

[Please note: this analysis refers to the Department of Justice's original "wish list" of expanded powers within the so-called "Patriot II" legislation. The version of the bill eventually signed by President Bush in December 2003 was watered-down considerably, but still codified dangerous and unconstitutional expansions of federal police power.]

EXECUTIVE SUMMARY

On February 7, 2003, the Washington-based Center for Public Integrity released a draft of new "anti-terrorism" legislation being crafted by the Justice Department. The broad new powers conferred on government by the Domestic Security Enhancement Act of 2003 (DSEA), labeled "CONFIDENTIAL -- NOT FOR DISTRIBUTION," are alarming.

Our analysis suggests that, rather than toughening our ability to capture and kill Osama bin Laden and his ilk, this bill would instead rely on cosmetic "solutions" which threaten the constitutional rights of Americans, without increasing our national security. In fact, this placebo will probably make our country considerably less secure.

Some of the most significant provisions follow: **PRIVACY AND UNLAWFUL SEARCHES**

The government could bug, wiretap, or search anyone in America for up to 15 days without going to any court if Congress had authorized the use of military force (i.e., under circumstances which currently exist). [Section 103]

The government could seize personal information about Americans (including credit information, educational transcripts, etc.) in a wide range of circumstances without the approval of any court by issuing "administrative subpoenas" (i.e., subpoenas or letters issued by bureaucrats and not authorized by any court). [Sections 126, 128, & 129]

All of this information could be used to prosecute Americans. [Section 105]

If the government, incredibly, was so inept that it failed to comply with the virtually non-existent limitations on bugs and searches, there would be a defense in a proceeding against an agent who violated the law and/or the Constitution, thereby effectively legalizing all searches. [Section 106]

Individuals and groups which engage in or advocate civil disobedience or Second Amendment rights, including GOA, could be classified as "foreign powers" and subject to electronic surveillance for up to a year without the approval of any court. [Section 104] **BIG BROTHER**

DSEA would authorize the creation of a DNA bank of all persons "suspected" of being terrorists. [Section 302-6]

Businesses that unlawfully turn over private consumer information to the federal government out of terrorism-related paranoia would be insulated from lawsuits. [Section 313] **ARRESTS AND SUSPENSION OF CONSTITUTIONAL RIGHTS**

DSEA would allow the government to revoke or suspend a pilot's license for two months without any intervening judicial review during that time period [Section 409]. This provision may well be intended to deter pilots wishing to carry firearms in the cockpit. The guidelines issued by the Transportation Security Administration require all kinds of new testing (emotional, psychological, etc.) for every pilot who seeks to carry a firearm. (Of course, pilots already go through similar testing before qualifying for a pilot's license.) These additional tests could become fishing expeditions for a future Clinton-Gore Justice Department -- giving officials a pretext to suspend or revoke the licenses of those pilots who wish to carry firearms in the cockpit under DSEA's new suspension provisions.

DSEA could allow members and supporters of GOA and other organizations to be stripped of their citizenship [Section 501], arrested and held indefinitely without charges, here or abroad [Section 503-6], in secret at a secret location [Section 201], without access to an attorney or benefit of constitutional protections.

BACKGROUND

A year ago, Gun Owners of America [GOA] -- together with a wide range of organizations on all sides of the ideological spectrum -- warned that the so-called "P.A.T.R.I.O.T. Act's" overly broad definition of terrorism could allow the federal government to spy on -- and potentially shut down -- groups like GOA.

GOA and other groups negotiated with the Senate and the administration in removing some of the more noxious provisions, but was only partly successful in correcting the bill's inadequacies.

In particular, the Federal Bureau of Investigation -- which hardly shrouded itself in glory in connection the Waco and Ruby Ridge incidents -- was given broad new powers to wiretap, monitor, search, and detain "suspects" without probable cause or due process and without giving them access to attorneys.

On February 7, the Washington-based Center for Public Integrity released a draft of follow-up legislation being crafted by the Justice Department. The broad new powers conferred on government by this follow-up bill, labeled "CONFIDENTIAL -- NOT FOR DISTRIBUTION," are alarming.

