

Fallin	LaTourette	Reynolds
Feeney	Lewis (CA)	Rogers (AL)
Ferguson	Lewis (KY)	Rogers (KY)
Flake	Linder	Rogers (MI)
Forbes	LoBiondo	Rohrabacher
Fortenberry	Lucas	Ros-Lehtinen
Fossella	Lungren, Daniel	Roskam
Fox	E.	Royce
Franks (AZ)	Mack	Ryan (WI)
Frelinghuysen	Manzullo	Sali
Gallely	Marchant	Saxton
Garrett (NJ)	McCarthy (CA)	Schmidt
Gerlach	McCaul (TX)	Sensenbrenner
Gilchrest	McCotter	Sessions
Gingrey	McCrery	Shadegg
Gohmert	McHenry	Shays
Goode	McHugh	Shimkus
Goodlatte	McKeon	Shuler
Granger	McMorris	Shuster
Graves	Rodgers	Simpson
Hall (TX)	Mica	Smith (NE)
Hastert	Miller (FL)	Smith (NJ)
Hastings (WA)	Miller (MI)	Smith (TX)
Hayes	Miller, Gary	Souder
Heller	Moran (KS)	Stearns
Hensarling	Murphy, Tim	Sullivan
Henger	Musgrave	Tancredo
Hobson	Myrick	Terry
Hoekstra	Neugebauer	Thornberry
Hulshof	Nunes	Tiahrt
Hunter	Pearce	Tiberi
Inglis (SC)	Pence	Turner
Issa	Peterson (PA)	Upton
Johnson (IL)	Petri	Walberg
Johnson, Sam	Pickering	Walden (OR)
Jones (NC)	Pitts	Walsh (NY)
Jordan	Platts	Wamp
Keller	Poe	Weldon (FL)
King (IA)	Porter	Weller
King (NY)	Price (GA)	Westmoreland
Kingston	Pryce (OH)	Whitfield
Kirk	Putnam	Wicker
Kline (MN)	Radanovich	Wilson (NM)
Knollenberg	Ramstad	Wilson (SC)
Kuhl (NY)	Regula	Wolf
LaHood	Rehberg	Young (AK)
Lamborn	Reichert	Young (FL)
Latham	Renzi	

## NOT VOTING—13

Barrett (SC)	Delahunt	Paul
Cardoza	Dingell	Perlmutter
Carson	Gordon	Waters
Cubin	Jindal	
Davis, Jo Ann	Lee	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1625

Messrs. HOEKSTRA, SHAYS, and BOOZMAN changed their vote from "aye" to "no."

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

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. PERLMUTTER. Madam Speaker, due to a family emergency I missed the following votes on Wednesday, October 3, 2007. I would have voted as follows: Democratic Motion on Ordering the Previous Question on the Rule on the Improving Government Accountability Act (H. Res. 701)—"yea"; Democratic Motion on Ordering the Previous Question on the MEJA Expansion and Enforcement Act of 2007 (H. Res. 702)—"yea"; H. Res. 702—Rule providing for consideration of H.R. 2740—MEJA Expansion and Enforcement Act of 2007—"yea"; Conyers Amendment. Provides that the Department of Justice (DOJ) Inspector General is not required to refer to the

Counsel of the Office of Professional Responsibility (OPR) of DOJ, allegations of misconduct involving DOJ attorneys and related personnel where the allegations relate to the exercise of the authority of an attorney to investigate, litigate, or provide legal advice—"aye"; Motion to Recommit H.R. 928—"yea"; Final Passage of H.R. 928—Improving Government Accountability Act—"yea"; Democratic Motion to postpone the Vote to Override the President's Veto of the Children's Health Care bill until October 18, 2007—"aye."

## GENERAL LEAVE

Mr. PALLONE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the motion just considered.

The SPEAKER pro tempore (Ms. CLARKE). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

## GENERAL LEAVE

Mr. CONYERS. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 2740.

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

There was no objection.

## MEJA EXPANSION AND ENFORCEMENT ACT OF 2007

The SPEAKER pro tempore. Pursuant to House Resolution 702 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 2740.

□ 1626

## IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 2740) to require accountability for contractors and contract personnel under Federal contracts, and for other purposes, with Mrs. TAUSCHER in the chair.

The Clerk read the title of the bill.

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

The gentleman from Michigan (Mr. CONYERS) and the gentleman from Virginia (Mr. FORBES) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan.

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

Ladies and gentlemen of the House, we have never fought a war in which private contractors not only outnumber United States troops, as they do in Iraq, but perform many tasks that are very similar to those histori-

cally performed by our troops. A critical difference, however, is that these contractors, unlike our troops, are not subject to the requirements of military discipline and United States law governing the conduct of warfare. Further, they are also immune from Iraqi law.

As we know, last month contractors working for Blackwater allegedly opened fire in a Baghdad neighborhood, killing at least 11 Iraqi civilians. A witness told a CNN reporter, "Each of their four vehicles opened heavy fire in all directions. They shot and killed everyone in cars facing them and people standing on the street." Another witness, whose youngest son was killed during the attack, likened the event to "hell, like a scene from a movie."

This latest incident unfortunately evidences the fact that some of these contractors are abusing their power with impunity, subject to no law whatsoever, domestic or foreign. H.R. 2740 corrects this serious gap in current law.

Specifically, it amends the Military Extraterritorial Jurisdiction Act, known as MEJA, in three critical respects: First, it closes the legal gap in current law by making all contractors accountable for their actions. MEJA currently only extends U.S. Federal criminal jurisdiction to felony crimes committed overseas by contractors working on behalf of the Defense Department.

□ 1630

This measure specifies that the act would apply to all contractors, regardless of the agency for which they provide services.

Second, this measure requires that the Inspector General of the Justice Department examine and report on the Department's efforts to investigate and prosecute allegations of misconduct committed by contractors overseas.

Since the Iraq war started, the Department has failed to commence a single prosecution against a contractor under the Military Extraterritorial Jurisdiction Act. Sadly, last month's Blackwater incident was not the first time contractors have acted abusively without any accountability.

On Monday, we learned that Blackwater was involved in at least 195 shooting incidents in Iraq since the year 2005. And Blackwater isn't the only culpable company. In 2005, armed contractors from the Zapata contracting firm allegedly fired indiscriminately not only at Iraqi civilians, but also at United States Marines. In 2006, employees of Aegis, another security firm, posted a trophy video on the Internet that showed them shooting civilians. And employees of Triple Canopy, yet another contractor, were fired after alleging that a supervisor engaged in a "joyride shooting" of Iraqi civilians. These cases, and all like them, should be appropriately investigated and prosecuted, if warranted.

Third, H.R. 2740 establishes ground units of the Federal Bureau of Investigation to investigate allegations of

criminal misconduct by contractors. Notwithstanding the fact that more than 180,000 contractors are currently operating in Iraq, there is not a single investigative unit located in that country.

Pursuant to a directive of the administration, FBI agents are belatedly being sent to investigate the Blackwater crime scene in many instances where the evidence has long disappeared. Without a mandated investigating unit, the Justice Department lacks the ability or the incentive to respond effectively. And so, to our colleague from North Carolina, DAVID PRICE, the author of H.R. 2740, we fixed that shortcoming. And I acknowledge the sponsor for his sustained leadership on this important issue of ensuring that those acting in our name will be held legally accountable for their conduct.

This legislation is widely supported, including the Human Rights Watch, Human Rights First, the International Peace Operations Association, and Amnesty International.

The need for us remedying the problem described is extremely urgent. I urge my colleagues to join with me in support of its swift passage.

Madam Chairwoman, I reserve the balance of my time.

Mr. FORBES. Madam Chairwoman, I yield myself such time as I may consume.

Madam Chairwoman, when I walk into this great body, I understand often why our approval ratings are so low with the American people, because they tune in and they listen to our debates and they listen to us talk about problems, and then they actually read the legislation and they look at the proposed solutions and they scratch their heads and oftentimes say there's a huge disconnect between the two.

The other thing that they see is they see Members on this side of the aisle and certain Members on that side of the aisle who scratch our heads and wonder why we can't come together in a bipartisan manner to create solutions that actually work. And this piece of legislation is exactly why that isn't able to happen. Because when this bill came through the Judiciary Committee, the minority and the majority both agreed, it was voted out by voice vote because the intent that you will hear discussed today was supported by both the majority and the minority. But we were given assurances, and we certainly had the expectations, that the absolutely poor drafting of this legislation would be corrected before it came to the floor. And we had opportunities to do that, Madam Chairwoman, but they didn't happen.

And so today we have a bill that Members are in somewhat of a quandary over how they vote because they can either vote on this bill and vote against the bill to send a message to the Senate that it needs work and it needs to be corrected, even though they support the intent of the bill and

hope the Senate will do what we cannot do, and that is, correct the poor draftsmanship, or they can vote for the bill because they support the intent of the bill, and again, hope springs eternal, and hope that the Senate will be able to correct the poor draftsmanship and send us back a better bill in conference.

I am not going to suggest which way they should vote, but let me try to correct the disconnect between the problems that are alleged and the actual legislation, because it's an intent that's important for us to get right, but it's important for us to get right with proper drafting.

First of all, under MEJA, which was passed under the previous majority, let me tell you who was actually covered. Under that bill, which is the reach we have to reach out for individuals who may be Americans who do stuff that's wrong overseas under contracts at that time, every Member of the Armed Forces that was subject to the Uniform Code of Military Justice was covered. Every civilian employee of DOD was already covered. All the employees of every other Federal agency and every provisional authority who was supporting a mission of DOD was covered. Every contractor of DOD, covered. All contractors of any Federal agency or provisional authority supporting missions, and their employees, covered. The dependents of the members of the Armed Forces, covered. The dependents of the civilian employees of DOD, covered. And the dependents of DOD contractors, all covered under current legislation.

Now, what does this legislation purport to do? What it purports to do is to add contractors of other Federal agencies who are not supporting DOD missions but who work in, according to the language of the bill, close proximity to a contingency operation. Well, Madam Chairman, the problem is that we've actually reduced some of the jurisdiction as opposed to increased the jurisdiction under this particular legislation.

