

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: January 11, 2016

TO: Honorable Members of the Rules, Elections, Intergovernmental Relations and
Neighborhoods Committee

FROM: Sharon M. Tso *Sharon Tso* Council File No: 15-0002-S104
Chief Legislative Analyst Assignment No: 15-12-0972

SUBJECT: Resolution (Koretz - Krekorian) to support HR 1076 (King) and S. 551 (Feinstein)

CLA RECOMMENDATION: Adopt Resolution (Koretz - Krekorian) to include in the City's 2015 – 2016 Federal Legislative Program SUPPORT for HR 1076 (King)/S. 551 (Feinstein), the Denying Firearms and Explosives to Dangerous Terrorists Act.

SUMMARY

On December 4, 2015, a Resolution (Koretz - Krekorian) was introduced in support of HR 1076/S. 551, which would prohibit known or suspected terrorists from legally purchasing firearms and explosives. The Resolution states that the number of mass shootings throughout the world illustrate the reality that people are no longer safe from gun violence anywhere, and that, while there are some restrictions on gun ownership in the United States, a loophole in current law allows individuals on the Federal Bureau of Investigation (FBI) terrorist watch list to legally purchase firearms and explosives.

The Resolution states that this loophole needlessly places people in danger and increases the likelihood of a mass shooting in the future. The Resolution further states that HR 1076/S. 551 would close this loophole. The Resolution, therefore, seeks an official position of the City of Los Angeles to support HR 1076/S. 511, which would prohibit known or suspected terrorists from legally purchasing firearms or explosives.

BACKGROUND

Under current law, an individual included on the FBI's Terrorist Screening Center's Consolidated Terrorist Watchlist is not automatically prohibited from purchasing a firearm. An individual on the watchlist can only be denied a firearm if there is another factor, such as a criminal record, but currently, inclusion on the watchlist alone is not enough for the government to prohibit a firearm transfer or sale.

HR 1076 and S. 551 would change current law, and would grant discretion to the Attorney General to deny the sale or transfer of firearms or explosives to known or suspected terrorists. Under this legislation, when an individual on the FBI's watchlist attempts to purchase a firearm, the Department of Justice would be notified and the Attorney General would have to decide whether the person is "known (or appropriately suspected) to be engaged in conduct constituting, in preparation for, in aid of, or related to terrorism, or providing material support or resources for terrorism" and whether there is reasonable suspicion that the weapon being purchased or transferred would be used in connection with terrorism. While many supporters of this bill state

that this would stop individuals listed on the Transportation Security Administration (TSA) No Fly List from purchasing a firearm or explosives, it must be noted that the No Fly List is a subset of the much larger FBI watchlist.

This legislation would be effective in keeping guns and explosives out of the hands of suspected terrorists. According to an analysis conducted by the Government Accountability Office (GAO), 2,233 firearms or explosives background checks were conducted as part of the sale or transfer of a firearm on people on the FBI watchlist between 2004 and 2014, with 91 percent of those sales allowed to proceed. Under this legislation, it is likely that more of those sales or transfers would have been stopped.

However, critics have pointed out that it is unclear how an individual is added to the watchlist, and that there are a number of examples of American citizens not connected to terrorism being included on the No Fly List without their knowledge. It is unclear how many American citizens are included on the larger FBI watchlist. Critics have also pointed out that there is no information available on whether any firearms purchased by someone on the FBI's watchlist have been used in commission of a crime or act of terrorism.

DEPARTMENTS NOTIFIED

Police Department

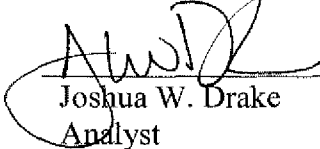
BILL STATUS

HR 1076

02/25/2015	Introduced. Referred to the House Committee on the Judiciary
03/31/2015	Referred to the Subcommittee on Crime, Terrorism, Homeland Security, and Investigations
12/07/2015	Motion to Discharge Committee filed by Rep. Thompson. Petition No. 114-3

S. 511

02/24/2015	Introduced. Referred to the Senate Committee on the Judiciary
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Joshua W. Drake
Analyst

SMT:MF:jwd

Attachment: Resolution (Koretz-Krekorian)
S. 551 (Feinstein)

RESOLUTION
RULES, ELECTIONS & INTERGOVERNMENTAL RELATIONS

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must first have been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the number of mass shooting incidents in Paris and other locations throughout the world illustrate the reality that people are no longer safe from gun violence in their home, workplace, school, or place of worship; and

