

ducted, it shall, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from the physical search of the aggrieved person or otherwise grant the motion of the aggrieved person. If the court determines that the physical search was lawfully authorized or conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(i) Finality of orders

Orders granting motions or requests under subsection (h), decisions under this section that a physical search was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other materials relating to the physical search shall be final orders and binding upon all courts of the United States and the several States except a United States Court of Appeals or the Supreme Court.

(j) Notification of emergency execution of physical search; contents; postponement, suspension, or elimination

(1) If an emergency execution of a physical search is authorized under section 1824(d)¹ of this title and a subsequent order approving the search 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 the search as the judge may determine in his discretion it is in the interests of justice to serve, notice of—

(A) the fact of the application;

(B) the period of the search; and

(C) the fact that during the period information was or was not obtained.

(2) 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 90 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 physical searches 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 1823(a)(6) of this title or the entry of an order under section 1824 of this title.

(Pub. L. 95-511, title III, §305, as added Pub. L. 103-359, title VIII, §807(a)(3), Oct. 14, 1994, 108 Stat. 3449; amended Pub. L. 107-56, title V, §504(b), Oct. 26, 2001, 115 Stat. 364; Pub. L. 107-296, title VIII, §899, Nov. 25, 2002, 116 Stat. 2258; Pub. L. 110-261, title I, §§107(c)(2), 110(b)(2), July 10, 2008, 122 Stat. 2464, 2466.)

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.

Section 1824(d) of this title, referred to in subsec. (j)(1), was redesignated section 1824(e) of this title by Pub. L. 106-567, title VI, §603(b)(1), Dec. 27, 2000, 114 Stat. 2853.

AMENDMENTS

2008—Subsec. (k)(1)(B). Pub. L. 110-261, §110(b)(2), substituted “sabotage, international terrorism, or the international proliferation of weapons of mass destruction” for “sabotage or international terrorism”.

Subsec. (k)(2). Pub. L. 110-261, §107(c)(2), substituted “1823(a)(6)” for “1823(a)(7)”.

2002—Subsec. (k)(1). Pub. L. 107-296, in introductory provision, 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.

EFFECTIVE DATE

Section effective 90 days after Oct. 14, 1994, with exception for certain physical searches approved by the Attorney General to gather foreign intelligence information, see section 807(c) of Pub. L. 103-359, set out as a note under section 1821 of this title.

§ 1826. Congressional oversight

On a semiannual basis the Attorney General shall fully inform the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate concerning all physical searches conducted pursuant to this subchapter. On a semiannual basis the Attorney General shall also provide to those committees a report setting forth with respect to the preceding six-month period—

(1) the total number of applications made for orders approving physical searches under this subchapter;

¹ See References in Text note below.

(2) the total number of such orders either granted, modified, or denied;

(3) the number of physical searches which involved searches of the residences, offices, or personal property of United States persons, and the number of occasions, if any, where the Attorney General provided notice pursuant to section 1825(b) of this title; and

(4) the total number of emergency physical searches authorized by the Attorney General under section 1824(e) of this title and the total number of subsequent orders approving or denying such physical searches.

(Pub. L. 95-511, title III, §306, as added Pub. L. 103-359, title VIII, §807(a)(3), Oct. 14, 1994, 108 Stat. 3451; amended Pub. L. 109-177, title I, §109(a), Mar. 9, 2006, 120 Stat. 204; Pub. L. 114-23, title VI, §605(b), June 2, 2015, 129 Stat. 298.)

AMENDMENTS

2015—Pub. L. 114-23, in introductory provisions, substituted “Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate” for “Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, and the Committee on the Judiciary of the Senate,” and struck out “and the Committee on the Judiciary of the House of Representatives” after “those committees”.

2006—Pub. L. 109-177, §109(a)(1), (2), in introductory provisions, inserted “, and the Committee on the Judiciary of the Senate,” after “Select Committee on Intelligence of the Senate” and substituted “and the Committee on the Judiciary of the House of Representatives” for “and the Committees on the Judiciary of the House of Representatives and the Senate”.

Par. (4). Pub. L. 109-177, §109(a)(3)–(5), added par. (4).

EFFECTIVE DATE

Section effective 90 days after Oct. 14, 1994, with exception for certain physical searches approved by the Attorney General to gather foreign intelligence information, see section 807(c) of Pub. L. 103-359, set out as a note under section 1821 of this title.

§ 1827. Penalties

(a) Prohibited activities

A person is guilty of an offense if he intentionally—

(1) under color of law for the purpose of obtaining foreign intelligence information, executes a physical search within the United States except as authorized by statute; or

(2) discloses or uses information obtained under color of law by physical search within the United States, knowing or having reason to know that the information was obtained through physical search not authorized by statute, for the purpose of obtaining intelligence information.

(b) Defense

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

(c) Fine or imprisonment

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 III, §307, as added Pub. L. 103-359, title VIII, §807(a)(3), Oct. 14, 1994, 108 Stat. 3452.)

EFFECTIVE DATE

Section effective 90 days after Oct. 14, 1994, with exception for certain physical searches approved by the Attorney General to gather foreign intelligence information, see section 807(c) of Pub. L. 103-359, set out as a note under section 1821 of this title.

§ 1828. Civil liability

An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 1801(a) or (b)(1)(A), respectively, of this title, whose premises, property, information, or material has been subjected to a physical search within the United States or about whom information obtained by such a physical search has been disclosed or used in violation of section 1827 of this title shall have a cause of action against any person who committed such violation and shall be entitled to recover—

(1) actual damages, but not less than liquidated damages of \$1,000 or \$100 per day for each day of violation, whichever is greater;

(2) punitive damages; and

(3) reasonable attorney’s fees and other investigative and litigation costs reasonably incurred.

(Pub. L. 95-511, title III, §308, as added Pub. L. 103-359, title VIII, §807(a)(3), Oct. 14, 1994, 108 Stat. 3452.)

EFFECTIVE DATE

Section effective 90 days after Oct. 14, 1994, with exception for certain physical searches approved by the Attorney General to gather foreign intelligence information, see section 807(c) of Pub. L. 103-359, set out as a note under section 1821 of this title.

§ 1829. Authorization during time of war

Notwithstanding any other provision of law, the President, through the Attorney General, may authorize physical searches without a court order under this subchapter to acquire foreign intelligence information for a period not to exceed 15 calendar days following a declaration of war by the Congress.

(Pub. L. 95-511, title III, §309, as added Pub. L. 103-359, title VIII, §807(a)(3), Oct. 14, 1994, 108 Stat. 3452.)

EFFECTIVE DATE

Section effective 90 days after Oct. 14, 1994, with exception for certain physical searches approved by the Attorney General to gather foreign intelligence information, see section 807(c) of Pub. L. 103-359, set out as a note under section 1821 of this title.

SUBCHAPTER III—PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN INTELLIGENCE PURPOSES

§ 1841. Definitions

As used in this subchapter: