§§ 1805a to 1805c  TITLE 50—WAR AND NATIONAL DEFENSE Page 224

(c)(1)” for “subsection (b)(1)”. Former subsection (d) redesignated (e).
Subsections (e) to (h), Pub. L. 106–567, § 602(b)(1), redesignated subsection (d) as subsection (g) and subsection (g) as (e) to (h), respectively.
1984—Subsec. (f)(2)(C), Pub. L. 98–549 substituted “section 705” for “section 605” in the original to accommodate renumbering of sections in subchapter VI (section 604 et seq.) of chapter 5 of Title 47, Telecommunications, Telephones, and Radiotelegraphs, by section 6(a) of Pub. L. 98–549. Because both sections translate as “section 605 of Title 47”, the amendment by Pub. L. 98–549 resulted in no change in text.

Effective Date of 2008 Amendment

Effective Date of 2006 Amendment

“(1) IN GENERAL.—Effective March 15, 2020, the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended so that title V and section 105(c)(2) [50 U.S.C. 1841 to 1843, and 1805(c)(2)] read as they read on October 25, 2001.

“(2) EXCEPTION.—With respect to any particular foreign intelligence investigation that began before the date on which the provisions referred to in paragraph (1) cease to have effect, or with respect to any particular offense or potential offense that began or occurred before the date on which such provisions cease to have effect, such provisions shall continue in effect.’’ [Pub. L. 109–177, § 102(b)(1), set out above, as amended by Pub. L. 112–14, provided that sections 1861 and 1862 of this title and subsection (c)(2) of this section were amended, effective June 1, 2015, to read as they read on Oct. 25, 2001. Pub. L. 114–23, § 705(a), amended section 102(b)(1) by substituting “December 15, 2019” for “June 1, 2015”, thereby delaying the reversion of those provisions until Dec. 15, 2019. Such amendment was given effect in those provisions by not executing the reversion on June 1, 2015, to reflect the probable intent of Congress, notwithstanding that Pub. L. 114–23 was enacted on June 2, 2015. See Amendment of Subsection (c)(2) note and 2015 Amendment note for subsection (c)(2) above and Amendment of Section, Codification, and 2015 Amendment notes under sections 1861 and 1862 of this title.]

Effective Date of 2004 Amendment
For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.
Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

Effective Date of 2002 Amendment

Effective Date of 2001 Amendment

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


Effective Date of Repeal

§ 1806. Use of information

(a) Compliance with minimization procedures; privileged communications; lawful purposes

Information acquired from an electronic surveillance conducted pursuant to this subchapter concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this subchapter. No otherwise privileged communication obtained in accordance with, or in violation of, the provisions of this subchapter shall lose its privileged character. No information acquired from an electronic surveillance pursuant to this subchapter may be used or disclosed by Federal officers or employees except for lawful purposes.

(b) Statement for disclosure

No information acquired pursuant to this subchapter shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

(c) Notification by United States

Whenever the Government intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this subchapter, the Government shall, prior to the trial, hearing, or other proceeding or at a reasonable time prior to an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved
person and the court or other authority in which the information is to be disclosed or used that the Government intends to so disclose or so use such information.

(d) Notification by States or political subdivisions

Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof, against an aggrieved person any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this subchapter, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

(e) Motion to suppress

Any person against whom evidence obtained or derived from an electronic surveillance to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other 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 evidence obtained or derived from such electronic surveillance on the grounds that—

(1) the information was unlawfully acquired; or
(2) the surveillance was not made in conformity with an order of authorization or approval.

Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

(f) In camera and ex parte review by district court

Whenever a court or other authority is notified pursuant to subsection (c) or (d), or whenever a motion is made pursuant to subsection (e), or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to electronic surveillance or to discover, obtain, or suppress evidence or information obtained or derived from electronic surveillance under this chapter, the United States district court or, where the motion is made before an other authority, the United States district court in the same district as the authority, shall, notwithstanding any other law, if the Attorney General files an affidavit under oath that disclosure of the contents of any communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States, such contents shall be destroyed upon recognition, unless the Attorney General determines that the contents indicate a threat of death or serious bodily harm to any person.

(g) Suppression of evidence; denial of motion

If the United States district court pursuant to subsection (f) determines that the surveillance was not lawfully authorized or conducted, it shall, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from electronic surveillance of the aggrieved person or otherwise grant the motion of the aggrieved person. If the court determines that the surveillance was lawfully authorized and conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(h) Finality of orders

Orders granting motions or requests under subsection (g), decisions under this section that electronic surveillance was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other materials relating to a surveillance shall be final orders and binding upon all courts of the United States and the several States except a United States court of appeals and the Supreme Court.

