manner and moved people along in a very rapid manner. So in the event that we do have a catastrophe, many lives would be saved; and we greatly appreciate that.

I also want to say as a side note, Mr. Speaker, that a lot of times we treat these Capitol Police as furniture. Because they are so good at their job, we often do not notice them. I would hope that Members of the House and employees of the House would congratulate each and every officer that they may come across over the next few days and thank them for the good job that they have done. They deserve it. We appreciate their protection, and we appreciate their professionalism.

Mr. Speaker, I feel much safer in the hands of the Capitol Police today than I did yesterday, and I greatly appreciate them.

I also have to point out that there are Capitol Police that are stationed in this building even in the event of a catastrophe, and they showed great courage to stand their posts, knowing that something bad may happen to this building or the office buildings. They do not leave the building. That is incredible courage that we should honor, and I do appreciate that courage and that heroism. I have to extend that to their families, because their families also know that they are standing in this building with an eventual catastrophe coming and standing their posts like the courageous men and women that they are.

So we greatly appreciate what they have done, the way they have protected the buildings and, most importantly, the people that work in these buildings. You just cannot say enough for how the House appreciates their service.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentlewoman from California, the distinguished minority leader.

Ms. PELOSI. Mr. Speaker, I, too, want to sing the praises of our Capitol Police and the Sergeant at Arms Mr. Livingood for the expedient manner in which the Capitol was evacuated earlier today. Thank heavens it was not necessary; better safe than sorry.

But I think that the evacuation took place with dignity in record time and with respect for all in the Capitol, not only the Members of Congress but, very importantly, the tourists who are here, our visitors, the press who covers us, our employees who work here in the Capitol and the office buildings and, of course, the Capitol Police.

Thank you to the Capitol Police. Because of you, Americans or people visiting from overseas can come to this Capitol because of your courage with the confidence that they will be safe. Because of your trust, the evacuation was conducted in a manner of full cooperation from all who participated. Because of their confidence in you, when you gave the signal, everyone moved exactly the way you wanted them to.

Mr. Speaker, I would also like to add my appreciation to our national security apparatus and all that that involves, for having those airplanes in the air immediately to escort that plane down. I do not know the full story about it, or I do not anyway, yet, but I do think that they are to be commended for the speed with which they made us safe.

This Capitol is a symbol of freedom throughout the world. And today, I think that the balance between freedom and security was well-handled, and certainly that was because, again, of the professionalism, as our colleague said, and the courage of the Capitol Police, Mr. Livingood and our national security apparatus.

With that, Mr. Speaker, I know that the gentleman from Illinois (Mr. HASTERT) shares our views; I do not know if he can even speak from the chair, but I have heard the gentleman express his appreciation individually and personally to them, too, and I want to add my voice to that.

Mr. DELAY. Mr. Speaker, reclaiming my time, I appreciate the words of the Minority Leader, and she is absolutely right on. I just would finish by saying, people need to realize, because there are already critics on television, it is amazing; but people need to realize that very serious decisions have to be made in times like these: A decision to scramble the jets, a decision to shoot the flares, a decision to shoot the plane down or not and a decision to evacuate the building when that plane is only 3 or 4 minutes away from this building. Those are very critical decisions that have to be made, and we appreciate the people that have made those decisions and made them properly and protected the lives and property of the Capitol.

GENERAL LEAVE

Mr. SENSENBRONNER. 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. 1279 to be considered shortly.

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

There was no objection.

GANG DETERRENCE AND COMMUNITY PROTECTION ACT OF 2005

The SPEAKER. Pursuant to House Resolution 288 and rule XVIII, the House shall declare the business of the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1279.

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. 1279.

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mandate minimum penalties that address the seriousness of violent crimes committed by gang members. For kidnapping, maiming, and aggravated sexual abuse, gang members will be subject to a 30-year mandatory minimum. For all other serious violent crimes and gang violence—resulting in serious bodily injury; that is, nearly killing or permanently disabling a person, gang members will face a mandatory minimum of 20 years, and for all other gang crimes, gang members will face a 10-year mandatory minimum sentence.

The mandatory minimums contained in this legislation are carefully tailored to deter and disrupt violent gang activity as swiftly as possible. These mandatory minimum penalties reflect Congress’s duty to ensure that violent gang members are consistently and fairly incarcerated. Further, prosecutors and law enforcement will tell you that in the absence of mandatory guidelines, such penalties at the very least will secure the cooperation of lower-level gang members who have critical information about the tightly-knit gang structure and gang crimes to testify and cooperate against higher-level gang members who typically insulate themselves from the day-to-day criminal activity. Gang members who wish to avoid the mandatory minimum penalty can do so by freely and willingly deciding to cooperate against other gang members.

Madam Chairman, I urge you to make no mistake about it: The children affected by this bill will be those children whose roles in gang crimes are minor or fringe, because we are already trying youth who commit serious violent offenses as adults and who will spend decades of time. It is the lesser offenders, the children who get in fist fights, committing misdemeanors, who will be subject to the 10-year, mandatory minimum numbers in this bill. Those who commit murder or rape or chop off hands with machetes or even conspire to do that are already subject to life sentences. So the 10-year mandatory minimums will be the friends who get in fights.

Madam Chairman, we already lock up more people than any other country in the world: 714 per 100,000, way above whatever is in second place, way above the national average of 100 per 100,000. In fact, whereas there is 1 out of 63 white youth 20 years old in jail today, we lock up one out of every 8 African-American youth in jail today. This bill, with all of its discriminatory policies, will only add to that disparity. And for what? A long line of studies conducted by the Department of Justice and crime researchers have consistently told us that treating more juveniles as adults will increase crime and violence.

The Coalition of Juvenile Justice study, “Childhood on Trial,” coincidentally released the same day as this bill was introduced, covers thousands of cases over a long period of time and confirmed that adult treatment of more juveniles increases crime and violence and is discriminatory in its application. That is primarily because if the judge finds a person guilty in adult court, he can only lock the child up with adults or let them walk on probation or parole. If they get locked up with adults, they will obviously come out worse than they went in. And so the studies show that if we increase the number of juveniles tried as adults we will not only increase crime, but we will increase violent crime.

Now, this bill not only includes provisions to try more juveniles as adults. It includes no provision anywhere on earth: 714 per 100,000, way above whatever is in second place, way above the national average of 100 per 100,000. In fact, whereas there is 1 out of 63 white youth 20 years old in jail today, we lock up one out of every 8 African-American youth in jail today. This bill, with all of its discriminatory policies, will only add to that disparity. And for what? A long line of studies conducted by the Department of Justice and crime researchers have consistently told us that treating more juveniles as adults will increase crime and violence.
Mr. FORBES. Madam Chairman, I want to thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for his leadership in this area and for bringing this bill to the floor.

I rise today in support of this bipartisan bill, the Gang Deterrence and Community Protection Act of 2005. And in the limited time that I have, I just want to raise three points. The first point is that throughout the debate today, you will hear two different worlds described about gangs. One world they will describe in gangs will be talking about antisocial behavior and fist fights. If you think that is what we are concerned about with gangs, then we should not be here today at all talking about this bill.

But the true world, when you talk about gangs, are you are having a rise in gangs in the United States where today, as we debate this bill, there are between 750,000 and 850,000 gang members within our borders. If it were a foreign country, it would be the sixth largest army in the world. And these are the acts in the real gang world: machete attacks, witness intimidation, extortion, murder of Federal agents, rape, cutting off arms, fingers and teeth.

So the second point is, why can we not just deal with these acts with current State laws? Well, this chart shows just one member of one gang and all of the activities that he had in traveling around the United States. Today, these gang have become national and international in scope; and if we want to truly deal with gangs, there is only one way to do it: you have got to bring down the gang networks and the gang leaders. And this bill will do that.

Now, our friends who are opposed to this bill say let us just deal with it crime by crime and individual by individual. And that works if it is just an individual committing a crime, but if you get that person and put them in jail, the crime stops. But when you are talking about gangs, when you deal with just one crime from a lower-tier person in that gang and you get that person and prosecute him, 20 different acts were never caught. And when you get that one person from a gang and it is an organized effort, 20 more spring up in their place.

We need a system to bring together teams of Federal, State, and local law enforcement, that network and bring them down. And I would just ask you to look at a single situation where local or State law enforcement has been able to reach up to these national and international gangs and bring down the gang network.

The other thing that I want to say that you will see today, and we heard it earlier, and I was absolutely shocked when I heard it, but the opponents of this bill literally stood on the floor earlier this morning that giving arts and crafts to criminal gang members who committed violent crimes would do more than the provisions of this bill, which is to lock them up and to empower law enforcement to go after them.

And I want to just say, because you hear a lot of talk about people who met with a group of students here, or maybe a group of people over here, this is not that that the chairman read out earlier of virtually every major law enforcement organization in the United States who supports the provisions of this bill and realizes if we do not pass this bill and bring down the gang networks, we will be working 24 hours a day and all week if they try to close any military bases. But on this bill we, unfortunately, have to disagree.

First of all, Madam Chairman, murder, rape, kidnapping are already illegal in every State. Interstate gang members can be caught by RICO and organized crime, continuing criminal enterprise, FBI is already working on that. But this bill contains a provision that fist fights could subject young people to 10-year mandatory minimums. The after-school programs that have been disparaged are the kinds of things that will actually reduce gang involvement. You can disparage them by calling it arts and crafts for gang members. But if you ask the researchers who actually make a difference, it is those after-school programs to give the kids constructive things to do with their time.

Madam Chairman, I yield 4 minutes to the gentleman from California (Mr. SCHIFF), a former prosecutor.

Mr. SCHIFF. Madam Chairman, in February of this year, I introduced bipartisan legislation with the gentlewoman from California (Mrs. BONO), the Gang Prevention and Effective Deterrence Act of 2005. The Schiff-Bono bill represents a comprehensive effort to increase gang prosecution and prevention efforts in order to crack down on criminal street gangs. The bill is virtually identical to bipartisan legislation that was reported out of the Senate Judiciary Committee in the 108th Congress and has since been reintroduced by Senators FEINSTEIN, HATCH, KYL, CORNYN, and GRASSLEY.

Madam Chairman, the bipartisan Schiff-Bono anti-gang bill had three core objectives. First, it created a RICO-like statute specifically tailored to criminalize gang enterprises. Second, it increased the reach of Federal law enforcement to stop criminals networks down in the same way we bring down organized crime through RICO. Second, our legislation increased
a host of gang and violent crime penalties in order to deter and punish illegal street gangs. And finally the Schiff-Bono bill included important funding for prevention and intervention efforts in order to attack the gang problem at its roots.

The sponsor of the bill before us today has spent much time on highlighting the groups that have supported his bill. The Schiff-Bono and Feinstein-Hatch bills are also endorsed by these groups and a host of other law enforcement organizations. With all due respect to my colleague from Virginia on the opposite side of the aisle, the most significant difference between the bill I introduced prior to the bill that is now before us is that all of the prevention funding in the Senate bill and in my own bipartisan bill has been stripped out of the anti-gang measure, and all we are left with is the deterrence.

Unfortunately, Madam Chairman, the committee leadership rejected the opportunity to address this national problem in a bipartisan fashion. Instead, the majority introduced the bill before us today after our bill was introduced that essentially increases the same penalties that our bill already has, but instead via mandatory minimums. The bill also remarkably cuts out the bipartisan provisions devoted to expanding and enhancing community-based and law enforcement prevention and intervention programs targeting criminal street gangs, gang members, and at-risk youth.

These prevention and intervention provisions are largely law enforcement in nature. And, Madam Chairman, I want to point out these provisions that have been stripped out of my bill that are in the present form in this bill have the support of law enforcement. Law enforcement does not support removing those from the legislation. They are also part of the bipartisan bill the Senate sponsored, as I mentioned, by Senators HATCH, FEINSTEIN, CORYN, GRASSLEY, and KYL. Members from both sides of the aisle recognize that a complete approach to addressing the problem of criminal street gangs must include prevention and intervention measures that attack the problem at its roots.

Yes, we need deterrence as my bill provided. But we need prevention as well. And, unfortunately, I think it is quite clear that this body is no longer in the business of legislating, but rather of leveraging. The legislation before us today is merely an attempt to leverage the Senate. It will not come back from the Senate in a form that we can both support on both sides of the aisle.

Mr. SENSENBRENNER. Madam Chairman, I yield myself 30 seconds.

Madam Chairman, I deeply respect the arguments that have been advanced by the gentlemen from California (Mr. SCHIFF). He put forth his proposal in committee, and it was defeated on a rollover vote of 3 ayes to 22 noes. So the Schiff proposal did not even carry a majority of the Democratic members in the committee, let alone the Republican members.

Madam Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. WOLF), who is also a sponsor of this bill.

Mr. WOLF. Madam Chairman, let me begin by thanking the gentleman from Virginia (Mr. FORBES) for doing this. And every Member of this House on both sides should thank the gentleman. And I thank the chairman and the staff of the Judiciary Committee for moving this legislation.

March issue of Newsweek: “They are a violent force in 33 States and counting. The most dangerous gang in America, MS–13.”

They killed 10 people in Northern Virginia. And I will tell the gentleman from Los Angeles, they have killed a number of people out in your area too.

There was a Washington Post editorial about this and a story where it talks about a young parent. The eldest son, age 15, was sitting on the steps of a nearby apartment with two friends when he was gunned down. The friends were wounded, but survived. The son was killed almost instantly. The mother remarked, we moved here to get away from the gangs.

The brutality of these gangs. They took Brenda Paz, who was in the Witness Protection Program down to the Shenandoah Valley and slashed her throat to where her neck was cut all the way almost through, and stabbed her 16 times.

They prey on the poor. They prey on the poor in the inner cities. They prey on the poor in Culmore. I have said, the people of Culmore and the people of the inner city have just as much right to live in the upscale neighborhoods where they may not be.

This is a good bill. And when we protect the most vulnerable in our society, we protect everybody. I have talked to the community in different areas of my district and in Culmore through this region. They live in fear. And I say whether you have been in this country for 50 years and are wealthy or whether you have been here for 50 hours and you live in an area where you are trying to work your way out, you deserve the right to be protected. And the bill by the gentleman from Virginia (Mr. FORBES) protects the poor.

