

LIBERTY AND SECURITY: RECOMMENDATIONS FOR THE NEXT ADMINISTRATION AND CONGRESS

A coalition of more than twenty organizations and over seventy-five individuals collaborated to create “Liberty and Security: Recommendations for the Next Administration and Congress.” The Constitution Project coordinated the production of the report, which was released in November 2008.

“Liberty and Security” indexes policy proposals across 20 different issue areas, including privacy, secrecy and surveillance; detention, interrogation, and trials of so-called “enemy combatants”; and discrimination in immigration and charities policy. It includes recommendations for congressional and executive action, and provides in-depth background information to support action by policy makers. It also includes lists of issue-based resources and experts in the community. The report includes the following chapters:

- CHAPTER 1:** Eliminate Unnecessary Barriers To Legitimate Charitable Work
- CHAPTER 2:** Closing Guantánamo
- CHAPTER 3:** End Illegal Detention, Torture, and Rendition
- CHAPTER 4:** Prosecute Terrorist Suspects in Accordance with the Law
- CHAPTER 5:** Failing to Protect Refugees and Asylum Seekers: Overly Broad Definition of Material support for Terrorism.
- CHAPTER 6:** Ending Immigration Enforcement Based on National Origin, Ethnicity, and Religion
- CHAPTER 7:** Misuse of Immigration Detention Laws in Counterterrorism Efforts
- CHAPTER 8:** Revising Attorney General Guidelines on FBI Investigations
- CHAPTER 9:** Updating the Law Governing the Privacy of Electronic Communications
- CHAPTER 10:** Fusion Centers and the Expansion of Domestic Intelligence
- CHAPTER 11:** Promoting Government Transparency
- CHAPTER 12:** National Security Letters and Section 215 of the USA PATRIOT Act
- CHAPTER 13:** Reform of the National Security Surveillance Laws and Procedures
- CHAPTER 14:** Preventing Over-Classification and Retroactive Classification and Promoting Declassification of Government Documents
- CHAPTER 15:** Reforming the State Secrets Privilege
- CHAPTER 16:** Reforming Watch Lists
- CHAPTER 17:** Assertion of Executive Authority in National Security Matters
- CHAPTER 18:** Executive Privilege and Congressional Oversight
- CHAPTER 19:** Signing Statements
- CHAPTER 20:** War Powers Authority

The full report is available online at <http://2009transition.org/liberty-security/>, at www.constitutionproject.org, and on the websites of many members of the coalition.

For policy questions, please contact the individuals or organizations identified in the catalogue as allies. Please direct general questions to Daniel Schuman, Director of Communications and Counsel, the Constitution Project, at 202-580-6922.

CHAPTER TWELVE

National Security Letters and Section 215 of the USA PATRIOT Act

I. The Problem

National Security Letters are simple form documents signed by officials of the FBI and other agencies, with no prior judicial approval, compelling disclosure of sensitive information held by banks, credit companies, telephone carriers and Internet Service Providers, among others. Recipients of NSLs are usually gagged from disclosing the fact or nature of a request.

The PATRIOT Act eliminated any effective standard for issuing NSLs. It wiped away the requirement that the information being sought “pertain to” a foreign power or the agent of a foreign power. This requirement used to protect information about Americans because few are agents of a foreign government, a foreign terrorist organization, or another foreign power. Instead, today it is sufficient for the FBI merely to assert that the records are “relevant to” an investigation to protect against international terrorism or foreign espionage. The PATRIOT Act also eliminated the statutory requirement that agents have any factual basis for seeking records. In 2003, Congress dramatically expanded the types of “financial institutions” on which an NSL can be served to include travel agencies, real estate agents, jewelers, the Postal Service, insurance companies, casinos, car dealers, and other businesses not normally considered “financial institutions.”

In addition, advances in technology have made more “digital footprints” more readily available to the government through its NSL authority. For example, the government reportedly used its NSL authority to seek casino and hotel records about hundreds of thousands of travelers who stayed in Las Vegas on a recent New Years Eve – a data dump difficult to do and difficult to sort through without recent advances in technology.

