

# **Terrorist Material Support: A Sketch of 18 U.S.C. §2339A and §2339B**

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## Summary

The material support statutes, 18 U.S.C. §§2339A and 2339B, have been among the most frequently prosecuted federal anti-terrorism statutes. Section 2339A outlaws:

- (1) whoever
- (2) [knowingly]
- (3)(a) attempting to,
  - (b) conspiring to, or
  - (c) actually
- (4)(a) providing material support or resources, or
  - (b) concealing or disguising
    - (i) the nature,
    - (ii) location,
    - (iii) source, or
    - (iv) ownership of material support or resources
- (5) knowing or intending that they be used
  - (a) in preparation for,
  - (b) in carrying out,
  - (c) in preparation for concealment of an escape from, or
  - (d) in carrying out the concealment of an escape from
- (6) an offense identified as a federal crime of terrorism.

Section 2339B outlaws:

- (1) whoever
- (2) knowingly
- (3)(a) attempting to provide,
  - (b) conspiring to provide, or
  - (c) actually providing
- (4) material support or resources
- (5) to a foreign terrorist organization
- (6) knowing that the organization
  - (a) has been designated a foreign terrorist organization, or
  - (b) engages, or has engaged, in “terrorism” or “terrorist activity.”

The sections use a common definition for the term “material support or resources”: any service or tangible or intangible property. The Supreme Court in *Humanitarian Law Project* upheld Section 2339B, as applied, against challenges that it was unconstitutionally vague and inconsistent with the First Amendment’s freedom of speech and freedom of association requirements. Violations of Section 2339A are punishable by imprisonment for not more than 15 years; violations of Section 2339B by imprisonment for not more than 20 years. Although neither section creates a civil cause of action for victims, treble damages and attorneys’ fees may be available for some victims under 18 U.S.C. §2333. Section 2339B has two extraterritorial jurisdiction provisions. One is general (there is extraterritorial jurisdiction over an offense under this section) and the other descriptive (there is extraterritorial jurisdiction over an offender under this section if the offender is a U.S. national, etc.). Section 2339A has no such provisions, but it is likely applicable overseas at least in cases in which its predicate offenses have extraterritorial reach. This report is an abridged version of CRS Report R41333, *Terrorist Material Support: An Overview of 18 U.S.C. §§2339A and §2339B*, by (name redacted) without some of the discussion, the footnotes, and much of the attributions of authority and quotations found there.

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## Introduction

The two federal material support statutes have been at the heart of the Justice Department's terrorist prosecution efforts. One provision outlaws providing material support for the commission of certain designated offenses that might be committed by terrorists, 18 U.S.C. §2339A. The other outlaws providing material support to certain designated terrorist organizations, 18 U.S.C. §2339B. They largely share a common definition of the term "material support."

Since their inception in the mid-1990s, Congress has periodically expanded and sought to clarify the scope of Sections 2339A and 2339B. Section 2339A passed with little fanfare as part of a wide-ranging crime package, the Violent Crime Control and Law Enforcement Act of 1994. Almost immediately thereafter, Congress amended Section 2339A and supplemented it with Section 2339B as part of the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). As the House committee report explained, new Section 2339B reflected a recognition of

the fungibility of financial resources and other types of material support. Allowing an individual to supply funds, goods, or services to an organization, or to any of its subgroups, that draw significant funding from the main organization's treasury, helps defray the costs to the terrorist organization of running the ostensibly legitimate activities. This in turn frees an equal sum that can then be spent on terrorist activities.

In 2001, the USA PATRIOT Act amended both sections, increasing the maximum term of imprisonment from 10 to 15 years (and to life imprisonment when commission of the offense resulted in death); adding "expert advice or assistance" to forms of proscribed material support or resources; and subjecting attempts and conspiracies to violate Section 2339A to the same maximum penalties as the substantive violation of the section. The Intelligence Reform and Terrorism Prevention Act of 2004 amended the definition of "material support or resources" that applies to both sections. The specific forms of support that had been used to define the term became examples of a more general definition which covers "any property, tangible or intangible, or service." Clarifying definitions of the examples "training" and "expert advice or assistance," were added, as was a clarifying explanation of the term "personnel" as used in Section 2339B. At the same time, the predicate offense list of Section 2339A was expanded to cover any of the federal crimes of terrorism.

