

CLEAN UP GOVERNMENT ACT OF 2011

SEPTEMBER 21, 2012.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of Texas, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 2572]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2572) to amend title 18, United States Code, to deter public corruption, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The Amendment

The amendment is as follows:

Strike all after the enacting and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Clean Up Government Act of 2011”.

SEC. 2. VENUE FOR FEDERAL OFFENSES.

Section 3237(a) of title 18, United States Code, is amended by inserting after “begun, continued, or completed” the following: “or in any district in which an act in furtherance of an offense is committed”.

SEC. 3. THEFT OR BRIBERY CONCERNING PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE.

Section 666(a) of title 18, United States Code, is amended—

- (1) by striking “10 years” and inserting “20 years”;
- (2) by striking “\$5,000” the second place and the third place it appears and inserting “\$1,000”;
- (3) by striking “anything of value” each place it appears and inserting “any thing or things of value”; and
- (4) in paragraph (1)(B), by inserting after “any thing” the following: “or things”.

SEC. 4. PENALTY FOR SECTION 641 VIOLATIONS.

Section 641 of title 18, United States Code, is amended by striking “ten years” and inserting “15 years”.

SEC. 5. BRIBERY AND GRAFT.

Section 201 of title 18, United States Code, is amended—

- (1) in subsection (a)—
 - (A) in paragraph (2), by striking “and” at the end;
 - (B) in paragraph (3), by striking the period at the end; and
 - (C) by adding at the end the following:

“(4) the term ‘rule or regulation’ means a Federal regulation or a rule of the House of Representatives or the Senate, including those rules and regulations governing the acceptance of campaign contributions.”;
- (2) in subsection (b), by striking “fifteen years” and inserting “20 years”;
- (3) in subsection (c)—
 - (A) by striking “two years” and inserting “five years”; and
 - (B) in paragraph (1), in the matter preceding subparagraph (A), to read as follows: “otherwise than as provided by law for the proper discharge of official duty, or by rule or regulation, knowingly—”; and
- (4) by striking “anything of value” each place it appears and inserting “any thing or things of value of not less than \$1,000”.

SEC. 6. ADDITION OF DISTRICT OF COLUMBIA TO THEFT OF PUBLIC MONEY OFFENSE.

Section 641 of title 18, United States Code, is amended by inserting “the District of Columbia or” before “the United States” each place such term appears.

SEC. 7. CLARIFICATION OF CRIME OF ILLEGAL GRATUITIES.

Subparagraphs (A) and (B) of section 201(c)(1) of title 18, United States Code, are each amended by inserting “the official’s or person’s official position or” before “any official act”.

SEC. 8. CLARIFICATION OF DEFINITION OF “OFFICIAL ACT”.

Section 201(a)(3) of title 18, United States Code, is amended to read as follows:

- “(3) the term ‘official act’—
- “(A) means any act within the range of official duty, and any decision, recommendation, or action on any question, matter, cause, suit, proceeding, or controversy, which may at any time be pending, or which may by law be brought before any public official, in such public official’s official capacity or in such official’s place of trust or profit; and
- “(B) may be a single act, more than one act, or a course of conduct.”.

SEC. 9. AMENDMENT OF THE SENTENCING GUIDELINES RELATING TO CERTAIN CRIMES.

(a) **DIRECTIVE TO SENTENCING COMMISSION.**—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission forthwith shall review and, if appropriate, amend its guidelines and its policy statements applicable to persons convicted of an offense under section 201, 641, or 666 of title 18, United States Code in order to reflect the intent of Congress that such penalties meet the requirements in subsection (b) of this section.

(b) **REQUIREMENTS.**—In carrying out this subsection, the Commission shall—

- (1) ensure that the sentencing guidelines and policy statements reflect Congress’s intent that the guidelines and policy statements reflect the serious nature of the offenses described in paragraph (1), the incidence of such offenses, and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(2) consider the extent to which the guidelines may or may not appropriately account for—

- (A) the potential and actual harm to the public and the amount of any loss resulting from the offense;
 - (B) the level of sophistication and planning involved in the offense;
 - (C) whether the offense was committed for purposes of commercial advantage or private financial benefit;
 - (D) whether the defendant acted with intent to cause either physical or property harm in committing the offense;
 - (E) the extent to which the offense represented an abuse of trust by the offender and was committed in a manner that undermined public confidence in the Federal, State or local government; and
 - (F) whether the violation was intended to or had the effect of creating a threat to public health or safety, injury to any person or even death;
- (3) assure reasonable consistency with other relevant directives and with other sentencing guidelines;
- (4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;
- (5) make any necessary conforming changes to the sentencing guidelines; and
- (6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 10. EXTENSION OF STATUTE OF LIMITATIONS FOR SERIOUS PUBLIC CORRUPTION OFFENSES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

“§ 3302. Corruption offenses

“Unless an indictment is returned or the information is filed against a person within 6 years after the commission of the offense, a person may not be prosecuted, tried, or punished for a violation of, or a conspiracy or an attempt to violate the offense in—

- “(1) section 201 or 666;
- “(2) section 1341 or 1343, when charged in conjunction with section 1346 and where the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official;
- “(3) section 1951, if the offense involves extortion under color of official right;
- “(4) section 1952, to the extent that the unlawful activity involves bribery; or
- “(5) section 1962, to the extent that the racketeering activity involves bribery chargeable under State law, involves a violation of section 201 or 666, section 1341 or 1343, when charged in conjunction with section 1346 and where the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official, or section 1951, if the offense involves extortion under color of official right.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

“3302. Corruption offenses.”.

(c) APPLICATION OF AMENDMENT.—The amendments made by this section shall not apply to any offense committed before the date of enactment of this Act.

SEC. 11. INCREASE OF MAXIMUM PENALTIES FOR CERTAIN PUBLIC CORRUPTION RELATED OFFENSES.

(a) SOLICITATION OF POLITICAL CONTRIBUTIONS.—Section 602(a)(4) of title 18, United States Code, is amended by striking “3 years” and inserting “5 years”.

