(2) Coordination authorized under paragraph (1) shall not preclude the certification required by section 1823(a)(6) of this title or the entry of an order under section 1824 of this title.

(Pub. L. 95–511, title III, § 305, as added Pub. L. 103–359, title VIII, § 807(a)(3), Oct. 14, 1994, 108 Stat. 3449; amended Pub. L. 107–56, title V, § 504(b), Oct. 26, 2001, 115 Stat. 364; Pub. L. 107–296, title VIII, § 899, Nov. 25, 2002, 116 Stat. 2258; Pub. L. 110–261, title I, §§ 107(c)(2), 110(b)(2), July 10, 2008, 122 Stat. 2464, 2466.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original ''this Act'', meaning Pub. L. 95–511, Oct. 25, 1978, 92 Stat. 1783, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

Section 1824(d) of this title, referred to in subsec. (j)(1), was redesignated section 1824(e) of this title by Pub. L. 106–567, title VI, § 603(b)(1), Dec. 27, 2000, 114 Stat. 2853.

AMENDMENTS

2008—Subsec. (k)(1)(B). Pub. L. 110–261, § 110(b)(2), substituted ''sabotage, international terrorism, or the international proliferation of weapons of mass destruction'' for ''sabotage or international terrorism''.

Subsec. (k)(2). Pub. L. 110–261, § 107(c)(2), substituted ''1823(a)(6)'' for ''1823(a)(7)''.

2002—Subsec. (k)(1). Pub. L. 107–296, in introductory provision, inserted ''or law enforcement personnel of a State or political subdivision 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 political subdivision)'' after ''law enforcement officers''.

2001—Subsec. (k). Pub. L. 107–56 added subsec. (k).

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.

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.

§ 1826. Congressional oversight

On a semiannual basis the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, and the Committee on the Judiciary of the Senate, concerning all physical searches conducted pursuant to this subchapter. On a semiannual basis the Attorney General shall also provide to those committees and the Committee on the Judiciary of the House of Representatives a report setting forth with respect to the preceding six-month period—

(1) the total number of applications made for orders approving physical searches under this subchapter;

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

(3) the number of physical searches which involved searches of the residences, offices, or personal property of United States persons, and the number of occasions, if any, where the Attorney General provided notice pursuant to section 1825(b) of this title; and

(4) the total number of emergency physical searches authorized by the Attorney General under section 1824(e) of this title and the total number of subsequent orders approving or denying such physical searches.

(Pub. L. 95–511, title III, § 306, as added Pub. L. 103–359, title VIII, § 807(a)(3), Oct. 14, 1994, 108 Stat. 3451; amended Pub. L. 109–177, title I, § 109(a), Mar. 9, 2006, 120 Stat. 204.)

AMENDMENTS

2006—Pub. L. 109–177, § 109(a)(1), (2), in introductory provisions, inserted ‘‘, and the Committee on the Judiciary of the Senate,'' after ''Select Committee on Intelligence of the Senate'' and substituted ''and the Committee on the Judiciary of the House of Representatives'' for ''and the Committees on the Judiciary of the House of Representatives and the Senate''.

Par. (4). Pub. L. 109–177, § 109(a)(3)–(5), added par. (4).

§ 1827. Penalties

(a) Prohibited activities

A person is guilty of an offense if he intentionally—

(1) under color of law for the purpose of obtaining foreign intelligence information, executes a physical search within the United States except as authorized by statute; or

(2) discloses or uses information obtained under color of law by physical search within the United States, knowing or having reason to know that the information was obtained through physical search not authorized by statute, for the purpose of obtaining intelligence information.

(b) Defense

It is a defense to a prosecution under subsection (a) of this section that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the physical search was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

(c) Fine or imprisonment

An offense described in this section is punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both.

(d) Federal jurisdiction

There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

(Pub. L. 95–511, title III, § 307, as added Pub. L. 103–359, title VIII, § 807(a)(3), Oct. 14, 1994, 108 Stat. 3452.)

