

Military, CIA prying into Americans' financial records

David Walsh
16 January 2007

The American military and the Central Intelligence Agency have a “long-standing” policy of obtaining banking and credit card information on US citizens, according to news reports published over the weekend.

The *New York Times* revealed Sunday that the Department of Defense had issued more than 500 National Security Letters (NSLs) requesting information on financial transactions to banks, credit card companies and other institutions since September 11, 2001. In fact, because each investigation often results in multiple requests, the number of letters probably runs into the thousands.

The CIA also has issued NSLs to obtain personal financial records and other types of information, although agency officials claim to have issued fewer than the military.

That the US military and the CIA are now conducting domestic surveillance, building up their own independent intelligence records on US citizens without any judicial oversight whatsoever, is a significant step in the direction of a police state.

National Security Letters are administrative subpoenas that have been used primarily by the Federal Bureau of Investigation (FBI). The use of such subpoenas, first authorized in the 1970s, was greatly expanded by the passage of the Patriot Act in 2001. That law allowed the letters to be issued in connection with the surveillance of US residents or visitors who were not the immediate targets of an investigation, and it allowed other federal agencies, including the Department of Homeland Security, to use NSLs. The act did not mention the CIA or the military.

Recipients of NSLs—i.e., banks or other institutions—are placed under a gag order. They are forbidden to reveal the contents of the NSLs or even acknowledge their existence. Those whose personal financial records have been requested by the government and turned over by their banks, credit card companies, etc. are never informed. Unlike other subpoenas and warrants, no approval from a judge is required for the issuance of these letters.

The expanded use of NSLs by the FBI since 2001 has been well known and is the subject of several court cases. The American Civil Liberties Union (ACLU) has challenged the gag order in two cases, one involving requests for library

records and a second for Internet records—and in each case the gag order was ruled unconstitutional.

In July 2003, the ACLU declared that the NSLs “allow the FBI to obtain certain kinds of sensitive personal records without obtaining any kind of court order . . . The absence of judicial oversight means that, when it comes to the use of NSLs, the FBI has a free hand . . . Before the Patriot Act became law in October 2001, the FBI could issue an NSL against you only if it had reason to believe that you were a foreign spy. Now, however, the FBI can issue an NSL against you even if it knows you are completely innocent of any such activity. The only requirement is that the NSL be ‘sought for’ an ongoing investigation.”

In April 2006, the Department of Justice reported that in 2005 “the Government made requests for certain information concerning 3,501 United States persons pursuant to National Security Letters (NSLs). During this time frame, the total number of NSL requests . . . for information concerning US persons totaled 9,254.”

The NSLs issued by the military and the CIA are “noncompulsory.” Both organizations have attempted to obtain the power to issue mandatory letters, but Congress has so far rejected their efforts. It is doubtful, in any event, that any financial institution would rebuff the Defense Department or the CIA when either comes seeking information.

The CIA has been sharply restricted by law in its gathering of domestic intelligence, while the Pentagon is allowed to investigate only direct threats to military bases, as well as possible criminal conduct by military personnel. To justify its use of NSLs, Defense Department officials, along with Vice President Dick Cheney, claim that the Pentagon’s security letters have been issued only when there is the possibility of terrorist attacks on military installations.

With the information the military and intelligence agencies compile, they can track the activities and relationships of great numbers of people. Clearly, the target of such efforts would be domestic political opposition.

The Defense Department admits that even if the intelligence gathered leads nowhere, it plans to hold on to the information for years. It intends to incorporate the records into a vast database at the Counterintelligence Field Activity (CIFA) office

at the Pentagon.

CIFA was established in September 2002 by then-Deputy Secretary of Defense Paul Wolfowitz to oversee the domestic spying activities of Pentagon agencies and the armed forces. It is impossible to square the claims that the military's intelligence operations inside the US relate only to possible attacks on bases and criminal conduct by its personnel with, according to the *Washington Post*, CIFA's 400 full-time employees and 800 to 900 contractors, as well as the \$1 billion that it spent through October 2006.