This bill protects those who are being preyed upon. And I hope and I pray, on behalf of Brenda Paz who was stabbed 16 times and the families that live in Culmore and the families that live in L.A. and the families that live in Houston, and the families that live throughout the State of Virginia that are suffering with this, that this bill passes overwhelmingly and goes on to the Senate, and they pass it so we can finally get relief, not for the wealthy but for those who live in Culmore and the inner city, who, up until this time, have been forgotten by this institution.

Finally, with the Forbes bill, this will do more to help them.

Mr. SCOTT of Virginia. Madam Chairman, I yield myself 30 seconds.

If the bill passes or does not pass, it will not be illegal to stab someone 16 times. What we ought to be looking at are the kinds of initiatives that will reduce the chances that that will happen again.

Giving a 10-year mandatory minimum for a second offense fist fight is not going to reduce the chance that someone will be stabbed 16 times when you are not funding any of the programs that are desperately needed to actually reduce force.

Madam Chairman, I yield 1 minute to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Madam Chairman, I thank the gentleman for yielding me time.

I want to respond very briefly to the chairman’s point. I have the greatest respect for my chairman as well.

Yes, it is true that the Feinstein-Hatch amendment that was in committee did not enjoy broad support on either side of the aisle. Some on my side of the aisle thought the sentencing enhancements in this bipartisan legislation were too strong and could not support it. But the other amendment, Madam Chairman, that I offered that would simply reinstate all the preventive funding, all of the proactive funding in the bill, that was rejected by every Republican member of the committee. Not a single GOP member of the Committee would support the prevention funding in committee. And we do not have the ability to raise that issue on the House floor.
It is my earnest hope, however, that in conference with the Senate, which I hope will insist that we not only have a back-end strategy for dealing with the crime problem of gangs but that we have a front-end strategy as well and that we will have the chance to address this this conference, committee, and that funding will be restored.

Mr. SENSENBRENNER. Madam Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Madam Chairman, I rise in strong support of H.R. 1279, the Gang Deterrence and Community Protection Act of 2005. I want to thank the distinguished gentleman from Virginia (Mr. FORBES) for his hard work on this very critical issue. I also want to thank the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER) for his leadership in this area as well.

Gang violence is taking over too many of our communities. What was once an urban problem has now moved into many suburban and even rural areas, leaving virtually every community and every child in them vulnerable. Sadly, too many children are turning their backs on beneficial school activities and turning to the world of guns and drugs and violent activity in order to gain entry into or move up or just maintain status in a gang.

In order to gain entry into these things, the legislation is absolutely critical. And for those who have avoided being seduced by gang life, they are too often held hostage in their homes for fear of being the next victim or the unfortunate one who may witness a gang act and who may later be called upon to testify, and they are often times in fear of their life when that happens.

In my district, the first district of Ohio which includes the City of Cincinnati, gang activities that occurred as of March put the city on pace to exceed the record number, 75 homicides that occurred back in 2003. Many of our city officials and law enforcement point toward gang activity centered on drug trafficking as the source of this increase.

We cannot allow gangs to control our communities. We must give law enforcement the tools to fight back. H.R. 1279 would help to accomplish this in two ways. It would establish new stronger penalties for violent criminal offenses as well as strengthen existing ones to deter the acts of violence commonly associated with these gangs. Most importantly, H.R. 1279 gives our communities the resources to attack the gang problem from all levels. H.R. 1279 ensures that local State and national law enforcement work together to stop gangs and to make our communities finally safe as they ought to be. Our communities cannot fight gangs alone in conference committee.

I would strongly urge my colleagues to support this important piece of legislation to ensure that we have a coordinated effort in all levels of government. I want to again thank the gentleman from Virginia (Mr. FORBES) for his leadership in this area.

Mr. SCOTT of Virginia. Madam Chairman, I yield 2 minutes to the gentleman from South Carolina (Mr. INGLES).

Mr. INGLES of South Carolina. Madam Chairman, I thank the gentleman for yielding me time.

I rise reluctantly because rarely do I support a punitive bill. In this case, however, as I expressed in the Committee on the Judiciary, I think there are three problems with the bill: First, it federalizes State crimes. Second, it spends too much money. Third, it has mandatory minimums.

I voted for mandatory minimums a number of times in my previous time in Congress, and then I had 6 years out, six years out to talk with people in the community, to talk with judges. And during that time, I became very uncomfortable with our approach about mandatory minimums.

We have sentencing guidelines. The idea of those guidelines is to have a coherent system of sentencing, some method of figuring out how heinous one case is compared to another. And then Congress comes along and slaps on mandatory minimums on top of that framework, doing violence to the framework of a sentencing guideline system. I think it is a mistake.

Like I say, I spent 22 years as a judge in Texas trying criminal cases, felonies; 22,000 felony cases came through my court. They dealt with everything from major theft to capital murder cases. And a lot of those cases were gang cases. And the people in this country who believe and think that gangs are not a problem, they are gangs. So the first duty of this body to avoid.

I think we have an opportunity to improve this bill. I will be supporting some of the amendments the gentleman from Virginia (Mr. SCOTT) will be offering. It is another opportunity to try to improve it.

I appreciate the gentleman yielding me time.

Mr. SENSENBRENNER. Madam Chairman, I yield 2 minutes to the gentleman from Texas (Ms. JACSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Chairman, I thank the distinguished gentleman for yielding me time.

I rise to acknowledge, Madam Chairman, that gang violence poses a problem in America. Coming from the community that I come from in Houston, we have had some tough times with gang activities, and we have been successful in eliminating or steering young people away from that gang violence.

Just recently, of course, as the ranking member on the Subcommittee on Immigration, we have had hearings on the MS-13 gangs. And I reached out to my community in Houston to determine the influx of those gangs. Those gangs are particularly focused in South and Central America. Many of the individuals are undocumented aliens that become engaged in that activity in California and places along the border.

So I believe that we should have a comprehensive approach and look at this particular crisis, but at the same time, make it comprehensive, I would suggest balance.

The concern I have of H.R. 1279 is that the bill and the legislative approach is not balanced. From the early time of my career, I recall that we have had hearings on the Judiciary reached out, those of us who were Democrats to reach out on this question of intervention. In fact, the first term that I was here, we did a national tour. If you will, national meetings of the Subcommittee.

My colleague who is now the ranking member joined me on that, the gentleman from Virginia (Mr. SCOTT),
where we traveled across the Nation to talk about the importance of intervention on gang and juvenile crime activities. In fact, out of that came a legislative initiative, the aspect that I worked on was mental health intervention. There was treatment that, which we found to be very effective.

In fact, during that time, my late colleague, a very committed former Senator Paul Wellstone, who we tragically lost in an airplane crash, came to my district and visited the juvenile detention centers. We saw the sadness and the plight of those young men. Some, yes, had perpetrated heinous acts, and they were detained, or they were incarcerated. But we also saw the hopeless and those who did not have a good family situation, those who had no intervention, those who were not given the kind of educational structure that they needed.

This legislation unfortunately does not meet that balance-comprehensive test. For example, something that I find particularly troubling is the provision that the Attorney General can charge a juvenile 16-year-old or older as an adult for certain violent crimes and prohibits judicial review of the Attorney General’s decision.

This is not to suggest that that decision might not be confirmed or affirmed, but here we are talking about a 16-year-old, and we do not know the circumstances of that violent act, the previous history of this 16-year-old, and the Attorney General does not get subject to checks and balances of that the Constitution allows us to have, which is judicial review of that kind of difficult decision.

I cannot imagine, Madam Chairman, that we would have a bill that would not have those kind of protections.

I had an amendment that was not made in order in particular that dealt specifically with the question of illegal transfers to any individual the Federal Government designates as a suspected or known gang member or a terrorist. It established a system whereby any individual inadvertently included on the gang terror watch list, his or her name removed. So there is a question of mistaken identity. There is a question of a big sweep and adding people’s names to the list.

We saw that with the Pakistani registration lists after 9/11. Sweeping up large numbers of people from the Pakistani community, and as I understand, not one single person on that list was found to be a terrorist. And it was stopped when the Members of Congress raised their voices.

The mandatory sentencing, and I am delighted of the position of the gentleman from South Carolina (Mr.ing), who opposed the transfer of the children to the Juvenile system, and I agree with him on that.

The mandatory sentencing, and I am delighted of the position of the gentleman from South Carolina (Mr. Inglis), who opposed the transfer of the children to the juvenile system, and I agree with him on that.

I think that is appropriate; but a blanket, mandatory sentencing that does not deal with the fact that you are looking at juveniles, some U.S. citizens, some not, really begs the question.

So if we are going to look at terrorism, we are going to look at gang activity, we have to realize that still children are involved; and we must have this comprehensive approach, because we are already known as the world power with the largest number of Americans and others incarcerated. Yes, incarcerated to have been, adults as well as juveniles tried and convicted fairly for heinous acts and other acts; but we have a record of incarcerating people for long, long years way beyond the time that it does anything other than pack the prisons and deny families of their loved ones and the ability of young people to be educated and to have an alternative life.

This bill leaves a lot to be desired, and I hope we can go back to the drawing boards and actually fix it and have a comprehensive approach to fighting gang violence and, of course, gang involvement.

Madam Chairman, I rise today in opposition to the legislation before the House today. H.R. 1279, the Gang Deterrence and Community Protection Act of 2005. Chair of the Congressional Children’s Caucus, I unabashedly recognize the need for us to legislate to create protections from the danger and violence produced by gangs. However, before we haphazardly amend the law to add excessive and broad discretion to forum shop and pick the location where they think they are most likely to be able to obtain a death sentence.

This bill is unnecessary because federal prosecutors have statutes such as the Continuing Criminal Enterprise (CCE) and Racketeer Influenced and Corrupt Organizations Act (RICO) to prosecute gang crime. Recent Supreme Court jurisprudence strongly suggests that this bill would exceed Congressional authority under the Commerce Clause. H.R. 1279 unreasonably an unjustifiably removes judicial review of a prosecutor’s decision to try a youth as an adult. Current law requires an in-depth review of multiple considerations by a federal judge of whether such a transfer is in the interest of justice. This policy is unwise and will increase federal prosecution of youth for minor offenses. Presently, in both federal and state courts, juveniles who commit the most common act of violence are almost certain to be transferred to adult court through use of a judicial waiver. In effecting transfer to adult court, judicial waivers, as opposed to legislative or prosecutorial waivers, are the most common type of waiver device used.

That is, the juvenile court judge decides whether or not to waive jurisdiction to adult court. However, Section 115 of H.R. 1279 takes the waiver decision out of the judge’s discretion.

As the Judicial Conference of the United States aptly suggests, Section 115 of H.R. 1279 “could result in the federal prosecution of juveniles for myriad offenses.” Equally alarming, the legislation removes the current prerequisite that the transferred child have a prior conviction for an offense that would be a serious violent felony if committed by an adult. Thus, a prosecutor could unilaterally decide to transfer a youthful offender with no prior criminal record who commits a simple drug trafficking offense, with no judicial review of whether such transfer is in the interest of justice. Further, a move toward federal prosecution causes us great concern because as the Judicial Conference acknowledges, “juvenile offenders require different and perhaps more extensive correctional and rehabilitative programs than adults as they are not a single, federal correctional facility to meet these needs.”

H.R. 1279 simply takes the wrong approach. Instead of focusing on correctional and rehabilitative programs, it attempts to throw more youth in crowded adult prisons where these programs are lacking. H.R. 1279 reflects the politics of crime where you come up with a good slogan such as “the gang busters” and codify it. Until H.R. 1279, the Judiciary Committee had made good progress toward putting aside the politics of crime in favor of sound policy in the areas of juvenile justice. I believe in fighting terrorism but not without a thoughtful approach.

AMENDMENTS THAT WERE NOT MADE IN ORDER

I would like to thank the Gentlemen from Massachusetts, Mr. McGovern for his austere words in support of the amendments that I offered yesterday but were not made in order. These amendments were very substantive, as were those of my colleagues that were also denied debate.

My first amendment would have struck Section 10 of the bill. As written in the bill, a prosecutor could bring a capital case in a district that had only the most tangential connection with the crime. This amendment clarifies that the defendant must have committed criminal activity related to the capital case in the jurisdiction where the prosecutor seeks to bring the charge. For example, if a murder occurred in Massachusetts with a gun stolen from Mississippi, the homicide case could be prosecuted in Mississippi. This allows prosecutors to forum shop and pick the location where they think they are most likely to be able to obtain a death sentence.

Studies of the federal death penalty show that a person prosecuted in Texas is much more likely to be charged, tried, and sentenced to death in a capital case than a person who is prosecuted for the same crime in Massachusetts. This bill will exacerbate these geographic inequities that exist in the federal death penalty system. The wide range of discretion in both what to charge and where to bring the charge will give prosecutors tremendous latitude to forum shop. This broad discretion will increase the racial and geographic disparities already at play in the federal death penalty.

My second amendment would have struck Section 115 of the bill which deals with the transfer of juveniles to adult courts. More specifically, my amendment would prevent the transferring of juveniles from juvenile courts to adult courts when a juvenile has committed an act, which if committed by an adult, would be a felony. If this section is allowed to remain in the bill, more children will become hardened criminals after being tried in federal court and parents face a decision under federal law, when the government recommends trying a juvenile as an adult in federal court various factors must be considered
by the court before deciding whether the criminal prosecution of a young person is in the interest of justice. These factors include the age, social background, and the intellectual development and psychological maturity of the child.

The decision by a prosecutor to try a juvenile as an adult cannot be reviewed by a judge under this legislation. This unreasonable process of transferring youth to adult federal court is particularly troubling when juveniles are not routinely prosecuted in the federal system and there are no resources or facilities to address their needs.

My third amendment would have closed a glaring loophole which currently exists in our federal gun laws by making it illegal to transfer a firearm to any individual that the federal government has designated as a suspected or known gang member or terrorist. As many of you know, under current law, neither suspected nor actual membership in a gang or terrorist organization is a sufficient ground, in and of itself, to prevent the purchase of a dangerous firearm. In fact, according to a recently released GAO report, over the course of a nine-month span last year, a total of fifty-six (56) firearm purchase attempts were made by individuals designated as known or suspected gang members or terrorists by the federal government.

In forty-seven (47) of those cases, state and federal authorities were forced to permit such transactions to proceed because officials were unable to find any disqualifying information, such as a prior felony conviction or court-determined ‘mental defect’. Thus, producing a firearm to any individual that the federal government considers to be a terrorist or gang member would be the weapon of choice, especially when the situation is one that may be related to home defense.

