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MARKUP OF:

H.R. 4970, THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2012;

H.R. 4377, THE RESPONSIBLY AND PROFESSIONALLY INVIGORATING DEVELOPMENT
ACT OF 2012; AND

H.R. 5512, THE DIVISIONAL REALIGNMENT ACT OF 2012

Tuesday, May 8, 2012

House of Representatives,

Committee on the Judiciary,

Washington, D.C.

The committee met, pursuant to call, at 10:19 a.m., in Room 2141, Rayburn House Office Building, Hon. Lamar Smith [chairman of the committee] presiding.

Present: Representatives Smith, Sensenbrenner, Coble, Gallegly, Goodlatte, Lungren, Chabot, Issa, Forbes, King, Franks, Gohmert, Jordan, Poe, Chaffetz, Griffin, Marino, Gowdy, Ross, Adams, Quayle, Amodei, Conyers, Berman, Nadler, Scott, Watt, Lofgren, Jackson

Lee, Waters, Cohen, Johnson, Pierluisi, Quigley, Chu, Deutch, Sanchez, and Polis.

Staff Present: Richard Hertling, Staff Director and Chief Counsel, Travis Norton, Parliamentarian; Caroline Lynch, Counsel; Sarah Kish, Clerk; Perry Apelbaum, Minority Staff Director; Danielle Brown, Minority Parliamentarian; and Ron LeGrand, Minority Counsel.

Chairman Smith. The Judiciary Committee will come to order.

Without objection, the chair is authorized to declare recesses of the committee at any time, and the clerk will call the roll to establish a quorum.

The Clerk. Mr. Smith?

Chairman Smith. Present.

The Clerk. Mr. Sensenbrenner?

Mr. Sensenbrenner. Present.

The Clerk. Mr. Coble?

Mr. Gallegly?

Mr. Goodlatte?

Mr. Lungren?

Mr. Chabot?

Mr. Issa?

Mr. Pence?

Mr. Forbes?

Mr. Forbes. Present.

The Clerk. Mr. King?

Mr. Franks?

Mr. Franks. Here.

The Clerk. Mr. Gohmert?

Mr. Jordan?

Mr. Jordan. Here. Present.

The Clerk. Mr. Poe?

Mr. Poe. Present.

The Clerk. Mr. Chaffetz?

Mr. Chaffetz. Present.

The Clerk. Mr. Griffin?

Mr. Griffin. Present.

The Clerk. Mr. Marino?

Mr. Marino. Present.

The Clerk. Mr. Gowdy?

Mr. Gowdy. Here.

The Clerk. Mr. Ross?

Mrs. Adams?

Mrs. Adams. Present.

The Clerk. Mr. Quayle?

Mr. Amodei?

Mr. Amodei. Present.

The Clerk. Mr. Conyers?

Mr. Berman?

Mr. Nadler?

Mr. Scott?

Mr. Scott. Here.

The Clerk. Mr. Watt?

Mr. Watt. Present.

The Clerk. Ms. Lofgren?

Ms. Lofgren. Here.

The Clerk. Ms. Jackson Lee?

Ms. Waters?

Mr. Cohen?

Mr. Johnson?

Mr. Pierluisi?

Mr. Quigley?

Mr. Quigley. Here.

The Clerk. Ms. Chu?

Mr. Deutch?

Ms. Sanchez?

Mr. Polis?

Chairman Smith. The clerk will report.

The Clerk. Mr. Chairman, 16 members responded present.

Chairman Smith. A working quorum is present.

Pursuant to notice, I now call up H.R. 4970 for purposes of markup, and the clerk will report the bill.

The Clerk. H.R. 4970, to reauthorize the Violence Against Women Act of --

Chairman Smith. Without objection, the bill will be considered as read and open for amendment at any time.

[The information follows:]

***** INSERT 1-X *****

Chairman Smith. I will recognize myself for an opening statement and then the ranking member.

H.R. 4970, the Violence Against Women Act Reauthorization of 2012, introduced by our colleague Sandy Adams, reauthorizes the funding for VAWA grant programs for 5 years. I have been a strong supporter of the Violence Against Women Act since its enactment in 1994.

VAWA addresses violence against women by establishing within the Department of Justice and the Department of Health and Human Services a number of grant programs for State, local, and Indian tribal governments. DOJ's Office on Violence Against Women, which was established in 1995, administers three formula-based and 14 discretionary grant programs. VAWA provides valuable resources to the victims of domestic violence.

In February, 1996, the Austin, Texas-based Texas Council on Family Violence launched a National Domestic Violence Hotline. Since that time, the group has answered nearly 2.5 million calls.

The hotline is a lifeline for victims of domestic violence and their families. Over the past 15 years, the hotline has provided victims with crisis counseling, information on legal advocacy, shelters, and health care facilities.

These are just one of the many examples of programs funded across the country under VAWA that bring real benefits to victims of domestic violence and sexual assault.

H.R. 4970 increases resources for sexual assault investigations, prosecutions, and victims services to bring those resources into line

with the victimization rate. The bill protects victims of domestic violence, sexual assault, and stalking as it strengthens penalties and improves Federal stalking laws. It promotes educational awareness to prevent violence and improves services for young victims by funding State prevention education programs and enhancing campus programs.

This bill also enhances immigration laws to protect victims of violence. Fraud and abuse in the U.S. immigration system must be stopped. Immigrants who perpetrate fraud in order to get visas or U.S. citizenship devalue U.S. immigration laws and hurt legitimate victims who are the intended beneficiaries of the generous programs we have established. The changes made in this bill protect immigrant victims of domestic violence who self-petition for green cards and ensure that scarce resources funded by the American taxpayers go to actual victims.

This bill also supports the primary goal of the U visa program to ensure that law enforcement receives the tools it needs for the investigation and prosecution of crimes. Under the bill, temporary U visas are given to illegal immigrants who are victims of crimes in the U.S. only if they actually assist in the investigation and prosecution of their assailants. It doesn't provide them with permanent residency or a path to citizenship. That should never have been a goal of the U visa program and is not necessary to provide illegal immigrants with an incentive to cooperate with law enforcement officials.

The Violence Against Women Act has historically been a bipartisan effort. Violence against women doesn't occur along party lines, and

neither should reauthorization of these programs.

This legislation reauthorizes every single VAWA grant program at the same level as the Senate-passed reauthorization bill.

Instead of working with us in a bipartisan manner to protect women from domestic violence, rape, and stalking, some in Congress are trying to use violence against women as a political prop. They have chosen to place partisan posturing above the urgent needs of victims of violence.

VAWA has helped many women escape abuse and enabled them to seek help through its victim-services program. As I mentioned before, this legislation reauthorizes every VAWA grant program at the same level as the Senate-passed reauthorization bill. At the end of the markup, I hope every member of this committee will support a program that benefits so many women.

[The statement of Chairman Smith follows:]

***** COMMITTEE INSERT *****

Chairman Smith. That concludes my opening statement; and the gentleman from Michigan, the ranking member of the Judiciary Committee, is recognized for his.

Mr. Conyers. Thank you, Chairman Smith.

Let me point out that the funding is the same as in the Senate bill, but the provisions are different. So the funding level is one thing, but this bill is a move backwards, as you must have heard from about more than 200 -- well, more than 200 organizations, not to mention hundreds of thousands of individuals who are outraged at what we are here attempting to do today. I can assure you you will not get the vote of the Democratic side of this committee, because it is a step backwards, and it is a flat-out attack on women. It is a reversal. And I am not coming on. I am going to prove it.

Number one, the bill rolls back vital existing protections for immigrant women, who are even more vulnerable than the regular class of abused women.

Number two, we weaken the so-called U visa process by subjecting applications to arbitrary time limits and limiting the possibility of victims receiving permanent green cards.

Number three, the legislation totally omits bipartisan protections for other vulnerable groups included in the Senate bill.

And, number four, the bill also eliminates language that would have helped LG -- bisexual and transgendered victims.

Now, look, when the National Organization for Women, the Leadership Conference on Civil and Human Rights, the National Task

Force to End Sexual and Domestic Violence Against Women, the National Coalition of Antiviolence Programs, the National Council Against Domestic Violence, and dozens of others come out against this bill, this is an attack on women.

[The statement of Mr. Conyers follows:]

***** COMMITTEE INSERT *****

Mr. Conyers. And I yield 1 minute of my time -- the rest of my time to -- you will get your own time -- to Maxine Waters.

Ms. Waters. Thank you very much, Mr. Chairman; and I thank you for your leadership.

And I think you said it in the opening of your statement. This indeed is an attack on women. This takes us back. Many of us who fought for years to make sure that women could be treated fairly in society at all levels paid a lot of attention to violence against women. We lived through the days of violence being perpetrated on women in so many ways and completely unprotected by the Justice Department, by police departments, by anybody.

And now we have before us a bill, H.R. 4970, that has taken the subject Violence Against Women Reauthorization Act of 2012, but this does not reauthorize the violence against women bill that we have in law that has provided protection for so many women since its enactment in 1994. The Violence Against Women Act has a long history of uniting lawmakers, local law enforcement, and community advocates with the common purpose of protecting victims and survivors of domestic violence. And so we have before us a bill today that not only takes us back, but it certainly puts immigrant women in harm's way and Native American women in harm's way.

And so my friends on the opposite side of the aisle would like to say to us that there is no war on women, but there is a war on women, and this is a great indication of it. There is a war on women, and it became very well known as we were attacked when we were trying to

provide contraceptive insurance for women and we got pushed back by our friends on the opposite side of the aisle. And here again we have violence against women that is being undermined by our friends on the opposite side of the aisle. This is another indication of the war against women --

Chairman Smith. The gentlewoman's time has expired.

Ms. Waters. -- that is being perpetrated by the Republicans in this Congress.

Chairman Smith. Thank you, Ms. Waters.

The gentleman from Wisconsin, Mr. Sensenbrenner, the chairman of the Crime Subcommittee, is recognized.

Mr. Sensenbrenner. Mr. Chairman, I yield my time to the principal author of this legislation, Republican woman Sandy Adams of Florida.

Mrs. Adams. Thank you. And thank you, Mr. Chairman, for holding this important markup.

According to national statistics, on average three women are killed by a current or former intimate partner every day. In the United States, 24 people per minute are victims of rape, physical violence, or stalking by an intimate partner. Reports indicate that 15.5 million children are exposed to domestic violence every year. And, sadly, girls and young women between the ages of 16 and 24 experience the highest rate of intimate partner violence.

When I was 17, I dropped out of high school. I later -- you know, I dropped out to join the Air Force, later got married and had a

beautiful young little girl. Unfortunately for me, her father, I came to soon find out, was a violent alcoholic. I tried to give him a chance to be a good husband and a good father. However, it became clear that he would not. So I took my daughter and her clothing and my clothing and we left. We left everything.

Saying it was difficult to start a new life would be an understatement. But like many women who leave an abusive relationship, I knew I had to focus on making a better life for my daughter, and that was what kept me going.

Years later, while working as a deputy sheriff for the Orange County Sheriff's Office in Orlando, Florida, I experienced another side of domestic violence, that from the angle of a law enforcement officer. I encountered many victims along the way who had been abused, whether it was a form of domestic violence, rape, or stalking. In those moments you oftentimes meet people when they are in the depths of despair; and many of them told me they didn't have anywhere to go, didn't know who to turn to for help.

Thirty years ago, people didn't discuss the issues of domestic violence or sexual violence. These were things dealt with behind closed doors. But the Violence Against Women Act, which passed Congress with bipartisan support and was signed into law in 1994, helped bring attention to an issue that was often underreported or not reported at all. Since 1994, VAWA has been reauthorized twice and has been instrumental in providing health and shelter to victims while bringing attention to the issues of domestic violence.

H.R. 4970 provides for a 5-year reauthorization of VAWA at the same levels as the similar bill approved by the Senate, S. 1925. The bill will also makes several key improvements to the Senate bill, including nearly doubling resources for eliminating the backlog of unprocessed rape evidence kits and cracking down on fraud identification in immigration programs.

Importantly, H.R. 4970 will help ensure that our Federal dollars go to the victims of abuse, not government bureaucrats, by streamlining the grant process to make it more accountable, efficient, and cost-effective.

As we move forward with the third reauthorization of VAWA, I believe it is imperative that the focus remains on helping the victims of domestic violence, dating violence, sexual assault, and stalking, rather than turning this into a political talking point. To make this a political issue is not only wrong but dangerous. Violence against women in this country cannot be just another campaign issue. It cannot become a part of a stump speech. It must be a reflection of our best efforts as Americans united against the cycle of violence that can and must be broken.

I hope my colleagues on the Judiciary Committee will join me today in supporting this life-saving legislation. I look forward to the discussions. I understand some of the concerns, and I think some of them will be addressed today.

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

Chairman Smith. Thank you, Mrs. Adams.

The gentleman from Virginia, Mr. Scott, the ranking member of the Crime Subcommittee, is recognized for an opening statement.

Mr. Scott. Thank you, Mr. Chairman.

Mr. Chairman, since the Violence Against Women Act was passed 18 years ago, it has provided life-saving assistance to hundreds of thousands of women, as well as many men and children across the Nation. Programs authorized under the Act provide victims of domestic violence with critical services and help with vital services such as transitional housing, legal assistance, supervised visitation services, and others. The Act provides funding for training of countless law enforcement officers, prosecutors, judges, and others in the criminal justice system and, beyond that, has completely changed the way the Nation responds to situations of domestic and dating violence and stalking.

And it is working. Since the Act's enactment, there have been tremendous improvements in domestic violence rates and the response to the needs of survivors. But more needs to be done. Domestic and sexual violence remain a significant widespread problem. Nearly one in four women and one in seven men report experiencing severe physical violence by an intimate partner.

We need to work together to reauthorize the Act to continue this essential and life-saving work, and we need to make critical improvements to be able to address more of the problems that stem from domestic violence.

Unfortunately, while H.R. 4970 seeks to reauthorize worthwhile grant programs, it simultaneously undermines some of the programs that protect the safety from some of the most vulnerable victims of domestic and dating violence. H.R. 4970 actually rolls back important protections for immigrant victims, putting them in a worse position than they were under current law.

One example, the current act self-petition process allows battered immigrants who are living in the United States as a spouse or child of a U.S. citizen or lawful permanent resident to petition for independent legal status without relying on their abusive spouse or parent as a sponsor. Current law prohibits government officials from sharing with anyone information about the petitions or relying upon information provided solely by the alleged abuser in making adverse determinations. H.R. 4970, on the other hand, actually encourages immigration agents to contact the abusers, tipping them off to the fact that their victims are now seeking government assistance. A violence against women bill should not do more harm to the victims that it purports to protect.

In addition, the bill excludes from protection people who are victimized because of their sexual orientation or gender identity, and it fails to extend additional protections to tribal women, who suffer much higher rates of victimizations than other groups. The problem of domestic violence has reached epidemic rates on Indian reservations. While there are questions regarding the constitutionality of expanding inherent tribal jurisdiction over non-Indians, there should be no

concerns regarding what we can do under existing laws to better protect Indian women.

I will offer an amendment that authorizes the Attorney General to appoint a domestic violence tribal liaison to each district with Indian county jurisdiction to encourage and assist the arrest and prosecution of domestic violence, dating violence, and stalking offenses, including misdemeanors. This will be particularly helpful to those involving offenses by non-Indians against tribal members during the next several years while constitutional issues regarding tribal jurisdiction are being resolved. This person would conduct training sessions for tribal law enforcement officers to ensure that they are aware of their arrest authority over non-Indian offenders so that no abuser, Indian or non-Indian, feels immune from arrest and being held accountable for his or her actions.

Finally, I will offer an amendment to strike from H.R. 4970 several mandatory minimums and death penalty provisions. Mandatory minimums have been studied extensively and have been found to distort the rational sentencing systems, discriminate against minorities, and often violate common sense. But even if everyone involved in the case, from the arresting officer, the prosecutor, judge, and victim believe that the mandatory minimum sentence would be an unjust sentence for a particular defendant in a particular case, it must still be imposed.

Mandatory minimums are based solely on the code section violated, without any consideration for the seriousness of the offense, and they remove the sentencing discretion from the Sentencing Commission and

the judge. Regardless of the role of the offender, the particular crime, the offender's record or lack thereof, or facts and circumstances in the case, the judge has no discretion but to impose mandatory minimums set by legislators long before the crime was committed.

H.R. 4970 includes mandatory minimums in two separate sections of the bill, and I will have amendments to remove them from the bill so that judges can impose long sentences if warranted but not if a mandatory minimum violates common sense.

In addition, the bill includes a Federal death penalty for sexual abuse, which my amendment will also remove.

We must work together to reauthorize the Act so that the good work we started 18 years ago when we first passed it can continue. But H.R. 4970 in its current form is not the version of the Violence Against Women Act that we need to pass.

Thank you, Mr. Chairman. Thank you for allowing me to go over a little bit.

Chairman Smith. Thank you, Mr. Scott.

The gentlewoman from Florida, Mrs. Adams, is recognized so she can offer a manager's amendment.

Mrs. Adams. Thank you, Mr. Chairman.

This amendment makes a number of --

Chairman Smith. The clerk will report the amendment.

The Clerk. Amendment to H.R. 4970 offered by Mrs. Adams of Florida.

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Chairman Smith. Without objection, the amendment will be considered as read.

[The amendment of Mrs. Adams follows:]

***** INSERT 1-1 *****

Chairman Smith. And the gentlewoman is recognized to explain the amendment.

Mrs. Adams. The amendment makes a number of key changes and technical corrections to the bill.

It adds two new sections to Title I to reauthorize the sexual assault training programs and child abuse training programs for 5 years.

It adds provisions that allow States to reallocate unobligated and unused STOP grant funds for other authorized grant purposes.

The amendment amends the definition of underserved populations to include underserved religious populations.

Section 101 of the bill which reauthorizes the STOP grant program is amended to clarify that States may consult with representatives of the various entities to develop their implementation plans. The purpose of this is to allow States to consult, for example, a State law enforcement association on behalf of all State and local law enforcement agencies rather than each individual agency.

This section is also amended to allow States to consult tribal coalitions in addition to tribal governments.

The amendment also clarifies that 25 percent of arrest grant funds will be dedicated to sexual assault offenses and provide a 5 percent set-aside to tribal coalitions under the arrest grant program.

My amendment adds a formula to the sexual assault services program and rape prevention and education grants to provide territories and

the District of Columbia a greater percentage of funds, while maintaining the current population-based focus of grants awarded under these programs.

The amendment makes a number of changes to the education programs reauthorized under the bill to bring the terminology in line with the terms used by Federal education law and the Department of Education, including, for example, the use of the term "evidence-based" rather than scientifically valid to define education programs.

At the request of the Justice Department, this amendment deletes two reporting requirements that are redundant to the biennial report to Congress submitted by the Office of Violence Against Women.

The changes to the bill made by this amendment were not drafted on a whim. They were prepared based on input from advocates, grant administrators, and service providers and incorporate edits provided by the other committees of jurisdiction. I urge my colleagues to support this amendment, and I yield back the balance of my time.

Chairman Smith. Thank you, Mrs. Adams, and I will recognize myself in support of the amendment.

I support the amendment offered by Mrs. Adams which makes commonsense improvements and technical corrections to the bill.

This amendment incorporates a number of changes based upon input from VAWA grant administrators and domestic violence and sexual assault victim advocates. The amendment also includes changes based on input from minority staff and the other committees of jurisdiction. This underlying legislation reauthorizes important grant programs,

streamlines the grant process, and provides greater accountability to ensure that more money goes to the victims.

I urge my colleagues to support this manager's amendment. Yield back the balance of my time.

The gentleman from Michigan, Mr. Conyers, ranking member, is recognized.

Mr. Conyers. Thank you, Chairman Smith.

This is a technical manager's amendment, including grammatical corrections, but it does, of course, nothing, being technical, to ensure the protection of all the victims, of which we have already heard is a big problem.

It eliminates section 304. It eliminates references to, quote, "culturally specific communities." And so this just -- I am glad we are making grammatical corrections here, and so I am not even going to ask for a record vote on this amendment.

I yield back the balance of my time.

Chairman Smith. Thank you, Mr. Conyers.

Are there any amendments to the manager's amendment?

Ms. Lofgren. Mr. Chairman?

Chairman Smith. The gentlewoman from California, Ms. Lofgren, is recognized.

Ms. Lofgren. I move to strike the last word.

Chairman Smith. The gentlewoman is recognized for 5 minutes.

Ms. Lofgren. As Mr. Conyers has noted, the proposed amendment is technical, and we are all for correcting clerical errors, but it

doesn't really solve the problem with this bill.

You know, I am very disappointed that after really decades of working together in a bipartisan basis to fight violence against women we now have a bill that rolls back those protections. I was touched to hear my colleague's story of her personal experience with domestic violence. That is a terrible thing. However, her personal trauma, compelling as it is, does not cure the defects in this bill that would deny assistance to other victims of domestic violence.

Let me just talk about some of the problems in the bill. We had a bipartisan consensus over the years that VAWA -- self-filing under VAWA needed to be confidential. Because if the abuser found out that would put the victim in danger. This bill destroys the confidentiality provisions in the existing law so that the domestic violence abuser is going to be notified by the government when his victim tries to escape. This requires -- this bill requires the consideration of uncorroborated abuser statements.

We made a decision on a bipartisan basis, and it was in Mr. Sensenbrenner's report, that you could not rely on the statements of the abusers, uncorroborated statements, because they lie. We have raised the standard of proof in this bill to clear and convincing evidence. It is almost the only section of immigration law that requires this heightened standard of proof.

Why would we single out domestic violence victims for the highest standard of proof, more than any other section of the law? This stays the adjudication during investigations or prosecutions for VAWA

petitions. That is completely a mistake. The victim has no capacity to determine what the law enforcement agencies can do. She needs to be given assistance. She should not be made a victim of delay on the part of law enforcement.

The measures weakening the U visa are very serious. The 60-day reporting requirement will mean that child victims of rape, individuals who are afraid to come forward will be denied the assistance that they currently have under existing law. The elimination of the ability for U visa holders to apply for green cards if they can show extreme hardship will mean that victims of domestic violence with small children will have to decide whether they are going to report the abuser and seek safety, and also deportation, or stick with the abuser and risk their lives. That is not something that we have in current law, and it is not something that we should change today.

I am very sad to say that this bill is a step backwards. And although our colleague has a career, a prior career as a deputy sheriff, it is worth noting that the National Sheriffs Association opposes her bill, as does the National Association of Attorney Generals, the Fraternal Order of Police, and Federal Law Enforcement Officers Association, along with hundreds of other organizations that are faith-based, legal organizations and law enforcement.

This manager's amendment does nothing to fix the problems in the bill. It doesn't matter if it passes or not; the bill is a step backward. And I am really very disappointed that we can't approach this serious violence against women issue as we have in past years,

on a bipartisan basis, advancing the cause to protect women. This bill is a step backwards. It is an assault on women.

And I yield back.

Chairman Smith. Thank you, Ms. Lofgren.

Are there any amendments to the amendment?

If not, the question is on --

Ms. Jackson Lee. Mr. Chairman? Mr. Chairman?

Chairman Smith. Who seeks recognition?

The gentlewoman from Texas, Ms. Jackson Lee.

Ms. Jackson Lee. I thank the chairman very much.

Chairman Smith. For what purpose does the gentlewoman seek recognition?

Ms. Jackson Lee. To strike the last word and speak to the manager's amendment.

