

109TH CONGRESS
1ST SESSION

H. R. 2715

To establish reasonable procedural protections for the use of national security letters, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2005

Mr. NADLER (for himself and Mr. FLAKE) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish reasonable procedural protections for the use of national security letters, 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 “Stop Self-Authorized
5 Secret Searches Act”.

6 **SEC. 2. PROCEDURAL PROTECTIONS FOR NATIONAL SECU-**
7 **RITY LETTERS.**

8 (a) STANDARD.—

1 (1) TITLE 18.—Section 2709(b) of title 18,
2 United States Code, is amended—

3 (A) in paragraph (1), by inserting “and
4 there are specific and articulable facts giving
5 reason to believe that the name, address, length
6 of service, and toll billing records sought per-
7 tain to a foreign power or agent of a foreign
8 power” after “clandestine intelligence activi-
9 ties”; and

10 (B) in paragraph (2), by striking “, pro-
11 vided that such an investigation” and all that
12 follows and inserting “and there are specific
13 and articulable facts giving reason to believe
14 that communications facilities registered in the
15 name of the person or entity have been used,
16 through the services of such provider, in com-
17 munication with—

18 “(A) an individual who is engaging or has
19 engaged in international terrorism or clandes-
20 tine intelligence activities that involve or may
21 involve a violation of the criminal statutes of
22 the United States; or

23 “(B) a foreign power or an agent of a for-
24 eign power,

1 subject to the requirement that such investigation of
2 a United States person may not be conducted solely
3 upon the basis of activities protected by the first
4 amendment to the Constitution of the United
5 States.”.

6 (2) FINANCIAL INSTITUTIONS.—Section
7 1114(a)(5)(A) of the Right to Financial Privacy Act
8 of 1978 (12 U.S.C. 3414(a)(5)(A)) is amended by
9 inserting “and there are specific and articulable
10 facts giving reason to believe that the records sought
11 pertain to a foreign power or agent of a foreign
12 power” after “clandestine intelligence activities”.

13 (3) CONSUMER REPORTING AGENCY.—

14 (A) IN GENERAL.—Section 626 of the Fair
15 Credit Reporting Act (15 U.S.C. 1681u) is
16 amended—

17 (i) in the second sentence of sub-
18 section (a), by inserting “and there are
19 specific and articulable facts giving reason
20 to believe that the information sought per-
21 tains to a foreign power or agent of a for-
22 eign power” after “clandestine intelligence
23 activities”;

24 (ii) in the second sentence of sub-
25 section (b), by inserting “and there are

1 specific and articulable facts giving reason
2 to believe that the consumer is a foreign
3 power or an agent of a foreign power or
4 has been, or is about to be, in contact with
5 a foreign power or an agent of a foreign
6 power” after “clandestine intelligence ac-
7 tivities”; and

8 (iii) in the first sentence of subsection
9 (c), by inserting “and there are specific
10 and articulable facts giving reason to be-
11 lieve that the consumer report sought per-
12 tains to a foreign power or agent of a for-
13 eign power” after “clandestine intelligence
14 activities”.

15 (B) GOVERNMENT AGENCIES.—Section
16 627(a) of the Fair Credit Reporting Act (15
17 U.S.C. 1681v(a)) is amended by inserting “and
18 there are specific and articulable facts giving
19 reason to believe that the information sought
20 pertains to a foreign power or agent of a for-
21 eign power” after “necessary for the agency’s
22 conduct or such investigation, activity or anal-
23 ysis”.

24 (b) REQUIREMENTS.—

1 (1) Section 2709(b) of title 18, United States
2 Code, as amended by subsection (a)(1) is amended—

3 (A) by redesignating paragraphs (1) and
4 (2) as subparagraphs (A) and (B), respectively;

5 (B) by striking “The Director of the Fed-
6 eral Bureau of Investigation” and inserting the
7 following:

8 “(1) IN GENERAL.—The Director of the Fed-
9 eral Bureau of Investigation”; and

10 (C) by adding after paragraph (1), as
11 amended by subparagraph (B), the following
12 new paragraph:

13 “(2) LIMITATION.—A request under this subsection
14 shall not—

15 “(A) contain any requirement which would be
16 held to be unreasonable if contained in a subpoena
17 duces tecum issued by a court of the United States
18 in aid of a grand jury investigation of espionage or
19 international terrorism; or

20 “(B) require the production of any documen-
21 tary evidence which would be privileged from disclo-
22 sure if demanded by a subpoena duces tecum issued
23 by a court of the United States in aid of a grand
24 jury investigation of espionage or international ter-
25 rorism.

1 “(3) NOTICE.—A request under this subsection shall
 2 provide notice of the recipient’s right to file a petition
 3 under subsection (e) and explain the procedures for doing
 4 so.”.

5 (2) REQUEST FOR INFORMATION FROM FINAN-
 6 CIAL INSTITUTIONS.—Section 1114(a)(5)(A) of the
 7 Right to Financial Privacy Act of 1978 (12 U.S.C.
 8 3414(a)(5)(A)), as amended by subsection (a)(2), is
 9 amended—

10 (A) by striking “(5)(A) Financial institu-
 11 tions” and inserting “(5) REQUEST FOR FINAN-
 12 CIAL RECORDS.—

13 “(A) COMPLIANCE.—

14 “(i) IN GENERAL.—Financial institu-
 15 tions”; and

16 (B) by inserting after clause (i) (as so re-
 17 designated by subparagraph (A) of this para-
 18 graph) the following new clauses:

19 “(ii) LIMITATION.—A request under
 20 this subsection shall not—

21 “(I) contain any requirement
 22 which would be held to be unreason-
 23 able if contained in a subpoena duces
 24 tecum issued by a court of the United
 25 States in aid of a grand jury inves-

1 tigation of espionage or international
2 terrorism; or

3 “(II) require the production of
4 any documentary evidence which
5 would be privileged from disclosure if
6 demanded by a subpoena duces tecum
7 issued by a court of the United States
8 in aid of a grand jury investigation of
9 espionage or international terrorism.

10 “(iii) NOTICE OF RIGHTS.—A request
11 under this subsection shall provide notice
12 of the recipient’s right to file a petition
13 under subparagraph (E) of this paragraph
14 and explain the procedures for doing so.”.

15 (3) REQUEST FOR INFORMATION FROM CON-
16 SUMER REPORTING AGENCIES.—Section 626 of the
17 Fair Credit Reporting Act (15 U.S.C. 1681u) is
18 amended by adding at the end the following new
19 subsection:

20 “(n) LIMITATION.—

21 “(1) IN GENERAL.—A request under this sec-
22 tion shall not—

23 “(A) contain any requirement which would
24 be held to be unreasonable if contained in a
25 subpoena duces tecum issued by a court of the

United States in aid of a grand jury investigation of espionage or international terrorism; or

“(B) require the production of any documentary evidence which would be privileged from disclosure if demanded by a subpoena duces tecum issued by a court of the United States in aid of a grand jury investigation of espionage or international terrorism.

