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SENATE

REPORT
No. 95-1079

AN ACT TO COMBAT INTERNATIONAL TERRORISM

AUGUST 9 (legislative day, MAY 17,) 1978.—Ordered to be printed

Mr. BAYH, from the Select Committee on Intelligence, submitted the following

REPORT

[To accompany S. 2236]

The Select Committee on Intelligence, to which was referred the bill (S. 2236) to effect certain reorganization of the Federal Government to strengthen Federal programs and policies for combating international and domestic terrorism, having considered the same, reports the bill with amendments. The committee makes no recommendation on the bill as a whole.

PURPOSE

The purpose of S. 2236, as reported, is to authorize such antiterrorist measures as the listing of states supporting terrorism, the imposition of sanctions against states so listed, the evaluation of security measures at foreign airports, the use of detection and identification taggants for explosives, the implementation of existing international agreements on terrorism, and the encouragement of further international antiterrorist activities.

BACKGROUND

International terrorism must be placed high on the agenda of the world's problems. It demands the serious consideration of world leaders and a coordinated, effective response. Terrorist incidents have not only become more frequent and destructive, but have taken on an international character as well. Experts fear that as air-piracy, hostage-taking, and bombing become commonplace, terrorists will resort to incidents involving weapons of mass destruction in attempts to cripple the vital systems of an entire city or region. Whereas terrorism was once motivated by such political motives as frustrated nationalism, as was the Palestinian movement, it has now taken on an increasingly nihilistic character, for example, in such groups as the Baader-

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Meinhof Gang and the Japanese Red Army. The mounting evidence of international cooperation among diverse terrorist groups and increasing state support of international terrorism underscore the growing threat of international terrorism.

Although the United States has been relatively free of major incidents of international terrorism within its borders, it must prepare itself for this eventuality. The most careful study and concerted action are in order.

Action by the Select Committee on Intelligence

On December 7, 1977, S. 2236 was ordered to be referred sequentially to the Select Committee on Intelligence under the provisions of Senate Resolution 400. After being reported by the Committee on Governmental Affairs, the Committee on Commerce, Science and Transportation, and the Committee on Foreign Relations, the bill was referred to the Intelligence Committee on July 10, 1978, for a period of 30 days.

On July 25, 1978, the Senate Select Committee on Intelligence held a closed hearing on S. 2236 and received testimony from:

Ambassador Anthony Quainton, Director of the Office to Combat Terrorism, Department of State, and Chairman of the Interagency Working Group on Terrorism.

Frederick P. Hitz, Legislative Counsel to the Director of Central Intelligence, who was accompanied by other representatives of the intelligence community.

J. Robert McBrien, Special Assistant to the Secretary of the Treasury on Enforcement and Operations.

The following issues or concerns were highlighted at the hearing:

Ambassador Anthony Quainton, Chairman of the Interagency Working Group on Terrorism, stated that lines of operational authority within the Federal Government with respect to combating terrorism were clearer now than in the past. He did acknowledge that, to the best of his knowledge, there have been no interagency simulations or "antiterrorist games" which would further clarify lines of responsibility and authority.

The Ambassador pledged to encourage each of the 28 agencies which make up the Interagency Working Group to review S. 2525, the select committee's charter legislation, from the perspective of the bill's impact on the agency's antiterrorist capabilities.

The intelligence community witnesses and the representative of the Department of the Treasury were united in their deep concern about the absence in the bill of any requirements which would protect the security of classified information. They emphasized that the incident report and the U.S. capability report required by the bill could contain highly classified intelligence information including information regarding intelligence sources and methods. They felt strongly that any reports created under the terms of the bill which included intelligence information should be handled through the channels established by Congress for receiving and controlling access to such information; namely, through the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence. They stressed that only these committees possess secure storage facilities

commensurate with the sensitivity and fragility of the information the reports would contain.

The intelligence community witnesses also pointed out that because of the bill's reporting requirements, friendly foreign governments would be less likely to share information about terrorist groups unless they believed that the information they provided would be afforded appropriate security.

One witness said that if the bill caused any decrease in the sharing of information about terrorists between the United States and friendly foreign governments, it would result in a net loss in our antiterrorist capabilities.

Two witnesses suggested that the terrorist incident report required by the bill might, in fact, be an inducement to terrorists, many of whom perform their deeds for the sake of publicity. They said that a public report from the President of the United States to Congress would constitute significant publicity.

The Department of the Treasury witness stated that tagging explosives would provide the Government with "critical tools' in combating terrorism. Identification taggants are microscopic elements added to explosive material that after detonation will enable the explosive to be traced. Detection taggants would enable the presence of explosive material to be detected before detonation. According to the Treasury, technology for tagging programs, though not perfected, will permit tagging of all types of explosives by 1981. The Treasury admitted that tagging in itself would not end bombings. Indentification taggants will help solve some bombings, but not all. Detection taggants will not allow all planted bombs to be discovered before explosion. However, Treasury felt tagging would be a major advance in combating terrorism.

The Treasury Department witness supported reinsertion of a provision into the bill which would permit tagging black and smokeless powders once technology has advanced to the point where placing taggants in these powders would not affect their use in firearms. Under this proposal, powder in prepackaged ammunition would remain untagged because the small amounts of powder in ammunition would be impractical for use in bombs.

As written, the bill eliminates the tagging requirement for black and smokeless powders. According to testimony before this committee, if these powders were tagged, bombs using them could be traced to the production run in the factory where they were manufactured. The Treasury Department believes this additional intelligence information would help significantly in apprehending terrorists and other bombers, because while ordinarily used as propellants in firearms, black and smokeless powders are also the second most widely used type of explosive in illegal bombings in the United States. According to the Bureau of Alcohol, Tobacco and Firearms, 19.8 percent of all bombings in the United States in 1976 used black and smokeless powder. Bombs of this type caused 20 percent of the injuries and 12 percent of the deaths caused by bombings that year. The FBI estimates that 33 percent of terrorist bombings used these powders.

In addition to the security problems associated with the classified reports, the witnesses also argued that the quantity and frequency of

the reports required by the bill constituted an unnecessarily onerous burden. Each semiannual incident report, for example, would normally cover half of the 300 terrorist incidents which occur throughout the world each year. In 1976, 61 terrorist incidents involved U.S. citizens or U.S. property. The bill required that any incident involving U.S. citizens or significant interests or property of the United States be reported within 30 days. Intelligence community witnesses stated that, while the occurrence of the incident may be known rather quickly, it takes more than 30 days to collect, collate, and assess reports about it.

Additionally, the semiannual incident report, the semiannual report of states supporting international terrorism, and the biennial report on U.S. antiterrorist capabilities would require large numbers of intelligence officers to be engaged in report writing rather than intelligence collection and analysis.

