

AMENDMENT TO RULES COMMITTEE PRINT 115-

53

OFFERED BY M . _____

Page 3, strike line 22 and all that follows through page 7, line 12, and insert the following:

1 “(2) ACCESS TO RESULTS OF CERTAIN QUERIES
2 CONDUCTED BY FBI.—

3 “(A) COURT ORDER REQUIRED FOR FBI
4 REVIEW OF CERTAIN QUERY RESULTS IN CRIMI-
5 NAL INVESTIGATIONS UNRELATED TO NA-
6 TIONAL SECURITY.—

7 “(i) REQUIREMENT.—Except as pro-
8 vided by subparagraph (C), in connection
9 with a predicated criminal investigation
10 opened by the Federal Bureau of Inves-
11 tigation that does not relate to the national
12 security of the United States, the Federal
13 Bureau of Investigation may not access the
14 contents of communications acquired under
15 subsection (a) that were retrieved pursuant
16 to a query made using a United States
17 person query term that was not designed

1 to find and extract foreign intelligence in-
2 formation unless—

3 “(I) the Federal Bureau of Inves-
4 tigation applies for an order of the
5 Court under clause (iii); and

6 “(II) the Court enters an order
7 under clause (iv) approving such ap-
8 plication.

9 “(ii) JURISDICTION.—The Court shall
10 have jurisdiction to review an application
11 and to enter an order approving the access
12 described in clause (i).

13 “(iii) APPLICATION.—Each applica-
14 tion for an order this subparagraph shall
15 be made by a Federal officer in writing
16 upon oath or affirmation to a judge having
17 jurisdiction under clause (ii). Each applica-
18 tion shall require the approval of the At-
19 torney General based upon the finding of
20 the Attorney General that the application
21 satisfies the criteria and requirements of
22 such application, as set forth in this
23 clause, and shall include—

24 “(I) the identity of the Federal
25 officer making the application; and

1 “(II) an affidavit or other infor-
2 mation containing a statement of the
3 facts and circumstances relied upon
4 by the applicant to justify the belief of
5 the applicant that the contents of
6 communications described in clause (i)
7 covered by the application would pro-
8 vide evidence of—

9 “(aa) criminal activity;

10 “(bb) contraband, fruits of a
11 crime, or other items illegally
12 possessed by a third party; or

13 “(cc) property designed for
14 use, intended for use, or used in
15 committing a crime.

16 “(iv) ORDER.—Upon an application
17 made pursuant to clause (iii), the Court
18 shall enter an order approving the access-
19 ing of the contents of communications de-
20 scribed in clause (i) covered by the applica-
21 tion if the Court finds probable cause to
22 believe that such contents would provide
23 any of the evidence described in clause
24 (iii)(II).

1 “(B) COURT ORDER REQUIRED FOR FBI
2 REVIEW OF CERTAIN QUERY RESULTS IN IN-
3 QUIRIES UNRELATED TO NATIONAL SECU-
4 RITY.—

5 “(i) REQUIREMENT.—Except as pro-
6 vided by subparagraph (C), in connection
7 with an inquiry by the Federal Bureau of
8 Investigation that is less than a predicated
9 investigation and does not relate to the na-
10 tional security of the United States, the
11 Federal Bureau of Investigation may not
12 access the contents of communications ac-
13 quired under subsection (a) that were re-
14 trieved pursuant to a query made using a
15 United States person query term that was
16 not designed to find and extract foreign in-
17 telligence information unless—

18 “(I) the Federal Bureau of Inves-
19 tigation applies for an order of the
20 Court under clause (iii); and

21 “(II) the Court enters an order
22 under clause (iv) approving such ap-
23 plication.

24 “(ii) JURISDICTION.—The Court shall
25 have jurisdiction to review an application

1 and to enter an order approving the access
2 described in clause (i).

3 “(iii) APPLICATION.—Each applica-
4 tion for an order this subparagraph shall
5 be made by a Federal officer in writing
6 upon oath or affirmation to a judge having
7 jurisdiction under clause (ii). Each applica-
8 tion shall require the approval of the At-
9 torney General based upon the finding of
10 the Attorney General that the application
11 satisfies the criteria and requirements of
12 such application, as set forth in this
13 clause, and shall include—

14 “(I) the identity of the Federal
15 officer making the application; and

16 “(II) an affidavit or other infor-
17 mation containing a statement of the
18 facts and circumstances relied upon
19 by the applicant to justify the belief of
20 the applicant that the contents of
21 communications described in clause (i)
22 covered by the application would pro-
23 vide evidence of a crime relating to
24 national security or a crime specified
25 in section 706(a)(2)(A)(ii)(II).

1 “(iv) ORDER.—Upon an application
2 made pursuant to clause (iii), the Court
3 shall enter an order approving the access-
4 ing of the contents of communications de-
5 scribed in clause (i) covered by the applica-
6 tion if the Court finds reasonable,
7 articulable suspicion to believe that such
8 contents would provide any of the evidence
9 described in clause (iii)(II).

10 “(C) EXCEPTION.—The requirement for
11 an order of the Court under subparagraph (A)
12 or (B) to access the contents of communications
13 described in such respective subparagraph shall
14 not apply with respect to a query if the Federal
15 Bureau of Investigation determines there is a
16 reasonable belief that such contents could assist
17 in mitigating or eliminating a threat to life or
18 serious bodily harm.

19 “(D) RULE OF CONSTRUCTION.—Nothing
20 in this paragraph may be construed as—

21 “(i) limiting the authority of the Fed-
22 eral Bureau of Investigation to conduct
23 lawful queries of information acquired
24 under subsection (a); and

1 “(ii) limiting the authority of the Fed-
2 eral Bureau of Investigation to review,
3 without a court order, the results of any
4 query of information acquired under sub-
5 section (a) that was reasonably designed to
6 find and extract foreign intelligence infor-
7 mation, regardless of whether such foreign
8 intelligence information could also be con-
9 sidered evidence of a crime.”.

