

FACT SHEET: NATIONAL SECURITY LETTERS (NSLs)

Q1: What is a National Security Letter?

- A National Security Letter (NSL) 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.
- For additional detailed information regarding NSLs, see Congressional Research Service (CRS) Report RL33320, National Security Letters in Foreign Intelligence Investigations: Legal Background and Recent Amendments, CRS-15, March 17, 2006

Q2: Which laws and/or statutes provide the U.S. Government with legal authority to use National Security Letters?

- There are five statutory provisions which authorize specified government officials, primarily from the Federal Bureau of Investigation (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; and
 - Section 802 of the National Security Act, 50 U.S.C. § 436.
- These statutes have been referred to collectively as the "NSL statutes."
- In 2001, Congress amended the NSL statutes via Section 505 of the USA PATRIOT Act to allow NSL authority to be employed more efficiently. The USA PATRIOT Act also contained a provision making NSLs under 15 USC 1681v available to any government agency authorized to investigate or analyze international terrorism.
- Congress again amended the NSL statutes in 2006 through the USA PATRIOT Improvement and Reauthorization Act of 2005. The amendments provided an explicit right to challenge an NSL in court. Additionally, the amendments also provide authority for the Attorney General to go to court to seek assistance with enforcement of the NSL.

(Current as of 13 Jan 07)

Q3: Which laws and/or statutes give DoD the legal authority to make requests for information similar to the FBI's authority to use National Security Letters?

- Although not the same authority as the FBI, 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: 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.

Q4: Does the Department of Defense issue National Security Letters? If so, for what purpose?

- DoD requests 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.
- The ability to request business transaction information is invaluable in conducting counterintelligence and counterterrorism investigations. These statutory tools may provide key leads for such investigations.
- DoD CI investigators routinely coordinate CI investigations with the FBI, to share and deconflict information, or as joint CI investigations.

Q5: If presented with a request for information under the NSL statutes by the DoD, is it compulsory to comply?

- DoD sends written requests for information to institutions and entities under the NSL statutes as permitted by these laws. Because these are requests for information rather than court orders, a DoD request under the NSL statutes cannot be compelled absent court involvement.

Q6: Does DoD coordinate with the FBI before making requests for information under the NSL statutes?

- DoD coordination with the FBI would depend upon the nature of the inquiry or investigation.

Q7: Which components of the DoD, specifically, are authorized to make requests for information under the NSL statutes?

- The following DoD components are authorized to make requests for information under the NSL statutes in support of counterintelligence and counterterrorism investigations:
 - U.S. Army Criminal Investigation Command
 - U.S. Army Counterintelligence
 - Naval Criminal Investigative Service
 - U.S. Air Force Office of Special Investigations