

1861(b)(2)(B) of this title and a good faith estimate of—

(A) the number of targets of such orders; and

(B) the number of unique identifiers used to communicate information collected pursuant to such orders;

(5) the total number of orders issued pursuant to applications made under section 1861(b)(2)(C) of this title and a good faith estimate of—

(A) the number of targets of such orders;

(B) the number of unique identifiers used to communicate information collected pursuant to such orders; and

(C) the number of search terms that included information concerning a United States person that were used to query any database of call detail records obtained through the use of such orders; and

(6) the total number of national security letters issued and the number of requests for information contained within such national security letters.

(c) Timing

The annual reports required by subsections (a) and (b) shall be made publicly available during April of each year and include information relating to the previous calendar year.

(d) Exceptions

(1) Statement of numerical range

If a good faith estimate required to be reported under subparagraph (B) of any of paragraphs (3), (4), or (5) of subsection (b) is fewer than 500, it shall be expressed as a numerical range of “fewer than 500” and shall not be expressed as an individual number.

(2) Nonapplicability to certain information

(A) Federal Bureau of Investigation

Paragraphs (2)(A), (2)(B), and (5)(C) of subsection (b) shall not apply to information or records held by, or queries conducted by, the Federal Bureau of Investigation.

(B) Electronic mail address and telephone numbers

Paragraph (3)(B) of subsection (b) shall not apply to orders resulting in the acquisition of information by the Federal Bureau of Investigation that does not include electronic mail addresses or telephone numbers.

(3) Certification

(A) In general

If the Director of National Intelligence concludes that a good faith estimate required to be reported under subsection (b)(2)(B) cannot be determined accurately because some but not all of the relevant elements of the intelligence community are able to provide such good faith estimate, the Director shall—

(i) certify that conclusion in writing to the Select Committee on Intelligence and the Committee on the Judiciary of the Senate and the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives;

(ii) report the good faith estimate for those relevant elements able to provide such good faith estimate;

(iii) explain when it is reasonably anticipated that such an estimate will be able to be determined fully and accurately; and

(iv) make such certification publicly available on an Internet Web site.

(B) Form

A certification described in subparagraph (A) shall be prepared in unclassified form, but may contain a classified annex.

(C) Timing

If the Director of National Intelligence continues to conclude that the good faith estimates described in this paragraph cannot be determined accurately, the Director shall annually submit a certification in accordance with this paragraph.

(e) Definitions

In this section:

(1) Contents

The term “contents” has the meaning given that term under section 2510 of title 18.

(2) Electronic communication

The term “electronic communication” has the meaning given that term under section 2510 of title 18.

(3) National security letter

The term “national security letter” means a request for a report, records, or other information under—

(A) section 2709 of title 18;

(B) section 3414(a)(5)(A) of title 12;

(C) subsection (a) or (b) of section 1681u of title 15; or

(D) section 1681v(a) of title 15.

(4) United States person

The term “United States person” means a citizen of the United States or an alien lawfully admitted for permanent residence (as defined in section 1101(a) of title 8).

(5) Wire communication

The term “wire communication” has the meaning given that term under section 2510 of title 18.

(Pub. L. 95-511, title VI, §603, as added Pub. L. 114-23, title VI, §602(a), June 2, 2015, 129 Stat. 292.)

§ 1874. Public reporting by persons subject to orders

(a) Reporting

A person subject to a nondisclosure requirement accompanying an order or directive under this chapter or a national security letter may, with respect to such order, directive, or national security letter, publicly report the following information using one of the following structures:

(1) A semiannual report that aggregates the number of orders, directives, or national security letters with which the person was required to comply into separate categories of—

(A) the number of national security letters received, reported in bands of 1000 starting with 0-999;

(B) the number of customer selectors targeted by national security letters, reported in bands of 1000 starting with 0-999;

(C) the number of orders or directives received, combined, under this chapter for contents, reported in bands of 1000 starting with 0-999;

(D) the number of customer selectors targeted under orders or directives received, combined, under this chapter for contents¹ reported in bands of 1000 starting with 0-999;

(E) the number of orders received under this chapter for noncontents, reported in bands of 1000 starting with 0-999; and

(F) the number of customer selectors targeted under orders under this chapter for noncontents, reported in bands of 1000 starting with 0-999, pursuant to—

(i) subchapter III;

(ii) subchapter IV with respect to applications described in section 1861(b)(2)(B) of this title; and

(iii) subchapter IV with respect to applications described in section 1861(b)(2)(C) of this title.

