

98TH CONGRESS
2D SESSION

H. R. 6343

To amend title 18 of the United States Code with respect to the interception of certain communications, other forms of surveillance, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 1, 1984

Mr. KASTENMEIER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18 of the United States Code with respect to the interception of certain communications, other forms of surveillance, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Electronic Surveillance
4 Act of 1984".

5 SEC. 2. (a) Section 2510(4) of title 18 of the United
6 States Code is amended by striking out "aural".

7 (b) Section 2510(11) of title 18 of the United States
8 Code is amended by inserting ", and, in the case of an inter-
9 ception pursuant to an order under this chapter, includes any
10 person with respect to whom the applicant for such order had

1 reasonable cause to believe was involved in the activity being
2 investigated through such interception" after "directed".

3 SEC. 3. Section 2515 of title 18 of the United States
4 Code is further amended by adding at the end "Whenever
5 the interception of a communication otherwise in accordance
6 with this chapter has failed to meet the minimization require-
7 ment of section 2518(5) of this title, and such failure is part
8 of a pattern of intentional illegality, the court may order that
9 no part of the contents of any communication intercepted
10 during the course of conduct demonstrating that pattern, and
11 no evidence derived therefrom, may be received in any such
12 trial, hearing, or other proceeding, and may also make appro-
13 priate orders preventing the use or disclosure of any such
14 contents."

15 SEC. 4. Section 2516(1)(c) of title 18 of the United
16 States Code is amended by inserting "section 1512 (tamper-
17 ing with a witness, victim, or an informant), section 1513
18 (retaliating against a witness, victim, or an informant)," after
19 "(obstruction of State or local law enforcement),".

20 SEC. 5. Section 2517(5) of title 18 of the United States
21 Code is amended—

22 (1) by striking out "When" and inserting "To the
23 extent" in lieu thereof; and

24 (2) by inserting "solely" after "relating".

1 **SEC. 6. (a) Section 2518(1)(b) of title 18 of the United**
2 **States Code is amended by inserting immediately before the**
3 **semicolon at the end the following: “, and (v) the specific**
4 **investigative objectives and the specific targets, of the inter-**
5 **ception to which the application pertains”.**

6 **(b) Section 2518(1)(c) of title 18 of the United States**
7 **Code is amended—**

8 **(1) by inserting “(including the use of informants,**
9 **search warrants, interviewing witnesses, and obtaining**
10 **documents through other legal means)” after “proce-**
11 **dures”; and**

12 **(2) by striking out “or why they” and inserting in**
13 **lieu thereof “and establishing that any further use of**
14 **such procedures would”.**

15 **(c) Section 2518(3) of title 18 of the United States Code**
16 **is amended by inserting “(and outside that jurisdiction in the**
17 **case of a motile interception device installed within such ju-**
18 **risdiction)” after “within the territorial jurisdiction of the**
19 **court in which the judge is sitting”.**

20 **(d) Section 2518(4) of title 18 of the United States Code**
21 **is amended by adding at the end “A communication shall not**
22 **be intercepted under an order under this chapter unless at**
23 **least one of the parties to such communication is identified in**
24 **such order, the court issuing such order found probable cause**
25 **that virtually everyone using the designated facility or tele-**

1 phone is doing so for the purpose which is the object of inves-
2 tigation set forth in such order, or for the purpose of monitor-
3 ing to become familiar with the voices of targets set forth in
4 such order. The use or disclosure of information obtained by
5 an interception which is authorized under this chapter and
6 utilizes an automatic listening device shall be treated under
7 this chapter in the same manner as the use and disclosure of
8 information obtained by an interception not using such a
9 device. An order authorizing the interception of a wire or
10 oral communication under this chapter may, upon a showing
11 by the applicant that there are no other less intrusive means
12 of effecting the interception, authorize physical entry to in-
13 stall an electronic, mechanical, or other device.”.

14 (e) Section 2518(5) of title 18 of the United States Code
15 is amended by inserting “with the good faith intent to mini-
16 mize and” before “in such a way as”.

17 (f) Subsection (6) of section 2518 of title 18 of the
18 United States Code is amended to read as follows:

19 “(6) An order authorizing interception pursuant to this
20 chapter shall require that reports be made not less often than
21 fortnightly to the judge who issued such order, showing what
22 progress has been made toward achievement of the author-
23 ized objective, the need, if any for continued interception, and
24 whether any evidence has been discovered through such
25 interception of offenses other than those with respect to

1 which such order was issued. The judge may suspend or ter-
 2 minate interception if any such report is deficient, evinces
 3 serious procedural irregularities, or indicates the legal basis
 4 of continued interception no longer exists.”.

5 (g) Section 2518(7) of title 18 of the United States Code
 6 is amended—

7 (1) by inserting “conspiratorial activities of a life-
 8 threatening nature,” before “conspiratorial activities”
 9 the first place it appears;

10 (2) by inserting a comma after “security interest”;

11 and

12 (3) by inserting “, upon oral notice to a judge of
 13 competent jurisdiction,” after “may”.

14 (h) Section 2518(8)(a) of title 18 of the United States
 15 Code is amended by striking out “Immediately upon” and
 16 inserting “Not later than 48 hours after” in lieu thereof.

