

Report of the Director of the Administrative Office of the United States Courts on Applications for Delayed-Notice Search Warrants and Extensions

The USA Patriot Improvement and Reauthorization Act of 2005 requires the Director of the Administrative Office of the United States Courts (AO) to transmit to Congress annually a full and complete report summarizing information reported by judges to the AO on delayed-notice search warrants. The report is to include the number of applications for warrants and extensions of warrants authorizing delayed notice, and the number of such warrants and extensions granted or denied during the preceding fiscal year. The requirement to report this information to Congress begins with the fiscal year ended September 30, 2007.

This report covers applications for delayed-notice search warrants and extensions between October 1, 2006 and September 30, 2007. It also includes a summary of applications for delayed-notice search warrants and extensions between March 9, 2006, the date the USA Patriot Improvement and Reauthorization Act was enacted, and September 30, 2006.

Reporting Requirements of the Statute

Any federal or state judge who issues or denies a federal warrant authorizing delayed notice, or an extension of such a warrant, is required to file a report with the AO on the warrant. (18 U.S.C. § 3103a(d)(1).) This report is to be furnished not later than 30 days after the expiration of the warrant's notice period (including any extensions to the notice period) or 30 days after the denial of the warrant or the request for extension. The report must include the offense specified in the warrant or application, the period of delay authorized, the number and duration of any extensions, and the action taken on the application.

The AO is required to report annually to Congress on the information submitted by judges for the preceding fiscal year. This report must include the number of applications for delayed-notice search warrants and extensions, and the number of warrants and extensions granted or denied. (18 U.S.C. § 3103a(d)(2).)

Summary and Analysis of Reports for Fiscal Year 2007

Summary data on applications for delayed notice search warrants and extensions for fiscal year 2007 are shown in Table 1. A total of 419 warrant requests and 271 requests for extensions were reported for the fiscal year ended September 30, 2007. None of the applications reported were denied; 19 of the applications were granted as modified.

Judges in 48 federal judicial districts reported actions on applications for delayed-notice search warrants or extensions. The greatest numbers of applications were reported by judges in the District of Hawaii, the Southern District of Texas, the Eastern District of Wisconsin, the Southern District of California, and the Middle District of Pennsylvania; applications in these five districts accounted for over half of all applications reported. Of the 690 applications

reported, 632 (92 percent) were reported by federal magistrate judges and 58 were reported by federal district judges. No applications were reported by state judges.

The periods of delay specified ranged from 5 days to 365 days. (See Graph 1.) The most frequently reported period of delay was 90 days, specified in 326 (47 percent) of the applications. Extensions to the period of delay numbered from one to 18, with two being the most frequently reported number of extensions. (See Graph 2.)

Offenses

Table 2 presents the types of offenses specified in delayed-notice search warrant and extension requests reported in 2007. Drug offenses were specified in 69 percent of applications reported, followed by tax (10 percent) and firearms offenses (4 percent).

2006 Reports

Although courts were required to report delayed-notice search warrant applications to the AO upon enactment of the reporting requirement in March 2006, the statute requires that the first report to Congress cover the fiscal year starting October 1, 2006. Reports submitted to the AO on delayed-notice search warrant requests made during the interim period (March 2006 through September 2006) are summarized in Table 1a. Table 2a shows the offenses specified in these reports.

Regulations

The Director of the AO is empowered to issue binding regulations, in consultation with the Attorney General, dealing with the content and form of the reports required to be filed by judges on applications for delayed-notice search warrants and extensions. The Director of the AO has not issued regulations on the reporting of delayed-notice search warrant applications or extension requests.