Near the end of the hearing, one of the Senators called the committee's attention to problems associated with section 3(b). That section sets forth criteria for defining "state support of international terrorism." Under the bill, a state could be found to support international terrorism if it deliberately committed any one of five specific acts. The use of words and phrases such as "the likelihood that they would be used * * *," "direct financial support * * *," and "intended by those acts to aid and abet * * *" sets standards of evidence which the intelligence community witnesses admitted they would not normally be able to provide. An intelligence community representative stated that the definition is drawn so stringently that, theoretically, a U.S. official, if he so desired, could make a reasonable case to exclude even the most proterrorist state.

Comments

The Select Committee on Intelligence requested sequential jurisdiction to consider S. 2236 because the bill imposes certain tasks on the intelligence community. The committee has concerned itself with those aspects of the bill which relate directly to the responsibilities of the Government for the collection, analysis, production, and dissemination of intelligence information concerning international terrorism. During the past year, the committee has paid considerable attention to the challenges posed by international terrorism to the United States and to the U.S. responses to such challenges. The Subcommittee on Collection, Production and Quality, chaired by Senator Stevenson, has been conducting a thorough examination of the capabilities of our intelligence agencies in this field. That study will recommend improvements in the management, direction, and policies of the Government's counterterrorist activities.

Virtually every assessment of the problems of terrorism by experts within and without the Government has emphasized the importance of accurate, complete, and timely intelligence dealing with terrorist incidents. Strengthening the ability of our intelligence agencies to obtain necessary information, and to make that information available to all policy makers and Government agencies having the responsibility for protective measures, can make a significant contribution to our Nation's defense against terrorism.

The select committee has a continuing commitment to provide necessary legal authority and appropriate resources for the Government's counterterrorism intelligence operations. In the months ahead the committee will complete its work on charter legislation for the U.S. intelligence community, further clarifying the legal authority of our intelligence agencies. Additional proposals may be introduced in the next session upon the completion of the select committee's indepth inquiry into the counterterrorism intelligence capabilities of the United States.

It is with this background and perspective that the Select Committee on Intelligence has considered S. 2236. The amendments recommended in this bill are designed, in general, to insure that its provisions do not impair the effective performance of the responsibilities that the U.S. intelligence community must bear if the United States is to cope adequately with the challenges of international terrorism. The committee is reporting S. 2236, as further amended by the committee, without recommendation. If the Senate acts favorably upon S. 2236, the committee believes its amendments are necessary and appropriate to satisfy the objectives of the bill without unduly interfering with the ability of our intelligence agencies to discharge their central functions.

Among the more important concerns of the committee were the various reporting and listing requirements established by sections 4, 5, 6, 7, and 8 of the bill; the committee was anxious to insure that any highly sensitive information which might be reported to Congress pursuant to these sections be accorded adequate security. In the opinion of the select committee, this requires that the procedures established by Senate Resolution 400 in the Senate and by House Resolution 658 in the House of Representatives be invoked whenever classified intelligence information is involved in a report to Congress.

Section 3(a) of Senate Resolution 400 requires that all proposed legislation, messages, petitions, memorials, and other matters relating to the intelligence community, be referred to the Senate Select Committee on Intelligence. Nothing in Senate Resolution 400 is meant to be construed as prohibiting or restricting the authority of any other committee to study and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee. Certain highly sensitive information requires very careful handling and Senate Resolution 400 sets conditions under which that information is to be shared. In all of its considerations and in its amendments to S. 2236, the Senate Select Committee on Intelligence does not wish to be interpreted as encouraging the classification of information which could be made available to Congress and the American people without damaging our intelligence capabilities in any way. Our sole concern is that appropriately classified intelligence information be protected through mechanisms already accepted by Congress. Similarly, the committee intends that nothing in S. 2236 or in the amendments proposed by this committee be interpreted in such a manner as to require even the classified reporting of specific sensitive sources or methods of intelligence unless such is required for a full and complete understanding of the event being reported.

The select committee was deeply concerned about the definition of "state support of international terrorism" as set forth in section 3(b) of the bill. It must be emphasized that, in determining whether the actions of a state meet the criteria of this definition, it would not be necessary to provide the sort of evidence which could obtain a guilty verdict in a court of law. It is not necessary to prove "beyond a reasonable doubt" that a state has supported terrorism. In particular, in proving that a state has acted "deliberately" or that it "intended" to aid or abet the commission of any act of international terrorism, reliance can be placed on circumstantial, as opposed to direct, evidence of the state's intention. Similarly, if a state supplies arms to a group which has carried out terrorist acts in the past, direct evidence would not be necessary to establish that the arms were given in the "likelihood" that they would be used in the commission of an act of international terrorism.

The definition of "state support of international terrorism" is a key to implementing sections 5 and 6 which require the listing of, and the imposing of sanctions on, states which "have demonstrated a pattern of support for acts of international terrorism." The drafters intended this definition to exclude from its coverage indirect or inadvertent support for acts of international terrorism or indiscriminate moral support for groups which espouse terrorist tactics.

In attempting, however, to restrict the applicability of the definition to those states which are directly and actively involved in the support of international terrorism, the definition imposes strict standards of proof that it may be very difficult for the intelligence community to meet. For example, the "deliberateness" of a state's actions will of necessity be judged from circumstantial evidence, often of fairly limited scope and low quality. There is little certainty that we would possess a source of intelligence with access to a state's leadership to tell us just what the leadership intended when it agreed to furnish arms, money, diplomatic facilities, et cetera; and if such a source did exist, it would of course be impossible to disclose publicly either its existence or any information it supplied which might suggest its existence.

Similarly, it will be difficult to establish the precise conditions under which arms, explosives, or lethal substances were furnished by a state to a terrorist group; consequently, the judgment of whether or not the "likelihood" existed that they would be used in the commission of a terrorist act would necessarily contain a subjective element.

The remaining clauses of the definition pose similar problems for the intelligence community. In each clause, state support is defined as providing a particular kind of support "for any act of international terrorism." If this is interpreted as requiring that the intelligence community demonstrate a direct connection between the actions of the state and a particular terrorist act, it may be that the available evidence will not be found equal to the task. Rather, the executive branch and Congress may only be able to obtain evidence that demonstrates a close connection between a state and a terrorist group but which may not illuminate the precise relationship between the state and the given terrorist act.

The American people and Congress have a right to know which states support individuals or groups who commit acts of international

terrorism by furnishing arms, explosives or lethal substances, providing training, money, cover, or diplomatic facilities, or by allowing their territory to be used as a sanctuary. The intelligence community is capable of providing some information on those matters with reasonable regularity. Of less material concern to Congress and the American people, at least for the purposes of this bill, is detailed information about the precise routes by which arms and money reach terrorists, and about the precise relationship between the terrorists and those who provide training camps for them, those who supply passports, and those who let them cross their countries' borders. The intelligence community often cannot provide such information.