In 2009, Congress added genocide and recruiting child soldiers to Section 2339A's predicate offense list and adjusted Section 2339B's deadlines for the government's interlocutory appeals relating to classified information. In 2015, it increased the maximum penalty for violations of Section 2339B from imprisonment for not more than 15 years to imprisonment for not more than 20 years.

## Support of Terrorism (18 U.S.C. §2339A)

Section 2339A outlaws support or concealing support for the crimes a terrorist has committed or may be planning to commit. More precisely, Section 2339A outlaws:

- (1) whoever
- (2) [knowingly]
- (3)(a) attempts to,
  - (b) conspires to, or
  - (c) actually
- (4)(a) provides material support or resources, or

- (b) conceals or disguises
  - i. the nature,
  - ii. location,
  - iii. source, or
  - iv. ownership
 of material support or resources
- (5) knowing or intending that they be used
  - (a) in preparation for,
  - (b) in carrying out,
  - (c) in preparation for concealment of an escape from, or
  - (d) in carrying out the concealment of an escape from
- (5) an offense identified as a federal crime of terrorism.

*Whoever*: “Whoever” usually means any legal entity or individual. The Dictionary Act declares that “In determining the meaning of any Act of Congress, unless the context indicates otherwise ... the words ‘person’ and ‘whoever’ include corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.” Courts have looked to the statute in order to construe federal criminal cases. Moreover, federal law now generally holds that corporations are criminally liable for crimes committed by their officers, employees, or agents within the scope of their employment and for the benefit of the corporation, although at common law corporations could not be held criminally liable.

*Knowingly*: At common law, every crime consisted of two essentials, one mental (*mens rea*) and the other physical (*actus reus*). As Justice Jackson explained, “[c]rime, as a compound concept, generally constituted only from the concurrence of an evil-meaning mind with an evil-doing hand.” Thereafter, legislative bodies, Congress included, from time to time created criminal offenses which had no mental component, no *mens rea*. This occurred most often for regulatory, “public welfare” misconduct, misconduct that did not constitute a common law crime. These offenses ordinarily carried fines or short periods of incarceration. Courts and commentators came to associate the absence of a *mens rea* with less severely punished offenses.

The Supreme Court in *Staples* declared that where “dispensing with *mens rea* would require the defendant to have knowledge only of *traditionally lawful conduct*, a severe penalty is a further factor extending to suggest that Congress did not intend to eliminate a *mens rea* requirement. In such a case, the usual presumption that a defendant must know the facts that make his conduct illegal should apply.” As general rule, a “knowing” *mens rea* standard requires the government to prove that the defendant had “knowledge of the facts that constituted the offense.” The government need not prove that the defendant knew his conduct was unlawful.

*Provides*: Little is said of the meaning of the word “provides” in Section 2339A or Section 2339B. When neither a statute’s text, its context, nor its legislative history suggest otherwise, Congress is thought to have intended common words to have their common meaning. The word “provide” ordinarily means “to supply something for sustenance or support.” Section 2339A has no explicit definition of the word “provide.” At least two lower federal courts have indicated that the word “provide” in 2339A should be accorded its ordinary dictionary meaning.

*Material Support*: Section 2339A defines “material support” to encompass “any property, tangible or intangible, or service.” The term excludes medicine and religious materials, but includes: currency, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (one or more individuals who may be or include oneself), and

transportation. Because Section 2339A requires that the support be given while knowing or intending that it will be used in preparation for or in the commission of a specific terrorist offense, the section has survived challenges arguing that it is unconstitutionally vague.

*Use in Relation to a Federal Crime of Terrorism:* Section 2339A outlaws providing or concealing support only when the defendant knows or intends the support to be used in preparation for, commission of, or the escape following the commission of one or more of a list of predicate offenses. The predicate offense list consists of several specifically identified offenses, such as bombing a federal building or murdering a federal official in the performance of his duty. Section 2339A's predicate offense list ends with a cross reference to the list of federal crimes of terrorism. The predicate offenses, both those identified individually and those included by virtue of their status as federal crimes of terrorism may, but need not, be calculated to serve terrorist purposes in most instances.

