

terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution before an order authorizing the installation and use of the pen register or trap and trace device, as the case may be, can with due diligence be obtained under section 1842 of this title; and

(2) the factual basis for issuance of an order under such section 1842 of this title to approve the installation and use of the pen register or trap and trace device, as the case may be, exists.

(c) Effect of absence of order

(1) In the absence of an order applied for under subsection (a)(2) approving the installation and use of a pen register or trap and trace device authorized under this section, the installation and use of the pen register or trap and trace device, as the case may be, shall terminate at the earlier of—

(A) when the information sought is obtained;

(B) when the application for the order is denied under section 1842 of this title; or

(C) 7 days after the time of the authorization by the Attorney General.

(2) In the event that an application for an order applied for under subsection (a)(2) is denied, or in any other case where the installation and use of a pen register or trap and trace device under this section is terminated and no order under section 1842 of this title is issued approving the installation and use of the pen register or trap and trace device, as the case may be, no information obtained or evidence derived from the use of the pen register or trap and trace device, as the case may be, shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from the use of the pen register or trap and trace device, as the case may be, shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

(3) A denial of the application made under subsection (a)(2) may be reviewed as provided in section 1803 of this title.

(d) Privacy procedures

Information collected through the use of a pen register or trap and trace device installed under this section shall be subject to the policies and procedures required under section 1842(h) of this title.

(Pub. L. 95-511, title IV, § 403, as added Pub. L. 105-272, title VI, § 601(2), Oct. 20, 1998, 112 Stat. 2407; amended Pub. L. 107-56, title II, § 214(b), Oct. 26, 2001, 115 Stat. 287; Pub. L. 110-261, title I, § 108, July 10, 2008, 122 Stat. 2464; Pub. L. 114-23, title II, § 202(b), June 2, 2015, 129 Stat. 278; Pub. L. 115-118, title II, § 205(b)(5), Jan. 19, 2018, 132 Stat. 22.)

Editorial Notes

AMENDMENTS

2018—Subsec. (c)(3). Pub. L. 115-118 added par. (3).

2015—Subsec. (d). Pub. L. 114-23 added subsec. (d).

2008—Subsecs. (a)(2), (c)(1)(C). Pub. L. 110-261 substituted “7 days” for “48 hours”.

2001—Subsec. (a). Pub. L. 107-56, § 214(b)(1), substituted “foreign intelligence information not concerning a United States person or information to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution” for “foreign intelligence information or information concerning international terrorism” in introductory provisions.

Subsec. (b)(1). Pub. L. 107-56, § 214(b)(2), substituted “foreign intelligence information not concerning a United States person or information to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution” for “foreign intelligence information or information concerning international terrorism”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-261 effective July 10, 2008, except as provided in section 404 of Pub. L. 110-261, 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 section 1801 of this title.

§ 1844. Authorization during time of war

Notwithstanding any other provision of law, the President, through the Attorney General, may authorize the use of a pen register or trap and trace device without a court order under this subchapter to acquire foreign intelligence information for a period not to exceed 15 calendar days following a declaration of war by Congress.

(Pub. L. 95-511, title IV, § 404, as added Pub. L. 105-272, title VI, § 601(2), Oct. 20, 1998, 112 Stat. 2408.)

§ 1845. Use of information

(a) In general

(1) Information acquired from the use of a pen register or trap and trace device installed 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 provisions of this section.

(2) No information acquired from a pen register or trap and trace device installed and used pursuant to this subchapter may be used or disclosed by Federal officers or employees except for lawful purposes.

(b) Disclosure for law enforcement purposes

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.