

EFFECTIVE DATE OF REVIVAL

Revival of section by section 102(b)(1) of Pub. L. 109-177 effective Dec. 15, 2019, except that former provisions to continue in effect with respect to any particular foreign intelligence investigation that began before Dec. 15, 2019, or with respect to any particular offense or potential offense that began or occurred before Dec. 15, 2019, see section 102(b) of Pub. L. 109-177, set out as an Effective Date of 2006 Amendment note under section 1805 of this title.

§ 1864. Notification of changes to retention of call detail record policies

(a) Requirement to retain

(1) In general

Not later than 15 days after learning that an electronic communication service provider that generates call detail records in the ordinary course of business has changed the policy of the provider on the retention of such call detail records to result in a retention period of less than 18 months, the Director of National Intelligence shall notify, in writing, the congressional intelligence committees of such change.

(2) Report

Not later than 30 days after December 18, 2015, the Director shall submit to the congressional intelligence committees a report identifying each electronic communication service provider that has, as of the date of the report, a policy to retain call detail records for a period of 18 months or less.

(b) Definitions

In this section:

(1) Call detail record

The term “call detail record” has the meaning given that term in section 1861(k) of this title.

(2) Electronic communication service provider

The term “electronic communication service provider” has the meaning given that term in section 1881(b)(4) of this title.

(Pub. L. 114-113, div. M, title III, §307, Dec. 18, 2015, 129 Stat. 2916.)

CODIFICATION

Section was enacted as part of the Intelligence Authorization Act for Fiscal Year 2016, and also as part of the Consolidated Appropriations Act, 2016, and not as part of the Foreign Intelligence Surveillance Act of 1978 which comprises this chapter.

DEFINITIONS

For definition of “congressional intelligence committees” as used in this section, see section 2 of div. M of Pub. L. 114-113, set out as a note under section 3003 of this title.

SUBCHAPTER V—OVERSIGHT

CODIFICATION

Pub. L. 114-23, title IV, §402(a)(1), June 2, 2015, 129 Stat. 281, substituted “OVERSIGHT” for “REPORTING REQUIREMENT” in heading.

§ 1871. Semiannual report of the Attorney General

(a) Report

On a semiannual basis, the Attorney General shall submit to the Permanent Select Commit-

tee on Intelligence of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Committees on the Judiciary of the House of Representatives and the Senate, in a manner consistent with the protection of the national security, a report setting forth with respect to the preceding 6-month period—

(1) the aggregate number of persons targeted for orders issued under this chapter, including a breakdown of those targeted for—

(A) electronic surveillance under section 1805 of this title;

(B) physical searches under section 1824 of this title;

(C) pen registers under section 1842 of this title;

(D) access to records under section 1861 of this title;

(E) acquisitions under section 1881b of this title; and

(F) acquisitions under section 1881c of this title;

(2) the number of individuals covered by an order issued pursuant to section 1801(b)(1)(C) of this title;

(3) the number of times that the Attorney General has authorized that information obtained under this chapter may be used in a criminal proceeding or any information derived therefrom may be used in a criminal proceeding;

(4) a summary of significant legal interpretations of this chapter involving matters before the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review, including interpretations presented in applications or pleadings filed with the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review by the Department of Justice; and

(5) copies of all decisions, orders, or opinions of the Foreign Intelligence Surveillance Court or Foreign Intelligence Surveillance Court of Review that include significant construction or interpretation of the provisions of this chapter.

(b) Frequency

The first report under this section shall be submitted not later than 6 months after December 17, 2004. Subsequent reports under this section shall be submitted semi-annually thereafter.

(c) Submissions to Congress

The Attorney General shall submit to the committees of Congress referred to in subsection (a)—

(1) not later than 45 days after the date on which the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review issues a decision, order, or opinion, including any denial or modification of an application under this chapter, that includes significant construction or interpretation of any provision of law or results in a change of application of any provision of this chapter or a novel application of any provision of this chapter, a copy of such decision, order, or opinion and any pleadings, applications, or

memoranda of law associated with such decision, order, or opinion; and

(2) a copy of each such decision, order, or opinion, and any pleadings, applications, or memoranda of law associated with such decision, order, or opinion, that was issued during the 5-year period ending on July 10, 2008, and not previously submitted in a report under subsection (a).