“(2) NOTICE OF RIGHTS.—A request under this section shall provide notice of the recipient’s right to file a petition under subsection (o) and explain the procedures for doing so.”.

(4) REQUEST FOR INFORMATION FROM CONSUMER REPORTING AGENCIES BY GOVERNMENTAL AGENCIES.—Section 627(b) of the Fair Credit Reporting Act (15 U.S.C. 1681v(b)) is amended—

(A) by striking “FORM OF CERTIFICATION.—The certification described” and inserting ; and “FORM OF CERTIFICATION.—

“(1) IN GENERAL.—The certification described”; and

(B) by inserting after paragraph (1) (as so redesignated by subparagraph (A) of this paragraph) the following new paragraphs:

1 “(2) LIMITATION.—A request under this sub-
2 section shall not—

3 “(A) contain any requirement which would
4 be held to be unreasonable if contained in a
5 subpoena duces tecum issued by a court of the
6 United States in aid of a grand jury investiga-
7 tion of espionage or international terrorism; or

8 “(B) require the production of any docu-
9 mentary evidence which would be privileged
10 from disclosure if demanded by a subpoena
11 duces tecum issued by a court of the United
12 States in aid of a grand jury investigation of es-
13 pionage or international terrorism.

14 “(3) NOTICE OF RIGHTS.—A request under this
15 subsection must provide notice of the recipient’s
16 right to file a petition under subsection (f) and ex-
17 plain the procedures for doing so.”.

18 (c) NONDISCLOSURE.—

19 (1) IN GENERAL.—Section 2709(c) of title 18,
20 United States Code, is amended to read as follows:

21 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

22 “(1) IN GENERAL.—No wire or electronic com-
23 munication service provider, or officer, employee, or
24 agent thereof, shall disclose to any person that the
25 Federal Bureau of Investigation has sought or ob-

1 tained access to information or records under this
2 section for 90 days after receipt of such request
3 from the Bureau.

4 “(2) EXCEPTION.—A wire or electronic commu-
5 nication service provider, or officer, employee, or
6 agent thereof, who receives an order under this sub-
7 section may disclose that the Federal Bureau of In-
8 vestigation has sought or obtained access to infor-
9 mation or records under this section to—

10 “(A) those persons to whom disclosure is
11 necessary in order to comply with an order
12 under this section; or

13 “(B) an attorney in order to obtain legal
14 advice regarding such order.

15 “(3) EXTENSION.—The Director of the Federal
16 Bureau of Investigation, or the Director’s designee
17 in a position not lower than Deputy Assistant Direc-
18 tor at Bureau headquarters or a Special Agent in
19 Charge of a Bureau field office designated by the
20 Director, may apply for an order prohibiting disclo-
21 sure that the Federal Bureau of Investigation has
22 sought or obtained access to information or records
23 under this section for an additional 180 days.

24 “(4) JURISDICTION.—An application for an
25 order pursuant to this subsection shall be filed in

1 the district court of the United States in any district
2 within which the authorized investigation that is the
3 basis for a request pursuant to this section is being
4 conducted.

5 “(5) APPLICATION CONTENTS.—An application
6 for an order pursuant to this subsection must state
7 specific and articulable facts giving the applicant
8 reason to believe that disclosure that the Federal
9 Bureau of Investigation has sought or obtained ac-
10 cess to information or records under this section will
11 result in—

12 “(A) endangering the life or physical safety
13 of any person;

14 “(B) flight from prosecution;

15 “(C) destruction of or tampering with evi-
16 dence;

17 “(D) intimidation of potential witnesses; or

18 “(E) otherwise seriously endangering the
19 national security of the United States by alert-
20 ing a target, a target’s associates, or the for-
21 eign power of which the target is an agent, of
22 the Government’s interest in the target.

23 “(6) STANDARD.—The court may issue an ex
24 parte order pursuant to this subsection if the court
25 determines there is reason to believe that disclosure

1 that the Federal Bureau of Investigation has sought
2 or obtained access to information or records under
3 this section will result in—

4 “(A) endangering the life or physical safety
5 of any person;

6 “(B) flight from prosecution;

7 “(C) destruction of or tampering with evi-
8 dence;

9 “(D) intimidation of potential witnesses; or

10 “(E) otherwise seriously endangering the
11 national security of the United States by alert-
12 ing a target, a target’s associates, or the for-
13 eign power of which the target is an agent, of
14 the Government’s interest in the target.

15 “(7) RENEWAL.—An order under this sub-
16 section may be renewed for additional periods of up
17 to 180 days upon another application meeting the
18 requirements of paragraph (5) and a determination
19 by the court that the circumstances described in
20 paragraph (6) continue to exist.”.

21 (2) FINANCIAL INSTITUTIONS.—Section
22 1114(a)(5)(D) of the Right to Financial Privacy Act
23 of 1978 (12 U.S.C. 3414(a)(5)(D)) is amended to
24 read as follows:

25 “(D) NONDISCLOSURE.—

1 “(i) IN GENERAL.—No financial insti-
2 tution, or officer, employee, or agent of
3 such institution, shall disclose to any per-
4 son that the Federal Bureau of Investiga-
5 tion has sought or obtained access to a
6 customer’s or entity’s financial records
7 under this paragraph for 90 days after re-
8 ceipt of such request from the Bureau.

9 “(ii) EXCEPTION.—A financial institu-
10 tion, or officer, employee, or agent of such
11 institution, who receives an order under
12 this subparagraph may disclose that the
13 Federal Bureau of Investigation has
14 sought or obtained access to a customer’s
15 or entity’s financial records to—

16 “(I) those persons to whom dis-
17 closure is necessary in order to comply
18 with a request under this subpara-
19 graph; or

20 “(II) an attorney in order to ob-
21 tain legal advice regarding such re-
22 quest.

23 “(iii) EXTENSION.—The Director of
24 the Federal Bureau of Investigation, or the
25 Director’s designee in a position not lower

1 than Deputy Assistant Director at Bureau
2 headquarters or a Special Agent in Charge
3 of a Bureau field office designated by the
4 Director, may apply for an order prohib-
5 iting disclosure that the Federal Bureau of
6 Investigation has sought or obtained access
7 to a customer's or entity's financial records
8 under this paragraph for an additional 180
9 days.

10 “(iv) JURISDICTION.—An application
11 for an order pursuant to this subsection
12 shall be filed in the district court of the
13 United States in any district within which
14 the authorized investigation that is the
15 basis for a request pursuant to this para-
16 graph is being conducted.