§ 1828. Civil liability

An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 1801(a) or (b)(1)(A), respectively, of this title, whose premises, property, information, or material has been subjected to a physical search within the United States or about whom information obtained by such a physical

search has been disclosed or used in violation of section 1827 of this title shall have a cause of action against any person who committed such violation and shall be entitled to recover—

(1) actual damages, but not less than liquidated damages of $1,000 or $100 per day for each day of violation, whichever is greater;

(2) punitive damages; and

(3) reasonable attorney's fees and other investigative and litigation costs reasonably incurred.

(Pub. L. 95–511, title III, § 308, as added Pub. L. 103–359, title VIII, § 807(a)(3), Oct. 14, 1994, 108 Stat. 3452.)

§ 1829. Authorization during time of war

Notwithstanding any other provision of law, the President, through the Attorney General, may authorize physical searches 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 the Congress.

(Pub. L. 95–511, title III, § 309, as added Pub. L. 103–359, title VIII, § 807(a)(3), Oct. 14, 1994, 108 Stat. 3452.)

SUBCHAPTER III—PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN INTELLIGENCE PURPOSES

§ 1841. Definitions

As used in this subchapter:

(1) The terms ''foreign power'', ''agent of a foreign power'', ''international terrorism'', ''foreign intelligence information'', ''Attorney General'', ''United States person'', ''United States'', ''person'', and ''State'' shall have the same meanings as in section 1801 of this title.

(2) The terms ''pen register'' and ''trap and trace device'' have the meanings given such terms in section 3127 of title 18.

(3) The term ''aggrieved person'' means any person—

(A) whose telephone line was subject to the installation or use of a pen register or trap and trace device authorized by this subchapter; or

(B) whose communication instrument or device was subject to the use of a pen register or trap and trace device authorized by this subchapter to capture incoming electronic or other communications impulses.

(Pub. L. 95–511, title IV, § 401, as added Pub. L. 105–272, title VI, § 601(2), Oct. 20, 1998, 112 Stat. 2404.)

PRIOR PROVISIONS

A prior section 401 of Pub. L. 95–511 was renumbered section 701 and was set out as a note under section 1801 of this title, prior to repeal by Pub. L. 110–261.

§ 1842. Pen registers and trap and trace devices for foreign intelligence and international terrorism investigations

(a) Application for authorization or approval

(1) Notwithstanding any other provision of law, the Attorney General or a designated attorney for the Government may make an application for an order or an extension of an order authorizing or approving the installation and use of a pen register or trap and trace device for any investigation to obtain foreign intelligence information not concerning a United States person or 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 which is being conducted by the Federal Bureau of Investigation under such guidelines as the Attorney General approves pursuant to Executive Order No. 12333, or a successor order.

(2) The authority under paragraph (1) is in addition to the authority under subchapter I of this chapter to conduct the electronic surveillance referred to in that paragraph.

(b) Form of application; recipient

Each application under this section shall be in writing under oath or affirmation to—

(1) a judge of the court established by section 1803(a) of this title; or

(2) a United States Magistrate Judge under chapter 43 of title 28 who is publicly designated by the Chief Justice of the United States to have the power to hear applications for and grant orders approving the installation and use of a pen register or trap and trace device on behalf of a judge of that court.

(c) Executive approval; contents of application

Each application under this section shall require the approval of the Attorney General, or a designated attorney for the Government, and shall include—

(1) the identity of the Federal officer seeking to use the pen register or trap and trace device covered by the application; and

(2) a certification by the applicant that the information likely to be obtained is foreign intelligence information not concerning a United States person or is relevant to an ongoing investigation 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.

(d) Ex parte judicial order of approval

(1) Upon an application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the installation and use of a pen register or trap and trace device if the judge finds that the application satisfies the requirements of this section.

(2) An order issued under this section—

(A) shall specify—

(i) the identity, if known, of the person who is the subject of the investigation;

(ii) the identity, if known, of the person to whom is leased or in whose name is listed the telephone line or other facility to which the pen register or trap and trace device is to be attached or applied; and

(iii) the attributes of the communications to which the order applies, such as the number or other identifier, and, if known, the location of the telephone line or other facility