Chairman Smith. The gentlewoman is recognized for 5 minutes.

Ms. Jackson Lee. I thank the gentleman.

Mr. Chairman, I join with the bipartisan members of the Judiciary Committee on the imperativeness and the crucialness of this legislation. I will give that to my colleagues for the fact that Mrs. Adams has introduced this bill, as did Ms. Moore and many others introduce a bill, and the Senate passed a bill in a bipartisan manner. I would assume that we recognize the importance of this crisis.

With the proliferation of guns, the new concealed weapons laws, laws to carry guns over State lines, women have become more vulnerable in the 21st century than even I would imagine in the pioneering wild

west, when women were asked to go west to help settle and build communities.

For that reason, I think that when the Nation cries out in pain, the Judiciary Committee, of all committees, should answer that pain. We did it in 2000 with then-Ranking Member Conyers and Chairman Hyde. I remember the pride as a very new Member marching over to the Senate to stand with Members of the Senate and the bipartisan members of the House Judiciary Committee.

It was at that time, in 2000, that we reauthorized this bill for the first time. At that time, we made it a better law. And, of course, as we renewed it again for the second time, we brought programs for teen victims of domestic and sexual abuse.

My point is that each time we went to the people of the United States, and in this committee we attempted to do so to make the law better. Sadly, we have fallen victim, I believe, to unsafe politics.

Now, I will not engage in warfare, but I will work to defend, and I truly believe when you narrow the parameters of the law you eliminate Native American women. Many of us who have been on reservations or pueblos, we understand the crisis that many face in those communities.

Lesbian women, are they any less a woman? Is there a definition that is in this legislation, the underlying legislation, that defines women in a way that would exclude? Is there a physical definition? Is there a definition of inclination? Why then are they not covered? I would argue that the inclusion is the way that we have gone over the years.

Immigrant women, which many of us have worked with for many, many years, we know that law enforcement have told us that we need to have a pathway for these women to be protected. We need them to be able to come forward. We need them not to live in abusive circumstances so that they suffer the consequences of ultimate death because the individual, no matter what his economic background, holds them hostage because they are here in the United States by way of permission through their spouse.

I said earlier this morning of a young woman by the name of Perry, where her husband beat her in front of her two children for 18 months when she was 6 weeks pregnant with her third child. She went to the hospital when he tried to throw me off the porch. And the first call to one of these organizations, TCRP, saved her life. Because of the program, her young son now knows what a man should be.

What about a man that puts a cigar in the daughter's face, a woman too afraid to speak?

The bill that the Senate has passed has been supported by the national Fraternal Order of Police, Federal law enforcement, various individuals in the faith community. And so my dilemma is today whether or not we will end at the end of the day and do what the tradition of this bill has been and what it has called upon us to do, and that is year after year of its reauthorization we have done it in a bipartisan way, and we have not excluded anyone. I can imagine what they would have said about teens being included, date rape, or date abuse.

Chairman Smith. The gentlewoman's time has expired.

Ms. Jackson Lee. Mr. Speaker, I just simply raise the question and oppose the underlying bill and ask that we support the Senate bill at this time. I yield back.

Chairman Smith. Okay. The gentlewoman yields back her time.

Are there other amendments to the amendment?

And if not, the question is on the Adams manager's amendment. All in favor say aye. Opposed, nay.

In the opinion of the chair, the ayes have it, and the amendment is agreed to.

Are there any amendments to the underlying bill?

Mr. Conyers. Mr. Chairman, I have a substitute.

Chairman Smith. The gentleman from Michigan is recognized.

Mr. Sensenbrenner. Mr. Chairman, I reserve a point of order against the amendment.

Chairman Smith. A point of order has been reserved. And the clerk will report the amendment.

The Clerk. Amendment in the nature of a substitute to H.R. 4970 offered by Mr. Conyers of Michigan.

Strike all after the enacting clause and insert the following:

Section 1, Short Title.

Chairman Smith. Without objection, the amendment will be considered as read.

[The amendment of Mr. Conyers follows:]

***** INSERT 1-2 *****

Chairman Smith. The gentleman is recognized for 5 minutes to explain his amendment.

Mr. Conyers. Mr. Chairman, I have proposed a substitute amendment this morning for the current bill.

Chairman Smith. Will the gentleman suspend? I think we want to wait for the copies of the amendment to be distributed.

The gentleman from Michigan is recognized to explain his amendment.

Mr. Conyers. Thank you, Mr. Chairman.

We are marking up a bill today that purports to be a reauthorization of violence against women, but, in truth, 4970 is a regressive bill that actually sets us back. It does violence to the Violence Against Women Act. It actually rolls back protections, as we have already heard, for immigrant victims and abandons some of the most vulnerable victims by stripping out key provisions from the bipartisan-passed Senate bill that are needed to protect all victims, including battered immigrants, Native American women, and victims in same-sex relationships.

Now, my substitute is largely modelled after a measure introduced by the gentlelady from Wisconsin, Gwen Moore, and is also a version of the bill by the other body, the Senate, which incidentally passed by a vote of 68 to 31. So my amendment in the nature of a substitute represents a measured approach to reauthorizing legislation that, until today, has been overwhelmingly bipartisan.

The advances proposed by the substitute are modest when compared

with the significant changes in the previous reauthorizations. Like the Senate version and the Moore bill, this substitute does the following:

It makes changes that are responsive to the real needs of real victims and comes at the request of law enforcement and service providers from around the country.

Secondly, it makes improvements to existing law to ensure that services are available for all victims, regardless of religion, sexual orientation, or gender identity, and that the needs of tribal communities, battered immigrants, and ethnic and racial minorities are effectively addressed.

We also attempt to ensure that Violence Against Women Act programs reach more communities whose members need services. It includes new definitions and purpose areas, as well as new civil rights provisions, to ensure that services can be provided to all, regardless of race, color, religion, national origin, sex, gender identity, sexual orientation, or disability.

And, finally, it allows law enforcement to request up to 5,000 additional U visas for immigrant victims helping law enforcement prosecute sexual assault, domestic violence, and other serious crimes.

So what we do is bring an increased focus on sexual assault prevention and enforcement and services, including new purpose areas to improve law enforcement and forensic responses to sexual assaults and to address the astounding backlog of untested rape kits.

So, members of the committee, this substitute is based on months

of conferring with our colleagues in the Senate, with working survivors, advocates, law enforcement officers from across the country and was based on what is working and what could be improved. So rather than presenting extreme or divisive proposals my substitute contains only proposals that law enforcement, survivors, and advocates have said were essential. It is supported by numerous organizations, many of which are here represented in the Judiciary Committee hearing room today.

I urge my colleagues to give this careful consideration and support this amendment in the nature of a substitute, and I thank the chairman.

Chairman Smith. Thank you, Mr. Conyers.

Does the gentleman from Wisconsin insist on his point of order?

Mr. Sensenbrenner. I do. Mr. Chairman, I make the point of order that the amendment is not germane.

Chairman Smith. The gentleman is recognized to explain his point of order.

Mr. Sensenbrenner. An important test, Mr. Chairman, of an amendment's germaneness is whether its provisions fall beyond the rule 10 jurisdiction of this committee.

Section 904 of the gentleman's amendment amends the Indian Civil Rights Act. Clause (M)(20) of rule X of the House gives jurisdiction over relations of the United States with Native American and Native American tribes to the Committee on Natural Resources. The Indian Civil Rights Act has historically fallen within the jurisdiction of

the Natural Resources Committee, for example, H.R. 8347 of the 93rd Congress, which was referred to the Natural Resources Committee's predecessor, the Committee on Interior and Insular Affairs.

Furthermore, section 1003 amends the Communications Act of 1934, amendments to which have historically fallen within the jurisdiction of the Committee on Energy and Commerce, two bills of this Congress, H.R. 68 and H.R. 4059.

Therefore, I submit that the gentleman's amendment is not germane and request that my point of order be sustained.

Chairman Smith. Thank you, Mr. Sensenbrenner.

The gentleman from Michigan.

Mr. Conyers. Mr. Chairman, my substitute amendment meets the two tests of germaneness, principal purpose and scope.

Now, we understand that the majority bill is designed to reauthorize and enhance protections for women against violent abusers. It includes a wide variety of grant programs as well as substantive law provisions which are designed to enhance these protections. My substitute meets the same exact purpose and, as a matter of fact, is based on the Senate-passed bill. It does include provisions relating to violence on tribal lands, but, again, this should fall within the same principal purpose as the underlying bill.

And the scope of the bill is also very broad. The fact that the chair may believe it triggers the jurisdiction of another committee is not quite the point. The chair must acknowledge that they had worked with other committees in writing the manager's amendment and so have

we in putting ours together. As a matter of fact, we have a long history of working with the Resources Committee on these very issues. So it should hardly present a problem today.

Now, I know that this is in the discretion of the chair. As we just saw in the Adams manager's amendment, there are instances in which the chair may allow an amendment to move forward even where it may touch the jurisdiction of another committee.

RPTS COCHRAN

DCMN HERZFELD

[11:15 a.m.]

Mr. Conyers. As we know, it is quite frequent for legislation to be introduced which requires referral to several committees. That is what referral is for. It is also not unusual for these committees to act expeditiously and cooperatively to move the matter along. And so the bipartisan Senate-passed bill that included these provisions didn't experience any significant delay, nor should we. So for that reason I think the germaneness issue is not well founded at all.

Chairman Smith. Okay. Thank you, Mr. Conyers.

The chair is prepared to rule on the point of order.

Mr. Watt. Mr. Chairman.

Chairman Smith. For what purpose does the gentleman from North Carolina seek recognition?

Mr. Watt. May I make a parliamentary inquiry?

Chairman Smith. The gentleman is recognized to make a parliamentary inquiry.

Mr. Watt. Does the bill we are considering, the underlying bill, have jurisdiction in multiple committees?

Chairman Smith. The answer to that is yes, it does.

Mr. Watt. And is the standard of germaneness germaneness to the issues in the underlying bill, or is the standard of germaneness our committee's jurisdiction, or is the standard of germaneness whatever

the chairman says it is?

Chairman Smith. The standard of germaneness is not whatever the chairman says it is, although I wouldn't object to that. The basis for the germaneness argument is after consultation with the Parliamentarian, we are convinced that the amendment offered by the ranking member is not germane because it does impact multiple committees' jurisdiction.

Mr. Watt. Notwithstanding the fact that the underlying bill --

Chairman Smith. That is correct. There is a different standard for amendments.

Mr. Watt. Then I think the chairman has confirmed that it is whatever the chairman says it is.

Chairman Smith. Well, it is what the chairman says in consultation with the House Parliamentarian, that is correct.

In the opinion of the chair, the amendment is not germane pursuant to clause 7 of rule 16 of the House. The point of order is sustained.

Are there other amendments to the underlying bill?

The gentleman from Texas. I am expecting an amendment from the gentleman from Texas. As members of the committee know, we like to alternate between the minority and the majority, and so I am going to see if the gentleman is available.

Does the gentleman from Texas have an amendment?

Mr. Poe. Yes, Mr. Chairman, amendment number 5.

Chairman Smith. The clerk will report the amendment.

The Clerk. Amendment to H.R. 4970 offered by Mr. Poe of Texas:

"Page 155, strike lines 8 through 13, and insert the following (and redesignate provisions accordingly):

"(i) the petitioner reported the criminal activity to a law enforcement agency prior to the expiration of the statute of limitations or prosecution of an offense based on the criminal activity under applicable State or Federal law."

[The amendment of Mr. Poe follows:]

***** INSERT 2-1 *****

Chairman Smith. The gentleman from Texas is recognized --

Mr. Watt. Mr. Chairman, I reserve a point of order.

Chairman Smith. A point of order has been reserved. The gentleman from Texas is recognized to explain his amendment.

Mr. Poe. Thank you, Mr. Chairman.

The concept in the law of VAWA is good public policy. It is also good public policy that we understand that in immigrant communities, there sometimes is a lawless element that preys on immigrants. Sometimes that lawless element is also immigrants, immigrant gangs in some instances, and they use intimidation and fear tactics, and the one they use many times is the concept that they can commit crimes against other immigrants, spouses, children, and if the victim dare report the crime to law enforcement, the immigrant criminal will make sure that there is a deportation proceeding that takes place. Whether that is true or not that they are able to succeed in that, victims fear that. They fear the deportation because of being a victim.

Public policy should be in this country that if you are a victim of crime, that should be paramount to us as a Nation, as opposed to allowing intimidation and fear from those who wish to prey on immigrants to keep them from reporting crime. When a crime is committed against one person, it affects our entire community, and it affects our social stability.

So I am a supporter of VAWA. Many immigrants and victims worked their way to the courthouse when I was a judge forever trying criminal cases, and I saw the world as it really was, not how we would hope it

would be. Immigrant victims, spouses have stood in the courtroom and trembled at the thought that they may be deported merely because they reported a crime, a dastardly crime, by somebody else. They fear that. And many times they don't show up at the courthouse, no matter what law enforcement tells them, no matter what other citizens or noncitizens tell them about how it is important to report the crime, that they are safe. They don't feel that way.

That is the world we live in. That is the real world we live in. So we have to, I think, as public policy, encourage victims of violence, in this case sexual assault or violence against women, to report the crime so that justice can be taken care of, and the criminal can be prosecuted.

Sometimes it takes the victims a long time to be convinced to report the crime or work with law enforcement. I don't know, I don't believe in many cases that in 60 days the victim in many cases can even find the courthouse. They don't even know that the law enforcement system even works. Doesn't even know what to do. For days I have heard of how a crime is committed against an immigrant, and they just -- they don't do anything, because they fear, they fear what the perpetrator has told them, that they are going to get deported.

So this amendment that puts the same status -- not a greater status, not a lesser status -- with an immigrant victim as it does with any victim in the United States. It states that they have to report the crime within the statute of limitations. I think that is a fair thing to impose under this legislation. Ideally 60 days would be

great; it just doesn't work that way, in my experience.

So give them the same statute of limitations authority that any victim would have to report the crime within that statute of limitations under the applicable law, whichever it is, whether it is State or Federal, so that they have that ability to be encouraged to report the crime within the same amount of time as anyone else.

This is a specific issue. It deals with time of reporting. And I would ask that amendment number 5 be supported so that we can have a fair system that treats all victims the same way within the reporting period.

And I will yield back.

Chairman Smith. Thank you, Mr. Poe.

Does the gentleman from, I believe, North Carolina insist on his point of order?

Mr. Watt. I do not. I withdraw my point of order.

Chairman Smith. The point of order is withdrawn.

Are there others who wish to speak on this amendment?

The gentlewoman from California Ms. Lofgren is recognized.

Ms. Lofgren. Thank you, Mr. Chairman.

Mr. Poe's amendment moves in the right direction, but it really doesn't solve the problem completely in the underlying bill.

The U visa is really a law enforcement tool that encourages immigrant victims of serious crimes, including domestic violence and sexual assault, to assist in investigations and prosecutions. Under the current law the law enforcement officer certifies that the

applicant, the immigrant applicant, is, has been, or will be helpful to the criminal investigation.

Now, as Mr. Poe has pointed out, the 60-day limitation really would impair the capacity of law enforcement to proceed, and victims don't always come forward in 60 days. Here is why I think the amendment doesn't go far enough. There are many cases where victims provide critical assistance in investigations where the statute may have run, and that is particularly true in cases involving serial rape or sexual abuse of children, where the victims may have been abused years ago, but they are still helping law enforcement prosecute more recent incidents.

The statute of limitations for rape in some States is only 5 years. There are States where there is a 3-year statute for felony sexual abuse of a child. And this amendment, while moving us in the right direction in terms of striking the 60 days, would still prohibit witnesses who have been able to identify a serial rapist or sexual abuser of a child from coming forward and cooperating with law enforcement if they lived in States with these relatively short statutes of limitations.

Now, we have heard from police officers that these witnesses can be very helpful. Even if a crime occurred years ago, the information can still be of great use to the police. In addition, for cold cases, as we have seen with rape cases, thousands and thousands of DNA samples are now being tested, and information is coming forward. So the current law provisions about self-reporting and, in the case of U visa, certification by the police officers is actually working.

Mr. Poe did not indicate this, but I think the comments made by the chair relative to potential fraud, I assume, is behind the changes in the underlying bill, but there is no evidence at all of fraud in the U visa process. In fact, in September of last year, CRS conducted a very wide-ranging report, a surge of press reports, legal proceedings, and was able to locate us only one, a single press report of potential fraud relative to the U visa.

This is what they said, the CRS report said: "Members of the USCIS Fraud Detection and National Security Directorate told CRS they had not seen cases of benefit fraud using the U visa." And here is why, I think. The requirement for a certification serves as a significant deterrent to fraud as it requires contact with police officers who have to vouch for the veracity of the victims and the need for the victims' cooperation.

Here is what the Federal Law Enforcement Association said: "Law enforcement officers and prosecutors don't handout visas like cotton candy. U visas are an essential tool carefully used by law enforcement and tempered with great scrutiny," unquote. Now, the CRS told us attestation by law enforcement of both abuse to the alien national and subsequent assistance by that individual serves to prevent immigration fraud.

So I think that the bill, the underlying bill, is a solution in search of a problem. There is absolutely no evidence of fraud in this system. The amendment, I think, is well intentioned to eliminate the 60-day reporting requirement, but it doesn't solve the underlying

problem, which is this will not fully free up law enforcement to utilize the cooperation of immigrants as the current law does.

So this is a half step forward to where we are today. The bill takes us back, and Mr. Poe's amendment is a half step towards current law. I suppose we should support it, but it doesn't solve the problem.

Ms. Waters. Would the gentlewoman yield for a question?

Ms. Lofgren. I would be happy to yield to the gentlelady.

Ms. Waters. Am I to understand that Mr. Poe's amendment would replace the 60-day requirement, a new statute of limitations?

Chairman Smith. The gentlewoman's time has expired. Without objection, the gentlewoman is recognized for an additional minute.

Ms. Lofgren. And I would continue to yield to the gentlelady.

Ms. Waters. And they would also continue to have the U visa.

Ms. Lofgren. No. My understanding from the Poe amendment is that the 60-day requirement would be replaced with the statute of limitations. And in some cases that will work, but in other cases, especially in the case of child sexual abuse, in serial rapists, the statute of limitations might prevent the issuance of a U visa and the ability of immigrants to collaborate with police and prosecutors.

That is why the proposed amendment solves part of the problem, but it doesn't solve the overall problem. It would still allow this bill to be a step backward from current law in terms of protecting women from violence, and especially immigrant women from violence, and also would preclude in some cases our law enforcement, our police and our prosecutors, from utilizing the full tools that they have available

to them under current law.

Chairman Smith. The gentlewoman's time has expired.

I will recognize myself to speak in favor of the Poe amendment, and I urge my colleagues to support it for the reasons that Mr. Poe gave.

I will yield to the gentlewoman from Florida Mrs. Adams.

Mrs. Adams. Thank you, Mr. Chairman.

I, too, am in support of the amendment. The original draft of the bill was to try to encourage the immigrants to come forward so that evidence would not be lost so that more victims would not be created by the perpetrator not being caught in a timely manner.

My concern is also to protect the current victims, but also protect future victims. We want to make sure that that perpetrator is not able to continue to offend and offend and offend over and over again and create those victims.

So my intent, although it was honorable, I believe I understand the concern, and therefore I support this amendment. I realize now after talking to several people that my encounter as a law enforcement officer of our immigrants who worked in our groves, at times I would just stop as I was patrolling and walk out in the groves as they were having their lunch where they dug out a hole and made their tortillas, and I would sit and talk with them. Maybe that doesn't happen in all jurisdictions.

So I would agree that we need to go ahead and leave it as a statute of limitations, and I support the amendment.

Chairman Smith. I will yield now to the gentleman from South Carolina Mr. Gowdy.

Mr. Gowdy. Thank you, Mr. Chairman.

I want to thank Judge Poe for his excellent service to the great State of Texas as one of the most widely respected jurists in the history of that State, as well as his superb service to the Judiciary Committee.

The judge is right, of course. Sixty days is an inadequate amount of time. On the other hand, there are certain States like South Carolina that have no statute of limitations for criminal cases, which creates the anomaly that depending on which State you are in, you may have only 3 years or 5 years; or if you are in a State with no statute of limitations, it is indefinite.

So I was just wondering aloud, are we better off picking something more than 60 days, but nonetheless a specific time period, or are we better off with a statute of limitations analysis, even understanding certain States have no statute of limitations for any crimes? And like any good prosecutor, I will give the judge the last word.

Mr. Poe. If the gentleman will yield, under current law now, there is no --

Chairman Smith. Actually the time is mine. And I will yield to the gentleman from Texas Mr. Poe.

Mr. Poe. Thank you, Mr. Chairman.

I think it ought to be the statute of limitations. South Carolina prosecutes people a long time after the crime because there is no statute of limitations. That should be a State issue. If it is a

Federal issue, there are Federal statutes of limitation. I think that should go back to where the crime was committed as to whether it is 2 years, 5 years, or 100 years, as it is in South Carolina.

So I would ask that the gentleman support the amendment, and I yield back to the chair, who has the time.

Chairman Smith. Thank you, Mr. Poe.

I yield back the balance of my time.

Mr. Conyers. Mr. Chairman?

Chairman Smith. The gentleman from Michigan Mr. Conyers is recognized.

Mr. Conyers. Mr. Chairman, I rise against the Poe amendment. The judge is a great jurist, but in this instance, rewarding an amendment that doesn't solve the problem, but because he strikes the 60 days, that throws us back into the statute of limitations issue. Now, there are very few States that don't have any statutes of limitations. Most of them do. So I am against this amendment. I thank him for striking the 60 days, but that is not what this is about. It goes much further than this.

Even if a crime has occurred a long time ago, years ago, it doesn't make any difference. The information is frequently of great use to law enforcement. And where there is a serial criminal, it would be ridiculous not to know that a pattern of criminal behavior is not kept on file and stored.

So I feel that in domestic violence, in these kinds of cases, as the gentlewoman from California Ms. Lofgren has said, there isn't any

fraud issue with U visas to begin with, so this is an unnecessary amendment. It did a little good. I am voting against it, and I urge everybody to join me.

Ms. Lofgren. Will the gentleman yield?

Mr. Conyers. I yield to Ms. Lofgren.

Ms. Lofgren. I thank the gentleman for yielding.

A question was raised to me, what is the existing law? And the existing law doesn't have a statute of limitations requirement or a 60-day requirement.

Here is the protection: In order to avail yourself of the U visa if you were a victim, the law enforcement agency has to certify that you are helping on a prosecution. So it is not as if there is no structure in place to make sure that this isn't being abused. The fact that the law enforcement agency needs to make that certification means that the victim's testimony or corroboration is valuable in the fight against crime. That is the key element, and that is current law. And it is not the statute of limitations, it is not some arbitrary date. It is the ability to fight crime as certified by our brave men and women on the front lines against crime.

Ms. Waters. Will the gentlewoman yield?

Ms. Lofgren. Well, it is not my time. I just thought I would clarify that, and I am sure Mr. Conyers --

Chairman Smith. Does the gentleman yield to the gentlewoman?

Mr. Conyers. I yield.

Ms. Waters. Thank you very much.

That is a very important point. When I first looked at the issue, I was looking at it in terms of the 60-day limitation with the U visa, but that is not in current law. That is in the bill that is before us. So it is not a matter of fact whether they are trying to do something better than 60 days. Current law is unlimited. So that is very important and makes all the difference in the world.