*Attempt, Conspiracy, and Aiding and Abetting:* Section 2339A outlaws attempts as well as conspiracies to violate its proscriptions. As a general rule, attempt is the unfulfilled commission of an underlying offense. If the attempt is successful, the offender cannot be prosecuted or punished for both the completed offense and the attempt to commit it. Attempt has two elements: (1) an intent to commit the underlying offense; and (2) some substantial step toward its completion. Mere preparation is not enough. "To constitute a substantial step, a defendant's actions must cross the line between preparation and attempt by unequivocally demonstrating that the crime will take place unless interrupted by independent circumstances." It is no defense that, unbeknownst to the defendant, commission of the underlying offense was impossible, as for example because he was dealing with government undercover agents rather than agents of a foreign terrorist organization. An attempt to provide material support in violation of Section 2339A and actually providing such assistance are punished the same: imprisonment for not more than 15 years (for any term of years or life, if death results from the commission of the offense), and/or a fine of not more than \$250,000 (not more than \$500,000 for an organization) (or not more than twice the amount of gain or loss associated with the offense).

Conviction for conspiracy to violate Section 2339A requires the government to "prove (1) that [the defendant] entered into a conspiracy; (2) that the objective thereof was to provide support or resources; and (3) that he then knew and intended that such support or resources would be used in preparation for, or in carrying of [a predicate offense]." No First Amendment violation occurs when the government introduces at trial evidence of the defendant's conspiratorial statements. "Forming an agreement to engage in criminal activities – in contrast with simply talking about religious or political beliefs – is not [First Amendment] protected speech."

As a general rule, the offense of conspiracy to provide material support is complete upon assent; the support need only be planned, not delivered. Moreover, each of the conspirators is liable not only for the conspiracy, but for any other foreseeable offense committed by any of the conspirators in furtherance of the overall scheme. Like attempt, conspiracy to provide material support carries the same penalties as the completed substantive offense: imprisonment for not more than 15 years (for any term of years or life, if death results from the commission of the offense), and/or a fine of not more than \$250,000 (not more than \$500,000 for an organization) (or not more than twice the amount of gain or loss associated with the offense). Unlike attempt, conspirators may be punished for both conspiracy and for actually providing material support should their scheme succeed.

Under the provisions of 18 U.S.C. §2, anyone who counsels, procures, aids, or abets a violation of Section 2339A or any other federal crime is punishable as though he had committed the offense

himself. “In order to aid and abet another to commit a crime it is necessary that a defendant in some sort associate himself with the venture, that he participate in it as in something that he wishes to bring about, [and] that he seek by his action to make it succeed.” “Typically, the same evidence will support both a conspiracy and an aiding and abetting conviction.” Unlike conspiracy, however, liability under Section 2 only attaches if someone else commits the substantive offense.

*Consequences of Charge or Conviction:* Section 2339A convictions carry a sentence of imprisonment for not more than 15 years (for any period of years or for life if death results from commission of the offense) and/or a fine of not more than \$250,000 (not more than \$500,000 for an organizational defendant). The Sentence Guidelines influence the sentence actually imposed below the statutory maximum. Sentencing courts must begin the process by determining the sentence range recommended by the Guidelines. Either the defendant or the government or both, may seek appellate court review of the sentence imposed to ensure that it is procedurally and substantively reasonable. A sentence is procedurally unreasonable, among other things, if it is the result of a Guideline miscalculation. A sentence is substantively unreasonable, if it is unduly lenient or severe based on the nature and severity of the offense and the defendant’s circumstances. The Sentencing Guidelines treat Section 2339A convictions as if they were convictions for aiding and abetting and for being an accessory after the fact and set the Guideline range using that of the predicate offense. In addition, the Guidelines feature a terrorism adjustment, U.S.G. §3A1.4, which can raise the Guideline sentencing level, for an offense that “involved or was intended to promote a federal crime of terrorism.” A federal crime of terrorism is one “calculated to influence or affect the conduct of [a] government by intimidation or coercion, or to retaliate against government conduct.” The standard “does not focus on the defendant but on his ‘offense,’ asking whether it was calculated, *i.e.*, planned – for whatever reason or motive – to achieve the stated object.”

