

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

██████████
AMERICAN CIVIL LIBERTIES UNION;
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

v.

ALBERTO GONZALES, in his official capacity
as Attorney General of the United States;
ROBERT MUELLER, in his official capacity as
Director of the Federal Bureau of Investigation;
██████████ in his official capacity as
██████████ Federal Bureau of
Investigation,

Defendants.

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

Civ. Action No. _____

FILED UNDER SEAL

August 9, 2005

The government originally gagged the ACLU from disclosing the text that appears below in white on black background, originally arguing that its release would threaten national security. The government has now given up its legal battle over the gag and agreed that the information could be released to the public.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. Plaintiffs ██████████ the American Civil Liberties Union (ACLU), and the American Civil Liberties Union Foundation (ACLUF) challenge the constitutionality of 18 U.S.C. § 2709, a statute that authorizes the Federal Bureau of Investigation (FBI) to demand the disclosure of a wide range of sensitive and constitutionally protected information, including the identity of a person who has borrowed particular books from a public library or who has engaged in anonymous speech on the Internet. *See* 18 U.S.C. § 2709 ("Section 2709"), as amended by the USA PATRIOT Act, Pub. L. 107-56, 115 Stat. 272 (Oct. 26, 2001) ("Patriot Act"). In its current form, Section 2709 allows the FBI to issue such demands to "electronic communication service providers" in the form of National Security Letters (NSLs) without obtaining prior judicial approval; without demonstrating a compelling

42. ALA has emphasized that "Libraries are one of the great bulwarks of democracy. They are living embodiments of the First Amendment because their collections include voices of dissent as well as assent. Libraries are impartial resources providing information on all points of view, available to all persons regardless of origin, age, background, or views. The role of libraries as such a resource must not be compromised by an erosion of the privacy rights of library users." American Library Association, Policy Concerning Confidentiality of Personally Identifiable Information about Library Users, adopted June 2, 1991, amended June 30, 2004.

43. ALA passed a resolution recognizing that provisions of the Patriot Act "increase the likelihood that the activities of library users, including their use of computers to browse the Web or access e-mail, may be under government surveillance without their knowledge or consent." The resolution "opposes any use of governmental power to suppress the free and open exchange of knowledge and information to intimidate individuals exercising free inquiry," and asserts "[t]hat the American Library Association considers sections of the USA Patriot Act [to be] a present danger to the constitutional rights and privacy rights of library users." American Library Association, Resolution on the USA Patriot Act and Related Measures That Infringe on the Rights of Library Users, adopted January 29, 2003.

44. Forty-eight states, including Connecticut, have statutes that explicitly protect the confidentiality of library records. The State of Connecticut General Statutes requires that "personally identifiable information contained in the circulation records of all public libraries shall be confidential." Conn. Gen. Stat. Ann. § 11-25 (2002)

45. Library Connection is a non-profit consortium of twenty-six public and academic libraries in Connecticut. Library Connection provides a number of services to member libraries. It administers an automated library system known as CONNECT, which member libraries use