DOJ Inspector General reports in 2007 and 2008 revealed widespread abuses and misuses by the FBI of its NSL authorities. The IG found that the FBI:

- Issued NSLs when it **had not even opened the investigation** that is a predicate for issuing an NSL;
- Used “**exigent letters**” **not authorized by law** to quickly obtain information without ever issuing the NSL that it promised to issue to cover the request;
- Used NSLs to obtain personal information about people **two or three steps removed from the subject** of the investigation;
- Has used a **single NSL to obtain records about thousands** of individuals; and
- **Retains almost indefinitely the information** it obtains with an NSL, even after it determines that the subject of the NSL is not suspected of any crime

and is not of any continuing intelligence interest, and it makes the information **widely available to thousands** of people in law enforcement and intelligence agencies.

These abuses primarily affect Americans. The IG reports showed that a clear majority of the records obtained with the tens of thousands of NSLs issued annually now pertain to Americans instead of to non-citizens – a reversal brought about by the PATRIOT Act.

Section 215 of the USA PATRIOT Act (the “library records” provision) also expanded the FBI’s power to obtain material from businesses for counterterrorism and anti-espionage purposes. It eliminated the prior requirement that the information sought pertain to an agent of a foreign power and it expanded the kind of material that could be sought and the entities that could be required to provide it. Now, the government can, with a minimal showing to a judge, obtain an order under Section 215 requiring any person or entity to turn over any document or object and can effectively bar the recipient from disclosing that it has done so. For the most part, all the government has to do is prove that the information or object sought is relevant to an investigation to protect against international terrorism or espionage. While a judicial order is required under Section 215, the minimal showing that must be made combined with the broad scope of records that can be obtained makes this power ripe for abuse.

II. Proposed Solutions

A. Guiding Principles

Information obtained with National Security Letters and Section 215 orders can be valuable to counterterrorism and counter espionage investigations. However, more sensitive information warrants stronger due process protections. Thus, for more sensitive information, the government should have to get a court order and should have to prove a closer tie between the person to whom the material pertains and a foreign terrorist organization or foreign government. The President can take immediate steps to implement some reforms; others require legislation.

B. Proposed Measures

1. The next President should direct agency heads to sharply curtail use of NSLs to seek sensitive information about Americans. He should direct the incoming Attorney General to require the FBI to come up with a plan to minimize the collection and retention of personal information about Americans that is obtained with NSLs and Section 215 orders. That plan should require adoption of minimization procedures that comply with Section 101(h) of the Foreign Intelligence Surveillance Act.
2. The next President should also support legislation like the National Security Letters Reform Act (S. 2088 in the 110th Congress) and work with Congress to pass it. The legislation should:

- a. Promote uniform practices by allowing only the FBI to issue NSLs;
- b. Permit the FBI to obtain only less sensitive information with an NSL, such as information that identifies a person or reveals a person's home or email address;
- c. Permit the FBI to use an NSL to obtain that less sensitive information when it has "specific and articulable facts" that the information sought: (i) pertains to the activities of a suspected agent of a foreign power, and that obtaining the information sought is the least intrusive means that could be used to identify persons involved in such activities; or (ii) pertains to an agent of a foreign power or a person in contact with an agent of a foreign power;
- d. Require the government to use other authorities – such as subpoenas in criminal investigations and a judicial order under Section 215 in intelligence investigations – to obtain more sensitive information such as email logs, local and long distance toll billing records, and transactional records from financial institutions;
- e. Tighten the standard for issuing an order under Section 215 to require a showing to a judge of specific and articulable facts that the material sought pertains to a suspected agent of a foreign power or a person in contact with or otherwise directly linked to such an agent;
- f. Limit to 30 days the period during which the recipient of an NSL or Section 215 order can be gagged, unless the government can prove to a judge that there is reason to believe that a specified harm would come to pass unless the gag is extended;
- g. Require adoption of minimization procedures based on FISA Section 101(h);
- h. Provide for civil damages, including liquidated damages, to any person aggrieved by a clearly illegal misuse of NSL authorities, and such a provision can be found in H.R. 3189, the House counterpart to S. 2088 in the 110th Congress.

Section 215 of the USA PATRIOT Act and two related provisions will sunset on December 31, 2009 unless Congress acts to reauthorize them. Any reauthorizing legislation should contain these reforms.

