation.

“2105. Revocation of Probation.

“2106. Implementation of a Sentence of Probation.

25 **“§ 2101. Sentence of Probation**

26 “(a) **IN GENERAL.**—A defendant who has been found guilty of an
 27 offense may be sentenced to a term of probation unless:

28 “(1) the offense is a Class A felony;

29 “(2) the offense is an offense for which probation has been
 30 expressly precluded; or

31 “(3) the defendant is sentenced at the same time to a term
 32 of imprisonment for the same or a different offense.

33 **“(b) AUTHORIZED TERMS.**—The authorized terms of probation are:

34 “(1) for a felony, not less than one nor more than five years;

35 “(2) for a misdemeanor, not more than two years;

36 “(3) for an infraction, not more than one year.

1 **“§ 2102. Imposition of a Sentence of Probation**

2 “(a) **FACTORS TO BE CONSIDERED IN IMPOSING A TERM OF PROBA-**
3 **TION.**—The court, in determining whether to impose a term of proba-
4 tion, and, if a term of probation is to be imposed, in determining the
5 length of the term and the conditions of probation, shall consider the
6 factors set forth in section 2003(a) to the extent that they are
7 applicable.

8 “(b) **EFFECT ON FINALITY OF JUDGMENT.**—Notwithstanding the fact
9 that a sentence of probation can subsequently be modified or revoked,
10 a judgment of conviction that includes such a sentence constitutes a
11 final judgment for all other purposes.

12 **“§ 2103. Conditions of Probation**

13 “(a) **MANDATORY CONDITION.**—The court shall provide, as an ex-
14 plicit condition of a sentence of probation, that the defendant not com-
15 mit another federal, state, or local crime during the term of probation.

16 “(b) **DISCRETIONARY CONDITIONS.**—The court may provide, as fur-
17 ther conditions of a sentence to probation to the extent that such
18 conditions are reasonably related to the factors set forth in section
19 2003 (a) (1) and (a) (2) and to the extent that such conditions in-
20 volve such deprivations of liberty or property as are reasonably
21 necessary for the purposes indicated in section 2003(a) (2), that the
22 defendant:

23 “(1) support his dependents and meet other family responsi-
24 bilities;

25 “(2) pay a fine imposed pursuant to the provisions of chapter
26 22;

27 “(3) make direct restitution to a victim of the offense pursuant
28 to the provisions of section 2006;

29 “(4) give to the victims of the offense the notice ordered pur-
30 suant to the provisions of section 2005;

31 “(5) work conscientiously at suitable employment or pursue
32 conscientiously a course of study or of vocational training that
33 will equip him for suitable employment;

34 “(6) refrain from engaging in a specified occupation, business,
35 or profession bearing a reasonable relationship to the offense, or
36 engage in such a specified occupation, business, or profession only
37 under stated circumstances;

1 “(7) refrain from frequenting specified kinds of places or
2 from associating unnecessarily with specified persons;

3 “(8) refrain from excessive use of alcohol, or any use of a
4 narcotic drug or other controlled substance, as defined in section
5 102 of the Controlled Substances Act (21 U.S.C. 802), without a
6 prescription by a licensed medical practitioner;

7 “(9) refrain from possessing a firearm, destructive device, or
8 other dangerous weapon;

9 “(10) undergo available medical or psychiatric treatment as
10 specified by the court and remain in a specified institution if re-
11 quired for that purpose;

12 “(11) remain in the custody of the Bureau of Prisons for any
13 time or intervals of time, totaling no more than the lesser of
14 six months or the term of imprisonment authorized for the
15 offense in section 2301(b), during the term of probation;

16 “(12) reside at, or participate in the program of, a community
17 treatment facility for all or part of the term of probation;

18 “(13) work in community service as directed by the court;

19 “(14) reside in a specified place or area, or refrain from residing
20 in a specified place or area;

21 “(15) remain within the jurisdiction of the court, unless granted
22 permission to leave by the court or a probation officer;

23 “(16) report to a probation officer as directed by the court or
24 the probation officer;

25 “(17) permit a probation officer to visit him at his home or else-
26 where as specified by the court;

27 “(18) answer inquiries by a probation officer and promptly
28 notify the probation officer of any change in address or employ-
29 ment; or

30 “(19) satisfy such other conditions as the court may impose.

31 “(c) MODIFICATION OF CONDITIONS.—The court may modify, re-
32 duce, or enlarge the conditions of a sentence of probation at any time
33 prior to the expiration or termination of the term of probation.

34 “(d) WRITTEN STATEMENT OF CONDITIONS.—The court shall direct
35 that the probation officer provide to a defendant sentenced to probation
36 a written statement setting forth all the conditions to which the sen-
37 tence is subject with sufficient clarity and specificity to serve as a guide
38 for the defendant's conduct and for such supervision as is required.

1 **“§ 2104. Running of a Term of Probation**

2 “(a) **COMMENCEMENT.**—A term of probation commences on the day
3 that the sentence of probation is imposed, unless otherwise ordered
4 by the court.

5 “(b) **CONCURRENCE WITH OTHER SENTENCES.**—Multiple terms of
6 probation, whether imposed at the same time or at different times,
7 run concurrently with each other. A term of probation runs con-
8 currently with any federal, state, or local term of probation or pa-
9 role for another offense to which the defendant is subject or becomes
10 subject during the term of probation, except that it does not run dur-
11 ing any period in which the defendant is imprisoned in connection with
12 a conviction for a federal, state, or local crime.

13 “(c) **EARLY TERMINATION.**—The court may terminate a term of pro-
14 bation previously ordered and discharge the defendant at any time in
15 the case of a misdemeanor or an infraction or at any time after the ex-
16 piration of one year of probation in the case of a felony, if it is satisfied
17 that such action is warranted by the conduct of the defendant and the
18 interest of justice.

19 “(d) **EXTENSION.**—The court may extend a term of probation, if less
20 than the authorized term was previously imposed, at any time prior to
21 the expiration or termination of the term of probation.

22 “(e) **SUBJECT TO REVOCATION.**—A sentence of probation remains con-
23 ditional and subject to revocation until its expiration or termination.

24 **“§ 2105. Revocation of Probation**

25 “(a) **CONTINUATION OR REVOCATION.**—If the defendant violates a
26 condition of probation at any time prior to the expiration or termina-
27 tion of the term of probation, the court may:

28 “(1) continue him on probation, with or without extending the
29 term or modifying or enlarging the conditions; or

30 “(2) revoke the sentence of probation and impose any other
31 sentence that was available under chapter 20 at the time of the
32 initial sentencing.

33 “(b) **DELAYED REVOCATION.**—The power of the court to revoke a sen-
34 tence of probation for violation of a condition of probation extends be-
35 yond the expiration of the term of probation for any period reasonably
36 necessary for the adjudication of matters arising before its expiration
37 if, prior to its expiration, a warrant or summons has been issued on the
38 basis of an allegation of such a violation.

39 **“§ 2106. Implementation of a Sentence of Probation**

40 “The implementation of a sentence of probation is governed by the
41 provisions of subchapter A of chapter 38.

1 **“Chapter 22.—FINES**

“Sec.

“2201. Sentence of Fine.

“2202. Imposition of a Sentence of Fine.

“2203. Modification or Remission of Fine.

“2204. Implementation of a Sentence of Fine.

2 **“§ 2201. Sentence of Fine**

3 “(a) **IN GENERAL.**—Subject to the provisions of section 2202, a
4 defendant who has been found guilty of an offense may be sentenced
5 to pay a fine.

6 “(b) **AUTHORIZED FINES.**—Except as otherwise provided in sub-
7 section (c) or any other provision of law, the authorized fines are:

8 “(1) if the defendant is an individual:

9 “(A) for a felony, not more than \$100,000;

10 “(B) for a misdemeanor, not more than \$10,000;

11 “(C) for an infraction, not more than \$1,000;

12 “(2) if the defendant is an organization:

13 “(A) for a felony, not more than \$500,000;

14 “(B) for a misdemeanor, not more than \$100,000;

15 “(C) for an infraction, not more than \$10,000.

16 “(c) **ALTERNATIVE AUTHORIZED FINE.**—In lieu of a fine authorized
17 by subsection (b) or any other provision of law, a defendant who has
18 been found guilty of an offense through which pecuniary gain was
19 directly or indirectly derived, or by which bodily injury or property
20 damage or other loss was caused, may be sentenced to pay a fine that
21 does not exceed twice the gross gain derived or twice the gross loss
22 caused, whichever is the greater.

23 **“§ 2202. Imposition of a Sentence of Fine**

24 “(a) **FACTORS TO BE CONSIDERED IN IMPOSING A FINE.**—The court, in
25 determining whether to impose a fine, and, if a fine is to be imposed,
26 in determining the amount of the fine, the time for payment, and the
27 method of payment, shall consider the factors set forth in section 2003
28 (a), to the extent they are applicable, including, with regard to the
29 characteristics of the defendant under section 2003(a)(1), the ability
30 of the defendant to pay the fine in view of:

31 “(1) the defendant’s income, earning capacity, and financial
32 resources;

33 “(2) the nature of the burden that payment of the fine will im-
34 pose on the defendant, and on any person who is financially de-
35 pendent upon the defendant;

36 “(3) any requirement imposed upon the defendant to make
37 direct restitution or reparation to the victim of the offense; and

38 “(4) any other pertinent equitable consideration.

1 “(b) **TIME AND METHOD OF PAYMENT.**—At the time a defendant is
2 sentenced to pay a fine, the court may provide for the payment to be
3 made within a specified period of time or in specified installments. If
4 no such provision is made a part of the sentence, payment is due
5 immediately.

6 “(c) **ALTERNATIVE SENTENCE PRECLUDED.**—At the time a defendant
7 is sentenced to pay a fine, the court may not impose an alternative
8 sentence to be served in the event that the fine is not paid.

9 “(d) **INDIVIDUAL RESPONSIBILITY FOR PAYMENT BY ORGANIZATION.**—
10 If a fine is imposed on an organization, it is the duty of the individuals
11 authorized to make disbursement of the assets of the organization to
12 pay the fine from assets of the organization.

13 **“§ 2203. Modification or Remission of Fine**

14 “(a) **PETITION FOR MODIFICATION OR REMISSION.**—A defendant who
15 has been sentenced to pay a fine, and who has paid part but not all
16 thereof, may petition the court for :

17 “(1) an extension of the time for payment;

18 “(2) a modification in the method of payment; or

19 “(3) a remission of all or part of the unpaid portion.

20 “(b) **ORDER OF MODIFICATION OR REMISSION.**—If, after the filing of
21 a petition as provided in subsection (a), the court finds that the cir-
22 cumstances no longer exist that warranted the imposition of the fine
23 in the amount imposed or payment by the time or method specified,
24 or that it would otherwise be unjust to require payment of the fine
25 in the amount imposed or by the time or method specified, the court
26 may enter an order :

27 “(1) extending the time for payment;

28 “(2) modifying the method of payment; or

29 “(3) remitting all or part of the unpaid portion.

30 **“§ 2204. Implementation of a Sentence of Fine**

31 “The implementation of a sentence to pay a fine is governed by the
32 provisions of subchapter B of chapter 38.

33 **“Chapter 23.—IMPRISONMENT**

“Sec.

“2301. Sentence of Imprisonment.

“2302. Imposition of a Sentence of Imprisonment.

“2303. Parole Term and Contingent Prison Term Included in Sentence of Im-
prisonment.

“2304. Multiple Sentences of Imprisonment.

“2305. Calculation of Term of Imprisonment.

“2306. Implementation of a Sentence of Imprisonment and Parole Therefrom.

34 **“§ 2301. Sentence of Imprisonment**

35 “(a) **IN GENERAL.**—A defendant who has been found guilty of
36 an offense may be sentenced to a term of imprisonment.

1 “(b) **AUTHORIZED TERMS.**—The authorized terms of imprisonment
2 are:

3 “(1) for a Class A felony, the duration of the defendant’s life
4 or any period of time;

5 “(2) for a Class B felony, not more than twenty-five years;

6 “(3) for a Class C felony, not more than twelve years;

7 “(4) for a Class D felony, not more than six years;

8 “(5) for a Class E felony, not more than three years;

9 “(6) for a Class A misdemeanor, not more than one year;

10 “(7) for a Class B misdemeanor, not more than six months;

11 “(8) for a Class C misdemeanor, not more than thirty days;

12 “(9) for an infraction, not more than five days.

13 “(c) **AUTHORIZED TERMS OF PAROLE INELIGIBILITY.**—The authorized
14 term of imprisonment that may be required to be served prior to eligi-
15 bility for parole is any term found appropriate by the court in light
16 of the provisions of section 2302(b), but no term of parole ineligibility
17 may extend into the last one-tenth of the sentence imposed.

18 “§ 2302. **Imposition of a Sentence of Imprisonment**

19 “(a) **FACTORS TO BE CONSIDERED IN IMPOSING A TERM OF IMPRISON-**
20 **MENT.**—The court, in determining whether to impose a term of im-
21 prisonment, and, if a term of imprisonment is to be imposed, in deter-
22 mining the length of the term, shall consider the factors set forth in
23 section 2003(a) to the extent that they are applicable. In determining
24 whether to make a recommendation concerning the type of prison
25 facility appropriate for the defendant, the court shall consider any
26 pertinent policy statements issued by the Sentencing Commission pur-
27 suant to 28 U.S.C. 994(a)(2). If the court imposes a term of imprison-
28 ment it shall designate the portion, if any, of the term to be served as
29 a term of parole ineligibility.

30 “(b) **FACTORS TO BE CONSIDERED IN IMPOSING A TERM OF PAROLE**
31 **INELIGIBILITY.**—The court, in determining whether to impose a term
32 of parole ineligibility, and, if a term of parole ineligibility is to be
33 imposed, in determining the length of the term, shall consider the
34 factors set forth in section 2003(a) to the extent that they are
35 applicable.

36 “(c) **MODIFICATION OF AN IMPOSED TERM OF IMPRISONMENT OR TERM**
37 **OF PAROLE INELIGIBILITY.**—The court may not modify a term of im-
38 prisonment or a term of parole ineligibility once it has been imposed
39 except that:

40 “(1) upon motion of the Director of the Bureau of Prisons
41 and upon notice to the attorney for the government, the court,

1 for extraordinary and compelling reasons, may reduce an im-
 2 posed term of imprisonment or term of parole ineligibility to the
 3 time that the defendant has served in imprisonment; and

4 “(2) the court may modify an imposed term of imprisonment
 5 or term of parole ineligibility to the extent otherwise expressly
 6 permitted by statute or by Rule 35 of the Federal Rules of Crim-
 7 inal Procedure.

8 **“§ 2303. Parole Term and Contingent Imprisonment Term In-
 9 cluded in Sentence of Imprisonment**

10 “A sentence to a term of imprisonment in the case of a felony or of a
 11 Class A misdemeanor automatically includes, in addition to the speci-
 12 fied term of imprisonment, a separate:

13 “(a) term of parole, the incidents of which are governed by the
 14 provisions of subchapter D of chapter 38; and

15 “(b) contingent term of imprisonment of:

16 “(1) ninety days in the case of a felony; or

17 “(2) thirty days in the case of a Class A misdemeanor;

18 that may, in the event of recommitment for violation of a condi-
 19 tion of parole, be ordered to be served in lieu of the term of the
 20 original sentence minus the portion of the original sentence served
 21 in confinement prior to the parole, if the contingent term of im-
 22 prisonment is longer.

23 **“§ 2304. Multiple Sentences of Imprisonment**

24 “(a) IMPOSITION OF CONCURRENT OR CONSECUTIVE TERMS.—If mul-
 25 tiple terms of imprisonment are imposed on a defendant at the same
 26 time, or if a term of imprisonment is imposed on a defendant who is al-
 27 ready subject to an undischarged term of imprisonment, the terms may
 28 run concurrently or consecutively, except that the terms may not run
 29 consecutively:

30 “(1) for an offense described in section 1001 (Criminal At-
 31 tempt), 1002 (Criminal Conspiracy), or 1003 (Criminal Solicita-
 32 tion), and for another offense that was the sole objective of the
 33 attempt, conspiracy, or solicitation;

34 “(2) for an offense involving a violation of a general prohibi-
 35 tion and for an offense involving a violation of a specific pro-
 36 hibition encompassed within the general prohibition.

37 Multiple terms of imprisonment run concurrently unless the court

1 orders that the terms are to run consecutively. If multiple terms of
 2 imprisonment are ordered to run consecutively, any included terms of
 3 parole ineligibility also run consecutively.

4 “(b) **FACTORS TO BE CONSIDERED IN IMPOSING CONCURRENT OR CON-**
 5 **SECUTIVE TERMS.**— The court, in determining whether the terms im-
 6 posed are to be ordered to run concurrently or consecutively, shall con-
 7 sider, as to each offense for which a term of imprisonment is being
 8 imposed, the factors set forth in section 2003 (a).

9 “(c) **LIMIT ON AGGREGATE OF CONSECUTIVE TERMS.**—The aggre-
 10 gate of consecutive terms of imprisonment to which a defendant may
 11 be sentenced may not exceed such term as is authorized by section 2301
 12 for an offense one grade higher than the most serious offense of which
 13 he was found guilty.

14 “(d) **TREATMENT OF MULTIPLE SENTENCES AS AN AGGREGATE.**—
 15 Multiple terms of imprisonment ordered to run consecutively shall be
 16 treated for administrative purposes as a single, aggregate term of
 17 imprisonment, and any included terms of parole ineligibility shall be
 18 treated as a single, aggregate term of parole ineligibility.

19 **“§ 2305. Calculation of Term of Imprisonment**

20 “(a) **COMMENCEMENT OF SENTENCE.**—A sentence to a term of im-
 21 prisonment commences on the date the defendant is received in custody
 22 awaiting transportation to, or is received at, the official detention facil-
 23 ity at which the sentence is to be served.

24 “(b) **CREDIT FOR PRIOR CUSTODY.**—A defendant shall be given credit
 25 toward the service of a term of imprisonment for any time he has
 26 spent in official detention prior to the date the sentence commences:

27 “(1) as a result of the offense for which the sentence was im-
 28 posed; or

29 “(2) as a result of any other charge for which the defendant
 30 was arrested after the commission of the offense for which the
 31 sentence was imposed;

32 that has not been credited against another sentence.

33 **“§ 2306. Implementation of a Sentence of Imprisonment and**
 34 **Parole therefrom**

35 “The implementation of a sentence to imprisonment is governed by
 36 the provisions of subchapter C of chapter 38. Parole from imprison-
 37 ment is governed by the provisions of subchapter D of chapter 38.

1 **"PART IV.—ADMINISTRATION AND**
 2 **PROCEDURE**

"Chapter

"30. Investigative and Law Enforcement Authority.

"31. Ancillary Investigative Authority.

"32. Rendition and Extradition.

"33. Jurisdiction and Venue.

"34. Appointment of Counsel.

"35. Release and Confinement Pending Judicial Proceedings.

"36. Disposition of Juvenile or Incompetent Offenders.

"37. Pretrial and Trial Procedure, Evidence, and Appellate Review.

"38. Postsentence Administration.

3 **"Chapter 30.—INVESTIGATIVE AND LAW ENFORCEMENT**
 4 **AUTHORITY**

"Subchapter

"A. Investigative Authority.

"B. Law Enforcement Authority.

5 **"Subchapter A.—Investigative Authority**

"Sec.

"3001. Investigative Authority over Offenses within this Title.

"3002. Investigative Authority over Offenses outside this Title.

6 **"§ 3001. Investigative Authority over Offenses within this Title**

7 "(a) **SPECIFIC DESIGNATIONS.**—Primary responsibility for detect-
 8 ing and investigating the commission of offenses described in this title
 9 is vested as follows:

10 "(1) offenses described in sections 1211, 1212, 1213, and 1214,
 11 and offenses arising from the administration or enforcement of
 12 the laws relating to immigration and nationality, are within the
 13 primary responsibility of the Immigration and Naturalization
 14 Service;

15 "(2) offenses described in subchapter A of chapter 14; offenses
 16 described in sections 1731, 1732, and 1733, if there is or may be
 17 jurisdiction over the offense as set forth in section 1731(c) (8)
 18 and the property consists of ammunition, a firearm, or a destruc-
 19 tive device; offenses described in sections 1821(a) (2) and 1822;
 20 and offenses arising from the administration or enforcement of the
 21 laws relating to internal revenue; are within the primary re-
 22 sponsibility of officers and employees of the Department of the
 23 Treasury assigned such responsibility by the Secretary of the
 24 Treasury;

25 "(3) offenses described in sections 1701, 1702, and 1703, if there
 26 is or may be federal jurisdiction over the offenses as set forth in
 27 section 1701(c) (5) or (c) (6), and offenses described in sections
 28 1821(a) (1), 1821(a) (4), and 1823, are within the primary re-
 29 sponsibility of officers and employees of the Department of the

1 Treasury assigned such responsibility by the Secretary of the
2 Treasury, and, concurrently, are within the primary responsibil-
3 ity of the Federal Bureau of Investigation;

4 "(4) offenses described in subchapter B of chapter 14, and
5 offenses arising from the administration or enforcement of the
6 laws relating to customs, are within the primary responsibility of
7 officers of the customs, as defined in section 401(i) of the Tariff
8 Act of 1930, as amended (19 U.S.C. 1401(i));

9 "(5) offenses described in sections 1731, 1732, and 1733, if there
10 is or may be federal jurisdiction over the offense as set forth in
11 section 1731(c) (27) or (c) (28); offenses described in sections 1851
12 (a) (1), (a) (2), and (a) (3), and 1852; and offenses arising from
13 the administration or enforcement of the laws relating to agricul-
14 ture; are within the primary responsibility of officers and employ-
15 ees of the Department of Agriculture assigned such responsibility
16 by the Secretary of Agriculture;

17 "(6) offenses described in subchapter E of chapter 17, other
18 than offenses for which jurisdiction is based on section 1741(c) (2)
19 (C), 1742(c) (2) (C), or 1743(c) (2) (C), if the tax stamp involved
20 is a state or local tax stamp or if the security involved is described
21 in section 1746 (f) (2), (f) (3), (f) (4), or (f) (8), and offenses
22 arising from the administration or enforcement of the laws relat-
23 ing to counterfeiting and forgery, other than those specifically
24 excepted by this paragraph, are within the primary responsibility
25 of the United States Secret Service;

26 "(7) offenses described in subchapter B of chapter 18; and
27 offenses arising from the administration or enforcement of the
28 laws relating to controlled substances, are within the primary
29 responsibility of the Drug Enforcement Administration;

30 "(8) offenses in which the subject of the offense is mail or prop-
31 erty of the United States Postal Service; offenses described in sec-
32 tion 1734(a) if there is or may be federal jurisdiction over the
33 offense as set forth in subsection 1734(e)(1); and offenses arising
34 from the administration or enforcement of the laws relating to
35 mail; are within the primary responsibility of officers and em-
36 ployees of the United States Postal Service assigned such responsi-
37 bility by the Board of Governors of the United States Postal
38 Service;

39 "(9) offenses committed within the national park system that
40 are not within the designated primary responsibility of another

1 federal agency are within the primary responsibility of the
2 Department of the Interior;

3 “(10) offenses described in section 1731, if there is or may be
4 jurisdiction over the offense as set forth in section 1731(c) (21),
5 and offenses described in section 1763, are within the primary
6 responsibility of officers and employees of the Commodity Futures
7 Trading Commission assigned such responsibility by the
8 Commission;

9 “(11) offenses described in section 1737(a) (1) are within the
10 primary responsibility of officers and employees of the Environ-
11 mental Protection Agency assigned such responsibility by the
12 Administrator of the Environmental Protection Agency;

13 “(12) offenses described in section 1762(a) (4) are within the
14 primary responsibility of officers and employees of the Department
15 of the Treasury and of the Securities and Exchange Commission
16 assigned or delegated such responsibility by the Secretary of the
17 Treasury;

18 “(13) offenses described in section 1851(a) (4) are within the
19 primary responsibility of the officers and employees of the De-
20 partment of Health, Education, and Welfare assigned such
21 responsibility by the Secretary of Health, Education, and Wel-
22 fare;

23 “(14) offenses described in section 1131; offenses described in
24 sections 1601, 1602, 1603, 1611, 1612, 1613, 1614, 1621, 1622, and
25 1623, if the victim of the offense is a United States official; offenses
26 described in section 1631; and offenses described in sections 1601,
27 1602, 1603, 1611, 1612, 1613, 1614, 1615, 1616, 1641, 1642, 1643,
28 1644, 1645, 1721, 1731, 1732, 1733, 1824, and 1861, if the offense
29 is committed within the special aircraft jurisdiction of the United
30 States; are within the primary responsibility of the Federal
31 Bureau of Investigation; and

32 “(15) all other offenses are within the primary responsibility
33 of those law enforcement agencies designated by regulation, rule,
34 or order issued by the Attorney General, except an offense that
35 incorporates by reference a statute outside this title concerning
36 which another agency is specifically assigned such responsibility
37 by law.

38 “(b) REDESIGNATION.—A responsibility set forth in subsection (a)
39 may be transferred to another law enforcement agency upon the writ-

1 ten consent of the head of both agencies involved and of the Attorney
2 General.

3 **“§ 3002. Investigative Authority Over Offenses Outside This Title**

4 “(a) **SPECIFIC DESIGNATIONS.**—Primary responsibility for detect-
5 ing and investigating the commission of offenses described outside this
6 title is vested in:

7 “(1) the law enforcement agency specifically assigned such
8 responsibility by law; or

9 “(2) the law enforcement agency designated by regulation,
10 rule, or order issued by the Attorney General if no other agency
11 is specifically assigned such responsibility by law.

12 “(b) **REDESIGNATION.**—A responsibility set forth in subsection (a)
13 may be transferred to another law enforcement agency upon the writ-
14 ten consent of the head of both agencies involved and of the Attorney
15 General.

16 **“Subchapter B.—Law Enforcement Authority**

“Sec.

“3011. Federal Bureau of Investigation.

“3012. Drug Enforcement Administration.

“3013. Department of the Treasury.

“3014. Postal Service.

“3015. United States Marshals Service.

“3016. United States Probation Service.

“3017. Bureau of Prisons.

“3018. Immigration and Naturalization Service.

“3019. Department of the Interior.

17 **“§ 3011. Federal Bureau of Investigation**

18 “The Director, Associate Director, Assistant to the Director, an
19 Assistant Director, an inspector, and an agent of the Federal Bureau
20 of Investigation of the Department of Justice may:

21 “(a) carry a firearm;

22 “(b) execute an order, warrant, subpoena, or other process issued
23 under the authority of the United States for arrest, search or
24 seizure, or production of evidence;

25 “(c) make an arrest without a warrant for an offense com-
26 mitted in his presence, or for a felony committed outside his pres-
27 ence if he has reasonable grounds to believe that the person to be
28 arrested has committed or is committing a felony;

29 “(d) offer and pay a reward for services or information assist-
30 ing in the detection or investigation of the commission of an
31 offense or in the apprehension of an offender; and

32 “(e) perform any other law enforcement duty that the Attorney
33 General may designate.

1 **“§ 3012. Drug Enforcement Administration**

2 “Subject to the direction of the Attorney General, an officer or em-
3 ployee of the Drug Enforcement Administration may:

4 “(a) carry a firearm;

5 “(b) execute an order, warrant, administrative inspection war-
6 rant, subpoena, or other process issued under the authority of the
7 United States for arrest, search or seizure, inspection, or produc-
8 tion of evidence;

9 “(c) make an arrest without a warrant for an offense committed
10 in his presence, or for a felony committed outside his presence, if
11 he has reasonable grounds to believe that the person to be arrested
12 has committed or is committing a felony;

13 “(d) offer and pay a reward for services or information assist-
14 ing in the detection or investigation of the commission of an
15 offense or in the apprehension of an offender;

16 “(e) make a seizure of property pursuant to the provisions of
17 the Controlled Substances Act (21 U.S.C. 801 et seq.) ; and

18 “(f) perform any other law enforcement duty that the Attorney
19 General may designate.

20 **“§ 3013. Department of the Treasury**

21 “(a) **AUTHORITY.**—Subject to the direction of the Secretary of the
22 Treasury:

23 “(1) an agent of the United States Secret Service;

24 “(2) an officer of the customs, as defined in section 401(i) of
25 the Tariff Act of 1930, as amended (19 U.S.C. 1401(i));

26 “(3) an agent of the Bureau of Alcohol, Tobacco, and Fire-
27 arms whom the Secretary of the Treasury has charged with the
28 duty of enforcing any criminal, seizure, or forfeiture provision
29 of the laws relating to internal revenue; or

30 “(4) a criminal investigator of the Intelligence Division or of
31 the Internal Security Division of the Internal Revenue Service
32 whom the Secretary has charged with the duty of enforcing a
33 criminal provision of the internal revenue laws or another crim-
34 inal provision of the laws relating to the internal revenue;

35 may perform any of the functions and duties enumerated in subsection
36 (b).

37 “(b) **FUNCTIONS AND DUTIES.**—Except as otherwise provided, an
38 agent, officer, or investigator described in subsection (a) may:

1 “(1) carry a firearm;

2 “(2) execute an order, warrant, subpoena, or other process
3 issued under the authority of the United States for arrest, search
4 or seizure, or production of evidence;

5 “(3) make an arrest without warrant for an offense committed
6 in his presence, or for a felony committed outside his presence if
7 he has reasonable grounds to believe that the person to be arrested
8 has committed or is committing a felony;

9 “(4) offer and pay a reward for services or information assist-
10 ing in the detection or investigation of the commission of an
11 offense or in the apprehension of an offender; and

12 “(5) perform any other law enforcement duty that the Secre-
13 tary of the Treasury may designate.

14 “(c) SPECIAL PROTECTION FUNCTION.—Subject to the direction of
15 the Secretary of the Treasury, the United States Secret Service shall
16 protect the person of:

17 “(1) the President and the members of his immediate family;

18 “(2) the President-elect and, unless such protection is declined,
19 the members of his immediate family;

20 “(3) the Vice President, or other person next in the order of
21 succession to the office of President, and, unless such protec-
22 tion is declined, the members of his immediate family;

23 “(4) the Vice President-elect and, unless such protection is
24 declined, the members of his immediate family;

25 “(5) a person who is determined by the Secretary of the Treas-
26 ury, after consultation with the advisory committee set forth in
27 Public Law 90-331 (82 Stat. 170), to be a major candidate for
28 President or Vice President, unless such protection is declined by
29 such person;

30 “(6) a former President and his spouse, unless such protection
31 is declined by such former President;

32 “(7) the spouse of a deceased former President until remar-
33 riage, unless such protection is declined by such spouse;

34 “(8) a minor child of a former President, until he reaches 16
35 years of age, unless such protection is declined by a parent or
36 guardian of such minor child;

37 “(9) the chief of state or head of government, or the political
38 equivalent, of a foreign power, who is in the United States;

1 “(10) an official guest of the United States who is ordered pro-
2 tected at the direction of the President, and

3 “(11) a federal public servant or other official representative
4 of the United States who is performing a special mission outside
5 the United States and who is ordered protected at the direction
6 of the President.

7 **“§ 3014. Postal Service**

8 “Subject to the direction of the Board of Governors of the United
9 States Postal Service, an officer or employee of the Postal Service
10 who is performing a duty related to the inspection of a postal matter,
11 related to the enforcement of a law regarding property of the Postal
12 Service or federal property in the custody of the Postal Service, re-
13 lated to the use of the mails, or related to an offense arising from the
14 administration or enforcement of the laws relating to the mails, may:

15 “(a) carry a firearm;

16 “(b) execute an order, warrant, subpoena, or other process
17 issued under the authority of the United States for arrest, search
18 or seizure, or production of evidence;

19 “(c) make an arrest without a warrant for an offense com-
20 mitted in his presence, or for a felony committed outside his
21 presence if he has reasonable grounds to believe that the person
22 to be arrested has committed or is committing a felony;

23 “(d) offer and pay a reward for services or information assist-
24 ing in the detection or investigation of the commission of an
25 offense or in the apprehension of an offender; and

26 “(e) perform any other law enforcement duty that the Board
27 of Governors may designate.

28 **“§ 3015. United States Marshals Service**

29 “(a) AUTHORITY.—A United States marshal and a deputy United
30 States marshal may:

31 “(1) carry a firearm;

32 “(2) execute an order, warrant, subpoena, or other process is-
33 sued under the authority of the United States for arrest, search
34 or seizure, or production of evidence;

35 “(3) make an arrest without warrant for an offense committed
36 in his presence, or for a felony committed outside his presence
37 if he has reasonable grounds to believe that the person to be
38 arrested has committed or is committing a felony;

1 “(4) offer and pay a reward for services or information assist-
2 ing in the detection or investigation of the commission of an
3 offense or in the apprehension of an offender; and

4 “(5) perform any other law enforcement duty that the Attorney
5 General may designate.

6 “(b) **TEMPORARY CUSTODY OF PERSONS.**—United States marshals
7 shall provide for the safe-keeping of a person :

8 “(1) arrested;

9 “(2) held pending commitment to an official detention facility;

10 “(3) removed from a federal official detention facility to comply
11 with an order or writ issuing from a court of competent jurisdic-
12 tion; or

13 “(4) held under an order of transfer to a community treat-
14 ment facility.

15 “§ 3016. **United States Probation Service**

16 “An officer of the United States Probation Service may :

17 “(a) carry a firearm pursuant to regulations issued by the
18 Judicial Conference of the United States;

19 “(b) execute a warrant for the arrest of a probationer or
20 parolee :

21 “(1) in the judicial district in which the officer was ap-
22 pointed; or

23 “(2) in any judicial district if the warrant was issued in
24 the judicial district in which the officer was appointed; and

25 “(c) make an arrest without a warrant of a probationer or
26 parolee in the judicial district in which the officer was appointed
27 if the officer has reasonable grounds to believe that the person to
28 be arrested has violated a condition of his probation or parole.

29 “§ 3017. **Bureau of Prisons**

30 Subject to the direction of the Attorney General :

31 “(a) an officer or employee of the Bureau of Prisons or of
32 the Parole Commission may carry a firearm;

33 “(b) an officer or employee of the Bureau of Prisons may :

34 “(1) execute a warrant for the arrest of a parolee; and

35 “(2) make an arrest without a warrant for an offense
36 described in section 1313 (Escape), 1314 (Providing or Pos-
37 sessing Contraband in a Prison), 1831 (Leading a Riot),
38 1832 (Providing Arms for a Riot), or 1833 (Engaging in a

1 Riot), if he has reasonable grounds to believe that the person
2 to be arrested has committed or is committing the offense;
3 and

4 “(c) the chief executive officer of a federal official detention
5 facility and those members of his staff whom he designates may,
6 without fee, administer an oath to and take an acknowledgment
7 of an officer, employee, or inmate of such facility.

8 **“§ 3018. Immigration and Naturalization Service**

9 “Subject to the direction of the Attorney General, an officer or
10 employee of the Immigration and Naturalization Service may:

11 “(a) carry a firearm;

12 “(b) execute an order, warrant, subpoena, or other process
13 issued under authority of the United States for arrest, search or
14 seizure, or production of evidence;

15 “(c) make an arrest without warrant for an offense committed
16 in his presence, or for a felony committed outside his presence if
17 he has reasonable grounds to believe that the person to be arrested
18 has committed or is committing a felony;

19 “(d) offer and pay a reward for services or information assist-
20 ing in the detection or investigation of the commission of an
21 offense or in the apprehension of an offender; and

22 “(e) perform any other law enforcement duty that the Attor-
23 ney General may designate.

24 **“§ 3019. Department of the Interior**

25 “Subject to the direction of the Secretary of the Interior, an officer
26 or employee of the Department of the Interior, charged with law
27 enforcement responsibilities by the Secretary of the Interior may:

28 “(a) carry a firearm;

29 “(b) execute an order, warrant, subpoena, or other process
30 issued under the authority of the United States for arrest, search
31 or seizure, or production of evidence;

32 “(c) make an arrest without a warrant for an offense com-
33 mitted in his presence, or for a felony committed outside his pres-
34 ence, if he has reasonable grounds to believe that the person to be
35 arrested has committed or is committing a felony;

36 “(d) offer and pay a reward for services or information assist-
37 ing in the detection or investigation of the commission of an of-
38 fense or in the apprehension of an offender; and

39 “(e) perform any other law enforcement duty that the Secre-
40 tary of the Interior may designate.