I yield back.

Mr. Johnson. Will the gentleman yield?

Mr. Conyers. Yes, a former magistrate from Georgia.

Mr. Johnson. Thank you, Mr. Ranking Member.

It seems to me that chances are that this bill is going to pass, or this bill will be reported out of committee with a favorable recommendation. I am thinking that my Members on the other side of the aisle will again vote in unison on this measure, and I believe that the Poe amendment makes this bill a little better, even though the entire bill is something that I will vote against. But to the extent it is going to pass anyway, I may as well be in favor of something that is going to be less onerous. So for that reason, unless I hear of any other arguments, I probably will support the amendment.

Mr. Conyers. Well, I am not sorry that I yielded to you, but I still oppose this amendment, because fixing an amendment that is defective for a problem that doesn't exist does not make anything a little bit better.

Ms. Lofgren. If the gentleman would yield, I would just argue that although the intention is a good one on the part of Judge Poe,

if you vote for this amendment, you are actually decreasing, voting to decrease the protections available to these people.

Chairman Smith. The gentleman's time has expired.

Mr. King. Mr. Chairman.

Chairman Smith. The gentleman from Iowa Mr. King is recognized.

Mr. King. Thank you, Mr. Chairman. I move to strike the last word.

Chairman Smith. The gentleman is recognized for 5 minutes.

Mr. King. Thank you, Mr. Chairman.

For a number of years, I have tracked Mr. Poe's activity on immigration issues, and it has been reliable and consistent, and he has stood up persistently for the rule of law, and I admire that clarity with the tone.

I sat down here with full expectations of being supportive of this amendment, and I am a little bit undecided at this point. But I bring this up because I am trying to think ahead of where we have had this debate and this dialogue at this point, and I think about the point that Mr. Poe has made that if there is only a 60-day window to report a crime, then it is a high deterrent for people who have knowledge of crimes that go beyond that date, and the more heinous the crime, the greater need there would be, in my mind, to be able to go backwards in time and be able protect people with the U visas so they could report those kinds of crimes. And I think a lot of us could name those crimes that we would rather get the perpetrator punished than we would the illegal immigrant that is in this country punished.

On the other side of that is that at the end of a U visa, it opens the door for a green card, and if we are going to reward people for providing information for crimes with a green card that would give them a path to citizenship and start the chain migration of this, we don't have the numbers on how many people come in on a chain migration initiative, but it can be a huge number of people that come in. And yet we don't have a requirement that they actually even provide information.

It is hard for us here in this committee without data to put our finger on the scope of the magnitude of this amendment. I think that is why we are hearing conflicting messages from Democrats and Republicans on this. Some oppose the amendment and some support it for differing reasons.

My trouble is that we are rewarding people with the U visa that is a path to a green card and not requiring that information is even provided. And I wish that I had gone to work on this several days ago and crafted an amendment that focused on this to provide a solution. One of those things I would propose would be couldn't we require a conviction as a component of the information, and then the path to citizenship, and have a temporary U visa that would protect them in this country until such time as the prosecution is completed?

I would ask the gentleman from Texas if -- I would be happy to yield if you could give me some more insight into that, since you are the man that sat on the bench for -- I don't think as long as you might think it is. You are still a young man.

I yield to the gentleman from Texas.

Mr. Poe. I thank the gentleman for yielding.

I think the specific issue has to do with reporting the crime. There are crimes that are reported that there is no prosecution on. I don't believe that women who report a crime and law enforcement investigates or chooses not to investigate and there is no conviction should be penalized because there has to be a conviction. So I would not agree with the gentleman that there has to be a conviction.

They have to report the crime. That is their duty, and that is the protection we are seeking, because once the crime is reported, then the perpetrator is the one that starts, in many cases, the intimidation. I think the amendment, the purpose of the bill, is to protect the victim of the crime more so than always getting someone convicted and sent to the Do-Right Hotel.

One other comment that I would make, in most States -- I don't know of any State that has a statute of limitations on homicide cases. So the ranking member mentioned serial killings. I know of no State that requires there be a statute of limitation on murder.

So anyway, I yield back to the gentleman.

Ms. Lofgren. Will the gentleman yield?

Mr. King. Just reclaiming my time, and if I have time, I will yield to the gentlelady from California. I would pose a couple more questions to the gentleman from Texas, and that would be is this gender specific in any way? But the next one would be, have you encountered issues where there were people who were picked up for violations of

immigration law that then perhaps manufactured a report on a crime in order to qualify for a U visa and then never produced the information?

I would yield to the gentleman from Texas.

Mr. Poe. The hypothetical you proposed, I haven't seen that situation. I am not saying there is or there isn't. I only see the results of someone who reported a crime. They turn up in the courtroom to testify, and the perpetrator is there in the courtroom, and some of those cases are prosecuted, some of those are not. So I haven't seen the so-called fraud that the gentleman alludes to.

Mr. King. Reclaiming my time, I thank the gentleman from Texas.

I yield to the gentlelady from California.

Ms. Lofgren. Thank you.

Just to clarify, I think I said serial rape or sexual abuse of children. If I said serial homicide, I misspoke, and I wanted to clarify that.

Mr. King. And so in reclaiming my time, I would just say to the committee I am still troubled by this, the ramifications that open the door for a path to amnesty. I would like to have seen something halfway in between this that would require that there would be information provided and that the conviction be on the other side of that information.

Chairman Smith. The gentleman's time has expired.

The gentlewoman from California Ms. Waters is recognized.

Ms. Waters. Thank you very much. I move to strike the last word.

Chairman Smith. The gentlewoman is recognized for 5 minutes.

Ms. Waters. I am taking this 5 minutes because I want to make sure that we all understand exactly what this amendment does. My friend from Atlanta indicated that he would be inclined perhaps to support the Poe amendment because he feels that it expands the opportunity for the victim to be able to report. When I first looked at this amendment, I thought it expanded it from 60 days; however, it was clarified by Ms. Lofgren that there are no limitations in the present law.

The 60-day requirement has just been put in with this Adams bill, which means that if you have no limitations, and you move to 60-day limitations, and you compare it against the statute of limitations, it may appear to be that you are doing something better, when, in fact, you are not. It would be better to leave existing law as it is, and I think that is important to know and understand.

And I would like to say to my friend on the other side of the aisle, let us not look at this provision in relationship to whether or not we are going to stop somebody from committing fraud and getting a visa when they are indeed not eligible for it. This is about violence against women. This is about women being able to report crimes and to get a visa, a U visa, and to be able to do that in perpetuity, as far as I am concerned, because of all the reasons that have been stated.

I want to tell you, I have been watching a little television on these cold crimes where information comes in years later, and you are able to catch very dangerous people who have committed crimes over and over again, but they have not been caught yet. So I don't want to do

anything to limit. I don't want the statute of limitations to limit. I don't want a 60-day limit. I want the law as it is now that allows the victims to come forward, cooperate with law enforcement, and get the investigations done, and get their U visa on top of that.

Mr. Gowdy. Would the gentlelady yield for a question?

Chairman Smith. Would the gentlewoman from California yield for a question from Mr. Gowdy?

Ms. Waters. Yes.

Mr. Gowdy. If the statute of limitations has lapsed, then what would be the victim be cooperating on? Because there would be no prosecution.

Ms. Lofgren. Would the gentlelady yield?

Ms. Waters. I yield to the gentlelady from California.

Ms. Lofgren. Witnesses can be also be of value in a prosecution, as I am sure you know from your rich history as a prosecutor.

Mr. Gowdy. If there are witnesses, which frequently there are not in domestic violence cases.

Ms. Lofgren. Here is a situation where you have, for example, a serial rapist. The statute might have lapsed for the immigrant victim, and yet you have a prosecution of the offender that might find her testimony of value. The protection in the system is the certification by the law enforcement officials that this person is helpful to the prosecution of crime. If the person is not helpful, the certification will not be made, and the U visa will not be issued.

Ms. Waters. Reclaiming my time, and I will yield it again to the

gentlelady from California, let me just ask that if the statute of limitations has run, and you have information that has come forward by witnesses that is recorded, could this information be looked at for future cases unrelated to this particular case, but cases where people keep coming forward saying, something is wrong here; this perpetrator has been committing this crime. Is that helpful information?

Ms. Lofgren. Certainly. Obviously each case, you know, rises and falls on its own.

Ms. Waters. Of course.

Ms. Lofgren. But you can have, especially in the case of sexual abuse, cases where the statute has run, and perhaps the individual has not reported it, and yet to prove up a pattern and practice of behavior, that person's testimony could be of value. The protection once again is the certification by the law enforcement personnel that the collaboration of the U visa applicant is helpful in their prosecution of crime. And, you know, to remove that tool from law enforcement, why would we want to do that?

Ms. Waters. Reclaiming my time, I think you have made it absolutely clear.

Chairman Smith. The gentlewoman's time has expired.

The gentleman from California Mr. Lungren is recognized.

Mr. Lungren. Mr. Chairman, I rise in support of the gentleman's amendment, although I do believe we ought to look at this further, because as the gentlelady from California indicated, there are circumstances in which you can use evidence of prior crimes that are

not prosecuted.

In the 1990s, there was a rather famous case in which a certain individual was accused of a rape and later acquitted, but there was a strong suggestion that there were prior circumstances which fit the pattern which happened to be met in the particular case for which he was tried. They were not allowed under the law at that time. In California, we, urged on by that and other cases, managed to write and pass a piece of legislation called prior crimes evidence. It is an exception to the normal circumstance in criminal cases. I believe it is allowed on the Federal level as well.

So I am disturbed by the 60-day rule. I do believe this amendment moves us in the right direction because it does go to the question of statute of limitations. However, there is the other circumstance in which law enforcement does engage in investigations with individuals to see if, in fact, they can establish a pattern of conduct, but that information may be barred by the statute of limitations and yet allowed under the exception to the evidence rule in California law, and I believe under Federal law, for purposes of showing that the individual who claims that his reputation and everything else suggests he would never be involved in such conduct is contrary to his prior conduct.

I happen to think that was an advancement in the criminal justice system in California. I think it is an advancement in the criminal justice system on the Federal level. So I support the gentleman's amendment as moving us in the right direction. I think perhaps we should have further discussion.

Ms. Waters. Will the gentleman yield?

Mr. Lungren. I would be happy to yield.

Ms. Waters. I appreciate the gentleman's clarification of how this evidence can be used. I think you stated it very clearly, and I think you support the idea that even if the statute of limitations has run, that this information can be useful, and you pointed to a law in California.

Mr. Lungren. Well, reclaiming my time, I would just say having experienced that and understood how it actually works in practice, yes, I do believe there are circumstances where a statute of limitation has run where the evidence given by an alleged victim who was barred for whatever reason from being able to see her or his case successfully prosecuted still is of benefit to the prosecution. And we, in fact, did those cases, and I am proud of the fact that we have established those cases. So I would support the gentleman's amendment. It is a step in the right direction.

Ms. Lofgren. Will the gentleman yield?

Mr. Lungren. I would be happy to yield.

Ms. Lofgren. Thank you, Mr. Lungren.

I appreciate your advising the whole committee about the situation in California, and I actually agree with you that the provision does advance the cause of sound law enforcement.

I would just note there is a provision in law called an S visa that is very constrained for witnesses, but there is only 200 visas a year for the S witness visa. There are 10,000 U visas a year, and

last year and the year before that all 10,000 were taken at the request of law enforcement officials. So unless we do something about this, we are, in fact, going to hamstring the kind of prosecutions that you have just described if the important witness is an immigrant afraid to come forward.

So I thank the gentleman for yielding and also for sharing with us your experience as the attorney general of California.

Mr. Lungren. Before I yield back the balance of my time, I want to reiterate I support the Poe amendment.

Mr. Poe. Will the gentleman yield?

Mr. Lungren. I will be happy to yield.

Mr. Poe. As the gentlelady pointed out, there are other visas that allow people to testify that are not U visas. The S visa is one of those. A victim, let's say, was assaulted. The statute has run. That victim may be able to testify in another case where the statute hadn't run by getting a visa under the source visa or the S visa.

I do agree with the gentlelady, though, that 200 of those is woefully inadequate for law enforcement to -- especially on those cold cases, as both the ladies from the other side have mentioned probably need to expand that, especially because of the cold cases where statutes have run. But there are other visas, the S visa, where they can work with law enforcement to testify in those horrific cases.

Chairman Smith. The gentleman's time has expired.

The gentleman from Virginia Mr. Scott is recognized.

Mr. Scott. I move to strike the last word.

Chairman Smith. The gentleman is recognized for 5 minutes.

Mr. Scott. Mr. Chairman, I would like to inquire of the gentleman from California Mr. Lungren, when he said it was moving in the right direction, my question would be is that the right direction from the bill or the right direction from the present law?

Mr. Lungren. I always attempt to perfect the bill before us.

Mr. Scott. Thank you.

And, Mr. Chairman, I would like to ask a parliamentary inquiry.

Chairman Smith. Would the gentleman state his parliamentary inquiry?

Mr. Scott. If we adopt amendment, would a subsequent amendment to delete lines 8 through 13 from the bill, as amended, be out of order or in order? The concern I have is we adopt the amendment because it might be going in the right direction in the bill, it would make a subsequent amendment to strike it altogether out of order; is that right?

Chairman Smith. It is our understanding that such an amendment as the gentleman has described would be in order.

Mr. Scott. A subsequent amendment would be in order.

Chairman Smith. Correct.

Mr. Scott. Okay. Well, I would hope that whatever happens on this, that a subsequent amendment be adopted.

Chairman Smith. Would the gentleman yield to the gentleman from North Carolina?

Mr. Scott. I will.

Mr. Watt. Mr. Chairman, I have an amendment to the Poe amendment at the desk that would do exactly what Mr. Scott is suggesting at this moment. I have a second degree amendment to the Poe amendment.

Chairman Smith. The clerk will report the amendment. Do we have copies of the amendment?

Mr. Watt. I just put it at the desk.

The Clerk. Watt amendment to Mr. Poe of Texas amendment: "Page 155, strike lines 8 through 13 (and redesignate provisions accordingly)."

Chairman Smith. The clerk will report the amendment.

Without objection, the amendment will be considered as read, and the gentleman from North Carolina is recognized to explain his amendment.

[The amendment of Mr. Watt follows:]

***** INSERT 2-2 *****

Mr. Watt. Mr. Chairman, she read the entire amendment. It strikes lines 8 through 13 on page 155 and redesignates the provisions accordingly without substituting anything else for the 60 days. So that would get rid of the 60-day limit, and it would get rid of the statute of limitations limit and would take us back to current law as it stands.

So this is not complicated. It sounds like that is where everybody except Mr. King has been trying to get anyway. Mr. King wants to take us to a whole different parameter. But it gets us where Mr. Lungren says he thinks the law ought to be. It gets us to where Mr. Gowdy says he thinks the law ought to be. I think it sounds like it is a bipartisan agreement on the committee, except for Mr. King, based on what I have heard.

So I would ask my colleagues to support the Watt amendment to the Poe amendment so we can move on to something else here.

And I yield back.

Chairman Smith. The gentleman from North Carolina yields back his time.

Does the gentleman from Texas want to comment on this amendment? And I think I am in agreement with what the gentleman is going to say.

Mr. Poe. I don't need to comment.

Chairman Smith. I will recognize myself, and I would like to recommend to my colleagues that we accept this second degree amendment to Mr. Poe's amendment.

If there is no further discussion, all in favor --

Mr. King. Mr. Chairman.

Chairman Smith. The gentleman from Iowa Mr. King is recognized.

Mr. King. I move to strike the last word.

Chairman Smith. The gentleman is recognized for 5 minutes.

Mr. King. Thank you.

Having been identified in the opening remarks by my friend from North Carolina, I think I need to clarify my position here.

The first one is a point of clarity in the earlier discussion that this is not a gender-specific issue, and so it goes across men and women and however that might be.

Another piece of this, to make it clear, my position is that we need to enforce our immigration laws. We need to support everyone out that there is enforcing immigration laws, whether they are Federal people; whether they are State or local government; whether they are in Arizona, or Texas, or South Carolina, or Alabama, or anyplace else in America. If we do that, and if we had done that, we wouldn't have such a thing as a U visa, and we wouldn't have this discussion and this debate.

That is my goal is to enhance and elevate the respect for the rule of law in America and the respect for immigration law so that we don't have to dance around this subject matter and listen to the Democrats seeking to advance the numbers of people that have a path to citizenship because they see them as undocumented Democrats.

There is a political agenda here. There is a compassionate agenda here and a rule of law agenda on the part of Judge Poe as well,

and I respect that. But I am one that advocates for enforcing immigration law, and that is my position, and I thank the gentleman from North Carolina.

Ms. Waters. Will the gentleman yield?

Mr. King. I won't yield except to yield back -- oh, I will. The smile on the gentlelady's face on the far end makes me want to hear from her.

Chairman Smith. The gentleman from Iowa has yielded back.

Ms. Waters. Well, you know, I asked the gentleman to yield because --

Mr. King. I yield to the gentlelady.

Ms. Waters. I do not want this discussion about violence against women to end up in a discussion about immigration. This bill is a bill that is trying to deal with serious issues of very vulnerable people and women in particular, men and women.

So I understand your position on immigration, and hopefully someday we will get into immigration reform, supported by the opposite side of the aisle.

Mr. King. Reclaiming my time, and I appreciate the position of the gentlelady of California, and that is why I yielded, but I would reiterate again that this amendment is not gender-specific, as I believe you stated earlier, and I agree with your point that this debate needs to be about violence against women, and I am hopeful that anything that we bring up that protects the lives of women, especially the most innocent of women, we are able to support as Democrats and Republicans.

And I would yield back the balance of my time.

Chairman Smith. The gentleman yields back the balance of his time.

The question is on the Watt amendment to the Poe amendment. All in favor, say aye.

Opposed, nay.

In the opinion of the chair, the ayes have it. The amendment is agreed to.

We will now vote on the Poe amendment as amended by the Watt amendment. All in favor of that, say aye.

Opposed, no.

In the opinion of the chair, the ayes have it.

Ms. Lofgren. Can we have a recorded vote, Mr. Chairman, just to make a good point?

Mr. Watt. It happens so infrequently that we are together. I mean, this ought to be recorded.

Mr. Gallegly. It happens so infrequently that there isn't even a murmur of a no.

Ms. Lofgren. I think it shows solidarity.

Ms. Waters. We started out by saying we had had cooperation historically.

Chairman Smith. The gentlewoman has a right to request a recorded vote, but I hope that she will take into consideration that it is not necessary, and it might take time. I hope that is not her point in asking for it.

Does the gentlewoman still insist on a recorded vote?

Ms. Lofgren. Yes, please.

Chairman Smith. The clerk will call the roll.

The Clerk. Mr. Smith?

Chairman Smith. Aye.

The Clerk. Mr. Smith votes aye.

Mr. Sensenbrenner?

[No response.]

The Clerk. Mr. Coble?

[No response.]

The Clerk. Mr. Gallegly?

Mr. Gallegly. Aye.

The Clerk. Mr. Gallegly votes aye.

Mr. Goodlatte?

[No response.]

The Clerk. Mr. Lungren?

Mr. Lungren. Aye.

The Clerk. Mr. Lungren votes aye.

Mr. Chabot?

Mr. Chabot. Aye.

The Clerk. Mr. Chabot votes aye.

Mr. Issa?

Mr. Issa. Aye.

The Clerk. Mr. Issa votes aye.

Mr. Pence?

[No response.]

The Clerk. Mr. Forbes?

[No response.]

The Clerk. Mr. King?

Mr. King. Aye.

The Clerk. Mr. King votes aye.

Mr. Franks?

Mr. Franks. Aye.

The Clerk. Mr. Franks votes aye.

Mr. Gohmert?

[No response.]

The Clerk. Mr. Jordan?

[No response.]

The Clerk. Mr. Poe?

Mr. Poe. Yes.

The Clerk. Mr. Poe votes aye.

Mr. Chaffetz?

Mr. Chaffetz. Aye.

The Clerk. Mr. Chaffetz votes aye.

Mr. Griffin?

[No response.]

The Clerk. Mr. Marino?

Mr. Marino. Aye.

The Clerk. Mr. Marino votes aye.

Mr. Gowdy?

Mr. Gowdy. Yes.

The Clerk. Mr. Gowdy votes aye.

Mr. Ross?

Mr. Ross. Aye.

The Clerk. Mr. Ross votes aye.

Mrs. Adams?

Mrs. Adams. Aye.

The Clerk. Mrs. Adams votes aye.

Mr. Quayle?

[No response.]

The Clerk. Mr. Amodei?

Mr. Amodei. Aye.

The Clerk. Mr. Amodei votes aye.

Mr. Conyers?

Mr. Conyers. Aye.

The Clerk. Mr. Conyers votes aye.

Mr. Berman?

[No response.]

The Clerk. Mr. Nadler?

[No response.]

The Clerk. Mr. Scott?

Mr. Scott. Aye.

The Clerk. Mr. Scott votes aye.

Mr. Watt?

Mr. Watt. Aye.

The Clerk. Mr. Watt votes aye.

Ms. Lofgren?

Ms. Lofgren. Aye.

The Clerk. Ms. Lofgren votes aye.

Ms. Jackson Lee?

Ms. Jackson Lee. Aye.

The Clerk. Ms. Jackson Lee votes aye.

Ms. Waters?

Ms. Waters. Aye.

The Clerk. Ms. Waters votes aye.

Mr. Cohen?

[No response.]

The Clerk. Mr. Johnson?

[No response.]

The Clerk. Mr. Pierluisi?

Mr. Pierluisi. Aye.

The Clerk. Mr. Pierluisi votes aye.

Mr. Quigley?

Mr. Quigley. Aye.

The Clerk. Mr. Quigley votes aye.

Ms. Chu?

[No response.]

The Clerk. Mr. Deutch?

Mr. Deutch. Aye.

The Clerk. Mr. Deutch votes aye.

Ms. Sanchez?

Ms. Sanchez. Aye.

The Clerk. Ms. Sanchez votes aye.

Mr. Polis?

Mr. Polis. Aye.

The Clerk. Mr. Polis votes aye.

Chairman Smith. The gentleman from Virginia Mr. Goodlatte?

Mr. Goodlatte. Aye.

The Clerk. Mr. Goodlatte votes aye.

Chairman Smith. The gentleman from California Mr. Berman.

Mr. Berman. Aye.

The Clerk. Mr. Berman votes aye.

Chairman Smith. The gentleman from Virginia Mr. Forbes?

Mr. Forbes. Aye.

The Clerk. Mr. Forbes votes aye.

Chairman Smith. The gentleman from North Carolina Mr. Coble?

Mr. Coble. Aye.

The Clerk. Mr. Coble votes aye.

Chairman Smith. And the gentleman from Arkansas Mr. Griffin?

Mr. Griffin. Aye.

The Clerk. Mr. Griffin votes aye.

Chairman Smith. The clerk will report.

The Clerk. Mr. Chairman, 30 Members voted aye. Zero Members voted nay.

Chairman Smith. The amendment is agreed to.

The committee is now going to take a lunch break until 12:45, and we will recess and resume our markup at 12:45.

[Recess.]

RPTS JOHNSON

DCMN MAGMER

[12:54 p.m.]

Chairman Smith. The clerk will call the roll.

The Clerk. Mr. Smith?

