

AMENDMENT TO RULES COMMITTEE PRINT 115-

53

OFFERED BY MR. POE OF TEXAS

Page 3, strike lines 22 and all that follows through page 7, line 23, and insert the following:

1 “(2) CLARIFICATION ON PROHIBITION ON
2 QUERYING OF COLLECTIONS OF COMMUNICATIONS
3 OF UNITED STATES PERSONS.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (C) or (D), no officer, agent or
6 employee of the United States may conduct a
7 query of information acquired under subsection
8 (a) in an effort to find communications of or
9 about a particular person if there is reason to
10 believe such person is a United States person
11 without—

12 “(i) an application by the Attorney
13 General to a judge of the Foreign Intel-
14 ligence Surveillance Court that describes
15 the determination of the Attorney General
16 that—

17 “(I) there is probable cause to
18 believe that—

1 “(aa) such communications
2 provide evidence of a crime speci-
3 fied in section 2516 of title 18,
4 United States Code; or

5 “(bb) such person is a for-
6 eign power or an agent of a for-
7 eign power;

8 “(II) such communications are
9 relevant to an authorized investigation
10 or assessment, provided that such in-
11 vestigation or assessment is not con-
12 ducted solely on the basis of activities
13 protected by the first amendment to
14 the Constitution of the United States;
15 and

16 “(III) any use of such commu-
17 nications pursuant to section 706 will
18 be carried out in accordance with such
19 section; and

20 “(ii) an order of the judge under sub-
21 paragraph (B) approving such application.

22 “(B) ORDER.—

23 “(i) APPROVAL.—Upon an application
24 made under subparagraph (A), the Foreign
25 Intelligence Surveillance Court shall enter

1 an order as requested or as modified by
2 the Court approving the query of contents
3 of communications covered by the applica-
4 tion if the Court determines that, based on
5 an independent review—

6 “(I) the application contains all
7 information required by clause (i) of
8 such subparagraph;

9 “(II) on the basis of the facts in
10 the application, there is probable
11 cause to believe that—

12 “(aa) such communications
13 provide evidence of a crime speci-
14 fied in section 2516 of title 18,
15 United States Code; or

16 “(bb) such person is a for-
17 eign power or an agent of a for-
18 eign power; and

19 “(III) the minimization proce-
20 dures adopted pursuant to subsection
21 (e) will ensure compliance with sub-
22 paragraph (A)(i)(III).

23 “(ii) REVIEW.—A denial of an appli-
24 cation made under subparagraph (A) may
25 be reviewed as provided in section 103.

1 “(C) REQUIREMENTS TO QUERY NONCON-
2 TENTS INFORMATION.—Notwithstanding sub-
3 paragraph (A), and except as provided by sub-
4 paragraph (D), the information of communica-
5 tions acquired under subsection (a) relating to
6 the dialing, routing, addressing, signaling, or
7 other similar information an order based on
8 probable cause would not be required by law to
9 obtain if requested as part of an investigation
10 of a Federal crime may be queried in an effort
11 to find information about the communications
12 of a person reasonably believed to be a United
13 States person only—

14 “(i)(I) upon an application by the At-
15 torney General using the same process re-
16 quired under section 402 or section 3122
17 of title 18, United States Code; or

18 “(II) during a time of war as specified
19 in section 404;

20 “(ii) if an order based on probable
21 cause would not be required by law to ob-
22 tain such information if requested as part
23 of an investigation of a Federal crime; and

1 “(iii) if any use of such communica-
2 tions pursuant to section 706 will be car-
3 ried out in accordance with such section.

4 “(D) EXCEPTIONS.—The requirement for
5 an order of a judge pursuant to subparagraph
6 (A) and the requirements under subparagraph
7 (C), respectively, shall not apply to querying
8 communications acquired under subsection (a)
9 if one or more of the following conditions are
10 met:

11 “(i) The Attorney General makes a
12 determination that the person identified by
13 the queried term is the subject of an order
14 based upon a finding of probable cause, or
15 emergency authorization, that authorizes
16 electronic surveillance or physical search
17 under this Act or title 18, United States
18 Code (other than such emergency author-
19 izations under title IV of this Act or sec-
20 tion 3125 of title 18, United States Code).

21 “(ii) The Attorney General—

22 “(I) reasonably determines that
23 an emergency situation requires the
24 accessing or dissemination of the com-
25 munications before an order pursuant

1 to subparagraph (A) authorizing such
2 query, or before the requirements
3 under subparagraph (C), as the case
4 may be, can with due diligence be ob-
5 tained;

6 “(II) reasonably believes that the
7 factual basis for the issuance of such
8 an order or such approval exists; and

9 “(III) with respect to the query
10 of the contents of communications
11 under subparagraph (A)—

12 “(aa) informs the Court at
13 the time the Attorney General re-
14 quires the emergency query that
15 the decision has been made to
16 employ the authority under this
17 clause;

18 “(bb) makes an application
19 for an order under such subpara-
20 graph as soon as practicable, but
21 not more than 7 days after the
22 Attorney General requires such
23 emergency production; and

24 “(cc) may not use such com-
25 munications pursuant to section

1 706 if the Court finds that the
2 determination by the Attorney
3 General with respect to the emer-
4 gency situation was not appro-
5 priate.

6 “(iii) In the case of obtaining the con-
7 sent of a person who is a party to the com-
8 munications acquired under subsection (a),
9 or a person who otherwise has lawful au-
10 thority to provide consent, and who con-
11 sents to such queries.

12 “(E) RULE OF CONSTRUCTION.—A query
13 designed to exclude information acquired under
14 subsection (a) from the query results is not a
15 query in an effort to find such communications
16 of or about a particular United States person,
17 and as such, does not violate subparagraph
18 (A).”.

Strike section 103 and insert the following:

19 **SEC. 103. LIMITATION ON ABOUTS COLLECTION.**

20 Subsection (d) of section 702 (50 U.S.C. 1881a(d))
21 is amended—

22 (1) in paragraph (1), by striking “The Attorney
23 General” and inserting “In accordance with para-
24 graphs (3), the Attorney General”; and

1 (2) by adding at the end the following new
2 paragraph:

3 “(3) LIMITATION.—The procedures adopted in
4 accordance with paragraph (1) shall require that the
5 targeting of a person is limited to communications
6 to or from the targeted person.”.

Page 44, line 15, strike “December 31, 2023” and
insert “September 30, 2022”.

Page 44, line 21, strike “December 31, 2023” and
insert “September 30, 2022”.

Page 45, beginning line 3, strike “DECEMBER 31,
2023” and insert “SEPTEMBER 30, 2022”.