Given the inability of the administration to capture and kill Osama bin Laden and many other top al Qaeda leaders, the Justice Department appears to be poised to use a future terrorist tragedy to create the impetus for passage of this bill, dubbed the "Domestic Security Enhancement Act of 2003 [DSEA]."

The importance of provisions waiving constitutional rights for non-citizens increases dramatically if the government can revoke the citizenship of native-born Americans for any reason -- much less, for potentially minor transgressions.

Although they may disagree with some overly broad interpretations crafted by the

courts, Americans have no problem with constitutional rights for confessed serial killers, even though their admitted crimes are very serious. So the notion that bad people don't deserve the protections afforded by the rule of law is a relatively novel one -- and not a constitutional idea at all.

Rather than suspending the Constitution, concerned Americans believe the administration should honor it by:

- creating a non-politically correct military;
- allowing the military to seek, capture, and/or kill terrorists like Osama bin Laden, irrespective of whether resolute action has the approval of the UN or other participants in the "new world order";
- treat REAL terrorists, like the bomber in WTC1, with severity, rather than moving to shorten their sentences (as was done prior to 9/11/2001);
- securing our borders.

On the other hand, with the new DSEA draft posing the possibility that GOA and its officers, employees, and members could be stripped of their citizenship, the notion of suspending the Constitution for objectionable behavior is not something we support.

THRESHOLD OBSERVATIONS

A couple of threshold observations:

First: Three thousand people died on 9/11. While this is a tragedy of immense proportions, it is important to remember that perhaps as many as 169,000,000 people were killed during the 20th century by despotic governments given totalitarian powers [R.J. Rummell, *Death By Government*, Transaction Publishers, New Brunswick, NJ (2000)]. Americans who believe "it can't happen here" should consider how federalizing police powers resulted in tragic consequences in places like Ruby Ridge, Idaho and Waco, Texas.

Second: Over the past thirty years, most of our "dire" predictions have, if anything, understated the government abuse of the open-ended programs and over-broad language which we opposed. If anything, many Americans underestimated the extent to which:

- the installation of seatbelts and air bags would result in "safety roadblocks," racial profiling, and the decapitation of infants;
- the Brady Law would give rise to an effort by the Clinton administration to tax and register gun transactions using its illegally maintained database;
- the enactment of a ban on full automatics in 1986 would only open the door to semiautomatic bans and calls for handgun registration; and
- the Racketeer Influenced and Corrupt Organizations Act would primarily apply not to the Mafia, but to legitimate businesses and political demonstrators -- and would be later used by "conservative" Republican Senators to penalize gun dealers for minor infractions. The attempt to apply RICO to gun dealers occurred in 1998, but was

beaten back after GOA mobilized thousands upon thousands of gun owners to lobby their Senators.

Given our experience with government, only a fool would agree to enact legislation which could arguably outlaw our organizations in the expectation that the language would not be interpreted as broadly as it could. This is particularly true because the Justice Department presumably knows how to draft legislation precisely crafted to oppose terrorism, and has chosen not to do so.

AN OVERVIEW

THE THRESHOLD DEFINITION OF "TERRORIST" -- A CASE STUDY

The question of whether DSEA is a "good bill" or a "bad bill" may revolve around whether its draconian remedies are narrowly targeted at legitimate threats, such as al Qaeda operatives, or are, instead, broadly applicable to militia groups or gun groups like Gun Owners of America and the National Rifle Association.

Some of the terms at the core of the bill are new; others were already on the books. For the second category, however, the impetus toward expansive interpretation of terms like "terrorist organization" was non-existent when the only ramification of the designation was determining who would be denied a visa. Now that this classification has cataclysmic consequences in terms of the ability of the government to search, bug, wiretap, and arrest, the dynamic has changed completely.

Here's the bottom line: At its lowest common denominator, a native-born American could be stripped of his U.S. citizenship and permanently and clandestinely detained in a secret location without charges and without an attorney if he:

1. "provid[ed] material support... to...
2. a terrorist organization, as defined by section 219 of the Immigration and Nationality Act -- a definition which requires that the organization
3. "engag[e] in a terrorist activity" (which includes "[t]he use of any... firearm... with intent to endanger, directly or indirectly, the safety of one or more individuals or cause substantial damage to property...") and
4. "threate[n] the security of United States nationals..."
5. if the organization is] "engaged in hostilities against..."
6. [U.S.] "national security interests...."