17 “(v) APPLICATION CONTENTS.—An
18 application for an order pursuant to this
19 subparagraph must state specific and
20 articulable facts giving the applicant rea-
21 son to believe that disclosure that the Fed-
22 eral Bureau of Investigation has sought or
23 obtained access to a customer's or entity's
24 financial records under this paragraph will
25 result in—

1 “(I) endangering the life or phys-
2 ical safety of any person;

3 “(II) flight from prosecution;

4 “(III) destruction of or tam-
5 pering with evidence;

6 “(IV) intimidation of potential
7 witnesses; or

8 “(V) otherwise seriously endan-
9 gering the national security of the
10 United States by alerting a target, a
11 target’s associates, or the foreign
12 power of which the target is an agent,
13 of the Government’s interest in the
14 target.

15 “(vi) STANDARD.—The court may
16 issue an ex parte order pursuant to this
17 subparagraph if the court determines there
18 is reason to believe that disclosure that the
19 Federal Bureau of Investigation has
20 sought or obtained access to a customer’s
21 or entity’s financial records under this
22 paragraph will result in—

23 “(I) endangering the life or phys-
24 ical safety of any person;

25 “(II) flight from prosecution;

1 “(III) destruction of or tam-
2 pering with evidence;

3 “(IV) intimidation of potential
4 witnesses; or

5 “(V) otherwise seriously endan-
6 gering the national security of the
7 United States by alerting a target, a
8 target’s associates, or the foreign
9 power of which the target is an agent,
10 of the Government’s interest in the
11 target.

12 “(vii) RENEWAL.—An order under
13 this subparagraph may be renewed for ad-
14 ditional periods of up to 180 days upon an-
15 other application meeting the requirements
16 of clause (v) and a determination by the
17 court that the circumstances described in
18 clause (vi) of this subparagraph continue
19 to exist.”.

20 (3) CONSUMER REPORTING AGENCIES.—Section
21 626(d) of the Fair Credit Reporting Act (15 U.S.C.
22 1681u(d)) is amended to read as follows:

23 “(d) CONFIDENTIALITY.—

24 “(1) IN GENERAL.—No consumer reporting
25 agency, or officer, employee, or agent of a consumer

1 reporting agency, shall disclose to any person that
2 the Federal Bureau of Investigation has sought or
3 obtained the identity of financial institutions or a
4 consumer report respecting any consumer under
5 subsection (a), (b), or (c) for 90 days after receipt
6 of a request or order under this section, and no con-
7 sumer reporting agency, or officer, employee, or
8 agent of a consumer reporting agency, shall include
9 in any consumer report any information that would
10 indicate that the Federal Bureau of Investigation
11 has sought or obtained such information or a con-
12 sumer report.

13 “(2) EXCEPTION.—A consumer reporting agen-
14 cy or officer, employee, or agent of a consumer re-
15 porting agency who receives an order under this sub-
16 section may disclose that the Federal Bureau of In-
17 vestigation has sought or obtained the identity of fi-
18 nancial institutions or a consumer report respecting
19 any consumer to—

20 “(A) those officers, employees, or agents of
21 a consumer reporting agency necessary to fulfill
22 the requirement to disclose information to the
23 Federal Bureau of Investigation under this sec-
24 tion; or

1 “(B) an attorney in order to obtain legal
2 advice regarding such requirement.

3 “(3) EXTENSION.—The Director of the Federal
4 Bureau of Investigation, or the Director’s designee
5 in a position not lower than Deputy Assistant Direc-
6 tor at Bureau headquarters or a Special Agent in
7 Charge of a Bureau field office designated by the
8 Director, may apply for an order prohibiting disclo-
9 sure that the Federal Bureau of Investigation has
10 sought or obtained access to information or records
11 under subsection (a), (b), or (c) for an additional
12 180 days.

13 “(4) JURISDICTION.—An application for an
14 order pursuant to this subsection shall be filed in
15 the district court of the United States in any district
16 within which the authorized investigation that is the
17 basis for a request or order pursuant to this section
18 is being conducted.

19 “(5) APPLICATION CONTENTS.—An application
20 for an order pursuant to this subsection must state
21 specific and articulable facts giving the applicant
22 reason to believe that disclosure that the Federal
23 Bureau of Investigation has sought or obtained the
24 identity of financial institutions or a consumer re-

1 port respecting any consumer under subsection (a),
2 (b), or (c) will result in—

3 “(A) endangering the life or physical safety
4 of any person;

5 “(B) flight from prosecution;

6 “(C) destruction of or tampering with evi-
7 dence;

8 “(D) intimidation of potential witnesses; or

9 “(E) otherwise seriously endangering the
10 national security of the United States by alert-
11 ing a target, a target’s associates, or the for-
12 eign power of which the target is an agent, of
13 the Government’s interest in the target.

14 “(6) STANDARD.—The court may issue an ex
15 parte order pursuant to this subsection if the court
16 determines there is reason to believe that disclosure
17 that the Federal Bureau of Investigation has sought
18 or obtained the identity of financial institutions or a
19 consumer report respecting any consumer under
20 subsection (a), (b), or (c) will result in—

21 “(A) endangering the life or physical safety
22 of any person;

23 “(B) flight from prosecution;

24 “(C) destruction of or tampering with evi-
25 dence;

1 “(D) intimidation of potential witnesses; or

2 “(E) otherwise seriously endangering the
3 national security of the United States by alert-
4 ing a target, a target’s associates, or the for-
5 eign power of which the target is an agent, of
6 the Government’s interest in the target.

7 “(7) RENEWAL.—An order under this sub-
8 section may be renewed for additional periods of up
9 to 180 days upon another application meeting the
10 requirements of paragraph (5) and a determination
11 by the court that the circumstances described in
12 paragraph (6) continue to exist.”.

13 (4) CONSUMER REPORTING AGENCIES REPORT-
14 ING TO GOVERNMENTAL AGENCIES.—Section 627(c)
15 of the Fair Credit Reporting Act (15 U.S.C.
16 1681v(c)) is amended to read as follows:

17 “(c) CONFIDENTIALITY.—

18 “(1) IN GENERAL.—No consumer reporting
19 agency, or officer, employee, or agent of a consumer
20 reporting agency, shall disclose to any person or
21 specify in any credit report that a government agen-
22 cy has sought or obtained access to information
23 under subsection (a) for 90 days after receipt of the
24 request for such information.

1 “(2) EXCEPTION.—A consumer reporting agen-
2 cy, or officer, employee, or agent of a consumer re-
3 porting agency, may disclose that a government
4 agency has sought or obtained access to information
5 under subsection (a) to—

6 “(A) those officers, employees, or agents of
7 a consumer reporting agency necessary to fulfill
8 the requirement to disclose information to the
9 Federal Bureau of Investigation under this sec-
10 tion; or

11 “(B) an attorney in order to obtain legal
12 advice regarding such requirement.

13 “(3) EXTENSION.—The supervisory official or
14 officer who signs a certification under subsection (b)
15 may apply in any district court of the United States
16 for an order prohibiting disclosure that a govern-
17 ment agency has sought or obtained access to infor-
18 mation under subsection (a) for an additional 180
19 days.

