

other case where the acquisition is terminated and no order with respect to the target of the acquisition is issued under subsection (c), no information obtained or evidence derived from such acquisition, except under circumstances in which the target of the acquisition is determined not to be a United States person, shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such acquisition shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

(e) Appeal

(1) Appeal to the Court of Review

The Government may file a petition with the Foreign Intelligence Surveillance Court of Review for review of an order issued pursuant to subsection (c). The Court of Review shall have jurisdiction to consider such petition and shall provide a written statement for the record of the reasons for a decision under this paragraph.

(2) Certiorari to the Supreme Court

The Government may file a petition for a writ of certiorari for review of a decision of the Court of Review issued under paragraph (1). The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

(Pub. L. 95-511, title VII, § 704, as added Pub. L. 110-261, title I, § 101(a)(2), July 10, 2008, 122 Stat. 2453.)

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; Pub. L. 115-118, title II, § 201(a)(1), 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 L. 110-261, set out as a note under section 1801 of this title, effective Dec. 31, 2023, this section is repealed.

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(2), (3)(B), (C), 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.

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; Pub. L. 115-118, title II, § 201(a)(1), 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 repeals made by section 403(b)(1) are effective Dec. 31, 2023.

§ 1881d. Joint applications and concurrent authorizations

(a) Joint applications and orders

If an acquisition targeting a United States person under section 1881b or 1881c of this title is proposed to be conducted both inside and outside the United States, a judge having jurisdiction under section 1881b(a)(1) or 1881c(a)(1) of this title may issue simultaneously, upon the request of the Government in a joint application complying with the requirements of sections 1881b(b) and 1881c(b) of this title, orders under sections 1881b(c) and 1881c(c) of this title, as appropriate.

(b) Concurrent authorization

If an order authorizing electronic surveillance or physical search has been obtained under section 1805 or 1824 of this title, the Attorney General may authorize, for the effective period of that order, without an order under section 1881b or 1881c of this title, the targeting of that United States person for the purpose of acquiring foreign intelligence information while such person is reasonably believed to be located outside the United States.

(c) Emergency authorization

(1) Concurrent authorization

If the Attorney General authorized the emergency employment of electronic surveillance or a physical search pursuant to section 1805 or 1824 of this title, the Attorney General may authorize, for the effective period of the emergency authorization and subsequent order pursuant to section 1805 or 1824 of this title, without a separate order under section 1881b or 1881c of this title, the targeting of a United States person subject to such emergency employment for the purpose of acquiring foreign intelligence information while such United States person is reasonably believed to be located outside the United States.

(2) Use of information

If an application submitted to the Court pursuant to section 1804 or 1823 of this title is denied, or in any other case in which the acquisition pursuant to paragraph (1) is terminated and no order with respect to the target of the acquisition is issued under section 1805 or 1824 of this title, all information obtained or evidence derived from such acquisition shall be handled in accordance with section 1881c(d)(4) of this title.

(Pub. L. 95-511, title VII, § 705, as added Pub. L. 110-261, title I, § 101(a)(2), July 10, 2008, 122 Stat. 2457; amended Pub. L. 115-118, title I, § 105, Jan. 19, 2018, 132 Stat. 13.)

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; Pub. L. 115-118, title II, § 201(a)(1), 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, this section is repealed.

AMENDMENTS

2018—Subsec. (c). Pub. L. 115-118 added subsec. (c).

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; Pub. L. 115-118, title II, §201(a)(1), 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 repeals made by section 403(b)(1) are effective Dec. 31, 2023.

§ 1881e. Use of information acquired under this subchapter

(a) Information acquired under section 1881a

(1) In general

Information acquired from an acquisition conducted under section 1881a of this title shall be deemed to be information acquired from an electronic surveillance pursuant to subchapter I for purposes of section 1806 of this title, except for the purposes of subsection (j) of such section.

(2) United States persons

(A) In general

Any information concerning a United States person acquired under section 1881a of this title shall not be used in evidence against that United States person pursuant to paragraph (1) in any criminal proceeding unless—

(i) the Federal Bureau of Investigation obtained an order of the Foreign Intelligence Surveillance Court to access such information pursuant to section 1881a(f)(2) of this title; or

(ii) the Attorney General determines that—

(I) the criminal proceeding affects, involves, or is related to the national security of the United States; or

(II) the criminal proceeding involves—

(aa) death;

(bb) kidnapping;

(cc) serious bodily injury, as defined in section 1365 of title 18;

(dd) conduct that constitutes a criminal offense that is a specified offense against a minor, as defined in section 20911 of title 34;

(ee) incapacitation or destruction of critical infrastructure, as defined in section 5195c(e) of title 42;

(ff) cybersecurity, including conduct described in section 5195c(e) of title 42 or section 1029, 1030, or 2511 of title 18;

(gg) transnational crime, including transnational narcotics trafficking and transnational organized crime; or

(hh) human trafficking.

(B) No judicial review

A determination by the Attorney General under subparagraph (A)(ii) is not subject to judicial review.

(b) Information acquired under section 1881b

Information acquired from an acquisition conducted under section 1881b of this title shall be deemed to be information acquired from an electronic surveillance pursuant to subchapter I for purposes of section 1806 of this title.

(Pub. L. 95-511, title VII, §706, as added Pub. L. 110-261, title I, §101(a)(2), July 10, 2008, 122 Stat. 2457; amended Pub. L. 115-118, title I, §102(a), Jan. 19, 2018, 132 Stat. 8.)

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; Pub. L. 115-118, title II, §201(a)(1), 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, this section is repealed.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-118 designated existing provisions as par. (1), inserted par. heading, and added par. (2).

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; Pub. L. 115-118, title II, §201(a)(1), 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 repeals made by section 403(b)(1) are effective Dec. 31, 2023.

§ 1881f. Congressional oversight

(a) Semiannual report

Not less frequently than once every 6 months, the Attorney General shall fully inform, in a manner consistent with national security, the congressional intelligence committees and the Committees on the Judiciary of the Senate and the House of Representatives, consistent with the Rules of the House of Representatives, the Standing Rules of the Senate, and Senate Resolution 400 of the 94th Congress or any successor Senate resolution, concerning the implementation of this subchapter.

(b) Content

Each report under subsection (a) shall include—

(1) with respect to section 1881a of this title—

(A) any certifications submitted in accordance with section 1881a(h) of this title during the reporting period;

(B) with respect to each determination under section 1881a(c)(2) of this title, the reasons for exercising the authority under such section;

(C) any directives issued under section 1881a(i) of this title during the reporting period;

(D) a description of the judicial review during the reporting period of such certifications and targeting and minimization procedures adopted in accordance with subsections (d) and (e) of section 1881a of this title and utilized with respect to an acquisition under such section, including a copy of an order or pleading in connection with such review that contains a significant legal interpretation of the provisions of section 1881a of this title;

(E) any actions taken to challenge or enforce a directive under paragraph (4) or (5) of section 1881a(i) of this title;