(b) PROMISE OF EMPLOYMENT FOR POLITICAL ACTIVITY.—Section 600 of title 18, United States Code, is amended by striking “one year” and inserting “3 years”.

(c) DEPRIVATION OF EMPLOYMENT FOR POLITICAL ACTIVITY.—Section 601(a) of title 18, United States Code, is amended by striking “one year” and inserting “3 years”.

(d) INTIMIDATION TO SECURE POLITICAL CONTRIBUTIONS.—Section 606 of title 18, United States Code, is amended by striking “three years” and inserting “5 years”.

(e) SOLICITATION AND ACCEPTANCE OF CONTRIBUTIONS IN FEDERAL OFFICES.—Section 607(a)(2) of title 18, United States Code, is amended by striking “3 years” and inserting “5 years”.

(f) COERCION OF POLITICAL ACTIVITY BY FEDERAL EMPLOYEES.—Section 610 of title 18, United States Code, is amended by striking “three years” and inserting “5 years”.

SEC. 12. ADDITIONAL WIRETAP PREDICATES.

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

(1) by inserting “section 641 (relating to embezzlement or theft of public money, property, or records), section 666 (relating to theft or bribery concerning programs receiving Federal funds),” after “section 224 (bribery in sporting contests),”; and

(2) by inserting “section 1031 (relating to major fraud against the United States)” after “section 1014 (relating to loans and credit applications generally; renewals and discounts),”.

SEC. 13. EXPANDING VENUE FOR PERJURY AND OBSTRUCTION OF JUSTICE PROCEEDINGS.

(a) IN GENERAL.—Section 1512(i) of title 18, United States Code, is amended to read as follows:

“(i) A prosecution under section 1503, 1504, 1505, 1508, 1509, 1510, or this section may be brought in the district in which the conduct constituting the alleged offense occurred or in which the official proceeding (whether or not pending or about to be instituted) was intended to be affected.”.

(b) PERJURY.—

(1) IN GENERAL.—Chapter 79 of title 18, United States Code, is amended by adding at the end the following:

“§ 1624. Venue

“A prosecution under section 1621(1), 1622 (in regard to subornation of perjury under 1621(1)), or 1623 of this title may be brought in the district in which the oath, declaration, certificate, verification, or statement under penalty of perjury is made or in which a proceeding takes place in connection with the oath, declaration, certificate, verification, or statement.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 79 of title 18, United States Code, is amended by adding at the end the following:

“1624. Venue.”.

SEC. 14. PROHIBITION ON UNDISCLOSED SELF-DEALING BY PUBLIC OFFICIALS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by inserting after section 1346 the following new section:

“§ 1346A. Undisclosed self-dealing by public officials

“(a) UNDISCLOSED SELF-DEALING BY PUBLIC OFFICIALS.—For purposes of this chapter, the term ‘scheme or artifice to defraud’ also includes a scheme or artifice by a public official to engage in undisclosed self-dealing.

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

“(1) OFFICIAL ACT.—The term ‘official act’—

“(A) means any act within the range of official duty, and any decision, recommendation, or action on any question, matter, cause, suit, proceeding, or controversy, which may at any time be pending, or which may by law be brought before any public official, in such public official’s official capacity or in such official’s place of trust or profit; and

“(B) may be a single act, more than one act, or a course of conduct.

“(2) PUBLIC OFFICIAL.—The term ‘public official’ means an officer, employee, or elected or appointed representative, or person acting for or on behalf of the United States, a State, or a subdivision of a State, or any department, agency or branch of government thereof, in any official function, under or by authority of any such department, agency, or branch of government.

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

“(4) UNDISCLOSED SELF-DEALING.—The term ‘undisclosed self-dealing’ means that—

“(A) a public official performs an official act for the purpose, in whole or in material part, of furthering or benefitting a financial interest, of which the public official has knowledge, of—

“(i) the public official;

“(ii) the spouse or minor child of a public official;

“(iii) a general business partner of the public official;

“(iv) a business or organization in which the public official is serving as an employee, officer, director, trustee, or general partner;

“(v) an individual, business, or organization with whom the public official is negotiating for, or has any arrangement concerning, prospective employment or financial compensation; or

“(vi) an individual, business, or organization from whom the public official has received any thing or things of value, otherwise than as pro-

vided by law for the proper discharge of official duty, or by rule or regulation; and

“(B) the public official knowingly falsifies, conceals, or covers up material information that is required to be disclosed by any Federal, State, or local statute, rule, regulation, or charter applicable to the public official, or the knowing failure of the public official to disclose material information in a manner that is required by any Federal, State, or local statute, rule, regulation, or charter applicable to the public official.

“(5) MATERIAL INFORMATION.—The term ‘material information’ means information—

“(A) regarding a financial interest of a person described in clauses (i) through (iv) paragraph (4)(A); and

“(B) regarding the association, connection, or dealings by a public official with an individual, business, or organization as described in clauses (iii) through (vi) of paragraph 4.”

(b) CONFORMING AMENDMENT.—The table of sections for chapter 63 of title 18, United States Code, is amended by inserting after the item relating to section 1346 the following new item:

“1346A. Undisclosed self-dealing by public officials.”.

(c) APPLICABILITY.—The amendments made by this section apply to acts engaged in on or after the date of the enactment of this Act.

SEC. 15. DISCLOSURE OF INFORMATION IN COMPLAINTS AGAINST JUDGES.

Section 360(a) of title 28, United States Code, is amended—

(1) in paragraph (2) by striking “or”;

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

and

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

“(4) such disclosure of information regarding a potential criminal offense is made to the Attorney General, a Federal, State, or local grand jury, or a Federal, State, or local law enforcement agency.”.

SEC. 16. CLARIFICATION OF EXEMPTION IN CERTAIN BRIBERY OFFENSES.

Section 666(c) of title 18, United States Code, is amended—

(1) by striking “This section does not apply to”; and

(2) by inserting “The term ‘anything of value’ that is corruptly solicited, demanded, accepted or agreed to be accepted in subsection (a)(1)(B) or corruptly given, offered, or agreed to be given in subsection (a)(2) shall not include”, before “bona fide salary”.