The inherent subjectivity of the determinations which are required by the definition of state support has led some members of the select committee to fear that the determinations will be influenced unduly by foreign policy concerns independent of the available evidence. This development conceivably could lead to an arbitrary application of the sanctions and would deprive the list of moral authority. Since the public stigmatizing of a state as a supporter of international terrorism might be considered to be the strongest sanction available under the bill, it is of the utmost importance that the list not appear as being tailored to the particular foreign policy interests of a particular administration.

For this reason, some members of the select committee discussed the possibility of modifying the definition of "state support of international terrorism." These members agreed that those provisions which invite subjective application could be eliminated, without penalizing states whose inadvertent actions might have the effect of aiding terrorists. The standards as written require, in most cases, that a connection be made between specific actions of states and given acts of terrorism. The standards considered require only the existence of evidence showing that states cooperate with groups or individuals which commit acts of terrorism. The committee considered rewriting subsection (b) of section 3 as follows:

> (b) "State support of international terrorism" shall consist of any of the following acts when committed by a state:
>
> (1) Furnishing arms, explosives, or lethal substances to any individual, group, or organization which engages in acts of international terrorism;
>
> (2) Directing, providing training for, or assisting any individual, group, or organization which plans or executes any act of international terrorism;
>
> (3) Providing financial support for any individual, group, or organization which plans or executes any act of international terrorism;
>
> (4) Providing diplomatic facilities which aid or abet the commission of any act of international terrorism; or
>
> (5) Failing to permit the extradition or prosecution of any individual within its territory who has committed any act of international terrorism.

It was thought by some that this definition would allow for more objective determinations of which states belong on the list and, hence, would avoid the temptations to which decisionmakers faced with the necessity of making subjective decisions might succumb.

On the other hand, other members of the select committee felt that the definition as currently written more precisely denoted those countries which ought to be placed on the list and that the elements of deliberateness and intention were necessary in order to keep the list from becoming too inclusive.

An extensive list of states supporting international terrorism would require an excessive number of exemptions under section 6 of the bill and the effectiveness of the sanctions would be lost. These members, furthermore, felt that the flexibility inherent in the application of the current definition was appropriate and necessary for the successful conduct of foreign policy.

Given these conflicting points of view, and given the fact that the current definition had been laboriously negotiated between the Department of State and the Senate committees which have considered the bill previously, the select committee decided not to amend this definition. Individual members indicated, however, that they might attempt to do so during Senate consideration of the bill.

Some Senators voiced strong support for the taggant program and expressed belief in its efficacy. One Senator said this provision was the most important one in the bill. Others were concerned that the program would make little difference in combating terrorism; that the technology for tagging explosives was not yet adequate to warrant inclusion of a taggant program in the bill; that tagging explosives at the point of manufacture might lead to increased volatility of the explosives material, hence making reprocessing and handling more dangerous.

Senators had strong feelings both pro and con concerning the inclusion of taggants in black and smokeless powders. Some Senators questioned whether black powders and smokeless powders should be treated in the same manner.

International terrorism is a burgeoning phenomenon. We need to defend ourselves against it. The contribution this bill will make to combatting the terrorist threat remains to be seen. Certain provisions may enhance to some degree the Government's ability to persuade foreign countries to improve airport security and may aid in the identification of terrorists through tracing explosives used in bombings. The requirements for biennial reports to Congress on the organization of counterterrorist capabilities may stimulate the administration to greater efforts in this area. There are some risks in giving wide distribution to a detailed analysis of our vulnerabilities, but the amendments adopted by this committee are designed to minimize those risks where the information deals with sensitive intelligence sources and methods.

Section-by-Section Analysis

Section 4

This section of the bill provides for a comprehensive report on all acts of international terrorism, detailing the nature of the incident, the identity of the participants, the extent of state support of the act, and the U.S. response. The committee has amended this section in four respects:

1. The earlier draft required that each incident involving U.S. interest be reported to Congress not later than 30 days after it occurred.

Since specific intelligence information of the kind required by this section is not available immediately and since it often takes several months for a complete and meaningful picture of what took place to be collected, analyzed, and produced, the committee felt it would be more reasonable to allow 90 days after each incident to file a report. It therefore amended this provision of the bill (section 4(a)) to allow a 90-day reporting period.

2. The committee decided to require an annual rather than a semiannual incident report. Since the data for these reports is drawn in large part from the intelligence community, and since the analytical manpower and resources devoted to antiterrorism in the intelligence community are limited, it was the belief of the committee that the intelligence community's larger antiterrorism effort would be better served if there were one yearly report of this nature rather than two. Accordingly, the committee amended section 4(a) to require annual reports.

3. The original bill requires reports on all incidents of international terrorism. Given the large number of such incidents which occur each year, and given the specificity required of the individual reports, this would represent an unreasonable and unnecessary drain on the antiterrorist resources of the intelligence community. The committee has therefore amended the bill to require full reports only on those incidents of international terrorism "which affect citizens or significant interest or property of the United States," or which are otherwise "significant terrorist acts." "Significant terrorist acts" would include terrorist acts which are targeted against foreign leaders or which threaten severely the political stability of a foreign government, incidents which incorporate significant new terrorist tactics or weapons, incidents or attempted incidents of mass destruction, and incidents which point clearly to the complicity of foreign governments in international terrorism. Other international terrorist incidents of lesser significance should be identified in a way which will allow further research if such is desired. A series of related terrorist acts may be summarized in a single section of the report.

4. In light of intelligence community testimony at the committee hearing, the committee believes that the provisions of the bill must be strengthened to allow for secure reception, storage, and dissemination of classified intelligence information. Intelligence community representatives emphasized that the incident report required by the bill would most likely contain highly classified intelligence information including information about sources and methods. The committee believes that all intelligence information reported pursuant to the requirements of the bill should be handled through the secure channels established by Congress for receiving and controlling access to such information, namely, the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence. Only these committees possess secure storage facilities commensurate with the sensitivity and fragility of the information the report may contain. The committee, therefore, amends the bill to require that all classified intelligence information "be held for Congress" by the House and Senate Intelligence Committees. It is the understanding of the committee that this shall be carried out in accordance with

the terms set forth in Senate Resolution 400, 94th Congress, and in House Resolution 658, 95th Congress, governing the reception, storage, and dissemination of classified intelligence information.

Section 5

This section of the bill requires a semiannual list of all states which have demonstrated a pattern of support for acts of international terrorism. In addition to supplying the list, the President must submit his reasons for including each state on the list. The committee has amended the bill language in two respects:

1. The committee has changed what was a semiannual report to an annual report. Reducing the frequency of this list will lessen the drain on the intelligence community's antiterrorist resources. The committee has also inserted a provision which will allow the President the flexibility of including an additional state on the list at any time. This would permit the emergency inclusion of a state should it openly support an act of terrorism of such a blatant nature that it would be unwise to delay inclusion of that state until such a time as a new annual list was prepared. The committee did not feel it was necessary to specify in the amendment a means through which the President could remove a state from this list since both section 5(e) and the annual redoing of the list provide an opportunity to remove a State from the list.