*Federal Crime of Terrorism:* Section 2339A is among those statutes whose proscription is listed in the statute defining federal crimes of terrorism. Classification as a federal crime of terrorism has several other consequences. Property derived from or used in the commission of such an offense is subject to confiscation. Federal crimes of terrorism are by definition predicate offenses for purposes of federal money laundering and RICO prosecutions. Section 2339A prosecutions are subject to an eight-year statute of limitations, rather than the general five-year period. An accused charged with a violation of a federal crime of terrorism faces an enhanced prospect of pre-trial detention. A defendant convicted for violation of a federal crime of terrorism may be subject to a life-time term of supervised release, rather than the general five-year maximum term.

*Extraterritorial Jurisdiction:* Unlike Section 2339B, Section 2339A has neither a general nor a descriptive statement of extraterritorial jurisdiction. Section 2339A’s application abroad extends at least as far as the extraterritorial application of its predicate offenses. How much further is more uncertain. The Supreme Court in *RJR Nabisco, Inc. v. European Community* declared: “Absent clearly expressed congressional intent to the contrary, federal laws will be construed to have only domestic application.” The Court explained that, “[t]he question is not whether we think ‘Congress would have wanted’ a statute to apply to foreign conduct ‘if it had thought of the situation before the court,’ but whether Congress has affirmative and unmistakably instructed that the statute will do so. When a statute gives no clear indication of an extraterritorial application, it has none.”

*Venue:* Section 2339A asserts that venue is proper in “any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law.” The law provides as a general rule that conspiracy to commit an offense may be tried wherever an act in furtherance of the conspiracy occurs. Crimes committed abroad may be tried where the



accused is first brought into the United States. Venue is also proper where the accused aided and abetted the commission of a completed offense. Section 2339A's reach, when based solely on the location of the completed predicate offense, may be limited by Supreme Court decisions suggesting that venue over offenses committed within the United States is only proper in those districts in which the conduct element of the offense occurs.

*Civil Actions:* Section 2339A creates no private cause of action. Nevertheless, 18 U.S.C. §2333 authorizes such suits for those injured in their person, property, or business by an act of international terrorism. The courts have concluded that the violations of Section 2339A or Section 2339B may constitute “acts of international terrorism” for purposes of Section 2333. They do so by construing violations of Section 2339A or Section 2339B as acts of “international terrorism” as defined in 18 U.S.C. §2331(1).

## **Support of Designated Terrorist Organizations (18 U.S.C. §2339B)**

Section 2339A condemns providing material support for crimes that may be committed in a terrorism context. Section 2339B condemns providing material support to foreign terrorist organizations that engage in such offenses. In its present form, Section 2339B condemns:

- (1) whoever
- (2) knowingly
- (3)(a) attempts to provide,
  - (b) conspires to provide, or
  - (c) provides
- (4) material support or resources
- (5) to a foreign terrorist organization
- (6) knowing that the organization
  - (a) has been designated a foreign terrorist organization, or
  - (b) engages, or has engaged, in “terrorism” or “terrorist activity.”

*Whoever:* The law here for Section 2339B is the same as for Section 2339A. “Whoever” usually means any legal entity or individual.

*Knowingly:* Section 2339B has two knowledge elements. The government must prove that the defendant was aware of the fact that he was providing something to an entity (“whoever knowingly provides material support or resources to a foreign terrorist organization”). It must also show that the defendant was aware of the fact that the entity was a designated terrorist organization or that the entity engaged in terrorism or terrorist activity. The government does not have to demonstrate that the defendant “intended to further a foreign terrorist organization’s illegal activities.”

*Provides:* The law here is much the same as in the case of Section 2339A. The word “provide” ordinarily means “to supply something for sustenance or support.” At least two lower federal courts construing the word “provide” in Section 2339B’s companion, Section 2339A, concluded that the word should be accorded its ordinary dictionary meaning.

*Material Support:* The precise scope of the term “material support or resources” for purposes of Section 2339B prove controversial initially. With some additions, the section uses the definition found in Section 2339A(b) and thus covers “any property, tangible or intangible, or service.” The material support excludes medicine and religious materials, but includes: currency, financial



services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (one or more individuals who may be or include oneself), and transportation.

Section 2339B adopts Section 2339A's definition of "material support," and its accompanying definitions of "training" and "expert advice and assistance." Section 2339B also supplies two amplifications of the word "personnel." One limits the word to those working under the direction of a designated terrorist organization. The other provides limited immunity from prosecution for those who provide support with the approval of the Secretary of State and the Attorney General.