Table 1. Delayed-notice warrant and extension requests – fiscal year 2007

	Total requests	Avg delay (in days)	Warrant requests	Granted	Granted as modified	Extension requests	Granted	Granted as modified
ALL CIRCUITS	690	75	419	404	15	271	267	4
DC CIRCUIT	2	90	1	1	0	1	1	0
DISTRICT OF COLUMBIA	2	90	1	1	0	1	1	0
FIRST CIRCUIT	6	58	6	6	0	0	0	0
MASSACHUSETTS	2	60	2	2	0	0	0	0
MAINE	1	30	1	1	0	0	0	0
PUERTO RICO	3	65	3	3	0	0	0	0
SECOND CIRCUIT	14	72	8	8	0	6	6	0
NEW YORK (NORTHERN)	6	37	3	3	0	3	3	0
NEW YORK (EASTERN)	3	134	3	3	0	0	0	0
NEW YORK (SOUTHERN)	5	78	2	2	0	3	3	0
THIRD CIRCUIT	53	48	37	36	1	16	16	0
NEW JERSEY	4	17	4	4	0	0	0	0
PENNSYLVANIA (EASTERN)	1	30	0	0	0	1	1	0
PENNSYLVANIA (MIDDLE)	48	51	33	32	1	15	15	0
FOURTH CIRCUIT	51	55	43	43	0	8	8	0
MARYLAND	5	42	5	5	0	0	0	0
NORTH CAROLINA (EASTERN)	32	59	28	28	0	4	4	0
VIRGINIA (EASTERN)	14	50	10	10	0	4	4	0
FIFTH CIRCUIT	117	115	84	77	7	33	32	1
MISSISSIPPI (SOUTHERN)	2	68	2	1	1	0	0	0
TEXAS (NORTHERN)	6	78	2	2	0	4	4	0
TEXAS (EASTERN)	2	20	2	2	0	0	0	0
TEXAS (SOUTHERN)	79	133	62	56	6	17	16	1
TEXAS (WESTERN)	28	81	16	16	0	12	12	0
SIXTH CIRCUIT	34	65	16	16	0	18	17	1
KENTUCKY (WESTERN)	1	90	0	0	0	1	0	1
MICHIGAN (EASTERN)	4	90	1	1	0	3	3	0
MICHIGAN (WESTERN)	1	90	0	0	0	1	1	0
OHIO (NORTHERN)	16	57	5	5	0	11	11	0
OHIO (SOUTHERN)	9	53	9	9	0	0	0	0
TENNESSEE (MIDDLE)	3	90	1	1	0	2	2	0
SEVENTH CIRCUIT	75	77	65	60	5	10	10	0
ILLINOIS (NORTHERN)	1	90	1	1	0	0	0	0
INDIANA (SOUTHERN)	11	55	8	8	0	3	3	0
WISCONSIN (EASTERN)	63	81	56	51	5	7	7	0

EIGHTH CIRCUIT	26	30	9	9	0	17	17	0
IOWA (NORTHERN)	20	25	4	4	0	16	16	0
IOWA (SOUTHERN)	3	45	2	2	0	1	1	0
MISSOURI (WESTERN)	2	53	2	2	0	0	0	0
NORTH DAKOTA	1	30	1	1	0	0	0	0
NINTH CIRCUIT	235	79	99	97	2	136	134	2
ARIZONA	29	77	20	20	0	9	9	0
CALIFORNIA (NORTHERN)	2	80	1	1	0	1	1	0
CALIFORNIA (CENTRAL)	13	55	8	6	2	5	3	2
CALIFORNIA (SOUTHERN)	60	70	28	28	0	32	32	0
HAWAII	116	90	31	31	0	85	85	0
IDAHO	4	79	3	3	0	1	1	0
MONTANA	1	30	1	1	0	0	0	0
WASHINGTON (EASTERN)	4	10	3	3	0	1	1	0
WASHINGTON (WESTERN)	6	57	4	4	0	2	2	0
TENTH CIRCUIT	29	64	25	25	0	4	4	0
COLORADO	22	61	19	19	0	3	3	0
KANSAS	1	90	1	1	0	0	0	0
OKLAHOMA (NORTHERN)	5	84	4	4	0	1	1	0
UTAH	1	10	1	1	0	0	0	0
ELEVENTH CIRCUIT	48	51	26	26	0	22	22	0
FLORIDA (NORTHERN)	12	7	0	0	0	12	12	0
FLORIDA (MIDDLE)	2	68	2	2	0	0	0	0
FLORIDA (SOUTHERN)	11	87	7	7	0	4	4	0
GEORGIA (NORTHERN)	23	56	17	17	0	6	6	0

Table 1a. Delayed-notice warrant and extension requests – fiscal year 2006

	Total requests	Avg delay (in days)	Warrant requests	Granted	Granted as modified	Extension requests	Granted	Granted as Modified
ALL CIRCUITS	116	67	87	75	12	29	29	0
SECOND CIRCUIT	9	26	6	6	0	3	3	0
NEW YORK (EASTERN)	9	26	6	6	0	3	3	0
THIRD CIRCUIT	24	59	24	24	0	0	0	0
PENNSYLVANIA (MIDDLE)	24	59	24	24	0	0	0	0
FOURTH CIRCUIT	6	65	4	4	0	2	2	0
MARYLAND	4	53	3	3	0	1	1	0
NORTH CAROLINA (EASTERN)	1	90	1	1	0	0	0	0
VIRGINIA (EASTERN)	1	90	0	0	0	1	1	0
FIFTH CIRCUIT	35	85	25	15	10	10	10	0
TEXAS (SOUTHERN)	32	86	22	12	10	10	10	0
TEXAS (WESTERN)	3	75	3	3	0	0	0	0
SIXTH CIRCUIT	6	50	1	1	0	5	5	0
OHIO (NORTHERN)	6	50	1	1	0	5	5	0
SEVENTH CIRCUIT	5	87	5	5	0	0	0	0
INDIANA (NORTHERN)	1	120	1	1	0	0	0	0
WISCONSIN (EASTERN)	4	79	4	4	0	0	0	0
EIGHTH CIRCUIT	1	30	1	1	0	0	0	0
NEBRASKA	1	30	1	1	0	0	0	0
NINTH CIRCUIT	21	86	16	14	2	5	5	0
CALIFORNIA (CENTRAL)	3	63	3	3	0	0	0	0
CALIFORNIA (SOUTHERN)	12	90	7	7	0	5	5	0
HAWAII	3	90	3	3	0	0	0	0
WASHINGTON (WESTERN)	3	90	3	1	2	0	0	0
TENTH CIRCUIT	1	90	1	1	0	0	0	0
COLORADO	1	90	1	1	0	0	0	0
ELEVENTH CIRCUIT	8	14	4	4	0	4	4	0
FLORIDA (NORTHERN)	1	7	1	1	0	0	0	0
FLORIDA (SOUTHERN)	7	15	3	3	0	4	4	0

