

CHILD SEX CRIMES WIRETAPPING ACT OF 2001

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BEFORE THE
SUBCOMMITTEE ON CRIME
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
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CHILD SEX CRIMES WIRETAPPING ACT OF 2001

THURSDAY, JUNE 21, 2001

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to call, at 1:30 p.m., in Room 2237, Rayburn House Office Building, Hon. Lamar Smith [Chairman of the Subcommittee] presiding.

Mr. SMITH. The Subcommittee on Crime will come to order.

We welcome our witnesses here today, and look forward to their testimony on such an important subject.

I also want to express my appreciation to the Members who are here as well. Inasmuch as we're going to follow the hearing with a markup of Mrs. Johnson's bill, we are going to need more Members, and we are looking forward to the future or imminent arrivals of those Members so that we can continue.

I am going to recognize myself for an opening statement. Then we'll recognize other Members, including the Ranking Member, Mr. Scott, for his opening statement.

This Committee just completed a series of hearings dealing with cyber-crimes, ranging from software piracy to fraud to child pornography. Witnesses testified that those who prey on children increasingly use the Internet.

This fact is not lost on the public. When asked about cyber-crime, a majority of Americans pointed to child pornography as their biggest concern.

The Pew Internet and American Life report survey found that 92 percent of Americans are concerned about child pornography. This is understandable since the Internet, with all of its extraordinary benefits, unfortunately also helps those who commit heinous acts against children.

With an estimated 10 million kids using the Internet, such predators have substantially greater access to this vulnerable group.

Technology enables us to communicate quickly and effectively. Unfortunately, it also facilitates child molesters and pornographers, and the computer appears to be the tool of choice.

In fact, according to a recent study sponsored by the National Center for Missing and Exploited Children, 70 percent of the children who received an unwanted solicitation were approached through their home computers. The other 30 percent were approached when they were away from home.

These sex predators often attempt to lure kids into sex by conversing with them in chat rooms. They may also send child pornography to a child to lower the child's natural defense to the sexual advances of adults.

The predators then set up meetings with the children to commit unthinkable crimes.

These depraved individuals use both the Internet and the telephone to convince children to travel and meet them for sex.

Many times, some part of the predator's attempted seduction of a child will occur over the telephone. If law enforcement officials cannot monitor a predator's calls, they may be unable to act to stop him before he harms the child.

Sexual exploitation of children, child pornography, enticement of individuals to engage in prostitution, or the transportation of minors or the travel to meet the minor to engage in such activities, are all illegal. All of these acts, as well as attempts and conspiracies to commit them, are crimes that were enacted to help law enforcement officials act before a sexual predator actually abuses the child.

These predators need to be caught and punished before they can inflict greater harm.

The ability of federal law enforcement officers to utilize court-authorized wiretaps is an important tool in preventing such harm. Yet currently, law enforcement may only use this tool for crimes related to certain sexual exploitation activities.

There should be no tolerance in our society for individuals who prey on our children and seek to exploit them sexually. We must curtail these predators' activity to the best of our ability.

Current law does not authorize the use of court-authorized wiretaps to investigate activities relating to some child pornography, enticement into prostitution, or other illegal sexual activities, where the transportation of minors to engage in prostitution or travel with intent to engage in a sexual act with a juvenile.

Law enforcement does not even have wiretap authority to investigate the selling or buying of children for sexual exploitation.

This hearing will focus on whether wiretap authority should be extended for such activities. Specifically, the hearing will focus on H.R. 1877, Child Sex Crimes Wiretapping Act of 2001, which was introduced by Congresswoman Nancy Johnson (CT), who is a witness here today.

Immediately following the hearing, the Subcommittee will mark up H.R. 1877.

In the last Congress, Representative Johnson (CT) introduced a similar bill as H.R. 3484, Child Sex Crimes Wiretapping Act of 1999. The Judiciary Committee reported H.R. 3484 favorably by voice vote on September 20, 2000. On October 3, 2000, the House passed the bill by voice vote under suspension of the rules. No action was taken by the Senate on the bill.

My colleagues should understand that nothing in the bill would change the stringent requirements in current law, that a judge must approve each wiretap request before the wiretap is actually activated.

That concludes my remarks.

I'll recognize the Ranking Member, Mr. Scott of Virginia, for his opening statement. Then we'll go to other Members as well.

Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman.

I'm pleased to join you in opening this hearing and markup of H.R. 1877, the Child Sex Crimes Wiretapping Act.

I'm pleased to see that some of the limitations we developed when we considered the bill last year have been retained in this new bill. I believe that the present bill still represents an unnecessary expansion of federal wiretap authority, a procedure so invasive of the rights of citizens in a free society that it can only be made available for use under circumstances specifically approved by Congress.

The current congressionally developed wiretap authority dates back to the 1968 crime bill. The primary intent of the law was to permit a limited use of electronic surveillance of organized crime syndicates, and as a tool of last resort even under those circumstances.

Since that time, the act has been amended over a dozen times to meet the demand of law enforcement for more power over private activities of citizens. Now we have over 50 predicate crimes for which wiretap authority may be obtained.

Regrettably, a number of those predicates involve relatively minor criminal activity, such as lying on a passport application.

So the argument goes: If we amended the wiretap authority to add X, we should certainly amend it to add Y, a much more serious offense. As a result, wiretap has become routine rather than the extraordinary procedure that it was intended to be, and only as a last resort.

Understandably, adding sex crimes against children as wiretap predicates along side some of the crimes for which wiretap authority can now be sought would seem more than justified. However, extension of this extraordinary power cannot be justified by unjustified or less-justified extensions in the past.

Once a wiretap or a bug is in place, it captures all conversations—innocent as well as criminal. Administrative offices of the courts indicate that more than 80 percent of the information obtained by wiretaps is innocent information, often involving family members and others who are not even targets of the investigation.

In 1980, when the crime rate was substantially higher than it has been in recent years, 81 federal wiretaps were issued. In 1999, 601 federal wiretaps were issued, a better than 600 percent increase.

Moreover, all activities covered by the current bill would involve activities which are state crimes, where there is state wiretap authority. The fact that a few states have chosen not to authorize wiretaps and the limited number of state wiretaps that are authorized, as compared to the number of federal wiretaps, attests to the level of concern citizens have with giving law enforcement such power over their private lives.

Approximately 98 percent of all criminal prosecutions are conducted at the state level. However, when you look at the wiretaps issued—601 federal in 1999, compared to 749—those numbers are

almost—they're approximately the same, notwithstanding the fact that 98 percent of the prosecutions are conducted on the state level.

So, Mr. Chairman, it is clear that much more serious activity for which proponents of the legislation are seeking to justify a wiretap extension are already covered by wiretap authority. All of it is covered by state laws, and all of it is already covered by e-mail, fax, or other electronic eavesdropping authority and other investigatory techniques.

So it is not clear to me what is missing in the federal investigative procedures for the crimes listed in the bill, including some which are misdemeanors and many of which do not involve sex crimes against children that would require the extraordinary procedure of a wiretap.

The FBI representative with us today notes in his written testimony certain successful investigations in which wiretap authority would have been helpful. My reading of the intent of the provision for extending the intrusive wiretap against many innocent individuals and conversations is that it would ensnare—that it would ensnare those innocent conversations. So the standard for wiretap is not whether it would be helpful but whether it would be necessary for the prosecution of certain cases.

Much if not all of the activity under the section added by H.R. 1877 for wiretap authority is already covered in the general provision against child sexual exploitation. Having the ability to rack up a long list of charges for the same conduct or providing optional bases for seeking wiretaps is not sufficient reason to authorize them.

So, Mr. Chairman, while I support the vigorous enforcement of laws against child sexual abuse and exploitation, I do not believe the case has been made for the level of extension of federal wiretap authority sought in H.R. 1877.

However, if we are going to extend those provisions listed in the bill, we should do so only to the extent necessary to get to the purported objectives of the bill; that is, prosecuting sex crimes against children.

I've prepared amendments, which I'll offer during the markup, to limit the extension to those crimes.

And I thank you, Mr. Chairman, for calling the markup and hearing, and thank Mrs. Johnson for her concern for children.

Mr. SMITH. Thank you, Mr. Scott.

Are there other Members who have an opening statement?

To my right, the gentleman from Wisconsin, Mr. Green, is recognized.

Mr. GREEN. Thank you, Mr. Chairman, only to the extent that I would like to commend Congresswoman Johnson (CT) for this legislation. I think it is excellent legislation.

I wish I could say that this will be the last time that we have to deal with this subject. It won't be. Obviously, as technology continues to evolve, our ability to deal with it will be difficult for it to keep up.

So, unfortunately, we're going to have to revisit this issue over and over again. But in my view, this is a sensible step that we would be taking today and I commend you.

Mr. SMITH. Thank you, Mr. Green.

Any other opening statements?

Ms. JACKSON LEE. Yes, Mr. Chairman.

Mr. SMITH. The gentlewoman from Texas, Ms. Sheila Jackson Lee, is recognized.

Ms. JACKSON LEE. Thank you, Mr. Chairman.

Let me thank you and the Ranking Member for the hearing and markup. And let me thank the witnesses, and particularly the gentlelady from Connecticut for a great interest and leadership on the issue.

If there is ever a generation of technologically sophisticated or at least interested and enthused individuals, it is the generation that we have today, children who have grown up on technology and, therefore, are fascinated by technology.

