

109TH CONGRESS
1ST SESSION

H. R. 4570

To require the approval of a Foreign Intelligence Surveillance Court judge or designated United States Magistrate Judge for the issuance of a national security letter, to require the Attorney General to submit semi-annual reports on national security letters, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2005

Ms. HARMAN (for herself, Mr. HASTINGS of Florida, Mr. REYES, Mr. BOSWELL, Mr. CRAMER, Ms. ESHOO, Mr. HOLT, Mr. RUPPERSBERGER, Mr. TIERNEY, and Mr. BERMAN) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Select Committee on Intelligence (Permanent Select) and 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 require the approval of a Foreign Intelligence Surveillance Court judge or designated United States Magistrate Judge for the issuance of a national security letter, to require the Attorney General to submit semiannual reports on 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “National Security Let-
3 ter Judicial and Congressional Oversight Act”.

4 **SEC. 2. FOREIGN INTELLIGENCE SURVEILLANCE COURT**
5 **JUDGE OR UNITED STATES MAGISTRATE**
6 **JUDGE APPROVAL OF NATIONAL SECURITY**
7 **LETTERS.**

8 (a) REVIEW OF NATIONAL SECURITY LETTER RE-
9 QUESTS.—

10 (1) IN GENERAL.—No national security letter
11 shall issue unless a Foreign Intelligence Surveillance
12 Court judge or a designated United States Mag-
13 istrate Judge finds that—

14 (A) the information sought is relevant to
15 an authorized investigation to protect against
16 international terrorism or clandestine intel-
17 ligence activities;

18 (B) such an investigation of a United
19 States person is not conducted solely upon the
20 basis of activities protected by the first amend-
21 ment to the Constitution of the United States;
22 and

23 (C) there are specific and articulable facts
24 giving reason to believe that the information
25 sought pertains to a foreign power or an agent
26 of a foreign power (as those terms are defined

1 in section 101 of the Foreign Intelligence Sur-
2 veillance Act of 1978 (50 U.S.C. 1801)).

3 (2) ELECTRONIC FILING.—The court estab-
4 lished by section 103(a) of the Foreign Intelligence
5 Surveillance Act of 1978 (50 U.S.C. 1803) shall es-
6 tablish an electronic system for the submission of
7 documents and other information relating to pro-
8 ceedings under paragraph (1) and for the issuance
9 of orders relating to national security letters under
10 paragraph (1).

11 (b) SENSE OF CONGRESS REGARDING CHALLENGES
12 TO NONDISCLOSURE REQUIREMENTS OF NATIONAL SE-
13 CURITY LETTERS.—It is the sense of Congress that in the
14 case of a challenge to a nondisclosure requirement of a
15 national security letter, a certification by the Attorney
16 General or other appropriate head or deputy head of a
17 department, agency, or instrumentality of the Federal
18 Government that disclosure of such national security letter
19 may endanger the national security of the United States
20 or interfere with diplomatic relations—

21 (1) should not be considered conclusive evidence
22 that such disclosure would endanger the national se-
23 curity of the United States or interfere with diplo-
24 matic relations; and

1 (2) should be considered a rebuttable presump-
2 tion that such disclosure would endanger the na-
3 tional security of the United States or interfere with
4 diplomatic relations.

5 (c) MINIMIZATION PROCEDURES.—The Attorney
6 General shall establish minimization and destruction pro-
7 cedures to ensure that information obtained pursuant to
8 a national security letter regarding persons that are no
9 longer of interest in an authorized investigation is de-
10 stroyed.

11 (d) REPORT.—The Attorney General shall, semiannu-
12 ally, submit to the Permanent Select Committee on Intel-
13 ligence and the Committee on the Judiciary of the House
14 of Representatives and the Select Committee on Intel-
15 ligence and the Committee on the Judiciary of the Senate
16 a report containing—

17 (1) the total number of national security letters
18 issued during the preceding six months, in unclassi-
19 fied form;

20 (2) for each of subparagraphs (A) through (E)
21 of subsection (f)(3), the total number of national se-
22 curity letters issued during the preceding six months
23 under the authority of each such subparagraph;

24 (3) for each of subparagraphs (A) through (E)
25 of subsection (f)(3), the total number of national se-

1 security letters issued during the preceding six months
2 under the authority of each such subparagraph for
3 United States persons;

4 (4) for each of subparagraphs (A) through (E)
5 of subsection (f)(3), the total number of national se-
6 curity letters issued during the preceding six months
7 under the authority of each such subparagraph for
8 non-United States persons;

9 (5) a description of the minimization procedures
10 adopted by the Attorney General pursuant to sub-
11 section (e), including any changes to minimization
12 procedures previously adopted by the Attorney Gen-
13 eral;

14 (6) a summary of the challenges made by re-
15 cipients of national security letters in court;

16 (7) a description of the extent to which infor-
17 mation obtained with national security letters has
18 aided investigations and an explanation of how such
19 information has aided such investigations; and

20 (8) a description of the extent to which infor-
21 mation obtained with national security letters has
22 aided prosecutions and an explanation of how such
23 information has been used in or aided such prosecu-
24 tions.

25 (e) DEFINITIONS.—In this section:

1 (1) FOREIGN INTELLIGENCE SURVEILLANCE
2 COURT JUDGE.—The term “Foreign Intelligence
3 Surveillance Court judge” means a judge of the
4 court established by section 103(a) of the Foreign
5 Intelligence Surveillance Act of 1978 (50 U.S.C.
6 1803 (a)).

7 (2) DESIGNATED UNITED STATES MAGISTRATE
8 JUDGE.—The term “designated United States Mag-
9 istrate Judge” means, for each district court of the
10 United States, a United States Magistrate Judge
11 under chapter 43 of title 28, United States Code,
12 who is—

13 (A) the Chief United States Magistrate
14 Judge of such district court; or

15 (B) if a Chief United States Magistrate
16 Judge has not been designated in such district
17 court, another United States Magistrate Judge
18 of such district court that is publicly designated
19 by the Chief Justice of the United States to
20 have the power to hear applications and grant
21 orders for the issuance of national security let-
22 ters under section 2.

23 (3) NATIONAL SECURITY LETTER.—The term
24 “national security letter” means a request for infor-
25 mation under—

1 (A) section 2709(b) of title 18, United
2 States Code;

3 (B) section 1114(a)(5)(A) of the Right to
4 Financial Privacy Act of 1978 (12 U.S.C.
5 3414(a)(5)(A));

6 (C) subsections (a) or (b) of section 626 of
7 the Fair Credit Reporting Act (15 U.S.C.
8 1681u(a), 1681u(b));

9 (D) section 627(a) of the Fair Credit Re-
10 porting Act (15 U.S.C. 1681v(a)); or

11 (E) section 802(a) of the National Security
12 Act of 1947 (50 U.S.C. 436(a)).

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