Admittedly, section 114 of the underlying bill offers increased criminal penalties for the use of a firearm in a gang-related crime. However, ‘after the fact’ criminal penalties are often of little use to victims and their loved ones. And, if we really want to curb this growing problem, we have to do something to prevent these individuals from gaining access to these dangerous weapons in the first place.

Madam Chairman, I oppose this legislation and urge my colleagues to join me.

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

Mr. SENSENBRENNER. Madam Chairman, I have been here for a number of years; and when you are against a bill, you can come up with a million and one reasons why the bill should not pass. We just heard some of that; but if we do not do anything, the killings are going to continue.

We can have a legitimate disagreement on mandatory minimum sentences, but I think there are some crimes that are so severe and eat away so much at the roots of our society and the fabric of our society that those who are convicted of those crimes ought to be locked up and locked up for sure, because only with a certain jail term are we going to be able to punish those who have killed people in the most brutal manner and deter those who might be thinking of doing it to others in our society.

I have here an April 26 story from the Associated Press, dateline, Houston: ‘‘Violent gang linked to nine Houston area killings.’’ I am not going to read the whole story on the floor, but I am going to read one paragraph of this story to show that those who wish to delay this bill because it has a mandatory minimum or because it does not do enough to correct gun laws.

‘‘Harris County Sheriff’s investigators arrested five members of Mara Salvatrucha,’’ which is MS-13, ‘‘in connection with the shooting death of 18-month-old Aiden Naquin, who was turned over to a woman when a man opened fire on a car driven by his father, Ernest Naquin.’’

I think if someone is convicted of murdering an 18-month-old in that circumstance they ought to be locked away for sure and for a long time. I am sorry people disagree with that, but I hope that this bill passes.

Madam Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. FITZPATRICK of Pennsylvania).

Mr. FITZPATRICK. Madam Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for bringing this bill to the floor for a vote today.

Madam Chairman, gang violence is on the rise across the United States. Areas once thought safe harbors from crime are now under the threat of expanding gang violence.

My district is not home to a center city area. It is considered a suburban area. Bucks County is a quiet pastoral suburb of the city of Philadelphia, an area bordered by farms to the north, business centers to the south, residential areas to the west, and the Delaware River to the east. However, the majority of crime in my district takes place in a very small, concentrated area.

But the people of Bristol, Bucks County, are taking the lead in cleaning up their streets. The hard work of Don Billingsley and other neighbor leaders have made Bristol a shining example of the Department of Justice’s Weed and Seed initiative to take back neighborhoods from crime. However, Bristol is under threat from gangs migrating from cities just across the river in New Jersey.

Madam Chairman, three things are needed to make sure gangs do not infiltrate areas like Bristol: people, money, and strong anti-crime laws. Well, in Bristol, we have the money and we have financial resources through the Weed and Seed program, but what we need are strong laws. H.R. 1279 is the bill that would shed these gangs from taking up shop in my district.

Gang violence is an issue that must be dealt with immediately. The House Committee on the Judiciary reports that over 601 gang-related homicides were reported in 2001, perpetrated by an estimated 750,000 active gang members. Gangs are directly linked to narcotics trade, human trafficking, identification document fraud, violent maiming, assault and murder, and the use of firearms to commit deadly shootings; but the problem does not stop there.

Organized crime syndicates like the ultra-violent MS-13 have reportedly agreed to smuggle terrorists over our southern borders. This is now a homeland security issue.

H.R. 1279 will apply a RICO-type approach to prosecuting modern street gangs. At the heart of this bill are provisions that allow prosecutors to go after these gangs as an enterprise. Rather than trying to shoehorn such cases into the existing RICO statute, the new gang crime statute is narrowly tailored to address the specific problem of gangs. Gang investigations and prosecutions take time and resources, and those resources will be provided by this bill.

Organized crime, Madam Chairman, has been prosecuted in the same way with long and complex trials designed to take out a number of defendants in one single prosecution, and they were successful in ending their spread. Madam Chairman, let us give our police and prosecutors the freedom to end the spread of gang violence.

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

Whether this bill passes or not, murder, rape, robbery will be illegal. People will be prosecuted. They will get time in jail. In fact, as I indicated before, for 15- to 19-year-old African Americans in this country, one out of eight are already in jail today. This bill, which will try more juveniles as adults, will not only increase the number in jail but will also increase the crime rate.

Mandatory minimums have been shown to be discriminatory and waste the taxpayers’ money. The death penalty is discriminatory and does not do anything about crime. This bill will give the taxpayers millions of dollars for second-offense fist fights, and that is not the kind of sentence that is going to do anything about these violent kinds of crimes that my colleagues are talking about. Ten years, mandatory minimum, second offense, fist fight.

Mr. SENSENBRENNER. Madam Chairman, I yield 30 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Chairman, let me add to the distinguished gentleman’s comments.

First of all, in the passage of the PATRIOT Act, if we are fearful of these gangs smuggling individuals over who do terrorist acts, the PATRIOT Act enhances sentencing on those engaging in terrorism acts.

That tragic incident in Texas, for example, in Houston, the information suggests that the dad was involved in gang activity that caused the, if you will, rising of the level of violence; but the good news is that the sheriff’s department arrested those violent criminals.

This bill misses the point by providing a comprehensive approach to
The Gang Deterrence and Community Protection Act will authorize funds for joint Federal, State, and local gang investigation prosecution; create a statute to prosecute criminal gang enterprises similar to the existing RICO statute used to prosecute Federal racketeering; create mandatory minimum sentencing for gang and violent crimes; and fund gang investigation technology to allow law enforcement to act more efficiently.

Madam Chairman, many headlines of late have reflected on growing gang problems in heavily populated areas. Unfortunately, gang violence is also on the rise in rural areas, including my congressional district. The disturbing news that it is spreading through the Shenandoah Valley of Virginia is indeed disturbing. In fact, the FBI has recognized the existence of at least six separate gangs in the valley, some of which are responsible for at least two gang-related murders in the past 2 years.

Madam Chairman, acknowledging the reality that gangs are no longer limited solely to urban areas, I am pleased to join my colleagues to support this gangbusters legislation. This legislation will allow us to meet the increasing gang activity with resources sufficient to combat this scourge in our communities, and I urge my colleagues to support this important legislation.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois asked and was given permission to revise and extend his remarks.

Mr. DAVIS of Illinois, Mr. Chairman, I cannot think of anybody who would want to see gangs deterred more. I cannot think of anybody who would want to see crime deterred more. I cannot think of anybody who would have had more experience living in inner-city communities, where there is a tremendous amount of poverty, deprivation and pestilence.

I want to see people who commit robbery, murder, rape, assault, participate in mob action, all of them dealt with accordingly. And although I do not believe in capital punishment, I do believe that they have to be punished. I do not believe that mandatory minimums, that trying more children, more teenagers as adults, or changing venues and deciding what discretionary action individuals would be tried under is going to solve the problem. I think that we need to make sure that fairness is a part of justice.

Mr. Chairman, this bill frightens me. It scares me. I would hope that we would take it back, deal with it appropriately and bring a bill that we can
agree on that punishes those who deserve to be punished but to demonstrate that we understand sensitivity and not put children in jail as adults.

Mr. SCOTT of Virginia. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary.

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. My colleagues, this is a measure that we should be able to identify the problem, study the data, and work together to craft a commonsense response to youth violence. But the measure before us has fatal flaws which authorizes trying more juveniles as adults and provides for more mandatory minimums and more death penalties. None of these things will correct the problem, study the data, and work together to craft a commonsense response to youth violence, but they will seriously harm our system of juvenile justice.

Now, the one thing that we should know before we go to a vote here is the organizations that have joined myself and the gentleman from Virginia (Mr. SCOTT), the ranking subcommittee member, and the gentleman from Illinois (Mr. DAVIS), who has worked tirelessly on this issue across the years with the Congressional Black Caucus. For instance, the Judicial Conference of the United States opposes this measure. The Sentencing Commission opposes this measure; the Alliance for Children and Families, the Children’s Defense Fund, the American Correctional Association, the American Civil Liberties Union, the American Correctional Association, the Chamber of Commerce, the National Council of La Raza, the Presbyterian Church, and the Volunteers of America.

And let me tell my colleagues why these groups oppose this legislation. Because, first, they know that trying children as adults and transferring them to adult jails is not only done without, but it makes the situation more likely that they will commit crimes upon release. There are studies that back this up; that they will commit crimes sooner upon release. The Miami Herald study concluded that, since adult prisons are, in effect, often crime schools, sending a juvenile there increases by 35 percent the odds that they will commit another offense or reoffend.

Secondly, we know that mandatory minimums distort the sentencing process because the Judicial Conference and the Sentencing Commission have found greater mandatory minimums “de-stroy honesty in sentencing by encouraging charging and fact plea bargains.” Again, the legislation before us ignores these facts and creates numerous new mandatory minimums that will lead to far greater disparities and further discrimination.

At a time when we have more than 2.1 million Americans in prisons or jails, more than any Nation on the planet, and 10 percent of these individuals are already serving life sentences, it is difficult for reasonable legislators to see how more jail time for more youth can accomplish anything constructive.

Finally, we know now that the death penalty system in this country is incredibly prone to error. So I urge that the Members of this House return this measure to the Committee on the Judiciary.

Mr. SENSENBRUNNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the opponents of this bill seem to zero in on two things. First of all, they are opposed to mandatory minimum sentences. People may have a philosophical disagreement on mandatory minimum sentences, but it seems to me that given the violence of gang activity, the number of murders, the number of maimings, that a mandatory minimum sentences is absolutely necessary to get these people off the streets if the twelve persons on the jury believe that that defendant has committed those crimes beyond a reasonable doubt.

The other thing we hear from the opponents is, they dust off the same old tired arguments that we need more and more spending on prevention programs, but no one has proven they work. Let us take a look at the facts. Violent crime rates for the last 30 years have dropped dramatically, by almost 50 percent. At the same time, tough new determinate sentencing schemes have been enacted by Congress, including mandatory minimums, truth-in-sentencing programs and other sentencing schemes where criminals go to jail for a specified period of time after their conviction. Prison populations have grown, and crimes have gone down. The logic is clear. We have to incarcerate and incapacitate the violent criminals in our society. We have done so and must continue to do so. This bill does that.

When we talk about spending more on prevention, consider these facts: Conservative estimates show that the Department of Justice has already spent over $2 billion, that is with a “B,” of the taxpayers’ dollars between fiscal years 2001 through 2004 on juvenile and gang prevention programs. From fiscal year 1989 through fiscal year 2004, Congress appropriated $3.3 billion of the taxpayers’ dollars for juvenile justice programs within the Department of Justice.

Have they worked? This is yet to be proven, because juvenile gang violence is on the rise. The percentage of homicides committed by gang has increased, and the number of juveniles committing gang murders has also risen.

So let me say that, if $3.3 billion over the last 6 years in intervention and prevention programs has not turned around this type of crime when other crime has gone down, maybe the time to throw the book at those who are engaged in juvenile gang violence is at hand. That is why this bill ought to pass. I urge the membership to vote aye.

Mr. RUSH. Mr. Chairman, I rise against this H.R. 1279, the Gang Deterrence and Community Protection Act. Despite its deceptive title, its so-called gang Deterrence and Community Protection Act. Despite its deceptive title, its primary purpose is to punish more young people as adults. This bill would expand the use of death penalty, treat juveniles as adults, and impose mandatory minimum sentences. The research conclusively shows that prosecuting young people as adults does not reduce youth crime. If Congress is serious about reducing youth violence, it should fund evidence-based programs that have proven effective.

Federal prosecutors are already armed with the Continuing Criminal Enterprise, CCE, and Racketeer Influences and Corrupt Organization Act, RICO, statutes to combat gang crimes. This bill would unnecessarily federalize a host of crimes currently and competently handled by the states; penalize even non-violent crimes and misdemeanors as crimes of violence, including garden variety offenses like resisting arrest; expand without reason the definition of criminal street gang; unwisely leave to the sole discretion of the government the unreviewable decision to try juveniles as adults; impose unduly harsh and discriminatory mandatory minimum sentences for the federal death penalty to new offenses.

I agree that gang violence and youth crimes are serious concerns today. Unfortunately, this bill does nothing in the way of jobs or education for at-risk youth. Instead, this bill would lock up young people in adult prisons and take away judges’ discretion to review on a case-by-case basis crimes committed by youth. Research shows that young people who are...
prosecuted as adults are more likely to commit a greater number of crimes upon release than youth who go through the juvenile justice system. Locking young people up in adult prisons will actually compromise public safety.

We know what works to prevent violent crime, and we demonstrate the effectiveness of focused family interventions such as family therapy and multidimensional treatment foster care. Certain school-based interventions such as the Bullying Prevention Program and the Project Towards No Drug Abuse, and careful monitoring programs such as the Big Brothers Big Sisters of America have been shown to be proven effective. Instead of funding these programs whose empirical effectiveness can be demonstrated, supporters of this bill insist upon approaches that lack any evidence of actually deterring and reducing violent youth crime.

Furthermore, state juvenile justice systems are more appropriate and effective means for addressing youth offenses. Studies have shown that comprehensive, locally tailored strategies are the most effective in preventing gang and youth violence. Existing state legislation is more than adequate to comprehensively address youth violence—increased federalization of juvenile crime is not the answer. The Judicial Conference of the United States, child advocacy groups, criminal justice groups, business-oriented groups, religious, human rights and civil rights organizations all oppose this bill. It is the responsibility of Congress to the young people of this nation and to all citizens to ensure public safety. I urge my colleagues to reject H.R. 1279, which would only exacerbate youth violence in the United States.

Mr. PAUL. Mr. Chairman, the Gang Deterrence and Community Protection Act, (H.R. 1279), is the latest example of Congress disregarding its constitutional limitations in the name of “getting tough on crime.” Gang crime is certainly a serious issue in many parts of the country. However, unless criminal gangs are engaging in counterfeiting, treason, or piracy, the federal government has no jurisdiction over the criminal activities of gangs. In reality, the federal government has no jurisdiction over the criminal activities of gangs engaging in counterfeiting, treason, or piracy. The enforcement and legal authorities with personnel, equipment, and training needed to confront violent criminal gangs.

In Virginia, no urban area has gone unscared by criminal gangs. Across Virginia, officials estimate that as many as 80 gangs totaling 30,000 members or more roam our city streets.