1 **"Chapter 31.—ANCILLARY INVESTIGATIVE AUTHORITY**

"Subchapter

"A. Interception of Communications.

"B. Compulsory of Testimony of Witnesses.

"C. Protection of Witnesses.

"D. Payment of Rewards.

2 **"Subchapter A.—Interception of Communications**

"Sec.

"3101. Authorization for Interception.

"3102. Application for an Order for Interception.

"3103. Issuance of an Order for Interception.

"3104. Interception without Prior Authorization.

"3105. Records and Notice of Interception.

"3106. Use of Information Obtained from an Interception.

"3107. Report of Interception.

"3108. Definitions for Subchapter A.

3 **"§ 3101. Authorization for Interception**

4 "(a) FEDERAL.—The interception of a private oral communication
5 may be authorized or approved by order of a federal court of com-
6 petent jurisdiction, pursuant to the provisions of section 3103, if:

7 "(1) the filing of an application for such an order is authorized
8 by:

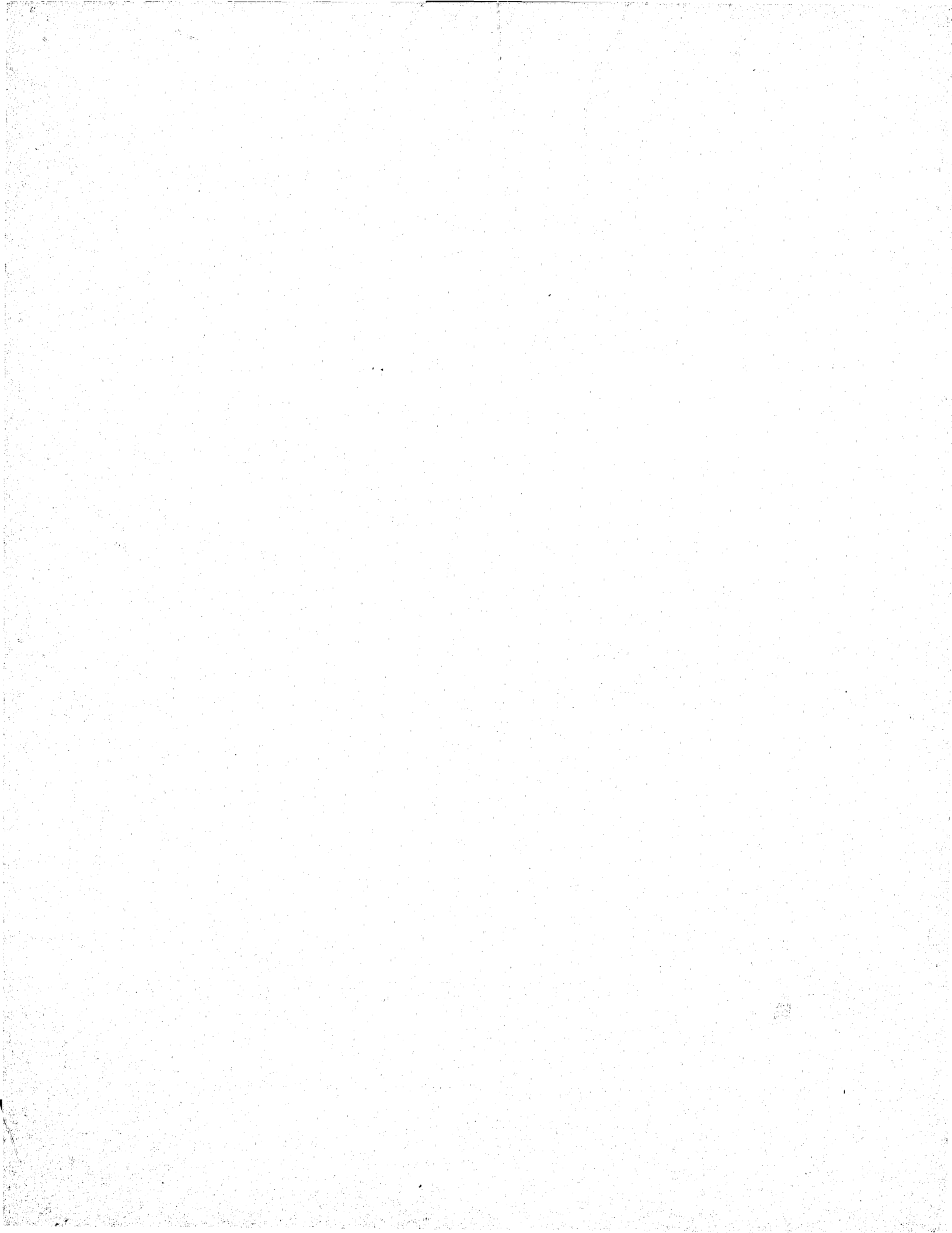
9 "(A) the Attorney General; or

10 "(B) an Assistant Attorney General specifically designated
11 by the Attorney General;

12 "(2) the application is filed, pursuant to the provisions of
13 section 3102, by a law enforcement officer of a government agency
14 having responsibility for the investigation of the offense concern-
15 ing which the application is made; and

16 "(3) the interception may provide or has provided evidence
17 of the commission of an offense described in:

18 "(A) section 1101 (Treason), 1102 (Armed Rebellion or
19 Insurrection), 1111 (Sabotage), 1112 (Impairing Military
20 Effectiveness), 1118 (Aiding Escape of a Prisoner of War or
21 an Enemy Alien), 1121 (Espionage), 1122 (Disseminating
22 National Defense Information), 1123 (Disseminating Clas-
23 sified Information), 1124 (Receiving Classified Infor-
24 mation), 1131 (Atomic Energy Offenses), 1321 (Witness
25 Bribery), 1322 (Corrupting a Witness or an Informant),
26 1323 (Tampering with a Witness or an Informant), 1324 (Re-
27 taliating Against a Witness or an Informant), 1351 (Brib-
28 ery), 1352 (Graft), 1601 (Murder), 1602 (Manslaughter),
29 1611 (Maiming), 1612 (Aggravated Battery), 1615 (Terror-
30 izing), 1621 (Kidnapping), 1622 (Aggravated Criminal Re-



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1 strait), 1631 (Aircraft Hijacking), 1701 (Arson), 1702
 2 (Aggravated Property Destruction), 1721 (Robbery), 1722
 3 (Extortion), 1723 (Blackmail), 1731 (Theft), 1732 (Traf-
 4 ficking in Stolen Property), 1735 (Bankruptcy Fraud), 1741
 5 (Counterfeiting), 1742 (Forgery), 1752 (Labor Bribery),
 6 1801 (Operating a Racketeering Syndicate), 1802 (Racke-
 7 teering), 1803 (Washing Racketeering Proceeds), 1804
 8 (Loansharking), 1805 (Facilitating a Racketeering Activity
 9 by Violence), 1811 (Trafficking in an Opiate), 1812 (Traf-
 10 ficking in Drugs), 1821 (Explosives Offenses), 1831 (Leading
 11 a Riot), 1832 (Providing Arms for a Riot), or 1841 (Engag-
 12 ing in a Gambling Business), or

13 “(B) section 1002 (Criminal Conspiracy) or 1003 (Crimi-
 14 nal Solicitation), if an objective of the conspiracy or the crime
 15 solicited is an offense set forth in subparagraph (A).

16 “(b) STATE.—To the extent permitted by a state statute, the inter-
 17 ception of a private oral communication may be authorized or ap-
 18 proved by order of a state court of competent jurisdiction, pursuant
 19 to the provisions of applicable state law and in substantial conformity
 20 with the provisions of section 3102, if:

21 “(1) an application for such an order is filed, pursuant to the
 22 provisions of applicable state law and in substantial compliance
 23 with the provisions of section 3102, by the principal prosecuting
 24 attorney of the state or locality acting on behalf of a government
 25 agency having responsibility for the investigation of the offense
 26 concerning which the application is made; and

27 “(2) the interception may provide or has provided evidence
 28 of the commission of an offense involving:

29 “(A) bribery, murder, kidnapping, robbery, extortion,
 30 trafficking in a drug that is a controlled substance as defined
 31 in section 102 of the Controlled Substances Act (21 U.S.C.
 32 802), or gambling;

33 “(B) theft, fraud, or a crime of violence that is a felony,
 34 that is designated in an applicable state statute as an offense
 35 for which interception may be ordered; or

36 “(C) a conspiracy or solicitation if an objective of the con-
 37 spiracy or the crime solicited is an offense set forth in sub-
 38 paragraph (A) or (B).

1 **“§ 3102. Application for an Order for Interception**

2 “(a) **APPLICATION.**—An application for an order, or an extension
3 of an order, authorizing or approving the interception of a private
4 oral communication shall be made in writing under oath or equivalent
5 affirmation to a court of competent jurisdiction and shall include the
6 following information:

7 “(1) the identity of the law enforcement officer making the
8 application and of the officer authorizing the application;

9 “(2) the authority of the applicant to make the application;

10 “(3) a complete statement of the facts relied upon by the
11 applicant to justify his belief that an order should be issued,
12 including:

13 “(A) details as to the particular offense that has been, is
14 being, or is about to be committed;

15 “(B) the identity, if known, of the person involved in the
16 commission of the offense whose communication is to be inter-
17 cepted;

18 “(C) a particular description of the character and loca-
19 tion of the facilities from which, or the place at which, the
20 communication is to be intercepted; and

21 “(D) a particular description of the kind of communica-
22 tion sought to be intercepted;

23 “(4) a complete statement of other investigative procedures
24 that have been tried in the investigation and that have failed, or
25 that have not been tried in the investigation because they reason-
26 ably appear to be unlikely to succeed or to be too dangerous;

27 “(5) a statement of the period of time for which the intercep-
28 tion is required to be maintained, and, if the character of the
29 investigation is such that the authorization for interception should
30 not automatically terminate when the described kind of com-
31 munication has been first obtained, a particular description of
32 facts establishing probable cause to believe that an additional
33 communication of the same kind will occur thereafter;

34 “(6) a complete statement of the facts concerning all previous
35 applications known to the applicant that have been made to any
36 court for issuance of an order authorizing or approving the inter-
37 ception of a private oral communication involving any of the

1 same persons, facilities, or places specified in the application, and
2 the action taken by the court on each such application; and

3 “(7) if the application is for the extension of an order, a state-
4 ment setting forth the results thus far obtained from the inter-
5 ception, or a reasonable explanation of the failure to obtain such
6 results.

7 “(b) **ADDITIONAL EVIDENCE.**—The court may require the applicant
8 to furnish additional testimony or documentary evidence in support
9 of the application.

10 **“§ 3103. Issuance of an Order for Interception**

11 “(a) **FINDINGS.**—Upon an application made pursuant to section
12 3102, the court may issue an ex parte order, as requested in the appli-
13 cation or as found warranted by the court, authorizing or approving
14 interception of a private oral communication within the geographic
15 jurisdiction of such court if the court determines on the basis of the
16 facts submitted by the applicant that:

17 “(1) there is probable cause to believe that a person is com-
18 mitting, has committed, or is about to commit a particular offense
19 set forth in section 3101;

20 “(2) there is probable cause to believe that a particular com-
21 munication concerning the offense will be obtained through such
22 interception;

23 “(3) other investigative procedures have been tried and have
24 failed, or have not been tried because they reasonably appear to be
25 unlikely to succeed or to be too dangerous; and

26 “(4) there is probable cause to believe that a facility from which,
27 or the place at which, the communication is to be intercepted:

28 “(A) is being used, or is about to be used, in connection with
29 the commission of the offense; or

30 “(B) is leased to, listed in the name of, or commonly used
31 by a person who is committing, has committed, or is about to
32 commit the offense.

33 “(b) **ORDER.**—An order issued under this section:

34 “(1) shall specify:

35 “(A) the identity, if known, of the person whose com-
36 munication is to be intercepted;

37 “(B) the character and location of the facilities from
38 which, or the place at which, the communication is to be
39 intercepted;

1 “(C) a particular description of the kind of communica-
2 tion sought to be intercepted, and a statement of the partic-
3 ular offense to which it relates;

4 “(D) the identity of the government agency authorized
5 to intercept the communication and of the person authorizing
6 the application; and

7 “(E) the period of time during which the interception is
8 authorized, and whether the interception must automatically
9 terminate when the described communication has been first
10 obtained; and

11 “(2) shall direct, upon the request of the applicant:

12 “(A) that a communications common carrier, landlord,
13 custodian, or other person furnish the applicant forthwith
14 all information, facilities, and technical assistance necessary
15 to accomplish the interception unobtrusively and with a mini-
16 mum of interference with the services that such carrier, land-
17 lord, custodian, or other person is according the person whose
18 communication is to be intercepted; and

19 “(B) that the applicant compensate, at the prevailing
20 rates, such carrier, landlord, custodian, or other person for
21 furnishing such facilities or technical assistance.

22 “(c) PERIOD AND MANNER OF INTERCEPTION.—An order issued under
23 this section may authorize or approve the interception of a private
24 oral communication for the period necessary to achieve the purposes
25 of the authorization, or for thirty days, whichever is less. Extensions
26 of an order may be granted, after an application for an extension made
27 in accordance with the provisions of section 3102(a) and after find-
28 ings concerning an extension in accordance with the provisions of sub-
29 section (a). The period of extension may be for the period neces-
30 sary to achieve the purposes for which it was granted, or for thirty
31 days, whichever is less. An order and extension of an order shall direct
32 that the interception be executed as soon as practicable, be conducted in
33 such a way as to minimize the interception of communications not
34 otherwise subject to interception under this subchapter, and be termi-
35 nated upon attainment of the authorized objective, or in thirty days,
36 whichever is less.

37 “(d) PERIODIC REPORTS.—An order issued under this section may
38 require that periodic reports be made to the court that issued the

1 order stating the progress made toward achievement of the authorized
2 objective and the need for continued interception.

3 **"§ 3104. Interception Without Prior Authorization**

4 "(a) UNRELATED INTERCEPTION IN THE COURSE OF AN AUTHORIZED
5 INTERCEPTION.—If a law enforcement officer, while engaged in in-
6 tercepting a private oral communication in accordance with the pro-
7 visions of this subchapter, intercepts a private oral communication
8 that relates to an offense other than an offense specified in the order
9 of authorization or approval, he may, in order to permit the disclo-
10 sure or use of its contents or evidence derived from its contents dur-
11 ing testimony in an official proceeding, make an application, in accord-
12 ance with section 3102, for an order approving such interception as
13 soon as practicable after the unrelated interception. The court shall
14 enter such an order if it finds that the communication was otherwise
15 intercepted in accordance with the provisions of this subchapter.

16 "(b) EMERGENCY INTERCEPTION.—Notwithstanding any other pro-
17 vision of this subchapter, a law enforcement officer may intercept a
18 private oral communication without a court order if:

19 "(1) he is specially authorized to do so by the Attorney Gen-
20 eral, or by the principal prosecuting attorney of a state or locality
21 acting pursuant to a statute of that state;

22 "(2) he reasonably determines that:

23 "(A) an emergency situation exists with respect to an of-
24 fense described in section 1101 (Treason), 1111 (Sabotage),
25 or 1121 (Espionage), or an offense that involves a risk of
26 death;

27 "(B) the emergency situation requires a private oral com-
28 munication to be intercepted before an order authorizing such
29 interception can, with due diligence, be obtained; and

30 "(C) there are grounds upon which an order could be en-
31 tered under this subchapter to authorize such interception;
32 and

33 "(3) an application for an order approving the interception is
34 made in accordance with section 3102 as soon as practicable, but
35 not more than forty-eight hours, after the interception has oc-
36 curred or commenced.

37 In the absence of an order approving the interception, the interception
38 shall terminate immediately when the communication sought is ob-
39 tained or when the application for the order is denied, whichever is
40 earlier. If the application for approval is denied, the contents of any

1 private oral communication intercepted shall be treated as having been
2 obtained in violation of this subchapter, and a notice shall be served
3 as provided in section 3105(b).

4 **“§ 3105. Records and Notice of Interception**

5 **“(a) MAINTENANCE OF RECORDS.—**

6 “(1) The contents of a private oral communication intercepted
7 by any means authorized by law shall, unless impracticable, be
8 recorded on a sound recording device, and be recorded in a manner
9 that will protect the recording from editing or other alteration.
10 As soon as practicable after the expiration of the period set forth
11 in the order, or in an extension of an order, the recording shall be
12 made available to the court issuing the order, shall be sealed under
13 its direction, and shall be placed under such custody as the court
14 may order. The recording may not be destroyed for a period of
15 ten years, and may not be destroyed after that period except upon
16 an order of the court. A duplicate recording may be made for use
17 or disclosure to the extent that such use or disclosure is appropriate
18 to the proper performance of official duties.

19 “(2) An application made and an order issued under this sub-
20 chapter shall be sealed by the court issuing the order, and shall be
21 placed under such custody as the court may direct, and shall be
22 disclosed only upon a showing of good cause. The application
23 and order may not be destroyed for a period of ten years, and may
24 not be destroyed after that period except upon an order of the
25 court.

26 **“(b) SERVICE OF NOTICE TO PARTIES.—**

27 “(1) Within a reasonable time, but not more than ninety days,
28 after the termination of the period for which an interception is
29 authorized by an order or an extension of an order, or after the
30 filing of an application, that is subsequently denied, for an order
31 of approval under section 3104(b), the court shall order notice to
32 be served on the person named in the order or in the application,
33 and on such other person who is a party to an intercepted private
34 oral communication as the court may determine to be in the in-
35 terest of justice. The notice shall include:

36 “(A) the fact and date of the issuance of the order or of the
37 filing and denial of the application;

38 “(B) the period of the authorized, approved, or disap-
39 proved interception;

1 “(C) the fact that during the period a private oral com-
2 munication was or was not intercepted.

3 “(2) The court, upon the filing of a motion by a person upon
4 whom the notice is served, may make available for inspection by
5 such person or his counsel any portion of the contents of an inter-
6 cepted private oral communication, the evidence derived from
7 such contents, the application, or the order, that the court deter-
8 mines to be in the interest of justice.

9 “(3) On an ex parte showing of good cause to the court, the
10 serving of the notice may be postponed.

11 **“§ 3106. Use of Information Obtained from an Interception**

12 **“(a) DISCLOSURE AND USE.—**

13 “(1) A law enforcement officer who, in accordance with the
14 provisions of this subchapter, has obtained knowledge of the con-
15 tents of a private oral communication, including the contents of
16 an unrelated interception as set forth in section 3104(a), or evi-
17 dence derived from such contents, may disclose or use such con-
18 tents to the extent that disclosure is appropriate to the proper
19 performance of his official duties.

20 “(2) A person who, in accordance with the provisions of this
21 subchapter, has received information concerning the contents of a
22 private oral communication, including the contents of an unre-
23 lated interception for which an order has been issued as set forth in
24 section 3104(a), or evidence derived from such contents, may dis-
25 close or use such contents while giving testimony under oath or
26 affirmation in an official proceeding.

27 “(3) A privileged private oral communication that is inter-
28 cepted in accordance with, or in violation of, the provisions of this
29 chapter does not lose its privileged character because of its being
30 intercepted.

31 **“(b) SEAL.—**The presence of the seal provided for by section 3105
32 **(a), or a satisfactory explanation for the absence of such seal, is a pre-**
33 **requisite to the use or disclosure of the contents of an intercepted pri-**
34 **vate oral communication, or evidence derived from such contents, in an**
35 **official proceeding.**

36 **“(c) PRE-TRIAL NOTICE.—**The contents of an intercepted private oral
37 **communication, or evidence derived from such contents, may not be**
38 **received in evidence or otherwise disclosed in an official proceeding in**
39 **a court unless each aggrieved person who is a party in the official**
40 **proceeding has, not less than ten days before the official proceeding,**
41 **been furnished with a copy of the court order, and the accompanying**

1 application, under which the interception was authorized or approved.
2 The ten day period may be waived by the court if it finds that it was not
3 possible to furnish such person with the information ten days before
4 the official proceeding, and that the person will not be prejudiced by
5 delay in receiving the information.

6 **"(d) SUPPRESSION OF EVIDENCE.—**

7 “(1) An aggrieved person in an official proceeding before a
8 government agency of the United States, a state, or a locality,
9 may make a motion to suppress the contents of an intercepted
10 private oral communication, or evidence derived from such con-
11 tents, on the ground that:

12 “(A) the communication was unlawfully intercepted;

13 “(B) the order of authorization or approval under which
14 it was intercepted is insufficient on its face; or

15 “(C) the interception was not made in conformity with
16 the order of authorization or approval.

17 If the motion alleges that the evidence sought to be suppressed has
18 been derived from the contents of an unlawfully intercepted pri-
19 vate oral communication, and if the aggrieved person has not been
20 served with notice of such an interception as provided by section
21 3105(b), the opponent of the allegation shall affirm or deny the
22 occurrence of the alleged unlawful interception, but no such
23 motion shall be considered if the alleged unlawful interception
24 took place more than five years before the event to which the
25 evidence relates.

26 “(2) The motion shall be made prior to the official proceeding
27 unless there was no opportunity to make the motion or unless
28 the aggrieved person was not aware of the grounds for the
29 motion.

30 “(3) A court of competent jurisdiction, upon the filing of a
31 motion by an aggrieved person, may make available for inspec-
32 tion by the aggrieved person or his counsel any portion of the
33 contents of an intercepted private oral communication, or the evi-
34 dence derived from such contents, the court determines to be
35 in the interest of justice.

36 “(4) No part of the contents of a private oral communication
37 that has been unlawfully intercepted, and no evidence derived
38 from such contents, may be received in evidence in an official pro-
39 ceeding before a government agency of the United States, a state,
40 or a locality.

1 **“§ 3107. Report of Interception**

2 “(a) JUDICIAL REPORT.—Within thirty days after the expiration of
3 the period of interception authorized in an order, or extension of an
4 order, entered under section 3103, or after the denial of an applica-
5 tion for an order approving an interception, the court shall report to
6 the Administrative Office of the United States Courts:

7 “(1) the fact that an order or extension was applied for;

8 “(2) the identity of the law enforcement officer and the govern-
9 ment agency making the application and the person authorizing
10 the application;

11 “(3) the kind of order or extension applied for;

12 “(4) the offense specified in the application for the order or
13 extension;

14 “(5) the fact that the application for the order or extension was
15 granted as applied for, was granted in a modified form, or was
16 denied;

17 “(6) the period of interception authorized by the order or
18 extension;

19 “(7) the nature of the facilities from which, or the place at
20 which, the private oral communication was to be intercepted; and

21 “(8) any related information that the Administrative Office
22 of the United States Courts may by regulation require.

23 “(b) PROSECUTIVE REPORT.—In January of each year, the Attorney
24 General, or the principal prosecuting attorney of a state or locality,
25 shall report to the Administrative Office of the United States Courts:

26 “(1) the information required by subsection (a) with respect
27 to each application for an order, or extension of an order, made
28 during the preceding calendar year;

29 “(2) a general description of the interceptions made under such
30 orders or extensions, including:

31 “(A) the approximate nature and frequency of incrimi-
32 nating communications intercepted;

33 “(B) the approximate nature and frequency of other com-
34 munications intercepted;

35 “(C) the approximate number of persons whose communi-
36 cations were intercepted; and

37 “(D) the approximate nature, amount, and cost of the
38 manpower and other resources used in the interceptions;

39 “(3) the number of arrests and summonses in lieu of arrests
40 resulting from the interceptions, and the offenses which were the
41 subjects of such arrests and summonses;

1 “(4) the number of trials resulting from the interceptions;

2 “(5) the number of motions to suppress made with respect to
3 the interceptions, and the number granted or denied;

4 “(6) the number of convictions resulting from the intercep-
5 tions, the offenses for which the convictions were obtained, and a
6 general assessment of the importance of the interceptions in ob-
7 taining the convictions; and

8 “(7) any related information that the Administrative Office of
9 the United States Courts may by regulation require.

10 “(c) ADMINISTRATIVE OFFICE REPORT.—In April of each year, the
11 Director of the Administrative Office of the United States Courts shall
12 transmit to the Congress a complete report concerning the number of
13 applications made for orders and extensions of orders authorizing or
14 approving the interception of private oral communications and the
15 number of such orders and extensions granted or denied during the
16 preceding calendar year. The report shall include a summary and
17 analysis of the data required to be filed with the Administrative Office
18 under subsection (a) and (b).

19 “(d) REGULATIONS CONCERNING REPORTS.—The Director of the Ad-
20 ministrative Office of the United States Courts is authorized to issue
21 regulations dealing with the content and form of the reports required
22 to be filed pursuant to subsections (a) and (b).

23 “§ 3108. Definitions for Chapter A

24 “As used in this subchapter:

25 “(a) ‘aggrieved person’ means a person who was a party to an
26 intercepted private oral communication or a person against whom
27 an interception was directed;

28 “(b) ‘communications common carrier’ has the meaning set
29 forth for the term ‘common carrier’ in section 3(h) of the Act of
30 June 19, 1934, as amended (47 U.S.C. 153(h));

31 “(c) ‘contents’, when used with respect to a private oral com-
32 munication, has the meaning set forth in section 1526(b);

33 “(d) ‘court of competent jurisdiction’ means:

34 “(1) a district court of the United States or a United
35 States Court of Appeals; or

36 “(2) a state court of general criminal jurisdiction author-
37 ized by a statute of that state to enter an order authorizing
38 interception of a private oral communication;

39 “(e) ‘eavesdropping device’ has the meaning set forth in section
40 1525(c);

1 “(f) ‘intercept’ means to acquire the contents of a communica-
2 tion through the use of an eavesdropping device and includes the
3 acquisition of such contents by simultaneous transmission or by
4 recording;

5 “(g) ‘private oral communication’ has the meaning set forth in
6 section 1525(f).

7 **“Subchapter B.—Compulsion of Testimony of Witnesses**

“Sec.

“3111. Compulsion of Testimony Generally.

“3112. Court or Grand Jury Proceedings.

“3113. Administrative Proceedings.

“3114. Congressional Proceedings.

“3115. Definitions for Subchapter B.

8 **“§ 3111. Compulsion of Testimony Generally**

9 “(a) **SELF-INCRIMINATION CLAIM PRECLUDED.**—If a person refuses,
10 on the basis of his privilege against self-incrimination, to testify or to
11 produce a record, document, or other object in an official proceeding
12 conducted under the authority of:

13 “(1) a court or grand jury of the United States;

14 “(2) an agency of the United States; or

15 “(3) Congress or either House of Congress;

16 and the presiding officer informs the person of an order issued under
17 this subchapter, the person may not refuse to comply with the order
18 on the basis of his privilege against self-incrimination.

19 “(b) **USE OF TESTIMONY AGAINST WITNESS PRECLUDED.**—The testi-
20 mony or production that is compelled under the order, and any infor-
21 mation directly or indirectly derived from the testimony or produc-
22 tion, may not be used against the person in any manner a criminal
23 case, except in a prosecution for:

24 “(1) an offense described in section 1341 (Perjury), 1342
25 (False Swearing), or 1343 (Making a False Statement) that is
26 committed in the course of the testimony or production; or

27 “(2) an offense involving a failure to comply with the order.

28 **“§ 3112. Court or Grand Jury Proceedings**

29 “(a) **ISSUANCE OF ORDER.**—If a person has been or may be sub-
30 poenaed to testify or to produce a record, document, or other object
31 in an official proceeding conducted under the authority of a court or
32 grand jury of the United States, the district court for the judicial
33 district in which the official proceeding is or may be held shall, upon
34 the application of the United States attorney for the district pursuant
35 to subsection (b), issue an order requiring the person to testify or to
36 produce the record, document, or other object notwithstanding his

1 refusal to do so on the basis of his privilege against self-incrimination.
2 The order shall become effective as provided in section 3111.

3 “(b) CRITERIA FOR ORDER.—A United States attorney may, with
4 the approval of the Attorney General, the Deputy Attorney General,
5 or any designated Assistant Attorney General, apply for an order un-
6 der subsection (a) if in his judgment:

7 “(1) the testimony or the record, document, or other object
8 may be necessary to the public interest; and

9 “(2) the person has refused or is likely to refuse to testify or
10 to produce the record, document, or other object on the basis of his
11 privilege against self-incrimination.

12 **“§ 3113. Administrative Proceedings**

13 “(a) ISSUANCE OF ORDER.—If a person has been or may be sub-
14 poenaed to testify or to produce a record, document, or other object
15 in an official proceeding conducted under the authority of an agency
16 of the United States, the agency may, pursuant to subsection (b), issue
17 an order requiring the person to testify or to produce the record, docu-
18 ment, or other object notwithstanding his refusal to do so on the basis
19 of his privilege against self-incrimination. The order shall become
20 effective as provided in section 3111.

21 “(b) CRITERIA FOR ORDER.—An agency of the United States may,
22 with the approval of the Attorney General, the Deputy Attorney Gen-
23 eral, or any designated Assistant Attorney General, issue an order
24 under subsection (a) if in its judgment:

25 “(1) the testimony or the record, document, or other object may
26 be necessary to the public interest; and

27 “(2) the person has refused or is likely to refuse to testify or
28 to produce the record, document, or other object on the basis of
29 his privilege against self-incrimination.

30 **“§ 3114. Congressional Proceedings**

31 “(a) ISSUANCE OF ORDER.—If a person has been or may be subpoenaed
32 to testify or to produce a record, document, or other object in an offi-
33 cial proceeding conducted under the authority of Congress or of
34 either House of Congress, the district court of the United States for the
35 judicial district in which the official proceeding is or may be held shall,
36 upon the application of a duly authorized representative of the House
37 of Congress or the concerned subcommittee, committee, or joint com-
38 mittee of Congress pursuant to subsection (b), issue an order requiring
39 the person to testify or to produce the record, document, or other object
40 notwithstanding his refusal to do so on the basis of his privilege

1 against self-incrimination. The order shall become effective as provided
2 in section 3111.

3 “(b) CRITERIA FOR ORDER.—A request for an order under subsection
4 (a) may be made if:

5 “(1) the application for the order has been approved:

6 “(A) in the case of an official proceeding before a House
7 of Congress by an affirmative vote of a majority of the mem-
8 bers present in that House; or

9 “(B) in the case of an official proceeding before a com-
10 mittee, subcommittee, or joint committee of Congress by an
11 affirmative vote of two-thirds of the members of the full
12 committee; and

13 “(2) ten days or more prior to the day on which the application
14 for the order was made, the Attorney General was served with
15 notice of an intention to request the order.

16 “(c) POSTPONEMENT OF ORDER.—Upon application of the Attorney
17 General, the court shall defer the issuance of an order under subsection
18 (a) for a period of twenty days from the date of the application for the
19 order, or for such lesser period as the Attorney General may specify.

20 “§ 3115. Definitions for Subchapter B

21 “As used in this subchapter:

22 “(a) ‘agency of the United States’ means an executive depart-
23 ment, as defined in 5 U.S.C. 101; a military department, as defined
24 in 5 U.S.C. 102; the Atomic Energy Commission; the China Trade
25 Act registrar appointed under section 3 of that Act (15 U.S.C.
26 143); the Civil Aeronautics Board; the Commodity Futures
27 Trading Commission; the Federal Communications Commission;
28 the Federal Deposit Insurance Corporation; the Federal Maritime
29 Commission; the Federal Power Commission; the Federal Trade
30 Commission; the Interstate Commerce Commission; the National
31 Credit Union Administration; the National Labor Relations
32 Board; the National Transportation Safety Board, the Railroad
33 Retirement Board; the Securities and Exchange Commission; the
34 United States Victim Compensation Board; an arbitration board
35 established under section 7 of the Railway Labor Act, as amended
36 (45 U.S.C. 157); or a board established under section 5 of the
37 Act of February 22, 1935 (15 U.S.C. 715d);

38 “(b) ‘court of the United States’ includes the Superior Court
39 and the Court of Appeals of the District of Columbia.

1 **"Subchapter C.—Protection of Witnesses**

"Sec.

"3121. Facilities for Witness Protection.

"3122. Reimbursement for Witness Protection Expenses.

"3123. Definitions for Subchapter C.

2 **"§ 3121. Facilities for Witness Protection**

3 "The Attorney General may provide for the security of govern-
4 ment witnesses, potential government witnesses, and their immediate
5 families, in official proceedings instituted against a person alleged
6 to have engaged in racketeering activity or other offenses similar in
7 nature, or involving offenses the investigation or prosecution of which
8 is likely under the circumstances to cause the commission of an offense
9 described in section 1324 (Retaliating against a Witness or an In-
10 formant). The Attorney General may provide housing facilities and
11 otherwise provide for the health, safety, and welfare of such govern-
12 ment witnesses and potential government witnesses, and their im-
13 mediate families, if, in his judgment, testimony by such a witness
14 might subject the witness or a member of his immediate family to a
15 danger of bodily injury, and may continue to make such provision for
16 as long as, in his judgment, such danger exists. The Attorney General
17 is authorized to purchase, rent, or modify protected housing facilities
18 for the purposes of this section.

19 **"§ 3122. Reimbursement for Witness Protection Expenses**

20 "The offer of facilities to a person under section 3121 may be con-
21 ditioned by the Attorney General upon reimbursement in whole or in
22 part to the United States by a state or local government of the cost
23 of maintaining and protecting such person.

24 **"§ 3123. Definitions for Subchapter C**

25 "As used in this subchapter :

26 "(a) 'government' includes the federal government and a state
27 or local government;

28 "(b) 'racketeering activity' has the meaning set forth in sec-
29 tion 1806(f).

30 **"Subchapter D.—Payment of Rewards**

"Sec.

"3131. Rewards for Apprehending Offenders.

31 **"§ 3131. Rewards for Apprehending Offenders**

32 "The Attorney General may offer and pay an amount not to exceed
33 \$100,000 as a reward for the capture of, or for information leading to
34 the arrest or conviction of, a person charged with the commission of a
35 federal or state offense. Except as otherwise provided, no more than

1 \$100,000 may be expended as a reward for the capture of, or for in-
 2 formation leading to the arrest or conviction of, any one person. If the
 3 person charged is killed while resisting arrest, the Attorney General
 4 may pay all or part of the reward to the person who assisted in the
 5 capture or provided the information. A reward may not be paid to a
 6 public servant who has rendered services or furnished information
 7 while performing his official duties.

8 **"Chapter 32.—RENDITION AND EXTRADITION**

"Subchapter

"A. Rendition.

"B. Extradition.

9 **"Subchapter A.—Rendition**

"Sec.

"3201. Interstate Agreement on Detainers.

"3202. Rendition of a Fugitive.

"3203. General Provisions for Subchapter A.

10 **"§ 3201. Interstate Agreement on Detainers**

11/ "(a) Adoption of Agreement by the United States.—The United
 12 States, as a 'sending State' for purposes of Article III and IV, but as a
 13 'receiving State' for purposes of Article III only, and the District of
 14 Columbia are parties to the Interstate Agreement on Detainers, as set
 15 forth in subsection (b), together with all jurisdictions joining the
 16 agreement in substantially the same form. All government agencies
 17 and public servants of the United States and of the District of Colum-
 18 bia shall cooperate with the party States in enforcing the agreement
 19 and in effectuating its purpose.

20 "(b) TEXT OF AGREEMENT.

21 "The contracting States solemnly agree that :

22 "ARTICLE I

23 "The party States find that charges outstanding against a prisoner,
 24 detainers based on untried indictments, informations, or complaints
 25 and difficulties in securing speedy trial of persons already incarcerated
 26 in other jurisdictions, produce uncertainties which obstruct programs
 27 of prisoner treatment and rehabilitation. Accordingly, it is the policy
 28 of the party States and the purpose of this agreement to encourage
 29 the expeditious and orderly disposition of such charges and determina-
 30 tion of the proper status of any and all detainers based on untried in-
 31 dictments, informations, or complaints. The party States also find that
 32 proceedings with reference to such charges and detainers, when ema-
 33 nating from another jurisdiction, cannot properly be had in the ab-
 34 sence of cooperative procedures. It is the further purpose of this
 35 agreement to provide such cooperative procedures.

