

order authorizing such installation and use can, with due diligence, be obtained, and

(2) there are grounds upon which an order could be entered under this chapter to authorize such installation and use;

may have installed and use a pen register or trap and trace device if, within forty-eight hours after the installation has occurred, or begins to occur, an order approving the installation or use is issued in accordance with section 3123 of this title.

(b) In the absence of an authorizing order, such use shall immediately terminate when the information sought is obtained, when the application for the order is denied or when forty-eight hours have lapsed since the installation of the pen register or trap and trace device, whichever is earlier.

(c) The knowing installation or use by any investigative or law enforcement officer of a pen register or trap and trace device pursuant to subsection (a) without application for the authorizing order within forty-eight hours of the installation shall constitute a violation of this chapter.

(d) A provider of a wire or electronic service, landlord, custodian, or other person who furnished facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.

(Added Pub. L. 100-690, title VII, § 7092(a)(2), Nov. 18, 1988, 102 Stat. 4410; amended Pub. L. 103-322, title XXXIII, § 330008(3), Sept. 13, 1994, 108 Stat. 2142; Pub. L. 104-294, title VI, § 601(f)(5), Oct. 11, 1996, 110 Stat. 3499; Pub. L. 107-296, title II, § 225(i), Nov. 25, 2002, 116 Stat. 2158.)

PRIOR PROVISIONS

A prior section 3125 was renumbered section 3126 of this title.

AMENDMENTS

2002—Subsec. (a)(1)(C), (D). Pub. L. 107-296 added subpars. (C) and (D).

1996—Subsec. (a). Pub. L. 104-294 struck out closing quotation mark at end.

1994—Subsec. (a). Pub. L. 103-322, § 330008(3)(A), (B), substituted “use;” for “use” in par. (2) and directed that matter beginning with “may have installed” and ending with “section 3123 of this title” be realigned so that it is flush to the left margin, which was executed to text containing a period after “section 3123 of this title”, to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 103-322, § 330008(3)(C), substituted “provider of” for “provider for”.

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.

§ 3126. Reports concerning pen registers and trap and trace devices

The Attorney General shall annually report to Congress on the number of pen register orders and orders for trap and trace devices applied for by law enforcement agencies of the Department of Justice, which report shall include information concerning—

(1) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

(2) the offense specified in the order or application, or extension of an order;

(3) the number of investigations involved;

(4) the number and nature of the facilities affected; and

(5) the identity, including district, of the applying investigative or law enforcement agency making the application and the person authorizing the order.

(Added Pub. L. 99-508, title III, § 301(a), Oct. 21, 1986, 100 Stat. 1871, § 3125; renumbered § 3126, Pub. L. 100-690, title VII, § 7092(a)(1), Nov. 18, 1988, 102 Stat. 4410; amended Pub. L. 106-197, § 3, May 2, 2000, 114 Stat. 247.)

PRIOR PROVISIONS

A prior section 3126 was renumbered section 3127 of this title.

AMENDMENTS

2000—Pub. L. 106-197 substituted “, which report shall include information concerning—” and pars. (1) to (5) for period at end.

1988—Pub. L. 100-690 renumbered section 3125 of this title as this section.

REPORT ON USE OF DCS 1000 (CARNIVORE) TO IMPLEMENT ORDERS UNDER SECTION 3123

Pub. L. 107-273, div. A, title III, § 305(a), Nov. 2, 2002, 116 Stat. 1782, provided that: “At the same time that the Attorney General submits to Congress the annual reports required by section 3126 of title 18, United States Code, that are respectively next due after the end of each of the fiscal years 2002 and 2003, the Attorney General shall also submit to the Chairmen and ranking minority members of the Committees on the Judiciary of the Senate and of the House of Representatives a report, covering the same respective time period, on the number of orders under section 3123 applied for by law enforcement agencies of the Department of Justice whose implementation involved the use of the DCS 1000 program (or any subsequent version of such program), which report shall include information concerning—

“(1) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

“(2) the offense specified in the order or application, or extension of an order;

“(3) the number of investigations involved;

“(4) the number and nature of the facilities affected;

“(5) the identity of the applying investigative or law enforcement agency making the application for an order; and

“(6) the specific persons authorizing the use of the DCS 1000 program (or any subsequent version of such program) in the implementation of such order.”