This makes them particularly vulnerable to activities that would solicit and entice and, as well, offend their sensibilities. That is the Internet, the technology of solicitation on the Internet, and the ability to draw their attention to chat rooms and elsewhere.

I believe the Child Sex Crimes Wiretapping Act of 2001, H.R. 1877, is a very good start to acknowledge the fact that we do have a problem. In fact, I would call it a crisis.

In an FBI report, the report indicated that from 1998 to 2000, the numbers of cases that the FBI opened dealing with online pedophilia went from 700 to over 2,800 cases. That suggests that we do in fact have a concern and a crisis to deal with.

I believe that the important responsibility of all us as elected officials are to protect our children and particularly protect them heinous acts, which include sex crimes.

I, too, however, will review the legislation, and remain open-minded so that we can combine the enforcement and the necessity to protect our children and to rise to the level of sophistication that crime finds its unseemly way in new technologies, wherever they might be, and balance it with our undying and long-standing commitment to the Constitution, due process, and the rights of all Americans.

And so as this hearing proceeds, I will listen intently and intensely, and I thank the witnesses very much and look forward to us coming forward with the kind of legislative initiatives that will answer all of our concerns and protect our children.

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

Mr. SMITH. Thank you, Ms. Jackson Lee.

The gentleman from North Carolina, Mr. Coble, is recognized for his opening statement.

Mr. COBLE. Thank you, Mr. Chairman.

I will not use the full 5 minutes. I commend you and the gentleman from Virginia for having staged this hearing. I thank Representative Johnson (CT) and the two members from the law enforcement community for being with us.

Wiretap authority, Mr. Chairman, as you now, oftentimes is met with mixed reviews. Fierce opposition on the hand, adamant support on the other. Hardly a black and white issue. Subtle shades of gray find their way into the equation.

But I think we can all agree that children—and by the way, I'm told, Mr. Chairman, 10 million children use the Internet. In this era of the Internet, and rapid, accelerated means of communica-

tion, I believe that children are becoming more and more vulnerable.

No doubt, Ms. Johnson, that is what prompted you to be here today, because of that reason.

I look forward to the hearing, Mr. Chairman, and yield back my time.

Mr. SMITH. Thank you, Mr. Coble.

We will proceed with our hearing. Before I introduce witnesses, let me assure you all that your complete statements will be made a part of the record, even though we're limited to just 5 minutes to hear your actual testimony—with the exception of Ms. Johnson, whom we will grant additional time to if she wants it.

The witnesses today are the Honorable Nancy L. Johnson, U.S. House of Representatives, Connecticut, 6th District; Mr. Francis A. Gallagher, Deputy Assistant Director, Criminal Investigative Division, Federal Bureau of Investigation; Mr. James Wardwell, Detective Bureau, New Britain Police Department, New Britain, Connecticut.

Again, we welcome you all. We look forward to your expert testimony. We'll begin with Mrs. Johnson.

STATEMENT OF THE HONORABLE NANCY L. JOHNSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mrs. JOHNSON. Thank you very much, Mr. Chairman and Congressman Scott, for convening this hearing and from your opening statements, it's clear that you do share my sense of urgency about the dimensions of this problem and the need to address it.

You know, I grew up in Chicago. I represent a wonderful district of Connecticut. I did not grow up in the suburbs of Chicago; I grew up on the streets of Chicago. I can tell you that my mother taught me where I could go and where I couldn't go. She taught me very clearly never to get in the car of a stranger, and so on and so forth.

When my children grew up in a smaller city in the northeast corner of the nation, I taught them the same things. I taught them that when you're out at recess or when you're getting out of school, if there's somebody hanging around, particularly a man, stay away, and don't accept an offer of a ride home.

Securing our children was much easier when I was a child and when my children were children. When I talk to my children about securing their children, it is much, much harder.

The dangers are greater. They are much less apparent. That's why I believe we do need to modernize the law to be sure that our law enforcement personnel have the tools that they need to deal with the current threats.

Now, in working on this legislation the last couple of years, I have had a number of press conferences and a number of occasions to sit with the FBI and other officers who actually turned on the computers and went in, spontaneous.

I want you to know that the most vivid and memorable and horrifying experience I had through all that was calling up the chat rooms, and one of those chat rooms was entitled "infant rape and torture." Your kid can open up your computer in your home and

get to this list of chat rooms. Now, hopefully, they don't go into a chat room like that.

But after seeing this list, and we did not go into that chat room, we were let into a teen chat room. Not a sexually explicit chat room. There was nothing that would have led this teenager to believe that this was anything other than a teen chat room. And this officer, posing as a teenage girl had immediately five correspondents to talk too.

He led me through, and these gentlemen will tell you in a little more graphic detail, how contact is developed, how the predators find out what they want to know without the kid knowing that they're being cased, how those conversations lead then to a level of trust of friendship that leads to the exchange of telephone numbers, what happens after that, and how vulnerable are kids to meeting and being victimized by sexual predators on the Internet.

This is a different world out there. We can follow them on the computers. They can get right to—they can even sense when the meeting is being planned. But if they can't wiretap, they don't know where the meeting is.

I can't tell you how many instances across the country, FBI officers and Customs officers and local police officers have been there when that meeting took place and made sure it didn't and saved that child.

But they can only find out if they can be on the phone line at the right time. That's their only way.

Furthermore, if they can get that evidence, the kid doesn't have to testify in court. Some of these kids are 6-, 7-, 8-years-old.

So I really believe we do need to modernize our law. We do need to give our law enforcement officers the tools they need to enforce—to attack this crime, because it is growing every day.

Our bill adds to the list of predicate offenses: attempting to entice or coerce a minor to engage in prostitution or sexual activity with the use of the mail or any facility or means of interstate or foreign commerce; enticing or coercing a person to travel within a state, between states or between countries to engage in prostitution or sexual activity; traveling to engage in sex or to engage someone in prostitution; and the possession of child pornography.

Now, in addition to fighting sexual exploitation of our little children in our little towns and cities, this bill also helps the FBI and the Customs fight the growing industry—I don't use that word lightly—the growing industry of sexual tourism.

More and more Americans are traveling overseas to nations that have limited child prostitution laws or enforcement. Travel agencies have sprung up that cater to pedophiles and so-called situational abusers.

Our bill would make it easier for law enforcement to track these rogue companies and their clientele. Just because their intended victims are not American citizens should not absolve us of the need to capture these folks.

These people do not only act on the predatory impulses overseas, they return to the United States emboldened by their experience. They are often people who commit multiple offenses with multiple victims.

Capturing these criminals at the earliest opportunity can prevent needless destruction of the lives of many, many children. The new evidence does show how terribly damaging these experiences are to children and how it builds in them fear and withdrawal that their parents may not even understand because their parents may not even know what happened because they're too afraid now to tell them.

So this is a new world we live in. The dangers to our children are real and serious and grave. I hope you will join me in moving this legislation forward.

Now I would like to yield to the experts who day in and day out face this threat to our kids.

Thank you, Mr. Chairman.

[The prepared statement of Mrs. Johnson follows:]

PREPARED STATEMENT OF THE HONORABLE NANCY L. JOHNSON, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. Chairman, members of the committee, thank you for holding this hearing today, and for your interest in this important issue, and the deeper into this issue I get, the more I realize just how prevalent the problem of sex crimes against children are. Last session I testified before this committee along with former Chairman McCollum on behalf of our bill. It passed out of this committee, and eventually passed the House. Unfortunately the bill was never taken up in the Senate, and so today I am before you again to urge passage of this very important piece of legislation.

As a young girl growing up in Chicago my parents taught me where I could go and be safe and where I could not go. When I became a parent myself I made every effort to teach my three daughters the same lesson. But as my children have had children of their own we have found that it is not so easy to keep kids safe. It used to be that we knew where the danger was. When my kids were in public school, everyone; parents, teachers, and students knew to watch out for strangers. They knew to look out for those people who hung around the playground, and we all knew how important it was to report those people. Today the job of protecting children from people who would harm them is harder. The same way that my children's school community in New Britain, Connecticut, worked together to protect its students, so must law-enforcement agencies work together, using all the resources available to them, to protect our children from a new breed of sexual predator.

My most vivid encounter with this issue, occurred when we held a press conference here in Washington about the issue of the Internet and child sexual exploitation. A U.S. Customs agent logged on to a computer and searched through an index of sexual web sites. What we found in that index was deeply disturbing. One of the chat rooms was titled "Infant Rape and Torture." The agent went in to one of these sexually explicit chat rooms, and introduced himself as a teenage girl. Within minutes he had five different people questioning him. They asked him all the typical friendship questions, Who are you? What are your interests? What do you like to do? What do you look like? And so forth.

This is how these crimes begin. Sexual predators troll the internet looking for potential victims. They manipulate children, and convince them that they are their friend, and that they child should not trust anyone else. The details of how the typical predator manipulates a child is a subject that the other members of this panel can speak about with expertise, so I will leave it to them. However, I have come to learn that most all of these predatory relationships involve at least limited phone contact. That is why it is so important to have this legislation, as the relationship between the predator and their victim progresses they move their conversations to the telephone. The authorities need the ability to track these conversations, if we are to truly protect our children.

This legislation acknowledges that technological advances have fundamentally changed the method through which a sex predator lures a child into an exploitive relationship. Currently our federal law enforcement agents cannot wiretap the lines of those they suspect of preying on children over the Internet. The bill Carolyn Maloney and I have introduced adds several new offenses for which a federal agent can seek permission to wiretap a suspect. Our bill adds to the list of offenses: attempting to entice or coerce a minor to engage in prostitution or sexual activity through the use of the mail or any facility or means of interstate or foreign com-

merce, enticing or coercing a person to travel within a state, between states or between countries to engage in prostitution or sexual activity, traveling to engage in sex or to engage someone in prostitution and possession of child pornography.

