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

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Charles Doyle
Senior Specialist in
American Public Law

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

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 each define the term “material support or resources” to mean any service or tangible or intangible property. The Supreme Court in *Humanitarian Law Project* upheld § 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 § 2339A are punishable by imprisonment for not more than 15 years; violations of § 2339B by imprisonment for not more than 20 years. Although the sections do not create a civil cause of action for victims, treble damages and attorneys’ fees may be available for some victims under 18 U.S.C. § 2333, which Congress clarified in 2016 to expressly extend to anyone who aids and abets the victimizing commission of an act of international terrorism.

Section 2339B has two extraterritorial jurisdiction provisions. One is general, providing for extraterritorial jurisdiction over an offense (“there is extraterritorial jurisdiction over an offense under this section”), and the other enumerates categories in which extraterritorial jurisdiction is provided (for example, the offender is a U.S. national). Section 2339A has no such provisions, but it likely applies overseas at least when its predicate offense or offenses have extraterritorial reach.

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Introduction

Two federal material support statutes sit at the heart of the Justice Department’s terrorist prosecution efforts.¹ One provision, 18 U.S.C. § 2339A, outlaws providing material support for the commission of certain designated offenses that might be committed by terrorists. The other, 18 U.S.C. § 2339B, outlaws providing material support to certain designated terrorist organizations. They share a common definition of the term “material support,” augmented to some extent in § 2339B cases.

Since their inception in the mid-1990s, Congress has periodically expanded and sought to clarify the scope of § 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, Congress amended § 2339A and supplemented it with § 2339B as part of the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). As the House committee report explained, § 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, (1) increasing the maximum term of imprisonment from 10 to 15 years (and to life imprisonment when commission of the offense resulted in death); (2) adding “expert advice or assistance” to forms of proscribed material support or resources; and (3) subjecting attempts and conspiracies to violate § 2339A to the same maximum penalties as the substantive violation of the section.

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

In 2016, Congress amended § 2333 to make it clear that civil liability for international terrorist offenses extends to those who aid and abet the commission of those offenses. Congress further amended § 2333 in 2018 to permit the use of certain blocked assets to satisfy judgments of U.S. nationals secured against a “terrorist party.”

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, § 2339A provides:

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

¹ This report is an abridged version of CRS Report R41333, *Terrorist Material Support: An Overview of 18 U.S.C. § 2339A and § 2339B*, without the footnotes, citations to authority, attributions, or attachments found there.

- (b) conceals or disguises
 - i. the nature,
 - ii. location,
 - iii. source, or
 - iv. ownershipof 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.

Elements – *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.” Elsewhere, courts have looked to the Dictionary Act when construing a federal criminal statute. 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.” Later, legislative bodies, Congress included, from time to time created criminal offenses which had no mental component, no *mens rea*. This type of strict liability 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 lack of a *mens rea* with less severely punished offenses.

The Supreme Court has stopped short of equating felony status with the intent to require a *mens rea* component. In *Staples*, however, it *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 tending 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.”

Section 2339A speaks to “whoever provides” material support. Unlike § 2339B, it does not say “whoever knowingly provides” material support. Thus, on its face, it might be thought to envelop both those who knowingly provide support and those who unknowingly or inadvertently provide support. Yet providing support only violates the section if it is provided “knowing or intending” that the support will be used to commit or prepare for the commission of a predicate offense. A defendant cannot unknowingly provide support or resources while at the same time “know[] or intend[] that they are to be used” for the commission of one of the predicate offenses.

Provides: Little is said of the meaning of the word “provides” in § 2339A or § 2339B. When a statute’s text, its context, or 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 suggested that the word “provide” in §

2339A should be given its ordinary dictionary meaning. The section immediately following §§ 2339A and 2339B states that “the term ‘provides’ includes giving, donating, and transmitting.”

