

108TH CONGRESS
1ST SESSION

H. R. 3037

To strengthen antiterrorism investigative tools, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 9, 2003

Mr. FEENEY introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To strengthen antiterrorism investigative tools, and for other
purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Antiterrorism Tools
5 Enhancement Act of 2003”.

6 **SEC. 2. NATIONWIDE SEARCH WARRANTS IN TERRORISM**
7 **INVESTIGATIONS.**

8 Rule 41(b)(3) of the Federal Rules of Criminal Pro-
9 cedure is amended to read as follows:

10 “(3) a magistrate judge—in an investigation of

11 (A) a Federal crime of terrorism (as defined in 18

1 U.S.C. 2332b(g)(g)); or (B) an offense under 18
2 U.S.C. 1001 or 1505 relating to information or pur-
3 ported information concerning a Federal crime of
4 terrorism (as defined in 18 U.S.C. 2332b(g)(5))—
5 having authority in any district in which activities
6 related to the Federal crime of terrorism or offense
7 may have occurred, may issue a warrant for a per-
8 son or property within or outside that district.”.

9 **SEC. 3. ADMINISTRATIVE SUBPOENAS IN TERRORISM IN-**
10 **VESTIGATIONS.**

11 (a) IN GENERAL.—Chapter 113B of title 18, United
12 States Code, is amended by inserting after section 2332f
13 the following:

14 **“§ 2332g. Administrative subpoenas in terrorism in-**
15 **vestigations**

16 “(a) AUTHORIZATION OF USE.—In any investigation
17 concerning a Federal crime of terrorism (as defined in sec-
18 tion 2332b(g)(5)), the Attorney General may subpoena
19 witnesses, compel the attendance and testimony of wit-
20 nesses, and require the production of any records (includ-
21 ing books, papers, documents, electronic data, and other
22 tangible things that constitute or contain evidence) that
23 he finds relevant or material to the investigation. A sub-
24 poena under this section shall describe the records or
25 items required to be produced and prescribe a return date

1 within a reasonable period of time within which the
2 records or items can be assembled and made available.
3 The attendance of witnesses and the production of records
4 may be required from any place in any State or in any
5 territory or other place subject to the jurisdiction of the
6 United States at any designated place of hearing; except
7 that a witness shall not be required to appear at any hear-
8 ing more than 500 miles distant from the place where he
9 was served with a subpoena. Witnesses summoned under
10 this section shall be paid the same fees and mileage that
11 are paid to witnesses in the courts of the United States.

12 “(b) SERVICE.—A subpoena issued under this section
13 may be served by any person designated in the subpoena
14 as the agent of service. Service upon a natural person may
15 be made by personal delivery of the subpoena to him or
16 by certified mail with return receipt requested. Service
17 may be made upon a domestic or foreign corporation or
18 upon a partnership or other unincorporated association
19 that is subject to suit under a common name, by delivering
20 the subpoena to an officer, to a managing or general
21 agent, or to any other agent authorized by appointment
22 or by law to receive service of process. The affidavit of
23 the person serving the subpoena entered by him on a true
24 copy thereof shall be sufficient proof of service.

1 “(c) ENFORCEMENT.—In the case of the contumacy
2 by, or refusal to obey a subpoena issued to, any person,
3 the Attorney General may invoke the aid of any court of
4 the United States within the jurisdiction of which the in-
5 vestigation is carried on or the subpoenaed person resides,
6 carries on business, or may be found, to compel compli-
7 ance with the subpoena. The court may issue an order re-
8 quiring the subpoenaed person, in accordance with the
9 subpoena, to appear, to produce records, or to give testi-
10 mony touching the matter under investigation. Any failure
11 to obey the order of the court may be punished by the
12 court as contempt thereof. Any process under this sub-
13 section may be served in any judicial district in which the
14 person may be found.

15 “(d)(1) NONDISCLOSURE REQUIREMENT.—If the At-
16 torney General certifies that otherwise there may result
17 a danger to the national security, no person shall disclose
18 to any other person that a subpoena was received or
19 records were provided pursuant to this section, other than
20 to (A) those persons to whom such disclosure is necessary
21 in order to comply with the subpoena, (B) an attorney to
22 obtain legal advice with respect to testimony or the pro-
23 duction of records in response to the subpoena, or (C)
24 other persons as permitted by the Attorney General. The
25 subpoena, or an officer, employee, or agency of the United

1 States in writing, shall notify the person to whom the sub-
2 poena is directed of such nondisclosure requirement. Any
3 person who receives a disclosure under this subsection
4 shall be subject to the same prohibition of disclosure.

5 “(2) ENFORCEMENT OF NONDISCLOSURE REQUIRE-
6 MENT.—Whoever knowingly violates subsection (d)(1) of
7 this section shall be imprisoned for not more than one
8 year, and if the violation is committed with the intent to
9 obstruct an investigation or judicial proceeding, shall be
10 imprisoned for not more than five years.

11 “(3) TERMINATION OF NONDISCLOSURE REQUIRE-
12 MENT.—When the Attorney General concludes that a non-
13 disclosure requirement no longer is justified by a danger
14 to the national security, an officer, employee, or agency
15 of the United States shall notify the relevant person that
16 the prohibition of disclosure is no longer applicable.

17 “(e) JUDICIAL REVIEW.—At any time before the re-
18 turn date specified in the summons, the person or entity
19 summoned may, in the United States district court for the
20 district in which that person or entity does business or
21 resides, petition for an order modifying or setting aside
22 the summons. Any such court may modify or set aside
23 a nondisclosure requirement imposed under subsection (d)
24 at the request of a person to whom a subpoena has been
25 directed, unless there is reason to believe that the non-

1 disclosure requirement is justified because otherwise there
2 may result a danger to the national security. In all pro-
3 ceedings under this subsection, the court shall review the
4 government's submission, which may include classified in-
5 formation, ex parte and in camera.

6 “(f) IMMUNITY FROM CIVIL LIABILITY.—Any per-
7 son, including officers, agents, and employees, who in good
8 faith produce the records or items requested in a subpoena
9 shall not be liable in any court of any State or the United
10 States to any customer or other person for such produc-
11 tion or for nondisclosure of that production to the cus-
12 tomer or other person.

13 “(g) GUIDELINES.—The Attorney General shall issue
14 guidelines to ensure the effective implementation of this
15 section.”.

16 (b) AMENDMENT TO TABLE OF SECTIONS.—The
17 table of sections at the beginning of chapter 113B of title
18 18, United States Code, is amended by inserting after the
19 item relating to section 2332f the following new item:

“2332g. Administrative subpoenas in terrorism investigations.”.

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