



**U.S. Department of Justice**  
**Office of Legislative Affairs**

Office of the Assistant Attorney General

Washington, D.C. 20530

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

**APR 29 2022**

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 2021 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 2021 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 (hereinafter "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 2021** (section 107 of the Act, 50 U.S.C. § 1807)

During calendar year 2021, the Government filed 388 final applications with the FISC for authority to conduct electronic surveillance and/or physical searches for foreign intelligence purposes. The 388 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 388 final, filed applications, 368 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. Thus, the FISC approved collection activity in a total of 368 of the applications that included requests for authority to conduct electronic surveillance. The FISC made modifications to the proposed orders in 47 final, filed applications requesting authority to conduct electronic surveillance.

The AOUSC, applying the methodology outlined above, has reported that the FISC received 391 proposed applications in 2021 for authority to conduct electronic surveillance and/or physical searches for foreign intelligence purposes. The AOUSC reported that 271 proposed orders were granted, 97 proposed orders were modified, 20 proposed orders were denied in part, and three proposed applications were denied in full.<sup>1</sup> 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 2021, the total number of persons targeted for orders for electronic surveillance was between zero and 499. The total 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 2021** (section 502 of the Act, 50 U.S.C. § 1862(c)(1))

During calendar year 2021, the Government filed 12 final applications with the FISC for access to certain business records (including the production of tangible things) for foreign intelligence purposes.<sup>2</sup> The FISC did not deny, in whole or in part, any such final,

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<sup>1</sup> Of the three proposed applications the AOUSC reported as denied in full, the Government subsequently resubmitted one of these applications. Following a hearing, this application was approved by the FISC.

<sup>2</sup> The sunset of Section 215 of the USA PATRIOT Act (50 U.S.C. §§ 1861-1862) became effective on March 15, 2020. With that sunset, the FISA business records provision reverted to the language and authorities originally enacted in 1998, except for particular foreign intelligence investigations that began or offenses that began or occurred before the sunset.

filed application by the Government during calendar year 2021. The FISC did not modify the proposed orders submitted with any final, filed applications for access to business records. One application was pending approval at the end of the reporting period.

The AOUSC, applying the methodology outlined above, has reported that the FISC received 13 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 five proposed orders were granted, six proposed orders were modified, and one proposed application was denied in full. The AOUSC also reported that the FISC did not take final action on one of the proposed applications within the calendar year.

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. Five final, filed applications did not specifically identify an individual, account, or personal device as the specific selection term.<sup>3</sup> The FISC did not modify the proposed orders in any 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 2021 (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.

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<sup>3</sup> 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.”

The Honorable Nancy Pelosi  
Page Four

The FBI reports it made 7,607 NSL requests<sup>4</sup> (excluding requests for subscriber information only) in 2021 for information concerning United States persons. These sought information pertaining to 2,427 different United States persons.<sup>5</sup>

The FBI reports it made 9,486 NSL requests (excluding requests for subscriber information only) in 2021 for information concerning non-United States persons. These sought information pertaining to 2,067 different non-United States persons.

The FBI reports it made 14,732 NSL requests in 2021 for information concerning only subscriber information for United States persons and non-United States persons. These sought information pertaining to 3,745 persons.<sup>6</sup>

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,



Peter S. Hyun  
Acting Assistant Attorney General

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<sup>4</sup> 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.

<sup>5</sup> 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. This same counting methodology applies to the number of non-United States persons about whom the FBI obtained information using NSLs, which is also reported herein.

<sup>6</sup> 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.