It is the understanding of the committee that, while the President's statement of reasons for including a country on the list should be clear and complete, it need not present all the detailed evidence that went into the determination. Should such detailed information become necessary, it would always be readily available upon request.

2. The committee also amended section 5 to strengthen its provisions for handling classified intelligence information in a secure manner. The reasons for doing this are outlined in the committee's comments on section 4.

Section 6

The select committee made two amendments to section 6. First, it rewrote section 6(a)(3) in order to include a clearer definition of the sorts of commodities and technical data which are not to be exported to states supporting international terrorism. Second, it added a new paragraph, 6(b)(2), to enable the President to submit a classified report justifying his suspension of any of the prohibitions listed in section 6(a), should such be necessary.

The new language of 6(a)(3) deletes the term "potential military application" which was thought to be too vague to provide clear guidance to the executive branch. The new language prohibits the export of any commodities or technical data which enhance either the government's military potential or its ability to support acts of international terrorism. This prohibition includes all lethal equipment and any logistic equipment (such as trucks, helicopters, fixed-wing airplanes, or ships) which would contribute materially to the ability of the government to conduct military operations or to support acts of international terrorism. Furthermore, the export of any commodities or technical data is prohibited even if similar commodities would be available to that government from other suppliers. The new language

does not include items (for example, food or medicine) which might be said to have potential military application but which do not enhance the state's military potential.

The new paragraph 6(b)(2) enables the President to make a classified report of his reasons for suspending the sanctions in a particular case. If the classified report contains intelligence information, it will be held for Congress by the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence in accordance with the applicable rules of each House.

There are several circumstances which might give rise to the need for a classified report. The nature of the "other national interests" of the United States, which the President is to take into consideration in determining whether sanctions might be suspended, may be such that an unclassified report about them would be limited in what it could say. Of course, as much information as possible should be included in the unclassified summary and presented to the President pro tempore of the Senate and the Speaker of the House; but Congress should not be limited in what it receives from the President solely to that which can be contained in an unclassified report.

In addition, there may be sensitive intelligence information available to the President which suggests that a state on the list of these supporting international terrorism has made some adjustments in its policy. While these adjustments may not be so great as to enable the President to propose removing the state from the list, he may nevertheless wish to reward the forces behind those adjustments by making some exceptions to the sanctions. In cases of "signaling" of this sort, it is envisioned that the President might wish to relax the sanctions with respect to nonlethal equipment. Since the sources of the information on which the President might be acting could be quite sensitive, and since the information itself, if made public, might bring to an end the favorable processes taking place in the state, the reasons for the President's actions could be submitted in a classified intelligence report.

Section 7

This section calls for a very extensive report of U.S. capabilities to be made biennially. Since it was the desire of the drafters of this bill to allow the Committee on Governmental Affairs to assess the effectiveness of any Government reorganization or efforts to enhance its ability to combat international terrorism, they required this extensive report. They did not mean that this obligation should exist in perpetuity. Therefore, the select committee has added a sunset clause to this section, the effect of which will be to terminate this reporting requirement after the fifth such report. These first few reports could be very helpful in assessing the effectiveness of U.S. policies to combat international terrorism; there is, however, no need to carry on this requirement indefinitely.

Although these reports are to be comprehensive, they need not indicate specific deficiencies of particular U.S. installations.

The select committee has also inserted language in this section similar to that introduced in sections 4, 5, and 6, which will allow for the more secure handling of any classified intelligence information which might be generated under the requirements of this section of the bill.

Section 8

This section requires a semiannual report to Congress concerning the security of foreign airports based on assessments made by the Secretary of Transportation. To the extent possible, this report should avoid classified information by summarizing the detailed assessments required by subsection (a). However, the select committee has amended this section to allow for the submission of a classified report should that prove necessary. In no case should the report describe specific vulnerabilities of foreign airports.

To produce these assessments, the cooperation of foreigns will be necessary. If foreign governments thought that the United States would publish the details of its inquiries, they would be reluctant to furnish us with data on their airports' security. In this connection, it should be noted that information supplied to this Government by a foreign government which is considered classified by the foreign government is classifiable according to paragraph 1–301(b) of Executive Order 12065 on national security information. The detailed assessments referred to in subsection (a) of this section of this bill will most likely be classifiable on this ground and, hence, not subject to release by means of freedom of information requests.

In any case, it is not envisaged that any detailed intelligence information which might be helpful to a potential terrorist will be released publicly in accordance with this section. Any classified intelligence information will be held for Congress by the two Intelligence Committees in accordance with the rules of each House.

Section 12

Various agencies of the U.S. Government concerned with national security may have need of untagged explosives from time to time. This committee has decided to allow the President to designate persons other than the Secretary of Defense to exempt explosive materials from the provisions of section 12 of this bill should such be necessary.

BUDGETARY IMPACT STATEMENT AND COST ESTIMATE

The Senate Select Committee on Intelligence has been provided with the following information on the budget impact of the bill and the cost estimate by the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

AUGUST 9, 1978.

1. Bill number: S. 2236.
2. Bill title: An Act to Combat International Terrorism.
3. Bill status: As ordered reported by the Senate Select Committee on Intelligence, August 9, 1978.
4. Bill purpose: The purpose of this legislation is to strengthen federal capabilities in countering acts of international terrorism. The Secretary of State is to report to Congress on any incidents of international terrorism, and on any states which have demonstrated a pattern of support for such acts. When a foreign government is listed in the report, the President is directed to withhold foreign assistance and

duty-free treatment, and is not allowed to authorize any sale, credit or guaranty with respect to defense articles or services, or approve any export licenses for commodities or technical data which could potentially have a military application. The Secretary of Transportation is directed by this legislation to assess the effectiveness of security measures maintained at certain foreign airports, and report the findings to Congress. The Secretary is also authorized to provide technical assistance to foreign governments concerning aviation security. The Federal Aviation Act of 1958 is amended to require that the Secretary of Transportation extend security measures to charter operations. The bill also requires that certain identification and detection taggants are to be contained in any explosive materials manufactured, shipped, distributed, received, sold, disposed of, or imported. The legislation clarifies what type of nuclear material information may be kept classified by the Nuclear Regulatory Commission.

5. Cost estimate:

[In millions of dollars]

Authorization level: [1]	
Fiscal Year:	
1979	-----
1980	0.1
1981	.1
1982	.1
1983	-----
Estimated costs:	
Fiscal Year:	
1979	1.9
1980	2.3
1981	2.5
1982	2.6
1983	2.5

[1] Does not include sums for required activities of the Department of Transportation and the Department of the Treasury, for which no specific authorization is provided in the bill.