The Commonwealth’s law enforcement and prosecutors will now have greater resources to combat violent criminal gang activity. We must act now, if we are to protect Virginia’s families and communities.

I urge my colleagues to do same.

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I urge my colleagues to do same.
(D) Any conduct punishable under section 848 (relating to the production, transportation, or distribution of a controlled substance listed in Schedule I, II, or V) (1) if the conduct is in the possession of a person with intent to distribute or otherwise dealing in a controlled substance or list chemical (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(2) by striking "with the intent to cause death or serious bodily harm" in the matter preceding paragraph (1); and

(3) by striking " and impose a fine of not less than $1,000 nor more than $10,000." and inserting "and impose a fine of not less than $1,000 nor more than $10,000." in paragraph (1); and

(4) by striking "or other felony crimes of violence" and inserting "or other felony crimes of violence."
bodily injury (as defined in section 1365), be imprisoned for life or any term of years not less than 20; and

(4) in any other case, be imprisoned for life or for any term of years not less than 10.

(b) CLERICAL AMENDMENT.—The item relating to section 1958 in the table of sections at the beginning of chapter 95 of title 18, United States Code, is amended as follows:

“1958. Use of interstate commerce facilities in the commission of murder-for-hire and other felony crimes of violence.”

SEC. 105. INCREASED PENALTIES FOR VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.

(a) OFFENSE.—Section 1959(a) of title 18, United States Code, is amended to read as follows:

“(a) Whoever commits, or conspires, threatens, or attempts to commit, a crime of violence for the purpose of furthering the activities of an enterprise engaged in racketeering activity, or for the purpose of gaining entrance to or maintaining or increasing position in, such an enterprise shall, unless the death penalty is otherwise imposed, in addition and consecutive to the punishment provided for any other violation of this chapter or in addition to being subject to a fine under this title—

(1) if the crime of violence results in the death of any person, be sentenced to death or life in prison;

(2) if the crime of violence is kidnapping, aggravated sexual abuse (as defined in section 1365), or maiming, be imprisoned for life or any term of years not less than 30; and

(3) if the crime of violence is murder committed during and in relation to a drug trafficking crime, or murder with intent to, and murder with intent to, and attempt to kill any 2 or more individuals who are members of an enterprise engaged in racketeering activity, shall be imprisoned for life or any term of years not less than 20; and

(4) in any other case, be imprisoned for life or for any term of years not less than 10.

(b) VENUE.—Section 1959 of title 18, United States Code, is amended by adding at the end the following:

“VENUE.—Paragraph (1) of subsection (a) of section 1959 of title 18, United States Code, is amended to read as follows:

(1) the judicial district in which the offense was committed or in any district in which the offense began, continued, or was completed.

(b) CONFORMING AMENDMENT.—The table of sections for the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 423, the following:

“424. Murder and other violent crimes committed with intent to, and attempt to kill any 2 or more individuals who are members of an enterprise engaged in racketeering activity.”

SEC. 107. MULTIPLE INTERSTATE MURDER.

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

“§ 1123. Use of interstate commerce facilities in the commission of multiple murders

“(a) In GENERAL.—Whoever travels in or causes another (including the intended victim) to travel in interstate or foreign commerce, or in the course of any act of violence committed in that commerce, unless the indictment is founded on the information and belief that the person committed the offense described in section 1116, shall, unless the death penalty is otherwise imposed, in addition and consecutive to the punishment provided for any other violation of this chapter or in addition to being subject to a fine under this title—

(1) if the offense results in the death of any person, be sentenced to death or life in prison; or

(2) if the offense results in serious bodily injury, be imprisoned for life or for any term of years not less than 30; and

(3) in any other case, be imprisoned for life or for any term of years not less than 10.

(b) VENUE.—Section 1959 of title 18, United States Code, is amended by adding at the end the following:

“VENUE.—Paragraph (1) of subsection (a) of section 1959 of title 18, United States Code, is amended to read as follows:

(1) the judicial district in which the murder or any other violent crime occurred; or

(2) any judicial district in which the drug trafficking crime may be prosecuted.

(c) DEFINITIONS.—As used in this section—

(1) the term ‘crime of violence’ has the meaning given that term in section 16(b) of title 18, United States Code; and

(2) the term ‘drug trafficking crime’ has the meaning given that term in section 924(c)(2) of title 18, United States Code.

(b) CLERICAL AMENDMENT.—The table of contents for the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 423, the following:

“424. Murder and other violent crimes committed with intent to, and attempt to kill any 2 or more individuals who are members of an enterprise engaged in racketeering activity.”

SEC. 110. VENUE IN CAPITAL CASES.

Section 3235 of title 18, United States Code, is amended to read as follows:

“(a) In GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

“§ 3298. Violent crime offenses

“No person shall be prosecuted, tried, or punished for any noncapital felony, crime of violence, including any racketeering activity or gang crime which involves any crime of violence, unless the indictment is founded on the information and belief that the person committed the offense described in section 1116, and unless the indictment is founded on the information and belief that the defendant is the person who committed the offense described in section 1116.

SEC. 111. STATUTE OF LIMITATIONS FOR VIOLENT CRIME.

(a) In GENERAL.—Section 845 of title 18, United States Code, is amended by adding at the end the following:

“845. Statute of limitations—20 years

“Notwithstanding any other provision of law, if the death of any person is caused by the willful and unlawful use of a firearm in violation of section 924(b)(4) of title 18, United States Code, any action or prosecution based thereon may be commenced at any time after the death of the person

SEC. 112. MODIFICATION OF DEFINITION OF VIOLENT CRIME

Section 16(b) of title 18, United States Code, is amended to read as follows:

“(b) any other offense that is an offense punishable by imprisonment for more than one year and that, by its nature, involves a substantial risk that physical force may be used against the person or property of another, or is an offense punishable under subparagraphs (A), (B), or (C) of section 921(a)(10) of the Controlled Substances Act.”

SEC. 113. CLARIFICATION TO HEARSAY EXCEPTION FOR FORFEITURE BY WRONGDOING.

Rule 804(b)(6) of the Federal Rules of Evidence is amended to read as follows:

“FORFEITURE BY WRONGDOING.—A statement offered against a party who has engaged or acquiesced in wrongdoing, or who could reasonably foresee such wrongdoing would take place if the wrongdoing was intended to, and did, procure the unavailability of the declarant as a witness.”

SEC. 114. INCREASED PENALTIES FOR CRIMINAL USE OF FIREARMS IN VIOLENCE AND DRUG TRAFFICKING.

(a) In GENERAL.—Section 924(c) of title 18, United States Code, is amended—

(1) in paragraph (1)(A)—

(A) by striking ‘‘shall’’ and inserting ‘‘or conspires to commit any of the above acts, shall, for each instance in which the firearm is used, carried, or possessed’’;

(B) in clause (i), by striking ‘‘5 years’’ and inserting ‘‘7 years’’; and

(C) by striking clauses (ii) and (iii) and inserting the following:

(ii) if the firearm is discharged, be sentenced to a term of imprisonment of not less than 15 years; and

(iii) if the firearm is used to wound, injure, or maim another person, be sentenced to a term of imprisonment of not less than 20 years;”;

and

(b) CONFORMING AMENDMENT.—Section 924 of title 18, United States Code, is amended by striking subsection (c).

SEC. 115. TRANSFER OF JUVENILES.

The undesignated paragraph of section 5022 of title 18, United States Code, is amended—

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(1) by striking “A juvenile” where it appears at the beginning of the paragraph and inserting “Except as otherwise provided in this chapter, a juvenile”;

(2) by striking “as an adult, except that, with” and inserting “as an adult. With”; and

(3) by striking “However, a juvenile” and all that follows through “criminal prosecution,” at the end of and inserting “the Attorney General may prosecute as an adult a juvenile who is alleged to have committed an act that is a felony, an offense described in subsection (d), (i), (j), (k), (o), (p), (q), (u), or (x) of section 922 (relating to unlawful acts), or subsection (a) of section 924 (relating to dangerous weapons in Federal facilities), or section 921 (relating to purchase, ownership, or possession of body armor by violent felons). The decision whether or not to prosecute a juvenile as an adult under the immediately preceding sentence is not subject to judicial review in any court. In a prosecution under that sentence, the juvenile may be prosecuted and convicted as an adult for any other offense which is properly joined under the Federal Rules of Criminal Procedure, and may also be convicted as an adult of any lesser included offense.”;

TITLE II.—INCREASED FEDERAL RESOURCES TO DETECT AND PREVENT AT-RISK YOUTH FROM JOINING ILLEGAL STREET GANGS

SEC. 201. DESIGNATION OF AND ASSISTANCE FOR “HIGH INTENSITY” INTERSTATE GANG ACTIVITY AREAS.

(a) DEFINITIONS.—In this section the following definitions shall apply:

(1) GOVERNOR.—The term “Governor” means a Governor of a State or the Mayor of the District of Columbia.

(2) HIGH INTENSITY INTERSTATE GANG ACTIVITY AREA.—The term “high intensity interstate gang activity area” means an area within a State that is designated as a high intensity interstate gang activity area under subsection (b)(1).

(3) STATE.—The term “State” means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(b) HIGH INTENSITY INTERSTATE GANG ACTIVITY AREAS.—

(1) DESIGNATION.—The Attorney General, after consultation with the Governors of appropriate States to designate as high intensity interstate gang activity areas, specific areas that are located within 1 or more States.

(2) ASSISTANCE.—In order to provide federal assistance to high intensity interstate gang activity areas, the Attorney General shall—

(A) establish criminal street gang enforcement teams, consisting of Federal, State, and local law enforcement authorities, for the coordinated investigation, disruption, apprehension, and prosecution of criminal street gangs and offenders in each high intensity interstate gang activity area;

(B) direct the reassignment or detailing from any Federal department or agency (subject to the approval of the head of that department or agency, in the case of a department or agency other than the Department of Justice) of personnel to each criminal street gang enforcement team;

(C) provide all necessary funding for the operation of the criminal street gang enforcement team in each high intensity interstate gang activity area; and

(D) provide all necessary funding for national and regional meetings of criminal street gang enforcement teams, and all other related organizations, as needed, to ensure effective operation of such teams through sharing of intelligence, best practices and for any other related purpose.

(c) COMPOSITION OF CRIMINAL STREET GANG ENFORCEMENT TEAM.—The team established pursuant to paragraph (2)(A) shall consist of agents and officers, where feasible, from—

(A) the Federal Investigation;

(B) the Drug Enforcement Administration;

(C) the Bureau of Alcohol, Tobacco, Firearms, and Explosives;

(D) the United States Marshals Service;

(E) the Directorate of Border and Transportation Security of the Department of Homeland Security;

(F) the Department of Housing and Urban Development;

(G) State and local law enforcement; and

(H) Federal, State, and local prosecutors.

(d) CRITERIA FOR DESIGNATION.—In considering an area for designation as a high intensity interstate gang activity area under this section, the Attorney General shall consider—

(1) the current and predicted levels of gang crime activity in the area;

(2) the extent to which violent crime in the area, including assault result from, criminal street gang activity, such as drug trafficking, murder, robbery, assaults, carjacking, arson, kidnapping, extortion, and other criminal activity;

(3) the extent to which State and local law enforcement agencies have committed resources to—

(i) respond to the gang crime problem;

(ii) participate in a gang enforcement team;

(iii) the extent to which significant increase in the allocation of Federal resources would enhance local response to the gang crime activities in the area; and

(E) any other criteria that the Attorney General considers to be appropriate.

(e) ADDITIONAL ASSISTANT U.S. ATTORNEYS.—

The Attorney General is authorized to hire 94 additional Assistant United States attorneys to carry out the provisions of this section. Each attorney hired under this subsection shall be designated as a high intensity interstate gang activity area.

(f) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated—

(1) $50,000,000 for each of the fiscal years 2006 through 2010 to carry out subsection (b); and

(2) $7,000,000 for each of the fiscal years 2006 through 2010 to carry out subsection (c).

SEC. 202. GRANTS TO STATE AND LOCAL PROSECUTORS TO COMBAT VIOLENT CRIME AND TO PROTECT WITNESSES AND VICTIMS OF CRIMES.

(a) IN GENERAL.—Section 31707 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13967) 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."

The Acting CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 109-76. 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. It is now in order to consider amendment No. 1, printed in House Report 109-76.

AMENDMENT NO. 1 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment made in order under the rule.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. Senensebrren:—

Page 4, lines 13 through 14, strike “under subparagraphs (A), (B), or (C)” and insert “under subparagraph (A), (B), or (C)”;

Page 4, line 23, insert “‘other than a crime of violence against the property of another’” before period;

Page 7, line 10 through the matter after line 2, page 9, strike section 102 and insert the following:

SEC. 102. ENHANCED PENALTIES FOR INTERSTATE AND FOREIGN TRAVEL OR TRANSPORTATION IN AID OF RACKETEERING.

Section 1952 of title 18, United States Code, is amended—

(a) in subsection (a), by striking “perform” and all that follows through the end of the subsection and inserting “perform an act described in paragraph (1), (2), or (3), or conspires to do so, and shall be punished as provided in subsection (d)’’; and

(2) by adding at the end following:

(d) The punishment for an offense under subsection (a) is—

(1) in the case of a violation of paragraph (1) or (3), a fine under this title and imprisonment for not less than 5 nor more than 20 years;

and

(2) in the case of a violation of paragraph (2), a fine under this title and imprisonment for not less than 10 nor more than 30 years, but in all such cases, the defendant shall be sentenced to death, or to imprisonment for any term of years or for life.”

Page 8, line 24, strike “drug trafficking crime,” and insert “‘drug trafficking crime (as defined in subsection (c)(2))’.”

Page 11, line 11, strike “this title” and insert “this section.”

Page 12, line 10, insert “, as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value from an enterprise engaged in racketeering activity, or after ‘crime of violence’.”

Page 13, line 8, strike “following:” and insert “following:”;

Page 15, line 7, strike “’423,“ and insert “’432,”.

Page 16, line 1, strike “is assault resulting.”