"ARTICLE II

1 "As used in this agreement:

2 "“(a) “State” shall mean a State of the United States; the United
3 States of America; a territory or possession of the United States; the
4 District of Columbia; the Commonwealth of Puerto Rico.

5 "“(b) “Sending State” shall mean a State in which a prisoner is
6 incarcerated at the time that he initiates a request for final disposition
7 pursuant to article III hereof or at the time that a request for custody
8 or availability is initiated pursuant to article IV hereof.

9 "“(c) “Receiving State” shall mean the State in which trial is to be
10 had on an indictment, information, or complaint pursuant to article
11 III or article IV hereof.

"ARTICLE III

12 "“(a) Whenever a person has entered upon a term of imprison-
13 ment in a penal or correctional institution of a party State, and
14 whenever during the continuance of the term of imprisonment there
15 is pending in any other party State any untried indictment, informa-
16 tion, or complaint on the basis of which a detainer has been lodged
17 against the prisoner, he shall be brought to trial within one hundred
18 and eighty days after he shall have caused to be delivered to the
19 prosecuting officer and the appropriate court of the prosecuting of-
20 ficer’s jurisdiction written notice of the place of his imprisonment
21 and his request for a final disposition to be made of the indictment,
22 information, or complaint: *Provided*, That, for good cause shown in
23 open court, the prisoner or his counsel being present, the court hav-
24 ing jurisdiction of the matter may grant any necessary or reasonable
25 continuance. The request of the prisoner shall be accompanied by
26 a certificate of the appropriate official having custody of the pris-
27 oner, stating the term of commitment under which the prisoner is be-
28 ing held, the time already served, the time remaining to be served on
29 the sentence, the amount of good time earned, the time of parole
30 eligibility of the prisoner, and any decision of the State parole agency
31 relating to the prisoner.

32 "“(b) The written notice and request for final disposition referred
33 to in paragraph (a) hereof shall be given or sent by the prisoner to
34 the warden, commissioner of corrections, or other official having
35 custody of him, who shall promptly forward it together with the
36 certificate to the appropriate prosecuting official and court by reg-
37 istered or certified mail, return receipt requested.

1 “(c) The warden, commissioner of corrections, or other official
2 having custody of the prisoner shall promptly inform him of the
3 source and contents of any detainer lodged against him and shall
4 also inform him of his right to make a request for final disposition
5 of the indictment, information, or complaint on which the detainer is
6 based.

7 “(d) Any request for final disposition made by a prisoner pursu-
8 ant to paragraph (a) hereof shall operate as a request for final dis-
9 position of all untried indictments, information, or complaints on the
10 basis of which detainers have been lodged against the prisoner from
11 the State to whose prosecuting official the request for final disposition
12 is specifically directed. The warden, commissioner of corrections, or
13 other official having custody of the prisoner shall forthwith notify all
14 appropriate prosecuting officers and courts in the several jurisdictions
15 within the State to which the prisoner's request for final disposition
16 is being sent of the proceeding being initiated by the prisoner. Any
17 notification sent pursuant to this paragraph shall be accompanied by
18 copies of the prisoner's written notice, request, and the certificate. If
19 trial is not had on any indictment, information, or complaint contem-
20 plated hereby prior to the return of the prisoner to the original place
21 of imprisonment, such indictment, information, or complaint shall not
22 be of any further force or effect, and the court shall enter an order
23 dismissing the same with prejudice.

24 “(e) Any request for final disposition made by a prisoner pursu-
25 ant to paragraph (a) hereof shall also be deemed to be a waiver of
26 extradition with respect to any charge or proceeding contemplated
27 thereby or included therein by reason of paragraph (d) hereof, and a
28 waiver of extradition to the receiving State to serve any sentence
29 there imposed upon him, after completion of his term of imprisonment
30 in the sending State. The request for final disposition shall also con-
31 stitute a consent by the prisoner to the production of his body in any
32 court where his presence may be required in order to effectuate the
33 purposes of this agreement and a further consent voluntarily to be
34 returned to the original place of imprisonment in accordance with the
35 provisions of this agreement. Nothing in this paragraph shall prevent
36 the imposition of a concurrent sentence if otherwise permitted by law.

37 “(f) Escape from custody by the prisoner subsequent to his execu-
38 tion of the request for final disposition referred to in paragraph (a)
39 hereof shall void the request.

"ARTICLE IV

1
2 “(a) The appropriate officer of the jurisdiction in which an un-
3 tried indictment, information, or complaint is pending shall be en-
4 titled to have a prisoner against whom he has lodged a detainer and
5 who is serving a term of imprisonment in any party State made avail-
6 able in accordance with article V(a) hereof upon presentation of a
7 written request for temporary custody or availability to the appro-
8 priate authorities of the State in which the prisoner is incarcerated:
9 *Provided*, That the court having jurisdiction of such indictment, in-
10 formation, or complaint shall have duly approved, recorded, and trans-
11 mitted the request: *And provided further*, That there shall be a period
12 of thirty days after receipt by the appropriate authorities before the
13 request be honored, within which period the Governor of the sending
14 State may disapprove the request for temporary custody or availabil-
15 ity, either upon his own motion or upon motion of the prisoner.

16 “(b) Upon request of the officer's written request as provided in
17 paragraph (a) hereof, the appropriate authorities having the pris-
18 oner in custody shall furnish the officer with a certificate stating the
19 term of commitment under which the prisoner is being held, the time
20 already served, the time remaining to be served on the sentence, the
21 amount of good time earned, the time of parole eligibility of the pris-
22 oner, and any decisions of the State parole agency relating to the
23 prisoner. Said authorities simultaneously shall furnish all other officers
24 and appropriate courts in the receiving State who has lodged detain-
25 ers against the prisoner with similar certificates and with notices in-
26 forming them of the request for custody or availability and of the
27 reasons therefor.

28 “(c) In respect of any proceeding made possible by this article,
29 trial shall be commenced within one hundred and twenty days of the
30 arrival of the prisoner in the receiving State, but for good cause
31 shown in open court, the prisoner or his counsel being present, the
32 court having jurisdiction of the matter may grant any necessary or
33 reasonable continuance.

34 “(d) Nothing contained in this article shall be construed to de-
35 prive any prisoner of any right which he may have to contest the
36 legality of his delivery as provided in paragraph (a) hereof, but
37 such delivery may not be opposed or denied on the ground that the
38 executive authority of the sending State has not affirmatively con-
39 sented to or ordered such delivery.

1 for prosecution on any other charge or charges arising out of the same
2 transaction. Except for his attendance at court and while being
3 transported to or from any place at which his presence may be required,
4 the prisoner shall be held in a suitable jail or other facility regularly
5 used for persons awaiting prosecution.

6 “(e) At the earliest practicable time consonant with the purposes
7 of this agreement, the prisoner shall be returned to the sending State.

8 “(f) During the continuance of temporary custody or while the
9 prisoner is otherwise being made available for trial as required by
10 this agreement, time being served on the sentence shall continue to
11 run but good time shall be earned by the prisoner only if, and to the
12 extent that, the law and practice of the jurisdiction which imposed
13 the sentence may allow.

14 “(g) For all purposes other than that for which temporary custody
15 as provided in this agreement is exercised, the prisoner shall be
16 deemed to remain in the custody of and subject to the jurisdiction
17 of the sending State and any escape from temporary custody may be
18 dealt with in the same manner as an escape from the original place
19 of imprisonment or in any other manner permitted by law.

20 “(h) From the time that a party State receives custody of a pris-
21 oner pursuant to this agreement until such prisoner is returned to
22 the territory and custody of the sending State, the State in which
23 the one or more untried indictments, informations, or complaints are
24 pending or in which trial is being had shall be responsible for the
25 prisoner and shall also pay all costs of transporting, caring for,
26 keeping, and returning the prisoner. The provisions of this para-
27 graph shall govern unless the States concerned shall have entered
28 into a supplementary agreement providing for a different allocation
29 of costs and responsibilities as between or among themselves. Noth-
30 ing herein contained shall be construed to alter or affect any in-
31 ternal relationship among the departments, agencies, and officers of
32 and in the government of a party State, or between a party State
33 and its subdivisions, as to the payment of costs, or responsibilities
34 therefor.

35 “ARTICLE VI

36 “(a) In determining the duration and expiration dates of the time
37 periods provided in articles III and IV of this agreement, the run-
38 ning of said time periods shall be tolled whenever and for as long
39 as the prisoner is unable to stand trial, as determined by the court
40 having jurisdiction of the matter.

1 “(b) No provision of this agreement, and no remedy made avail-
2 able by this agreement shall apply to any person who is adjudged
3 to be mentally ill.

4 “ARTICLE VII

5 “Each State party to this agreement shall designate an officer who,
6 acting jointly with like officers of other party States, shall promulgate
7 rules and regulations to carry out more effectively the terms and provi-
8 sions of this agreement, and who shall provide, within and without
9 the State, information necessary to the effective operation of this
10 agreement.

11 “ARTICLE VIII

12 “This agreement shall enter into full force and effect as to a party
13 State when such State has enacted the same into law. A State party
14 to this agreement may withdraw herefrom by enacting a statute
15 repealing the same. However, the withdrawal of any State shall not
16 affect the status of any proceedings already initiated by inmates or
17 by State officers at the time such withdrawal takes effect, nor shall
18 it affect their rights in respect thereof.

19 “ARTICLE IX

20 “This agreement shall be liberally construed so as to effectuate its
21 purposes. The provisions of this agreement shall be severable and if
22 any phrase, clause, sentence, or provision of this agreement is declared
23 to be contrary to the constitution of any party State or of the United
24 States or the applicability thereof to any government, agency, per-
25 son, or circumstance is held invalid, the validity of the remainder of
26 this agreement and the applicability thereof to any government,
27 agency, person, or circumstance shall not be affected thereby. If this
28 agreement shall be held contrary to the constitution of any State party
29 hereto, the agreement shall remain in full force and effect as to the
30 remaining States and in full force and effect as to the State affected as
31 to all severable matters.’

32 **“§ 3202. Rendition of a Fugitive**

33 “If the executive authority of a state demands the return of a per-
34 son, as a fugitive from justice, from the executive authority of a state
35 to which the person has fled, the demand must be accompanied by a
36 copy of an indictment returned before a judge of the demanding state,
37 or of an affidavit made before such a judge, charging such person with
38 the commission of a state or local crime. The copy must be certified as
39 authentic by the governor or chief magistrate of the state from which
40 the person charged has fled. Upon receipt of the demand and accom-

1 panying documents, the executive authority of the state to which the
2 person has fled shall:

3 “(a) cause the person to be arrested and held in official
4 detention;

5 “(b) notify the executive authority of the demanding state, or
6 his agent if one has been appointed to receive the fugitive; and

7 “(c) deliver the fugitive to the agent when the agent appears.

8 If no agent of the demanding state appears within thirty days of the
9 date of arrest to take the fugitive into his custody, the person may be
10 discharged. An agent who receives a fugitive into his custody may
11 transport him to the state from which he has fled.

12 **“§ 3203. General Provisions for Subchapter A**

13 “(a) DEFINITIONS.—As used in section 3201:

14 “(1) ‘Governor’ means, with respect to the United States, the
15 Attorney General, and with respect to the District of Columbia,
16 the Mayor of the District of Columbia;

17 “(2) ‘appropriate court’ means, with respect to the United
18 States, a court of the United States, and with respect to the Dis-
19 trict of Columbia, the Superior Court of the District of Columbia,
20 in which there is pending an indictment, information, or com-
21 plaint, for which disposition is sought.

22 “(b) REGULATIONS, FORMS, AND INSTRUCTIONS.—The Attorney Gen-
23 eral, acting for the United States, and the Mayor of the District of
24 Columbia, acting for the District of Columbia, shall issue regulations,
25 forms, and instructions, and shall perform any other act necessary
26 for carrying out the provisions of this subchapter.

27 “(c) RESERVATION OF RIGHT TO ALTER, AMEND, OR REPEAL.—The
28 United States reserves the right to alter, amend, or repeal the Agree-
29 ment set forth in section 3201 (b).

30 **“Subchapter B.—Extradition**

“Sec.

“3211. Scope and Limitation of Extradition Provisions.

“3212. Extradition Procedure.

“3213. Warrant of Surrender.

“3214. Waiver.

“3215. Appeal.

“3216. Return to the United States.

“3217. General Provisions for Subchapter B.

31 **“§ 3211. Scope and Limitation of Extradition Provisions**

32 “(a) APPLICATION.—Extradition may be granted only pursuant to
33 the provisions of an applicable treaty or other international agree-
34 ment and of this subchapter.

1 “(b) **LIMITATION.**—The provisions of this subchapter relating to
2 the surrender of a person who has been convicted of or charged with
3 an offense by a foreign nation shall continue in force only during the
4 existence in force of a treaty or other international agreement, bilateral
5 or multilateral, concerning extradition between the United States and
6 the foreign nation.

7 “(c) **CONVICTIONS IN ABSENTIA.**—Extradition may not be granted
8 for a person convicted in absentia, unless:

9 “(1) the demanding government assures the Secretary of State
10 that the proceeding will be reopened upon the request of the per-
11 son to be surrendered; or

12 “(2) the person fled after having been present when his trial
13 commenced.

14 “(d) **AUTHORIZING EXTRADITION.**—If an extradition treaty or other
15 international agreement provides that the United States may extradite
16 its own citizens or nationals, but does not require such extradition,
17 the Secretary of State has authority to authorize the extradition of
18 a United States citizen or national who has been found extraditable
19 pursuant to the provisions of this subchapter.

20 “§ 3212. **Extradition Procedure**

21 “(a) **ARRESTS WITH DOCUMENTATION.**—

22 “(1) Upon the filing of a complaint under oath or affirmation
23 charging that a person believed to be within the jurisdiction of
24 the court has committed, within the jurisdiction of a demanding
25 foreign government, an offense made extraditable in an applicable
26 extradition treaty or other international agreement with the
27 United States:

28 “(A) a court of the United States; or

29 “(B) a magistrate specially authorized by a court of the
30 United States;

31 may issue a warrant for the arrest of the person charged.

32 “(2) The complaint may be filed only by:

33 “(A) the Attorney General:

34 “(i) pursuant to the provisions of an applicable treaty
35 or other international agreement; or

36 “(ii) at the request of the demanding government; or

37 “(B) persons authorized by an appropriate authority of the
38 demanding government to act on behalf of that government.

39 A complaint shall be accompanied by the documents required by
40 the provisions of the applicable treaty or other international agree-
41 ment, a copy of the diplomatic note to the Secretary of State re-

1 requesting extradition, an acknowledgement from the Department
2 of State of the diplomatic note requesting extradition, and a copy
3 of the applicable treaty or other international agreement.

4 “(3) Upon arrest, the person shall be brought either to the
5 court issuing the warrant of arrest or to the nearest federal dis-
6 trict court. The extradition hearing shall be conducted by the
7 court to which the person arrested is brought. If the person ar-
8 rested is brought before a court other than the one that issued the
9 warrant of arrest, the complaint and other documents filed with
10 that court shall be forwarded by the issuing court to the court in
11 which the hearing is to be conducted.

12 “(b) ARREST WITHOUT DOCUMENTATION.—

13 “(1) Upon the filing of a complaint under oath or affirmation
14 by a person authorized to do so under subsection (a) (2) :

15 “(A) a court of the United States; or

16 “(B) a magistrate specifically authorized by a court of the
17 United States;

18 may issue a warrant for the provisional apprehension of the per-
19 son sought.

20 “(2) The complaint shall state that a warrant of arrest or order
21 of detention exists for the person in the foreign nation, shall
22 specify the offense for which extradition is being sought, shall
23 describe the circumstances that necessitate such arrest, and shall
24 state, if the complaint is not filed by the Attorney General, that
25 reasonable notice of the intention to make the complaint has been
26 given to the Secretary of State.

27 “(3) The limitation period established by the applicable treaty
28 or other international agreement, or by this subchapter, for the
29 presentation of the documents required by the applicable treaty
30 or other international agreement, shall be tolled by presentation
31 of the documents to the Secretary of State. The failure to pre-
32 sent the documents within the period prescribed by the applicable
33 treaty or other international agreement, or by this subchapter,
34 shall authorize the court to release the person from official deten-
35 tion, but such release does not terminate the proceeding.

36 “(c) OFFICIAL DETENTION.—

37 “(1) A person arrested under the provisions of subsection (a)
38 shall be held in official detention until the completion of extradi-
39 tion proceedings unless good cause for his release is presented to
40 the court. Release shall be granted only upon :

41 “(A) the posting of appropriate security;

1 “(B) the surrender of any travel documents, including a
2 passport or a visa, in the possession of the person; and

3 “(C) the imposition of appropriate restrictions on his
4 movements.

5 “(2) Unless unusual cause is presented to the court, a person
6 arrested pursuant to the provisions of subsection (b) shall be held
7 in official detention for the period, if any, specified in the appli-
8 cable treaty or other international agreement, or for ninety days,
9 whichever is less. If release is approved by the court, it may be
10 granted only under the restrictions set forth in paragraph (1).
11 Upon receipt by the Secretary of State of the documents specified
12 in subsection (a), the person arrested shall be subject to the provi-
13 sions of paragraph (1).

14 “(d) EXTRADITION HEARING.—

15 “(1) A person may not be extradited unless:

16 “(A) a hearing is held in which his extraditability is
17 established; or

18 “(B) a hearing is waived pursuant to section 3214.

19 “(2) Unless otherwise specified by the applicable treaty or
20 other international agreement, or by this subchapter, extradit-
21 ability shall be found upon proof that:

22 “(A) the applicable treaty or other international agree-
23 ment of extradition is in full force and effect;

24 “(B) the offense for which extradition is requested is
25 made extraditable in the applicable treaty or other interna-
26 tional agreement;

27 “(C) a criminal charge is pending against the person
28 sought, or the person sought has been convicted of an offense
29 in a court of the foreign nation but has not completed service
30 of the sentence imposed;

31 “(D) the pending criminal charge, or the prosecution for
32 the offense for which the person sought was convicted, was
33 commenced within the period required by any applicable
34 statute of limitations;

35 “(E) a warrant of arrest or order of detention is outstand-
36 ing in the foreign nation against the person sought;

37 “(F) evidence exists that establishes probable cause to
38 believe that the person sought and the person arrested are
39 identical; and

1 “(G) evidence exists that establishes probable cause to be-
2 lieve that the person sought has committed, or has been con-
3 victed of, the alleged offense.

4 “(3) Defenses against extradition are limited to those provided
5 by the applicable treaty or other international agreement, or by
6 international law, or by this title.

7 “(e) PROOF AND ADMISSIBILITY OF EVIDENCE.—

8 “(1) Testimony of witnesses is not required in order to estab-
9 lish that the person is extraditable; extraditability may be estab-
10 lished by properly certified documents alone.

11 “(2) A deposition, warrant, or other document, or a copy
12 thereof, offered in evidence on behalf of the foreign nation upon
13 the hearing of an extradition case, is admissible as evidence at
14 the hearing for all the purposes of the hearing if:

15 “(A) it has been properly authenticated so as to entitle it to
16 be received for similar purposes by the courts of the foreign
17 nation from which the person is declared to be a fugitive;

18 “(B) a certificate to this effect has been executed by an ap-
19 propriate official of the foreign nation;

20 “(C) the certificate of the foreign official has been certified
21 by a diplomat or consular officer of the United States assigned
22 to such foreign nation; and

23 “(D) the signature of such diplomatic or consular officer
24 has been certified by the Secretary of State.

25 “(3) A certification or affidavit by the Secretary of State con-
26 cerning the existence of a treaty or other international agreement,
27 and concerning its status and effect, is admissible as evidence at the
28 hearing and is conclusive proof of such matters. A certification or
29 affidavit by the Secretary of State concerning the interpretation
30 of a treaty or other international agreement is admissible as evi-
31 dence at the hearing.

32 “(4) Hearsay evidence is admissible to establish the probable
33 cause required by subsection (d) (2) (G), and probable cause may
34 be established by hearsay evidence alone.

35 “(f) APPLICABLE LAWS.—The proof required by subsect (d) (2)
36 (B), may be found sufficient only if the court determines that the
37 basic elements of the offense in question substantially compare to the
38 basic elements of an offense that is a federal offense or that is generally
39 considered to be a crime under the criminal laws of the states. If the

1 applicable treaty or international agreement requires that the statute
2 of limitations in the United States be considered, the time limitations
3 set forth in section 511 are applicable to such offenses for purposes of
4 this subchapter. The Federal Rules of Criminal Procedures are not
5 applicable to this subchapter.

6 **“(g) RESULTS OF HEARING.—**

7 **“(1) If, at the conclusion of the extradition hearing, the court**
8 **conducting the hearing finds the evidence presented to be sufficient**
9 **to meet the requirements of subsection (d) (2) and to sustain the**
10 **charge under the provisions of the applicable treaty or other inter-**
11 **national agreement, it shall certify the record of the proceeding,**
12 **including the finding as to extraditability on each charge for**
13 **which extradition was requested as required by subsection (d) (2),**
14 **to the Secretary of State. The certification shall be forwarded**
15 **to the Secretary of State by the clerk of the court within ten days**
16 **from the date of the finding and the order of committal.**

17 **“(2) If, at the conclusion of the extradition hearing, the court**
18 **conducting the hearing finds the evidence presented to be in-**
19 **sufficient to sustain any charge under the provisions of**
20 **the applicable treaty or other international agreement, it shall**
21 **state the reasons for the findings as to each such charge and cer-**
22 **tify the findings to the Secretary of State.**

23 **“(3) A person found extraditable shall be committed to the**
24 **custody of the Attorney General until he is surrendered to a duly**
25 **appointed agent of the demanding government or until the Secre-**
26 **tary of State declines to issue a warrant of surrender.**

27 **“(h) NEW PROCEEDING FOR SAME FUGITIVE.—**If the requisition of
28 the foreign nation is denied, in whole or in part, by a court of the
29 United States, that nation may, after notification to the Secretary of
30 State, request the Attorney General to commence a new action in
31 conformity with the court's decision required by section 3212(g) (2).

32 **“§ 3213. Warrant of Surrender**

33 **“(a) ISSUANCE OF WARRANT.—**Upon receipt of the record of the
34 proceeding pursuant to the provisions of section 3212(g) (1), the Sec-
35 retary of State may issue, pursuant to the request of the proper au-
36 thorities of the demanding government, a warrant authorizing the
37 surrender of a person committed under section 3212 to an authorized
38 agent of the demanding government. The Secretary of State shall
39 issue the warrant to surrender and forward it to the embassy of the
40 foreign nation within thirty days of his receipt of the record of the
41 proceedings unless an appeal is taken by the person sought and a

1 stay is granted by a court having jurisdiction. The Secretary of State's
 2 decision shall be based upon the provisions of the applicable treaty
 3 and this subchapter. The foreign embassy shall be advised of the
 4 limitations in section 3213(c) by the Secretary of State. If a request
 5 for extradition is denied, in whole or in part, the decision shall be
 6 forwarded expeditiously by the Secretary of State to the court of the
 7 district where the fugitive is detained and and to the foreign nation's
 8 ambassador.

9 "(b) **WARRANT AS AUTHORITY.**—Possession of a warrant of sur-
 10 render by an agent of the foreign nation, duly appointed and desig-
 11 nated to receive custody from the United States of a person ordered
 12 surrendered, constitutes authority for the agent to hold the surren-
 13 dered person in his custody and safekeeping in any state through
 14 which it may be necessary for him to pass with the surrendered person
 15 en route to the nation to which extradition has been ordered.

16 "(c) **TIME LIMITATION.**—A person committed pursuant to section
 17 3212(g)(3):

18 "(1) who is not surrendered to, and conveyed out of the United
 19 States by, a duly authorized agent of the demanding nation
 20 within:

21 "(A) sixty days after the commitment; plus

22 "(B) the time actually required expeditiously to convey
 23 the person out of the United States from the facility in which
 24 he was held in official detention; plus

25 "(C) the time, if any, during which the execution of the
 26 warrant had been stayed pursuant to the provisions of sub-
 27 section (d); and

28 "(2) who gives reasonable notice to the Secretary of State, of
 29 his intention to apply for release;

30 may be ordered by a court of the United States to be released from
 31 official detention unless good cause is shown why such release should
 32 not be ordered.

33 "(d) **STAY OF EXECUTION OF WARRANT.**—The execution of the war-
 34 rant of surrender may not be stayed by an appellate court of the
 35 United States unless good cause is shown.

36 "**§ 3214. Waiver**

37 "A person who is arrested for extradition to a foreign nation may
 38 waive the requirements of formal extradition proceedings, including
 39 the necessity of the issuance of a warrant of surrender by the Secre-
 40 tary of State, if, orally and in writing, he so advises the court before
 41 which an extradition hearing would be held that he knows of and

1 waives all rights guaranteed by the applicable treaty or other inter-
2 national agreement, and by this subchapter, in order that he might
3 be returned as soon as practicable to such foreign nation. Such a
4 waiver is irrevocable. If the demanding government and the court
5 accept the waiver, the person shall be removed from the United States
6 within fifteen days by an agent appointed by the demanding govern-
7 ment. Possession of a certified copy of the waiver by the agent con-
8 stitutes the same authority for the agent as that granted in section
9 3213(b). Except as otherwise provided by the applicable treaty or
10 other international agreement, or by this subchapter, all rights avail-
11 able to a person extradited pursuant to such treaty or other interna-
12 tional agreement are available to a person waiving extradition pur-
13 suant to this subsection. A person not removed from the United
14 States within the fifteen day period prescribed in this section shall be
15 released from official detention, but such release does not terminate
16 the proceeding.

17 **“§ 3215. Appeal**

18 “The person sought, or the demanding government, may appeal
19 to the appropriate United States Court of Appeals from a judgment
20 on a request for extradition. A notice of appeal may be filed within
21 seven days after the district court’s decision regarding extraditability.
22 The brief on behalf of the appellant shall be filed within ten days
23 of the notice of appeal. The brief on behalf of the appellee shall be
24 filed within ten days of the receipt of appellant’s brief. An appeal
25 under this section shall be decided expeditiously. No stay of the
26 requirements of section 3212(g) (1) or (g) (2) may be granted except
27 by the court of appeals before which the appeal is pending. No stay of
28 the requirements of section 3212(g) (3) shall be granted.

29 **“§ 3216. Return to the United States**

30 “If a person is delivered, pursuant to an extradition request, by a
31 foreign nation to a person who has been designated as an agent of the
32 United States by the Secretary of State, the President has the power
33 to take all necessary measures for the transportation and safekeeping
34 of the surrendered person until he is returned to the jurisdiction that
35 sought his return.

36 **“§ 3217. General Provisions for Subchapter B**

37 “(a) **TRANSIT OF EXTRADITED PERSONS.**—Except as otherwise pro-
38 vided, a person being escorted from the jurisdiction of one foreign na-
39 tion to the jurisdiction of another as a result of his surrender for ex-
40 tradition shall be denied entry into the United States by the Immigra-
41 tion and Naturalization Service. If the person is required to transit

1 the United States, he may be permitted by the Immigration and
 2 Naturalization Service to enter the United States for the sole purpose
 3 of continuous transit, if prior notice of the required transit is given to
 4 the Secretary of State by a competent diplomatic official of the foreign
 5 nation seeking the transit.

6 “(b) **PAYMENT OF FEES AND COSTS.**—All costs and expenses incurred
 7 in connection with the extradition or return of a person at the request
 8 of:

9 “(1) a foreign nation, shall be borne by:

10 “(A) such nation, upon request made by the Secretary of
 11 State, if the demanding government is not represented by the
 12 Attorney General;

13 “(B) the United States, if the demanding government is
 14 represented by the Attorney General, except for costs and ex-
 15 penses for translations of extradition documents and for
 16 transportation of the person sought to the foreign nation;

17 “(2) a state, shall be borne by such state; and

18 “(3) the United States, shall be borne by the United States.

19 **“Chapter 33.—JURISDICTION AND VENUE**

“Subchapter

“A. Jurisdiction.

“B. Venue.

20 **“Subchapter A.—Jurisdiction**

“Sec.

“3301. Jurisdiction of District Courts over Offenses.

“3302. Jurisdiction of United States Magistrates over Offenses.

“3303. Jurisdiction to Order Arrests for Offenses.

21 **“§ 3301. Jurisdiction of District Courts Over Offenses**

22 “(a) **UNITED STATES DISTRICT COURTS.**—The United States District
 23 Courts have original jurisdiction, exclusive of the courts of the states,
 24 over all offenses committed within the general, special, or extraterri-
 25 torial jurisdiction of the United States.

26 “(b) **DISTRICT COURTS OF THE CANAL ZONE, GUAM, AND THE VIRGIN**
 27 **ISLANDS.**—The United States District Court for the District of the
 28 Canal Zone, the District Court of Guam, and the District Court of the
 29 Virgin Islands have original jurisdiction over all offenses committed
 30 within the geographic jurisdiction of such courts or within the special
 31 or extraterritorial jurisdiction of the United States.

32 **“§ 3302. Jurisdiction of United States Magistrates Over Offenses**

33 “(a) **JURISDICTION.**—A United States magistrate has jurisdiction to
 34 try persons accused of, and to sentence persons found guilty of, mis-
 35 demeanors and infractions committed within the judicial district or
 36 districts in which he serves, if he is specially designated by the district

1 court or courts to exercise such jurisdiction, and if he proceeds under
2 such conditions as are imposed by the terms of the special designation.
3 Subject to the terms of the special designation, the magistrate may
4 exercise all authority of a district court with regard to trial, sentencing,
5 and modification of sentences.

6 “(b) ELECTION BY DEFENDANT.—A person charged with a Class A
7 misdemeanor may elect to be tried before a judge of the district
8 court for the district in which the offense was committed. The magis-
9 trate shall explain to such person that he has a right to a trial before a
10 judge of the district court, and that he has a right to a trial by
11 jury before such judge. A magistrate shall not proceed to try such case
12 unless the person, after such explanation, signs a written statement
13 consenting to be tried before the magistrate, waiving trial before a
14 judge of the district court, and waiving any right to a trial by jury that
15 such person may have.

16 “(c) APPEAL TO DISTRICT COURT.—A person convicted by a magis-
17 trate may appeal from the conviction to a judge of the district court
18 of the district in which the offense was committed.

19 “§ 3303. Jurisdiction to Order Arrests for Offenses

20 “(a) ARREST WITHIN THE UNITED STATES.—A person accused of an
21 offense may be arrested anywhere within the United States by order of
22 a federal judge, or of a judicial officer of the state in which the person
23 is found.

24 “(b) ARREST OUTSIDE THE UNITED STATES.—A person accused of an
25 offense may be arrested if he is outside the United States and outside
26 the jurisdiction of any nation, and may be returned to the United
27 States, by order of a federal judge, if the person:

28 “(1) is a fugitive from justice who has been charged with or
29 convicted of any offense; or

30 “(2) is charged with an offense over which there is extra-
31 territorial jurisdiction as set forth in section 204.

32 An officer executing a warrant ordered pursuant to this subsection may
33 exercise all the powers of a United States marshal to the extent that
34 such powers are needed for the execution of the warrant and for the
35 safekeeping of the person arrested.

36 “(c) AUTHORITY OF A STATE JUDICIAL OFFICER.—A judicial officer of
37 a state acting under subsection (a) may proceed according to the usual
38 method of procedure in such state to the extent that such procedure is
39 not inconsistent with the Federal Rules of Criminal Procedure, but his
40 authority after the arrest is effected does not extend beyond determin-

1 ing whether to hold the person arrested, at the expense of the United
 2 States, for trial or to release him from official detention as provided by
 3 section 3502.

4 **“Subchapter B.—Venue**

“Sec.

“3311. Venue for an Offense Committed in More than one District.

“3312. Venue for an Offense Committed outside any District.

“3313. Venue if a New District or Division is Established.

5 **“§ 3311. Venue for an Offense Committed in more than one District**

6 “(a) **IN GENERAL.**—Except as otherwise provided, an offense begun
 7 in one judicial district and completed in another, or committed in
 8 more than one district, may be prosecuted in any district in which the
 9 offense was begun, continued, or completed.

10 “(b) **CONSPIRACY OFFENSES.**—A conspiracy offense, for purposes
 11 of subsection (a), is a continuing offense, and may be prosecuted in
 12 any district in which the conspiracy was entered into or in which any
 13 person engaged in any conduct to effect an objective of the conspiracy.
 14 A substantive offense that is committed pursuant to a conspiracy may
 15 be prosecuted with the conspiracy offense in any district in which
 16 the conspiracy offense may be prosecuted.

17 “(c) **MAILS OR COMMERCE OFFENSES.**—If federal jurisdiction to
 18 prosecute an offense is based upon the use of the mails, the move-
 19 ment of persons or property in interstate or foreign commerce or by
 20 mail, or the importation of an object into the United States, the
 21 offense, for purposes of subsection (a), is a continuing offense, and
 22 may be prosecuted in any district described in subsection (a) or in any
 23 district from, through, or into which the mail, commerce, or imported
 24 object moves.

25 “(d) **TAX OFFENSES.**—An offense:

26 “(1) described in section 1402(a)(1) (Disregarding a Tax
 27 Obligation); or

28 “(2) involving the use of the mail and described in section:

29 “(A) 1343 (Making a False Statement), if the offense
 30 involves a tax return as defined in section 1404(d); or

31 “(B) section 1401(a)(1) or (a)(5) (Tax Evasion);

32 may be prosecuted in any district in which the offense was begun, con-
 33 tinued, or completed, unless the defendant, by motion filed within
 34 twenty days after arraignment in the district in which the prosecution
 35 is begun, requests to be tried in the district in which he was residing
 36 at the time the offense was committed.

1 “(e) **HOMICIDE OFFENSES.**—An offense described in section 1601
2 (Murder), 1602 (Manslaughter), or 1603 (Negligent Homicide) may
3 be prosecuted only in the district in which the injury was inflicted,
4 or in which the means were employed that caused the death, without
5 regard to the place where the death occurred.

6 “(f) **FLIGHT OFFENSES.**—An offense described in section 1315
7 (Flight to Avoid Prosecution or Appearing as a Witness) may be
8 prosecuted only in the district in which:

- 9 “(1) the original offense was alleged to have been committed; or
10 “(2) the person was to appear as a witness, give testimony, or
11 produce a record, document, or other object.

12 **“§ 3312. Venue for an Offense Committed outside any District**

13 “(a) **VENUE.**—An offense begun or committed within:

14 “(1) any part of:

15 “(A) the special territorial jurisdiction of the United
16 States as set forth in section 203 (a);

17 “(B) the special maritime jurisdiction of the United States
18 as set forth in section 203 (b); or

19 “(C) the special aircraft jurisdiction of the United States
20 as set forth in section 203 (c);

21 that is outside of the jurisdiction of any judicial district; or

22 “(2) the extraterritorial jurisdiction of the United States as set
23 forth in section 204;

24 shall be prosecuted in the district in which the defendant, or any one
25 of two or more joint defendants, is arrested or is first brought after
26 arrest. If the defendant or defendants are not arrested or brought into
27 any district, an indictment or information may be filed in the district
28 of the last known residence of the defendant, or of any one of two or
29 more such defendants, or, if no such residence is known, the indictment
30 or information may be filed in the District of Columbia.

31 “(b) **CHANGE OF VENUE.**—If the defendant arrives in the judicial
32 district in which he is arrested, or to which he is first brought after
33 arrest, due to emergency, illness, or other exigent circumstances re-
34 sulting in an unscheduled arrival in that judicial district, the court
35 may, on motion of a party, and in the interest of justice, transfer the
36 proceeding to another judicial district.

37 **“§ 3313. Venue if a New District or Division is Established**

38 “(a) **IN GENERAL.**—If a new judicial district or division is estab-
39 lished, or if a county or territory is transferred from one district or
40 division to another district or division, a prosecution for an offense
41 committed within such district, division, county, or territory prior to

1 the establishment or transfer shall proceed in the same manner as if
2 the new district or division had not been created, or as if the county
3 or territory had not been transferred.

4 “(b) REMOVAL UPON MOTION OF DEFENDANT.—A case proceeding
5 as prescribed in subsection (a) may be ordered by the court to be re-
6 moved to the new district or division for trial if, within twenty days
7 after arraignment of the defendant in the district or division in which
8 the indictment was returned or the information was filed, the defend-
9 ant files a motion for such removal.