First of all, there is no defining of what "close proximity" actually means. And there is no carve-out for those who are supporting a DOD mission who might not be in close proximity to a contingency operation.

So, Madam Chairwoman, under the proposed legislation, if we have a contractor who was doing something that would have been covered because they were in support of a DOD mission, but let's say they were on a base in Germany, because they were not in proximity or close proximity to an area of contingent operations, under the previous jurisdiction they've been covered; under this jurisdiction they would no longer be covered. That's something that could have easily been corrected in the draftsmanship if we had been given the opportunity to do that prior to coming to the floor.

The second thing, Madam Chairwoman, is when it comes to intel-

ligence operations, which will now be brought under this particular bill, there is no carve-out under this bill for employees who may be working in operations that are involved in intelligence. If they are accused of doing a particular criminal act and they are then exposed and the linkage is because they're hired to do intelligence activities somewhere else, that entire network could then be exposed and the security of this country jeopardized, which certainly shouldn't be the intent of what we want. Again, that could have easily been corrected if we could have just written that in and corrected it before it came here.

The other thing, Madam Chairman, is there is no carve-out for residents and nationals of other countries. In the current bill there is, but under this particular legislation and the way this bill came to the floor, it may not be. We can actually have an employee of a company from another country, not even a resident of the United States, who could be employed by one of our corporations doing work for the United States, and because of the way this bill is drafted, when they say just because they're in the employ and they didn't put a scope of employment definition in the bill, then even if that person was outside of his employment, even if he was off the job, even if he wasn't working then, if he committed an act that might be a criminal offense in the United States, even if it wasn't a criminal offense in the country in which he did it, under this bill there would be jurisdiction, but there are all kinds of questions as to whether or not we could pick him up, arrest him and detain him.

The final thing, Madam Chairman, that could have easily been corrected and wasn't done is this bill sends the FBI to do these investigations in theater of operations, and there is no definition for what theater of operations actually is. We are now putting our agents in danger to do investigations in areas of military conflict where they primarily do investigations domestically at home, but we don't give them any funding to do it; we just mandate that they do it. And some of the estimates of cost that were given in the committee were as much as \$5 million just to do the investigations. That means that we will have FBI agents that will be doing investigations of employees who could be doing illegal activities overseas, but we may be taking them away from activities here domestically that they could be protecting American citizens here against terrorist activity, against gang activity and against things that are going on in the United States, and this bill doesn't give a dime of funding to do that.

So, Madam Chairman, this is a bill, the intent of which is a good intent; unfortunately, the draftsmanship is horrible. It is unfortunate that we couldn't have worked in a bipartisan way to have corrected those issues before they got to the floor.

Madam Chairman, I reserve the balance of my time.

Mr. CONYERS. Madam Chairman, I am now pleased to recognize the gentleman from North Carolina, whose interest in this subject matter began 3 years before he became chairman of the appropriations subcommittee, and I am happy to recognize him for as much time as he may consume.

Mr. PRICE of North Carolina. Madam Chairman, I thank the gentleman.

I am pleased to rise as the initiator of this legislation to speak in favor of a long overdue solution to a problem with serious implications for our military and for our national security.

Put simply, this legislation ensures that the U.S. Government has the legal authority to prosecute crimes committed by U.S. contractor personnel working in war zones.

I want to first thank Chairman CONYERS and Chairman BOBBY SCOTT for their leadership in bringing this legislation to the floor today. There are many other Members on both sides of the aisle who worked on this issue, including the gentleman from Connecticut (Mr. SHAYS) who held an excellent series of hearings last year, and Mr. WAXMAN, who has focused his committee on the issue this year.

My bill would do two simple things: it would expand the Military Extraterritorial Jurisdiction Act, MEJA, to cover all contractors operating in war zones, and it would beef up the Department of Justice's enforcement of MEJA.

Madam Chairman, the word "accountability" is used a lot in this Chamber. Let me tell you what I think accountability should mean in this context. It should mean that we have the tools at our disposal to ensure that the criminal behavior of men and women working in our name and on our dime does not in any way damage our goals and objectives.

□ 1645

It should also mean making sure that rogue actors, the bad apples in the bunch, are not able to act in ways that endanger our troops or our mission without fear of prosecution.

Our military is the best fighting force in the world today in large part because it is structured in a way that demands accountability, discipline and unity of action. Military commanders will universally tell you that accountability is critical to success because lapses in discipline or judgment can lead to defeat on the battlefield or can undermine popular support for the mission. So the military goes to great lengths to ensure accountability. There is a clear chain of command, extensive training on legal and illegal actions in war, and perhaps most importantly, clear consequences for violations.

During the war in Iraq alone, there have been over 60 courts martial and hundreds of nonjudicial punishments of military personnel under the Uniform Code of Military Justice. There is good

reason for this accountability. If a military servicemember unlawfully kills an innocent civilian or steals property or defiles a cultural icon, it contributes to popular outrage against American forces. It makes the military's mission more difficult. It undermines our national security. It could motivate insurgents and provide fodder for terrorist organizations.

What is more, if we can't ensure the rule of law for our own personnel, how can we credibly ask other nations, like Iraq, to uphold the rule of law when their own citizens commit crimes?

Unlike the military, there is no clear chain of command for contractors, little in the way of standards for training and vetting personnel, and often no legal accountability for misconduct. As the recent shooting incident involving Blackwater U.S.A. employees demonstrated, contractors can clearly act in ways that have serious implications for our national security. If we don't hold contract personnel accountable for misconduct as we do for our own military, we are not only failing to uphold moral responsibilities, we are endangering the men and women of our Armed Forces and we are undermining our Nation's credibility as a country that upholds the rule of law.

Now, it may be hard for some of us to believe that this gaping hole in the law exists. In fact, as my colleague from Virginia (Mr. FORBES) has stated, certain contractors, those working under the Department of Defense, are already covered by MEJA. But others are not.

I would like to know what the gentleman from Virginia would say to Secretary of State Condoleezza Rice at this very moment as she is contemplating what authority she has or can piece together to deal with the Blackwater incident of 2 weeks ago, if it turns out investigations show that prosecution is warranted? Contractors working under the Department of State or USAID, a category that includes most armed security contractors, are not now covered under this law.

Now, the law isn't the only problem. We also have seen a serious deficiency in enforcement. Even though MEJA does cover DOD contractors, I am not aware of a single case of violent contractor misconduct that has, in fact, been prosecuted in court. I have been told that MEJA has been applied in only one case in Iraq and Afghanistan, and that was a defense contractor convicted of child pornography.

There is nearly universal support for accountability for contractors and there is broad support for the approach taken by this bill. Leading human rights organizations like Amnesty International, Human Rights Watch, and Human Rights First support the bill, as do contractor associations such as the International Peace Operations Association.

My bill will improve the law and will improve enforcement. It will give our country the ability to hold contractors

accountable, which will enhance our national security and the safety of our troops, and it will ensure that our country remains a model of law and integrity for the rest of the world.

I urge my colleagues to support this legislation.

Mr. FORBES. Madam Chairman, I would have responded to the gentleman from North Carolina had he yielded to me when he asked me the question what I would do that we support the intent of this bill, but it doesn't justify writing a poor bill. It doesn't justify taking away existing jurisdiction. When we have contractors that are committing bad actions, whether they are in Iraq or whether they are in Germany, we want to hold them accountable. Why in the world we would draft legislation which could reduce that jurisdiction is beyond me.

I would like, Madam Chairman, to yield at this time 7 minutes to the distinguished gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. I thank the gentleman from Virginia for yielding and I appreciate the fact that he is supporting this bill but that he is trying to point out areas that it could and should be improved, which is part of what should happen in the debate in Congress.

Mr. PRICE, I appreciate what you are attempting to do. I think your motives are where they need to be. I think you are trying to make sure that our country is being responsible in dealing with an issue that is very serious.

I do rise in support of this legislation which will provide, hopefully, greater accountability for unlawful acts contractors may commit abroad. I chaired the National Security, Emerging Threats and International Relations Subcommittee of the Government Reform Committee, or now the Government Oversight and Reform Committee, and the issue of private security contracts was the subject of a hearing we held in June of 2006. In addition, the Oversight and Government Reform Committee held a hearing on security contractors yesterday.

Private security contractors in Iraq do many of the jobs our military used to do and provide incredibly valuable services for our military. They build facilities and structures. They build roads and bridges. They build waterworks. They provide electricity. They deliver supplies to our troops. They are cooks. These are all things the military might have done in the past, but we think that is not a good use for the military. They also provide security, protective security. That is what they do. It is a distortion if the implication is that we have more contractors than military, that the contractors who are there are doing military work. A lot of them are just building things and guarding bases and all the things that I have just mentioned.

Now, there are several major challenges that have developed as our military has increased the use of private security contracting. The first problem

has to do with the transparency of contractor operations. A December 2006 report by Government Accountability Office, GAO, noted that the Department of Defense, DOD, "continues to have limited visibility over contractors because information on the number of contractors at deployed locations or the services they provide is not aggregated by any organization." Now, this bill is not dealing with that.

Another problem is that private security contractors do not operate under any clear legal authority in foreign countries, which this legislation seeks to address. PSCs contracted through DOD are accountable under both the Uniform Code of Military Justice and under civilian law through the Military Extraterritorial Jurisdiction Act. The majority of private security contractors, however, are not contracted through DOD but through other agencies like USAID or the Department of Interior.

Now, regarding the contractor Blackwater U.S.A. which has come under scrutiny in recent weeks, these employees do extremely difficult jobs under very difficult circumstances. They risk their lives to protect Americans who are doing work in Iraq. I want to say it again. These are former, in most cases, military personnel, so somehow because they are no longer involved in the military, paid by the military, their lives don't seem to matter as much in this place.

