

DEFINITIONS AND STATUTES

Definition: A National Security Letter is a written request by an authorized government agency in authorized national security investigations for limited types of information, such as customer and consumer transaction information, from specified entities, such as U.S. financial institutions, U.S. telecommunications companies, and credit agencies.²

Statutes: There are five statutory provisions which authorize specified government officials, primarily from the FBI, to request certain categories of information held by third parties as part of authorized national security investigations. These provisions are:

- Section 1114(a) of the Right to Financial Privacy Act, 12 U.S.C. § 3414
- Section 626 of the Fair Credit Reporting Act, 15 U.S.C. § 1681u
- Section 627 of the Fair Credit Reporting Act, 15 U.S.C. § 1681v
- Section 2709 of Title 18, U.S. Code, 18 U.S.C. § 2709
- Section 802 of the National Security Act, 50 U.S.C. § 436

These statutes have been referred to collectively as the “NSL statutes.” Three of the statutes listed above permit specified government officials other than the FBI to request customer and consumer transaction information in authorized investigations. These statutes are: the Right to Financial Privacy Act; the Fair Credit Reporting Act (15 U.S.C. § 1681v); and the National Security Act. The remaining two statutes provide exclusive authority to the FBI.

DoD components are authorized to submit their requests for financial information through their respective FBI field office. When the FBI accepts the request, they process the NSL under one of their respective statutes. Compliance with an NSL issued by the FBI is mandatory. In most cases when the FBI issues an NSL at the behest of a DoD component, the request is part of a joint FBI/DoD investigation. However, a DoD component can submit a Request for Assistance (RFA) where the FBI issues an NSL on a DoD investigation (not joint with the FBI).

DoD may also request information under authorities of the “NSL statutes”: Right to Financial Privacy Act; the Fair Credit Reporting Act, and the National Security Act. DoD does not use the specific term National Security Letter in written requests. DoD components send written requests for information to institutions and entities under the NSL statutes as permitted law. Because these are requests for information rather than court orders, a DoD request under the NSL statutes cannot be compelled absent court involvement.

The following DoD components are authorized to make requests for information under the NSL statutes in support of CI and CT investigations:

² As noted on Footnote 1 on Page 3, the definition of an NSL no longer includes financial record checks routinely requested by DoD components. This change was documented in the PATRIOT Improvement and Reauthorization act of 2005 – 2006.