partnering with us and structuring this motion to instruct conferees. I want to express appreciation to the gentleman from Wisconsin (Mr. SENSENBRENNER) for his constructive comments and for his support of the motion to instruct.

The motion to instruct promotes accountability. It assures that we remain in a strong position in our oversight function. Recent history clearly shows that in the absence of a near-term sunset we will not get answers to our questions about how controversial law enforcement powers are being used. In the absence of a near-term sunset, we cannot ensure that civil liberties are being protected.

This is not a matter about what the Department of Justice has done in the past, and I differ with the gentleman from Wisconsin on this matter. This is all about what the Department of Justice may do in the future. And having near-term sunsets will ensure that we can perform oversight over that performance.

Sunsets do not prevent law enforcement from using the broad powers the PATRIOT Act confers, but sunsets promote accountability. They ensure we get the information necessary to conduct oversight and to make decisions about whether powers that are subject to abuse should be contended.

Adopt this motion, let us adopt the Senate's 4-year sunsets and, in doing so, further the cause of protecting Americans' civil liberties. Mr. Speaker, I urge approval of the motion to instruct.

Mr. JONES of North Carolina. Mr. Speaker, I rise in support of this motion to instruct.

The American people want us to protect them from the terrorists—but the American people also want us to protect their liberties and constitutional rights from an overreaching government.

Our system of government is made up of checks and balances and this motion to instruct only expands these checks and balances.

A review every 4 years is the right action to assure American citizens that their civil liberties are protected.

Let me close with a quote attributed to Patrick Henry:

> The Constitution is not an instrument for the government to restrain the people, it is an instrument for the people to restrain the government—lest it come to dominate our lives and interests.

I ask that we restore the Senate's Sunsets in the Conference Report.

Mr. BOUCHER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Virginia (Mr. BOUCHER).

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

From the Committee on the Judiciary, for consideration of the House bill (except section 132) and the Senate amendment, and modifications committed to conference: Messrs. SENSENBRENNER, COBLE, SMITH of Texas, GALLEGLY, CHABOT, JENKINS, CONYERS, BERMAN, BOUCHER, and NADLER.

Provided that Mr. SCOTT of Virginia is appointed in lieu of Mr. NADLER for consideration of sections 105, 109, 111–114, 120, 121, 124, 131, and title II of the House bill, and modifications committed to conference.

From the Permanent Select Committee on Intelligence, for consideration of sections 102, 103, 106, 107, 109, and 132 of the House bill, and sections 2, 3, 6, 7, 9, and 10 of the Senate amendment, and modifications committed to conference: Mr. HOEKSTRA, Mrs. WILSON of New Mexico, and Ms. HARMAN.

From the Committee on Energy and Commerce, for consideration of sections 124 and 231 of the House bill, and modifications committed to conference: Messrs. NORWOOD, SHADEGG, and DINGELL.

From the Committee on Financial Services, for consideration of section 117 of the House bill, and modifications committed to conference: Messrs. OXLEY, BACHUS, and FRANK of Massachusetts.

From the Committee on Homeland Security, for consideration of sections 127–129 of the House bill, and modifications committed to conference: Messrs. KING of New York, WELDON of Pennsylvania, and Ms. ZOE LOFGREN of California.

There was no objection.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1751.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

SECURE ACCESS TO JUSTICE AND COURT PROTECTION ACT OF 2005

The SPEAKER pro tempore (Mrs. CAPITO). Pursuant to House Resolution 540 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1751.

□ 1610

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1751) to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 1751, the Secure Access to Justice and Court Protection Act of 2005.

Violent attacks and intimidation against courthouse personnel and law enforcement officers present a threat to the integrity of the justice system that Congress has a duty to confront. The murder of family members of United States District Judge Joan Lefkow, the brutal slayings of Judge Rowland Barnes, his court reporter, his deputy sheriff, and a Federal officer in Atlanta, and the cold-blooded shootings outside the Tyler, Texas, courthouse all underscore the need to provide better protection for judges, courthouse personnel, witnesses, law enforcement and their family members.

This bill is an important bipartisan measure introduced by the gentleman from Texas (Mr. GOHMERT) and the gentleman from New York (Mr. WEINER). It will help address the problem of violence in and around our Nation's courthouses.

Statistics show that aggravated assaults against police officers are a serious national problem. According to the Bureau of Justice Statistics, 52 law enforcement officers were killed in the United States in 2002 and 56 were killed in 2001. From 1994 through 2003 a total of 616 law enforcement officers were feloniously killed in the line of duty. Approximately 100 of these officers were murdered after being entrapped or ambushed by their killers. These attacks are simply unacceptable.

The lives of judicial personnel are also at great risk. According to the Administrative Office of the United States Courts, Federal judges receive nearly 700 threats a year and several Federal judges require security personnel to protect them and their families from terrorist associates, violent gangs, drug organizations and disgruntled litigants. The intimidation of judges directly assaults the impartial administration of justice our Constitution demands.

Court witnesses are also at risk. Threats and intimidation toward witnesses continue to grow, particularly at the State and local level. In 1996, a witness intimidation study by the Justice Department included that witness intimidation is a pervasive and insidious problem. No part of the country is spared and no witness can feel entirely free or safe.

Prosecutors interviewed in this study estimated that witness intimidation

occurs in 75 to 100 percent of the violent crimes committed in some gang-dominated neighborhoods.

This bill passed the Committee on the Judiciary by an overwhelming vote of 26–5. The legislation enhances criminal penalties for assaults and the killing of Federal, State and local judges, witnesses, law enforcement officers, courthouse personnel and their family members.

□ 1615

It provides grants to State and local courts to improve security services and improves the ability of the United States Marshals to protect the Federal judiciary.

The bill also prohibits public disclosure, on the Internet and other public sources, of personal information about judges, law enforcement, victims and witnesses to protect Federal judges and prosecutors from organized efforts to harass and intimidate them through false filings of liens and other encumbrances against their property and improves coordination between the marshals and the Federal judges.

The bill also contains vital security measures for Federal prosecutors handling dangerous trials against terrorists, drug organizations, and other organized crime figures.

Finally, the bill incorporates key provisions of the Peace Officer Justice Act, legislation introduced by the gentleman from California (Mr. DREIER), to bring justice to those who murder law enforcement personnel and flee to foreign nations to escape prosecution and justice in this country.

The bill is supported by those on the front lines of our criminal justice system and is backed by the Conference of Chief Justices and the Conference of State Court Administrators; the Federal Bar Association; the Federal Criminal Investigators Association; and the Fraternal Order of Police; the National Association of Assistant U.S. Attorneys; the International Union of Police Associations AFL–CIO; the Major County Sheriffs' Association; the National Law Enforcement Council; the National Sheriffs' Association; the National Troopers Coalition; the International Association of Campus Law Enforcement Administrators; and the American Federation of State, County and Municipal Employees.

When judges, prosecutors, law enforcement and courthouse personnel speak in a clear and unanimous voice, we have a duty to listen and to act to give their members the tools and resources necessary for their protection.

Mr. Chairman, Congress has an obligation to ensure that America's courts and the brave men and women of law enforcement render justice without fear of assault or retaliation. Judges, witnesses, courthouse personnel, and law enforcement officers must operate without fear in order to administer the law without bias.

I urge my colleagues to strengthen the integrity of America's justice system and the security of court and law enforcement personnel by supporting this vital and bipartisan legislation.

Mr. Chairman, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I might consume.

It is, I think, a very clear statement to make that we have faced extensive violence in our courts in recent times. The problem of violence and threats against judges, court officials, employees, witnesses, and victims is not a new one, but one that is growing rapidly.

Recent events, including the killing of a Fulton County judge and other court personnel in Atlanta, the murders of United States district judge Joan Lefkow's family members outside Chicago, Illinois, and the murders immediately outside the Tyler, Texas, courthouse have underscored the increasing significance of the problem.

According to the Administrative Office of United States Courts, there are almost 700 threats a year made against Federal judges; and in numerous cases, Federal judges have had security details assigned to them for fear of attack by members of violent gangs, drug organizations and disgruntled litigants.

With such tragic incidents, Mr. Chairman, we are in collaboration, if you will, on H.R. 1751, at least the premise, the Secure Access to Justice and Court Protection Act of 2005.

I commend the gentleman from Michigan (Mr. CONYERS), the ranking member, and the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman, for their collaborative efforts, and the gentleman from Texas (Mr. GOHMERT), my colleague, a former judge, and I guess one would say once a judge always a judge, who has taken the leadership on this issue.

None of us would step away from the purpose and the necessity of this legislation. In fact, I am very gratified to have secured an amendment that will allow State courts to establish a threat assessment database similar to that of the U.S. Marshals where they will be able to determine the threat status or situation against a respective court, and then, of course, to hopefully have an amendment that would pass that would provide grants to the highest State courts to be able to disseminate those moneys to create that database and that threat assessment database.

In addition, I would say that this hard work and commitment of Democratic members on the committee have also now provided for offers of grants to State courts so they can make meaningful enhancements to courtroom safety and security.

It provides the U.S. Marshal Service with an additional $100 million over the course of the next 5 years to increase ongoing investigations and expand the protective services it currently offers to members of the Federal judiciary.

It authorizes the Attorney General to establish a grant program for States to establish threat assessment databases.

Even with these valuable improvements, however, the bill still suffers from a number of fatal flaws, specifically its inclusion of 16 mandatory minimum sentences and its establishment of one new death-penalty-eligible offense.

Let me comment briefly on those mandatory sentences. Mandatory minimum penalties have been studied extensively; and the vast majority of available research clearly indicates that they do not, in many instances, work. Among many other things, they have been shown to distort the sentencing process to discriminate against minorities in their application and to waste valuable taxpayer money.

But the real emphasis is, although we are here today to protect our court systems and our court officials and our law enforcement officials, we are also here to recognize the discretion necessary for our courts; and in many instances, the judicial conference itself has indicated its desire to have more discretion in sentencing.

The Judicial Conference of the United States would see the impact of mandatory minimum sentences on individual cases, as well as on the criminal justice system as a whole, and has expressed its deep opposition to mandatory minimum sentencing over a dozen times to Congress, noting that these sentences severely distort and damage the Federal sentencing system. Yes, we must have deterrence, and I have supported enhancements of penalties, adding more time for individuals to serve; but at the same time, we must allow the courts to make that determination.

If heinous acts against our Federal courts have been perpetrated, then that judge hearing that particular case would then have the discretion to yield or to render, along with a jury and a jury trial, the highest sentence; but the mandatory minimum would not be there in place of a judge's discretion.

As I was saying, the Federal sentencing system, the Judicial Conference has said, and the mandatory sentencing undermine the sentencing guideline regimen established by Congress to promote fairness and proportionality and destroy honesty in sentencing by encouraging charge and fact plea bargains.

In fact, in a recent letter to members of the Crime Subcommittee regarding H.R. 1279, the Gang Deterrence and Community Protection Act of 2005, the conference noted that mandatory minimum sentences create the opposite of their intended effect. Far from fostering certainty in punishment, mandatory minimums result in unwarranted sentencing disparity, and mandatory minimums treat dissimilar offenders in a similar manner, although those offenders can be quite different with respect to the seriousness of their conduct or their danger to society.

So I would suggest that we are united around the necessity of this legislation. We must protect our courts and those officials. I might add that I hope

that we will have further discussion about lawyers who are engaged in the practice of law in cases where they come under particular threats, whether it is in particular the prosecutor who is covered by this or defense lawyers and other lawyers who engage in cases which generate threats against their lives. We might consider hearings that would discuss that propensity.

I might also say that the inconsistent and arbitrary nature of mandatory minimum sentences is made readily apparent by a quick analysis of section 2 of the bill. Section 2 establishes a 1-year mandatory minimum with 10-year maximum criminal penalty for assaulting the immediate family member of a law enforcement officer or judge, if the assault results in bodily injury. However, just a few lines later in the same section, an identical criminal penalty is established for a simple threat.

So, Mr. Chairman, I think it is important that as we support this legislation that we also take note of some of the inconsistencies that might warrant consideration as this bill makes its way through the House, through the Senate and, of course, conference.

On the issue of the death penalty, let me suggest these few thoughts. In creating a new death-penalty-eligible offense for anyone convicted of killing a federally funded public safety officer, there is no disagreement in the value of our public safety officer. It is just whether or not in addition to such an offense of death penalty, whether or not a substitute of life imprisonment without parole could have equally been used. Expansion of the use of the Federal death penalty in the current environment seems to warrant consideration.

The public is clearly rethinking the appropriateness of the death penalty in general due to the evidence that it is ineffective in deterring crime and is racially discriminatory and is more often than not found to be erroneously applied.

I know that for a fact in a recent case we had in Texas, Frances Newton, a young woman accused of killing her children and her husband, a horrific and heinous crime, certainly one would suggest that she warrants the ultimate penalty. However, unfortunately, in petitioning to get a new trial on the basis of real definitive new evidence, the courts would not consider such; and, of course, Frances Newton has gone to her death. I believe that she has gone to her death with raising the question of whether or not she was, in fact, innocent or guilty.

In a 23-year comprehensive study of death penalties, 68 percent were found to be erroneously applied. So it is not surprising that 119 people sentenced to death for murder over the past 12 years been completely exonerated of those crimes.

This is a good bill. It would have been even better if we had considered life without parole and considered the viability or the necessity of creating a new eligibility for the death penalty.

I would ask my colleagues to consider this legislation.

Let me begin by saying that I strongly support the need to protect judges and court officials from threats and violence. Despite this fact, I do have major concerns with this bill. For example, H.R. 1751 proposes to add 16 new mandatory minimum sentences to the current criminal code. Mandatory minimum penalties have been studied extensively and the vast majority of available research clearly indicates that they do not work. Among other things, they have been shown to distort the sentencing process, to discriminate against minorities in their application, and to waste valuable taxpayer money.

The Judicial Conference of the United States, which sees the impact of mandatory minimum sentences on individual cases as well as on the criminal justice system as a whole, has expressed its deep opposition to mandatory minimum sentencing over a dozen times to Congress, noting that these sentences "severely distort and damage the Federal sentencing system . . . undermine the Sentencing Guideline regimen" established by Congress to promote fairness and proportionality, and "destroy honesty in sentencing by encouraging charge and fact plea bargains."