SEC. 17. CERTIFICATIONS REGARDING APPEALS BY UNITED STATES.

Section 3731 of title 18, United States Code, is amended by inserting after “United States attorney” the following: “, Deputy Attorney General, Assistant Attorney General, or the Attorney General”.

Purpose and Summary

H.R. 2572 restores prosecutorial tools that had been eroded by various court decisions including restoring “undisclosed self dealing” by a public official as a scheme or artifice to defraud, restoring a prohibition on the giving or receiving of gratuities because of “official position,” adds to the definition of “official act,” “any act within the range of official duty,” increases penalties for public corruption and related offenses, expands venue, increases the statute of limitations for serious public corruption offenses, and adds offenses as wiretap predicates.

The bill also makes clarifications to aid the successful investigation and prosecution of public corruption offenses by creating a mechanism, outside of the current internal mechanism, for misconduct on the part of Federal judges (28 U.S.C.360(a)); clarifies that the exemption for bona fide salaries paid in the normal course of business applies only to the statute’s prohibition on giving or receiving “anything of value” as a bribe (18 U.S.C. 666(c)), and the bill expands the number of officials at the Department of Justice

that can certify government interlocutory appeals from a district court suppressing or excluding evidence (18 U.S.C. 3731).

Background and Need for the Legislation

Prosecutors have long used honest services fraud to address two distinct kinds of honest services fraud. The first involving the taking of bribes and kickbacks and the second involving an undisclosed conflict of interest. The second variety involved situations where decisions were made by a public official that benefited that public official personally without any disclosure by the public official of their personal interest in the matter that was the subject of the decision. The decision in *Skilling v. United States*, 130 S. Ct. 2896 (2010) eliminated this second category of honest services fraud, but still allows “fraudulent schemes to deprive another of honest services through bribes or kickbacks supplied by a third party who has not been deceived.” This bill will clarify that “undisclosed self dealing” is a scheme or artifice to deprive another of the intangible right of honest services. This returns to prosecutors, a viable criminal charge in public corruption matters.

Another problem that has presented itself in the prosecution of public corruption matters is the definition of “official act.” In a decision from the U.S. Court of Appeals for the District of Columbia Circuit, *U.S. v. Valdes*, 437 F.3d 1276 (D.C. Cir. 2006), the court held that it was not official action when a local law enforcement officer searched a law enforcement database for information on particular individuals in exchange for money. The court held that the definition of official act required a showing by the government that Valdes’ conduct involved “a question, matter, cause, suit, proceeding or controversy” and that searching a law enforcement database for profit did not constitute one of these actions.

This holding, however, dismisses a 1914 Supreme Court decision, *U.S. v. Birdsall*, 233 U.S. 223 (1914), in which the Court states that “[e]very action that is within the range of official duty comes within the purview of [the bribery statute].” *Id.* at 230. The Court also noted that an official act need not be prescribed by statute or written rule or regulation. It is sufficient that the act is governed by a lawful requirement, established usage, or settled practice of the agency.

Despite Congress’ reference to the *Birdsall* decision in its 1962 re-codification of the statute, the *Valdes* court found that Congress had not, in fact, adopted the *Birdsall* rule. This bill adopts the language from the Supreme Court’s opinion and clarifies that an “official act” includes any act within the range of official duty.

The bill also clarifies what is considered an illegal gratuity and reverses the holding of the Supreme Court in *United States v. Sun Diamond Growers*, 526 U.S. 398 (1999), which restricted the application of the illegal gratuities statute. The bills expands 18 U.S.C. §201 to include “official position” which will ensure that gratuities given to a public official “for or because of” that official’s position will embrace a broader range of corrupt conduct that is not otherwise permitted by law.

Hearings

The Committee's Subcommittee on Crime, Terrorism, and Homeland Security, held 1 day of hearings on H.R. on July 26, 2011. Testimony was received from Mary Pat Brown, Deputy Assistant Attorney General, Criminal Division, United States Department of Justice; Lisa Griffin, Esq., Professor of Law, Duke University; and Timothy O'Toole, Esq., Partner, Miller and Chevalier, with additional material submitted by the FBI Agents Association (FBIAA), Citizens for Responsibility and Ethics Washington (CREW), and by Families Against Mandatory Minimums (FAMM).

Committee Consideration

On December 1, 2011, the Committee on met in open session and ordered the bill H.R. 2572 favorably reported, with an amendment, by a roll-call vote of 30 to 0, a quorum being present.

Committee Votes

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following rollcall votes occurred during the Committee's consideration of H.R. 2572.

1. Motion to report H.R. 2572 favorably, as amended. Approved 30 to 0.

ROLLCALL NO. 1

	Ayes	Nays	Present
Mr. Smith, Chairman	X		
Mr. Sensenbrenner, Jr.	X		
Mr. Coble	X		
Mr. Gallegly	X		
Mr. Goodlatte			
Mr. Lungren	X		
Mr. Chabot	X		
Mr. Issa			
Mr. Pence			
Mr. Forbes			
Mr. King	X		
Mr. Franks	X		
Mr. Gohmert	X		
Mr. Jordan	X		
Mr. Poe	X		
Mr. Chaffetz			
Mr. Griffin	X		
Mr. Marino	X		
Mr. Gowdy	X		
Mr. Ross	X		
Ms. Adams	X		
Mr. Quayle	X		
Mr. Amodei	X		
Mr. Conyers, Jr., Ranking Member	X		
Mr. Berman			
Mr. Nadler	X		

ROLLCALL NO. 1—Continued

	Ayes	Nays	Present
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren			
Ms. Jackson Lee	X		
Ms. Waters	X		
Mr. Cohen	X		
Mr. Johnson			
Mr. Pierluisi	X		
Mr. Quigley	X		
Ms. Chu	X		
Mr. Deutch	X		
Ms. Sánchez	X		
(Vacant)			
Total	30	0	

Committee Oversight Findings

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

New Budget Authority and Tax Expenditures

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

Congressional Budget Office Cost Estimate

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 2572, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 17, 2012.

