

“(2) PROHIBITION ON GRAVE BREACHES.—The provisions of section 2441 of title 18, United States Code, as amended by this section, fully satisfy the obligation under Article 129 of the Third Geneva Convention for the United States to provide effective penal sanctions for grave breaches which are encompassed in common Article 3 in the context of an armed conflict not of an international character. No foreign or international source of law shall supply a basis for a rule of decision in the courts of the United States in interpreting the prohibitions enumerated in subsection (d) of such section 2441.

“(3) INTERPRETATION BY THE PRESIDENT.—

“(A) As provided by the Constitution and by this section, the President has the authority for the United States to interpret the meaning and application of the Geneva Conventions and to promulgate higher standards and administrative regulations for violations of treaty obligations which are not grave breaches of the Geneva Conventions.

“(B) The President shall issue interpretations described by subparagraph (A) by Executive Order published in the Federal Register.

“(C) Any Executive Order published under this paragraph shall be authoritative (except as to grave breaches of common Article 3) as a matter of United States law, in the same manner as other administrative regulations.

“(D) Nothing in this section shall be construed to affect the constitutional functions and responsibilities of Congress and the judicial branch of the United States.

“(4) DEFINITIONS.—In this subsection:

“(A) GENEVA CONVENTIONS.—The term ‘Geneva Conventions’ means—

“(i) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3217);

“(ii) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

“(iii) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

“(iv) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

“(B) THIRD GENEVA CONVENTION.—The term ‘Third Geneva Convention’ means the international convention referred to in subparagraph (A)(iii).”

EXECUTIVE ORDER NO. 13440

Ex. Ord. No. 13440, July 20, 2007, 72 F.R. 40707, which interpreted the Geneva Conventions Common Article 3 as applied to a program of detention and interrogation operated by the Central Intelligence Agency, was revoked by Ex. Ord. No. 13491, §1, Jan. 22, 2009, 74 F.R. 4893, set out as a note under section 2000dd of Title 42, The Public Health and Welfare.

§ 2442. Recruitment or use of child soldiers

(a) OFFENSE.—Whoever knowingly—

(1) recruits, enlists, or conscripts a person to serve while such person is under 15 years of age in an armed force or group; or

(2) uses a person under 15 years of age to participate actively in hostilities;

knowing such person is under 15 years of age, shall be punished as provided in subsection (b).

(b) PENALTY.—Whoever violates, or attempts or conspires to violate, subsection (a) shall be fined under this title or imprisoned not more than 20 years, or both and, if death of any person results, shall be fined under this title and imprisoned for any term of years or for life.

(c) JURISDICTION.—There is jurisdiction over an offense described in subsection (a), and any attempt or conspiracy to commit such offense, if—

(1) the alleged offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act (8 U.S.C. 1101(a)(20)));<sup>1</sup>

(2) the alleged offender is a stateless person whose habitual residence is in the United States;

(3) the alleged offender is present in the United States, irrespective of the nationality of the alleged offender; or

(4) the offense occurs in whole or in part within the United States.

(d) DEFINITIONS.—In this section:

(1) PARTICIPATE ACTIVELY IN HOSTILITIES.—The term “participate actively in hostilities” means taking part in—

(A) combat or military activities related to combat, including sabotage and serving as a decoy, a courier, or at a military checkpoint; or

(B) direct support functions related to combat, including transporting supplies or providing other services.

(2) ARMED FORCE OR GROUP.—The term “armed force or group” means any army, militia, or other military organization, whether or not it is state-sponsored, excluding any group assembled solely for nonviolent political association.

(Added Pub. L. 110-340, §2(a)(1), Oct. 3, 2008, 122 Stat. 3735.)

CHAPTER 119—WIRE AND ELECTRONIC COMMUNICATIONS INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS

Sec. 2510.	Definitions.
2511.	Interception and disclosure of wire, oral, or electronic communications prohibited.
2512.	Manufacture, distribution, possession, and advertising of wire, oral, or electronic communication intercepting devices prohibited.
2513.	Confiscation of wire, oral, or electronic communication intercepting devices.
[2514.	Repealed.]
2515.	Prohibition of use as evidence of intercepted wire or oral communications.
2516.	Authorization for interception of wire, oral, or electronic communications.
2517.	Authorization for disclosure and use of intercepted wire, oral, or electronic communications.
2518.	Procedure for interception of wire, oral, or electronic communications.
2519.	Reports concerning intercepted wire, oral, or electronic communications.
2520.	Recovery of civil damages authorized.
2521.	Injunction against illegal interception.
2522.	Enforcement of the Communications Assistance for Law Enforcement Act.

AMENDMENTS

1994—Pub. L. 103-414, title II, §201(b)(3), Oct. 25, 1994, 108 Stat. 4290, added item 2522.

<sup>1</sup>So in original. An additional closing parenthesis probably should precede the semicolon.

1988—Pub. L. 100-690, title VII, § 7035, Nov. 18, 1988, 102 Stat. 4398, substituted “wire, oral, or electronic” for “wire or oral” in items 2511, 2512, 2513, 2516, 2517, 2518, and 2519.

1986—Pub. L. 99-508, title I, §§ 101(c)(2), 110(b), Oct. 21, 1986, 100 Stat. 1851, 1859, inserted “AND ELECTRONIC COMMUNICATIONS” in chapter heading and added item 2521.

1970—Pub. L. 91-452, title II, § 227(b), Oct. 15, 1970, 84 Stat. 930, struck out item 2514 “Immunity of witnesses”, which section was repealed four years following the sixtieth day after Oct. 15, 1970.

1968—Pub. L. 90-351, title III, § 802, June 19, 1968, 82 Stat. 212, added chapter 119 and items 2510 to 2520.

### § 2510. Definitions

As used in this chapter—

(1) “wire communication” means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception (including the use of such connection in a switching station) furnished or operated by any person engaged in providing or operating such facilities for the transmission of interstate or foreign communications or communications affecting interstate or foreign commerce;

(2) “oral communication” means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation, but such term does not include any electronic communication;

(3) “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

(4) “intercept” means the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device.<sup>1</sup>

(5) “electronic, mechanical, or other device” means any device or apparatus which can be used to intercept a wire, oral, or electronic communication other than—

(a) any telephone or telegraph instrument, equipment or facility, or any component thereof, (i) furnished to the subscriber or user by a provider of wire or electronic communication service in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business; or (ii) being used by a provider of wire or electronic communication service in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his duties;

(b) a hearing aid or similar device being used to correct subnormal hearing to not better than normal;

(6) “person” means any employee, or agent of the United States or any State or political subdivision thereof, and any individual, part-

nership, association, joint stock company, trust, or corporation;

(7) “Investigative or law enforcement officer” means any officer of the United States or of a State or political subdivision thereof, who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in this chapter, and any attorney authorized by law to prosecute or participate in the prosecution of such offenses;

(8) “contents”, when used with respect to any wire, oral, or electronic communication, includes any information concerning the substance, purport, or meaning of that communication;

(9) “Judge of competent jurisdiction” means—

(a) a judge of a United States district court or a United States court of appeals; and

(b) a judge of any court of general criminal jurisdiction of a State who is authorized by a statute of that State to enter orders authorizing interceptions of wire, oral, or electronic communications;

(10) “communication common carrier” has the meaning given that term in section 3 of the Communications Act of 1934;

(11) “aggrieved person” means a person who was a party to any intercepted wire, oral, or electronic communication or a person against whom the interception was directed;

(12) “electronic communication” means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects interstate or foreign commerce, but does not include—

(A) any wire or oral communication;

(B) any communication made through a tone-only paging device;

(C) any communication from a tracking device (as defined in section 3117 of this title); or

(D) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds;

(13) “user” means any person or entity who—

(A) uses an electronic communication service; and

(B) is duly authorized by the provider of such service to engage in such use;

(14) “electronic communications system” means any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of wire or electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications;

(15) “electronic communication service” means any service which provides to users thereof the ability to send or receive wire or electronic communications;

(16) “readily accessible to the general public” means, with respect to a radio communication, that such communication is not—

(A) scrambled or encrypted;

<sup>1</sup> So in original. The period probably should be a semicolon.

(B) transmitted using modulation techniques whose essential parameters have been withheld from the public with the intention of preserving the privacy of such communication;

(C) carried on a subcarrier or other signal subsidiary to a radio transmission;

(D) transmitted over a communication system provided by a common carrier, unless the communication is a tone only paging system communication; or

(E) transmitted on frequencies allocated under part 25, subpart D, E, or F of part 74, or part 94 of the Rules of the Federal Communications Commission, unless, in the case of a communication transmitted on a frequency allocated under part 74 that is not exclusively allocated to broadcast auxiliary services, the communication is a two-way voice communication by radio;

(17) “electronic storage” means—

(A) any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and

(B) any storage of such communication by an electronic communication service for purposes of backup protection of such communication;

(18) “aural transfer” means a transfer containing the human voice at any point between and including the point of origin and the point of reception;

(19) “foreign intelligence information”, for purposes of section 2517(6) of this title, means—

(A) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against—

(i) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(ii) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(iii) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(B) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to—

(i) the national defense or the security of the United States; or

(ii) the conduct of the foreign affairs of the United States;

(20) “protected computer” has the meaning set forth in section 1030; and

(21) “computer trespasser”—

(A) means a person who accesses a protected computer without authorization and thus has no reasonable expectation of privacy in any communication transmitted to, through, or from the protected computer; and

(B) does not include a person known by the owner or operator of the protected computer

to have an existing contractual relationship with the owner or operator of the protected computer for access to all or part of the protected computer.

(Added Pub. L. 90-351, title III, § 802, June 19, 1968, 82 Stat. 212; amended Pub. L. 99-508, title I, § 101(a), (c)(1)(A), (4), Oct. 21, 1986, 100 Stat. 1848, 1851; Pub. L. 103-414, title II, §§ 202(a), 203, Oct. 25, 1994, 108 Stat. 4290, 4291; Pub. L. 104-132, title VII, § 731, Apr. 24, 1996, 110 Stat. 1303; Pub. L. 107-56, title II, §§ 203(b)(2), 209(1), 217(1), Oct. 26, 2001, 115 Stat. 280, 283, 290; Pub. L. 107-108, title III, § 314(b), Dec. 28, 2001, 115 Stat. 1402; Pub. L. 107-273, div. B, title IV, § 4002(e)(10), Nov. 2, 2002, 116 Stat. 1810.)

#### REFERENCES IN TEXT

Section 3 of the Communications Act of 1934, referred to in par. (10), is classified to section 153 of Title 47, Telecommunications.

#### AMENDMENTS

2002—Par. (10). Pub. L. 107-273 substituted “has the meaning given that term in section 3 of the Communications Act of 1934;” for “shall have the same meaning which is given the term ‘common carrier’ by section 153(h) of title 47 of the United States Code;”.

2001—Par. (1). Pub. L. 107-56, § 209(1)(A), struck out “and such term includes any electronic storage of such communication” before semicolon at end.

Par. (14). Pub. L. 107-56, § 209(1)(B), inserted “wire or” after “transmission of”.

Par. (19). Pub. L. 107-108 inserted “, for purposes of section 2517(6) of this title,” before “means” in introductory provisions.

Pub. L. 107-56, § 203(b)(2), added par. (19).

Pars. (20), (21). Pub. L. 107-56, § 217(1), added pars. (20) and (21).

1996—Par. (12)(D). Pub. L. 104-132, § 731(1), added subpar. (D).

Par. (16)(F). Pub. L. 104-132, § 731(2), struck out subpar. (F) which read as follows: “an electronic communication;”.

1994—Par. (1). Pub. L. 103-414, § 202(a)(1), struck out before semicolon at end “, but such term does not include the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit”.

Par. (12). Pub. L. 103-414, § 202(a)(2), redesignated subpars. (B) to (D) as (A) to (C), respectively, and struck out former subpar. (A) which read as follows: “the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit;”.

Par. (16)(F). Pub. L. 103-414, § 203, added subpar. (F).

1986—Par. (1). Pub. L. 99-508, § 101(a)(1), substituted “any aural transfer” for “any communication”, inserted “(including the use of such connection in a switching station)” after “reception”, struck out “as a common carrier” after “person engaged”, and inserted “or communications affecting interstate or foreign commerce and such term includes any electronic storage of such communication, but such term does not include the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit” before the semicolon at end.

Par. (2). Pub. L. 99-508, § 101(a)(2), inserted “, but such term does not include any electronic communication” before the semicolon at end.

Par. (4). Pub. L. 99-508, § 101(a)(3), inserted “or other” after “aural” and “, electronic,” after “wire”.

Par. (5). Pub. L. 99-508, § 101(a)(4), (c)(1)(A), (4), substituted “wire, oral, or electronic” for “wire or oral” in introductory provisions, substituted “provider of wire or electronic communication service” for “communications common carrier” in subpars. (a)(i) and (ii), and

inserted “or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business” before the semicolon in subpar. (a)(i).

Par. (8). Pub. L. 99-508, §101(a)(5), (c)(1)(A), substituted “wire, oral, or electronic” for “wire or oral” and struck out “identity of the parties to such communication or the existence,” after “concerning the”.

Pars. (9)(b), (11). Pub. L. 99-508, §101(c)(1)(A), substituted “wire, oral, or electronic” for “wire or oral”.

Pars. (12) to (18). Pub. L. 99-508, §101(a)(6), added pars. (12) to (18).

#### TERMINATION DATE OF 2001 AMENDMENT

Pub. L. 107-56, title II, §224, Oct. 26, 2001, 115 Stat. 295, as amended by Pub. L. 109-160, §1, Dec. 30, 2005, 119 Stat. 2957; Pub. L. 109-170, §1, Feb. 3, 2006, 120 Stat. 3, which provided that title II of Pub. L. 107-56 and the amendments made by that title would cease to have effect on Mar. 10, 2006, with certain exceptions, was repealed by Pub. L. 109-177, title I, §102(a), Mar. 9, 2006, 120 Stat. 194.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-508, title I, §111, Oct. 21, 1986, 100 Stat. 1859, provided that:

“(a) IN GENERAL.—Except as provided in subsection (b) or (c), this title and the amendments made by this title [enacting sections 2521 and 3117 of this title, amending this section and sections 2232, 2511 to 2513, and 2516 to 2520 of this title, and enacting provisions set out as notes under this section] shall take effect 90 days after the date of the enactment of this Act [Oct. 21, 1986] and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this title takes effect.

“(b) SPECIAL RULE FOR STATE AUTHORIZATIONS OF INTERCEPTIONS.—Any interception pursuant to section 2516(2) of title 18 of the United States Code which would be valid and lawful without regard to the amendments made by this title shall be valid and lawful notwithstanding such amendments if such interception occurs during the period beginning on the date such amendments take effect and ending on the earlier of—

“(1) the day before the date of the taking effect of State law conforming the applicable State statute with chapter 119 of title 18, United States Code, as so amended; or

“(2) the date two years after the date of the enactment of this Act [Oct. 21, 1986].