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The ALA Policy Manual: The Rights of Library Users and the USA
Patriot Act (52.4.5) *available at*

http://www.ala.org/ala/aboutala/governance/policymanual/policymanual.31_3.pdf

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* These groups and individuals support the general principles expressed and the general policy thrust and judgments in the policy proposals described above. The allies listed do not necessarily endorse the specific language in every proposed solution, but they do agree that the proposals reflect the general principles that should govern policy in this area. Please contact the individuals and organizations listed in this section for more information

IV. Counter-Arguments and Rebuttal:

A. *NSLs are the equivalent in an intelligence investigation to subpoenas in criminal investigations because both are issued without prior judicial review.*

This argument fails to recognize that intelligence investigations are more dangerous to liberty than are criminal investigations and therefore require more civil liberties protections. Intelligence investigations are broader and are not limited by the criminal code. They can investigate legal activity including First Amendment activity, so long as it is not the sole focus of the investigation. They are more secretive and less subject to the after-the-fact scrutiny that a prosecutor faces when criminal charges are brought. Unlike a defendant in a criminal case, the target of an intelligence investigation usually never learns that he or she was investigated. And, businesses that receive NSLs are effectively barred from complaining and are perpetually blocked from notifying their customers that their

records have been turned over to the government. Since intelligence investigations are broader, more secretive and subject to less probing after-the-fact scrutiny, protections must be built in at the front end, when sensitive information is being sought.

- B. *Increasing the standards for governmental access to information obtained with NSLs or Section 215 orders will inhibit agents' ability to obtain information necessary to an intelligence investigation early in the investigation.*

This argument fails to appreciate the sensitivity of the records that can be obtained with NSLs and Section 215 orders. A log of a person's email activity is sensitive information. It should be made available to the government only when a judge finds that there is strong evidence of wrongdoing or of association with a foreign power, such as a foreign terrorist organization or foreign government.

- C. *The FBI has put in place internal guidance to address the abuses of NSLs identified in the Inspector General reports.*

While bureaucratic reforms can address some of the abuses of NSLs identified in the IG reports, there is no substitute for reestablishing traditional checks and balances, under which a judge must approve governmental access to sensitive information. And, some of the problems identified simply cannot be remedied by bureaucratic reforms. For example, in one report, DOJ's IG indicated that he thought that lead attorneys in FBI field offices were reluctant to provide an independent review of NSLs for fear of antagonizing the head of the field office, who supervises the lead attorney. That review is central to the reforms outlined in the FBI guidance. But this institutional shortcoming can only be remedied by independent judicial review.

V. **Recommended Documents for Further Information:**

- a. Testimony containing reform proposals:
- i. Testimony of Jameel Jaffer, Director of the National Security Project of the American Civil Liberties Union Foundation, *Oversight Hearing on H.R. 3189, the National Security Letters Reform Act of 2007: Before the Subcomm. on the Constitution, Civil Rights, and Civil Liberties of the H. Comm. on the Judiciary* (April 15, 2008)
 - ii. Testimony of Gregory T. Nojeim, Director of the Project on Freedom, Security, & Technology of the Center for Democracy & Technology, *Hearing on National Security Letters: The Need for Greater Accountability and Oversight, Hearing Before the S. Comm. on the Judiciary* (April 23, 2008)
- b. The National Security Letter (NSL) statutes in effect include:
- i. 12 U.S.C. § 3414(a)(5) – Section 1114(a)(5) of the Right to Financial Privacy Act
 - ii. 15 U.S.C. § 1681u – Section 626 of the Fair Credit Reporting Act

