

CLASSIFIED INFORMATION PROCEDURES ACT

Pub. L. 96-456, Oct. 15, 1980, 94 Stat. 2025, as amended by Pub. L. 100-690, title VII, §7020(g), Nov. 18, 1988, 102 Stat. 4396; Pub. L. 106-567, title VI, §607, Dec. 27, 2000, 114 Stat. 2855; Pub. L. 107-306, title VIII, §811(b)(3), Nov. 27, 2002, 116 Stat. 2423; Pub. L. 108-458, title I, §1071(f), Dec. 17, 2004, 118 Stat. 3691; Pub. L. 109-177, title V, §506(a)(8), Mar. 9, 2006, 120 Stat. 248; Pub. L. 111-16, §4, May 7, 2009, 123 Stat. 1608

§ 1. Definitions

(a) “Classified information”, as used in this Act, means any information or material that has been determined by the United States Government pursuant to an Executive order, statute, or regulation, to require protection against unauthorized disclosure for reasons of national security and any restricted data, as defined in paragraph r. of section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

(b) “National security”, as used in this Act, means the national defense and foreign relations of the United States.

(Pub. L. 96-456, §1, Oct. 15, 1980, 94 Stat. 2025.)

§ 2. Pretrial conference

At any time after the filing of the indictment or information, any party may move for a pretrial conference to consider matters relating to classified information that may arise in connection with the prosecution. Following such motion, or on its own motion, the court shall promptly hold a pretrial conference to establish the timing of requests for discovery, the provision of notice required by section 5 of this Act, and the initiation of the procedure established by section 6 of this Act. In addition, at the pretrial conference the court may consider any matters which relate to classified information or which may promote a fair and expeditious trial. No admission made by the defendant or by any attorney for the defendant at such a conference may be used against the defendant unless the admission is in writing and is signed by the defendant and by the attorney for the defendant.

(Pub. L. 96-456, §2, Oct. 15, 1980, 94 Stat. 2025.)

§ 3. Protective orders

Upon motion of the United States, the court shall issue an order to protect against the disclosure of any classified information disclosed by the United States to any defendant in any criminal case in a district court of the United States.

(Pub. L. 96-456, §3, Oct. 15, 1980, 94 Stat. 2025.)

§ 4. Discovery of classified information by defendants

The court, upon a sufficient showing, may authorize the United States to delete specified

items of classified information from documents to be made available to the defendant through discovery under the Federal Rules of Criminal Procedure, to substitute a summary of the information for such classified documents, or to substitute a statement admitting relevant facts that the classified information would tend to prove. The court may permit the United States to make a request for such authorization in the form of a written statement to be inspected by the court alone. If the court enters an order granting relief following such an ex parte showing, the entire text of the statement of the United States shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal.

(Pub. L. 96-456, §4, Oct. 15, 1980, 94 Stat. 2025.)

§ 5. Notice of defendant's intention to disclose classified information

(a) NOTICE BY DEFENDANT.—If a defendant reasonably expects to disclose or to cause the disclosure of classified information in any manner in connection with any trial or pretrial proceeding involving the criminal prosecution of such defendant, the defendant shall, within the time specified by the court or, where no time is specified, within thirty days prior to trial, notify the attorney for the United States and the court in writing. Such notice shall include a brief description of the classified information. Whenever a defendant learns of additional classified information he reasonably expects to disclose at any such proceeding, he shall notify the attorney for the United States and the court in writing as soon as possible thereafter and shall include a brief description of the classified information. No defendant shall disclose any information known or believed to be classified in connection with a trial or pretrial proceeding until notice has been given under this subsection and until the United States has been afforded a reasonable opportunity to seek a determination pursuant to the procedure set forth in section 6 of this Act, and until the time for the United States to appeal such determination under section 7 has expired or any appeal under section 7 by the United States is decided.

(b) FAILURE TO COMPLY.—If the defendant fails to comply with the requirements of subsection (a) the court may preclude disclosure of any classified information not made the subject of notification and may prohibit the examination