*Terrorist Organizations:* Providing material support is only a crime under Section 2339B if the known beneficiary is a foreign terrorist organization. That is, the government must show either that (1) the defendant knows that the organization has been designated a foreign terrorist organization or (2) the defendant knows that the organization is or has engaged in "terrorism" or in "terrorist activities." The process under which the Secretary of State designates an entity a foreign terrorist organization is authorized in Section 219 of the Immigration and Nationality Act. Under the procedure, the Secretary may designate an entity if he finds that it is (A) a foreign organization; (B) that "engages in terrorist activity or terrorism, or retains the capacity and intent to engage in terrorist activity or terrorism"; and (C) "the terrorist activity or terrorism" of the entity "threatens the security of United States nationals or the national security of the United States." An organization may challenge its designation, and the Secretary may revoke the designation. The organization may appeal the Secretary's decision to the United States Court of Appeals for the District of Columbia. A defendant, charged with providing material support to an organization, however, may not challenge the designation. The courts have consistently held that a defendant's inability to challenge the designation does not offend due process; nor does it constitute an unconstitutional delegation of legislative authority.

Organizations that the accused knew engaged in "terrorism" or "engaged in terrorist activities" constitute a second class of banned beneficiaries. "Terrorism" for purposes of Section 2339B is simply "premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents."

In the Immigration and Nationality Act, and thus for purposes of Section 2339B, "the term 'terrorist activity' means any activity which is unlawful under the laws of the place where it is committed (or which, if it had been committed in the United States, would be unlawful under the laws of the United States or any State) and which involves any of the following: (I) The hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle). (II) The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained. (III) A violent attack upon an internationally protected person (as defined in Section 1116(b)(4) of Title 18) or upon the liberty of such a person. (IV) An assassination. (V) The use of any – (a) biological agent, chemical agent, or nuclear weapon or device, or (b) explosive, firearm, or other weapon or dangerous device (other than for mere personal monetary gain), with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property. (VI) A threat, attempt, or conspiracy to do any of the foregoing."

*Attempt, Conspiracy, and Aiding and Abetting:* Section 2339B outlaws both attempts and conspiracies to violate its substantive provisions. As a general rule, attempt is the unfulfilled commission of an underlying offense. If the attempt is successful, the offender cannot be prosecuted or punished for both the completed offense and the attempt to commit it. Attempt has two elements: (1) an intent to commit the underlying offense; and (2) some substantial step toward its completion. Mere preparation is not enough. "To constitute a substantial step, a

defendant's actions must cross the line between preparation and attempt by unequivocally demonstrating that the crime will take place unless interrupted by independent circumstances." It is no defense that, unbeknownst to the defendant, commission of the underlying offense was impossible, as for example because he was dealing with government undercover agents rather than agents of a foreign terrorist organization. An attempt to provide material support in violation of Section 2339B and actually providing such assistance are punished the same: imprisonment for not more than 20 years (for any term of years or life, if death results from the commission of the offense), and/or a fine of not more than \$250,000 (not more than \$500,000 for an organization) (or not more than twice the amount of gain or loss associated with the offense).

Conspiracy to provide material support in violation of Section 2339B is the agreement to provide such support. The offense is complete upon assent; the support need only be planned, not delivered. Moreover, each of the conspirators is liable not only for the conspiracy, but for any other foreseeable offense committed by any of the conspirators in furtherance of the overall scheme. Like attempt, conspiracy to provide material support carries the same penalties as the completed substantive offense: imprisonment for not more than 20 years (for any term of years or life, if death results from the commission of the offense), and/or a fine of not more than \$250,000 (not more than \$500,000 for an organization) (or not more than twice the amount of gain or loss associated with the offense). Unlike attempt, conspirators may be punished for both conspiracy and for actually providing material support should their scheme succeed.

Under the provisions of 18 U.S.C. §2, anyone who counsels, procures, aids, or abets a violation of Section 2339B or any other federal crime is punishable as though he had committed the offense himself. "In order to aid and abet another to commit a crime it is necessary that a defendant in some sort associate himself with the venture, that he participate in it as in something that he wishes to bring about, [and] that he seek by his action to make it succeed." "Typically, the same evidence will support both a conspiracy and an aiding and abetting conviction." Unlike conspiracy, however, liability under Section 2 only attaches if someone else commits the substantive offense.