In addition to fighting the sexual exploitation of children in the United States, this bill also helps the FBI and the Customs service fight the growing sex tourism industry. More and more Americans are traveling overseas to nations that have limited child prostitution laws or enforcement. Travel agencies have sprung up that cater to these pedophiles, and so called "situational abusers." Our bill would make it easier for law enforcement to track these rogue companies and their clientele. Just because their intended victims are not American citizens should not absolve us of the need to capture these dangerous criminals. These people do not only act on their predatory impulses overseas. They return to the United States emboldened by their experiences. They are often people who commit multiple offenses, with multiple victims. Capturing these dangerous criminals at the earliest opportunity can prevent the needless destruction of the life of any number of children.

Although wiretapping is often the investigative tool of last resort it can still be an effective tool. I believe that it will prove especially useful in dealing with sex predators and persons involved in the sex tourism industry. Our bill modernizes the statute. Law Enforcement Officers will still have to present their case to a judge who would then have to authorize the use of the wiretap on the grounds that suspicion does exist that a law has been violated. I believe that with the expansion of the Internet, and the changing face of the Child Sex Predator, Congress must act to give our law enforcement agencies all the tools necessary for them to do their job.

Thank you for your time and attention to this important issue.

Mr. SMITH. Thank you, Representative Johnson. We appreciate your testimony.

Mr. Gallagher.

**STATEMENT OF FRANCIS A. GALLAGHER, DEPUTY ASSISTANT
DIRECTOR, CRIMINAL INVESTIGATIVE DIVISION, FEDERAL
BUREAU OF INVESTIGATION**

Mr. GALLAGHER. Good afternoon, Mr. Chairman, Congressman Scott, and Members of the Subcommittee.

I'm pleased to appear before you to discuss the need for a limited expansion of the predicate offenses of the Title III electronic surveillance statute.

While investigating the 1993 disappearance of the 10-year-old boy named George Stanley Burdyski, Jr. in Prince George's County, Maryland, the FBI determined that adults were routinely using computers to transmit images of minors showing frontal nudity or sexually explicit conduct and to lure minors into illicit sexual activities.

Through this investigation, we recognized that the utilization of computer telecommunications was rapidly becoming one of the most prevalent techniques by which pedophiles and other sexual predators shared sexually explicit photographic images of minors, and it was being used as a means to identify and recruit children for sexually illicit relationships.

In 1995, we began an undercover investigation, code named "Innocent Images." The FBI is presently conducting more than 20 of these undercover operations throughout the United States, focusing on persons who, through the use of online computers, indicate a willingness to travel for the purposes of engaging in sexual activity with minors and use the Internet or other online services to produce and/or post child pornography.

Based on our experience, we believe that the expansion of the list of predicate offenses for Title III electronic surveillance statute to

include additional sexual exploitation of children statutes is not only warranted but is necessary.

It's our strong belief that Title 18, U.S. Code, Section 2252A should be designated as a Title III predicate offense.

In 1996, Congress passed, and the President signed, the Child Pornography Protection Act in an effort to close several loopholes existing in the original child pornography law.

The original child pornography statute, which far predates the development of computers and Internet, didn't address the issues of computer-created virtual child pornography. The old statute makes it a crime for any person to transport, receive, distribute, possess, or sell in interstate commerce any visual depiction that involves the use of a minor engaging in sexually explicit conduct. And that meant an actual person under the age of 18.

The new statute was designed to address the technological advances of computers, wherein the definition of the term "child pornography" was expanded to include child pornographic images created through the use of modern computer technology.

During the summer of 1995, the Baltimore Division of the FBI conducted a court-authorized Title III interception of Internet computer communications in which the electronic mail of six subjects was intercepted. Title 18, U.S. Code, Section 2252 was the only applicable child pornography statute and was used as a predicate in that matter.

That investigative technique enabled us to obtain evidence of the criminal activities of a secretive group of men who were using computers to traffic in sexually explicit pictures of young boys.

From the intercepted computer communications of these subjects, more than 30 additional subjects were identified, including at least two of whom who were found to have sexually abused children.

Additionally, we believe that the coercion and enticement, commonly referred to as the enticement statute, and the traveler statute, should also be listed to the Title III predicate offenses.

A growing number of sexual predators are using the computer communications to recruit children with whom they hope to have sexual relations. Although the FBI currently has the ability to seek court authority to intercept computer communications that constitute evidence in violation of the enticement and traveler statutes, we lack the ability to intercept wire or oral communications because neither the enticement statute or the traveler statute is specifically enumerated in Title III.

This would allow us to collect strong evidence to be used in the eventual prosecution of child predators.

Based on our experience, we have found that pedophiles and other sexual predators who use the Internet or other commercial online services to meet and converse with children for illicit sexual purposes often take their relationships offline. There are numerous cases where the online sexual predator will provide the child with a telephone calling card number so the child can speak with the predator on the telephone.

Conspirators are involved in sexual exploitation of children through pay-to-view Web sites, realizing large monetary gains. And, as Congresswoman Johnson (CT) pointed out, corporations

have been established to facilitate the international travel of U.S. citizens for the purpose of engaging in sexual acts with minors.

For all of these reasons, we would like to see that the statute, the Title III statute, be expanded to include the list of these statutes to the Title III predicates.

And I thank you very much.

[The prepared statement of Mr. Gallagher follows:]

PREPARED STATEMENT OF STATEMENT OF FRANCIS A. GALLAGHER

Good morning, Mr. Chairman, Congressman Scott and Members of the Subcommittee. I am very pleased to appear before you today to discuss the need for a very limited expansion of the predicate offenses for Title III electronic surveillance to include additional statutes which are designed to protect our children from sexual exploitation. H.R. 1877, the Child Sex Crimes Wiretapping Act of 2001, recently introduced by the Honorable Nancy L. Johnson, addresses this need.

While investigating the 1993 disappearance of 10-year-old George Stanley Burdyski, Jr., in Prince George's County, MD, the FBI determined that adults were routinely using computers to transmit images of minors showing frontal nudity or sexually explicit conduct, and to lure minors into illicit sexual activities. It was through this investigation that the FBI recognized that the utilization of computer telecommunications was rapidly becoming one of the most prevalent techniques by which pedophiles and other sexual predators shared sexually explicit photographic images of minors, and identified and recruited children for sexually illicit relationships.

In 1995, the FBI began an undercover investigation, code named "Innocent Images," focusing on persons who, through the use of on-line computers, indicate a willingness to travel for the purposes of engaging in sexual activity with a child; those persons who use the Internet or other online services to disseminate original images of child pornography which they manufactured or produced; and those who possess, receive and distribute child pornography. Today the FBI is conducting more than 20 undercover operations throughout the United States. Since 1995, the FBI has investigated more than 4,900 cases involving persons traveling interstate for the purposes of engaging in illicit sexual relationships with minors and/or persons involved with the manufacture, dissemination and possession of child pornography.

Based on our experience in conducting the Innocent Images National Initiative, we are of the opinion that an expansion of the list of predicate offenses for Title III electronic surveillance (codified at Title 18, United States Code [U.S.C.], § 2516)(1), to include additional statutes pertaining to sexual exploitation of children, is not only warranted but necessary.

Pursuant to Title 18, U.S.C., § 2516(3), the government can apply to a federal district court judge for authority to intercept electronic communications (pager, facsimile and computer transmissions) when such interception may yield evidence of any federal felony. Communications carried out by means of the Internet are electronic communications and thus are covered by this limited authority. However, when it comes to oral communications (those intercepted by means of a concealed microphone) and wire communications (communications intercepted by wiretap), authority for interception can only be granted when the predicate offense being investigated is specifically enumerated in Title 18, U.S.C., § 2516(1).

It is our strong belief that Title 18, U.S.C., § 2252A, entitled Certain Activities Relating to Material Constituting or Containing Child Pornography, should be designated as one of those Title III predicate offenses.

In 1996, Congress passed, and the President signed, the Child Pornography Protection Act (CPPA) in an effort to close several loopholes existent in the original child pornography law. The original law, entitled "Certain Activities Relating to Material Involving the Sexual Exploitation of Minors," codified at Title 18, U.S.C., § 2252, is commonly referred to as the "old statute." The new law, entitled "Certain Activities Relating To Material Constituting or Containing Child Pornography," codified at Title 18, U.S.C., § 2252A, is commonly referred to as the "new statute."

The original child pornography statute, which far predates the development of computers and the Internet, did not address the issues of computer created "virtual child pornography." The "old statute" makes it a crime for any person to "knowingly transport or ship a visual depiction in interstate commerce or knowingly receive, distribute or possess a visual depiction that has been mailed, shipped or transported in interstate commerce, if such visual depiction involves the use of a minor engaging in sexually explicit conduct or if the visual depiction is of such conduct." Under the

“old statute,” the visual depiction had to be of an actual minor, defined as “any person under the age of 18 years.”