Hon. LAMAR SMITH, CHAIRMAN,
*Committee on the Judiciary,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2572, the “Clean Up Government Act of 2011.”

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Martin von Gnechten, who can be reached at 226–2860.

Sincerely,

DOUGLAS W. ELMENDORF,
DIRECTOR.

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 2572—Clean Up Government Act of 2011.

As ordered reported by the House Committee on the Judiciary
on December 1, 2011.

H.R. 2572 would broaden the coverage of current laws that address public corruption and would increase penalties for such offenses. The legislation would expand the number of offenses relative to fraud committed by public officials that could be federally prosecuted. CBO estimates that H.R. 2572 would have no significant impact on the Federal budget. Enacting H.R. 2572 could affect direct spending and revenues; therefore, pay-as-you-go procedures apply. However, CBO estimates that any net effects would be insignificant for each year.

Because those prosecuted and convicted under H.R. 2572 could be subject to criminal fines, the Federal Government might collect additional fines if the legislation is enacted. Criminal fines are recorded as revenues, deposited in the Crime Victims Fund, and later spent. CBO expects that any additional revenues and direct spending would not be significant because of the small number of cases likely affected.

H.R. 1572 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of State, local, or tribal governments.

On September 16, 2011, CBO transmitted a cost estimate for S. 401, the “Public Corruption Prosecution Improvements Act,” as ordered reported by the Senate Committee on the Judiciary on July 28, 2011. The two bills are similar, and the estimated costs are the same.

The CBO staff contact for this estimate is Martin von Gnechten. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 2572 deters public corruption by providing tools for the prosecution and investigation of public corruption crimes.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 2572 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

Section-by-Section Analysis

Section 1. Short Title

This section cites the short title of the bill as the “Clean Up Government Act of 2011.”

Section 2. Venue for Federal Offenses

This section amends section 3237, which governs venue for offenses begun in one district and completed in another district, to clarify that venue exists in any district in which any portion of the offense is committed, any act in furtherance of the offense is committed, or in which the offense is completed. The intent of this provision is to expand venue to include districts where any part of the offense occurred.

Section 3. Theft or Bribery Concerning Programs Receiving Federal Financial Assistance

This section amends Section 666(a) of title 18, USC by increasing the maximum penalty for all offenses under this section from 10 years to 20 years; lowers the threshold for bribes from \$5,000 to \$1,000 (some small bribes with significant consequences in the prison and/or motor vehicle and other ID issuing agencies were being missed by the higher threshold); changes the words “anything of value” to “anything or things of value” (clarifies that the bribery/theft threshold may be reached by multiple items and not merely a single item).

Section 4. Penalty for Section 641 Violations

This section increases the maximum term of imprisonment for theft and embezzlement from 10 years to 15 years.

Section 5. Bribery and Graft

This section amends section 201 of title 18, the bribery and graft statute, to increase the maximum punishment for bribery from 15 years to 20 years imprisonment, and the maximum punishment for illegal gratuities from 2 years to 5 years imprisonment. This section also amends 18 U.S.C. 201 by adding “or by rule or regulation” to the already existing exemption “as provided by law for the proper discharge of official duty” to exclude the offering or accepting of anything or things of value, when they are permitted for the proper discharge of official duty. This section also provides a definition of “rule or regulation” (a Federal regulation or a rule of the House of Representatives or the Senate, including those rules and regulations governing the acceptance of campaign contributions). This section replaces the words “anything of value” with “anything or things” of value (clarifies that multiple items and not merely a single item can be involved). The section adds “knowingly” to the mens rea for gratuities received by or given to a public official because of their position/status. A \$1000 threshold is added for things received by or given to public officials because of their position/status.

Section 6. Addition of District of Columbia to Theft of Public Money Offense

This section amends section 641 relating to theft from the government to include the District of Columbia government and agencies. The District of Columbia is already included in the general bribery statute (section 201) and the theft or bribery statute concerning programs receiving Federal financial assistance (section 666).

Section 7. Clarification of Crime of Illegal Gratuities

This section amends section 201(c)(1)(A) & (B) of title 18, to reverse the holding of the Supreme Court in *United States v. Sun Diamond Growers*, 526 U.S. 398 (1999), which restricted the application of the illegal gratuities statute. The expansion of the statute to include “official position” (bill inserts “the official’s or persons of official position” in front of “any official act”) will ensure that gratuities given to a public official “for or because of” that official’s position will be included in a broader range of corrupt conduct that is not otherwise permitted by law.

Section 8. Clarification of Definition of “Official Act”

This section amends the definition of “official act” in section 201(a)(3) to include conduct that falls within the range of official duties of the public official. This amendment is in response to a decision from the U.S. Court of Appeals for the District of Columbia Circuit, *U.S. v. Valdes*, 437 F.3d 1276 (D.C. Cir. 2006). In *Valdes*, the court held that it was not an official act when a local law enforcement officer searched a law enforcement database for information on particular individuals in exchange for money. The court held that the definition of official act required a showing by the government that Valdes’ conduct involved “a question, matter, cause, suit, proceeding or controversy” and that searching a law enforcement database for profit did not constitute one of these actions.

This holding, however, ignores a 1914 Supreme Court decision, *U.S. v. Birdsall*, 233 U.S. 223 (1914), in which the Court states that “[e]very action that is within the range of official duty comes within the purview of [the bribery statute].” *Id.* at 230. The Court also noted that an official act need not be prescribed by statute or written rule or regulation. It is sufficient that the act is governed by a lawful requirement, established usage, or settled practice of the agency.

Despite Congress’ reference to the *Birdsall* decision in its 1962 re-codification of the statute, the *Valdes* court found that Congress had not, in fact, adopted the *Birdsall* rule. This section makes clear that an official act is any act within the range of official duty, and can be more than one act or a course of conduct. An official act also includes a decision or recommendation that a government should not take action.

Section 9. Amendment of the Sentencing Guidelines Relating to Certain Crimes

This section directs the United States Sentencing Commission to amend its guidelines and policy statements, if appropriate, to re-

flect the increased penalties for violations of sections 201, 641, and 666 of title 18.