Chairman Smith. Present.

The Clerk. Mr. Sensenbrenner?

Mr. Coble?

Mr. Gallegly?

Mr. Goodlatte?

Mr. Lungren?

Mr. Lungren. Here.

The Clerk. Mr. Chabot?

Mr. Chabot. Present.

The Clerk. Mr. Issa?

Mr. Issa. Present.

The Clerk. Mr. Pence?

Mr. Forbes?

Mr. King?

Mr. Franks?

Mr. Gohmert?

Mr. Jordan?

Mr. Poe?

Mr. Chaffetz?

Mr. Griffin?

Mr. Marino?

Mr. Marino. Present.

The Clerk. Mr. Gowdy?

Mr. Gowdy. Present. Here.

The Clerk. Mr. Ross?

Mrs. Adams?

Mrs. Adams. Here.

The Clerk. Mr. Quayle?

Mr. Amodei?

Mr. Amodei. Present.

The Clerk. Mr. Conyers?

Mr. Berman?

Mr. Nadler?

Mr. Scott?

Mr. Watt?

Mr. Watt. Present.

The Clerk. Ms. Lofgren?

Ms. Lofgren. Here.

The Clerk. Ms. Jackson Lee?

Ms. Waters?

Mr. Cohen?

Mr. Johnson?

Mr. Pierluisi?

Mr. Pierluisi. Present.

The Clerk. Mr. Quigley?

Ms. Chu?

Mr. Deutch?

Ms. Sanchez?

Mr. Polis?

Chairman Smith. The gentleman from Michigan.

Mr. Conyers. Present.

Chairman Smith. The gentleman from Texas, Mr. Poe.

Mr. Poe. Present.

Chairman Smith. The clerk will report.

The Clerk. Mr. Chairman, 13 members responded present.

Chairman Smith. A working quorum is present, and the Judiciary Committee will resume markup of H.R. 4970.

And I believe the gentlewoman from California, Ms. Lofgren, has an amendment.

Ms. Lofgren. Thank you, Mr. Chairman. I have an amendment at the desk.

Chairman Smith. The clerk will report the amendment.

The Clerk. Amendment to H.R. 4970 offered by Ms. Zoe Lofgren of California and Mr. Berman of California.

Page 143, beginning on line 1, strike title VIII, and insert the following:

Chairman Smith. Without objection, the amendment will be considered as read.

[The amendment of Ms. Lofgren and Mr. Berman follows:]

***** INSERT 3-1 *****

Chairman Smith. The gentlewoman is recognized to explain her amendment.

Ms. Lofgren. Thank you, Mr. Chairman.

I was glad that we were able to come together as a committee on a bipartisan basis to fix the problem in the underlying bill relative to the 60-day limitation, and I am hopeful that with this amendment we can show the same bipartisan effort to fix the bill. Because in every VAWA reauthorization, starting in 1994, in 2000, and 2005, we have recognized on a bipartisan basis the unique vulnerability of battered immigrants whose noncitizen status can make them particularly vulnerable to crimes of domestic and sexual violence; and, in response, we created and later expanded immigration relief to help victims find safety and for law enforcement to bring perpetrators to justice.

This amendment removes the section in the Cantor-Adams bill Title VIII and replaces it with the Senate-passed Title VIII, with the exception of the last provision of the Senate bill relating to the Northern Mariana Islands because that would not be germane in this committee.

The Senate bill is a better answer. It won a supermajority, 68 to 31, including 15 Republicans in the Senate; and every woman in the Senate supported their bill.

It responds to the demands of law enforcement that we increase the number of U visas available each year by recapturing visas that were authorized in the year 2000 but went unused because of delays.

It also provides fixes to the underlying bill to existing law to

protect immigrant victims.

It strengthens the U visa by adding stalking to the list of serious crimes for which U visas can be issued.

It significantly enhances the notice and enforcement provisions of the International Marriage Broker Regulation Act, which again was bipartisan, and makes a number of other small but important fixes.

As I said earlier, the House bill is a step backwards in terms of providing protection to the victims of domestic violence; and here are some of the ways:

In the underlying bill, the confidentiality that is critical to VAWA is eviscerated. Now, since the inception, VAWA has contained strong confidentiality provisions to protect victims and prevent abusers from using the immigration system against their victims. And when we expanded the Act in 2005, the committee report, which was authored by then-Chairman Sensenbrenner, described the importance of preventing abusers from using, "DHS to obtain information about their victims, including the existence of a VAWA immigration petition." And it specifically prevented agents from, "initiating contact with abusers."

This bill destroys that by authorizing immigration agents to contact the abusers and tip them off to the victims' efforts. This puts domestic violence victims at risk of retaliation and makes it less likely they will seek protection in the first place.

Requiring the consideration of uncorroborated abuser statements doesn't make any sense. And again, in the 2005 committee report

authored by Chairman Sensenbrenner, I quote, he said, "Abusers have reason to 'interfere with or undermine their victims' immigration cases' and to encourage immigration enforcement officers to pursue removal actions against their victims." For this reason, the committee specifically allowed the Department to consider evidence presented by abusers but only if it could be corroborated.

The Cantor-Adams bill would now undo that protection and require agents to consider noncorroborated statements, even though the abusers have every incentive to lie. This would delay or deny protection and essentially give abusers veto authority over certain victims.

As I said earlier, this would raise the standard of proof. In almost every other immigration proceeding, preponderance of the evidence is the standard of proof. However, the committee bill, the Cantor-Adams bill, would raise for abuse victims the standard of evidence to clear and convincing.

It seems to me very wrong that we would make it harder for abuse victims than anyone else in the system to seek relief. Staying adjudications during investigations is not a good idea, and the bill would prevent the adjudication of VAWA petitions during a pending investigation. Now, this would delay protection to victims, and potentially it would force them to endure further violence and cruelty.

Sometimes jurisdictions are overwhelmed and unable to prosecute or investigate every single item that comes forward to them. That is not cause to prevent the victims of violence from getting protection.

The issue relative to 60-day reporting has been dealt with

unanimously before. And so that measure, this is simply redundant as to that, but it does do something that the underlying bill changes to the detriment of victims.

Eliminating the ability for U visa holders to apply for green cards is a mistake. Since the year 2000, again on a bipartisan basis, U visa recipients have been able to seek permanent protection by way of a green card if they continue to cooperate with law enforcement. Now, this bill would eliminate this long-standing protection and could result in a reduction in the number of victims coming forward seeking protection and cooperating with law enforcement. By eliminating the possibility of a green card, the bill essentially turns the act of seeking protection into an act of self-deportation. That is another really cruel provision that places victims of rape or sexual assault and domestic violence, who make up two-thirds of the U visa recipients, between a rock and a hard place.

And, finally, the underlying --

Chairman Smith. The gentlewoman's time has expired.

Ms. Lofgren. If I may just ask unanimous consent to have 30 additional seconds.

Chairman Smith. Without objection.

Ms. Lofgren. The underlying bill omits the recapture of the U visa limit. We reached the 10,000 limit last year and the year before, and that doesn't make any sense that we would say to law enforcement we are going to give you this tool but only in 10,000 prosecutions. We have been asked by law enforcement to increase the number of visas.

It is at their request that we should do so, and this bill does so simply by recapturing the visas that Congress already authorized but were not issued administratively.

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

Chairman Smith. The gentlewoman yields back the balance of her time.

I recognize myself in opposition to the amendment.

This amendment offered seeks to add the immigration section of the Leahy bill to the House bill, but numerous provisions from the Leahy bill are already in Mrs. Adams' bill.

Specifically, the underlying bill already includes provisions that were in the version of VAWA introduced by Senator Leahy and passed by the Senate Judiciary Committee. Those provisions include the annual report on immigration applications made by victims of abuse, protections for children of VAWA self-petitioners, removing the public charge ground of inadmissibility for T and U visas, expansion of hardship waivers available to conditional resident alien spouses who are the victims of bigamy, and protections for a fiancée of U.S. citizens. All of those provisions are already in the underlying bill.

However, this amendment modifies the cap on the U visa program. Since the establishment of the U visa program in 2000, there has been a yearly cap of 10,000 recipients. Each recipient of a U visa can bring along additional family members not counted under the cap. Therefore, the real cap is, in effect, at least 20,000 a year.

This cap was designed to keep some control over the U visa program.

Increasing the cap will simply lead to further expansion of a program that is running out of control. According to Congressional Budget Office estimates, this amendment increases the number of illegal immigrants who will receive U visas by over 60,000. By adding the unused visas from previous years, along with the family members who are eligible for U visas, the CBO estimates that the cost to American taxpayers will be over \$100 million in additional public benefits and other expenses.

The U visa program is already subject to fraud and abuse. If this amendment is adopted, that fraud and abuse will increase at a cost we cannot afford. So I urge my colleagues to oppose the amendment.

Are there other members who wish to be heard on the amendment?

The gentleman from California, Mr. Berman.

Mr. Berman. Thank you, Mr. Chairman.

And I rise in support of the Lofgren amendment, which would strike Title VIII in this bill and replace it with those provisions which are now in the bill that has passed the Senate by a very large bipartisan majority. It would substitute that language instead of the existing Title VIII.

In 1994, when we first enacted VAWA, we contained protections for immigrant domestic violence victims. Since that time, it was reauthorized and expanded in a bipartisan manner at a time when the majority party controlled the House in 1996, in 2000, and again in 2005.

The guiding force behind the immigrant provisions of this landmark legislation was to provide victims access to safety,

assistance, and the justice system; and I don't know why we want to take this opportunity to go backwards to repeal or create barriers to protections that this committee, again under majority party leadership, drafted to help immigrant victims of crime.

The chair makes the argument that these provisions will reduce fraud in these type of immigration petitions. But according to the Department of Homeland Security, immigration experts, and statistics, the current VAWA self-petition and U visa programs have very strong antifraud provisions. We ought to be strengthening the provisions that help immigrant victims of crime and sexual violence, not repealing them or making them harder to access.

The amendment replaces the problematic provisions, as I mentioned, with the bipartisan Senate language passed by 68 to 31, with the support of 15 Republicans and every woman in the Senate. It will increase the number of U visas available each year. If this is worth doing, the notion that an arbitrary cap makes sense, when the Senate bill and the gentlelady's amendment offers an opportunity to recapture existing visas, why would you want the arbitrary cap on something that is important enough to create in the first place when there is a need for it? I just don't understand why we wouldn't want to go with the greater flexibility that this amendment and the Senate language provide.

The amendment also adds small fixes to protect immigrant victims by adding stalking to the list of serious crimes for which U visas may be issued and addressing notice and enforcement provisions of the

International Marriage Broker Regulation Act.

So I think the Senate language is better. This amendment is the Senate language, and I would urge the committee to adopt the amendment. And I yield back.

Chairman Smith. All right. Thank you, Mr. Berman.

The question is on the Lofgren amendment.

All in favor, say aye.

Opposed, nay.

In the opinion of the chair, the noes have it. The amendment is not agreed to.

Ms. Lofgren. May I have a recorded vote?

Chairman Smith. A roll call vote has been requested, and the clerk will call the roll.

The Clerk. Mr. Smith?

Chairman Smith. No.

The Clerk. Mr. Smith votes no.

Mr. Sensenbrenner?

[No response.]

The Clerk. Mr. Coble?

[No response.]

The Clerk. Mr. Gallegly?

[No response.]

The Clerk. Mr. Goodlatte?

[No response.]

The Clerk. Mr. Lungren?

Mr. Lungren. No.

The Clerk. Mr. Lungren votes no.

Mr. Chabot?

Mr. Chabot. No.

The Clerk. Mr. Chabot votes no.

Mr. Issa?

Mr. Issa. No.

The Clerk. Mr. Issa votes no.

Mr. Pence?

[No response.]

The Clerk. Mr. Forbes?

[No response.]

The Clerk. Mr. King?

Mr. King. No.

The Clerk. Mr. King votes no.

Mr. Franks?

Mr. Franks. No.

The Clerk. Mr. Franks votes no.

Mr. Gohmert?

[No response.]

The Clerk. Mr. Jordan?

[No response.]

The Clerk. Mr. Poe?

[No response.]

The Clerk. Mr. Chaffetz?

Mr. Chaffetz. No.

The Clerk. Mr. Chaffetz votes no.

Mr. Griffin?

[No response.]

The Clerk. Mr. Marino?

Mr. Marino. No.

The Clerk. Mr. Marino votes no.

Mr. Gowdy?

Mr. Gowdy. No.

The Clerk. Mr. Gowdy votes no.

Mr. Ross?

[No response.]

The Clerk. Mrs. Adams?

Mrs. Adams. No.

The Clerk. Mrs. Adams votes no.

Mr. Quayle?

Mr. Quayle. No.

The Clerk. Mr. Quayle votes no.

Mr. Amodei?

Mr. Amodei. No.

The Clerk. Mr. Amodei votes no.

Mr. Conyers?

Mr. Conyers. Aye.

The Clerk. Mr. Conyers votes aye.

Mr. Berman?

Mr. Berman. Aye.

The Clerk. Mr. Berman votes aye.

Mr. Nadler?

Mr. Nadler. Aye.

The Clerk. Mr. Nadler votes aye.

Mr. Scott?

Mr. Scott. Aye.

The Clerk. Mr. Scott votes aye.

Mr. Watt?

Mr. Watt. Aye.

The Clerk. Mr. Watt votes aye.

Ms. Lofgren?

Ms. Lofgren. Aye.

The Clerk. Ms. Lofgren votes aye.

Ms. Jackson Lee?

[No response.]

The Clerk. Ms. Waters?

Ms. Waters. Aye.

The Clerk. Ms. Waters votes aye.

Mr. Cohen?

[No response.]

The Clerk. Mr. Johnson?

Mr. Johnson. Aye.

The Clerk. Mr. Johnson votes aye.

Mr. Pierluisi?

Mr. Pierluisi. Aye.

The Clerk. Mr. Pierluisi votes aye.

Mr. Quigley?

Mr. Quigley. Aye.

The Clerk. Mr. Quigley votes aye.

Ms. Chu?

Ms. Chu. Aye.

The Clerk. Ms. Chu votes aye.

Mr. Deutch?

[No response.]

The Clerk. Ms. Sanchez?

[No response.]

The Clerk. Mr. Polis?

[No response.]

Chairman Smith. The gentleman from North Carolina.

Mr. Coble. No.

The Clerk. Mr. Coble votes no.

Chairman Smith. The gentleman from Ohio.

Mr. Jordan. No.

The Clerk. Mr. Jordan votes no.

Chairman Smith. The gentleman from Virginia.

Mr. Goodlatte. No.

The Clerk. Mr. Goodlatte votes no.

Chairman Smith. The gentleman from Wisconsin.

Mr. Sensenbrenner. No.

The Clerk. Mr. Sensenbrenner votes no.

Chairman Smith. The gentleman from Florida.

Mr. Ross. No.

The Clerk. Mr. Ross votes no.

Mr. Chairman, 11 members voted aye --

Chairman Smith. The clerk will go on and report. Thank you.

The Clerk. Mr. Chairman, 11 members voted aye, 17 members voted aye.

Chairman Smith. The clerk will suspend. The gentleman from Texas, Mr. Poe.

Mr. Poe. Yes.

Chairman Smith. Oh, boy. The clerk will report.

The Clerk. Mr. Chairman, 12 members voted aye, and 17 members voted nay.

Chairman Smith. The majority having voted against the amendment, the amendment is not agreed to.

The gentleman from California, Mr. Issa, is recognized for the purpose of offering an amendment.

Mr. Issa. Thank you, Mr. Chairman. I have an amendment at the desk.

Ms. Lofgren. I reserve a point of order.

Chairman Smith. A point of order has been reserved, and the clerk will report the amendment.

The Clerk. Amendment to H.R. 4970 offered by Mr. Issa.

Page 173 --

Chairman Smith. Without objection, the amendment will be considered as read.

[The amendment of Mr. Issa follows:]

***** INSERT 3-2 *****

Chairman Smith. The gentleman from California, Mr. Issa, is recognized to explain his amendment.

Mr. Issa. Thank you, Mr. Chairman.

And I rise to offer this amendment with full knowledge that it will likely not be ruled germane, but I think there is an important issue here about tribal sovereignty and perhaps what one might call race discrimination. And this committee certainly has that jurisdiction.

The Violence Against Women Act would allow Native American tribes to have special domestic violence criminal justice jurisdiction over Indian country where the accused perpetrator or victim of domestic or dating violence is a non-Indian and the victim is an Indian and member of the tribe. This is an important distinction because it is narrowly crafted to deal with a very small but important group that currently, in my opinion, falls between the cracks on a basis that is hard to justify under the Constitution.

If two non-Native Americans are involved in a domestic violence issue, they go to State court. I can understand that. Although I would always ask the question of how many of those really should exist on Indian reservations, there are some. If two Native Americans and enrolled members of the tribe are in fact involved in it, they go to tribal governments. However, in a number of other situations a non-Native American or a non-enrolled member of the tribe, even if they have some Native blood, find themselves going to Federal court.

And although we have talked at length about the liaison

relationship, the fact is that the goal of the Violence Against Women Act was to maximize the engagement and the opportunity to deal with violent crimes against women, including all of the nonjudicial ways they can be dealt with, including counseling and others.

Violence against women in fact goes unreported. If you add an additional opportunity for tribal governance to weigh in, you only add an additional opportunity. You take none away from the Federal court. We narrowly allow for tribal governance, recognizing that the preeminence of a U.S. Attorney who decides to prosecute, he or she would always be able to do so and do so any time before a final judgment by tribal governance.

Mr. Chairman, I think the point here is that we have to ask an important question. If a man and a woman choose to be domiciled on an Indian reservation, one of them is an enrolled tribal member and the other is the spouse or domestic partner of that person. Whether we choose to look at it or not, the only reason that we are moving it to Federal court, a court that deals with very few of these cases, and certainly doesn't deal well with domestic violence in general because it isn't in their purview, what we do is we make a racial distinction.

We make a distinction that, for example, a husband and wife in fact are going to be dealt with differently if one is not of the, parentheses, race of Native American. I believe that when we look at tribal sovereignty as envisioned by the Founding Fathers, it is very clear that tribal sovereignty is sovereignty over tribal lands, not just tribal enrolled members. And although my amendment does not seek

to deal with two nontribal members for a number of reasons, when a nontribal member is in fact married or equivalent to a resident of the tribe and has chosen to live on the reservation, the clear intent was the tribes would have sovereignty over that land.

That sovereignty would be subordinated to Federal preemption, of course; and our amendment seeks not to go beyond that.

So when we are trying to create better opportunity to deal with domestic violence, greater sovereignty by Native Americans, we are also dealing with the most fundamental point, which I believe is well within this committee's jurisdiction, if we have protection against discrimination based on race, isn't the current law a clear discrimination between two residents of a reservation simply based on their race?

And with that, I would yield to the chairman.

Chairman Smith. If the gentleman would yield, thank you.

I just want to say to the gentleman from California, who has obviously thought out this issue, that I think he raises a legitimate concern. And I think at the appropriate time, although I don't think it is today because of the germaneness question, but I think at the appropriate time we should consider the issues that he has raised. I appreciate him bringing them to the committee's attention today.

Mr. Issa. With that, I ask unanimous consent to withdraw the amendment.

Chairman Smith. Without objection, the amendment is withdrawn. Thank you, Mr. Issa.

Are there other amendments to the underlying bill?

The gentleman from New York, Mr. Nadler, is recognized.

Mr. Nadler. Mr. Chairman, I have an amendment at the desk designated as AMMD_09.

Chairman Smith. The clerk will report the amendment.

The Clerk. Amendment to H.R. 4970 offered by Mr. Nadler of New York, Mr. Polis of Colorado, and Mr. Quigley of Illinois.

Page 34, after line 9, insert the following:

(19) developing, enlarging, or strengthening programs and projects to provide services and responses targeting male and female victims of domestic violence, dating violence, sexual assault, or stalking --

Mr. Nadler. Mr. Chairman, I ask unanimous consent the reading of the amendment be dispensed with.

Chairman Smith. Without objection, the amendment will be considered as read.

[The amendment of Mr. Nadler follows:]

***** INSERT 3-3 *****

Chairman Smith. The gentleman from New York is recognized to explain his amendment.

Mr. Nadler. Thank you.

Mr. Chairman, I offer this amendment, along with the gentleman from Colorado, Mr. Polis, and the gentleman from Illinois, Mr. Quigley, to add sexual orientation and gender identity to the services, training, officers, prosecutors, or STOP formula grant program under VAWA.

The STOP program is the largest part of VAWA, and grants distributed go to States, localities, tribal governments, and nonprofit groups to, as required by the statute, "develop and strengthen effective law enforcement and prosecution strategies to combat violent crimes against women and to develop and strengthen victims' services in cases involving violent crimes against women."

There are 14 separate purpose areas for which STOP funding can be used. These include, for example, training law enforcement and members of our criminal justice system to identify and respond to crimes against women; educating medical examiners regarding the collection, preservation, analysis of evidence relating to sexual assault; assisting victims of domestic violence and sexual assault in immigration; and training officials to recognize the unique needs of older and disabled women who are victims of domestic violence and sexual assault.

I also would like to briefly highlight one additional STOP purpose area, one that I sponsored as an amendment in the Judiciary Committee

to add as part of the 2005 VAWA reauthorization. STOP funds may now be used to fund Jessica Gonzales victim assistance, whose job it is to act as liaisons between victims and law enforcement in order to better enforce protective orders.

The underlying bill adds a number of new purpose areas for STOP, including to support sexual assault response teams and reduce the backlog in testing sexual assault kit evidence.

The point of reauthorizing statutes every few years is to do just that, reform the statute as we learn more about the underlying problem. That is exactly what our amendment seeks to do by adding sexual orientation and gender identities as populations which can be targeted with STOP funds.

While we have made great strides in the fight for lesbian, gay, bisexual, and transgender American equality, we are not fully there yet. We know that discrimination and unequal treatment still abound, including with respect to issues of domestic violence and sexual assault. We know that LGBT Americans suffer from these crimes just like everyone else, but they do not always receive support or other services in the same way.

In a 2010 report, the National Center for Victims of Crime and the National Coalition of Antiviolence Programs made the following conclusion: LGBT victims of crime are not receiving the necessary services to address immediate victim needs, nor the attention and awareness necessary to end violence against them within LGBT communities. Victim assistant providers do not have adequate cultural

competency to respond to LGBT victimization, and LGBT-specific anti-violence programs are overburdened. Adequate responses involving law enforcement, victims' services, and anti-violence programs that serves all LGBT victims is needed.

To help make this issue more concrete, let me give just one example. Tonia, a transgender woman, was in an intimate, violent relationship with Robert, which finally ended when Robert held a gun to Tonia's face and the police had to be called. They told Tonia there was nothing they could do, and they never even filed a police report. Tonia was treated by a doctor who tried to find a domestic violence shelter for her. She was told none would take her because she is transgender. The hospital put her in a cab and sent her away to a homeless shelter. The homeless shelter made her sleep on the concrete floor and denied her a bed that other people at the shelter had.

Police, domestic violence shelters, and all parts of our system that are designed to stop domestic and sexual violence need to be better educated about the needs of the LGBT community. Our amendment would do this and would help people like Tonia by authorizing STOP funds for the purpose of "developing, enlarging, and strengthening programs and projects to provide services and responses targeting male and female victims of domestic violence, dating violence, sexual assault, or stalking, whose ability to access traditional services and responses is affected by their sexual orientation or gender identity."