Forty-one of Blackwater U.S.A. personnel have died taking a bullet for some American. It is amazing to me the number of men in Blackwater that have lost their lives and we never hear it on the other side of the aisle. Blackwater is evil. That is the way it appears in all the dialogue, all the press releases and so on. So when they were before our committee yesterday, we asked them a question: How many of the people you protected in 2004 were protected? Did any lose their lives or were any wounded? None lost their lives or were wounded. In 2005 did any lose their lives or were any wounded? None in 2005 lost their lives or were wounded. In 2006, we asked, did any of these individual lose their lives that they were protecting or were injured? Except for a concussion with IEDs, no one. Then in 2007, did any of these individuals you protected lose their lives or were injured? No one lost their lives. No one was injured.

But when we asked in 2004, did any of your Blackwater employees lose their lives? Yes. We asked in 2005, did any lose their lives? Yes. In 2006, did any lose their lives? Yes. In 2007, did any lose their lives? And the answer was yes. Forty-one of these individuals have lost their lives. They have protected USAID employees. They have protected other individuals who have to get outside the Green Zone. Yes, they have protected Members of Congress. But we are just a small part of their responsibility. They would take a bullet for us. And they have. I just

want to be on record that that is the case.

It is important that we resolve this issue and that we make sure that the lines are clear, but I will just end by saying this. I was going into Gaza City, and private contractors employed by USAID took me there. A month later, one of these vans was destroyed. I knew all four people in this van, and they were killed. A month before, they were trying to protect us. They are risking their lives. I would like very much if in this debate we could show a little respect for the 41 men and women in Blackwater who have lost their lives.

Finally, I am concerned about poor coordination between military and battlefield contractors.

A June 2006 GAO report found that:

"private security providers continue to enter the battle space without coordinating with the U.S. military, putting both the military and security providers at a greater risk for injury."

Improved coordination is needed to provide PSCs guidance on rules of engagement, equipment needs, communication, and force protection expectations.

I recognize the Administration has some serious and valid concerns about this legislation.

It is concerned the jurisdiction of criminal prohibitions would depend on vague notions of "proximity" to poorly defined regions, and might give rise to litigation on jurisdictional issues.

It is also concerned that the expansion of extraterritorial jurisdiction would create Federal jurisdiction overseas in situations where it would be impossible or unwise to extend it.

Finally, the Administration is concerned about the additional burdens it will place on the FBI and Department of Defense.

In my judgment, the concerns raised by the Administration are items we can work on as this much-needed legislation works its way through the legislative process.

Mr. CONYERS. Madam Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. I thank the gentleman for yielding, because I would like to respond to what our friend from Connecticut has just said. I first of all appreciate his high-quality work on contracting for a long time and also his support of this bill.

I do want to respond, though, to what he said about contractors. I don't believe the gentleman has ever heard me in a blanket way condemn contractors or contracting. In fact, I honor the service and the sacrifice of contractors and contracting firms that have worked in the war zone.

Now, there are some bad actors and there are cases that need investigation and prosecution. But I would remind the gentleman that, in fact, Blackwater and the contractors' association support this bill. It is actually a protection for them, because it means they will get U.S. justice in the U.S., not justice in some other jurisdiction.

Mr. SHAYS. Madam Chairman, will the gentleman yield?

Mr. PRICE of North Carolina. I yield to the gentleman from Connecticut.

Mr. SHAYS. The bottom line is, Mr. PRICE, you are totally right. You have never been critical of these contractors. I just came from a hearing yesterday where everyone seems to be critical.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

Mr. CONYERS. Madam Chair, it is a pleasure to yield to the chairman of the Crime Committee in the Judiciary, Bobby Scott of Virginia, who has held hearings extensively on this matter and has worked closely with the gentleman from North Carolina. I am very pleased to yield him 5 minutes.

Mr. SCOTT of Virginia. Madam Chairman, I rise in support of H.R. 2740, the MEJA Expansion and Enforcement Act of 2007.

I would like to commend the chairman of the Judiciary Committee, Mr. CONYERS, and the author of the bill, the gentleman from North Carolina (Mr. PRICE), for their hard work on this bill.

We currently have a situation in which many military contractors act with impunity and no accountability because they operate outside of the jurisdiction of the United States criminal code because they are technically outside of the jurisdiction of the United States and outside of the Uniform Code of Military Justice because they are not in the military.

□ 1700

In Iraq, our troops have been supplanted by an army of contractors, which is estimated at 180,000, an extremely high number by any account. Last month we learned of a shooting incident involving a private contracting company, Blackwater, in which contractors allegedly shot and killed 11 or more innocent Iraqi civilians. Yesterday we learned that Blackwater was involved in at least 195 shooting incidents in Iraq since 2005. According to at least one report, their employees fired the first shots in more than 80 percent of these shooting incidences.

Madam Chairman, to provide much needed accountability and oversight for these contractors, the gentleman from North Carolina (Mr. PRICE) introduced H.R. 2740, the MEJA Expansion Enforcement Act of 2007. When MEJA was originally signed into law in 2000, it did provide the United States Federal Courts with jurisdiction over civilian employees, contractors and sub-contractors affiliated with the Defense Department who commit crimes overseas. The bill was later amended in 2005 to include employees of any Federal agency supporting the mission of the Department of Defense overseas.

This bill closes a loophole to make sure that all private security contractors, not just those contracted through the Department of Defense, are covered, to ensure that they are accountable under United States law. This

change would update the law to better reflect the current situation in Iraq and Afghanistan, in which a large number of contractors are present, with contracts written by a variety of different government agencies, including the Department of the Interior and Department of State.

Madam Chairman, H.R. 2740 also requires the Inspector General of the Justice Department to complete and submit a report about the identification and prosecution of alleged abuses in Iraq. This section is meant to address the lack of transparency in Department of Justice investigations and prosecutions. In some cases, the Army has investigated the circumstances behind some cases and found probable cause that a crime has been committed and referred the case to the Department of Justice for prosecution.

In one example, unfortunately, 17 pending cases of detainee abuse, including the abuse at Abu Ghraib prison by contractors, has remained in the U.S. Attorneys Office for the Eastern District of Virginia for 3 years. We are not told why these cases against civilian contractors have not been prosecuted or why they are being held up. In comparison, since the invasion of Iraq, there have been more than four dozen courts-martial commenced against uniformed personnel with respect to the law of war issues.

Finally, H.R. 2740 requires that the Federal Bureau of Investigation establish an investigative unit to investigate reports of criminal misconduct in regions in which contractors are working.

Madam Chairman, I would like to state for the record that at the subcommittee markup of this bill I agreed to work with my distinguished colleague from Virginia (Mr. FORBES), the ranking member, to address his concerns in the bill before it reached the full committee. We did work together and jointly offered a substitute amendment in the full committee that reflected this bipartisan agreement. The bill was then reported out of the committee on a voice vote, without further amendments. The manager's amendment, which will be offered in a few minutes, has additional recommendations from the ranking member.

Madam Chairman, H.R. 2740 is a necessary bill. It is long overdue. Accordingly, I urge my colleagues to support the legislation.

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

Madam Chairman, once again we hear the intent, but why in the world we would want to reduce the current jurisdiction that we have, which is what we see reflected in this piece of legislation that could have been corrected, still is beyond me. If we have a contractor who is having employees doing illegal acts in a base in Germany in a mission for DOD, we would want to prosecute them every bit as much as we would if they were in Iraq. Why we

want to reduce that, I just don't understand.

Madam Chairman, I yield 1 minute to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Madam Chairman, I wanted to stay on the floor, Mr. PRICE, to say to you that I have nothing but admiration for what you are doing and how you do it and the quality with which you are doing it, and I know you have never disparaged any of the Blackwater employees.

I just want to say I don't hear compliments, and I just feel obligated to come to this House floor and say to you that these are men and women who have given their lives for our country and to protect other Americans. I want to be on record, and I agree with you that even Blackwater itself thinks this legislation is positive, and I want to be on record as saying that so that they appreciate what you are attempting to do. I just want to add some balance to this debate.

Mr. CONYERS. Madam Chairman, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a distinguished member of the Judiciary Committee.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. The recognition of the service of contractors such as Blackwater is a bipartisan recognition. For those of us who have traveled to Afghanistan and Iraq and a number of places around the world, we recognize the importance of contractors. So this is not an indictment overall of those who serve as asked by the United States of America. It is an indictment of the Department of Defense in the way these contracts are issued. It is an indictment of the incident that allegedly occurred where those Blackwater employees opened fire, killing 11 civilians, and each of the four vehicles opened their windows and began to blast at what appeared to be innocent civilians, even killing a little boy.

Yes, it did seem like hell. But, frankly, we do understand that their role is important. This legislation is fair. It has the parameters of helping companies like Blackwater to have order in the midst of, sometimes, disorder.

The legislation requires a report by the DOJ Inspector on Contractor Abuses Overseas and also requires the Inspector General of the Justice Department to submit a report to Congress. We should not be left out. We should be aware of what is going on, primarily because the actions of contractors impact not only the soldiers left behind, who then have to clean up what they have done, but also the diplomacy of the United States of America.

There is simply no excuse for the de facto legal immunity that our government has permitted for tens of thousands of armed private individuals working on our country's behalf in Iraq

and Afghanistan. Our soldiers are court-martialed, and our soldiers are sometimes the unpleasant beneficiaries of the actions of U.S. contractors.

The U.S. Government has a responsibility to hold the individuals carrying out its work to the highest standards of conduct and to ensure that these individuals protect human life and uphold the law. They have protected our diplomats. To that we say thank you. This responsibility does not disappear simply because such individuals are contractors instead of government employees. This legislation is especially timely in light of the new report by the Oversight and Government Reform Committee which documents numerous incidents of wrongdoing by Blackwater contractors in Iraq. As we have noted, Blackwater does good work. But incidents that have caused havoc need to be addressed. It can be addressed through this legislation.

Then I would simply like to say, as The Washington Post reported, Blackwater security contractors in Iraq have been involved in at least 195 escalation of force incidents since early 2005, including several previously unreported killings of Iraqi civilians.

My friends, this goes over all contractors. I hope that we will move forward to ensure that the DoD process is fair and that minority contractors can be involved. But this is a very important first step, and I thank the distinguished chairman of the committee for his great leadership on these many issues that come before our committee.