WHEREAS, in the United States, recent incidents in San Bernardino and Colorado Springs are a couple of many recent mass shooting incidents that have killed and injured innocent people, while leaving families and communities devastated; and

WHEREAS, while there are some restrictions in place on gun ownership, a loophole in federal gun laws allows individuals on the Federal Bureau of Investigation terrorist watch list to legally purchase firearms and explosives;

WHEREAS, such a loophole needlessly places people in danger and increases the likelihood that similar mass shooting incidents will occur in the future; and

WHEREAS, currently pending before the United States House of Representatives and the Senate are HR 1076 (King) and S. 551 (Feinstein), also known as the Denying Firearms and Explosives to Dangerous Terrorists Act of 2015; and

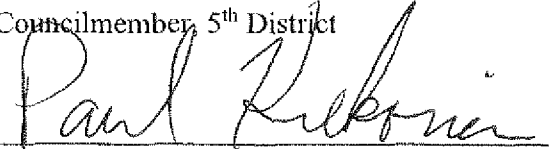
WHEREAS, HR 1076 and S. 551 would deny the transfer of firearms or the issuance of a federal firearms and explosives license to any individual if such an individual has provided material support or resources for terrorist activities, or a reasonable belief exists that such individual may use a firearm or explosive in connection with terrorism; and

WHEREAS, HR 1076 and S. 551 are common-sense bills which will help save many lives, and should be supported;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-16 Federal Legislative Program SUPPORT for HR 1076 (King) and S. 551 (Feinstein) which prohibit known or suspected terrorists from legally purchasing firearms and explosives.


DEC - 4 2015

PRESENTED BY: 
PAUL KORETZ
Councilmember, 5th District

SECONDED BY: 

ORIGINAL

114TH CONGRESS
1ST SESSION

S. 551

To increase public safety by permitting the Attorney General to deny the transfer of firearms or the issuance of firearms and explosives licenses to known or suspected dangerous terrorists.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2015

Mrs. FEINSTEIN (for herself, Mr. WHITEHOUSE, Mr. SCHUMER, Mr. DURBIN, Mr. BLUMENTHAL, Mrs. BOXER, Mr. REED, Mr. MENENDEZ, Mrs. GILLIBRAND, Mr. MURPHY, Ms. WARREN, and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To increase public safety by permitting the Attorney General to deny the transfer of firearms or the issuance of firearms and explosives licenses to known or suspected dangerous terrorists.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Denying Firearms and
5 Explosives to Dangerous Terrorists Act of 2015”.

1 **SEC. 2. GRANTING THE ATTORNEY GENERAL THE AUTHOR-**
2 **ITY TO DENY THE SALE, DELIVERY, OR**
3 **TRANSFER OF A FIREARM OR THE ISSUANCE**
4 **OF A FIREARMS OR EXPLOSIVES LICENSE OR**
5 **PERMIT TO DANGEROUS TERRORISTS.**

6 (a) STANDARD FOR EXERCISING ATTORNEY GEN-
7 ERAL DISCRETION REGARDING TRANSFERRING FIRE-
8 ARMS OR ISSUING FIREARMS PERMITS TO DANGEROUS
9 TERRORISTS.—Chapter 44 of title 18, United States
10 Code, is amended—

11 (1) by inserting after section 922 the following:

12 **“§ 922A. Attorney General’s discretion to deny trans-**
13 **fer of a firearm**

14 “The Attorney General may deny the transfer of a
15 firearm under section 922(t)(1)(B)(ii) of this title if the
16 Attorney General—

17 “(1) determines that the transferee is known
18 (or appropriately suspected) to be or have been en-
19 gaged in conduct constituting, in preparation for, in
20 aid of, or related to terrorism, or providing material
21 support or resources for terrorism; and

22 “(2) has a reasonable belief that the prospective
23 transferee may use a firearm in connection with ter-
24 rorism.

1 **“§ 922B. Attorney General’s discretion regarding ap-**
2 **plicants for firearm permits which would**
3 **qualify for the exemption provided under**
4 **section 922(t)(3)**

5 “The Attorney General may determine that—

6 “(1) an applicant for a firearm permit which
7 would qualify for an exemption under section
8 922(t)(3) is known (or appropriately suspected) to
9 be or have been engaged in conduct constituting, in
10 preparation for, in aid of, or related to terrorism, or
11 providing material support or resources for ter-
12 rorism; and

13 “(2) the Attorney General has a reasonable be-
14 lief that the applicant may use a firearm in connec-
15 tion with terrorism.”;

16 (2) in section 921(a), by adding at the end the
17 following:

18 “(36) The term ‘terrorism’ includes inter-
19 national terrorism and domestic terrorism, as de-
20 fined in section 2331 of this title.