With this addition, STOP grant recipients would be able to offer programs to target members of the LGBT community who are not otherwise

being served. This would not be a requirement of any STOP grant recipient but simply would allow entities to use STOP grants for this purpose if they so choose.

Targeting minority populations who may be being left out of traditional services, like LGBT Americans, makes a great deal of logical sense. No one should be left behind simply because of how they identify themselves or who they love.

It is not surprising that this language was passed as part of the Senate bill to reauthorize VAWA by a vote of 68 to 31. This bipartisan bill was developed over a long period of time by Members, staff, and advocates. Voting "yes" on final passage included Republican Senators Lamar Alexander, Susan Collins, Bob Corker, Kay Bailey Hutchison, John Hoeven, Lisa Murkowski, Rob Portman, Olympia Snowe, and David Vitter.

What is surprising then is why this language was not included in the VAWA reauthorization bill we are considering today. It is a commonsense, bipartisan change to the STOP program that would make the program more inclusive and would serve victims who are not now being served. Our amendment would include it in the House bill and conform it in this respect to the Senate-passed bill, and I ask all members to support the amendment.

I yield back the balance of my time.

Chairman Smith. Thank you, Mr. Nadler.

The gentlewoman from Florida, Mrs. Adams, is recognized.

Mrs. Adams. Thank you, Mr. Chairman.

I oppose the amendment. I believe that STOP grants are there for

a reason. And I did not hear why my colleague thinks that we should change the STOP grants, especially when you look at the amount of women and young ladies that are brutalized every year and every day.

Again, when I opened my statement within I believe it is 24 women -- I am going to go back; I want to make sure I am very accurate -- 24 people are victims of rape, physical violence, and stalking by an intimate partner. But then you go back and look at girls between the ages of 16 and 24 experience the highest rate of intimate partner violence. Plus three women are killed by a current or former intimate partner every day. The STOP grants are segmented out for women. And when you look at that and I look at what the Senate did, the Senate didn't change the STOP grants. What the Senate did is they preserved the STOP grants for women only.

Yes, I would yield.

Mr. Gowdy. I thank the gentlelady from Florida.

Could I ask the gentleman a question? I was trying to write as you were talking, and you gave a fact pattern where someone held a gun to a transgender person's head and the police said there was nothing that could be done. You don't need an amendment to a bill to fix that. You need a new police department. That is a crime anywhere in the United States, no matter what the victim's characteristics are.

So I don't know who -- I mean, the gentleman is always extraordinarily well prepared on both the facts and the law, but that is a fact pattern that just cannot be accurate. It is a crime to hold a gun to someone's head. I don't care what their victimology is.

Mr. Nadler. Would the gentleman yield?

Mr. Gowdy. Be happy to.

Mrs. Adams. Reclaiming my time.

Mr. Nadler. Would the gentlelady yield?

Mrs. Adams. Yes. One other thing I want to say is earlier we heard someone say when you narrow, you eliminate. And that concerns me. Earlier, when one of our colleagues said when you narrow, you eliminate. And so I get concerned when we start looking at VAWA and trying to narrow and eliminate. So I would yield.

Mr. Nadler. Thank you.

Two things. Number one, with respect to the remarks from the gentleman from South Carolina -- I will learn this one of these days -- he is quite correct. The police officer should have arrested, et cetera. One of the purposes of STOP grants is to educate -- is to provide services to educate police departments and others as to what their duties are. The point of this is not to say that the police officer could not arrest, but that -- let me just answer.

Mr. Gowdy. How do you get out of the police academy by not knowing that you can't hold a gun to someone's head, no matter what?

Mr. Nadler. Would the gentlelady yield?

Mrs. Adams. Yes, I will yield. But I have to agree with my colleague. Because being in law enforcement --

Mr. Nadler. All right. I don't want to debate the specifics. Because I don't know the details of the specifics except what I said. But the main point is -- the main point is, and I agree with Mrs. Adams,

to narrow is to -- whatever you said -- is to eliminate. The point of this amendment is not to narrow. It is to expand.

STOP grants -- and it is not to take services away from women, God forbid. Women can be lesbians. They can be transgender. They can be lots of different things. And different kinds of people have different kinds of specific needs which are not addressed.

What this amendment says is that a STOP grant can be -- not must be but can be -- issued to an organization that may specialize in providing services to battered women who are lesbian, gay, or whatever.

Mrs. Adams. Reclaiming my time.

And, again, the underlying bill and the bill itself is for all victims, not gender specific, nongender specific. The STOP grants have, you know, have been this way since its creation. And the Senate version did the same thing. It did not change the STOP grants.

Mr. Nadler. This is the Senate language.

Mrs. Adams. The language that we had from the Senate did not change the STOP grants. So, again, I would stand up in opposition of this language.

Chairman Smith. And the gentlewoman yields back her time.

The gentleman does have an additional 40 seconds if he wants to yield it to someone. I am sorry. She yielded back the balance of her time.

We are going to take a recess until after these three votes are over, and then we will resume our markup and consideration of the Nadler amendment immediately after the last vote.

[Recess.]

RPTS COCHRAN

DCMN HERZFELD

[2:15 p.m.]

Chairman Smith. The Judiciary Committee will reconvene, and we will resume consideration of the Nadler amendment. Are there any other members who wish to be heard on the Nadler amendment.

The gentleman from Virginia Mr. Scott.

Mr. Scott. Thank you, Mr. Chairman.

Mr. Chairman, we have heard a lot about what happens in the situation that the gentleman from New York mentioned about someone being assaulted, and it is against the law everywhere. But the problem we have is if the police would pursue all cases of domestic violence, we wouldn't need the underlying Violence Against Women Act to begin with. The fact is that many of these cases they do not pursue, and that is why we need the underlying bill, and that is why we need the Nadler amendment.

And I will yield to the gentleman from New York.

Mr. Nadler. I thank the gentleman.

I just wanted to briefly respond to some points made by my Republican colleagues on this amendment before we broke for floor votes.

First, we have confirmed that the language in this amendment is language in the bill that passed the Senate in a bipartisan basis. The amendment simply adds programs targeted at LGBT Americans as an

authorized purpose area in STOP. It doesn't change STOP. There are 14 authorized purpose areas for STOP funds. The Senate adds five more. This is one of them. The language in my amendment can be found in the Senate bill on page 31, lines 12 to 19. It is identical.

Second, there was a question as to why we do not instead of this amendment make STOP gender neutral. Well, that would not target any funds to the LGBT community, which is the purpose of the amendment. And there is no need to make STOP gender neutral. DOJ, the Department of Justice, already allows STOP funding to go to programs that also address male victims, and entities receiving funds under STOP cannot, are not allowed to, discriminate on the basis of gender.

Finally, the gentleman from South Carolina was rightfully disturbed that the police in the case I mentioned said there was nothing they could do. As I mentioned previously, the purpose of this amendment is to better -- is to allow funds to be used not to mandate, but to allow funds to be used to better train and educate police to be familiar with situations like this with transgender persons, and to know they have the same right to be free from violence as everyone else.

Moreover, Representative Polis will be sponsoring an amendment later, which I will cosponsor, to add gender identity and sexual orientation to the antidiscrimination language so that when a police department, a service provider or other entity does discriminate in this way, the Justice Department can take action.

But this amendment does not narrow anything, it expands. It

simply adds a purpose area for which STOP funds can be used. As I said, there are 14 different purpose areas in the current law. The Senate bill would add 5 more to make it 19. This is one of those five additions. If this amendment passed, you could use STOP funds -- you are not mandated to, but you could use STOP funds for developing, enlarging or strengthening programs and projects to provide services and responses targeting domestic violence, et cetera, et cetera, for people whose ability to access traditional services and responses is affected by their sexual orientation or gender identity.

In other words, we know there is a population of people who, because of their gender identity or sexual orientation, are inhibited from using certain services. This would make sure that services could be afforded to them; not must be, but could be. And I don't see any valid reason for not opening this up for local decisionmaking.

I thank the gentleman, and I yield back.

Mr. Scott. I yield back.

Chairman Smith. Thank you, Mr. Nadler.

The gentleman from Virginia yields back.

The question is on the Nadler amendment.

All in favor, say aye.

Opposed, no.

The clerk will call the roll.

The Clerk. Mr. Smith?

Chairman Smith. No.

The Clerk. Mr. Smith votes no.

Mr. Sensenbrenner?

Mr. Sensenbrenner. No.

The Clerk. Mr. Sensenbrenner votes no.

Mr. Coble?

[No response.]

The Clerk. Mr. Gallegly?

[No response.]

The Clerk. Mr. Goodlatte?

[No response.]

The Clerk. Mr. Lungren?

[No response.]

The Clerk. Mr. Chabot?

Mr. Chabot. No.

The Clerk. Mr. Chabot votes no.

Mr. Issa?

[No response.]

The Clerk. Mr. Pence?

[No response.]

The Clerk. Mr. Forbes?

[No response.]

The Clerk. Mr. King?

[No response.]

The Clerk. Mr. Franks?

[No response.]

The Clerk. Mr. Gohmert?

[No response.]

The Clerk. Mr. Jordan?

Mr. Jordan. No.

The Clerk. Mr. Jordan votes no.

Mr. Poe?

Mr. Poe. No.

The Clerk. Mr. Poe votes no.

Mr. Chaffetz?

[No response.]

The Clerk. Mr. Griffin?

[No response.]

The Clerk. Mr. Marino?

Mr. Marino. No.

The Clerk. Mr. Marino votes no.

Mr. Gowdy?

Mr. Gowdy. No.

The Clerk. Mr. Gowdy votes no.

Mr. Ross?

[No response.]

The Clerk. Mrs. Adams?

Mrs. Adams. No.

The Clerk. Mrs. Adams votes no.

Mr. Quayle?

Mr. Quayle. No.

The Clerk. Mr. Quayle votes no.

Mr. Amodei?

Mr. Amodei. No.

The Clerk. Mr. Amodei votes no.

Mr. Conyers?

Mr. Conyers. Aye.

The Clerk. Mr. Conyers votes aye.

Mr. Berman?

[No response.]

The Clerk. Mr. Nadler?

Mr. Nadler. Aye.

The Clerk. Mr. Nadler votes aye.

Mr. Scott?

Mr. Scott. Aye.

The Clerk. Mr. Scott votes aye.

Mr. Watt?

Mr. Watt. Aye.

The Clerk. Mr. Watt votes aye.

Ms. Lofgren?

Ms. Lofgren. Aye.

The Clerk. Ms. Lofgren votes aye.

Ms. Jackson Lee?

Ms. Jackson Lee. Aye.

The Clerk. Ms. Jackson Lee votes aye.

Ms. Waters?

Ms. Waters. Aye.

The Clerk. Ms. Waters votes aye.

Mr. Cohen?

Mr. Cohen. Aye.

The Clerk. Mr. Cohen votes aye.

Mr. Johnson?

[No response.]

The Clerk. Mr. Pierluisi?

Mr. Pierluisi. Aye.

The Clerk. Mr. Pierluisi votes aye.

Mr. Quigley?

Mr. Quigley. Aye.

The Clerk. Mr. Quigley votes aye.

Ms. Chu?

[No response.]

The Clerk. Mr. Deutch?

Mr. Deutch. Aye.

The Clerk. Mr. Deutch votes aye.

Ms. Sanchez?

Mr. Sanchez. Aye.

The Clerk. Ms. Sanchez votes aye.

Mr. Polis?

[No response.]

Chairman Smith. The gentleman from Arizona?

Mr. Franks. No.

The Clerk. Mr. Franks votes no.

Chairman Smith. The gentleman from California Mr. Lungren?

Mr. Lungren. No.

The Clerk. Mr. Lungren votes no.

Chairman Smith. The gentleman from Virginia Mr. Forbes?

Mr. Forbes. No.

The Clerk. Mr. Forbes votes no.

Chairman Smith. The gentleman from Arkansas Mr. Griffin?

Mr. Griffin. No.

The Clerk. Mr. Griffin votes no.

Chairman Smith. And the gentleman from North Carolina Mr. Coble?

Mr. Coble. No.

The Clerk. Mr. Coble votes no.

Chairman Smith. The clerk will report.

The Clerk. Mr. Chairman, 12 Members voted aye, 15 Members voted nay.

Chairman Smith. A majority having voted against the amendment, the amendment is not agreed to.

The gentleman from Texas Mr. Poe is recognized.

Mr. Poe. Thank you, Mr. Chairman. I would like to take amendments 3 and 4 en bloc.

Chairman Smith. The clerk will report the amendments en bloc.

The Clerk. Amendments to H.R. 4970 offered by Mr. Poe of Texas.

Beginning on page --

Chairman Smith. Without objection, the amendments will be considered as read.

[The amendments of Mr. Poe follow:]

***** INSERT 4-1 *****

Chairman Smith. The gentleman is recognized to explain the amendments.

Mr. Poe. Mr. Chairman, I would like to offer both amendments and then, after a colloquy with the chair, withdraw both amendments.

First of all, I believe it is very important and vital that law enforcement, when they are working with domestic violence immigrant victims, that they have the ability to let them know that there is a possibility that they could obtain legal permanent resident status. The victim would have to go through the process like any other person, and it should not, of course, be automatic, but I think that is an incentive to cooperate with law enforcement, because the victims are very reluctant to in that case -- in those cases cooperate with law enforcement. So I would like the committee to consider that.

As far as the amendment 4, of course, the rape kit backlog is critical to ensuring that sexual predators are prosecuted under our law. The backlog of untested rape kits across our country is a hidden problem that has just recently seen the light of day. According to Human Rights Watch, it is estimated that there are up to 400,000 untested sexual assault evidence kits in the possession of law enforcement just in this country. Personally I have the opinion that the backlog may even be bigger than this.

There are two types of distinct rape kit backlogs in our country. First, it is the well-known backlog of untested kits that have already been submitted to a laboratory for testing; and then it is the second, the hidden backlog of kits in law enforcement storage that haven't even

been submitted thus far.

The second backlog is of particular concern because according to a February report in 2011 of the National Institute of Justice, quote, "Federal programs to reduce backlogs in crime laboratories are not designed to address untested evidence stored in law enforcement agencies." So this will help State and local enforcement agencies to end both laboratory and storage rape kit backlogs by providing local and State governments with funding to conduct a 1-year audit of the untested sexual assault evidence that is in their possession.

This amendment in the form of a bill has wide bipartisan support in a stand-alone bill called the SAFER Act, which Congresswoman Maloney of New York and I have introduced with bipartisan Members. The SAFER Act will soon be introduced in the Senate by Senator Cornyn and Senator Bennett. Also the bill, the SAFER Act, is endorsed by the Rape, Abuse and Incest National Network -- we call them RAINN -- and the National Organization for Victim Assistance and the Texas Association against Sexual Assault.

I would like unanimous consent to submit RAINN and NOVA's letter of support in the record.

Chairman Smith. Without objection, so ordered.

[The information follows:]

***** COMMITTEE INSERT *****

Mr. Poe. I do want to make it clear that the SAFER Act and this amendment does not take funding away from the direct testing of rape kits, and I do support the bill's underlying language to increase funding for direct rape kit testing under the Debbie Smith Act. So I would ask the chairman to consider a separate hearing in Judiciary on the SAFER Act.

With that, I will yield to the chair.

Chairman Smith. Would the gentleman yield?

Mr. Poe. I will yield.

Chairman Smith. Let me say to the gentleman from Texas that I and many others appreciate his long-standing interest in the victims of crime, particularly women who are victims of violence, and I certainly appreciate his comments today. And, yes, I would like to have a hearing on the subject of the DNA bill, the SAFER bill that he mentioned. I actually envision perhaps having a hearing on two bills of which that would be one. But I do want to give it proper exposure and proper process, and I am happy to work with him on the issues that he mentioned as we go forward.

Mr. Poe. Reclaiming my time, then I would ask unanimous consent, Mr. Chairman, to withdraw amendments 3 and 4.

Ms. Lofgren. Reserving the right to object, and I will not object --

Chairman Smith. I am told that withdrawing his amendment is a matter of right, and, without objection, it is withdrawn.

Ms. Lofgren. May I ask a point of clarification?

Chairman Smith. The gentlewoman is recognized to state her point of order or to ask a question.

Ms. Lofgren. Here is the question: Mr. Poe offered two amendments and I thought got agreement from the chair to have a hearing on the subject of one amendment.

Chairman Smith. That is correct.

Ms. Lofgren. So have we addressed the first amendment that he has asked for, or is that just not offered?

Chairman Smith. That is not a parliamentary inquiry, but I would be happy to respond. The gentleman from Texas didn't ask for a hearing on the first. I think he wants a report, which I am happy to submit with him.

Ms. Lofgren. Thank you, Mr. Chairman.

Chairman Smith. Okay. I thank the gentlewoman.

Are there other amendments to the underlying bill?

The gentleman from Illinois Mr. Quigley is recognized.

Mr. Quigley. Thank you, Mr. Chairman. I have an amendment at the desk.

Chairman Smith. The clerk will report the amendment.

The Clerk. Amendment to H.R. 4970 offered by Mr. Quigley of Illinois, Mr. Polis of Colorado and Mr. Nadler of New York. Page 7, line 13, insert "sexual orientation, gender identity," after "geographic location,".

[The amendment of Mr. Quigley follows:]

***** INSERT 4-2 *****

Chairman Smith. The gentleman is recognized to explain his amendment.

Mr. Quigley. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, Mr. Nadler's previous amendment impacted STOP grant inclusion in section 1012(m). This amendment impacts underserved populations, the grant section 3(a)(19).

As you know, every few years we reauthorize VAWA in order to update the laws on the books to reflect issues raised by those experiencing and addressing domestic violence. It has been 7 years, and in that time experts and service providers have gathered data and determined that certain groups are not being adequately protected. Specifically hundreds of service providers, law enforcement officers and advocates from around the country have informed us that greater protections are needed for immigrants, tribal members and LGBT victims.

The bipartisan Senate bill provides improved protections for these vulnerable populations. Sadly, the bill before us today does not. Therefore, I am offering an amendment that would restore a vital provision necessary to protect gay, lesbian, bi- and transsexual individuals from discrimination and ensure they are receiving the services they need.

My amendment mirrors the bipartisan Senate language, which includes sexual orientation and gender identity in the definition of underserved communities. Why is this important? Just ask Alma. A transgendered woman named Alma moved in with her boyfriend Tony, but shortly after moving in, Tony began to punch Alma and tell her to take

it like a man. Alma asked her to STOP, but Tony only hit her harder. Neighbors called the police multiple times, but they never arrested Tony because fighting between two men wasn't domestic violence.

One night Alma threatened to report Tony to the police, and he responded by beating her severely. She finally escaped to the hospital. They referred her to a domestic violence program, but the domestic violence program told her they could not help, quote, "people like her" and suggested she call family. Sadly, her family had disowned her years ago when she discussed her gender identity with them.

Discrimination is real. My amendment will ensure LGBT victims are explicitly included and targeted for specialized services to help both victims and service providers overcome hurdles to care. The bill before us today authorizes a new grant program for service providers engaged in outreach activities and administering services to underserved populations. These populations are those who face barriers to accessing services, and the grant funds provided through this program will help organizations develop and implement outreach strategies to those who face hurdles to care. LGBT victims fit the definition of underserved communities perfectly and are in desperate need of specialized assistance this new grant program would provide.

LGBT relationships experience domestic violence at the same rates as the general population, yet only one in five survivors of same-gender sexual assault and intimate partner violence receives victim services. LGBT victims are severely underserved, with 45 percent of the survivors being turned away from domestic violence shelters, and nearly 55

percent of these survivors are denied when seeking an order of protection.

According to a 2010 study, 96 percent of victim services and law enforcement agencies said they did not have specific services for LGBT victims. If this isn't the definition of underserved, I don't know what it is.

Like all victims of domestic violence, LGBT victims fear reporting their abuse, yet these victims face a special set of concerns. For instance, they may fear being outed to their friends, family or employer. In some States without civil rights protections, LGBT individuals can be fired for being who they are, and in States without same-sex adoption, an LGBT individual who leaves his or her partner to escape abuse must fear losing access to his or her children.

Domestic violence affects people of all walks of life, whether they are gay, straight, immigrants or tribal members. Everyone deserves to be protected. Sadly, the bill being considered by the committee today fails to meet the mark. But it is not too late. We can fix this bill. We can reach across the aisle. I encourage my colleagues to vote for this amendment, vote for inclusion, and vote to protect all victims of domestic violence.

Thank you, I yield back.

Chairman Smith. Thank you, Mr. Quigley, and I will recognize myself in opposition to the amendment.

This amendment codifies language relating to the lesbian, gay, bisexual and transgender community. To add gender identity and sexual

orientation as a factor for VAWA grants is a significant change in focus from current law. There is little data to support providing a special protected status to the LGBT community, and there is nothing under current Federal law preventing LGBT victims of domestic violence from receiving federally funded resources and services.

To go the extra step and give a special protected status in the law to the LGBT community is not supported by any meaningful evidence of a problem. The study relied upon in the Senate, admittedly the first of its kind, had less than a 7 percent response rate, and of those who did respond, their chief complaint was the lack of data collection on LGBT victims. When a study of a respondent's chief complaint is that more information is needed, that means it is not time to legislate a solution in search of a problem.

LGBT individuals experience domestic violence at the same rate as heterosexual individuals. If the rate of violence is the same, then the availability of funding for services to victims should be the same, and that is what existing law provides and this bill continues. So I oppose the well-intentioned amendment.

I will yield back the balance of my time.

The gentlewoman from Texas Ms. Jackson Lee is recognized for 5 minutes.

Ms. Jackson Lee. Mr. Chairman, when I started my remarks on the manager's amendment, I started with the idea of inclusiveness, and that every reauthorization we have had on the Violence Against Women Act has responded by the changing times and the changing needs of our

society.

One of the reasons why Mr. Quigley's amendment is so vital is because the population that he is speaking about clearly are less apt either to seek help or to be able to be part of a data collection. This community suffers vast discrimination, but their violence or the violence that they might experience is no less deadly than those who are currently covered by current law, but as were teens when we added teens in the 2000s, meaning in the decade of the 2000s. It was hard to understand why teens should be added.

We are debating why Native Americans should be added, or whether we should expand the relief for immigrant women. The question is we need to address the "we" in America, and in America there is a vast diversity of people, and in America violence is not a respecter of your particular station in life. This is not codifying. It is providing relief for individuals that suffer violence in a relationship that happened to be in the community that has suffered major discrimination.

So I would argue that the relief cannot track data and statistics because the relief has not been there for those victims, and the fear of coming forward has been so massive that it has been difficult maybe to provide that data.

I believe the gentleman's amendment from Illinois is an amendment of great consequence. It is tracking what we have done with the reauthorization of VAWA over the years. We have included of the "we's" in America, and I hope that we will do so now.

I would be happy to yield the remaining amount of my time to the

gentleman from Illinois Mr. Quigley, the sponsor of the legislation. I support the amendment.

Mr. Quigley. I thank the gentlelady.

I have been doing this for 32 years in one form or another, and throughout that there has always been a push to protect the LGBT community. During that entire time I always heard of what gays and lesbians were trying to get a special privileges, or special rights, or special protections. Recognizing that in most States if a person admits that they are gay or lesbian, they could lose their job, their housing, their access to their children, access to health care, with all due respect, if those are special rights, privileges or protection, I wouldn't want any part of them.