Page 19, line 6, strike “force may be used against” and insert “may result to”;

Page 19, line 10, strike “subparagraphs (A), (B), or (C)” and insert “subparagraph (A), (B), or (C)”;

Page 20, after line 17, insert the following new subsection and redesignate the succeeding subsection accordingly:

SEC. 922(x). POSSESSION OF HANDBOOGS BY JUVENILES.—Section 922(x)(3) of title 18, United States Code, is amended—
(1) by striking "or" at the end of subpara-
graph (C); 
(2) by striking the period at the end of sub-
paragraph (D) and inserting ";"; and 
(3) by inserting at the end the following:

"(E) the possession of a handgun or ammu-
nition by a juvenile, while in the presence of a
parent or guardian of the juvenile, if such par-
ent or guardian, as the case may be, is not
prohibited by Federal, State, or local law
from possessing a firearm.
"

The Acting CHAIRMAN. Pursuant to House
Rule XV, the gentleman from Wisconsin, Mr. SENSBRENNER,
and a Member opposed each will con-
trol 5 minutes.

The Chair recognizes the gentleman from
Wisconsin, Mr. SENSBRENNER.

MODIFICATION TO AMENDMENT NO. 1 OFFERED
BY MR. SENSBRENNER

Mr. SENSBRENNER. Mr. Chair-
mannot unanimously consent that my
amendment be modified by the form
that I have placed at the desk.

The Acting CHAIRMAN. The Clerk
will report the modification.

The Clerk read as follows:

Modification to amendment No. 1 offered
by Mr. SENSBRENNER: Strike that portion of
the amendment which proposes to insert
material on page 20.

The Acting CHAIRMAN. Is there ob-
jection to the modification offered by
the gentleman from Wisconsin?

Mr. SCOTT of Virginia. Mr. Chair-
mans to have the note. What this modifi-
cation said if the parent accompanied
the juvenile who is authorized

Mr. SENSBRENNER. Mr. Chair-
man, I ask unanimous consent that the modify-
tation does not clarify the statute. The best
thing to do is to completely remove the
clarification as was proposed, thus
leaving the current law intact, which
means that if a juvenile possesses a
handgun, he will have to have a writ-
ten note stating that he is authorized
to do so from his parent.

Mr. SCOTT of Virginia. Mr. Chair-
mn, I yield 1 minute to the gentle-
woman from New York (Mrs. MCCAR-
thy). Without objection, the gen-

Mrs. McCARTHY. Mr. Chairman, I
would like to thank the gentleman
from Wisconsin for working with me on
this section, section 922(x) which he
just basically took out. I appreciate
him working with us on that issue.

Mr. SCOTT of Virginia. Mr. Chair-
mn, I yield 2 minutes to the gentle-
woman from California (Ms. WOOLSEY).

Ms. WOOLSEY. I thank the gen-
tleman for yielding me this time.

Mr. CHAIRMAN, addressing gang vio-
lence across this Nation is absolutely
an important step so that people can
feel safe in their communities and so
that our youth will grow up to be pro-
ductive, happy, satisfied adults. While I
commend my colleagues on the other
side of the aisle for addressing this im-
portant issue, I am deeply disappointed
in their legislation.

Gang violence affects most communi-
cies across the United States. In fact,
I represented the Sixth District of Cali-
ifornia, which is north of the Golden
Gate Bridge from San Francisco. In my
district, there is no exception. We too
have gang violence. The largest city in
my district, Santa Rosa, is increasing-
ly faced with gang violence. Drive-
by shootings are becoming so common
that the newspapers no longer report
the incidents on the front page.

With the help of new State of California funding
through Measure Zero, a sales tax that
passed in the last go-around, the city is
providing diversion programs that ap-
peal to youth, such as after-school pro-
grams and increased recreational ac-
tivities. Community leaders are finding
more job opportunities for young peo-
ple, and adults are mentoring them and
exposing them to situations that are
positive alternatives to gang life. Even
the conservative think tank, Mr. Speaker, the Heritage Foundation,
agrees that these are the best ways to
curb gang violence.

This bill does not provide significant funding to States and local
communities to build on their successful local programs. Rather, H.R. 1279 creates
new death penalties, mandatory min-
imum sentences, and measures to pro-
secute children in adult court, in other
words, applying adult punishment to
young people. This is the wrong ap-
proach, and I cannot support it. I urge
my colleagues to join me in opposing
H.R. 1279 and insisting that we go back
and prepare legislation with real work-
able solutions and alternatives to gang
violence.

Mr. SCOTT of Virginia. Mr. Chair-
mn, I yield back the balance of my
time.

Mr. SENSBRENNER. Mr. Chair-
mans, as modified, was agreed to.

The Acting CHAIRMAN. It is now in
order to consider amendment No. 2
printed in House Report 109–76.

AMENDMENT NO. 2 OFFERED BY MR. CUELLAR

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

The Acting CHAIRMAN. The ques-
tion is on the amendment offered by
the gentleman from Wisconsin (Mr. SENSBRENNER), as modified.

The amendment, as modified, was
agreed to.

The Acting CHAIRMAN. The text of the amend-
ment is as follows:

Amendment No. 2 offered by Mr. CUELLAR:
Page 26, after line 2, insert the following
(and redesignate succeeding subsections ac-
cordingly):

"(c) NATIONAL GANG INTELLIGENCE CENTER.

(1) ESTABLISHMENT.—The Attorney General
shall establish a National Gang Intelligence
Center to be housed at and administered by
the Federal Bureau of Investigation to col-
lect, analyze, and disseminate gang activity
information from—

(A) the Federal Bureau of Investigation;
(B) the Bureau of Alcohol, Tobacco, Fire-
arms, and Explosives;
(C) the Drug Enforcement Administration;
(D) the Bureau of Prisons;
(E) the United States Marshals Service;

"
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(F) the Directorate of Border and Transportation Security of the Department of Homeland Security;
(G) the Department of Housing and Urban Development;
(H) State and local law enforcement;
(I) Federal, State, and local prosecutors;
(J) Federal, State, and local probation and parole agencies;
(K) Federal, State, and local prisons and jails.

(2) INFORMATION.—The Center established under paragraph (1) shall make available the information referred to in paragraph (1) to—
(A) Federal, State, and local law enforcement agencies;
(B) Federal, State, and local corrections agencies and penal institutions; and
(C) Federal, State, and local prosecutorial agencies.

(3) ANNUAL REPORT.—The Center established under paragraph (1) shall annually submit to Congress a report on gang activity.

Page 26, line 10, strike "$50,000,000" and insert "$60,000,000".

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentleman from Texas (Mr. CUÉLLAR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. CUÉLLAR).

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

Mr. Chairman, we all know that gangs are no longer just an urban problem. They affect every community. As law enforcement officials from big cities to small towns will tell you, to combat the problem we all need to work together, share information, and identify the issues that will help us strike at the heart of gang violence. My amendment gives us the means to do just that.

It would establish a national gang intelligence center at the FBI to help law enforcement officials across the country share information about gangs and gang members so that we can identify emerging problems before they take root. Last year, $10 million was appropriated for the center, an effort led by the gentleman from Virginia (Mr. WOLF), who has long been a strong supporter of law enforcement. My amendment would simply authorize the creation of the center.

Mr. Chairman, by helping law enforcement share information, we will be giving our police on the streets a powerful tool in the fight against violence and help them better protect our citizens.

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

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

Mr. SENSENBRANNER. Mr. Chairman, I am pleased to support the gentleman's amendment. It provides an authorization for a program that already has been funded by the Committee on Appropriations. It is a good amendment. It helps the bill out. I urge Members to vote for it.

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

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

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 109-76.

AMENDMENT NO. 3 OFFERED BY MS. EDDIE BERNECE JOHNSON OF TEXAS

Ms. EDDIE BERNECE JOHNSON of Texas. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. EDDIE BERNECE JOHNSON of Texas: Page 26, after line 2, insert the following new subsection (and redesignate succeeding subsections accordingly):

(c) NATIONAL AND REGIONAL GANG ACTIVITY DATABASES.

(1) DATABASES REQUIRED.—From amounts made available to carry out this section, the Attorney General shall establish—

(A) for each high intensity interstate gang activity area, a regional gang activity database; and

(B) a national gang activity database that replicates the information in the regional databases.

(2) DESCRIPTION.—Each regional gang activity database required by paragraph (1) shall:

(A) be designed to disseminate gang information to law enforcement agencies throughout the region;

(B) contain critical information on gangs, gang members, firearms, criminal activity, vehicles, and other information useful for investigators in solving gang-related crimes; and

(C) operate in a manner that enables law enforcement agencies to—

(i) identify gang members involved in crimes;

(ii) track the movement of gangs and members throughout the region;

(iii) coordinate police response to gang violence;

(iv) enhance officer safety;

(v) provide realistic, up to date figures and statistical data on gang crime and violence;

(vi) forecast trends and respond accordingly; and

(vii) more easily solve crimes and prevent violence.

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentlewoman from Texas (Ms. EDDIE BERNECE JOHNSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. EDDIE BERNECE JOHNSON).

Ms. EDDIE BERNECE JOHNSON of Texas. Mr. Chairman, I yield myself such time as I may consume.

Let me applaud the author and the ranking member and the Chair of this committee for addressing the issue of gangs. I do not agree with all of the approach, but I do agree we need to address the issue, and I rise today to speak about the creation of databases to track gang activity.

In addition to developing a solid gang prevention strategy, we must equip our law enforcement professionals with the tools to protect our communities. Recently, law enforcement in Dallas spoke to me regarding their desire to track gang activity. I work closely with the law enforcement divisions in my area, and they wanted a system that would allow them to easily access and share information on gang activity. I am offering an amendment that will do just that.

The database will contain critical information on gangs, gang members, firearms, criminal activities and histories, vehicles, and other fields of information necessary for investigators to solve gang-related crimes.

In addition, it will allow law enforcement to track the movement of gangs and members throughout the country, coordinate police response to gang violence, and enhance officer safety. This system is a fundamental step in combating future gang violence. I ask my colleagues for their support for this important amendment.

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

Ms. EDDIE BERNECE JOHNSON of Texas. I yield to the gentleman from Wisconsin.

Mr. SENSENBRANNER. Mr. Chairman, I thank the gentlewoman for yielding. This is also a very good amendment. I would hope everybody would support it.

Ms. EDDIE BERNECE JOHNSON of Texas. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. EDDIE BERNECE JOHNSON).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 109-76.

AMENDMENT NO. 4 OFFERED BY MS. WATSON

Ms. WATSON. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Ms. WATSON: Page 26, after line 5, insert the following:

(5) CONSULTATION REQUIRED.—The Attorney General may not designate a high intensity interstate gang activity area without first consulting with and receiving comment from local elected officials representing communities within the State of proposed designation.

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentlewoman from California (Ms. WATSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. WATSON).

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

I urge my colleagues to support the amendment. I would also like to thank my colleagues on the Committee on Rules for allowing me to bring this important issue to the floor today. This amendment would require the Attorney General to solicit input from local elected officials before designating an area as a high-intensity interstate gang activity area. The bill currently
only requires the Attorney General to consult Governors of the States. California is three States in one; and for a person like me who lives in South Los Angeles, right in the middle of a gang area, I would have a lot to tell about designating that area.

The underlying bill gives local communities no input. My amendment would simply require the Attorney General to seek input from local elected officials before designating an area as being a high-intensity gang area. This amendment is not intended to slow down the process of designation or give local officials veto power that supersedes the power of Federal and State officials. Rather, it lets the communities and the people that represent them have a voice in the decision-making.

Addressing the gang problem in our communities is an issue that requires all levels of government working together. Who knows better the problems facing our communities’ constituents than the communities themselves? Reducing gang violence requires hands-on intervention and input from those most affected by gang violence.

These communities know, first-hand, the damage that is done in their neighborhoods everyday. Their opinions should be heard on the state and federal levels.

The communities affected by gang violence must have the chance to express their views before neighborhoods are classified as a High Intensity Gang Area. Local officials know better than anyone else what is occurring on a day to day basis in their jurisdictions. This amendment would allow participation on all levels of government in this designation process. Mr. Chairman, I urge my colleagues to support this amendment and allow local elected officials, in conjunction with federal and state officials, to have input on how their communities are branded as High Intensity Gang Areas.

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

Ms. WATSON. Ms. Watson. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I thank the gentlewoman for yielding. This also is a very good amendment. I would hope that the Committee would unanimously approve it.

Ms. WATSON. Mr. Chairman, I would hope the Members would support my amendment.

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

Mr. SENSENBRENNER. The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. Watson).

Mr. SENSENBRENNER. Mr. Chairman, I yield to the gentlewoman from Wisconsin.

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

Ms. WATSON. Ms. Watson. I yield to the gentleman from California (Ms. Watson).

Mr. SENSENBRENNER. The amendment was agreed to.

Mr. SENSENBRENNER. The Acting CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 109-76.

AMENDMENT NO. 5 OFFERED BY MS. WATSON

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Ms. Watson: Page 26, after line 7, insert the following:

(d) ADDITIONAL BATF INSPECTORS AND AGENTS.—The Attorney General, acting through the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, is authorized to hire 100 additional inspectors and 100 additional agents for the Bureau. Each inspector and agent hired under this subsection shall be assigned to a high-intensity interstate gang activity area, for the purpose of assisting local law enforcement agencies to provide more accurate and complete reports to the Bureau of weapons used by gangs in the area.

Page 26, line 8, strike “(d)” and insert “(e)”. Page 26, line 11, strike “and”.

Page 26, line 13, strike the period and insert “; and”.

Page 26, after line 13, insert the following: (3) $20,000,000 for each of the fiscal years 2006 through 2010 to carry out subsection (d).

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentlewoman from California (Ms. Watson) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. Watson).

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

This amendment would add 100 new inspectors and agents to the Bureau of Alcohol, Tobacco, Firearms, and Explosives. These inspectors and agents would be assigned to the new high-intensity interstate gang activity areas created by H.R. 1279.

As I mentioned, my congressional district is part of a high-crime area, and there is a gun shop in it that has sparked my attention in recent months. I have been working with BATFE to ensure that this shop does not become a source of gang weaponry in my district. One comment I have repeatedly heard from the bureau is that they simply do not have the personnel necessary to crack down on gun-law violators and keep guns out of the hands of violent gangs.

The lack of proper inspections and detailed reports on how guns get into the hands of gang members hampers the fight against these violent gangs. Congress must assist the bureau by allowing it to have an adequate amount of staff to accurately investigate how illegal guns are getting into our communities and make every effort to remove weapons from gang members’ hands.

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

Ms. WATSON. Ms. Watson. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentlewoman for yielding. She has got a second good amendment. I urge the Committee to approve it and allow her to leave batting 2 for 2.

Ms. WATSON. Ms. Watson. I thank the gentleman.