21 “(37) The term ‘material support or resources’
22 has the meaning given the term in section 2339A of
23 this title.

24 “(38) The term ‘responsible person’ means an
25 individual who has the power, directly or indirectly,
26 to direct or cause the direction of the management

1 and policies of the applicant or licensee pertaining to
2 firearms.”; and

3 (3) in the table of sections, by inserting after
4 the item relating to section 922 the following:

“922A. Attorney General’s discretion to deny transfer of a firearm.

“922B. Attorney General’s discretion regarding applicants for firearm permits
which would qualify for the exemption provided under section
922(t)(3).”.

5 (b) EFFECT OF ATTORNEY GENERAL DISCRE-
6 TIONARY DENIAL THROUGH THE NATIONAL INSTANT
7 CRIMINAL BACKGROUND CHECK SYSTEM (NICS) ON
8 FIREARMS PERMITS.—Section 922(t) of title 18, United
9 States Code, is amended—

10 (1) in paragraph (1)(B)(ii), by inserting “or
11 State law, or that the Attorney General has deter-
12 mined to deny the transfer of a firearm pursuant to
13 section 922A of this title” before the semicolon;

14 (2) in paragraph (2), in the matter preceding
15 subparagraph (A), by inserting “, or if the Attorney
16 General has not determined to deny the transfer of
17 a firearm pursuant to section 922A of this title”
18 after “or State law”;

19 (3) in paragraph (3)—

20 (A) in subparagraph (A)—

21 (i) in clause (i)—

22 (I) in subclause (I), by striking

23 “and” at the end; and

1 (II) by adding at the end the fol-
2 lowing:

3 “(III) was issued after a check of the sys-
4 tem established pursuant to paragraph (1);”;

5 (ii) in clause (ii), by inserting “and”
6 after the semicolon; and

7 (iii) by adding at the end the fol-
8 lowing:

9 “(iii) the State issuing the permit agrees to
10 deny the permit application if such other person is
11 the subject of a determination by the Attorney Gen-
12 eral pursuant to section 922B of this title;”;

13 (4) in paragraph (4), by inserting “, or if the
14 Attorney General has not determined to deny the
15 transfer of a firearm pursuant to section 922A of
16 this title” after “or State law”; and

17 (5) in paragraph (5), by inserting “, or if the
18 Attorney General has determined to deny the trans-
19 fer of a firearm pursuant to section 922A of this
20 title” after “or State law”.

21 (c) UNLAWFUL SALE OR DISPOSITION OF FIREARM
22 BASED UPON ATTORNEY GENERAL DISCRETIONARY DE-
23 NIAL.—Section 922(d) of title 18, United States Code, is
24 amended—

1 (1) in paragraph (8), by striking “or” at the
2 end;

3 (2) in paragraph (9), by striking the period at
4 the end and inserting “; or”; and

5 (3) by adding at the end the following:

6 “(10) has been the subject of a determination
7 by the Attorney General under section 922A, 922B,
8 923(d)(3), or 923(e) of this title.”.

9 (d) ATTORNEY GENERAL DISCRETIONARY DENIAL
10 AS PROHIBITOR.—Section 922(g) of title 18, United
11 States Code, is amended—

12 (1) in paragraph (8), by striking “or” at the
13 end;

14 (2) in paragraph (9), by striking the comma at
15 the end and inserting “; or”; and

16 (3) by inserting after paragraph (9) the fol-
17 lowing:

18 “(10) who has received actual notice of the At-
19 torney General’s determination made under section
20 922A, 922B, 923(d)(3) or 923(e) of this title.”.

21 (e) ATTORNEY GENERAL DISCRETIONARY DENIAL
22 OF FEDERAL FIREARMS LICENSES.—Section 923(d) of
23 title 18, United States Code, is amended—

1 (1) in paragraph (1), in the matter preceding
2 subparagraph (A), by striking “Any” and inserting
3 “Except as provided in paragraph (3), any”; and

4 (2) by adding at the end the following:

5 “(3) The Attorney General may deny a license appli-
6 cation if the Attorney General determines that the appli-
7 cant (including any responsible person) is known (or ap-
8 propriately suspected) to be or have been engaged in con-
9 duct constituting, in preparation for, in aid of, or related
10 to terrorism, or providing material support or resources
11 for terrorism, and the Attorney General has a reasonable
12 belief that the applicant may use a firearm in connection
13 with terrorism.”.