Requirement #1: Material support: Anyone who has ever contributed a dime to an organization which the administration, after the fact, determines to be a "terrorist organization" has "provided material support" to that organization. The definition of "material support" would be loosened even further by DSEA to include "knowingly provid[ing], attempt[ing] to provide, or conspir[ing] to provide a terrorist organization

with one or more individuals (including himself) to work in concert with it or under its direction or control." Hence, if GOA were designated a "terrorist organization," all 300,000 members would be "at risk."

Requirement #2: Terrorist organization: A "terrorist organization" is an organization designated as such under section 219 of the Immigration and Nationality Act. It is far from implausible to assume that a Republican administration would make such a certification with respect to militia organizations such as the Deacons for Defense, an armed group which protected blacks against the KKK in the 1960s. It is reckless to assume a Clinton or Gore administration would not make such a designation with respect to conservative groups on the fringes of respectability, plus Gun Owners of America and the National Rifle Association, as well.

Requirement #3: Use of a firearm to threaten property: This requirement doesn't mandate injury to a person or destruction of property. It merely requires the "use" (which may include "carry") of a firearm with "intent" to damage property. UNITA (the group comprised of anti-communist, Angolan freedom fighters) clearly falls within this definition. The Deacons for Defense could very well have fallen within the definition since many of its participants carried guns while patrolling neighborhoods for the protection of residents within. As for GOA, it sanctions carrying firearms and using them for the protection of one's self, one's family, and one's home, even if that protection does not fall within the precise strictures of "self-defense," as it has been recently defined by the courts. Hence, the organization, its officers, and its members may well unlawfully "use" (i.e., "carry") firearms with intent to injure or cause property damage.

Requirement #4: Threat to "security" of U.S. nationals: Whether an American's "security" is threatened is a wholly subjective question.

Requirement #5: Hostilities: Traditionally, the question of whether a nation was engaged in "hostilities" against the United States involved a relatively high threshold and a comparatively bright-line definition. However, the notion, introduced by DSEA, of unaffiliated individuals and organizations engaging in "hostilities" is a complete *tabula rasa*.

UNITA was actually at war with a U.S. communist ally -- and, thus, clearly falls within the ambit of this definition. But, just as a nation preparing for war may be engaging in "hostilities" before the first bullet is fired, there is nothing in this requirement that mandates that there be actual violence for an organization or individual to "engage in hostilities." Having said that: (1) groups like the Deacons for Defense clearly engaged in physical force to obtain their objectives of protecting black neighborhoods, and (2) GOA, by advocating the use of the Second Amendment to battle despots, could, by the application of "conspiracy" doctrine, easily fall within the scope of the definition if a member, subscribing to this notion, became violent.

Requirement #6: What are "national security interests"? Surely, the protection of an "ally," like the communist government of Angola, would fall within the term. When the GOA member discussed in connection with requirement #5 attacks a government

building or official, there is no doubt that a "national security interest" would be invoked here. And in the case of the Deacons for Defense, which protected blacks against the KKK and the southern government establishment which supported it during the turbulent 1960s, it is fairly easy to see how "a national security interest" would be invoked by the "powers that be." **PRIVACY AND UNLAWFUL SEARCHES**

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A SECTION-BY-SECTION ANALYSIS OF TROUBLESOME PROVISIONS

Treating GOA Like a Foreign Terrorist Nation for the Purpose of Searches, Bugs, and Wiretaps: Section 101 would allow individual "terrorists" to be classified as "foreign powers." A person engages in "international terrorism" if he engages in an illegal activity "dangerous to human life" to "influence the policy of a government," provided that a single letter crossed foreign boundaries in connection with the "terrorist's" activities. It is fairly clear, for example, that the Clinton administration would have classified Operation Rescue organizers as "terrorists" had it had the legal capacity to do so. Once an individual is classified as a "foreign power," this would, for example,

allow virtually unlimited secret wiretapping and searches of that person under the Foreign Intelligence Surveillance Act (FISA). And, under section 104, the government could conduct electronic surveillance for up to a year without the approval of any court at all. GOA would have also been vulnerable under these definitions.