10 **“Chapter 34.—APPOINTMENT OF COUNSEL**

“Sec.

“3401. District Plans for Appointment of Counsel.

“3402. Appointment of Counsel.

“3403. Compensation of Counsel.

“3404. Defender Organizations.

“3405. General Provisions for Chapter 34.

11 **“§ 3401. District Plans for Appointment of Counsel**

12 “(a) ESTABLISHMENT OF PLAN.—Each district court of the United
13 States with the approval of the judicial council of the circuit, shall
14 place in operation throughout the district a plan for furnishing repre-
15 sentation for any person financially unable to obtain adequate repre-
16 sentation:

17 “(1) who is charged:

18 “(A) with a felony or a Class A misdemeanor;

19 “(B) with an act of juvenile delinquency as defined in
20 section 3606(b) including representation at a hearing pur-
21 suant to section 3603(a) (2) (C) or section 3603(a) (3) (C); or

22 “(C) with a violation of probation or parole;

23 “(2) who is under arrest, when such representation is required
24 by law;

25 “(3) who is in custody as a material witness, or seeking col-
26 lateral relief, as provided in section 3403(d); or

27 “(4) for whom the Sixth Amendment to the Constitution re-
28 quires the appointment of counsel, or for whom, in a case in which
29 he faces loss of liberty, any federal law requires the appointment
30 of counsel.

31 “(b) CHOICE OF PLAN.—Representation under the plan shall include
32 counsel and investigative, expert, and other services necessary for an
33 adequate defense. The plan shall include a provision for private attor-
34 neys. The plan may include, in addition to a provision for private at-
35 torneys in a substantial proportion of the cases, a provision for:

36 “(1) attorneys furnished by a bar association or a legal aid
37 agency; and

“(2) attorneys furnished by a defender organization established in accordance with the provisions of section 3404.

1
2 Prior to approving the plan for a district, the judicial council of the
3 circuit shall supplement the plan with provisions for representation on
4 appeal. The district court may modify the plan at any time with the
5 approval of the judicial council of the circuit, and shall modify the
6 plan when directed to do so by the judicial council. The district court
7 shall notify the Administrative Office of the United States Courts of
8 its plan and of any modification.

9 **“§ 3402. Appointment of Counsel**

10 “(a) COURT APPOINTMENT.—Counsel furnishing representation under
11 a plan established pursuant to this subchapter shall be selected
12 from a panel of attorneys designated or approved by the court, or from
13 a bar association, legal aid agency, or defender organization furnishing
14 representation pursuant to the plan. In a case in which the defendant
15 may be entitled to representation pursuant to a plan and appears without
16 counsel, the court or magistrate shall advise the defendant that he has
17 the right to be represented by counsel and that counsel will be appointed
18 to represent him if he is financially unable to obtain counsel. Unless
19 the defendant waives representation by counsel, the court or magistrate,
20 if satisfied after appropriate inquiry that the defendant is financially
21 unable to obtain counsel, shall appoint counsel to represent him. The
22 appointment may be made retroactive to include any representation
23 furnished pursuant to the plan prior to appointment. The court or
24 magistrate shall appoint separate counsel for defendants having interests
25 that cannot properly be represented by the same counsel, or for other
26 good cause shown.

27 “(b) DURATION AND SUBSTITUTION OF APPOINTMENT.—A person for
28 whom counsel is appointed shall be represented at every stage of the
29 proceedings from his initial appearance before a court or a magistrate
30 through appeal, including ancillary matters appropriate to the proceedings
31 and a proceeding under section 3603 (a). If at any time after the
32 appointment of counsel the court or magistrate finds that the person
33 is financially able to obtain counsel or to make partial payment for
34 the representation, the court or magistrate may, in the interest of
35 justice, terminate the appointment of counsel or direct payment as
36 provided in section 3403 (c). If at any stage of the proceedings, including
37 an appeal, the court or magistrate finds that a person is financially
38 unable to pay counsel whom he had retained, the court or magistrate
39 may, in the interest of justice, appoint counsel as provided in subsection
40 (a) and authorize payment as provided in section 3403. The court

1 or magistrate may, in the interest of justice, substitute one appointed
2 counsel for another at any stage of the proceedings.

3 **“§ 3403. Compensation of Counsel**

4 **“(a) PAYMENT FOR REPRESENTATION.—**

5 **“(1) HOURLY RATE.** An attorney appointed pursuant to section
6 3402, or a bar association, legal aid agency, or community de-
7 fender organization that has provided the appointed attorney,
8 shall, at the conclusion of the representation or any segment
9 thereof, be compensated at a rate not exceeding \$30 per hour for
10 time expended before a court or a magistrate and \$20 per hour
11 for time reasonably expended out of court, or shall be compen-
12 sated at such other hourly rate, fixed by the judicial council of
13 the circuit, not to exceed the usual minimum hourly rate in the
14 district for similar services. The attorney shall be reimbursed
15 for expenses reasonably incurred, including the costs of tran-
16 scripts authorized by the magistrate or court.

17 **“(2) MAXIMUM AMOUNT.—**For representation of a defendant
18 before a district court or a magistrate, or both, the compensation to
19 be paid to an attorney, or to a bar association, legal aid agency, or
20 community defender organization, may not exceed \$1,000 for each
21 attorney in a case in which one or more felonies are charged, and
22 \$400 for each attorney in a case in which only misdemeanors or
23 infractions are charged. For representation of a defendant in an
24 appellate court, the compensation to be paid to an attorney, or to
25 a bar association, legal aid agency, or community defender or-
26 ganization, may not exceed \$1,000 for each attorney in each court.
27 For representation in connection with a posttrial motion made
28 after the entry of judgment or in a probation or parole revocation
29 proceeding, or for representation provided under section 3403(d)
30 or 3617(d), the compensation may not exceed \$250 for each at-
31 torney in each proceeding.

32 **“(3) WAIVING MAXIMUM AMOUNT.—**Payment in excess of any
33 maximum amount provided in paragraph (2) may be made for
34 extended or complex representation if:

35 **“(A)** the court in which the representation was rendered,
36 or the magistrate if the representation was furnished exclu-
37 sively before him, certifies that the amount of the excess pay-
38 ment is necessary to provide fair compensation; and

39 **“(B)** the payment is approved by the chief judge of the
40 circuit.

1 “(4) **FILING CLAIM.**—A separate claim for compensation and
2 reimbursement shall be made to the district court for representa-
3 tion before the court or a magistrate, and to each appellate court
4 for representation before that court. Each claim shall be sup-
5 ported by a sworn written statement specifying the time expended,
6 services rendered, and expenses incurred while the case was pend-
7 ing before the court or magistrate, and the compensation and
8 reimbursement applied for or received from any other source in
9 the same case. The court shall fix the compensation and reimburse-
10 ment to be paid to the attorney, or to the bar association, legal aid
11 agency, or community defender organization. In a case in which
12 representation is furnished exclusively before a United States
13 magistrate, the claim shall be submitted to the magistrate and he
14 shall fix the compensation and reimbursement to be paid. In a case
15 in which representation is furnished other than before a United
16 States magistrate, a district court, or an appellate court, the claim
17 shall be submitted to the district court, and the district court shall
18 fix the compensation and reimbursement to be paid.

19 “(b) **SERVICES OTHER THAN COUNSEL.**—

20 “(1) **WITH PRIOR REQUEST.**—Counsel for a person who is finan-
21 cially unable to obtain investigative, expert, or other services
22 necessary for an adequate defense may request them in an ex
23 parte application. Upon a finding, after appropriate inquiry in
24 an ex parte proceeding by the court or magistrate having juris-
25 diction over a matter, that the services are required in connection
26 with the matter and that the person is financially unable to obtain
27 them, the court or the magistrate shall authorize counsel to obtain
28 them.

29 “(2) **WITHOUT PRIOR REQUEST.**—Counsel appointed under this
30 chapter may obtain, subject to later review, investigative, expert,
31 or other services without prior authorization if necessary for an
32 adequate defense. The total cost of services obtained without prior
33 authorization may not exceed \$150 and expenses reasonably in-
34 curred.

35 “(3) **MAXIMUM AMOUNT.**—Compensation to be paid to a person
36 for services rendered by him under this subsection or to be paid
37 to an organization for services rendered by an employee thereof,
38 shall not exceed \$300, exclusive of reimbursement for expenses
39 reasonably incurred, unless:

40 “(A) payment in excess of that limit is certified by the
41 court or the magistrate, if the services were rendered in con-

1 nection with a case disposed of entirely before him, as neces-
 2 sary to provide fair compensation for services of an unusual
 3 character or duration; and

4 “(B) the amount of the excess payment is approved by the
 5 chief judge of the circuit.

6 “(c) RECEIPT OF OTHER PAYMENT.—If the court or magistrate finds
 7 that funds are available for payment by or on behalf of a person
 8 furnished representation, the court or magistrate may authorize or
 9 direct that such funds be paid to:

10 “(1) the appointed attorney;

11 “(2) the bar association, legal aid agency, or community de-
 12 fender organization that provided the appointed attorney;

13 “(3) any person or organization authorized pursuant to sub-
 14 section (b) to render investigative, expert, or other services; or

15 “(4) the court for deposit in the Treasury as a reimbursement to
 16 the appropriation, current at the time of payment, to carry out the
 17 provisions of this section.

18 Except as so authorized or directed, no such person or organization
 19 may request or accept any payment or promise of payment for repre-
 20 senting a defendant.

21 “(d) DISCRETIONARY APPOINTMENT.—A person who is in custody as
 22 a material witness, or who is seeking relief under 28 U.S.C. 2241, 2254,
 23 or 2255, may be furnished representation pursuant to the plan when-
 24 ever the court or magistrate determines that the interest of justice so
 25 requires and that the person is financially unable to obtain representa-
 26 tion. Payment for such representation may be as provided in subsec-
 27 tions (a) and (b).

28 **“§ 3404. Defender Organizations**

29 “(a) QUALIFICATIONS.—A district or a part of a district in which at
 30 least two hundred persons annually require the appointment of counsel
 31 may establish a defender organization as provided under subsection (b)
 32 (1) or (b) (2). Two adjacent districts or parts of districts may aggre-
 33 gate the number of persons required to be represented to establish
 34 eligibility for a defender organization to serve both areas. If the ad-
 35 jacent districts or parts of districts are located in different circuits, the
 36 plan for furnishing representation shall be approved by the judicial
 37 council of each circuit.

38 “(b) TYPES OF DEFENSE ORGANIZATION.—

39 “(1) FEDERAL PUBLIC DEFENDER ORGANIZATION.—A Federal
 40 Public Defender Organization shall consist of one or more full-
 41 time, salaried attorneys. An organization for a district or part of

1 a district or two adjacent districts or parts of districts shall be
2 supervised by a Federal Public Defender appointed by the ju-
3 dicial council of the circuit, without regard to the provisions of
4 title 5 governing appointments in the competitive service, after
5 considering recommendations from the district court or courts to
6 be served. Only one Federal Public Defender may be appointed
7 within a single judicial district. The Federal Public Defender
8 shall be appointed for a term of four years, subject to earlier re-
9 moval by the judicial council of the circuit for incompetency, mis-
10 conduct in office, or neglect of duty. The compensation of the Fed-
11 eral Public Defender shall be fixed by the judicial council of the
12 circuit at a rate not to exceed the compensation received by the
13 United States attorney for the district in which representation is
14 furnished, or, if two districts or parts of districts are involved, the
15 compensation of the United States attorney receiving the higher
16 compensation. The Federal Public Defender may appoint, with-
17 out regard to the provisions of title 5 governing appointments in
18 the competitive service, full-time attorneys in such number as are
19 approved by the judicial council of the circuit, and other person-
20 nel in such number as are approved by the Director of the Admin-
21 istrative Office of the United States Courts. Compensation paid
22 to such attorneys and other personnel of the organization shall be
23 fixed by the Federal Public Defender at a rate not to exceed that
24 paid to attorneys and other personnel of similar qualifications and
25 experience in the office of the United States attorney in the dis-
26 trict in which representation is furnished, or, if two districts or
27 parts of districts are involved, the higher compensation paid to
28 persons of similar qualifications and experience in the districts.
29 Neither the Federal Public Defender nor an attorney appointed
30 by him may engage in the private practice of law. Each organiza-
31 tion shall submit to the Director of the Administrative Office of
32 the United States Courts, at the time and in the form prescribed
33 by him, reports of its activities, financial position, and proposed
34 budget. The Director of the Administrative Office of the United
35 States Courts shall submit, in a manner similar to and subject to
36 the conditions of 28 U.S.C. 605, a budget for each organization for
37 each fiscal year, and shall, out of the appropriations therefor,
38 make payments to and on behalf of each organization. Payments
39 under this paragraph to an organization shall be in lieu of pay-
40 ments under section 3403 (a) or (b).

1 “(2) **COMMUNITY DEFENDER ORGANIZATION.**—A Community
 2 Defender Organization shall be a nonprofit defense counsel serv-
 3 ice established and administered by any group authorized by the
 4 plan to provide representation. The organization shall be eligible
 5 to furnish attorneys and receive payments under section 3403 if
 6 its bylaws are set forth in the plan of the district or districts in
 7 which it will serve. Each organization shall submit to the Judicial
 8 Conference of the United States an annual report setting forth
 9 its activities and financial position and its anticipated caseload
 10 and expenses for the coming year. Upon application an organiza-
 11 tion may, to the extent approved by the Judicial Conference of
 12 the United States:

13 “(A) receive an initial grant for expenses necessary to
 14 establish the organization; and

15 “(B) in lieu of payments under section 3403(a) or 3403
 16 (b), receive periodic sustaining grants to provide represen-
 17 tation and other expenses pursuant to this chapter.

18 **“§ 3405. General Provisions for Chapter 34**

19 “(a) **RULES AND REPORTS.**—Each district court and judicial council
 20 of a circuit shall submit a report to the Administrative Office of the
 21 United States Courts on the appointment of counsel within its juris-
 22 diction in such form and at such times as the Judicial Conference of
 23 the United States may specify. The Judicial Conference of the United
 24 States may issue rules and regulations governing the operation of
 25 plans for the appointment of counsel.

26 “(b) **ADMINISTRATION.**—The Director of the Administrative Office
 27 of the United States Courts shall supervise the making of payments
 28 under this chapter.

29 “(c) **APPLICATION TO THE DISTRICT OF COLUMBIA.**—The provisions
 30 of this chapter, other than section 3404, shall apply in the United
 31 States District Court for the District of Columbia and the United
 32 States Court of Appeals for the District of Columbia Circuit. The
 33 provisions of this chapter shall not apply to the Superior Court of the
 34 District of Columbia or the District of Columbia Court of Appeals.

35 “(d) **NEW TRIAL CONSIDERED NEW CASE.**—For purposes of com-
 36 pensation and other payments authorized by this chapter, an order
 37 by a court granting a new trial shall be considered to initiate a new
 38 case.

39 “(e) **FEES AND COSTS ON APPEAL WAIVED.**—If a person for whom
 40 counsel is appointed under this chapter appeals to an appellate court

1 or petitions for a writ of certiorari, he may do so without payment
 2 of fees and costs, or security therefor, and without filing the affidavit
 3 required by 28 U.S.C. 1915(a).

4 **"Chapter 35.—RELEASE AND CONFINEMENT PENDING**
 5 **JUDICIAL PROCEEDINGS**

6 "Subchapter

7 "A. Release Pending Judicial Proceedings.

7 "B. Confinement Pending Judicial Proceedings.

8 "Subchapter A.—Release Pending Judicial Proceedings

"Sec.

"3501. Release Authority Generally.

"3502. Release Pending Trial in a Non-Capital Case.

"3503. Release Pending Trial in a Capital Case.

"3504. Release Pending Sentence or Appeal.

"3505. Release of a Material Witness.

"3506. Appeal from Denial of Release.

"3507. Release in a Case Removed from a State Court.

"3508. Surrender of an Offender by a Surety.

"3509. Security for Peace and Good Behavior.

9 **"§ 3501. Release Authority Generally**

10 "A person charged with an offense may be ordered released pursuant
 11 to the provisions of this chapter by a judge authorized to order the
 12 arrest and commitment of offenders, but a person charged with an
 13 offense for which a sentence of death is authorized may be ordered
 14 released only by a judge of a court of the United States that has orig-
 15 inal jurisdiction in criminal cases.

16 **"§ 3502. Release Pending Trial in a Non-Capital Case**

17 "(a) **RELEASE CONDITIONS.**—A person charged with an offense, other
 18 than an offense for which a sentence of death is authorized, shall, at
 19 his appearance before a judge, be ordered released pending trial on his
 20 personal recognizance or upon the execution of an unsecured appear-
 21 ance bond in an amount specified by the judge, unless the judge deter-
 22 mines, in the exercise of his discretion, that such a release will not
 23 reasonably assure the appearance of the person as required. If such
 24 a determination is made, the judge shall, either in lieu of or in addi-
 25 tion to the above methods of release, impose the first of the follow-
 26 ing conditions of release that will reasonably assure the appearance
 27 of the person for trial or, if no single condition will give that assur-
 28 ance, any combination of the following conditions:

29 "(1) a condition placing the person in the custody of a desig-
 30 nated person agreeing to supervise him;

31 "(2) a condition placing restrictions on the person's travel,
 32 associations, or place of abode, during the period of release;

33 "(3) a condition requiring the execution of an appearance bond
 34 in a specified amount, and the deposit in the registry of the court,

1 in cash or other security as directed, of a sum not to exceed ten per-
2 cent of the amount of the bond, such deposit to be returned upon
3 the performance of the conditions of release;

4 “(4) a condition requiring the execution of a bail bond with
5 sufficient solvent sureties, or the deposit of cash in lieu thereof; or

6 “(5) any other condition reasonably necessary to assure appear-
7 ance as required, including a condition requiring that the person
8 return to custody after specified hours.

9 “(b) **FACTORS IN DETERMINING RELEASE.**—In determining which
10 conditions of release will reasonably assure the appearance of the per-
11 son as required, the judge shall, on the basis of available information,
12 take into account:

13 “(1) the nature and circumstances of the offense charged;

14 “(2) the weight of the evidence against the person; and

15 “(3) the history and characteristics of the person, including
16 his character, mental condition, family ties, employment, length
17 of residence in the community, financial resources, record of con-
18 victions, and record of appearance or nonappearance at court
19 proceedings.

20 “(c) **ORDER.**—A judge authorizing the release of a person pursuant
21 to this section shall issue an order containing a statement of the condi-
22 tions of release imposed, shall advise him of the penalties applicable to
23 a violation of a condition of his release, and shall advise him that a
24 warrant for his arrest will be issued immediately upon such a viola-
25 tion. A failure to advise the person of the penalties applicable for fail-
26 ure to appear as required is not a bar or defense to a prosecution under
27 section 1312 (Bail Jumping).

28 “(d) **RECONSIDERATION.**—A person concerning whom conditions of
29 release are imposed, and who after twenty-four hours from the time
30 of the release hearing continues to be detained as a result of his in-
31 ability to meet the conditions of release, may, upon application, have
32 the conditions reviewed by the judge who imposed them. A person who
33 is ordered released on a condition that requires him to return to custody
34 after specified hours may, upon application, have the condition re-
35 viewed by the judge who imposed it. Unless the conditions of release
36 are amended and the person is thereupon released on another condi-
37 tion, the judge shall set forth in writing the reasons for continuing
38 the conditions imposed. If the judge who imposed conditions of re-
39 lease is not available, any other judge in the district may review such
40 conditions.

1 “(e) **MODIFICATION.**—A judge ordering the release of a person on
2 a condition specified in this section may at any time amend his order
3 to impose additional or different conditions of release. If the imposition
4 of such additional or different conditions results in the detention of the
5 person as a result of his inability to meet such conditions, the provi-
6 sions of subsection (d) are applicable.

7 “(f) **EVIDENCE.**—Any information may be presented and considered
8 in connection with an order entered pursuant to this section regardless
9 of its admissibility under the rules governing admission of evidence in
10 criminal trials.

11 **“§ 3503. Release Pending Trial in a Capital Case**

12 “A person who is charged with an offense for which a sentence of
13 death is authorized shall be treated in accordance with the provisions
14 of section 3502, unless the judge has reason to believe that no condi-
15 tions of release will reasonably assure that the person will not flee
16 or will not pose a danger to any other person or to the community.
17 If such a risk of flight or danger is believed to exist, the person shall
18 be ordered detained. Such an order is not appealable under section
19 3506, but may be reviewed under other provisions for review of condi-
20 tions of release or orders of detention.

21 **“§ 3504. Release Pending Sentence or Appeal**

22 “(a) **PENDING SENTENCE OR APPEAL BY THE DEFENDANT.**—A person
23 who has been found guilty of an offense and is awaiting sentence, or
24 who has filed an appeal or a petition for a writ of certiorari, shall be
25 treated in accordance with the provisions of section 3502, unless the
26 judge has reason to believe that no conditions of release will reason-
27 ably assure that the person will not flee or will not pose a danger to
28 any other person or to the community. If such a risk of flight or danger
29 is believed to exist, or if it appears that an appeal is frivolous or taken
30 for purposes of delay, the person shall be ordered detained. Such an
31 order is not appealable under section 3506, but may be reviewed under
32 other provisions for review of conditions of release or orders of deten-
33 tion.

34 “(b) **PENDING APPEAL BY THE GOVERNMENT.**—A person who is a de-
35 fendant in a case in which an appeal has been taken by the United
36 States pursuant to the provisions of section 3724 (a) or (b) shall be
37 treated in accordance with the provisions of section 3502.

38 **“§ 3505. Release of a Material Witness**

39 “If it appears from an affidavit filed by a party that the testimony
40 of a person is material in a criminal proceeding, and if it is shown

1 that it may become impracticable to secure his presence by subpoena.
 2 a judge shall impose conditions of release pursuant to section 3502.
 3 No material witness may be detained because of inability to comply
 4 with any condition of release if the testimony of such witness can ade-
 5 quately be secured by deposition, and if further detention is not neces-
 6 sary to prevent a failure of justice. Release may be delayed for a rea-
 7 sonable period of time until the deposition of the witness can be taken
 8 pursuant to the Federal Rules of Criminal Procedure.

9 **“§ 3506. Appeal from Denial of Release**

10 “(a) REVIEW.—A person :

11 “(1) who is detained, or whose release on a condition requir-
 12 ing him to return to custody after specified hours is continued;
 13 and

14 “(2) whose application pursuant to section 3502 (d) or (e)
 15 has been reviewed by a judge other than :

16 “(A) a judge of the court having original jurisdiction over
 17 the offense with which he is charged ;

18 “(B) a judge of a United States Court of Appeals ; or
 19 or

20 “(C) a Justice of the Supreme Court of the United States ;
 21 may file a motion for an amendment of the order with the court having
 22 origi jurisdiction over the offense with which he is charged. Such
 23 a motion shall be determined promptly.

24 “(b) APPEAL.—In a case in which a person is detained after :

25 “(1) a court denies a motion under subsection (a) to amend an
 26 order imposing conditions of release ; or

27 “(2) conditions of release have been imposed or amended by
 28 a judge of the court having original jurisdiction over the offense
 29 charged ;

30 an appeal may be taken to the court having appellate jurisdiction
 31 over such court. An order so appealed shall be affirmed if it is sup-
 32 ported by the proceedings below. If the order is not so supported, the
 33 court may remand the case for a further hearing, or may, with or
 34 without additional evidence, order the person released pursuant to
 35 section 3502. Such an appeal shall be determined promptly.

36 **“§ 3507. Release in a Case Removed from a State Court**

37 “If the judgment of a state court in a criminal proceeding is before
 38 the Supreme Court of the United States for review, the defendant may
 39 not be released from custody pending such review other than pursuant
 40 to the laws of such state.

1 **“§ 3508. Surrender of an Offender by a Surety**

2 “A person charged with an offense, who is released upon the execu-
3 tion of an appearance bond with a surety, may be arrested by the
4 surety, delivered to a United States marshal, and brought before a
5 judge. At the request of the surety, the judge shall order the person
6 held in official detention, and shall endorse on the recognizance, or on
7 the certified copy of the recognizance, the discharge and exoneration of
8 the surety. The person so committed shall be held in official detention
9 until released pursuant to this chapter or to another provision of law.

10 **“§ 3509. Security for Peace and Good Behavior**

11 ‘A judge who may order an arrest pursuant to section 3303 may
12 require a person to give security for peace and good behavior in a
13 case arising under the Constitution and laws of the United States,
14 to the same extent that a judge of the state in which the case arises
15 would be authorized by state law if the case were a state case.

16 **“Subchapter B.—Confinement Pending Judicial**
17 **Proceedings**

“Sec.

“3511. Commitment of an Arrested Person.

“3512. Discharge of an Arrested but Unconvicted Person.

18 **“§ 3511. Commitment of an Arrested Person**

19 “(a) **ORDER OF COMMITMENT.**—A person who is arrested and charged
20 with an offense or held as a material witness and who is not ordered
21 released pursuant to the provisions of subchapter A, shall be ordered
22 committed to the custody of the Attorney General for confinement
23 in a facility for official detention. A copy of the order shall be
24 delivered to the person in charge of the facility as evidence of his
25 authority to hold the arrested person, and the original order, with
26 the return endorsed thereon, shall be returned to the court that issued
27 it.

28 “(b) **DELIVERY OF ARRESTED PERSON FOR COURT APPEARANCE.**—The
29 person in charge of an official detention facility to whom an arrested
30 person is delivered pursuant to the provisions of subsection (a) shall
31 deliver the person to a United States marshal for the purpose of a court
32 appearance on order of a court of the United States or on request of an
33 attorney for the government.

34 **“§ 3512. Discharge of an Arrested but Unconvicted Person**

35 “A court of the United States may direct the United States marshal
36 for the judicial district to furnish subsistence and transportation to
37 the place of arrest or to the place of bona fide residence, under regula-
38 tions promulgated by the Director of the Bureau of Prisons, to:

1 (c) **TRANSPORTATION.**—The United States marshal of the dis-
2 trict in which the person was arrested shall, upon written order of the
3 Attorney General, transfer the person to such state or, if he is already
4 in such state, to any other part of the state, and shall deliver him into
5 the custody of the proper state authority.

6 (d) **CONSENT OR DEMAND REQUIRED.**—Before a person is trans-
7 ferred from one state to another under this section :

8 “(1) the person must consent to the transfer ; or

9 “(2) a demand must be presented to the Attorney General from
10 the executive authority of the state to which the person is to be
11 returned, supported by an indictment or affidavit as prescribed by
12 section 3202.

13 **“§ 3602. Arrest and Detention of a Juvenile Delinquent**

14 “(a) **ARREST.**—If a juvenile is taken into custody for an act of
15 juvenile delinquency, the arresting officer shall immediately advise the
16 juvenile of his legal rights in clear and non-technical language,
17 shall immediately notify the Attorney General of such custody, and
18 shall make reasonable efforts to notify the juvenile’s parents, guardian,
19 or custodian of such custody. The arresting officer shall also advise the
20 parents, guardian, or custodian of the rights of the juvenile and of the
21 nature of the alleged offense.

22 “(b) **DETENTION.**—If the juvenile is not taken forthwith before a
23 judge, he may be detained in a juvenile home or other suitable place
24 of detention that the Attorney General may designate for such pur-
25 pose, but, insofar as possible, he shall not be detained in a facility for
26 official detention in which he has a regular contact with an adjudicated
27 juvenile delinquent or an adult convicted of an offense or awaiting
28 trial on a charge of an offense. If possible, the detention shall be in a
29 facility located in or near the juvenile’s home community. The juvenile
30 while in custody shall be provided with adequate food, heat, light,
31 sanitary facilities, bedding, clothing, recreation, education and medical
32 care, including any necessary psychiatric, psychological, or other care
33 or treatment. The juvenile shall not be detained for a period longer
34 than is necessary to produce the juvenile before a judge.

35 “(c) **RELEASE.**—The judge shall release the juvenile pending trial
36 upon any condition set forth in section 3502 that will reasonably assure
37 the presence of the juvenile before the appropriate court as required,
38 unless the judge determines, after a hearing, that official detention
39 pending trial of such juvenile is required to secure his safety or the
40 safety of another person. If a juvenile is held in official detention pend-
41 ing trial pursuant to this subsection and is not brought to trial within

1 sixty days from the date upon which the detention was begun, the
 2 information shall be dismissed on motion of the juvenile or at the
 3 direction of the court, unless the Attorney General shows that addi-
 4 tional delay was caused by the juvenile or his counsel, or consented to
 5 by the juvenile and his counsel, or would be in the interest of justice in
 6 the particular case. Delays attributable solely to court calendar con-
 7 gestion may not be considered to be in the interest of justice. Except
 8 in extraordinary circumstances, an information dismissed under this
 9 section may not be reinstated.

10 **“§ 3603. Juvenile Delinquency Proceeding**

11 “(a) IN GENERAL.—A juvenile who is charged with committing an
 12 offense and who is not surrendered to state authorities shall be pro-
 13 ceeded against as a juvenile delinquent:

14 “(1) unless, upon advice of counsel, he elects in a writing filed
 15 with the court to be treated as an adult and waives the bar to
 16 prosecution, if applicable, in section 512; or

17 “(2) unless:

18 “(A) he is less than sixteen years old;

19 “(B) the offense charged is an offense described in section
 20 1601(a) (1) or (a) (2) (Murder); and

21 “(C) the court having jurisdiction over the offense
 22 charged, upon a motion filed by the Attorney General and
 23 after reasonable notice to:

24 “(i) the juvenile;

25 “(ii) his parents, guardian, or custodian; and

26 “(iii) counsel for the juvenile;

27 holds a hearing and determines that in the interest of justice
 28 the juvenile should be treated as an adult; or”.

29 “(3) unless:

30 “(A) he is sixteen years old or more;

31 “(B) the offense charged is a Class A, B, or C felony;
 32 and

33 “(C) the court having jurisdiction over the offense
 34 charged, upon a motion filed by the Attorney General and
 35 after reasonable notice to:

36 “(i) the juvenile;

37 “(ii) his parents, guardian, or custodian; and

38 “(iii) counsel for the juvenile;

39 holds a hearing and determines that in the interest of justice
 40 the juvenile should be treated as an adult.

1 “(b) CRITERIA.—In making the determination required by subsection
2 (a) (2) (C) and (a) (3) (C) the court shall consider and shall
3 make findings of fact on the record with regard to:

4 “(1) the nature and circumstances of the offense;

5 “(2) the age and social background of the juvenile;

6 “(3) the extent and nature of the juvenile’s prior delinquency
7 record;

8 “(4) the likelihood of reform of the juvenile prior to his
9 majority;

10 “(5) the availability of programs designed to treat the juvenile’s
11 behavioral problems; and

12 “(6) whether juvenile disposition will reflect the seriousness of
13 the juvenile’s conduct, promote respect for the law, and provide a
14 just response to the conduct of the juvenile.

15 “(c) PROCEDURE.—Jurisdiction over juvenile delinquency proceedings
16 shall be exercised by the District Courts of the United States, or
17 alternatively, in the case of a misdemeanor or an infraction, by a
18 United States Magistrate pursuant to section 3302. A juvenile may be
19 proceed against for an act of juvenile delinquency only by information,
20 and no criminal prosecution may be instituted for the offense
21 charged. For purposes of a juvenile delinquency hearing, the court
22 may be convened at any time and place within the judicial district, in
23 chambers or otherwise. Prior to a juvenile delinquency hearing, a
24 juvenile may be committed for an inpatient study pursuant to subsection
25 (d) with the consent of the juvenile and his attorney.

26 “(d) COMMITMENT PENDING DISPOSITION.—If the court desires more
27 information than is otherwise available to it as a basis for determining
28 the appropriate disposition, the court may commit the juvenile to the
29 custody of the Bureau of Prisons for a period of not more than thirty
30 days for the purpose of observation and study at an appropriate classification
31 center or agency. Such observation and study shall be conducted on an
32 outpatient basis, unless the court determines that inpatient
33 study and observation are necessary to obtain the necessary information.
34 The Bureau of Prisons, under such regulations as the Attorney
35 General may issue, shall conduct a complete study of the juvenile
36 delinquent during such period, inquiring into such matters as the
37 juvenile’s previous juvenile delinquency or criminal experience, his
38 social background, his capabilities, his mental, emotional, and physical
39 health, the significant problem or problems involved in his juvenile
40 delinquency, the rehabilitative resources or programs that may be

1 available to suit his needs, and any other factor which the Bureau may
 2 consider pertinent. By the expiration of the period of commitment the
 3 Bureau shall return the juvenile delinquent to the court for final dis-
 4 position, shall provide the court and the attorney for the juvenile with
 5 a written report of the results of the study, and shall make to the court
 6 whatever recommendations the Bureau believes will be helpful to a
 7 proper resolution of the case. The court may grant additional time for
 8 the preparation of the report or recommendation.

9 “(e) DISPOSITION.—If the court finds a juvenile to be a juvenile
 10 delinquent, the court shall hold a hearing concerning the appropriate
 11 disposition. After the hearing the court may suspend the findings of
 12 juvenile delinquency, place him on probation, or commit him to official
 13 detention.

14 “(f) PROBATION.—The term for which probation may be ordered
 15 for a juvenile found to be a juvenile delinquent may not extend:

16 “(1) in the case of a juvenile who is less than nineteen years old,
 17 beyond the date when the juvenile becomes twenty-one years
 18 old; or

19 “(2) in the case of a juvenile who is between nineteen and
 20 twenty-one years old, two years.

21 The provisions dealing with probation set forth in sections 2103 and
 22 2104 are applicable to an order placing a juvenile on probation.

23 “(g) OFFICIAL DETENTION.—The term for which official detention
 24 may be ordered for a juvenile found to be a juvenile delinquent may
 25 not extend:

26 “(1) in the case of a juvenile who is less than nineteen years old,
 27 beyond the lesser of:

28 “(A) the date when the juvenile becomes twenty-one years
 29 old; or

30 “(B) the maximum term that could have been imposed if
 31 the juvenile had been tried and convicted as an adult; or

32 “(2) in the case of a juvenile who is between nineteen and
 33 twenty-one years old, beyond the lesser of:

34 “(A) two years; or

35 “(B) the maximum term that could have been imposed if
 36 the juvenile had been tried and convicted as an adult.

37 “(h) PLACE OF OFFICIAL DETENTION.—The Bureau of Prisons may
 38 designate as the place of official detention during the period of com-
 39 mitment a suitable public or private agency or foster home. No juve-
 40 nile found to be a juvenile delinquent shall be held, except as necessary

1 for purposes of transportation or medical care, in an official detention
 2 facility in which an adult convicted of an offense or awaiting trial on
 3 a charge of an offense is held in official detention. A juvenile who has
 4 been committed shall be provided with adequate food, heat, light,
 5 sanitary facilities, bedding, clothing, recreation, counseling, educa-
 6 tion, training, and medical care, including any necessary psychiatric,
 7 psychological, or other care and treatment. If possible, the Bureau of
 8 Prisons shall commit a juvenile to a public or private agency or foster
 9 home located in or near his home community.

10 "(i) CONTRACTING FOR NON-FEDERAL FACILITIES.—The Director
 11 of the Bureau of Prisons may contract with a public or private agency
 12 or foster home for the custody, care, subsistence, education, and train-
 13 ing of juvenile delinquents.

14 "(j) STATEMENT BY JUVENILE.—A statement made by a juvenile
 15 during or in connection with a proceeding held pursuant to section
 16 3603(a) is not admissible against him in a subsequent criminal pro-
 17 ceeding.

18 "§ 3604. Parole of a Juvenile Delinquent

19 "A juvenile delinquent who has been committed to official deten-
 20 tion under section 3603(g) may be released on parole by the Parole
 21 Commission at any time, under such conditions and regulations as the
 22 Commission considers to be appropriate, if the Commission is of the
 23 opinion that the criteria set forth in section 3831(c)(1) are satisfied.
 24 The provisions dealing with parole set forth in sections 3834 (c)
 25 through (h) and 3835 are applicable to an order releasing a juvenile
 26 delinquent on parole.