In fact, in a recent letter to Members of the Crime Subcommittee regarding H.R. 1279, the "Gang Deterrence and Community Protection Act of 2005," the Conference noted that mandatory minimum sentences create "the opposite of their intended effect."

Far from fostering certainty in punishment, mandatory minimums result in unwarranted sentencing disparity. Mandatory minimums treat dissimilar offenders in a similar manner, although those offenders can be quite different with respect to the seriousness of their conduct or their danger to society.

The inconsistent and arbitrary nature of mandatory minimum sentences is made readily apparent by a quick analysis of section 2 of the bill. Section 2 establishes a one year mandatory minimum (with a 10 year maximum criminal penalty) for assaulting the immediate family member of a law enforcement officer or judge—if the assault results in bodily injury. However, just a few lines later in the same section, an identical criminal penalty is established for a simple threat. Thus, the same section of the bill makes two completely different actions, with considerably varying outcomes, subject to the same term of imprisonment.

Furthermore, H.R. 1751 unwisely creates a new death penalty eligible offense for anyone convicted of killing a federally funded public safety officer. Expansion of the use of the federal death penalty in the current environment is patently unwarranted. The public is clearly rethinking the appropriateness of the death penalty, in general, due to the evidence that it is ineffective in deterring crime, is racially discriminatory, and is more often than not found to be erroneously applied. In a 23-year comprehensive study of death penalties, 68 percent were found to be erroneously applied. So, it is not surprising that 119 people sentenced to death for murder over the past 12 years have been completely exonerated of those crimes. Nor is it surprising with that such a lackluster record of death penalty administrations that several states have abolished the death penalty. For example, Connecticut has not executed anyone in 45 years.

Without a doubt, the increasing numbers of innocent people released from death row illustrates the fallibility of the current system. Last year, a University of Michigan study identified 199 murder exonerations since 1989, 73 of them in capital cases. Moreover, the same study found that death row inmates represent a quarter of 1 percent of the prison population but 22 percent of the exonerated.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield 6 minutes to the gentleman from Texas (Mr. GOHMERT), the author of the bill.

Mr. GOHMERT. Mr. Chairman, I thank the gentleman very much. I do appreciate the time. I appreciate all the assistance in this bill. The chairman has been wonderful in helping with this and making this a reality.

Mr. Chairman, I rise today in strong support of H.R. 1751, the Secure Access to Justice and Court Protection Act of 2005. This bill prevents, protects, and punishes. It prevents future attacks, it protects the entire courthouse family, and it punishes those who threaten the safety and security of our Nation's courthouses. The time has come to restore some sanity and security, and it is the responsibility of the government to assure our citizens have a safe courtroom.

The legislation will work to prevent future attacks in our Nation's courthouses such as what happened at my former courthouse in east Texas. That tragic day in February, we lost a brave man, Mark Wilson, who stepped up to attempt to save the lives of innocent citizens at the courthouse and was killed the same day. Also, Deputy Sherman Dollison was badly injured while he attempted to protect those at the courthouse. With passage of the Secure Access to Justice and Court Protection Act, we are taking an important step toward prevention of similar events happening again.

This bill has garnered a lot of support across the country since its introduction in April, and I want to take a moment to thank some of those who have supported H.R. 1751.

First of all, I thank Judge Cynthia Kent, who hails from the Rose City of Tyler, Texas. Judge Kent is a talented judge and a good friend. She testified before the Crime, Terrorism and Homeland Security Subcommittee about the tragic events that took place right outside the courtroom she presides over. She, too, knows personally about threats against her and her family. Her input and support have been extremely helpful in developing this legislation.

Judge Jane Roth, former chairwoman of the Judicial Conference Committee on Security and Facilities, also testified and was very helpful; Honorable Paul McNulty, who was then the U.S. Attorney for the Eastern District of Virginia; and also Honorable John Clark, who at that time was a U.S. Marshal for the Eastern District of Virginia.

I would also like to thank Judge Joan Lefkow for her testimony before

the Senate supporting the court security legislation. I have spoken with her personally and again just in the last hour, and she is most gracious and also grateful for the overall bill. She had also mentioned previously when I talked with her a concern about provisions regarding writs of habeas corpus procedure. That has been pulled from the bill itself. It is not part of the overall bill today. We also know that her elderly mother and husband were tragically murdered by a disgruntled gentleman who was upset by a ruling she had made in a case.

This bill requires consultation and coordination of U.S. courts between U.S. Marshals and the courts themselves. It will open the lines of communication between the marshals and the courts and, therefore, help with the prevention, protection, and penalties in this bill.

Those of us who have had threats against us as judges, but particularly against our families, understand all too well the importance of this bill.

I would also like to thank Chairman SENSENBRENNER for shepherding this legislation as he has through his committee, through the rules and here to the floor. It is an honor to serve with him on the Judiciary Committee that he chairs, and I thank the chairman for that continued support.

□ 1630

This legislation will protect immediate family members of federally funded public safety officers and judges at all levels. It also provides enhanced penalties where the victims are U.S. judges, Federal law enforcement officers, federally funded public safety officers, and includes now a provision to protect National Guard troops when they are acting as public safety officers.

It increases the maximum punishment for crimes against victims, witnesses, jurors and informants.

This bill adds a new Federal crime prohibiting recording a fictitious lien by covering officers and employees of the United States, including the Federal judiciary and its employees. It provides a 30-year mandatory minimum to life in prison, or the death penalty for killing a federally funded public safety officer. Of course, for the defendant to get the death penalty, a death must have resulted from their actions. The bill includes killing members of the National Guard, as I mentioned, and gives them added protection.

There has been some mention by the gentlewoman from Texas regarding mandatory minimums, and it should be noted that we removed a number of mandatory minimums in this bill for things like simple assault and threats. So the court has that consideration. But when it comes to seriously threatening, killing, kidnapping, conspiring to do these things, there should be a mandatory minimum and there is. The folks that we attempt to protect are on the front lines. They need protection.

Mr. Chairman, I want to thank the Rules Committee chairman, the gentleman from California (Mr. DREIER). His bill was added to this, the David March provision, making a new Federal criminal offense for flight to avoid prosecution for killing a peace officer. It imposes 10 years in prison in addition to whatever the defendant receives. So it stacks it.

This is not intended to usurp State authority but to assist the States where they need it and where they are unable. This valuable piece of legislation is seeking to ensure the safety and security of America's last bastion of civility, our Nation's courthouses. I urge all Members to vote yes.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself 1 minute.

Let me simply say that I think we will continue to have discussions as relates to mandatory minimums. I think this bill has great purpose; I think it is important, however, for us to raise those issues.

I will conclude by saying that we have a long way to go in the criminal justice system, and I hope that we will also bring to the floor of the House this whole issue of early release for those who are languishing in prisons. I hope the Good Time Early Release bill for nonviolent prisoners in our Federal prisons who are over 40 years old will have an opportunity for full debate, because they all go hand-in-hand.

Mr. SCOTT of Virginia. Mr. Chairman, can you advise how much time remains?

The CHAIRMAN. The gentleman from Virginia has 20½ minutes remaining and the gentleman from Wisconsin has 18½ minutes remaining.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to H.R. 1751. With several sensational incidents in recent years involving the murders of judges, family members of judges, court personnel, witnesses and other victims, we have seen the consequences of insufficient security for our court operations and personnel associated with the courts.

All are agreed that enhancement of security for our courts and all persons associated with them is imperative. However, the main focus of this bill is not the things that the courts have asked for to enhance their security, but on extraneous death penalties and mandatory minimum sentences which will do nothing to improve the security of our courts or personnel associated with them.

Mr. Chairman, I want to acknowledge and thank Chairman SENSENBRENNER for making significant improvements in this bill since our initial consideration of the bill in subcommittee, by removing a number of the superfluous mandatory minimum sentences and death penalties from the bill. However, all such provisions were not removed.

The notion that Congress has to direct judges on how to sentence those who harm or threaten judges and their families and others associated with court activities, or that Congress has to replace the States in prosecution of murders of State judges and other State officials is absurd. The kinds of people we are talking about clearly have not been deterred by death penalties and mandatory minimum sentences already on the books and applicable to them for those kinds of crimes, so they certainly will not be deterred by adding more such mandatory minimums. And judges facing such defendants clearly do not need congressional guidance on what the appropriate sentences may be.

Accordingly, I have prepared an amendment which would remove the provisions allowing the Federal Government, simply on the basis of someone's salary being paid in part by Federal funds, to take over traditional State prosecutions of State murder cases. I have also prepared an amendment which would remove the mandatory minimum sentencing in Federal cases involving judges, their family members or other court personnel, and replaced them with higher maximums that would allow even greater sentences than the bill allows in cases which warrant it, but would not require sentences which violate common sense.

The courts have not requested mandatory minimums or death penalties because they do nothing to protect the court. Nevertheless, here we go again with more mandatory minimums and more death penalties. In fact, Mr. Chairman, the Federal courts have consistently and loudly expressed their strong opposition to mandatory minimum sentences.

Through rigorous study and analysis, as well as through their everyday experiences in sentencing major players and bit players in crime, the courts have determined mandatory minimums to be less effective than regular sentencing. They have found them to be racially discriminatory in their application. They have found mandatory minimums to waste money compared to traditional sentences, and they have found mandatory minimums to be a violation of common sense.

The Judicial Conference has written us often to express their opposition to mandatory minimum sentencing and has just written us again with this bill to state their opposition to mandatory minimum sentences as a violation of the systemic sentencing scheme designed to ''reduce unwarranted disparity and to provide proportionality and fairness in punishment.'' That idea is violated with mandatory minimums.

The Judicial Conference and everyone concerned supports the grant programs in the bill aimed at strengthening court security and personnel and providing security for persons associated with the courts. Absent mandatory minimums and the extension of the death penalties, this bill would be one that we could all support.

Unfortunately, Mr. Chairman, because of the mandatory minimums and death penalty it is not one we can all support.

JUDICIAL CONFERENCE OF THE UNITED STATES,
Washington, DC, November 8, 2005.

Hon. JOHN CONYERS, Jr.,
Ranking Democrat, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE CONYERS: On behalf of the Judicial Conference of the United States, the policy-making body of the federal judiciary. I am writing to convey its views regarding several of the provisions contained in H.R. 1751, the ''Secure Access to Justice and Court Protection Act of 2005.''

Much of the impetus for portions of this bill arose from the tragic circumstances surrounding the attempted murder of Judge Joan Lefkow of the United States District Court for the Northern District of Illinois. Although Judge Lefkow survived the attack, her mother and husband were shot and killed by the assailant, a disgruntled litigant.

The current bill contains several provisions that are of particular interest to the federal courts. Section 13 of the bill requires the U.S. Marshals Service to consult with the Administrative Office of the U.S. Courts regarding the security requirements of the Judicial Branch. While the provision does not extend to a requirement that the Marshals Service ''coordinate'' with the judiciary, we believe the proposed change is positive and will enhance judicial security. Section 14 of the bill is positive in that it will help protect judges from the malicious recording of fictitious liens and is supported by the Judicial Conference. Section 16 of the bill is of particular interest to federal judges and their security because it will allow them to continue to redact sensitive information from their financial disclosure forms. Not a day goes by without some unauthorized incursion into an information database containing personal information and this provision is an important tool in protecting such personal information.

Unfortunately, the bill also contains various provisions that expand the application of mandatory minimum sentences. The Judicial Conference opposes mandatory minimum sentencing provisions because they undermine the sentencing guideline regime Congress established under the Sentencing Reform Act of 1984 by preventing the systematic development of guidelines that reduce unwarranted disparity and provide proportionality and fairness in punishment.

The bill also contains a provision that would allow the presiding judge, at all levels of the judicial process, to permit the photographing, electronic recording, broadcasting, or televising to the public of the court proceedings over which that judge presides. The Judicial Conference believes that the circuit councils of each circuit should retain the authority to establish rules for the photographing, recording, or broadcasting of appellate arguments in their courts. The Judicial Conference does not support legislation that would allow trial court judges the discretion to broadcast their courts' proceedings.

I appreciate having the opportunity to express the views of the Judicial Conference in relation to H.R., 1751, the ''Secure Access to Justice and Court Protection Act of 2005.'' If you have any questions regarding this legislation please contact Arthur White at (202) 502–1700.

Sincerely,

LEONIDAS RALPH MECHAM,
Secretary.

AMERICAN BAR ASSOCIATION,
GOVERNMENTAL AFFAIRS OFFICE,
Washington, DC, November 8, 2005.

HON. BOBBY SCOTT,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE SCOTT: We understand that during consideration by the House of Representatives of H.R. 1751, the Safe Access to Justice and Court Protection Act of 2005, an amendment will be offered by Representative Jeff Flake (R–AZ) to propose a range of changes in the law governing federal habeas corpus review of capital cases. The ABA strongly opposes this amendment and urges House members to reject it.

This amendment proposes a number of technical changes in a complicated area of law without the benefit of hearings or any previous consideration by the House Judiciary Committee. It is inconsistent with other pending House and Senate legislation and its enactment would create more confusion and chaos in a complex area of law.

We are particularly concerned about a provision in the amendment that would completely remove federal court jurisdiction for all sentencing phase claims, not just those found harmless by the state courts. Under this proposal, unless the claim goes to the validity of the conviction itself, it is not cognizable in the federal courts.

If such a profound change in law were enacted, there would no longer be a federal forum for claims of ineffective assistance of counsel at the sentencing phase. As a result, no matter how inadequate the representation (e.g., the sleeping lawyer case), the court would be without jurisdiction. Claims of prosecutorial misconduct relating to the penalty phase would not be cognizable. For example, if the prosecution suppressed evidence about the identity of the trigger-man, that would also not be cognizable. At a resentencing proceeding ordered by a state court on direct appeal, a prosecutor could commit a flagrant violation of Batson v. Kentucky by striking all African-Americans from the jury, and a federal court would be powerless to do anything about it. In short, no matter how unreasonable the state court decision was, there would be no federal jurisdiction for sentencing phase issues. The House should not act on such far-reaching changes in the law of federal habeas corpus jurisdiction without more careful consideration and should reject the Flake amendment when it considers H.R. 1751. Fairness and justice demand no less.

Sincerely,

ROBERT D. EVANS.

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, November 9, 2005.

