

(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 provision, or other legal authority relied on by the decision; and

(B) that specifies that the statement has been prepared by the Attorney General and constitutes no part of the opinion of the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review.

(Pub. L. 95-511, title VI, § 602, as added Pub. L. 114-23, title IV, § 402(a)(2), June 2, 2015, 129 Stat. 281.)

§ 1873. Annual reports

(a) Report by Director of the Administrative Office of the United States Courts

(1) Report required

The Director of the Administrative Office of the United States Courts shall annually submit to 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, subject to a declassification review by the Attorney General and the Director of National Intelligence, a report that includes—

(A) the number of applications or certifications for orders submitted under each of sections 1805, 1824, 1842, 1861, 1881a, 1881b, and 1881c of this title;

(B) the number of such orders granted under each of those sections;

(C) the number of orders modified under each of those sections;

(D) the number of applications or certifications denied under each of those sections;

(E) the number of appointments of an individual to serve as amicus curiae under section 1803 of this title, including the name of each individual appointed to serve as amicus curiae; and

(F) the number of findings issued under section 1803(i) of this title that such appointment is not appropriate and the text of any such findings.

(2) Publication

The Director shall make the report required under paragraph (1) publicly available on an Internet Web site, except that the Director shall not make publicly available on an Internet Web site the findings described in subparagraph (F) of paragraph (1).

(b) Mandatory reporting by Director of National Intelligence

Except as provided in subsection (d), the Director of National Intelligence shall annually

make publicly available on an Internet Web site a report that identifies, for the preceding 12-month period—

(1) the total number of orders issued pursuant to subchapters I and II and sections 1881b and 1881c of this title and a good faith estimate of—

(A) the number of targets of such orders;

(B) the number of targets of such orders who are known to not be United States persons; and

(C) the number of targets of such orders who are known to be United States persons;

(2) the total number of orders issued pursuant to section 1881a of this title, including pursuant to subsection (f)(2) of such section, and a good faith estimate of—

(A) the number of targets of such orders;

(B) the number of search terms concerning a known United States person used to retrieve the unminimized contents of electronic communications or wire communications obtained through acquisitions authorized under such section, excluding the number of search terms used to prevent the return of information concerning a United States person;

(C) the number of queries concerning a known United States person of unminimized noncontents information relating to electronic communications or wire communications obtained through acquisitions authorized under such section, excluding the number of queries containing information used to prevent the return of information concerning a United States person;¹

(D) the number of instances in which the Federal Bureau of Investigation opened, under the Criminal Investigative Division or any successor division, an investigation of a United States person (who is not considered a threat to national security) based wholly or in part on an acquisition authorized under such section;

(3) the total number of orders issued pursuant to subchapter III and a good faith estimate of—

(A) the number of targets of such orders, including—

(i) the number of targets of such orders who are known to not be United States persons; and

(ii) the number of targets of such orders who are known to be United States persons; and

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

(4) the number of criminal proceedings in which the United States or a State or political subdivision thereof provided notice pursuant to subsection (c) or (d) of section 1806 of this title (including with respect to information acquired from an acquisition conducted under section 1881a of this title) or subsection (d) or (e) of section 1825 of this title of the intent of the government to enter into evidence or

¹ So in original. Probably should be followed by "and".