



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Michael R. Pence
President
United States Senate
Washington, DC 20510

APR 30 2018

This report is submitted in accordance with sections 107 and 502 of the Foreign Intelligence Surveillance Act of 1978 (the “Act”), as amended, 50 U.S.C. § 1801 et seq., and section 118 of USA PATRIOT Improvement and Reauthorization Act of 2005, as amended. This report provides information regarding: (1) all final, filed applications made by the Government during calendar year 2017 for authority to conduct electronic surveillance and/or physical search for foreign intelligence purposes under the Act; (2) all final, filed applications made by the Government during calendar year 2017 for access to certain business records (including the production of tangible things) for foreign intelligence purposes; and (3) certain requests made by the Federal Bureau of Investigation (FBI) pursuant to national security letter authorities.

In addition to reporting statistics based on the number of final filed applications this report also includes statistics published by the Director of the Administrative Office of the United States Courts (AOUSC). The AOUSC reports the number of proposed applications rather than the number of final, filed applications. Rule 9(a) of the Foreign Intelligence Surveillance Court Rules of Procedure requires the Government to submit proposed applications at least seven days before the Government seeks to have a matter entertained by the Foreign Intelligence Surveillance Court (FISC). Modifications or withdrawals of applications may occur between the filing of a proposed application and the filing of a final application for a variety of reasons, including the Government modifying a proposed application in response to questions or concerns raised by the Court. The statistics prepared by the AOUSC, which use the number of proposed applications rather than final, filed applications as their baseline, reflect this robust interaction between the Government and the Court, and thus are included herein to provide important additional context. The AOUSC Director’s full report is available on the AOUSC website.

Applications Made to the Foreign Intelligence Surveillance Court During Calendar Year 2017 (section 107 of the Act, 50 U.S.C. § 1807)

During calendar year 2017, the Government filed 1,349 final applications to the Foreign Intelligence Surveillance Court (hereinafter “FISC”) for authority to conduct electronic surveillance and/or physical searches for foreign intelligence purposes. The 1,349 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, 1,321 applications included requests for authority to conduct electronic surveillance.

Two of these applications were withdrawn by the Government. The FISC did not deny any final, filed applications in whole, or in part. The FISC made modifications to the proposed orders in 154 final, filed applications. Thus, the FISC approved collection activity in a total of 1,319 of the applications that included requests for authority to conduct electronic surveillance.

The AOUSC, applying the methodology outlined above, has reported that the FISC received 1,372 proposed applications in 2017 for authority to conduct electronic surveillance and/or physical searches for foreign intelligence purposes. The AOUSC reported that 948 proposed orders were granted, 353 proposed orders were modified, 47 proposed applications were denied in part, and 24 proposed applications were denied in full. As noted above, the AOUSC statistics include modifications made to proposed orders between the filing of the proposed application and the final application, as well as proposed applications withdrawn by the Government in full or in part after being advised that the Court would not grant the proposed application as initially submitted by the Government.

During calendar year 2017, the total number of persons targeted for orders for electronic surveillance was between 1,000 and 1,499. The aggregate number of United States persons targeted for orders for electronic surveillance was between zero and 499.

Applications for Access to Certain Business Records (Including the Production of Tangible Things) Made During Calendar Year 2017 (section 502 of the Act, 50 U.S.C. § 1862(c)(1))

During calendar year 2017, the Government filed 117 final 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 final, filed application by the Government during calendar year 2017. The FISC did not modify any of the proposed orders in a final application for access to business records.

The AOUSC, applying the methodology outlined above, has reported that the FISC received 118 proposed applications in 2017 for access to certain business records (including the production of tangible things) for foreign intelligence purposes. In these matters, the AOUSC reported that 92 proposed orders were granted, 23 proposed orders were modified, two proposed applications were denied in part, and one proposed application was denied in full.

Twenty-five final, filed applications did not specifically identify an individual, account, or personal device as the specific selection term.¹ The FISC did not modify the proposed orders

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in these 25 applications 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.

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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 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.

