

106TH CONGRESS
2D SESSION

S. 2516

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2000

Referred to the Committee on the Judiciary

AN ACT

To fund task forces to locate and apprehend fugitives in Federal, State, and local felony criminal cases and give administrative subpoena authority to the United States Marshals Service.

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 “Fugitive Apprehension
5 Act of 2000”.

1 **SEC. 2. FUGITIVE APPREHENSION TASK FORCES.**

2 (a) IN GENERAL.—The Attorney General shall, upon
3 consultation with appropriate Department of Justice and
4 Department of the Treasury law enforcement components,
5 establish permanent Fugitive Apprehension Task Forces
6 consisting of Federal, State, and local law enforcement au-
7 thorities in designated regions of the United States, to be
8 directed and coordinated by the United States Marshals
9 Service, for the purpose of locating and apprehending fugi-
10 tives.

11 (b) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to the United States
13 Marshal Service to carry out the provisions of this section
14 \$30,000,000 for the fiscal year 2001, \$5,000,000 for fis-
15 cal year 2002, and \$5,000,000 for fiscal year 2003.

16 (c) OTHER EXISTING APPLICABLE LAW.—Nothing in
17 this section shall be construed to limit any existing author-
18 ity under any other provision of Federal or State law for
19 law enforcement agencies to locate or apprehend fugitives
20 through task forces or any other means.

21 **SEC. 3. ADMINISTRATIVE SUBPOENAS TO APPREHEND FU-**
22 **GITIVES.**

23 (a) IN GENERAL.—Chapter 49 of title 18, United
24 States Code, is amended by adding at the end the fol-
25 lowing:

1 **“§ 1075. Administrative subpoenas to apprehend fugi-**
2 **tives**

3 “(a) DEFINITIONS.—In this section:

4 “(1) FUGITIVE.—The term ‘fugitive’ means a
5 person who—

6 “(A) having been accused by complaint, in-
7 formation, or indictment under Federal law or
8 having been convicted of committing a felony
9 under Federal law, flees or attempts to flee
10 from or evades or attempts to evade the juris-
11 diction of the court with jurisdiction over the
12 felony;

13 “(B) having been accused by complaint, in-
14 formation, or indictment under State law or
15 having been convicted of committing a felony
16 under State law, flees or attempts to flee from,
17 or evades or attempts to evade, the jurisdiction
18 of the court with jurisdiction over the felony;

19 “(C) escapes from lawful Federal or State
20 custody after having been accused by complaint,
21 information, or indictment or having been con-
22 victed of committing a felony under Federal or
23 State law; or

24 “(D) is in violation of subparagraph (2) or
25 (3) of the first undesignated paragraph of sec-
26 tion 1073.

1 “(2) INVESTIGATION.—The term ‘investigation’
2 means, with respect to a State fugitive described in
3 subparagraph (B) or (C) of paragraph (1), an inves-
4 tigation in which there is reason to believe that the
5 fugitive fled from or evaded, or attempted to flee
6 from or evade, the jurisdiction of the court, or es-
7 caped from custody, in or affecting, or using any fa-
8 cility of, interstate or foreign commerce, or as to
9 whom an appropriate law enforcement officer or offi-
10 cial of a State or political subdivision has requested
11 the Attorney General to assist in the investigation,
12 and the Attorney General finds that the particular
13 circumstances of the request give rise to a Federal
14 interest sufficient for the exercise of Federal juris-
15 diction pursuant to section 1075.

16 “(3) STATE.—The term ‘State’ means a State
17 of the United States, the District of Colombia, and
18 any commonwealth, territory, or possession of the
19 United States.