14 (f) DISCRETIONARY REVOCATION OF FEDERAL FIRE-
15 ARMS LICENSES.—Section 923(e) of title 18, United
16 States Code, is amended—

17 (1) by inserting “(1)” after “(e)”;

18 (2) by striking “revoke any license” and insert-
19 ing the following: “revoke—

20 “(A) any license”;

21 (3) by striking “. The Attorney General may,
22 after notice and opportunity for hearing, revoke the
23 license” and inserting the following: “;

24 “(B) the license”; and

1 (4) by striking “. The Secretary’s action” and
2 inserting the following: “; or

3 “(C) any license issued under this section if the
4 Attorney General determines that the holder of such
5 license (including any responsible person) is known
6 (or appropriately suspected) to be or have been en-
7 gaged in conduct constituting, in preparation for, in
8 aid of, or related to terrorism or providing material
9 support or resources for terrorism, and the Attorney
10 General has a reasonable belief that the applicant
11 may use a firearm in connection with terrorism.

12 “(2) The Attorney General’s action”.

13 (g) ATTORNEY GENERAL’S ABILITY TO WITHHOLD
14 INFORMATION IN FIREARMS LICENSE DENIAL AND REV-
15 OCATION SUIT.—

16 (1) IN GENERAL.—Section 923(f)(1) of title 18,
17 United States Code, is amended by inserting after
18 the first sentence the following: “However, if the de-
19 nial or revocation is pursuant to subsection (d)(3) or
20 (e)(1)(C), any information upon which the Attorney
21 General relied for this determination may be with-
22 held from the petitioner, if the Attorney General de-
23 termines that disclosure of the information would
24 likely compromise national security.”.

1 (2) SUMMARIES.—Section 923(f)(3) of title 18,
2 United States Code, is amended by inserting after
3 the third sentence the following: “With respect to
4 any information withheld from the aggrieved party
5 under paragraph (1), the United States may submit,
6 and the court may rely upon, summaries or redacted
7 versions of documents containing information the
8 disclosure of which the Attorney General has deter-
9 mined would likely compromise national security.”.

10 (h) ATTORNEY GENERAL’S ABILITY TO WITHHOLD
11 INFORMATION IN RELIEF FROM DISABILITIES LAW-
12 SUITS.—Section 925(e) of title 18, United States Code,
13 is amended by inserting after the third sentence the fol-
14 lowing: “If the person is subject to a disability under sec-
15 tion 922(g)(10) of this title, any information which the
16 Attorney General relied on for this determination may be
17 withheld from the applicant if the Attorney General deter-
18 mines that disclosure of the information would likely com-
19 promise national security. In responding to the petition,
20 the United States may submit, and the court may rely
21 upon, summaries or redacted versions of documents con-
22 taining information the disclosure of which the Attorney
23 General has determined would likely compromise national
24 security.”.

1 (i) PENALTIES.—Section 924(k) of title 18, United
2 States Code, is amended—

3 (1) in paragraph (2), by striking “or” at the
4 end;

5 (2) in paragraph (3), by striking the comma at
6 the end and inserting “; or”; and

7 (3) by inserting after paragraph (3) the fol-
8 lowing:

9 “(4) constitutes an act of terrorism, or pro-
10 viding material support or resources for terrorism,”.

11 (j) REMEDY FOR ERRONEOUS DENIAL OF FIREARM
12 OR FIREARM PERMIT EXEMPTION.—

13 (1) IN GENERAL.—Section 925A of title 18,
14 United States Code, is amended—

15 (A) in the section heading, by striking
16 “**Remedy for erroneous denial of fire-**
17 **arm**” and inserting “**Remedies**”;

18 (B) by striking “Any person denied a fire-
19 arm pursuant to subsection (s) or (t) of section
20 922” and inserting the following:

21 “(a) Except as provided in subsection (b), any person
22 denied a firearm pursuant to subsection (t) of section 922
23 or a firearm permit pursuant to a determination made
24 under section 922B”; and

25 (C) by adding at the end the following:

1 “(b) In any case in which the Attorney General has
2 denied the transfer of a firearm to a prospective transferee
3 pursuant to section 922A of this title or has made a deter-
4 mination regarding a firearm permit applicant pursuant
5 to section 922B of this title, an action challenging the de-
6 termination may be brought against the United States.
7 The petition shall be filed not later than 60 days after
8 the petitioner has received actual notice of the Attorney
9 General’s determination under section 922A or 922B of
10 this title. The court shall sustain the Attorney General’s
11 determination upon a showing by the United States by a
12 preponderance of evidence that the Attorney General’s de-
13 termination satisfied the requirements of section 922A or
14 922B, as the case may be. To make this showing, the
15 United States may submit, and the court may rely upon,
16 summaries or redacted versions of documents containing
17 information the disclosure of which the Attorney General
18 has determined would likely compromise national security.
19 Upon request of the petitioner or the court’s own motion,
20 the court may review the full, undisclosed documents ex
21 parte and in camera. The court shall determine whether
22 the summaries or redacted versions, as the case may be,
23 are fair and accurate representations of the underlying
24 documents. The court shall not consider the full, undis-
25 closed documents in deciding whether the Attorney Gen-

1 eral's determination satisfies the requirements of section
2 922A or 922B.”.

3 (2) TECHNICAL AND CONFORMING AMEND-
4 MENT.—The table of sections for chapter 44 of title
5 18, United States Code, is amended by striking the
6 item relating to section 925A and inserting the fol-
7 lowing:

“925A. Remedies.”.

8 (k) PROVISION OF GROUNDS UNDERLYING INELIGI-
9 BILITY DETERMINATION BY THE NATIONAL INSTANT
10 CRIMINAL BACKGROUND CHECK SYSTEM.—Section 103
11 of the Brady Handgun Violence Prevention Act (18 U.S.C.
12 922 note) is amended—

13 (1) in subsection (f)—

14 (A) by inserting “or the Attorney General
15 has made a determination regarding an appli-
16 cant for a firearm permit pursuant to section
17 922B of title 18, United States Code,” after “is
18 ineligible to receive a firearm”; and

19 (B) by inserting “except any information
20 for which the Attorney General has determined
21 that disclosure would likely compromise na-
22 tional security,” after “reasons to the indi-
23 vidual,”; and

24 (2) in subsection (g)—

25 (A) the first sentence—

1 (i) by inserting “or if the Attorney
2 General has made a determination pursu-
3 ant to section 922A or 922B of title 18,
4 United States Code,” after “or State
5 law,”; and

6 (ii) by inserting “, except any infor-
7 mation for which the Attorney General has
8 determined that disclosure would likely
9 compromise national security” before the
10 period at the end; and

11 (B) by adding at the end the following:
12 “Any petition for review of information with-
13 held by the Attorney General under this sub-
14 section shall be made in accordance with section
15 925A of title 18, United States Code.”.

16 (l) UNLAWFUL DISTRIBUTION OF EXPLOSIVES
17 BASED UPON ATTORNEY GENERAL DISCRETIONARY DE-
18 NIAL.—Section 842(d) of title 18, United States Code, is
19 amended—

20 (1) in paragraph (9), by striking the period and
21 inserting “; or”; and

22 (2) by adding at the end the following:

23 “(10) has received actual notice of the Attorney
24 General’s determination made pursuant to sub-
25 section (j) or (d)(1)(B) of section 843 of this title.”.

1 (m) ATTORNEY GENERAL DISCRETIONARY DENIAL
2 AS PROHIBITOR.—Section 842(i) of title 18, United States
3 Code, is amended—

4 (1) in paragraph (7), by inserting “; or” at the
5 end; and

6 (2) by inserting after paragraph (7) the fol-
7 lowing:

8 “(8) who has received actual notice of the At-
9 torney General’s determination made pursuant to
10 subsection (j) or (d)(1)(B) of section 843 of this
11 title.”.

12 (n) ATTORNEY GENERAL DISCRETIONARY DENIAL
13 OF FEDERAL EXPLOSIVES LICENSES AND PERMITS.—
14 Section 843 of title 18, United States Code, is amended—

15 (1) in subsection (b), by striking “Upon” and
16 inserting “Except as provided in subsection (j),
17 upon”; and

18 (2) by adding at the end the following:

19 “(j) The Attorney General may deny the issuance of
20 a permit or license to an applicant if the Attorney General
21 determines that the applicant or a responsible person or
22 employee possessor thereof is known (or appropriately sus-
23 pected) to be or have been engaged in conduct consti-
24 tuting, in preparation of, in aid of, or related to terrorism,
25 or providing material support or resources for terrorism,

1 and the Attorney General has a reasonable belief that the
2 person may use explosives in connection with terrorism.”.