Mr. SENSENBRENNER. Mr. Chairman, reclaiming my time, I will just finish up.

These additional inspectors and agents are essential because they would be assigned to assist local law enforcement to cut off the supply of weapons and ammunition to gang members. This amendment would also help local law enforcement and the BATFE compile much-needed data on how weapons are obtained and used by gangs.

This amendment is not a gun control amendment; it is a law enforcement amendment. By improving our enforcement of existing gun laws, gang members will lose the dominating weaponry that permits gangs to ougtpolice and kill innocent people.

Mr. Chairman, I believe that we should move every effort to prevent gang members from obtaining their “Weapons of Mass Destruction.” I urge my colleagues to support this amendment and help the Bureau of Alcohol, Tobacco, Firearms, and Explosives continue the assault on crime in our communities while cutting off the flow of guns to gang members.

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

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. Watson).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 6 printed in House Report 109-76.

AMENDMENT NO. 6 OFFERED BY MR. WYNN

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. Wynn:

Page 22, after line 3, insert the following:

SEC. 116. PUBLICITY CAMPAIGN ABOUT NEW CRIMINAL PENALTIES.
The Attorney General is authorized to conduct media campaigns in those areas designated as high intensity interstate gang activity areas and those areas with existing and emerging problem with gangs, as needed, to educate individuals there about the changes in criminal penalties made by this Act, and to report to the Committee on the Judiciary of the House of Representatives the amount of expenditure and all other aspects of the media campaign.

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentleman from Maryland (Mr. Wynn) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Maryland (Mr. Wynn).

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

I think it is very laudable that we are addressing the violence and gang violence. This is a problem that affects just about every community; and I think this bill, while I do not agree with all of its approaches, certainly has merit. It relies in significant part on mandatory minimum sentences. Some people will say we have gone too far. The point is with mandatory minimums, you have two aspects: one, the punitive aspect. We will get bad actors off the street. The second aspect is deterrence. People being aware of mandatory minimums will not, in fact, do the crime. In the instance of a 30-year mandatory minimum sentence for murder, for sexual...
assault, for maiming, this is designed to discourage people from engaging in this conduct.

My amendment would simply authorize the Attorney General to engage in a media campaign to let people know about these new mandatory minimums so that they can, in fact, have a deterrent effect.

\[1530\]

The deterrence requires a certain knowledge of the consequences of one's acts. By having a media campaign, we are in a position to let young people who may be either in a gang or contemplating joining a gang understand that, if they engage in a maiming, cutting off someone's arm, if they engage in an aggravated sexual assault, that they are facing a potential 30-year mandatory minimum sentence, the idea being that this mandatory minimum sentence would discourage the conduct. I think the media campaign contained and authorized under this amendment would further that goal. So I would ask for favorable consideration.

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

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

Mr. SENSENBRENNER. Mr. Chairman, another good amendment has been offered, and I would urge the Committee to adopt that, and I thank the gentleman for offering it.

Mr. WYNN. Mr. Chairman, reclaiming my time, I thank the gentleman for his support.

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

The Acting CHAIRMAN (Mr. LAHODD). The question is on the amendment offered by the gentleman from Maryland (Mr. WYNN).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 109-76.

AMENDMENT NO. 7 OFFERED BY MR. GOODLATTE

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. Goodlatte

Page 22, after line 3, insert the following:

SEC. 116. CRIMES OF VIOLENCE AND DRUG CRIMES COMMITTED BY ILLEGAL ALIENS.

(a) Offenses.—Title 18, United States Code, is amended by inserting after section 51 the following new section:

"CHAPTER 52—ILLEGAL ALIENS

"Sec. 1131. Enhanced penalties for certain crimes committed by illegal aliens.

"Sec. 1131. Enhanced penalties for certain crimes committed by illegal aliens

\[1131\]

and who have been previously deported is staggering. Recently, at the Immigration, Border Security, and Claims Subcommittee, Commonwealth's Attorney Marsha Garst of Rockingham County, Virginia, testified that illegal aliens make up 50 percent of the membership of MS-13 and 75 percent of the membership of another gang in that area, Surenos 13.

According to the FBI, MS-13 is a highly sophisticated gang that has made an effort to open up a market in the South and has extended its influence into Central America and the Caribbean. This gang is not only active in the United States but also sends money back to these countries to support the activities of its members. The FBI has recognized the existence of at least 50 illegal alien gang members in the United States.

The number of gang members and violent criminals who are illegal aliens and who have been previously deported is staggering. Recently, at the Immigration, Border Security, and Claims Subcommittee, Commonwealth's Attorney Marsha Garst of Rockingham County, Virginia, testified that illegal aliens make up 50 percent of the membership of MS-13 and 75 percent of the membership of another gang in that area, Surenos 13.

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Wisconsin (Mr. SCOTT) will be permitted to make a statement, and the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Wisconsin (Mr. SCOTT) will be permitted to make a statement, and the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Wisconsin (Mr. SCOTT) will be permitted to make a statement, and the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Wisconsin (Mr. SCOTT) will be permitted to make a statement.
My amendment would help to stop the entry and re-entry of gang members into the country by imposing strict penalties on illegal aliens who participate in gang activities and who have already shown they will commit violent crimes and drug-trafficking offenses. With stiff new penalties, we can deter these gang members from re-entering the United States with the intention of joining or resuming violent gang activities.

Specifically, my amendment would add 5 years, or 5 years prison time to any sentence for violent crimes or drug-trafficking offenses when the violator is an illegal alien. It will also add 15 years of prison time to any such sentence if the illegal alien had been previously deported on the grounds of a criminal offense and had re-entered the country. In addition, the amendment would require the Department of Homeland Security to send all the names of individuals who are subject to deportation orders to the National Crime Information Center, the NCIC, so that information on illegal alien gang members can be more easily accessed.

We must shut down this revolving door of illegal criminal aliens. It is time to say to them, if they come here illegally and commit a gang crime, they will do the time. Our children and our communities deserve nothing less. This amendment will give law enforcement tools in the fight against some of the most vicious gangs in America and will help deter violent criminals from entering the country to join gangs.

I urge my colleagues to support this commonsense amendment.

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

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

Mr. Chairman, I want to remind the House that it is already illegal to murder, rape, kidnap, cut off hands with machete attacks, conspiracy to do any of those acts. We lock people up for that. In fact, since we are talking about immigrants, one in 27 Hispanic males 25 to 29 are in jail today already. Those are crimes. They are doing the time. Also, for those who are crossing State lines and all that, we have RICO, Continuing Criminal Enterprise. That is already the law.

But this amendment just adds insult. And let us be clear: Second-offense fist fight by a bunch of kids, under the bill, is 10 years mandatory minimum. This adds 5 years to the 10-year mandatory minimum for second-offense fist fighting. I think that is excessive. If the fist fight deserves more time, the Sentencing Commission can deal with that. I would hope that we would defeat the amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. CONyers), the ranking member of the Committee on the Judiciary.

Mr. CONyers. Mr. Chairman, could I ask the distinguished author of this amendment if this idea occurred to him during the time that we considered the bill in the Committee on the Judiciary? Because I have never heard of this before.

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

Mr. CONyers. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, this is something that has been discussed since the committee acted and passed the legislation out, but we felt very strongly that this would be a good addition to the legislation because of the fact that so many of these gang members are illegal aliens who have re-entered the country after already having been deported and having committed crimes earlier. Something needs to be done more than simple deportation when they come right back in and commit more crimes.

Mr. CONyers. Mr. Chairman, reclaiming my time, but we are trying to get rid of criminals from coming into the country, and what the gentleman is doing in this amendment is keeping them in the country. In other words, deporting them is not good enough. We want to keep them in our prison systems, which now house more citizens, and we are incarcerating a lot of the population of those incarcerated in America. And I have some reservations about piling it on. We have never talked about this position before in the subcommittee or full committee of the Judiciary Committee.

Mr. Chairman, I thank the gentleman for yielding me this time to make that observation.

Mr. GOODLATTE. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, the fact of the matter is that this has a great deterrent effect. When the word gets out that they come back into this country and they get arrested after they have been deported, we are going to do serious time in the slammer, they are not as likely to come back. And with the efforts that are ongoing with the REAL ID Act, we are going to keep a lot of these people out of the country with that method, and we are going to find them when they come into the country and try to get driver's licenses. When they do, they need to know that they are going to face serious time.

Mr. Chairman, I yield 2½ minutes to the gentleman from Virginia (Mr. WOLF), a real leader in the war against gangs in America.

Mr. WOLF. Mr. Chairman, I rise in support of this amendment. Let me read an article from the Washington Post. It tells us the latest horror committed by gangs, 28 people, including six children, were killed December 24 when gunmen opened fire on a bus full of passengers near the northern Honduran city of San Pedro Sula. The suspect is a thirty-eight individual, six of them were children.

Another article said there was a request by the presidents of four Central American countries for help in gang battles. The request came as U.S. authorities revealed that they had issued an alert for the suspected mastermind of the killing of 28 people near San Pedro Sula. The individual is a suspected member of the MS-13 gang accused of having entered the United States illegally.

The gentleman is right. That individual who was involved in the killing of 28 individuals in San Pedro Sula in Honduras was arrested in McAllen, Texas, coming back into the country after killing 28 people.

I think the gentleman's amendment is exactly right on target. There are many cases whereby they come back into the country and commit violent crimes after having committed violent crimes down in El Salvador. But 28 people in that little village in that town of San Pedro Sula, and then the man is arrested not in Honduras but up here in Texas.

I yield that, I just urge Members to strongly support the amendment. It is very good.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, I rise in opposition to this amendment. And I am surprised that my friend would propose that we increase the amount of money that taxpayers are paying for incarceration to now expand it to illegal criminals out of the country on the heads of the leaders of those countries?

We go right along with the leaders of these countries on trade agreements, on foreign assistance, with all kinds of assistance to these governments. I would submit to my colleagues that if they submit the name of everybody that they deport and they send them back and they say to the leaders of these countries, if these people come back, we are going to penalize you in one of several ways that we cooperate with you; again, we have so many ways that we provide assistance to other countries, and we have got to make them responsible for keeping their criminals at home. So I do not like the idea that we have a problem and that we are deporting criminals, and they are coming back, and we are going to make the American people pay for it. Make those other governments pay for it. Do not end up in press conferences with this administration, the head of our government's Members of Congress, working out all kinds of arrangements with
these governments to help them in so many ways, whether it is trade, foreign assistance or 909 other ways that we help them. Make them keep their criminals at home.

Penalize them if they do not. Do not charge the American taxpayer.

Mr. GOODLATTE. Mr. Chairman, it is my pleasure to yield 1 minute to the gentlemen from Wisconsin (Mr. SENSENBERGER), the chairman of the Committee on the Judiciary.

Mr. SENSENBERGER. Mr. Chairman, I am sure the President of Honduras would have loved to have kept the person who killed the 26 people in his country there and tried him and punished him there; but the fact of the matter is, the borders are leaky. Some of us have been trying to ensure the security of the borders through various measures, like the REAL ID Act, which has been signed. I would hope that that concern would spread as we deal with other immigration matters such as the numbers of border patrol people that we need to put on the border.

I support this amendment because it creates enhanced penalties for illegal aliens or those ordered deported on the grounds of having committed a crime who subsequently commit a crime of violence or a drug-trafficking crime.

An illegal alien who commits a drug-trafficking crime or crime of violence would receive a consecutive sentence of 5 years, and an alien who previously has been deported for a crime and subsequently commits a crime of violence or a drug trafficking crime would receive a consecutive sentence of 15 years. In addition, the amendment would require the Department of Homeland Security to provide the National Crime Information Center with information on illegal aliens.

Mr. Chairman, I urge support of the amendment.

Mr. GOODLATTE. Mr. Chairman, I yield myself the balance of my time.

The gentleman from Virginia (Mr. LAHOOD) is exactly right, as is the chairman. Here we have a Los Angeles Times story: “Four presidents seek help in gang battle. Central American leaders say the groups pose a hemispheric threat augmented by U.S. deportations.”

You cannot keep sending them back down here. They have no ability to handle them and they come right back up here and commit more crimes on our citizens. This is an important amendment that will give teeth to the message: do not come back in the United States. If you do, we are going to keep you in the slammer.

There are many, many examples of what illegal aliens have done. In Virginia, recent gang victims have been hacked by machetes and had fingers cut off. In May 2004, a 16-year-old boy in Fairfax County by a several fingers chopped off in an attack by a machete-wielding assailant. A week later, a 17-year-old youth was shot dead in Henr

Send these guys to jail when they come back into this country after being deported. I urge my colleagues to support the amendment.

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

Mr. Chairman, I just want to remind the House that it is illegal to chop off fingers and you will be given more time than this bill will provide. Murdering 28 people is also already illegal, whether this bill passes or not.

But this amendment just adds insult to injury. If a child comes into the country because his parents snuck into the country to work, this bill, the underlying bill provides for a 10-year mandatory minimum for a fist-fight. This just adds 5 more years of insult. I would hope we defeat the amendment.

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

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

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

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

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

The Acting CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 109-76.

AMENDMENT NO. 8 OFFERED BY MR. NORWOOD

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. NORWOOD: Page 22, line 3, insert the following:

SEC. 116. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) Provision of Information to the NCIC.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall provide the National Crime Information Center with such information as the Director may determine shall be provided to the National Crime Information Center of the Department of Justice, including the final order of removal and even if the alien has already been removed;

(b) Exclusion of Information from the NCIC Database.—Section 539(a) of title 28, United States Code, is amended—(1) in paragraph (3), by striking “and” at the end; (2) by redesignating paragraph (4) as paragraph (5); and

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

“(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States, whether or not the alien has received notice of the violation and even if the alien has already been removed; and”.

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentleman from Georgia (Mr. NORWOOD) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia (Mr. NORWOOD).

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

Mr. Chairman, the purpose of my amendment is to require the Department of Homeland Security to provide the National Crime Information Center with information on illegal aliens.

The NCIC is a computerized index of criminal justice information available to the Federal, State, local law enforcement, and other criminal justice agencies. It is operational 24 hours a day, 365 days a year. This information helps apprehend fugitives, locates missing persons or property, and protects law enforcement officers. All records in NCIC are protected from unauthorized access.

Mr. Chairman, I would say to my colleagues, there should be no fear in using this database to get this vital information into the hands of law enforcement. It is a good system. It is a tested one.