The “new statute” was designed to address the technological advances of computers, wherein the definition of the lay term child pornography was expanded to include child pornographic images of “virtual” children created through the use of modern computer technology. Title 18, U.S.C., § 2252A, makes it a crime for any person to “knowingly transport or ship child pornography in interstate commerce or knowingly receive, distribute or possess child pornography that has been mailed, shipped or transported in interstate commerce.” As used in the new statute, the term child pornography is defined in title 18, U.S.C., section 2256 (8) (the definition section of chapter 110 of title 18) as a visual depiction that “appears to be” of a minor engaging in sexually explicit conduct, or “conveys the impression” that they depict a minor engaging in sexually explicit conduct. The expanded definition of child pornography is based upon an interest in prohibiting any material whether it depicts real children, or computer generated images of children.

Due to anticipated constitutional challenges to the “new statute,” Title 18, U.S.C., § 2252A, Congress left Title 18, U.S.C., § 2252, the “old statute,” in effect as a fall back for investigators and prosecutors in the event that all or part of Title 18, U.S.C., § 2252A were struck down by the courts. Title 18, U.S.C., § 2252A is a more powerful child pornography statute and clearly addresses the new technologies and increasing threats against children. The original child pornography statute is listed as a Title III predicate offense, but the new one, Title 18, USC, § 2252A is not.

During the summer of 1995, the Baltimore Division of the FBI conducted a court authorized Title III interception of electronic (Internet/computer) communications in which the electronic mail (E-mail) of six subjects was intercepted. Since these subjects were using computers to share illegal child pornography, Title 18, U.S.C., § 2252 was used as a predicate offense for the FBI to seek authorization from the Court to use the Title III interception technique. That investigative technique enabled the FBI to obtain evidence of the criminal activities of a secretive group of men who were using computers to traffic in sexually explicit pictures of young boys. From the intercepted computer communications of these subjects, more than 30 additional subjects were identified, including at least two who were found to have sexually abused children. This demonstrates the usefulness of Title III electronic surveillance of computer communications in child pornography investigations.

We believe that the interception of wire and/or oral communications could have significantly enhanced this investigation based on the fact that pedophiles and other sexual predators who utilize the Internet and other on-line services often take their criminal activities “offline.” The only applicable child pornography statute in existence at the time of this investigation, Title 18, U.S.C., § 2252, was listed as a predicate offense and therefore would have permitted an application under Title III to intercept such communications. Under the current Title III scheme, the FBI has the authority to intercept computer, and other electronic communications, that may constitute evidence of violations of Title 18, U.S.C., § 2252A. We do not however, currently have authority to intercept wire and/or oral communications that may constitute such evidence, because Title 18, U.S.C., § 2252A is not specifically enumerated as a predicate offense under Title 18, U.S.C., § 2516(1).

We believe that adding Title 18, U.S.C., § 2252A, a more effective child pornography statute, to the list of Title III predicate offenses will enhance our ability to successfully identify and prosecute these types of offenders and possibly prevent additional children from being sexually exploited and abused.

Additionally, we believe that Title 18, U.S.C., § 2422, entitled Coercion and Enticement, (commonly referred to as the enticement statute) and Title 18, U.S.C., § 2423, entitled Transportation of Minors, (commonly referred to as the traveler statute) should also be added to the list of Title III predicate offenses.

With the increasing prevalence of computers and the Internet in our society, a burgeoning number of sexual predators are using computer communications to recruit children with whom they hope to have sexual relations, in violation of Title 18, U.S.C., § 2422 and/or § 2423. Title 18, U.S.C., § 2422(A) makes it a crime for someone to entice or coerce a child to travel in interstate commerce to engage in child sexual activity/prostitution. Title 18, U.S.C., § 2422(B) makes it a crime to use an interstate facility (computer, Internet Service Provider) to entice or coerce a child to engage in child sexual activity/prostitution, and no travel needs to occur by either the victim or subject. Title 18, U.S.C., § 2423(A) makes it a crime for someone to transport a child in interstate commerce with the intent that the child engage in sexual activity. Title 18, U.S.C., § 2423(B) makes it a crime for someone to travel interstate for the purpose of engaging in sex with a child.

Under Title 18, U.S.C., § 2516(3), the FBI currently has the ability to seek court authority to intercept only electronic (computer) communications that constitute evi-

dence of violations of both the "Coercion and Enticement" statute and the "Traveler" statute. we lack the ability to intercept wire and/or oral communications because neither of these statutes is specifically enumerated as a Title III predicate offense Title 18, U.S.C., §2516(1). The ability to intercept such communications on a real time basis would greatly enhance the ability of the FBI to respond to crisis situations where children are at risk. In addition, it would allow us to collect strong evidence to be used in the prosecution of child predators.

Based on our experience in conducting the Innocent Images National Initiative, we have found that pedophiles and other sexual predators who utilize the Internet and other commercial on-line services to meet and converse with children for illicit sexual purposes often take their relationships "offline." There are numerous cases where the on-line sexual predator will provide the child with a telephone calling card number or will request that the child call them collect, so that the child can speak with the predator on the telephone. It is the experience of the Innocent Images National Initiative that children who engage in on-line relationships with these sexual predators go to great lengths to conceal their relationships from their parents. In cases where a parent inadvertently discovers the relationship between their child and an on-line sexual predator, the child is often disciplined and their computer privileges are taken away. Very frequently the child victim thinks he or she is "in love" with the subject and, therefore, is uncooperative with and resentful toward his or her parents and/or law enforcement. These children then continue their relationships "offline" utilizing the telephone as well as meeting the predator in person.

The importance of having the ability to intercept the communications of the predator and the victim whether they occur over the computer, in person, or by means of the telephone cannot be overstated. The authority to monitor "offline" conversations would in many cases enable the FBI to learn of a planned meeting between the predator and the child. the fbi could then intercede prior to the victimization of the child. Such authority would also allow for the collection of valuable evidence which could result in the identification of other child sex offenders and child victims. We currently lack the ability to intercept wire and/or oral communications in these situations because Title 18, U.S.C., §2422 and Title 18, U.S.C., §2423 are not specifically enumerated as Title III predicate offenses in Title 18, U.S.C., §2516(1).

Enabling the FBI to obtain Title III authority for the interception of wire and oral communications will expand our investigative and prosecutive efforts which are aimed not only at the proliferation of child pornography, but at the pedophiles and sexual predators who are sexually exploiting children.

For all of these reasons, the FBI would like to see Title 18, U.S.C., §2252A, Certain Activities Relating to Material Constituting or Containing Child Pornography, Title 18, U.S.C., §2422 Coercion and Enticement, and Title 18, U.S.C., §2423 Transportation of Minors, added to the list of Title III predicate violations as proposed by H.R. 1877. In our view, these proposed predicate offenses are entirely consistent with the two child sexual exploitation offenses already on the list. A limited expansion of this nature will, as noted previously, improve our ability to investigate offenses involving the sexual exploitation of children - a goal we all share.

This concludes my prepared remarks. I would like to respond to any questions that you may have.

Mr. SMITH. Thank you, Mr. Gallagher.
Mr. Wardwell.

**STATEMENT OF JAMES WARDWELL, DETECTIVE BUREAU, NEW
BRITAIN POLICE DEPARTMENT, NEW BRITAIN, CT**

Mr. WARDWELL. Mr. Chairman, Mr. Scott, Members of the Committee, thank you for holding a hearing regarding this important piece of legislation.

I traveled to Washington, DC, today to give my full support for this important legislation proposed by my Congresswoman, Nancy Johnson (CT).

I have been on the front line, working with real live victims of sexual predators. I also have a great deal of experience in interacting with the families of these child victims.

I would like to share with you some of experiences and why I believe that adjusting the federal wiretap statute to better protect

children that are being targeted by sexual predators is the right thing to do.

Approximately 1 year ago, I began to investigate a case where a sexual predator targeted a 12-year-old child who lived less than a quarter mile from the suspect's own home. The suspect utilized the Internet as his tool of choice to lure the child and then to slowly groom her into submitting into sexual abuse.

The suspect, like so many other sexual predators, used whatever tool was available to him to lure and manipulate this child that he had set his sights on to abuse.

The Internet makes a very convenient and effective tool for a sexual predator. This suspect's scheme for abusing this particular child was elaborate and effective.

When I first became involved in this case as an investigator, the only information that was initially available to the New Britain Police Department were a set of suspicious circumstances but not much else.

The victim was not immediately cooperative with law enforcement. She viewed the suspect as someone who had been treating her well. The suspect had not only been providing her with drugs but was also buying her gifts.

The suspect had manipulated the victim enough through his ongoing online influences on her, so much influence that this child was no longer completely certain of who to trust and what was right and what was wrong.

The New Britain Police Department did conduct a thorough and timely investigation in this case. A strong case was eventually developed through exhaustive investigative measures.

In the long run, this is what would be termed a successful investigation. It had a good outcome. It had as good a outcome as one would hope for, given that such—given such a terrible set of facts and circumstances.

If the legislation proposed by Congresswoman Nancy Johnson (CT) had been in place, assistance from the local FBI office may have been helpful to the investigation by securing a federal wiretap warrant for the suspect's phone. It's likely that the communications that might have been intercepted from the suspect's phone or computer communications may have brought an even quicker arrest in this case, thus protecting the victim from any further manipulation and abuse committed against her by this particular sexual predator.

I've investigated far too many cases of child sexual abuse to discuss in this forum. I can say that in many of these investigations, the investigator is usually met with challenges that are somewhat unique to this type of crime.

It is not uncommon for a victim who is being preyed upon by a sexual predator to be initially uncooperative with law enforcement. Part of this grooming process used by these predators is to make the child believe that they, the predator, are the child's only conduits to happiness or freedom from some real or some imagined hardship.