“(c) EFFECTIVE DATE FOR CERTAIN APPROVALS BY JUSTICE DEPARTMENT OFFICIALS.—Section 104 of this Act [amending section 2516 of this title] shall take effect on the date of enactment of this Act [Oct. 21, 1986].”

#### SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105-112, §1, Nov. 21, 1997, 111 Stat. 2273, provided that: “This Act [amending section 2512 of this title] may be cited as the ‘Law Enforcement Technology Advertisement Clarification Act of 1997.’”

#### SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99-508, §1, Oct. 21, 1986, 100 Stat. 1848, provided that: “This Act [enacting sections 1367, 2521, 2701 to 2710, 3117, and 3121 to 3126 of this title, amending sections 2232, 2511 to 2513, and 2516 to 2520 of this title, and enacting provisions set out as notes under this section and sections 2701 and 3121 of this title] may be cited as the ‘Electronic Communications Privacy Act of 1986.’”

#### INTELLIGENCE ACTIVITIES

Pub. L. 99-508, title I, §107, Oct. 21, 1986, 100 Stat. 1858, provided that:

“(a) IN GENERAL.—Nothing in this Act or the amendments made by this Act [see Short Title of 1986 Amendment note above] constitutes authority for the conduct of any intelligence activity.

“(b) CERTAIN ACTIVITIES UNDER PROCEDURES APPROVED BY THE ATTORNEY GENERAL.—Nothing in chap-

ter 119 or chapter 121 of title 18, United States Code, shall affect the conduct, by officers or employees of the United States Government in accordance with other applicable Federal law, under procedures approved by the Attorney General of activities intended to—

“(1) intercept encrypted or other official communications of United States executive branch entities or United States Government contractors for communications security purposes;

“(2) intercept radio communications transmitted between or among foreign powers or agents of a foreign power as defined by the Foreign Intelligence Surveillance Act of 1978 [50 U.S.C. 1801 et seq.]; or

“(3) access an electronic communication system used exclusively by a foreign power or agent of a foreign power as defined by the Foreign Intelligence Surveillance Act of 1978.”

#### CONGRESSIONAL FINDINGS

Pub. L. 90-351, title III, §801, June 19, 1968, 82 Stat. 211, provided that: “On the basis of its own investigations and of published studies, the Congress makes the following findings:

“(a) Wire communications are normally conducted through the use of facilities which form part of an interstate network. The same facilities are used for interstate and intrastate communications. There has been extensive wiretapping carried on without legal sanctions, and without the consent of any of the parties to the conversation. Electronic, mechanical, and other intercepting devices are being used to overhear oral conversations made in private, without the consent of any of the parties to such communications. The contents of these communications and evidence derived therefrom are being used by public and private parties as evidence in court and administrative proceedings, and by persons whose activities affect interstate commerce. The possession, manufacture, distribution, advertising, and use of these devices are facilitated by interstate commerce.

“(b) In order to protect effectively the privacy of wire and oral communications, to protect the integrity of court and administrative proceedings, and to prevent the obstruction of interstate commerce, it is necessary for Congress to define on a uniform basis the circumstances and conditions under which the interception of wire and oral communications may be authorized, to prohibit any unauthorized interception of such communications, and the use of the contents thereof in evidence in courts and administrative proceedings.

“(c) Organized criminals make extensive use of wire and oral communications in their criminal activities. The interception of such communications to obtain evidence of the commission of crimes or to prevent their commission is an indispensable aid to law enforcement and the administration of justice.

“(d) To safeguard the privacy of innocent persons, the interception of wire or oral communications where none of the parties to the communication has consented to the interception should be allowed only when authorized by a court of competent jurisdiction and should remain under the control and supervision of the authorizing court. Interception of wire and oral communications should further be limited to certain major types of offenses and specific categories of crime with assurances that the interception is justified and that the information obtained thereby will not be misused.”

#### NATIONAL COMMISSION FOR THE REVIEW OF FEDERAL AND STATE LAWS RELATING TO WIRETAPPING AND ELECTRONIC SURVEILLANCE

Pub. L. 90-351, title III, §804, June 19, 1968, 82 Stat. 223, as amended by Pub. L. 91-452, title XII, §1212, Oct. 15, 1970, 84 Stat. 961; Pub. L. 91-644, title VI, §20, Jan. 2, 1971, 84 Stat. 1892; Pub. L. 93-609, §§1-4, Jan. 2, 1975, 88 Stat. 1972, 1973; Pub. L. 94-176, Dec. 23, 1975, 89 Stat. 1031, established a National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance, provided for its membership,

Chairman, powers and functions, compensation and allowances, required the Commission to study and review the operation of the provisions of this chapter to determine their effectiveness and to submit interim reports and a final report to the President and to the Congress of its findings and recommendations on or before Apr. 30, 1976, and also provided for its termination sixty days after submission of the final report.

**§ 2511. Interception and disclosure of wire, oral, or electronic communications prohibited**

(1) Except as otherwise specifically provided in this chapter any person who—

(a) intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire, oral, or electronic communication;

(b) intentionally uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when—

(i) such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication; or

(ii) such device transmits communications by radio, or interferes with the transmission of such communication; or

(iii) such person knows, or has reason to know, that such device or any component thereof has been sent through the mail or transported in interstate or foreign commerce; or

(iv) such use or endeavor to use (A) takes place on the premises of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or (B) obtains or is for the purpose of obtaining information relating to the operations of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or

(v) such person acts in the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;

(c) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection;

(d) intentionally uses, or endeavors to use, the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection; or

(e)(i) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by sections 2511(2)(a)(ii), 2511(2)(b)–(c), 2511(2)(e), 2516, and 2518 of this chapter, (ii) knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, (iii) having obtained or received

the information in connection with a criminal investigation, and (iv) with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation,

shall be punished as provided in subsection (4) or shall be subject to suit as provided in subsection (5).

(2)(a)(i) It shall not be unlawful under this chapter for an operator of a switchboard, or an officer, employee, or agent of a provider of wire or electronic communication service, whose facilities are used in the transmission of a wire or electronic communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the provider of that service, except that a provider of wire communication service to the public shall not utilize service observing or random monitoring except for mechanical or service quality control checks.

(ii) Notwithstanding any other law, providers of wire or electronic communication service, their officers, employees, and agents, landlords, custodians, or other persons, are authorized to provide information, facilities, or technical assistance to persons authorized by law to intercept wire, oral, or electronic communications or to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, if such provider, its officers, employees, or agents, landlord, custodian, or other specified person, has been provided with—

(A) a court order directing such assistance or a court order pursuant to section 704 of the Foreign Intelligence Surveillance Act of 1978 signed by the authorizing judge, or

(B) a certification in writing by a person specified in section 2518(7) of this title or the Attorney General of the United States that no warrant or court order is required by law, that all statutory requirements have been met, and that the specified assistance is required,

setting forth the period of time during which the provision of the information, facilities, or technical assistance is authorized and specifying the information, facilities, or technical assistance required. No provider of wire or electronic communication service, officer, employee, or agent thereof, or landlord, custodian, or other specified person shall disclose the existence of any interception or surveillance or the device used to accomplish the interception or surveillance with respect to which the person has been furnished a court order or certification under this chapter, except as may otherwise be required by legal process and then only after prior notification to the Attorney General or to the principal prosecuting attorney of a State or any political subdivision of a State, as may be appropriate. Any such disclosure, shall render such person liable for the civil damages provided for in section 2520. No cause of action shall lie in any court against any provider of wire or electronic communication service, its officers, employees, or agents, landlord, custodian, or other specified person for providing information, facilities, or assistance in accordance with the

terms of a court order, statutory authorization, or certification under this chapter.

(iii) If a certification under subparagraph (ii)(B) for assistance to obtain foreign intelligence information is based on statutory authority, the certification shall identify the specific statutory provision and shall certify that the statutory requirements have been met.

(b) It shall not be unlawful under this chapter for an officer, employee, or agent of the Federal Communications Commission, in the normal course of his employment and in discharge of the monitoring responsibilities exercised by the Commission in the enforcement of chapter 5 of title 47 of the United States Code, to intercept a wire or electronic communication, or oral communication transmitted by radio, or to disclose or use the information thereby obtained.

(c) It shall not be unlawful under this chapter for a person acting under color of law to intercept a wire, oral, or electronic communication, where such person is a party to the communication or one of the parties to the communication has given prior consent to such interception.

(d) It shall not be unlawful under this chapter for a person not acting under color of law to intercept a wire, oral, or electronic communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any State.

(e) Notwithstanding any other provision of this title or section 705 or 706 of the Communications Act of 1934, it shall not be unlawful for an officer, employee, or agent of the United States in the normal course of his official duty to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, as authorized by that Act.

(f) Nothing contained in this chapter or chapter 121 or 206 of this title, or section 705 of the Communications Act of 1934, shall be deemed to affect the acquisition by the United States Government of foreign intelligence information from international or foreign communications, or foreign intelligence activities conducted in accordance with otherwise applicable Federal law involving a foreign electronic communications system, utilizing a means other than electronic surveillance as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, and procedures in this chapter or chapter 121 and the Foreign Intelligence Surveillance Act of 1978 shall be the exclusive means by which electronic surveillance, as defined in section 101 of such Act, and the interception of domestic wire, oral, and electronic communications may be conducted.

(g) It shall not be unlawful under this chapter or chapter 121 of this title for any person—

(i) to intercept or access an electronic communication made through an electronic communication system that is configured so that such electronic communication is readily accessible to the general public;

(ii) to intercept any radio communication which is transmitted—

(I) by any station for the use of the general public, or that relates to ships, aircraft, vehicles, or persons in distress;

(II) by any governmental, law enforcement, civil defense, private land mobile, or public safety communications system, including police and fire, readily accessible to the general public;

(III) by a station operating on an authorized frequency within the bands allocated to the amateur, citizens band, or general mobile radio services; or

(IV) by any marine or aeronautical communications system;

(iii) to engage in any conduct which—

(I) is prohibited by section 633 of the Communications Act of 1934; or

(II) is excepted from the application of section 705(a) of the Communications Act of 1934 by section 705(b) of that Act;

(iv) to intercept any wire or electronic communication the transmission of which is causing harmful interference to any lawfully operating station or consumer electronic equipment, to the extent necessary to identify the source of such interference; or

(v) for other users of the same frequency to intercept any radio communication made through a system that utilizes frequencies monitored by individuals engaged in the provision or the use of such system, if such communication is not scrambled or encrypted.

(h) It shall not be unlawful under this chapter—

(i) to use a pen register or a trap and trace device (as those terms are defined for the purposes of chapter 206 (relating to pen registers and trap and trace devices) of this title); or

(ii) for a provider of electronic communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire or electronic communication, or a user of that service, from fraudulent, unlawful or abusive use of such service.

(i) It shall not be unlawful under this chapter for a person acting under color of law to intercept the wire or electronic communications of a computer trespasser transmitted to, through, or from the protected computer, if—

(I) the owner or operator of the protected computer authorizes the interception of the computer trespasser's communications on the protected computer;

(II) the person acting under color of law is lawfully engaged in an investigation;

(III) the person acting under color of law has reasonable grounds to believe that the contents of the computer trespasser's communications will be relevant to the investigation; and

(IV) such interception does not acquire communications other than those transmitted to or from the computer trespasser.

(3)(a) Except as provided in paragraph (b) of this subsection, a person or entity providing an electronic communication service to the public shall not intentionally divulge the contents of any communication (other than one to such per-

son or entity, or an agent thereof) while in transmission on that service to any person or entity other than an addressee or intended recipient of such communication or an agent of such addressee or intended recipient.

(b) A person or entity providing electronic communication service to the public may divulge the contents of any such communication—

(i) as otherwise authorized in section 2511(2)(a) or 2517 of this title;

(ii) with the lawful consent of the originator or any addressee or intended recipient of such communication;

(iii) to a person employed or authorized, or whose facilities are used, to forward such communication to its destination; or

(iv) which were inadvertently obtained by the service provider and which appear to pertain to the commission of a crime, if such divulgence is made to a law enforcement agency.

(4)(a) Except as provided in paragraph (b) of this subsection or in subsection (5), whoever violates subsection (1) of this section shall be fined under this title or imprisoned not more than five years, or both.

(b) Conduct otherwise an offense under this subsection that consists of or relates to the interception of a satellite transmission that is not encrypted or scrambled and that is transmitted—

(i) to a broadcasting station for purposes of retransmission to the general public; or

(ii) as an audio subcarrier intended for redistribution to facilities open to the public, but not including data transmissions or telephone calls,

is not an offense under this subsection unless the conduct is for the purposes of direct or indirect commercial advantage or private financial gain.

(5)(a)(i) If the communication is—

(A) a private satellite video communication that is not scrambled or encrypted and the conduct in violation of this chapter is the private viewing of that communication and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain; or

(B) a radio communication that is transmitted on frequencies allocated under subpart D of part 74 of the rules of the Federal Communications Commission that is not scrambled or encrypted and the conduct in violation of this chapter is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain,

then the person who engages in such conduct shall be subject to suit by the Federal Government in a court of competent jurisdiction.

(ii) In an action under this subsection—

(A) if the violation of this chapter is a first offense for the person under paragraph (a) of subsection (4) and such person has not been found liable in a civil action under section 2520 of this title, the Federal Government shall be entitled to appropriate injunctive relief; and

(B) if the violation of this chapter is a second or subsequent offense under paragraph (a) of subsection (4) or such person has been found liable in any prior civil action under section

2520, the person shall be subject to a mandatory \$500 civil fine.

(b) The court may use any means within its authority to enforce an injunction issued under paragraph (ii)(A), and shall impose a civil fine of not less than \$500 for each violation of such an injunction.

(Added Pub. L. 90-351, title III, §802, June 19, 1968, 82 Stat. 213; amended Pub. L. 91-358, title II, §211(a), July 29, 1970, 84 Stat. 654; Pub. L. 95-511, title II, §201(a)-(c), Oct. 25, 1978, 92 Stat. 1796, 1797; Pub. L. 98-549, §6(b)(2), Oct. 30, 1984, 98 Stat. 2804; Pub. L. 99-508, title I, §§101(b), (c)(1), (5), (6), (d), (f)(1), 102, Oct. 21, 1986, 100 Stat. 1849, 1851-1853; Pub. L. 103-322, title XXXII, §320901, title XXXIII, §330016(1)(G), Sept. 13, 1994, 108 Stat. 2123, 2147; Pub. L. 103-414, title II, §§202(b), 204, 205, Oct. 25, 1994, 108 Stat. 4290, 4291; Pub. L. 104-294, title VI, §604(b)(42), Oct. 11, 1996, 110 Stat. 3509; Pub. L. 107-56, title II, §§204, 217(2), Oct. 26, 2001, 115 Stat. 281, 291; Pub. L. 107-296, title II, §225(h)(2), (j)(1), Nov. 25, 2002, 116 Stat. 2158; Pub. L. 110-261, title I, §§101(c)(1), 102(c)(1), title IV, §403(b)(2)(C), July 10, 2008, 122 Stat. 2459, 2474.)

#### AMENDMENT OF PARAGRAPH (2)(a)(ii)(A)

*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, provided that, except as provided in section 404 of Pub. L. 110-261, set out as a note under section 1801 of Title 50, War and National Defense, effective Dec. 31, 2017, paragraph (2)(a)(ii)(A) of this section is amended by striking “or a court order pursuant to section 704 of the Foreign Intelligence Surveillance Act of 1978”.*

#### REFERENCES IN TEXT

The Foreign Intelligence Surveillance Act of 1978, referred to in par. (2)(e), (f), is Pub. L. 95-511, Oct. 25, 1978, 92 Stat. 1783, which is classified principally to chapter 36 (§1801 et seq.) of Title 50, War and National Defense. Sections 101 and 704 of the Foreign Intelligence Surveillance Act of 1978, referred to in par. (2)(a)(ii), (e), and (f), are classified to sections 1801 and 1881c of Title 50, respectively. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 50 and Tables.

Sections 633, 705, and 706 of the Communications Act of 1934, referred to in par. (2)(e), (f), (g)(iii), are classified to sections 553, 605, and 606 of Title 47, Telecommunications, respectively.

#### CONSTITUTIONALITY

For information regarding constitutionality of certain provisions of this section, as amended by section 101(c)(1)(A) of Pub. L. 99-508, see Congressional Research Service, *The Constitution of the United States of America: Analysis and Interpretation*, Appendix 1, Acts of Congress Held Unconstitutional in Whole or in Part by the Supreme Court of the United States.

#### AMENDMENTS

2008—Par. (2)(a)(ii)(A). Pub. L. 110-261, §101(c)(1), inserted “or a court order pursuant to section 704 of the Foreign Intelligence Surveillance Act of 1978” after “assistance”.

Par. (2)(a)(iii). Pub. L. 110-261, §102(c)(1), added cl. (iii).

2002—Par. (2)(a)(ii). Pub. L. 107-296, §225(h)(2), inserted “, statutory authorization,” after “terms of a court order” in concluding provisions.

Par. (4)(b), (c). Pub. L. 107-296, §225(j)(1), redesignated subpar. (c) as (b) and struck out former subpar. (b)

which read as follows: “If the offense is a first offense under paragraph (a) of this subsection and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain, and the wire or electronic communication with respect to which the offense under paragraph (a) is a radio communication that is not scrambled, encrypted, or transmitted using modulation techniques the essential parameters of which have been withheld from the public with the intention of preserving the privacy of such communication, then—

“(i) if the communication is not the radio portion of a cellular telephone communication, a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit, a public land mobile radio service communication or a paging service communication, and the conduct is not that described in subsection (5), the offender shall be fined under this title or imprisoned not more than one year, or both; and

“(ii) if the communication is the radio portion of a cellular telephone communication, a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit, a public land mobile radio service communication or a paging service communication, the offender shall be fined under this title.”

2001—Par. (2)(f). Pub. L. 107-56, § 204, substituted “this chapter or chapter 121 or 206 of this title, or section 705 of the Communications Act of 1934” for “this chapter or chapter 121, or section 705 of the Communications Act of 1934” and “wire, oral, and electronic communications” for “wire and oral communications”.

Par. (2)(i). Pub. L. 107-56, § 217(2), added subpar. (i).

1996—Par. (1)(e)(i). Pub. L. 104-294 substituted “sections 2511(2)(a)(ii), 2511(2)(b)–(c), 2511(2)(e), 2516, and 2518 of this chapter” for “sections 2511(2)(A)(ii), 2511(b)–(c), 2511(e), 2516, and 2518 of this subchapter”.

1994—Par. (1)(e). Pub. L. 103-322, § 320901, added par. (1)(e).

Par. (2)(a)(i). Pub. L. 103-414, § 205, inserted “or electronic” after “transmission of a wire”.

Par. (4)(b). Pub. L. 103-414, § 204, in introductory provisions substituted “, encrypted, or transmitted using modulation techniques the essential parameters of which have been withheld from the public with the intention of preserving the privacy of such communication, then” for “or encrypted, then”.

Par. (4)(b)(i). Pub. L. 103-414, § 202(b)(1), inserted “a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit,” after “cellular telephone communication.”

Par. (4)(b)(ii). Pub. L. 103-414, § 202(b)(2), inserted “a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit,” after “cellular telephone communication.”

Pub. L. 103-322, § 330016(1)(G), substituted “fined under this title” for “fined not more than \$500”.

1986—Pub. L. 99-508, § 101(c)(1)(A), substituted “wire, oral, or electronic” for “wire or oral” in section catchline.

Par. (1). Pub. L. 99-508, § 101(c)(1)(A), (d)(1), (f)(1), substituted “intentionally” for “willfully” in subpars. (a) to (d) and “wire, oral, or electronic” for “wire or oral” wherever appearing in subpars. (a), (c), and (d), and in concluding provisions substituted “shall be punished as provided in subsection (4) or shall be subject to suit as provided in subsection (5)” for “shall be fined not more than \$10,000 or imprisoned not more than five years, or both”.

Par. (2)(a)(i). Pub. L. 99-508, § 101(c)(5), substituted “a provider of wire or electronic communication service” for “any communication common carrier” and “of the provider of that service, except that a provider of wire communication service to the public” for “of the carrier of such communication: *Provided*, That said communication common carriers”.

Par. (2)(a)(ii). Pub. L. 99-508, § 101(b)(1), (c)(1)(A), (6), substituted “providers of wire or electronic communication service” for “communication common carriers”.

“riers”, “wire, oral, or electronic” for “wire or oral”, “if such provider” for “if the common carrier”, “provider of wire or electronic communication service” for “communication common carrier” wherever appearing, “such disclosure” for “violation of this subparagraph by a communication common carrier or an officer, employee, or agent thereof”, “render such person liable” for “render the carrier liable”, and “a court order or certification under this chapter” for “an order or certification under this subparagraph” in two places.

Par. (2)(b). Pub. L. 99-508, § 101(c)(1)(B), inserted “or electronic” after “wire”.

Par. (2)(c). Pub. L. 99-508, § 101(c)(1)(A), substituted “wire, oral, or electronic” for “wire or oral”.

Par. (2)(d). Pub. L. 99-508, § 101(b)(2), (c)(1)(A), substituted “wire, oral, or electronic” for “wire or oral” and struck out “or for the purpose of committing any other injurious act” after “of any State”.

Par. (2)(f). Pub. L. 99-508, § 101(b)(3), inserted “or chapter 121” in two places and substituted “foreign communications, or foreign intelligence activities conducted in accordance with otherwise applicable Federal law involving a foreign electronic communications system, utilizing a means” for “foreign communications by a means”.

Par. (2)(g), (h). Pub. L. 99-508, § 101(b)(4), added subpars. (g) and (h).

Par. (3). Pub. L. 99-508, § 102, added par. (3).

Pars. (4), (5). Pub. L. 99-508, § 101(d)(2), added pars. (4) and (5).

1984—Par. (2)(e). Pub. L. 98-549, § 6(b)(2)(A), substituted “section 705 or 706” for “section 605 or 606”.

Par. (2)(f). Pub. L. 98-549, § 6(b)(2)(B), substituted “section 705” for “section 605”.

1978—Par. (2)(a)(ii). Pub. L. 95-511, § 201(a), substituted provisions authorizing communication common carriers etc., to provide information to designated persons, prohibiting disclosure of intercepted information, and rendering violators civilly liable for provision exempting communication common carriers from criminality for giving information to designated officers.

Par. (2)(e), (f). Pub. L. 95-511, § 201(b), added par. (2)(e) and (f).

Par. (3). Pub. L. 95-511, § 201(c), struck out par. (3) which provided that nothing in this chapter or section 605 of title 47 limited the President’s constitutional power to gather necessary intelligence to protect the national security and stated the conditions necessary for the reception into evidence and disclosure of communications intercepted by the President.

1970—Par. (2)(a). Pub. L. 91-358 designated existing provisions as cl. (i) and added cl. (ii).

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendments by sections 101(c)(1) and 102(c)(1) of Pub. L. 110-261 effective July 10, 2008, except as otherwise provided in section 404 of Pub. L. 110-261, set out as a Transition Procedures note under section 1801 of Title 50, War and National Defense, see section 402 of Pub. L. 110-261, set out as a note under section 1801 of Title 50.

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, provided that, except as provided in section 404 of Pub. L. 110-261, set out as a Transition Procedures note under section 1801 of Title 50, War and National Defense, the amendments made by section 403(b)(2) are effective Dec. 31, 2017.

#### 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.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104-294, set out as a note under section 13 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-508 effective 90 days after Oct. 21, 1986, and, in case of conduct pursuant to court



order or extension, applicable only with respect to court orders and extensions made after such date, with special rule for State authorizations of interceptions, see section 111 of Pub. L. 99-508, set out as a note under section 2510 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-549 effective 60 days after Oct. 30, 1984, see section 9(a) of Pub. L. 98-549, set out as an Effective Date note under section 521 of Title 47, Telecommunications.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-511 effective Oct. 25, 1978, except as specifically provided, see section 401 of Pub. L. 95-511, formerly set out as an Effective Date note under section 1801 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-358 effective on first day of seventh calendar month which begins after July 29, 1970, see section 901(a) of Pub. L. 91-358.

**§ 2512. Manufacture, distribution, possession, and advertising of wire, oral, or electronic communication intercepting devices prohibited**

(1) Except as otherwise specifically provided in this chapter, any person who intentionally—

(a) sends through the mail, or sends or carries in interstate or foreign commerce, any electronic, mechanical, or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire, oral, or electronic communications;

(b) manufactures, assembles, possesses, or sells any electronic, mechanical, or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire, oral, or electronic communications, and that such device or any component thereof has been or will be sent through the mail or transported in interstate or foreign commerce; or

(c) places in any newspaper, magazine, handbill, or other publication or disseminates by electronic means any advertisement of—

(i) any electronic, mechanical, or other device knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire, oral, or electronic communications; or

(ii) any other electronic, mechanical, or other device, where such advertisement promotes the use of such device for the purpose of the surreptitious interception of wire, oral, or electronic communications,

knowing the content of the advertisement and knowing or having reason to know that such advertisement will be sent through the mail or transported in interstate or foreign commerce, shall be fined under this title or imprisoned not more than five years, or both.

(2) It shall not be unlawful under this section for—

(a) a provider of wire or electronic communication service or an officer, agent, or employee of, or a person under contract with, such a provider, in the normal course of the

business of providing that wire or electronic communication service, or

(b) an officer, agent, or employee of, or a person under contract with, the United States, a State, or a political subdivision thereof, in the normal course of the activities of the United States, a State, or a political subdivision thereof,

to send through the mail, send or carry in interstate or foreign commerce, or manufacture, assemble, possess, or sell any electronic, mechanical, or other device knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire, oral, or electronic communications.

(3) It shall not be unlawful under this section to advertise for sale a device described in subsection (1) of this section if the advertisement is mailed, sent, or carried in interstate or foreign commerce solely to a domestic provider of wire or electronic communication service or to an agency of the United States, a State, or a political subdivision thereof which is duly authorized to use such device.

(Added Pub. L. 90-351, title III, §802, June 19, 1968, 82 Stat. 214; amended Pub. L. 99-508, title I, §101(c)(1)(A), (7), (f)(2), Oct. 21, 1986, 100 Stat. 1851, 1853; Pub. L. 103-322, title XXXIII, §§330016(1)(L), 330022, Sept. 13, 1994, 108 Stat. 2147, 2150; Pub. L. 104-294, title VI, §604(b)(45), Oct. 11, 1996, 110 Stat. 3509; Pub. L. 105-112, §2, Nov. 21, 1997, 111 Stat. 2273; Pub. L. 107-296, title II, §225(f), Nov. 25, 2002, 116 Stat. 2158.)

AMENDMENTS

2002—Par. (1)(c). Pub. L. 107-296, in introductory provisions, inserted “or disseminates by electronic means” after “or other publication” and, in concluding provisions, inserted “knowing the content of the advertisement and” before “knowing or having reason to know”.

1997—Par. (3). Pub. L. 105-112 added par. (3).

1996—Par. (2). Pub. L. 104-294 amended directory language of Pub. L. 103-322, §330022. See 1994 Amendment note below.

1994—Par. (1). Pub. L. 103-322, §330016(1)(L), substituted “fined under this title” for “fined not more than \$10,000” in concluding provisions.

Par. (2). Pub. L. 103-322, §330022, as amended by Pub. L. 104-294, realigned margins of concluding provisions.

1986—Pub. L. 99-508, §101(c)(1)(A), substituted “wire, oral, or electronic” for “wire or oral” in section catchline.

Par. (1). Pub. L. 99-508, §101(c)(1)(A), (f)(2), substituted “intentionally” for “willfully” in introductory provision and “wire, oral, or electronic” for “wire or oral” in subpars. (a), (b), and (c)(i), (ii).

Par. (2)(a). Pub. L. 99-508, §101(c)(7), substituted “a provider of wire or electronic communication service or” for “a communications common carrier or”, “such a provider, in” for “a communications common carrier, in”, and “business of providing that wire or electronic communication service” for “communications common carrier’s business”.

Par. (2)(b). Pub. L. 99-508, §101(c)(1)(A), substituted “wire, oral, or electronic” for “wire or oral”.

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.

## EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104-294, set out as a note under section 13 of this title.

## EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-508 effective 90 days after Oct. 21, 1986, and, in case of conduct pursuant to court order or extension, applicable only with respect to court orders and extensions made after such date, with special rule for State authorizations of interceptions, see section 111 of Pub. L. 99-508, set out as a note under section 2510 of this title.

**§ 2513. Confiscation of wire, oral, or electronic communication intercepting devices**

Any electronic, mechanical, or other device used, sent, carried, manufactured, assembled, possessed, sold, or advertised in violation of section 2511 or section 2512 of this chapter may be seized and forfeited to the United States. All provisions of law relating to (1) the seizure, summary and judicial forfeiture, and condemnation of vessels, vehicles, merchandise, and baggage for violations of the customs laws contained in title 19 of the United States Code, (2) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from the sale thereof, (3) the remission or mitigation of such forfeiture, (4) the compromise of claims, and (5) the award of compensation to informers in respect of such forfeitures, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions of this section; except that such duties as are imposed upon the collector of customs or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the provisions of the customs laws contained in title 19 of the United States Code shall be performed with respect to seizure and forfeiture of electronic, mechanical, or other intercepting devices under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General.

(Added Pub. L. 90-351, title III, §802, June 19, 1968, 82 Stat. 215; amended Pub. L. 99-508, title I, §101(c)(1)(A), Oct. 21, 1986, 100 Stat. 1851.)

## AMENDMENTS

1986—Pub. L. 99-508 substituted “wire, oral, or electronic” for “wire or oral” in section catchline.

## EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-508 effective 90 days after Oct. 21, 1986, and, in case of conduct pursuant to court order or extension, applicable only with respect to court orders and extensions made after such date, with special rule for State authorizations of interceptions, see section 111 of Pub. L. 99-508, set out as a note under section 2510 of this title.

**[§ 2514. Repealed. Pub. L. 91-452, title II, § 227(a), Oct. 15, 1970, 84 Stat. 930]**

Section, Pub. L. 90-351, title II, §802, June 19, 1968, 82 Stat. 216, provided for immunity of witnesses giving testimony or producing evidence under compulsion in Federal grand jury or court proceedings. Subject matter is covered in sections 6002 and 6003 of this title.

## EFFECTIVE DATE OF REPEAL

Sections 227(a) and 260 of Pub. L. 91-452 provided for repeal of this section effective four years following sixtieth day after date of enactment of Pub. L. 91-452, which was approved Oct. 15, 1970, such repeal not affecting any immunity to which any individual was entitled under this section by reason of any testimony or other information given before such date. See section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provision note under section 6001 of this title.

**§ 2515. Prohibition of use as evidence of intercepted wire or oral communications**

Whenever any wire or oral communication has been intercepted, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a State, or a political subdivision thereof if the disclosure of that information would be in violation of this chapter.

(Added Pub. L. 90-351, title III, §802, June 19, 1968, 82 Stat. 216.)

**§ 2516. Authorization for interception of wire, oral, or electronic communications**

(1) The Attorney General, Deputy Attorney General, Associate Attorney General,<sup>1</sup> or any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General or acting Deputy Assistant Attorney General in the Criminal Division or National Security Division specially designated by the Attorney General, may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant in conformity with section 2518 of this chapter an order authorizing or approving the interception of wire or oral communications by the Federal Bureau of Investigation, or a Federal agency having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of—

(a) any offense punishable by death or by imprisonment for more than one year under sections 2122 and 2274 through 2277 of title 42 of the United States Code (relating to the enforcement of the Atomic Energy Act of 1954), section 2284 of title 42 of the United States Code (relating to sabotage of nuclear facilities or fuel), or under the following chapters of this title: chapter 10 (relating to biological weapons), chapter 37 (relating to espionage), chapter 55 (relating to kidnapping), chapter 90 (relating to protection of trade secrets), chapter 105 (relating to sabotage), chapter 115 (relating to treason), chapter 102 (relating to riots), chapter 65 (relating to malicious mischief), chapter 111 (relating to destruction of vessels), or chapter 81 (relating to piracy);

(b) a violation of section 186 or section 501(c) of title 29, United States Code (dealing with restrictions on payments and loans to labor organizations), or any offense which involves

<sup>1</sup> See 1984 Amendment note below.

murder, kidnapping, robbery, or extortion, and which is punishable under this title;

(c) any offense which is punishable under the following sections of this title: section 37 (relating to violence at international airports), section 43 (relating to animal enterprise terrorism), section 81 (arson within special maritime and territorial jurisdiction), section 201 (bribery of public officials and witnesses), section 215 (relating to bribery of bank officials), section 224 (bribery in sporting contests), subsection (d), (e), (f), (g), (h), or (i) of section 844 (unlawful use of explosives), section 1032 (relating to concealment of assets), section 1084 (transmission of wagering information), section 751 (relating to escape), section 832 (relating to nuclear and weapons of mass destruction threats), section 842 (relating to explosive materials), section 930 (relating to possession of weapons in Federal facilities), section 1014 (relating to loans and credit applications generally; renewals and discounts), section 1114 (relating to officers and employees of the United States), section 1116 (relating to protection of foreign officials), sections 1503, 1512, and 1513 (influencing or injuring an officer, juror, or witness generally), section 1510 (obstruction of criminal investigations), section 1511 (obstruction of State or local law enforcement), section 1581 (peonage), section 1584 (involuntary servitude), section 1589 (forced labor), section 1590 (trafficking with respect to peonage, slavery, involuntary servitude, or forced labor), section 1591 (sex trafficking of children by force, fraud, or coercion), section 1592 (unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor), section 1751 (Presidential and Presidential staff assassination, kidnapping, and assault), section 1951 (interference with commerce by threats or violence), section 1952 (interstate and foreign travel or transportation in aid of racketeering enterprises), section 1958 (relating to use of interstate commerce facilities in the commission of murder for hire), section 1959 (relating to violent crimes in aid of racketeering activity), section 1954 (offer, acceptance, or solicitation to influence operations of employee benefit plan), section 1955 (prohibition of business enterprises of gambling), section 1956 (laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 659 (theft from interstate shipment), section 664 (embezzlement from pension and welfare funds), section 1343 (fraud by wire, radio, or television), section 1344 (relating to bank fraud), section 1992 (relating to terrorist attacks against mass transportation), sections 2251 and 2252 (sexual exploitation of children), section 2251A (selling or buying of children), section 2252A (relating to material constituting or containing child pornography), section 1466A (relating to child obscenity), section 2260 (production of sexually explicit depictions of a minor for importation into the United States), sections 2421, 2422, 2423, and 2425 (relating to transportation for illegal sexual activity and related crimes), sections 2312, 2313, 2314, and

2315 (interstate transportation of stolen property), section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts), section 2340A (relating to torture), section 1203 (relating to hostage taking), section 1029 (relating to fraud and related activity in connection with access devices), section 3146 (relating to penalty for failure to appear), section 3521(b)(3) (relating to witness relocation and assistance), section 32 (relating to destruction of aircraft or aircraft facilities), section 38 (relating to aircraft parts fraud), section 1963 (violations with respect to racketeer influenced and corrupt organizations), section 115 (relating to threatening or retaliating against a Federal official), section 1341 (relating to mail fraud), a felony violation of section 1030 (relating to computer fraud and abuse), section 351 (violations with respect to congressional, Cabinet, or Supreme Court assassinations, kidnapping, and assault), section 831 (relating to prohibited transactions involving nuclear materials), section 33 (relating to destruction of motor vehicles or motor vehicle facilities), section 175 (relating to biological weapons), section 175c (relating to variola virus), section 956 (conspiracy to harm persons or property overseas), a felony violation of section 1028 (relating to production of false identification documentation), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), section 1541 (relating to passport issuance without authority), section 1542 (relating to false statements in passport applications), section 1543 (relating to forgery or false use of passports), section 1544 (relating to misuse of passports), section 1546 (relating to fraud and misuse of visas, permits, and other documents), or section 555 (relating to construction or use of international border tunnels);

(d) any offense involving counterfeiting punishable under section 471, 472, or 473 of this title;

(e) any offense involving fraud connected with a case under title 11 or the manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in narcotic drugs, marihuana, or other dangerous drugs, punishable under any law of the United States;

(f) any offense including extortionate credit transactions under sections 892, 893, or 894 of this title;

(g) a violation of section 5322 of title 31, United States Code (dealing with the reporting of currency transactions), or section 5324 of title 31, United States Code (relating to structuring transactions to evade reporting requirement prohibited);

(h) any felony violation of sections 2511 and 2512 (relating to interception and disclosure of certain communications and to certain intercepting devices) of this title;

(i) any felony violation of chapter 71 (relating to obscenity) of this title;

(j) any violation of section 60123(b) (relating to destruction of a natural gas pipeline), section 46502 (relating to aircraft piracy), the sec-

ond sentence of section 46504 (relating to assault on a flight crew with dangerous weapon), or section 46505(b)(3) or (c) (relating to explosive or incendiary devices, or endangerment of human life, by means of weapons on aircraft) of title 49;

(k) any criminal violation of section 2778 of title 22 (relating to the Arms Export Control Act);

(l) the location of any fugitive from justice from an offense described in this section;

(m) a violation of section 274, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324, 1327, or 1328) (relating to the smuggling of aliens);

(n) any felony violation of sections 922 and 924 of title 18, United States Code (relating to firearms);

(o) any violation of section 5861 of the Internal Revenue Code of 1986 (relating to firearms);

(p) a felony violation of section 1028 (relating to production of false identification documents), section 1542 (relating to false statements in passport applications), section 1546 (relating to fraud and misuse of visas, permits, and other documents), section 1028A (relating to aggravated identity theft) of this title or a violation of section 274, 277, or 278 of the Immigration and Nationality Act (relating to the smuggling of aliens); or<sup>2</sup>

(q) any criminal violation of section 229 (relating to chemical weapons) or section 2332, 2332a, 2332b, 2332d, 2332f, 2332g, 2332h<sup>3</sup> 2339, 2339A, 2339B, 2339C, or 2339D of this title (relating to terrorism);

(r) any criminal violation of section 1 (relating to illegal restraints of trade or commerce), 2 (relating to illegal monopolizing of trade or commerce), or 3 (relating to illegal restraints of trade or commerce in territories or the District of Columbia) of the Sherman Act (15 U.S.C. 1, 2, 3);

(s) any violation of section 670 (relating to theft of medical products); or

(t) any conspiracy to commit any offense described in any subparagraph of this paragraph.

(2) The principal prosecuting attorney of any State, or the principal prosecuting attorney of any political subdivision thereof, if such attorney is authorized by a statute of that State to make application to a State court judge of competent jurisdiction for an order authorizing or approving the interception of wire, oral, or electronic communications, may apply to such judge for, and such judge may grant in conformity with section 2518 of this chapter and with the applicable State statute an order authorizing, or approving the interception of wire, oral, or electronic communications by investigative or law enforcement officers having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of the commission of the offense of murder, kidnaping<sup>3</sup> human trafficking, child sexual exploitation, child pornography production,<sup>4</sup> gam-

bling, robbery, bribery, extortion, or dealing in narcotic drugs, marihuana or other dangerous drugs, or other crime dangerous to life, limb, or property, and punishable by imprisonment for more than one year, designated in any applicable State statute authorizing such interception, or any conspiracy to commit any of the foregoing offenses.

(3) Any attorney for the Government (as such term is defined for the purposes of the Federal Rules of Criminal Procedure) may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant, in conformity with section 2518 of this title, an order authorizing or approving the interception of electronic communications by an investigative or law enforcement officer having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of any Federal felony.

(Added Pub. L. 90-351, title III, §802, June 19, 1968, 82 Stat. 216; amended Pub. L. 91-452, title VIII, §810, title IX, §902(a), title XI, §1103, Oct. 15, 1970, 84 Stat. 940, 947, 959; Pub. L. 91-644, title IV, §16, Jan. 2, 1971, 84 Stat. 1891; Pub. L. 95-598, title III, §314(h), Nov. 6, 1978, 92 Stat. 2677; Pub. L. 97-285, §§2(e), 4(e), Oct. 6, 1982, 96 Stat. 1220, 1221; Pub. L. 98-292, §8, May 21, 1984, 98 Stat. 206; Pub. L. 98-473, title II, §1203(c), Oct. 12, 1984, 98 Stat. 2152; Pub. L. 99-508, title I, §§101(c)(1)(A), 104, 105, Oct. 21, 1986, 100 Stat. 1851, 1855; Pub. L. 99-570, title I, §1365(c), Oct. 27, 1986, 100 Stat. 3207-35; Pub. L. 100-690, title VI, §6461, title VII, §§7036, 7053(d), 7525, Nov. 18, 1988, 102 Stat. 4374, 4399, 4402, 4502; Pub. L. 101-298, §3(b), May 22, 1990, 104 Stat. 203; Pub. L. 101-647, title XXV, §2531, title XXXV, §3568, Nov. 29, 1990, 104 Stat. 4879, 4928; Pub. L. 103-272, §5(e)(11), July 5, 1994, 108 Stat. 1374; Pub. L. 103-322, title XXXIII, §§330011(c)(1), (q)(1), (r), 330021(1), Sept. 13, 1994, 108 Stat. 2144, 2145, 2150; Pub. L. 103-414, title II, §208, Oct. 25, 1994, 108 Stat. 4292; Pub. L. 103-429, §7(a)(4)(A), Oct. 31, 1994, 108 Stat. 4389; Pub. L. 104-132, title IV, §434, Apr. 24, 1996, 110 Stat. 1274; Pub. L. 104-208, div. C, title II, §201, Sept. 30, 1996, 110 Stat. 3009-564; Pub. L. 104-287, §6(a)(2), Oct. 11, 1996, 110 Stat. 3398; Pub. L. 104-294, title I, §102, title VI, §601(d), Oct. 11, 1996, 110 Stat. 3491, 3499; Pub. L. 105-318, §6(b), Oct. 30, 1998, 112 Stat. 3011; Pub. L. 106-181, title V, §506(c)(2)(B), Apr. 5, 2000, 114 Stat. 139; Pub. L. 107-56, title II, §§201, 202, Oct. 26, 2001, 115 Stat. 278; Pub. L. 107-197, title III, §301(a), June 25, 2002, 116 Stat. 728; Pub. L. 107-273, div. B, title IV, §§4002(c)(1), 4005(a)(1), Nov. 2, 2002, 116 Stat. 1808, 1812; Pub. L. 108-21, title II, §201, Apr. 30, 2003, 117 Stat. 659; Pub. L. 108-458, title VI, §6907, Dec. 17, 2004, 118 Stat. 3774; Pub. L. 109-162, title XI, §1171(b), Jan. 5, 2006, 119 Stat. 3123; Pub. L. 109-177, title I, §§110(b)(3)(C), 113, title V, §506(a)(6), Mar. 9, 2006, 120 Stat. 208, 209, 248; Pub. L. 112-127, §4, June 5, 2012, 126 Stat. 371; Pub. L. 112-186, §5, Oct. 5, 2012, 126 Stat. 1429; Pub. L. 114-22, title I, §106, May 29, 2015, 129 Stat. 238.)

#### REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in par. (1)(a), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The

<sup>2</sup> So in original. The word "or" probably should not appear.

<sup>3</sup> So in original. Probably should be followed by a comma.

<sup>4</sup> So in original.

Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

The Arms Export Control Act, referred to in par. (1)(k), is Pub. L. 90-269, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§ 2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

Section 5861 of the Internal Revenue Code of 1986, referred to in par. (1)(o), is classified to section 5861 of Title 26, Internal Revenue Code.

The Federal Rules of Criminal Procedure, referred to in par. (3), are set out in the Appendix to this title.

#### AMENDMENTS

2015—Par. (1)(a). Pub. L. 114-22, § 106(1)(A), inserted a comma after “weapons”.