Treating the "Agents" of Gun Groups Like North Korea for the Purpose of Searches, Bugs, and Wiretaps: Having defined "foreign power" to include individuals who engage in civil disobedience, section 102 would allow an individual who engages in "clandestine [i.e., non-public] intelligence gathering activities [for] a foreign power" to be classified as "an agent of a foreign power," irrespective of whether such activities are unlawful under U.S. law.

15-Day Authorization for Wiretapping, Bugging, or Search of any American at any Time when Congress Has Authorized the Use of Force: Section 103 would allow electronic surveillance, physical searches, and the use of pen registers for up to 15 days without any court approval -- even approval of the secret FISA [Foreign Intelligence Surveillance Act] court -- at any time Congress has authorized the use of military force. In other words, the government could, under current circumstances, bug your house, tap your phone, and search your home or person for 15 days without a court order.

Establishment of Virtually Unlimited Warrantless Electronic Surveillance Against GOA: Section 104 would allow one year of electronic surveillance of spoken communications of "foreign powers" without any court's approval. This would not be as serious if sections 101 and 111 did not extend the definition of "foreign power" to domestic organizations and individuals who engage in or who advocate (1) civil disobedience, or (2) the use of the Second Amendment as a check on despotism.

Use of the Product of Secret or Warrantless Searches in Criminal Prosecutions: Section 105 would allow information obtained without procedural protections and ostensibly for foreign intelligence purposes to be used to prosecute individuals if the AG, the Deputy AG, an Associate AG, or an Assistant AG approved. This makes a huge end run around the Fourth Amendment protection against warrantless searches and seizures.

Authorization of Unconstitutional Searches: Section 106 would create a defense for a federal agent conducting an illegal search not authorized by any court -- no matter how unlawful or unconstitutional -- if the search was in connection with an investigation authorized by the president or Attorney General. Given that massive expansion of secret and warrantless searches under DSEA, this "just-following-orders" provision appears to remove any impediment at all to the most egregious violations of constitutionally protected privacy rights.

Expansion of Pen Register Authority: In 2001, the Justice Department argued for a very broad ability to monitor the phone calls of non-citizens whenever necessary "to obtain foreign intelligence information" -- without the approval of any court, including the FISA "secret court." Section 107 of the new legislation would extend this power to

U.S. citizens.

Expanded Sanction Ability of FISA Court: Section 109 would explicitly give the secret FISA court the ability to sanction individuals in any way a regular court can sanction them, including, for example, contempt of court. The difference is that individuals have no right to appear before the FISA court, to be represented before it, or to contest its judgments.

Removal of Sunset Provision: Section 110 would, in the guise of making a "technical correction," remove the sunset from provisions allowing the broad use of pen register and trap and trace devices.

Treatment of GOA as a "Foreign Power": Section 111 would allow "international terrorist organizations" to be treated like foreign powers under a broader range of circumstances than allowed by current law. The government could, for example, conduct electronic surveillance or searches for up to a year without any court's approval. This section also insures that an "international terrorist organization" cannot be classified as a "United States person," thereby affording it protections from many of FISA's more onerous impositions.

Applicability of Electronic Surveillance Provisions of Title 18 to GOA: Section 121 would expand the circumstances under which electronic surveillance could be conducted. It would insert the broad definition of "terrorist activities" in the electronic surveillance provisions of Title 18 and would explicitly state that electronic surveillance could be conducted in connection with any of these activities. In particular, "terrorist activities" would include all of the overbroad definition of "international terrorism," plus "related preparatory, material support, and criminal activities."

Warrantless Electronic Surveillance: Section 122 would explicitly add to the ability of the Justice Department to conduct electronic surveillance without the approval of any court. Specifically, it would add four sections as "surveillance predicates." One of these predicates -- 18 U.S.C. 930(c) (attempting to kill someone with a firearm on a federal facility) -- could be applicable in cases where a hunter on BLM land and on a federal installation uses a firearm for self-defense, but does not fall within the formal strictures of the common law defense.

