

(j) Notification of emergency employment of electronic surveillance; contents; postponement, suspension or elimination

If an emergency employment of electronic surveillance is authorized under section 1805(e) of this title and a subsequent order approving the surveillance is not obtained, the judge shall cause to be served on any United States person named in the application and on such other United States persons subject to electronic surveillance as the judge may determine in his discretion it is in the interest of justice to serve, notice of—

- (1) the fact of the application;
- (2) the period of the surveillance; and
- (3) the fact that during the period information was or was not obtained.

On an ex parte showing of good cause to the judge the serving of the notice required by this subsection may be postponed or suspended for a period not to exceed ninety days. Thereafter, on a further ex parte showing of good cause, the court shall forego ordering the serving of the notice required under this subsection.

(k) Coordination with law enforcement on national security matters

(1) Federal officers who conduct electronic surveillance to acquire foreign intelligence information under this subchapter may consult with Federal law enforcement officers or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision) to coordinate efforts to investigate or protect against—

- (A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;
- (B) sabotage, international terrorism, or the international proliferation of weapons of mass destruction by a foreign power or an agent of a foreign power; or
- (C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power.

(2) Coordination authorized under paragraph (1) shall not preclude the certification required by section 1804(a)(7)(B)¹ of this title or the entry of an order under section 1805 of this title.

(Pub. L. 95-511, title I, § 106, Oct. 25, 1978, 92 Stat. 1793; Pub. L. 107-56, title V, § 504(a), Oct. 26, 2001, 115 Stat. 364; Pub. L. 107-296, title VIII, § 898, Nov. 25, 2002, 116 Stat. 2258; Pub. L. 110-261, title I, §§ 106, 110(b)(1), July 10, 2008, 122 Stat. 2462, 2466.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (f), was in the original “this Act”, meaning Pub. L. 95-511, Oct. 25, 1978, 92 Stat. 1783, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

Section 1804(a)(7)(B) of this title, referred to in subsec. (k)(2), was redesignated section 1804(a)(6)(B) of this

¹ See References in Text note below.

title by Pub. L. 110-261, title I, § 104(1)(B), July 10, 2008, 122 Stat. 2461.

AMENDMENTS

2008—Subsec. (i). Pub. L. 110-261, § 106, substituted “communication” for “radio communication”.

Subsec. (k)(1)(B). Pub. L. 110-261, § 110(b)(1), substituted “sabotage, international terrorism, or the international proliferation of weapons of mass destruction” for “sabotage or international terrorism”.

2002—Subsec. (k)(1). Pub. L. 107-296, in introductory provisions, inserted “or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)” after “law enforcement officers”.

2001—Subsec. (k). Pub. L. 107-56 added subsec. (k).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-261 effective July 10, 2008, except as provided in section 404 of Pub. L. 110-261, set out as a Transition Procedures note under section 1801 of this title, see section 402 of Pub. L. 110-261, set out as an Effective Date of 2008 Amendment note under section 1801 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

REPORT ON MECHANISMS FOR DETERMINATIONS OF DISCLOSURE OF INFORMATION FOR LAW ENFORCEMENT PURPOSES

Pub. L. 106-567, title VI, § 604(b), Dec. 27, 2000, 114 Stat. 2853, provided that:

“(1) The Attorney General shall submit to the appropriate committees of Congress a report on the authorities and procedures utilized by the Department of Justice for determining whether or not to disclose information acquired under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) for law enforcement purposes.

“(2) In this subsection, the term ‘appropriate committees of Congress’ means the following:

“(A) The Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

“(B) The Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.”

§ 1807. Report to Administrative Office of the United States Court and to Congress

In April of each year, the Attorney General shall transmit to the Administrative Office of the United States Court and to Congress a report setting forth with respect to the preceding calendar year—

- (a) the total number of applications made for orders and extensions of orders approving electronic surveillance under this subchapter; and
- (b) the total number of such orders and extensions either granted, modified, or denied.

(Pub. L. 95-511, title I, § 107, Oct. 25, 1978, 92 Stat. 1795.)

§ 1808. Report of Attorney General to Congressional committees; limitation on authority or responsibility of information gathering activities of Congressional committees; report of Congressional committees to Congress

(a)(1) On a semiannual basis the Attorney General shall fully inform the House Permanent Se-

lect Committee on Intelligence and the Senate Select Committee on Intelligence, and the Committee on the Judiciary of the Senate, concerning all electronic surveillance under this subchapter. Nothing in this subchapter shall be deemed to limit the authority and responsibility of the appropriate committees of each House of Congress to obtain such information as they may need to carry out their respective functions and duties.