27 "§ 3605. Use of Juvenile Delinquency Records

28 "(a) SEALING OF RECORDS.—Throughout the juvenile delinquency
 29 proceeding, the court shall safeguard the record against disclosure to
 30 a person not authorized to receive it. Upon the completion of a juve-
 31 nile delinquency proceeding, whether or not there is a finding of juve-
 32 nile delinquency, the court shall order the entire record of the pro-
 33 ceeding sealed. The court may release information concerning the
 34 sealed record to the extent necessary to comply with an inquiry in
 35 writing from:

36 "(1) another court;

37 "(2) an agency preparing a presentence report for another
 38 court;

39 "(3) the Director of a treatment agency or facility to which the
 40 juvenile has been committed by the court;

1 “(4) a law enforcement agency if the request for information
2 is related to the investigation of an offense or a position within
3 the agency;

4 “(5) an agency considering the person for a position immedi-
5 ately and directly affecting the national security; or

6 “(6) the victim if the request for information is related to the
7 final disposition of the case.

8 The court may not release information concerning the sealed record
9 to comply with any other inquiry, and responses to such inquiries shall
10 be the same as responses made about persons who have never been the
11 subject of a juvenile delinquency proceeding.

12 “(b) NOTICE.—The court exercising jurisdiction over a juvenile
13 shall, in a written statement using clear and nontechnical language,
14 inform the juvenile, and his parents, guardian, or other person respon-
15 sible for his welfare, of his rights relating to the sealing of his juvenile
16 record.

17 “(c) DUTY OF COURT OFFICERS.—An employee of the court or an
18 employee of any other governmental agency, who, during the course
19 of a juvenile delinquency proceeding, obtains or preserves information
20 or a record relating to the proceeding in the discharge of an official
21 duty, shall not disclose such information or record directly or in-
22 directly to a person other than the judge, the counsel for the juvenile,
23 the attorney for the government, or another person entitled under this
24 section to receive sealed records.

25 “(d) FINGERPRINTS AND PHOTOGRAPHS.—Unless a juvenile who is
26 taken into custody is prosecuted as an adult:

27 “(1) the fingerprints or photograph of the juvenile shall not
28 be taken without the written consent of the judge; and

29 “(2) the name or photograph of the juvenile shall not be made
30 public in connection with a juvenile delinquency proceeding by
31 any medium of public information.

32 “§ 3606. Definitions for Subchapter A

33 “As used in this subchapter:

34 “(a) ‘juvenile’ means a person who is less than:

35 “(1) eighteen years old; or

36 “(2) twenty-one years old if he is charged with an act of
37 juvenile delinquency committed when he was less than
38 eighteen years old;

39 “(b) ‘juvenile delinquency’ means conduct constituting an
40 offense engaged in by a juvenile.

1 “(2) for an additional reasonable period of time, not to exceed
2 six months, until:

3 “(A) his mental condition is so improved that trial may
4 proceed, if the court finds that there is a substantial probabil-
5 ity that within such additional period of time he will attain
6 the capacity to permit the trial to proceed; or

7 “(B) the pending charges against him are disposed of ac-
8 cording to law.

9 If, at the end of the time period specified, it is determined that the de-
10 fendant's mental condition has not so improved as to permit the trial
11 to proceed, the defendant is subject to the provisions of section 3616.

12 “(e) DISCHARGE FROM MENTAL HOSPITAL.—When the director of
13 the facility in which a defendant is hospitalized pursuant to subsec-
14 tion (d) determines that the defendant has recovered to such an extent
15 that he is able to understand the nature and consequences of the pro-
16 ceedings against him and to assist properly in his defense, he shall
17 promptly file a certificate to that effect with the clerk of the court that
18 ordered the commitment. The clerk shall send a copy of the certificate
19 to the defendant's counsel and to the attorney for the government. The
20 court shall hold a hearing, conducted pursuant to the provisions of
21 section 3617(d), to determine the competency of the defendant. If,
22 after the hearing, the court finds by a preponderance of the evidence
23 that the defendant has recovered to such an extent that he is able
24 to understand the nature and consequences of the proceedings against
25 him and to assist properly in his defense, the court shall order his
26 immediate discharge from the facility in which he is hospitalized and
27 shall set the date for trial. Upon discharge, the defendant is subject
28 to the provisions of chapter 35.

29 “(f) ADMISSIBILITY OF FINDING OF COMPETENCY.—A finding by the
30 court that the defendant is mentally competent to stand trial shall not
31 prejudice the defendant in raising the issue of his insanity as a defense
32 to the offense charged, and shall not be admissible as evidence in a
33 trial for the offense charged.

34 “§ 3612. Determination of the Existence of Insanity at the Time
35 of the Offense

36 “(a) MOTION FOR PRETRIAL PSYCHIATRIC EXAMINATION.—Upon the
37 filing of a notice, as provided in Rule 12.2 of the Federal Rules of
38 Criminal Procedure, the court, upon motion of the attorney for the
39 government, may order that a psychiatric examination of the defend-

1 ant be conducted, and that a psychiatric report be filed with the court,
2 pursuant to the provisions of section 3617 (b) and (c).

3 “(b) SPECIAL VERDICT.—If the issue of insanity is raised by notice
4 as provided in Rule 12.2 of the Federal Rules of Criminal Procedure
5 on motion of the defendant or of the attorney for the government, or
6 on the court's own motion, the jury shall be instructed to find, or, in
7 the event of a non-jury trial, the court shall find, the defendant:

8 “(1) guilty;

9 “(2) not guilty; or

10 “(3) not guilty by reason of insanity.

11 **“§ 3613. Hospitalization of a Person Acquitted by Reason of**
12 **Insanity**

13 “(a) DETERMINATION OF PRESENT MENTAL CONDITION OF ACQUITTED
14 PERSON.—If a person is found not guilty by reason of insanity at the
15 time of the offense charged, the court shall order a hearing to determine
16 whether the person is presently suffering from a mental disease or
17 defect as a result of which his release would create a substantial
18 risk of serious bodily injury to another person or serious damage to
19 property of another. The court may make any order reasonably neces-
20 sary to secure the appearance of the person at the hearing.

21 “(b) PSYCHIATRIC EXAMINATION AND REPORT.—Prior to the date of
22 the hearing, the court may order that a psychiatric examination of
23 the defendant be conducted, and that a psychiatric report be filed with
24 the court, pursuant to the provisions of section 3617 (b) and (c).

25 “(c) HEARING.—The hearing shall be conducted pursuant to the
26 provisions of section 3617 (d).

27 “(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the
28 court finds by clear and convincing evidence that the acquitted person
29 is presently suffering from a mental disease or defect as a result of
30 which his release would create a substantial risk of serious bodily
31 injury to another person or serious damage to property of another,
32 the court shall commit the person to the custody of the Attorney Gen-
33 eral. The Attorney General shall release the person to the appropriate
34 official of the state in which the person is domiciled if such state will
35 assume responsibility for his custody, care, and treatment. If such
36 state will not then assume such responsibility, the Attorney General
37 shall hospitalize the person for treatment in a suitable mental hospital,
38 or in another facility designated by the court as suitable, until such
39 state will assume such responsibility or until the person's mental con-
40 dition is so improved that his release would not create a substantial

1 risk of serious bodily injury to another person or serious damage to
2 property of another.

3 “(e) DISCHARGE FROM MENTAL HOSPITAL.—When the director of
4 the facility in which an acquitted person is hospitalized pursuant to
5 subsection (d) determines that the person has recovered from his
6 mental disease or defect to such an extent that his release would no
7 longer create a substantial risk of serious bodily injury to another
8 person or serious damage to property of another, he shall promptly
9 file a certificate to that effect with the clerk of the court that ordered
10 the commitment. The clerk shall send a copy of the certificate to the
11 person’s counsel and to the attorney for the government. The court
12 shall order the discharge of the acquitted person or, on the motion of
13 the attorney for the government or on its own motion, shall hold a
14 hearing, conducted pursuant to the provisions of section 3617(d), to
15 determine whether he should be released. If, after the hearing, the
16 court finds by a preponderance of the evidence that the person has
17 recovered from his mental disease or defect to such an extent that his
18 release would no longer create a substantial risk of serious bodily
19 injury to another person or serious damage to property of another, the
20 court shall order his immediate discharge.

21 **“§ 3614. Hospitalization of a Convicted Person Suffering from**
22 **Mental Disease or Defect**

23 “(a) MOTION TO DETERMINE PRESENT MENTAL CONDITION OF CON-
24 VICTED DEFENDANT.—A defendant found guilty of an offense, or the
25 attorney for the government, may, within ten days after the defendant
26 is found guilty, file a motion for a hearing on the present mental con-
27 dition of the defendant. The court shall grant the motion, or at any
28 time prior to the sentencing of the defendant shall order such a hearing
29 on its own motion, if there is reasonable cause to believe that the de-
30 fendant may presently be suffering from a mental disease or defect
31 for the treatment of which he is in need of custody for care or treat-
32 ment in a mental hospital.

33 “(b) PSYCHIATRIC EXAMINATION AND REPORT.—Prior to the date of
34 the hearing, the court may order that a psychiatric examination of the
35 defendant be conducted, and that a psychiatric report be filed with the
36 court, pursuant to the provisions of section 3617 (b) and (c). In addi-
37 tion to the information required to be included in the psychiatric
38 report pursuant to the provisions of section 3617(c), if the report
39 includes an opinion by the examiners that the defendant is presently
40 suffering from a mental disease or defect but that it is not such as to

1 require his custody for care or treatment in a mental hospital, the
2 report shall also include an opinion by the examiners concerning the
3 sentencing alternatives available under part III of this title that could
4 best accord the defendant the kind of treatment he does need.

5 “(c) HEARING.—The hearing shall be conducted pursuant to the
6 provisions of section 3617(d).

7 “(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the
8 court is of the opinion that the defendant is presently suffering from
9 a mental disease or defect and that he should, in lieu of being sen-
10 tenced to probation or imprisonment, be committed to a mental hospital
11 for care or treatment, the court shall commit the defendant to the cus-
12 tody of the Attorney General. The Attorney General shall hospitalize
13 the defendant for care or treatment in a suitable mental hospital, or
14 in another facility designated by the court as suitable. Such a com-
15 mitment constitutes a provisional sentence to the maximum term au-
16 thorized by section 2301(b) and 2304 for the offense of which the
17 defendant was found guilty.

18 “(e) DISCHARGE FROM MENTAL HOSPITAL.—When the director of
19 the facility in which the defendant is hospitalized pursuant to subsec-
20 tion (d) determines that the defendant has recovered from his mental
21 disease or defect to such an extent that he is no longer in need of cus-
22 tody for care or treatment in a mental hospital, he shall promptly file
23 a certificate to that effect with the clerk of the court that ordered the
24 commitment. The clerk shall send a copy of the certificate to the de-
25 fendant’s counsel and to the attorney for the government. If, at the
26 time of the filing of the certificate, the provisional sentence imposed
27 pursuant to subsection (d) has not expired, the court shall hold a hear-
28 ing, conducted pursuant to the provisions of section 3617(d), to deter-
29 mine whether the provisional sentence should be reduced. After the
30 hearing, the court may order that the defendant be released, be placed
31 on probation pursuant to chapter 21, or be imprisoned for the re-
32 mainder of the provisional sentence or for any lesser term, or may im-
33 pose any other sentence available under part III of this title.

34 **“§ 3615. Hospitalization of an Imprisoned Person Suffering from**
35 **Mental Disease or Defect**

36 “(a) MOTION TO DETERMINE PRESENT MENTAL CONDITION OF IM-
37 PRISONED DEFENDANT.—A defendant serving a sentence of imprison-
38 ment, or an attorney for the government at the request of the director
39 of the facility in which the defendant is imprisoned, may file a mo-
40 tion with the court for the district in which the facility is located for
41 a hearing on the present mental condition of the defendant. The court

1 shall grant the motion if there is reasonable cause to believe that the
2 defendant may presently be suffering from a mental disease or defect
3 for the treatment of which he is in need of custody for care or treat-
4 ment in a mental hospital. A motion filed under this subsection shall
5 stay the release of the defendant pending completion of procedures
6 contained in this section.

7 “(b) PSYCHIATRIC EXAMINATION AND REPORT.—Prior to the date of
8 the hearing, the court may order that a psychiatric examination of the
9 defendant be conducted, and that a psychiatric report be filed with
10 the court, pursuant to the provisions of section 3617 (b) and (c).

11 “(c) HEARING.—The hearing shall be conducted pursuant to the
12 provisions of section 3617 (d).

13 “(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the
14 court is of the opinion that the defendant is presently suffering from
15 a mental disease or defect for the treatment of which he is in need
16 of custody for care or treatment in a mental hospital, the court shall
17 commit the defendant to the custody of the Attorney General. The
18 Attorney General shall hospitalize the defendant for treatment in a
19 suitable mental hospital, or in another facility designated by the court
20 as suitable, until he is no longer in need of custody for care or treat-
21 ment in a mental hospital or until the expiration of his sentence of
22 imprisonment, whichever occurs earlier.

23 “(e) DISCHARGE FROM MENTAL HOSPITAL.—When the director of
24 the facility in which the defendant is hospitalized pursuant to sub-
25 section (d) determines that the defendant has recovered from his men-
26 tal disease or defect to such an extent that he is no longer in need of
27 custody for care or treatment in a mental hospital, he shall promptly
28 file a certificate to that effect with the clerk of the court that ordered
29 the commitment. The clerk shall send a copy of the certificate to the
30 defendant’s counsel and to the attorney for the government. If, at the
31 time of the filing of the certificate, the sentence imposed upon the de-
32 fendant has not expired, the court shall order that the defendant be
33 reimprisoned.

34 **“§ 3616. Hospitalization of a Person Due for Release but Suffer-**
35 **ing from Mental Disease or Defect**

36 “(a) INSTITUTION OF PROCEEDING.—If the director of a facility in
37 which a person is hospitalized pursuant to this subchapter certifies
38 that a person whose sentence is about to expire, or who has been com-
39 mitted to the custody of the Attorney General pursuant to section
40 3611 (d), or against whom all criminal charges have been dismissed
41 for reasons related to the mental condition of the person, is presently

1 suffering from a mental disease or defect as a result of which his
2 release would create a substantial risk of serious bodily injury to
3 another person or serious damage to property of another, and that
4 suitable arrangements for state custody and care of the person are not
5 available, he shall transmit the certificate to the clerk of the court
6 for the district in which the person is confined. The clerk shall send
7 a copy of the certificate to the person, and to the attorney for the
8 government, and, if the person was committed pursuant to section
9 3611(d), to the clerk of the court that ordered the commitment.
10 The court shall order a hearing to determine whether the person is
11 presently suffering from a mental disease or defect as a result of which
12 his release would create a substantial risk of serious bodily injury to
13 another person or serious damage to property of another. A certificate
14 filed under this subsection shall stay the release of the person pending
15 completion of procedures contained in this section.

16 “(b) **PSYCHIATRIC EXAMINATION AND REPORT.**—Prior to the date of
17 the hearing, the court may order that a psychiatric examination of
18 the defendant be conducted, and that a psychiatric report be filed with
19 the court, pursuant to the provisions of section 3617 (b) and (c).

20 “(c) **HEARING.**—The hearing shall be conducted pursuant to the
21 provisions of section 3617(d).

22 “(d) **DETERMINATION AND DISPOSITION.**—If, after the hearing, the
23 court finds by clear and convincing evidence that the person is pres-
24 ently suffering from a mental disease or defect as a result of which his
25 release would create a substantial risk of serious bodily injury to
26 another person or serious damage to property of another, the court
27 shall commit the person to the custody of the Attorney General. The
28 Attorney General shall release the person to the appropriate official
29 of the state in which the person is domiciled if such state will assume
30 responsibility for his custody, care, and treatment. If such state
31 will not then assume such responsibility, the Attorney General shall
32 hospitalize the person for treatment in a suitable mental hospital, or
33 in another facility designated by the court as suitable, until such
34 state will assume such responsibility or until the person’s mental con-
35 dition is so improved that his release would not create a substantial
36 risk of serious bodily injury to another person or serious damage to
37 property of another.

38 “(e) **DISCHARGE FROM MENTAL HOSPITAL.**—When the director of
39 the facility in which a person is hospitalized pursuant to subsec-
40 tion (d) determines that the person has recovered from his mental

1 disease or defect to such an extent that his release would no longer
 2 create a substantial risk of serious bodily injury to another person
 3 or serious damage to property of another, he shall promptly file a
 4 certificate to that effect with the clerk of the court that ordered the
 5 commitment. The clerk shall send a copy of the certificate to the per-
 6 son's counsel and to the attorney for the government. The court shall
 7 order the discharge of the person or, on the motion of the attorney for
 8 the government or on its own motion, shall hold a hearing, conducted
 9 pursuant to the provisions of section 3617(d), to determine whether
 10 he should be released. If, after the hearing, the court finds by prepon-
 11 derance of the evidence that the person has recovered from his mental
 12 disease or defect to such an extent that his release would no longer
 13 create a substantial risk of serious injury to another person or serious
 14 damage to property of another, the court shall order his immediate
 15 discharge.

16 "(f) RELEASE TO STATE OF CERTAIN OTHER PERSONS.—If the director
 17 of a facility in which a person is hospitalized pursuant to this
 18 subchapter certifies to the Attorney General that a person, against
 19 whom all charges have been dismissed for reasons not related to the
 20 mental condition of the person, is presently suffering from a mental
 21 disease or defect as a result of which his release would create a sub-
 22 stantial risk of serious bodily injury to another person or serious
 23 damage to property of another, the Attorney General shall release the
 24 person to the appropriate official of the state in which the person is
 25 domiciled for the purpose of institution of state proceedings for civil
 26 commitment. If such state will not assume such responsibility, the
 27 Attorney General shall release the person upon receipt of notice from
 28 the state that it will not assume such responsibility, but not later than
 29 10 days after certification by the director of the facility.

30 **"§ 3617. General Provisions for Subchapter B**

31 "(a) DEFINITION.—As used in this subchapter, 'insanity' means
 32 a menal disease or defect of a nature constituting a defense to a fed-
 33 eral criminal prosecution.

34 "(b) PSYCHIATRIC EXAMINATIONS.—A psychiatric examination
 35 ordered pursuant to this subchapter shall be conducted by at least
 36 two licensed or certified psychiatrists or clinical psychologists. They
 37 shall be:

38 "(1) designated by the court if the examination is ordered
 39 under section 3611, 3612, 3613, or 3614; or

1 “(2) designated by the court, and shall include one psychia-
2 trist or clinical psychologist selected by the defendant, if the exam-
3 ination is ordered under section 3615 or 3616.

4 For the purpose of an examination pursuant to an order under section
5 3611, 3612, 3613, or 3614, the court may commit the person to be
6 examined for a reasonable period, but not more than sixty days, to
7 the custody of the Attorney General for placement in a suitable mental
8 hospital or another facility designated by the court as suitable.

9 “(c) PSYCHIATRIC REPORTS.—A psychiatric report ordered pursuant
10 to this subchapter shall be prepared by the examiner designated to
11 conduct the psychiatric examination, shall be filed with the court
12 with copies provided to the counsel for the person examined and to
13 the attorney for the government, and shall include:

14 “(1) the person’s history and present symptoms;

15 “(2) a description of the psychological and medical tests em-
16 ployed and their results;

17 “(3) the examiners’ findings; and

18 “(4) the examiners’ opinions as to diagnosis, prognosis, and:

19 “(A) if the examination is ordered under section 3611,
20 whether the person is presently suffering from a mental
21 disease or defect rendering him mentally incompetent to the
22 extent that he is unable to understand the nature and conse-
23 quences of the proceedings against him or to assist properly in
24 his defense;

25 “(B) if the examination is ordered under section 3612,
26 whether the person was insane at the time of the offense
27 charged;

28 “(C) if the examination is ordered under section 3613 or
29 3616, whether the person is presently suffering from a mental
30 disease or defect as a result of which his release would create a
31 substantial risk of serious bodily injury to another person or
32 serious damage to property of another; or

33 “(D) if the examination is ordered under section 3614 or
34 3615, whether the person is presently suffering from a mental
35 disease or defect as a result of which he is in need of custody
36 for care or treatment in a mental hospital.

37 “(d) HEARING.—At a hearing ordered pursuant to this subchapter
38 the person whose mental condition is the subject of the hearing shall

1 be represented by counsel and, if he is financially unable to obtain
 2 adequate representation, counsel shall be appointed for him pursuant
 3 to section 3402. The person shall be afforded an opportunity to testify,
 4 to present evidence, to subpoena witnesses on his behalf, and to con-
 5 front and cross-examine witnesses who appear at the hearing.

6 “(e) PERIODIC REPORTS BY MENTAL HOSPITAL.—The director of the
 7 facility in which a person is hospitalized pursuant to:

8 “(1) section 3611 shall prepare semiannual reports; or

9 “(2) section 3613, 3614, 3615, or 3616 shall prepare annual
 10 reports;

11 concerning the mental condition of the person and continuing recom-
 12 mendations concerning his continued hospitalization. The reports shall
 13 be submitted to the court that ordered the person’s commitment to
 14 the facility and copies of the reports shall be submitted to such other
 15 persons as the court may direct.

16 “(f) ADMISSIBILITY OF A DEFENDANT’S STATEMENTS AT TRIAL.—A
 17 statement made by the defendant during the course of a psychiatric
 18 examination pursuant to section 3611 or 3612 is not admissible as evi-
 19 dence against the accused on the issue of guilt in any criminal pro-
 20 ceeding.

21 “(g) HABEAS CORPUS UNIMPAIRED.—Nothing contained in section
 22 3613 or 3616 precludes a person who is committed under either of such
 23 sections from establishing by writ of habeas corpus the illegality of
 24 his detention.

25 “(h) AUTHORITY AND RESPONSIBILITY OF THE ATTORNEY GENERAL.—
 26 The Attorney General:

27 “(1) may contract with a state, a locality, or a private agency
 28 for the confinement, hospitalization, care, or treatment of, or the
 29 provision of services to, a person committed to his custody pur-
 30 suant to this subchapter;

31 “(2) may apply for the civil commitment, pursuant to state law,
 32 of a person committed to his custody pursuant to section 3613 or
 33 3616; and

34 “(3) shall consult with the Secretary of the Department of
 35 Health, Education, and Welfare in the general implementation of
 36 the provisions of this subchapter and in the establishment of stand-
 37 ards for facilities used in the implementation of this subchapter.

1 **"Chapter 37.—PRETRIAL AND TRIAL PROCEDURE, EVI-**
 2 **DENCE, AND APPELLATE REVIEW**

"Subchapter

"A. Pretrial and Trial Procedure.

"B. Evidence.

"C. Appellate Review.

3 **"Subchapter A.—Pretrial and Trial Procedure**

"Sec.

"3701. Pretrial and Trial Procedure in General.

"3702. Rulemaking Authority of the Supreme Court for Rules of Criminal Procedure.

4 **"§ 3701. Pretrial and Trial Procedure in General**

5 "Pretrial and trial procedure in criminal cases in the district courts
 6 of the United States and before United States magistrates is governed
 7 by the provisions of this title, by the Federal Rules of Criminal Proce-
 8 dure, and by such other rules as the Supreme Court may prescribe.

9 **"§ 3702. Rulemaking Authority of the Supreme Court for Rules of**
 10 **Criminal Procedure**

11 "(a) **PRESCRIPTION OF RULES.**—The Supreme Court of the United
 12 States may prescribe amendments to the Federal Rules of Criminal
 13 Procedure and may otherwise prescribe rules of pleading, practice,
 14 and procedure with respect to proceedings prior to, including, and
 15 relating to the entry of judgment of conviction in criminal cases in
 16 the district courts of the United States or in proceedings before United
 17 States magistrates. Any provision of law in conflict with a rule pre-
 18 scribed pursuant to this section shall be of no further force or effect
 19 after such rule has taken effect.

20 "(b) **EFFECTIVE DATE OF RULES.**—Rules prescribed pursuant to this
 21 section shall be reported to Congress by the Chief Justice at or after
 22 the beginning of a regular session of Congress but not later than the
 23 first day of May, and shall take effect one hundred and eighty days
 24 after they have been reported. The Supreme Court may fix a later date
 25 upon which rules shall take effect, and may fix the extent to which they
 26 shall apply to proceedings then pending.

27 **"Subchapter B.—Evidence**

"Sec.

"3711. Evidence in General.

"3712. Rulemaking Authority of the Supreme Court for Rules of Evidence.

"3713. Admissibility of Confessions.

"3714. Admissibility of Evidence in Sentencing Proceedings.

28 **"§ 3711. Evidence in General**

29 "The introduction, admission, and use of evidence in criminal cases
 30 in the district courts of the United States and before United States
 31 magistrates is governed by the provisions of this title and by the Fed-
 32 eral Rules of Evidence.

1 **“§ 3712. Rulemaking Authority of the Supreme Court for Rules of**
 2 **Evidence**

3 “(a) **PRESCRIPTION OF AMENDMENTS TO RULES.**—The Supreme Court
 4 of the United States may prescribe amendments to the Federal Rules
 5 of Evidence. Any provision of law in conflict with an amendment
 6 prescribed pursuant to this section shall be of no further force or effect
 7 after such amendment has taken effect.

8 “(b) **EFFECTIVE DATE OF AMENDMENTS TO RULES.**—Amendments
 9 prescribed pursuant to this section shall be reported to Congress by
 10 the Chief Justice at or after the beginning of a regular session of Con-
 11 gress but not later than the first day of May, and shall take effect
 12 one hundred and eighty days after they have been reported, except
 13 that:

14 “(1) either House of Congress within that time may defer the
 15 effective date of any amendment so reported to a later date or
 16 until approved by Act of Congress;

17 “(2) either House of Congress within that time by resolution
 18 may disapprove any amendment so reported, in which event such
 19 amendment shall not take effect; and

20 “(3) any amendment so reported that creates, abolishes, or
 21 modifies a privilege shall not take effect until it is approved by
 22 Act of Congress.

23 The Supreme Court set a later date upon which such amendments
 24 shall take effect, and may prescribe the extent to which they shall apply
 25 to proceedings then pending.

26 **“§ 3713. Admissibility of Confessions**

27 “(a) **ADMISSIBILITY IN GENERAL.**—Unless otherwise required by the
 28 Constitution, a confession that is made voluntarily is admissible in
 29 evidence in a criminal case brought by the United States or the District
 30 of Columbia.

31 “(b) **DETERMINATION OF VOLUNTARINESS.**—Before a confession is
 32 received in evidence, the judge shall, out of the presence of the jury,
 33 determine any issue concerning the voluntariness of the confession. If
 34 the judge determines that the confession was made voluntarily, he shall
 35 admit the confession in evidence, shall permit the jury to hear relevant
 36 evidence on the issue of voluntariness, and shall instruct the jury to
 37 give such weight to the confession as the jury feels it deserves under
 38 all the circumstances.

39 “(c) **FACTORS IN DETERMINING VOLUNTARINESS.**—In determining an
 40 issue concerning the voluntariness of a confession, the judge shall

1 consider all the circumstances under which the confession was made,
2 including:

3 “(1) the amount of time that elapsed between the arrest of
4 the person who made the confession and his initial appearance
5 before a judicial officer as required by Rule 5 of the Federal Rules
6 of Criminal Procedure if the confession was made after arrest
7 and before such appearance;

8 “(2) whether the person knew the nature of the offense with
9 which he was charged or of which he was suspected at the time of
10 the confession;

11 “(3) whether the person was advised or knew that he was not
12 required to make a statement and that the statement could be
13 used against him;

14 “(4) whether the person had been advised prior to questioning
15 of his right to assistance of counsel; and

16 “(5) whether the person was without assistance of counsel
17 when questioned or when making the confession.

18 The presence or absence of any of such factors is not conclusive as to
19 the voluntariness of the confession.

20 “(d) EFFECT OF DELAY DURING DETENTION.—A confession made by
21 a person between the time of his arrest or other official detention and
22 his initial appearance before a judicial officer as required by Rule 5
23 of the Federal Rules of Criminal Procedure shall not be considered
24 inadmissible solely because of delay in bringing the person before
25 such judicial officer if:

26 “(1) the confession is found by the judge to have been made
27 voluntarily;

28 “(2) the weight to be given the confession is left to the jury;
29 and

30 “(3) the confession was made within six hours immediately
31 following the person's arrest or other official detention, or within
32 such additional time as is found by the judge to be reasonable in
33 view of the distance that was required to be traveled to the nearest
34 available judicial officer and in view of the means of transportation
35 that was available.

36 “(e) SPONTANEOUS AND NONCUSTODIAL CONFESSIONS UNAFFECTED.—
37 Nothing contained in this section precludes the admission in evidence
38 of a confession made voluntarily by a person without interrogation by
39 anyone, or by a person who was not under arrest or held in official
40 detention.

1 “(f) DEFINITION.—As used in this section, ‘confession’ means any
2 self-incriminating oral or written statement.

3 **“§ 3714. Admissibility of Evidence in Sentencing Proceedings**

4 “Any relevant information concerning the history, characteristics,
5 and conduct of a person found guilty of an offense may be received and
6 considered by a court of the United States for the purpose of ascer-
7 taining an appropriate sentence to be imposed, regardless of the
8 admissibility of the information under the Federal Rules of Evidence,
9 except to the extent that receipt and consideration of such information
10 for purposes of sentencing is expressly limited by a section of this title
11 relating to sentencing or by any other provision of law.

12 **“Subchapter C.—Appellate Review**

“Sec.

“3721. Appellate Review in General.

“3722. Rulemaking Authority of the Supreme Court for Rules of Appellate
Procedure.

“3723. Appeal by a Defendant.

“3724. Appeal by the Government.

“3725. Review of a Sentence.

13 **“§ 3721. Appellate Review in General**

14 “Review by the courts of appeals of the United States and by the
15 United States Supreme Court of decisions, judgments, and orders en-
16 tered in criminal cases by district courts of the United States is gov-
17 erned by the provisions of this title and by the Federal Rules of
18 Appellate Procedure.

19 **“§ 3722. Rulemaking Authority of the Supreme Court for Rules of
20 Appellate Procedure**

21 “(a) PRESCRIPTION OF RULES.—The Supreme Court of the United
22 States may prescribe amendments to the Federal Rules of Appellate
23 Procedure and may otherwise prescribe rules of pleading, practice,
24 and procedure with respect to appeals from decisions, orders, and
25 judgments entered in criminal cases in the district courts of the United
26 States. Any provision of law in conflict with a rule prescribed pur-
27 suant to this section shall be of no further force or effect after such
28 rule has taken effect.

29 “(b) EFFECTIVE DATE OF RULES.—Rules prescribed pursuant to this
30 section shall be reported to Congress by the Chief Justice at or after
31 the beginning of a regular session of Congress but not later than the
32 first day of May, and shall take effect one hundred and eighty days
33 after they have been reported. The Supreme Court may fix a later
34 date upon which such rules shall take effect, and may fix the extent
35 to which they shall apply to proceedings then pending.

1 **“§ 3723. Appeal by the Defendant**

2 “A defendant may appeal to a United States Court of Appeals from
3 a final judgment or order entered by a district court of the United
4 States in a criminal case.

5 **“§ 3724. Appeal by the Government**

6 “(a) **APPEAL FROM DISMISSAL.**—The government may appeal to
7 a United States Court of Appeals from a decision, judgment, or
8 order, entered by a district court of the United States in a criminal
9 case, dismissing an indictment or information or terminating a
10 prosecution in favor of a defendant as to one or more counts, unless
11 the double jeopardy clause of the United States Constitution prohibits
12 further prosecution of the case.

13 “(b) **APPEAL FROM ORDER SUPPRESSING EVIDENCE.**—The govern-
14 ment may appeal to a United States Court of Appeals from a deci-
15 sion or order, entered by a district court of the United States, suppress-
16 ing or excluding evidence or requiring the return of seized property
17 in a criminal proceeding, if:

18 “(1) the decision or order was not made during the interval
19 between the time the defendant was put in jeopardy and the re-
20 turn of the verdict or finding on an indictment or information;
21 and

22 “(2) the attorney for the government certifies to the district
23 court or magistrate that the appeal is not taken for purposes of
24 delay and that the evidence is a substantial proof of a fact mate-
25 rial to the case.

26 “(c) **APPEAL FROM ORDER DENYING AUTHORIZATION FOR INTER-**
27 **CEPTION.**—The government may appeal to a United States Court
28 of Appeals from a decision or order, entered by a district court of the
29 United States, denying an application for an order authorizing or
30 approving the interception of a private oral communication, if the
31 attorney for the government certifies to the district court that the
32 appeal is not taken for purposes of delay.

33 “(d) **DILIGENT PROSECUTION REQUIRED.**—An appeal by the govern-
34 ment shall be diligently prosecuted.

35 **“§ 3725. Review of a Sentence**

36 “(a) **APPEAL BY A DEFENDANT.**—A defendant may file a notice of
37 appeal in the district court for review of a final sentence imposed for
38 a felony if the sentence includes a fine or a term of imprisonment or a

1 term of parole ineligibility higher than the maximum established in
2 the guidelines that are issued by the Sentencing Commission pursuant
3 to 28 U.S.C. 994(a) (1), and that are found by the sentencing court to
4 be applicable to the case, unless:

5 “(1) the sentence is consistent with policy statements issued
6 by the Sentencing Commission pursuant to 28 U.S.C. 994(a) (2);

7 “(2) the sentence is equal to or less than the sentence recom-
8 mended or not opposed by the attorney for the government pur-
9 suant to a plea agreement under Rule 11(e) (1) (B) of the Federal
10 Rules of Criminal Procedure; or

11 “(3) the sentence is that provided in an accepted plea agree-
12 ment pursuant to Rule 11(e) (1) (C) of the Federal Rules of
13 Criminal Procedure.

14 ‘(b) APPEAL BY THE GOVERNMENT.—The government may, with the
15 approval of the Attorney General or his designee, file a notice of
16 appeal in the district court for review of a final sentence imposed for
17 a felony if the sentence includes a fine or a term of imprisonment or
18 a term of parole ineligibility lower than the minimum established in
19 the guidelines that are issued by the Sentencing Commission pursuant
20 to 28 U.S.C. 994(a) (1), and that are found by the sentencing court
21 to be applicable to the case, unless:

22 “(1) the sentence is consistent with policy statements issued by
23 the Sentencing Commission to 28 U.S.C. 994(a) (2);

24 “(2) the sentence is equal to or greater than the sentence recom-
25 mended or not opposed by the attorney for the government pur-
26 suant to a plea agreement under Rule 11(e) (1) (B) of the Federal
27 Rules of Criminal Procedures; or

28 “(3) the sentence is equal to that provided in an accepted plea
29 agreement pursuant to Rule 11(e) (1) (C) of the Federal Rules of
30 Criminal Procedure.

31 “(c) REVIEW.—If a notice of appeal is filed in the district court
32 pursuant to subsection (a) or (b), the clerk shall certify to the court
33 of appeals:

34 “(1) that portion of the record in the case that is designated
35 as pertinent by either of the parties;

36 “(2) the presentence report; and

37 “(3) the information submitted during the sentencing pro-
38 ceeding.

1 “(d) **CONSIDERATION.**—Upon review of the record, the court of ap-
2 peals shall determine whether the sentence imposed is clearly unreason-
3 able, having regard for:

4 “(1) the factors to be considered in imposing a sentence, as set
5 forth in part III of this title; and

6 “(2) the reasons for the imposition of the particular sentence,
7 as stated by the district court pursuant to the provisions of section
8 2003 (b).

9 “(e) **DECISION AND DISPOSITION.**—If the court of appeals deter-
10 mines that the sentence is:

11 “(1) clearly unreasonable, it shall state specific reasons for its
12 conclusions and:

13 “(A) if it determines that the sentence is too high and the
14 appeal has been filed under subsection (a), shall set aside the
15 sentence and:

16 “(i) remand the case for imposition of a lesser
17 sentence;

18 “(ii) remand the case for further sentencing proceed-
19 ings; or

20 “(iii) impose a lesser sentence.

21 “(B) if it determines that the sentence is too low and the
22 appeal has been filed under subsection (b), shall set aside the
23 sentence and:

24 “(i) remand the case for imposition of a greater
25 sentence;

26 “(ii) remand the case for further sentencing proceed-
27 ings; or

28 “(iii) impose a greater sentence;

29 “(2) not clearly unreasonable, it shall affirm the sentence.