20 “(4) APPLICATION CONTENTS.—An application
21 for an order pursuant to this subsection must state
22 specific and articulable facts giving the applicant
23 reason to believe that disclosure that a government
24 agency has sought or obtained access to information
25 under subsection (a) will result in—

1 “(A) endangering the life or physical safety
2 of any person;

3 “(B) flight from prosecution;

4 “(C) destruction of or tampering with evi-
5 dence;

6 “(D) intimidation of potential witnesses; or

7 “(E) otherwise seriously endangering the
8 national security of the United States by alert-
9 ing a target, a target’s associates, or the for-
10 eign power of which the target is an agent, of
11 the Government’s interest in the target.

12 “(5) STANDARD.—The court may issue an ex
13 parte order pursuant to this subsection if the court
14 determines there is reason to believe that disclosure
15 that a government agency has sought or obtained
16 access to information under subsection (a) will result
17 in—

18 “(A) endangering the life or physical safety
19 of any person;

20 “(B) flight from prosecution;

21 “(C) destruction of or tampering with evi-
22 dence;

23 “(D) intimidation of potential witnesses; or

24 “(E) otherwise seriously endangering the
25 national security of the United States by alert-

1 ing a target, a target’s associates, or the for-
2 eign power of which the target is an agent, of
3 the Government’s interest in the target.

4 “(6) RENEWAL.—An order under this sub-
5 section may be renewed for additional periods of up
6 to 180 days upon another application meeting the
7 requirements of paragraph (4) and a determination
8 by the court that the circumstances described in
9 paragraph (5) continue to exist.”.

10 (d) JUDICIAL REVIEW.—

11 (1) IN GENERAL.—Section 2709 of title 18,
12 United States Code, is amended by—

13 (A) redesignating subsection (e) as sub-
14 section (g); and

15 (B) inserting after subsection (d) the fol-
16 lowing:

17 “(e) JUDICIAL REVIEW.—

18 “(1) REQUEST.—Not later than 20 days after
19 any person receives a request pursuant to subsection
20 (b), or at any time before the return date specified
21 in the request, whichever period is shorter, such per-
22 son may file, in the district court of the United
23 States for the judicial district within which such per-
24 son resides, is found, or transacts business, a peti-
25 tion for such court to modify or set aside such re-

1 quest. The time allowed for compliance with the re-
2 quest in whole or in part as deemed proper and or-
3 dered by the court shall not run during the pendency
4 of such petition in the court. Such petition shall
5 specify each ground upon which the petitioner relies
6 in seeking relief, and may be based upon any failure
7 of such request to comply with the provisions of this
8 section or upon any constitutional or other legal
9 right or privilege of such person.

10 “(2) NONDISCLOSURE.—

11 “(A) IN GENERAL.—A person prohibited
12 from disclosing information under subsection
13 (c) may file, in the district court of the United
14 States for the judicial district within which such
15 person resides, is found, or transacts business,
16 a petition for the court to set aside the non-
17 disclosure requirement. Such petition shall
18 specify each ground upon which the petitioner
19 relies in seeking relief, and may be based upon
20 any failure of the nondisclosure requirement to
21 comply with the provisions of this section or
22 upon any constitutional or other legal right or
23 privilege of such person.

24 “(B) STANDARD.—The court shall set
25 aside the nondisclosure requirement unless the

1 court determines that there is a reason to be-
2 lieve that disclosure of the request under sub-
3 section (b) will result in—

4 “(i) endangering the life or physical
5 safety of any person;

6 “(ii) flight from prosecution;

7 “(iii) destruction of or tampering with
8 evidence;

9 “(iv) intimidation of potential wit-
10 nesses; or

11 “(v) otherwise seriously endangering
12 the national security of the United States
13 by alerting a target, a target’s associates,
14 or the foreign power of which the target is
15 an agent, of the Government’s interest in
16 the target.

17 “(3) DISCLOSURE.—In making determinations
18 under this subsection, the court shall disclose to the
19 petitioner, the counsel of the petitioner, or both,
20 under the procedures and standards provided in the
21 Classified Information Procedures Act (18 U.S.C.
22 App.), portions of the application, order, or other re-
23 lated materials unless the court finds that such dis-
24 closure would not assist in determining any legal or
25 factual issue pertinent to the case.”.

1 (2) FINANCIAL RECORD REQUESTS.—Section
2 1114(a)(5) of the Right to Financial Privacy Act of
3 1978 (12 U.S.C. 3414(a)(5)) is amended by insert-
4 ing after subparagraph (D) (as amended by sub-
5 section (c)(2) of this section) the following new sub-
6 paragraph:

7 “(E) JUDICIAL REVIEW.—

8 “(i) IN GENERAL.—Not later than 20
9 days after any person receives a request
10 pursuant to subparagraph (A), or at any
11 time before the return date specified in the
12 request, whichever period is shorter, such
13 person may file, in the district court of the
14 United States for the judicial district with-
15 in which such person resides, is found, or
16 transacts business, a petition for the court
17 to modify or set aside the request. The
18 time allowed for compliance with the re-
19 quest in whole or in part as deemed proper
20 and ordered by the court shall not run dur-
21 ing the pendency of the petition in the
22 court. The petition shall specify each
23 ground upon which the petitioner relies in
24 seeking relief, and may be based upon any
25 failure of the request to comply with the

1 provisions of this paragraph or upon any
2 constitutional or other legal right or privi-
3 lege of the petitioner.

4 “(ii) NONDISCLOSURE.—

5 “(I) IN GENERAL.—A person
6 prohibited from disclosing information
7 under subparagraph (D) may file, in
8 the district court of the United States
9 for the judicial district within which
10 the recipient resides, is found, or
11 transacts business, a petition for the
12 court to set aside the nondisclosure
13 requirement. The petition shall specify
14 each ground upon which the petitioner
15 relies in seeking the relief, and may be
16 based upon any failure of the non-
17 disclosure requirement to comply with
18 the provisions of this section or upon
19 any constitutional or other legal right
20 or privilege of the petitioner.

21 “(II) STANDARD.—The court
22 shall set aside the nondisclosure re-
23 quirement unless the court determines
24 that there is a reason to believe that

1 disclosure of the request under sub-
2 paragraph (A) will result in—

3 “(aa) endangering the life or
4 physical safety of any person;

5 “(bb) flight from prosecu-
6 tion;

7 “(cc) destruction of or tam-
8 pering with evidence;

9 “(dd) intimidation of poten-
10 tial witnesses; or

11 “(ee) otherwise seriously en-
12 dangering the national security of
13 the United States by alerting a
14 target, a target’s associates, or
15 the foreign power of which the
16 target is an agent, of the Govern-
17 ment’s interest in the target.