(i) Destruction of unintentionally acquired information

In circumstances involving the unintentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States, such contents shall be destroyed upon recognition, unless the Attorney General determines that the contents indicate a threat of death or serious bodily harm to any person.

(j) Notification of emergency employment of electronic surveillance; contents; postponement, suspension or elimination

If an emergency employment of electronic surveillance is authorized under subsection (e) or (f) of section 1805 of this title and a subsequent order approving the surveillance is not obtained, the judge shall cause to be served on any United States person named in the application and on such other United States persons subject to electronic surveillance as the judge may determine in his discretion it is in the interest of justice to serve, notice of—

(1) the fact of the application;
(2) the period of the surveillance; and
(3) the fact that during the period information was or was not obtained.

On an ex parte showing of good cause to the judge the serving of the notice required by this subsection may be postponed or suspended for a
period not to exceed ninety days. Thereafter, on
a further ex parte showing of good cause, the
court shall forego ordering the serving of the no-
tice required under this subsection.

(k) Coordination with law enforcement on na-
tional security matters

(1) Federal officers who conduct electronic
surveillance to acquire foreign intelligence in-
formation under this subchapter may consult
with Federal law enforcement officers or law en-
forcement personnel of a State or political sub-
division of a State (including the chief executive
officer of that State or political subdivision who
has the authority to appoint or direct the chief
law enforcement officer of that State or politi-
cal subdivision) to coordinate efforts to inves-
tigate or protect against—

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

(B) sabotage, international terrorism, or the
international proliferation of weapons of mass
destruction by a foreign power or an agent of
a foreign power; or

(C) clandestine intelligence activities by an
intelligence service or network of a foreign
power or by an agent of a foreign power.

(2) Coordination authorized under paragraph
(1) shall not preclude the certification required
by section 1804(a)(7)(B)\(^1\) of this title or the entry
of an order under section 1805 of this title.

1793; Pub. L. 107–56, title V, § 504(a), Oct. 26, 2001,
115 Stat. 364; Pub. L. 107–296, title VIII, § 896,
§ 104(1)(B), July 10, 2008, sec. (k)(2), was redesignated section 1804(a)(6)(B) of this
Code, see Short Title note set out under section 1801 of
chapter. For complete classification of this Act to the
1978, 92 Stat. 1783, which is classified principally to this
original ''this Act'', meaning Pub. L. 95–511, Oct. 25,
1978, 92 Stat. 1783, see section 4 of Pub. L. 95–511, set
out as a Transition Procedures note under section 1801
of this title, see section 402 of Pub. L. 110–261, set out
as an Effective Date of 2008 Amendment note under sec-
ction 1801 of this title.

\(^{1}\) See References in Text note below.

\(^{2}\) Effective Date of 2008 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, Do-
mestic Security.

REPORT ON MECHANISMS FOR DETERMINATIONS OF DISCLOSURE OF INFORMATION FOR LAW ENFORCEMENT
PURPOSES

2683, provided that:

“(1) The Attorney General shall submit to the appro-
propriate committees of Congress a report on the authori-
ties and procedures utilized by the Department of Jus-
tice for determining whether or not to disclose infor-
mation acquired under the Foreign Intelligence Sur-
veillance Act of 1978 (50 U.S.C. 1801 et seq.) for law en-
forcement purposes.

“(2) In this subsection, the term ‘appropriate com-
mittees of Congress’ means the following:

(A) The Select Committee on Intelligence and the
Committee on the Judiciary of the House of Represen-
tatives and the Senate a report setting forth with
respect to the preceding calendar year—

(1) the total number of applications made for
orders and extensions of orders approving elec-
tronic surveillance under this subchapter;

(2) the total number of such orders and exten-
sions either granted, modified, or denied; and

(3) the total number of subjects targeted by
electronic surveillance conducted under an
order or emergency authorization under this
subchapter, rounded to the nearest 500, in-
cluding the number of such individuals who are
United States persons, reported to the nearest
band of 500, starting with 0–499.

(b) Form

Each report under subsection (a) shall be sub-
mitted in unclassified form, to the extent consis-
tent with national security. Not later than 7
days after the date on which the Attorney Gen-
eral submits each such report, the Attorney
General shall make the report publicly avail-
able, or, if the Attorney General determines
that the report cannot be made publicly avail-
able consistent with national security, the At-
torney General may make publicly available an
unclassified summary of the report or a redacted
version of the report.

1795; Pub. L. 115–118, title I, § 107(a), Jan. 19, 2018,
132 Stat. 14.)

\(^{3}\) Amendments

to amendment, section related to report to Administra-
tive Office of the United States Court and to Congress.