The predators usually uses the frailties of the child's ego to isolate the child from parent or caregivers, thus making the child even more vulnerable.

As a front-line investigator, I have come to appreciate the need and importance of inter-agency cooperation in investigating crimes against children. This has never been as true as it is in today's technologically advanced society.

A strong cooperation between law enforcement agencies on the local, state, and federal levels is no longer just desirable but it is essential. I have found that cooperation among law enforcement agencies when investigating the sexual exploitation of children benefits the children most of all.

As law enforcement officers, we look to the lawmakers—such as Congresswoman Nancy Johnson (CT), Members of this Committee, and the entire Congress—to equip us with the required tools needed to adequately investigate crimes committed against children.

The ability for law enforcement to obtain evidence of this communication would only be one step in equipping the investigators with tools that put them on the same playing field as those who would sexually exploit our children.

Every investigation should still be carried out methodically and with care and with respect for the rights and dignity of all involved. But equipping law enforcement with the proper tools needed to investigate crimes against children is imperative.

Although it may not seem like a lot of time to you or me, even one day can be a horribly long time in the life of a sexually abused child. Even one act of sexual abuse prevented is a powerful gift to an abused child.

I believe that the legislation as proposed by Congresswoman Nancy Johnson (CT) will give law enforcement officers a tool that will assist us in doing everything we can do effectively to investigate these cases which victimize the most innocent among us.

Thank you.

[The prepared statement of Mr. Wardwell follows:]

PREPARED STATEMENT OF JAMES WARDWELL

Mr. Chairman, members of the committee, thank you for holding a hearing regarding this important piece of legislation. I am Detective James Wardwell from the New Britain Police Department in New Britain Connecticut. I came to Washington DC today to give my full support for this important legislation proposed by my Congresswoman Nancy Johnson.

I am a Police Detective in a local city police department. Like in other cities and communities, the advances in technology bring my city great opportunities and advantages, but it also brings new challenges for Law Enforcement.

For nearly five years, from 1995 to 2000, I was assigned to an Investigative Unit of the New Britain Police Department that investigated crimes against children. During those five years my duties included investigating many incidents of reported sexual assault or sexual exploitation of children.

I have been on the front line working with real life victims of sexual predators. I also have a great deal of experience in interacting with the families of these child victims. I would like to share with you some of my experiences and why I believe that adjusting the Federal Wiretap Statute to better protect children that are being targeted by sexual predators is the right thing to do.

Approximately one year ago I began to investigate a case where a sexual predator targeted a twelve-year-old child who lived less than a quarter mile from the suspect's own home. The suspect utilized the Internet as his tool of choice to lure the child and then to slowly groom her into submitting to sexual abuse. The suspect, like so many other sexual predators, used whatever tool was available to him to lure and manipulate the child he had set his sights on to abuse. The Internet makes a very convenient and effective tool for a sexual predator.

The suspect in this case began by sending seemingly innocent e-mails to the victim from a secret admirer. The Internet communication continued with gradually

increasing sexual content in these e-mail messages to the victim. As the months passed, the messages being received by the victim had become very sexually graphic. The suspect lured the victim into his apartment and out for drives in his car. The suspect began to provide the victim with drugs and alcohol to further reduce her inhibitions or fear. Soon the suspect was engaging in full sexual contact with the child. This was accomplished only after months of manipulation of the victim through Internet delivered messages. The messages were so numerous and bizarre, that the young victim had ceased to realize what was real and what was fantasy. The suspect's scheme for abusing this child was elaborate and effective.

When I first became involved in this case as an investigator, the only information that was initially available to the New Britain Police Department, were a set of suspicious circumstances, but not much else. The victim was not immediately cooperative. She viewed the suspect as someone who had been treating her "well". The suspect had not only providing her with drugs, but was buying her gifts. The suspect had manipulated the victim enough through his ongoing On Line influence on her, that this child was no longer completely certain of who to trust or what was right and what was wrong.

The New Britain Police Department did conduct a thorough and timely investigation in this case. A strong case was eventually developed through exhaustive investigative measures. These methods of investigation did yield the evidence that was needed to eventually make the arrest of the suspect and prevent him from harming this child or any other potential victim. In the long run, this was what would be termed as a successful investigation. It had as good an outcome that one could hope for given such a terrible set of facts and circumstances, yet it would be ignorant of us not look for other available methods of gathering needed evidence when an investigation such as this is initiated. Certainly, as outlined above, the ability to intercept the suspect's messages via a Federal Wiretap could have aided the investigation.

If the legislation proposed by Congresswoman Nancy Johnson had been in place, assistance from the local FBI office may have been helpful to the investigation by securing a Federal Wiretap warrant for the suspect's home. It is likely that the communications that might have been intercepted from the suspect's phone lines, or computer communications, may have brought an even quicker arrest in this case, thus protecting the victim from any further manipulation and abuse committed against her by this sexual predator.

I have investigated far too many cases of child sexual abuse to discuss in this forum. I can say that in many of these investigations the investigator is usually met with challenges that are somewhat unique to this type of crime. It is not uncommon for a victim who is being preyed upon by a sexual predator to be initially uncooperative with Law Enforcement. Part of the grooming process used by these predators is to make the child believe that they (the predator) are the child's only conduits to happiness or freedom from some real or imagined hardship. The predator usually uses the frailties of a child's ego to isolate the child from parents or caregivers, thus making the child even more vulnerable.

The child often begins to only trust in the predator, who of course is not supportive of the efforts of Law Enforcement. For these reasons it is even more important to have the ability to intervene on behalf of the innocent victim, even when the child is not initially cooperative with the police. This change to the Federal Wiretap Statute again helps to facilitate the investigation where a manipulated and abused child is at the center of the law enforcement officer's efforts.

As a front line investigator, I have come to appreciate the need and importance of interagency cooperation in investigating crimes against children. This has never been as true as it is in today's technologically advanced society. A strong cooperation between Law Enforcement Agencies on the Local, State, and Federal levels is no longer just desirable, but it is essential.

I have found that cooperation among Law Enforcement Agencies when investigating the sexual exploitation of children benefits the children most of all. As Law Enforcement Officers, we look to the lawmakers, such as Congresswoman Johnson and members of this Committee and the entire Congress, to equip us with the required tools needed to adequately investigate crimes committed against children.

Sexual predators of children may be from another country, from another state, within the child's same neighborhood, or even a caregiver such as teacher within the child's school. Whether the predator is focussing on a child near or far, there is communication that must be maintained by the predator to continually manipulate and groom the child. The sexual predators who prey on children are committing the same crimes against children that they always have, but now they are equipped with the tools and advantages that technology such as computers and the Internet bring them.

The ability for law enforcement to obtain evidence of this communication would only be a step in equipping the investigators with tools that put them on the same playing field as those who would sexually exploit our children. Every investigation should still be carried out methodically and with care and respect of the rights and dignity of all involved, but equipping law enforcement with the proper tools needed to investigate crimes against children is imperative.

Although it may not seem like a lot of time to you or me, even one day can be a horribly long time in the life of a sexually abused child. Even one act of sexual abuse prevented is a powerful gift to give to an abused child. I believe that our children should expect that we would do everything that is possible within the law to protect them from those who would seek them out and abuse them.

I believe that the legislation as proposed by Congresswoman Nancy Johnson will give Law Enforcement Officers a tool that will assist us in doing everything we can do to effectively investigate these cases which victimize the most innocent among us.

Mr. SMITH. Thank you, Mr. Wardwell.

Representative Johnson, I really don't have any specific questions, but I do want to thank you for your persistence in trying to move this bill. As we mentioned a while ago, it passed by voice vote on the House floor last year. The problem wasn't this side of the Capitol. We'll hope to rectify that this year.

But we appreciate your continuing to introduce the bill. We will do our part, and I hope mark it up as well.

The other thing is to thank you for making this, I think, a personal cause. As you've noted, and as others have noted, there has been a dramatic increase in child pornography, in part because of the Internet and how that facilitates the crime in many, many ways, literally dimensions. So, we continue to appreciate your efforts on the bill.

I did have a couple of technical questions I wanted to ask Mr. Gallagher and Mr. Wardwell.

First of all, why is it that current law is not sufficient or adequate in order to prosecute individuals who engage in the type of child pornography we're talking about today?

Mr. GALLAGHER. Well, in many instances, once the relationship is developed between the sexual predator and their victim, that relationship will be carried on offline. As it stands right now, there are several of the statutes that deal with sexual exploitation of children that don't allow us the capability of monitoring any oral or wire communications. We only have the ability to utilize the electronic communications, thereby wiretapping their Internet communications.

Oftentimes what will happen is a parent may end up determining that a child is communicating with somebody who they don't want them to, and so they'll bar them from utilizing the Internet for a period of time.

Well, if that child has developed the relationship that Detective Wardwell was talking about with the predator, the predator may well have already furnished that individual with a telephone calling card number, and the child will then maintain that relationship over the telephone.

Those are instances which we have no ability to monitor.

Mr. SMITH. Mr. Wardwell?

Mr. WARDWELL. In addition to what my colleague, Mr. Gallagher, has stated, just the dynamics, Mr. Chairman, of these type of investigations, the victim often isn't initially cooperative. They look—

they don't look at themselves, often, as being the victim of abuse. I'm talking about the young teen victim.

We work with other agencies. I myself have worked with the local FBI office in Connecticut to gather information, evidence, in any which way that we can, with respect to the rights of everyone involved.