18 “(iii) DISCLOSURE.—In making deter-
19 minations under this subparagraph, the
20 court shall disclose to the petitioner, the
21 counsel of the petitioner, or both, under
22 the procedures and standards provided in
23 the Classified Information Procedures Act
24 (18 U.S.C. App.), portions of the applica-
25 tion, order, or other related materials un-

1 less the court finds that such disclosure
2 would not assist in determining any legal
3 or factual issue pertinent to the case.”.

4 (3) CONSUMER REPORT REQUESTS.—Section
5 626 of the Fair Credit Reporting Act (15 U.S.C.
6 1681u) is amended by after subsection (n) (as added
7 by subsection (b)(3) of this section) the following
8 new subsection:

9 “(o) JUDICIAL REVIEW.—

10 “(1) IN GENERAL.—Not later than 20 days
11 after any person receives a request or order pursu-
12 ant to subsection (a), (b), or (c), or at any time be-
13 fore the return date specified in the request or
14 order, whichever period is shorter, such person may
15 file, in the district court of the United States for the
16 judicial district within which such person resides, is
17 found, or transacts business, a petition for the court
18 to modify or set aside the request or order. The time
19 allowed for compliance with the request or order in
20 whole or in part as deemed proper and ordered by
21 the court shall not run during the pendency of the
22 petition in the court. The petition shall specify each
23 ground upon which the petitioner relies in seeking
24 the relief, and may be based upon any failure of the
25 request or order to comply with the provisions of

1 this section or upon any constitutional or other legal
2 right or privilege of the petitioner.

3 “(2) NONDISCLOSURE.—

4 “(A) IN GENERAL.—A person prohibited
5 from disclosing information under subsection
6 (d) may file, in the district court of the United
7 States for the judicial district within which the
8 recipient resides, is found, or transacts busi-
9 ness, a petition for the court to set aside the
10 nondisclosure requirement. The petition shall
11 specify each ground upon which the petitioner
12 relies in seeking the relief, and may be based
13 upon any failure of the nondisclosure require-
14 ment to comply with the provisions of this sec-
15 tion or upon any constitutional or other legal
16 right or privilege of the petitioner.

17 “(B) STANDARD.—The court shall set
18 aside the nondisclosure requirement unless the
19 court determines that there is a reason to be-
20 lieve that disclosure of request or order under
21 subsection (a), (b), or (c) will result in—

22 “(i) endangering the life or physical
23 safety of any person;

24 “(ii) flight from prosecution;

1 “(iii) destruction of or tampering with
2 evidence;

3 “(iv) intimidation of potential wit-
4 nesses; or

5 “(v) otherwise seriously endangering
6 the national security of the United States
7 by alerting a target, a target’s associates,
8 or the foreign power of which the target is
9 an agent, of the Government’s interest in
10 the target.

11 “(3) DISCLOSURE.—In making determinations
12 under this subsection, the court shall disclose to the
13 petitioner, the counsel of the petitioner, or both,
14 under the procedures and standards provided in the
15 Classified Information Procedures Act (18 U.S.C.
16 App.), portions of the application, order, or other re-
17 lated materials unless the court finds that such dis-
18 closure would not assist in determining any legal or
19 factual issue pertinent to the case.”.

20 (4) CONSUMER REPORT REQUESTS BY GOVERN-
21 MENTAL AGENCIES.—Section 627 of the Fair Credit
22 Reporting Act (15 U.S.C. 1681v) is amended by
23 adding at the end the following new subsection:

24 “(f) JUDICIAL REVIEW.—

1 “(1) IN GENERAL.—Not later than 20 days
2 after any person receives a request pursuant to sub-
3 section (a), or at any time before the return date
4 specified in the request, whichever period is shorter,
5 such person may file, in the district court of the
6 United States for the judicial district within which
7 such person resides, is found, or transacts business,
8 a petition for the court to modify or set aside the
9 request. The time allowed for compliance with the
10 request in whole or in part as deemed proper and or-
11 dered by the court shall not run during the pendency
12 of the petition in the court. The petition shall speci-
13 fy each ground upon which the petitioner relies in
14 seeking the relief, and may be based upon any fail-
15 ure of the request to comply with the provisions of
16 this section or upon any constitutional or other legal
17 right or privilege of the petitioner.

18 “(2) NONDISCLOSURE.—

19 “(A) IN GENERAL.—A person prohibited
20 from disclosing information under subsection
21 (c) may file, in the district court of the United
22 States for the judicial district within which the
23 recipient resides, is found, or transacts busi-
24 ness, a petition for the court to set aside the
25 nondisclosure requirement. The petition shall

1 specify each ground upon which the petitioner
2 relies in seeking the relief, and may be based
3 upon any failure of the nondisclosure require-
4 ment to comply with the provisions of this sec-
5 tion or upon any constitutional or other legal
6 right or privilege of the petitioner.

7 “(B) STANDARD.—The court shall set
8 aside the nondisclosure requirement unless the
9 court determines that there is a reason to be-
10 lieve that disclosure of the request under sub-
11 section (a) will result in—

12 “(i) endangering the life or physical
13 safety of any person;

14 “(ii) flight from prosecution;

15 “(iii) destruction of or tampering with
16 evidence;

17 “(iv) intimidation of potential wit-
18 nesses; or

19 “(v) otherwise seriously endangering
20 the national security of the United States
21 by alerting a target, a target’s associates,
22 or the foreign power of which the target is
23 an agent, of the Government’s interest in
24 the target.

1 “(3) DISCLOSURE.—In making determinations
2 under this subsection, the court shall disclose to the
3 petitioner, the counsel of the petitioner, or both,
4 under the procedures and standards provided in the
5 Classified Information Procedures Act (18 U.S.C.
6 App.), portions of the application, order, or other re-
7 lated materials unless the court finds that such dis-
8 closure would not assist in determining any legal or
9 factual issue pertinent to the case.”.

10 (e) USE OF INFORMATION.—

11 (1) IN GENERAL.—Section 2709 of title 18,
12 United States Code, as amended by subsection (d),
13 is amended by inserting after subsection (e) the fol-
14 lowing:

15 “(f) USE OF INFORMATION.—

16 “(1) IN GENERAL.—

17 “(A) CONSENT.—Any information ac-
18 quired from a request pursuant to this section
19 concerning any United States person may be
20 used and disclosed by Federal officers and em-
21 ployees without the consent of the United
22 States person only in accordance with the provi-
23 sions of this subsection.

24 “(B) LAWFUL PURPOSE.—No information
25 acquired from an order pursuant to this section

1 may be used or disclosed by Federal officers or
2 employees except for lawful purposes.

3 “(2) DISCLOSURE FOR LAW ENFORCEMENT
4 PURPOSES.—No information acquired pursuant to
5 this section shall be disclosed for law enforcement
6 purposes unless such disclosure is accompanied by a
7 statement that such information, or any information
8 derived therefrom, may only be used in a criminal
9 proceeding with the advance authorization of the At-
10 torney General.