*Consequences of Charge or Conviction:* Conviction for a violation of Section 2339B is punishable by imprisonment for not more than 20 years (for any period of years or for life if death results from commission of the offense) and/or a fine of not more than \$250,000 (not more than \$500,000 for an organizational defendant). The Sentencing Guidelines assign a base offense level of 26 which translates, without more to a sentencing range of 63 to 78 months imprisonment for offenders with a virtually pristine criminal record. Section 2339B offenses, however, like those of Section 2339A, may trigger the Guidelines' terrorism adjustment. Section 3A1.4 raises the offense level to 32, criminal history category VI that translates to a sentencing range of 210 to 262 months imprisonment. Sentencing courts may depart from the sentencing range recommended by the Guidelines, but are subject to review if the sentence they impose is procedurally or substantively unreasonable. A sentence is procedurally unreasonable, among other things, if it is the result of a Guideline miscalculation. A sentence is substantively unreasonable, if it is unduly lenient or severe based on the nature and severity of the offense and the defendant's circumstances.

*Federal Crimes of Terrorism:* Section 2339B violations constitute federal crimes of terrorism if they are "calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct." Classification as a federal crime of terrorism has several consequences. Property derived from, involved in, or used in, the commission of such an offense committed against the United States or any of its nationals is subject to confiscation. Federal crimes of terrorism are by definition predicate offenses for purposes of federal money laundering and RICO prosecutions. Prosecution of a Section 2339B offense is subject to an eight-

year statute of limitations, rather than the general five-year period. An accused charged with a violation of a federal crime of terrorism faces an enhanced prospect of pre-trial detention. A defendant convicted for violation of a federal crime of terrorism may be subject to a life-time term of supervised release, rather than the general five-year maximum term.

*Extraterritorial Jurisdiction:* As a general rule, federal criminal law is territorial, unless Congress indicates otherwise. Congress has used one of two methods to signal overseas application of a criminal statute. In some cases, the statute states in general terms that it has extraterritorial application. In others, it describes the circumstances under which it reaches offenses committed overseas. Section 2339B has both a descriptive and a general statement of extraterritorial jurisdiction. The general statement declares, “There is extraterritorial Federal jurisdiction over an offense under this section.” The descriptive statement provides, “There is jurisdiction over an offense under subsection (a) if – (A) an offender is a national of the United States ... or an alien lawfully admitted for permanent residence in the United States ... ; (B) an offender is a stateless person whose habitual residence is in the United States; (C) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States; (D) the offense occurs in whole or in part within the United States; (E) the offense occurs in or affects [U.S.] interstate or foreign commerce; or (F) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a) or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).”

The general statement has been part of the section since its inception. The descriptive statement appeared as part of the Intelligence Reform and Terrorism Prevention Act of 2004. The legislative history of the 2004 legislation provides no explanation of why the apparently overlapping descriptive statement was thought necessary. Had the general statement been dropped at the time, it would be clear Congress intended extraterritorial application to be confined to situations found in the descriptive statement. The inclusion of both suggests Congress may have intended extraterritorial application in any situation that falls under either provision. At least one court, however, seems to have reached a different conclusion.

*Civil Actions;* Section 2339B(c) authorizes the Attorney General or the Secretary of the Treasury to bring a civil suit in district court to enjoin violation of the section. Again, neither Section 2339B nor Section 2339A creates a private civil cause of action, but 18 U.S.C. §2333 authorizes such suits for treble damages for those injured in their person, property, or business by an act of international terrorism. Acts of international terrorism are violent crimes or crimes dangerous to human life, committed overseas. The courts have concluded that the violations of Section 2339A or Section 2339B may constitute “acts of international terrorism” for purposes of Section 2333. They do so by construing violations of Section 2339A or Section 2339B as acts of “international terrorism” as defined in 18 U.S.C. §2331(1). Section 2339B(a)(2) requires financial institutions to report assets held for a foreign terrorist organization to the Secretary of the Treasury. Failure to do so subjects the institution to a civil penalty of the greater of \$50,000 or twice the value of the assets involved. Section 2339B(f) establishes a procedure for the protection of classified information during the course of civil proceedings, complete with authority for interlocutory appeals by the government.

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