Section 10. Extension of Statute of Limitations for Serious Public Corruption Offenses

This section extends by 1 year, to 6 years the Statute of Limitations for certain corruption offenses including sections 201(bribery of public officials and witnesses); Theft or Bribery of Programs Receiving Federal Funds (section 666); Frauds and Swindles (section 1341) or section (1343) Fraud by Wire, when charged in conjunction with section 1346 (and where the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official); Interference with commerce by threats or violence (section 1951), if the offense involves extortion under color of official right; Interstate and Foreign Travel or Transportation in Aid of Racketeering (section 1952) if the unlawful activity involves bribery; Prohibited Activities of Income derived from Unlawful Debt Collection (section 1962) to the extent that racketeering activity involves bribery chargeable under State law, involves a violation of section 201 or 666, section or 1343 when charged in conjunction with section 1346 and where the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official, or section 1951, if the offense involves extortion under color of right.

Section 11. Increase of Maximum Penalties for Certain Public Corruption Related Offenses

This section increases the penalties of Solicitation of Political Contributions (section 602) from 3 years to 5 years; Promise of Employment for Political Activity (section 600) from 1 year to 3 years; Deprivation of Employment for Political Contributions (section 601) from 1 year to 3 years; Intimidation To Secure Political Contributions (section 606) from 3 years to 5 years; Solicitation and Acceptance of Contributions in Federal Offices (section 607) from 3 years to 5 years; and Coercion of Political Activity by Federal Employees from 3 years to 5 years (section 610).

Section 12. Additional Wiretap Predicates

This section adds as wiretap predicates (section 2516(1)(c), the following offenses: Embezzlement or Theft of Public Money, Property, or Records (section 641); Theft or Bribery Concerning Programs that Receive Public Funds (section 666); Major Fraud against the United States (section 1031).

Section 13. Expanding Venue for Perjury and Obstruction of Justice Proceedings

This section adds certain obstruction offenses that can be charged in the district in which the conduct constituting the alleged offense occurred, or in which the official proceeding (whether or not pending or about to be instituted) was intended to be affected, by amending section 1512 (i) of title 18 (Tampering with a witness, victim, or informant) to add new offenses. The new offenses with expanded venue are in addition to section 1512 and Influencing or Injury Officer or Juror (section 1503). The newly added offenses include: Influencing a juror by writing (section 1504); Ob-

struction of proceedings before departments, agencies, and committees (section 1505); Recording, listening to, or observing proceedings of grand or petite juries while deliberating or voting (section 1508); Obstruction of a court order (section 1509); and Obstruction of criminal investigations (section 1510).

This section adds a new section to Chapter 79 of title 18 (Perjury) expands the venue for the prosecution of certain perjury offenses (court (sections 1621(1)), subornation of perjury (1622), and false declarations before a grand jury or court (1623), to include both the district where the oath or declaration is taken and the district in which a proceeding takes place in connection with the oath or declaration.

Section 14. Prohibition on Undisclosed Self-Dealing by Public Officials

This section adds a section 18 U.S.C. § 1346A that addresses “honest services fraud” by clarifying that the term “scheme or artifice to defraud” includes a scheme or artifice by a public official to engage in undisclosed self-dealing. Prosecutors had long used honest services fraud to address scenarios where bribes and kickbacks were taken and in situations where there were undisclosed conflicts of interest. The *Skilling* case removed the second category in which public officials engaged in undisclosed, biased decision making for their own personal gain, but left intact the prohibition of dishonest contact spurred by a third party who provides a bribe or kickback. This section defines “official act,” “material information,” “undisclosed self-dealing.” This section identifies certain relationships, for which an official act is performed that financially benefits that relationship, and where certain required disclosures are intentionally not made, as constituting undisclosed self-dealing.

Section 15. Disclosure of Information in Complaints Against Judges

This section amends 18 U.S.C. § 360 to permit certain disclosures of Federal judicial misconduct to appropriate law enforcement agencies. The section would expressly permit the disclosure of information regarding potential criminal activity to appropriate law enforcement authorities when that information is gathered or developed during the investigation into a complaint regarding alleged misconduct by a Federal judge. The plain language of Section 360(a) currently prohibits disclosure of materials gathered during a judicial disciplinary investigation “by any person in any proceeding,” with only three exceptions that do not provide for disclosure to law enforcement authorities.

Section 16. Clarification of Exemption in Certain Bribery Cases

This section provides clarification to 18 U.S.C. § 666(c), that exempts a “bona fide” salary received in the course of business etc., does not apply to the entirety of the statute. (The current section has been misapplied). This amendment will preserve section 666(c)’s intended function of exempting salary, bonuses and other routine compensation from the bribery provision, and eliminate unnecessary confusion concerning section 666(c)’s applicability to the remainder of the statute.

Section 17. Certifications Regarding Appeals by United States

This section amends 18 U.S.C. § 3731 to expressly permit the Attorney General, the Deputy Attorney General, and an Assistant Attorney General to provide the necessary certification for government interlocutory appeals from district court orders suppressing or excluding evidence. As it is currently written, section 3731 requires a certification by a United States Attorney. This creates confusion with cases that are handled by Department of Justice components other than a United States Attorney Office. The bill only changes the officials who are permitted to make the certification, and does not alter the substance of the certification or any other substantive element of section 3731.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes 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 italics, existing law in which no change is proposed is shown in roman):

TITLE 18, UNITED STATES CODE

* * * * *

PART I—CRIMES

* * * * *

CHAPTER 11—BRIBERY, GRAFT, AND CONFLICTS OF INTEREST

* * * * *

§ 201. Bribery of public officials and witnesses

(a) For the purpose of this section—

(1) * * *

(2) the term “person who has been selected to be a public official” means any person who has been nominated or appointed to be a public official, or has been officially informed that such person will be so nominated or appointed; **[and]**

[(3) the term “official act” means any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in such official’s official capacity, or in such official’s place of trust or profit.]