Extension of Time Periods for Electronic Surveillance: In the case of individuals determined by the government to be engaged in "terrorist activities," section 123 would:

- extend the normal time for the investigation from 30 to 90 days;
- eliminate the ten-day requirement for periodic reports to judges while electronic surveillance is ongoing, allowing courts to require them at no shorter intervals than 30 days;
- delay the requirement of notifying the subject that his personal electronic communications were accessed in cases where the Justice Department determines that national security would be endangered;

extend the normal duration of pen registers and trap and trace devices from 60 to 120 days.

Implied Authority to Search Databases: Section 124 would provide that an order to engage in electronic surveillance is an implicit authorization to intercept any of a device's functions. Thus, an order authorizing interception of transmissions from a Palm Pilot would automatically authorize seizure of all of the information stored in the Palm Pilot. An order authorizing interception of e-mails would be taken to authorize access to all information stored in the computer.

Nationwide Judge-Shopping for Search Warrants: Section 125 would allow "nationwide search warrants" -- thereby allowing nationwide judge-shopping, even in districts which have little relationship to the purported crime -- in a broader range of circumstances. In particular, "computer crimes" would be subject to nationwide search warrants.

Warrantless Seizure of Personal Information: Section 126 would allow law enforcement personnel to obtain a person's credit report without a warrant by simply certifying that they will use it "only in connection with their duties to enforce federal law." It would be a crime to notify a consumer that his credit report had been accessed.

Authorization of Field Autopsies, Even when Contrary to Religious Beliefs: Section 127 would allow the autopsy of bodies outside U.S. jurisdiction, even in cases, such as Orthodox Jews, where religious beliefs prohibit the practice.

Warrantless "Administrative Subpoenas": Section 128 would broadly authorize the issuance of "administrative subpoenas" (i.e., subpoenas issued by bureaucrats without the approval of any court) in the case of "domestic or international terrorism" investigations.

Expansion of Current Warrantless "Administrative Subpoena" Authority: Section 129 would amend the provisions of federal law currently authorizing "administrative subpoena"-type demands in limited circumstances. It would expand the scope of current non-judicial information demands to cover "domestic," in addition to "international" terrorism. It would also create a procedure for judicial enforcement in the case of non-compliance and would establish a prison sentence of up to five years. The loosely defined "domestic terrorism" provision opens the door to broad investigations and warrantless searches of domestic organizations, particularly militia-type Second Amendment groups.

Secret Arrests: Under section 201, once a person was arrested pursuant to broadened authorities, the law would prohibit Freedom of Information Act lawsuits to obtain information about those persons in custody.

Gag Order on Public Disclosure of Worst-Case Scenarios: Section 202 would prohibit the release of "worst case scenario" reports required to be prepared by facilities

handling dangerous chemicals. The reports would be available only in "read-only" form -- and only to persons living or working in the affected area.

Concealment of Information Relating to the Capitol Complex: Section 203 would exempt OSHA-type information relating to the Capitol complex from the Freedom of Information Act. Once dubbed "the people's house," this is one more admittedly small step toward turning the Capitol into a fortress.

Requirement that Classified Information Procedures Act Hearings Be Conducted in Secret: Section 204 would allow the government to require courts to conduct Classified Information Procedures Act procedures *ex parte* (i.e., without the presence of any party, other than the government).

Extension of Grand Jury Secrecy Rules to All Cases: Section 206 would impose grand jury-type secrecy requirements on a broad range of persons receiving subpoenas. Secrecy requirements would apply in any case where there was a possibility of flight, destruction of documents, evidence-tampering, "or other serious jeopardy to an investigation," whether or not in connection with a terrorism case.

DNA Database: Section 302 would allow a DNA database of "suspected" terrorists -- with the federal government exercising unfettered discretion over who is a "suspected" terrorist. A "suspected terrorist" would be any person "as to whom [sic] the Attorney General... has determined that there is reason to believe [has violated the loosely defined statutes discussed above]." Thus, it would not seem to be a defense that there is no reason to believe the subject is a terrorist, so long as the AG has determined there is reason to believe. Section 306 would make it clear that this extends to "suspected terrorists" on conditional release, parole, probation, or any other kind of federal supervision. Section 303 would allow the attorney general to establish DNA databases for suspected terrorists. Section 304 contains definitions, and section 305 states that this provision will not be taken to diminish any authority currently available for collecting DNA samples.