Re House Floor Vote on November 9, 2005, regarding H.R. 1751, Secure Access to Justice and Court Protection Act of 2005.

DEAR REPRESENTATIVE: On behalf of the American Civil Liberties Union, we write to express our opposition to H.R. 1751, the Secure Access to Justice and Court Protection Act of 2005. This legislation would create a 30-year mandatory minimum sentence for second-degree murder in federal criminal cases, add numerous other discriminatory mandatory minimum sentences as well as expand the number of crimes eligible for the federal death penalty. H.R. 1751 is scheduled for a floor vote on Wednesday, November 9; we urge you to oppose this legislation.

The House Rules Committee has made a number of amendments in order for the floor debate on H.R. 1751; we urge your support for the following amendments:

(1) Scott (VA) #8: This amendment replaces all mandatory minimum sentences with higher maximum sentences. This bill creates many new mandatory minimums and changes the criminal penalties for several existing federal crimes to mandatory minimum sentences. For instance, H.R. 1751 would make the punishment for second-degree murder a 30-year mandatory sentence. Mandatory minimum sentences deprive judges of the ability to impose sentences that fit the particular offense and offender. Although mandatory minimums were designed to reduce the racial inequalities that too often resulting from judicial sentencing discretion, in practice they shift discretion from the judge to the prosecutor. Prosecutors retain the power to plea bargain and choose which defendants they will offer plea agreements to in order for those defendants to avoid the mandatory penalty. It is not clear what standards (if any) prosecutors use to offer plea bargains, therefore only a few defendants get the benefit of avoiding the mandatory sentence. This creates unfair and inequitable sentences for people who commit similar crimes, thus contributing to the very problem mandatory minimums were created to address.

(2) Scott (VA) #9: This amendment strikes the death penalty for the killing of federally funded public safety officers. According to the Death Penalty Information Center, 121 prisoners on death row have now been exonerated since 1973. Chronic problems, including inadequate defense counsel and racial disparities, plague the death penalty system in the United States. As a matter of principle, Congress should not be expanding the federal death penalty while these problems remain unresolved.

We urge you to oppose the following amendment:

(1) Flake #2: This amendment would eliminate federal jurisdiction for all sentencing phase claims in habeas corpus proceedings, unless the claim went to the validity of the state conviction in a capital cases. For example, this would result in federal courts not having jurisdiction to review habeas petitions involving claims in state capital cases that were based on ineffective assistance of counsel or prosecutorial misconduct during the sentencing phase of the case—errors that could mean the difference between life and death for the petitioner. In addition, this amendment would authorize the U.S. Attorney General to determine whether in a capital case a state's indigent defense counsel system passes constitutional muster. The Attorney General, our nation's top federal prosecutor, is not an objective party and therefore should not decide whether states have provided competent defense counsel in death penalty cases.

For the above-mentioned reasons, we urge members to oppose H.R. 1751 when the House votes on the bill on November 9, 2005.

Sincerely,

CAROLINE FREDRICKSON,
Director.

JESSELYN MCCURDY,
Legislative Counsel.

Mr. CONYERS. Mr. Chairman, the legislation under consideration today represents a vast improvement over the version of the bill as originally introduced.

Thanks to the hard work and commitment of Democratic members on the committee, it now offers grants to state courts so that they can make meaningful enhancements to courtroom safety and security. It provides the US Marshals Service with an additional $100 million, over the course of the next five years, to increase ongoing investigations and expand the protective services it currently offers to members of the federal judiciary. And it authorizes the Attorney General to establish a grant program for states to establish threat assessment databases.

Even with these valuable improvements, however, the bill still suffers from two fatal flaws. Specifically, its inclusion of 16 new mandatory minimum sentences and its establishment of one new death penalty eligible offense.

Mandatory minimums have been studied extensively and have been proven to be ineffective in preventing crime. They also have been proven to distort the sentencing process, and waste valuable taxpayer money.

With more than 2.1 million Americans currently in jail or prison—roughly quadruple the number individuals incarcerated in 1985—it's hard to see how anyone can continue with such a deeply flawed strategy.

Today, this country incarcerates its citizens at a rate 14 times that of Japan, 8 times the rate of France and 6 times the rate of Canada.

We spend an estimated $40 billion a year to imprison criminal offenders, we choose to build prisons over schools and we fail to provide inmates released from prison with the necessary tools and assistance for a successful re-entry into society.

Thanks to mandatory minimum sentences, almost 10 percent of all inmates in state and federal prisons are serving life sentences, an increase of 83 percent from 1992. In two states alone, New York and California, almost 20 percent of inmates are serving life sentences.

We've also noted the numerous problems that exist with regard to the death penalty. Namely, that all of the available evidence clearly demonstrates that the current system is flawed, defendants rarely receive adequate legal representation and that its application is racially discriminatory .

There are now over 100 Americans that have been sentenced to death, only later to be exonerated. Proving that many of the people convicted and sentenced to death are actually innocent.

In the end, the few grants that this bill purports to offer in the area of witness protection and court security can't make up for its two fatal flaws.

I urge my colleagues to oppose this measure.

Mr. SCOTT of Georgia. Mr. Chairman, the entire country witnessed what happened in my district, in the Fulton County Courthouse, on the morning of March 11, 2005.

On that day, Brian Nichols, was to appear in a retrial for charges of rape and false imprisonment. As he was escorted from his holding cell to change into civilian clothes for the proceeding, he over-powered the female sheriff's deputy overseeing his transfer, stole her gun, and shot her in the face. Mr. Nichols then proceeded to run through the courthouse complex, unimpeded, steal another firearm and shoot 3 more people, including long-time superior court judge Rowland Barnes, a revered judicial figure in the Atlanta area.

Mr. Nichols managed to escape the courthouse and evade police for more than two days during which time he used the fire arms that he stole in the courthouse, injuring several more people, stole multiple vehicles and held one woman hostage before he was finally apprehended.

Mr. Speaker, this episode highlights the merits of this bill not just because of the security failures that allowed it to happen. This much is self-evident.

In the aftermath of the security failures at the Fulton County Courthouse, the entire Atlanta metropolitan area, an area of more than 4 million people, was on edge. Schools were put on lock down in several counties. If we had proper security measures in place on that fateful Friday morning, we could have avoided the hysteria and disruptions of normal life that followed.

My constituents, the residents of the Atlanta area, and the law-abiding citizens of this great nation deserve the right to go about their daily lives knowing that our court rooms are secure. Therefore, I urge the passing of this bill.

Mr. KIRK. Mr. Chairman, I rise in support of H.R. 1751 and in support of the dedicated public servants working in our criminal justice system. The very nature of their work brings them in contact with dangerous criminals on a daily basis. After conviction, some of these criminals seek revenge against the prosecutors and judges who put them in prison. As unfortunate as it is, we must do more to protect those in the justice system who work to protect all of us.

We all remember the brutal murders of Michael Lefkow and Donna Humphrey, the husband and mother of U.S. District Judge Joan Lefkow. The initial investigation focused on a likely suspect, white supremacist Matthew Hale, who had been convicted of soliciting Judge Lefkow's murder only a year before. As it turns out, Hale was not behind the murders, but another disgruntled individual with a history in front of Judge Lefkow was. Bart Ross, a plaintiff in a medical malpractice case Judge Lefkow dismissed, wrote a letter to a Chicago television station admitting he killed Michael Lefkow and Donna Humphrey and that his target had been the Judge. Included in the note was a "hit list" of others he felt had wronged him, many of whom were involved in his medical malpractice case. One of the individuals on the "hit list" is a constituent of mine and while we are thankful he and his family are safe, it is a chilling reminder that the security of judicial officials cannot be taken for granted.

This tragic case is just one example of the danger prosecutors and judges can face simply for doing their jobs. Even though Matthew Hale and his white supremacist group were not responsible for the Letkow murders, they were vocal in their praise for the killings on the Internet. The fact remains that judges, prosecutors, and their families are often targeted and they can be in danger wherever they go, even in their own homes. Mr. Chairman, I support this legislation and I believe the Congress should do all it can to protect judges and their families and enhance courthouse security.

Mr. SCOTT of Virginia. Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 1751

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Secure Access to Justice and Court Protection Act of 2005''.

SEC. 2. PENALTIES FOR INFLUENCING, IMPEDING, OR RETALIATING AGAINST JUDGES AND OTHER OFFICIALS BY THREATENING OR INJURING A FAMILY MEMBER.

Section 115 of title 18, United States Code, is amended—

(1) in each of subparagraphs (A) and (B) of subsection (a)(1), by inserting ''federally funded public safety officer (as defined for the purposes of section 1123)'' after ''Federal law enforcement officer,'';

(2) so that subsection (b) reads as follows:

''(b)(1) Except as provided in paragraph (2), the punishment for an offense under this section is as follows:

''(A) The punishment for an assault in violation of this section is the same as that provided for a like offense under section 111.

''(B) The punishment for a kidnapping, attempted kidnapping, or conspiracy to kidnap in violation of this section is the same as provided for a like violation in section 1201.

''(C) The punishment for a murder, attempted murder, or conspiracy to murder in violation of this section is the same as provided for a like offense under section 1111, 1113, and 1117.

''(D) A threat made in violation of this section shall be punished by a fine under this title or imprisonment for not more than 10 years, or both.

''(2) If the victim of the offense under this section is an immediate family member of a United States judge, a Federal law enforcement officer (as defined for the purposes of section 1114) or of a federally funded public safety officer (as defined for the purposes of section 1123), in lieu of the punishments otherwise provided by paragraph (1), the punishments shall be as follows:

''(A) The punishment for an assault in violation of this section is as follows:

''(i) If the assault is a simple assault, a fine under this title or a term of imprisonment for not more than one year, or both.

''(ii) If the assault resulted in bodily injury (as defined in section 1365), a fine under this title and a term of imprisonment for not less than one year nor more than 10 years.

''(iii) If the assault resulted in substantial bodily injury (as defined in section 113), a fine under this title and a term of imprisonment for not less than 3 years nor more than 12 years.

''(iv) If the assault resulted in serious bodily injury (as defined in section 2119), a fine under this title and a term of imprisonment for not less than 10 years nor more than 30 years.

''(B) The punishment for a kidnapping, attempted kidnapping, or conspiracy to kidnap in violation of this section is a fine under this title and imprisonment for any term of years not less than 30, or for life.

''(C) The punishment for a murder, attempted murder, or conspiracy to murder in violation of this section is a fine under this title and imprisonment for any term of years not less than 30, or for life, or, if death results, the offender may be sentenced to death.

''(D) A threat made in violation of this section shall be punished by a fine under this title and imprisonment for not less than one year nor more than 10 years.

''(E) If a dangerous weapon was used during and in relation to the offense, the punishment shall include a term of imprisonment of 5 years in addition to that otherwise imposed under this paragraph.''.

SEC. 3. PENALTIES FOR CERTAIN ASSAULTS.

(a) INCLUSION OF FEDERALLY FUNDED PUBLIC SAFETY OFFICERS.—Section 111(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting ''or a federally funded public safety officer (as defined in section 1123)'' after ''1114 of this title''; and

(2) in paragraph (2), by inserting ''or a federally funded public safety officer (as defined in section 1123)'' after ''1114''.

(b) ALTERNATE PENALTY WHERE VICTIM IS A UNITED STATES JUDGE, A FEDERAL LAW ENFORCEMENT OFFICER, OR FEDERALLY FUNDED PUBLIC SAFETY OFFICER.—Section 111 of title 18, United States Code, is amended by adding at the end the following:

''(c) ALTERNATE PENALTY WHERE VICTIM IS A UNITED STATES JUDGE, A FEDERAL LAW ENFORCEMENT OFFICER, OR FEDERALLY FUNDED PUBLIC SAFETY OFFICER.—(1) Except as provided in paragraph (2), if the offense is an assault and the victim of the offense under this section is a United States judge, a Federal law enforcement officer (as defined for the purposes of section 1114) or of a federally funded public safety officer (as defined for the purposes of section 1123), in lieu of the penalties otherwise set forth in this section, the offender shall be subject to a fine under this title and—

''(A) If the assault is a simple assault, a fine under this title or a term of imprisonment for not more than one year, or both.

''(B) if the assault resulted in bodily injury (as defined in section 1365), shall be imprisoned not less than one nor more than 10 years;

''(C) if the assault resulted in substantial bodily injury (as defined in section 113), shall be imprisoned not less than 3 nor more than 12 years; and

''(D) if the assault resulted in serious bodily injury (as defined in section 2119), shall be imprisoned not less than 10 nor more than 30 years.

''(2) If a dangerous weapon was used during and in relation to the offense, the punishment shall include a term of imprisonment of 5 years in addition to that otherwise imposed under this subsection.''.

SEC. 4. PROTECTION OF FEDERALLY FUNDED PUBLIC SAFETY OFFICERS.

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

''§ 1123. Killing of federally funded public safety officers

''(a) Whoever kills, or attempts or conspires to kill, a federally funded public safety officer while that officer is engaged in official duties, or arising out of the performance of official duties, or kills a former federally funded public safety officer arising out of the performance of official duties, shall be punished by a fine under this title and imprisonment for any term of years not less than 30, or for life, or, if death results, may be sentenced to death.

''(b) As used in this section—

''(1) the term 'federally funded public safety officer' means a public safety officer for a public agency (including a court system, the National Guard of a State to the extent the personnel of that National Guard are not in Federal service, and the defense forces of a State authorized by section 109 of title 32) that receives Federal financial assistance, of an entity that is a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States, an Indian tribe, or a unit of local government of that entity;

''(2) the term 'public safety officer' means an individual serving a public agency in an official capacity, as a judicial officer, as a law enforcement officer, as a firefighter, as a chaplain, or as a member of a rescue squad or ambulance crew;

''(3) the term 'judicial officer' means a judge or other officer or employee of a court, including prosecutors, court security, pretrial services officers, court reporters, and corrections, probation, and parole officers; and

''(4) the term 'firefighter' includes an individual serving as an official recognized or designated member of a legally organized volunteer fire department and an officially recognized or designated public employee member of a rescue squad or ambulance crew; and

''(5) the term 'law enforcement officer' means an individual involved in crime and juvenile delinquency control or reduction, or enforcement of the laws.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

''1123. Killing of federally funded public safety officers.''.