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 or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance (i.e., advice or assistance derived from scientific, technical or other specialized knowledge), safehouses, false documentation or identification, communications equipment, and facilities, weapons, lethal substances, explosives, personnel (one or more individuals who may be or include oneself), and transportation,

Use in Relation to a Federal Crime of Terrorism: Section 2339A outlaws providing or concealing support when the defendant knows or intends the support to be used in relation to a federal crime of terrorism. The intended support must be related to the preparation for, commission of, or the escape following, the commission of one or more of a list of predicate terrorist 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 because of their status as federal crimes of terrorism may, but need not, be calculated to serve terrorist purposes.

Attempt, Conspiracy, Aiding and Abetting - Attempt: Section 2339A bans attempts and conspiracies. Consequently, a violation of § 2339A may occur even if the anticipated federal crime of terrorism has not. On the other hand, because the section also reaches support for concealment of an escape from a predicate offense, a violation of the section may occur even after commission of the predicate offense. In general, attempt is the unfulfilled commission of an underlying offense. If the attempt succeeds, 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 towards 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.”

Conviction for conspiracy to violate § 2339A *requires* the government to “prove (1) that [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].” In general, 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. Unlike attempt, conspirators may be punished for both conspiracy and for providing material support should their scheme succeed.

Aiding and Abetting: Under 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.” Unlike conspiracy, however, liability under Section 2 only attaches if someone else commits the substantive offense.

Consequences of 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) or a fine of not more than \$250,000 (not more than \$500,000 for an organizational defendant), or both imprisonment or a fine. The Sentencing Guidelines influence the sentence 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 results from 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 § 2339A convictions as if they were convictions for aiding and abetting or for being an accessory after the fact and set the Guideline range using that of the predicate offense. The Guidelines feature a terrorism adjustment 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.” The sentencing court is free, but not obligated, to depart from the enhancement.

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 under 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 violating 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 § 2339B, § 2339A has neither a general nor a descriptive statement of extraterritorial jurisdiction. Section 2339A's application abroad still extends as far as the extraterritorial application of its predicate offenses. Otherwise, as the Supreme Court *declared* in *RJR Nabisco, Inc. v. European Community*: “Absent clearly expressed congressional intent to the contrary, federal laws will be construed to have only domestic application.”

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.” Moreover as a general rule, the law provides 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 a conduct element of the offense occurs.

Civil Actions: Section 2339A, like § 2339B, creates no private cause of action. Still, 18 U.S.C. § 2333 authorizes such suits for those injured in their person, property, or business “by reason of” an act of international terrorism. Section 2331(1) defines the term “international terrorism” under the chapter in which §§ 2333, 2339A, and 2339B are found. The term features three elements: a dangerous crime, a terrorist motive, and an international component. The courts have concluded

that the violations of § 2339A or § 2339B may satisfy the first of these elements. They do so by construing violations of § 2339A or § 2339B as acts of “international terrorism” as defined in 18 U.S.C. § 2331(1).

In 2016, Congress expanded the reach of § 2333 in the Justice Against Sponsors of Terrorism Act (JASTA) to include liability for aiding and abetting an act of terrorism. The expansion contemplated liability that satisfied *Halberstam*’s three *elements*: “(1) the party whom the defendant aids must perform a wrongful act that causes an injury; (2) the defendant must be generally aware of his role as part of an overall illegal or tortious activity at the time that he provides the assistance; and (3) the defendant must knowingly and substantially assist the principal violation.”

In *Twitter, Inc. v. Taamneh*, the Supreme Court rejected claims that three social media companies, Facebook, Twitter, and Google (YouTube), whose platforms terrorists had used to recruit and raise funds, were liable for aiding and abetting a terrorist attack on an Istanbul nightclub that killed 39 and injured another 69. The Court *explained* that for purposes of § 2333 aiding and abetting liability is confined to “a conscious, voluntary, and culpable participation in” in someone else’s wrongdoing.”

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, § 2339B provides for criminal liability against:

- (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.”

Elements – *Whoever*: The law here for § 2339B is the same as for § 2339A. “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 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 thus held criminally liable.