Distribution of Private Financial Data: Section 311 would drop restrictions on sharing federal-government-held information concerning credit history and educational records with states and localities.

Invalidation of Surveillance Consent Decrees: Section 312 would overturn judicial consent agreements that the New York City Police Department and other law enforcement agencies entered with respect to surveillance of individuals and organizations that "may" be engaged in criminal wrongdoing.

Sneak Rule: Section 313 would allow businesses the virtually unlimited ability to turn over private information to the government without civil liability, based on their assessment that the information "may assist" a terrorist inquiry.

Search Warrants on Behalf of Foreign Governments: Section 321 would explicitly

allow the government to obtain search warrants and pen/trap register requests on behalf of foreign governments, irrespective of whether the U.S. has entered a treaty with the country authorizing this practice.

Extradition for Crimes Not Contained in Extradition Treaties: In the name of curing anachronistic treaties, section 322 would open the doors on the types of crimes for which Americans could be extradited to Third World countries. An individual could be extradited for any crime carrying a penalty in excess of ten years under a politically correct regulatory statute enacted by Congress or by the state where the person is found.

Regulation of the Internet: Section 401 would criminalize and create a cause of action against a person who "knowingly convey[s] false or misleading information, where the information reasonably may be believed, [if the information concerns] criminal activity relating to weapons of mass destruction...." Several observations with respect to persons -- particularly conspiracy theorists -- wishing to conduct discussions of terrorism on the internet: (1) Under decisions going back to the 1930's, the word "knowingly" can be interpreted to include willful ignorance, gross recklessness, and other states of mind not requiring objective knowledge. It can also be taken to imply that the communication was "knowing," irrespective of whether the sender "knew" of the "false or misleading" nature of the content. (2) Under a broad range of federal statutes, including the SEC's Rule 10b5, "false or misleading" information includes true statements that fail to include other information which might be of interest to the reasonable listener. This is usually couched in language like: "fails to state a fact necessary to make the statement not misleading." (3) What person, conveying the most outrageous information on the internet, could credibly argue that the information "may not reasonably be believed"? (4) The information need not concern criminal activity of the sender. More likely, in fact, it will be mindless speculation on criminal activities of Osama bin Laden, al Queda, etc.

Broadening the Definition of International Terrorism to Cover GOA, NRA, etc.: Section 402 would expand the phrase "providing material support to terrorism," to cover "knowingly provid[ing], attempt[ing] to provide, or conspir[ing] to provide a terrorist organization with one or more individuals (including himself) to work in concert with it or under its direction or control." This would insure that an employee or volunteer for any organization designated as "terrorist" could also be swept up in the law's broad criminal proscriptions.

Outlawing Encryption: Section 404 provides that, if an individual knowingly or unknowingly commits a federal regulatory offense (like virtually every major American corporation) and encrypts his communications, the act of encryption is, in and of itself, a felony carrying a five-year prison sentence. Again, the language provides that the person must "knowingly" use the encryption technology, but that "knowledge" requirement probably does not extend to the question of whether the encrypted communication is "incriminating" or whether the individual is engaging in unlawful activity.

Denying Bail: Section 405 would create a presumption that an individual accused of terrorism would not be granted bail and would not be released prior to trial. Among the crimes for which unconvicted prisoners would presumptively not be released is "injury to government property." Thus, this broad new class of malefactor would be imprisoned, without any finding of guilt, based on the government's unproven accusation.

"Affecting Interstate Commerce": In sections 403 and 407, the Justice Department argues that a jurisdictional predicate for terrorism prosecutions granting jurisdiction in any case where the act "affects interstate commerce" is not broad enough. Irrespective of the underlying policy, it is unclear that any act committed within the U.S. would not "affect commerce," as that term has been broadly defined by the courts.

Lifetime Government Supervision Authorized for a Broad Range of Non-Serious Crimes: Last year's bill established that a person who has been convicted of any "terrorism"-type offense could be subject to government supervision and restrictions on his movement for the rest of his life. Section 408 would make it clear that a person under "supervision" could be reimprisoned at any time for the rest of his life for multiple violations of the lifetime restrictions imposed on him. The court would be required by law to impose supervision and restrictions for AT LEAST ten years -- even if the court found that the individual did not present a risk to the community. The section also broadens the list of crimes invoking lifetime supervision to crimes which DO NOT "create a foreseeable risk of, death or serious injury," extending that list to "crimes likely to be committed by terrorists and supporters of terrorism...."