A clearer indication of what CIFA is up to emerged in December 2005 when it was revealed that one of its databases "called TALON, contained unverified, raw threat information about people who were peacefully protesting the Iraq war at defense facilities, including recruiting offices" (*Washington Post*).

Writing in the *Post* in November 2005 ("The FBI's Secret Scrutiny"), Barton Gellman commented, "Casual or unwitting contact with a suspect—a single telephone call, for example—may attract the attention of investigators and subject a person to scrutiny about which he never learns. A national security letter cannot be used to authorize eavesdropping or to read the contents of e-mail. But it does permit investigators to trace revealing paths through the private affairs of a modern digital citizen."

FBI officials, cited in the *Times* article, expressed unhappiness with the military and CIA operation. The FBI has complained "about military officials dealing directly with local police—rather than through the bureau—for assistance in responding to possible terrorist threats against a military base. FBI officials say the threats have often turned out to be uncorroborated and, at times, have stirred needless anxiety."

The military would not reveal any details about specific cases, but military intelligence officials told the *Times* that the Pentagon had collected information about a government contractor with "unexplained wealth" and also James J. Yee, the Muslim chaplain at the Guantánamo Bay prison camp who was accused of aiding terrorist suspects in 2003.

A case was concocted against Yee in retaliation for his speaking out against the horrific conditions at the internment camp. This is another indication of the political motives involved in the issuing of NSLs. They are a means of creating the grounds for political frame-ups, while the gag order on the bank or credit card company prevents the future victim from knowing anything about the operation.

Over the weekend, Vice President Cheney defended the Pentagon's use of NSLs during an interview with Chris Wallace of "Fox News Sunday." He asserted that the Defense Department involved itself in such activities only "because we've got hundreds of bases inside the United States that are potential terrorist targets."

Wallace asked why the FBI was not allowed to do this sort of investigating. Cheney argued that "the Department of Defense

has legitimate authority in this area . . . There's nothing wrong with it or illegal. It doesn't violate people's civil rights. And if an institution that receives one of these national security letters disagrees with it, they're free to go to court to try to stop its execution."

The spying on financial records is one element in the Bush administration's drive, in the name of the "war on terror," to eliminate any restrictions on its ability to intrude into the affairs and activities of the American population. Data mining, the use of sophisticated analysis tools to discover previously unknown patterns and relationships in large data sets, is very much at the center of this process.

In opening a Senate Judiciary Committee hearing on data mining January 10, Senator Patrick Leahy, the Vermont Democrat who chairs the committee, noted that the administration "has dramatically increased its use of data mining technology, namely the collection and monitoring of wide volumes of personal, sensitive data to identify patterns and relationships. Indeed, in recent years the federal government's use of data mining technology has exploded, without congressional oversight or comprehensive privacy safeguards."

He referred to a May 2004 report by the General Accounting Office, which found that 52 federal departments and agencies were using or planning to use data mining. Those departments and agencies, said the GAO, reported 199 data mining efforts, of which 68 were planned and 131 "operational." The GAO study observed, "Of these uses the Department of Defense reported the largest number of efforts aimed at improving service or performance, managing human resources, and analyzing intelligence and detecting terrorist activities."

Leahy commented, "The overwhelming majority of them [data mining efforts] are used to collect and analyze information about ordinary citizens. The Bush administration secretly compiles files on the travel habits of millions of law-abiding Americans . . .

"Last month the *Washington Post* reported the Department of Justice will expand . . . a massive data base that allows state and local law enforcement officials to review and search millions of data files, allows the FBI and other criminal enforcement agencies information about thousands of individuals, including thousands of people who have never been charged with a crime."

In June 2006 the *Post* noted that another GAO report released in April 2006 found that of the \$30 million spent by four US government agencies on data-crunching services, 91 percent went for law enforcement or so-called "counterterrorism."



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