



U.S. Department of Justice

Office of Legislative Affairs

---

Office of the Assistant Attorney General

Washington, D.C. 20530

April 28, 2006

The Honorable J. Dennis Hastert  
Speaker  
United States House of Representatives  
Washington, DC 20515

Dear Mr. Speaker:

This report is submitted pursuant to Sections 1807 and 1862 of the Foreign Intelligence Surveillance Act of 1978 (the "Act"), as amended, and Sections 106 and 118 of USA PATRIOT Improvement and Reauthorization Act, Pub. L. No. 109-177 (2006). In accordance with those provisions, this reports covers: all applications made by the Government during calendar year 2005 for authority to conduct electronic surveillance and physical search for foreign intelligence purposes under the Act; all applications made by the Government during calendar year 2005 for access to certain business records (including the production of tangible things) for foreign intelligence purposes; and all requests made by the Government during calendar year 2005 for certain information concerning different United States persons pursuant to National Security Letters.

**Applications for Electronic Surveillance and Physical Search  
Made During Calendar Year 2005 (50 U.S.C. § 1807)**

During calendar year 2005, the Government made 2,074 applications to the Foreign Intelligence Surveillance Court (hereinafter "FISC") for authority to conduct electronic surveillance and physical search for foreign intelligence purposes. The 2,074 applications include applications made solely for electronic surveillance, applications made solely for physical search, and combined applications requesting authority for electronic surveillance and physical search simultaneously. Two of the 2,074 applications made during calendar year 2005 were withdrawn by the Government prior to the FISC ruling on them. The Government later resubmitted one of the withdrawn applications as a new application, which was approved by the FISC.

During calendar year 2005, the FISC approved 2,072 applications for authority to conduct electronic surveillance and physical search. The FISC made substantive modifications to the Government's proposed orders in 61 of those applications. The FISC did not deny, in whole or in part, any application filed by the Government during calendar year 2005.

**Applications for Access to Certain Business Records  
(Including the Production of Tangible Things) Made During  
Calendar Year 2005 (50 U.S.C. § 1862(c) (2))**

During calendar year 2005, the Government made 155 applications to the FISC for access to certain business records (including the production of tangible things) for foreign intelligence purposes. None of the 155 applications made during calendar year 2005 were withdrawn by the Government prior to the FISC ruling on them.

During calendar year 2005, the FISC approved 155 applications for access to certain business records (including the production of tangible things). The FISC made substantive modifications to the Government's proposed orders in two of those applications. The FISC did not deny, in whole or in part, any application filed by the Government during calendar year 2005.

In his April 4, 2005 testimony before the Senate Judiciary Committee, Attorney General Gonzales noted that the Justice Department was increasingly using business records orders to obtain subscriber information, such as names and addresses, for telephone numbers captured through court-ordered pen register or trap and trace devices. This information is routinely obtained in criminal investigations. The use of business records requests in conjunction with pen register applications accounts for much of the increase in the number of business records orders reported here as compared to statistics previously made public. Section 128 of the USA PATRIOT Improvement and Reauthorization Act specifically amended the pen register provisions of the FISA statute (50 U.S.C. § 1842) to authorize the disclosure of subscriber information in connection with such court-authorized collection. We expect that this new provision will result in a decrease in the number of requests for business records orders that are reported in the future.

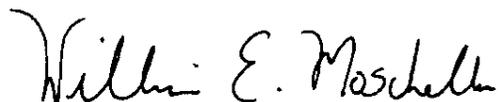
**Requests Made for Certain Information Concerning Different  
United States Persons Pursuant to National Security Letters  
During Calendar Year 2005 (USA PATRIOT Improvement and  
Reauthorization Act, Pub. L. No. 109-177, § 118 (2006))**

During calendar year 2005, the Government made requests for certain information concerning 3,501 different United States persons pursuant to National Security Letters (NSLs). During this time frame, the total number of NSL requests (excluding NSLs for subscriber information) for information concerning U.S. persons totaled 9,254. In other words, there were 3,501 different U.S. persons involved in the total of 9,254 NSLs that related to U.S. persons.

These totals reflects the Government's good-faith effort to provide the most accurate numbers possible. However, because of a number of factors (for example, if a targeted individual's name has more than one variant (e.g., John Doe and Johnny Doe) or the target uses one or more aliases), it is possible that despite this effort, the total number reported above could include instances in which one targeted individual was counted more than once. In addition, four statutes authorize the FBI's use of NSLs. The FBI traditionally has tracked NSL totals separately within each category and does not cross-reference these categories so as to separately determine the total number of NSLs for an individual U.S. person. As a result, it is possible that, despite the best efforts of FBI personnel, the total number reported here could include circumstances in which one person is counted multiple times.

A similar letter has been sent to the Minority Leader, the Honorable Nancy Pelosi.

Sincerely,



William E. Moschella  
Assistant Attorney General