(3) *the term “official act”—*

(A) means any act within the range of official duty, and any decision, recommendation, or action on any question, matter, cause, suit, proceeding, or controversy, which may at any time be pending, or which may by law be brought before any public official, in such public official’s official capacity or in such official’s place of trust or profit; and

(B) may be a single act, more than one act, or a course of conduct.

(4) the term “rule or regulation” means a Federal regulation or a rule of the House of Representatives or the Senate, including those rules and regulations governing the acceptance of campaign contributions.

(b) Whoever—

(1) directly or indirectly, corruptly gives, offers or promises **[anything of value]** *any thing or things of value of not less than \$1,000* to any public official or person who has been selected to be a public official, or offers or promises any public official or any person who has been selected to be a public official to give **[anything of value]** *any thing or things of value of not less than \$1,000* to any other person or entity, with intent—

(A) * * *

* * * * *

(2) being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept **[anything of value]** *any thing or things of value of not less than \$1,000* personally or for any other person or entity, in return for:

(A) * * *

* * * * *

(3) directly or indirectly, corruptly gives, offers, or promises **[anything of value]** *any thing or things of value of not less than \$1,000* to any person, or offers or promises such person to give **[anything of value]** *any thing or things of value of not less than \$1,000* to any other person or entity, with intent to influence the testimony under oath or affirmation of such first-mentioned person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or with intent to influence such person to absent himself therefrom;

(4) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept **[anything of value]** *any thing or things of value of not less than \$1,000* personally or for any other person or entity in return for being influenced in testimony under oath or affirmation as a witness upon any such trial, hearing, or other proceeding, or in return for absenting himself therefrom;

shall be fined under this title or not more than three times the monetary equivalent of the thing of value, whichever is greater, or imprisoned for not more than **[fifteen years]** *20 years*, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States.

(c) Whoever—

(1) **[otherwise than as provided by law for the proper discharge of official duty—]** *otherwise than as provided by law for the proper discharge of official duty, or by rule or regulation, knowingly—*

(A) directly or indirectly gives, offers, or promises **[anything of value]** *any thing or things of value of not less than \$1,000* to any public official, former public official, or per-

son selected to be a public official, for or because of *the official's or person's official position* or any official act performed or to be performed by such public official, former public official, or person selected to be a public official; or

(B) being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept [anything of value] *any thing or things of value of not less than \$1,000* personally for or because of *the official's or person's official position* or any official act performed or to be performed by such official or person;

(2) directly or indirectly, gives, offers, or promises [anything of value] *any thing or things of value of not less than \$1,000* to any person, for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or for or because of such person's absence therefrom;

(3) directly or indirectly, demands, seeks, receives, accepts, or agrees to receive or accept [anything of value] *any thing or things of value of not less than \$1,000* personally for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon any such trial, hearing, or other proceeding, or for or because of such person's absence therefrom;

shall be fined under this title or imprisoned for not more than [two years] *five years*, or both.

* * * * *

CHAPTER 29—ELECTIONS AND POLITICAL ACTIVITIES

* * * * *

§ 600. Promise of employment or other benefit for political activity

Whoever, directly or indirectly, promises any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, shall be fined under this title or imprisoned not more than [one year] *3 years*, or both.

§ 601. Deprivation of employment or other benefit for political contribution

(a) Whoever, directly or indirectly, knowingly causes or attempts to cause any person to make a contribution of a thing of value (in-

cluding services) for the benefit of any candidate or any political party, by means of the denial or deprivation, or the threat of the denial or deprivation, of—

(1) * * *

* * * * *

if such employment, position, work, compensation, payment, or benefit is provided for or made possible in whole or in part by an Act of Congress, shall be fined under this title, or imprisoned not more than **[one year]** *3 years*, or both.

* * * * *

§ 602. Solicitation of political contributions

(a) It shall be unlawful for—

(1) * * *

* * * * *

(4) a person receiving any salary or compensation for services from money derived from the Treasury of the United States; to knowingly solicit any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer, employee, or person. Any person who violates this section shall be fined under this title or imprisoned not more than **[3 years]** *5 years*, or both.

* * * * *

§ 606. Intimidation to secure political contributions

Whoever, being one of the officers or employees of the United States mentioned in section 602 of this title, discharges, or promotes, or degrades, or in any manner changes the official rank or compensation of any other officer or employee, or promises or threatens so to do, for giving or withholding or neglecting to make any contribution of money or other valuable thing for any political purpose, shall be fined under this title or imprisoned not more than **[three years]** *5 years*, or both.

§ 607. Place of solicitation

(a) PROHIBITION.—

(1) * * *

(2) PENALTY.—A person who violates this section shall be fined not more than \$5,000, imprisoned not more than **[3 years]** *5 years*, or both.

* * * * *

§ 610. Coercion of political activity

It shall be unlawful for any person to intimidate, threaten, command, or coerce, or attempt to intimidate, threaten, command, or coerce, any employee of the Federal Government as defined in section 7322(1) of title 5, United States Code, to engage in, or not to engage in, any political activity, including, but not limited to, voting or refusing to vote for any candidate or measure in any election, making or refusing to make any political contribution, or working or refusing to work on behalf of any candidate. Any person

who violates this section shall be fined under this title or imprisoned not more than [three years] 5 years, or both.

* * * * *

CHAPTER 31—EMBEZZLEMENT AND THEFT

* * * * *

§ 641. Public money, property or records

Whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of *the District of Columbia* or the United States or of any department or agency thereof, or any property made or being made under contract for *the District of Columbia* or the United States or any department or agency thereof; or

Whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted—

Shall be fined under this title or imprisoned not more than [ten years] 15 years, or both; but if the value of such property in the aggregate, combining amounts from all the counts for which the defendant is convicted in a single case, does not exceed the sum of \$1,000, he shall be fined under this title or imprisoned not more than one year, or both.

The word “value” means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.

