

AMENDMENT NO.

Calendar No.

Purpose: To clarify that the FISA court has the authority to continue its review of government targeting and minimization procedures.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

S. 2248

To amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by

Viz:

1 On page 18, strike line 24 and all that follows
2 through on page 19, line 10, and insert the following:

3 (3) TARGETING PROCEDURES.—

4 (A) IN GENERAL.—The Court shall review
5 the targeting procedures required by subsection
6 (e) to assess whether the procedures are reason-
7 ably designed to ensure that the acquisition au-
8 thorized under subsection (a) is limited to the

1 targeting of persons reasonably believed to be
2 located outside the United States.

3 (B) FACTORS TO BE CONSIDERED.—When
4 conducting the review required under subpara-
5 graph (A), the Foreign Intelligence Surveillance
6 Court shall take into account—

7 (i) all support materials offered by the
8 government pursuant to the terms of this
9 Act;

10 (ii) prior applications by the govern-
11 ment under this Act and all submissions
12 offered in support of those applications;

13 (iii) prior authorization orders of the
14 Court;

15 (iv) any Semiannual Assessment re-
16 port submitted to it, pursuant to sections
17 703(l)(1)(A) with information relevant to
18 the targeting procedures under review, un-
19 less such findings and conclusions are
20 found to be clearly erroneous; and

21 (v) any Annual Review report sub-
22 mitted to it pursuant to section
23 703(l)(3)(C) with information relevant to
24 the targeting procedures under review, un-

1 less such findings and conclusions are
2 found to be clearly erroneous.

3 (4) MINIMIZATION PROCEDURES.—

4 (A) IN GENERAL.—The Court shall review
5 the minimization procedures required by sub-
6 section (f) to assess whether such procedures
7 meet the definition of minimization procedures
8 under section 101(h).

9 (B) FACTORS TO BE CONSIDERED.—When
10 conducting the review required under subpara-
11 graph (A), the Foreign Intelligence Surveillance
12 Court shall take into account—

13 (i) all support materials offered by the
14 government pursuant to the terms of this
15 Act;

16 (ii) prior applications by the govern-
17 ment under this Act and all submissions
18 offered in support of those applications;

19 (iii) prior authorization orders of the
20 Court;

21 (iv) any Semiannual Assessment re-
22 port submitted to it, pursuant to sections
23 703(l)(1)(A) with information relevant to
24 the targeting procedures under review, un-

1 less such findings and conclusions are
2 found to be clearly erroneous; and

3 (v) any Annual Review report sub-
4 mitted to it pursuant to section
5 703(1)(3)(C) with information relevant to
6 the minimization procedures under review,
7 unless such findings and conclusions are
8 found to be clearly erroneous.