SEC. 5. GENERAL MODIFICATIONS OF FEDERAL MURDER CRIME AND RELATED CRIMES.

(a) MURDER AMENDMENTS.—Section 1111 of title 18, United States Code, is amended in subsection (b), by inserting ''not less than 30'' after ''any term of years''.

(b) MANSLAUGHTER AMENDMENTS.—Section 1112(b) of title 18, United States Code, is amended—

(1) by striking ''ten years'' and inserting ''20 years''; and

(2) by striking ''six years'' and inserting ''10 years''.

SEC. 6. MODIFICATION OF DEFINITION OF OFFENSE AND OF THE PENALTIES FOR, INFLUENCING OR INJURING OFFICER OR JUROR GENERALLY.

Section 1503 of title 18, United States Code, is amended—

(1) so that subsection (a) reads as follows:

''(a)(1) Whoever—

''(A) corruptly, or by threats of force or force, endeavors to influence, intimidate, or impede a juror or officer in a judicial proceeding in the discharge of that juror or officer's duty;

''(B) injures a juror or an officer in a judicial proceeding arising out of the performance of official duties as such juror or officer; or

''(C) corruptly, or by threats of force or force, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice;

or attempts or conspires to do so, shall be punished as provided in subsection (b).

''(2) As used in this section, the term 'juror or officer in a judicial proceeding' means a grand or petit juror, or other officer in or of any court of the United States, or an officer who may be serving at any examination or other proceeding before any United States magistrate judge or other committing magistrate.''; and

(2) in subsection (b), by striking paragraphs (1) through (3) and inserting the following:

''(1) in the case of a killing, or an attempt or a conspiracy to kill, the punishment provided in section 1111, 1112, 1113, and 1117; and

''(2) in any other case, a fine under this title and imprisonment for not more than 30 years.''.

SEC. 7. MODIFICATION OF TAMPERING WITH A WITNESS, VICTIM, OR AN INFORMANT OFFENSE.

(a) CHANGES IN PENALTIES.—Section 1512 of title 18, United States Code, is amended—

(1) in each of paragraphs (1) and (2) of subsection (a), insert ''or conspires'' after ''attempts'';

(2) so that subparagraph (A) of subsection (a)(3) reads as follows:

''(A) in the case of a killing, the punishment provided in sections 1111 and 1112;'';

(3) in subsection (a)(3)—

(A) in the matter following clause (ii) of subparagraph (B) by striking ''20 years'' and inserting ''30 years'' ; and

(B) in subparagraph (C), by striking ''10 years'' and inserting ''20 years'';

(4) in subsection (b), by striking ''ten years'' and inserting ''30 years''; and

(5) in subsection (d), by striking ''one year'' and inserting ''20 years''.

SEC. 8. MODIFICATION OF RETALIATION OFFENSE.

Section 1513 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by inserting ''or conspires'' after ''attempts'';

(2) in subsection (a)(1)(B)—

(A) by inserting a comma after ''probation''; and

(B) by striking the comma which immediately follows another comma;

(3) in subsection (a)(2)(B), by striking ''20 years'' and inserting ''30 years'';

(4) in subsection (b), by striking ''ten years'' and inserting ''30 years'';

(5) in the first subsection (e), by striking ''10 years'' and inserting ''30 years''; and

(6) by redesignating the second subsection (e) as subsection (f).

SEC. 9. INCLUSION OF INTIMIDATION AND RETALIATION AGAINST WITNESSES IN STATE PROSECUTIONS AS BASIS FOR FEDERAL PROSECUTION.

Section 1952 of title 18, United States Code, is amended in subsection (b)(2), by inserting ''intimidation of, or retaliation against, a witness, victim, juror, or informant,'' after ''extortion, bribery,''.

SEC. 10. CLARIFICATION OF VENUE FOR RETALIATION AGAINST A WITNESS.

Section 1513 of title 18, United States Code, is amended by adding at the end the following:

''(g) A prosecution under this section may be brought in the district in which the official proceeding (whether or not pending, about to be instituted or completed) was intended to be affected or was completed, or in which the conduct constituting the alleged offense occurred.''.

SEC. 11. WITNESS PROTECTION GRANT PROGRAM.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting after part BB (42 U.S.C. 3797j et seq.) the following new part:

''PART CC—WITNESS PROTECTION GRANTS

''SEC. 2811. PROGRAM AUTHORIZED.

''(a) IN GENERAL.—From amounts made available to carry out this part, the Attorney General may make grants to States, units of local government, and Indian tribes to create and expand witness protection programs in order to prevent threats, intimidation, and retaliation against victims of, and witnesses to, crimes.

''(b) USES OF FUNDS.—Grants awarded under this part shall be—

''(1) distributed directly to the State, unit of local government, or Indian tribe; and

''(2) used for the creation and expansion of witness protection programs in the jurisdiction of the grantee.

''(c) PREFERENTIAL CONSIDERATION.—In awarding grants under this part, the Attorney General may give preferential consideration, if feasible, to an application from a jurisdiction that—

''(1) has the greatest need for witness and victim protection programs;

''(2) has a serious violent crime problem in the jurisdiction; and

''(3) has had, or is likely to have, instances of threats, intimidation, and retaliation against victims of, and witnesses to, crimes.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2006 through 2010.''.

SEC. 12. GRANTS TO STATES TO PROTECT WITNESSES AND VICTIMS OF CRIMES.

(a) IN GENERAL.—Section 31702 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13862) is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) in paragraph (4), by striking the period at the end and inserting ''; and'' ; and

(3) by adding at the end the following:

''(5) to create and expand witness and victim protection programs to prevent threats, intimidation, and retaliation against victims of, and witnesses to, violent crimes.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 31707 of the Violent Crime Control and Law

Enforcement Act of 1994 (42 U.S.C. 13867) is amended to read as follows:

"SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated $20,000,000 for each of the fiscal years 2006 through 2010 to carry out this subtitle.''.

SEC. 13. JUDICIAL BRANCH SECURITY REQUIREMENTS.

(a) ENSURING CONSULTATION AND COORDINATION WITH THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Section 566 of title 28, United States Code, is amended by adding at the end the following:

''(i) The United States Marshals Service shall consult with the Administrative Office of the United States Courts on a continuing basis regarding the security requirements for the Judicial Branch, and inform the Administrative Office of the measures the Marshals Service intends to take to meet those requirements.''.

(b) CONFORMING AMENDMENT.—Section 604(a) of title 28, United States Code, is amended—

(1) by redesignating existing paragraph (24) as paragraph (25);

(2) by striking ''and'' at the end of paragraph (23); and

(3) by inserting after paragraph (23) the following:

''(24) Consult with the United States Marshals Service on a continuing basis regarding the security requirements for the Judicial Branch, and inform the Administrative Office of the measures the Marshals Service intends to take to meet those requirements; and''.

SEC. 14. PROTECTIONS AGAINST MALICIOUS RECORDING OF FICTITIOUS LIENS AGAINST A FEDERAL EMPLOYEE.

(a) OFFENSE.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"§ 1521. Retaliating against a Federal employee by false claim or slander of title

''Whoever, with the intent to harass a person designated in section 1114 on account of the performance of official duties, files, in any public record or in any private record which is generally available to the public, any false lien or encumbrance against the real or personal property of that person, or attempts or conspires to do so, shall be fined under this title or imprisoned not more than 10 years, or both.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new item:

''1521. Retaliating against a Federal employee by false claim or slander of title.''.

SEC. 15. PROHIBITION OF POSSESSION OF DANGEROUS WEAPONS IN FEDERAL COURT FACILITIES.

Section 930(e) of title 18, United States Code, is amended by inserting ''or other dangerous weapon'' after ''firearm''.

SEC. 16. REPEAL OF SUNSET PROVISION.

Section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App) is amended by striking subparagraph (E).

SEC. 17. PROTECTION OF INDIVIDUALS PERFORMING CERTAIN FEDERAL AND OTHER FUNCTIONS.

(a) OFFENSE.—Chapter 7 of title 18, United States Code, is amended by adding at the end the following:

"§ 117. Protection of individuals performing certain Federal and federally assisted functions

''(a) Whoever knowingly, and with intent to harm, intimidate, or retaliate against a covered official makes restricted personal information about that covered official publicly available through the Internet shall be fined under this title and imprisoned not more than 5 years, or both.

''(b) It is a defense to a prosecution under this section that the defendant is a provider of Internet services and did not knowingly participate in the offense.

''(c) As used in this section—

''(1) the term 'restricted personal information' means, with respect to an individual, the Social Security number, the home address, home phone number, mobile phone number, personal email, or home fax number of, and identifiable to, that individual; and

''(2) the term 'covered official' means—

''(A) an individual designated in section 1114;

''(B) a public safety officer (as that term is defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968); or

''(C) a grand or petit juror, witness, or other officer in or of, any court of the United States, or an officer who may be serving at any examination or other proceeding before any United States magistrate judge or other committing magistrate.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 18, United States Code, is amended by adding at the end the following new item:

''117. Protection of individuals performing certain Federal and federally assisted functions.''.

SEC. 18. ELIGIBILITY OF COURTS TO APPLY DIRECTLY FOR LAW ENFORCEMENT DISCRETIONARY GRANTS AND REQUIREMENT THAT STATE AND LOCAL GOVERNMENTS CONSIDER COURTS WHEN APPLYING FOR GRANT FUNDS.

(a) COURTS TREATED AS UNITS OF LOCAL GOVERNMENTS FOR PURPOSES OF DISCRETIONARY GRANTS.—Section 901 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended in subsection (a)(3)—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B) the following new subparagraph:

''(C) the judicial branch of a State or of a unit of local government within the State for purposes of discretionary grants;''.

(b) STATE AND LOCAL GOVERNMENTS TO CONSIDER COURTS.—The Attorney General shall ensure that whenever a State or unit of local government applies for a grant from the Department of Justice, the State or unit demonstrate that, in developing the application and distributing funds, the State or unit—

(1) considered the needs of the judicial branch of the State or unit, as the case may be; and

(2) consulted with the chief judicial officer of the highest court of the State or unit, as the case may be.

SEC. 19. REPORT ON SECURITY OF FEDERAL PROSECUTORS.

Not later than 90 days after the date of the enactment of this Act, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report on the security of assistant United States attorneys and other Federal attorneys arising from the prosecution of terrorists, violent criminal gangs, drug traffickers, gun traffickers, white supremacists, and those who commit fraud and other white-collar offenses. The report shall describe each of the following:

(1) The number and nature of threats and assaults against attorneys handling those prosecutions and the reporting requirements and methods.

(2) The security measures that are in place to protect the attorneys who are handling those prosecutions, including measures such as threat assessments, response procedures, availability of security systems and other devices, firearms licensing (deputations), and other measures designed to protect the attorneys and their families.

(3) The Department of Justice's firearms deputation policies, including the number of attorneys deputized and the time between receipt of threat and completion of the deputation and training process.

(4) For each measure covered by paragraphs (1) through (3), when the report or measure was developed and who was responsible for developing and implementing the report or measure.

(5) The programs that are made available to the attorneys for personal security training, including training relating to limitations on public information disclosure, basic home security, firearms handling and safety, family safety, mail handling, counter- surveillance, and self-defense tactics.

(6) The measures that are taken to provide the attorneys with secure parking facilities, and how priorities for such facilities are established—

(A) among Federal employees within the facility;

(B) among Department of Justice employees within the facility; and

(C) among attorneys within the facility.

(7) The frequency such attorneys are called upon to work beyond standard work hours and the security measures provided to protect attorneys at such times during travel between office and available parking facilities.

(8) With respect to attorneys who are licensed under State laws to carry firearms, the Department of Justice's policy as to—

(A) carrying the firearm between available parking and office buildings;

(B) securing the weapon at the office buildings; and

(C) equipment and training provided to facilitate safe storage at Department of Justice facilities.

(9) The offices in the Department of Justice that are responsible for ensuring the security of the attorneys, the organization and staffing of the offices, and the manner in which the offices coordinate with offices in specific districts.

(10) The role, if any, that the United States Marshals Service or any other Department of Justice component plays in protecting, or providing security services or training for, the attorneys.

SEC. 20. FLIGHT TO AVOID PROSECUTION FOR KILLING PEACE OFFICERS.

(a) FLIGHT.—Chapter 49 of title 18, United States Code, is amended by adding at the end the following:

"§ 1075. Flight to avoid prosecution for killing peace officers

''Whoever moves or travels in interstate or foreign commerce with intent to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which he flees or under section 1114 or 1123, for a crime consisting of the killing, an attempted killing, or a conspiracy to kill, an individual involved in crime and juvenile delinquency control or reduction, or enforcement of the laws or for a crime punishable by section 1114 or 1123, shall be fined under this title and imprisoned, in addition to any other imprisonment for the underlying offense, for any term of years not less than 10.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 49 of title 18, United States Code, is amended by adding at the end the following new item:

''1075. Flight to avoid prosecution for killing peace officers.''.

SEC. 21. SPECIAL PENALTIES FOR MURDER, KIDNAPPING, AND RELATED CRIMES AGAINST FEDERAL JUDGES AND FEDERAL LAW ENFORCEMENT OFFICERS.

(a) MURDER.—Section 1114 of title 18, United States Code, is amended—

(1) by inserting ''(a)'' before ''Whoever''; and

(2) by adding at the end the following:

''(b) If the victim of a murder punishable under this section is a United States judge (as defined in section 115) or a Federal law enforcement officer (as defined in 115) the offender shall be punished by a fine under this title and

imprisonment for any term of years not less than 30, or for life, or, if death results, may be sentenced to death.''.

(b) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by adding at the end the following: ''If the victim of the offense punishable under this subsection is a United States judge (as defined in section 115) or a Federal law enforcement officer (as defined in 115) the offender shall be punished by a fine under this title and imprisonment for any term of years not less than 30, or for life, or, if death results, may be sentenced to death.''.

SEC. 22. MEDIA COVERAGE OF COURT PROCEEDINGS.

(a) FINDINGS.—The Congress makes the following findings:

(1) The right of the people of the United States to freedom of speech, particularly as it relates to comment on governmental activities, as protected by the first amendment to the Constitution, cannot be meaningfully exercised without the ability of the public to obtain facts and information about the Government upon which to base their judgments regarding important issues and events. As the United States Supreme Court articulated in Craig v. Harney, 331 U.S. 367 (1947), ''A trial is a public event. What transpires in the court room is public property.''.