This is an important first step, because there are many contractors when you go to Iraq and Afghanistan, and many of them are contractors of the Department of Defense. There really is no tallying of who they are and what they are doing. In this instance, people are dying. And as Blackwater has often said, they are just defending their packages. Those packages are diplomats. We want them to defend them, but we would suggest that it is an important response to address how they do it.

The Washington Post article went on to state that according to the State Department, in one of the killings, Blackwater personnel tried to cover up what had occurred and provide a false report.

This will stop that. The next step will be to encourage the utilization of minority contractors never heard of by the Department of Defense. This is a clean way to clean up our backyard and to protect all of those who need to be protected. I ask my colleagues to support this legislation.

Madam Chairman, I rise in support of H.R. 2740, the "Holding Security Contractors in War Zones Overseas Accountable Act" (MEJA Expansion and Enforcement Act). This legislation is intended to ensure that all private security contractors in war zones overseas will be held accountable for criminal offenses committed. Under current law, only those contractors who are on contract with the Department

of Defense are indisputably subject to the jurisdiction of the federal courts. This legislation remedies that and other problems.

Madam Chairman, H.R. 2740 ensures that all U.S. security contractors in war zones overseas are held accountable. It does this by closing a loophole in current law in order to ensure that all U.S. private security contractors in war zones overseas are held accountable for criminal behavior. It gives U.S. federal courts jurisdiction over the actions by contractors working for any U.S. government agency in areas of foreign countries where U.S. military forces are conducting combat operations.

Specifically, the measure subjects employees of all such contractors to the same jurisdiction established by the Military Extraterritorial Jurisdiction Act (MEJA), which currently only covers members of the armed forces, civilian federal employees, and contractors who are on contract with the Department of Defense.

Another important feature of the legislation is the designation of the Justice Department as the lead agency in investigating contractor behavior. H.R. 2740 creates an FBI "theater investigative unit" for each theater of operations with which contracted employees are involved, to investigate any allegations of criminal misconduct by contractors, including reports of fatalities from the use of force by contractors. The unit would then refer cases that warrant further action to the Attorney General.

Additionally, the legislation requires a report by the DOJ Inspector General on contractor abuses overseas. The bill also requires the Inspector General of the Justice Department to submit a report to Congress regarding the identification and prosecution of alleged contractor abuses overseas. This requirement is intended to address the Justice Department's apparent failure to aggressively investigate and prosecute crimes committed by contractors over which the department already has jurisdiction (such as contractors working for the Department of Defense.)

Madam Chairman, there simply is no excuse for the de facto legal immunity that our government has permitted for tens of thousands of armed private individuals working on our country's behalf in Iraq and Afghanistan. The U.S. government has a responsibility to hold the individuals carrying out its work to the highest standards of conduct, and to ensure that these individuals protect human life and uphold the law. This responsibility does not disappear simply because such individuals are contractors instead of government employees.

Madam Chairman, this legislation is especially timely in light of the new report by the Oversight and Government Reform Committee which documents numerous incidents of wrongdoing by Blackwater contractors in Iraq. On September 16, Blackwater security contractors in Baghdad were involved in a shooting incident in which 11 Iraqi civilians were killed and many others injured. This incident is now under investigation. In addition, on October 1, the Oversight and Government Reform Committee released a report on the behavior of Blackwater contractors in Iraq which disclosed damaging new information. As the Washington Post (10/2/07) reported:

Blackwater security contractors in Iraq have been involved in at least 195 'escalation of force' incidents since early 2005, including several previously unreported killings of Iraqi civilians . . .

The Washington Post article went on to state that according to a State Department document, "in one of the killings Blackwater personnel tried to cover up what had occurred and provided a false report. In another case, the firm accused its own personnel of lying about the event. The State Department made little effort to hold Blackwater personnel accountable beyond pressing the company to pay financial compensation to the families of the dead."

Madam Chairman, the misconduct of military contractors working in Iraq, Afghanistan, and other foreign countries reflects poorly upon the United States and frequently is erroneously attributed by the people of the host country to our troops. As you can imagine, such misdirected anger and inflamed passion can lead them to take retaliatory actions which could imperil the safety of our troops. In my view, this is reason alone to support the bill, which I do strongly. I urge all my colleagues to join me in closing a loophole and ensure that all U.S. security contractors in war zones overseas can be held accountable for any criminal acts they commit overseas.

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

Madam Chairman, once again we hear the reasons and the policy reasons why we would like to have legislation, but it doesn't suggest why we need poorly drafted legislation.

My good friend from Virginia, for whom I have the utmost respect, mentioned that there were 17 pending cases of detainee abuse, including some that occurred at Abu Ghraib prison in Iraq. But we already have jurisdiction for those. This isn't a bill that deals with prosecutorial discretion or whether or not we are going to have prosecutors prosecute those cases. This is a jurisdictional bill.

The second thing, my good friend mentioned the fact that some of the deficiencies in this bill were corrected by the manager's amendment. The only thing the manager's amendment has done is to say with our security concerns for our FBI agents, who normally do not do investigations in war zones, they do them domestically, we have a manager's amendment that says that they can request assistance from the Secretary of Defense.

Madam Chairman, requesting assistance and security and getting it are two different things. We had the ability to request bipartisan cooperation in re-drafting this legislation. It didn't happen.

So our concern, Madam Chairman, is not again all that we hear in the debate about getting at bad apples, but it is why we want to reduce the jurisdiction that we currently have for some of those bad apples; and, secondly, why we are going to expose and create vulnerabilities for our intelligence network and also for our FBI when it is so easily corrected, if we could just sit down and do that with the proper amendments.

Madam Chairman, I reserve the balance of my time.

Mr. CONYERS. Madam Chairman, I yield 2½ minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Madam Chairman, I appreciate the gentleman's courtesy, his leadership, that of the subcommittee Chair, and, of course, my friend and the lead sponsor of this legislation, the author, Mr. PRICE. I think there is no more conscientious and thoughtful legislator, and he has approached this in a very nonpartisan, methodical way.

Madam Chairman, I am concerned as I am listening here. I want to say, first of all, that I hope this is the first of a number of provisions that we have that deal with the netherworld of contracting and outsourcing this war. I think there are lots of opportunities to tighten down, to focus, to add accountability. But this is an important essential step. It is simple, and it should not be nearly as controversial as my friend from Virginia appears to make it.

First of all, I have heard him about 10 times talk about how somehow this is narrowing the scope of MEJA. Look at page 2 of the bill. It doesn't take anything away. It adds provisions. It adds provisions.

The notion somehow that we are not dealing with the problem in Germany I think misstates and betrays a lack of understanding about the difference between operations in a stable, established country and one that is in the theater of military operations. If somebody commits a crime in Germany, there will be an opportunity for that government to be able to deal meaningfully with it. That is not the case with a rogue contractor in Iraq, in a field of battle who shoots somebody and there is no established mechanism. It is absolutely apples and oranges.

I find curious an argument from our friends on the minority side that this cost a few million dollars to the FBI and there is no funding attached. This is the same party that for the last 11 years out of this committee, when they were in charge, had a litany of proposals that added costs to the judiciary and the FBI and the corrections system and never blinked an eye over burdening them.

This is a modest adjustment. It is within the scope of their duty. I strongly urge its approval.

□ 1715

Mr. FORBES. Madam Chairman, once again I scratch my head as I listen. The gentleman has just stated on the one hand that the legislation does not reduce the jurisdiction and then 30 seconds later he says, oh, but there are differences between the bases in Germany and the bases in Iraq and it's okay if we don't prosecute the ones in Germany. We can't have it both ways.

Madam Chairman, this significantly does do it. The bottom line on this is that we have created a new standard which is proximity to contingency operations before we could reach in and get those bad actors in Germany and



many of the bad actors that were in the contingency operation areas.

I want to emphasize again on the FBI, it's not that we mind the FBI doing the work. We want to make sure that they are secure when they do it, and give them the funds to do it because they are stretched so thin defending us here against terrorists and defending us against gang and other criminal activities here, that it makes no sense for us to mandate that they would take those resources and spend them overseas without giving them the funds to do it.

Madam Chairman, I reserve the balance of my time.

Mr. CONYERS. Madam Chairman, I am pleased to recognize the gentleman from Virginia, JAMES MORAN, for 1½ minutes.

Mr. MORAN of Virginia. I thank the chairman of the Judiciary Committee and Mr. PRICE for bringing this legislation forward. It is fully consistent with what the vast majority of this House voted for in the report language in the Defense appropriations bill. It needs to be done.

I have to tell you that after talking with so many soldiers in Iraq and those who have returned from Iraq, it is desperately urgent that we do it because things are out of control.

The fact is that many of these contractors, not all of them, but too many of them are acting with impunity. They tell me that they will work all day trying to communicate and working with the people in a village, trying to understand their customs and the like and show them respect, and then it is undermined by the actions of these security contractors who don't understand the language, who don't show the kind of respect that our soldiers do, who get paid almost three times what our soldiers get paid. It is undermining our mission in Iraq.

The fact is that this is not what America is about, conducting oneself with impunity. America is about equal justice under the law. It is about protecting the preciousness of human life, particularly innocent life.

It is not about outsourcing our inherent military functions, giving a contractor \$1 billion since 2004 and having 200 incidents of misconduct reported by that very contractor.

This legislation is necessary. Let's pass it overwhelmingly. Let's send that message to our soldiers.

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

Madam Chairman, once again my good friend from Virginia talks about equal justice; we agree. He talks about not acting with impunity; we agree.

That's why this minority when it was the majority passed the MEJA legislation in the first place. That is why we have covered the DOD contractors, their employees and dependents and the Armed Forces members. All of these individuals are already covered at this point in time if they are supporting a mission of DOD.

And we agree, the American people and most people in this House want us to reach out and get the bad actors. The only thing that they don't want us to do in the process is, one, jeopardize the intelligence operations that we could have, which this bill could easily do.

Number two, they don't want us to divert resources here from the United States in dealing with terrorism and gang activities and criminal activities here, or put our FBI agents in harm.

The third thing they don't want us to do is let bad actors do these things in Germany and Haiti wherever they may be sent just simply because we couldn't get the drafting right.

