

ELECTRONIC PRIVACY INFORMATION CENTER

Foreign Intelligence Surveillance Act Court Orders 1979-2011

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<u>Year</u>	<u>Number of FISA Applications Presented</u>	<u>Number of FISA Applications Approved</u>	<u>Number of FISA Applications Rejected</u>	<u>Number of NSL Applications Concerning U.S. Persons¹</u>	<u>Number of U.S. Persons Involved In NSL Applications</u>
1979²	199	207	0	n/a	n/a
1980³	319	322	0	n/a	n/a
1981	431	433	0	n/a	n/a
1982	473	475	0	n/a	n/a
1983	549	549	0	n/a	n/a
1984	635	635	0	n/a	n/a
1985	587	587	0	n/a	n/a
1986	573	573	0	n/a	n/a
1987	512	512	0	n/a	n/a
1988	534	534	0	n/a	n/a
1989	546	546	0	n/a	n/a
1990	595	595	0	n/a	n/a
1991	593	593	0	n/a	n/a
1992	484	484	0	n/a	n/a
1993	509	509	0	n/a	n/a
1994	576	576	0	n/a	n/a
1995	697	697	0	n/a	n/a
1996	839	839	0	n/a	n/a
1997⁴	749	748	0	n/a	n/a
1998	796	796	0	n/a	n/a
1999⁵	886	880	0	n/a	n/a
2000⁶	1005	1012	0	n/a	n/a

2001⁷	932	934	0	n/a	n/a
2002⁸	1228	1228	0	n/a	n/a
2003⁹	1727	1724	4	n/a	n/a
2004¹⁰	1758	1754	0	8943	n/a
2005¹¹	2074	2072	0	9475	3501
2006¹²	2181	2176	1	12583	4790
2007¹³	2371	2370	4	16804	4327
2008¹⁴	2082	2083	1	24744	7225
2009¹⁵	1329	1320	1	14788	6114
2010	1579	1579	0	24287	14212
2011	1745	1745	0	16511	7201
2012¹⁶	1856	1855	0	15229	6223

Acknowledgment: The Federation of American Scientists compiled a [list of FISA annual reports](#), from which these statistics were extracted.

¹ National Security Letters (NSLs) are extraordinary search procedures giving the FBI the power to compel the disclosure of customer records held by banks, telephone companies, Internet Service Providers, and others. In 2001, the FBI's authority to issue National Security Letters was significantly expanded by Section 505 of the Patriot Act, primarily by lowering the threshold in which NSLs may be issued.

Under the Patriot Reauthorization Act of 2005, the FBI is required to report to Congress on the number of NSLs issued and the Department of Justice Office of the Inspector General (OIG) is required to review "the effectiveness and use, including any improper or illegal use, of national security letters issued by the Department of Justice." The OIG released its first report, covering calendar years 2003 through 2005, on March 9, 2007. The report detailed significant violations of law and regulations by the FBI in its use of its national security letter authority.

In 2007 the OIG found that the FBI had underreported the number of NSLs issued in the past. In the 2007 General Report of the Office of the Inspector General, the numbers for the years 2003-2005, previously reported in other sources, were examined and re-released. For these years only, the numbers of NSL requests reported to Congress relating to U.S. Persons are taken from the General Report, and not the annual reports. Note that the Modified numbers do not include NSL requests that do not identify if the request is seeking information related to a U.S. person or a non-U.S. person.

² The calendar year of 1980 was the first full year that FISA had been in effect. Hence, 1979 does not reflect a complete calendar year.

³ No orders were entered which modified or denied the requested authority, except one case in which the Court modified a FISA order and authorized an activity for which court authority had not been requested.

⁴ In one case, although satisfied as to the probable cause to believe the target to be an agent of a foreign power, the court declined to approve the FISA application as plead for other reasons, and gave the government

leave to amend the application. The government has filed a motion to withdraw that case as it has become moot.

5. One FISA application filed in 1999 was pending before the Court until March 29, 2000, when it was approved. Five FISA applications which were filed in late December 1999 were approved when presented to the Court on January 5, 2000.

6. The Court approved 1003 of these FISA applications in 2000. Two of the 1005 FISA applications were filed with the Foreign Intelligence Surveillance Court in December 2000 and approved in January 2001. Nine FISA applications were filed with the Foreign Intelligence Surveillance Court in calendar year 1999 and approved in calendar year 2000. Thus, the Foreign Intelligence Surveillance Court approved 1012 FISA applications in calendar year 2000. Also, one order was modified by the Court. No orders were entered which denied the requested authority.