(2) The right of the people of the United States to a free press, with the ability to report on all aspects of the conduct of the business of government, as protected by the first amendment to the Constitution, cannot be meaningfully exercised without the ability of the news media to gather facts and information freely for dissemination to the public.

(3) The right of the people of the United States to petition the Government to redress grievances, particularly as it relates to the manner in which the Government exercises its legislative, executive, and judicial powers, as protected by the first amendment to the Constitution, cannot be meaningfully exercised without the availability to the public of information about how the affairs of government are being conducted. As the Supreme Court noted in Richmond Newspapers, Inc. v. Commonwealth of Virginia (1980), ''People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing.''.

(4) In the twenty-first century, the people of the United States obtain information regarding judicial matters involving the Constitution, civil rights, and other important legal subjects principally through the print and electronic media. Television, in particular, provides a degree of public access to courtroom proceedings that more closely approximates the ideal of actual physical presence than newspaper coverage or still photography.

(5) Providing statutory authority for the courts of the United States to exercise their discretion in permitting televised coverage of courtroom proceedings would enhance significantly the access of the people to the Federal judiciary.

(6) Inasmuch as the first amendment to the Constitution prevents Congress from abridging the ability of the people to exercise their inherent rights to freedom of speech, to freedom of the press, and to petition the Government for a redress of grievances, it is good public policy for the Congress affirmatively to facilitate the ability of the people to exercise those rights.

(7) The granting of such authority would assist in the implementation of the constitutional guarantee of public trials in criminal cases, as provided by the sixth amendment to the Constitution. As the Supreme Court stated in In re Oliver (1948), ''Whatever other benefits the guarantee to an accused that his trial be conducted in public may confer upon our society, the guarantee has always been recognized as a safeguard against any attempt to employ our courts as instruments of persecution. The knowledge that every criminal trial is subject to contemporaneous review in the forum of public opinion is an effective restraint on possible abuse of judicial power.''.

(b) AUTHORITY OF PRESIDING JUDGE TO ALLOW MEDIA COVERAGE OF COURT PROCEEDINGS.—

(1) AUTHORITY OF APPELLATE COURTS.—Notwithstanding any other provision of law, the presiding judge of an appellate court of the United States may, in his or her discretion, permit the photographing, electronic recording, broadcasting, or televising to the public of court proceedings over which that judge presides.

(2) AUTHORITY OF DISTRICT COURTS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, any presiding judge of a district court of the United States may, in his or her discretion, permit the photographing, electronic recording, broadcasting, or televising to the public of court proceedings over which that judge presides.

(B) OBSCURING OF WITNESSES AND JURORS.—(i) Upon the request of any witness (other than a party) or a juror in a trial proceeding, the court shall order the face and voice of the witness or juror (as the case may be) to be disguised or otherwise obscured in such manner as to render the witness or juror unrecognizable to the broadcast audience of the trial proceeding.

(ii) The presiding judge in a trial proceeding shall inform—

(I) each witness who is not a party that the witness has the right to request that his or her image and voice be obscured during the witness' testimony; and

(II) each juror that the juror has the right to request that his or her image be obscured during the trial proceeding.

(3) ADVISORY GUIDELINES.—The Judicial Conference of the United States is authorized to promulgate advisory guidelines to which a presiding judge, in his or her discretion, may refer in making decisions with respect to the management and administration of photographing, recording, broadcasting, or televising described in paragraphs (1) and (2).

(c) DEFINITIONS.—In this section:

(1) PRESIDING JUDGE.—The term ''presiding judge'' means the judge presiding over the court proceeding concerned. In proceedings in which more than one judge participates, the presiding judge shall be the senior active judge so participating or, in the case of a circuit court of appeals, the senior active circuit judge so participating, except that—

(A) in en banc sittings of any United States circuit court of appeals, the presiding judge shall be the chief judge of the circuit whenever the chief judge participates; and

(B) in en banc sittings of the Supreme Court of the United States, the presiding judge shall be the Chief Justice whenever the Chief Justice participates.

(2) APPELLATE COURT OF THE UNITED STATES.—The term ''appellate court of the United States'' means any United States circuit court of appeals and the Supreme Court of the United States.

(d) SUNSET.—The authority under subsection (b)(2) shall terminate on the date that is 3 years after the date of the enactment of this Act.

SEC. 23. FUNDING FOR STATE COURTS TO ASSESS AND ENHANCE COURT SECURITY AND EMERGENCY PREPAREDNESS.

(a) IN GENERAL.—The Attorney General, through the Office of Justice Programs, shall make grants under this section to the highest State courts in States participating in the program, for the purpose of enabling such courts—

(1) to conduct assessments focused on the essential elements for effective courtroom safety and security planning; and

(2) to implement changes deemed necessary as a result of the assessments.

(b) ESSENTIAL ELEMENTS.—As used in subsection (a)(1), the essential elements include, but are not limited to—

(1) operational security and standard operating procedures;

(2) facility security planning and self-audit surveys of court facilities;

(3) emergency preparedness and response and continuity of operations;

(4) disaster recovery and the essential elements of a plan;

(5) threat assessment;

(6) incident reporting;

(7) security equipment;

(8) developing resources and building partnerships; and

(9) new courthouse design.

(c) APPLICATIONS.—To be eligible for a grant under this section, a highest State court shall submit to the Attorney General an application at such time, in such form, and including such information and assurances as the Attorney General shall require.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2006 through 2010.

SEC. 24. ADDITIONAL AMOUNTS FOR UNITED STATES MARSHALS SERVICE TO PROTECT THE JUDICIARY.

In addition to any other amounts authorized to be appropriated for the United States Marshals Service, there are authorized to be appropriated for the United States Marshals Service to protect the judiciary, $20,000,000 for each of fiscal years 2006 through 2010 for—

(1) hiring entry-level deputy marshals for providing judicial security;

(2) hiring senior-level deputy marshals for investigating threats to the judiciary and providing protective details to members of the judiciary and Assistant United States Attorneys; and

(3) for the Office of Protective Intelligence, for hiring senior-level deputy marshals, hiring program analysts, and providing secure computer systems.

SEC. 25. GRANTS TO STATES FOR THREAT ASSESSMENT DATABASES.

(a) IN GENERAL.—From amounts made available to carry out this section, the Attorney General shall carry out a program under which the Attorney General makes grants to States for use by the State to establish and maintain a threat assessment database described in subsection (b).

(b) DATABASE.—For purposes of subsection (a), a threat assessment database is a database through which a State can—

(1) analyze trends and patterns in domestic terrorism and crime;

(2) project the probabilities that specific acts of domestic terrorism or crime will occur; and

(3) develop measures and procedures that can effectively reduce the probabilities that those acts will occur.

(c) CORE ELEMENTS.—The Attorney General shall define a core set of data elements to be used by each database funded by this section so that the information in the database can be effectively shared with other States and with the Department of Justice.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2006 through 2009.

SEC. 26. GRANTS FOR YOUNG WITNESS ASSISTANCE.

(a) DEFINITIONS.—For purposes of this section:

(1) DIRECTOR.—The term ''Director'' means the Director of the Bureau of Justice Assistance.

(2) JUVENILE.—The term ''juvenile'' means an individual who is 17 years of age or younger.

(3) YOUNG ADULT.—The term ''young adult'' means an individual who is between the ages of 18 and 21.

(4) STATE.—The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(b) PROGRAM AUTHORIZATION.—The Director may make grants to State and local prosecutors

and law enforcement agencies in support of juvenile and young adult witness assistance programs, including State and local prosecutors and law enforcement agencies that have existing juvenile and adult witness assistance programs.

(c) ELIGIBILITY.—To be eligible to receive a grant under this section, State and local prosecutors and law enforcement officials shall—

(1) submit an application to the Director in such form and containing such information as the Director may reasonably require; and

(2) give assurances that each applicant has developed, or is in the process of developing, a witness assistance program that specifically targets the unique needs of juvenile and young adult witnesses and their families.

(d) USE OF FUNDS.—Grants made available under this section may be used—

(1) to assess the needs of juvenile and young adult witnesses;

(2) to develop appropriate program goals and objectives; and

(3) to develop and administer a variety of witness assistance services, which includes—

(A) counseling services to young witnesses dealing with trauma associated in witnessing a violent crime;

(B) pre- and post-trial assistance for the youth and their family;

(C) providing education services if the child is removed from or changes their school for safety concerns;

(D) protective services for young witnesses and their families when a serious threat of harm from the perpetrators or their associates is made; and

(E) community outreach and school-based initiatives that stimulate and maintain public awareness and support.

(e) REPORTS.—

(1) REPORT.—State and local prosecutors and law enforcement agencies that receive funds under this section shall submit to the Director a report not later than May 1st of each year in which grants are made available under this section. Reports shall describe progress achieved in carrying out the purpose of this section.

(2) REPORT TO CONGRESS.—The Director shall submit to Congress a report by July 1st of each year which contains a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by applicants, and an evaluation of programs established under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2006, 2007, and 2008.

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 109–279. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 printed in House Report 109–279 offered by Mr. SENSENBRENNER:

In the matter proposed to be inserted by section 2 as subsection (b)(2)(C) of section 115 of title 18, United States Code, after ''if death results'' insert ''and the offender is prosecuted as a principal''.

In the matter proposed to be inserted by section 4(a) as section 1123(a) of title 18, United States Code, after ''if death results'' insert ''and the offender is prosecuted as a principal''.

In the matter proposed to be inserted by section 18(a) as subparagraph (C) of section 901(a)(3) of the Omnibus Crime Control and Safe Streets Act of 1968 insert after ''within the State'' the following: ''or of an Indian tribe,''.

In section 18(b), strike ''local unit of government'' and insert ''unit of local government or Indian tribe'' and strike ''State or unit'' each place it appears and insert ''State, unit, or tribe''.

In the matter proposed to be inserted by section 13(b)(3) as paragraph (24) of section 604(a) of title 28, United States Code, strike '', and inform'' and all that follows through ''requirements''.

The CHAIRMAN. Pursuant to House Resolution 540, the gentleman from Wisconsin (Mr. SENSENBRENNER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer this manager's amendment to clarify that offenders who attempt to murder or conspire to murder a Federal judge, Federal law enforcement officer, or a federally funded public safety officer are subject to a penalty of life imprisonment. If death results, the death penalty can be applied to offenders who are principals.

In addition, the amendment adds Indian tribes as eligible entities for court security grants in section 18 of the bill.

Finally, the amendment clarifies the language as to the coordination between the Marshals Service and the Administrative Office on security issues. I urge my colleagues to support the amendment to this important bill.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Who seeks time in opposition?

Mr. SCOTT of Virginia. Mr. Chairman, I think the amendment is clarifying in nature, and I have no objection. I am not aware of any objection.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 printed in House Report 109–279 offered by Mr. SCOTT of Virginia:

In the matter proposed to be inserted by section 2 as a subsection (b)(2)(A)(ii) of section 115 of title 18, United States Code, strike ''and a term of imprisonment'' and all that follows through ''10 years'' and insert ''or a term of imprisonment for not more than 20 years, or both''.

In the matter proposed to be inserted by section 2 as a subsection (b)(2)(A)(iii) of section 115 of title 18, United States Code, strike ''and a term of imprisonment'' and all that follows through ''12 years'' and insert ''or a term of imprisonment for not more than 30 years, or both''.

In the matter proposed to be inserted by section 2 as a subsection (b)(2)(A)(iv) of section 115 of title 18, United States Code, strike ''and a term of imprisonment'' and all that follows through ''30 years'' and insert ''or a term of imprisonment for not more than 40 years, or both''.

In the matter proposed to be inserted by section 2 as a subsection (b)(2)(B), strike ''not less than 30''.

In the matter proposed to be inserted by section 2 as a subsection (b)(2)(C), strike ''not less than 30''.

In the matter proposed to be inserted by section 2 as a subsection (b)(2)(D) of section 115 of title 18, United States Code, strike ''and imprisonment'' and all that follows through ''10 years'' and insert ''or imprisonment for not more than 20 years, or both''.

In the matter proposed to be inserted by section 2 as a subsection (b)(2)(E) of section 115 of title 18, United States Code, strike ''5 years'' and insert ''not more than 10 years''.

In the matter proposed to be inserted by section 3(b) as a subsection (c)(1)(B) of section 111 of title 18, United States Code, strike ''not less'' and all that follows through ''10 years'' and insert ''not more than 20 years''.

In the matter proposed to be inserted by section 3(b) as a subsection (c)(1)(C) of section 111 of title 18, United States Code, strike ''not less'' and all that follows through ''12 years'' and insert ''not more than 30 years''.

In the matter proposed to be inserted by section 3(b) as a subsection (c)(1)(D) of section 111 of title 18, United States Code, strike ''not less'' and all that follows through ''30 years'' and insert ''not more than 40 years''.

In the matter proposed to be inserted by section 3(b) as a subsection (c)(2) of section 111 of title 18, United States Code, strike ''5 years'' and insert ''not more than 10 years''.

In the matter proposed to be inserted by section 20(a) as a section 1075 of title 18, United States Code, strike ''not less than 10'' and insert ''not more than 20''.

In the matter proposed to be inserted by section 21(a) as a subsection (b) of section 1114 of title 18, United States Code, strike ''and imprisonment'' and all that follows through ''or for life'' and insert ''or imprisonment for any term of years, or for life, or both''.

In the matter proposed to be inserted by section 21(b) in section 1201(a) of title 18, United States Code, strike ''and imprisonment'' and all that follows through ''or for life'' and insert ''or imprisonment for any term of years, or for life, or both''.

The CHAIRMAN. Pursuant to House Resolution 540, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment eliminates the mandatory minimum sentences in the bill and replaces them with increases in maximum sentences

for which a defendant can be sentenced. This is not a soft-on-crime amendment but a sensible-on-crime amendment. In each instance in which it eliminates a mandatory minimum sentence, it raises the maximum term to which an offender can be sentenced, except in situations where they can already get life.

With the higher maximums, offenders who deserve it can be sentenced to even greater sentences than the bill allows. But those who are bit players in an offense or those who do not deserve as much time as ringleaders, do not have to be sentenced to that time anyway. What sense does it make to sentence an offender to more time than anyone believes they deserve? That is an inevitable result of mandatory minimum sentencing.

