

107TH CONGRESS
1ST SESSION

H. R. 3409

To amend title 18, United States Code, to prevent or mitigate crimes of violence or acts of terrorism by authorizing Federal criminal investigators to carry firearms and respond to such crimes of violence or acts of terrorism committed in their presence and to amend section 5545a of title 5, United States Code, to expand the definition of “available” for those criminal investigators who receive Law Enforcement Availability Pay, to include responding to crimes of violence or acts of terrorism, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 5, 2001

Mr. FOSSELLA introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 18, United States Code, to prevent or mitigate crimes of violence or acts of terrorism by authorizing Federal criminal investigators to carry firearms and respond to such crimes of violence or acts of terrorism committed in their presence and to amend section 5545a of title 5, United States Code, to expand the definition of “available” for those criminal investigators who receive Law Enforcement Availability Pay, to include responding to crimes of violence or acts of terrorism, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Anti-Terrorism, Anti-
5 Hijacking, and Federal Criminal Investigators’ Empower-
6 ment Act of 2001”.

7 **SEC. 2. AUTHORITY TO RESPOND TO CRIMES OF VIOLENCE**
8 **AND ACTS OF TERRORISM.**

9 (a) IN GENERAL.—Chapter 203 of title 18, United
10 States Code, is amended by adding at the end the fol-
11 lowing:

12 **“§ 3064. Powers of Federal criminal investigators to**
13 **respond to crimes of violence or acts of**
14 **terrorism**

15 “(a) A criminal investigator employed by any depart-
16 ment or agency of the United States Government is au-
17 thorized to—

18 “(1) carry firearms within the jurisdiction of
19 the United States and the special aircraft jurisdic-
20 tion of the United States; and

21 “(2) respond to any crime of violence or act of
22 terrorism within the jurisdiction of the United
23 States, or any violation of Federal law related to the
24 special aircraft jurisdiction of the United States,
25 committed in the presence of the criminal investi-

1 gator and to take into custody any person or persons
2 committing such crimes of violence, acts of ter-
3 rorism, or other violations of Federal law on an in-
4 terim Federal basis, but, as soon as possible, the
5 custody of such person or persons shall be turned
6 over to the appropriate Federal law enforcement
7 agency with jurisdiction.

8 “(b) The authorities provided for in subsection (a)(2)
9 shall be exercised only in exigent circumstances, or under
10 the direction of the head of any department or agency of
11 the United States Government with jurisdiction.

12 “(c) Within 60 days of the enactment of this section,
13 the head of any department or agency of the United States
14 Government employing criminal investigators, in consulta-
15 tion with the Director of the Federal Law Enforcement
16 Training Center, or in the case of those agencies within
17 the Department of Justice not trained at the Federal Law
18 Enforcement Center, in consultation with the Director of
19 the Federal Bureau of Investigation, shall ensure that its
20 firearms policy for criminal investigators conforms with
21 standards and regulations established by the Attorney
22 General.

23 “(d) Within 180 days of the enactment of this sec-
24 tion, criminal investigators shall receive specific training
25 in responding to crimes of violence, acts of terrorism, or

1 other crimes committed in the special aircraft jurisdiction
2 of the United States. Such training shall be approved by
3 the Attorney General and administered by the Director of
4 the Federal Law Enforcement Training Center, or in the
5 case of those criminal investigators employed by the De-
6 partment of Justice, may be administered by the Director
7 of the Federal Bureau of Investigation.

8 “(e) Upon successful completion of such training as
9 provided for in subsection (d), the Administrator of the
10 Federal Aviation Administration shall issue the criminal
11 investigator a special identification credential. The Admin-
12 istrator may prescribe regulations requiring the criminal
13 investigator to display the special identification credential
14 to authorized security officials before carrying a firearm
15 in the special aircraft jurisdiction of the United States.