* * * * *

§ 666. Theft or bribery concerning programs receiving Federal funds

(a) Whoever, if the circumstance described in subsection (b) of this section exists—

(1) being an agent of an organization, or of a State, local, or Indian tribal government, or any agency thereof—

(A) * * *

(B) corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, [anything of value] *any thing or things of value* from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of such organization, government, or agency involving any thing *or things* of value of [\$5,000] \$1,000 or more; or

(2) corruptly gives, offers, or agrees to give [anything of value] *any thing or things of value* to any person, with intent to influence or reward an agent of an organization or of a State, local or Indian tribal government, or any agency thereof, in connection with any business, transaction, or series of transactions of such organization, government, or agency involving [anything of value] *any thing or things of value* of [\$5,000] \$1,000 or more;

shall be fined under this title, imprisoned not more than [10 years] 20 years, or both.

* * * * *

(c) **[This section does not apply to]** *The term “anything of value” that is corruptly solicited, demanded, accepted or agreed to be accepted in subsection (a)(1)(B) or corruptly given, offered, or agreed to be given in subsection (a)(2) shall not include bona fide salary, wages, fees, or other compensation paid, or expenses paid or reimbursed, in the usual course of business.*

* * * * *

CHAPTER 63—MAIL FRAUD AND OTHER FRAUD OFFENSES

Sec.

1341. Frauds and swindles.

* * * * *

1346A. *Undisclosed self-dealing by public officials.*

* * * * *

§ 1346A. Undisclosed self-dealing by public officials

(a) **UNDISCLOSED SELF-DEALING BY PUBLIC OFFICIALS.**—*For purposes of this chapter, the term “scheme or artifice to defraud” also includes a scheme or artifice by a public official to engage in undisclosed self-dealing.*

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

(1) **OFFICIAL ACT.**—*The term “official act”—*

(A) *means any act within the range of official duty, and any decision, recommendation, or action on any question, matter, cause, suit, proceeding, or controversy, which may at any time be pending, or which may by law be brought before any public official, in such public official’s official capacity or in such official’s place of trust or profit; and*

(B) *may be a single act, more than one act, or a course of conduct.*

(2) **PUBLIC OFFICIAL.**—*The term “public official” means an officer, employee, or elected or appointed representative, or person acting for or on behalf of the United States, a State, or a subdivision of a State, or any department, agency or branch of government thereof, in any official function, under or by authority of any such department, agency, or branch of government.*

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

(4) **UNDISCLOSED SELF-DEALING.**—*The term “undisclosed self-dealing” means that—*

(A) *a public official performs an official act for the purpose, in whole or in material part, of furthering or benefiting a financial interest, of which the public official has knowledge, of—*

- (i) *the public official;*
- (ii) *the spouse or minor child of a public official;*
- (iii) *a general business partner of the public official;*
- (iv) *a business or organization in which the public official is serving as an employee, officer, director, trustee, or general partner;*
- (v) *an individual, business, or organization with whom the public official is negotiating for, or has any*

arrangement concerning, prospective employment or financial compensation; or

(vi) an individual, business, or organization from whom the public official has received any thing or things of value, otherwise than as provided by law for the proper discharge of official duty, or by rule or regulation; and

(B) the public official knowingly falsifies, conceals, or covers up material information that is required to be disclosed by any Federal, State, or local statute, rule, regulation, or charter applicable to the public official, or the knowing failure of the public official to disclose material information in a manner that is required by any Federal, State, or local statute, rule, regulation, or charter applicable to the public official.

(5) MATERIAL INFORMATION.—The term “material information” means information—

(A) regarding a financial interest of a person described in clauses (i) through (iv) paragraph (4)(A); and

(B) regarding the association, connection, or dealings by a public official with an individual, business, or organization as described in clauses (iii) through (vi) of paragraph (4).

* * * * *

CHAPTER 73—OBSTRUCTION OF JUSTICE

* * * * *

§ 1512. Tampering with a witness, victim, or an informant

(a) * * *

* * * * *

[(i) A prosecution under this section or section 1503 may be brought in the district in which the official proceeding (whether or not pending or about to be instituted) was intended to be affected or in the district in which the conduct constituting the alleged offense occurred.]

(i) A prosecution under section 1503, 1504, 1505, 1508, 1509, 1510, or this section may be brought in the district in which the conduct constituting the alleged offense occurred or in which the official proceeding (whether or not pending or about to be instituted) was intended to be affected.

* * * * *

CHAPTER 79—PERJURY

Sec.
1621. Perjury generally.

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1624. Venue.

* * * * *

§ 1624. Venue

A prosecution under section 1621(1), 1622 (in regard to subornation of perjury under 1621(1)), or 1623 of this title may be brought in the district in which the oath, declaration, certificate, verification, or statement under penalty of perjury is made or in which a proceeding takes place in connection with the oath, declaration, certificate, verification, or statement.

* * * * *

CHAPTER 119—WIRE AND ELECTRONIC COMMUNICATIONS INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS

* * * * *

§ 2516. Authorization for interception of wire, oral, or electronic communications

(1) The Attorney General, Deputy Attorney General, Associate Attorney General, or any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General or acting Deputy Assistant Attorney General in the Criminal Division or National Security Division specially designated by the Attorney General, may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant in conformity with section 2518 of this chapter an order authorizing or approving the interception of wire or oral communications by the Federal Bureau of Investigation, or a Federal agency having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of—

(a) * * *

* * * * *

(c) any offense which is punishable under the following sections of this title: section 37 (relating to violence at international airports), section 43 (relating to animal enterprise terrorism), section 81 (arson within special maritime and territorial jurisdiction), section 201 (bribery of public officials and witnesses), section 215 (relating to bribery of bank officials), section 224 (bribery in sporting contests), *section 641 (relating to embezzlement or theft of public money, property, or records), section 666 (relating to theft or bribery concerning programs receiving Federal funds)*, subsection (d), (e), (f), (g), (h), or (i) of section 844 (unlawful use of explosives), section 1032 (relating to concealment of assets), section 1084 (transmission of wagering information), section 751 (relating to escape), section 832 (relating to nuclear and weapons of mass destruction threats), section 842 (relating to explosive materials), section 930 (relating to possession of weapons in Federal facilities), section 1014 (relating to loans and credit applications generally; renewals and discounts), *section 1031 (relating to major fraud against the United States)*, section 1114 (relating to officers and employees of the United States), section 1116 (relating to protection of foreign officials), section 1014 (relating to loans and credit applications generally; renewals and discounts), sections