Par. (1)(c). Pub. L. 114-22, § 106(1)(B)(v), (vi), struck out “or” after “misuse of passports,” and inserted “or” before “section 555”.

Pub. L. 114-22, § 106(1)(B)(iii), (iv), inserted a comma after “virus,” and substituted “overseas, a felony” for “overseas),, section a felony”.

Pub. L. 114-22, § 106(1)(B)(i), (ii), inserted “section 1581 (peonage), section 1584 (involuntary servitude), section 1589 (forced labor), section 1590 (trafficking with respect to peonage, slavery, involuntary servitude, or forced labor),” before “section 1591” and “section 1592 (unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor),” before “section 1751”.

Par. (1)(j). Pub. L. 114-22, § 106(1)(C), substituted “pipeline),” for “pipeline,)”.

Par. (1)(p). Pub. L. 114-22, § 106(1)(D), substituted “documents), section 1028A (relating to aggravated identity theft)” for “documents, section 1028A (relating to aggravated identity theft)”.

Par. (2). Pub. L. 114-22, § 106(2), inserted “human trafficking, child sexual exploitation, child pornography production,” after “kidnapping”.

2012—Par. (1)(c). Pub. L. 112-127 inserted “, section 555 (relating to construction or use of international border tunnels)” before semicolon at end.

Par. (1)(s), (t). Pub. L. 112-186 added subpar. (s) and redesignated former subpar. (s) as (t).

2006—Par. (1). Pub. L. 109-177, § 506(a)(6), inserted “or National Security Division” after “the Criminal Division” in introductory provisions.

Par. (1)(a). Pub. L. 109-177, § 113(a), inserted “chapter 10 (relating to biological weapons)” after “under the following chapters of this title:”.

Par. (1)(c). Pub. L. 109-177, §§ 110(b)(3)(C), 113(b), struck out “1992 (relating to wrecking trains),” before “a felony violation of section 1028” and inserted “section 37 (relating to violence at international airports), section 43 (relating to animal enterprise terrorism), section 81 (arson within special maritime and territorial jurisdiction),” after “the following sections of this title:”, “section 832 (relating to nuclear and weapons of mass destruction threats), section 842 (relating to explosive materials), section 930 (relating to possession of weapons in Federal facilities),” after “section 751 (relating to escape),”, “section 1114 (relating to officers and employees of the United States), section 1116 (relating to protection of foreign officials),” after “section 1014 (relating to loans and credit applications generally; renewals and discounts),”, “section 1992 (relating to terrorist attacks against mass transportation),” after “section 1344 (relating to bank fraud),”, “section 2340A (relating to torture),” after “section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts),”, and “section 956 (conspiracy to harm persons or property overseas),” after “section 175c (relating to variola virus)”.

Par. (1)(g). Pub. L. 109-177, § 113(c), inserted “, or section 5324 of title 31, United States Code (relating to structuring transactions to evade reporting requirement prohibited)” before semicolon at end.

Par. (1)(j). Pub. L. 109-177, § 113(d)(2), inserted “, the second sentence of section 46504 (relating to assault on a flight crew with dangerous weapon), or section 46505(b)(3) or (c) (relating to explosive or incendiary devices, or endangerment of human life, by means of weapons on aircraft)” before “of title 49”.

Pub. L. 109-177, § 113(d)(1), which directed amendment of par. (1)(j) by inserting a comma after “section 60123(b) (relating to the destruction of a natural gas pipeline”, was executed by making the insertion after “section 60123(b) (relating to destruction of a natural gas pipeline”, to reflect the probable intent of Congress.

Pub. L. 109-177, § 113(d)(1), struck out “or” before “section 46502 (relating to aircraft piracy)”.

Par. (1)(p). Pub. L. 109-177, § 113(e), inserted “, section 1028A (relating to aggravated identity theft)” after “other documents”.

Par. (1)(q). Pub. L. 109-177, § 113(f), inserted “2339” after “2332h” and substituted “2339C, or 2339D” for “or 2339C”.

Pub. L. 109-162 struck out semicolon after “(relating to chemical weapons)” and substituted “section 2332” for “sections 2332”.

Par. (1)(r), (s). Pub. L. 109-177, § 113(g), added subpar. (r) and redesignated former subpar. (r) as (s).

2004—Par. (1)(a). Pub. L. 108-458, § 6907(1), inserted “2122 and” after “sections”.

Par. (1)(c). Pub. L. 108-458, § 6907(2), inserted “section 175c (relating to variola virus),” after “section 175 (relating to biological weapons),”.

Par. (1)(q). Pub. L. 108-458, § 6907(3), inserted “2332g, 2332h,” after “2332f,”.

2003—Par. (1)(a). Pub. L. 108-21, § 201(1), inserted “chapter 55 (relating to kidnapping),” after “chapter 37 (relating to espionage),”.

Par. (1)(c). Pub. L. 108-21, § 201(2), inserted “section 1591 (sex trafficking of children by force, fraud, or coercion),” after “section 1511 (obstruction of State or local law enforcement),” and “section 2251A (selling or buying of children), section 2252A (relating to material constituting or containing child pornography), section 1466A (relating to child obscenity), section 2260 (production of sexually explicit depictions of a minor for importation into the United States), sections 2421, 2422, 2423, and 2425 (relating to transportation for illegal sexual activity and related crimes),” after “sections 2251 and 2252 (sexual exploitation of children),”.

2002—Par. (1)(n). Pub. L. 107-273, § 4002(c)(1), repealed Pub. L. 104-294, § 601(d)(2). See 1996 Amendment note below.

Par. (1)(q). Pub. L. 107-273, § 4005(a)(1), realigned margins.

Pub. L. 107-197 inserted “2332f,” after “2332d,” and substituted “2339B, or 2339C” for “or 2339B”.

2001—Par. (1)(c). Pub. L. 107-56, § 202, substituted “section 1341 (relating to mail fraud), a felony violation of section 1030 (relating to computer fraud and abuse),” for “and section 1341 (relating to mail fraud),”.

Par. (1)(p). Pub. L. 107-56, § 201(1), redesignated subpar. (p), relating to conspiracy, as (r).

Par. (1)(q). Pub. L. 107-56, § 201(2), added subpar. (q).  
Par. (1)(r). Pub. L. 107-56, § 201(1), redesignated subpar. (p), relating to conspiracy, as (r).

2000—Par. (1)(c). Pub. L. 106-181 inserted “section 38 (relating to aircraft parts fraud),” after “section 32 (relating to destruction of aircraft or aircraft facilities),”.

1998—Par. (1)(a). Pub. L. 105-318 inserted “chapter 90 (relating to protection of trade secrets),” after “chapter 37 (relating to espionage),”.

1996—Par. (1)(c). Pub. L. 104-294, § 102, which directed amendment of par. 1(c) by inserting “chapter 90 (relating to protection of trade secrets),” after “chapter 37 (relating to espionage),”, could not be executed because phrase “chapter 37 (relating to espionage),” did not appear.

Pub. L. 104-208, § 201(1), substituted “section 1992 (relating to wrecking trains), a felony violation of section 1028 (relating to production of false identification documentation), section 1425 (relating to the procurement

of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), section 1541 (relating to passport issuance without authority), section 1542 (relating to false statements in passport applications), section 1543 (relating to forgery or false use of passports), section 1544 (relating to misuse of passports), or section 1546 (relating to fraud and misuse of visas, permits, and other documents)" for "or section 1992 (relating to wrecking trains)" before semicolon at end.

Par. (1)(j). Pub. L. 104-287, §6(a)(2), amended directory language of Pub. L. 103-272, §5(e)(11) as amended by Pub. L. 103-429, §7(a)(4)(A). See 1994 Amendment note below.

Par. (1)(l). Pub. L. 104-208, §201(2), and Pub. L. 104-294, §601(d)(1), amended subpar. (l) identically, striking out "or" after semicolon at end.

Par. (1)(m). Pub. L. 104-208, §201(3), (4), added subpar. (m). Former subpar. (m) redesignated (n).

Par. (1)(n). Pub. L. 104-294, §601(d)(2), which could not be executed because of prior amendments by Pub. L. 104-132, §434(1) and Pub. L. 104-208, §201(3), was repealed by Pub. L. 107-273, §4002(c)(1). See below.

Pub. L. 104-208, §201(3), redesignated subpar. (m) as (n). Former subpar. (n) redesignated (o).

Pub. L. 104-132, §434(1), struck out "and" at end.

Par. (1)(o). Pub. L. 104-208, §201(3), redesignated subpar. (n) as (o). Former subpar. (o) redesignated (p).

Pub. L. 104-132 added subpar. (o) and redesignated former subpar. (o) as (p).

Par. (1)(p). Pub. L. 104-208, §201(3), redesignated subpar. (o), relating to felony violation of section 1028, etc., as (p).

Pub. L. 104-132, §434(2), redesignated subpar. (o), relating to conspiracy, as (p).

1994—Par. (1). Pub. L. 103-414 in introductory provisions inserted "or acting Deputy Assistant Attorney General" after "Deputy Assistant Attorney General".

Par. (1)(c). Pub. L. 103-322, §330021(1), substituted "kidnapping" for "kidnaping" in two places.

Pub. L. 103-322, §330011(c)(1), amended directory language of Pub. L. 101-298, §3(b). See 1990 Amendment note below.

Par. (1)(j). Pub. L. 103-322, §330011(r), amended directory language of Pub. L. 101-647, §2531(3). See 1990 Amendment note below.

Pub. L. 103-322, §330011(q)(1), repealed Pub. L. 101-647, §3568. See 1990 Amendment note below.

Pub. L. 103-272, §5(e)(11), as amended by Pub. L. 103-429, §7(a)(4)(A); Pub. L. 104-287, §6(a)(2), substituted "section 60123(b) (relating to destruction of a natural gas pipeline) or section 46502 (relating to aircraft piracy) of title 49;" for "section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 902 of the Federal Aviation Act of 1958 (relating to aircraft piracy);".

1990—Par. (1)(c). Pub. L. 101-647, §2531(1), inserted "section 215 (relating to bribery of bank officials)," before "section 224", "section 1032 (relating to concealment of assets)," before section 1084, "section 1014 (relating to loans and credit applications generally; renewals and discounts)," before "sections 1503," and "section 1344 (relating to bank fraud)," before "sections 2251 and 2252" and struck out "the section in chapter 65 relating to destruction of an energy facility," after "retaliating against a Federal official,".

Pub. L. 101-298, §3(b), as amended by Pub. L. 103-322, §330011(c)(1), inserted "section 175 (relating to biological weapons)," after "section 33 (relating to destruction of motor vehicles or motor vehicle facilities),".

Par. (1)(j). Pub. L. 101-647, §3568, which directed amendment of subsec. (j) by substituting "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) or section 902(i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy)" for "any violation of section 1679a(c)(2) (relating to destruction of a

natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code", and which was probably intended as an amendment to par. (1)(j), was repealed by Pub. L. 103-322, §330011(q)(1).

Pub. L. 101-647, §2531(3), as amended by Pub. L. 103-322, §330011(r), substituted "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 902 of the Federal Aviation Act of 1958 (relating to aircraft piracy)" for "any violation of section 1679a(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code".

Par. (1)(m). Pub. L. 101-647, §2531(2)(A), struck out subpar. (m) relating to conspiracy which read as follows: "any conspiracy to commit any of the foregoing offenses."

Par. (1)(o). Pub. L. 101-647, §2531(2)(B)–(D), added subpar. (o).

1988—Par. (1). Pub. L. 100-690, §7036(a)(1), inserted "or" after "Associate Attorney General," in introductory provisions.

Par. (1)(a). Pub. L. 100-690, §7036(c)(1), which directed the amendment of subpar. (a) by substituting "(relating to riots)," for "(relating to riots);" was executed by substituting "(relating to riots)," for "(relating to riots)" as the probable intent of Congress.

Par. (1)(c). Pub. L. 100-690, §7053(d), which directed the amendment of section 2516(c) by substituting "1958" for "1952A" and "1959" for "1952B" was executed by making the substitutions in par. (1)(c) as the probable intent of Congress.

Pub. L. 100-690, §7036(b), struck out "section 2252 or 2253 (sexual exploitation of children)," after "wire, radio, or television," and substituted "section 2321" for "the second section 2320".

Pub. L. 100-690, §7036(a)(2), which directed the amendment of par. (1) by striking the comma that follows a comma was executed to subpar. (c) by striking out the second comma after "to mail fraud)".

Par. (1)(i). Pub. L. 100-690, §7525, added subpar. (i) and redesignated former subpar. (i) as (j).

Par. (1)(j). Pub. L. 100-690, §7525, redesignated former subpar. (i) as (j). Former subpar. (j) redesignated (k).

Pub. L. 100-690, §7036(c)(2), which directed amendment of subpar. (j) by striking "or;" was executed by striking "or" after "Export Control Act);" to reflect the probable intent of Congress.

Par. (1)(k). Pub. L. 100-690, §7525, redesignated former subpar. (j) as (k). Former subpar. (k) redesignated (l).

Pub. L. 100-690, §7036(c)(3), struck out "or" at end.

Par. (1)(l). Pub. L. 100-690, §7525, redesignated former subpar. (k) as (l). Former subpar. (l) redesignated (m).

Par. (1)(m). Pub. L. 100-690, §7525, redesignated former subpar. (l) relating to conspiracy as (m).

Pub. L. 100-690, §6461, added subpar. (m) relating to sections 922 and 924.

Par. (1)(n). Pub. L. 100-690, §6461, added subpar. (n).

1986—Pub. L. 99-508, §101(c)(1)(A), substituted "wire, oral, or electronic" for "wire or oral" in section catchline.

Par. (1). Pub. L. 99-508, §104, substituted "any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General in the Criminal Division" for "or any Assistant Attorney General" in introductory provisions.

Par. (1)(a). Pub. L. 99-508, §105(a)(5), inserted "section 2284 of title 42 of the United States Code (relating to sabotage of nuclear facilities or fuel)," struck out "or" after "(relating to treason)," and inserted "chapter 65 (relating to malicious mischief), chapter 111 (relating to destruction of vessels), or chapter 81 (relating to piracy)".

Par. (1)(c). Pub. L. 99-570, which directed the amendment of subpar. (c) by inserting "section 1956 (laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)," after "section 1955

(prohibition of relating to business enterprises of gambling),” was executed by inserting this phrase after “section 1955 (prohibition of business enterprises of gambling),” as the probable intent of Congress.