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Sincerely,


Stephen E. Boyd
Assistant Attorney General



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Washington, D.C. 20530

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The Honorable Mitch McConnell
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Sincerely,

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Stephen E. Boyd
Assistant Attorney General



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Washington, D.C. 20530

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United States Senate
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Majority Leader
U.S. House of Representatives
Washington, DC 20515

APR 30 2018

Dear Mr. Leader:

This report is submitted in accordance with sections 107 and 502 of the Foreign Intelligence Surveillance Act of 1978 (the “Act”), as amended, 50 U.S.C. § 1801 et seq., and section 118 of USA PATRIOT Improvement and Reauthorization Act of 2005, as amended. This report provides information regarding: (1) all final, filed applications made by the Government during calendar year 2017 for authority to conduct electronic surveillance and/or physical search for foreign intelligence purposes under the Act; (2) all final, filed applications made by the Government during calendar year 2017 for access to certain business records (including the production of tangible things) for foreign intelligence purposes; and (3) certain requests made by the Federal Bureau of Investigation (FBI) pursuant to national security letter authorities.

In addition to reporting statistics based on the number of final filed applications this report also includes statistics published by the Director of the Administrative Office of the United States Courts (AOUSC). The AOUSC reports the number of proposed applications rather than the number of final, filed applications. Rule 9(a) of the Foreign Intelligence Surveillance Court Rules of Procedure requires the Government to submit proposed applications at least seven days before the Government seeks to have a matter entertained by the Foreign Intelligence Surveillance Court (FISC). Modifications or withdrawals of applications may occur between the filing of a proposed application and the filing of a final application for a variety of reasons, including the Government modifying a proposed application in response to questions or concerns raised by the Court. The statistics prepared by the AOUSC, which use the number of proposed applications rather than final, filed applications as their baseline, reflect this robust interaction between the Government and the Court, and thus are included herein to provide important additional context. The AOUSC Director’s full report is available on the AOUSC website.

Applications Made to the Foreign Intelligence Surveillance Court During Calendar Year 2017 (section 107 of the Act, 50 U.S.C. § 1807)

During calendar year 2017, the Government filed 1,349 final applications to the Foreign Intelligence Surveillance Court (hereinafter “FISC”) for authority to conduct electronic surveillance and/or physical searches for foreign intelligence purposes. The 1,349 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, 1,321 applications included requests for authority to conduct electronic surveillance.

Two of these applications were withdrawn by the Government. The FISC did not deny any final, filed applications in whole, or in part. The FISC made modifications to the proposed orders in 154 final, filed applications. Thus, the FISC approved collection activity in a total of 1,319 of the applications that included requests for authority to conduct electronic surveillance.

The AOUSC, applying the methodology outlined above, has reported that the FISC received 1,372 proposed applications in 2017 for authority to conduct electronic surveillance and/or physical searches for foreign intelligence purposes. The AOUSC reported that 948 proposed orders were granted, 353 proposed orders were modified, 47 proposed applications were denied in part, and 24 proposed applications were denied in full. As noted above, the AOUSC statistics include modifications made to proposed orders between the filing of the proposed application and the final application, as well as proposed applications withdrawn by the Government in full or in part after being advised that the Court would not grant the proposed application as initially submitted by the Government.

During calendar year 2017, the total number of persons targeted for orders for electronic surveillance was between 1,000 and 1,499. The aggregate number of United States persons targeted for orders for electronic surveillance was between zero and 499.

Applications for Access to Certain Business Records (Including the Production of Tangible Things) Made During Calendar Year 2017 (section 502 of the Act, 50 U.S.C. § 1862(c)(1))

During calendar year 2017, the Government filed 117 final 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 final, filed application by the Government during calendar year 2017. The FISC did not modify any of the proposed orders in a final application for access to business records.

The AOUSC, applying the methodology outlined above, has reported that the FISC received 118 proposed applications in 2017 for access to certain business records (including the production of tangible things) for foreign intelligence purposes. In these matters, the AOUSC reported that 92 proposed orders were granted, 23 proposed orders were modified, two proposed applications were denied in part, and one proposed application was denied in full.

Twenty-five final, filed applications did not specifically identify an individual, account, or personal device as the specific selection term.¹ The FISC did not modify the proposed orders

¹ 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.”

in these 25 applications 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.

Requests Made for Certain Information Pursuant to National Security Letter Authorities During Calendar Year 2017 (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 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.

The FBI reports it made 9,006 NSL requests (excluding requests for subscriber information only) in 2017 for information concerning United States persons. These sought information pertaining to 2,983 different United States persons.²

The FBI reports it made 14,861 NSL requests (excluding requests for subscriber information only) in 2017 for information concerning non-United States persons. These sought information pertaining to 3,084 different non-United States persons.³

The FBI reports it made 17,712 NSL requests in 2017 for information concerning only subscriber information for United States persons and non-United States persons. These sought information pertaining to 4,598 persons.⁴

² In the course of compiling its NSL statistics, the FBI may over-report the number of United States persons about whom it obtained information using NSLs. 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.