11 “(3) NOTIFICATION OF INTENDED DISCLOSURE
12 BY THE UNITED STATES.—Whenever the United
13 States intends to enter into evidence or otherwise
14 use or disclose in any trial, hearing, or other pro-
15 ceeding in or before any court, department, officer,
16 agency, regulatory body, or other authority of the
17 United States against an aggrieved person any infor-
18 mation obtained or derived from a request pursuant
19 to this section, the United States shall, before the
20 trial, hearing, or other proceeding or at a reasonable
21 time before an effort to so disclose or so use this in-
22 formation or submit it in evidence, notify the ag-
23 grieved person and the court or other authority in
24 which the information is to be disclosed or used that

1 the United States intends to so disclose or so use
2 such information.

3 “(4) NOTIFICATION OF INTENDED DISCLOSURE
4 BY STATE OR POLITICAL SUBDIVISION.—Whenever
5 any State or political subdivision thereof intends to
6 enter into evidence or otherwise use or disclose in
7 any trial, hearing, or other proceeding in or before
8 any court, department, officer, agency, regulatory
9 body, or other authority of the State or political sub-
10 division thereof against an aggrieved person any in-
11 formation obtained or derived from a request pursu-
12 ant to this section, the State or political subdivision
13 thereof shall notify the aggrieved person, the court
14 or other authority in which the information is to be
15 disclosed or used, and the Attorney General that the
16 State or political subdivision thereof intends to so
17 disclose or so use such information.

18 “(5) MOTION TO SUPPRESS.—

19 “(A) IN GENERAL.—Any aggrieved person
20 against whom evidence obtained or derived from
21 a request pursuant to this section is to be, or
22 has been, introduced or otherwise used or dis-
23 closed in any trial, hearing, or other proceeding
24 in or before any court, department, officer,
25 agency, regulatory body, or other authority of

1 the United States, or a State or political sub-
2 division thereof, may move to suppress the evi-
3 dence obtained or derived from the request, as
4 the case may be, on the grounds that—

5 “(i) the information was acquired in
6 violation of the Constitution or laws of the
7 United States; or

8 “(ii) the request was not in con-
9 formity with the requirements of this sec-
10 tion.

11 “(B) TIMING.—A motion under subpara-
12 graph (A) shall be made before the trial, hear-
13 ing, or other proceeding unless there was no op-
14 portunity to make such a motion or the ag-
15 grievd person concerned was not aware of the
16 grounds of the motion.

17 “(6) JUDICIAL REVIEW.—

18 “(A) IN GENERAL.—Whenever—

19 “(i) a court or other authority is noti-
20 fied pursuant to paragraph (3) or (4);

21 “(ii) a motion is made pursuant to
22 paragraph (5); or

23 “(iii) any motion or request is made
24 by an aggrieved person pursuant to any
25 other statute or rule of the United States

1 or any State before any court or other au-
2 thority of the United States or any State
3 to—

4 “(I) discover or obtain materials
5 relating to a request issued pursuant
6 to this section; or

7 “(II) discover, obtain, or sup-
8 press evidence or information obtained
9 or derived from a request issued pur-
10 suant to this section;

11 the United States district court or, where the
12 motion is made before another authority, the
13 United States district court in the same district
14 as the authority shall, notwithstanding any
15 other provision of law and if the Attorney Gen-
16 eral files an affidavit under oath that disclosure
17 would harm the national security of the United
18 States, review in camera the materials as may
19 be necessary to determine whether the request
20 was lawful.

21 “(B) DISCLOSURE.—In making a deter-
22 mination under subparagraph (A), unless the
23 court finds that such disclosure would not assist
24 in determining any legal or factual issue perti-
25 nent to the case, the court shall disclose to the

1 aggrieved person, the counsel of the aggrieved
2 person, or both, under the procedures and
3 standards provided in the Classified Informa-
4 tion Procedures Act (18 U.S.C. App.), portions
5 of the application, order, or other related mate-
6 rials, or evidence or information obtained or de-
7 rived from the order.

8 “(7) EFFECT OF DETERMINATION OF LAWFUL-
9 NESS.—

10 “(A) UNLAWFUL ORDERS.—If the United
11 States district court determines pursuant to
12 paragraph (6) that the request was not in com-
13 pliance with the Constitution or laws of the
14 United States, the court may, in accordance
15 with the requirements of law, suppress the evi-
16 dence which was unlawfully obtained or derived
17 from the request or otherwise grant the motion
18 of the aggrieved person.

19 “(B) LAWFUL ORDERS.—If the court de-
20 termines that the request was lawful, it may
21 deny the motion of the aggrieved person except
22 to the extent that due process requires dis-
23 covery or disclosure.

24 “(8) BINDING FINAL ORDERS.—Orders grant-
25 ing motions or requests under paragraph (6), deci-

1 sions under this section that a request was not law-
2 ful, and orders of the United States district court
3 requiring review or granting disclosure of applica-
4 tions, orders, or other related materials shall be final
5 orders and binding upon all courts of the United
6 States and the several States except a United States
7 court of appeals or the Supreme Court.

8 “(g) DEFINITIONS.—As used in this section—

9 “(1) the term ‘agent of a foreign power’ has the
10 meaning given such term by section 101(b) of the
11 Foreign Intelligence Surveillance Act of 1978 (50
12 U.S.C. 1801(b));

13 “(2) the term ‘aggrieved person’ means a per-
14 son whose name, address, length of service, or local
15 or long distance toll records were sought or obtained
16 under this section; and

17 “(3) the term ‘foreign power’ has the meaning
18 given such term by section 101(a) of the Foreign In-
19 telligence Surveillance Act of 1978 (50 U.S.C.
20 1801(a)).”.

21 (2) FINANCIAL RECORDS.—Section 1114 of the
22 Right to Financial Privacy Act of 1978 (12 U.S.C.
23 3414) is amended by inserting after subsection (b)
24 the following new subsection:

25 “(c) USE OF INFORMATION.—

1 “(1) IN GENERAL.—

2 “(A) CONSENT.—Any information ac-
3 quired from a request pursuant to this section
4 concerning any United States person may be
5 used and disclosed by Federal officers and em-
6 ployees without the consent of the United
7 States person only in accordance with the provi-
8 sions of this subsection.

9 “(B) LAWFUL PURPOSE.—No information
10 acquired from an order pursuant to this section
11 may be used or disclosed by Federal officers or
12 employees except for lawful purposes.

13 “(2) DISCLOSURE FOR LAW ENFORCEMENT
14 PURPOSES.—No information acquired pursuant to
15 this section shall be disclosed for law enforcement
16 purposes unless the disclosure is accompanied by a
17 statement that the information, or any information
18 derived therefrom, may only be used in a criminal
19 proceeding with the advance authorization of the At-
20 torney General.