(2) A semiannual report that aggregates the number of orders, directives, or national security letters with which the person was required to comply into separate categories of—

(A) the number of national security letters received, reported in bands of 500 starting with 0-499;

(B) the number of customer selectors targeted by national security letters, reported in bands of 500 starting with 0-499;

(C) the number of orders or directives received, combined, under this chapter for contents, reported in bands of 500 starting with 0-499;

(D) the number of customer selectors targeted under orders or directives received, combined, under this chapter for contents, reported in bands of 500 starting with 0-499;

(E) the number of orders received under this chapter for noncontents, reported in bands of 500 starting with 0-499; and

(F) the number of customer selectors targeted under orders received under this chapter for noncontents, reported in bands of 500 starting with 0-499.

(3) A semiannual report that aggregates the number of orders, directives, or national security letters with which the person was required to comply in the² into separate categories of—

(A) the total number of all national security process received, including all national security letters, and orders or directives under this chapter, combined, reported in bands of 250 starting with 0-249; and

(B) the total number of customer selectors targeted under all national security process received, including all national security letters, and orders or directives under this chapter, combined, reported in bands of 250 starting with 0-249.

(4) An annual report that aggregates the number of orders, directives, and national security

letters the person was required to comply with into separate categories of—

(A) the total number of all national security process received, including all national security letters, and orders or directives under this chapter, combined, reported in bands of 100 starting with 0-99; and

(B) the total number of customer selectors targeted under all national security process received, including all national security letters, and orders or directives under this chapter, combined, reported in bands of 100 starting with 0-99.

(b) Period of time covered by reports

(1) A report described in paragraph (1) or (2) of subsection (a) shall include only information—

(A) relating to national security letters for the previous 180 days; and

(B) relating to authorities under this chapter for the 180-day period of time ending on the date that is not less than 180 days prior to the date of the publication of such report, except that with respect to a platform, product, or service for which a person did not previously receive an order or directive (not including an enhancement to or iteration of an existing publicly available platform, product, or service) such report shall not include any information relating to such new order or directive until 540 days after the date on which such new order or directive is received.

(2) A report described in paragraph (3) of subsection (a) shall include only information relating to the previous 180 days.

(3) A report described in paragraph (4) of subsection (a) shall include only information for the 1-year period of time ending on the date that is not less than 1 year prior to the date of the publication of such report.

(c) Other forms of agreed to publication

Nothing in this section prohibits the Government and any person from jointly agreeing to the publication of information referred to in this subsection in a time, form, or manner other than as described in this section.

(d) Definitions

In this section:

(1) Contents

The term “contents” has the meaning given that term under section 2510 of title 18.

(2) National security letter

The term “national security letter” has the meaning given that term under section 1873 of this title.

(Pub. L. 95-511, title VI, § 604, as added Pub. L. 114-23, title VI, § 603(a), June 2, 2015, 129 Stat. 295.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(1)(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.

¹ So in original. Probably should be followed by a comma.

² So in original.

SUBCHAPTER VI—ADDITIONAL PROCEDURES REGARDING CERTAIN PERSONS OUTSIDE THE UNITED STATES

§ 1881. Definitions

(a) In general

The terms “agent of a foreign power”, “Attorney General”, “contents”, “electronic surveillance”, “foreign intelligence information”, “foreign power”, “person”, “United States”, and “United States person” have the meanings given such terms in section 1801 of this title, except as specifically provided in this subchapter.

(b) Additional definitions

(1) Congressional intelligence committees

The term “congressional intelligence committees” means—

(A) the Select Committee on Intelligence of the Senate; and

(B) the Permanent Select Committee on Intelligence of the House of Representatives.

