

NLWJC - Kagan

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Crime - Bomb Mailings

Crime - Bombmaking

REPORT ON BOMBMAKING INFORMATION ON THE INTERNET

Background

The 1996 Antiterrorism Act included an amendment by Senators Feinstein and Biden that required the Attorney General to conduct a study on the availability of bombmaking information and the extent to which such information has been used in both domestic and international acts of terrorism. She was also asked to look into current laws affecting the availability of such materials and the need for additional laws. Her report evaluates a Feinstein proposal to restrict the availability of such information and suggests revisions to address First Amendment concerns.

Availability of Bombmaking Information

The report determines that anyone interested in manufacturing a bomb, or a weapon of mass destruction can easily obtain detailed instructions from readily available sources including legitimate reference books, the underground press, and the Internet. There is evidence to suggest that individuals relied on this information in a number of crimes involving such weapons or devices. ATF statistics show that between 1985 and June 1996, the investigations of at least 30 bombings and four attempted bombings resulted in the recovery of bombmaking literature that suspects had obtained from the Internet.

As an example, a single Internet website produced over 110 different bombmaking texts, including "Calcium Carbide Bomb," "How to Make a CO2 Bomb," and "Mail Grenade." One of the texts accessed off the Internet, the Anarchy Cookbook, explains in minute detail how to construct dozens of different types of bombs and explosive devices, made with substances which "can be bought at Kmart and various hardware supply shops." Law enforcement believes that the expanded availability of bombmaking information through the Internet and other sources will continue to play a significant role in future terrorist acts.

Feinstein Proposal

While existing Federal law restricts the dissemination of bombmaking information, such as crimes of conspiracy and solicitation, there is a gap in coverage for prosecuting certain kinds of cases. Feinstein's proposal attempts to fill that gap by making it unlawful for any person to teach or demonstrate the making of explosive materials, or distribute information on the manufacture of explosive materials, if the person intends or knows the materials will likely be used for a Federal crime.

Report Recommendation

The Justice report concludes that it would be "appropriate and beneficial" to adopt further legislation to address the current gap in the laws, like the Feinstein concept, as long as legitimate teachings and First Amendment concerns are not impermissibly restricted.

The report suggests this can be achieved by tightening Feinstein's intent standard-- individuals disseminating bombmaking information would need to intend for it to be used to facilitate a crime, or have knowledge that a particular recipient of the information intends to use it in furtherance of a crime. Although more likely constitutional, fewer cases could be brought under