- iii. 15 U.S.C. § 1681v – Section 627 of the Fair Credit Reporting Act
 - iv. 18 U.S.C. § 2709 – Section of the Electronic Communications Privacy Act
 - v. 50 U.S.C. § 436 – Section 802 of the National Security Act
 - vi. 18 U.S.C. § 1510 – Criminalizing violations
 - vii. P.L. 109-177, Sec. 118
 - viii. P.L. 109-119, Sec. 119
 - ix. 18 U.S.C. § 3511
- c. Section 215 of the PATRIOT Act:
- i. As it appeared originally in 1998: Pub. L 105-272, Title II, Section 215, 112 Stat. 2411 (Oct. 20, 1998); 50 U.S.C. Section 1862(a) (1998)
 - ii. As it appears today: 50 U.S.C. Sections 1861-1862, as modified by the PATRIOT Act Pub. L. 107-56, title II, Sec. 215, 115 Stat. 287 (Oct. 26, 2001), and by the PATRIOT Reauthorization Act.
- d. Congressional Research Service Reports on National Security Letters:
- i. <http://www.fas.org/sgp/crs/intel/RS22406.pdf>
 - ii. http://assets.opencrs.com/rpts/RL33320_20080328.pdf
- e. Relevant Executive Branch materials:
- i. FBI Guidance on National Security Letters (June 1, 2007)
 - ii. E.O. 13462 – President’s Intelligence Advisory Board and Intelligence Oversight Board (Feb. 29, 2008) *available at* <http://www.whitehouse.gov/news/releases/2008/02/print/20080229-5.html>
 - iii. E.O. 12333 – U.S. Intelligence Activities (enacted Dec. 4, 1981 – As amended by E.O. 13284 (2003), E.O. 13355 (2004), and E.O. 13470 (2008))
- f. Department of Justice Inspector General Reports, 2007-08, on NSLs and Section 215:
- i. *A Review of the FBI’s Use of National Security Letters: Assessment of Corrective Actions and Examination of NSL Usage in 2006*, Report of the Department of Justice Inspector General (March 2008)
 - ii. *A Review of the FBI’s Use of National Security Letters: Assessment of Corrective Actions and Examination of NSL Usage*, Report of the Department of Justice Inspector General (March 2007) (covers usage of NSLs from 2003 until 2005)
 - iii. *A Review of the FBI’s Use of Section 215 orders for Business Records in 2006*, Report of the Department of Justice Inspector General (March 2008)
 - iv. *A Review of the FBI’s Use of Section 215 orders for Business Records*, Report of the Department of Justice Inspector General (March 2007)

APPENDIX
LEGISLATIVE, EXECUTIVE, AND JUDICIAL ACTION
on
NATIONAL SECURITY LETTERS and SECTION 215

I. Jurisdiction

- A. **Congress.** Congress has the authority to enact the legislation necessary to correct the problems with National Security Letters. The intelligence and judiciary committees in both the House and Senate share authority over any such legislation.
- B. **Executive Branch.** Even without Congressional action, the President can order the FBI and other elements of the Intelligence Community to adopt reforms. For example, the President could order all agency heads to direct any requests for NSLs through the FBI, which would then determine whether an NSL could be issued, and he could direct the FBI to adopt the minimization procedures outlined above.

II. Status of Actions in Legislative, Executive and Judicial Branches:

- A. **Legislative:** Unless reauthorized by December 31, 2009, Section 215 authority will sunset pursuant to the PATRIOT Reauthorization Act. The NSL statutes, and the changes that were made to them after September 11, 2001, do not sunset. The PATRIOT Reauthorization Act (P.L. 109-177), altered the gag provisions in the NSL statutes and Section 215. Specifically, the legislation allowed an NSL or Section 215 recipient to talk with an attorney “to obtain legal advice or legal assistance with respect to his request,” and it added procedures for judicial review of nondisclosure conditions imposed on the recipient. The bill also made other changes to the statutes, but they were largely cosmetic and did not significantly change the standard for issuing an NSL or applying for a Section 215 order. A number of bills have been introduced that would work more significant changes.
1. Bills introduced in the 110th Congress:
 - National Security Letter Reform Act (S. 2088) – This legislation would raise the standards for issuing NSLs and seeking orders under Section 215, and it would time limit the gag that accompanies such orders and letters. – Introduced by Senator Russell Feingold (D-WI); Referred to Senate Committee on the Judiciary where hearings were held; no additional action taken. This is the leading reform bill in the Senate. Companion bill is H.R. 3189.
 - National Security Letters Reform Act (H.R. 3189) – This legislation would also raise the standards for issuing NSLs and seeking orders under Section 215, and it would time limit the gag that accompanies such letters and orders.

– Introduced by Rep. Jerrold Nadler (D-NY); Referred to House Committees on Judiciary and Financial Services; Passed 7-3 out of Judiciary Subcommittee on the Constitution, Civil Rights, and Civil Liberties; no additional action taken. This is the leading reform bill in the House. Companion bill is S. 2088.

- National Security Letter Judicial and Congressional Oversight Act (H.R. 1739) – This legislation would require the approval of a Foreign Intelligence Surveillance Court judge or designated United States Magistrate Judge for the issuance of a national security letter – Introduced by Rep. Jane Harman (D-CA); Referred to the House Committees on the Judiciary, Intelligence, and Financial Services; no action.

