



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

JUL 17 2020

Dear Madam Speaker:

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 2019 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 2019 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 or Court). 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 2019 (section 107 of the Act, 50 U.S.C. § 1807)

During calendar year 2019, the Government filed 848 final applications to the FISC for authority to conduct electronic surveillance and/or physical searches for foreign intelligence purposes. The 848 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 the 848 applications filed requesting authority to conduct electronic surveillance and/or physical search, the FISC denied one final, filed application requesting physical search only.

Of the 848 final, filed applications, 832 applications included requests for authority to conduct electronic surveillance. None of the applications requesting authority to conduct electronic surveillance were withdrawn by the Government. The FISC did not deny any of these final, filed applications in whole or in part. The FISC made modifications to the proposed orders in 59 final, filed applications requesting authority to conduct electronic surveillance. Thus, the FISC approved collection activity in a total of 832 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 863 proposed applications in 2019 for authority to conduct electronic surveillance and/or physical searches for foreign intelligence purposes. The AOUSC reported that 586 proposed orders were granted as filed, 224 proposed orders were granted as modified, 37 proposed applications were granted in part and denied in part, and 16 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 2019, the total number of persons targeted for orders for electronic surveillance was between 500 and 999. 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 2019 (section 502 of the Act, 50 U.S.C. § 1862(c)(1))

During calendar year 2019, the Government filed 61 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 2019. The FISC modified the proposed orders submitted with four final applications for access to business records.

The AOUSC, applying the methodology outlined above, has reported that the FISC received 63 proposed applications for access to certain business records (including the production of tangible things) for foreign intelligence purposes.

In these matters, the AOUSC reported that 39 proposed orders were granted as filed, 21 proposed orders were granted as modified, one proposed order was granted in part and denied in part, and two proposed applications were denied in full.

All final, filed applications identified a “specific selection term” as defined in 50 U.S.C. § 1861(k). Section 1862(c)(1)(C) requires the government to report the total number of applications in which the specific selection term does not specifically identify an individual, account, or personal device. Thirty-one final, filed applications did not specifically identify an individual, account, or personal device as the specific selection term.¹ The FISC modified the proposed order in one of these 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 2019 (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 8,557 NSL requests² (excluding requests for subscriber information only) in 2019 for information concerning United States persons. These sought information pertaining to 3,643 different United States persons.³

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 does not mandate inclusion in this statistic of certain requests that otherwise meet the definition of specific selection term in 50 U.S.C. § 1861(k). For example, the reporting requirement does not mandate inclusion of requests in which the specific selection term was an “address.”

² In the course of compiling its NSL statistics, the FBI relies on the information available in its systems at the time of compilation. On occasion, the number of NSL requests provided in this report as an annual tally may not be the same as the sum of the numbers reported in the Department’s two semiannual reports. Generally, the differences are the result of NSL requests withdrawn (e.g. not served on a provider) after the semiannual numbers were tallied. Although the final annual numbers may differ from the semiannual numbers, each is an accurate representation of the total number of NSL requests at the time the NSLs were counted.

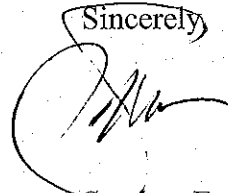
³ In the course of compiling its NSL statistics, the FBI may over-report the number of United States persons about whom it obtained information using NSLs. For example, NSLs that are issued concerning the same U.S. person and that include different spellings of the U.S. person’s name would be counted 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.

The FBI reports it made 35,848 NSL requests⁴ (excluding requests for subscriber information only) in 2019 for information concerning non-United States persons. These sought information pertaining to 11,383 different non-United States persons.⁵

The FBI reports it made 19,601 NSL requests⁶ subscriber information for United States persons and non-United States persons. These sought information pertaining to 4,490 persons.⁷

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

⁴ In the course of compiling its NSL statistics, the FBI relies on the information available in its systems at the time of compilation. On occasion, the number of NSL requests provided in this report as an annual tally may not be the same as the sum of the numbers reported in the Department's two semiannual reports. Generally, the differences are the result of NSL requests withdrawn (e.g. not served on a provider) after the semiannual numbers were tallied. Although the final annual numbers may differ from the semiannual numbers, each is an accurate representation of the total number of NSL requests at the time the NSLs were counted.

⁵ In the course of compiling its NSL statistics, the FBI may over-report the number of non-United States persons about whom it obtained information using NSLs. 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.

⁶ In the course of compiling its NSL statistics, the FBI relies on the information available in its systems at the time of compilation. On occasion, the number of NSL requests provided in this report as an annual tally may not be the same as the sum of the numbers reported in the Department's two semiannual reports. Generally, the differences are the result of NSL requests withdrawn (e.g. not served on a provider) after the semiannual numbers were tallied. Although the final annual numbers may differ from the semiannual numbers, each is an accurate representation of the total number of NSL requests at the time the NSLs were counted.

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 amended.