

From: HQ_DEPUTY_DIRECTOR_PISTOLE
Sent: Wednesday, March 07, 2007 1:29 PM
To: FBI_SAC's; FBI_ALL CDCs
Cc: FBI_ADs and EADs; THOMAS, JULIE F. (OGC) (FBI); MONACO, LISA (DO) (OGA); [REDACTED] (OGC) (FBI); RAWLS, WILLIAM LEE (DO) (FBI); FBI_SAC_ADIC_SECRETARIES
Subject: SAC Conference Call Re: OIG Report: FBI's Use of National Security Letters
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All,

The PATRIOT ACT Reauthorization (2006) required the OIG to review the FBI's "effectiveness and use, including any improper or illegal use, of national security letters (NSLs)."

The first report covers the period 2003 – 2005.

The OIG found that NSLs are a valuable tool in the FBI's counterterrorism/intelligence mission and that there were no deliberate or intentional violations of the NSL authorities.

The key findings of the OIG included:

- Incomplete, inaccurate tracking data which resulted in deficiencies in the FBI database.
 - The database understates the total number of NSLs approved.
 - This resulted in inaccurate semi-annual reports to Congress on NSL usage.
 - Determined that signed copies of the approved NSLs were not being retained.
- Improper or Illegal use of NSLs
 - The OIG concluded that a significant number of potential IOB violations were not being identified and reported by the FBI. (22% of the files the OIG reviewed contained unreported violations).
 - NSLs were being issued from control files and not investigative files
 - FBI used "exigent letters" signed by CTD to obtain toll/subscriber records without first issuing NSLs.
 - "Exigent letters erroneously stated that Grand Jury subpoenas would be forthcoming."
 - Exigent letters were not regularly or promptly followed with promised legal process.
 - The "exigency" was not documented.

The 03/06/2007 SAC Conference call, chaired by the Deputy Director, involved discussion of the immediate steps the FBI must take to address the following issues: 1) Accurate reporting of use of NSLs; 2) Retention of NSLs; and 3) How to go about identifying past unreported IOB violations.

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DATE 07-10-2007 BY 65179 DMH/TAM/KSE/JE

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- Accurate reporting of use of NSLs:
 - SACs are to personally ensure that the NSL package, which includes the EC and the NSL, is reviewed by the CDC for accuracy and proper authority and the appropriate “read and clear” lead is set for OGC/NSLB for tracking purposes. [It should be noted that the lead for OGC is not a new requirement]
 - Institute an interim office tracking system for NSL approvals until OGC’s web-based system becomes operational later this year.

- Retention of NSLs:
 - Each SAC should ensure that copies of all signed NSLs are maintained in the investigative file and a control file.

- Past unreported IOB violations:
 - The FBI will propose to conduct a statistical sampling of all NSLs for compliance issues; however, we need to be prepared to conduct a complete audit/review. In order to make a determination regarding potential IOB violations, the audit will entail a complete review of the information received as a result of the NSL request, to include over-collection, etc.
 - Each SAC will determine the approximate number of NSLs that were approved (signed) by the SAC of their office for the period 2003 through 2006.
 - In addition, the SAC will determine the resources that will be needed to do a statistical sampling versus a complete audit/review.

Each field office will report back to the Deputy Director, Associate Deputy Director and AD Inspection Division, via email, no later than Thursday, March 8, 2007 with the approximate number of signed NSLs and what resources would be needed to complete a statistical sampling and a full audit/review.

John

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