




U.S. Immigration
and Customs
Enforcement

MAY 18 2007

MEMORANDUM FOR: All Special Agents in Charge

FROM: Marcy M. Forman 
Director

SUBJECT: Guidance on Use of National Security Letters

On March 9, 2007, the Department of Justice's Inspector General (DOJ IG) released a report entitled "A Review of the Federal Bureau of Investigation's Use of National Security Letters." The report focused on "the effectiveness and use, including any improper or illegal use, of national security letters issued by the Department of Justice," and included specific findings concerning the FBI's accounting and record keeping practices of previously issued National Security Letters. ICE has conducted a review of its own practices in the use of NSLs and provides the following guidance for immediate implementation.

The phrase "National Security Letter" (NSL) generally refers to any written directive to provide personal, privacy, or financial information, which may be issued directly to third parties by the FBI or, where appropriate, another authorized investigative, intelligence, or counterintelligence agency, without judicial authorization or notice to the subject to which the requested records pertain. Recipients of NSLs may include telephone companies, financial institutions, Internet Service Providers, or consumer credit agencies.

In most cases, the authority to issue NSLs belongs exclusively to the Federal Bureau of Investigation (FBI). Under some circumstances, however, DHS investigative personnel, such as those serving on the JTTF, may be authorized to utilize NSLs. ICE's policy is that only ICE agents serving on the JTTF may prepare and request that the FBI issue an NSL in accordance with established FBI guidelines governing the use of NSLs during JTTF investigations.

Under no circumstances are ICE agents not assigned to the JTTF and not engaged in national security investigations under the auspices of the JTTF, authorized to prepare, request or issue NSLs in furtherance of a traditional ICE jurisdictional investigation.

This clarification on the use of NSLs by ICE agents will have no impact on ICE's traditional use of administrative subpoenas, summons or pen registers.

The Counter Terrorism Unit (CTU) will conduct regular inquiries to monitor adherence to this guidance. If you have any questions, contact CTU Unit Chief (b)(6); (b)(7)(c) at 202-353-NON-RESP