1503, 1512, and 1513 (influencing or injuring an officer, juror, or witness generally), section 1510 (obstruction of criminal investigations), section 1511 (obstruction of State or local law enforcement), section 1591 (sex trafficking of children by force, fraud, or coercion), section 1751 (Presidential and Presidential staff assassination, kidnapping, and assault), section 1951 (interference with commerce by threats or violence), section 1952 (interstate and foreign travel or transportation in aid of racketeering enterprises), section 1958 (relating to use of interstate commerce facilities in the commission of murder for hire), section 1959 (relating to violent crimes in aid of racketeering activity), section 1954 (offer, acceptance, or solicitation to influence operations of employee benefit plan), section 1955 (prohibition of business enterprises of gambling), section 1956 (laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 659 (theft from interstate shipment), section 664 (embezzlement from pension and welfare funds), section 1343 (fraud by wire, radio, or television), section 1344 (relating to bank fraud), section 1992 (relating to terrorist attacks against mass transportation), sections 2251 and 2252 (sexual exploitation of children), section 2251A (selling or buying of children), section 2252A (relating to material constituting or containing child pornography), section 1466A (relating to child obscenity), section 2260 (production of sexually explicit depictions of a minor for importation into the United States), sections 2421, 2422, 2423, and 2425 (relating to transportation for illegal sexual activity and related crimes), sections 2312, 2313, 2314, and 2315 (interstate transportation of stolen property), section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts), section 2340A (relating to torture), section 1203 (relating to hostage taking), section 1029 (relating to fraud and related activity in connection with access devices), section 3146 (relating to penalty for failure to appear), section 3521(b)(3) (relating to witness relocation and assistance), section 32 (relating to destruction of aircraft or aircraft facilities), section 38 (relating to aircraft parts fraud), section 1963 (violations with respect to racketeer influenced and corrupt organizations), section 115 (relating to threatening or retaliating against a Federal official), section 1341 (relating to mail fraud), a felony violation of section 1030 (relating to computer fraud and abuse), section 351 (violations with respect to congressional, Cabinet, or Supreme Court assassinations, kidnapping, and assault), section 831 (relating to prohibited transactions involving nuclear materials), section 33 (relating to destruction of motor vehicles or motor vehicle facilities), section 175 (relating to biological weapons), section 175c (relating to variola virus) section 956 (conspiracy to harm persons or property overseas),, section a felony violation of section 1028 (relating to production of false identification documentation), section 1425 (relating to the procurement of citizenship or naturalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), section 1541 (relating to passport issuance without authority), section 1542

(relating to false statements in passport applications), section 1543 (relating to forgery or false use of passports), section 1544 (relating to misuse of passports), or section 1546 (relating to fraud and misuse of visas, permits, and other documents);

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PART II—CRIMINAL PROCEDURE

* * * * *

CHAPTER 211—JURISDICTION AND VENUE

* * * * *

§ 3237. Offenses begun in one district and completed in another

(a) Except as otherwise expressly provided by enactment of Congress, any offense against the United States begun in one district and completed in another, or committed in more than one district, may be inquired of and prosecuted in any district in which such offense was begun, continued, or completed *or in any district in which an act in furtherance of an offense is committed.*

* * * * *

CHAPTER 213—LIMITATIONS

Sec.

3281. Capital offenses.

* * * * *

3302. Corruption offenses.

* * * * *

§ 3302. Corruption offenses

Unless an indictment is returned or the information is filed against a person within 6 years after the commission of the offense, a person may not be prosecuted, tried, or punished for a violation of, or a conspiracy or an attempt to violate the offense in—

(1) *section 201 or 666;*

(2) *section 1341 or 1343, when charged in conjunction with section 1346 and where the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official;*

(3) *section 1951, if the offense involves extortion under color of official right;*

(4) *section 1952, to the extent that the unlawful activity involves bribery; or*

(5) *section 1962, to the extent that the racketeering activity involves bribery chargeable under State law, involves a violation of section 201 or 666, section 1341 or 1343, when charged in conjunction with section 1346 and where the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official, or section 1951, if the offense involves extortion under color of official right.*

* * * * *

CHAPTER 235—APPEAL

* * * * *

§ 3731. Appeal by United States

In a criminal case an appeal by the United States shall lie to a court of appeals from a decision, judgment, or order of a district court dismissing an indictment or information or granting a new trial after verdict or judgment, as to any one or more counts, or any part thereof, except that no appeal shall lie where the double jeopardy clause of the United States Constitution prohibits further prosecution.

An appeal by the United States shall lie to a court of appeals from a decision or order of a district court suppressing or excluding evidence or requiring the return of seized property in a criminal proceeding, not made after the defendant has been put in jeopardy and before the verdict or finding on an indictment or information, if the United States attorney, *Deputy Attorney General, Assistant Attorney General, or the Attorney General* certifies to the district court that the appeal is not taken for purpose of delay and that the evidence is a substantial proof of a fact material in the proceeding.

* * * * *

SECTION 360 OF TITLE 28, UNITED STATES CODE

§ 360. Disclosure of information

(a) CONFIDENTIALITY OF INFORMATION.—Except as provided in section 355, all papers, documents, and records of proceedings related to investigations conducted under this chapter shall be confidential and shall not be disclosed by any person in any proceeding except to the extent that—

(1) * * *

(2) the judicial council of the circuit, the Judicial Conference of the United States, or the Senate or the House of Representatives by resolution, releases any such material which is believed necessary to an impeachment investigation or trial of a judge under article I of the Constitution; [or]

(3) such disclosure is authorized in writing by the judge who is the subject of the complaint and by the chief judge of the circuit, the Chief Justice, or the chairman of the standing committee established under section 331[.]; or

(4) such disclosure of information regarding a potential criminal offense is made to the Attorney General, a Federal, State, or local grand jury, or a Federal, State, or local law enforcement agency.

* * * * *