7. Two of the 934 FISA applications were filed with the Foreign Intelligence Surveillance Court in December 2000 and approved in January 2001. Also, two FISA orders and two warrants were modified by the Court. No FISA orders were entered which denied the requested authority.

8. The Court initially approved 1226 FISA applications in 2002. Two FISA applications were "approved as modified," and the United States appealed these applications to the Foreign Intelligence Surveillance Court of Review, as applications having been denied in part. On November 18, 2002, the Court of Review issued a judgment that "ordered and adjudged that the motions for review be granted, the challenged portions of the orders on review be reversed, the Foreign Intelligence Surveillance Court's Rule 11 be vacated, and the cases be remanded with instructions to grant the United States' applications as submitted..."

9. The United States did not appeal any of the Court's four denials. However, the 2003 FISA report provides additional information about two of the four FISA applications denied:

(1) In one case, the Court issued supplemental orders with respect to its denial, and the Government filed with the Court a motion for reconsideration of its rulings. The Court subsequently vacated its earlier orders and granted in part and denied in part the Government's motion for reconsideration. The Government has not appealed that ruling. In 2004, the Court approved a revised application regarding this target that incorporated modifications consistent with the Court's prior order with respect to the motion for reconsideration.

(2) In another case, the Court initially denied the application without prejudice. The Government presented amended orders to the Court later the same day, which the Court approved. Because the Court eventually approved this application, it is included in the 1724 referenced above.

In 2003, the Court made substantive modifications to the United States' proposed orders in 79 FISA applications. For notes on NSL numbers, please reference footnote 1.

10. The United States withdrew three of its 1,758 FISA applications before the Court ruled on them. The United States then resubmitted one of these applications, which was approved by the Court as a new application. One of the 1,758 FISA applications made to the Court was approved in 2003 and received a docket number in 2004. In 2004, the Court made substantive modifications to the United States' proposed orders in 94 FISA applications. For notes on NSL numbers, please reference footnote 1.

11. The United States withdrew two of its FISA applications before the Court ruled on them. The United States then resubmitted one of these applications, which was approved by the Court as a new application. In 2005, the Court made substantive modifications to the United States' proposed orders in 61 FISA applications. For notes on NSL numbers, please reference footnote 1.

12. The United States withdrew five FISA applications before the Court ruled on them. One of these was resubmitted as a new FISA application. In 2006, the Court denied in part one FISA application. The Court made substantive modifications to the United States' proposed orders in 73 FISA applications.

Although the FBI expended significant resources to identify and correct errors in its NSL database, 2006

statistics are considered approximate.

13. In 2007 the Court denied 3 FISA applications and one FISA application in part. Two FISA applications filed in 2006 were not approved until 2007. During 2007 the Court made substantive modifications to proposed orders in 86 FISA applications.

In addition to NSLs that were issued in the ordinary course of its national security investigations, in 2007 and 2008 the FBI issued corrective NSLs, outside the ordinary course, which cause an anomaly in the historic trend of persons concerned by the NSLs. This trend is discussed at length in the 2008 Annual Report. Though 2007 NSL numbers underwent significant review, most figures were derived from manual input and there is possibility for error.

14. Two FISA applications filed in calendar-year 2007 were not approved until calendar-year 2008. Substantive modifications were made to two FISA applications before approval.

In addition to NSLs that were issued in the ordinary course of its national security investigations, in 2007 and 2008 the FBI issued corrective NSLs. All but one of the corrective NSLs, obtained prior to 2008, were issued in 2008 in order to provide legal authority for the FBI to retain records that had previously been provided by communications service providers. This topic is discussed at length in the 2008 Annual Report. Also note that 2008 was the first full year that the FBI used a new NSL subsystem to automatically tally data points necessary for accurate and timely Congressional reporting.

15. Eight FISA applications were withdrawn by the government prior to a decision. One FISA application was denied in whole, one FISA application was denied in part. Modifications were made to 14 FISA applications prior to approval.

16. One FISA application was withdrawn by the government prior to a decision. Modifications were made to 40 FISA applications prior to approval, including one application from 2011.

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