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⁴ 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 amended.

The Honorable Kevin McCarthy
Page Four

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 blue ink, appearing to be 'SEB', with a large, stylized loop at the end.

Stephen E. Boyd
Assistant Attorney General



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
Washington, DC 20515

APR 30 2018

Dear Madam Leader:

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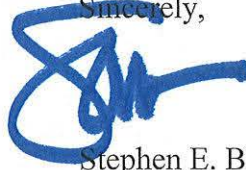
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The Honorable Nancy Pelosi
Page Four

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 blue ink, appearing to read 'SEB', is positioned above the printed name.

Stephen E. Boyd
Assistant Attorney General



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

APR 30 2018

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

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The Honorable Charles E. Grassley
The Honorable Richard Burr
The Honorable Robert W. Goodlatte
The Honorable Devin Nunes
Page Three

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² While compiling statistics for this year’s report, the FBI discovered that certain NSL statistics provided for past semi-annual reports may contain inaccuracies. We will provide updated reports, if necessary.

³ In the course of compiling its NSL statistics, the FBI may over-report the number of United States persons about whom it obtained information using NSLs. 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.

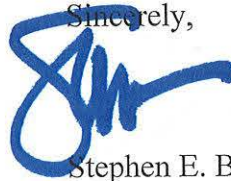
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The Honorable Charles E. Grassley
The Honorable Richard Burr
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The Honorable Devin Nunes
Page Four

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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,



Stephen E. Boyd
Assistant Attorney General

cc: The Honorable Dianne Feinstein
Ranking Minority Member
Senate Committee on the Judiciary

The Honorable Mark Warner
Vice Chairman
Senate Select Committee on Intelligence

The Honorable Jerrold Nadler
Ranking Minority Member
House Committee on the Judiciary

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

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U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable James C. Duff
Director
Administrative Office of the United States Courts
Washington, D.C. 20544

APR 30 2018

Dear Mr. Duff:

Pursuant to section 107 of the Foreign Intelligence Surveillance Act of 1978 (the “Act”), as amended, 50 U.S.C. § 1801 *et seq.*, this report provides information regarding applications made by the Government during calendar year 2017 for authority to conduct electronic surveillance and physical search for foreign intelligence purposes.

As you are aware, it has been the Government’s historical practice to report statistics based on the number of *final*, filed applications to the Foreign Intelligence Surveillance Court (hereinafter “FISC”). Whereas, the statistics published in your report are based on the number of *proposed applications and orders*. More specifically, Rule 9(a) of the Foreign Intelligence Surveillance Court Rules of Procedure requires the Government to submit proposed applications at least seven days before the Government seeks to have a matter entertained by the FISC. Modifications or withdrawals of applications may occur between the filing of a proposed application and the filing of a final application for a variety of reasons, including the Government modifying a proposed application in response to questions or concerns raised by the Court. Because the methodology utilized in your report reflects this robust interaction between the Government and the Court, we have repeated that information herein to provide important additional context.

During calendar year 2017, the Government filed 1,349 final applications to the FISC for authority to conduct electronic surveillance and/or physical searches for foreign intelligence purposes. The 1,349 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, 1,321 applications included requests for authority to conduct electronic surveillance.

Two of these applications were withdrawn by the Government. The FISC did not deny any final, filed applications in whole, or in part. The FISC made modifications¹ to the proposed

¹ 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).

The Honorable James C. Duff
Page Two

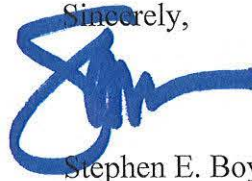
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Your office, applying the methodology outlined above, reported that the FISC received 1,372 proposed applications in 2017 for authority to conduct electronic surveillance and/or physical searches for foreign intelligence purposes. In these matters, you reported that 948 proposed orders were granted, 353 proposed orders were modified, 47 proposed applications were denied in part, and 24 proposed applications were denied in full. As noted above, those statistics include modifications made to applications between the filing of the proposed application and the final application, as well as proposed applications withdrawn by the Government in full or in part after being advised that the Court would not grant the proposed application as initially submitted by the Government.

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