6. Basis of estimate: For the purpose of this estimate, an enactment date of October 1, 1978, has been assumed. The provision of this legislation determined to have the greatest impact on costs is the requirement that the Department of Transportation (DOT) assess the effectiveness of security measures mantained in certain foreign airports. Based on information obtained from DOT, it is estimated that the cost of inspecting the approximately 170 airports involved would be $1.4 million per year. In order to insure compliance by charter airlines of the security requirements, it is estimated that the cost to DOT for the additional inspections would be approximately $0.4 million each year. Any increases in the costs of these two activities due to inflation are expected to be offset by the need for fewer inspections each year as it is determined that adequate security measures are being taken. The $100,000 authorized for each of the fiscal years 1980, 1981, and 1982 for aviation security assistance to foreign governments is assumed to be fully appropriated each year, and is expected to be spent at a rate of 80 percent in the first year and 20 percent in the second. Based on information obtained from the Department of the Treasury, regulation and enforcement of the detection and identification taggants will

cost approximately $0.1 million in fiscal year 1979, increasing to $0.4 million in 1980, $0.6 million in 1981, $0.7 million in 1982, and $0.7 million in 1983.

The other provisions of this legislation, such as the reporting requirements by the Department of State, are not expected to have a significant impact on costs.

7. Estimate comparison: None.

8. Previous CBO estimate: CBO has prepared two previous cost estimates on S. 2236—the first on May 18, 1978, for the version of the bill as reported by the Senate Committee on Governmental Affairs, and the second on June 7, 1978, as reported by the Senate Committee on Foreign Relations. The estimated costs are the same for all versions.

9. Estimate prepared by: Kathy Weiss.

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Buudget Analysis.

EVALUATION OF REGULATORY IMPACT

In accordance with rule XXIX of the Standing Rules of the Senate, the Senate Select Committee on Intelligence has evaluated the regulatory impact of this legislation and the committee's amendments to the legislation as reported by the Committees on Governmental Affairs, Foreign Relations, and Commerce, Science and Transportation.

The amendments adopted by this committee will have no appreciable effect on the regulatory impact of the bill and the report of the Committee on Governmental Affairs evaluation contained in Senate Report No. 95-908.

CHANGES IN EXISTING LAW

In compliance with section 4 of rule XXIX of the Standing Rules of the Senate, change in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman).

TITLE 18—UNITED STATES CODE—CRIMES AND CRIMINAL PROCEDURE

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Chapter 2.—AIRCRAFT AND MOTOR VEHICLES

SEC. 31 * * *

* * * * * * *

32A. Offenses in violation of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.

* * * * * * *

36. Imparting or conveying threats.

* * * * * * *

§ 31. Definitions.

When used in this chapter the term—

"Aircraft engine", "air navigation facility", "appliance", "civil aircraft", "foreign air commerce", "interstate air commerce", "landing area", "overseas air commerce", "propeller", and "spare part" shall have the meaning ascribed to those terms in the [Civil Aeronautics Act of 1938,] *Federal Aviation Act of 1958* as amended.

* * * * * * *

"Destructive substance" means any explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or matter of a combustible, contaminative, corrosive, or explosive nature; [and]

"Used for commercial purposes" means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit[.];

"In flight" means any time from the moment all the external doors of an aircraft are closed following embarkation until the momment when any such door is opened for disembarkation. In the case of a forced landing the flight shall be deemed to continue until competent authorities take over the responsibility for the aircraft and the persons and property aboard; and

"In service" means any time from the beginning of preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight.

§ 32. Destruction of aircraft or aircraft facilities

[Whoever willfully sets fire to, damages, destroys, disables, or wrecks any civil aircraft used, operated, or employed in interstate, overseas, or foreign air commerce; or

[Whoever willfully sets fire to, damages, destroys, disables, or wrecks any aircraft engine, propeller, appliance, or spare part with intent to damage, destroy, disable, or wreck any such aircraft; or

[Whoever, with like intent, willfully places or causes to be placed any destructive substance in, upon, or in proximity to any such aircraft, or any aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, or other material used or intended to be used in connection with the operation of any such aircraft, or any cargo carried or intended to be carried on any such aircraft, or otherwise makes or causes to be made any such aircraft, aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, or other material unworkable or unusable or hazardous to work or use; or

[Whoever, with like intent, willfully sets fire to, damages, destroys, disables, or wrecks, or places or causes to be placed any destructive substance in, upon, or in proximity to any shop, supply, structure, station, depot, terminal, hangar, ramp, landing area, air-navigation facility or other facility, warehouse, property, machine, or apparatus used or intended to be used in connection with the operation, loading, or unloading of any such aircraft or making any such aircraft ready for flight, or otherwise makes or causes to be made any such shop,

supply, structure, station, depot, terminal, hangar, ramp, landing area, air-navigation facility or other facility, warehouse, property, machine, or apparatus unworkable or unusable or hazardous to work or use; or

[Whoever, with like intent, willfully incapacitates any member of the crew of any such aircraft; or

[Whoever willfully attempts to do any of the aforesaid acts or things—

[shall be fined not more than $10,000 or imprisoned not more than twenty years, or both.]

Whoever willfully sets fire to, damages, destroys, disables, or interferes with the operation of, or makes unsuitable for use any civil aircraft used, operated, or employed in interstate, overseas, or foreign air commerce; or willfully places a destructive substance in, upon, or in proximity to any such aircraft which is likely to damage, destroy, or disable any such aircraft, or any part or other material used, or intended to be used, in connection with the operation of such aircraft; or willfully sets fire to, damages, or disables any air navigation facility or interferes with the operation of such air navigation facility, if any such act is likely to endanger the safety of such aircraft in flight; or

Whoever, with intent to damage, destroy, or disable any such aircraft, willfully sets fire to, damages, destroys, or disables or places a destructive substance in, upon, or in the proximity of any appliance or structure, ramp, landing area, property, machine, or apparatus, or any facility, or other material used, or intended to be used, in connection with the operation, maintenance, or loading or unloading or storage of any such aircraft or any cargo carried or intended to be carried on any such aircraft; or

Whoever willfully performs an act of violence against or incapacitates any passenger or member of the crew of any such aircraft if such act of violence or incapacitation is likely to endanger the safety of such aircraft in service; or

Whoever willfully communicates information, which he knows to be false, thereby endangering the safety of any such aircraft while in flight; or

Whoever willfully attempts to do any of the aforesaid acts—shall be fined not more than $10,000 or imprisoned not more than twenty years, or both.

Sec. 32A. Offenses in violation of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation

"(a) Whoever commits an offense as defined in subsection (b) against or on board an aircraft registered in a state other than the United States and is afterward found in this country—shall be fined not more than $10,000 or imprisoned not more than twenty years, or both.

"(b) For purposes of this section a person commits an 'offense' when he willfully—

"(1) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or

"(2) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or

"(3) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or

"(4) attempts to commit, or is an accomplice of a person who commits or attempts to commit, an offense enumerated in this subsection.".

