

For Law Enforcement Use Only

Checklist for Cyber Mutual Legal Assistance (MLA) Requests to the United States

1. Preservation:

- a. Preserving early increases the likelihood we can get results
 - i. Contact provider directly or use 24/7 Network
- b. When preserving, please include in your MLA request the date of preservation and provider reference number
- c. Maintain preservation by continuing to file extensions

2. Request Details (this list is not exhaustive, but please address these points):

- a. Offenses –
 - i. What is the specific conduct that constitutes the crime(s)?
 - ii. Is the text of the relevant criminal statutes included?
- b. Assistance requested – does the request clearly identify:
 - i. A U.S. provider who possessed the records sought at the time of the use of the account (e.g., providers of phone numbers and IP addresses change over time);
 - ii. The type of records that are being requested for each account (*i.e.*, subscriber and transactional information for the account or subscriber and transactional information plus the content records for the account) and the time periods for which those records are sought; and
 - iii. The relationship between your investigation and the assistance sought (in other words, why investigators want the records being sought)?
- c. Account identifiers – Is there a unique identifier for each account requested?
 - i. Check for spelling discrepancies in the request and across translations
 1. Please clarify if a number or letter is used if it may be hard to tell
 - a. O (letter) vs. 0 (zero)
 - b. 1 (L) vs. 1 (one)
 - ii. If there is a cooperating witness or victim, consider using self-help tools offered by the provider to obtain data about the account (such as the “Download My Facebook” tool or the “Download Your Data” feature on Google’s Dashboard).
- d. Dates and usage information –
 - i. Is there a defined date range for account use associated with the criminal activity? Ideally please provide the first and last known dates on which an account was used.
 - ii. Does the request identify other key dates in the investigation?
 1. Date the crime was reported to police
 2. Date the suspect was arrested
 - iii. Does the request explain how the account is connected to the criminal activity?
 - iv. Does the request explain how authorities learned about the use of the account in the criminal activity?
- e. Confidentiality – Does the request address the following confidentiality issues:
 - i. Non-disclosure – would it harm the investigation if the account holder were notified that records had been requested? If yes, please explain.

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- ii. Sealing – would it harm the investigation or are there other interests to consider that justify preventing the court records from being published and/or available to the public?
- f. Procedures requested – Does the request identify any particular certifications that need to be provided with the evidence to ensure admissibility in your proceedings?
- g. Urgency – Are there any time constraints or is there any urgency involved? If yes, does the request clearly identify the same and indicate any deadlines (such as trial dates)?

3. Probable Cause (for content):

- a. Is there reliable evidence indicating that a crime has been committed?
 - i. On what sources are authorities relying?
 - ii. When did the crime take place?
- b. Is there reliable evidence indicating that the account in question will likely contain evidence related to the crime?
 - i. How was the account identified?
 - ii. How was the account connected to the suspect?
 - iii. Was the account used to further the crime? If so, how and when?
 - iv. Was the account used to discuss the crime? If so, what is known about the discussions and when was the account so used?

Drafting Tips for Mutual Legal Assistance (MLA) Requests to the United States

Introduction

- Identify the requesting entity (investigating, prosecuting, or judicial).
- Provide a brief description of the nature of the investigation or prosecution and the procedural status of the case.
- Cite the MLA Treaty or convention(s) under which assistance is requested.
- Identify the individuals suspected or charged.

Facts

- Provide a chronological narrative of the facts related to the criminal offense(s) (including dates of the crime(s) and the relevant date range for the requested records).
- What is the connection between the subjects and the criminal conduct?
- What is the connection between the assistance requested and the crime(s)?
- How will the assistance requested help the investigation or prosecution?
 - The facts must justify the scope of the assistance requested.
- What makes you think that the evidence is in the United States?

Persons and Entities Involved

- Requests relating to individuals should provide the name and available identifying information of the person including citizenship, passport number, and date of birth.

Laws – Offense(s) and Penalties

- Provide criminal statutes (pertinent parts only)

Assistance Requested

- Identify with specificity the types of documents/evidence requested, such as:
 - Official records;
 - Business records;
 - Internet Service Provider records – subscriber, transactional, content (include sufficient account identifiers);
 - Bank records (include account holders and account numbers); and
 - Interviews (include the location of individuals and a list of questions).
- The facts must justify the scope of the requested assistance, including the timeframe.
- Double check that the facts show the nexus between the evidence requested in this section and the crime(s) as set forth in the facts section.

Need for Assistance

- Explain why the assistance requested is needed.

Procedures to be Followed

- Explain what procedures U.S. authorities need to follow to execute the request.

Confidentiality

- Does the MLA request need to be confidential? If so, explain why.
- Are you requesting that the court issue an order directing the company providing records not to notify the account holder about the records request (a non-disclosure order)?