21 “(3) NOTIFICATION OF INTENDED DISCLOSURE
22 BY THE UNITED STATES.—Whenever the United
23 States intends to enter into evidence or otherwise
24 use or disclose in any trial, hearing, or other pro-
25 ceeding in or before any court, department, officer,

1 agency, regulatory body, or other authority of the
2 United States against an aggrieved person any infor-
3 mation obtained or derived from a request pursuant
4 to this section, the United States shall, before the
5 trial, hearing, or other proceeding, or at a reason-
6 able time before an effort to so disclose or so use
7 this information or submit it in evidence, notify the
8 aggrieved person and the court or other authority in
9 which the information is to be disclosed or used that
10 the United States intends to so disclose or so use
11 such information.

12 “(4) NOTIFICATION OF INTENDED DISCLOSURE
13 BY STATE OR POLITICAL SUBDIVISION.—Whenever
14 any State or political subdivision thereof intends to
15 enter into evidence or otherwise use or disclose in
16 any trial, hearing, or other proceeding in or before
17 any court, department, officer, agency, regulatory
18 body, or other authority of the State or political sub-
19 division thereof against an aggrieved person any in-
20 formation obtained or derived from a request pursu-
21 ant to this section, the State or political subdivision
22 thereof shall notify the aggrieved person, the court
23 or other authority in which the information is to be
24 disclosed or used, and the Attorney General that the

1 State or political subdivision thereof intends to so
2 disclose or so use such information.

3 “(5) MOTION TO SUPPRESS.—

4 “(A) IN GENERAL.—Any aggrieved person
5 against whom evidence obtained or derived from
6 a request pursuant to this section is to be, or
7 has been, introduced or otherwise used or dis-
8 closed in any trial, hearing, or other proceeding
9 in or before any court, department, officer,
10 agency, regulatory body, or other authority of
11 the United States, or a State or political sub-
12 division thereof, may move to suppress the evi-
13 dence obtained or derived from the request, as
14 the case may be, on the grounds that—

15 “(i) the information was acquired in
16 violation of the Constitution or laws of the
17 United States; or

18 “(ii) the request was not in con-
19 formity with the requirements of this sec-
20 tion.

21 “(B) TIMING.—A motion to suppress
22 under subparagraph (A) shall be made before
23 the trial, hearing, or other proceeding unless
24 there was no opportunity to make such a mo-

tion or the aggrieved person concerned was not aware of the grounds of the motion.

“(6) JUDICIAL REVIEW.—

“(A) IN GENERAL.—Whenever—

“(i) a court or other authority is notified pursuant to paragraph (3) or (4);

“(ii) a motion is made pursuant to paragraph (5); or

“(iii) any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to—

“(I) discover or obtain materials relating to a request issued pursuant to this section; or

“(II) discover, obtain, or suppress evidence or information obtained or derived from a request issued pursuant to this section;

the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority shall, notwithstanding any

1 other provision of law and if the Attorney Gen-
2 eral files an affidavit under oath that disclosure
3 would harm the national security of the United
4 States, review in camera the materials as may
5 be necessary to determine whether the request
6 was lawful.

7 “(B) DISCLOSURE.—In making a deter-
8 mination under subparagraph (A), unless the
9 court finds that such disclosure would not assist
10 in determining any legal or factual issue perti-
11 nent to the case, the court shall disclose to the
12 aggrieved person, the counsel of the aggrieved
13 person, or both, under the procedures and
14 standards provided in the Classified Informa-
15 tion Procedures Act (18 U.S.C. App.), portions
16 of the application, order, or other related mate-
17 rials, or evidence or information obtained or de-
18 rived from the order.

19 “(7) EFFECT OF DETERMINATION OF LAWFUL-
20 NESS.—

21 “(A) IN GENERAL.—If the United States
22 district court determines pursuant to paragraph
23 (6) that the request was not in compliance with
24 the Constitution or laws of the United States,
25 the court may, in accordance with the require-

1 ments of law, suppress the evidence which was
2 unlawfully obtained or derived from the request
3 or otherwise grant the motion of the aggrieved
4 person.

5 “(B) EXCEPTION.—If the court determines
6 that the request was lawful, it may deny the
7 motion of the aggrieved person except to the ex-
8 tent that due process requires discovery or dis-
9 closure.

10 “(8) BINDING FINAL ORDERS.—Orders grant-
11 ing motions or requests under paragraph (6), deci-
12 sions under this section that a request was not law-
13 ful, and orders of the United States district court
14 requiring review or granting disclosure of applica-
15 tions, orders, or other related materials shall be final
16 orders and binding upon all courts of the United
17 States and the several States except a United States
18 Court of Appeals or the Supreme Court.”.

19 (3) CONSUMER REPORTS.—Section 626 of the
20 Fair Credit Reporting Act (15 U.S.C. 1681u) is
21 amended by inserting after subsection (o) (as added
22 by subsection (d)(3) of this section) the following
23 new subsection:

24 “(p) USE OF INFORMATION.—

25 “(1) IN GENERAL.—

1 “(A) CONSENT.—Any information ac-
2 quired from a request or an order pursuant to
3 this section concerning any United States per-
4 son may be used and disclosed by Federal offi-
5 cers and employees without the consent of the
6 United States person only in accordance with
7 the provisions of this subsection.

8 “(B) LAWFUL PURPOSE.—No information
9 acquired from an order pursuant to this section
10 may be used or disclosed by Federal officers or
11 employees except for lawful purposes.

12 “(2) DISCLOSURE FOR LAW ENFORCEMENT
13 PURPOSES.—No information acquired pursuant to
14 this section shall be disclosed for law enforcement
15 purposes unless the disclosure is accompanied by a
16 statement that the information, or any information
17 derived therefrom, may only be used in a criminal
18 proceeding with the advance authorization of the At-
19 torney General.

20 “(3) NOTIFICATION OF INTENDED DISCLOSURE
21 BY THE UNITED STATES.—Whenever the United
22 States intends to enter into evidence or otherwise
23 use or disclose in any trial, hearing, or other pro-
24 ceeding in or before any court, department, officer,
25 agency, regulatory body, or other authority of the

1 United States against an aggrieved person any infor-
2 mation obtained or derived from a request or an
3 order pursuant to this section, the United States
4 shall, before the trial, hearing, or other proceeding,
5 or at a reasonable time before an effort to so dis-
6 close or so use this information or submit it in evi-
7 dence, notify the aggrieved person and the court or
8 other authority in which the information is to be dis-
9 closed or used that the United States intends to so
10 disclose or so use such information.

