

Department of Defense Response  
to the Senate Select Committee on Intelligence and  
the House Appropriations Committee – Defense  
Following January 2007 Briefings on  
National Security Letters (NSLs)

**Q1: What is the percentage, by Service, of the total investigations that use NSLs?<sup>1</sup>**

❖ **Army CI (FY 2000-Present):**

- Total No. of Investigations: [REDACTED]
- Total No. Using NSLs: [REDACTED]
- Percentage: [REDACTED]

❖ **AF Office of Special Investigations (OSI) (FY 2000-Present):**

- Total No. of Investigations: [REDACTED]
- Total No. Using NSLs: [REDACTED]
- Percentage: [REDACTED]

❖ **NCIS: Pending**

**Q2: What is the breakout of statutes used for each NSL or request made pursuant to the RFPA (see note 1)?**

❖ **Army CI: [See Footnotes 1 & 2]**

- Total: [REDACTED]

<sup>1</sup> Congress has defined the term “National Security Letter” in section 119(g) of the PATRIOT Improvement and Reauthorization Act of 2006, and specifically did not include in the NSL definition requests made by authorized government agencies, such as the Department of Defense (DoD), under the Right to Financial Privacy Act (RFPA), 12 USC § 3414 (a)(1)-(4). As such, DoD requests made pursuant to the RFPA are not included in the above Service totals.

<sup>2</sup> For completeness, of the total number of investigations, Army CI records indicate that [REDACTED] investigations used a request made pursuant to the RFPA.

<sup>3</sup> For completeness, of the total number of investigations, Army CI investigations that used a request made pursuant to the RFPA was [REDACTED] of total number of investigations.

<sup>4</sup> For completeness, of the total number of investigations, AFOSI records indicate that [REDACTED] investigations used a request made pursuant to the RFPA.

<sup>5</sup> For completeness, of the total number of investigations, AFOSI investigations that used a request made pursuant to the RFPA was [REDACTED] of total number of investigations.

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➤ 12 USC § 3414: [REDACTED]

❖ AF OSI [See Footnotes 4 & 5]:

➤ Total: [REDACTED]

➤ 12 USC § 3414: [REDACTED]

➤ 50 USC § 436: [REDACTED]

❖ NCIS: Pending

**Q3: What is the number of NSLs that DoD has asked FBI to issue in conjunction with a DoD investigation?**

- ❖ DoD does not ask FBI to issue NSLs in conjunction with a DoD investigation. For DoD investigations, the military service organizations authorized to conduct counterintelligence investigations determine whether, in a particular investigation, use of NSLs is appropriate. If so, the request for information is made by the DOD organization.
- ❖ As the representatives from the Army CI and AFOSI stated during the January 2007 briefings, some investigations are conducted jointly with the FBI. During these joint investigations, it is not uncommon for the investigators to divide investigative tasks between agencies. However, this division of workload is not considered by the Department or the Military Services to be a DoD “request” for FBI to issue NSLs. Moreover, the Military Services do not maintain records of the number of FBI-issued NSLs in joint investigations.

**Q4: What are the relevant DoD Directives governing use of NSLs?**

- ❖ DoD Directive 5200.12, “Obtaining Information from Financial Institutions,” December 2, 2004 (TAB A-1)
- ❖ DoD Instruction 5200.15, “Guidance on Obtaining Information from Financial Institutions”, December 2, 2004 (TAB A-2)

**Q5: Please provide a copy of each Service’s procedures for issuing NSL-type requests.**

- ❖ Army CI Investigation Handbook – Financial Checks Excerpt (TAB B-1)
- ❖ AF OSI Manual 71-119 (Approved draft, dtd 11Feb 02) (TAB B-2)
- ❖ NCIS – PENDING (TAB B-3)

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**Q6: Please provide examples of an NSL from each Service.**

- ❖ Department of the Army Example (TAB C-1)
- ❖ Department of the Navy Examples (TAB C-2)
- ❖ Department of the Air Force Examples (TAB C-3)

**Q7: Please provide a copy of the 1979 MOA with the FBI and the 1996 amendment.**

- ❖ April 5, 1979 Memorandum of Understanding: Coordination of Counterintelligence Matters Between FBI & DoD (TAB D-1) – **Marked CONFIDENTIAL**
- ❖ 1996 Supplement to 1979 FBI/DoD Memorandum of Understanding: Coordination of Counterintelligence Matters Between FBI & DoD (TAB D-2) – **Marked SECRET**

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