Pub. L. 99-508, §105(a)(1), inserted “section 751 (relating to escape),” “the second section 2320 (relating to trafficking in certain motor vehicles or motor vehicle parts), section 1203 (relating to hostage taking), section 1029 (relating to fraud and related activity in connection with access devices), section 3146 (relating to penalty for failure to appear), section 3521(b)(3) (relating to witness relocation and assistance), section 32 (relating to destruction of aircraft or aircraft facilities),” and “section 1952A (relating to use of interstate commerce facilities in the commission of murder for hire), section 1952B (relating to violent crimes in aid of racketeering activity),” substituted “2312, 2313, 2314,” for “2314”, inserted “, section 115 (relating to threatening or retaliating against a Federal official), the section in chapter 65 relating to destruction of an energy facility, and section 1341 (relating to mail fraud),” substituted “, section 351” for “or section 351”, and inserted “, section 831 (relating to prohibited transactions involving nuclear materials), section 33 (relating to destruction of motor vehicles or motor vehicle facilities), or section 1992 (relating to wrecking trains)”.

Par. (1)(h) to (l). Pub. L. 99-508, §105(a)(2)–(4), added subpars. (h) to (k) and redesignated former subpar. (h) as (l).

Par. (2). Pub. L. 99-508, §101(c)(1)(A), substituted “wire, oral, or electronic” for “wire or oral” in two places.

Par. (3). Pub. L. 99-508, §105(b), added par. (3).

1984—Par. (1). Pub. L. 98-473, §1203(c)(4), which directed the amendment of the first par. of par. (1) by inserting “Deputy Attorney General, Associate Attorney General,” after “Attorney General,” was executed by making the insertion after the first reference to “Attorney General,” to reflect the probable intent of Congress.

Par. (1)(c). Pub. L. 98-473, §1203(c)(2), inserted references to sections 1512 and 1513 after “1503”.

Pub. L. 98-473, §1203(c)(1), inserted “section 1343 (fraud by wire, radio, or television), section 2252 or 2253 (sexual exploitation of children),” after “section 664 (embezzlement from pension and welfare funds).”

Pub. L. 98-292 inserted “sections 2251 and 2252 (sexual exploitation of children),” after “section 664 (embezzlement from pension and welfare funds).”

Par. (1)(g), (h). Pub. L. 98-473, §1203(c)(3), added par. (g) and redesignated former par. (g) as (h).

1982—Par. (1)(c). Pub. L. 97-285 substituted “(Presidential and Presidential staff assassination, kidnaping, and assault)” for “(Presidential assassinations, kidnaping, and assault)” after “section 1751” and substituted “(violations with respect to congressional, Cabinet, or Supreme Court assassinations, kidnaping, and assault)” for “(violations with respect to congressional assassination, kidnaping, and assault)” after “section 351”.

1978—Par. (1)(e). Pub. L. 95-598 substituted “fraud connected with a case under title 11” for “bankruptcy fraud”.

1971—Par. (1)(c). Pub. L. 91-644 inserted reference to section 351 offense (violations with respect to congressional assassination, kidnaping, and assault).

1970—Par. (1)(c). Pub. L. 91-452 inserted reference to sections 844(d), (e), (f), (g), (h), or (i), 1511, 1955, and 1963 of this title.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-273, div. B, title IV, §4002(c)(1), Nov. 2, 2002, 116 Stat. 1808, provided that the amendment made by section 4002(c)(1) is effective Oct. 11, 1996.

#### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of Title 49, Transportation.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-287, §6(a), Oct. 11, 1996, 110 Stat. 3398, provided that the amendment made by that section is effective July 5, 1994.

#### EFFECTIVE DATE OF 1994 AMENDMENTS

Pub. L. 103-429, §7(a), Oct. 31, 1994, 108 Stat. 4388, provided that the amendment made by section 7(a)(4)(A) of Pub. L. 103-429 is effective July 5, 1994.

Pub. L. 103-322, title XXXIII, §33001(c)(1), Sept. 13, 1994, 108 Stat. 2144, provided that the amendment made by that section is effective as of the date on which section 3(b) of Pub. L. 101-298 took effect.

Pub. L. 103-322, title XXXIII, §33001(q)(1), Sept. 13, 1994, 108 Stat. 2145, provided that the amendment made by that section is effective as of the date on which section 3568 of Pub. L. 101-647 took effect.

Pub. L. 103-322, title XXXIII, §33001(r), Sept. 13, 1994, 108 Stat. 2145, provided that the amendment made by that section is effective as of the date on which section 2531(3) of Pub. L. 101-647 took effect.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by sections 101(c)(1)(A) and 105 of Pub. L. 99-508 effective 90 days after Oct. 21, 1986, and, in case of conduct pursuant to court order or extension, applicable only with respect to court orders and extensions made after such date, with special rule for State authorizations of interceptions pursuant to section 2516(2) of this title, and amendment by section 104 of Pub. L. 99-508 effective Oct. 21, 1986, see section 111 of Pub. L. 99-508, set out as a note under section 2510 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

#### SAVINGS PROVISION

Amendment by section 314 of Pub. L. 95-598 not to affect the application of chapter 9 (§151 et seq.), chapter 96 (§1961 et seq.), or section 2516, 3057, or 3284 of this title to any act of any person (1) committed before Oct. 1, 1979, or (2) committed after Oct. 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub. L. 95-598, set out as a note preceding section 101 of Title 11, Bankruptcy.

### § 2517. Authorization for disclosure and use of intercepted wire, oral, or electronic communications

(1) Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(2) Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication or evidence derived therefrom may use such contents to the extent such use is appropriate to the proper performance of his official duties.

(3) Any person who has received, by any means authorized by this chapter, any information concerning a wire, oral, or electronic communication, or evidence derived therefrom intercepted in accordance with the provisions of this chapter may disclose the contents of that com-

munication or such derivative evidence while giving testimony under oath or affirmation in any proceeding held under the authority of the United States or of any State or political subdivision thereof.

(4) No otherwise privileged wire, oral, or electronic communication intercepted in accordance with, or in violation of, the provisions of this chapter shall lose its privileged character.

(5) When an investigative or law enforcement officer, while engaged in intercepting wire, oral, or electronic communications in the manner authorized herein, intercepts wire, oral, or electronic communications relating to offenses other than those specified in the order of authorization or approval, the contents thereof, and evidence derived therefrom, may be disclosed or used as provided in subsections (1) and (2) of this section. Such contents and any evidence derived therefrom may be used under subsection (3) of this section when authorized or approved by a judge of competent jurisdiction where such judge finds on subsequent application that the contents were otherwise intercepted in accordance with the provisions of this chapter. Such application shall be made as soon as practicable.

(6) Any investigative or law enforcement officer, or attorney for the Government, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents to any other Federal law enforcement, intelligence, protective, immigration, national defense, or national security official to the extent that such contents include foreign intelligence or counterintelligence (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)),<sup>1</sup> or foreign intelligence information (as defined in subsection (19) of section 2510 of this title), to assist the official who is to receive that information in the performance of his official duties. Any Federal official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information.

(7) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to a foreign investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure, and foreign investigative or law enforcement officers may use or disclose such contents or derivative evidence to the extent such use or disclosure is appropriate to the proper performance of their official duties.

(8) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained

knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to any appropriate Federal, State, local, or foreign government official to the extent that such contents or derivative evidence reveals a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.

(Added Pub. L. 90-351, title III, §802, June 19, 1968, 82 Stat. 217; amended Pub. L. 91-452, title IX, §902(b), Oct. 15, 1970, 84 Stat. 947; Pub. L. 99-508, title I, §101(c)(1)(A), Oct. 21, 1986, 100 Stat. 1851; Pub. L. 107-56, title II, §203(b)(1), Oct. 26, 2001, 115 Stat. 280; Pub. L. 107-296, title VIII, §896, Nov. 25, 2002, 116 Stat. 2257.)

#### REFERENCES IN TEXT

The National Security Act of 1947, referred to in par. (6), is act July 26, 1947, ch. 343, 61 Stat. 495, which was formerly classified principally to chapter 15 (§401 et seq.) of Title 50, War and National Defense, prior to editorial reclassification in chapter 44 (§3001 et seq.) of Title 50. Section 3 of the Act is now classified to section 3003 of Title 50. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

2002—Pars. (7), (8). Pub. L. 107-296 added pars. (7) and (8).

2001—Par. (6). Pub. L. 107-56 added par. (6).

1986—Pub. L. 99-508 substituted “wire, oral, or electronic” for “wire or oral” in section catchline and wherever appearing in text.

1970—Par. (3). Pub. L. 91-452 substituted “proceeding held under the authority of the United States or of any State or political subdivision thereof” for “criminal proceeding in any court of the United States or of any State or in any Federal or State grand jury proceeding”.

#### CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 3001 of Title 50, War and National Defense.

#### 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

<sup>1</sup> See References in Text note below.



an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-508 effective 90 days after Oct. 21, 1986, and, in case of conduct pursuant to court order or extension, applicable only with respect to court orders and extensions made after such date, with special rule for State authorizations of interceptions, see section 111 of Pub. L. 99-508, set out as a note under section 2510 of this title.

PROCEDURES FOR DISCLOSURE OF INFORMATION

Pub. L. 107-56, title II, §203(c), Oct. 26, 2001, 115 Stat. 280, as amended by Pub. L. 107-296, title VIII, §897(b), Nov. 25, 2002, 116 Stat. 2258; Pub. L. 108-458, title VI, §6501(b), Dec. 17, 2004, 118 Stat. 3760, provided that: "The Attorney General shall establish procedures for the disclosure of information pursuant to paragraphs (6) and (8) of section 2517 of title 18, United States Code, and Rule 6(e)(3)(D) of the Federal Rules of Criminal Procedure [18 U.S.C. App.] that identifies a United States person, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801) [sic]."

**§ 2518. Procedure for interception of wire, oral, or electronic communications**

(1) Each application for an order authorizing or approving the interception of a wire, oral, or electronic communication under this chapter shall be made in writing upon oath or affirmation to a judge of competent jurisdiction and shall state the applicant's authority to make such application. Each application shall include the following information:

(a) the identity of the investigative or law enforcement officer making the application, and the officer authorizing the application;

(b) a full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued, including (i) details as to the particular offense that has been, is being, or is about to be committed, (ii) except as provided in subsection (11), a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted, (iii) a particular description of the type of communications sought to be intercepted, (iv) the identity of the person, if known, committing the offense and whose communications are to be intercepted;

(c) a full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;

(d) a statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

(e) a full and complete statement of the facts concerning all previous applications known to the individual authorizing and making the application, made to any judge for authorization to intercept, or for approval of

interceptions of, wire, oral, or electronic communications involving any of the same persons, facilities or places specified in the application, and the action taken by the judge on each such application; and

(f) where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results.

(2) The judge may require the applicant to furnish additional testimony or documentary evidence in support of the application.

(3) Upon such application the judge may enter an ex parte order, as requested or as modified, authorizing or approving interception of wire, oral, or electronic communications within the territorial jurisdiction of the court in which the judge is sitting (and outside that jurisdiction but within the United States in the case of a mobile interception device authorized by a Federal court within such jurisdiction), if the judge determines on the basis of the facts submitted by the applicant that—

(a) there is probable cause for belief that an individual is committing, has committed, or is about to commit a particular offense enumerated in section 2516 of this chapter;

(b) there is probable cause for belief that particular communications concerning that offense will be obtained through such interception;

(c) normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous;

(d) except as provided in subsection (11), there is probable cause for belief that the facilities from which, or the place where, the wire, oral, or electronic communications are to be intercepted are being used, or are about to be used, in connection with the commission of such offense, or are leased to, listed in the name of, or commonly used by such person.

(4) Each order authorizing or approving the interception of any wire, oral, or electronic communication under this chapter shall specify—

(a) the identity of the person, if known, whose communications are to be intercepted;

(b) the nature and location of the communications facilities as to which, or the place where, authority to intercept is granted;

(c) a particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;

(d) the identity of the agency authorized to intercept the communications, and of the person authorizing the application; and

(e) the period of time during which such interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.

An order authorizing the interception of a wire, oral, or electronic communication under this chapter shall, upon request of the applicant, direct that a provider of wire or electronic com-

munication service, landlord, custodian or other person shall furnish the applicant forthwith all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that such service provider, landlord, custodian, or person is according the person whose communications are to be intercepted. Any provider of wire or electronic communication service, landlord, custodian or other person furnishing such facilities or technical assistance shall be compensated therefor by the applicant for reasonable expenses incurred in providing such facilities or assistance. Pursuant to section 2522 of this chapter, an order may also be issued to enforce the assistance capability and capacity requirements under the Communications Assistance for Law Enforcement Act.

(5) No order entered under this section may authorize or approve the interception of any wire, oral, or electronic communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than thirty days. Such thirty-day period begins on the earlier of the day on which the investigative or law enforcement officer first begins to conduct an interception under the order or ten days after the order is entered. Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection (1) of this section and the court making the findings required by subsection (3) of this section. The period of extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than thirty days. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this chapter, and must terminate upon attainment of the authorized objective, or in any event in thirty days. In the event the intercepted communication is in a code or foreign language, and an expert in that foreign language or code is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after such interception. An interception under this chapter may be conducted in whole or in part by Government personnel, or by an individual operating under a contract with the Government, acting under the supervision of an investigative or law enforcement officer authorized to conduct the interception.

(6) Whenever an order authorizing interception is entered pursuant to this chapter, the order may require reports to be made to the judge who issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Such reports shall be made at such intervals as the judge may require.

(7) Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, specially designated by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or by the principal prosecuting attorney of any State or subdivision thereof acting pursuant to a statute of that State, who reasonably determines that—

(a) an emergency situation exists that involves—

(i) immediate danger of death or serious physical injury to any person,

(ii) conspiratorial activities threatening the national security interest, or

(iii) conspiratorial activities characteristic of organized crime,

that requires a wire, oral, or electronic communication to be intercepted before an order authorizing such interception can, with due diligence, be obtained, and

(b) there are grounds upon which an order could be entered under this chapter to authorize such interception,

may intercept such wire, oral, or electronic communication if an application for an order approving the interception is made in accordance with this section within forty-eight hours after the interception has occurred, or begins to occur. In the absence of an order, such interception shall immediately terminate when the communication sought is obtained or when the application for the order is denied, whichever is earlier. In the event such application for approval is denied, or in any other case where the interception is terminated without an order having been issued, the contents of any wire, oral, or electronic communication intercepted shall be treated as having been obtained in violation of this chapter, and an inventory shall be served as provided for in subsection (d) of this section on the person named in the application.

(8)(a) The contents of any wire, oral, or electronic communication intercepted by any means authorized by this chapter shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire, oral, or electronic communication under this subsection shall be done in such a way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, such recordings shall be made available to the judge issuing such order and sealed under his directions. Custody of the recordings shall be wherever the judge orders. They shall not be destroyed except upon an order of the issuing or denying judge and in any event shall be kept for ten years. Duplicate recordings may be made for use or disclosure pursuant to the provisions of subsections (1) and (2) of section 2517 of this chapter for investigations. The presence of the seal provided for by this subsection, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire, oral, or electronic communication or evidence derived therefrom under subsection (3) of section 2517.