2. Bills introduced in the 109th Congress

- National Security Letter Judicial and Congressional Oversight Act (H.R. 4570) – This legislation, like H.R. 1739 in the 110th Congress would have required the approval of a Foreign Intelligence Surveillance Court judge or designated United States Magistrate Judge for the issuance of a national security letter – Introduced by Rep. Jane Harman (D-CA); Referred to the House Committees on the Judiciary, Intelligence, and Financial Services; no action.
- National Security Letter Reform Act (S. 1680) – This legislation would establish judicial review procedures for National Security Letters – Introduced by Sen. John Cornyn (R-TX); Referred to Senate Committee on the Judiciary; no action taken.
- S. 2369 – This legislation would sunset the National Security Letters statutes on Dec. 31, 2009 – Introduced by Sen. Arlen Specter (R-PA); referred to the Senate Committee on the Judiciary; no action taken.
- Stop Self-Authorized Secret Searches Act (H.R. 2715) – This legislation would establish procedural protections for the use of National Security Letters – Introduced by Rep. Jerrold Nadler (D-NY) and Jeff Flake (R-AZ); Referred to House Committees on the Judiciary and Financial Services; no action taken
- SAFE Act of 2005 (S. 737) – This legislation would establish procedural protections for the use of National Security Letters and orders under Section 215 - Introduced by Sens. Larry Craig (R-ID) and Dick Durbin (D-IL); referred to Senate Committee on the Judiciary; no committee action. This bill was the leading legislation to address the civil liberties problems in the PATRIOT Act in connection with re-authorization of the expiring provisions. House companion bill H.R. 2715.
- Electronic Communications Privacy Judicial Review and Improvement Act of 2005 (S. 693) – This legislation would provide for judicial review of national security letters issued to wire and electronic communications service providers – Introduced by Sen.. John Cornyn (R-TX); referred to Senate Committee on the Judiciary; no action taken

3. Bills introduced in the 108th Congress:

- Proposals to exempt libraries from the reach of National Security Letters

- SAFE Act of 2003 (HR. 3352) – Introduced by Rep. Butch Otter (R-ID); referred to the House Committees on Judiciary and Intelligence; no action taken.
- Library and Bookseller Protection Act (S. 1158) – Introduced by Sen. Barbara Boxer (D-CA); referred to the Senate Committee on the Judiciary; no action taken.
- Library, Bookseller, and Personal Records Privacy Act (S. 1507) - Introduced by Sen. Russell Feingold (D-WI); referred to the Senate Committee on the Judiciary; no action taken.
- Protecting the Rights of Individuals Act (S. 1552) – Introduced by Sen. Lisa Murkowski (R-AK) and Ron Wyden (D-OR); referred to the Senate Committee on the Judiciary; no action taken.
- SAFE Act of 2003 (S. 1709) – Introduced by Sens. Larry Craig (R-ID) and Richard Durbin (D-IL); referred to the Senate Committee on the Judiciary; no action taken.
- Proposals to increase Congressional oversight over the use of National Security Letter authority
 - Domestic Surveillance Oversight Act (S. 436) – Introduced by Sens. Patrick Leahy (D-VT), Chuck Grassley (R-IA), and Arlen Specter (R-PA); referred to the Senate Committee on the Judiciary; no action taken.
- Unlike many of the other surveillance provisions of the PATRIOT Act, NSL authorities did not sunset. Bill were introduced to sunset the NSL sections:
 - Benjamin Franklin True Patriot Act (H.R. 3171) – Introduced by Rep. Dennis Kucinich (D-OH) and Ron Paul (R-TX); Referred to the House Committees on the Judiciary, Education and Workforce, Transportation and Infrastructure, Intelligence, and Government Reform; no action taken
 - SAFE Act of 2003 (HR. 3352) – Introduced by Rep. Butch Otter (R-ID); referred to the House Committees on Judiciary and Intelligence; no action taken
 - Patriot Oversight Restoration Act (S. 1695) – Introduced by Sens. Patrick Leahy (D-VT) and Larry Craig (R-ID); Referred to the Senate Committee on the Judiciary; no action taken.
 - SAFE Act of 2003 (S. 1709) – Introduced by Sens. Larry Craig (R-ID) and Richard Durbin (D-IL); referred to the Senate Committee on the Judiciary; no action taken.