Mr. SMITH. Okay. Thank you, Mr. Wardwell.

Mr. Gallagher, one more question: Some might be concerned about the abuse of wiretap authority. Would you explain for us—or, first of all, confirm that to obtain a wiretap, that you have to go before a judge. What process does the judge go through to decide whether to grant that request for wiretap authority?

Mr. GALLAGHER. Mr. Chairman, it's not nearly that simple as just going before a judge to get the wiretap. But prior—

Mr. SMITH. Well, that's my point. I wasn't implying that it was. I'm trying to make the point that it's not an automatic grant.

Mr. GALLAGHER. Prior to initiating Title III interception, there are a number of steps which must be taken, and appropriate authority granted.

All other techniques must have been exhausted and/or determined to be impractical prior to the submission of a Title III affidavit to the local U.S. Attorneys Office.

Probable cause must exist that each person named in the affidavit as an interceptee is acting in violation of a predicate offense, and that those individuals will engage in criminal conversations over the telephone or in a particular room, if you're trying to put a microphone in that particular room.

Electronic surveillance checks must be conducted on every person identified as an interceptee prior to approval. That means we have to try to determine if that person has ever been an interceptee in the past.

Approval of the Title III affidavit must be obtained from the Chief Division Counsel of the FBI office which is going to be requesting this affidavit and is going to be submitting the application to the judge.

The approved copy of the Title III affidavit is then submitted to the U.S. Attorneys Office in the district where the application is being sought. And then the FBI and U.S. Attorneys Office work together to ensure that all of the requirements have been met.

Once it's approved by the U.S. Attorneys Office, it's sent to Washington, where the affidavit is then approved by the Office of Enforcement Operations. They get an opportunity to review it.

Simultaneously, the FBI office that's seeking the authority submits copies of that affidavit to the FBI headquarters also for review and for legal sufficiency, including necessity.

Once approved by FBI headquarters and by the Department of Justice Office of Enforcement Operations, the approved version of the affidavit is submitted to the Deputy Attorney General or that person's designee for approval.

Then the application is returned to that office, and you're able to bring it before a federal judge. The federal judge then gets to take a look at the affidavit to ensure the legal sufficiency, to ensure the necessity, to ensure that all of the people who are going to be intercepted are named in there.

Once that's signed by the judge, the U.S. Attorneys Office has a minimization conference. Everyone who participates as a monitor under Title III has to attend this minimization conference.

What that means is that you can only listen to pertinent conversations, not every conversation that comes over the wire. You have the ability to listen to a conversation between named interceptees if an individual comes on the line. For example, an interceptee and that individual's wife, you're only allowed to listen to that conversation long enough until you can determine that it's not a criminal conversation. Then you must turn off the monitoring.

Mr. SMITH. Okay, Mr. Gallagher, my time is up. That's a very comprehensive answer, which is appreciated.

Just real quickly, from your testimony, I gather that you feel that the reason we don't have the wiretap authority that we're seeking today was sort of an unintended consequence—or unintended omission, I should say, that it wasn't intentional if you go back and look at the statutes. Is that correct?

Mr. GALLAGHER. That would be my assumption, but I really wouldn't presume to speak for Congress, sir.

Mr. SMITH. Thank you for your answers.

The gentleman from Virginia, Mr. Scott, is recognized for his questions.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. Gallagher, how long does it take you determine that a conversation is an innocent conversation?

Mr. GALLAGHER. That will vary. You should be able to do that in 15 or 20 seconds, at which time the equipment is supposed to be turned off and should stay off for a period of time. The U.S. Attorneys Office will normally designate a period of time to leave the equipment off. Normally, it's 2 to 3 minutes, at which time, then, you can turn it back on and make sure that the conversation hasn't turned to criminal.

Once it's determined to be not a pertinent conversation, the equipment is supposed to be turned off.

It continues like that for the duration of the conversation.

Mr. SCOTT. Do you disagree with the administration of the court's estimate that 80 percent of what you listen to is not criminal activity?

Mr. GALLAGHER. I'm not sure where they got that, Mr. Scott, but if there are named interceptees and you have two people who are named interceptees who are talking to each other, in the Title III, while you're monitoring, you'll listen to that. It may not be criminal conversation, but that's conversation where they may start off talking about the baseball game or the football game the previous night, and then work in some criminal conversation and go back to talking about it.

You don't have the same minimization requirements when you're talking to an individual who is not a named interceptee as one—once you have one who is a named interceptee.

Mr. SCOTT. But you don't disagree with the 80 percent assessment?

Mr. GALLAGHER. I don't know whether that's an accurate assessment or not, sir.

Mr. SCOTT. You indicated anticipated constitutional challenges to Section 2252.

Mr. GALLAGHER. Section 2252A, that's a possibility. I believe that there are challenges right now before the courts on Section 2252A.

Mr. SCOTT. What are the—what is the nature of the challenge?

Mr. GALLAGHER. It's my understanding that the nature of the challenge for that is that the 9th Circuit Court has made a ruling that an image which has been morphed is not in fact a violation, whereas 2252A specifically prohibits those types of images, because basically what you're talking about, sir, is you're talking about pixels which may have been rearranged, where they'll take different body parts from different individuals and put them together into an image of a child, and you may never be able to identify that child.

Mr. SCOTT. What kinds of crimes would be covered under the bill that are not covered under Section 2251–2251A we had right here, sexual exploitation of children—

Mr. GALLAGHER. If I can go back to my last question, Congressman Scott, on the court issue on Section 2252A, where I mentioned the 9th Circuit had overturned an aspect of that, there are two other circuits which have held that to be valid. So I believe that is all on appeal now.

I'm sorry, your question now on Section 2251 or 2251A?

Mr. SCOTT. Section 2251 has just about all the serious charges that I can imagine. I'm trying to figure out what would be new under the bill that is not covered.

Do you have the code section before you?

Mr. GALLAGHER. There are other—

Mr. SCOTT. Let me—while you're looking—why don't you look at that and let me ask Mr. Wardwell a question.

You indicated a desire to get the federal wiretaps. Why couldn't you get a state wiretap?

Mr. WARDWELL. Connecticut general statute, I believe it's 5441B, the offenses need to be bribery—as the statute stands now—bribery, racketeering, drug sales, violent felonies.

Mr. SCOTT. So your state doesn't have an authority wiretap to cover any of this?

Mr. WARDWELL. A state wiretap, no, sir.

Mr. SCOTT. And that is a state decision?

Mr. WARDWELL. Yes, sir.

Mr. SCOTT. Okay.

Mr. Gallagher, have you had an opportunity to look at 2251?

Mr. GALLAGHER. Yes, sir, I have. And 2251 does not include the images which are included in 2252A, nor does it include aspects in either enticement or the traveler statute.

Mr. SCOTT. What do you mean, traveler?

Mr. GALLAGHER. It's where an individual will be traveling in interstate commerce to—for the purposes of having sex with a child.

Mr. SCOTT. Why is that not covered under 2251A, fourth line?

Mr. GALLAGHER. In that, it indicates that the travel be for the purpose of producing any visual depiction of such conduct. The sex tourism that Congresswoman Johnson (CT) referred to in her testimony would not be covered under this statute.

Mr. SCOTT. I'm sorry, the sex tourism?

Mr. GALLAGHER. That's correct.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Scott.

The gentleman from Wisconsin, Mr. Green, is recognized for his questions.

Mr. GREEN. Thank you, Mr. Chairman.

But, frankly, I don't think a lot of questions are necessary. I think the reasons for supporting this bill are self-evident, also the fact that it passed through the House as it did last time suggests that a broad bipartisan majority agree that this is a necessary tool.

Congresswoman Johnson, I believe you've had a chance to learn about the substitute amendment I plan on offering today, which would add to the crimes covered here the selling and buying of children for sexual exploitation. That would be included under the substitute amendment.

Are you supportive of that?

Mrs. JOHNSON. I do support that. Honestly, it's incredible how rapidly this industry is changing. We really weren't much aware of that 2 years ago when we first introduced this bill.

I would just like to comment to my colleague Mr. Scott, on this interstate business, the states really are struggling with this issue of the Internet. Whether it's taxation or crime, you know, a lot of those statutes are hard.

The first case we had of this was a guy from Michigan who then arranged—and came from out of state. So, I mean, I'd love it if he could've said, yes, he has the power in the state statute.

But what's—the industry is changing so rapidly. This is national. This is international. And it's all focused on children.

Another part of Jim's testimony—I do want to thank him for being here because it's really wonderful to have, in a sense, an officer on the beat to talk about what it's like.

But if you read his testimony and see how innocent the e-mails were, and then how they gradually have higher and higher levels of sexual overtone, and then how they meet, and then how they go for rides, and they how they're—he offers alcohol and drugs to loosen inhibitions, and so on.

The level of manipulation and psychological damage done by these relationships is tremendous. And it's so subtle that only now do they see the patterns of behavior that lead them to know when they need to go to the telephones because that's where it's going to happen.

So the states have had a hard time. Frankly, I think this an issue that the feds need to act on, because, no matter how many states act, so much of this is interstate, and then it is increasingly international.

Thank you.

Mr. GREEN. I guess a question for Mr. Gallagher and Mr. Wardwell—both of you have been involved in investigating a number of serious sex crimes against children. Can you tell me how often, roughly, when you are able to solve those crimes, can you look back and realize that child pornography was involved and perhaps if we had only know earlier or seen the signs that we could've prevented those crimes?