§ 3127. Definitions for chapter

As used in this chapter—

(1) the terms “wire communication”, “electronic communication”, “electronic communication service”, and “contents” have the meanings set forth for such terms in section 2510 of this title;

(2) the term “court of competent jurisdiction” means—

(A) any district court of the United States (including a magistrate judge of such a court) or any United States court of appeals that—

(i) has jurisdiction over the offense being investigated;

(ii) is in or for a district in which the provider of a wire or electronic communication service is located;

(iii) is in or for a district in which a landlord, custodian, or other person subject to subsections (a) or (b) of section 3124 of this title is located; or

(iv) is acting on a request for foreign assistance pursuant to section 3512 of this title; or

(B) a court of general criminal jurisdiction of a State authorized by the law of that State to enter orders authorizing the use of a pen register or a trap and trace device;

(3) the term “pen register” means a device or process which records or decodes dialing, routing, addressing, or signaling information transmitted by an instrument or facility from which a wire or electronic communication is transmitted, provided, however, that such information shall not include the contents of any communication, but such term does not include any device or process used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider or any device or process used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business;

(4) the term “trap and trace device” means a device or process which captures the incoming electronic or other impulses which identify the originating number or other dialing, routing, addressing, and signaling information reasonably likely to identify the source of a wire or electronic communication, provided, however, that such information shall not include the contents of any communication;

(5) the term “attorney for the Government” has the meaning given such term for the purposes of the Federal Rules of Criminal Procedure; and

(6) the term “State” means a State, the District of Columbia, Puerto Rico, and any other possession or territory of the United States.

(Added Pub. L. 99-508, title III, § 301(a), Oct. 21, 1986, 100 Stat. 1871, § 3126; renumbered § 3127, Pub. L. 100-690, title VII, § 7092(a)(1), Nov. 18, 1988, 102 Stat. 4410; amended Pub. L. 107-56, title II, § 216(c)(1)-(4), Oct. 26, 2001, 115 Stat. 290; Pub. L. 111-79, § 2(3), Oct. 19, 2009, 123 Stat. 2087.)

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in par. (5), are set out in the Appendix to this title.

AMENDMENTS

2009—Par. (2)(A). Pub. L. 111-79 substituted “that—” and cls. (i) to (iv) for “having jurisdiction over the offense being investigated; or”.

2001—Par. (1). Pub. L. 107-56, § 216(c)(4), struck out “and” after “‘electronic communication,’” and inserted “, and ‘contents’” after “‘electronic communication service’”.

Par. (2)(A). Pub. L. 107-56, § 216(c)(1), added subpar. (A) and struck out former subpar. (A) which read as follows: “a district court of the United States (including a magistrate judge of such a court) or a United States Court of Appeals; or”.

Par. (3). Pub. L. 107-56, § 216(c)(2), substituted “dialing, routing, addressing, or signaling information transmitted by an instrument or facility from which a wire or electronic communication is transmitted, provided, however, that such information shall not include the contents of any communication” for “‘electronic or other impulses which identify the numbers dialed or otherwise transmitted on the telephone line to which such device is attached’” and inserted “or process” after “device” wherever appearing.

Par. (4). Pub. L. 107-56, § 216(c)(3), inserted “or process” after “means a device” and substituted “or other dialing, routing, addressing, and signaling information reasonably likely to identify the source of a wire or electronic communication, provided, however, that such information shall not include the contents of any communication;” for “‘of an instrument or device from which a wire or electronic communication was transmitted;’”.

1988—Pub. L. 100-690 renumbered section 3126 of this title as this section.

CHAPTER 207—RELEASE AND DETENTION PENDING JUDICIAL PROCEEDINGS

Sec.	
3141.	Release and detention authority generally.
3142.	Release or detention of a defendant pending trial.
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3154.	Functions and powers relating to pretrial services.
3155.	Annual reports.
3156.	Definitions.

AMENDMENTS

1988—Pub. L. 100-690, title VII, § 7084(b), Nov. 18, 1988, 102 Stat. 4408, added item 3151.

1984—Pub. L. 98-473, title II, § 203(e), Oct. 12, 1984, 98 Stat. 1985, inserted “AND DETENTION PENDING JUDICIAL PROCEEDING” in chapter heading, added new items 3141 to 3150, and struck out former items 3141 to 3151 as follows: item 3141 “Power of courts and magistrates”, item 3142 “Surrender by bail”, item 3143 “Additional bail”, item 3144 “Cases removed from State courts”, item 3145 “Parties and witnesses—Rule”, item 3146 “Release in noncapital cases prior to trial”, item 3147 “Appeal from conditions of release”, item 3148 “Release in capital cases or after conviction”, item 3149 “Release of material witnesses”, item 3150 “Penalties for failure to appear”, item 3150a “Refund of forfeited bail”, item 3151 “Contempt”.

1982—Pub. L. 97-267, § 6, Sept. 27, 1982, 96 Stat. 1138, struck out “agencies” after “services” in item 3152, substituted “and administration of pretrial services” for “of pretrial services agencies” in item 3153, “relating to pretrial services” for “of pretrial services agencies” in item 3154, and “Annual reports” for “Report to Congress” in item 3155.

Pub. L. 97-258, § 2(d)(3)(A), Sept. 13, 1982, 96 Stat. 1058, added item 3150a.

1975—Pub. L. 93-619, title II, § 202, Jan. 3, 1975, 88 Stat. 2089, added items 3153 to 3156, and in item 3152, substituted “Establishment of Pretrial Services Agencies” for “Definitions”.