4. Hearings in the 110th Congress

- *Hearing on: H.R. 3189, the “National Security Letters Reform Act of 2007”*: Hearing Before the Subcomm. on the Constitution, Civil Rights, and Civil Liberties of the H. Comm. on the Judiciary (April 15, 2008) available at http://judiciary.house.gov/hearings/hear_041508.html
- *“National Security Letters: The Need for Greater Accountability and Oversight”*: Hearing Before the S. Comm. on the Judiciary (April 23,

2008) available at

<http://judiciary.senate.gov/hearings/hearing.cfm?id=3255>

- *National Security Letters: Closed Hearing of the S. Select Comm. on Intelligence* (June 7, 2007) (no transcript available)
- “*Responding to The Inspector General's Findings of Improper Use of National Security Letters by the FBI*”: *Hearing Before the Subcomm. on the Constitution of the S. Comm. on the Judiciary* (April 11, 2007) available at <http://judiciary.senate.gov/hearings/hearing.cfm?id=2679>
- *National Security Letters: Hearing Before the Permanent Select Comm. on Intelligence* (March 28, 2007) (Transcript not available)
- *The Inspector General's Independent Report on the F.B.I.'s Use of National Security Letters: Hearing Before the H. Comm. on the Judiciary* (March 20, 2007)

- B. **Executive:** The FBI issued a handful of guidances on NSLs. Helpfully, they were superseded by the FBI Guidance on National Security Letters issued on June 1, 2007.
- C. **Judicial:** The most relevant judicial work on National Security Letters has emerged from the Second Circuit. Prior to the PATRIOT Act reauthorization, two District Court opinions were issued finding 18 U.S.C. § 2709 (the NSL provision that covers records maintained by telephone companies and ISPs) unconstitutional. The first case, *Doe v. Ashcroft*, 334 F. Supp. 2d 471 (S.D.N.Y. 2004) (*Doe I*) found that § 2709 “violates the Fourth Amendment because . . . it effectively bars or substantially deters any judicial challenge to the propriety of an NSL request.” *Id.* at 475. The court also found that § 2709 constituted a prior restraint and content-based limit on speech which was not “narrowly tailored to promote a compelling government interest,” therefore violating the First Amendment. *Id.* at 511. The second case, *Doe v. Gonzales*, 386 F. Supp. 2d 66 (D. Conn. 2005) (*Doe II*), reached essentially the same conclusion on the First Amendment question, but did not reach the Fourth Amendment issue.

Soon after these decisions, Congress passed reauthorizing legislation for the Patriot Act (P.L. 109-177), which significantly altered 18 U.S.C. § 2709 in an attempt to address the First Amendment concerns raised in *Doe I* and *Doe II*. Specifically, the legislation allowed an NSL recipient to talk with an attorney “to obtain legal advice or legal assistance with respect to his request,” and it added procedures for judicial review of nondisclosure conditions imposed on the recipient of a NSL. After passage of this legislation, the 2nd Circuit vacated the portion of *Doe I* dealing with the Fourth Amendment because *Doe I* decided to no longer press that claim. *Doe v. Gonzales*, 449 F.3d 415, 419 (2d Cir. 2006). It then remanded the case for reconsideration of the First Amendment argument in light of the new statutory framework. *Id.* The Court dismissed *Doe II* as moot because the Government decided to allow *Doe II* to reveal his identity, so the case was moot.

On remand from *Doe I*, the U.S. District Court for the Southern District of New York reconsidered the new § 2709, and found that the new statutory provisions still violated the First Amendment. *Doe v. Gonzales*, 500 F. Supp. 2d 379 (S.D.N.Y. 2007). Again, the court held that the nondisclosure features of § 2709 violated the First Amendment as both a prior restraint and content-based restriction on speech not narrowly tailored to a compelling government interest. *Id.* at 386. No additional action on the case has been noted.

In an unrelated case outside the Second Circuit, a District Court found that National Security Letters are not discoverable under Fed. R. Crim. P. 16. *United States v. Amawi*, Case No. 3:06CR719, 2008 U.S. Dist. LEXIS 5676, at *8-9 (N.D. Ohio Jan. 22, 2008). Few other courts have spoken on National Security Letter issues.