Mr. WARDWELL. Mr. Green, thank you for that question. Almost every time I look back. As successful as an investigation may have gone, you can't help but to think that.

Mr. GREEN. It seems to me, and I'll just close with this, Mr. Chairman, that this legislation is aimed at preventing crimes, that if in fact through some of these tools we can identify earlier on the heinous monsters who engage in this activity, maybe we can prevent it from happening again.

The devastation that is caused in these young child victims destroys lives, not only their lives, but everyone all around them. It destroys family units and neighborhoods and communities.

So once again, I commend my colleague for bringing this matter before us.

Thank you, Mr. Chairman. I yield back my time.

Mr. SMITH. Thank you, Mr. Green.

The gentlewoman from Texas, Ms. Jackson Lee, is recognized for her questions.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman.

It's our responsibility in Congress always to be problem-solvers and to be able to assess the extent of the damage, and then move in to try and remedy it.

So I have two questions. Those of us who speculate and realize that our children are victims and are sometimes in great ways subject to predators of all type.

To Mr. Gallagher and Mr. Wardwell, Mr. Gallagher, in particular, can you give me an assessment of how effective your Innocent Images Task Force has been, and what you perceive to be the potential magnitude of pedophiles as it relates to using technology, whether it be the telephone and/or the Internet system? What kind of growth are we looking at with respect to this kind of crime?

Mr. GALLAGHER. We have experienced dramatic growth since 1995 when we started with the Innocent Images. I have the specific statistics here of—we have indicted over 1,000 people, we have convicted over 1,000 people as a result of this Innocent Images initiative that has gone on. It's pretty well nationwide at this point in time.

The growth is continuing the same way the use of the Internet is growing. All of this has done, and the Internet has done, is it's created another venue for sexual predators. This is a better venue for them because it's one that allows them to remain anonymous while they are out there mining for victims.

So we expect the growth to continue in this area.

Ms. JACKSON LEE. Those of us who have had some form of prosecutorial experience know it's important for law enforcement to ensure that they can make their cases and that they prevail. What concerns do you have with respect to being able to make your case if in fact the laws are subject to constitutional challenge?

How can we balance that? What our ultimate goal is, is to ensure as we press the case, make the case, that we have a conviction, that obviously meets the standards of which we are obligated to meet in the criminal justice system.

Mr. GALLAGHER. The only aspect that I'm aware of at this point that is subject to challenge in the court has to do with 2252A, which has to do with whether or not the image is of a real indi-

vidual and that individual can be identified as a minor, an individual who is under age 18.

Beyond that, the statutes have been adequate for what we're looking to do, for what we're trying to do. The rules of evidence in this particular case, we really end up with very few trials because the violation itself is so offensive that most people don't go to trial because the evidence against them, when we utilize these Innocent Images Task Forces, is so compelling, generally their best defense would be entrapment.

But with the Innocent Images Task Force, the equipment that we provide to our offices, it mirrors every keystroke and captures every keystroke that we make so that you can go from the very first initiation of a conversation right on to the aspect where they're setting up meetings and things like that, and show that it was the sexual predator who escalated the conversation and not the undercover police officer or undercover FBI agent who's at the other side of that computer.

Ms. JACKSON LEE. Under your task force you use present law or existing law to come under—I mean, you—

Mr. GALLAGHER. Yes, ma'am.

Ms. JACKSON LEE [continuing]. Constraints of existing law and you—the procedures that you used are—were within that context.

Mr. GALLAGHER. Yes, ma'am.

Ms. JACKSON LEE. And you used—utilized individuals acting as children.

Mr. GALLAGHER. Yes, we do.

Ms. JACKSON LEE. Mr. Wardwell, if you would, from the state's perspective, your projection of the growth of this tragic and devastating industry? What do you see from the local perspective, the attack on children? Growth of pedophiles, if you will.

Mr. WARDWELL. Locally, I see a lot of growth, and I'm talking Connecticut in general. But I do read all the journals and everything from around the nation. I know it's on the growth end of it.

Pedophiles are using and taking full advantage of the latest technology. It wasn't that long ago that something—simple technology like a phone card wasn't available to us. Now they've solved the problem of having that child get on the phone and making a phone call to them undetected.

They certainly have taken full advantage of the Internet. The Internet is wonderful resource for our kids. But unfortunately, it's—as Congresswoman Johnson (CT) stated before, it's the new playground that the pedophile can go to and look for kids that are there unattended.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman.

Mr. SMITH. Thank you, Ms. Jackson Lee.

The gentleman from North Carolina, Mr. Coble, is recognized for his questions.

Mr. COBLE. Thank you, Mr. Chairman.

Good to have you panelists with us today.

Mr. Wardwell, walk us through logistically how you work with the FBI and other federal agencies regarding child pornography and exploitation cases.

Mr. WARDWELL. Two basic ways. Either I call or they call me locally. Depends on where the—how the case was originated.

Myself, I've investigated two interstate travelers, both in recent years. The FBI is definitely of great assistance in those cases, when we have someone traveling from out of town or out of state to come to our local town to meet a child for the purpose of sexual contact.

On the flip side of that, if they have a case going and there is some connection to my locale, they'll call me.

This thing is about protecting the kids. It's not about turf war or who does what and who gets the glory for this or that. It's about doing the best case we can to stop any harm to the child.

Mr. COBLE. As far as you're concerned, a harmonious relationship between the feds and the locals?

Mr. WARDWELL. Yes, Mr. Coble.

Mr. COBLE. Mr. Gallagher and Mr. Wardwell both, generally—and I realize there are always exceptions to rules, but generally, do such predators use computers to initiate the contact and then revert to telephones to continue the initiation? Or, how is that done logistically?

Mr. WARDWELL. Mr. Coble, it's been my experience that that is exactly what happens. The contact is initiated through the Internet. As a matter of course, they want to know who they're communicating with on the other line. Maybe it's a safeguard mechanism for them, I'm not sure. But they invariably end up on the telephone.

Mr. COBLE. Do you concur, Mr. Gallagher?

Mr. GALLAGHER. I would concur with that. And the need for the legislation would be that a lot of times, through these investigations, we may identify a sexual predator.

What would be beneficial to do at that point would be to try to get on that person's telephone. Once they've initiated telephonic conversation with the victim that you're aware of, to identify other victims, find out if there are other people who are out there.

Right now, if we end up, through a court-authorized Title III on the Internet that that person has, we may be able to identify additional victims, but not determine the extent of it, not determine how far anything has gone, determine whether or not there are other players involved.

This type of legislation should enable us to do those things.

Mr. COBLE. I presume that they opt for the telephone because they conclude it's a safer course, as far as detection. Is that correct?

Mr. WARDWELL. That's correct.

Mr. COBLE. Thank you, gentlemen.

Thank you, Nancy.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Coble.

The gentleman from Ohio, Mr. Chabot, is recognized for his questions.

Mr. CHABOT. Thank you, Mr. Chairman.

Just a couple of questions. A lot of times you hear a lot of different statistics thrown around. I know that I've heard, for example, that we only maybe stop 10 percent of the drugs that come into this country and that sort of thing.

Do you all have any idea what percentage we're talking about? These predators that we actually catch versus how many are out there still involved in this sort of thing that we don't catch?

Mr. GALLAGHER. I'd love to be able to give you an answer to that, sir, but we don't have the statistics of how many predators we're starting with out there.

It just seems like the problem continues to grow. It is a problem of—I don't know what to say epidemic proportions, but it's a problem of huge proportions. It seems like every time we go online, as the congresswoman saw in the demonstration that she was given, it's very easy to identify additional pedophiles out there.

Mr. CHABOT. Thank you.

There have been some groups that I've seen articles mention. One of them is NAMBLA, which is—I'm sure you're familiar with. I've read some things about it.

In the cases that you've been able to crack, have you seen any kind of correlation? Do these folks ever get involved?

I mean, that seems to be a group that is actually trying to make this an acceptable alternate type of lifestyle or existence or whatever. Obviously, it's about as reprehensible as one can imagine.

But do you ever find any connection with it? Have you found any connection?

Mr. WARDWELL. Mr. Chabot, the investigations I did, I found no connections. I have only encountered individuals that were acting independent of any formal group connection.

I've read some of those groups' materials, and I agree with you: reprehensible.

Mr. CHABOT. Mr. Gallagher, do you know if there are any—

Mr. GALLAGHER. I'm not personally familiar with the connections with NAMBLA in any of these cases. It would stand to reason that there would be connections with some hard-core pedophiles with NAMBLA. I'm not personally familiar with any that have come up in our cases, though.

But there are other cases that we have where there are rings which might be akin to NAMBLA, but there'll be rings and pay-to-view child exploitation and child pornography and things like that.

So maybe a similar group but with a different name.

Mr. CHABOT. Relative to some cases that the FBI has been able to go undercover, you know, going after the Klan, for example, things like that, is it ever possible for the FBI to get deeper into who these people are?

My guess is—and correct me if I'm wrong here—but these folks apparently do, you know, go over the Internet back and forth. You know, I don't know where they live in proximity to each other. My guess is they're all over the country and would do it by Internet.

So is there any way to get, you know, kind under the radar screen with these folks, undercover, and actually try to bust, you know, large numbers of them? Any success with—

Mr. GALLAGHER. Well, that's part of what we're trying to do now with the undercover operation.