30 **Chapter 38.—POST-SENTENCE ADMINISTRATION**

“Subchapter

“A. Probation.

“B. Fines.

“C. Imprisonment.

“D. Parole.

31 **“Subchapter A.—Probation**

“Sec.

“3801. Supervision of Probation.

“3802. Appointment of Probation Officers.

“3803. Duties of Probation Officers.

“3804. Transportation of a Probationer.

“3805. Transfer of Jurisdiction over Probationer.

“3806. Arrest and Return of a Probationer.

“3807. Special Probation and Expungement Procedures for Drug Possessors.

1 **“§ 3801. Supervision of Probation**

2 A person who has been sentenced to probation pursuant to the provi-
3 sions of chapter 21 shall, during the term of his probation, be super-
4 vised by a probation officer to the degree warranted by the conditions
5 of his probation.

6 **“§ 3802. Appointment of Probation Officers**

7 “(a) **APPOINTMENT.**—A district court of the United States shall
8 appoint qualified persons to serve as probation officers within the
9 jurisdiction and under the direction of the court making the appoint-
10 ment. The court may, in its discretion, remove a probation officer
11 previously appointed.

12 “(b) **RECORD OF APPOINTMENT.**—The order of appointment shall be
13 entered on the records of the court, a copy of the order shall be
14 delivered to the officer appointed, and a copy shall be sent to the
15 Director of the Administrative Office of the United States Courts.

16 “(c) **CHIEF PROBATION OFFICER.**—If the court appoints more than
17 one probation officer, one may be designated by the court as chief pro-
18 bation officer and shall direct the work of all probation officers serving
19 in the court.

20 **“§ 3803. Duties of Probation Officers**

21 “A probation officer shall:

22 “(a) instruct a probationer under his supervision as to the con-
23 ditions of his probation, and provide him with a written statement
24 clearly setting forth all such conditions;

25 “(b) keep informed, to the degree required by the conditions
26 of probation, as to the conduct and condition of a probationer
27 under his supervision, and report his conduct and condition to
28 the sentencing court;

29 “(c) use all suitable methods, not inconsistent with the condi-
30 tions imposed by the court, to aid a probationer under his super-
31 vision and to bring about improvements in his conduct and
32 condition;

33 “(d) be responsible for the supervision of any probationer
34 known to be within the judicial district;

35 “(e) keep a record of his work, and make such reports to the
36 Director of the Administrative Office of the United States Courts
37 as the Director may require;

38 “(f) perform any other duty that the court may designate; and

39 “(g) perform any duty with respect to a person on parole that
40 the Parole Commission may designate.

1 **“§ 3804. Transportation of a Probationer**

2 “A court, after imposing a sentence of probation, may direct a
3 United States marshal to furnish the probationer with:

4 “(a) transportation to the place to which he is required to
5 proceed as a condition of his probation; and

6 “(b) money, not to exceed such amount as the Attorney General
7 may prescribe, for subsistence expenses while traveling to his
8 destination.

9 **“§ 3805. Transfer of Jurisdiction over a Probationer**

10 “A court, after imposing a sentence of probation, may transfer juris-
11 diction over the probationer to the district court for any other district
12 to which the probationer is required to proceed as a condition of his
13 probation, with the concurrence of such court. A retransfer of jurisdic-
14 tion may be made in the same manner. A court to which jurisdiction is
15 transferred under this section is authorized to exercise all powers over
16 the probationer that are permitted by this subchapter or chapter 21.

17 **“§ 3806. Arrest and Return of a Probationer**

18 “A probationer who has violated a condition of his probation may
19 be arrested, and, upon arrest, shall be taken without unnecessary delay
20 before the court having jurisdiction over him.

21 **“§ 3807. Special Probation and Expungement Procedures for Drug
22 Possessors**

23 “(a) PRE-JUDGMENT PROBATION.—If a person found guilty of an of-
24 fense described in section 1813 (Possessing Drugs):

25 “(1) has not, prior to the commission of such offense, been con-
26 victed of violating a federal or state law relating to controlled
27 substances; and

28 “(2) has not previously been the subject of a disposition under
29 this subsection;

30 the court may, with the consent of such person, place him on probation
31 for a term of not more than one year without entering a judgment of
32 conviction. At any time before the expiration of the term of probation,
33 if the person has not violated a condition of his probation, the court
34 may, without entering a judgment of conviction, dismiss the proceed-
35 ings against the person and discharge him from probation. At the ex-
36 piration of the term of probation, if the person has not violated a con-
37 dition of his probation the court shall, without entering a judgment of
38 conviction, dismiss the proceedings against the person and discharge
39 him from probation. If the person violates a condition of his proba-
40 tion, the court shall proceed in accordance with the provisions of sec-
41 tion 2105.

1 “(b) RECORD OF DISPOSITION.—A non-public record of a disposition
2 under subsection (a) shall be retained by the Department of Justice
3 solely for the purpose of use by the courts in determining in any sub-
4 sequent proceeding whether a person qualifies for the disposition pro-
5 vided in subsection (a). A disposition under subsection (a) shall not
6 be considered a conviction for the purpose of a disqualification or a
7 disability imposed by law upon conviction of a crime, or for any other
8 purpose.

9 “(c) EXPUNGEMENT OF RECORD OF DISPOSITION.—If a person whose
10 case is the subject of a disposition under subsection (a) was less than
11 twenty-one years old at the time of the offense, the court shall, upon
12 application of such person, enter an order to expunge from all official
13 records, except the nonpublic records referred to in subsection (b),
14 all references to his arrest for the offense, the institution of criminal
15 proceedings against him, and the results thereof. The effect of the
16 order shall be to restore such person, in the contemplation of the law,
17 to the status he occupied before such arrest or institution of criminal
18 proceedings. A person concerning whom such an order has been
19 entered shall not be held thereafter under any provision of law to
20 be guilty of perjury, false swearing, or making a false statement by
21 reason of his failure to recite or acknowledge such arrests or institution
22 of criminal proceedings, or the results thereof, in response to an
23 inquiry made of him for any purpose.

24 **“Subchapter B.—Fines**

“Sec.

“3811. Payment of a Fine.

“3812. Collection of an Unpaid Fine.

“3813. Lien Provision for Satisfaction of an Unpaid Fine.

25 **“§ 3811. Payment of a Fine**

26 “A person who has been sentenced to pay a fine pursuant to the
27 provisions of chapter 22 shall pay the fine immediately, or by the
28 time and method specified by the sentencing court, to the clerk of the
29 court. The clerk shall forward the payment to the United States
30 Treasury for credit to the Victim Compensation Fund.

31 **“§ 3812. Collection of an Unpaid Fine**

32 “(a) CERTIFICATION OF IMPOSITION.—If a fine is imposed, the sen-
33 tencing court shall promptly certify to the Attorney General:

34 “(1) the name of the person fined;

35 “(2) his last known address;

36 “(3) the docket number of the case;

37 “(4) the amount of the fine imposed;

38 “(5) the time and method of payment specified by the court;

1 “(6) the nature of any modification or remission of the fine;
2 and

3 “(8) the amount of the fine that is due and unpaid.

4 The court shall thereafter promptly certify to the Attorney General
5 the amount of any subsequent payment that the court may receive
6 with respect to, and the nature of, any subsequent remission or modi-
7 fication of a fine concerning which certification has previously been
8 issued.

9 “(b) RESPONSIBILITY FOR COLLECTION.—The Attorney General shall
10 be responsible for collection of an unpaid fine concerning which a cer-
11 tification has been issued as provided in subsection (a).

12 **“§ 3813. Lien Provisions for Satisfaction of an Unpaid Fine**

13 “(a) LIEN.—A fine imposed pursuant to the provisions of chapter
14 22 is a lien in favor of the United States upon all property belonging
15 to the person fined. The lien arises at the time of the entry of the
16 judgment and continues until the liability is satisfied, remitted, or
17 set aside, or until it becomes unenforceable pursuant to the provisions
18 of subsection (b).

19 “(b) EXPIRATION OF LIEN.—A lien becomes unenforceable and lia-
20 bility to pay a fine expires:

21 “(1) twenty years after the entry of the judgment; or

22 “(2) upon the death of the individual fined.

23 The period set forth in paragraph (1) may be extended, prior to its
24 expiration, by a written agreement between the person fined and the
25 Attorney General. The running of the period set forth in paragraph
26 (1) is suspended during any interval for which the running of the
27 period of limitations for collection of a tax would be suspended pur-
28 suant to section 6503(b), 6503(c), 6503(g), or 7508(a)(1)(I) of the
29 Internal Revenue Code of 1954, as amended (26 U.S.C. 503(b), 6503
30 (c), 6503(g), or 7508(a)(1)(I)), or section 513 of the Act of Octo-
31 ber 17, 1940, 54 Stat. 1190.

32 “(c) APPLICATION OF OTHER LIEN PROVISIONS.—The provisions of
33 sections 6323, 6331 through 6343, 6901, 7402, 7403, 7405, 7423 through
34 7426, 7505(a), 7506, 7508, 7602 through 7605, 7622, 7701, 7805, and 7810
35 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 6323,
36 6331 through 6343, 6901, 7402, 7403, 7405, 7423 through 7426, 7505(a),
37 7506, 7508, 7602 through 7605, 7622, 7701, 7805, and 7810), and of
38 section 513 of the Act of October 17, 1940, 54 Stat. 1190, apply to a
39 fine and to the lien imposed by subsection (a) as if the liability of
40 the person fined were for an internal revenue tax assessment, except

1 to the extent that the application of such statutes is modified by regu-
 2 lations issued by the Attorney General to accord with differences in
 3 the nature of the liabilities. For the purposes of this subsection, ref-
 4 erences in the preceding sections of the Internal Revenue Code of
 5 1954 to "the Secretary or his delegate" shall be construed to mean
 6 "the Attorney General," and references in those sections to "tax" shall
 7 be construed to mean "fine."

8 "(d) EFFECT OF NOTICE OF LIEN.—A notice of the lien imposed by
 9 subsection (a) shall be considered a notice of lien for taxes payable
 10 to the United States for the purpose of any state or local law provid-
 11 ing for the filing of a notice of a tax lien. The registration, recording,
 12 docketing, or indexing, in accordance with 28 U.S.C. 1962, of the
 13 judgment under which a fine is imposed shall be considered for all
 14 purposes as the filing prescribed by section 6323(f)(1)(A) of the
 15 Internal Revenue Code of 1954, as amended (26 U.S.C. 6323(f)(1)
 16 (A)), and by subsection (c).

17 **"Subchapter C.—Imprisonment**

"Sec.

"3821. Imprisonment of a Convicted Person.

"3822. Temporary Release of a Prisoner.

"3823. Transfer of a Prisoner to State Authority.

"3824. Release of a Prisoner.

"3825. Inapplicability of the Administrative Procedure Act.

18 **"§ 3821. Imprisonment of a Convicted Person**

19 "(a) COMMITMENT TO CUSTODY OF BUREAU OF PRISONS.—A person
 20 who has been sentenced to a term of imprisonment pursuant to the
 21 provisions of chapter 23 shall be committed to the custody of the
 22 Bureau of Prisons until the expiration of the term imposed or until
 23 earlier released on parole pursuant to the provisions of subchapter D.

24 "(b) PLACE OF IMPRISONMENT.—The Bureau of Prisons shall desig-
 25 nate the place of the prisoner's imprisonment. The Bureau may desig-
 26 nate any available prison facility, whether maintained by the federal
 27 government or otherwise and whether within or without the judicial
 28 district in which the person was convicted, that appears to be appro-
 29 priate and suitable, considering the resources of the facility contem-
 30 plated, the nature and circumstances of the offense, the history and
 31 characteristics of the prisoner, any statement by the court that im-
 32 posed the sentence concerning the purposes for which the sentence to
 33 imprisonment was determined to be warranted or recommending a
 34 type of prison facility as appropriate, and any pertinent policy state-
 35 ment issued by the Sentencing Commission pursuant to 28 U.S.C.
 36 994(a)(2). The Bureau may at any time, having regard for the same

1 matters, direct the transfer of a prisoner from one prison facility to
2 another.

3 “(c) DELIVERY OF ORDER OF COMMITMENT.—When a prisoner pur-
4 suant to a court order, is placed in the custody of a person in charge
5 of a prison facility, a copy of the order shall be delivered to such per-
6 son as evidence of his authority to hold the prisoner, and the original
7 order, with the return endorsed thereon, shall be returned to the court
8 that issued it.

9 “(d) DELIVERY OF PRISONER FOR COURT APPEARANCES.—The Bureau
10 of Prisons shall, without charge, bring a prisoner into court or return
11 him to a prison facility on order of a court of the United States or on
12 written request of an attorney for the government.

13 **“§ 3822. Temporary Release of a Prisoner**

14 “The Bureau of Prisons may release a prisoner from the place of
15 his imprisonment for a limited period, if such release appears to be
16 consistent with the purposes for which the sentence was imposed and
17 any pertinent policy statement issued by the Sentencing Commission
18 pursuant to 28 U.S.C. 994 (a) (2), if such release otherwise appears to
19 be consistent with the public interest and if there is reasonable cause
20 to believe that the prisoner will honor the trust to be imposed in
21 him, by authorizing him, under prescribed conditions, to:

22 “(a) visit a designated place for a period not to exceed thirty
23 days, and then return to the same or another facility, for the pur-
24 pose of:

25 “(1) visiting a relative who is dying;

26 “(2) attending a funeral of a relative;

27 “(3) obtaining medical treatment not otherwise available;

28 “(4) contacting a prospective employer;

29 “(5) establishing or reestablishing family or community
30 ties; or

31 “(6) engaging in any other significant activity consistent
32 with the public interest;

33 “(b) participate in a training or educational program in the
34 community while continuing in official detention at the prison
35 facility; or

36 “(c) work at paid employment in the community while con-
37 tinuing in official detention at the prison facility if:

38 “(1) the representatives of local union central bodies or
39 similar labor union organizations are first consulted;

40 “(2) the paid employment will not result in the displace-
41 ment of employed persons, or be applied in skills, crafts,

1 or trades in which there is a surplus of available labor
2 in the community, or impair existing contracts for services;

3 “(3) the rates of pay and other conditions of employment
4 will not be less than those paid or provided for work of a
5 similar nature in the community; and

6 “(4) the prisoner agrees to pay to the Bureau such costs
7 incident to his official detention as the Bureau finds appro-
8 priate and reasonable under all the circumstances, such costs
9 to be collected by the Bureau and deposited in the Treasury
10 to the credit of the appropriation available for such costs at
11 the time such collections are made.

12 **“§ 3823. Transfer of a Prisoner to State Authority**

13 “The Director of the Bureau of Prisons shall order that a prisoner
14 who has been charged in an indictment or information with, or con-
15 victed of, a state felony, be transferred to an official detention facility
16 within such state prior to his release from a federal prison facility if:

17 “(1) the transfer has been requested by the Governor or other
18 executive authority of the state;

19 “(2) the state has presented to the Director a certified copy
20 of the indictment, information, or judgment of conviction; and

21 “(3) the Director finds that the transfer would be in the public
22 interest.

23 If more than one request is presented with respect to a prisoner, the
24 Director shall determine which request should receive preference.

25 **“§ 3824. Release of a Prisoner**

26 “(a) DATE OF RELEASE.—Except as otherwise provided, and unless
27 earlier released on parole pursuant to the provisions of subchapter D,
28 a prisoner shall be released on parole, pursuant to the provisions of
29 section 3831, on the date of the expiration of his term of imprisonment.
30 If the date of the expiration of a prisoner's term of imprisonment falls
31 on a Saturday, a Sunday, or a legal holiday, the prisoner may be re-
32 leased by the Bureau of Prisons on the last preceding weekday.

33 “(b) ALLOTMENT OF CLOTHING, FUNDS, AND TRANSPORTATION.—Upon
34 the release of a prisoner on parole prior to or on the expiration of his
35 term of imprisonment, the Bureau of Prisons shall furnish him with:

36 “(1) suitable clothing;

37 “(2) an amount of money, not less than \$200 nor more than \$500,
38 determined by the Director to be consistent with the needs of the
39 offender and the public interest, unless the Director determines
40 that the financial position of the offender is such that no sum
41 should be furnished; and

1 “(3) transportation to the place of his conviction, to his bona
2 fide residence within the United States, or to such other place
3 within the United States as may be authorized by the Parole
4 Commission.

5 **“§ 3825. Inapplicability of the Administrative Procedure Act**

6 “The provisions of 5 U.S.C. 551 through 559, and 701 through 706,
7 do not apply to the making of any determination, decision, or order
8 under this subchapter.

9 **“Subchapter D.—Parole**

 “Sec.

 “3831. Consideration of a Prisoner for Release on Parole.

 “3832. Pre-Parole Reports.

 “3833. Parole Interview Procedure.

 “3834. Term and Conditions of Parole.

 “3835. Revocation of Parole.

 “3836. Appeal from Parole Commission Determination.

 “3837. Inapplicability of the Administrative Procedure Act.

10 **“§ 3831. Consideration of a Prisoner for Release on Parole**

11 “(a) **ELIGIBILITY.**—A prisoner who has been committed to the cus-
12 tody of the Bureau of Prisons to serve a term of imprisonment total-
13 ing six months or more is eligible for release on parole by the Parole
14 Commission upon completion of the service of the term of parole
15 ineligibility imposed by the sentencing court pursuant to the provisions
16 of section 2301(c) and 2302(b), or upon completion of the first six
17 months of the term of imprisonment, whichever is later.

18 “(b) **FIRST CONSIDERATION.**—The Parole Commission shall consider
19 the parole of a prisoner serving a term of imprisonment totaling:

20 “(1) more than one year, at least sixty days prior to the later
21 of:

22 “(A) the date upon which he will become eligible for
23 parole; or

24 “(B) the date upon which he will complete the service of
25 one-fourth of the term of imprisonment or of the first year
26 of the term of imprisonment, whichever is earlier;

27 “(2) six months or more but not more than one year, at least
28 sixty days prior to the date upon which he will become eligible
29 for parole.

30 “(c) **CRITERIA FOR RELEASE.**—The Parole Commission shall grant
31 parole to a prisoner who is eligible for parole if, having regard for
32 the guidelines and any pertinent policy statements concerning parole
33 issued by the Sentencing Commission pursuant to 28 U.S.C. 994(f),
34 the Commission is of the opinion that:

1 “(1) his release at that time is consistent with the applicable
2 factors that led to the imposition of his particular sentence under
3 the provisions of part III of this title;

4 “(2) there is no undue risk that he will fail to conform to
5 such conditions of parole as would be warranted under the cir-
6 cumstances; and

7 “(3) his release at that time, in light of his conduct at the
8 institution, would not have a substantially adverse effect on insti-
9 tutional discipline.

10 “(d) RECONSIDERATION.—If parole is denied a prisoner, the Parole
11 Commission shall reconsider parole at least once each year thereafter
12 until parole is granted, unless at the time parole is denied the Com-
13 mission determines that a release order after an additional year would
14 be inappropriate, in which case the Commission may defer reconsid-
15 eration for not more than two years.

16 “(e) MANDATORY RELEASE ON PAROLE AT EXPIRATION OF SENTENCE.—
17 A prisoner serving a term of imprisonment totaling six months or
18 more who is still in confinement on the date of the expiration of his
19 term of imprisonment shall then be released on parole.

20 “§ 3832. **Preparole Reports**

21 “(a) PREPAROLE STUDY AND REPORT BY BUREAU OF PRISONS.—An
22 adequate time prior to the date upon which a prisoner becomes eli-
23 gible for parole, the Bureau of Prisons, under such regulations as
24 the Attorney General may prescribe, shall conduct a complete study
25 of the prisoner, inquiring into such matters as the prisoner's previous
26 delinquency or criminal experiences; his social background; his capa-
27 bilities; his mental, emotional, and physical health; and the rehabili-
28 tative resources or programs that may be available to suit his needs.
29 At least ninety days prior to the date upon which the prisoner becomes
30 eligible for parole, the Bureau shall provide the Parole Commission
31 with a written report of the results of the study and shall make to
32 the Commission whatever recommendations the Bureau believes will
33 be helpful in determining the suitability of the prisoner for parole
34 and in determining the appropriate terms and conditions of parole.

35 “(b) PREPAROLE REPORT BY PROBATION OFFICERS AND GOVERNMENT
36 AGENCIES.—Upon request of the Parole Commission prior to its con-
37 sideration of the parole of a prisoner or of any other matter within
38 its jurisdiction, a probation officer or a government agency shall pro-

1 vide the Commission with whatever information is available to such
 2 officer or agency concerning a prisoner or parolee and shall, if not
 3 inconsistent with the public interest, make to the Commission what-
 4 ever recommendations such officer or agency believes will be helpful
 5 with respect to the matter concerning which the request was made.

6 “(c) OTHER PREPAROLE INVESTIGATION.—The Parole Commission
 7 may make such other investigation as it may consider warranted.

8 **“§ 3833. Parole Interview Procedure**

9 “(a) INTERVIEW REQUIRED.—A prisoner whom the Parole Commis-
 10 sion is required to consider for parole under the provisions of:

11 “(1) section 3831(b) (1) or (d), shall, within the time specified,
 12 be afforded a parole interview unless he signs a written waiver
 13 of such an interview;

14 “(2) section 3831(b) (2), shall, within the time specified, be
 15 afforded a parole interview unless:

16 “(A) he signs a written waiver of such an interview; or

17 “(B) the Commission, on the basis of the report and
 18 recommendations of the Bureau of Prisons, determines to
 19 release him on parole on the date upon which he will become
 20 eligible for parole.

21 “(b) NOTICE AND OPPORTUNITY FOR REPRESENTATION.—Prior to the
 22 parole interview, the prisoner:

23 “(1) shall be given a written notice of the time, place, and pur-
 24 pose of such interview; and

25 “(2) shall be allowed to select, as a representative to aid him
 26 in such interview, any person who qualifies under regulations
 27 or rules issued by the Parole Commission, the regulations or rules
 28 of which may not exclude attorneys as a class.

29 “(c) ACCESS TO REPORTS.—Following notification that a parole in-
 30 terview is scheduled, the prisoner shall be afforded reasonable access
 31 to such reports and other materials as are prepared by, or for the use
 32 of, the Parole Commission in making its determination, except that
 33 the prisoner shall not be afforded access to matters that, if they ap-
 34 peared in a report of a presentence investigation, would not be revealed
 35 to a defendant under the provisions of Rule 32 of the Federal Rules of
 36 Criminal Procedure. If access to any such material is withheld from
 37 the prisoner on such grounds, the Commission, or, if the material was
 38 withheld at the request of the Bureau of Prisons or another agency,
 39 the Bureau or such other agency, shall summarize the basic contents of
 40 the material to the extent that is possible without violating a pledge of

1 confidentiality or endangering any person, and the Commission shall
2 furnish such summary to the prisoner.

3 “(d) RECORD OF INTERVIEW.—A complete record of a parole inter-
4 view shall be retained by the Parole Commission. Upon request, the
5 Commission shall make the record available to the prisoner.

6 “(e) NOTIFICATION OF DETERMINATION.—Not later than fifteen
7 working days after the date of the interview, the Parole Commission
8 shall notify the prisoner in writing of its determination. If parole
9 is denied, or if discretionary conditions of parole are imposed other
10 than those incorporated by reference in section 3834(c), the Commis-
11 sion shall include a statement of the reasons for such determination
12 and, if possible, a representative of the Commission who participated
13 in the parole interview shall hold a conference with the prisoner to ex-
14 plain such reasons.

15 **“§ 3834. Term and Conditions of Parole**

16 “(a) SETTING OF TERM AND CONDITIONS.—Upon a determination to
17 release a prisoner on parole, the Parole Commission shall set the term
18 and conditions of parole, having regard for :

19 “(1) the guidelines and any pertinent policy statements con-
20 cerning parole issued by the Sentencing Commission pursuant to
21 28 U.S.C. 994(f) ;

22 “(2) the nature and circumstances of the offense and the history
23 and characteristics of the parolee; and

24 “(3) the need :

25 “(A) to protect the public from further crimes of the pa-
26 rolee; and

27 “(B) to provide the parolee with the opportunity for such
28 needed educational or vocational training, medical care, or
29 other correctional treatment as can be provided effectively
30 while he is on parole.

31 “(b) TERM OF PAROLE.—The Parole Commission, having regard for
32 the guidelines and any pertinent policy statements concerning parole
33 issued by the Sentencing Commission pursuant to 28 U.S.C. 994(f),
34 shall set the term of parole :

35 “(1) for a Class A or Class B felony, at not less than one year
36 nor more than five years;

37 “(2) for a Class C felony, at not less than one year nor more
38 than three years;

39 “(3) for a Class D felony, at not less than one year nor more
40 than two years;

1 “(4) for a Class E felony, at not less than six months nor more
2 than one year; and

3 “(5) for a Class A misdemeanor, at not less than three months
4 nor more than six months.

5 “(c) **CONDITIONS OF PAROLE.**—The Parole Commission shall provide,
6 as an explicit condition of parole, that the parolee not commit another
7 federal, state, or local crime during the term of parole. The Commis-
8 sion may provide, as further conditions of parole, to the extent that
9 such conditions are reasonably related to the matters set forth in
10 subsection (a) (2) and (a) (3), and to the extent that such conditions
11 involve no greater a deprivation of liberty than is reasonably necessary
12 for the purposes indicated in subsection (a) (3), and to the extent that
13 such conditions are consistent with any pertinent policy statements
14 issued by the Sentencing Commission pursuant to 28 U.S.C. 994(f),
15 any conditions set forth as discretionary conditions of probation in
16 section 2103(b) (1) through (b) (10) and (b) (12) through (b) (18),
17 and any other conditions it considers to be appropriate. If an alien
18 prisoner subject to deportation is paroled, the Commission may pro-
19 vide, as a condition of parole, that he be deported and remain outside
20 the United States, and may order that he be delivered to a duly author-
21 ized immigration official for such deportation. The Commission shall
22 provide to a parolee a written statement setting forth all the conditions
23 to which the parole is subject with sufficient clarity and specificity to
24 serve as a guide for the parolee’s conduct and for such supervision as
25 is required.

26 “(d) **COMMENCEMENT OF TERM.**—A term of parole commences on
27 the day the parolee is released from imprisonment.

28 “(e) **CONCURRENT WITH OTHER SENTENCES.**—A term of parole
29 runs concurrently with any federal, state, or local term of parole
30 or probation for another offense to which the parolee is subject
31 or becomes subject during the term of parole, except that it does not
32 run during any period in which the parolee is imprisoned in connec-
33 tion with a conviction for a federal, state, or local crime.

34 “(f) **EARLY TERMINATION.**—The Parole Commission may terminate
35 a term of parole previously ordered and discharge the parolee at any
36 time after expiration of one year of parole if it is satisfied that such
37 action is warranted by the conduct of the parolee and the interest of
38 justice. The Commission shall review the status of a parolee after
39 two years of continuous parole, and after each additional year of
40 parole, to determine the need for his continued parole.

1 “(g) **EXTENSION OF TERM OR MODIFICATION OF CONDITIONS.**—The
2 Parole Commission may extend a term of parole if less than the au-
3 thorized term was previously imposed, and may modify, reduce, or
4 enlarge the conditions of parole, at any time prior to the expiration or
5 termination of the term of parole.

6 “(h) **SUBJECT TO REVOCATION.**—A term of parole remains conditional
7 and subject to revocation until its expiration or termination.

8 “§ 3835. **Revocation of Parole**

9 “(a) **WARRANT FOR ARREST.**—A warrant for the arrest of a parolee
10 who is alleged to have violated a condition of his parole may be issued
11 by the Parole Commission at any time prior to the expiration or ter-
12 mination of the term of parole. An officer authorized under subchapter
13 B of chapter 30 to execute such a warrant may arrest the parolee and,
14 upon such an arrest, shall return the parolee to the custody of the
15 Bureau of Prisons.

16 “(b) **PRELIMINARY APPEARANCE.**—A parolee arrested on a warrant
17 for violation of a condition of his parole shall be taken, without un-
18 necessary delay, before the Parole Commission at a place reasonably
19 near the place of the arrest or of the violation alleged, to determine if
20 there is probable cause to believe that he has violated a condition of
21 his parole. The parolee shall be given the opportunity to admit or
22 deny, in whole or in part, the violation alleged, and to explain the cir-
23 cumstances of the matter. If the Commission, after a preliminary
24 hearing, finds that there is probable cause to believe that the violation
25 occurred, a revocation hearing before the Commission shall be ordered.
26 If the parolee admits the violation alleged, the revocation hearing may
27 be limited to matters concerning disposition.

28 “(c) **TIME AND PLACE OF REVOCATION HEARING.**—A revocation hear-
29 ing shall be held by the Parole Commission, with respect to the parole
30 of:

31 “(1) a parolee for whom such a hearing was ordered under sub-
32 section (b), immediately upon the finding of probable cause or
33 within sixty days thereafter, at a place reasonably near the place
34 of the arrest or of the violation alleged; or

35 “(2) a parolee who has been convicted of a federal, state, or
36 local crime committed subsequent to his release on parole and who
37 has been sentenced for such crime to a term of imprisonment of
38 more than one hundred and eighty days and who has had placed
39 against him a detainer on a warrant issued under subsection (a),

1 within one hundred and eighty days of such placement, at the
2 prison facility in which he is confined.

3 (d) REVOCATION HEARING PROCEDURE.—Prior to the holding of
4 the revocation hearing, the parolee shall be given reasonable notice
5 of the conditions of parole alleged to have been violated, and of the
6 time, place, and purpose of the scheduled hearing. At the hearing, the
7 parolee shall be apprised of the evidence against him and shall be
8 given opportunity:

9 (1) to be represented by retained counsel, or, if he is unable to
10 retain counsel, by counsel provided pursuant to the provisions of
11 chapter 34;

12 (2) to appear, to testify, and to present witnesses and docu-
13 mentary evidence on his own behalf; and

14 (3) to confront and cross-examine adverse witnesses, if he so
15 requests, unless the Parole Commission specifically finds good
16 cause for declining to allow confrontation.

17 Any relevant evidence may be received and considered at the hearing,
18 regardless of its admissibility under the Federal Rules of Evidence,
19 except to the extent that receipt and consideration of such evidence
20 for purposes of parole revocation is expressly limited by a section of
21 this title relating to parole or any other provision of law. At the con-
22 clusion of the hearing, the Commission shall determine on the evidence
23 before it whether the parolee has violated a condition of his parole.

24 “(e) DISPOSITION.—If the Parole Commission determines that the
25 parolee has not violated a condition of his parole, the warrant shall
26 be withdrawn. If the Commission determines that the parolee has
27 violated a condition of his parole, it may, after considering any perti-
28 nent policy statements concerning parole issued by the Sentencing
29 Commission pursuant to 28 U.S.C. 994(f):

30 “(1) continue him on parole, with or without extending the term
31 or modifying or enlarging the conditions; or

32 “(2) revoke parole, if such continuation, extension, modification, or
33 enlargement is inappropriate in its opinion, and order the parolee
34 imprisoned for:

35 “(A) the term of the original sentence minus the portion of
36 the original sentence served in confinement prior to the parole; or

37 “(B) the contingent term of imprisonment provided in section
38 2303.

39 In determining the appropriate disposition, the Commission shall con-
40 sider whether the violation was serious and whether the violation had
41 been preceded by other violations.

1 “(f) DIGEST OF PROCEEDINGS.—In any case in which parole is modi-
2 fied or revoked, the Parole Commission shall prepare, and shall give to
3 the parolee, a digest of the factors considered by the Commission and
4 of the reasons for the disposition ordered by the Commission.

5 “(g) DELAYED ADJUDICATION.—The power of the Parole Commis-
6 sion to revoke parole for violation of a condition of parole extends
7 beyond the expiration of the term of parole for any period reasonably
8 necessary for the adjudication of matters arising before its expiration
9 if, prior to its expiration, a warrant or summons has been issued on the
10 basis of an allegation of such violation.

11 “(h) CREDIT UPON REIMPRISONMENT.—Credit shall be given for
12 reimprisonment of a parolee beginning on the date he is returned to
13 the custody of the Bureau of Prisons.

14 “(i) REPAROLE.—A prisoner who has been reimprisoned following
15 revocation of parole may be reparaled by the Parole Commission
16 under the same provisions of this subchapter that govern initial parole,
17 and such subsequent parole may be revoked by the Commission under
18 the same provisions of this subchapter that govern initial revocation.
19 If such a subsequent parole is revoked, the parolee may be reim-
20 prisoned for:

21 “(1) the term of the original sentence minus the portion of the
22 original sentence served in confinement prior to the last parole; or

23 “(2) the contingent term of imprisonment provided in section
24 2303 if no part of such a term was served in the course of his reim-
25 prisonment after the initial revocation.

26 “§ 3836. Appeal from Parole Commission Determination

27 “(a) APPEAL IN GENERAL.—In any case in which, inconsistent with
28 the guidelines for parole issued by the Sentencing Commission pur-
29 suant to 28 U.S.C. 994(f) (1):

30 “(1) parole is denied;

31 “(2) conditions of parole are imposed other than those set forth
32 or incorporated by reference in section 3834(c); or

33 “(3) parole is modified or revoked;

34 the person to whom such decision applies may file with the National
35 Appeals Board a written appeal from such decision not later than
36 thirty days after the decision is rendered. In any case in which, incon-
37 sistent with the guidelines concerning parole issued by the Sentencing
38 Commission pursuant to 28 U.S.C. 994(f) (1), any decision with re-
39 spect to parole is rendered, the Attorney General may file with the
40 National Appeals Board a written appeal from such decision not later
41 than thirty days after the decision is rendered. An appeal shall be

1 decided by a majority vote of the three commissioners on the National
2 Appeals Board within sixty days after receipt of the appellant's
3 papers.

4 "(b) APPEAL IF ORIGINAL JURISDICTION RETAINED.—In accordance
5 with regulations and rules issued by the Parole Commission, in
6 any case in which original jurisdiction is retained by the Commission
7 the initial decision shall be made by a majority vote of a panel of five
8 commissioners. The panel's decision may be appealed on the motion of
9 any commissioner on the panel, or on the application of the individual
10 to whom such decision applies, or on the motion of the Attorney Gen-
11 eral, directly to the National Appeals Board, which shall either affirm
12 the decision or schedule a review by the full Commission.

13 "(c) PARTICIPANT IN PRIOR DECISION BARRED.—No commissioner
14 may participate as a member of the National Appeals Board in the
15 consideration of an appeal from a decision in which he had earlier
16 participated.

17 "§ 3837. Inapplicability of the Administrative Procedure Act

18 "The provisions of 5 U.S.C. 551 through 559, and 701 through 706,
19 do not apply to the making of any determination, decision, or order
20 under this subchapter.

21 "PART V.—ANCILLARY CIVIL 22 PROCEEDINGS

"Chapter

"40. ANCILLARY PUBLIC CIVIL PROCEEDINGS.

"41. ANCILLARY PRIVATE CIVIL PROCEEDINGS.

23 "Chapter 40.—ANCILLARY PUBLIC CIVIL PROCEEDINGS

"Subchapter

"A. Civil Forfeiture.

"B. Civil Restraint of Racketeering.

"C. Injunctions.

24 "Subchapter A.—Civil Forfeiture

"Sec.

"4001. Civil Forfeiture Proceeding.

"4002. Protective Order

"4003. Execution of Civil Forfeiture.

"4004. Applicability of Other Civil Forfeiture Provisions.

"4005. Definitions for Subchapter A.