20 “(b) SUBPOENAS AND WITNESSES.—

21 “(1) SUBPOENAS.—In any investigation with
22 respect to the apprehension of a fugitive, the Attor-
23 ney General may subpoena witnesses for the purpose
24 of the production of any records (including books,
25 papers, documents, electronic data, and other tan-

1 gible and intangible items that constitute or contain
2 evidence) that the Attorney General finds, based on
3 articulable facts, are relevant to discerning the
4 whereabouts of the fugitive. A subpoena under this
5 subsection shall describe the records or items re-
6 quired to be produced and prescribe a return date
7 within a reasonable period of time within which the
8 records or items can be assembled and made avail-
9 able.

10 “(2) WITNESSES.—The attendance of witnesses
11 and the production of records may be required from
12 any place in any State or other place subject to the
13 jurisdiction of the United States at any designated
14 place where the witness was served with a subpoena,
15 except that a witness shall not be required to appear
16 more than 500 miles distant from the place where
17 the witness was served. Witnesses summoned under
18 this section shall be paid the same fees and mileage
19 that are paid witnesses in the courts of the United
20 States.

21 “(c) SERVICE.—

22 “(1) AGENT.—A subpoena issued under this
23 section may be served by any person designated in
24 the subpoena as the agent of service.

1 “(2) NATURAL PERSON.—Service upon a nat-
2 ural person may be made by personal delivery of the
3 subpoena to that person or by certified mail with re-
4 turn receipt requested.

5 “(3) CORPORATION.—Service may be made
6 upon a domestic or foreign corporation or upon a
7 partnership or other unincorporated association that
8 is subject to suit under a common name, by deliv-
9 ering the subpoena to an officer, to a managing or
10 general agent, or to any other agent authorized by
11 appointment or by law to receive service of process.

12 “(4) AFFIDAVIT.—The affidavit of the person
13 serving the subpoena entered on a true copy thereof
14 by the person serving it shall be proof of service.

15 “(d) CONTUMACY OR REFUSAL.—

16 “(1) IN GENERAL.—In the case of the contu-
17 macy by or refusal to obey a subpoena issued to any
18 person, the Attorney General may invoke the aid of
19 any court of the United States within the jurisdic-
20 tion of which the investigation is carried on or of
21 which the subpoenaed person is an inhabitant, or in
22 which he carries on business or may be found, to
23 compel compliance with the subpoena. The court
24 may issue an order requiring the subpoenaed person

1 to appear before the Attorney General to produce
2 records if so ordered.

3 “(2) CONTEMPT.—Any failure to obey the order
4 of the court may be punishable by the court as con-
5 tempt thereof.

6 “(3) PROCESS.—All process in any case to en-
7 force an order under this subsection may be served
8 in any judicial district in which the person may be
9 found.

10 “(4) RIGHTS OF SUBPOENA RECIPIENT.—Not
11 later than 20 days after the date of service of an ad-
12 ministrative subpoena under this section upon any
13 person, or at any time before the return date speci-
14 fied in the subpoena, whichever period is shorter,
15 such person may file, in the district within which
16 such person resides, is found, or transacts business,
17 a petition to modify or quash such subpoena on
18 grounds that—

19 “(A) the terms of the subpoena are unrea-
20 sonable or unnecessary;

21 “(B) the subpoena fails to meet the re-
22 quirements of this section; or

23 “(C) the subpoena violates the constitu-
24 tional rights or any other legal rights or privi-
25 lege of the subpoenaed party.

1 “(e) REPORT.—

2 “(1) IN GENERAL.—The Attorney General shall
3 report in January of each year to the Committees on
4 the Judiciary of the Senate and the House of Rep-
5 resentatives on the number of administrative sub-
6 poenas issued under this section, whether each mat-
7 ter involved a fugitive from Federal or State
8 charges, and identification of the agency or compo-
9 nent of the Department of Justice issuing the sub-
10 poena and imposing the charges.

11 “(2) EXPIRATION.—The reporting requirement
12 of this subsection shall terminate in 3 years after
13 the date of enactment of this section.

14 “(f) GUIDELINES.—

15 “(1) IN GENERAL.—The Attorney General shall
16 issue guidelines governing the issuance of adminis-
17 trative subpoenas pursuant to this section.