We sometimes fail to realize, as we grow and understand the world as it really exists, that is how our laws evolve and adapt, and that is the way they should.

In a crude way it reminds me at the turn of the last century, the telegraph company was offered the telephone patents, and they said, well, we are not in the telephone business, we are in the telegraph business. What they failed to realize was that they were in the communication business, much the same way we do when we look at gay and lesbian rights in that light. We are not protecting gay and lesbian rights, we are protecting American citizens' rights. It is the business of all of us to address it in that manner. These aren't folks that are -- they are Americans, and they deserve every right and protection that we afford everyone here.

So we have to pass that hurdle that this is somehow doing somebody a favor or some special right when you are just protecting them as we would every American citizen in the most basic form of respect and access to the American system of justice.

Thank you.

Chairman Smith. Thank you, Mr. Quigley.

The gentleman from South Carolina Mr. Dowdy is recognized.

Mr. Dowdy. Thank you, Mr. Chairman.

And like Mr. Nadler, Mr. Quigley has a reputation for being very good on the facts and very good on the law, so I was stunned by the factual recitation that he just gave, because what he described is a crime in all 50 States. One man cannot strike another man without consent or outside a boxing ring regardless. A woman cannot strike a woman without consent outside an MMA or boxing ring. It is already against the law. If the police don't get that, then I am delighted, free of charge, to go with any of the bright legal minds on the other side and do law enforcement training for whatever police officers don't seem to understand that you can't strike someone regardless of sexual orientation or any other victim status.

But I will say this, Mr. Chairman. As our colleagues on the other side were talking, I was writing down some things that actually could make a difference with respect to victimology and domestic violence, things like preventing domestic abusers, convicted domestic abusers, from serving on juries, because, Mr. Chairman, it may come as a surprise to you, you can be convicted of domestic violence and serve on a jury

that is considering whether someone else is convicted of domestic violence.

I heard arguments against mandatory minimum prison sentences, which I think would be a wonderful way to curtail inappropriate, illegal criminal conduct for recidivist abusers. I would be happy to revisit Crawford and the confrontation clause analysis that makes it impossible for women in domestic violence cases to testify. The 911 tape of Crawford, I will be delighted to revisit that.

Mr. Quigley. Will the gentleman yield?

Mr. Gowdy. I will be happy to talk about deporting abusers, people who have been convicted of domestic violence, regardless of whether or not it involved actual physical pain, which is an amendment that is coming up. All of those things would help.

But let us be really clear about this. It is no more legal for one male to strike a male without consent -- we don't need an amendment to criminalize that. It is already illegal to do it. And if law enforcement doesn't get that, then we ought to be talking about law enforcement funding and not an amendment to this bill.

And I am happy to go with Mr. Quigley or anyone else who wants. I will take Mrs. Adams, who was a law enforcement officer for a number of years. If police don't understand that you can't strike another person regardless of their victimology or immutable characteristics, then that is what we ought to be addressing and not social engineering.

Mr. Quigley. Would the gentleman yield?

Mr. Dowdy. I would be happy to.

Mr. Quigley. If we are making a list of what we are not going to let convicted domestic violent abusers do, why don't we add buying guns at a gun show?

Mr. Gowdy. It is already illegal for anyone to possess a firearm or ammunition who has suffered a conviction for domestic violence.

Mr. Quigley. Right. But you would agree that at a gun show there is no background check.

Mr. Gowdy. Well, that is a different issue. No, no, no, facts matter. Facts matter.

Mr. Quigley. Facts matter. You can buy the gun.

Chairman Smith. The gentleman from South Carolina has the time.

Mr. Gowdy. What you said is can we make it illegal for people who have suffered convictions for domestic violence to possess firearms, and it is already illegal. Now, if you want to talk about the gun show loophole, that is a separate conversation. But let us be very, very clear. It is already illegal for people who have suffered convictions for domestic violence to possess ammunition or firearms.

Mr. Quigley. Then, respectfully, I would ask you to respond to the second half of my case study in which the people are rejected at domestic violence programs because they don't fit into the definition.

Mr. Gowdy. Who is rejecting them? Because when we had a prosecution in South Carolina --

Mr. Quigley. Because the funding isn't for them, it is for straight people who beat each other up.

Mr. Dowdy. We had a prosecution in South Carolina where one

partner assaulted another partner, male-on-male violence, and we prosecuted it the exact same way we would have a heterosexual victim. They are in the exact same prison with somebody else. They went before the exact same judge. The discrimination that you and the gentlelady from Texas are talking about in the criminal justice system, I haven't seen it.

Mr. Quigley. The whole reason we are doing this bill is because of discrimination, and we keep adding people to it.

Mr. Gowdy. Cite to me the examples.

Mr. Quigley. Why do we not believe it happens to gays and lesbians?

Mr. Gowdy. Cite me the examples where prosecutors and cops are ignoring people because of their sexual orientation, other than some muddled fact patterns that I get that are already crimes.

Chairman Smith. The gentleman's time has expired.

The gentleman from North Carolina Mr. Watt.

Mr. Watt. Mr. Chairman, I really had planned to stay out of this discussion, but we have wandered so far off into another territory now, that it reminded me that for, I guess, either 14 or 16 of the years that I have been here, I served on this committee with Barney Frank. And Barney Frank had one rule about legislation, and he has continued it really in the Financial Services Committee as chair and ranking member over there, and that rule was it is better to be redundant so you repeat something that is unnecessary. As the gentleman says, maybe it is unnecessary at some level.

I suppose in some States it would be unnecessary to have a violence against women law at all because it would be illegal for a man to strike a woman, a husband to strike a wife, or vice versa. That would be an assault. That would make the Violence Against Women Act itself unnecessary. But we would rather be redundant if there is any doubt about it than not to have a clear statement in our law that all citizens should be treated appropriately by police, by prosecutors, by judges, regardless whoever in the criminal justice system.

So I am not all that convinced that just because the gentleman says it is against the law, that is a compelling reason not to put it in this bill and to be explicit about it.

Mr. Polis. Will the gentleman yield?

Mr. Watt. I would be happy to yield to the gentleman.

Mr. Polis. I appreciate the time. I just have 30 seconds or a minute of remarks real quick.

I think it is similar to the Senate. Obviously it is against the law to strike or beat a partner of any sex. What is at issue here is educating and outreach to underserved populations. And the gay, lesbian and transgender population is a difficult-to-reach, distinct population, which is why I strongly support this amendment for outreach. And just like major companies, airlines, beer companies do advertising campaigns, I imagine the military will do recruitment campaigns targeted after the LGBT community, so, too, we should reach out to prevent abuse.

And, you know, clearly this is a community that might not interact

in the same places as the straight communities, so outreach through gay and lesbian centers, outreach metropolitan churches where gay and lesbians and transgendered people worship, I mean, these just seem like common sense. This is what every private company in America does. Of course they target and reach out to our gay and lesbian population. Why wouldn't we target everybody with regard to our outreach efforts to reduce abuse? This simply reinforces that we should include in the underserved population grants gay, lesbian and transgender Americans.

I will be happy to yield back to the gentleman.

Mr. Watt. I thank gentleman. He gave me an opportunity to maybe summarize a lot quicker, because he gave me -- the bottom line here is redundancy in the law is not bad. It is really not a bad thing. If you believe in something and you say it once, and you believe in it and you say it twice, and you believe in it and you say it three times, even if you have said it three times, it becomes redundant, but we need to believe in this.

I think we need to believe that every citizen, every citizen, should be protected in these violent situations. This applies to women, it applies to transsexuals, gays, I mean, you name it. I just think perhaps we protest too much here.

I yield back, Mr. Chairman.

Chairman Smith. Thank you, Mr. Watt.

The question is on the Quigley amendment.

All in favor, say aye.

Opposed, no.

In the opinion of the chair, the noes have it. The amendment is not agreed to.

Mr. Quigley. Mr. Chairman, I ask for a recorded vote.

Chairman Smith. A recorded vote has been requested, and the clerk will call the roll.

The Clerk. Mr. Smith?

Chairman Smith. No.

The Clerk. Mr. Smith votes no.

Mr. Sensenbrenner?

Mr. Sensenbrenner. No.

The Clerk. Mr. Sensenbrenner votes no.

Mr. Coble?

[No response.]

The Clerk. Mr. Gallegly?

[No response.]

The Clerk. Mr. Goodlatte?

Mr. Goodlatte. No.

The Clerk. Mr. Goodlatte votes no.

Mr. Lungren?

Mr. Lungren. No.

The Clerk. Mr. Lungren votes no.

Mr. Chabot?

Mr. Chabot. No.

The Clerk. Mr. Chabot votes no.

Mr. Issa?

[No response.]

The Clerk. Mr. Pence?

[No response.]

The Clerk. Mr. Forbes?

[No response.]

The Clerk. Mr. King?

Mr. King. No.

The Clerk. Mr. King votes no.

Mr. Franks?

[No response.]

The Clerk. Mr. Gohmert?

[No response.]

The Clerk. Mr. Jordan?

Mr. Jordan. No.

The Clerk. Mr. Jordan votes no.

Mr. Poe?

[No response.]

The Clerk. Mr. Chaffetz?

Mr. Chaffetz. No.

The Clerk. Mr. Chaffetz votes no.

Mr. Griffin?

[No response.]

The Clerk. Mr. Marino?

Mr. Marino. No.

The Clerk. Mr. Marino votes no.

Mr. Gowdy?

Mr. Gowdy. No.

The Clerk. Mr. Gowdy votes no.

Mr. Ross?

Mr. Ross. No.

The Clerk. Mr. Ross votes no.

Mrs. Adams?

Mrs. Adams. No.

The Clerk. Mrs. Adams votes no.

Mr. Quayle?

Mr. Quayle. No.

The Clerk. Mr. Quayle votes no.

Mr. Amodei?

Mr. Amodei. No.

The Clerk. Mr. Amodei votes no.

Mr. Conyers?

Mr. Conyers. Aye.

The Clerk. Mr. Conyers votes aye.

Mr. Berman?

[No response.]

The Clerk. Mr. Nadler?

[No response.]

The Clerk. Mr. Scott?

Mr. Scott. Aye.

The Clerk. Mr. Scott votes aye.

Mr. Watt?

Mr. Watt. Aye.

The Clerk. Mr. Watt votes aye.

Ms. Lofgren?

Ms. Lofgren. Aye.

The Clerk. Ms. Lofgren votes aye.

Ms. Jackson Lee?

Ms. Jackson Lee. Aye.

The Clerk. Ms. Jackson Lee votes aye.

Ms. Waters?

Ms. Waters. Aye.

The Clerk. Ms. Waters votes aye.

Mr. Cohen?

Mr. Cohen. Aye.

The Clerk. Mr. Cohen votes aye.

Mr. Johnson? Mr. Johnson?

Mr. Johnson. Aye.

The Clerk. Mr. Johnson votes aye.

Mr. Pierluisi?

Mr. Pierluisi. Aye.

The Clerk. Mr. Pierluisi votes aye.

Mr. Quigley?

Mr. Quigley. Aye.

The Clerk. Mr. Quigley votes aye.

Ms. Chu?

[No response.]

The Clerk. Mr. Deutch?

Mr. Deutch. Aye.

The Clerk. Mr. Deutch votes aye.

Ms. Sanchez?

Ms. Sanchez. Aye.

The Clerk. Ms. Sanchez votes aye.

Mr. Polis?

Mr. Polis. Aye.

The Clerk. Mr. Polis votes aye.

Chairman Smith. The gentleman from North Carolina?

Mr. Coble. No.

The Clerk. Mr. Coble votes no.

Chairman Smith. The gentleman from Arizona?

Mr. Franks. No.

The Clerk. Mr. Franks votes no.

Chairman Smith. The clerk will report.

The Clerk. Mr. Chairman, 13 Members voted aye, 16 Members voted nay.

Chairman Smith. The majority having voted against the amendment, the amendment is not agreed to.

The gentleman from South Carolina Mr. Gowdy is recognized.

Mr. Gowdy. I think I have an amendment at the desk. Is that the proper thing to say at this point?

Chairman Smith. The clerk will report the amendment.

The Clerk. Amendment to H.R. 4970 offered by Mr. Gowdy. Page 169, insert after line 6 the following, and conform the table of contents: Section 814, in consideration of other evidence --

Chairman Smith. Without objection, the amendment is considered read.

Ms. Lofgren. I reserve a point of order, Mr. Chairman.

Chairman Smith. A point of order has been reserved. Without objection, the amendment will be considered as read, and the gentleman from South Carolina is recognized to explain his amendment.

[The amendment of Mr. Gowdy follows:]

***** INSERT 4-3 *****

Mr. Gowdy. Thank you, Mr. Chairman.

Domestic violence is a particularly insidious crime. It is important that the United States deport aliens who commit domestic violence offenses so they cannot victimize vulnerable individuals in our community again. For this reason in 1996 Congress made it a deportable offense for any alien to be convicted of a crime of domestic violence.

The Immigration and Nationality Act defines the crime of domestic violence to be any crime of violence committed by a current or former spouse or certain other family members. Title 18 U.S.C., Section 16, Mr. Chairman, in turn defines a crime of violence as an offense that has as an element the use, attempted use or threatened use of physical force against the person or property of another, or any other offense that is a felony and that by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

Unfortunately, Mr. Chairman, as a result of a number of Supreme Court decisions, many aliens who commit such domestic violence offenses can frustrate their deportations. In 2010, in the decision of *Johnson v. The United States*, the Court ruled the term "physical force" must mean violent force that is force capable of causing physical pain or injury to another person.

As the Court stated -- and I apologize for the lengthy quote, Mr. Chairman, but it is important -- the government asserts that our interpretation will make it more difficult to remove an alien convicted

of a crime of domestic violence. The government contends it will be harder to obtain removal based upon battery convictions like those in Florida do not require the use of violent criminal force. The dissent likewise anticipates that in the States it has identified as having a generic felony battery statute that covers both violent force and unwanted physical contact, our decision will render convictions under these statutes outside the scope of deportation, which is why Justice Alito, Mr. Chairman, then argued in dissent, cases of spousal and child abuse are frequently prosecuted under generally applicable assault and battery statutes, and the assault and battery statutes of almost half the States apply both to cases involving the use of violent force and cases involving offensive touching. If the Court's interpretation of the term "physical force" is applied to the deportation for domestic violence statute, many convicted spousal and child abusers will escape removal, and that is precisely, Mr. Chairman, what has happened.

The Board of Immigration Appeals has since ruled that aliens cannot be deported simply by virtue of convictions for domestic violence offenses that don't specify the level of physical violence used. The Court in Johnson did state, in such circumstances the court may determine which statutory phrase was the basis for the conviction by consulting the trial record, including charging documents, plea agreements, transcripts of plea colloquies, findings of fact and conclusions of law from a bench trial, and jury instructions and verdict forms.

Unfortunately, as Justice Alito stated in dissent, it will often

be impossible for the government to produce trial records showing the offender's conduct involved the use of violent force.

In the 2005 decision of *Shepherd V. The United States*, the Supreme Court ruled that a judge may not look to documents such as police reports or complaint applications in these scenarios.

The amendment I offer today, Mr. Chairman, simply allows immigration judges to consider all of the evidence they find reliable in making a determination as to whether an alien used sufficient violent force to justify deportation. They will be able to use documents such as police reports and sentencing reports, which they cannot currently use.

The amendment ensures that aliens will no longer be able to commit crimes of violence against their family members with impunity simply because they live in States that have generic battery statutes that cover both violent force and unwanted physical contact, and I would urge my colleagues to please consider this amendment.

Chairman Smith. Thank you, Mr. Gowdy, for offering this amendment.

Does the gentlewoman from California insist on her point of order?

Ms. Lofgren. No, Mr. Chairman, I believe the amendment is germane.

Chairman Smith. Okay. The point of order is withdrawn.

The gentlewoman from California is recognized.

Ms. Lofgren. Mr. Chairman, to some extent this amendment is duplicative of existing law, and I think in at least one respect it

is defective. Certainly sentencing reports, which are authorized usually by probation departments, which is generally an arm of the court, has a reliability that has a different weight than police reports, which are simply one piece of evidence. And in this case, an example, you might have a police report that although was disproven by other evidence which leads a jury or a judge to reach a conclusion as to a determination of guilt, to go back to a provision of evidence that was not found reliable I don't think would be a positive addition to the immigration law.

I would note also that crimes of violence are already subject to deportation, and I will give you an example in terms of a real-life example. When you have a domestic violence case, probably one of the most dangerous cases that a police officer can respond to, the police officer is on the scene, both parties are making claims about who did what to whom, and it is not unusual that both parties will be arrested because the officer on the scene can't really sort out what happened. And so you will have a police report that recounts the potential of activity that may -- one of the two sides is wrong, but the police report is going to include the accounts of both parties. To then say that the erroneous report can be the basis for deportation is a mistake.

So I think the amendment goes a bit too far and also is redundant, although I understand that there may need to be a revisiting of this section of the law. I would suggest that Mr. Gowdy and I should sit down after this markup and see if we can't deal with the court case he has cited, while focusing on the immigration law as a whole. I think

that would be a productive thing for us and the body. But I think this is the wrong way to go about it.

With that, I would yield back.

Chairman Smith. The gentleman from North Carolina Mr. Watt.

Mr. Watt. Mr. Chairman, if I were applying the same standard that was applied by my colleagues in this committee on the last vote, this would be considered a redundant amendment. Ms. Lofgren is absolutely right. I actually think redundancy is good in some contexts. I think this amendment has gone too far because it allows things to be considered that may not even be -- have already been proven inaccurate, as Ms. Lofgren says.

But I just wish my colleagues on this committee would apply the same standards on their amendments that they are applying on our amendments, or maybe we should apply the same standards on their amendments as we apply on our amendments. There is nothing wrong with redundancy in the law, but there was nothing wrong with redundancy in the law on the last amendment either.

So I yield back.

Chairman Smith. The gentleman from Pennsylvania Mr. Marino is recognized.

Mr. Marino. I would like to strike the last word, and I yield my time to Mr. Gowdy.

Mr. Gowdy. Well, I thank the gentleman from Pennsylvania.

Mr. Chairman, I would just point out that police reports are currently used in sentencing hearings, they are used in probation

hearings, they are used in parole hearings. We trust judges to decide which evidence to admit. That is a weighing and a balancing. We trust judges in some instances to decide whether to give society's ultimate punishment in a bench trial for capital offenses. It just strikes me that the sentencer should have access to all material, and the sentencer can decide whether it is reliable or not to exclude certain categories of evidence.

I mean, keep in mind, we have sentencing hearing after sentencing hearing in Federal courts across this land every day where rank, otherwise inadmissible hearsay is used by sentencing judges. I just think a judge ought to be able to consider the sentencing report -- the police report, witness statements in determining whether or not something rises to the level of violence sufficient to be deported. We do it in all other categories of cases, and I just don't know why we would carve out an exception for domestic violence.

Mr. Watt. Would the gentleman yield?

Mr. Gowdy. I would be happy to.

Mr. Watt. This amendment talks about the Attorney General may consider, and, Mr. Gowdy, you keep talking about the judge. Are they one and the same in this case?

Mr. Gowdy. I could be wrong, and I defer to the gentleman from North Carolina, whose legal education surpasses mine, but I thought the Attorney General had jurisdiction over immigration judges, hence the reason for the word "Attorney General."

Mr. Watt. Well, you keep referring to it as the judge, as if there

were somebody other than the Attorney General.

Mr. Gowdy. Well, they are immigration judges, but they are not Article III judges. I mean, I think I am right on that. I think they are under the Attorney General. They are judges, but they are not Article III judges.

Mr. Watt. I just asked the question.

Mr. Gowdy. I could be wrong. I think I am right.

Chairman Smith. I think you are right, too.

The gentleman yields back his time.

The question is on the Dowdy amendment.

All in favor, say aye.

Opposed, no.

In the opinion of the chair, the ayes have it, and the amendment is agreed to.

Are there any other amendments to the underlying bill?

Ms. Lofgren. Mr. Chairman, there is an amendment, the Jackson Lee-Lofgren-Polis amendment.

Chairman Smith. Okay. The gentlewoman from California is recognized for the purposes of offering that amendment, and the clerk will report it.

Ms. Lofgren. Actually Ms. Jackson Lee will offer it. I was just trying to help.

Chairman Smith. The gentlewoman from Texas' amendment.

Ms. Jackson Lee. Excuse me. Excuse me. Excuse me,
Mr. Chairman.

Chairman Smith. And the clerk will report the amendment.

The Clerk. Amendment to H.R. 4970 offered by Ms. Jackson Lee --

Ms. Jackson Lee. Which amendment are we offering?

Chairman Smith. If the clerk will suspend, it was the amendment described by Ms. Lofgren.

Ms. Jackson Lee. Right. Can I ask unanimous consent to proceed with another amendment at this time, please?

Chairman Smith. Without objection.

Ms. Jackson Lee. Thank you very much.

Chairman Smith. The gentlewoman from Texas is recognized.

Ms. Jackson Lee. I am preceding with an amendment that is at the desk, 01.XML, dealing with the date rape kits.

Chairman Smith. The clerk will report the amendment.

The Clerk. Amendment to H.R. 4970 offered by Ms. Jackson Lee of Texas. Page 68, beginning on line 18, strike section 108 and insert the following --

Ms. Jackson Lee. Mr. Chairman, I ask unanimous consent that the amendment be considered as read.

Chairman Smith. Without objection, the amendment will be considered as read and the gentlewoman is recognized to explain her amendment.

[The amendment of Ms. Jackson Lee follows:]

***** INSERT 4-4 *****

Ms. Jackson Lee. I thank the colleagues for their patience, I thank Ms. Lofgren as well. I hope to offer the amendment previously presented at a later time.

The Jackson Lee amendment will reauthorize the Debbie Smith DNA Backlog Grant Program through 2017, which distinguishes from previous amendments that were offered. The program has been effective in reducing rape kit backlogs, and would help law enforcement better collect and use evidence in several assault cases, and help all levels of the criminal justice system work together to ensure that rape kits are, in fact, tested.

As many of my colleagues will recall, we considered this issue in May 2010 in response to widespread reports in the media of backlogs, and this is simply unacceptable. This committee worked on this legislation, and, in fact, this legislation has made a difference.

Consider the fact that in the time it will take for us to conduct this hearing, 60 individuals in the United States will be sexually assaulted. The Violence Against Women reauthorization contains many of the provisions that make important changes to the current law, such as consolidating duplicate programs and streamlining others, providing greater flexibility for how communities utilize resources, and including new training requirements for people providing legal assistance to victims.

I believe it is extremely important as we improve on resources, but more importantly improve on how the Violence Against Women Act is implemented. The backlog in date rape kits and the elimination of such

is extremely important. The amendment has been endorsed by the National Task Force to End Sexual and Domestic Violence, which represents over 1,000 organizations across the Nation.

RPTS JOHNSON

DCMN MAGMER

[3:08 p.m.]

Ms. Jackson Lee. People are absolutely helpless when they have been raped, had a police report, and even had the victim in the eye of the law enforcement, but the case does not proceed because the rape kit has not been tested.

Over the past 3 years, a series of embarrassing investigations into major police departments in Texas and other cities around the country revealed an appallingly large backlog of untested rape kits. A backlog of thousands of untested kits have made headlines in many of our cities around the Nation. And, last year, our State legislature passed Senate bill 1636, authored by a senator from Fort Worth, Senator Davis, to mandate examination of evidence from rape kit cases Statewide, requiring even the smallest law enforcement agencies to report how many rape kits they left untested and submit them to a crime lab.