25 "§ 4001. Civil Forfeiture Proceeding

26 "(a) PROPERTY SUBJECT TO FORFEITURE.—In addition to a proceed-
27 ing under any other act of Congress, the Attorney General may initiate
28 in a district court of the United States an in rem civil proceeding to
29 have seized and forfeited to the United States any property, or the
30 value thereof where specified, used, intended for use, or possessed in
31 the course of an offense described in section :

1 “(1) 1204 (Violating Neutrality by Causing Departure of a
2 Vessel or Aircraft), if the property consists of a vessel or aircraft
3 or its contents;

4 “(2) 1206 (a) (2) or (a) (3) (Engaging in an Unlawful Inter-
5 national Transaction) if the property consists of property being
6 introduced into or exported from the United States in violation
7 of such section, or the value thereof;

8 “(3) 1321 (Witness Bribery), 1322 (Corrupting a Witness or
9 an Informant), or 1323 (Tampering with a Witness or an Inform-
10 ant), if the property consists of anything of value given or
11 accepted in violation of such section;

12 “(4) 1351 (Bribery) or 1352 (Graft) if the property consists
13 of anything of value given or accepted in violation of such
14 section;

15 “(5) 1411 (Smuggling) if the property consists of an object
16 introduced, or being introduced, into the United States, or the
17 value thereof;

18 “(6) 1412 (Trafficking in Smuggled Property) if the property
19 consists of an object introduced, or being introduced, into the
20 United States, or the value thereof;

21 “(7) 1413 (Receiving Smuggled Property) if the property
22 consists of an object introduced, or being introduced, into the
23 United States, or the value thereof;

24 “(8) 1511 (Obstructing an Election), 1512 (Obstructing Regis-
25 tration), 1516 (Soliciting a Political Contribution as a Federal
26 Public Servant or in a Federal Building), or 1517 (Making a
27 Political Contribution as a Foreign National), if the property
28 consists of anything of value given or received in violation of
29 such section;

30 “(9) 1521 (Eavesdropping), 1522 (Trafficking in an Eaves-
31 dropping Device), or 1523 (Possessing an Eavesdropping De-
32 vice), if the property consists of an eavesdropping device;

33 “(10) 1715 (Possessing Burglar's Tools) if the property con-
34 sists of an object that is designed for, or commonly used for, the
35 facilitation of a forcible entry in the course of an offense described
36 in section 1711, 1712, 1713, or 1714;

37 “(11) 1734 (Executing a Fraudulent Scheme) if the property
38 consists of fraudulently advertised property;

39 “(12) 1738 (Consumer Fraud) if the property consists of a
40 fraudulently advertised property;

1 “(13) 1741 (Counterfeiting) if the property consists of a
2 counterfeited written instrument;

3 “(14) 1742 (Forgery) if the property consists of a forged
4 written instrument;

5 “(15) 1745 (Trafficking in a Counterfeiting Implement) if the
6 property consists of a counterfeiting or forging implement;

7 “(16) 1751 (Commercial Bribery), 1752 (Labor Bribery), or
8 1753 (Sports Bribery), if the property consists of anything of
9 value given or accepted in violation of such section;

10 “(17) 1821 (Explosives Offenses) if the property consists of
11 an explosive;

12 “(18) 1822 (Firearms Offenses) if the property consists of a
13 firearm or ammunition;

14 “(19) 1823 (Using a Weapon in the Course of a Crime) if the
15 property consists of a firearm or a destructive device;

16 “(20) 1841 (Engaging in a Gambling Business) if the property
17 consists of other than real property, or

18 “(21) 1842 (Disseminating Obscene Material) if the property
19 consists of obscene material.

20 “(b) ORDER OF FORFEITURE.—If the court finds, by a preponderance
21 of the evidence, that the property that is the subject of the proceeding
22 had been used, intended for use, or possessed in the course of an of-
23 fense set forth in subsection (a), and that the property consists of an
24 object set forth in subsection (a), the court shall order such property
25 to be forfeited to the United States.

26 **§ 4002. Protective Order**

27 ““At any time after the initiation of a proceeding under section 4001,
28 the court may enter a restraining order or injunction, may require a
29 performance bond, and may take such other action as is in the interest
30 of justice, with respect to any property subject to civil forfeiture.

31 **“§ 4003. Execution of Civil Forfeiture**

32 ““The Attorney General, upon such terms and conditions as are in
33 the interest of justice, shall seize property that a defendant has been
34 ordered to forfeit to the United States, pursuant to section 4001, and
35 shall, pursuant to regulations issued by the Attorney General, sell, re-
36 tain, destroy, or make other appropriate disposition of such property,
37 making due provision for the rights of any innocent person. If any
38 property is not disposed of for value the rights to such property shall
39 not revert to the defendant.”

1 **“§ 4004. Applicability of Other Civil Forfeiture Provisions**

2 “Except to the extent that they are inconsistent with the provisions
3 of this subchapter, all provisions of law relating to the remission or
4 mitigation of civil forfeitures of property for violation of the customs
5 laws, the compromise of claims with respect to such property, the
6 disposition of such property, the proceeds from the sale of such prop-
7 erty, and the award of compensation to informants with respect to
8 such property, shall apply to civil forfeitures incurred, or alleged
9 to have been incurred, under this section. The duties imposed upon
10 a customs officer or any other person with respect to the civil
11 seizure, forfeiture, and disposition of property under the customs laws
12 shall, with respect to property used, intended for use, or possessed in
13 violation of subsection (a), be performed by the Attorney General.

14 **“§ 4005. Definitions for Subchapter A**

15 As used in this subchapter :

16 “(a) ‘counterfeited written instrument’ has the meaning set
17 forth in section 1746(a) ;

18 “(b) ‘counterfeiting implement’ has the meaning set forth in
19 section 1746(b) ;

20 “(c) ‘eavesdropping device’ has the meaning set forth in section
21 1526(c) ;

22 “(d) ‘forged written instrument’ has the meaning set forth in
23 section 1746(c) ;

24 “(e) ‘forging implement’ has the meaning set forth in section
25 1746(d) ;

26 “(f) ‘introduce’ has the meaning set forth in section 1414
27 (a) (1) ;

28 “(g) ‘object’ has the meaning set forth in section 1414(a) (2) ;

29 “(h) ‘obscene material’ has the meaning set forth in section
30 1842(b) (4).

31 **“Subchapter B.—Civil Restraint of Racketeering**

“Sec.

“4011. Civil Action to Restrain Racketeering.

“4012. Civil Restraint Procedure.

“4013. Civil Investigative Demand.

32 **“§ 4011. Civil Action to Restrain Racketeering**

33 “(a) INITIATION OF ACTION.—The Attorney General may initiate a
34 civil proceeding to prevent and restrain offenses under section 1801
35 (Operating a Racketeering Syndicate), 1802 (Racketeering), or 1803
36 (Washing Racketeering Proceeds).

1 “(b) JURISDICTION.—The district courts of the United States have
2 jurisdiction to hear and determine proceedings initiated under this
3 section, and to prevent and restrain the offenses set forth in subsection
4 (a). In a proceeding initiated under this section, the court shall proceed
5 as soon as practicable to the hearing and determination thereof.

6 “(c) PROTECTIVE ORDERS.—At any time after the initiation of a pro-
7 ceeding under this section, the court may enter a restraining order or
8 injunction, may require a performance bond, and may take such other
9 action as is in the interest of justice.

10 “(d) ESTOPPEL.—A conviction of a defendant for an offense under
11 section 1801 (Operating a Racketeering Syndicate), 1802 (Racketeer-
12 ing), or 1803 (Washing Racketeering Proceeds) shall, as a final judg-
13 ment or decree rendered in favor of the United States, estop the de-
14 fendant from denying the essential allegations of the criminal offense
15 in any subsequent civil proceeding brought by the United States under
16 this section or by a person under section 4101.

17 “(e) FINAL ORDERS.—Upon the determination of a proceeding under
18 this section in favor of the United States, the court may issue appro-
19 priate orders, including an order:

20 “(1) directing a person to divest himself of an interest, direct
21 or indirect, in an enterprise;

22 “(2) imposing reasonable restrictions on the future activities or
23 investments of a person, including a prohibition against a person's
24 engaging in an endeavor of the same kind as the enterprise en-
25 gaged in;

26 “(3) directing dissolution or reorganization of an enterprise,
27 making due provision for the rights of an innocent person.

28 “§ 4012. Civil Restraint Procedure

29 “(a) VENUE.—A proceeding under section 4011 or 4101 may be
30 initiated in a United States District Court for any district in which
31 the defendant in the proceeding resides, is found, has an agent, or
32 transacts affairs.

33 “(b) ISSUANCE OF PROCESS.—In a proceeding under section 4011 or
34 4101, if it is shown that the interest of justice requires that any other
35 party residing in another district be brought before the court, the
36 court may cause such party to be summoned, and process for that pur-
37 pose may be served in any judicial district of the United States by the
38 United States marshal in such district.

39 “(c) SERVICE OF PROCESS.—In a proceeding under section 4011 or
40 4101, a subpoena issued by the court to compel the attendance of a
41 witness may be served in any other judicial district, but no such sub-

1 poena shall be issued for service upon an individual who resides in
2 another district at a place more than one hundred miles from the
3 place at which the court is held without approval by a judge of such
4 court upon a showing of good cause. All other process may be served
5 on a person in any judicial district in which the person resides, is
6 found, has an agent, or transacts affairs.

7 “(d) EXPEDITED ACTION.—In a proceeding under section 4011 or
8 4101, the Attorney General may file with the clerk of the court a
9 certificate stating that in his opinion the case is of general public
10 importance. A copy of the certificate shall be furnished immediately
11 by the clerk to the chief judge, or in his absence to the presiding dis-
12 trict judge, of the district in which the proceeding is pending. Upon
13 receipt of the copy, the judge shall designate immediately a judge of
14 that district to hear and determine the proceeding. The judge so
15 designated shall assign the proceeding for hearing as soon as practi-
16 cable, shall participate in the hearing and determination, and shall
17 otherwise cause the proceeding to be expedited.

18 “(e) OPEN OR CLOSED PROCEEDINGS.—A proceeding under section
19 4011 may be open or closed to the public, at the discretion of the court,
20 after consideration of the rights of the persons affected.

21 **“§ 4013. Civil Investigative Demand**

22 “(a) ISSUANCE OF DEMAND.—If the Attorney General has reason to
23 believe that a person may be in possession, custody, or control of any
24 documentary material that may be relevant to a civil proceeding under
25 section 4011, he may, prior to the initiation of such proceeding, issue
26 in writing and cause to be served on the person a civil investigative
27 demand requiring the person to produce such material for examination.
28 The civil investigative demand shall:

29 “(1) state the character of the conduct under investigation and
30 the provision of law applicable;

31 “(2) describe the class of documentary material to be produced
32 with sufficient definiteness to enable the material to be fairly
33 identified;

34 “(3) state that the demand is returnable forthwith or prescribe
35 a return date that provides a reasonably sufficient period of time
36 within which the material can be assembled and made available
37 for inspection and copying or reproduction; and

38 “(4) identify the document custodian to whom the material
39 is to be made available.

40 “(b) LIMITATIONS.—No civil investigative demand may contain a
41 requirement that would be held to be unreasonable if contained in a

1 subpoena duces tecum issued by a court of the United States in aid of a
2 grand jury investigation.

3 “(c) SERVICE.—Service of a civil investigative demand or a petition
4 filed under this section may be made upon a person by :

5 “(1) delivering an executed copy to the person ;

6 “(2) delivering an executed copy to the person’s agent or to
7 another person authorized by appointment or by law to receive
8 service of process on behalf of the person ;

9 “(3) delivering an executed copy to the principal office or place
10 of business of the person ; or

11 “(4) sending an executed copy by registered or certified mail
12 addressed to the person at his principal office or place of business.

13 A verified return by the person serving the demand or petition, setting
14 forth the manner of service, is prima facie evidence of service. A return
15 reflecting service by registered or certified mail shall be accompanied
16 by the return post office receipt of delivery of the demand.

17 “(d) CUSTODY.—

18 “(1) The Attorney General shall designate a person to serve
19 as document custodian, and such additional persons as are neces-
20 sary to serve as deputies to the document custodian.

21 “(2) A person upon whom a civil investigative demand has
22 been served shall, at his principal place of business and on the
23 return date specified in the demand, make the material available
24 for inspection and copying or reproduction by the custodian
25 designated. Upon written agreement between the person and the
26 custodian, or upon order of the court, the material may be made
27 available at such other place and at such later date as is agreed
28 upon or ordered, and the person may substitute a copy for an
29 original of all or any part of the material.

30 “(3) The custodian to whom the material is delivered shall take
31 physical possession and shall be responsible for the use made of
32 it and for its return. The custodian may prepare as many copies
33 of such documentary material as may be required for official use,
34 under regulations issued by the Attorney General. While in
35 the possession of the custodian, no material so produced shall be
36 available for examination by any person other than the Attorney
37 General, without the consent of the person who produced the
38 material. The material in the possession of the custodian shall be
39 made available for examination by the person who produced the
40 material, or his representative, under such reasonable terms and
41 conditions as the Attorney General shall prescribe.

1 “(4) The custodian shall, upon request, deliver the material in
2 his possession to an attorney for the government who has deter-
3 mined that the material is needed for his presentation in a pro-
4 ceeding before a court or grand jury. Upon the conclusion of the
5 proceeding, the attorney shall return to the custodian any mate-
6 rial that has not passed into the control of the court or grand
7 jury through its introduction into the record of the proceeding.

8 “(5) Upon the completion of:

9 “(A) the investigation for which material was produced
10 under this section; and

11 “(B) any proceeding arising from the investigation;
12 the custodian shall return, to the person who produced the ma-
13 terial, all the material that has not passed into the control of a
14 court or grand jury through its introduction into the record of
15 the proceeding. A copy made under this subsection need not be
16 returned.

17 “(6) If no proceeding has been instituted within a reasonable
18 time after completion of the examination and analysis of all evi-
19 dence assembled in the course of the investigation, the person who
20 produced the material shall be entitled, upon written demand
21 made upon the Attorney General, to the return of all the material
22 produced by him. A copy made under this subsection need not be
23 returned.

24 “(e) ENFORCEMENT.—

25 “(1) If a person fails to comply with a civil investigative de-
26 mand served upon him pursuant to the provisions of this section,
27 or if satisfactory copying or reproduction of any material cannot
28 be done and the person refuses to surrender the material, the
29 Attorney General may file and serve upon the person a petition
30 for an enforcement order. The petition shall be filed in a district
31 court of the United States for the judicial district in which the
32 person resides, is found, has an agent, or transacts his affairs.
33 If the person transacts business in more than one judicial district,
34 the petition shall be filed in the district in which the person main-
35 tains his principal place of business, or in such other district in
36 which the person transacts business as may be agreed upon by
37 the parties to the petition.

38 “(2) Within twenty days after the service of a civil investiga-
39 tive demand upon a person, or at any time before the return date
40 specified in the demand, whichever period is less, the person may
41 file and serve upon the Attorney General a petition for an order

1 modifying or setting aside the demand. The time allowed for
 2 compliance with the demand shall not run while the petition
 3 is pending in the court. The petition shall specify each ground
 4 upon which the petitioner relies in seeking relief. The petition
 5 may be based upon a failure of the demand to comply with the
 6 provisions of this section or upon any constitutional or other
 7 legal right or privilege of the person.

8 “(3) At any time during which the document custodian has
 9 custody or control of material delivered by a person in compli-
 10 ance with a civil investigative demand, the person may file and
 11 serve upon the custodian a petition for an order requiring the
 12 performance by the custodian of a duty imposed upon him by
 13 this section.

14 “(f) JURISDICTION.—A district court of the United States in which
 15 a petition is filed under this section has jurisdiction to hear and
 16 determine the matter so presented, and to enter such order as may be
 17 required to effectuate the provisions of this section.

18 **“Subchapter C.—Injunctions**

“Sec.

“4021. Injunctions against Fraud.

19 **“§ 4021. Injunctions against Fraud**

20 “Upon evidence satisfactory to the Attorney General that a person is
 21 engaged in an act or practice that constitutes or could constitute a
 22 violation of section 1734 (Executing a Fraudulent Scheme), or 1738
 23 (Consumer Fraud), the Attorney General may bring an action in a
 24 district court of the United States to enjoin such act or practice, and,
 25 upon a proper showing, a permanent or temporary injunction or re-
 26 straining order shall be granted by the court together with such other
 27 equitable relief as may be appropriate.

28 **“Chapter 41.—ANCILLARY PRIVATE CIVIL REMEDIES**

“Subchapter

“A. Private Actions for Damages.

“B. Actions for Compensation of Victims of Crime.

29 **“Subchapter A.—Private Actions for Damage**

“Sec.

“4101. Civil Action against a Racketeering Offender.

“4102. Civil Action against a Fraud Offender.

“4103. Civil Action against an Eavesdropping Offender.

30 **“§ 4101. Civil Action against a Racketeering Offender**

31 “A person injured in his business or property by reason of a viola-
 32 tion of section 1801 (Operating a Racketeering Syndicate), 1802

1 (Racketeering), or 1803 (Washing Racketeering Proceeds) shall have
 2 a civil cause of action against an offender in an appropriation district
 3 court of the United States and shall be entitled to recover;

4 “(a) three times the damages sustained; and

5 “(b) a reasonable attorney’s fee and other litigation costs rea-
 6 sonably incurred.

7 **“§ 4102. Civil Action against a Fraud Offender**

8 “A person injured in his business or property by reason of a viola-
 9 tion of section 1734 (Executing a Fraudulent Scheme) or 1738 (Con-
 10 sumer Fraud) shall have a civil cause of action against a convicted
 11 offender in an appropriate district court of the United States and shall
 12 be entitled to recover:

13 “(a) three times the damages sustained; and

14 “(b) a reasonable attorney’s fee and other litigation costs rea-
 15 sonably incurred.

16 **“§ 4103. Civil Action against an Eavesdropping Offender**

17 “(a) CIVIL ACTION.—A person whose private oral communication is
 18 intercepted, disclosed, or used in violation of section 1521 (Eaves-
 19 dropping) shall have a civil cause of action against an offender in an
 20 appropriate district court of the United States and shall be entitled to
 21 recover:

22 “(1) actual damages, but not less than liquidated damages of
 23 \$1,000 or of \$100 per day for each day of violation, whichever is
 24 the greater;

25 “(2) punitive damages; and

26 “(3) a reasonable attorney’s fee and other litigation costs rea-
 27 sonably incurred.

28 “(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a civil
 29 proceeding brought under this section or any other provision of law
 30 that the defendant acted in reasonable reliance on a court order or leg-
 31 islative authorization and believed in good faith that his conduct did
 32 not constitute an offense.

33 **“Subchapter B.—Actions for Compensation of Victims of**
 34 **Crime**

“Sec.

“4111. Establishment of a Victim Compensation Fund.

“4112. Claim for Compensation.

“4113. Limitation on Compensation.

“4114. Subrogation.

“4115. Definitions for Subchapter B.

1 **“§ 4111. Establishment of a Victim Compensation Fund**

2 “There is established in the Treasury of the United States a revolving
3 ing fund, to be known as the Victim Compensation Fund, that shall
4 be the depository of:

5 “(a) all criminal fines paid in the courts of the United States;

6 “(b) all funds reimbursed pursuant to section 4112(e) or 4113
7 (e) (2);

8 “(c) all funds collected as a result of actions instituted pursu-
9 ant to section 4114; and

10 “(d) all contributions to such Fund from public or private
11 sources.

12 **“§ 4112. Claim for Compensation**

13 “(a) CLAIM.—The victim of an offense described in chapter 16 over
14 which federal jurisdiction exists, or of an attempt to commit such
15 an offense, or a surviving dependent of such a victim, may file a claim
16 with the United States Victim Compensation Board for compensation
17 in accordance with this subchapter.

18 “(b) HEARING ON CLAIM.—A hearing on a claim filed under this
19 subchapter shall be open to the public unless the Board determines
20 that, in the interest of justice, the hearing, or a portion of the hearing,
21 should not be open to the public.

22 “(c) SCOPE OF COMPENSATION.—The Board, subject to the provisions
23 of section 4113, shall order the payment of compensation to:

24 “(1) a victim who has suffered personal injury as a result of the
25 offense;

26 “(2) the estate of a victim who has suffered personal injury
27 as a result of the offense; or

28 “(3) a surviving dependent of a victim who has suffered death
29 as a result of the offense.

30 “(d) AMOUNT AND PAYMENT OF COMPENSATION.—The Board shall
31 determine the amount of, and shall order payment of compensation
32 for pecuniary loss to be awarded to a claimant. If the pecuniary loss
33 occasioned by loss of anticipated earnings or support continues for a
34 period of ninety days or more, payment for the loss may be in the form
35 of periodic payments during the period for which the loss continues
36 or during a period of ten years, whichever is less.

37 “(e) EMERGENCY COMPENSATION.—If, prior to taking final action
38 upon a claim, the Board determines that such claim is one with respect
39 to which compensation will probably be ordered to be paid, the Board
40 may order emergency compensation to be paid, not to exceed \$1,500,
41 pending final action on the claim. The amount of any emergency

1 compensation ordered and paid shall be deducted from the amount
2 of any final order for compensation. If the amount of any emergency
3 compensation ordered and paid exceeds the amount of the final order
4 for compensation, or if no final order for compensation is made, the
5 claimant may be ordered to make reimbursement to the Fund of the
6 difference between such amounts.

7 “(f) RECONSIDERATION OF CLAIM.—The Board at any time may
8 reconsider a claim and modify or rescind an order for the payment of
9 compensation based upon a change in circumstances of the claimant.

10 “(g) BAR TO CLAIM.—No claim may be brought under this subchap-
11 ter if the injury or the death was caused by the operation of a vehicle,
12 unless the injury or death was intentionally inflicted through the use
13 of the vehicle, or unless the vehicle was an implement used in the com-
14 mission of an offense to which this subchapter applies.

15 “(h) BAR TO CLAIM PRECLUDED.—It is not a bar to a claim brought
16 under this subchapter that, by reason of immaturity, incompetency, or
17 otherwise, the person engaging in the conduct that caused the injury
18 or death could not be convicted for the offense.

19 “(i) OTHER RIGHTS UNAFFECTED.—Except as otherwise provided,
20 the availability or payment of compensation under this subchapter
21 does not affect the right of any person to recover damages from any
22 other person by a civil action for the injury or death.

23 “(j) EXECUTION OR ATTACHMENT BARRED.—An order for the pay-
24 ment of compensation under this subchapter is not subject to execution
25 or attachment.

26 “§ 4113. Limitation on Compensation

27 “(a) PREREQUISITES TO RECOVERY OF COMPENSATION.—An order for
28 the payment of compensation under this subchapter shall not be made
29 unless:

30 “(1) the offense giving rise to the claim was reported to a law
31 enforcement officer within seventy-two hours after its occurrence,
32 unless the Board finds that the failure to report within such time
33 was justified by good cause;

34 “(2) the claim is filed within one year after the date of the
35 offense giving rise to the claim, unless the Board finds that the
36 failure to file the claim within such time was justified by good
37 cause; and

38 “(3) the claimant has suffered a pecuniary loss exceeding \$100
39 or an amount equal to a week's earnings or support, whichever
40 is less, as a proximate cause of the offense giving rise to the claim.

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1 “(b) MAXIMUM AMOUNT OF COMPENSATION.—An order for the pay-
2 ment of compensation for pecuniary loss under this subchapter may
3 not exceed a total of \$50,000, including lump-sum payments and pe-
4 riodic payments, for each incident involving an offense against a
5 victim.

6 “(c) RESPONSIBILITY OF VICTIM OR CLAIMANT FOR THE OFFENSE.—
7 The Board, in determining whether to order payment of compensation
8 and the amount of compensation to be ordered, shall consider the
9 behavior of the victim or claimant with regard to the circumstances
10 of the offense giving rise to the claim, shall determine whether the
11 victim or claimant bears any share of responsibility for the offense
12 because of provocation or otherwise, and shall:

13 “(1) reduce the amount of compensation to the claimant in
14 accordance with its assessment of the degree of such responsibility
15 attributable to the victim or claimant; or

16 “(2) deny compensation if the behavior of the victim or claim-
17 ant was a substantial contributing factor to the offense giving rise
18 to the claim.

19 “(d) CONTINUING DUTY OF VICTIM OR CLAIMANT TO COOPERATE.—
20 The Board, upon finding that a victim or claimant has not substan-
21 tially cooperated with all government agencies involved in the investi-
22 gation or prosecution of the offense that gave rise to the claim, may
23 deny, rescind, or reduce the amount of any order for the payment of
24 compensation under this subchapter.

25 “(e) EFFECT OF COMPENSATION FROM OTHER SOURCES.—In the event
26 that a claimant:

27 “(1) recovers damages from any other source based upon an
28 offense giving rise to a claim under this section and subsequently
29 files a claim under this section based upon such offense, in deter-
30 mining the amount of compensation to be awarded under this
31 section such damages shall be assumed to compensate for losses
32 other than pecuniary losses compensable under this subchapter
33 unless the damages clearly compensate for pecuniary losses; or

34 “(2) receives compensation under this section and subsequently
35 recovers damages from any other source based upon the offense
36 that gave rise to compensation under this section, the claimant
37 shall be ordered to make reimbursement to the Fund for the com-
38 pensation previously paid to the same extent that compensation
39 would have been reduced under paragraph (1) had recovery pre-
40 ceded compensation.

1 **“§ 4114. Subrogation**

2 “The Attorney General may, within three years after the entry of an
3 order for the payment of compensation under this subchapter, in-
4 stitute, against an offender convicted by a federal, state, or local court
5 of an offense giving rise to a claim under this subchapter, an action for
6 the recovery of all or part of such compensation in the United States
7 District Court for any judicial district in which such person resides
8 or is present. A conviction of a defendant by a federal court of an
9 offense involving the act giving rise to a claim under this subsection
10 shall estop the defendant from denying the essential allegations of the
11 criminal offense in any subsequent civil proceeding brought by the
12 United States under this section. Such court shall have jurisdiction to
13 hear, determine, and render judgment in any such action. Any amounts
14 recovered under this subsection shall be forwarded to the Treasury of
15 the United States for credit to the Victim Compensation Fund.

16 **“§ 4115. Definitions for Subchapter B**

17 “As used in this subchapter :

18 “(a) ‘dependent’ means :

19 “(1) a spouse ;

20 “(2) an individual who is a dependent within the meaning
21 of section 152 of the Internal Revenue Code of 1954 (26
22 U.S.C. 152) ; or

23 “(3) a posthumous child ;

24 “(b) ‘pecuniary loss’ means :

25 “(1) in the case of personal injury :

26 “(A) all appropriate and reasonable expenses neces-
27 sarily incurred for ambulance, hospital, surgical, nurs-
28 ing, dental, prosthetic, and other medical and related
29 professional services relating to physical or psychiatric
30 care, including non-medical care and treatment rendered
31 in accordance with a recognized method of healing ;

32 “(B) all appropriate and reasonable expenses neces-
33 sarily incurred for physical and occupational therapy and
34 rehabilitation ; and

35 “(C) actual loss of past earnings and anticipated loss
36 of future earnings because of a disability resulting from
37 the personal injury, at a rate not to exceed \$150 per week,
38 if the loss continues for a period of ninety days or more ;
39 and

1 “(2) in the case of death:

2 “(A) all appropriate and reasonable expenses neces-
3 sarily incurred for funeral and burial expenses; and

4 “(B) loss of support to a dependent of a victim, not
5 otherwise compensated for as a pecuniary loss for per-
6 sonal injury, for such period of time as the dependency
7 would have existed but for the death of the victim, at a
8 rate not to exceed a total of \$150 per week for all depend-
9 ents;

10 “(c) ‘personal injury’ includes bodily injury, pregnancy, mental
11 distress, and nervous shock; and

12 “(d) ‘offense described in chapter 16’ does not include an offense
13 over which there is federal jurisdiction only because the offense
14 affects, delays, or obstructs interstate or foreign commerce or the
15 movement of an article or commodity in interstate or foreign com-
16 merce, or because the offense occurred during the commission of
17 an offense over which there is federal jurisdiction only for that
18 reason, unless an indictment or information charging such an
19 offense is filed in a court of the United States.”

20 **TITLE II—MISCELLANEOUS**
21 **AMENDMENTS**

22 **PART A—AMENDMENTS RELATING TO COM-**
23 **MERCE AND TRADE, TITLE 15, UNITED**
24 **STATES CODE**

25 **AMENDMENTS RELATING TO IMPORTATION, MANUFACTURE, DISTRIBUTION,**
26 **AND STORAGE OF EXPLOSIVE MATERIALS**

27 SEC. 201. (a) Title XI of the Organized Crime Control Act of 1970
28 (84 Stat. 952) is amended:

29 (1) by redesignating sections 1103 to 1107 as sections 1110 to
30 1114, respectively; and

31 (2) by deleting section 1102.

32 (b) Sections 841 through 848 of title 18, United States Code, as
33 they existed on the day before the effective date of this Act, are hereby
34 reenacted as sections 1102 through 1109 of title XI of the Organized
35 Crime Control Act of 1970 (84 Stat. 952) and amended as follows:

36 (1) Section 1102 (formerly 18 U.S.C. 841) is amended:

37 (A) by deleting “Except for the purposes of subsection
38 (d), (e), (f), (g), (h), (i), and (j) of section 844 of this

1 title, 'explosives' in subsection (d) and inserting in lieu
2 thereof "Explosives";

3 (B) by inserting a comma after the word "compound" in
4 the first sentence of subsection (d);

5 (C) by deleting the word "chapter" wherever it appears in
6 subsections (d), (j), and (m) and inserting in lieu thereof
7 "title"; and

8 (D) by deleting the last sentence in subsection (d).

9 (2) Section 1103 (formerly 18 U.S.C. 842) is amended:

10 (A) by deleting the word "chapter" wherever it appears
11 in subsection (a) and inserting in lieu thereof the word "title";

12 (B) by deleting "ship, transport, or cause to be trans-
13 ported" in subsection (a) (3) (A) and inserting in lieu there-
14 of "ship or transport";

15 (C) by deleting the words "marihuana (as defined in sec-
16 tion 4761 of the Internal Revenue Code of 1954) or any de-
17 pressant or stimulant drug (as defined in section 201(v) of
18 the Federal Food, Drug, and Cosmetic Act) or narcotic drug
19 (as defined in section 4721(a) of the Internal Revenue Code
20 of 1954)" in subsection (d) (5) and inserting in lieu thereof
21 "or addicted to marihuana or any depressant or stimulant
22 substance or narcotic drug as those terms are defined in sec-
23 tion 102 of the Controlled Substances Act (21 U.S.C. 802)";

24 (D) by deleting "willfully" in subsection (f) and inserting
25 in lieu thereof "knowingly";

26 (E) by deleting "847" in subsection (g) and inserting in
27 lieu thereof "1108"; and

28 (F) by deleting "(as defined in section 4761 of the Internal
29 Revenue Code of 1954) or any depressant or stimulant drug
30 (as defined in section 201(v) of the Federal Food, Drug, and
31 Cosmetic Act) or narcotic drug (as defined in section 4731(a)
32 of the Internal Revenue Code of 1954)" in subsection (i) (3)
33 and inserting in lieu thereof "or any depressant or stimulant
34 substance or narcotic drug as those terms are defined in section
35 102 of the Controlled Substances Act (21 U.S.C. 802)".

36 (3) Section 1104 (formerly 18 U.S.C. 843) is amended:

37 (A) by deleting "provisions of this chapter" in subsection
38 (b) and inserting in lieu thereof "provisions of this title";

1 (B) by deleting "842(d) of this chapter" in subsection (b)
2 (1) and inserting in lieu thereof "1103(d) of this title";

3 (C) by deleting "willfully" in subsection (b)(2) and in-
4 serting in lieu thereof "knowingly";

5 (D) by deleting "chapter" in subsection (b)(2) and insert-
6 ing in lieu thereof "title";

7 (E) by deleting the word "chapter" wherever it appears in
8 subsection (d) and inserting in lieu thereof "title";

9 (F) by inserting after the word "title" the second time it
10 appears in subsection (d) the words "or, if the offense in-
11 volved an explosive as defined in section 1821(b) of title 18,
12 United States Code, any provision of section 1601 (murder),
13 1602 (manslaughter), 1611 (maiming), 1612 (aggravated
14 battery), 1613 (battery), 1701 (arson), 1702 (aggravated
15 property destruction), 1821 (explosives offenses), 1823 (using
16 a weapon in the course of a crime), or 1001 (criminal at-
17 tempt) of title 18, United States Code.";

18 (G) by deleting "842(d)" in subsection (d) and inserting
19 in lieu thereof "1103(d) of this title"; and

20 (H) by deleting the word "chapter" wherever it appears in
21 subsection (f) and inserting in lieu thereof the word "title".

22 (4) Section 1105 (formerly 18 U.S.C. 844) is amended to read
23 as follows:

24 "Sec. 1105. (a) Any person who violates section 1103 of this title
25 commits an unlawful act that is an offense described in section 1812 of
26 title 18, United States Code.

27 "(b) Except as provided in section 4001 of title 18, United States
28 Code, any explosive materials involved or used or intended to be used
29 in any violation of the provisions of this title or any rule or regula-
30 tion promulgated thereunder or any violation of any criminal law of
31 the United States shall be subject to seizure and forfeiture, and all
32 provisions of the Internal Revenue Code of 1954 relating to the seizure,
33 forfeiture, and disposition of firearms, as defined in section 5845(a)
34 of that Code, shall, so far as applicable, extend to seizures and for-
35 feitures under the provisions of this title."

36 (5) Section 1106 (formerly 18 U.S.C. 845) is amended:

37 (A) by deleting "Except in the case of subsections (d), (e),
38 (f), (g), (h), and (i) of section 844 of this title, this" in sub-
39 section (a) and inserting in lieu thereof "This";

40 (B) by deleting "921(a)(16) of title 18 of the United
41 States Code," in subsection (a)(5) and inserting in lieu

1 by reenacted as sections 102 through 109 of title I of the Gun Control
2 Act of 1968 (82 Stat. 1213) and amended as follows:

3 (1) Section 102 (formerly 18 U.S.C. 921) is amended by
4 deleting the word "chapter" wherever it appears and inserting
5 in lieu thereof the word "title".

6 (2) Section 103 (formerly 18 U.S.C. 922) is amended:

7 (A) by deleting "chapter" in subsection (a) (2) and in-
8 serting in lieu thereof "title":

9 (B) by deleting "1715 of this title" in subsection (a) (3)
10 and inserting in lieu thereof "6017 of title 39, United States
11 Code.";

12 (C) by deleting "the effective date of this chapter" in
13 subsection (a) (3) (C) and inserting in lieu thereof "Decem-
14 ber 16, 1968";

15 (D) by deleting "chapter" in subsection (a) (6) and in-
16 serting in lieu thereof "title":

17 (E) by deleting "922(c)" in subsection (b) (3) (A) and
18 inserting in lieu thereof "103(c)";

19 (F) by adding after the words "registered mail" in sub-
20 section (b) (3) (C) (ii) the words "or certified mail (return
21 receipt requested)";

22 (G) by deleting "923 of this chapter" in subsection (b) (5)
23 and inserting in lieu thereof "104 of this title";

24 (H) by deleting the word "chapter" the first time it appears
25 in subsection (c) and inserting in lieu thereof "title";

26 (I) by inserting after the words "eighteen years or more of
27 age;" in subsection (c) (1) the words "that I am not under
28 indictment for, nor has an information been filed against me
29 for, nor have I been convicted in any court of, a crime punish-
30 able by imprisonment for a term exceeding one year; that I
31 am not a fugitive from justice; that I am not an unlawful
32 user of or addicted to marijuana or any depressant or stimu-
33 lant substance or narcotic drug; that I have not been adjudi-
34 cated as a mental defective nor have I been committed to any
35 mental institution;";

36 (J) by deleting "chapter 44 of title 18, United States Code"
37 in subsection (c) (1) and inserting in lieu thereof "title I of
38 the Gun Control Act of 1968, as amended";

39 (K) by deleting "923(g)" in the last sentence of subsection
40 (c) and inserting in lieu thereof "104(g)";

1 (L) by deleting the words "drug (as defined in section
2 201(v) of the Federal Food, Drug, and Cosmetic Act) or nar-
3 cotic drug (as defined in section 4731(a) of the Internal Reve-
4 nue Code of 1954)" each time they appear in subsections (d),
5 (g), and (h) and inserting in lieu thereof "substance or nar-
6 cotic drug as those terms are defined in section 102 of the
7 Controlled Substances Act (21 U.S.C. 802)".