One of the things that we have identified through our investigations is the fact that there are certain rings of pedophiles. The only way that you get into the ring is to end up being vouched for by another pedophile who is already in there.

Then once in there, basically they have a library of pornographic images of children, which they will then trade. And part of your

ability to stay in that ring is having child pornography which then you can put online for the other members to access.

Mr. CHABOT. So would it be difficult, then, for the FBI to get far enough in, because you couldn't participate or give them materials that they would want that, you know, would verify to them that you're not the police, for example?

Mr. GALLAGHER. In that type of instance, it's going to be very difficult for us to fully identify that group. We may be able to identify some individual members, and then have to use traditional investigative techniques of arresting the person, questioning them, trying to get them to roll, and doing those things.

We may never be able to get fully into that organization and infiltrate that, for example, like maybe we had infiltrated the Klan in years gone by.

Mr. CHABOT. Thank you very much.

Mr. SMITH. Thank you, Mr. Chabot.

The gentleman from Georgia, Mr. Barr, is recognized for his questions.

Mr. BARR. Thank you, Mr. Chairman.

I think I can probably speak for everybody on this Subcommittee and probably the entire Committee, none of us want to stand in the way of going after these people.

I'm not absolutely certain that the tools are not there to really go after them under current law. I know certainly having been a former—having been a U.S. Attorney, there are certain sometimes cumbersome procedures that federal law enforcement and state law enforcement have to go through in order to secure a Title III order.

But the process has worked pretty well. In an average year, no federal applications are turned down.

Between 1989 and 1995, not one application was turned down. There was one turned down in 1996. I think over the last couple of years, maybe three have been turned down.

So it can be safely said that despite the effort to make it appear that this a terribly cumbersome procedure and problematic for law enforcement, it really isn't. In virtually every case that federal law enforcement goes to a federal judge seeking a Title III tap, it's granted—although I do know that certainly a lot of law enforcement would prefer not to have to go through that because it is cumbersome.

But it does work, and it does provide the safeguards that I think we all agree are necessary.

I'm also a little bit concerned with the tremendous increase in federal wiretaps over the years.

In 1969, 10 percent of the wiretaps, electronic surveillance under Title III were federal. In 1999, nearly half were. So there has been a significant increase in the use of Title III taps. In virtually every case when they are sought, they are granted by the judge.

E-mails can already be intercepted. That's correct, isn't it?

Mr. GALLAGHER. Yes, sir.

Mr. BARR. You don't need to go in for a Title III for that.

Mr. GALLAGHER. Well, you still do need to get the Title III.

Mr. BARR. You don't need the predicate. You don't need to establish the predicate offense, which is the problem that you all are identifying here.

Mr. GALLAGHER. What we're asking for here is the ability for wire and oral interception.

Mr. BARR. Right.

Mr. GALLAGHER. We have the ability to do the electronic and we're looking for——

Mr. BARR. So that's not the problem, the e-mail?

Mr. GALLAGHER. That's correct. We already have that ability, sir.

Mr. BARR. What about—I'm also a little bit—a little bit surprised that you all apparently feel you can't proceed under chapter 71, obscenity. Why couldn't you proceed under that as a predicate offense?

Mr. GALLAGHER. Is that one of the ones that you're talking about—is it from that standpoint listed as the—in 2516?

Mr. BARR. Yes. Chapter 71, which covers obscenity, is very broad. Judging from the conversation here today, and my knowledge of this, the activity that you all are talking about, from other studies, what you all are talking about is obscene material. It doesn't have to be an actual photograph of an actual person in order to be obscene within the meaning of 71.

If you have these depictions, and if you have steps taken in furtherance of distribution of these depictions, for example, it would seem to me that that would fall under chapter 71 on obscenity, which is already a predicate offense for seeking Title III for an oral communication.

Mrs. JOHNSON. They're also not always depictions.

Mr. BARR. Well, they don't have to be for chapter 71.

Chapter 71, for example, it covers broadcasting; it covers obscene language.

Mr. GALLAGHER. I'm advised that it's the belief of our general counsel that, number one, some of those offenses are not vigorously pursued by U.S. Attorneys, are fraught with other perils, and may not be viable for prosecution in some of these cases.

Part of what we're talking about here, Congressman, is much more disturbing. It's where we've identified conspiracies or corporations that are involved in sex tourism.

There you're not just talking about a particular image which may be on a computer or people trading images. You're talking about people traveling to foreign countries to have sex with minors.

This Title III enhanced authority would enable us to identify the full conspiracy, hopefully, both nationally as well as internationally. And the culpability of each interceptee would then be made much more clear.

Mr. BARR. Well, I understand that. I certainly understand the argument that law enforcement would like to have more power and the job made easier. I have no problem doing that if there is in fact—to reach activity that certainly ought to be reached. This activity that you all are talking about certainly ought to be reachable.

If in fact it's not reachable under current law—and I'm not convinced that isn't—simply because some U.S. Attorneys or a lot of U.S. Attorneys don't proceed under the obscenity or one of the other provisions. I haven't gone through every single one of these to see which one might apply to the particular type of activity that you all are trying to reach here.

I'd like, if you all have time, maybe to take a look at—you all may already have—but just put down something in writing. I really—and I think perhaps some other Members—need to be convinced that there is no way of reaching this under current statutes that relate—

Mrs. JOHNSON. Congressman Barr, if I may just make a comment?

Mr. BARR [continuing]. To electronic interception.

Mrs. JOHNSON. In the conversations that I've seen as we have gone on the Internet and followed this, the language wouldn't reach the level of obscenity, to be defined as obscene under the law. It's very subtle; it's very manipulative.

The goal of the predator is to get trust and friendship and a telephone call. Once they hear the voice, often that's when the language gets much heavier.

Now, of course, each conversation differs. In some of them, the language might the definition of obscene. Some of them send pictures very early in the conversation that definitely would meet the criteria of obscene.

But this is a very diverse kind of business. And the subtlety of these conversations aren't something that can—if you wait until you get to the standard of obscene, you may not be able to stop the harm to the child.

Mr. BARR. Okay. Thank you all.

Mr. SMITH. Thank you, Mr. Barr.

The gentleman from Arkansas, Mr. Hutchinson, is recognized for questions.

Mr. HUTCHINSON. Thank you, Mr. Chairman.

I want to express my appreciation of Ms. Johnson for her hard work on this important issue.

I think that Mr. Barr had a good point, that we want to reach this conduct, and we want to make sure that it's not currently available.

I think what Ms. Johnson is saying and the gentlemen are saying, that the currently availability in the obscenity statute would not cover the conversations, the oral conversations or the wire transfer—the wire communications that would not necessarily in themselves be obscene, that would be in furtherance of a solicitation to lure a minor in.

It might be—not meet the definition of the obscenity.

One question I had is, would this include a conspiracy, though? Would you be—I mean, you're trying to reach substantive conduct toward a child predator, but is it sufficient to get a wiretap if you're simply trying to show a conspiracy to engage in some conduct? Or does it have to be the substantive offense?

Mr. GALLAGHER. I believe what's being requested in the congresswoman's bill is for the substantive violation, but it would also—we would be able to use that additionally for a conspiracy. But it would be with the substantive count, not with the conspiracy count.

Mr. HUTCHINSON. And can—well, we're going to run out of time. And I want to—do you want to try to mark this up here?

Mr. SMITH. No, we're not going to have time. I would like to finish the hearing before we go vote, though.

Mr. HUTCHINSON. What is the definition of a minor that you're referring to? Is that under 21?

Mr. GALLAGHER. Under 18.

Mr. HUTCHINSON. Under 18.

Now, you've mentioned in your testimony that based upon your experience in conducting the Innocent Images national initiative where the expansion of the list of predicate offenses is necessary—can you tell me an illustration of whenever you've had an investigation thwarted because you were not able to get a wiretap for a oral communication?

Mr. GALLAGHER. I can't give you a specific example of where we have an investigation that's been thwarted, but I would be certain that there are investigations that we've had that could be more fully developed if we had this tool available to us.

Not having the tool, we don't know how much further we could've gone, in particular in the traveler cases and in particular in the enticement cases. Without that tool, we can get the one traveler, but we have no idea whether or not there are other people behind him, other people he's conspiring with, other than the one traveler and the one victim that he's dealing with.

Once we end up arresting that individual and we seize the computer, we can go into the computer at that point, try to determine whether or not there are other victims and conduct other investigation at that point. But I can't point to a specific case, Congressman.

Mr. HUTCHINSON. Thank you very much.

I yield back.

Mr. SMITH. Thank you, Mr. Hutchinson.

Before I recognize Mr. Keller, I just want the Members to know I expect we will finish up the hearing part of our Subcommittee meeting before we go vote. But after we vote, if the Members will please return so that we can get a sufficient number of Members to continue the markup of the bill as well.

I don't know how many votes we have, but whenever this series of votes ends, if you all will return.

The gentleman from Florida, Mr. Keller, is recognized for his questions.

Mr. KELLER. Thank you, Mr. Chairman.

Our excellent witnesses have already answered any questions that I may have about the bill, so I yield back my time.

Mr. SMITH. Okay, thank you, Mr. Keller.

Let me thank the witnesses for their testimony. I hope it will be used fairly immediately after we return from these votes.

We appreciate your testifying today.

To our Representative and colleague Nancy Johnson (CT), thank you, again, for your hard work.

We will stand in recess until after this series of votes, and then we'll resume the markup.

Thank you all again.

[Whereupon, at 3 p.m., the Subcommittee was adjourned.]