

REQUESTING THE PRESIDENT AND DIRECTING THE ATTORNEY GENERAL TO SUBMIT TO THE HOUSE OF REPRESENTATIVES ALL DOCUMENTS IN THE POSSESSION OF THE PRESIDENT AND THE ATTORNEY GENERAL RELATING TO REQUESTS MADE BY THE NATIONAL SECURITY AGENCY AND OTHER FEDERAL AGENCIES TO TELEPHONE SERVICE PROVIDERS REQUESTING ACCESS TO TELEPHONE COMMUNICATIONS RECORDS OF PERSONS IN THE UNITED STATES AND COMMUNICATIONS ORIGINATING AND TERMINATING WITHIN THE UNITED STATES WITHOUT A WARRANT

JUNE 23, 2006.—Referred to the House Calendar and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H. Res. 819]

The Committee on the Judiciary, to whom was referred the resolution (H. Res. 819) requesting the President and directing the Attorney General to submit to the House of Representatives all documents in the possession of the President and the Attorney General relating to requests made by the National Security Agency and other Federal agencies to telephone service providers requesting access to telephone communications records of persons in the United States and communications originating and terminating within the United States without a warrant, having considered the same, report favorably thereon without amendment and recommend that the resolution be agreed to.

PURPOSE AND SUMMARY

House Resolution 819, introduced by Representative Wexler (D-FL) on May 17, 2006, requests the President and directs the Attorney General to submit to the House of Representatives all documents, including legal opinions, in the possession of the President and the Attorney General relating to requests made by the National Security Agency (NSA) and other Federal agencies to telephone service providers requesting access to telephone communications records of persons in the United States and communications originating and terminating within the United States without a warrant, subject to necessary redactions or requirements for handling classified documents.

BACKGROUND

House Resolution 819 is a resolution of inquiry. Under the rules and precedents of the House of Representatives, a resolution of inquiry allows the House to request information from the President of the United States or to direct the head of one of the executive departments to provide such information. More specifically, according to Deschler's Precedents, it is a "simple resolution making a direct request or demand of the President or the head of an executive department to furnish the House of Representatives with specific factual information in the possession of the executive branch. The practice is nearly as old as the Republic, and is based on principles of comity between the executive and legislative branches rather than on any specific provision of the Constitution that a Federal court may be called upon to enforce."¹

A committee has a number of choices in considering a resolution of inquiry. It may vote on the resolution without amendment, or it may amend it. It may report the resolution favorably, adversely, or with no recommendation. House Resolution 819 requests documents similar to those requested in House Resolutions that were reported adversely earlier this year. Nevertheless, the Committee reports this resolution favorably to emphasize to the Executive branch the importance of more timely and comprehensive responses to Committee requests. When Attorney General Gonzales testified before the Committee on April 6, 2006, the Chairman, Ranking Member, and other Members of the Committee expressed concern toward the Justice Department's cooperation in providing the Committee with sufficient information related to the Administration's conduct of the war on terrorism.

More than three months after the Attorney General testified before the Committee, the Justice Department has failed to fully respond to questions asked during that hearing. This Committee believes that reporting H. Res. 819 favorably will underscore to the Administration and the Department of Justice that it is imperative that this Committee be provided the information it needs in order to conduct appropriate Congressional oversight over this and other Administration programs. Among the important information the Committee believes it needs in order to conduct this oversight are responsive answers to the requests of Mr. Wexler in H. Res. 819, including providing "all legal opinions, relating to requests made without a warrant by the National Security Agency or other Federal departments and agencies to telephone service providers . . . for access to telephone communications records of persons in the United States."

HEARINGS

No hearings were held in the Committee on the Judiciary on H. Res. 819.

COMMITTEE CONSIDERATION

On June 21, 2006, the Committee met in open session and favorably reported the resolution H. Res. 819 by a voice vote, a quorum being present.

¹ Deschler's Precedents of the House of Representatives, ch. 24, § 8.

VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee notes that there were no recorded votes during the Committee consideration of H. Res. 819.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

COMMITTEE COST ESTIMATE

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the Committee estimates the costs of implementing the resolution would be minimal. The Congressional Budget Office did not provide a cost estimate for the resolution.

PERFORMANCE GOALS AND OBJECTIVES

H. Res. 819 does not authorize funding. Therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives is inapplicable.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the rule does not apply because H. Res. 819 is not a bill or joint resolution that may be enacted into law.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

The House Resolution would resolve that the President is requested and the Attorney General is directed to submit to the House of Representatives, not later than 14 days after the date of the adoption of this resolution, all documents in the possession of the President and the Attorney General, including all legal opinions, relating to requests made without a warrant by the NSA or other Federal departments and agencies to telephone service providers, including wireless telephone service providers, for access to telephone communications records of persons in the United States (other than as authorized under title I of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) or chapter 119 or 121 of title 18, United States Code), subject to necessary redactions or requirements for handling classified documents.

CHANGES IN EXISTING LAW MADE BY THE RESOLUTION, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, the Committee notes that H. Res. 819 makes no changes to existing law.