The notion that we have to have mandatory minimum sentences to force judges to sentence those who kill, injure or threaten judges or their families or others associated with the courts is obviously absurd. Judges have not asked for mandatory minimum sentences as a protection for themselves and their families. Indeed, they have asked for just the opposite.

Having the experience of sentencing people on an ongoing basis, judges see the differences in activities, roles, backgrounds of the offenders of crime. They know it makes no sense to sentence just on the basis of the name of the crime rather than on the basis of the facts and circumstances of the crime and the level of involvement and background of the offenders. Having heard all the facts and circumstances in the case, they are in a much better position to sentence offenders than Congress is in sentencing offenders with no knowledge of the individual case.

To ensure a systemic approach in sentencing like offenders in a similar manner, we have created the Sentencing Commission and the sentencing guideline system. By increasing the maximums, we signal to the Sentencing Commission to consider increasing the guideline minimums, which they characteristically do when we make such suggestions. The sentencing statistics do not establish that the courts have not followed the guidelines, especially when you take into account that most of the deviations result from government motions, or acquiescences in sentences, and guideline-sanctioned departures. Sentencing is not an exact science and should not be held to rigid statistical measurements.

Some have suggested that mandatory minimum sentencing is necessary because of recent Supreme Court decisions that prevent sentencing increases based on factors not established at the trial. Yet, their positions on mandatory minimum sentences appear to be no different before those cases were decided.

Mandatory minimums have been studied and have been found to disrupt an orderly sentencing scheme, to be discriminatory against minorities, to waste the taxpayers' money when compared to traditional sentencing where individual roles and culpability can be taken into account. If we do not trust judges to sentence offenders sufficient in other cases, the one instance where we should be able to trust judges is in the case where the charge is murder, injury, or threats to judges.

Certainly, Mr. Chairman, mandatory minimums are not indicated in this bill, so I urge my colleagues to support this amendment and remove the mandatory minimums from the bill.

Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the Scott amendment. It strips all of the mandatory minimum penalties out of the bill.

The amendment seeks to strip the core provisions of the bill. Let me remind everyone of the nature of the problem we face today. More than 57,000 law enforcement officers were assaulted in 2003, or one in every 10 officers serving in the United States. The numbers have been increasing since 1999, even as every other crime has decreased or held steady.

The Executive Director of the Fraternal Order of Police noted recently ''There is less respect for authority in general and police officers specifically. The predisposition of criminals to use firearms is probably at the highest point of our history.''

The secure access proposal addresses this problem by sending a message of deterrence. The existing penalty for assaulting a law enforcement officer is 8 years, 15 if with a weapon. Under current criminal law, a false statement made to an FBI agent in a terrorism investigation carries the same penalty as a violent assault of a police officer.

Federal, State, and local judges have suffered from rising threats, and deadly attacks have been directed against judges as well as courthouse participants.

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According to the Administrative Office of United States Courts, there are almost 700 threats made a year against Federal judges, and in numerous cases Federal judges have had security details assigned to them for fear of attack by members of terrorist organizations, violent gangs, and disgruntled litigants.

H.R. 1751 provides a reasonable penalty structure for assaults against judges, prosecutors and public safety officers, as well as members of their families. The bill adopts a penalty structure requiring 1 to 10 years for an assault that results in bodily injury, such as a cut, abrasion, bruise, burn, disfigurement, pain or illness; 3 to 12 years for substantial bodily injury, temporary but substantial disfigurement, temporary but substantial loss or impairment; and 10 to 30 years for serious bodily injury, substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

These penalties roughly correspond to existing guideline ranges and simply ensure that Federal judges impose the required penalty, but can exercise discretion to a higher penalty if warranted.

Law enforcement officers deserve our fullest protection, brazen criminals show less and less regard for the police and the hard work that they do. Our message is simple: If you attack a police officer or kill a police officer, you will be going to jail for a long time.

As revised, the mandatory minimums are commensurate with existing Federal sentencing guidelines, but in the absence of a mandatory minimum guideline system, there is too much at risk to leave the sentencing to judges who have already demonstrated their willingness to depart from the guidelines when presented with a case.

Mandatory minimum penalties are effective for ensuring consistency in sentencing. Since the Supreme Court's decision in United States v. Booker, judges now have virtually unlimited discretion to ignore the Federal sentencing guidelines and impose whatever sentence they like, all to the detriment of public safety and fairness and sentencing through consistent and clear punishment schemes. Judges are now completely unaccountable.

Congress has a duty to set sentencing policies for Federal crimes and to make sure that judges impose such sentences. Unfortunately, that has not been the experience since the Booker decision. Once freed from mandatory sentencing schemes, Federal judges are now starting to ignore the guidelines: In one of every 10 criminal cases, they are imposing sentences below the previously mandated guideline range.

In a recently released report, the Sentencing Commission data confirmed that this trend is continuing, and specifically broke out such data by circuits, which showed that judges in the Second and Ninth Circuits followed the guideline ranges in imposing sentences in a substantially lower percentage than the other circuits. Sentences now for similar crimes are being handed in disparate fashion, depending on the region where the offense occurs. This is not equal justice under the law in the Federal system.

Those judges, when they go to the Supreme Court, ought to look at the motto that is underneath the roof of the Court at the main entrance when they walk in. For these reasons, I urge my colleagues to oppose the amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The amendment was rejected.

AMENDMENT NO. 3 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 printed in House Report 109–279 offered by Mr. SCOTT of Virginia:

In the matter proposed to be inserted by section 4 as section 1123(a) of title 18, United States Code, strike ''shall be punished'' and all that follows through ''death'' and insert ''shall be fined under this title or imprisoned for any term or years or for life, or both''.

The CHAIRMAN. Pursuant to House Resolution 540, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would eliminate the expansion of the Federal death penalty jurisdiction on the basis of any portion of the salary of a State or local official being covered with Federal funds. That means they could be eligible for a Federal death penalty. The notion that the Federal Government has to replace the States and localities in murder prosecutions against those who would murder a State judge or others associated with a judge or courts is absurd.

States have shown themselves quite capable of prosecuting murder cases and in obtaining death penalties where applicable. They have done far more of it, frankly, than the Federal Government, so there is no indication that this raw extension of Federal power is necessary or even desired. If a State has chosen to represent the will of its citizens by not authorizing a death penalty, why should Congress step in and impose it in spite of the State's public policy choice?

The States certainly have not asked that we add a Federal death penalty to apply to the murder of federally funded State or local officials. And there is no evidence that the kind of people who would kill or plot to kill a State court judge or other officials may be deterred by a Federal death penalty.

The public is clearly rethinking the appropriateness of the death penalty, in general, due to the evidence that it is ineffective in deterring crime, that it is racially discriminatory, and found more often than not to be erroneously applied.

A 23-year comprehensive study of the death penalty found that the death penalty had been erroneously applied 68 percent of the time. So it is not surprising that over 120 people sentenced to death over the last 10 years have been released from death row, having been completely exonerated of the crimes for which they are convicted or otherwise found to be not guilty.

Nor is it surprising that with such a sorry record of death penalty administration, that several States have abolished the death penalty or placed moratoriums on the applications of their death penalty while studies are being conducted, and why some, while they have it on the books, have not applied it in many years.

In recognition of the problems States and localities were having with administering the death penalty, Congress adopted the Innocence Protection Act just a few years ago. It provides funding to State and local entities to help ensure that there is competent counsel at all parts of the trial.

Mr. Chairman, during committee deliberations of the death penalty, we heard references to econometric research of economist Joanna M. Shepherd. I want to point out, more recently, she has done further analysis in elaboration of her research and found, in terms of deterring murders, executions deter murders in six States, have no effect on murders in eight States, and increased murders in 13 States.

Mr. Chairman, despite the fact that the death penalty is arbitrarily applied, it is discriminatory and we make mistakes, I would hope that we would delete the death penalty from this bill by adopting the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

I rise in opposition to the Scott amendment which eliminates the death penalty for the killing of a federally funded public safety officer, such as a judge, police officer, firefighter, prosecutor, or a family member of a public safety officer.

According to the Bureau of Justice Statistics, 52 law enforcement officers were feloniously killed in the United States in 2003 and 56 officers were killed in the previous year.

In the 10-year period from 1994 through 2003, a total of 616 law enforcement officers were feloniously killed in the line of duty in the United States, 100 of whom were killed in ambush situations, entrapment or premeditated situations. If not for the advent of bulletproof vests, an additional 400 officers would have been killed over the last decade, except for the fact that they were wearing protective armor.

Of those responsible for killing police officers between 1994 and 2003, 521 had a prior criminal arrest, including 153 who had a prior arrest for assaulting a police officer or resisting arrest, 264 for a crime of violence, 230 for a weapons violation, and 23 for murder.

Recent events include the killing of an individual with a grenade in the Seattle Federal courthouse; the killing of Judge Roland Barnes, his deputy sheriff and a Federal agent in Atlanta; the murders of Federal Judge Lefkow's husband and mother; and the murders immediately outside the Tyler, Texas, courthouse.

These recent attacks follow on the heels of the 1998 bombing of Circuit Judge Robert Vance in the 11th Circuit; the 1998 shooting of Judge Daronoco; and the 1979 shooting of Judge Wood outside his San Antonio home.

According to the Administrative Office, there are almost 700 threats a year made against Federal judges, and security detail have had to be assigned to those Federal judges because of the threats of attacks.

The Secure Access bill authorizes, but does not require prosecution of federally funded State and local judges and first responders if there is a threat or an assault against them.

First, jurisdiction only exists when it involves Federal funding and protection of Federal investment.

Second, under current Federal law, the Department of Justice pays survivor benefits to families of first responders who are killed in the line of duty. The Federal interest in minimizing these assaults and murders is obvious and cost-saving.

The intent underlying this provision is to authorize Federal prosecution after State and local prosecutors and Federal prosecutors determine where such prosecution would best be brought. Some States do not have a death penalty and Federal prosecution of a cop killer may be warranted. Federal prosecution may be advantageous over State or local prosecutions for a variety of reasons, such as laws relating to evidence, statute of limitations, or other reasons.

The provisions do not require Federal prosecution, but only add another tool in the arsenal to protect law enforcement officers, judges, and other courthouse personnel.

The need for a swift and effective death penalty is significant in the case of violent offenders who assault and kill law enforcement officers, judges and witnesses. Several scientifically valid statistical studies that examine a period of years and control for national trends consistently show that capital punishment is a substantial deterrent and saves lives. Recent estimates show that each execution deters 18 murders.

I urge a ''no'' vote on the amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SENSENBRENNER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia (Mr. SCOTT) will be postponed.

AMENDMENT NO. 4 OFFERED BY MR. CUELLAR

Mr. CUELLAR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 printed in House Report 109–279 offered by Mr. CUELLAR:

Section 11(c) is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; and''; and

(3) by inserting after paragragraph (3) the following:

(4) shares an international border and faces a demonstrable threat from cross border crime and violence.

The CHAIRMAN. Pursuant to House Resolution 540, the gentleman from Texas (Mr. CUELLAR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. CUELLAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is an amendment that adds a category of preferential consideration for witness protection grants for jurisdictions that share an international border and face a threat from cross-border crime.

Basically, this would allow the border prosecutors an opportunity to protect the witness that sometimes fears that they might get a threat from international cross-border threats. I believe this amendment is acceptable to Chairman SENSENBRENNER.

Mr. Chairman, Chairman SENSENBRENNER and Ranking Member CONYERS, Congressman SCOTT, thank you for this opportunity to offer my amendment to H.R. 1751, the Secure Access to Justice and Court Protection Act of 2005.

Crime and violence along the US-Mexico border presents unique challenges to the law enforcement community. Border crimes can be especially difficult to prosecute: a witness to a crime along the border may be hesitant to testify if he or she fears it is related to criminal activity across the border in another country.

The Cuellar amendment is simple; it adds a category of preferential consideration for witness protection grants for jurisdictions that share an international border and face a demonstrable threat from cross-border crime. This category will benefit such jurisdictions that choose to apply for witness protection grants.

We must provide prosecutors every means possible to adjudicate crimes along the border, and giving them preferential consideration for witness protection grants will help that goal.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. CUELLAR. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, the amendment is a very good amendment. It is not acceptable, but it is something that I enthusiastically support.

Mr. CUELLAR. Mr. Chairman, I thank the gentleman.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. CUELLAR. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for his very wise amendment. He comes from a region that has suffered an enormous amount of border violence. But his local officials, in working with the gentleman, has brought this to the Nation's attention.

This amendment will protect witnesses who I think are the crux of solving some of these heinous crimes. I have supported amendments such as this, which include language in legislation that I have which deals with rewarding informants in order to get them to tell the facts that would allow for busting drug cartels and others who are perpetrating violence. This is a wise amendment, and I am happy to support it.

Mr. CUELLAR. Mr. Chairman, I thank the gentlewoman for the work she has done.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. CUELLAR).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 printed in House Report 109–279 offered by Ms. JACKSON-LEE of Texas:

In section 25, strike subsection (a) and insert the following:

''(a) IN GENERAL.—The Attorney General, through the Office of Justice Programs, shall make grants under this section to the highest State courts in States participating in the program, for the purpose of enabling such courts to establish and maintain a threat assessment database described in subsection (b).''.

The CHAIRMAN. Pursuant to House Resolution 540, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

I want to thank the ranking member and the chairman of the full committee and the chairman and the ranking member of the subcommittee to allow the amendment that I secured that has to do with providing courts the opportunity to establish a threat assessment database similar to that of U.S. Marshals.

□ 1700

This provides our courts hands-on immediate information in order to determine the threats that are waged against these particular courts. This simple amendment, rather than include the attorney, in essence, the change of this amendment would require the Attorney General to work through the Office of Justice Programs to make grants to the highest State courts in States participating in the Threat Assessment Database program.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I support this amendment. It makes a technical change to section 25 of the bill, and it broadens the eligibility for grants. I think it is a good amendment and urge the committee to adopt it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, reclaiming my time, I thank the distinguished chairman for his support.

Let me conclude by simply saying again I remind colleagues I hope that some day we will be able to discuss the Good Time Early Relief bill that speaks to the question of individuals languishing in Federal prisons who have been nonviolent and would welcome this discussion and this legislation.

