

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK


AMERICAN CIVIL LIBERTIES UNION,
and AMERICAN CIVIL LIBERTIES
UNION FOUNDATION;

Plaintiffs,

v.

JOHN ASHCROFT, 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; and MARION E. BOWMAN,
in his official capacity as Senior Counsel to
the Federal Bureau of Investigation,

Defendants.

04 Civ. 2614 (VM)

SEALED

The government originally gagged the ACLU from disclosing the text that appears below in white on black background, arguing that its disclosure would pose a threat to national security. After the ACLU objected, the Court lifted the gag order on that text. The ACLU remains gagged from disclosing the blacked out text below.

DECLARATION OF ANTHONY D. ROMERO

I, Anthony D. Romero, of New York, New York, do declare:

1. I am the Executive Director of the American Civil Liberties Union ("ACLU") and the American Civil Liberties Union Foundation ("ACLU Foundation" or "ACLUF").

2. The ACLU is a nationwide, non-profit, non-partisan organization with over 400,000 members dedicated to the constitutional principles of liberty and equality. The primary mission of the ACLU, which is a 501(c)(4) organization, is to educate the public about the civil liberties implications of pending and proposed legislation in Congress and in state and local legislatures; to directly lobby legislators and to provide analyses of such pending or proposed legislation; and to mobilize our members and other activists to lobby their legislators.

the Justice Department [REDACTED] forbid disclosure of non-sensitive information. If a member of Congress knew that an NSL recipient could be jailed up to five years for [REDACTED]

[REDACTED] general categories of information [REDACTED] that member might be disinclined to approve the legislation. Because of the gag provision, Congress is considering new legislation without the benefit of all the facts. The gag provision is also limiting our ability to mobilize ACLU members and other activists in opposition to the expansion of the NSL power.

22. Other new powers under the Patriot Act have gag provisions that are similar or identical to the NSL gag provision. Information about the government's application of the gag provision in this case would also inform the ongoing debate about those provisions. But for the gag, the ACLU and the ACLUF would disclose this information to the public.

23. The gag is also creating potential liability for ACLU and ACLUF staff who are not even privy to the [REDACTED] information in this case. Because these staff members work for or are associated with an organization [REDACTED]

[REDACTED] To avoid this risk, I reviewed and approved a memo that was distributed to all staff of the ACLU, the ACLUF, and our state affiliate offices. See Exh. 2. ACLU and ACLUF staff around the country were understandably confused by the memo because they did not understand how they could be gagged from stating a fact that is evident from the redacted Complaint.