Revocation of Pilot Certification without Judicial Review: Section 409 would allow the government to suspend, revoke, or deny pilot certification based on "national security." The FAA administrator would be required to suspend the license of any pilot for whom the Under Secretary of Transportation had issued an "initial determination" that the pilot posed a risk. The courts would be explicitly prohibited from reviewing the administrator's order or the "initial determination." This means that, if this provision were upheld as constitutional, there would be no judicial redress to an unconstitutional, unlawful, or arbitrary suspension of a pilot's license until it became "final" at the end of 60 days.

Removal of Statute of Limitations for "Terrorism": Section 410 would remove the statute of limitations on the open-ended "terrorism" offenses which have been discussed.

Increase in Fine for Supporting Groups Like GOA: Section 421 would increase the fine for supporting terrorist organizations (like, potentially, GOA or NRA) to \$50,000 per violation.

Expansion of Open-Ended Money Laundering Provisions: "Money laundering" is a federal statute which has recently been subject to considerable prosecutorial abuse. In particular, the Wall Street Journal has reported extensively on the way legitimate

businesses which engage in regulatory violations and then divert the proceeds of their "unlawful activities" (i.e., business) to other purposes have found themselves faced with money laundering charges. Section 422 would expand even further the ability of the government to prosecute honest businessmen under the money laundering provisions by covering financial transactions arguably not executed with the "proceeds" of the "illegal" enterprise. Section 426 would explicitly add some of the open-ended "terrorism"-related provisions to the open-ended "money laundering" statute.

Revocation of GOA's Tax-Exempt Status and Professional Licenses: Section 423 would specifically authorize the government to jerk GOA's tax-exempt status, and section 424 allows the government to deny it commercial and professional licenses.

Broadening Sanctions Against GOA Supporters: Section 425 would take the broad definition of "material support or resources" from section 402 of the draft and apply it to criminal sanctions contained in 18 U.S.C. 2339C.

Forfeiture: Section 427 would take the open-ended provisions of last year's bill providing for forfeiture of the assets of a "terrorist" organization -- and would extend the provision to "persons" planning acts of "terrorism" against foreign states and international organizations. This is particularly important for American conservatives who supported anti-Communist organizations like Angola's UNITA long after the Clinton administration had abandoned UNITA and was supporting the communist government in power.

Correction of Errors: Section 428 would supposedly make "technical corrections" to last year's bill -- a bill enacted with such haste that, apart from any questions of substance, it was rife with references to non-existent sections (e.g., 31 U.S.C. 5333) and other factual errors.

Extending Secret Arrests to American Citizens on U.S. Soil (Section 501): This provision would allow the government to revoke the citizenship of native-born Americans if they "provid[e] material support... to" or "serv[e] in" an organization which the government has designated as a "terrorist organization." For citizenship to be revoked, the organization would have to be engaged in "hostilities against the United States, its people, or its national security interests

..." [emphasis added]. However, the term "hostilities" may extend far beyond acts of war or violence, and U.S. "national interests" are almost completely open-ended. Aid to UNITA, for instance, would almost certainly fall within the ambit of this section, and it may be that support of an organization like GOA -- which advocates that the Second Amendment is a shield against despotism -- would also qualify. In addition, militia groups would almost certainly be covered by this section. Once a native-born American has his citizenship stripped, section 503 would allow the newly stateless American to be removed to an undisclosed location abroad if the Attorney General "has reason to believe" that such a person "pose[s] a danger to the national security." Section 504 would allow the person to be removed from the U.S. under "expedited procedures."

Section 506 specifically expands the ability of the government to deport newly expatriated Americans to any country it chooses. Once stripped of citizenship, section 505 would take away the discretion of courts to suspend the criminal penalty for failure to depart, in the event that the former American cannot find a new country to accept him. Preexisting authorities, of course, would allow the government to detain the former American indefinitely without charges, in secret, without an attorney or other constitutional protections.

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