I wonder my amendment, information on three types of aliens would be included in the National Crime Information Center: first, those aliens with a final order of removal issued against them. These are absconders who are flagrantly violating our laws.

Recent estimates, remember that word “estimates,” recent estimates say that there are over 400,000 in our country today. Of this number, approximately 85,000 are criminal aliens. I do not wish to get information on a jaywalker either. I mean murderers, rapists, and pedophiles.

Second, there are those who signed a volunteer deportation order.

The third group, a very important group, are those who have overstayed their visas.

Essentially, we are dealing with those who our government says should not be here, those who have themselves said they should not be here, and those who are over staying their permission to be here.

This first category, visa overstays, is the difference between the language in my amendment and that of the previous one offered by my good friend,
the gentleman from Virginia (Mr. Goodlatte), who incorporated much of my language into his good amendment; and I applaud him for that.

Lest my colleagues forget, this final category, those who overstayed their visas, has given rise to some of the most heinous acts committed recently. The chief planner of the 9/11 attacks, Mohammed Atta, overstayed his visa, along with a number of other hijackers.

Sheik Omar Rahman, the spiritual leader of the World Trade Center bombers and a key 9/11 attack N.Y.C. City landmarks, overstayed his visa, among other immigration violations.

Mahmud Abouhalima entered on a tourist visa in 1985, which expired in the spring of 1986. He was given permanent residence in 1988 as part of an amnesty for agriculture workers. There was no evidence, however, that he was ever an agriculture worker. He made several trips to Afghanistan where he received combat training. He was implicated as a lead organizer in the 1993 plots to bomb New York landmarks.

Mohammed Salameh entered on a 6-month tourist visa issued in Jordan in 1988. He should never have qualified for the visa by law as he fit the profile of an intending immigrant. He rented the truck in the 1993 WTO bombing.

Eyad Ismoil entered on a student visa in 1989, left school after three semesters, violating the terms of his visa, and became an illegal alien. He later drove the World Trade Center Van full of explosives.

More facts about visa overstays that might startle folks a little bit: at least 40 percent of the noncitizens who stay in the United States illegally, and perhaps more than half, did not sneak across the border. Visa overstays were described as a "disturbing and persistent problem" in a report by the Justice Department’s Inspector General.

Now, here is the punch line. This was all written on November 8, 1998, in the Dallas Morning News, nearly 3 years before the attacks of 9/11, and approximately 6½ years ago. This visa overstay language is therefore key to this amendment and key to our safety and security.

This amendment is necessary. This language regarding visa overstays makes us safer. I urge my colleagues to support this amendment.

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

The Acting CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. SCOTT of Virginia. Mr. Chairman, I claim the time in opposition.

The Acting CHAIRMAN. The gentleman from Virginia is recognized for 5 minutes.

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

Mr. Chairman, I rise in opposition because we have not studied this. This issue did not come before the committee. We do not know anything about the accuracy of the data that may be circulated. We do not know what it is going to cost. And we particularly do not know whether or not this is a good cost-effective way of providing homeland security. For example, this will do nothing to prevent an Oklahoma bombing, where the problem was domestic.

If we are going to spend money in homeland security, we ought to put it where it is most needed. We have not studied to determine whether this is the best use of the money or not. Therefore, Mr. Chairman, I hope we would not pass this amendment.

Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. Norwood).

Mr. NORWOOD. Mr. Chairman, the gentleman is very kind.

Mr. Chairman, I will tell you the NCIC system works. After 6½ years, it is overdue time we tried to do something about the visas.

I yield myself 1 minute to thank the chair of the Committee on the Judiciary for a great bill. I appreciate so much his support in this, as well as the support of the gentleman from Virginia (Mr. Goodlatte) and the gentleman from Virginia (Mr. Wolf) and all their good work. We are finally, finally trying to do something about this terrible problem of illegal immigrants.

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

Mr. Chairman, I hope we defeat the amendment. As I said, it may or may not, we do not know, be a cost-effective use of the taxpayers’ money. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. Norwood).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 9 printed in House Report 109-76.

Amendment No. 9 Offered by Mr. Norwood

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. Norwood: Page 22, after line 3, insert the following:

SEC. 116. STUDY.

The Attorney General and the Secretary of Homeland Security shall jointly conduct a study on the connection between illegal immigration and gang membership and activity, including how many of those arrested nationwide for gang membership and violence are aliens illegally present in the United States. The Attorney General and the Secretary shall report the results of that study to Congress not later than one year after the date of the enactment of this Act.

The amendment was agreed to.

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentleman from Georgia (Mr. Norwood) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia (Mr. Norwood).

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

Mr. Chairman, I point to the previous amendment where we talked about respecting a little bit. Well, this is dealing with estimates. This amendment would simply require a study conducted jointly by the Department of Homeland Security and the Department of Justice on the link between illegal aliens and gang membership. Surprisingly, despite the overwhelming agreement from all parties that the two are linked, there is no comprehensive report anywhere that we can find on this topic. It is time for that to change.

Congressional testimony on April 13 of this year produced some important anecdotal evidence of the need of this sort of data. Before the Committee on the Judiciary Subcommittee on Immigration, Refugees, and Border Security, Representative Marsha Blackburn offered some statistics in relation to some problems in the Shenandoah Valley of Virginia. She indicated the gangs there are nearly 75 percent composed of illegal aliens. She also related that a number of the illegal alien gang members had been previously deported, proving that we are not doing our job on the borders.

A second witness at the same hearing was Heather MacDonald of the Manhattan Institute. She has research that is helpful to this subject, but somewhat out of date. She indicated that a confidential California Department of Justice study from 1995 said that 60 percent of the 20,000-member 18th Street Gang in Southern California are illegal. Also, that the leadership of the Colombian Lil’ Cycos Gang, who control some markets in L.A., was about 60 percent illegal in 2002. ICE officials put the number of illegals among MS-13 members at simply “a majority.”

We need to do better than just know “a majority.” If you will just listen to my friend and colleague, the gentleman from Indiana (Mr. Hostettler), who is the Subcommittee on Immigration chairman. He indicated in his statement: While there are an estimated 750,000 to 800,000 gang members in the Nation, there are no firm estimates on how many of these gang members are aliens and how many are citizens.” His point should not go unaddressed.

So we again are saying today that our porous borders are a problem for our citizens. This time it is crime, sometimes deadly in our neighborhoods and streets. Despite this very clear link between gangs and illegal aliens, there is not a study that I located anywhere that addressed this issue.

I think that it is long past due for that to change. We have talked about it a little bit. Well, this is dealing with estimates. This amendment would simply require a study conducted jointly by the Department of Homeland Security and the Department of Justice on the link between illegal aliens and gang membership. Surprisingly, despite the overwhelming agreement from all parties that the two are linked, there is no comprehensive report anywhere that we can find on this topic. It is time for that to change.

People say that addicts have to first admit that they have a problem before they can move on and get help. This study is a good way for us to finally

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admit that we have a major problem and seek ways then to correct the problem. I hope that we will not take too long to seek that help, and I would be happy to assist with a solution, because it is an issue that I have worked on and been very interested in for a long time.

I urge my colleagues to adopt this amendment and help us finally get the facts about the nationwide scope of what we are dealing with in terms of illegal aliens and gang membership.

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

Mr. SCOTT of Virginia. Mr. Chairman, I rise to claim the time in opposition, and I yield myself such time as I may consume.

I would just say, this is interesting timing of the amendment, because we just passed the Goodlatte amendment, and now we are going to study it. I guess, whether or not we should have passed it because, as the gentleman from Georgia (Mr. NORWOOD) suggested, we do not know the link between illegal aliens and gang membership, and so we have to study it. We just passed an amendment to add 5 years mandatory minimum to sentences if a couple of them get into a fist fight. I guess it is nice to know whether we should have passed it or not, but I just want to point out that it is an interesting place to consider this amendment.

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

Mr. NORWOOD. Mr. Chairman, in conclusion, I will simply say to my friend, the gentleman from Virginia (Mr. SCOTT) that this is not an amendment that justifies or does not justify the previous amendment. This is an effort to get the facts on what we already know. If you ride around at all, you do not have to go very far to determine what the problem is in this country.

I ask all of our colleagues on both sides of the aisle to vote to protect this country from illegal immigrants.

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

Mr. SCOTT of Virginia. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, allow me to shout the Members on the opposite side and join with them in support of this amendment.

Mas vale tarde que nunca. It means, better late than never. And while my colleague here, the gentleman from Virginia (Mr. SCOTT) said it is nice to know whether we should have passed it, or not, but I just want to point out that it is an interesting place to consider this amendment.

I ask all of our colleagues on both sides of the aisle to vote to protect this country from illegal immigrants.

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

Mr. SCOTT of Virginia. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, allow me to shout the Members on the opposite side and join with them in support of this amendment.

While this is limited to the link between illegal aliens and gang membership, we need more studies on gangs, period. We need to find out, number one, where the young people are coming from. What is it about gang membership that entices them to want to be a part of that gang? What are their parents like? Are they the children of those who are already incarcerated? If we had an opportunity to support them getting back into school, moving out of neighborhoods, etc, cetera, what would happen?

So, again, even though this is a little late in coming, I do support the amendment, and I ask for an aye vote.

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

Ms. WATERS. I yield to the gentleman from Georgia.

Mr. NORWOOD. Mr. Chairman, I would just like to thank the gentlewoman. I hope this will be, and I think it should have bipartisan support, and I am going to call for a vote, because I believe most of us will vote for this.

Ms. WATERS. Reclaiming the time, I would hope that the gentleman would also support the idea of a broader study on gangs, period, and that we could identify a number of areas to be looked at. Would the gentleman be interested in that at some point in time?

Mr. NORWOOD. Mr. Chairman, if the gentlewoman will yield, I am interested in doing anything I know we can do to stop gang violence in this country. It is time we brought it to an end, and of course, I am interested in anything about that that might head that off.

Ms. WATERS. Mr. Chairman, I thank the gentleman.

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

Having heard the distinguished views from my friend, the gentlewoman from California (Ms. WATERS) and the gentleman from Georgia (Mr. NORWOOD), I am convinced that the amendment is well taken, however misplaced in time. We should have considered this before the gentleman from Roanoke, Virginia, but as my colleague has said, better late than never.

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

The Acting CHAIRMAN (Mr. LAHOOD). The question is on the amendment offered by the gentleman from Georgia (Mr. NORWOOD).

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

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

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

The Acting CHAIRMAN. It is now in order to consider Amendment No. 10 printed in House report 109-76.

AMENDMENT NO. 10 OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I offer an amendment.
into the State court's authority and remove the judge's sentencing discretion.

Mr. Chairman, to be tough on gangs, we must focus more on gang crime prevention. We need to implement more effective prevention tactics that focus on both current and potential gang members. We must educate young people about the dangers of gang violence and the consequences of gang membership.

Unfortunately, my colleagues ignore the practical reality of this problem by trying to take away new and valuable tools for law enforcement and prosecutors such as mandatory minimum penalties.

U.S. Attorney Fitzgerald again explained, "It is important to maintain heavy penalties on gang members, particularly higher-echelon members and those engaging in violence, to deter violent activity and to leverage cooperation from gang members who are already inside. If they see they will do some prison time but often cooperate when faced with heavier prison time. Cases against gangs proceed most effectively when the heavy penalties cause key members of the gang to work with authorities to dismantle the organization. Ultimately, severe sentencing of gang members results more quickly in greater freedom for the community victimized by the gangs."

Heavy penalties mean more cooperation with law enforcement. Mandatory minimum penalties and heavier sentences result in more quickly and greater freedom for the community victimized by the gangs. This amendment is the anti-community freedom amendment defeated.

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

Ms. WATERS. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. Scott), the ranking member of our subcommittee.

Mr. SCOTT of Virginia. Mr. Chairman, I want to remind Members of the House that murders are already illegal. Intentional murder subjects you to either the death penalty or mandatory life. Racketeering and those other offenses charge are illegal. The mandatory minimums in the bill apply to second-offense fist fights, and I guess if you are an illegal immigrant, you get an additional 5 years mandatory minimum.

If that is not enough, Mr. Chairman, we have already said that, for those 25 to 29 in the African-American community, 1 out of 8 are already in jail today. Apparently, that is not enough penalty, and we need to increase it.

The Sentencing Commission has studied the impact of mandatory minimum sentences and found that they not only violate the entire purpose of the Sentencing Commission, but they also applied in a racially discriminatory manner. We also have found, Mr. Chairman, that the Rand Corporation has studied mandatory minimums and found that it is not a cost-effective sentencing scheme. They found that compared to a more intelligent scheme where the more serious criminals get more time and less serious get less time, mandatory minimums are less effective in reducing crime. They are also much less effective than drug rehabilitation for drug offenders. The Federal Corporation designating mandatory minimums as a waste of the taxpayers' money.

The Judicial Conference of the United States, the Chief Justice of the United States presiding, has written us a letter saying, not only that trying juveniles as adults is bad policy but also the mandatory minimums, and they have maintained opposition to mandatory minimums that we write: The reason is manifest. Mandatory minimums severely distort and damage the Federal sentencing system. Mandatory minimums undermine the sentencing guideline regime Congress so carefully established in the Comprehensive Crime Control and Reform Act of 1984 by preventing the rational development of guidelines that reduce unwanted disparity and provide proportionality and fairness.

Mr. SENSENBERGER. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. Forbes).

Mr. FORBES. Mr. Chairman, I just wish today that we would hear the same passion for the victims of gang crimes as we have heard on the other side for those who commit violent gang crimes. You know, we have heard a lot about the cost of locking up violent gang criminals. But I have not heard a documented fact that these criminals cost us in our neighborhoods to create more crimes and leave repeated paths of victims.

We just heard about common sense. Well, let me tell you about common sense. Common sense is that you are not going to stop these violent gang criminals by giving them a Popsicle and a hug. You stop them by getting them off the streets.

Let us make it clear that we do not believe there is any socially redeeming value in giving up our mandatory minimums. What mandatory sentences do is they set out clearly a policy that we say, if you are going to belong to...
one of these gangs, you take the consequences: that if you commit one of these gang crimes, you are going to pay a price. You cannot just roll the dice.

Now, our opponents will tell you it is already illegal to do some of these acts. They miss the point. Our whole purpose is to keep those acts from being committed in the first place by getting rid of the gang networks. They believe, they have argued here the way you do that is by giving arts and crafts to members of violent gangs. We just respectfully disagree.

