

## CDT Statement: FBI Abuse of Records Authority Highlights Need for Judicial Controls

January 19, 2010

WASHINGTON – A story in the Washington Post today detailing how the FBI abused its authority to obtain phone records on American citizens in violation of the law reaffirms the need for Congress to restore the checks and balances wiped away in the haste of the Patriot Act more than eight years ago.

From 2002 through 2006, the FBI collected more than 2,000 telephone call records illegally, the Post reported. The requests violated even the weak standards of the Patriot Act. According to the Post, FBI officials issued so-called "exigent circumstances letters" to phone companies demanding records when there was not only no emergency but no case that the records could be tied to. The requests were issued in the name of national security, but much of the data obtained did not relate to terrorism at all.

"What is new in the Post's reporting today is that it was FBI supervisors and senior officials who were abusing the system," said Greg Nojeim, senior staff counsel at the Center for Democracy and Technology and head of CDT's Project on Freedom, Security and Technology. "This shows why the FBI should be required to get a judge's approval for access to sensitive records," Nojeim said. "The FBI has been assuring us for years that the abuses of the Patriot Act could be cured by more layers of internal review, but now we learn that the supervisors themselves were abusing the process," Nojeim said. "When people are under pressure, internal review is not enough, there needs to be external oversight, and the best way to do that is to have a judge look at the situation."

The Patriot Act expanded the authority of the FBI to use "national security letters" (NSLs) to obtain financial and communications records. Several published reports, including by the Justice Department's Inspector General, have detailed FBI abuse of NSLs.

The provisions of the Patriot Act that weakened standards for issuance of NSLs were not among the sections of the law subject to expiration, or "sunset." Nevertheless CDT and others have urged Congress to tighten up the requirements for NSLs. However, Patriot reauthorization bills now pending in Congress would make only minor changes in the law and would not require judicial review.

For more information, see CDT's [2009 Policy Post](#) [1].

- [wiretap](#)
- [surveillance](#)
- [PATRIOT Act](#)
- [NSLs](#)
- [fbi](#)

The copyright © 2010 by the Center for Democracy & Technology. CDT can be freely copied and used as long as you make no substantive changes and clearly give us credit. [Details](#).

**Source URL:**

[https://www.cdt.org/pr\\_statement/cdt-statement-fbi-abuse-records-authority-highlights-need-judicial-controls](https://www.cdt.org/pr_statement/cdt-statement-fbi-abuse-records-authority-highlights-need-judicial-controls)



**Links:**

[1] <http://www.cdt.org/policy/patriot-act-sunsets-should-prompt-re-consideration-anti-terror-powers-adjustments-needed-prot>