That is our point that we have been saying from the beginning. It is easy to have equal justice, not let contractors act with impunity, but write it in a good, rational basis that can be enforceable and not the kind of drafting that we have had brought forward in this legislation.

Madam Chairman, I reserve the balance of my time.

Mr. CONYERS. Madam Chairman, I yield 1½ minutes to the gentlewoman from California (Ms. WOOLSEY), cochair of the Progressive Caucus.

Ms. WOOLSEY. Madam Chairman, American contractors in Iraq have lived by their own rules for far too long. While American taxpayers fund the equipping and training of these private military contractors, companies like Blackwater continue to escape accountability to international, Iraqi or even American laws.

Today, the Democratic Congress will put an end to the question of whether we are training mercenaries and murderers in place of our Nation's warriors. By passing H.R. 2740, we can ensure that contractors in Iraq are held accountable under American criminal law. There is no excuse to allow private contractors and subcontractors to exist without legal accountability.

Madam Chairman, we must never forget that the way to end the abuses by contractors in Iraq is to bring our troops and our military contractors, 180,000 of them, home from Iraq as soon as practicable.

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

Madam Chairman, once again we hear the words that we can and we must do this, and we agree. The only thing, we must do it with proper legislation. Once again, as we pointed out, I don't see how any Member of this Congress or many of our citizens across the country want us to take individuals who may be employees doing intelligence operations for us in any area, and simply because they have an allegation of a criminal act that may not even have been criminal in that area, that they may be doing it on an undercover basis, that we then have to have them exposed which this act could very easily do, and the linkage would only be because they were hired to do that

particular act; and, therefore, expose the entire network in that intelligence operation.

They are the kinds of things that we could easily correct so that we could do this legislation and accomplish the intent of the legislation.

Madam Chairman, I reserve the balance of my time.

Mr. CONYERS. I only have one Member to speak, Mr. Ranking Member. Are you prepared to close?

Mr. FORBES. I will be happy to, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia.

Mr. FORBES. Madam Chairman, first of all, I am appreciative of all of the people who have worked on this legislation. I am appreciative of the comments we have had here. I think if we try to pick through the apples and the oranges and we look at what we have, we find that the intent of what we are trying to do is an intent that is shared by both sides of the aisle.

We don't want bad contractors. We don't want bad actors. We don't want people working in the name of the United States anywhere in the world that we aren't able to reach out and make sure that they are accountable. That's why this Congress previously on two different occasions has, one, passed the MEJA legislation and also expanded it. That's why we have already reached out and said if you are a member of the Armed Forces, we are going to reach out to you under MEJA and make sure that we hold you accountable.

That is why we have already said if you are an employee of DOD, we are going to reach out and hold you accountable. That is why we have already said if you are a civilian employee of any Federal agency in support of a DOD mission, we are going to hold reach out and hold you accountable. That is why we have already said if you are a contractor of DOD, we are going to reach out and hold you accountable. That's why we have said if you are a contractor of any other Federal agency and you are in support of a DOD mission, we are going to reach out and hold you accountable. That is why we have already said if you are a dependent of a member of the Armed Forces, we are going to hold you accountable. That is why we have already said if you are a dependent of a civilian employee of a DOD contractor, we are going to hold you accountable. Or if you are a dependent of a civilian employee of DOD, we are going to hold you accountable.

We do not have a problem, we encourage the reach-out, to hold accountable other contractors who might be working for other Federal agencies. But we think the wording in this bill, we could do much better. We hope that our friends in the Senate will sit down in a more bipartisan manner and correct those defects before this bill becomes law.

We believe a reading of the law does narrow the existing jurisdiction because we have added a phrase which is a limiter which means that it is within the proximity of the contingency operation. To many people listening to that debate, it is just words. But to the courts, it is litigation over what "proximity" means and it is a limiter which we believe could allow bad actors who could currently be brought under MEJA to escape liability.

In addition, we are very, very concerned in a world and in a day when we know that terrorists are out to get the United States that we not limit our intelligence operations. Why in the world we would want to expose some of those intelligence operations and the contractors that we have to hurting those intelligence networks when we could easily correct that is beyond me, especially in a day and age where we know that intelligence is so vitally important to the defense and the protection and the security of American citizens across the country.

Finally, Madam Chairman, it is of grave concern to us in what we are doing to the FBI, to enforce upon them, whereas before we have given them discretion. This is a mandate that they do investigations. It is a mandate that they furnish adequate personnel to do that. And to put them in a situation in a military conflict where they have to do these investigations is a concern for their security.

The second thing that it is a major concern of is diversion of assets that they are currently using in the United States to keep our citizens safe, to protect us from terrorists and gang activity, to protect us from other criminal activity here. If we are going to mandate that for them, at least let's put the funds there and make sure that we do it.

That is why I simply close the way I began by saying this is a bill that individuals will have to determine: Do they just simply want to vote for this bill in the hopes, and realizing that hope springs eternal, that perhaps the Senate can correct these defects before they become law and cast their vote because they agree, as I do, with the intent of this bill? Or do they cast a "no" vote even though they agree with the intent of the bill because they want to make sure that they have sent that signal over to our friends in the Senate that they want to protect our intelligence networks, protect the FBI, and make sure we expand, not decrease, the jurisdiction that we have.

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

Mr. CONYERS. I thank the ranking member of the Crime Committee for his insightful remarks, and I now ask the gentleman from Pennsylvania (Mr. SESTAK) to conclude and close out the discussion. I remind our friends that he was a vice admiral in his former career, and we welcome him to close the debate.

The CHAIRMAN. The gentleman from Pennsylvania is recognized for 2½ minutes.

Mr. SESTAK. Madam Chairman, from when I joined up during Vietnam to when I retired last year from the military, I always watched with respect how when human nature can be at its worst in a war, in actual combat, that there were still rules of law that set the boundaries beyond which individual actions would be held accountable.

I also watched during those decades with interest as contractors became a more significant and important part of our military and its operations. But I viewed with concern the men and the women that we began to assign to military security operations in this latest conflict.

I say that because even though I know a number of them and served with them, they were now outside those rules of law. I think that this bill is an important step within a war zone to take them back within the same standards of accountability. I speak to this because there are in the military "forces" and "force." Our force is lethal. Our forces are comprised of individuals, and something we pride ourselves out there, which is often indistinguishable from civilians in a country we are, is that these forces, lethal on one hand, are also the GI that carries that candy bar and puts the ideals of America first and foremost.

□ 1730

So that's why I rise in support of this bill for the accountability that it brings, and I believe this is a first good step which should have been done earlier. But I also speak in support because it takes us another step hopefully towards another action that needs to be taken.

I remember speaking to the colonel after the four individuals at Blackwater were found outside Fallujah, and as they came back and had the remains, he said to me, "If only they had called me, I could have told them that that road was not secure that day."

And so, as war changes, it is important to bring not just better coordination but the accountability of the rule of law which have always bound our military well, that there are individual actions which cannot be outside those boundaries or they will be held accountable.

I praise you much for bringing this bill here today.

Mr. UDALL of Colorado. Madam Chairman, I rise in support of H.R. 2740, the MEJA Expansion and Enforcement Act. This bill would increase accountability for the actions of the estimated 180,000 contractors now working in Iraq.

The September 16 incident in Iraq—in which 17 Iraqis died when Blackwater security contractors were accused of shooting at civilians indiscriminately—is only the latest in a string of such incidents involving Blackwater. This week a House Committee reported that

Blackwater guards had engaged in 195 shooting incidents since early 2005, and in over 80 percent of those incidents, the Blackwater guards fired first. Several guards testified that Blackwater employees fired more often than the report states.

The good news is that the Defense Department, the State Department, and the FBI have all undertaken investigations and are viewing the September 16 incident more seriously than they have viewed other such incidents in the past—perhaps because of the Iraqi government's threat to ban Blackwater from the country.

But this incident highlights the many problems with private security contractors in Iraq. Contracting out inherently governmental security functions to private security firms is yet another example of the excessive outsourcing that has gone on in the Bush administration—and the billions in contract costs and lack of accountability that have followed as a result.

Initially these contractors were brought in to fulfill a temporary need, but now that Blackwater and other private firms are very much part of the fabric of the U.S. occupation of Iraq, we need to ensure that they are held accountable for their actions on the job.

One of Ambassador Paul Bremer's last actions as head of the Coalition Provisional Authority was to issue Order 17, which states that private contractors working for the United States or coalition governments in Iraq are not subject to Iraqi law. But as we have found, it's not clear to what degree they are subject to U.S. law either.

That's why the law needs to be clarified and expanded. The MEJA Expansion and Enforcement Act amends the Military Extraterritorial Jurisdiction Act to ensure that all contractors working in war zones—not just those working for the Department of Defense—are accountable under U.S. criminal law, and mandates that the FBI enforce MEJA by investigating and prosecuting offenses.

The point of this legislation is not simply to penalize those private security contractors who act as though they are above the law, though that would be the direct effect of this bill. The point is also to ensure that the actions of these contractors don't jeopardize their own safety and the safety of our military men and women in Iraq, who do operate under strict rules of engagement and who are held accountable for their actions.

Madam Chairman, I don't mean to diminish the risks faced by these contractors day in and day out. I understand that they are often forced to make split-second decisions that can mean life or death for themselves and for those around them. But as the events of September 16 have shown, the repercussions of these decisions can be far-reaching. There must be accountability and consequences for decisions made—whether in the middle of a war zone or under other circumstances. Private security contractors are not entitled to immunity from our laws. That's why I will support this bill today.

The CHAIRMAN. All time for general debate has expired.

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

The text of the committee amendment is as follows:



H.R. 2740

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

# SECTION 1. SHORT TITLE.

This Act may be cited as the “MEJA Expansion and Enforcement Act of 2007”.

# SEC. 2. LEGAL STATUS OF CONTRACT PERSONNEL.

(a) CLARIFICATION OF THE MILITARY EXTRATERRITORIAL JURISDICTION ACT.—

(1) INCLUSION OF CONTRACTORS.—Subsection (a) of section 3261 of title 18, United States Code, is amended—

(A) by striking “or” at the end of paragraph (1);

(B) by striking the comma at the end of paragraph (2) and inserting “; or”; and

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

“(3) while employed under a contract (or subcontract at any tier) awarded by any department or agency of the United States, where the work under such contract is carried out in an area, or in close proximity to an area (as designated by the Department of Defense), where the Armed Forces is conducting a contingency operation.”.