However, the importance of this is to solve some of these crises and backlogs in States around the Nation and to be able to ensure that rape kit collection and testing is in fact a moving part of the criminal justice system. Approximately 200,000 incidents of rape are reported in the United States annually. A vast majority of these sexual assault victims consent and undertake medical examination immediately following the attack, thus enabling hospital, clinic personnel, and

police officers to collect evidence for a rape kit.

I think the irony of it is to even suggest that there is a backlog of date rape kits or rape kits, if you will, is to suggest there is a backlog of justice. The Violence Against Women Act is to ensure that justice is done for women who have been violated and others. But, in this case, this impacts the violence that occurs that can be so brutal and can change people's lives.

Studies have repeatedly shown that incidents where rape kit collections contain DNA are more likely to move forward in the criminal justice system than cases where no rape kit is collected. And I must say to my colleagues I do not want an innocent person convicted. And we have seen the importance of DNA in making sure that the person that has perpetrated this violent act is in fact the person before the criminal justice system. Testing the evidence collected in these rape kits enable officers to identify the attacker, confirm that sexual contact occurred between a suspect and a victim and corroborate the victim's account of the sexual account and exonerate innocent suspects.

Testing evidence collected in the rape kits also helps prosecutors deciding whether to pursue a case and likewise to help juries in deciding whether to convict an alleged perpetrator. While national statistics have not confirmed the exact number of the untested rape kits, it is estimated that approximately 130,000 of these kits remain untested. It is important that we know that we can be of help.

Two years ago, we all met Mrs. Valerie Neumann, a 22-year old young woman who was the victim of rape nearly 4 years before that. And,

during our meeting, Ms. Neumann informed me that, although a rape kit was performed the same night that she reported the incident, the rape kit had never been tested. According to Ms. Neumann, the prosecutor in the case has not brought an action against her alleged perpetrator after questioning him.

So I would argue that we do need to move forward on this aspect to add to the VAWA reauthorization, and we need to ensure that justice is done. My amendment is the answer to that question and provides this committee with a road map for moving forward, along with extending the time from 2013 to 2017. I ask my colleagues to support this amendment.

Chairman Smith. Thank you, Ms. Jackson Lee.

The gentlewoman from Florida, Mrs. Adams, is recognized.

Mrs. Adams. Thank you, Mr. Chairman.

While I applaud my colleague, I have grave concerns with the amendment and will stand in opposition. It takes down the 75 percent that we dedicated for rape kit backlog to 70 percent; and, on top of that, it requires an audit. And with the language here, as we were going through this as quickly as possible, it almost looks as if we have to use the portion of the 70 percent for the audit on top of everything else. So now we are lowering it even more.

And so, you know, when these come out so quickly and you are trying to look at them as closely as possible and it is mandating an audit, which at the same time with lowering the rape kit backlog from 75 to 70, taking an audit out of that 70 percent, requiring that it be done not later than a year after receiving the grant, all of these things

make it less for the backlog of the rape kits, not better for.

And while I believe her intent was good, the action actually was the opposite, and therefore I have to oppose this amendment. Because I believe we do need to get our rape kit backlog under control. We do need to get back to getting all of these cases resolved in a timely manner. But I don't believe this amendment actually does what I think her intent was. Especially I have grave concerns from going from 75 to 70 and then causing an audit to come out of it, which lowers it again.

Ms. Jackson Lee. Will the gentlewoman yield?

Mrs. Adams. Yes.

Ms. Jackson Lee. I think you are misinterpreting. This 70 percent deals strictly with the audit. The audit originally was 40 percent. We have moved it to 70 percent, and that is a basis of determining the status of this backlog. And we would like to be able to conduct an audit consistent with the subsection of the samples of sexual assault evidence. So we are moving it up.

Mrs. Adams. Actually, reclaiming my time, it doesn't have an audit in the bill itself. And so, again, I think what you were trying to do, but instead of making it stronger, you actually lowered it. And, therefore, I oppose it. I respectfully oppose the amendment and yield back.

Chairman Smith. The gentlewoman yields back the balance of her time.

The question is on the Jackson Lee amendment.

All in favor, say aye.

Opposed, nay.

In the opinion of the chair, the noes have it.

Ms. Jackson Lee. Roll call.

Chairman Smith. A roll call vote has been requested, and the clerk will call the roll.

The Clerk. Mr. Smith?

Chairman Smith. No.

The Clerk. Mr. Smith votes no.

Mr. Sensenbrenner?

Mr. Sensenbrenner. No.

The Clerk. Mr. Sensenbrenner votes no.

Mr. Coble?

[No response.]

The Clerk. Mr. Gallegly?

[No response.]

The Clerk. Mr. Goodlatte?

[No response.]

The Clerk. Mr. Lungren?

Mr. Lungren. No.

The Clerk. Mr. Lungren votes no.

Mr. Chabot?

[No response.]

The Clerk. Mr. Issa?

[No response.]

The Clerk. Mr. Pence?

[No response.]

The Clerk. Mr. Forbes?

[No response.]

The Clerk. Mr. King?

Mr. King. No.

The Clerk. Mr. King votes no.

Mr. Franks?

Mr. Franks. No.

The Clerk. Mr. Franks votes no.

Mr. Gohmert?

[No response.]

The Clerk. Mr. Jordan?

Mr. Jordan. No.

The Clerk. Mr. Jordan votes no.

Mr. Poe?

[No response.]

The Clerk. Mr. Chaffetz?

[No response.]

The Clerk. Mr. Griffin?

Mr. Griffin. No.

The Clerk. Mr. Griffin votes no.

Mr. Marino?

Mr. Marino. No.

The Clerk. Mr. Marino votes no.

Mr. Gowdy?

Mr. Gowdy. No.

The Clerk. Mr. Gowdy votes no.

Mr. Ross?

[No response.]

The Clerk. Mrs. Adams?

Mrs. Adams. No.

The Clerk. Mrs. Adams votes no.

Mr. Quayle?

[No response.]

The Clerk. Mr. Amodei?

Mr. Amodei. No.

The Clerk. Mr. Amodei votes no.

Mr. Conyers?

Mr. Conyers. Aye.

The Clerk. Mr. Conyers votes aye.

Mr. Berman?

[No response.]

The Clerk. Mr. Nadler?

[No response.]

The Clerk. Mr. Scott?

[No response.]

The Clerk. Mr. Watt?

Mr. Watt. Aye.

The Clerk. Mr. Watt votes aye.

Ms. Lofgren?

Ms. Lofgren. Aye.

The Clerk. Ms. Lofgren votes aye.

Ms. Jackson Lee?

Ms. Jackson Lee. Aye.

The Clerk. Ms. Jackson Lee votes aye.

Ms. Waters?

Ms. Waters. Aye.

The Clerk. Ms. Waters votes aye.

Mr. Cohen?

Mr. Cohen. Aye.

The Clerk. Mr. Cohen votes aye.

Mr. Johnson?

Mr. Johnson. Aye.

The Clerk. Mr. Johnson votes aye.

Mr. Pierluisi?

Mr. Pierluisi. Aye.

The Clerk. Mr. Pierluisi votes aye.

Mr. Quigley?

Mr. Quigley. Aye.

The Clerk. Mr. Quigley votes aye.

Ms. Chu?

[No response.]

The Clerk. Mr. Deutch?

Mr. Deutch. Aye.

The Clerk. Mr. Deutch votes aye.

Ms. Sanchez?

Ms. Sanchez. Aye.

The Clerk. Ms. Sanchez votes aye.

Mr. Polis?

Mr. Polis. Aye.

The Clerk. Mr. Polis votes aye.

Chairman Smith. The gentleman from Virginia, Mr. Forbes.

Mr. Forbes. No.

The Clerk. Mr. Forbes votes no.

Chairman Smith. The gentleman from California, Mr. Issa.

Mr. Issa. No.

The Clerk. Mr. Issa votes no.

Chairman Smith. The gentleman from Virginia, Mr. Goodlatte.

Mr. Goodlatte. No.

The Clerk. Mr. Goodlatte votes no.

Chairman Smith. The gentleman from Utah, Mr. Chaffetz.

Mr. Chaffetz. No.

The Clerk. Mr. Chaffetz votes no.

Chairman Smith. The gentleman from North Carolina, Mr. Coble.

Mr. Coble. No.

The Clerk. Mr. Coble votes no.

Chairman Smith. The clerk will report.

The Clerk. Mr. Chairman, 12 members voted aye, 16 members voted
nay.

Chairman Smith. The majority having voted against the

amendment, the amendment is not agreed to.

Ms. Jackson Lee. Mr. Chairman.

Chairman Smith. Does the gentlewoman from Florida have an amendment?

Mrs. Adams. Yes.

Chairman Smith. The gentlewoman from Florida is recognized for the purpose of offering an amendment.

Mrs. Adams. Thank you, Mr. Chairman.

The amendment is at the desk, number eight.

Ms. Lofgren. I reserve a point of order.

Chairman Smith. A point of order has been reserved.

And does the clerk know the amendment?

The clerk will report the amendment.

The Clerk. Amendment to H.R. 4970 offered by Mrs. Adams of Florida.

Page 162, insert after line 14 the following:

(7) Each type of criminal activity --

Chairman Smith. Without objection, the amendment will be considered as read.

[The amendment of Mrs. Adams follows:]

***** INSERT 5-1 *****

Chairman Smith. The gentlewoman is recognized in support of her amendment.

Mrs. Adams. Thank you, Mr. Chairman.

This amendment adds a provision to the U visa reporting requirement currently contained in H.R. 4970. Specifically, the amendment requires that DHS report annually on the criminal activities used as a basis for illegal immigrant crime victims to receive a U visa during the previous fiscal year.

In addition, the amendment requires that DHS report the number of times that each criminal activity is used as a basis for receipt of a U visa.

Since U visa advocates tend to discuss U visa issuance only in terms of domestic violence or sexual assault, I was surprised to find out that U visas can be issued to illegal immigrants who are victims of, or have information about, any crime, including perjury, indentured servitude, murder, blackmail, among others.

I have heard general statistics mentioned. For instance, the ranking member stated in an op-ed that two-thirds of U visa recipients are victims of domestic violence, sexual assault, or rape. But I wanted to know specifically how many times each crime was used as a basis for U visa issuance. So my staff asked U.S. Citizenship and Immigration Services for that information.

Unfortunately, USCIS said that they do not compile such statistics. They indicated that once transformation of their computer systems is complete, they will likely be able to pull such information,

but they are not currently able to do so.

I think it is important for anyone who is interested in the issue to have accurate statistics regarding the number of times a certain type of criminal activity is used as a basis to grant a U visa. Thus, this amendment requires DHS to compile the statistics and report them annually to Congress.

I urge my colleagues to support the amendment and yield back my time.

Chairman Smith. Thank you, Mrs. Adams.

Are there other members who wish to be heard on the amendment?

The gentlewoman will state her point of order.

Ms. Lofgren. I withdraw my point of order. Clearly, it is germane.

Chairman Smith. Point of order is withdrawn, and the gentlewoman from California is recognized.

Ms. Lofgren. I just want to note that the U visas are available for the following crimes by statute: rape, torture, trafficking, incest, domestic violence, sexual assault, abusive sexual contact, prostitution, sexual exploitation, female genital mutilation, being held hostage, peonage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, perjury or attempt, conspiracy, or solicitation to commit any of the above crimes.

So I think it is important that we know what the statute permits.

I do not object to having a report being made, and I think when the report is made the committee will feel reassured. But I just wanted to correct a misimpression that nonserious offenses --

Mrs. Adams. Will the gentlelady yield?

Ms. Lofgren. I would be happy to yield.

Mrs. Adams. No, what I was saying was is that is for many other crimes, as you just enumerated. And I recognize those other crimes. What surprised me was that they don't keep any kind of data collection on these crimes. And if there is a -- you know, I believe that DHS has an obligation to do so. Because what if there is a pattern that they are missing because they are not following through with this?

Ms. Lofgren. Reclaiming my time, I do not object to the amendment to have the data compiled. I think actually if we went to the Vermont Center they could probably produce the data. But I do not object to having -- to the amendment. I support the amendment. I just didn't want to leave an impression I am sure you did not intend to create, that somehow something less than a serious offense was involved.

With that, I support the amendment and yield back.

Chairman Smith. The gentlewoman yields back.

The question is on the amendment.

All in favor, say aye.

Opposed, no.

The amendment is agreed to.

Are there other amendments to the underlying bill?

Mr. Deutch. Mr. Chairman.

Chairman Smith. The gentleman from Florida, Mr. Deutch.

Mr. Deutch. I have an amendment at the desk. It is marked Deutch one. The Deutch-Chu-Polis amendment.

Chairman Smith. The clerk will report the amendment.

The Clerk. Amendment to H.R. 4970 offered by Mr. Deutch of Florida, Ms. Chu of California, and Mr. Polis of Colorado.

Beginning on page 143, line 3, strike section 801 and redesignate provisions accordingly.

[The amendment of Mr. Deutch follows:]

***** INSERT 5-2 *****

Chairman Smith. The gentleman from Florida is recognized to explain his amendment.

Mr. Deutch. Thank you, Mr. Chairman.

Mr. Chairman, this amendment would strike section 801 of the bill. The section is a poorly conceived solution in search of a problem. In the name of preventing abuse of this immigration visa category designed for victims of domestic violence, section 801 would set unreasonably burdensome requirements on these immigrants who are seeking protection from abuse and virtually ensure that their petitions are reviewed by less trained immigration agents.

Specifically, section 801 would expose Violence Against Women Act self-petitioners to greater personal risk by permitting U.S. Customs and Immigration Service to seek input from the abuser, would make it much more difficult for victims of domestic violence to obtain lawful status by requiring them to produce clear and convincing evidence, and would require the removal of a victim from the U.S. on an expedited basis if there is any evidence of material misrepresentation regardless of any intent to defraud the government.

Section 801 of the bill would also decentralize review and adjudication of all VAWA self-petitions from the highly trained officers of the Vermont Service Center of the Citizenship and Immigration Service to local service centers instead.

We can't turn a blind eye to the great harm to immigrant victims of domestic violence that will be caused by this section, and I firmly believe that section 801 should be struck from the underlying bill

rather than subject these victims to further hardship when it is completely avoidable.

While I strongly oppose the provisions in section 801, I would like to address specific concerns that I have on the provision that decentralizes the review and adjudication of these self-petitions from the Vermont Service Center. Undocumented immigrants who are victims of abusive relationships endure tremendous fear that the abusive spouse could threaten to have the victim deported if the victim seeks help from law enforcement. In addition, undocumented immigrant victims of domestic violence live in constant fear that if they take the initiative to report an abusive spouse to law enforcement that the victim themselves could be arrested and turned over to Immigration and Customs Enforcement.

Given that such self-petitions involve domestic violence claims from undocumented immigrant victims, these petitions demand to be handled with the utmost sensitivity, delicacy, and confidentiality. Failure to handle these petitions in such a manner could result in the victim remaining in or returning to a living environment of escalating violence that threatens not just the victim's health and safety but her life as well.

Indeed, the uniqueness and sensitivity required in domestic violence cases has led to the creation of a dedicated system around our country to resolve civil and criminal claims arising from domestic violence. Jurisdictions throughout our Nation have developed court systems with specialized units to address domestic violence claims.

These dedicated courts include permanent judges, prosecutors, and court personnel who are highly trained experts in domestic violence law. Such dedicated courts ensure the system is responsive to victims and can adequately and efficiently process domestic violence claims.

Similarly, the Vermont Service Center was created to thoroughly review and adjudicate self-petitions from immigrant victims of domestic violence. For more than a decade, the Center has operated a unit that specializes in these self-petitions. This unit was originally created by the then-Immigration and Naturalization Service to consist of non-rotating officers that choose to work in the unit. In fact, INS designed this VAWA unit to resemble the domestic-violence-dedicated court system.

Officers working in this unit at the Vermont Service Center receive extensive training dedicated to understanding domestic violence. They also learn how immigration status, culture, and cultural differences can contribute to domestic violence. The training the officers receive is ongoing. In addition, the officers in the VAWA unit at the Center have received extensive training in identifying patterns and trends that would reveal incidents of fraud.

The VAWA self-petitions submitted by immigrant victims should be handled with sensitivity and confidentiality from officers with highly specialized training.

And, finally, if we are seriously concerned about alleged overuse of this visa, moving such a specialized type of case away from agents who are trained to examine them will only make the problem worse. It

is just nonsensical to expect fewer errors from people who have received less training.

Because section 801 would decentralize the review and adjudication of these self-petitions from the highly trained staff of the Vermont Service Center to local service centers and because this section would place immigrant victims of domestic violence at greater personal risk and erect unnecessarily high hurdles for immigrant victims of domestic violence seeking protection, I urge support of our amendment.

I thank my colleagues, Ms. Chu, Mr. Polis, for their great support in drafting this amendment; and I yield back the balance of my time.

Chairman Smith. Thank you, Mr. Deutch.

I will recognize myself in opposition to the amendment.

Under our immigration laws, U.S. citizens can petition for green cards for immigrant spouses, children, and parents; and legal permanent residents can petition for green cards for immigrant spouses and children. VAWA allows these immigrants to apply on their own for green cards if they have been subjected to domestic abuse by the sponsoring U.S. citizen or permanent resident. Unfortunately, this has led to false claims of domestic abuse made by aliens after the initial petitions filed by the sponsoring U.S. citizen or permanent resident have been denied.

As an example, an initial petition filed by a U.S. citizen spouse is denied because U.S. Citizenship and Immigration Services believes that the marriage was a fake. The U.S. citizen may have been a willing

participant in the fraudulent marriage. The immigrant spouse then claims abuse and seeks to self-petition because the evidentiary standards are lower and confidentiality protection for domestic violence victims keep the U.S. citizen spouse from presenting evidence that counters the alien's claims of abuse.

In addition, as soon as the petition is filed by the immigrant spouse, the case is moved to the Vermont Service Center. The couple is never interviewed because the Vermont Service Center is in a remote location. The Vermont Service Center bases its decision entirely on documents submitted to support the abuse claim. The local USCIS office which denied the initial petition is not even permitted to contact the Vermont Service Center and explain the reasoning for denial of the petition.

American citizen Julie Poner testified last summer before the Senate Judiciary Committee about how she was victimized by the self-petition process. "Facing deportation for marriage fraud, my immigrant husband, a former professional hockey player at 6 feet 2 inches tall and over 200 pounds, self-petitioned as a battered and abused spouse. It was at this point that all communication I had had with the two government trial attorneys stopped, because once an immigrant files a self-petition, they are protected by the Federal Government. Immigration officials are prohibited from entering into a discussion with the American named in the claim."

Over the years, I have talked with countless men and women who have similar stories to tell, American citizens who have lost access

to their children, their homes, their jobs, and, in some cases, their freedom because of false allegations of abuse.

Currently, there are no safeguards in place to prevent fraud or to prevent an immigrant from fabricating tales of spousal abuse. No one from a local USCIS Service Center investigates or conducts a face-to-face interview with the immigrant. The only evidence considered is what is submitted by the self-petitioning immigrant, and the entire process is handled via paperwork in the Vermont Service Center. Claims of battery and abuse go unchallenged. The immigrant is presumed to be the victim.

In order to address the request of Americans such as Julie Poner and to ensure that abuses are put to an end, H.R. 4970 requires that in self-petition cases, one, all credible evidence shall be considered, including that provided by the relevant U.S. citizens or permanent resident; two, petitions shall be considered by the local office of USCIS, which shall conduct in-person interviews of the self-petitioning immigrants and may conduct interviews of the relevant U.S. citizens or permanent residents if they consent; and, three, in order to approve petitions, USCIS must find that all statutory requirements, including that the immigrants were victims of abuse, be proven by clear and convincing evidence.

Of course, the confidentiality of immigrants' whereabouts will be protected.

Section 801 in the bill is strongly supported by Voice of American Immigrant Fraud Victims. This amendment strikes these needed reforms,

and so I urge my colleagues to oppose this amendment.

Are there other members that wish to be heard on it?

The gentleman from Colorado, Mr. Polis, is recognized.

Mr. Polis. And I will be happy to yield to the gentlelady from California for a moment before I start.

Ms. Lofgren. I have a lot of things to say. You go ahead. I will get my own time.

Mr. Polis. I strongly support this amendment.

This amendment is sort of predicated on a kind of false reasoning, that somehow there are people who are seeking to come here to be beat up so that they can stay here, which the evidence does not indicate is occurring.

It is absolutely critical to maintain confidentiality requirements in VAWA in allowing immigration officers to contact the abusers. This bill, without this amendment, destroys the confidentiality provisions that have existed since the early 1990s, and it authorizes immigration agents to contact the abusers, or the alleged abusers, and tip them off to the victims' effort to leave.

So, again, there is going to be some cases where abuse is occurring, some cases where it isn't occurring. But the primary concern of public policy should be to protect the person that is being abused, to make sure that they know that confidentiality is in place, that they can trust law enforcement, and that they have a way of reporting being abused.

If you assume the opposite, that somehow you assume they are not

being abused and the burden is on them and their potential abuser can find out, you fail to protect, and you fail in your duty to protect the victim of abuse. So, like anything in criminal law, there will certainly be some people who are accused who are guilty and some who are innocent. The issue is, without this amendment, very few immigrants will even be in a position to accuse somebody of abusing them because of the lack of confidentiality and the very person they rely on will be tipped off that there is an investigation occurring.

So, you know, it is a flawed solution in search of something that is not a problem insofar as that, of course, in every application of the law there are some that are guilty and some that are innocent. There is no doubt about that. And of course, you know, committing immigration fraud is committing immigration fraud. But striking fear in the heart of the victim -- and of course we can say alleged victim, but we only say that in the aggregate. I mean, out of so many alleged victims, there are victims and nonvictims, and the majority are victims. And striking fear in the heart of victims is not a constructive step towards protecting anybody, and it only allows the perpetrator to go on to abuse other people.

With that, I will be happy to yield to the gentlelady from California.

Ms. Lofgren. I thank the gentleman for yielding.

I have just a couple of comments.

First, the chairman's comments about interviews I think misunderstands that the interviews do not occur during the I-130

petition stage or the I-360 petition stage. The interviews occur in both cases at the I-45 stage, when the individual seeks to get their green card based on the petition. So the point made by the chairman is simply incorrect.

Finally, as to the what must be proven, the self-petition is much more rigorous than simply being the beneficiary of marriage to a U.S. citizen or lawful permanent resident. To have an I-130 marriage-based petition approved, you simply need to have proof of the legal marriage to the U.S. citizen or LPR. For the VAWA self-petition, you have to not only prove the valid marriage but that there was battery or extreme cruelty on the part of the spouse, that you, the petitioner, have good moral character.

So the additional evidence is proof of the valid marriage, the proof of shared residency, affidavits describing the abuse, corroborating evidence like police reports, medical reports, photos of bruises, proof of the spouse's status. It is much more rigorous.

I would note that the request for evidence coming out of the Vermont center for these petitions is much, much higher than the request for evidence for simply marriage-based petitions. One hundred fourteen percent on average, every single petition filed has requests for additional evidence.

