



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

April 30, 2008

The Honorable Nancy Pelosi
Speaker
United States House of Representatives
Washington, DC 20515

Dear Madam Speaker:

Pursuant to Sections 1807 and 1862 of the Foreign Intelligence Surveillance Act of 1978 (the "Act"), as amended, this report provides information regarding applications made by the Government during calendar year 2007 for authority to conduct electronic surveillance and physical search for foreign intelligence purposes under the Act and applications made by the Government during calendar year 2007 for access to certain business records (including the production of tangible things) for foreign intelligence purposes under the Act.

In addition, pursuant to Section 118 of the USA PATRIOT Improvement and Reauthorization Act, Pub. L. 109-177 (2006), this report provides information regarding the total number of requests made by the Department of Justice for information concerning different United States persons pursuant to the National Security Letter (NSL) authorities provided in 12 U.S.C. § 3414, 15 U.S.C. § 1681u, 15 U.S.C. § 1681v, 18 U.S.C. § 2709, and 50 U.S.C. § 436.

**Applications for Electronic Surveillance and Physical Search Made During
Calendar Year 2007 (50 U.S.C. § 1807)**

During calendar year 2007, the Government made 2,371 applications to the Foreign Intelligence Surveillance Court (hereinafter "FISC") for authority to conduct electronic surveillance and physical search for foreign intelligence purposes. The 2,371 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.

During calendar year 2007, the FISC approved 2,370 applications for authority to conduct electronic surveillance and physical search. The FISC made substantive modifications to the Government's proposed orders in 86 of those applications. The FISC denied three applications and one application in part filed by the Government during calendar year 2007. Two applications filed in calendar year 2006 were not approved until calendar year 2007.

Applications for Access to Certain Business Records (Including the Production of Tangible Things) Made During Calendar Year 2007 (50 U.S.C. § 1862(c)(2))

During calendar year 2007, the Government made six applications to the FISC for access to certain business records (including the production of tangible things) for foreign intelligence purposes.

During calendar year 2007, the FISC approved six applications for access to certain business records (including the production of tangible things) for foreign intelligence purposes. The FISC did not deny, in whole or in part, any of the applications filed by the Government during calendar year 2007.

Requests Made for Certain Information Concerning Different United States Persons Pursuant to National Security Letters During Calendar Years 2006 and 2007 (USA PATRIOT Improvement and Reauthorization Act, Pub. L. No. 109-177, § 118 (2006))

In March 2007, the Inspector General of the Department of Justice released a report regarding the FBI's use of NSLs. One of the Inspector General's findings was that several factors concerning the manner in which NSLs are tracked in the FBI database have resulted in inaccuracies in the numbers reported to Congress in recent reports. In March 2007, the Department of Justice notified Congress that it would seek to correct the problems in FBI's tracking of NSL requests and would provide additional statistics once those issues had been addressed. This report provides Congress with statistics on NSL requests in calendar year 2006. The Department of Justice will report the 2007 NSL statistics as soon as they are available.

Although the FBI expended significant resources to identify and correct errors in its database, the statistics for calendar year 2006 should be considered approximate. Based on the best available information, in 2006 the Government made 12,583 NSL requests (excluding requests for subscriber information) for information concerning United States persons. These 12,583 requests sought information pertaining to 4,790 different United States persons.

In addition to the tracking issues described above, there are other factors that may impact the accuracy of the reported numbers. For example, if a targeted individual's name has more than one variant (e.g., John Doe and Johnny Doe) or the individual uses one or more aliases, or information about the individual was requested by NSL under more than one statute, the total numbers could include instances in which that individual was counted more than once.

The FBI has taken steps to ensure the accuracy of future reporting, including automating its NSL reporting process and deploying a new NSL tracking system. The new database will help provide more accurate and timely reporting of NSL statistics and should help eliminate counting errors in the future. In the most recent report on the FBI's use of NSLs, the Inspector

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General found that the FBI's senior leadership is committed to addressing the issues identified in the March 2007 report and has made "significant progress" in doing so.

If we can be of assistance with regard to this or any other matter, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "B. A. Benczkowski". The signature is fluid and cursive, with a large initial "B" and a long, sweeping underline.

Brian A. Benczkowski
Principal Deputy Assistant Attorney General