* * * * * * *

Sec. 36. Imparting or conveying threats

(a) Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by section 32 or 33 of this chapter or section 1992 of chapter 97 or section 2275 of chapter 111 of this title with an apparent determination and will to carry the threat into execution shall be fined not more than $5,000 or imprisoned not more than five years, or both.

Chapter 40.—IMPORTATION, MANUFACTURE, DISTRIBUTION AND STORAGE OF EXPLOSIVE MATERIALS

Sec. 841. Definitions

As used in this chapter—

(a) * * *

* * * * * * *

(o) "Identification taggant" means any substance which (1) is added to an explosive material during the manufacture of such material and (2) is retrievable after detonation and permits the identification of the manufacturer, the date of manufacture of such material, and provides such other information as determined by the Secretary of the Treasury.

(p) "Detective taggant" means any substance which (1) is added to an explosive material during the manufacture of such material, and (2) permits detection of such material prior to its detonation.

* * * * * * *

Sec. 842. Unlawful acts

(a) * * *

* * * * * * *

(l) One year after the date of the enactment of this Act, it shall be unlawful for any person or persons to manufacture any explosive material which does not contain an identification taggant which satisfies the standards promulgated by the Secretary as provided in section 847.

(m) Two years after the date of the enactment of this Act, it shall be unlawful for any person or persons to manufacture any explosive material which does not contain a detection taggant which satisfies the standards promulgated by the Secretary as provided in section 847.

(n) Two years after the date of the enactment of this Act, it shall be unlawful for any person or persons to transport, ship,

distribute, or receive, or cause to be transported, shipped, distributed or received, in interstate or foreign commerce any explosive material which does not contain an identification taggant which satisfies the standards promulgated by the Secretary as provided in section 847.

(o) Three years after the date of the enactment of this Act, it shall be unlawful for any person or persons to transport, ship, distribute, or receive, or cause to be transported, shipped, distributed, or received, in interstate or foreign commerce any explosive material which does not contain a detection taggant which satisfies the standards promulgated by the Secretary as provided in section 847.

(p) One year after the date of the enactment of this Act, it shall be unlawful for any person or persons to import any explosive material which does not contain an identification taggant which satisfies the standards promulgated by the Secretary as provided in section 847:

(q) Two years after the date of the enactment of this Act, it shall be unlawful for any person or persons to import any explosive material which does not contain a detection taggant which satisfies the standard promulgated by the Secretary as provided in section 847.

(r) Two years after the date of the enactment of this Act, it shall be unlawful for any person to resell or otherwise dispose of any explosive material sold as surplus by a military or naval service or other agency of the United States which does not contain an identification taggant which satisfies the standards promulgated by the Secretary as provided in section 847. The shipment of surplus explosive materials from the military establishment where sold to the purchaser's place of business shall be in accordance with regulations promulgated by the Secretary.

(s) Three years after the date of the enactment of this Act, it shall be unlawful for any person to resell or otherwise dispose of any explosive material sold as surplus by a military or naval service or other agency of the United States which does not contain a detection taggant which satisfies the standards promulgated by the Secretary as provided in section 847. The shipment of surplus explosive materials from the military establishment where sold to the purchaser's place of business shall be in accordance with regulations promulgated by the Secretary.

(t) The Secretary shall by regulation defer one or more of the time periods specified in paragraphs [1]*l through* [8]*s by extensions of not more than one year at a time until he is satisfied that taggants: are available in sufficient quantity for commercial purposes; will not impair the quality of the explosive materials for their use; are not unsafe; or will not adversely affect the environment. The Secretary shall inform the Congress sixty days prior to each extension, specifying the reasons for such extensions, and estimating the time he expects the provisions of this section will become effective.*

(u) Black and smokeless powders, used as propellant powders, shall be excluded from the provisions of this Section.

(v) The requirements of paragraphs (l) through (q) of this subsection shall not apply to any explosive material designated by the President or [Secretary of Defense] *his designee as*

an explosive material to be used by the Department of Defense or another agency of Government for national defense or international security purposes. Any explosive material so designated shall be reported promptly to the Secretary of the Treasury.

* * * * * * *

Sec. 844. Penalties

(a)(*1*) Any person who violates subsections (a) through (i) of section 842 of this chapter shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

(*2*) *Any person who violates subsection (1) of section 842 of this chapter shall be fined not more than $10,000 or imprisoned not more than ten years, or both.*

* * * * * * *

Sec. 845. Exceptions; relief from disabilities

(a) Except in the case of subsections (d), (e), (f), (g), (h), and (i) of section 844 of this title, this chapter shall not apply to:

(1) * * *

* * * * * * *

(5) commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in section 921(a)(16) of title 18 of the United States Code, or in antique devices as exempted from the term "destructive device" in section 921(a)(4) of title 18 of the United States Code; [and]

(6) the manufacture under the regulation of the military department of the United States of explosive materials for, or their distribution to or storage or possession by the military or naval services or other agencies of the United States; or to arsenals, navy yards, depots, or other establishments owned by, or operated by or on behalf of the United States[.]; *and*

(*7*) *the provisions of subsection (1) of section 842 of this title shall apply to paragraphs (4) and (5) of this subsection.*

TITLE 28—UNITED STATES CODE—JUDICIARY AND JUDICIAL PROCEDURE

Chapter 87.—DISTRICT COURTS; VENUE

* * * * * * *

Sec. 1395. Fine, penalty or forfeiture

(a) A civil proceeding for the recovery of a pecuniary fine, penalty or forfeiture may be prosecuted in the district where it accrues or the defendant is [found.] *found and in any proceeding to recover a civil penalty under section 35(a) of title 18 of the United States Code or section 901(c) or 901(d) of the Federal Aviation Act of 1958, all process*

against any defendant or witness, otherwise not authorized under the Federal Rules of Civil Procedures, may be served in any judicial district of the United States upon an ex parte order for good cause shown.

FEDERAL AVIATION ACT OF 1958, AMENDMENTS
PUBLIC LAW 93-366

AN ACT to amend the Federal Aviation Act of 1958 to implement the Convention for the Suppression of Unlawful Seizure of Aircraft; to provide a more effective program to prevent aircraft piracy; and for other purposes

TITLE I—ANTIHIJACKING ACT OF 1974

SEC. 101. * * *

* * * * * * *

SEC. 106. Title XI of such Act (49 U.S.C. 1501-1513) is amended by adding at the end thereof the following new sections:

* * * * * * *

["SECURITY STANDARDS IN FOREIGN AIR TRANSPORTATION

["SEC. 1115. (a) Not later than 30 days after the date of enactment of this section, the Secretary of State shall notify each nation with which the United States has a bilateral air transport agreement or, in the absence of such agreement, each nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 402 of this Act, of the provisions of subsection (b) of this section.