(2) Each report under the first sentence of paragraph (1) shall include a description of—

(A) the total number of applications made for orders and extensions of orders approving electronic surveillance under this subchapter where the nature and location of each facility or place at which the electronic surveillance will be directed is unknown;

(B) each criminal case in which information acquired under this chapter has been authorized for use at trial during the period covered by such report; and

(C) the total number of emergency employments of electronic surveillance under section 1805(e) of this title and the total number of subsequent orders approving or denying such electronic surveillance.

(b) On or before one year after October 25, 1978, and on the same day each year for four years thereafter, the Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence shall report respectively to the House of Representatives and the Senate, concerning the implementation of this chapter. Said reports shall include but not be limited to an analysis and recommendations concerning whether this chapter should be (1) amended, (2) repealed, or (3) permitted to continue in effect without amendment.

(Pub. L. 95-511, title I, § 108, Oct. 25, 1978, 92 Stat. 1795; Pub. L. 106-567, title VI, § 604(a), Dec. 27, 2000, 114 Stat. 2853; Pub. L. 109-177, title I, § 108(c), Mar. 9, 2006, 120 Stat. 204; Pub. L. 110-261, title I, § 105(b), July 10, 2008, 122 Stat. 2462.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original “this Act”, meaning Pub. L. 95-511, Oct. 25, 1978, 92 Stat. 1783, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

2008—Subsec. (a)(2)(C). Pub. L. 110-261 substituted “1805(e)” for “1805(f)”.

2006—Subsec. (a)(1). Pub. L. 109-177, § 108(c)(1), inserted “, and the Committee on the Judiciary of the Senate,” after “Senate Select Committee on Intelligence”.

Subsec. (a)(2). Pub. L. 109-177, § 108(c)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Each report under the first sentence of paragraph (1) shall include a description of—

“(A) each criminal case in which information acquired under this chapter has been passed for law enforcement purposes during the period covered by such report; and

“(B) each criminal case in which information acquired under this chapter has been authorized for use at trial during such reporting period.”

2000—Subsec. (a). Pub. L. 106-567 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-261 effective July 10, 2008, except as provided in section 404 of Pub. L. 110-261, set out as a Transition Procedures note under section 1801 of this title, see section 402 of Pub. L. 110-261, set out as an Effective Date of 2008 Amendment note under section 1801 of this title.

§ 1809. Criminal sanctions

(a) Prohibited activities

A person is guilty of an offense if he intentionally—

(1) engages in electronic surveillance under color of law except as authorized by this chapter, chapter 119, 121, or 206 of title 18, or any express statutory authorization that is an additional exclusive means for conducting electronic surveillance under section 1812 of this title;

(2) discloses or uses information obtained under color of law by electronic surveillance, knowing or having reason to know that the information was obtained through electronic surveillance not authorized by this chapter, chapter 119, 121, or 206 of title 18, or any express statutory authorization that is an additional exclusive means for conducting electronic surveillance under section 1812 of this title.

(b) Defense

It is a defense to a prosecution under subsection (a) of this section that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the electronic surveillance was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

(c) Penalties

An offense described in this section is punishable by a fine of not more than \$10,000 or imprisonment for not more than five years, or both.

(d) Federal jurisdiction

There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

(Pub. L. 95-511, title I, § 109, Oct. 25, 1978, 92 Stat. 1796; Pub. L. 110-261, title I, § 102(b), July 10, 2008, 122 Stat. 2459; Pub. L. 111-259, title VIII, § 801(3), Oct. 7, 2010, 124 Stat. 2746.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 95-511, Oct. 25, 1978, 92 Stat. 1783, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111-259, § 801(3)(A), substituted “section 1812 of this title;” for “section 1812 of this title;”.

Subsec. (a)(2). Pub. L. 111-259, § 801(3)(B), substituted “title.” for “title..”

2008—Subsec. (a). Pub. L. 110-261 substituted “authorized by this chapter, chapter 119, 121, or 206 of title 18, or any express statutory authorization that is an additional exclusive means for conducting electronic surveillance under section 1812 of this title.” for “authorized by statute” in pars. (1) and (2).