(2) DEFINITION.—Section 3267 of title 18, United States Code, is amended by adding at the end the following:

“(5) The term ‘contingency operation’ has the meaning given such term in section 101(a)(13) of title 10.”.

(b) DEPARTMENT OF JUSTICE INSPECTOR GENERAL REPORT.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Inspector General of the Department of Justice shall submit to Congress a report in accordance with this subsection.

(2) CONTENT OF REPORT.—The report under paragraph (1) shall include—

(A) a description of the status of Department of Justice investigations of alleged violations of section 3261 of title 18, United States Code, to have been committed by contract personnel, which shall include—

(i) the number of complaints received by the Department of Justice;

(ii) the number of investigations into complaints opened by the Department of Justice;

(iii) the number of criminal cases opened by the Department of Justice; and

(iv) the number and result of criminal cases closed by the Department of Justice; and

(B) findings and recommendations about the number of criminal cases prosecuted by the Department of Justice involving violations of section 3261 of title 18, United States Code.

(3) FORMAT OF REPORT.—The report under paragraph (1) shall be submitted in unclassified format, but may contain a classified annex as appropriate.

# SEC. 3. FEDERAL BUREAU OF INVESTIGATION INVESTIGATIVE UNIT FOR CONTINGENCY OPERATIONS.

(a) ESTABLISHMENT OF THEATER INVESTIGATIVE UNIT.—The Director of the Federal Bureau of Investigation shall ensure that there are adequate personnel through the creation of Theater Investigative Units to investigate allegations of criminal violations of section 3261 of title 18, United States Code, by contract personnel.

(b) RESPONSIBILITIES OF THEATER INVESTIGATIVE UNIT.—The Theater Investigative Unit established for a theater of operations shall—

(1) investigate reports that raise reasonable suspicion of criminal misconduct by contract personnel;

(2) investigate reports of fatalities resulting from the use of force by contract personnel; and

(3) upon conclusion of an investigation of alleged criminal misconduct, refer the case to the Attorney General of the United States for further action, as appropriate in the discretion of the Attorney General.

(c) RESPONSIBILITIES OF FEDERAL BUREAU OF INVESTIGATION.—

(1) RESOURCES.—The Director of the Federal Bureau of Investigation shall ensure that each Theater Investigative Unit has adequate resources and personnel to carry out its responsibilities.

(2) NOTIFICATION.—The Director of the Federal Bureau of Investigation shall notify Congress whenever a Theater Investigative Unit is established or terminated in accordance with this section.

(d) RESPONSIBILITIES OF OTHER FEDERAL AGENCIES.—An agency operating in an area, or in close proximity to an area (as designated by the Department of Defense), where the Armed Forces is conducting a contingency operation shall cooperate with and support the activities of the Theater Investigative Unit. Any investigation carried out by the Inspector General of an agency shall be coordinated with the activities of the Theater Investigative Unit as appropriate.

# SEC. 4. DEFINITIONS.

In this Act:

(1) COVERED CONTRACT.—The term “covered contract” means an agreement—

(A) that is—

(i) a prime contract awarded by an agency;

(ii) a subcontract at any tier under any prime contract awarded by an agency; or

(iii) a task order issued under a task or delivery order contract entered into by an agency; and

(B) according to which the work under such contract, subcontract, or task order is carried out in a region outside the United States in which the Armed Forces are conducting a contingency operation.

(2) AGENCY.—The term “agency” has the meaning given the term “Executive agency” in section 105 of title 5, United States Code.

(3) CONTINGENCY OPERATION.—The term “contingency operation” has the meaning given the term section 101(13) of title 10, United States Code.

(4) CONTRACTOR.—The term “contractor” means an entity performing a covered contract.

(5) CONTRACT PERSONNEL.—The term “contract personnel” means persons assigned by a contractor (including subcontractors at any tier) to perform work under a covered contract.

# SEC. 5. EFFECTIVE DATE.

(a) APPLICABILITY.—The provisions of this Act shall apply to all covered contracts and all covered contract personnel in which the work under the contract is carried out in an area, or in close proximity to an area (as designated by the Department of Defense), where the Armed Forces is conducting a contingency operation on or after the date of the enactment of this Act.

(b) IMMEDIATE EFFECTIVENESS.—The provisions of this Act shall enter into effect immediately upon the enactment of this Act.

(c) IMPLEMENTATION.—With respect to covered contracts and covered contract personnel discussed in subsection (a)(1), the Director of the Federal Bureau of Investigation, and the head of any other agency to which this Act applies, shall have 90 days after the date of the enactment of this Act to ensure compliance with the provisions of this Act.

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 110-359. Each amendment may be offered only in the order printed in the report; by a Member designated in the report; shall be considered read; shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment; shall not be subject to amendment; and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. CONYERS

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 110-359.

Mr. CONYERS. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. CONYERS: Page 5, line 2, insert “potentially unlawful” before “use”.

Page 5, strike lines 17 through 25 and insert the following:

(d) ASSISTANCE ON REQUEST OF ATTORNEY GENERAL.—In consultation with the Director of the Federal Bureau of Investigation, the Attorney General may request assistance from the Secretary of State, the Secretary of Defense, the Secretary of Homeland Security, or the head of any other Executive agency, notwithstanding any statute, rule, or regulation to the contrary, including the assignment of additional personnel and resources to a Theater Investigative Unit.

Page 5, after line 16, insert the following:

(3) SECURITY.—The Director of the Federal Bureau of Investigation shall request security assistance from the Secretary of Defense in any case in which a Theater Investigative Unit does not have the resources or is otherwise unable to provide adequate security to ensure the safety of such Unit. The Director may not request or provide for security for a Theater Investigative Unit from any individual or entity other than the Federal Bureau of Investigation or the Secretary of Defense.

The CHAIRMAN. Pursuant to House Resolution 702, the gentleman from Michigan (Mr. CONYERS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Michigan.

Mr. CONYERS. Madam Chairman, I rise to make three commonsense changes to clarify and improve the bill that has been under discussion, and I hope that it addresses my friend from Virginia's comments about tightening the bill and making it more clear and more specific.

First of all, we clarify that the Federal Bureau of Investigation is to investigate those fatalities resulting from the potentially unlawful use of force by contractors in war zones. This will help make it easier for an initial examination to confirm claims of self-defense by contractors without the need for a protracted and costly investigation when it may, in fact, not be warranted.

Secondly, in response to a suggestion from the minority and the administration, the amendment clarifies that the Attorney General is authorized to request assistance from other Federal agencies when assigning personnel and resources to the FBI investigative units on the ground. This would enable the Attorney General to draw on the expertise of the Department of Defense, among others, when appropriate in undertaking and moving forward with investigations and prosecutions.

And finally, we require that the FBI look only to the Secretary of Defense for any additional security assistance that the FBI investigative units may

need in a war zone. We would not want to have the FBI relying on private contractors for security while investigating their conduct.

And so I thank the chairman of the Crime Subcommittee, BOBBY SCOTT; the ranking member of the Crime Subcommittee, RANDY FORBES; along with the bill's creator, DAVID PRICE; and finally, the gentleman from Pennsylvania (Mr. CARNEY) for working with me to craft this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. FORBES. Madam Chairman, I rise to claim the time in opposition to this amendment.

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

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

Madam Chairman, the manager's amendment purports to correct several flaws with this legislation. Unfortunately, the amendment offered by my good friend, the distinguished chairman of the Judiciary Committee, misses the mark. It is one of those things that had we had the opportunity to work in a bipartisan way we could have corrected it. I don't have any pride of authorship, don't care who writes it. We just need to get it written correctly, and unfortunately, it's not written correctly as it's before us today.

H.R. 2740 imposes an unworkable and unnecessary geographic limitation on Federal jurisdiction to areas in "close proximity" to a contingency operation. The manager's amendment fails to correct this flaw. If the majority were serious about passing a good bill, it would have heeded the concerns of the Department of Defense that establishing extraterritorial jurisdiction based upon a tenuous link to geographic locations where a military presence can be found is impractical. Civilian criminal jurisdiction based on a nexus dependent upon a military "contingency operation" is ill-advised.

For instance, Madam Chairman, if the majority had consulted the Department of Defense, it would have learned that Secretary-designated contingency operations are rarely, if ever, used and are limited to operations with a view toward an enemy or opposing military force.

By-law designations, however, result from automatic actions during a war or a national emergency declared by the President or Congress, the scope of which may be unannounced, generally unknown, or imprecisely defined.

Thus, it will be next to impossible for Federal prosecutors to establish jurisdiction in a U.S. court based upon an indefinable proximity to a contingency operation at the time the offense occurred.

Moreover, the majority clearly did little to educate itself as to how the government currently investigates fraud or violent crimes committed by

U.S. military personnel or contractors overseas. If it had, it would have learned that such investigations are not conducted solely by the FBI.

The FBI does not operate theater investigative units. Rather, legal attaches assigned to 70 embassies worldwide are the first point of contact for any overseas crime investigated by the FBI. The largest of these offices is currently in Baghdad, which operates the Iraq Contracting Fraud Task Force.

In addition, the Defense Criminal Investigative Service, the criminal investigative arm of the DOD Inspector General, has been engaged in investigating DOD-related matters pertaining to the Iraqi theater, to include Kuwait, since the start of the war.

Likewise, the International Contract Corruption Task Force, which is known as ICCTF, combines the Department of Justice and FBI with Army CID, DCIS, SIGIR, IRS CID and other Inspectors General to investigate and prosecute procurement fraud.

Requiring the FBI to establish individual theater investigative units will disrupt the existing law enforcement partnerships and task forces.

This bill will also impose a heavy financial burden on the FBI with no additional funding from Congress and will most certainly detract from the FBI's duty to dismantle gang networks, combat child pornography and exploitation, and protect Americans from another terrorist attack.

