



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

APR 28 2016

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Richard Burr
Chairman
Select Committee on Intelligence
United States Senate
Washington, D.C. 20510

The Honorable Robert W. Goodlatte
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Devin Nunes
Chairman
Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, D.C. 20515

Dear Messrs. Chairmen:

This report is submitted pursuant to sections 107 and 502 of the Foreign Intelligence Surveillance Act of 1978 (the "Act"), 50 U.S.C. § 1801 *et seq.*, and section 118 of USA PATRIOT Improvement and Reauthorization Act of 2005, Pub. L. No. 109-177 (2006), most recently amended by the USA FREEDOM Act, Pub. L. No. 114-23, 129 Stat. 268 (2015). In accordance with those provisions, this report provides information regarding all applications made by the Government during calendar year 2015 for authority to conduct electronic surveillance for foreign intelligence purposes under the Act, all applications made by the Government during calendar year 2015 for access to certain business records (including the production of tangible things) for foreign intelligence purposes, and certain requests made by the Federal Bureau of Investigation pursuant to national security letter authorities. In addition, while not required to do so by statute, the Government is providing information concerning the number of applications made during calendar year 2015 for authority to conduct physical searches for foreign intelligence purposes.

Applications Made to the Foreign Intelligence Surveillance Court During Calendar Year 2015 (section 107 of the Act, 50 U.S.C. § 1807)

During calendar year 2015, the Government made 1,499 applications¹ to the Foreign Intelligence Surveillance Court (hereinafter "FISC") for authority to conduct electronic

¹ In keeping with the Department's historical reporting practice, the number of applications listed in this report refers to applications that were filed in signed, final form pursuant to Rule 9(b) of the Foreign Intelligence Surveillance Court Rules of Procedure. A "denial" refers to a judge's formal denial of any such an application; it does not include a proposed application submitted pursuant to Rule 9(a) of the Foreign Intelligence Surveillance Court Rules of Procedure for which the government did not subsequently submit a signed, final application pursuant to Rule 9(b).

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surveillance and/or physical searches for foreign intelligence purposes. The 1,499 applications include applications made solely for electronic surveillance, applications made solely for physical search, and combined applications requesting authority for electronic surveillance and physical search. Of these, 1,457 applications included requests for authority to conduct electronic surveillance.

One of these 1,457 applications was withdrawn by the Government. The FISC did not deny any applications in whole, or in part. The FISC made modifications² to the proposed orders in 80³ applications. Thus, the FISC approved collection activity in a total of 1,456 of the applications that included requests for authority to conduct electronic surveillance.

Applications for Access to Certain Business Records (Including the Production of Tangible Things) Made During Calendar Year 2015 (section 502 of the Act, 50 U.S.C. § 1862(c)(1))

During calendar year 2015, the Government made 142 applications to the FISC for access to certain business records (including the production of tangible things) for foreign intelligence purposes. The FISC did not deny, in whole or in part, any such application filed by the Government during calendar year 2015. The FISC made modifications to five proposed orders in applications for access to business records.

One application made by the Government after the effective date of the business records provisions of the USA FREEDOM Act did not specifically identify an individual, account, or personal device as the specific selection term.⁴ The FISC did not modify the proposed orders in this one application for access to business records. Separately, the FISC did not direct additional, particularized minimization procedures beyond those adopted pursuant to section 1861(g) to the proposed orders in applications made by the Government after the effective date of the business records provisions of the USA FREEDOM Act.

² A "modification" includes any substantive disparity between the authority requested by the Government in a final application filed pursuant to Rule 9(b) and the authority granted by the FISC. It does not include changes made by the government after the submission of a proposed application submitted pursuant to Rule 9(a).

³ In addition to the 80 orders modified with respect to applications made during the reporting period, the FISC modified one order for an application after first granting authorization. The FISC also modified one order for an application made in a prior reporting period during the current reporting period.

⁴ Notably, the definition of "specific selection term" for obtaining an order for the production of tangible things is "a term that specifically identifies a person, account, address, or personal device, or any other specific identifier," 50 U.S.C. § 1861(k), whereas the definition of "specific selection term" for the reporting requirement encompasses a smaller group of terms, to include only "an individual, account, or personal device," 50 U.S.C. § 1862(c)(1)(C). Thus, the reporting requirement mandates inclusion in this report of certain requests that otherwise meet the definition of specific selection term in 50 U.S.C. § 1861(k). For example, the reporting requirement mandates inclusion of requests in which the specific selection term was an "address."

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Requests Made for Certain Information Concerning Different United States Persons Pursuant to National Security Letter Authorities During Calendar Year 2015 (USA PATRIOT Improvement and Reauthorization Act of 2005, Pub. L. No. 109-177 (2006))

Pursuant to Section 118 of the USA PATRIOT Improvement and Reauthorization Act, Pub. L. 109-177 (2006), as amended the Department of Justice provides Congress with annual reports regarding requests made by the Federal Bureau of Investigation (FBI) pursuant to the National Security Letter (NSL) authorities provided in 12 U.S.C. § 3414, 15 U.S.C. § 1681u, 15 U.S.C. § 1681v, 18 U.S.C. § 2709, and 50 U.S.C. § 436.

In 2015, the FBI made 9,418 NSL requests (excluding requests for subscriber information only) for information concerning United States persons. These sought information pertaining to 3,746 different United States persons.⁵

In 2015, the FBI made 31,863 NSL requests (excluding requests for subscriber information only) for information concerning non-United States persons. These sought information pertaining to 2,053 different non-United States persons.⁶

In 2015, the FBI made 7,361 NSL requests for information concerning only subscriber information for United States persons and non-United States persons. These sought information pertaining to 3,347 persons.⁷

⁵ In the course of compiling its National Security Letter statistics, the FBI may over-report the number of United States persons about whom it obtained information using National Security Letters. For example, NSLs that are issued concerning the same U.S. person and that include different spellings of the U.S. person's name would be counted as separate U.S. persons, and NSLs issued under two different types of NSL authorities concerning the same U.S. person would be counted as two U.S. persons.

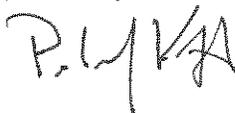
⁶ In the course of compiling its National Security Letter statistics, the FBI may over-report the number of non-United States persons about whom it obtained information using National Security Letters. For example, NSLs that are issued concerning the same non-U.S. person and that include different spellings of the non-U.S. person's name would be counted as separate non-U.S. persons, and NSLs issued under two different types of NSL authorities concerning the same non-U.S. person would be counted as two non-U.S. persons.

⁷ Because Congress has recognized that the FBI typically knows little about the user of a facility when requests for only subscriber information are made, Section 118(c)(2)(B) does not require the number of requests for NSLs seeking only subscriber information to be broken down to identify the number of requests related to United States persons and non-United States persons. *See* Section 118(c)(2)(B), USA Patriot Act Improvement and Reauthorization Act of 2005, Pub. L. No. 109-177, 120 Stat. 217 (2006), as most recently amended by the USA FREEDOM Act, Pub. L. No. 114-23, 129 Stat. 268 (2015).

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We hope that this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read "P. J. Kadzik". The signature is stylized and written in a cursive-like font.

Peter J. Kadzik
Assistant Attorney General

cc: The Honorable Patrick J. Leahy
Ranking Minority Member
Senate Committee on the Judiciary

The Honorable Dianne Feinstein
Vice Chairman
Senate Select Committee on Intelligence

The Honorable John Conyers, Jr.
Ranking Minority Member
House Committee on the Judiciary

The Honorable Adam Schiff
Ranking Minority Member
House Permanent Select Committee on Intelligence