***Knowingly*:** Section 2339B has two knowledge elements. The government must prove that the defendant knew 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 knew 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: Here too, the law is much the same as in § 2339A. 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.”

Material Support: The precise scope of the term “material support or resources” under § 2339B proved controversial at first. With the addition from § 2339B(h) covering “personnel,” the section uses the definition in § 2339A(b) and thus covers “any property, tangible or intangible, or service.” The material support excludes medicine and religious materials, but includes: currency or monetary instruments or financial securities, financial services, lodging, training (i.e., instruction or teaching designed to impart a specific skill, as opposed to general knowledge), expert advice or assistance (i.e., advice or assistance derived from scientific, technical, or other specialized knowledge), safe houses, false documentation or identification, communications equipment and facilities, weapons, lethal substances, explosives, personnel (one or more individuals who may be or include oneself), and transportation. Section 2339B adopts § 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 § 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.”

Designated Terrorist Organizations: 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.

Attempt, Conspiracy, Aiding and Abetting – *Attempt:* Section 2339B outlaws both attempts and conspiracies to violate its substantive provisions. In general, attempt is the unfulfilled commission of an underlying offense. As noted earlier, if the attempt succeeds, 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 towards 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.”

Conspiracy: Conspiracy to provide material support in violation of § 2339B is the agreement to provide such support. The offense is complete upon assent; the support need be agreed only to,

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), 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), or imprisonment and a fine. Unlike attempt, conspirators may be punished for both conspiracy and for providing material support should the scheme to provide it succeed.

Aiding and Abetting: Under 18 U.S.C. § 2, anyone who counsels, procures, aids, or abets a violation of § 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.” A completed offense is a prerequisite to conviction for aiding and abetting, but the hands-on offender need be neither named nor convicted.

Consequences of Conviction: Conviction for a violation of § 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) or a fine of not more than \$250,000 (not more than \$500,000 for an organizational defendant), or both imprisonment and a fine. 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 § 2339A, may trigger the Guidelines’ terrorism adjustment.

Section 3A1.4 of the Guidelines raises the offense level to 32 and the criminal history to category VI, which applies when the offense “involved or was intended to promote, a federal crime of terrorism” and which translates to a sentencing range of 210 to 262 months in prison. A “federal crime of terrorism” is any of the offenses listed in § 2332b(g)(5)(B) and “calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct.” It requires “that the *underlying felony*,” the triggering crime of terrorism, “[be] calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct.”

Federal Crime 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 under federal money laundering and RICO prosecutions. Prosecution of a § 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 violating a federal crime of terrorism faces a possible life-time term of supervised release, rather than the general five-year maximum term.

Extraterritorial Jurisdiction: In general, federal criminal law is territorial—that is, it applies only to conduct within the territory of the United States—unless Congress signifies 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, without more, that it has extraterritorial application. In others, it describes the circumstances under which it reaches offenses committed overseas. Section 2339B has both a general statement of extraterritorial jurisdiction

(§ 2339B(d)(2)) and an enumerating statement of extraterritorial jurisdiction (§ 2339B(d)(1)). The general statement declares, “There is extraterritorial Federal jurisdiction over an offense under this section.” The enumerating 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).” Including both suggests Congress may have intended extraterritorial application in any situation that falls under either provision.

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, but has yet to be the subject of any reported case. As with violations of § 2339A, § 2333 may provide victims of § 2339B with a cause of action for triple damages and attorneys’ fees. “Any national of the United States[,] injured in his or her person, property, or business *by reason of* an act of international terrorism[,]” may recover under § 2333. Acts of international terrorism consist of dangerous crimes, such as violations of § 2339B, apparently committed for terrorist purposes, and having some international nexus.

Reporting Requirements: 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.

Protection of Classified Information: Section 2339B(f) establishes a procedure to protect classified information during civil proceedings brought by the government, complete with authority for interlocutory appeals by the government.

Author Information

Charles Doyle
Senior Specialist in American Public Law

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