8 (M) by deleting the words "925 of this chapter" wherever
9 they appear in the last sentence of subsection (d) and insert-
10 ing in lieu thereof the words "106 of this title";

11 (N) by deleting "chapter" in subsection (e) and inserting
12 in lieu thereof "title";

13 (O) by deleting "chapter" in subsection (f) and inserting
14 in lieu thereof "title";

15 (P) by deleting subsections (i) and (j) and redesignating
16 sections (k), (l), and (m) as subsections (i), (j), and (k)
17 respectively;

18 (Q) by deleting "925(d) of this chapter" in subsection (j)
19 (formerly subsection (l)) and inserting in lieu thereof "106
20 (d) of this title";

21 (R) by deleting "provisions of this chapter" in subsection
22 (j) (formerly subsection (l)) and inserting in lieu thereof
23 "provisions of this title"; and

24 (S) by deleting "923 of this chapter" in subsection (k)
25 (formerly subsection (m)) and inserting in lieu thereof "104
26 of this title".

27 (3) Section 104 (formerly 18 U.S.C. 923) is amended:

28 (A) by deleting "chapter" in subsection (c) and inserting
29 in lieu thereof "title";

30 (B) by deleting "922(g) and (h) of this chapter" in sub-
31 section (d)(1)(B) and inserting in lieu thereof "103(g) or
32 (h) of this title";

33 (C) by deleting "willfully" wherever it appears in sub-
34 sections (d)(1)(C) and (d)(1)(D) and inserting in lieu
35 thereof "knowingly";

36 (D) by deleting "chapter" in subsection (d)(1)(C) and
37 inserting in lieu thereof "title";

38 (E) by deleting the word "chapter" wherever it appears
39 in subsection (d)(1)(E) and inserting in lieu thereof
40 "title";

1 (F) by deleting the word "chapter" wherever it appears in
2 subsection (e) and inserting in lieu thereof "title"; and

3 (G) by deleting the word "chapter" wherever it appears
4 in subsection (g) and inserting in lieu thereof "title".

5 (4) Section 105 (formerly 18 U.S.C. 924 is amended to read as
6 follows:

7 "SEC. 105. (a) A person who violates this title commits an unlawful
8 act that is an offense described in section 1822 of title 18, United
9 States Code.

10 (b) Except as provided in section 4001 of title 18, United States
11 Code, any firearm or ammunition involved in or used or intended to
12 be used in, any violation of the provisions of this title or any rule or
13 regulation promulgated thereunder, or any violation of any other
14 criminal law of the United States Code, shall be subject to seizure and
15 forfeiture and all provisions of the Internal Revenue Code of 1954
16 relating to the seizure, forfeiture, and disposition of firearms, as
17 defined in section 5845(a) of that Code, shall, so far as applicable,
18 extend to seizures and forfeitures under the provisions of this title."

19 (5) Section 106 (formerly 18 U.S.C. 925) is amended:

20 (A) by deleting the word "chapter" wherever it appears
21 and inserting in lieu thereof "title"; and

22 (B) by inserting after the word "title" in the first sentence
23 of subsection (c) the words "or of section 1822 of title 18,
24 United States Code."

25 (6) Section 107 (formerly 18 U.S.C. 926) is amended by deleting
26 the word "chapter" wherever it appears and inserting in lieu there-
27 of "title".

28 (7) Section 108 (formerly 18 U.S.C. 927) is amended by delet-
29 ing "chapter" and inserting in lieu thereof "title".

30 (8) Section 109 (formerly 18 U.S.C. 928 is amended by deleting
31 the word "chapter" wherever it appears and inserting in lieu there-
32 of "title".

33 (c) Section 110 (formerly section 103) is amended by deleting the
34 words "the amendment made by this".

35 (d) Section 111 (formerly section 104) is amended by deleting "sec-
36 tion 1715 of title 18" in subsection (c) and inserting in lieu thereof
37 "section 6017 of title 39".

1 **PART B—AMENDMENT RELATING TO FEDERAL**
 2 **RULES OF CRIMINAL PROCEDURE**

3 SEC. 211. A new Rule 25.1 of the Federal Rules of Criminal Pro-
 4 cedure is added after rule 25 to read as follows:

5 **“Rule 25.1.—Burdens of Proof**

6 **“(a) Proof of Guilt—**

7 **“(1) PROOF OF OFFENSES.—**The Government has the burden of
 8 proving each element of the offense beyond a reasonable doubt.

9 **“(2) PROOF OF DEFENSES.—**If a defendant raises a defense at
 10 trial and there is sufficient evidence of the defense to support a
 11 reasonable belief as to its existence, the Government has the bur-
 12 den of proving the nonexistence of the defense beyond a reason-
 13 able doubt.

14 **“(3) PROOF OF AFFIRMATIVE DEFENSES.—**If a defendant raises
 15 an affirmative defense at trial, the defendant has the burden of
 16 proving the defense by a preponderance of the evidence.

17 **“(4) PROOF OF GRADING.—**The lowest grade of an offense shall
 18 be applicable unless the Government proves the elements of a
 19 higher grade beyond a reasonable doubt.

20 **“(5) PRESUMPTIONS.—**If a statute provides that a given fact
 21 gives rise to a presumption, the statute has the following
 22 consequences:

23 **“(A) TRIAL BY JURY.—**In a case tried before a jury:

24 **“(i)** if there is sufficient evidence of the fact that gives
 25 rise to the presumption to support a reasonable belief as
 26 to the fact’s existence beyond a reasonable doubt, the
 27 court shall submit the issue to the jury unless the evi-
 28 dence as a whole clearly precludes a reasonable juror
 29 from finding the presumed fact beyond a reasonable
 30 doubt; and

31 **“(ii)** in submitting to the jury the issue of the exist-
 32 ence of the presumed fact, the court shall, upon request
 33 of the Government, charge that, although the evidence as
 34 a whole must establish the presumed fact beyond a rea-
 35 sonable doubt, the jury may arrive at that judgment on
 36 the basis of the presumption alone, since the law regards

1 the fact giving rise to the presumption as strong evidence
2 of the fact presumed.

3 “(B) TRIAL BY COURT.—In a case tried before the court
4 sitting without a jury, although the evidence as a whole must
5 establish the presumed fact beyond a reasonable doubt, the
6 court may arrive at that judgment on the basis of the pre-
7 sumption alone.

8 “(6) PRIMA FACIE EVIDENCE.—If a statute provides that a
9 given fact constitutes prima facie evidence, the statute has the
10 following consequences:

11 “(A) TRIAL BY JURY.—In a case before a jury:

12 “(i) if there is sufficient evidence of the fact that con-
13 stitutes prima facie evidence to support a reasonable be-
14 lief as to the fact's existence beyond a reasonable doubt,
15 the court shall submit the issue to the jury unless the
16 evidence as a whole clearly precludes a reasonable juror
17 from finding the inferred fact beyond a reasonable doubt:
18 and

19 “(ii) in submitting to the jury the issue of the inferred
20 fact concening which the given fact is prima facie evi-
21 dence, the court, upon the request of the Government,
22 shall charge that, although the evidence as a whole must
23 establish the inferred fact beyond a reasonable doubt,
24 the jury may consider that the given fact is ordinarily a
25 circumstance from which the existence of the inferred
26 fact may be drawn.

27 “(B) TRIAL BY COURT.—In a case before the court sitting
28 without a jury, although the evidence as a whole must estab-
29 lish the inferred fact beyond a reasonable doubt, the court
30 may consider that the given fact is ordinarily a circumstance
31 from which the existence of the inferred fact may be drawn.

32 “(b) Proof of Jurisdiction.

33 “(1) PROOF.—The Government has the burden of proving the
34 existence of Federal jurisdiction over the offense, as set forth in
35 18 U.S.C. 201, beyond a reasonable doubt.

36 “(2) PRESENTATION TO COURT DURING TRIAL.—The existence
37 of Federal jurisdiction over the offense is an issue to be decided by
38 the court. The evidence relating to jurisdiction may be presented

1 by the Government in open court in the course of its presentation
 2 of the evidence relating to guilt. Any evidence relating to juris-
 3 diction that is not so presented in open court may be presented to
 4 the court, out of the presence of the jury, during the course of the
 5 presentation of the Government's evidence relating to guilt or
 6 after the close thereof. At the close of the presentation of the
 7 Government's evidence relating to guilt and of any subsequent
 8 presentation of evidence relating to jurisdiction, the issue shall be
 9 determined by the court.

10 "(3) PRESENTATION TO COURT BEFORE TRIAL.—Upon a timely
 11 pretrial motion by the attorney for the Government, the issue of
 12 the existence of Federal jurisdiction shall be heard by the court
 13 before trial and, notwithstanding the provisions of rule 12(e),
 14 shall be determined before trial and may not be deferred for
 15 determination at a later time."

16 **PART C—AMENDMENTS RELATING TO FOREIGN**
 17 **RELATIONS AND INTERCOURSE, TITLE 22,**
 18 **UNITED STATES CODE**

19 SEC. 221. Section 1116(b) (4) of title 18, United States Code, as it
 20 existed on the day before the effective date of this Act, is reenacted and
 21 redesignated as section 2 of the Act for the Prevention and Punish-
 22 ment of Crimes Against Internationally Protected Persons in lieu of
 23 the existing text of such section.

24 **PART D—AMENDMENT RELATING TO INDIANS,**
 25 **TITLE 25, UNITED STATES CODE**

26 SEC. 231. Jurisdiction Over Offenses Committed in the Indian
 27 Country.—

28 (a) As used in this section, the term "Indian country" includes:

29 (1) all land within the limits of any Indian reservation under
 30 the jurisdiction of the United States, notwithstanding the issuance
 31 of any patent, and including any right-of-way running through a
 32 reservation;

33 (2) all dependent Indian communities within the borders of
 34 the United States, whether within the original or subsequently
 35 acquired territory thereof, and whether within or without a State;
 36 and
 37

1 (3) all Indian allotments, the Indian titles to which have not
2 been extinguished, including any right-of-way running through
3 such an allotment.

4 (b) Except to the extent specifically set forth in this Act, nothing in
5 this Act is intended to diminish, expand, or otherwise alter in any
6 manner or to any extent State or tribal jurisdiction over offenses
7 within Indian country, as such jurisdiction existed on the date imme-
8 diately preceding the effective date of this Act.

9 (c) Except as otherwise specifically provided, the general laws of
10 the United States as to the punishment of offenses committed within
11 the special jurisdiction of the United States shall extend to the Indian
12 country.

13 (d) (1) Except as provided in paragraph (2) of this subsection, the
14 general laws of the United States as to the punishment of offenses
15 within the special jurisdiction of the United States shall not extend
16 to offenses committed by one Indian against the person or property
17 of another Indian or to any Indian committing any offense in the
18 Indian country who has been punished by the local law of the tribe
19 or to any case where, by treaty stipulations, the exclusive jurisdiction
20 over such offenses is or may be secured to the Indian tribes respec-
21 tively.

22 (2) Any Indian who commits against the person or property of an
23 Indian or other person any of the following felony offenses as defined
24 in title 18, United States Code, namely, Murder (section 1601), Man-
25 slaughter (section 1602), Negligent Homicide (section 1603), Maim-
26 ing (section 1611), Aggravated Battery (section 1612), Terrorizing
27 (section 1615), Reckless Endangerment (section 1617), Kidnapping
28 (section 1621), Aggravated Criminal Restraint (section 1622), Rape
29 (section 1641), Sexual Assault (section 1642), Sexual Abuse of a
30 Minor (section 1643), Arson (section 1701), Aggravated Property De-
31 struction (section 1702), Burglary (section 1711), Criminal Entry
32 (section 1712), Robbery (section 1721), Extortion (section 1722),
33 Theft (section 1731), Trafficking in Stolen Property (section 1732),
34 Receiving Stolen Property (section 1733), or incest shall be subject to
35 the same law and penalties as all other persons committing any of the
36 above offenses within the special jurisdiction of the United States. As
37 used in this section, the offense of incest shall be defined and punished
38 in accordance with such laws of the State in which the offense was com-
39 mitted as are in force at the time of such offense. In the event of a

1 criminal prosecution of an Indian for one or more of the foregoing
 2 offenses, this subsection shall not be construed to preclude a finding of
 3 guilty of a lesser included offense of such offense or offenses.

4 (e) The provisions of subsection (d) of this section shall not be
 5 applicable within the areas of Indian country listed in subsection (f).

6 (f) (1) Each of the States listed in the following table shall have
 7 jurisdiction over offenses committed by or against Indians in the areas
 8 of Indian country listed opposite the name of the State to the same
 9 extent that such State has jurisdiction over offenses committed else-
 10 where within the State, and the criminal laws of such State shall have
 11 the same force and effect within such Indian country as they have
 12 elsewhere within the State:

State of:	Indian country affected
Alaska-----	All Indian country within the State, except that on Annette Islands the Metlakatla Indian community may exercise jurisdiction over offenses committed by Indians in the same manner in which such jurisdiction may be exercised by Indian tribes in Indian country over which State jurisdiction has not been extended.
California-----	All Indian country within the State.
Minnesota-----	All Indian country within the State, except the Red Lake Reservation.
Nebraska-----	All Indian country within the State.
Oregon-----	All Indian country within the State, except the Warm Springs Reservation.
Wisconsin-----	All Indian country within the State.

13 (2) Nothing in this section shall authorize the alienation, encum-
 14 brance, or taxation of any real or personal property, including water
 15 rights, belonging to any Indian or any Indian tribe, band, or com-
 16 munity that is held in trust by the United States or is subject to a
 17 restriction against alienation imposed by the United States; or shall
 18 authorize regulation of the use of such property in a manner incon-
 19 sistent with any Federal treaty, agreement, or statute or within any
 20 regulation made pursuant thereto; or shall deprive any Indian or any
 21 Indian tribe, band, or community of any right, privilege, or immunity
 22 afforded under Federal treaty, agreement, or statute with respect to
 23 hunting, trapping, or fishing or the control, licensing, or regulation
 24 thereof.

25 (3) The areas listed in subsection (f) (1) are excluded from the spe-
 26 cial jurisdiction of the United States described in section 203 of
 27 title 18.

28 (g) Jurisdiction is conferred on the State of Kansas over offenses
 29 committed by or against Indians on Indian reservations, including
 30 trust or restricted allotments, within the State of Kansas, to the same

1 extent as its courts have jurisdiction over offenses committed elsewhere
2 within the State in accordance with the laws of the State.

3 This subsection shall not deprive the courts of the United States
4 of jurisdiction over offenses defined by the laws of the United States
5 committed by or against Indians on Indian reservations.

6 (h) The State of New York shall have jurisdiction over offenses
7 committed by or against Indians on Indian reservations within the
8 State of New York to the same extent as the courts of the State have
9 jurisdiction over offenses committed elsewhere within the State as
10 defined by the laws of the State, except that nothing contained in this
11 paragraph shall be construed to deprive any Indian tribe, band, or
12 community, or members thereof, of hunting and fishing rights as
13 guaranteed them by agreement, treaty, or custom, nor require them
14 to obtain State fish and game licenses for the exercise of such rights.

15 (i) Ninety days following the adoption of a resolution to that effect
16 by the Indian tribe occupying the particular Indian country or part
17 thereof affected by such grant or assumption, the United States shall
18 reacquire such measure of the criminal jurisdiction granted to or as-
19 sumed by a State pursuant to the provisions of the Act of August 15,
20 1953 (67 Stat. 588), section 231(f), (g), or (h) of the Criminal Code
21 Reform Act of 1977, or the Act of April 11, 1968 (82 Stat. 73), as
22 shall have been determined in the resolution of such tribe.

23 The resolution authorized by this subsection shall be considered
24 adopted only where the enrolled Indians within the affected area of
25 such Indian country accept the resolution by a majority vote of the
26 adult Indians voting at a special election held for that purpose. The
27 Secretary of the Interior shall call such special election under such
28 rules and regulations as he may prescribe when requested to do so by
29 the tribal council or other governing body or by 20 per centum of such
30 enrolled adults.

31 (j) No retrocession of jurisdiction pursuant to subsection (i) of
32 this section shall deprive any court of a State of jurisdiction to hear,
33 determine, render judgment, or impose sentence in any criminal action
34 instituted against any person for any offense committed before the
35 effective date of such retrocession, if the offense charged in such action
36 was cognizable under any law of such State at the time of commission
37 of such offense. For the purpose of any such criminal action, such
38 retrocession shall take effect on the day following the date of final
39 determination of such action.

1 **PART E—AMENDMENTS RELATING TO JUDICI-**
 2 **ARY AND JUDICIAL PROCEDURE, TITLE 28,**
 3 **UNITED STATES CODE**

4 SEC. 241. A new chapter 58 of title 28, United States Code, is added
 5 after chapter 57, to read as follows:

6 **“Chapter 58.—UNITED STATES SENTENCING**
 7 **COMMISSION**

“SEC.

“991. United States Sentencing Commission, establishment and purpose.

“992. Terms of office; compensation.

“993. Designation of Chairman; powers and duties of Chairman.

“994. Duties of the Commission.

“995. Powers of the Commission.

“996. Director and staff.

“997. Annual report.

“998. Definitions..

8 **“§ 991. United States Sentencing Commission; establishment**
 9 **and purpose**

10 “(a) There is hereby established as an independent Commission in
 11 the judicial branch a United States Sentencing Commission which
 12 shall consist of nine members designated by the Judicial Conference
 13 of the United States. A member of the Commission may be removed
 14 by the Judicial Conference only for cause.

15 “(b) The purposes of the United States Sentencing Commission
 16 are to:

17 “(1) establish sentencing policies and practices for the federal
 18 criminal justice system that:

19 “(A) assure the meeting of the purposes of sentencing as
 20 set forth in section 101(b) of title 18, United States Code;

21 “(B) provide certainty and fairness in meeting the pur-
 22 poses of sentencing, avoiding unwarranted disparity while
 23 maintaining sufficient flexibility to permit individualized sen-
 24 tences when warranted by mitigating or aggravating factors
 25 not taken into account in the establishment of general sen-
 26 tencing practices;

27 “(C) reflect, to the extent practicable, advancement in
 28 knowledge of human behavior as it relates to the criminal jus-
 29 tice process; and

30 “(2) develop means of measuring the degree to which the sen-
 31 tencing, penal, and correctional practices are effective in meeting
 32 the purposes of sentencing as set forth in section 101(b) of title
 33 18, United States Code.

1 **“§ 992. Terms of office; compensation**

2 “(a) Commissioners shall be designated for six-year terms, except
3 that the terms of the first Commissioners shall be staggered so that:

4 “(1) three members are designated for a two-year term;

5 “(2) three members are designated for a four-year term; and

6 “(3) three members are designated for a full six-year term.

7 “(b) No Commissioner may serve more than two full terms. A Com-
8 missioner designated to fill a vacancy that occurs before the expiration
9 of the term for which his predecessor was appointed shall be designated
10 only for the remainder of such term.

11 “(c) A member of the Commission who is an employee of the Federal
12 Government shall serve without compensation in addition to that re-
13 ceived for his services as an employee of the Federal Government, but
14 shall be reimbursed for travel, subsistence, and other necessary expenses
15 incurred in the performance of duties vested in the Commission. A
16 member of the Commission who is not a Federal employee shall receive
17 the highest daily rate now or hereafter prescribed for grade 18 of the
18 General Schedule pay rates (5 U.S.C. 5332) when engaged in the actual
19 performance of duties vested in the Commission, plus reimbursement
20 for travel, subsistence, and other necessary expenses incurred in the
21 performance of such duties.

22 **“§ 993. Designation of Chairman; powers and duties of Chairman**

23 “(a) The Commission shall from time to time designate by majority
24 vote one of its members to serve as Chairman.

25 “(b) The Chairman shall:

26 “(1) preside at meetings of the Commission; and

27 “(2) direct:

28 “(A) the preparation of requests for appropriations for the
29 Commission; and

30 “(B) the use of funds made available to the Commission.

31 **§ 994. Duties of Commission**

32 “(a) The Commission, by vote of a majority of the members, and
33 pursuant to its rules and regulations and, consistent with all pertinent
34 provisions of this title and title 18, shall promulgate and distribute to
35 all courts of the United States and to the United States Probation
36 Service:

37 “(1) guidelines, as described in subsections (b) through (e),
38 for use of a sentencing court in determining whether to impose a
39 sentence to probation, a fine, a term of imprisonment, or a term
40 of parole ineligibility and in determining the appropriate amount
41 of a fine or the appropriate length of a term of probation, term

1 of imprisonment, or term of parole ineligibility to be imposed in
2 a criminal case; and

3 "(2) general policy statements regarding application of the
4 guidelines or any other aspect of sentencing that in the view of
5 the Commission would further the purposes set forth in section
6 101(b) of title 18, United States Code.

7 "(b) The guidelines promulgated pursuant to subsection (a)(1)
8 shall, for each category of offense involving each category of defend-
9 ant, provide a suggested sentencing range that is consistent with all
10 pertinent provisions of title 18, United States Code.

11 "(c) In establishing categories of offenses for use in the guidelines,
12 the Commission shall consider, but shall not limit its consideration to:

13 "(1) the grade of the offense;

14 "(2) the circumstances under which the offense was committed
15 which mitigate or aggravate the seriousness of the offense;

16 "(3) the nature and degree of the harm caused by the offense,
17 including whether it involved property, irreplaceable property, a
18 person, a number of persons, or a breach of public trust;

19 "(4) the community view of the gravity of the offense;

20 "(5) the public concern generated by the offense;

21 "(6) the deterrent effect a particular sentence may have on the
22 commission of the offense by others; and

23 "(7) the current incidence of the offense in the community and
24 in the nation as a whole.

25 "(d) In establishing categories of defendants for use in the guide-
26 lines, the Commission shall consider, but shall not limit its considera-
27 tion to, a defendant's:

28 "(1) age;

29 "(2) education;

30 "(3) vocational skills;

31 "(4) mental and emotional condition to the extent that such
32 condition mitigates the defendant's culpability or to the extent
33 that such condition is otherwise plainly relevant;

34 "(5) physical condition, including drug dependence;

35 "(6) previous employment record;

36 "(7) family ties and responsibilities;

37 "(8) community ties;

38 "(9) role in the offense;

39 "(10) criminal history, including prior criminal activity not
40 resulting in convictions, prior convictions, and prior sentences;

41 and

1 “(11) degree of dependence upon criminal activity for a liveli-
2 hood.

3 “(e) A substantial sentence of imprisonment shall be provided in
4 the guidelines for most cases in which the defendant has a history of
5 several prior convictions for offenses committed on different occasions,
6 in which the defendant committed the offense as part of a pattern
7 of criminal conduct from which he derived a substantial portion of
8 his income, or in which the defendant committed the offense in further-
9 ance of a conspiracy with three or more persons engaging in a pattern
10 of racketeering activity in which the defendant participated in a
11 managerial or supervisory capacity.

12 “(f) The Commission, by vote of a majority of the members, and
13 pursuant to its rules and regulations and consistent with all pertinent
14 provisions of this title and title 18, United States Code, shall promul-
15 gate and distribute to the United States Parole Commission:

16 “(1) guidelines consistent with those promulgated pursuant to
17 subsection (a)(1) of this section for use of the United States
18 Parole Commission in determining whether to parole a prisoner
19 and in determining the length of the term and conditions of parole;
20 and

21 “(2) general policy statements regarding application of the
22 guidelines or any other aspect of parole that in the view of the
23 Commission would further the purposes set forth in section 101
24 (b) of title 18, United States Code.

25 “(g) Guidelines promulgated pursuant to subsection (a)(1) or (f)
26 (1) shall be reported to the Congress by the Commission at or after
27 the beginning of a regular session of Congress but not later than the
28 first day of May, and shall take effect one hundred eighty days after
29 the Commission reports them, unless within that time one House of
30 Congress votes to disapprove them.

31 “§ 995. Powers of Commission

32 “(a) The Commission, by vote of a majority of the members present
33 and voting, shall have the power to:

34 “(1) establish general policies and promulgate such rules and
35 regulations for the Commission as are necessary to carry out the
36 purposes of this chapter;

37 “(2) appoint and fix the salary and duties of the Staff Director
38 of the Sentencing Commission, who shall serve at the discretion
39 of the Commission;

40 “(3) deny, revise, or ratify any request for regular, supple-
41 mental, or deficiency appropriations prior to any submission of

1 such request to the Office of Management and Budget by the Chair-
2 man;

3 "(4) procure for the Commission temporary and intermittent
4 services to the same extent as is authorized by section 3109(b) of
5 title 5, United States Code;

6 "(5) utilize, with their consent, the services, equipment, per-
7 sonnel, information, and facilities of other Federal, State, local,
8 and private agencies and instrumentalities with or without re-
9 imbursement therefor;

10 "(6) without regard to section 3648 of the Revised Statutes of
11 the United States (31 U.S.C. 529), enter into and perform such
12 contracts, leases, cooperative agreements, and other transactions
13 as may be necessary in the conduct of the functions of the Com-
14 mission, with any public agency, or with any person, firm, asso-
15 ciation, corporation, educational institution, or nonprofit organi-
16 zation;

17 "(7) accept voluntary and uncompensated services, notwith-
18 standing the provisions of section 3679 of the Revised Statutes of
19 the United States (31 U.S.C. 655(b));

20 "(8) request such information, data, and reports from any Fed-
21 eral agency or judicial officer as the Commission may from time to
22 time require and as may be produced consistent with other law;

23 "(9) arrange with the head of any other Federal agency for
24 the performance by such agency of any function of the Commis-
25 sion, with or without reimbursement;

26 "(10) establish a research and development program within the
27 Commission for the purpose of:

28 "(A) serving as a clearinghouse and information center
29 for the collection, preparation, and dissemination of infor-
30 mation on Federal sentencing practices;

31 "(B) assisting and serving in a consulting capacity to Fed-
32 eral courts, departments, and agencies in the development,
33 maintenance, and coordination of sound sentencing practices;

34 "(11) collect systematically the data obtained from studies, re-
35 search, and the empirical experience of public and private agen-
36 cies concerning the sentencing process;

37 "(12) publish data concerning the sentencing processes;

38 "(13) collect systematically and disseminate information con-
39 cerning sentences actually imposed, and the relationship of such
40 sentences to the factors set forth in section 2003(a) of title 18,
41 United States Code;

1 “(14) collect systematically and disseminate information re-
2 garding effectiveness of sentences imposed;

3 “(15) devise and conduct, in various geographical locations,
4 seminars and workshops providing continuing studies for per-
5 sons engaged in the sentencing field;

6 “(16) devise and conduct a training program of short-term
7 instruction in sentencing techniques for judicial and probation
8 personnel and other persons connected with the sentencing
9 process:

10 “(17) make recommendations to Congress concerning modifi-
11 cation or enactment of statutes relating to sentencing, penal, and
12 correctional matters that the Commission finds to be necessary
13 and advisable to carry out an effective, humane, and rational sen-
14 tencing policy; and

15 “(18) perform such other functions as are required to permit
16 federal courts to meet their responsibilities under section 2003(a)
17 of title 18, United States Code, and to permit others involved in
18 the federal criminal justice system to meet their related
19 responsibilities.

20 “(b) The Commission shall have such other powers and duties
21 and shall perform such other functions as may be necessary to carry
22 out the purposes of this chapter, and may delegate to any Com-
23 missioner or designated person such powers as may be appropriate
24 other than the power to establish general policies, guidelines, rules,
25 and factors under subsection (a) and (b) (1).

26 “(c) Upon the request of the Commission, each federal agency is
27 authorized and directed to make its services, equipment, personnel,
28 facilities, and information available to the greatest practicable extent
29 to the Commission in the execution of its functions.

30 “(d) Regular meetings of the Commission shall be held not less
31 frequently than quarterly to establish and consider revisions to its
32 general guidelines, policies, and rules. Special meetings shall be held
33 at the call of the Chairman, acting at his own discretion or pursuant
34 to the petition of any five members. A simple majority of the member-
35 ship shall constitute a quorum for the conduct of business.

36 “(e) Except as otherwise provided by law, the Commission shall
37 maintain and make available for public inspection a record of the
38 final vote of each member of any action taken by it.

39 **“§ 996. Director and Staff**

40 “(a) The Staff Director shall supervise the activities of persons
41 employed by the Commission and perform other duties assigned to
42 him by the Commission.

1 “(b) The Staff Director shall appoint such officers and employees
2 as are necessary in the execution of the functions of the Commission,
3 subject to the provisions of title 5, United States Code, governing ap-
4 pointments in the competitive service and the provisions of chapter 51
5 and subchapter II of such title, relating to classification and General
6 Schedule pay rates.

7 “§ 997. **Annual Report**

8 “The Commission shall report annually to the United States Judicial
9 Conference, the Congress, and the President of the United States on
10 the activities of the Commission.

11 “§ 998. **Definitions**

12 “As used in this chapter :

13 “(a) ‘Commission’ means the United States Sentencing Com-
14 mission;

15 “(b) ‘Commissioner’ means a member of the United States Sen-
16 tencing Commission;

17 “(c) ‘guidelines’ means the guidelines promulgated by the Com-
18 mission pursuant to section 994(a) or (f) of this title; and

19 “(d) ‘rules and regulations’ means rules and regulations pro-
20 mulgated by the Commission pursuant to section 995 of this title.”.

21 Sec. 242. The analysis at the beginning of title 28, United States
22 Code, is amended by adding after the item relating to chapter 57
23 the following new item :

“58. United States Sentencing Commission----- 991”.

24 Sec. 243. The analysis at the beginning of Part III of title 28,
25 United States Code, is amended by adding after the item relating to
26 chapter 57 the following new item :

“58. United States Sentencing Commission----- 991”.

27 **PART F—AMENDMENTS RELATING TO WAR**
28 **AND NATIONAL DEFENSE, TITLE 50, UNITED**
29 **STATES CODE**

30 Sec. 251. Section 793 of title 18, United States Code, as it existed
31 on the day before the effective date of this Act, is reenacted and re-
32 designated as section 18 of the Subversive Activities Control Act of
33 1950 in lieu of the existing text of such section.

34 Sec. 252. (a) Sections 794(a), 794(b), and 794(c) of title 18, United
35 States Code, as they existed on the day before the effective date of this
36 Act, are reenacted and redesignated as subsections (a), (b), and (c),
37 respectively, of section 201 of the Espionage and Sabotage Act of
38 1954 in lieu of the existing text of such section.

39 (b) Section 798 of title 18, United States Code, as enacted by sec-
tion 4 of the Act of June 30, 1953 (67 Stat. 133), and as it existed on

1 the day before the effective date of this Act, is reenacted and redesign-
 2 nated as subsection (d) of section 201 of the Espionage and Sabotage
 3 Act of 1954.

4 SEC. 253. Section 798 of title 18, United States Code, as enacted by
 5 section 24(a) of the Act of October 31, 1951 (65 Stat. 719), and as it
 6 existed on the day before the effective date of this Act, is reenacted
 7 and redesignated as section 24 of the Act of October 31, 1951 in lieu
 8 of the existing text of such section.

9 SEC. 254. The provisions of chapter 3 of title 18, United States Code
 10 (Culpable States of Mind), are not applicable to the amendments to
 11 title 50 set forth in section 241, 242, and 243 of this Act.

12 TITLE III—GENERAL PROVISIONS

13 SEC. 260. SEVERABILITY.—If a provision of this Act is held invalid,
 14 the validity of the other provisions of the Act shall not be affected. If
 15 an application of a provision of this Act to a person or circumstance
 16 is held invalid, the validity of the application of the provisions to
 17 another person or circumstance shall not be affected.

18 SEC. 261. TRANSITION.—(a) The Bureau of Prisons created under
 19 chapter 303 of title 18, United States Code, as that chapter existed
 20 before the effective date of this Act, is continued as the Bureau of
 21 Prisons established under section 571 of title 28, United States Code.
 22 The Director of the Bureau of Prisons in office on the effective date
 23 of this Act shall continue to hold office under section 571(b) of title
 24 28, United States Code.

25 (b) The Federal Prison Industries created under section 4121 of
 26 title 18, United States Code, as that section existed prior to the effec-
 27 tive date of this Act, is continued as the Federal Prison Industries
 28 created under section 581 of title 28, United States Code. A member
 29 of the board of directors shall continue to hold office under the provi-
 30 sions of section 581 of title 28, United States Code.

31 SEC. 262. AUTHORIZATION.—There are hereby authorized to be ap-
 32 propriated such sums as may be necessary to carry out the provisions
 33 and purposes of this Act.

34 SEC. 263. EFFECTIVE DATE.—This Act shall take effect on the first
 35 day of the first calendar month beginning twenty-four months after
 36 the date of enactment of this Act, except that chapter 58 of title 28,
 37 United States Code, shall take effect on the date of enactment of this
 38 Act.

95TH CONGRESS
1ST SESSION

S. 1437

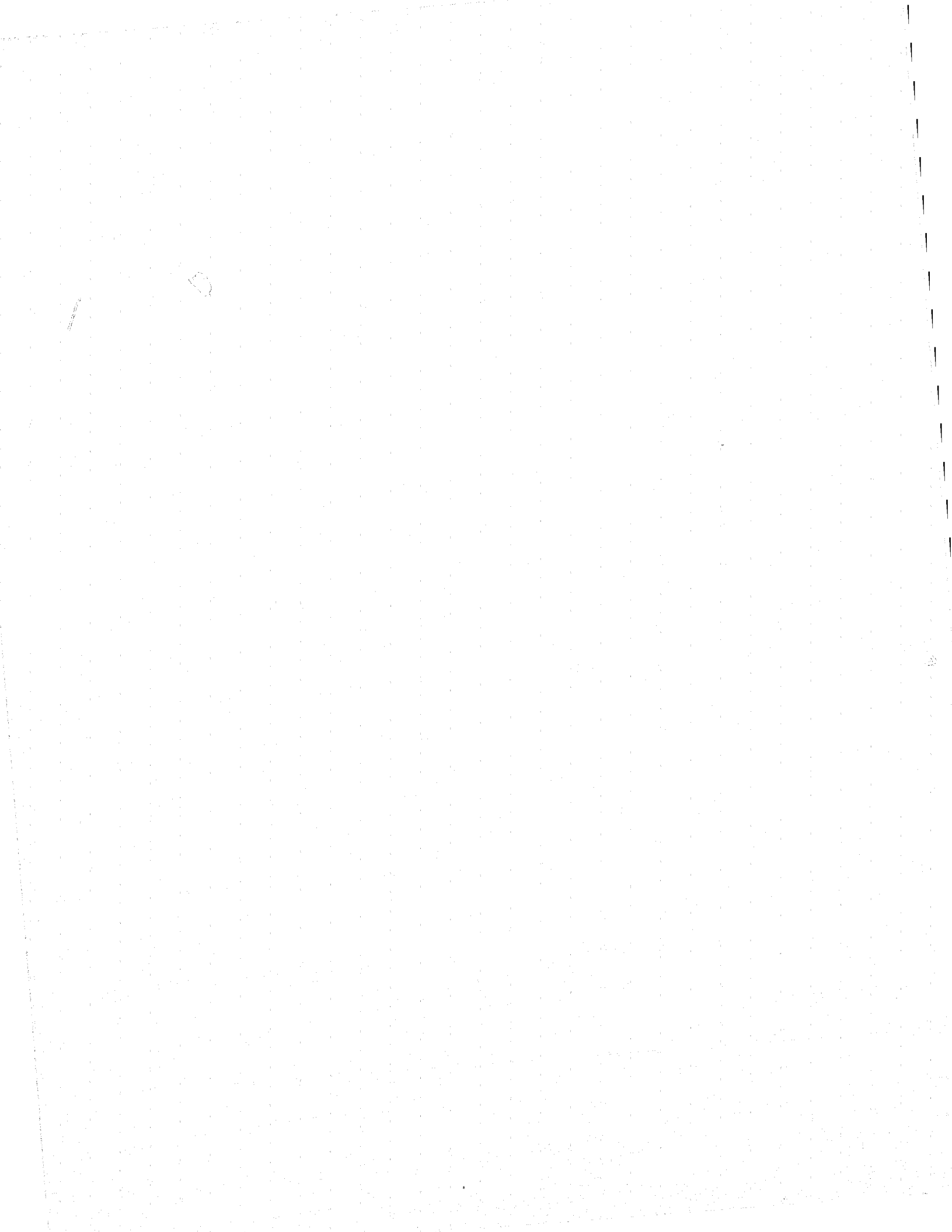
A BILL

To codify, revise, and reform title 18 of the
United States Code: and for other pur-
poses.

By Mr. McCLELLAN and Mr. KENNEDY

MAY 2, 1977

Read twice and referred to the Committee on the
Judiciary



END