(b) Applications made and orders granted under this chapter shall be sealed by the judge. Custody of the applications and orders shall be wherever the judge directs. Such applications and orders shall be disclosed only upon a showing of good cause before a judge of competent jurisdiction and shall not be destroyed except on order of the issuing or denying judge, and in any event shall be kept for ten years.

(c) Any violation of the provisions of this subsection may be punished as contempt of the issuing or denying judge.

(d) Within a reasonable time but not later than ninety days after the filing of an application for an order of approval under section 2518(7)(b) which is denied or the termination of the period of an order or extensions thereof, the issuing or denying judge shall cause to be served, on the persons named in the order or the application, and such other parties to intercepted communications as the judge may determine in his discretion that is in the interest of justice, an inventory which shall include notice of—

(1) the fact of the entry of the order or the application;

(2) the date of the entry and the period of authorized, approved or disapproved interception, or the denial of the application; and

(3) the fact that during the period wire, oral, or electronic communications were or were not intercepted.

The judge, upon the filing of a motion, may in his discretion make available to such person or his counsel for inspection such portions of the intercepted communications, applications and orders as the judge determines to be in the interest of justice. On an ex parte showing of good cause to a judge of competent jurisdiction the serving of the inventory required by this subsection may be postponed.

(9) The contents of any wire, oral, or electronic communication intercepted pursuant to this chapter or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in a Federal or State court unless each party, not less than ten days before the trial, hearing, or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized or approved. This ten-day period may be waived by the judge if he finds that it was not possible to furnish the party with the above information ten days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving such information.

(10)(a) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the contents of any wire or oral communication intercepted pursuant to this chapter, or evidence derived therefrom, on the grounds that—

(i) the communication was unlawfully intercepted;

(ii) the order of authorization or approval under which it was intercepted is insufficient on its face; or

(iii) the interception was not made in conformity with the order of authorization or approval.

Such motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make such motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire or oral communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this chapter. The

judge, upon the filing of such motion by the aggrieved person, may in his discretion make available to the aggrieved person or his counsel for inspection such portions of the intercepted communication or evidence derived therefrom as the judge determines to be in the interests of justice.

(b) In addition to any other right to appeal, the United States shall have the right to appeal from an order granting a motion to suppress made under paragraph (a) of this subsection, or the denial of an application for an order of approval, if the United States attorney shall certify to the judge or other official granting such motion or denying such application that the appeal is not taken for purposes of delay. Such appeal shall be taken within thirty days after the date the order was entered and shall be diligently prosecuted.

(c) The remedies and sanctions described in this chapter with respect to the interception of electronic communications are the only judicial remedies and sanctions for nonconstitutional violations of this chapter involving such communications.

(11) The requirements of subsections (1)(b)(ii) and (3)(d) of this section relating to the specification of the facilities from which, or the place where, the communication is to be intercepted do not apply if—

(a) in the case of an application with respect to the interception of an oral communication—

(i) the application is by a Federal investigative or law enforcement officer and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, an Assistant Attorney General, or an acting Assistant Attorney General;

(ii) the application contains a full and complete statement as to why such specification is not practical and identifies the person committing the offense and whose communications are to be intercepted; and

(iii) the judge finds that such specification is not practical; and

(b) in the case of an application with respect to a wire or electronic communication—

(i) the application is by a Federal investigative or law enforcement officer and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, an Assistant Attorney General, or an acting Assistant Attorney General;

(ii) the application identifies the person believed to be committing the offense and whose communications are to be intercepted and the applicant makes a showing that there is probable cause to believe that the person's actions could have the effect of thwarting interception from a specified facility;

(iii) the judge finds that such showing has been adequately made; and

(iv) the order authorizing or approving the interception is limited to interception only for such time as it is reasonable to presume that the person identified in the application is or was reasonably proximate to the instrument through which such communication will be or was transmitted.

(12) An interception of a communication under an order with respect to which the requirements of subsections (1)(b)(ii) and (3)(d) of this section do not apply by reason of subsection (11)(a) shall not begin until the place where the communication is to be intercepted is ascertained by the person implementing the interception order. A provider of wire or electronic communications service that has received an order as provided for in subsection (11)(b) may move the court to modify or quash the order on the ground that its assistance with respect to the interception cannot be performed in a timely or reasonable fashion. The court, upon notice to the government, shall decide such a motion expeditiously.

(Added Pub. L. 90-351, title III, § 802, June 19, 1968, 82 Stat. 218; amended Pub. L. 91-358, title II, § 211(b), July 29, 1970, 84 Stat. 654; Pub. L. 95-511, title II, § 201(d)-(g), Oct. 25, 1978, 92 Stat. 1797, 1798; Pub. L. 98-473, title II, § 1203(a), (b), Oct. 12, 1984, 98 Stat. 2152; Pub. L. 99-508, title I, §§ 101(c)(1)(A), (8), (e), 106(a)-(d)(3), Oct. 21, 1986, 100 Stat. 1851-1853, 1856, 1857; Pub. L. 103-414, title II, § 201(b)(1), Oct. 25, 1994, 108 Stat. 4290; Pub. L. 105-272, title VI, § 604, Oct. 20, 1998, 112 Stat. 2413.)

#### REFERENCES IN TEXT

The Communications Assistance for Law Enforcement Act, referred to in par. (4), is title I of Pub. L. 103-414, Oct. 25, 1994, 108 Stat. 4279, which is classified generally to subchapter I (§ 1001 et seq.) of chapter 9 of Title 47, Telecommunications. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 47 and Tables.

#### AMENDMENTS

1998—Par. (11)(b)(ii). Pub. L. 105-272, § 604(a)(1), substituted “that there is probable cause to believe that the person’s actions could have the effect of thwarting interception from a specified facility;” for “of a purpose, on the part of that person, to thwart interception by changing facilities; and”.

Par. (11)(b)(iii). Pub. L. 105-272, § 604(a)(2), substituted “such showing has been adequately made; and” for “such purpose has been adequately shown.”

Par. (11)(b)(iv). Pub. L. 105-272, § 604(a)(3), added cl. (iv).

Par. (12). Pub. L. 105-272, § 604(b), substituted “by reason of subsection (11)(a)” for “by reason of subsection (11)”, struck out “the facilities from which, or” after “shall not begin until”, and struck out comma after “the place where”.

1994—Par. (4). Pub. L. 103-414 inserted at end of concluding provisions “Pursuant to section 2522 of this chapter, an order may also be issued to enforce the assistance capability and capacity requirements under the Communications Assistance for Law Enforcement Act.”

1986—Pub. L. 99-508, § 101(c)(1)(A), substituted “wire, oral, or electronic” for “wire or oral” in section catchline.

Par. (1). Pub. L. 99-508, § 101(c)(1)(A), substituted “wire, oral, or electronic” for “wire or oral” in introductory provisions.

Par. (1)(b)(ii). Pub. L. 99-508, § 106(d)(1), inserted “except as provided in subsection (11).”

Par. (1)(e). Pub. L. 99-508, § 101(c)(1)(A), substituted “wire, oral, or electronic” for “wire or oral”.

Par. (3). Pub. L. 99-508, §§ 101(c)(1)(A), 106(a), in introductory provisions, substituted “wire, oral, or electronic” for “wire or oral” and inserted “(and outside that jurisdiction but within the United States in the case of a mobile interception device authorized by a Federal court within such jurisdiction)”.

Par. (3)(d). Pub. L. 99-508, §§ 101(c)(1)(A), 106(d)(2), inserted “except as provided in subsection (11),” and substituted “wire, oral, or electronic” for “wire or oral”.

Par. (4). Pub. L. 99-508, §§ 101(c)(1)(A), (8), 106(b), substituted “wire, oral, or electronic” for “wire or oral” wherever appearing and, in closing provisions, substituted “provider of wire or electronic communication service” for “communication common carrier” wherever appearing, “such service provider” for “such carrier”, and “for reasonable expenses incurred in providing such facilities or assistance” for “at the prevailing rates”.

Par. (5). Pub. L. 99-508, §§ 101(c)(1)(A), 106(c), substituted “wire, oral, or electronic” for “wire or oral” and inserted provisions which related to beginning of thirty-day period, minimization where intercepted communication is in code or foreign language and expert in that code or foreign language is not immediately available, and conduct of interception by Government personnel or by individual operating under Government contract, acting under supervision of investigative or law enforcement officer authorized to conduct interception.

Par. (7), (8)(a), (d)(3), (9). Pub. L. 99-508, § 101(c)(1)(A), substituted “wire, oral, or electronic” for “wire or oral” wherever appearing.

Par. (10)(c). Pub. L. 99-508, § 101(e), added subpar. (c).

Par. (11), (12). Pub. L. 99-508, § 106(d)(3), added pars. (11) and (12).

1984—Par. (7). Pub. L. 98-473, § 1203(a), inserted “, the Deputy Attorney General, the Associate Attorney General,” after “Attorney General” in provisions preceding subpar. (a).

Par. (7)(a). Pub. L. 98-473, § 1203(b), amended subpar. (a) generally, adding cl. (i) and designated existing provisions as cls. (ii) and (iii).

1978—Par. (1). Pub. L. 95-511, § 201(d), inserted “under this chapter” after “communication”.

Par. (4). Pub. L. 95-511, § 201(e), inserted “under this chapter” after “wire or oral communication” wherever appearing.

Par. (9). Pub. L. 95-511, § 201(e), substituted “any wire or oral communication intercepted pursuant to this chapter” for “any intercepted wire or oral communication”.

Par. (10). Pub. L. 95-511, § 201(g), substituted “any wire or oral communication intercepted pursuant to this chapter,” for “any intercepted wire or oral communication,”.

1970—Par. (4). Pub. L. 91-358 inserted the provision that, upon the request of the applicant, an order authorizing the interception of a wire or oral communication direct that a communication common carrier, landlord, custodian, or other person furnish the applicant with all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services provided.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-508 effective 90 days after Oct. 21, 1986, and, in case of conduct pursuant to court order or extension, applicable only with respect to court orders and extensions made after such date, with special rule for State authorizations of interceptions, see section 111 of Pub. L. 99-508, set out as a note under section 2510 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-511 effective Oct. 25, 1978, except as specifically provided, see section 401 of Pub. L. 95-511, formerly set out as an Effective Date note under section 1801 of Title 50, War and National Defense.

#### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-358 effective on first day of seventh calendar month which begins after July 29, 1970, see section 901(a) of Pub. L. 91-358.

### § 2519. Reports concerning intercepted wire, oral, or electronic communications

(1) In January of each year, any judge who has issued an order (or an extension thereof) under

section 2518 that expired during the preceding year, or who has denied approval of an interception during that year, shall report to the Administrative Office of the United States Courts—

(a) the fact that an order or extension was applied for;

(b) the kind of order or extension applied for (including whether or not the order was an order with respect to which the requirements of sections 2518(1)(b)(ii) and 2518(3)(d) of this title did not apply by reason of section 2518(11) of this title);

(c) the fact that the order or extension was granted as applied for, was modified, or was denied;

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

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

(f) the identity of the applying investigative or law enforcement officer and agency making the application and the person authorizing the application; and

(g) the nature of the facilities from which or the place where communications were to be intercepted.

(2) In March of each year the Attorney General, an Assistant Attorney General specially designated by the Attorney General, or the principal prosecuting attorney of a State, or the principal prosecuting attorney for any political subdivision of a State, shall report to the Administrative Office of the United States Courts—

(a) the information required by paragraphs (a) through (g) of subsection (1) of this section with respect to each application for an order or extension made during the preceding calendar year;

(b) a general description of the interceptions made under such order or extension, including (i) the approximate nature and frequency of incriminating communications intercepted, (ii) the approximate nature and frequency of other communications intercepted, (iii) the approximate number of persons whose communications were intercepted, (iv) the number of orders in which encryption was encountered and whether such encryption prevented law enforcement from obtaining the plain text of communications intercepted pursuant to such order, and (v) the approximate nature, amount, and cost of the manpower and other resources used in the interceptions;

(c) the number of arrests resulting from interceptions made under such order or extension, and the offenses for which arrests were made;

(d) the number of trials resulting from such interceptions;

(e) the number of motions to suppress made with respect to such interceptions, and the number granted or denied;

(f) the number of convictions resulting from such interceptions and the offenses for which the convictions were obtained and a general assessment of the importance of the interceptions; and

(g) the information required by paragraphs (b) through (f) of this subsection with respect

to orders or extensions obtained in a preceding calendar year.

(3) In June of each year the Director of the Administrative Office of the United States Courts shall transmit to the Congress a full and complete report concerning the number of applications for orders authorizing or approving the interception of wire, oral, or electronic communications pursuant to this chapter and the number of orders and extensions granted or denied pursuant to this chapter during the preceding calendar year. Such report shall include a summary and analysis of the data required to be filed with the Administrative Office by subsections (1) and (2) of this section. The Director of the Administrative Office of the United States Courts is authorized to issue binding regulations dealing with the content and form of the reports required to be filed by subsections (1) and (2) of this section.

(Added Pub. L. 90-351, title III, §802, June 19, 1968, 82 Stat. 222; amended Pub. L. 95-511, title II, §201(h), Oct. 25, 1978, 92 Stat. 1798; Pub. L. 99-508, title I, §§101(c)(1)(A), 106(d)(4), Oct. 21, 1986, 100 Stat. 1851, 1857; Pub. L. 106-197, §2(a), May 2, 2000, 114 Stat. 247; Pub. L. 111-174, §6, May 27, 2010, 124 Stat. 1217.)

#### AMENDMENTS

2010—Par. (1). Pub. L. 111-174, §6(1), substituted “In January of each year, any judge who has issued an order (or an extension thereof) under section 2518 that expired during the preceding year, or who has denied approval of an interception during that year,” for “Within thirty days after the expiration of an order (or each extension thereof) entered under section 2518, or the denial of an order approving an interception, the issuing or denying judge” in introductory provisions.

Par. (2). Pub. L. 111-174, §6(2), substituted “In March of each year” for “In January of each year” in introductory provisions.

Par. (3). Pub. L. 111-174, §6(3), substituted “In June of each year” for “In April of each year”.

2000—Par. (2)(b)(iv), (v). Pub. L. 106-197 added cl. (iv) and redesignated former cl. (iv) as (v).

1986—Pub. L. 99-508, §101(c)(1)(A), substituted “wire, oral, or electronic” for “wire or oral” in section catchline.

Par. (1)(b). Pub. L. 99-508, §106(d)(4), inserted “(including whether or not the order was an order with respect to which the requirements of sections 2518(1)(b)(ii) and 2518(3)(d) of this title did not apply by reason of section 2518(11) of this title)”.