Table 2. Offenses specified for delayed-notice warrant and extension requests – fiscal year 2007

Offense	Reports		Warrants		Extensions	
	Number	Percent*	Number	Percent*	Number	Percent*
Total	690	100%	419	100%	271	100%
Drugs	473	69%	300	72%	173	64%
Tax	68	10%	3	-	65	24%
Firearms	25	4%	17	4%	8	3%
Extortion/racketeering	17	2%	10	2%	7	3%
Sex offenses	15	2%	8	2%	7	3%
Theft/contraband	15	2%	12	3%	3	-
Fraud	14	2%	14	3%	0	-
Immigration	11	2%	9	2%	2	-
Currency	7	-	7	2%	0	-
Fugitive	7	-	6	-	1	-
Robbery	7	-	6	-	1	-
Terrorism	7	-	6	-	1	-
Homicide	5	-	5	-	0	-
Assault	3	-	3	-	0	-
Copyright	3	-	3	-	0	-
Civil rights	2	-	1	-	1	-
Mail obstruction	1	-	0	-	1	-
Unspecified	10	-	9	2%	1	-

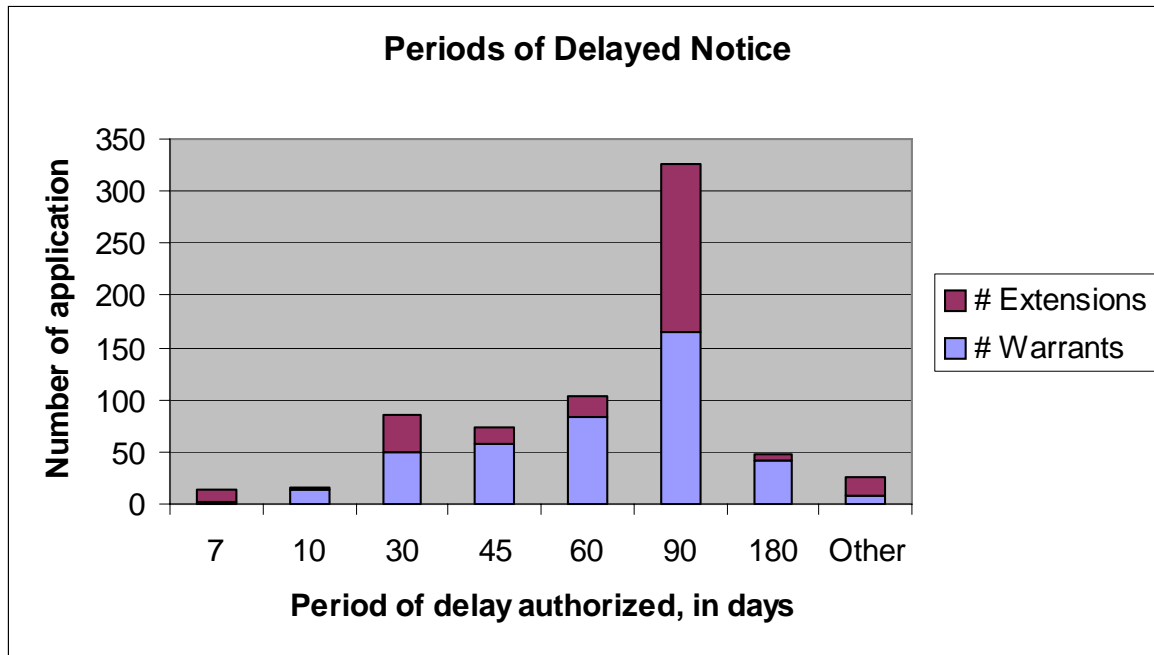
* Percentages not shown where the percentage is less than 2%.

Table 2a. Offenses specified for delayed-notice warrant and extension requests – fiscal year 2006

Offense	Reports		Warrants		Extensions	
	Number	Percent*	Number	Percent*	Number	Percent*
Total	116	100%	87	100%	29	100%
Drugs	90	78%	65	75%	25	86%
Fugitive	11	9%	11	13%	0	-
Firearms	5	4%	1	-	4	14%
Extortion/racketeering	3	3%	3	3%	0	-
Fraud	3	3%	3	3%	0	-
Sex offenses	2	2%	2	2%	0	-
Homicide	1	-	1	-	0	-
Unspecified	1	-	1	-	0	-

* Percentages not shown where the percentage is less than 2%.

Graph 1. Periods of delayed notice – fiscal year 2007



Graph 2. Total numbers of extensions – fiscal year 2007

