

## 50 U.S. Code § 1806 - Use of information

U.S. Code    Notes

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### **(a) COMPLIANCE WITH MINIMIZATION PROCEDURES; PRIVILEGED COMMUNICATIONS; LAWFUL PURPOSES**

Information acquired from an electronic surveillance conducted pursuant to this subchapter concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this subchapter. No otherwise privileged communication obtained in accordance with, or in violation of, the provisions of this subchapter shall lose its privileged character. No information acquired from an electronic surveillance pursuant to this subchapter may be used or disclosed by Federal officers or employees except for lawful purposes.

### **(b) STATEMENT FOR DISCLOSURE**

No information acquired pursuant to this subchapter shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

### **(c) NOTIFICATION BY UNITED STATES**

Whenever the Government intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this subchapter, the Government shall, prior to the trial, hearing, or other proceeding or at a reasonable time prior to an effort to so disclose or so use that information or submit it in evidence, notify the

aggrieved person and the court or other authority in which the information is to be disclosed or used that the Government intends to so disclose or so use such information.

**(d) NOTIFICATION BY STATES OR POLITICAL SUBDIVISIONS**

Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof, against an aggrieved person any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this subchapter, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

**(e) MOTION TO SUPPRESS**

Any person against whom evidence obtained or derived from an electronic surveillance to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such electronic surveillance on the grounds that—

- (1) the information was unlawfully acquired; or
- (2) the surveillance was not made in conformity with an order of authorization or approval.

Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

**(f) IN CAMERA AND EX PARTE REVIEW BY DISTRICT COURT**

Whenever a court or other authority is notified pursuant to subsection (c) or (d), or whenever a motion is made pursuant to subsection (e), or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to electronic

surveillance or to discover, obtain, or suppress evidence or information obtained or derived from electronic surveillance under this chapter, the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority, shall, notwithstanding any other law, if the Attorney General files an affidavit under oath that disclosure or an adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the surveillance as may be necessary to determine whether the surveillance of the aggrieved person was lawfully authorized and conducted. In making this determination, the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the surveillance only where such disclosure is necessary to make an accurate determination of the legality of the surveillance.

**(g) SUPPRESSION OF EVIDENCE; DENIAL OF MOTION**

If the United States district court pursuant to subsection (f) determines that the surveillance was not lawfully authorized or conducted, it shall, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from electronic surveillance of the aggrieved person or otherwise grant the motion of the aggrieved person. If the court determines that the surveillance was lawfully authorized and conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

**(h) FINALITY OF ORDERS**

Orders granting motions or requests under subsection (g), decisions under this section that electronic surveillance was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other materials relating to a surveillance shall be final orders and binding upon all courts of the United States and the several States except a United States court of appeals and the Supreme Court.

**(i) DESTRUCTION OF UNINTENTIONALLY ACQUIRED INFORMATION**

In circumstances involving the unintentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients

are located within the United States, such contents shall be destroyed upon recognition, unless the Attorney General determines that the contents indicate a threat of death or serious bodily harm to any person.

**(j) NOTIFICATION OF EMERGENCY EMPLOYMENT OF ELECTRONIC SURVEILLANCE; CONTENTS; POSTPONEMENT, SUSPENSION OR ELIMINATION**

If an emergency employment of electronic surveillance is authorized under subsection (e) or (f) of section 1805 of this title and a subsequent order approving the surveillance is not obtained, the judge shall cause to be served on any United States person named in the application and on such other United States persons subject to electronic surveillance as the judge may determine in his discretion it is in the interest of justice to serve, notice of—

- (1)** the fact of the application;
- (2)** the period of the surveillance; and
- (3)** the fact that during the period information was or was not obtained.

On an ex parte showing of good cause to the judge the serving of the notice required by this subsection may be postponed or suspended for a period not to exceed ninety days. Thereafter, on a further ex parte showing of good cause, the court shall forego ordering the serving of the notice required under this subsection.

**(k) COORDINATION WITH LAW ENFORCEMENT ON NATIONAL SECURITY MATTERS**

**(1)** Federal officers who conduct electronic surveillance to acquire foreign intelligence information under this subchapter may consult with Federal law enforcement officers 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) to coordinate efforts to investigate or protect against—

- (A)** actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;
- (B)** sabotage, international terrorism, or the international proliferation of weapons of mass destruction by a foreign power or

an agent of a foreign power; or

**(C)** clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power.

**(2)** Coordination authorized under paragraph (1) shall not preclude the certification required by section 1804(a)(7)(B) <sup>[1]</sup> of this title or the entry of an order under section 1805 of this title.

(Pub. L. 95-511, title I, § 106, Oct. 25, 1978, 92 Stat. 1793; Pub. L. 107-56, title V, § 504(a), Oct. 26, 2001, 115 Stat. 364; Pub. L. 107-296, title VIII, § 898, Nov. 25, 2002, 116 Stat. 2258; Pub. L. 110-261, title I, §§ 106, 110(b) (1), July 10, 2008, 122 Stat. 2462, 2466; Pub. L. 114-23, title VII, § 701(b), June 2, 2015, 129 Stat. 299.)

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