I urge my colleagues to oppose this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. CONYERS. Madam Chairman, I ask unanimous consent that Subcommittee Chairman BOBBY SCOTT be allowed to control the time on the manager's amendment.

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

There was no objection.

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

Madam Chairman, the manager's amendment reflects the compromise and bipartisan nature of the bill, which was reported out of the committee with bipartisan support. But after the bill was reported out of committee, the Department of Justice wanted to completely rework the bill. One of their suggestions would have gutted the FBI investigative units established in the bill and removed the enforcement mechanisms in the bill. Another would have so limited the number of crimes covered by the law that it could have not covered contractor fraud or even sex crimes in prisons. Those are simply unacceptable.

The suggestions proposed by the administration, many of which have been incorporated into the manager's amendment, have been described by the chairman of the Judiciary Committee, Madam Chairman.

And finally, I'd just like to point out to my distinguished colleague from

Virginia that if he has additional technical and definitional changes and recommendations, those can certainly be accommodated after the bill passes the House before final enactment. They will be accommodated.

Madam Chairman, I reserve the balance of my time.

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

I have nothing but the utmost respect for my good friend from Virginia and the chairman of the Crime Subcommittee. However, that offer was extended to us when we had the bill come out of the Judiciary Committee, and we thought we were going to be able to make those corrections between then and the time it came to the floor. They weren't.

The manager's amendment that was ultimately filed was filed right before we could even file amendments, and I certainly was never presented with that amendment.

So we hope that the Senate will make these changes, Madam Chairman. We look forward to that. I think it's important for the American people and for the individuals that are defending this country.

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

Mr. SCOTT of Virginia. Madam Chairman, I yield such time as he may consume to the gentleman from North Carolina (Mr. PRICE), the author of the bill.

Mr. PRICE of North Carolina. Madam Chairman, I rise in support of the manager's amendment. I want to again commend and thank Chairman CONYERS and Chairman SCOTT for their work in refining this legislation.

There's one aspect of this manager's amendment that is particularly important, I believe, and is the product of excellent work by Representative CHRIS CARNEY. This provision would make sure that FBI investigations are not corrupted by any conflicts of interest. That's an important addition, and I thank Representative CARNEY for his attention to this matter.

It is true, as others have said, that there were some late-breaking objections from the Department of Justice, that if they had been accommodated would have gutted the bill. However, various comments from the Department of Justice have dribbled out over some extended period of time, and the chairmen of the full committee and the subcommittee have dealt with those suggestions as they became available. That is reflected in this manager's amendment before us today.

I won't go into the content except to say that these are reasonable accommodations, and if there are additional technical changes or perfecting changes that are required, I am and I'm sure the leaders of the committee are, open to discussing further refinements.

I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. CONYERS).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MS.  
SCHAKOWSKY

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 110-359.

Ms. SCHAKOWSKY. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Ms. SCHAKOWSKY:

In section 2(b)(2) of the bill—

(1) in subparagraph (A)(iv), strike “and” after the semicolon;

(1) in subparagraph (B), strike the period and insert “; and”; and

(1) at the end of the paragraph, add the following new subparagraph:

(C) with respect to covered contracts where the work under such contracts is carried out in Iraq or Afghanistan—

(i) a list of each charge brought against contractors or contract personnel performing work under such a covered contract, including—

(I) a description of the offense with which a contractor or contract personnel were charged; and

(II) the disposition of such charge; and

(ii) a description of any legal actions taken by the United States Government against contractors or contract personnel as a result of—

(I) a criminal charge brought against such contractors or contract personnel; or

(II) a complaint received regarding the activities of such contractors or contract personnel.

The CHAIRMAN. Pursuant to House Resolution 702, the gentlewoman from Illinois (Ms. SCHAKOWSKY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Illinois.

Ms. SCHAKOWSKY. Madam Chairman, I yield myself such time as I may consume.

I want to thank my friend Mr. PRICE for bringing this important legislation to the floor and would like to thank Chairman CONYERS, Subcommittee Chairman SCOTT and the Judiciary Committee for their hard work on this very important issue.

My amendment would simply require the Department of Justice to issue descriptions of all charges that have been brought against contractors and contract employees in Iraq and Afghanistan and a description of the legal actions taken by the U.S. Government against them as a result of those charges.

H.R. 2740 requires the Department of Justice to issue a report that contains a list and descriptions of investigations that it is conducting into possible violations of U.S. law committed by contract personnel. This report must list the number of complaints it's received, the number of investigations it's begun, the number of criminal cases it has opened and the result of those cases.

My amendment would expand that requirement a bit further to ensure that the report includes a description

of the charges that have been brought against contractors in Iraq and Afghanistan and a description of the legal action taken as a result of those charges.

Madam Chairman, I reserve the balance of my time.

Mr. FORBES. Madam Chairman, I ask unanimous consent to claim the time in opposition to this amendment, although I'm not opposed to it.

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

There was no objection.

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

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

This amendment, Madam Chairman, expands the reporting requirement of the Department of Justice Inspector General to include a list of charges that have been brought against contractors and contract employees in Iraq and Afghanistan, a list of all criminal investigations and reports made with respect to contractors and contract employees in Iraq and Afghanistan in cases where no criminal charges were ultimately brought, and a description of the legal actions taken by the United States Government against contractors and contract employees in Iraq and Afghanistan as a result of a criminal charge or criminal investigation.

□ 1745

This is important information that Congress should be provided in order to make informed and accurate decisions regarding the investigation and prosecution of offenses by contractors overseas. I urge my colleagues to support the amendment.

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

Ms. SCHAKOWSKY. Madam Chairman, I yield 2 minutes to the gentleman from New York (Mr. HALL).

Mr. HALL of New York. I thank the gentlewoman.

I am proud to rise today in support of the Schakowsky amendment, and I thank my colleague for her leadership on this most important issue.

One of the most destabilizing aspects of our military involvement in Iraq is our unprecedented use of unaccountable private security contractors. By some estimates, there are 50,000 or more private security personnel working in Iraq. These contractors operate largely outside U.S. and Iraqi law, raising animosity toward Americans in the field and losing the hearts and minds of the people in Iraq.

The activities of one of the most prominent contractors, Blackwater, highlight why this amendment and the underlying bill come not a moment too soon. Two weeks ago, Blackwater personnel guarding a State Department group were involved in a shootout that involved the deaths of 11 Iraqis.

Blackwater has been involved in 195 escalation of force incidents since 2005. In 80 percent of those, Blackwater fired the first shots, even though they are only supposed to use defensive force.

It turns out that Blackwater has terminated 122 of their security employees, 53 of which were for weapons-related incidents or drug and alcohol violations. An incident report from another contracting firm described a Blackwater contractor's killing of a vice presidential security aide as “murder,” and Blackwater itself determined that he should be fired and his clearance should be revoked.

I could go on, but I think you get the picture. How many more incidents are there? How many more allegations and actions to be brought? Congress and the American need to know.

The MEJA Expansion Act will go a long way toward stopping the most egregious behavior of misconduct by these contractors and make their activities subject to U.S. law.

The Schakowsky amendment will strengthen this bill by making sure that any charges or legal actions are brought to light by DOJ. This amendment is vital to helping us in Congress conduct effective oversight to rein in contractors in Iraq. I urge my colleagues to support it.

Ms. SCHAKOWSKY. First, I would like to thank my colleague from Virginia for his support of the amendment and just close with these remarks.

U.S. taxpayers have paid billions to private security contractors in Iraq and Afghanistan. I believe that Congress must know if they are engaging in criminal behavior that puts the U.S. Armed Forces and our mission at risk, and what the government is doing to address it.

Congress and the American people are beginning to understand the vast impact that contractors are playing in our military operations. These private contractors are not, right now, accountable to the military, but their actions often put our brave military men and women at risk.

Currently, the U.S. military is using an estimated 180,000 private contractors in operations in Iraq and Afghanistan. Many are performing duties that are often considered inherently governmental functions, such as military operations, intelligence gathering, law enforcement, security and criminal justice functions. But despite the critical role that contractors are playing, Congress is unable to determine the full impact of contractors on U.S. military operations.

We have all heard about the tragic incident in Iraq on September 16 when Blackwater employees reportedly killed 11 Iraqi civilians, and another unconscionable incident on Christmas Eve 2006 when a drunk Blackwater guard killed an Iraqi security guard for the Iraqi Vice President. He was flown out of the country within 36 hours and has faced no charge or punishment for his crime.

We should be outraged that with incidents like these reported prominently in the press, and with the hundreds of thousands of contractors who have served in Iraq and Afghanistan, that only two have ever been charged with any crime.

I urge support for the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Ms. SCHAKOWSKY).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MR. HILL

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 110-359.

Mr. HILL. Madam Chairman, I have an amendment at the desk.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. HILL:

At the end of section 3, add the following new subsection:

(e) ANNUAL REPORT.—Not later than one year after the date on which the Director of the Federal Bureau of Investigation ensures compliance with the provisions of this Act pursuant to section 5(c), and annually thereafter, the Director of the Federal Bureau of Investigation shall submit to Congress a report containing—

(1) the number of reports received by Theater Investigative Units relating to suspected criminal misconduct by contractors or contract personnel;

(2) the number of reports received by Theater Investigative Units relating to fatalities resulting from the use of force by contractors or contract personnel;

(3) the number of cases referred by Theater Investigative Units to the Attorney General for further investigation or other action; and

(4) any recommended changes to Federal law that the Director considers necessary to perform the duties of the Director under this Act.

The CHAIRMAN. Pursuant to House Resolution 702, the gentleman from Indiana (Mr. HILL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Indiana.

Mr. HILL. Madam Chairman, I yield myself as much time as I may consume.

Thank you, Madam Chairman, for allowing me to present this simple amendment to the MEJA Expansion and Enforcement Act.

Just yesterday, The New York Times reported that since January 2005, there have been more than 200 shootings by U.S. contractors in Iraq where the contractors fired the first shot.

This type of action on behalf of these contractors is wholly unacceptable. However, our government did not have the option to prosecute all of the bad actors, until now. I applaud the gentleman from North Carolina for introducing this bill to correct this inequity.

