

ACLU Analysis of Anti-Terrorism Legislation before the House

Section 301 - eliminating the statute of limitations in terrorism offenses. This raises due process concerns. If the government delays in bringing a criminal charge the case may be so old that a person cannot adequately defend herself;

Section 302 - increasing all terrorism offenses to possible life sentences. This could create some very unfair results by exposing some people with limited involvement in the case to life sentences;

Section 303 --expanding RICO - the ACLU has had a long-standing concern about the RICO statute in that it is so broad and creates First Amendment concerns by prosecuting people because of "guilt by association"; Section 303 would make the crime of attempted terrorism or conspiracy to commit terrorism punishable to the same degree as the underlying offense of terrorism. This provision is poorly drafted because the meaning is unclear. The section reads, "Any person who attempts or conspires to commit any Federal terrorism offense shall be subject to the same penalties as those prescribed for the offense. . ." (emphasis added). One could also interpret this provision as a "back-door" attempt to expand the death penalty. Because of its redundancy and vagueness, we recommend that the committee strike this section.

Section 305 - expands the prosecution of possession of biological weapons and establishes the authority to promulgate rules to regulate the use of biological agents.

Section 308 - creating a lifetime supervised release term - this provision could have the effect of a person being subjected to lifetime government supervision, which could be unwarranted in most instances;

Section 352 - would give the government the authority to seek judicial approval to conduct secret searches - where they could search a person's property without giving notice for 90 days - or longer with judicial approval. This means that the government could enter your house, apartment or office with a search warrant when you are away, conduct a search, seize or copy things such as your computer hard drive and not tell you until months later.

Section 353 - expanding the DNA database. The ACLU opposes the expansion of CODIS because there are no provisions for destroying DNA samples once they are no longer needed which means that the government will have access to highly personal information that is unrelated to criminal investigations.

Section 354 - would allow secret information obtained during the grand jury to be released to the military, intelligence and immigration agencies. Section 354 would expand the grand jury secrecy exception in two ways (1) by expanding the list of people who can have access to this private information and (2) by expanding what the information can be used for. Under this provision, grand jury information could be disclosed to any law enforcement agency, the military, the intelligence branches and the immigration service.