["(b) In any case where the Secretary of Transportation, after consultation with the competent aeronautical authorities of a foreign nation with which the United States has a bilateral air transport agreement and in accordance with the provisions of that agreement or, in the absence of such agreement, of a nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 402 of this Act, finds that such nation does not effectively maintain and administer security measures relating to transportation of persons or property or mail in foreign air transportation that are equal to or above the minimum standards which are established pursuant to the Convention on International Civil Aviation, he shall notify that nation of such finding and the steps considered necessary to bring the security measures of that nation to standards at least equal to the minimum standards of such convention. In the event of failure of that nation to take such steps, the Secretary of Transportation, with the approval of the Secretary of State, may withhold, revoke, or impose conditions on the operating authority of the airline or airlines of that nation."]

SECURITY STANDARDS IN FOREIGN AIR TRANSPORTATION

Sec. 1115. (a) The Secretary of Transportation shall conduct at such intervals as the Secretary shall deem necessary an assessment of the effectiveness of the security measures maintained at those foreign airports serving United States carriers, those foreign airports from which

foreign air carriers serve the United States, and at such other foreign airports as the Secretary may deem appropriate. Such assessments shall be made by the Secretary in consultation with the appropriate aeronautic authorities of the concerned foreign government. The assessment shall determine the extent to which an airport effectively maintains and administers security measures. The criteria utilized by the Secretary in assessing the effectiveness of security at United States airports shall be considered in making such assessments and shall be equal to or above the standards established pursuant to the Convention on International Civil Aviation. The assessment shall include consideration of specific security programs and techniques, including but not limited to, physical and personnel security programs and procedures, passenger security and baggage examination, the use of electronic, mechanical or other detection devices, airport police add security forces, and control of unauthorized access to the airport aircraft, airport perimeter, passenger boarding, and cargo, storage, and handling areas.

(b) The report to the Congress required by section 315 of this Act shall contain:

(1) A summary of those assessments conducted pursuant to subsection (a) of this section. The summary shall identify the airports assessed and describe any significant deficiencies and actions taken or recommended.

(2) A description of the extent if any to which specific deficiencies previously identified, if any, have been eliminated.

(c) When the Secretary finds that an airport does not maintain and administer effective security measures at the level of effectiveness specified in subsection (a) of this section, he shall notify the appropriate authorities of such foreign government of his finding, and recommend the steps necessary to bring the security measures in use at that airport to the acceptable level of effectiveness.

(d)(1) Not later than sixty days after the notification required in subsection (c) of this section and upon a determination by the Secretary that the foreign government has failed to bring the security measures at the identified airport to the level of effectiveness specified in subsection (a) of this section, he—

(A) shall publish in the Federal Register and cause to be posted and prominently displayed at all United States airports regularly serving scheduled air carrier operations the identification of such airport; and

(B) after consultation with the appropriate aeronautical authorities of such government and, notwithstanding section 1102 of this Act, may, with the approval of the Secretary of State, withhold, revoke, or impose conditions on the operating authority of any carrier or foreign air carrier to engage in foreign air transportation utilizing that airport.

(2) The Secretary shall promptly report to the Congress any action taken under this subsection setting forth information concerning the attempts he has made to secure the cooperation of the nation in attaining the acceptable level of effectiveness.

(e) Nothing in this section is intended to require the public disclosure of information that is properly classified under criteria established by Executive Order or is otherwise protected by law. Such information shall be provided to the President pro tempore of the

Senate and to the Speaker of the House of Representatives in a written classified report. Any intelligence information classified by Executive Order or otherwise protected by law and furnished to Congress under this section shall be held for the Senate by the Select Committee on Intelligence of the Senate and held for the House of Representatives by the Permanent Select Committee on Intelligence of the House of Representatives. In any such case where such information is furnished to Congress, an unclassified summary of such information shall be prepared and submitted to the President pro tempore of the Senate and the Speaker of the House of Representatives.

* * * * * * *

TITLE II—AIR TRANSPORTATION SECURITY ACT OF 1974

SEC. 201. * * *

SEC. 206. Title III of the Federal Aviation Act of 1958 (49 U.S.C. 1345–1355), relating to organization of the Federal Aviation Administration and the powers and duties of the Administrator, is amended by adding at the end thereof the following new sections:

"SCREENING OF PASSENGERS

SEC. 315. (a) * * *

"EXEMPTION AUTHORITY

"(b) The Administrator may exempt from the provisions of this section, in whole or in part, air transportation operations, other than those scheduled *or charter* passenger operations performed by air carriers engaging in interstate, overseas, or foreign air transportation under a certificate of public convenience and necessity issued by the Civil Aeronautics Board under section 401 of this Act or under a foreign air carrier permit issued by the Board under section 402 of this Act."

* * * * * * *

TITLE 49—UNITED STATES CODE—TRANSPORTATION

Chapter 20.—FEDERAL AVIATION PROGRAM

Subchapter I—General Provisions

Sec. 1301. Definitions

As used in this chapter, unless the context otherwise requires—

(22) * * *

* * * * * * *

(34) The term "special aircraft jurisdiction of the United States" includes—

(a) * * *

* * * * * * *

(d) any other aircraft outside the United States—

(i) that has its next scheduled destination or last point of departure in the United States, if that aircraft next actually lands in the United States; [or]

(ii) having "an offense", as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, committed aboard, if that aircraft lands in the United States with the alleged offender still aboard; [and] *or*

"(iii) regarding which an offense as defined in subsection (d) or (e) of article I, section I of the (Montreal) Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation is committed, provided the aircraft lands in the United States with an alleged offender still on board; and".

Subchapter IX.—Penalties

Sec. 1471. Civil penalties; compromise; liens

(a) * * *

* * * * * * *

(c) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (l) of section 902 of this Act, shall be subject to a civil penalty of not more than $1,000 which shall be recoverable in a civil action brought in the name of the United States.

(d) Except for law enforcement officers of any municipal or State government, or the Federal Government, who are authorized or required within their official capacities to carry arms, or other persons who may be so authorized under regulations issued by the Administrator, whoever, while aboard, or while attempting to board, any aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, which is, or would be, accessible to such person in flight shall be subject to a civil penalty of not more than $1,000 which shall be recoverable in a civil action brought in the name of the United States.

Sec. 1472. Criminal penalties

(a) * * *

* * * * * * *

CERTAIN CRIMES ABOARD AIRCRAFT IN FLIGHT

(k)(1) Whoever, while aboard an aircraft within the special aircraft jurisdiction of the United States, commits an act which, if committed within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of Title 18, would be in violation of section 113, 114, 661, 662, 1111, 1112, 1113, 2031, 2032, or 2111 of such Title 18 shall be punished as provided therein.