3 (o) ATTORNEY GENERAL DISCRETIONARY REVOCATION OF FEDERAL EXPLOSIVES LICENSES AND PER-
4 MITS.—Section 843(d) of title 18, United States Code, is
5 amended—
6 amended—

7 (1) by inserting “(1)” after “(d)”;

8 (2) by striking “if in the opinion” and inserting
9 the following: “if—

10 “(A) in the opinion”; and

11 (3) by striking “. The Secretary’s action” and
12 inserting the following: “; or

13 “(B) the Attorney General determines that the
14 licensee or holder (or any responsible person or em-
15 ployee possessor thereof) is known (or appropriately
16 suspected) to be or have been engaged in conduct
17 constituting, in preparation for, in aid of, or related
18 to terrorism, or providing material support or re-
19 sources for terrorism, and that the Attorney General
20 has a reasonable belief that the person may use ex-
21 plosives in connection with terrorism.

22 “(2) The Attorney General’s action”.

23 (p) ATTORNEY GENERAL’S ABILITY TO WITHHOLD
24 INFORMATION IN EXPLOSIVES LICENSE AND PERMIT DE-

1 NIAL AND REVOCATION SUITS.—Section 843(e) of title
2 18, United States Code, is amended—

3 (1) in paragraph (1), by inserting after the first
4 sentence the following: “However, if the denial or
5 revocation is based upon an Attorney General deter-
6 mination under subsection (j) or (d)(1)(B), any in-
7 formation which the Attorney General relied on for
8 this determination may be withheld from the peti-
9 tioner if the Attorney General determines that dis-
10 closure of the information would likely compromise
11 national security.”; and

12 (2) in paragraph (2), by adding at the end the
13 following: “In responding to any petition for review
14 of a denial or revocation based upon an Attorney
15 General determination under subsection (j) or
16 (d)(1)(B), the United States may submit, and the
17 court may rely upon, summaries or redacted versions
18 of documents containing information the disclosure
19 of which the Attorney General has determined would
20 likely compromise national security.”.

21 (q) ABILITY TO WITHHOLD INFORMATION IN COM-
22 MUNICATIONS TO EMPLOYERS.—Section 843(h)(2) of title
23 18, United States Code, is amended—

1 (1) in subparagraph (A), by inserting “or in
2 subsection (j) of this section (on grounds of ter-
3 rorism)” after “section 842(i)”;

4 (2) in subparagraph (B)—

5 (A) in the matter preceding clause (i), by
6 inserting “or in subsection (j) of this section,”
7 after “section 842(i),”; and

8 (B) in clause (ii), by inserting “, except
9 that any information that the Attorney General
10 relied on for a determination pursuant to sub-
11 section (j) may be withheld if the Attorney Gen-
12 eral concludes that disclosure of the information
13 would likely compromise national security”
14 after “determination”.

15 (r) CONFORMING AMENDMENT TO IMMIGRATION AND
16 NATIONALITY ACT.—Section 101(a)(43)(E)(ii) of the Im-
17 migration and Nationality Act (8 U.S.C.
18 1101(a)(43)(E)(ii)) is amended by striking “or (5)” and
19 inserting “(5), or (10)”.

20 (s) GUIDELINES.—

21 (1) IN GENERAL.—The Attorney General shall
22 issue guidelines describing the circumstances under
23 which the Attorney General will exercise the author-
24 ity and make determinations under subsections
25 (d)(1)(B) and (j) of section 843 and sections 922A

1 and 922B of title 18, United States Code, as amend-
2 ed by this Act.

3 (2) CONTENTS.—The guidelines issued under
4 paragraph (1) shall—

5 (A) provide accountability and a basis for
6 monitoring to ensure that the intended goals
7 for, and expected results of, the grant of au-
8 thority under subsections (d)(1)(B) and (j) of
9 section 843 and sections 922A and 922B of
10 title 18, United States Code, as amended by
11 this Act, are being achieved; and

12 (B) ensure that terrorist watch list records
13 are used in a manner that safeguards privacy
14 and civil liberties protections, in accordance
15 with requirements outlines in Homeland Secu-
16 rity Presidential Directive 11 (dated August 27,
17 2004).

○