Par. (3). Pub. L. 99-508, §101(c)(1)(A), substituted “wire, oral, or electronic” for “wire or oral”.

1978—Par. (3). Pub. L. 95-511 inserted “pursuant to this chapter” after “wire or oral communications” and “granted or denied”.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-508 effective 90 days after Oct. 21, 1986, and, in case of conduct pursuant to court order or extension, applicable only with respect to court orders and extensions made after such date, with special rule for State authorizations of interceptions, see section 111 of Pub. L. 99-508, set out as a note under section 2510 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-511 effective Oct. 25, 1978, except as specifically provided, see section 401 of Pub. L. 95-511, formerly set out as an Effective Date note under section 1801 of Title 50, War and National Defense.

REPORT ON USE OF DCS 1000 (CARNIVORE) TO  
IMPLEMENT ORDERS UNDER SECTION 2518

Pub. L. 107-273, div. A, title III, §305(b), Nov. 2, 2002, 116 Stat. 1782, provided that: "At the same time that the Attorney General, or Assistant Attorney General specially designated by the Attorney General, submits to the Administrative Office of the United States Courts the annual report required by section 2519(2) of title 18, United States Code, that is 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, that contains the following information with respect to those orders described in that annual report that were applied for by law enforcement agencies of the Department of Justice and whose implementation involved the use of the DCS 1000 program (or any subsequent version of such program)—

"(1) the kind of order or extension applied for (including whether or not the order was an order with respect to which the requirements of sections 2518(1)(b)(ii) and 2518(3)(d) of title 18, United States Code, did not apply by reason of section 2518 (1) of title 18);

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

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

"(4) the identity of the applying investigative or law enforcement officer and agency making the application and the person authorizing the application;

"(5) the nature of the facilities from which or place where communications were to be intercepted;

"(6) a general description of the interceptions made under such order or extension, including—

"(A) the approximate nature and frequency of incriminating communications intercepted;

"(B) the approximate nature and frequency of other communications intercepted;

"(C) the approximate number of persons whose communications were intercepted;

"(D) the number of orders in which encryption was encountered and whether such encryption prevented law enforcement from obtaining the plain text of communications intercepted pursuant to such order; and

"(E) the approximate nature, amount, and cost of the manpower and other resources used in the interceptions;

"(7) the number of arrests resulting from interceptions made under such order or extension, and the offenses for which arrests were made;

"(8) the number of trials resulting from such interceptions;

"(9) the number of motions to suppress made with respect to such interceptions, and the number granted or denied;

"(10) the number of convictions resulting from such interceptions and the offenses for which the convictions were obtained and a general assessment of the importance of the interceptions; and

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

ENCRYPTION REPORTING REQUIREMENTS

Pub. L. 106-197, §2(b), May 2, 2000, 114 Stat. 247, provided that: "The encryption reporting requirement in subsection (a) [amending this section] shall be effective for the report transmitted by the Director of the Administrative Office of the Courts for calendar year 2000 and in subsequent reports."

**§ 2520. Recovery of civil damages authorized**

(a) IN GENERAL.—Except as provided in section 2511(2)(a)(ii), any person whose wire, oral, or

electronic communication is intercepted, disclosed, or intentionally used in violation of this chapter may in a civil action recover from the person or entity, other than the United States, which engaged in that violation such relief as may be appropriate.

(b) RELIEF.—In an action under this section, appropriate relief includes—

(1) such preliminary and other equitable or declaratory relief as may be appropriate;

(2) damages under subsection (c) and punitive damages in appropriate cases; and

(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

(c) COMPUTATION OF DAMAGES.—(1) In an action under this section, if the conduct in violation of this chapter is the private viewing of a private satellite video communication that is not scrambled or encrypted or if the communication is a radio communication that is transmitted on frequencies allocated under subpart D of part 74 of the rules of the Federal Communications Commission that is not scrambled or encrypted and the conduct is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain, then the court shall assess damages as follows:

(A) If the person who engaged in that conduct has not previously been enjoined under section 2511(5) and has not been found liable in a prior civil action under this section, the court shall assess the greater of the sum of actual damages suffered by the plaintiff, or statutory damages of not less than \$50 and not more than \$500.

(B) If, on one prior occasion, the person who engaged in that conduct has been enjoined under section 2511(5) or has been found liable in a civil action under this section, the court shall assess the greater of the sum of actual damages suffered by the plaintiff, or statutory damages of not less than \$100 and not more than \$1000.

(2) In any other action under this section, the court may assess as damages whichever is the greater of—

(A) the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation; or

(B) statutory damages of whichever is the greater of \$100 a day for each day of violation or \$10,000.

(d) DEFENSE.—A good faith reliance on—

(1) a court warrant or order, a grand jury subpoena, a legislative authorization, or a statutory authorization;

(2) a request of an investigative or law enforcement officer under section 2518(7) of this title; or

(3) a good faith determination that section 2511(3) or 2511(2)(i) of this title permitted the conduct complained of;

is a complete defense against any civil or criminal action brought under this chapter or any other law.

(e) LIMITATION.—A civil action under this section may not be commenced later than two years after the date upon which the claimant

first has a reasonable opportunity to discover the violation.

(f) ADMINISTRATIVE DISCIPLINE.—If a court or appropriate department or agency determines that the United States or any of its departments or agencies has violated any provision of this chapter, and the court or appropriate department or agency finds that the circumstances surrounding the violation raise serious questions about whether or not an officer or employee of the United States acted willfully or intentionally with respect to the violation, the department or agency shall, upon receipt of a true and correct copy of the decision and findings of the court or appropriate department or agency promptly initiate a proceeding to determine whether disciplinary action against the officer or employee is warranted. If the head of the department or agency involved determines that disciplinary action is not warranted, he or she shall notify the Inspector General with jurisdiction over the department or agency concerned and shall provide the Inspector General with the reasons for such determination.

(g) IMPROPER DISCLOSURE IS VIOLATION.—Any willful disclosure or use by an investigative or law enforcement officer or governmental entity of information beyond the extent permitted by section 2517 is a violation of this chapter for purposes of section 2520(a).

(Added Pub. L. 90-351, title III, §802, June 19, 1968, 82 Stat. 223; amended Pub. L. 91-358, title II, §211(c), July 29, 1970, 84 Stat. 654; Pub. L. 99-508, title I, §103, Oct. 21, 1986, 100 Stat. 1853; Pub. L. 107-56, title II, §223(a), Oct. 26, 2001, 115 Stat. 293; Pub. L. 107-296, title II, §225(e), Nov. 25, 2002, 116 Stat. 2157.)

#### AMENDMENTS

2002—Subsec. (d)(3). Pub. L. 107-296 inserted “or 2511(2)(i)” after “2511(3)”.

2001—Subsec. (a). Pub. L. 107-56, §223(a)(1), inserted “, other than the United States,” after “person or entity”.

Subsecs. (f), (g). Pub. L. 107-56, §223(a)(2), (3), added subsecs. (f) and (g).

1986—Pub. L. 99-508 amended section generally. Prior to amendment, section read as follows: “Any person whose wire or oral communication is intercepted, disclosed, or used in violation of this chapter shall (1) have a civil cause of action against any person who intercepts, discloses, or uses, or procures any other person to intercept, disclose, or use such communications, and (2) be entitled to recover from any such person—

“(a) actual damages but not less than liquidated damages computed at the rate of \$100 a day for each day of violation or \$1,000, whichever is higher;

“(b) punitive damages; and

“(c) a reasonable attorney’s fee and other litigation costs reasonably incurred.

A good faith reliance on a court order or legislative authorization shall constitute a complete defense to any civil or criminal action brought under this chapter or under any other law.”

1970—Pub. L. 91-358 substituted provisions that a good faith reliance on a court order or legislative authorization constitute a complete defense to any civil or criminal action brought under this chapter or under any other law, for provisions that a good faith reliance on a court order or on the provisions of section 2518(7) of this chapter constitute a complete defense to any civil or criminal action brought under this chapter.

#### 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.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-508 effective 90 days after Oct. 21, 1986, and, in case of conduct pursuant to court order or extension, applicable only with respect to court orders and extensions made after such date, with special rule for State authorizations of interceptions, see section 111 of Pub. L. 99-508, set out as a note under section 2510 of this title.

#### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-358 effective on first day of seventh calendar month which begins after July 29, 1970, see section 901(a) of Pub. L. 91-358.

### § 2521. Injunction against illegal interception

Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a felony violation of this chapter, the Attorney General may initiate a civil action in a district court of the United States to enjoin such violation. The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or prohibition, or take such other action, as is warranted to prevent a continuing and substantial injury to the United States or to any person or class of persons for whose protection the action is brought. A proceeding under this section is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.

(Added Pub. L. 99-508, title I, §110(a), Oct. 21, 1986, 100 Stat. 1859.)

#### REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Rules of Criminal Procedure, referred to in text, are set out in the Appendix to this title.

#### EFFECTIVE DATE

Section effective 90 days after Oct. 21, 1986, and, in case of conduct pursuant to court order or extension, applicable only with respect to court orders and extensions made after such date, with special rule for State authorizations of interceptions, see section 111 of Pub. L. 99-508, set out as an Effective Date of 1986 Amendment note under section 2510 of this title.

### § 2522. Enforcement of the Communications Assistance for Law Enforcement Act

(a) ENFORCEMENT BY COURT ISSUING SURVEILLANCE ORDER.—If a court authorizing an interception under this chapter, a State statute, or the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) or authorizing use of a pen register or a trap and trace device under chapter 206 or a State statute finds that a telecommunications carrier has failed to comply with the requirements of the Communications Assistance for Law Enforcement Act, the court may, in accordance with section 108 of such Act, direct that the carrier comply forthwith and may direct that a provider of support services to the carrier or the manufacturer of the carrier’s transmission or switching equipment furnish

forthwith modifications necessary for the carrier to comply.

(b) ENFORCEMENT UPON APPLICATION BY ATTORNEY GENERAL.—The Attorney General may, in a civil action in the appropriate United States district court, obtain an order, in accordance with section 108 of the Communications Assistance for Law Enforcement Act, directing that a telecommunications carrier, a manufacturer of telecommunications transmission or switching equipment, or a provider of telecommunications support services comply with such Act.

(c) CIVIL PENALTY.—

(1) IN GENERAL.—A court issuing an order under this section against a telecommunications carrier, a manufacturer of telecommunications transmission or switching equipment, or a provider of telecommunications support services may impose a civil penalty of up to \$10,000 per day for each day in violation after the issuance of the order or after such future date as the court may specify.

(2) CONSIDERATIONS.—In determining whether to impose a civil penalty and in determining its amount, the court shall take into account—

(A) the nature, circumstances, and extent of the violation;

(B) the violator's ability to pay, the violator's good faith efforts to comply in a timely manner, any effect on the violator's ability to continue to do business, the degree of culpability, and the length of any delay in undertaking efforts to comply; and

(C) such other matters as justice may require.

(d) DEFINITIONS.—As used in this section, the terms defined in section 102 of the Communications Assistance for Law Enforcement Act have the meanings provided, respectively, in such section.

(Added Pub. L. 103-414, title II, §201(a), Oct. 25, 1994, 108 Stat. 4289.)

#### REFERENCES IN TEXT

The Foreign Intelligence Surveillance Act of 1978, referred to in subsec. (a), is Pub. L. 95-511, Oct. 25, 1978, 92 Stat. 1783, as amended, which is classified principally to chapter 36 (§1801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 50 and Tables.

The Communications Assistance for Law Enforcement Act, referred to in subsecs. (a) and (b), is title I of Pub. L. 103-414, Oct. 25, 1994, 108 Stat. 4279, which is classified generally to subchapter I (§1001 et seq.) of chapter 9 of Title 47, Telecommunications. Sections 102 and 108 of the Act are classified to sections 1001 and 1007, respectively, of Title 47. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 47 and Tables.

### CHAPTER 121—STORED WIRE AND ELECTRONIC COMMUNICATIONS AND TRANSACTIONAL RECORDS ACCESS

Sec.	
2701.	Unlawful access to stored communications.
2702.	Voluntary disclosure of customer communications or records.
2703.	Required disclosure of customer communications or records.
2704.	Backup preservation.

Sec.	
2705.	Delayed notice.
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2707.	Civil action.
2708.	Exclusivity of remedies.
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2710.	Wrongful disclosure of video tape rental or sale records.
2711.	Definitions for chapter.
2712.	Civil actions against the United States.

#### AMENDMENTS

2002—Pub. L. 107-273, div. B, title IV, §4005(b), Nov. 2, 2002, 116 Stat. 1812, made technical correction to directory language of Pub. L. 107-56, title II, §223(c)(2), Oct. 26, 2001, 115 Stat. 295, effective Oct. 26, 2001. See 2001 Amendment note below.

2001—Pub. L. 107-56, title II, §§223(c)(2), 224, Oct. 26, 2001, 115 Stat. 295, as amended by Pub. L. 107-273, div. B, title IV, §4005(b), Nov. 2, 2002, 116 Stat. 1812, temporarily added item 2712.

Pub. L. 107-56, title II, §§212(a)(2), (b)(2), 224, Oct. 26, 2001, 115 Stat. 285, 295, temporarily substituted "Voluntary disclosure of customer communications or records" for "Disclosure of contents" in item 2702 and "Required disclosure of customer communications or records" for "Requirements for governmental access" in item 2703.

1988—Pub. L. 100-690, title VII, §7067, Nov. 18, 1988, 102 Stat. 4405, which directed amendment of item 2710 by inserting "for chapter" after "Definitions" was executed by making the insertion in item 2711 to reflect the probable intent of Congress and the intervening redesignation of item 2710 as 2711 by Pub. L. 100-618, see below.

Pub. L. 100-618, §2(b), Nov. 5, 1988, 102 Stat. 3197, added item 2710 and redesignated former item 2710 as 2711.

### §2701. Unlawful access to stored communications

(a) OFFENSE.—Except as provided in subsection (c) of this section whoever—

(1) intentionally accesses without authorization a facility through which an electronic communication service is provided; or

(2) intentionally exceeds an authorization to access that facility;

and thereby obtains, alters, or prevents authorized access to a wire or electronic communication while it is in electronic storage in such system shall be punished as provided in subsection (b) of this section.

(b) PUNISHMENT.—The punishment for an offense under subsection (a) of this section is—

(1) if the offense is committed for purposes of commercial advantage, malicious destruction or damage, or private commercial gain, or in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or any State—

(A) a fine under this title or imprisonment for not more than 5 years, or both, in the case of a first offense under this subparagraph; and

(B) a fine under this title or imprisonment for not more than 10 years, or both, for any subsequent offense under this subparagraph; and

(2) in any other case—

(A) a fine under this title or imprisonment for not more than 1 year or both, in the case of a first offense under this paragraph; and

(B) a fine under this title or imprisonment for not more than 5 years, or both, in the