

(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".

otherwise use or disclose any information obtained or derived from electronic surveillance, physical search, or an acquisition conducted pursuant to this chapter;

(5) the total number of orders issued pursuant to applications made under section 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;

(6) 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

(7) 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), (5), or (6) 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)(B), (2)(C), and (6)(C) of subsection (b) shall not apply to information or records held by, or queries conducted by, the Federal Bureau of Investigation, except with respect to information required under paragraph (2) relating to orders issued under section 1881a(f)(2) of this title.

(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)(C) cannot be determined accurately because some but not all of the relevant ele-

ments 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; amended Pub. L. 115-118, title I, § 102(b), Jan. 19, 2018, 132 Stat. 9.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(4), 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

2018—Subsec. (b)(1). Pub. L. 115–118, §102(b)(1)(A), substituted “good faith estimate of—” for “good faith estimate of the number of targets of such orders;” and added subpars. (A) to (C).

Subsec. (b)(2). Pub. L. 115–118, §102(b)(1)(B), inserted “, including pursuant to subsection (f)(2) of such section,” after “section 1881a of this title” in introductory provisions, added subpars. (A) and (D), and redesignated former subpars. (A) and (B) as (B) and (C), respectively.

Subsec. (b)(3)(A). Pub. L. 115–118, §102(b)(1)(C), substituted “orders, including—” for “orders; and” and added cls. (i) and (ii).

Subsec. (b)(4) to (7). Pub. L. 115–118, §102(b)(1)(D), (E), added par. (4) and redesignated former pars. (4) to (6) as (5) to (7), respectively.

Subsec. (d)(1). Pub. L. 115–118, §102(b)(2)(A), substituted “(5), or (6)” for “(4), or (5)”.

Subsec. (d)(2)(A). Pub. L. 115–118, §102(b)(2)(B), substituted “Paragraphs (2)(B), (2)(C), and (6)(C)” for “Paragraphs (2)(A), (2)(B), and (5)(C)” and inserted before period at end “, except with respect to information required under paragraph (2) relating to orders issued under section 1881a(f)(2) of this title”.

Subsec. (d)(3)(A). Pub. L. 115–118, §102(b)(2)(C), substituted “subsection (b)(2)(C)” for “subsection (b)(2)(B)” in introductory provisions.

§ 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 contents, 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 secu-

rity 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 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