(2) Foreign Intelligence Surveillance Court; Court

The terms “Foreign Intelligence Surveillance Court” and “Court” mean the court established under section 1803(a) of this title.

(3) Foreign Intelligence Surveillance Court of Review; Court of Review

The terms “Foreign Intelligence Surveillance Court of Review” and “Court of Review” mean the court established under section 1803(b) of this title.

(4) Electronic communication service provider

The term “electronic communication service provider” means—

(A) a telecommunications carrier, as that term is defined in section 153 of title 47;

(B) a provider of electronic communication service, as that term is defined in section 2510 of title 18;

(C) a provider of a remote computing service, as that term is defined in section 2711 of title 18;

(D) any other communication service provider who has access to wire or electronic communications either as such communications are transmitted or as such communications are stored; or

(E) an officer, employee, or agent of an entity described in subparagraph (A), (B), (C), or (D).

(5) Intelligence community

The term “intelligence community” has the meaning given the term in section 3003(4) of this title.

(Pub. L. 95-511, title VII, §701, as added Pub. L. 110-261, title I, §101(a)(2), July 10, 2008, 122 Stat. 2437.)

REPEAL OF SECTION

Pub. L. 110-261, title IV, §403(b)(1), July 10, 2008, 122 Stat. 2474, as amended by Pub. L. 112-238, §2(a)(1), Dec. 30, 2012, 126 Stat. 1631, provided that, except as provided in section 404 of Pub. L. 110-261, set out as a note under section 1801 of this title, effective Dec. 31, 2017, this

section is repealed. For delay of effective date, see Effective Date of 2017 Amendment note below.

PRIOR PROVISIONS

A prior section 701 of Pub. L. 95-511 was set out as a note under section 1801 of this title, prior to repeal by Pub. L. 110-261.

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-96, div. A, §1002, Dec. 22, 2017, 131 Stat. 2045, provided that:

“(a) Notwithstanding the dates specified in section 403(b) of the FISA Amendments Act of 2008 (Public Law 110-261; 122 Stat. 2474), the amendments made by such section [amending section 1871 of this title and section 2511 of Title 18, Crimes and Criminal Procedure, and repealing sections 1881 to 1881g of this title] shall not take effect until the date specified in section 106(3) of the Continuing Appropriations Act, 2018 (division D of Public Law 115-56), as amended.

“(b) If during the period beginning on the date of the enactment of this Act [Dec. 22, 2017] and ending on the date specified in section 106(3) of the Continuing Appropriations Act, 2018 (division D of Public Law 115-56), as amended, any Act amending the dates specified in section 403(b) of the FISA Amendments Act of 2008 (Public Law 110-261; 122 Stat. 2474) is enacted, this section shall be repealed.”

EFFECTIVE DATE OF REPEAL

Pub. L. 110-261, title IV, §403(b)(1), July 10, 2008, 122 Stat. 2474, as amended by Pub. L. 112-238, §2(a)(1), Dec. 30, 2012, 126 Stat. 1631, provided that, except as provided in section 404 of Pub. L. 110-261, set out as a Transition Procedures note under section 1801 of this title, the repeals made by section 403(b)(1) are effective Dec. 31, 2017. For delay of effective date, see Effective Date of 2017 Amendment note above.

§ 1881a. Procedures for targeting certain persons outside the United States other than United States persons

(a) Authorization

Notwithstanding any other provision of law, upon the issuance of an order in accordance with subsection (i)(3) or a determination under subsection (c)(2), the Attorney General and the Director of National Intelligence may authorize jointly, for a period of up to 1 year from the effective date of the authorization, the targeting of persons reasonably believed to be located outside the United States to acquire foreign intelligence information.

(b) Limitations

An acquisition authorized under subsection (a)—

(1) may not intentionally target any person known at the time of acquisition to be located in the United States;

(2) may not intentionally target a person reasonably believed to be located outside the United States if the purpose of such acquisition is to target a particular, known person reasonably believed to be in the United States;

(3) may not intentionally target a United States person reasonably believed to be located outside the United States;

(4) may not intentionally acquire any communication as to which the sender and all intended recipients are known at the time of the acquisition to be located in the United States; and