I am grateful for this amendment, and I ask my colleagues to support the amendment.

Mr. Chairman, I rise to offer an amendment to H.R. 1751, the Secure Access to Justice and Court Protection Act of 2005. Before doing so, I want to thank the Chairman and the Ranking Minority Member of the House Judiciary Committee for their efforts on this bill. Let me briefly explain the thrust of my amendment. This amendment is only a small technical change to my original amendment that was adopted during the Full Committee Markup last week. In essence, the change would require the Attorney General to work, through the Office of Justice Programs, to make grants to the highest State courts in States participating in the threat assessment database program.

The rationale for changing the language to make State Supreme Courts eligible for receiving grants for the creation of a threat assessment database is that the State courts are on the ground and have the best understanding of what type of threats are out there and where they are coming from. In addition:

The Department of Justice has interpreted language giving ''grants to States'' as going directly to State executives (Governors) and they have sometimes bypassed the State courts.

The State court administrating agencies (led by the State supreme courts) are in a better position to know about the kind of threats and attacks they experience in a given year.

The State court administrating agencies are in a better position to know how to respond to attacks and develop procedures to counter threats to the State courts.

If the grants go to the State executive, there is a chance that money expended under this program will go to another part of the State budget such as roads or education, not court security.

I respectfully request that my amendment be made in order.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. FILNER

Mr. FILNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 printed in House Report 109–279 offered by Mr. FILNER:

Section 26(d)(3) is amended

(1) by redesignating subparagraphs ''(D)'' and ''(E)''as subparagraphs ''(E)'' and ''(F)'', respectively; and

(2) by inserting after subparagraph (C) the following:

''(D) support for young witnesses who are trying to leave a criminal gang and information to prevent initial gang recruitment.''.

The CHAIRMAN. Pursuant to House Resolution 540, the gentleman from California (Mr. FILNER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. FILNER. Mr. Chairman, I yield myself such time as I may consume.

I thank Chairman SENSENBRENNER and the Rules Committee for allowing this amendment to proceed. There is a very good section of the bill talking about grants for young witness assistance, and I think when we talk about that, as the bill does, very importantly, we also must explicitly talk about gangs because we know that youth witness intimidation generally comes at the hands of criminal gangs. So my amendment adds language to this section that provides for this bill to allow the use of witness protection grants by youths who are trying to leave a criminal gang or to prevent initial gang recruitment.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. FILNER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I am happy to support this amendment. I think it plugs a hole in the original bill, and we certainly want to do whatever we can to prevent people from going into gangs and from being threatened if they are witnesses and are sworn to tell the truth, the whole truth, and nothing but the truth in criminal trials involving gang members.

Mr. FILNER. Mr. Chairman, I thank the chairman for his support.

Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Chairman, I am here to support the gentleman from California (Mr. FILNER) and his amendment to H.R. 1751. I would like to thank the chair for accepting that amendment.

What he is trying to do is to help that young person extricate him or herself and let the courts and law enforcement know aspects of gang crime that are key in convicting our most dangerous criminals on the streets.

In my district I think we have exported gang activities around the country and maybe even around the world, South Central Los Angeles. So as a result, I started a series of youth violence summits with intervention specialists, educators, counselors, and the youth themselves. And one clear message that has resonated amongst all of them is the dire need to promise our youth that if they are involved in gang activity and remove themselves, they will not be harmed or killed by the very gang that they wisely ostracize themselves from.

So this amendment clearly provides much-needed witness protection for our youth who are fearful of leaving a gang and who will come forward to testify about the inner workings of these gangs.

So I thank the gentleman very much for recognizing that we need to have options for the young people that are trying to be responsible in the process. And we are going to come back next year with a comprehensive bill because we have been studying this issue, working with it for the last 20 years; and I thank Mr. FILNER and Mr. SENSENBRENNER so much for recognizing the need to have these programs.

Mr. FILNER. If I may conclude, Mr. Chairman, according to the past president of the National District Attorneys Association, Mr. Robert P. McCullough, he said that ''prosecutors across the country believe that the issue of witness intimidation is the single biggest hurdle facing any successful gang prosecution.''

So I appreciate the chairman's acceptance of this amendment. I look forward to these grants helping our young people avoid gangs or at least avoid intimidation.

I believe when you talk about witness assistance programs for children, which this bill does, you have to talk about gangs because as many know youth witness intimidation generally comes at the hand of criminal gangs.

My amendment adds language to the witness protection grants provided in this bill to allow their use by youths who are trying to leave a criminal gang or to prevent initial gang recruitment.

Unfortunately, my district like many others across the country has a problem with gangs, which is why I introduced this amendment.

In San Diego, police department records count no fewer than 3,750 gang members on the street. Most are young—pre-teens to mid–20s. During the first six months of this year, gang violence resulted in eight homicides in San Diego, nearly a third of the total of 23.

However, don't let these statistics mislead you, gang violence is not limited to California and or big urban areas—that might have been true a while ago but it is no longer the case today. While big cities still have the majority of gangs their tentacles reach out from the cities into every aspect of our society. For example, Mara Salvatrucha, also known as MS–13, has grown from a gang that once numbered a few thousand and was involved in street violence and turf battles in Southern California into a gang that operates in at least 33 states, with an international membership in the hundreds of thousands.

Three thousand jurisdictions across the U.S. are estimated to have had gang activity in 2001. In 2002, 32% of cities with a population of 25 to 50 thousand reported a gang-related homicide. Furthermore, it is estimated that there are 840,000 active gang members in the U.S. operating in every state of the Union.

These gangs are effective because they bind their members to loyalty and create fear throughout the community in which they operate. This fear, most noticeable in children, prevents residents from cooperating with law enforcement officials and testifying against gang members. My amendment, while not a panacea for the gang problem, is a step in the right direction. It provides support to prevent initial gang recruitment and helps those young witnesses who are trying to leave criminal gangs. Passage of my amendment will decrease youth witness intimidation by gangs and as a result lead to improved prosecution of gang members.

According to the past president of the National District Attorneys Association, Robert P. McCullough, "prosecutors across the country believe that the issue of witness intimidation is the single biggest hurdle facing any successful gang prosecution." I could not agree with him more, which is why I am urging you to support my amendment.

Finally, as a matter of clarification, my amendment does not "require" states to provide such criminal gang witness assistance to be eligible for young adult witness assistance grants.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. FILNER).

The amendment was agreed to.

AMENDMENT NO. 7 OFFERED BY MR. WEINER

Mr. WEINER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 printed in House Report 109–279 offered by Mr. WEINER:

At the end of the bill add the following:

SEC. . STATE AND LOCAL COURT ELIGIBILITY.

(a) BUREAU GRANTS.—Section 302(c)(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3732(c)(1)) is amended by inserting ''State and local courts,'' after ''contracts with''.

(b) EDWARD BRYNE GRANTS.—

(1) FORMULA GRANTS.—Section 501 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended—

(A) in subsection (a), by striking ''and units of local government'' and inserting '', units of local government, and State and local courts''; and

(B) in subsection (b), by inserting '', State and local courts,'' after ''use by States''.

(2) DISCRETIONARY GRANTS.—Section 510(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760(a)) is amended by inserting '', State and local courts,'' after ''private agencies,''.

(c) ARMOR VESTS.—Section 2501 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (3796ii) is amended—

(1) in subsection (a), by inserting ''State and local court,'' after ''local,''; and

(2) in subsection (b), by inserting ''State and local court'' after ''government,''.

(d) CHILD ABUSE PREVENTION.—Section 105 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106) is amended—

(1) in the section heading, by inserting ''**STATE AND LOCAL COURTS,**'' after ''**AGENCIES**'';

(2) in subsection (a), by inserting ''and State and local courts'' after ''such agencies or organizations)''; and

(3) in subsection (a)(1), by inserting ''and State and local courts'' after ''organizations''.

The CHAIRMAN. Pursuant to House Resolution 540, the gentleman from New York (Mr. WEINER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. WEINER. Mr. Chairman, I yield myself such time as I may consume.

This is a technical amendment that fixes an oversight in the bill that left out four programs that would be helpful for courts, court officers, and court security personnel to take advantage of: the Bulletproof Vest Partnership Grant program; the Byrne Memorial State and Local Law Enforcement Assistance Discretionary Grant program; the Assistance for Children's Justice Act, CJA, grants; and State Justice Statistics program for Statistical Analysis Centers.

These four grant programs, I think, the authors of the bill, Mr. GOHMERT, myself and members of the committee, had intended to be available to courts as a result of this bill, and this amendment would include those.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. WEINER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding to me.

The gentleman from New York is absolutely correct in that there was an oversight in that State and local courts would not be eligible for the four grant programs that the gentleman outlined in his remarks. This amendment corrects the oversight, and I am happy to support it and hope that the committee adopts it.

Mr. WEINER. Mr. Chairman, reclaiming my time, I thank the chairman for his support.

For the balance my time here, I do want to point out one other provision that has gone largely unnoticed, but is a very important part of this bill.

I have beside me, and it is difficult to read from afar and, frankly, it is difficult to even read from up close, a Web site that distributes the personal information about judges, police officers, elected officials, and the like. This Web site, and we have obviously obscured the URL, goes so far as to talk about the comings and goings of undercover officers in New York City. It provides sensitive details of about 79 different officers, things such as what type of car they drive, things about what the comings and goings of their families are, personal habits. This is an example where we find the matrix, or perhaps I would call it the conflict, of the virtues of the Internet, how it is a place to bring information far and wide and the ability to use the Internet for what is in this case a very pernicious, mean-spirited, and perhaps deadly cause.

We know from the examples we have had judges' families stalked based on information the criminals were able to find on the Internet. In this bill we essentially incorporate H.R. 1710, the Internet Police Protection Act, that I offered. It becomes section 18 of this bill. What it says is there is a lot of publicly accessible information about judges; there is a lot of publicly accessible information about police officers. If someone wants to, if they really want to harass or harm a police officer or a judge, we should not allow the Internet to be used as a repository for information like that.

I am someone who spends a great deal of time as a member of the Judiciary Committee and a Member of this House fighting for the rights of people to free speech. I know there are going to be things on the Internet that are troubling to us, and we are always going to be in a tug and a push to try to figure out where we draw the line.

In this case, the line clearly gets drawn in the following place: if people are going to use the Internet to harass, intimidate, or harm law enforcement personnel, to harm court officers, to harm judges, then they should be illegal. This makes the test very simple. If they simply compile the database and a police officer's name happens to be on it with no intention of ill will, then obviously this would not make that illegal. But if it is clear that they are compiling a Web site like this one, which starts out, I should point out, the very first line says: ''Welcome to this legal, noncriminal Web site which provides publicly available information about NYPD, New York City Police Department, officers. This page is this Web site's most visited page,'' and it goes on to talk about how the information that was gathered was gathered in a lawful way. That is probably right. But it should be illegal. This is just the type of harassment tool, and perhaps even worse, that we need to keep off of the Internet.

I also draw another distinction, Mr. Chairman. When one is an elected official, a public official, their comings and goings are going to be more public than others. That is part of the cost of doing business. Any information about where a Congressman shows up obviously is not going to be covered by this legislation. But if one is a police officer, if one is an undercover police officer, imagine what it feels like to go home after a hard day at work dealing with some very bad people and find information about their comings and goings posted on a Web page.

This bill, the Court Protection Act, is going to make that illegal, as it should. And there may be tests that we have to figure out where the line gets drawn. Courts have come down in different places, but one thing we know: threatening speech is not protected speech. Speech that endangers someone's livelihood, endangers someone's life is not protected speech, and this provision in the Court Security Act will make that abundantly clear.

I ask for a ''yes'' vote on the Weiner amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WEINER).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MR. KING OF IOWA

Mr. KING of Iowa. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 printed in House Report 109–279 offered by Mr. KING of Iowa:

At the end of the bill, add the following:

SEC. _____. AUTHORITY OF FEDERAL JUDGES AND PROSECUTORS TO CARRY FIREARMS.

(a) IN GENERAL.—Chapter 203 of title 18, United States Code, is amended by inserting after section 3053 the following:

''§ 3054. Authority of Federal judges and prosecutors to carry firearms

''Any justice of the United States or judge of the United States (as defined in section 451 of title 28), any judge of a court created under article I of the United States Constitution, any bankruptcy judge, any magistrate judge, any United States attorney, and any other officer or employee of the Department of Justice whose duties include representing the United States in a court of law, may carry firearms, subject to such regulations as the Attorney General shall prescribe. Such regulations shall provide for training and regular certification in the use of firearms and shall, with respect to justices, judges, bankruptcy judges, and magistrate judges, be prescribed after consultation with the Judicial Conference of the United States.''.

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 3053 the following:

''3054. Authority of Federal judges and prosecutors to carry firearms.''.

The CHAIRMAN. Pursuant to House Resolution 540, the gentleman from Iowa (Mr. KING) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Iowa.

Mr. KING of Iowa. Mr. Chairman, I yield myself such time as I may consume.

First, Mr. Chairman, I want to thank Chairman SENSENBRENNER and Mr. GOHMERT for bringing this underlying bill to the floor, H.R. 1751.

My amendment specifically addresses the problem of violence in and around Federal courthouses. The amendment authorizes any Federal judge, magistrate, United States Attorney, or any other officer of the Department of Justice who represents the U.S. in a court of law to carry firearms. They would be subject to training and regulation as prescribed by the Attorney General.

Currently, a number of States permit State prosecutors to carry firearms. However, this right is not extended to all Federal prosecutors and Federal judges. My amendment would allow both Federal judges and Federal prosecutors to carry firearms for their and their families' protection and provide for training and regular certification.

The need for my amendment was made clear by the recent tragedies involving, and we have heard the chairman speak to these issues, the brutal

murder of family members of U.S. District Judge Joan Lefkow; the slaying of Judge Rowland Barnes, his court reporter, deputy sheriff, and a Federal officer in Atlanta; the cold-blooded shootings outside the Tyler, Texas courthouse, among others. These situations underscore the importance of security for judges and prosecutors.

There is a significant need to allow judges and U.S. Attorneys to carry firearms because threats and dangerous assaults upon them are steadily increasing. By virtue of their positions, United States judges and prosecutors are high-profile targets. They and their families have often been victims of violent crimes, murder, and threats to their personal safety.