16 “(f) In the absence of exigent circumstances, a crimi-
17 nal investigator shall take no action involving the use or
18 display of a firearm, or other law enforcement action,
19 while an aircraft is in flight unless directed to do by the
20 pilot in command or other authorized crewmember. How-
21 ever, this subsection shall not restrict a criminal investi-
22 gator from reacting to exigent circumstances aboard an
23 aircraft in flight involving the risk of serious injury or
24 death of passengers or crew, and the hijacking or destruc-
25 tion of the aircraft.

1 “(g) Not later than 180 days after the date of the
2 enactment of this section, an advisory panel shall provide
3 recommendations to Congress and the Administrator of
4 the Federal Aviation Administration regarding the design,
5 control, production, security and anticounterfeiting fea-
6 tures of the special identification credential authorized in
7 subsection (e). The advisory panel shall be chaired by the
8 Comptroller General, or designee, and shall include one
9 representative appointed by the Administrator, Attorney
10 General, Secretary of Defense, Secretary of State, Sec-
11 retary of Transportation, Secretary of the Treasury, the
12 Director of the Federal Bureau of Investigation, and the
13 Director of the United States Secret Service. The Comp-
14 troller General may invite any other Federal, State, or
15 local officials or private individuals to provide information
16 and participate in panel meetings. The panel may provide
17 recommendations in a public document and in a restricted
18 document.

19 “(h) Nothing in this section may be construed to—

20 “(1) limit the law enforcement or investigative
21 authorities a criminal investigator may otherwise ex-
22 ercise under existing law;

23 “(2) limit the law enforcement or investigative
24 authorities a department or agency of the United

1 States Government may otherwise exercise under ex-
2 isting law;

3 “(3) grant a criminal investigator authorities
4 not specified in this section; and

5 “(4) grant a department or agency of the
6 United States Government authorities not specified
7 in this section.

8 “(i) As used in this section—

9 “(1) the term ‘criminal investigator’ means a
10 Federal law enforcement officer, as defined in sec-
11 tion 5545a of title 5, who has—

12 “(A) demonstrated proficiency in the use
13 of firearms; and

14 “(B) successfully completed a training pro-
15 gram for Federal criminal investigators at the
16 Federal Law Enforcement Training Center,
17 Federal Bureau of Investigation Academy, or
18 equivalent Federal facility approved by the At-
19 torney General;

20 “(2) the term ‘crime of violence’ has the same
21 meaning as defined in section 16 of this title;

22 “(3) the term ‘act of terrorism’ has the same
23 meaning as defined in section 3077 of this title;

24 “(4) the term ‘aircraft in flight’ has the same
25 meaning as defined in section 46501 of title 49;

1 “(5) the term ‘exigent circumstances’ means
2 those circumstances when a criminal investigator
3 reasonably believes that there is risk of serious in-
4 jury or death to the criminal investigator or others;

5 “(6) the term ‘jurisdiction of the United States’
6 has the same meaning as defined in section 5 of this
7 title; and

8 “(7) the term ‘special aircraft jurisdiction of
9 the United States’ has the same meaning as defined
10 in section 46501 of title 49.”.

11 (b) **CLERICAL AMENDMENT.**—The table of sections
12 at the beginning of chapter 203 of title 18, United States
13 Code, is amended by adding at the end the following new
14 item:

“3064. Powers of Federal criminal investigators to respond to crimes of violence
or acts of terrorism.”.

15 **SEC. 3. LAW ENFORCEMENT AVAILABILITY PAY.**

16 Paragraph (1) of section 5545a(1) of title 5, United
17 States Code, is amended to read as follows:

18 “(1) the term ‘available’ refers to the avail-
19 ability of a criminal investigator and means that a
20 criminal investigator—

21 “(A) shall be considered generally and rea-
22 sonably accessible by the agency employing such
23 investigator to perform unscheduled duty based
24 upon the needs of an agency; and

1 “(B) shall be available to respond to a
2 crime of violence or act of terrorism in the ju-
3 risdiction of the United States, or any violation
4 of Federal law related to the special aircraft ju-
5 risdiction of the United States, as defined in
6 section 3064 of title 18.”.

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