We believe that the way you do it is by bringing down the criminal gang networks and the criminal gang leaders. Mandatory sentences do that by giving those individuals who commit gang crimes a choice. They can either spend a long time in jail, or they can help us bring down the networks that are preying on our communities.

Mr. Chairman, I hope we will reject this amendment and will pass the bill. Ms. WATERS. Mr. Chairman, I yield 1½ minutes to the gentlewoman from New York (Ms. VELAZQUEZ).

(Ms. VELAZQUEZ asked and was given permission to revise and extend her remarks.)

Ms. VELAZQUEZ. Mr. Chairman, I rise in strong opposition to this bill, which offers no solution to our Nation’s gang violence problem, and in support of the Waters-Scott amendment which strikingly makes the mandatory sentences provisions.

Clearly, in many neighborhoods throughout our country, we have a gang violence problem. Yet dramatically increasing prison terms and failing to fund proven strategies to reduce youth violence is exactly what H.R. 1279 does.

Violence in gangs is a critical problem, persistent among low-income and minority communities. Today we see that 35 percent of the largest cities and 88 percent of the smaller cities are confronted with gang-related crimes. More and more young kids are joining gangs. But no value of hope is given to these children seeking a way out of the gang violence.

A few years ago I lost a good friend, an officer who worked in the Seattle area. He stopped his police car, opened his car door, stood by the front of his police car, and was approached by three gang members. The job that night, the assignment that night by these gang bangers, kill a cop. And they did. They fired the bullet into the cop’s head, and he died.

Mr. Chairman, I urge my colleagues to pass this bill and protect the lives of citizens of this great country.

Mr. Chairman, I am a cop. I wear a Congressional pin, but I will always think like a cop, live and breathe and think like a cop. I urge my colleagues to vote “no” against the Waters-Scott amendment.

Ms. WATERS. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. SCOTT).

MR. SCOTT of Virginia. Mr. Chairman, if you kill a police officer you are going to get death or life without parole. If you make any murder in the Federal system you are looking at life. If you are talking about the impact of this bill, it is a 10-year mandatory minimum for second-offense fist fights.

We have been asked where our compassion is for the victims. We have got mandatory minimums where you already know that it violates common sense, it wastes the taxpayers money, it fails to do anything about reducing crime. That is what the studies have shown. Trying juveniles as adults we know increases crime. That is a good question. Where is your compassion for the victims when you are actually increasing crime? We know what works to reduce crime. We know what polls well, and what we need to do is have some compassion for common sense and actually enact those provisions that will reduce crime.

We know that prevention and early intervention work. You know, you can make jokes about it; but we know what works and we know what polls well. If we are going to show compassion for our victims, we ought to do something to actually reduce crime.

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

Mr. Chairman, I think it is important for us to say on behalf of the Members, if not all of the Members of the Congress of the United States of America, we are all against crime. We do not support criminals. We are indeed passionate about victims. We want to get hard-core criminals off the streets.

What we do not support is using this terrible issue to get your law and order...
credentials on. We do not want you using this issue on the backs of young people who may be victims of gangs rather than criminals themselves.

Let me just say this: we are against mandatory minimum sentencing because it takes away the discretion of the judge, or the jury, in determining the appropriate time, given all of the facts. And, yes, they may give less time, given all of the facts.

We need to let judges be judges. We cannot legislate in the Congress of the United States and continue to take away the ability of judges to make decisions. So I stand here today with this amendment to say, let the judges make the decision.

You do not know if there is a kid who happens to live in a neighborhood that is infested with gang members and they must pretend to be in the gang in order to survive. Do you want that kid caught up in a situation where they are going to be given mandatory minimum sentences and they did not have an opportunity to have a judge understand what the extenuating circumstances were?

I do not think that is good legislating, nor is it good public policy. I would encourage my colleagues to please support this amendment.

The Acting CHAIRMAN. The time of the gentlewoman from California (Ms. WATERS) has expired.

Mr. WATERS. Mr. Chairman, does the gentleman from Wisconsin (Mr. SENSENBRENNER) have any more time, because I wish to make a statement on this bill prior to the close of debate.

The Acting CHAIRMAN (Mr. LAHOOD). The gentleman from Wisconsin (Mr. SENSENBRENNER) has 2 minutes remaining.

Mr. SENSENBRENNER. Mr. Chairman, I am pleased to yield one of those minutes to my friend, the gentlewoman from California (Ms. WATERS).

Mr. DAVIS of Illinois. Mr. Chairman, I rise today in support of the Waters/Scott Amendment which strikes out all mandatory minimums in H.R. 1279. The mandatory minimums proscribed in this legislation will only result in many young people serving long sentences, at least ten years, based on the circumstances of rather than the crime itself. Perhaps it is no surprise that mandatory minimums have come under criticism for being discriminatory in nature.

The enormous monetary and human costs associated with incarceration simply outweigh the supposed benefits of the proposed legislation. It is well known that incarceration costs American taxpayers millions of dollars each year. What is widely known is that it also costs millions to reintegrate those released from prison back into society. Additionally, as suggested in the recent Booker decision, judges often refuse to hand down mandatory minimums if they feel that they are draconian. With the proposed changes, we may even see juries unwilling to convict an obviously guilty defendant if they know that doing so will result in ten years imprisonment. Creating laws that are likely to go un-enforced will further facilitate a broken criminal justice system or help take down gangs.

Mrs. CHRISTENSEN. Mr. Chairman, I rise in support of the Waters/Scott amendment to H.R. 1279, the Gang Deterrence and Community Protection Act of 2005. If the Waters/Scott amendment were adopted my colleagues would oppose the underlying bill because it broadens the definition of gangs and metes out even harsher punishments for offenses that already have very long sentences.

Mr. Chairman, the Scott/Waters amendment strikes those sections of the bill which set mandatory minimum sentences. I agree with the National Association for the Advancement of Colored People, (NAACP) who propose that by increasing the number of crimes that have mandatory minimum sentences, and stiffening the penalties for those who violate them, the Congress exacerbates the already troubling and offensive racial disparities in the criminal justice system.

According to Families Against Mandatory Minimums, such “sentences are bad regardless of the crime because they prevent judges from tailoring sentences to the particular circumstances in which a crime was committed and sentencing them according to their culpability. Instead, mandatory minimums impose one-size-fits-all sentencing, which guarantees injustices”

In my district the US Virgin Islands we are in the midst of a gang violence amongst our young males. Over the years, through various preventative programs within our law enforcement community and amongst private organizations, we have seen a difference in behavior within our teen population as it pertains to conflict resolution. Prevention is truly the best cure in this situation not inflexible mandatory minimum sentences

I urge my colleagues to support the Waters/Scott amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of the Waters amendment. Terrorism is solved with intelligence, prevention not simple mandatory minimums.

Since the enactment of mandatory minimum sentencing for drug users, the Federal Bureau of Prisons budget increased by more than 2,016 percent, from two hundred twenty million dollars in 1986 to about four billion four hundred thirty seven million dollars in 2004. African Americans comprise 12 percent of the United States population, 15 percent of drug users, 17 percent of cocaine users, but they are 35 percent of those convicted of those offenses and 57 percent of Federal cocaine convictions.

In 1986, before the mandatory minimums for crack cocaine offenses became effective, the average Federal offense for African Americans was 11 percent higher than whites. Following the implementation of mandatory drug sentencing laws, the average drug offense sentence for African Americans was 49 percent higher than whites.

Largely as a result of mandatory minimum sentencing statutes, there are now more than 2,100,000 persons in prison and almost 70 percent of those behind bars in America are persons of color. African Americans made up 40 percent of the Federal prison population in August, 2003, up from 31 percent in 1986 before Federal mandatory minimums were enacted.

As a result of mandatory minimum sentencing statutes, particularly with respect to drug crimes, in 2001, the average Federal drug trafficking conviction was 72.7 months while the average Federal manslaughter sentence was 34.3 months. A Federal assault sentence 37.7 months, and the average sexual abuse sentence 65.2 months.

In 1999, African Americans constituted 13 percent of drug users. In that same year, African Americans constituted 35 percent of drug arrests, 53 percent of drug convictions, and 58 percent of those in prison for drug Federal mandatory minimum sentences make African Americans more likely to be incarcerated and for longer periods than their white counterparts.

In the year 2000, 84.7 percent of crack cocaine cases were brought against African Americans even though, in that year, African Americans comprised only about 26.6 percent of crack users. Only 5.6 percent of crack cases that year were brought against Caucasians while they constituted 64.4 percent of crack users.

In the 20 years from 1981 to 2001, the sentenced portion of the Federal prison population grew from about 20,000 in 1981 to about 115,000 prisoners. During that same period, the average Federal prison population in Federal prison grew from 25 percent to almost 60 percent. Mandatory minimum sentences for drug crimes are the largest drivers of expanding prison populations.

Due to harsh sentencing guidelines, such as the three-strikes you’re out provision, a disproportionate number of young black and Hispanic men are likely to be imprisoned for life under scenarios in which they are guilty of little more than a history of untreated addiction and several prior drug-related offenses.

States will absorb the staggering cost of not only constructing additional prisons to accommodate increasing numbers of prisoners who will never be released but also warehousing them into old age.

We all know and are stunned by the staggering statistics cited in the September 2002 issue of the journal Racial Issues in Higher Education, that, at that time, there were more African American males in prison than in college. Mandatory minimums are driving this growth in federal prison populations.

Mandatory minimum drug sentences are also resulting in the disproportionate lengthy incarceration of young African American women. From 1986 (the year mandatory sentencing was enacted) to 1996, the number of women sentenced to state prison for drug crimes increased ten fold and has been the most dramatic in the overall increase in the imprisonment of women. Ninety five percent of female arrests from 1985 to 1996 were drug related and over 80% of female prison inmates are incarcerated as a result of their association with abusive boyfriends.

The amendment requires a more comprehensive approach along with major immigration reform not just mandatory minimums.

Ms. WATERS. Mr. Chairman, I ask unanimous consent to withdraw the amendment.
Mr. ROYCE, asChairman of the Committee, said: Pursuant to the recommendation made by the Committee on Transportation and Infrastructure, at the request of Members of the Committee, I am directed to submit an amendment that would extend through the 110th Congress an existing authority for the Rural Infrastructure Fund. This amendment would also authorize an additional 75 million for the Fund. Members are cordially invited to participate in the debate.

Mr. ROYCE. Mr. Chairman. Thank you for your statement. I apologize if I have rushed my remarks, but I feel that I have not spoken enough about an issue that is so important to rural America.

As you are aware, this funding has been a key factor in rural America's ability to remain competitive over the years. It has been instrumental in keeping many rural communities up to date with technology and infrastructure that will improve the quality of life for all Americans.

I would like to express my appreciation to my colleagues and the Committee on Transportation and Infrastructure for their hard work and dedication to this issue. This amendment has been an important part of our ongoing efforts to ensure that rural America has access to the same level of infrastructure and services as urban America.

As I said earlier, this funding has been crucial in maintaining the quality of life for rural Americans. This amendment will provide an additional 75 million dollars, bringing the total up to 400 million dollars over the next two years.

The Rural Infrastructure Fund has been a catalyst for innovation, job creation, and community development. It is a key component of rural America's economic development strategy. It is an important investment in our future.

I urge my colleagues to support this amendment. It will continue to be a valuable asset to rural America. I look forward to hearing from other Members on this important issue.
MR. PALLONE and Ms. KILPATRICK of Michigan changed their vote from "aye" to "no."
So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1700

The Acting CHAIRMAN (Mr. LAHOOD). There being no further amendments, the question is on the amendment in the nature of a substitute, as amended.

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

The Acting CHAIRMAN. Accordingly, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. REBERG) having tendered the chair, Mr. LAHOOD, Acting 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. 1279) to amend title 18, United States Code, to reduce violent gang crime and protect law-abiding citizens and communities from violent criminals, and for other purposes, pursuant to House Resolution 268, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. The rule, the previous question is or- dered.

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

The SPEAKER pro tempore. The motion to recommit is simple and deserves the support of every Member of this body. It is straightforward and deserves the support of every Member of this body.

Thus, under the rule, the Committee of the Whole on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Page 22, after line 3, insert the following:

SEC. 116. PROHIBITION OF PROFITEERING.

(a) PROHIBITION—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

“11037. War profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq

“(a) PROHIBITION.—

“(1) IN GENERAL.—Whoever, in any matter involving a contract or the provision of goods or services, directly or indirectly, in connection with the war, military action, or relief or reconstruction activities in Iraq, knowingly and willfully

(A) executes or attempts to execute a scheme or artifice to defraud the United States or any person therein;

(B) falsifies, conceals, or covers up any information, scheme, or device, or any false, fictitious, or fraudulent statement or entry in any matter, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

(C) materially overvalues any good or service with the specific intent to excessively profit from the war, military action, or relief or reconstruction activities in Iraq; shall be fined not more than $10,000, or impris-oned for not more than 20 years, or both.

“(2) FINE.—A person convicted of an of- fense under paragraph (1) may be fined the greater of—

“(A) $1,000,000; or

“(B) if such person derives profits or other proceeds from the offense, more than twice the gross profits, gains, advantages, or other benefits that the person derives from such offense.

“(C) EXTRATERRITORIAL JURISDICTION.— There is extraterritorial Federal jurisdiction over an offense under this section.

“(d) VIEN.—A prosecution for an offense under this section may be brought—

“(1) as authorized by chapter 211 of this title; or

“(2) in any district where any act in furtherance of the offense took place; or

“(3) in any district where any party to the contract or provider of goods or services is located.

(2) TABLE OF SECTIONS.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding at the end the following:

“11037. War profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq."
Mr. Speaker, just last week, the House spent another $82 billion of taxpayer funds on the war. The cost of the war had already been over $200 billion. We also learned this week that the Pentagon auditors found that $212 million was wasted in Iraq with precious little accounting. It is an unfortunate fact of life, that, in Iraq, billions of dollars are being wasted by organized criminal activities. The American taxpayer is being defrauded by a system that is totally unaccountable. This not only demeans andcheapens the sacrifices that our military and civilian personnel are making in Iraq, it endangers their lives.

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Mr. GILLMOR changed his vote from "aye" to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. REHERG). 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 result of the vote was announced as follows:

YEAS—999

Berkley
Hastings (FL)
Larson (CT)
Mees (NY)

NAYS—144

Mr. SCHUMER. Mr. Speaker, the motion to reconsider was laid on the table.