United States judges, justices, and U.S. Attorneys bravely serve the people of the United States of America. They prosecute our most serious, sophisticated, and violent offenders. These offenders range from international terrorists to armed career criminals.

Protecting the courthouse is important, Mr. Chairman, but the courthouse is just a building. This amendment is designed to provide meaningful protection to the actual person and his or her family. My amendment extends protection from the courthouse to the homes in the areas where the judges and prosecutors live.

Our Nation relies and depends upon the sound and unintimidated judgment of these dedicated public servants. We owe them every reasonable tool to protect themselves and their families. This includes the right to carry an effective personal security tool.

Mr. Chairman, I urge a ''yes'' vote on this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I ask unanimous consent to claim the time in opposition, although I am not opposed.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. SCOTT of Virginia. Mr. Chairman, I wonder if the gentleman from Iowa would respond to a couple of questions. I would ask the gentleman whether or not this applies to Federal officials only; we are not imposing this on State officials.

Mr. KING of Iowa. Mr. Chairman, will the gentleman yield?

Mr. SCOTT of Virginia. I yield to the gentleman from Iowa.

Mr. KING of Iowa. Yes, Mr. Chairman, it applies only to Federal officials who will represent the United States of America in a court of law, the voice of the Federal Government in a court of law.

Mr. SCOTT of Virginia. Mr. Chairman, reclaiming my time, also, did the Federal officials ask for this new power?

I yield to the gentleman.

□ 1715

Mr. KING of Iowa. Mr. Chairman, on that specific question, I cannot answer ''yes'' to or ''no'' to. I am working with a piece of language I believe in, and I have not looked a Federal official in the eye that specifically asked me.

Mr. SCOTT of Virginia. Mr. Chairman, reclaiming my time, it is my understanding that this was in fact their request, in fact, their number one request. Does the gentleman have any evidence or know anything contrary to that?

Mr. KING of Iowa. I have been informed that, yes, we have Federal officials that have asked for this legislation. I would point out that it is not mandatory that they accept carrying a firearm; it is their option that they exercise under the regulation provided by the Attorney General.

Mr. SCOTT of Virginia. Reclaiming my time, I would finally ask, is this the right to carry, subject to training and regulation prescribed by the Attorney General? I yield to the gentleman.

Mr. KING of Iowa. It is subject to training and regulation as prescribed by the Attorney General.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. SCOTT of Virginia. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I appreciate the gentleman yielding. I support the amendment as well, and I understand why Federal officials who are designating the amendment would feel a need for this. As long as it is optional and as long as it requires training and certification, I think that this is an appropriate thing, to empower those Federal officials designated who feel the need to carry a firearm to be able to do so.

Mr. SCOTT of Virginia. Mr. Speaker, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. KING).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY SCOTT OF VIRGINIA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. SCOTT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 97, noes 325, not voting 11, as follows:

[Roll No. 583]

AYES—97

Abercrombie
Ackerman
Allen
Baldwin
Bartlett (MD)
Berman
Blumenauer
Brown (OH)
Capuano
Carson
Clay
Cleaver
Clyburn
Conyers
Cummings
Davis (IL)
DeGette
Delahunt
Dingell
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank (MA)
Green, Al
Gutierrez
Hinchey
Hoekstra
Holt
Honda
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Kildee
Kilpatrick (MI)
Kucinich
Lee
Levin
Lewis (GA)
Lowey
Lynch
Maloney
Markey
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meeks (NY)
Michaud
Millender-McDonald
Miller, George
Mollohan
Moore (WI)
Nadler
Neal (MA)
Oberstar
Obey
Olver
Owens
Pastor
Paul
Payne
Pelosi
Rahall
Rangel
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Scott (VA)
Serrano
Slaughter
Smith (NJ)
Smith (WA)
Solis
Stark
Tierney
Towns
Udall (CO)
Van Hollen
Velázquez
Wasserman Schultz
Waters
Watson
Watt
Waxman
Woolsey

NOES—325

Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Coble
Cole (OK)
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Emanuel
Emerson
English (PA)
Etheridge
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Gene
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Holden
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
Matsui

McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Meek (FL)
Melancon
Menendez
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neugebauer
Ney
Northup
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pallone
Pascrell
Pearce
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (TX)
Snyder
Sodrel
Souder
Spratt
Stearns
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Udall (NM)
Upton
Visclosky
Walden (OR)
Walsh
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)

NOT VOTING—11

Boswell
Brown-Waite, Ginny
Conaway
Davis (FL)
Hastings (FL)
Norwood
Pence
Sessions
Strickland
Sweeney
Young (FL)

□ 1745

Messrs. BRADY of Pennsylvania, GARRETT of New Jersey, GARY G. MILLER of California, RYAN of Wisconsin, McCAUL of Texas, MORAN of Virginia, BUTTERFIELD, UDALL of New Mexico, Ms. HARRIS, Ms. CORRINE BROWN of Florida, Ms. DELAURO and Ms. MATSUI changed their vote from ''aye'' to ''no.''

Mr. UDALL of Colorado and Ms. SOLIS changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. TERRY) having assumed the chair, Mr. SIMPSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1751) to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes, pursuant to House Resolution 540, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. HIGGINS

Mr. HIGGINS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. HIGGINS. Yes, in its current form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Higgins moves to recommit the bill H.R. 1751 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Insert at the appropriate place the following:

SEC. ____. PROHIBITION OF PROFITEERING AND FRAUD IN CONNECTION WITH MILITARY ACTIONS AND DISASTER RELIEF.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''§ 1351. Profiteering and fraud in connection with military actions and disaster relief

''(a) PROHIBITION.—Whoever, directly or indirectly, in any matter involving a contract with the Federal Government or the provision of goods or services to or on behalf of the Federal Government, in connection with military action, or relief or reconstruction activities in Iraq or Afghanistan or any other foreign country, or relief or reconstruction efforts provided in response to a major disaster declaration under section 401 of the Disaster Relief Act of 1974, or an emergency declaration under section 501 of the Disaster Relief Act of 1974, knowingly and willfully—

''(1) executes or attempts to execute a scheme or artifice to defraud the United States;

''(2) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

''(3) makes any materially false, fictitious, or fraudulent statements or representations, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; or

''(4) materially overvalues any good or service with the specific intent to excessively profit from the federal disaster or emergency;

shall be fined under subsection (b), imprisoned not more than 30 years, or both.

''(b) FINE.—A person convicted of an offense under subsection (a) may be fined the greater of—

''(1) $1,000,000; or

''(2) if such person derives profits or other proceeds from the offense, not more than 3 times the gross profits or other proceeds.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following new item:

''1351. Profiteering and fraud in connection with military actions and disaster relief.''.

Mr. HIGGINS (during the reading). Mr. Speaker, I ask unanimous consent to dispense with the reading.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, the majority was recently, within the last 2 or 3 minutes, given a copy of this motion to recommit. This comes as a complete surprise. This is not the way to legislate, Mr. Speaker. I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk will continue the reading.

The Clerk continued to read the motion to recommit.

PARLIAMENTARY INQUIRY

Mr. RANGEL (during the reading). Parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. RANGEL. Mr. Speaker, I have no idea as to what the objection was raised to. The House was not in order when the gentleman was speaking. The House has no way to know as to what objection he raised.

Is it possible for the Chair to edify the House as to why the objection was made to dispensing with the reading?

The SPEAKER pro tempore. The gentleman from Wisconsin objected to the dispensing of the reading.

The Clerk will continue to read.

Mr. RANGEL. Mr. Speaker, my parliamentary inquiry was, could the Chair share with us the reason given by the distinguished objector?

The SPEAKER pro tempore. An objection has already been heard.

Mr. RANGEL. I cannot hear the Chair.

The SPEAKER pro tempore. An objection has been heard.

The Clerk will continue reading the motion.

The Clerk continued reading the motion to recommit.

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the motion to recommit be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York is recognized for 5 minutes in support of his motion to recommit.

Mr. HIGGINS. Mr. Speaker, when this Nation has been hit with terrorist attacks or national disasters, America has always responded with a strong, decisive, generous spirit. Four years ago on September 11, 2001, without warning, like missiles from hell, two planes filled with the most innocent of victims slammed into the World Trade Center's twin towers, 3,000 dead seemingly in an instant. America's response was quick, decisive and powerful.

On that day, we as Americans took a hit, but we stood united and we responded with confidence, blue States and red States, suburban and urban, black and white, rich and poor, together, united. Everyone suffered equally and resolved collectively to rebuild, to sacrifice, to reaffirm boldly what the scum terrorists had tried to destroy. People reached deep within themselves and from the collective heart a supremely compassionate response for and from the ages, a source of national pride forever. Confidence in public officials and institutions soared.

Today, Mr. Speaker, we are a nation that is stumbling. We have lost our confident and compassionate way. In the wake of Hurricane Katrina, the Federal Government's response was slow and sluggish, sloppy and uneven. No one took responsibility and there was no leadership. None. Our collective and national compassion was reduced to internal retreat and rapacious impulses. While so-called leaders spun blame, the poor, the sick and the stranded continued to suffer. We, as a nation, collectively fell down and hard, and against and away from the greater good that is in all of us.

Mr. Speaker, government-sponsored no-bid contractors at politically motivated firms like Halliburton are exploiting our Nation's generosity here in America and abroad. In the gulf coast region of this Nation and in the Middle East region of this world, contractors are pillaging the very people whose economic interests we have been sent here to protect. In the midst of war and in the aftermath of natural disaster, hundreds of millions in taxpayer-funded relief and recovery are being wasted, squandered, lost forever.

Mr. Speaker, the motion I offer today will impose stiff fines and criminal penalties on contractors who knowingly falsify information in order to win approval of government contracts during Presidentially declared emergencies. While in this Chamber the proper role of government is often debated, the one undisputed and unifying principle is that above all else, our responsibility to each other and to the American people is to protect the Nation from entities who seek to injure and destroy us and from natural disasters that devastate our community.

Mr. Speaker, the motion I offer today at this defining moment in our Nation's history will either reaffirm the promise of our Nation's greatness or condemn us from this moment on for failing to live up to our obligations as a nation that deserves and demands only from us fairness and goodness.

Mr. Speaker, I urge all the Members to support this motion to end this culture of corruption.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Wisconsin is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, this motion is offered by a Member who stated to the Speaker that he is opposed to this bill. He is opposed to providing additional security to judges, to prosecutors, to witnesses, to victims and their family members. He is opposed to a bill that has been worked on significantly on a bipartisan basis. And he has stated that he is opposed to doing something where there is a crying need, given the threats and the murders in courthouses all around the country, and not just Federal courthouses but State and local courthouses as well.

Now, what does he propose to do in the motion to recommit? He proposes to add additional criminal penalties for things that are already criminal. And all that does is to confuse juries, to confuse prosecutors, to confuse people who are attempting to do business with the government.

Profiteering in an illegal manner is already criminal under the United States Code. We do not need to confuse the issue with an additional statutes. And we do not need to defeat this bill by this motion that has been offered by several proclaimed opponents of this bill.

□ 1800

The bill is a good one. In order to get it passed and signed into law to protect the judicial branch and those who do business and work for it, vote this silly motion down and pass the bill as has been worked out on a bipartisan basis.

Mr. FARR. Mr. Speaker, I rise in support of the motion to instruct conferees on the PATRIOT and Terrorism Prevention Reauthorization bill.

This Motion to Instruct would take the most contentious provisions of this bill and sunset them in 4 years. These provisions include section 215, which allows officials to order the surrender of anything when relevant to a terror investigation, section 206 which allows secret wiretap orders without definition of who and where the tap will go, and the "Lone Wolf" provision which allows the government to surveil so called "agents of a foreign power" who act alone.

Egregious law that robs the civil liberties of law abiding Americans should be reviewed sooner than later, therefore I strongly support these sunset provisions proposed in this motion to instruct.

My constituents agree that the American people should not have to compromise their civil liberties in order to combat extremism. The local governments of Pacific Grove, Salinas, Santa Cruz, and Watsonville, CA have all passed resolutions expressing their concerns with the anti-privacy and anti-liberty nature of the PATRIOT Act.

I also would like to note my disappointment that the fiscal year 2006 State-Science-Justice-Commerce Appropriations bill included one of the most invasive provisions of the PATRIOT Act that permits sweeping searches and seizures of library and bookstore patron records, despite this body's condemnation of the provision earlier this year.

Voices in the Congress echo voices of people across America.

I urge a "yea" vote on the motion to instruct.

The SPEAKER pro tempore (Mr. TERRY). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. HIGGINS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 201, noes 221, not voting 11, as follows:

[Roll No. 584]

AYES—201

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky

Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—221

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NOT VOTING—11

Boswell
Brown-Waite, Ginny
Conaway
Davis (FL)
Hastings (FL)
Norwood
Pence
Sessions
Strickland
Sweeney
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TERRY) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1818

Mr. CLEAVER changed his vote from ''no'' to ''aye.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 375, nays 45, not voting 13, as follows:

[Roll No. 585]

YEAS—375

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Obey
Ortiz
Osborne
Otter
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stearns
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watson
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)

NAYS—45

Baldwin
Carson
Clay
Conyers
Cummings
Davis (IL)
Delahunt
Filner
Grijalva
Hinchey
Holt
Jackson (IL)
Kildee
Kilpatrick (MI)
Kucinich
Lee
Lewis (GA)
Markey
McDermott
McGovern
McKinney
Michaud
Miller, George
Mollohan
Moore (WI)
Nadler
Oberstar
Olver
Owens
Paul
Payne
Rahall
Roybal-Allard
Rush
Sabo
Schakowsky
Scott (VA)
Solis
Stark
Tierney
Velázquez
Waters
Watt
Waxman
Woolsey

NOT VOTING—13

Boswell
Brown-Waite, Ginny
Conaway
Davis (FL)
Hastings (FL)
McCollum (MN)
Norwood
Pence
Price (GA)
Sessions
Strickland
Sweeney
Young (FL)

□ 1831

Ms. KILPATRICK of Michigan and Mr. OWENS changed their vote from ''yea'' to ''nay.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. PRICE of Georgia. Mr. Speaker, on roll-call No. 585 I was inadverently detained. Had I been present, I would have voted "yea."