(2) Whoever, while aboard an aircraft within the special aircraft jurisdiction of the United States, commits an act, which, if committed

in the District of Columbia would be in violation of section 9 of the Act entitled "An Act for the preservation of public peace and the protection of property within the District of Columbia", approved July 29, 1892, as amended (D.C. Code, sec. 22–1112), shall be punished as provided therein.

(3) Whoever while aboard an aircraft in the special aircraft jurisdiction of the United States commits an act which would be an offense under section 32 of title 18, United States Code, shall be punished as provided therein.

* * * * * * *

[FALSE INFORMATION

[(m)(1) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (*l*) of this section, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

[(2) Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (*l*) of this section, shall be fined not more than $5,000 or imprisoned not more than five years, or both.]

FALSE INFORMATION AND THREATS

(m)(1) Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a felony prohibited by subsection (i), (j), or (l)(2) of this section, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

(2) Whoever, imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by subsection (i), (j), or (l)(2) of this section, with an apparent determination and will to carry the threat into execution, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

* * * * * * *

Chapter 20.—FEDERAL AVIATION PROGRAM—Contents

Subchapter I * * *

* * * * * * *

Subchapter IX.—Penalties

Sec. 1472. Criminal penalties

(a) * * *

* * * * * * *

[(m) False information]
(m) False information and threats.

* * * * * * *

Sec. 1473. Venue and prosecution of offenses; procedures in respect of civil and aircraft piracy penalties

(a) * * *

(b)(1) Any civil penalty imposed under this chapter may be collected by proceedings in personam against the person subject to the penalty and, in case the penalty is a lien, by proceedings in rem against the aircraft, or by either method alone. [Such] *Except with respect to civil penalties under section 901 (c) and (d) of this Act, such* proceedings shall conform as nearly as may be to civil suits in admiralty, except that either party may demand trail by jury of any issue of fact, if the value in controversy exceeds $20, and the facts so tried shall not be reexamined other than in accordance with the rules of the common law. The fact that is a libel in rem the seizure is made at a place not upon the high seas or navigable waters of the United States shall not be held in any way limit the requirement of the conformity of the proceedings to civil suits in rem in admiralty.

THE ATOMIC ENERGY ACT OF 1954

Public Law 83-703 (68 Stat. 9190)

* * * * * * *

Chapter 12.—CONTROL OF INFORMATION

Sec. 141. Policy

* * * * * * *

"SEC. 147. NUCLEAR MATERIAL SECURITY INFORMATION.—

"a. In addition to any other authority or requirement regarding protection or disclosure of information and notwithstanding section 552 of title 5, United States Code, relating to the availability of records, the Commission shall prescribe such regulations and orders as it may deem necessary to prohibit the unauthorized disclosure of nuclear material security information, by whomever possessed, whose unauthorized disclosure the Commission determines could substantially facilitate, in transit or at fixed sites as the case may be, the theft or diversion of plutonium, uranium-233, uranium enriched to greater than 20 percent in the isotope 235, or any other special nuclear material determined by the Commission to be readily usable as the fissionable component of a nuclear explosive device so as to endanger the common defense and security or the public health and safety.

"b. For the purposes of this section the term 'nuclear material security information' means:

"(1) information identifying a licensee's or applicant's detailed material control and accounting procedures for, or measures for the physical protection of, plutonium, uranium-233, or uranium enriched to greater than 20 percent in the isotope 235, or any other special nuclear material determined by the Commission to be readily

usable as the fissionable component of a nuclear explosive device including (A) information identifying aspects of facility design, but only if such aspects of facility design are directly and predominantly related to the foregoing procedures and measures, and (B) information identifying inventory differences of such material, but only for a period of six months after such information is compiled or for any longer period of active, ongoing investigation by any duly authorized agency or department of the United States Government; and

"(2) any studies reports, or analyses concerning the protection of nuclear materials against theft or diversion whose disclosure could reasonably be expected to have a direct and significant adverse impact on the effectiveness of the material control and accounting procedures or physical protection measures of licensees for plutonium, uranium-233, uranium enriched to greater than 20 percent in the isotope 235, or any other special nuclear material determined by the Commission to be readily usable as the fissionable component of a nuclear explosive device.

"c. The Commission shall exercise the authority herein conferred so as to apply the minimum restriction on the disclosure of such nuclear material security information to the public, consistent with the objectives of this section. Any person who violates any provision of this section or rule regulation promulgated thereunder, shall be subject to the civil monetary penalties of section 234 of this Act. Nothing in this section shall be construed to authorize the withholding of information from the duly authorized Committees of the Congress.

"d. The Commission is authorized to prescribe such regulations or orders as it may deem necessary to ensure that information which is protected from unauthorized disclosure under this section shall be disclosed only to persons as to whom the Commission shall have determined that permitting each such person access to such information will not substantially facilitate the theft or diversion of plutonium uranium 233, uranium enriched to greater than 20 percent in the isotope 235, or any other special nuclear material determined by the Commission to be readily usable as the fissionable component of a nuclear explosive device. In support of the foregoing determination, such persons may be investigated under standards and specifications established by the Commission: Provided, That any such standards and specifications shall be no more stringent than those established by the Commission pursuant to section 161i(2) of this Act for the investigation of persons engaged in activities involving special nuclear material: And provided further, That the Commission shall exercise the authority conferred herein to the minimum extent necessary to permit the foregoing determination".

* * * * * * *

Chapter 16.—JUDICIAL REVIEW AND ADMINISTRATIVE PROCEDURE

"SEC. 181. GENERAL.—The provisions of the Administrative Procedure Act (Public Law 404, Seventy-ninth Congress, approved June 11, 1946) shall apply to all agency action taken under this Act, and the terms 'agency' and 'agency action' shall have the meaning specified in the Administration Procedure Act: *Provided, however,* That in the case of agency proceedings or actions which involve Restricted

Data [or], defense information, *or nuclear material security information protected from disclosure under section 147 of this Act,* the Commission shall provide by regulation for such parallel procedures as will effectively safeguard and prevent disclosure of Restricted Data [or], defense information, *or such protected nuclear material security information* to unauthorized persons with minimum impairment of the procedural rights which would be available if Restricted Data [or], defense information, *or such protected nuclear material security information* were not involved.

* * * * * * *

Chapter 18.—ENFORCEMENT

* * * * * * *

"SEC. 223. VIOLATION OF SECTIONS GENERALLY.—Whoever willfully violates, attempts to violate, or conspires to violate, any provision of this Act for which no criminal penalty is specifically provided or of any regulation or order prescribed or issued under section 65 or subsections 161 b., i., or o, *or subsection 147a.* shall, upon conviction thereof, be punished by a fine of not more than $5,000 or by imprisonment for not more than two years, or both, except that whoever commits such an offense with intent to injure the United States or with intent to secure an advantage to any foreign nation, shall, upon conviction thereof, be punished by a fine of not more than $20,000 or by imprisonment for not more than twenty years, or both.

○