(d) Protection of national security

The Attorney General, in consultation with the Director of National Intelligence, may authorize redactions of materials described in subsection (c) that are provided to the committees of Congress referred to in subsection (a), if such redactions are necessary to protect the national security of the United States and are limited to sensitive sources and methods information or the identities of targets.

(e) Definitions

In this section:

(1) Foreign Intelligence Surveillance Court

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

(2) Foreign Intelligence Surveillance Court of Review

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

(Pub. L. 95–511, title VI, § 601, as added Pub. L. 108–458, title VI, § 6002(a)(2), Dec. 17, 2004, 118 Stat. 3743; amended Pub. L. 110–261, title I, §§ 101(c)(2), 103, title IV, § 403(b)(2)(B), July 10, 2008, 122 Stat. 2459, 2460, 2474; Pub. L. 114–23, title VI, § 604, June 2, 2015, 129 Stat. 297.)

AMENDMENT OF SUBSECTION (a)(1)

Pub. L. 110–261, title IV, § 403(b)(2), July 10, 2008, 122 Stat. 2474, as amended by Pub. L. 112–238, § 2(a)(2), Dec. 30, 2012, 126 Stat. 1631; Pub. L. 115–118, title II, § 201(a)(2), Jan. 19, 2018, 132 Stat. 19, 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, 2023, subsection (a)(1) of this section is amended to read as it read on the day before July 10, 2008.

REFERENCES IN TEXT

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

PRIOR PROVISIONS

A prior section 601 of Pub. L. 95–511 was renumbered section 701 and was set out as a note under section 1801 of this title, prior to repeal by Pub. L. 110–261.

AMENDMENTS

2015—Subsec. (c)(1). Pub. L. 114–23 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “a copy of any decision, order, or opinion issued by the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review that includes significant construction or interpretation of any provision of this chapter, and any pleadings, applications, or

memoranda of law associated with such decision, order, or opinion, not later than 45 days after such decision, order, or opinion is issued; and”.

2008—Subsec. (a)(1)(E), (F). Pub. L. 110–261, § 101(c)(2), added subpars. (E) and (F).

Subsec. (a)(5). Pub. L. 110–261, § 103(a), substituted “, orders,” for “(not including orders)”.

Subsecs. (c), (d). Pub. L. 110–261, § 103(b), added subsecs. (c) and (d).

Subsec. (e). Pub. L. 110–261, § 103(c), added subsec. (e).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–261, title IV, § 403(b)(2), July 10, 2008, 122 Stat. 2474, as amended by Pub. L. 112–238, § 2(a)(2), Dec. 30, 2012, 126 Stat. 1631; Pub. L. 115–118, title II, § 201(a)(2), Jan. 19, 2018, 132 Stat. 19, 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 amendments made by section 403(b)(2) are effective Dec. 31, 2023.

§ 1872. Declassification of significant decisions, orders, and opinions

(a) Declassification required

Subject to subsection (b), the Director of National Intelligence, in consultation with the Attorney General, shall conduct a declassification review of each decision, order, or opinion issued by the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review (as defined in section 1871(e) of this title) that includes a significant construction or interpretation of any provision of law, including any novel or significant construction or interpretation of the term “specific selection term”, and, consistent with that review, make publicly available to the greatest extent practicable each such decision, order, or opinion.

(b) Redacted form

The Director of National Intelligence, in consultation with the Attorney General, may satisfy the requirement under subsection (a) to make a decision, order, or opinion described in such subsection publicly available to the greatest extent practicable by making such decision, order, or opinion publicly available in redacted form.

(c) National security waiver

The Director of National Intelligence, in consultation with the Attorney General, may waive the requirement to declassify and make publicly available a particular decision, order, or opinion under subsection (a), if—

(1) the Director of National Intelligence, in consultation with the Attorney General, determines that a waiver of such requirement is necessary to protect the national security of the United States or properly classified intelligence sources or methods; and

(2) the Director of National Intelligence makes publicly available an unclassified statement prepared by the Attorney General, in consultation with the Director of National Intelligence—

(A) summarizing the significant construction or interpretation of any provision of law, which shall include, to the extent consistent with national security, a description of the context in which the matter arises and any significant construction or interpretation of any statute, constitutional provi-