11 “(4) NOTIFICATION OF INTENDED DISCLOSURE
12 BY STATE OR POLITICAL SUBDIVISION.—Whenever
13 any State or political subdivision thereof intends to
14 enter into evidence or otherwise use or disclose in
15 any trial, hearing, or other proceeding in or before
16 any court, department, officer, agency, regulatory
17 body, or other authority of the State or political sub-
18 division thereof against an aggrieved person any in-
19 formation obtained or derived from a request or an
20 order pursuant to this section, the State or political
21 subdivision thereof shall notify the aggrieved person,
22 the court or other authority in which the informa-
23 tion is to be disclosed or used, and the Attorney
24 General that the State or political subdivision there-
25 of intends to so disclose or so use such information.

1 “(5) MOTION TO SUPPRESS.—

2 “(A) IN GENERAL.—Any aggrieved person
3 against whom evidence obtained or derived from
4 a request or an order pursuant to this section
5 is to be, or has been, introduced or otherwise
6 used or disclosed in any trial, hearing, or other
7 proceeding in or before any court, department,
8 officer, agency, regulatory body, or other au-
9 thority of the United States, or a State or polit-
10 ical subdivision thereof, may move to suppress
11 the evidence obtained or derived from the re-
12 quest or the order, as the case may be, on the
13 grounds that—

14 “(i) the information was acquired in
15 violation of the Constitution or laws of the
16 United States; or

17 “(ii) the request or the order was not
18 in conformity with the requirements of this
19 section.

20 “(B) TIMING.—A motion to suppress
21 under subparagraph (A) shall be made before
22 the trial, hearing, or other proceeding unless
23 there was no opportunity to make such a mo-
24 tion or the aggrieved person concerned was not
25 aware of the grounds of the motion.

1 “(6) JUDICIAL REVIEW.—

2 “(A) IN GENERAL.—Whenever—

3 “(i) a court or other authority is noti-
4 fied pursuant to paragraph (3) or (4);

5 “(ii) a motion is made pursuant to
6 paragraph (5); or

7 “(iii) any motion or request is made
8 by an aggrieved person pursuant to any
9 other statute or rule of the United States
10 or any State before any court or other au-
11 thority of the United States or any State
12 to—

13 “(I) discover or obtain materials
14 relating to a request or an order
15 issued pursuant to this section; or

16 “(II) discover, obtain, or sup-
17 press evidence or information obtained
18 or derived from a request or an order
19 issued pursuant to this section;

20 the United States district court or, where the
21 motion is made before another authority, the
22 United States district court in the same district
23 as the authority shall, notwithstanding any
24 other provision of law and if the Attorney Gen-
25 eral files an affidavit under oath that disclosure

1 would harm the national security of the United
2 States, review in camera the materials as may
3 be necessary to determine whether the request
4 or the order was lawful.

5 “(B) DISCLOSURE.—In making a deter-
6 mination under subparagraph (A), unless the
7 court finds that such disclosure would not assist
8 in determining any legal or factual issue perti-
9 nent to the case, the court shall disclose to the
10 aggrieved person, the counsel of the aggrieved
11 person, or both, under the procedures and
12 standards provided in the Classified Informa-
13 tion Procedures Act (18 U.S.C. App.), portions
14 of the application, order, or other related mate-
15 rials, or evidence or information obtained or de-
16 rived from the order.

17 “(7) EFFECT OF DETERMINATION OF LAWFUL-
18 NESS.—

19 “(A) IN GENERAL.—If the United States
20 district court determines pursuant to paragraph
21 (6) that the request or the order was not in
22 compliance with the Constitution or laws of the
23 United States, the court may, in accordance
24 with the requirements of law, suppress the evi-
25 dence which was unlawfully obtained or derived

1 from the request or the order or otherwise
2 grant the motion of the aggrieved person.

3 “(B) EXCEPTION.—If the court determines
4 that the request or the order was lawful, it may
5 deny the motion of the aggrieved person except
6 to the extent that due process requires dis-
7 covery or disclosure.

8 “(8) BINDING FINAL ORDERS.—Orders grant-
9 ing motions or requests under paragraph (6), deci-
10 sions under this section that a request was not law-
11 ful, and orders of the United States district court
12 requiring review or granting disclosure of applica-
13 tions, orders, or other related materials shall be final
14 orders and binding upon all courts of the United
15 States and the several States except a United States
16 Court of Appeals or the Supreme Court.”.

17 (4) CONSUMER REPORTS REQUESTED BY GOV-
18 ERNMENTAL AGENCIES.—Section 627 of the Fair
19 Credit Reporting Act (15 U.S.C. 1681v) is amended
20 by inserting after subsection (f) (as added by sub-
21 section (d)(4) of this section) the following new sub-
22 section:

23 “(g) USE OF INFORMATION.—Any information ac-
24 quired from a request pursuant to this section concerning
25 any United States person may be used and disclosed by

1 Federal officers and employees, a State, or a political sub-
2 division of a State without the consent of the United
3 States person only in accordance with the procedures es-
4 tablished under section 626(p).”.

5 (f) DEFINITIONS.—

6 (1) FINANCIAL RECORD REQUESTS.—Section
7 1101 of the Right to Financial Privacy Act of 1978
8 (12 U.S.C. 3401) is amended—

9 (A) in paragraph (7), by striking “and” at
10 the end after the semicolon;

11 (B) in paragraph (8), by striking the pe-
12 riod and inserting “; and”; and

13 (C) by adding at the end the following new
14 paragraphs:

15 “(9) the term ‘agent of a foreign power’ has the
16 meaning given such term by section 101(b) of the
17 Foreign Intelligence Surveillance Act of 1978 (50
18 U.S.C. 1801(b));

19 “(10) the term ‘aggrieved person’ means any
20 person whose financial records are produced, dis-
21 closed, or otherwise made public without the consent
22 of such person; and

23 “(11) the term ‘foreign power’ has the meaning
24 given such term by section 101(a) of the Foreign In-

1 telligence Surveillance Act of 1978 (50 U.S.C.
2 1801(a)).”.

3 (2) CONSUMER REPORT REQUESTS.—Section
4 603 of the Fair Credit Reporting Act (15 U.S.C.
5 1681a) is amended by adding at the end the fol-
6 lowing:

7 “(y) TERMS RELATING TO INTELLIGENCE ACTIVI-
8 TIES.—

9 “(1) AGENT OF A FOREIGN POWER.—The term
10 ‘agent of a foreign power’ has the meaning given
11 such term by section 101(b) of the Foreign Intel-
12 ligence Surveillance Act of 1978 (50 U.S.C.
13 1801(b)).

14 “(2) FOREIGN POWER.—The term ‘foreign
15 power’ has the meaning given such term by section
16 101(a) of the Foreign Intelligence Surveillance Act
17 of 1978 (50 U.S.C. 1801(a)).

18 “(z) AGGRIEVED PERSON.—The term ‘aggrieved per-
19 son’ means any consumer or other person whose consumer
20 report is produced, disclosed, or otherwise made public
21 without the consent of such consumer or other person.”.

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