The bill before us would provide a mechanism to enforce complaints regarding all contractor and contractor personnel misconduct through newly created FBI Theater Investigative

Units. My amendment is a simple one that would enhance the bill that would require the Director of the FBI to submit annual reports to Congress outlining the success of these Theater Investigative Units.

Specifically, the reports would include the number of reports received by the Theater Investigative Units relating to criminal misconduct by contractors or contract personnel; the number of reports received by the Theater Investigative Units relating to fatalities caused by the use of force by contractors or contract personnel; number three, the number of cases referred to the Attorney General; and, last, any statutory changes necessary for the Director to carry out the duties required by this act. Progress reports are necessary to ensure that these units are being used efficiently and appropriately.

Thank you again for the opportunity to present my amendment. I urge all of my colleagues to support my amendment and the underlying bill.

Again, I would reiterate that the author of the bill, the gentleman from North Carolina, has specifically seen the need for this kind of a bill. My amendment, I think, enhances his bill dramatically.

Madam Chairman, I reserve the balance of my time.

Mr. FORBES. Madam Chairman, I rise to claim the time in opposition to this amendment.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

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

This amendment requires the FBI to report annually to Congress the number of reports received of criminal misconduct by contractors, the number of reports received of fatalities caused by contract personnel, the number of cases referred to the Attorney General, and statutory changes necessary for the Director to carry out the duties entailed by this bill.

As I mentioned earlier in this debate, the creation of Theater Investigative Units within the FBI will hinder rather than help the investigation and prosecution of overseas crimes under MEJA. The creation of such units ignores the current framework of inter-agency cooperation amongst the Departments of Justice, Defense and State.

More importantly, these investigative units are in direct conflict with statutory mandates under other portions of MEJA. For instance, MEJA, under title 10, section 3262, requires the Secretary of Defense to authorize a person within the Department of Defense to arrest persons subject to MEJA.

H.R. 2740 does nothing to address this requirement with the conflicting requirement that the FBI establish Theater Investigative Units. Which agency will take custody, detain and transfer suspects arrested under MEJA?

MEJA allows suspects to be transferred to authorities of a foreign country for trial in certain circumstances. The Secretary of Defense is responsible for determining which officials of a foreign country constitute appropriate authorities. Will the Secretary now be required to make this decision for contractors not associated with military operations or will this decision fall to the FBI and, if so, under what authority?

MEJA allows initial court proceedings to occur while the covered person is outside of the United States. When this occurs, MEJA requires that a suspect be appointed counsel by a Federal magistrate judge. Such a counsel is designated a qualified military counsel, which is designated as a judge advocate made available by the Secretary of Defense. So now will a contractor who isn't associated with military operations be assigned a military judge advocate to be his counsel? Or will the Department of Justice be required to designate qualified civilian counsel for nonmilitary contractors and under what authority?

Clearly, there are numerous flaws with the creation of FBI Theater Investigative Units. This amendment does not alleviate any of these concerns.

I urge my colleagues to oppose the amendment.

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

Mr. HILL. Madam Chairman, I yield the balance of my time to my good friend from North Carolina (Mr. PRICE).

The CHAIRMAN. The gentleman from North Carolina is recognized for 2½ minutes.

Mr. PRICE of North Carolina. Thank you, Madam Chairman. I rise in strong support of the amendment offered by my colleague from Indiana, and I thank him for his leadership on this issue.

Mr. HILL's amendment is based on two critical principles, transparency and accountability. Over the last few years, many of us have asked the Department of Justice to give us basic information about the allegations of abuse by contractors, and the Department's efforts to investigate and prosecute these allegations, to carry out its responsibilities under existing law. Answers, I am afraid, have not always been forthcoming.

This amendment would ensure that Congress has the basic information we need to determine whether we are aggressively enforcing the rule of law and ensuring accountability of those who work in our name and on our dime.

As my friend Mr. HILL well knows, our American troops on the battlefield, who must deal with the consequences of incidents like the recent Blackwater shootings, those troops will be the main beneficiaries of the increased accountability that his amendment would require.

I applaud Mr. HILL for his efforts and urge my colleagues to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. HILL).

The amendment was agreed to.

Mr. PRICE of North Carolina. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Ms. CLARKE) having assumed the chair, Mrs. TAUSCHER, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 2740) to require accountability for contractors and contract personnel under Federal contracts, and for other purposes, had come to no resolution thereon.

#### REAPPOINTMENT AS MEMBER OF ADVISORY COMMITTEE ON RECORDS OF CONGRESS

The SPEAKER pro tempore. Pursuant to 44 U.S.C. 2702, and the order of the House of January 4, 2007, the Chair announces the Speaker's reappointment of the following member on the part of the House to the Advisory Committee on the Records of Congress:

Mr. Joseph Cooper, Baltimore, Maryland

□ 1800

#### SPECIAL ORDERS

The SPEAKER pro tempore (Ms. CLARKE). Under the Speaker's announced policy of January 18, 2007, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### HONORING LANCE CORPORAL ROBERT LYNCH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. YARMUTH) is recognized for 5 minutes.

Mr. YARMUTH. Madam Speaker, I rise today to honor Lance Corporal Robert Lynch who was taken from us far too soon when he and two other Marines were killed in Iraq by an IED. In Louisville, the hearts of his family and friends are full of grief as they mourn this tremendous loss, but we are also full of pride as we celebrate the life of an American hero who made the ultimate sacrifice.

Robbie's heroism began well before his service in the Marines. At a young age, he conquered Tourette syndrome and became a charismatic joker, an eloquent poet and a caring and empathetic young man.

At Seneca High School, he enrolled in the ROTC as a freshman, becoming an instant favorite among the faculty and his classmates alike. In fact, to many, it seemed Robbie was friends with everyone, classmates, teachers, administrators, clerks, everyone. And in Robbie, or Jax, as he nicknamed

himself, they had a friend who would send people into hysterics when times were light or cut through the tension with a joke that lightened the mood. In Iraq he used that sense of humor to keep up the spirits and morale of his fellow warriors.

But people were drawn to Robbie for more than his affability. Robbie was also the one you knew you could depend on, the one you would go to if you needed help, support or simply a friend. That sentiment was shared by the many at home who loved him and those who served with him in Okinawa in the 1st Battalion, 12th Marine Regiment, 3rd Marine Division, III Marine Expeditionary Force.

Robbie dreamed of going to Hollywood to sing. He wrote songs and poems that expressed, among other things, his passion for justice and freedom. Tragically, his devotion to service eclipsed his artistic aspirations, and that dream will not be realized. Still, his words remain with us, and I'd like to share just a few.

He wrote, "I don't plan on being a hero to the world. I just want to try to help make it a better one." Clearly, Robbie underestimated himself, for in just 20 short years on the planet we are better for having him here, and he is a hero to us all.

Today I'm introducing legislation to rename the Fairdale, Kentucky, Post Office the Lance Corporal Robert A. Lynch Memorial Post Office, so that it may stand as a testament to his heroics and strong character. For his selfless devotion to all of us in the United States, he deserves our recognition and thanks. For their sacrifice, his family deserves our support. We are poorer for the loss of him but we, as a community and a country, are better off for the short time we had him.

I urge my colleagues to join me today in honoring Lance Corporal Robert Lynch, a patriot, a poet, and a good man.

The SPEAKER pro tempore (Mr. BRALEY of Iowa). Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

(Mr. POE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### COMMUNIST CHINA AND CIFUS: "DROPPING THE SHARK"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. MCCOTTER) is recognized for 5 minutes.

Mr. MCCOTTER. Mr. Speaker, to resuscitate the 1970s sitcom "Happy Days," Arthur Fonzarelli was aquatically clad in a swimsuit, white T-shirt and leather jacket and filmed performing a harrowing water ski jump over a shark. Though The Fonz pulled it off, the network pulled the plug on "Happy Days." Subsequently, inane at-

tempts to prevent a show's cancellation by scripting an absurd season have been coined "jumping the shark."

But what should we call situations where the U.S. Government willfully suspends its disbelief Communist China is a strategic threat and, instead, appeases it? I suggest we call such instances "dropping the shark."

Mr. Speaker, the Committee on Foreign Investment in the United States must review and block Bain Capital and Communist China's Huawei Technologies' deal with the 3Com Corporation. If approved, Communist China's Huawei Technologies stake in the 3Com Corporation will gravely compromise our free Republic's national security.

The 3Com Corporation is a world leader in intrusion prevention technologies designed to prevent secure computer networks from hacker infiltration, and our Department of Defense extensively utilizes them. These technologies were severely tested this June when Communist China hacked into our DOD's computer networks and caused a shutdown. Given this and other instances of Communist China's persistent cyberwarfare against us, approving this sale would be an abject abnegation of CIFUS's duty to protect America's vital defense technologies from enemy acquisition.

Few doubt the aims of Communist China's Huawei Technologies, which was set up in 1988 by a People's Liberation Army officer to build military communications networks. The pending deal with Huawei is deemed "really worrisome" by a former Pentagon cybersecurity expert, and as reported by Bill Gertz in today's Washington Times, a current Pentagon official confirmed, "Huawei is up to its eyeballs with the Chinese military"; while another official stated "we are proposing to sell the PLA a key to our front door. This is a very dangerous trend."

This is not the first time Communist China's Huawei Technologies has raised legitimate American concerns. In January 2006 Newsweek described Huawei Technologies as "a little too obsessed with acquiring advanced technology." Appearing before the House Armed Services Committee on September 19, 2002, Professor Gary Milhollin, Director of the Wisconsin Project on Nuclear Arms Control, testified as to the extent of the danger: "The history of Huawei shows how sensitive American exports can wind up threatening our own Armed Forces. So when we talk about export controls, we are not just talking about money. We are talking about body bags."

This is not hyperbole. At the start of this decade, Huawei violated U.N. sanctions and illegally provided a fiber-optic network to Iraq. This network linked the Iraqi military's air defense network. Moreover, the CIA-led Iraq Survey Group's final report concluded Huawei illicitly participated in providing transmission switches for Iraq's fiber-optic communications. In August