18 “(2) REVIEW.—The guidelines required by this
19 subsection shall mandate that administrative sub-
20 poenas may be issued only after review and approval
21 of senior supervisory personnel within the respective
22 investigative agency or component of the Depart-
23 ment of Justice.

24 “(g) DELAYED NOTICE.—

1 “(1) IN GENERAL.—Where an administrative
2 subpoena is issued under this section to a provider
3 of electronic communication service (as defined in
4 section 2510 of this title) or remote computing serv-
5 ice (as defined in section 2711 of this title), the At-
6 torney General may—

7 “(A) in accordance with section 2705(a) of
8 this title, delay notification to the subscriber or
9 customer to whom the record pertains; and

10 “(B) apply to a court, in accordance with
11 section 2705(b) of this title, for an order com-
12 manding the provider of electronic communica-
13 tion service or remote computing service not to
14 notify any other person of the existence of the
15 subpoena or court order.

16 “(2) SUBPOENAS FOR FINANCIAL RECORDS.—If
17 a subpoena is issued under this section to a financial
18 institution for financial records of any customer of
19 such institution, the Attorney General may apply to
20 a court under section 1109 of the Right to Financial
21 Privacy Act of 1978 (12 U.S.C. 3409) for an order
22 to delay customer notice as otherwise required.

23 “(3) NONDISCLOSURE REQUIREMENTS.—

24 “(A) IN GENERAL.—Except as provided in
25 paragraphs (1) and (2), the Attorney General

1 may apply to a court for an order requiring the
2 party to whom an administrative subpoena is
3 directed to refrain from notifying any other
4 party of the existence of the subpoena or court
5 order for such period as the court deems appro-
6 priate.

7 “(B) ORDER.—The court shall enter such
8 order if it determines that there is reason to be-
9 lieve that notification of the existence of the ad-
10 ministrative subpoena will result in—

11 “(i) endangering the life or physical
12 safety of an individual;

13 “(ii) flight from prosecution;

14 “(iii) destruction of or tampering with
15 evidence;

16 “(iv) intimidation of potential wit-
17 nesses; or

18 “(v) otherwise seriously jeopardizing
19 an investigation or undue delay of a trial.

20 “(h) IMMUNITY FROM CIVIL LIABILITY.—Any per-
21 son, including officers, agents, and employees, who in good
22 faith produce the records or items requested in a subpoena
23 shall not be liable in any court of any State or the United
24 States to any customer or other person for such produc-
25 tion or for nondisclosure of that production to the cus-

1 tomer, in compliance with the terms of a court order for
2 nondisclosure.”.

3 (b) TECHNICAL AND CONFORMING AMENDMENT.—

4 The analysis for chapter 49 of title 18, United States
5 Code, is amended by adding at the end the following:

“1075. Administrative subpoenas to apprehend fugitives.”.

6 **SEC. 4. STUDY AND REPORT OF THE USE OF ADMINISTRA-**
7 **TIVE SUBPOENAS.**

8 Not later than December 31, 2001, the Attorney
9 General, in consultation with the Secretary of the Treas-
10 ury, shall complete a study on the use of administrative
11 subpoena power by executive branch agencies or entities
12 and shall report the findings to the Committees on the
13 Judiciary of the Senate and the House of Representatives.
14 Such report shall include—

15 (1) a description of the sources of administra-
16 tive subpoena power and the scope of such subpoena
17 power within executive branch agencies;

18 (2) a description of applicable subpoena en-
19 forcement mechanisms;

20 (3) a description of any notification provisions
21 and any other provisions relating to safeguarding
22 privacy interests;

23 (4) a description of the standards governing the
24 issuance of administrative subpoenas; and

1 (5) recommendations from the Attorney Gen-
2 eral regarding necessary steps to ensure that admin-
3 istrative subpoena power is used and enforced con-
4 sistently and fairly by executive branch agencies.

Passed the Senate July 26, 2000.

Attest:

GARY SISCO,
Secretary.