17 SEC. 7. (a) Chapter 119 of title 18 of the United States
 18 Code is amended by adding at the end the following:

19 “§ 2521. Pen registers and tracers

20 “(a) No person acting under the authority of the United
 21 States shall install or use any pen register or tracer except as
 22 provided in this section.

23 “(b) For the purposes of this chapter, the installation
 24 and use of a pen register or a tracer shall be treated as
 25 though such installation or use were an installation or use of

1 *an electronic, mechanical, or other device for the interception*
 2 *of a wire or oral communication, and a Federal law enforce-*
 3 *ment officer with responsibility for an ongoing criminal inves-*
 4 *tigation may engage in such installation or use to the extent*
 5 *that this chapter allows the installation or use of a device for*
 6 *such an interception.*

7 “(c) As used in this section—

8 “(1) the term ‘pen register’ means a device which
 9 records or decodes electronic or other impulses which
 10 identify the numbers dialed or otherwise transmitted on
 11 the telephone line to which such device is attached;
 12 and

13 “(2) the term ‘tracer’ means an electronic or me-
 14 chanical device which permits the tracking of a person
 15 or object without the consent or knowledge of such in-
 16 dividual or the individual controlling such object.”.

17 (b) The table of sections at the beginning of chapter 119
 18 of title 18 of the United States Code is amended by adding at
 19 the end the following new item:

“2521. Pen registers and tracers.”.

20 SEC. 8. (a) Chapter 205 of title 18 of the United States
 21 Code is amended by adding at the end the following:

22 **“§ 3117. Video surveillance**

23 “(a) No person acting under the authority of the United
 24 States shall engage in any video surveillance except as pro-
 25 vided in this section.

1 “(b) For the purposes of chapter 119 of this title, video
2 surveillance shall be treated as though such surveillance were
3 an interception of a wire or oral communication, and a Feder-
4 al law enforcement officer with responsibility for an ongoing
5 criminal investigation may engage in video surveillance to
6 the extent that such chapter allows such an interception,
7 except that—

8 “(1) an application under that chapter with re-
9 spect to video surveillance may be made only to a Fed-
10 eral judge of competent jurisdiction;

11 “(2) an order authorizing or approving such sur-
12 veillance shall be for a period not greater than ten
13 days, and each extension of such an order shall be for
14 a period not greater than ten days; and

15 “(3) for the purposes of the application of section
16 2518(1)(c) of this title, other investigative procedures
17 include an interception under chapter 119 of this title.

18 “(c) As used in this section, the term ‘video surveillance’
19 means the recording of visual images of individuals by televi-
20 sion, film, videotape, or other similar method, in a location
21 not open to the general public and without the consent of that
22 individual.”.

23 (b) The table of sections for chapter 205 of title 18 of
24 the United States Code is amended by adding at the end the
25 following new item:

“3117. Video surveillance.”.

1 **SEC. 9. (a) Section 1806(e) of title 50 of the United**
2 **States Code is amended by adding at the end "Any person**
3 **may make a motion to exclude from any criminal proceeding**
4 **any evidence obtained or derived from an electronic surveil-**
5 **lance if the primary purpose of the portion of such surveil-**
6 **lance from which such evidence was obtained or derived was**
7 **to obtain information to be used in a criminal proceeding. For**
8 **the purposes of the immediately preceding sentence a portion**
9 **of electronic surveillance which occurs not more than 30 days**
10 **before the return of a criminal indictment based on such sur-**
11 **veillance shall be presumed to be for the primary purpose of**
12 **obtaining information to be used in a criminal proceeding.**

13 **(b) Section 1808(b) of title 50 of the United States Code**
14 **is amended by striking out "On" and all that follows through**
15 **"four years thereafter" and inserting in lieu thereof "On or**
16 **before October 25 of each year".**

17 **(c) Section 1807 of title 50 of the United States Code is**
18 **amended—**

19 **(1) by striking out "and" at the end of paragraph**

20 **(a);**

21 **(2) by striking out the period at the end of para-**
22 **graph (b) and inserting "; and" in lieu thereof; and**

23 **(3) by adding at the end the following:**

24 **"(c) the number of individuals, within a range of 10,**
25 **who have been the objects of electronic surveillance."**

1 (d) Section 1505(b)(2) of title 50 of the United States
2 Code is amended—

3 (1) by striking out “and” at the end of subpara-
4 graph (C);

5 (2) by striking out the period at the end of sub-
6 paragraph (D) and inserting “; and” in lieu thereof;
7 and

8 (3) by adding at the end the following:

9 “(E) that the applicant inform any United
10 States person whose communication is intercepted
11 by electronic surveillance of the fact of such sur-
12 veillance not later than 180 days after the end of
13 such surveillance, unless the United States estab-
14 lishes to the satisfaction of the court by clear and
15 convincing evidence that so to inform such person
16 would jeopardize an ongoing intelligence operation
17 or disclose the sources or methods of intelligence
18 gathering.”.

19 SEC. 10. This Act and the amendments made by this
20 Act shall take effect 30 days after the date of the enactment
21 of this Act.

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