I think the two portions of the bill that are particularly distressing is to violate the confidentiality that will expose victims to further abuse, as well as the really requirement that uncorroborated evidence be included. Now, these provisions will -- and I can't

believe it is the intent, but it is going to be the fact -- these provisions would allow the abusers and criminals to use the immigration system against their victims. That is exactly the opposite of what this committee did in the years 2000 and 2005 when we drafted the confidentiality provisions.

Many, if not most, of the women who are petitioning for themselves because of abuse are still residing with their abuser. Why is that? Because they have no ability to work, they have no ability to take their children anyplace else, and so their only way out is to get some status through this self-petition so they can get away from their abuser.

Chairman Smith. The gentlewoman's time has expired.

Ms. Lofgren. I would ask unanimous consent for 15 additional seconds.

Chairman Smith. Without objection.

Ms. Lofgren. When they file that petition so they can get away from their abusive spouse, the spouse is notified? You don't think that they are going to go after that person even more? I don't think you have any understanding of how domestic violence works if you think that will not be the result.

And I yield back, since my 15 seconds is up.

Chairman Smith. Okay. The question is on the -- the gentlewoman from Florida, Mrs. Adams, is recognized.

Mrs. Adams. Thank you, Mr. Chairman.

While I have listened and I have heard a lot about this provision, I just want to make sure that I am clear. We cannot talk to anyone.

We can just take whatever signature, whatever paperwork, and then it goes up to Vermont, and nobody else gets to talk or discuss this is what I am hearing. And that if I in this piece of legislation say that there will be evidence checked and we will make sure and if there is a face-to-face with the abuser and possible charges on this abuser that will maybe lead to this abuser being incarcerated and unable to abuse someone else, that this is a bad thing. I am concerned about not only the current victim but the future victims of these people if in fact they are committing these crimes.

But, on the flip side, we have heard over and over again of numerous fraudulent claims which have happened. At a July Senate Judiciary Committee hearing on VAWA reauthorization, Senator Leahy invited a U.S. citizen victim of VAWA self-petition fraud to testify. He heard her story, acknowledged the nightmare -- that is his word -- that she endured, noted that if there is fraud in the system we want to get rid of it because it harms bona fide applicants. I would agree.

Unfortunately, he then introduced a bill with no provisions whatsoever aimed at fraud prevention in the VAWA self-petitioning process.

He was correct, though. Fraud in the self-petition process hurts the true victims, the true victims. Immigration adjudication resources should not be wasted on fraudulent claims. So let's look at a couple of examples here.

Elena married a Dutch man who admitted marrying her for her green

card. Two years into the marriage, after she refused to sign his final immigration papers, he attacked her at gunpoint and repeatedly threatened her if she turned him in. After hiring a retired FBI agent, she found out he was an inadmissible alien due to large-scale drug trafficking and that he lied on immigration forms, a felony. Neither thing mattered once he filed for VAWA protection as a battered spouse. According to VAWA provisions, it is psychological abuse for an American spouse to withhold signatures on immigration documents.

Now, who was the victim there?

David found himself kicked out of his home one night when climbing into bed. The police arrived at his door, handed him an emergency restraining order, and removed him from his house. David was confused since such allegations came out of nowhere. He didn't understand the nature of VAWA's immigration provisions or the incentives for his Russian wife of 15 months to use them. She feared that David regretted marrying her and might divorce her before she got her green card.

He found himself further confused when an immigrant woman's law center was on the docket for his domestic violence case. But that was his first clue as to his wife's true intentions. After living in a hotel room for 10 days, the charges were dismissed based on lack of evidence. Domestic violence allegations were never proven, but David paid alimony for 2 years.

Three years later, David is being deposed for a hauntingly familiar case. His ex-wife's new husband is facing similar charges, and she is going for alimony plus spousal benefits, military spousal

benefits.

Let's be clear on what the intent of this language is. It is to make sure that we do protect these victims. These victims are not being brought out into the light and just turned away. They have the ability to go to domestic violence shelters. They have the ability to work. They have the ability to continue to be protected and not have their identity or their location released. This is not the intent of this legislation, to release that and put anybody in harm's way.

It is also to make sure that if we do have people out there that are victimizing people that they should be held accountable and so that they can't continue to victimize over and over again. Because which victim isn't going to be the lucky one to get out of that house?

So when I hear this I want to be very clear. This is to make sure that the victims that are real, true victims are going to get the assistance they need. And if there is fraudulent claims out there, let's take and deal with those. That is what the intent of this is, and that is why I oppose this amendment.

Ms. Lofgren. Mr. Chairman?

Chairman Smith. Thank you, Mrs. Adams.

The gentlewoman from California, Ms. Lofgren.

Ms. Lofgren. I move to strike the last word.

Chairman Smith. The gentlewoman is recognized for 5 minutes.

Ms. Lofgren. You know, we can do story, counter story, but the point is in order to have your petition approved you need corroborating evidence. And that is why in 114 percent of the time that is because

there are multiple approvals and re-dos on this. You have to show evidence other than your affidavit. You have to show medical reports, police reports, convictions. And that is why only 63 percent of the applications are actually approved in the Vermont Center.

You know, you have got -- I will give you an example where uncorroborated statements are used to undercut an actual victim. We had a case that USCIS told us about where an abuser submitted a photograph of his battered wife in a drab green work uniform that she had worn at a factory in China. The abusive spouse used that to claim that she was a Communist and that it was a Communist party uniform and therefore she should be denied her petition. It turned out that it was just a uniform. It wasn't a Communist party uniform. But he was trying to get her deported so that she could not participate in the prosecution of his violence.

We had another situation where an abuser provided a tape that was disagreeing with all of the previous allegations made about domestic violence. Turned out that it was the voice of the abuser's sister, not the victim herself.

And if you just relied on these uncorroborated statements to decide the case, you are going to give the abuser veto power over the victim's status. That is not what we should be doing.

And you know, I would like to talk just a little bit about those who are supporting this bill. There was an op-ed article in Roll Call last year; and it was authored by a group called SAVE, which is an organization that advocates on behalf of persons found to be abusers

by government officials. They are supporting this bill.

Ms. Spivak, Natasha Spivak was the author. And it turns out she is the owner of an international marriage brokerage company which was recently on the losing end of a jury verdict upheld by the Fourth Circuit Court of Appeals because she -- the jury found with a standard of clear and convincing evidence that she herself had committed fraud by misleading a woman she brought into the United States from the Ukraine about the VAWA self-petition, and she did it to keep her success rate up on these marriage brokerages.

You know, if you take a look at what commonly happens -- and I will just talk to you about a couple of cases that have come to my attention, a young woman who came to the United States from Haiti on a student visa and then married an American citizen. This is something that happens from time to time. Unfortunately, the American she married tried to kill her twice. He beat her. He strangled her until she lost consciousness. He left her for dead. He refused to file the petition for her so he could keep her under his thumb. And, finally, she found out about the VAWA self-petition process. And so she did file it. And it was only after the petition was approved that she was able to move out.

Now, her husband was so enraged that he told her attorney that when he found her that he would kill her. If the husband -- if the abusive husband had been notified when she filed the petition while she was still with him, she would be dead.

Talk about Maria, whose husband was a legal permanent resident.

She had four United States children. Her husband abused her. And, again, she could not move outside of the house with her children. She found a lawyer and to file the petition they would meet at the laundry because she didn't want her husband to know. When she filed, her husband said if he found her he would kill her. If the husband had been contacted for corroboration while she was still living there, she would be dead.

This is a very common procedure. And, you know, it just doesn't make any sense at all. You are being beaten, you are being abused, you are trying to get out of the situation, and under the bill what does the government do? It tells the abuser that you are trying to get away from them. That is just completely wrong.

This amendment would change it, and we ought to approve it.

Chairman Smith. Thank you, Ms. Lofgren.

The gentleman from South Carolina, Mr. Gowdy.

Mr. Gowdy. Thank you, Mr. Chairman.

I would yield to my friend from the great State of Florida, Mrs. Adams.

Mrs. Adams. Thank you, Mr. Gowdy.

Let me give a concrete example of fraud in the self-petition process.

U.S. Citizen and Immigration Services approved one alien's self-petition as a battered spouse in 2006. Now let me quote from a 2008 decision of the Appellate Division of the Supreme Court of New York regarding the supposed abuse.

The Supreme Court of New York found, with support in the record, that the mother on at least one occasion had filed false charges of physical abuse against the father. Indeed, the record was clear that the mother made numerous false charges against the father. There were four incidents of physical abuse accusations by the mother against the father in August, 2004; December, 2004; January, 2005; and December, 2005.

All of the family court petitions, when filed, apparently were withdrawn or dismissed. All of the mother's reports to child protective authorities were investigated and determined to be unfounded. Moreover, expert medical testimony in the record strongly suggests that regarding the January, 2005, alleged incident, the mother manufactured proof of physical injury to herself.

Let me give another troubling example.

Lena Lopez, from the Voice of American Immigration Fraud Victims, states that she married the Dutch man, and you heard that already. And here she marries the Dutch man. He admitted to marrying her for her green card. Two years in the marriage, after she refused to sign final immigration papers, he attacked her at gunpoint and repeatedly threatened her if she turned him in.

Now, this is what happens. And what we are saying is, let's provide the investigative tools, let's find out if these people are committing these crimes, just as we would for any other American citizen. They have the ability to go to these domestic violence centers. But let's make sure that they don't have the ability, if they

are committing these crimes, to commit a crime again. Which victim doesn't make it out of the house?

So I would say that we are putting in confidentiality areas. We are watching very closely. We are very concerned about how we approach this. But we also are recognizing there is fraud in the system, and we need to address that. Not just because there is fraud but because what is happening is, the ones that are real, are there charges being filed? Are they being taken out and charged? What is happening with these people? And how many victims do they have?

Ms. Lofgren. Would the gentlelady yield for a question?

Mrs. Adams. It is not my time. I have Mr. Gowdy's.

Ms. Lofgren. Mr. Gowdy, would you yield for a question?

Mr. Gowdy. I would be delighted to.

Ms. Lofgren. I don't know the case that you read, but I am aware of this. Other than anecdotes that have in most cases been offered by groups that are apologists -- and I know that you are not -- apologists for abusers, we have no systematic reports whatsoever. We haven't had a hearing on fraud. We have no analysis on fraud. The CRS says there is no fraud. I think to put victims at risk because of anecdotes, to change the law that has been in place for a decade, written by Republicans --

Mr. Gowdy. Could I reclaim the time and ask the gentlelady this?

We have to turn over all that documents when we have domestic victims. We have to turn over discovery. The victims of domestic abuse, their statement is given to defense attorneys, given to their

abusers. We do this to our own citizens. So why are we setting up a different system of disclosure and discovery for aliens than we have for our own citizens?

Ms. Lofgren. If the gentleman would yield.

Mr. Gowdy. Sure.

Ms. Lofgren. First, if you are an American woman and you have status and you are being abused, what you need to do is get out of that situation and be safe and away from your abuser. You don't have the additional --

Mr. Gowdy. But you and I both know that women who are subject to abuse, that is the most dangerous time for them is when they leave and when they seek an order of protection or when they seek a restraining order. And the abuser knows immediately, because of our discovery process, and the attorney knows. You have got a bond hearing set. You have a court hearing. There is no mystery.

Ms. Lofgren. In most cases that I know about, before you are going to go in, you are going to take steps to preserve your safety. That is why our colleague left the house where her abusive spouse was. It is why we have battered women's shelters, so they can leave. What you don't have, Mr. Gowdy, what you don't have in the immigrant case is the abuser holding over your head your status that you are going to be victimized.

Mr. Gowdy. Let me reclaim my time only to do this. While the gentlelady from Florida was talking, I wrote down the names of 12 women whose murderers, not whose abuser, whose murderers killed them in South

Carolina because they decided to leave. So I would argue Mrs. Adams is the exception because she is here to talk about it.

Most women, when they make the decision to leave and they act on it, that is when they are most vulnerable and they are going to get killed. I only wrote down a dozen because that is all I could think of off the top of my head.

My time has expired.

Mr. Lungren. [Presiding.] The gentleman's time has expired.

Mr. Watt is recognized for 5 minutes.

Mr. Watt. I just wasn't sure whether Mr. Gowdy was making the case for this or against it. I mean, so we have a system here that results in people getting killed. You have listed 12 people. And the justification is -- the result of that is you are going to institute a system just like that in another context.

Mr. Gowdy. Can I answer that?

Mr. Watt. Yeah. Go ahead.

Mr. Gowdy. I mean, my answer would be this. If we were to try to amend the discovery rules or confrontation clause rules to protect domestic abuse -- and by domestic I mean American citizen abuse victims -- there would be people on the other side who would be apoplectic about that.

Mr. Watt. You are probably right. But to justify this law, this change, dramatic change, by saying, you know, 12 people who got killed by applying the same rule, just -- I mean, just doesn't -- it doesn't compute. I don't understand that.

Mr. Gowdy. Well, I can list a lot more than 12. That is just all I could write down while she was talking.

Mr. Watt. Okay. But the more you list, the more absurd it becomes.

Mr. Gowdy. The more absurd it is for us to have a two-track system where American domestic abuse victims --

Mr. Watt. Okay. So we have got a terrible system is what you are saying, and we ought to apply that same terrible system so that other people get killed. That doesn't make any sense to me. That is the point I am making.

Mr. Gowdy. Do you want to change the discovery rules?

Mr. Watt. That is the point I am making. Understand the point I am making.

Mr. Gowdy. I understand the point. But that is the trade-off we have.

Mr. Watt. You have a list of 16 or 20 or 100 people, and the more you list the more absurd the argument becomes.

Mr. Gowdy. Will you support an amendment that prevents police and prosecutors --

Mr. Watt. That is not the amendment that is in front of us.

Mr. Lungren. The gentleman from North Carolina has the time.

Mr. Watt. That is not the amendment that is in front of us. If we were debating that amendment, we could debate that amendment. But we are debating this amendment now. And we are debating the underlying bill that changes a long history that has been in place that has tried

to protect women from the same kind of killings that you keep adding up additional numbers and saying we ought to change to the system that --

Ms. Lofgren. Would the gentleman yield?

Mr. Watt. I am happy to yield.

Ms. Lofgren. I think there are some differences that we are overlooking here. If you are an American being abused by an American spouse, you can escape and you can decide whether or not to call the police, whether or not to seek a restraining order, whether or not to prosecute. If you are an immigrant woman whose husband refuses -- whose American husband refuses to petition for you, you don't have a choice. You are under his thumb. And you can't escape because you can't get a job. You can't support yourself. You are in limbo. You came here marrying an American thinking you were going to be part of the American dream, and you are not. You are part of the nightmare.

And so that is why this is not -- I mean, I think, obviously, nobody wants women to be murdered by their abusers. But it is a rare thing for the government to finger the victim to the abuser, which is what this bill would do. That is not what you find in civil law. There is some discretion on the part of the victim and how brave she wants to be.

And I yield back.

Mr. Watt. Let me yield to Mrs. Adams. Maybe she can make the case as profoundly as Mr. Gowdy is making it. But I don't understand

Mr. Gowdy's argument.

Mrs. Adams. Thank you, Mr. Watt. And I appreciate it.

Mr. Watt. Go ahead.

Mrs. Adams. Well, I will say this. I have heard a lot today and a lot of mischaracterizations of what this language does or does do. And the ability for someone who is seeking shelter, whether they are an illegal, a legal or American citizen is out there. The reason that we did VAWA, or you did VAWA, whoever was here when VAWA was first enacted, and I was a police officer when it was first enacted, and I tell you it did work. It did help. What I am saying is --

Mr. Watt. My question is, why are we changing it if it worked? If it worked --

Let me just reclaim my time and ask you this question. I am going to yield back to you so you can answer. I ask unanimous consent for 1 additional minute.

Mr. Lungren. The gentleman has an additional minute.

Mr. Watt. If it worked, why in the world are we making this change? That is the question.

Go ahead.

Mrs. Adams. Because VAWA worked when we went and had police and law enforcement and prosecutors and everyone recognize that what happened behind closed doors between a husband and wife didn't just happen behind closed doors. That was important back then. Because nobody acknowledged domestic violence back then when it was -- in the early 1980s, when I remember -- when I was married.

So that is why I am saying, in the 1970s and 1980s, yes, it did work. It brought attention, and it helped, and it created areas for victims to go seek help. That is what VAWA does. It is for all victims. It is all-inclusive. So the women can file -- they can choose to either go to a shelter and then file, or they can file from where they are if they feel that their safety is okay by doing that.

But what we are saying is that there are those in the system that are not true victims, and what we need is to make sure that the fraud comes out so the money that we are spending is on true victims, so that we are making sure that the true victims get the services they need.

Mr. Watt. I honestly don't know how you are going to make that distinction.

Ms. Jackson Lee. Mr. Chairman?

Mr. Lungren. The gentleman's time has expired.

Mr. Watt. This is a law that should be presuming that these people are victims, it seems to me --

Mr. Lungren. The gentleman's time has expired.

Mr. Watt. -- rather than trying to convince somebody that somebody is --

Mr. Lungren. Is there further discussion on the amendment?

Ms. Jackson Lee. Mr. Chairman?

Mr. Lungren. Ms. Jackson Lee is recognized for 5 minutes.

Ms. Jackson Lee. I rise to support the gentleman's amendment from Florida on what I think has been a flawed opposition by my good friends. And I truly respect Mrs. Adams and her work as law

enforcement. Many of us have seen it from a number of different perspectives. As I indicated, I sat on the board of directors for a women's center.

And I would say the most killing aspect of this section which the gentleman is trying to strike -- and I will introduce an amendment that strikes a number of provisions, and you will hear this argument again -- is the killing aspect of the loss of confidentiality. And as my colleagues have said, here we are by exposing an almost or a totally vulnerable person to more vulnerability. Because I don't know how many times that we have to say it, that violence is horrific at any point when a woman is a victim or someone else. But it is extremely devastating, deadly, loss of hope when the individual is an immigrant and your lifeline is held by the abuser.

What I cannot understand is the effort on this bill in this area where my friends have tried to tinker with or to try and add a surety that immigrants are not getting away with something, that they would interfere --

Mr. King. Would the gentlelady yield?

Ms. Jackson Lee. I will be happy to yield to the gentleman in just a moment -- is not getting away with something, that they would put this person in jeopardy. I mean, I think that is the crux of it, the confidentiality aspect, that in fact leaves this vulnerable person at the mercy of their abuser.

And this has existed since 1996 by authorizing immigration agents to contact the abusers. The law that we are eliminating was in place

since 1996. This is 2012 -- 4, 12, 16 years. And I don't have the data that says that that has violated or undermined the ability to, one, pursue cases, but, more importantly, the ability -- I guess what we are trying to do is make sure immigrants, noncitizen new immigrants, immigrants that are on visas of some kind through their spouse don't get away with something. So we are trying to back-door immigration reform when we should really be focusing on the idea of saving lives. You tell the abuser of someone who has status through that abuser, then you might as well kiss them good-bye. It is a very deadly approach that we are taking.

I would be happy to yield to the gentleman for a moment.

Mr. King. I thank the gentlelady from Texas, and I just wanted to ask for a clarification.

In your presentation as you used the term "immigrant", does that mean legal immigrants, illegal aliens, or does it conflate the two?

Ms. Jackson Lee. When you have a visa, Mr. King, you are statused. You are legally in the country under a visa. But if the visa is pursuant to a spousal relationship -- I just dealt with an individual who --

I mean, there are many things that come about through abuse. If I might reclaim my time -- there is taking your children away. There is intimidating you so much that you are living under fear to keep your children. There is a threat of taking the child out of the country. Again, there is mental abuse, but there is physical abuse. What I am suggesting to you, you might as well kiss that statused person that

is under a specific visa good-bye.

Mr. King. Would the gentlelady yield?

Ms. Jackson Lee. Because when you violate -- excuse me, when you violate -- I will be happy to yield to the gentleman in just a moment -- when you violate the confidentiality, that is the focus, among many things, that Mr. Deutch's amendment speaks to in section 801, is that after 16 years you are going to contact the abuser.

My only comment, Mr. King -- and I know you may have a question -- seeing this firsthand, seeing these cases firsthand, knowing that the person is tied by a very thin string -- what is a thin string? Tied to the abuser, the male abuser, my ability to stay in the country, my ability to take care of the children that I have given birth to who may be U.S. citizens, I am not, by confidentiality you are kissing them good-bye.

Mrs. Adams. Would the gentlelady yield?

Ms. Jackson Lee. I would be happy to yield to the gentlelady.

Mrs. Adams. I just want to make sure that we do understand that in this language it says they may contact the person. It doesn't tell them they have to. It just gives them the ability. If in fact during their investigative progress they need to, they have the ability to do so.

And I yield back to you.

Ms. Jackson Lee. I ask the gentleman for an additional 1 minute, Mr. Chairman. Mr. King has asked me to yield. I would like to yield to him.

Chairman Smith. [Presiding.] Without objection, the gentlewoman --

Ms. Jackson Lee. I thank you. Mr. King --

Chairman Smith. Let me finish what I said.

Ms. Jackson Lee. Oh, sorry.

Chairman Smith. Without objection, the gentlewoman is recognized for an additional minute.

Ms. Jackson Lee. Thank the gentleman. Thank the chairman very much.

Mr. King, if I could just say to you as I yield to you, are you suggesting that if a woman is not statused, she should not be protected in our Nation by the laws that keep her from being killed, keep a mother from being taken away from her children?

I yield to the gentleman.

Mr. King. And I thank the gentlelady from Texas.

No, that is not my suggestion.

Let me make a couple of points here in this minute that we have. One is that the individual who is being targeted or is the victim can leave the scene and still file, male or female. This isn't gender specific. If we can get the fraud out of this, then we can turn the resources to the true victims more likely.

But I really wanted a clarification. So often in our language we use the term immigrant when we mean either a legal or illegal immigrant, and I would ask if that was a conflation of the two. I am going to take it that your real direction is towards people having legal

status in this country.

Ms. Jackson Lee. Let me recapture my time, Mr. King.

If you are not stasured, meaning that if the abuser snatches your visa away, you are undocumented and illegal. The point is that you were stasured. But they hold this over your head or in essence over your life. So the visa can be taken away. That is what I am saying. The largest part of 801 is that you are literally giving a death sentence to a woman who becomes unstatused and may be undocumented.

Chairman Smith. The gentlewoman's time has expired.

Ms. Jackson Lee. I think all those women should be protected, and we should not distinguish between the lives of women and mothers or others who may need that.

Chairman Smith. The gentlewoman's time has expired.

The question is finally on the Deutch amendment.

Ms. Sanchez. Mr. Chairman.

Chairman Smith. The gentlewoman from California is recognized.

Ms. Sanchez. Thank you, Mr. Chairman; and I will yield to yield to my colleague, Mr. Deutch, in just a moment.

But I would just offer this observation, that if we are in a situation where if we are trying to protect victims from abusers, and even though the language is not "shall" notify the alleged abuser but is "may", you are putting many women -- I shouldn't limit it to women -- but you are putting many people at risk by that act of simply notifying the alleged abuser. And if we are going to err on the side of caution, I would say we should err on trying to protect the victims

as much as humanly possible.

RPTS COCHRAN

DCMN HERZFELD

[4:10 p.m.]

Ms. Sanchez. Now, there is anecdotal evidence that sometimes the process is perverted by the exact opposite happening, and that is that the alleged abuser is actually the one using the system to try to game it. But I would submit that probably the incidences of that compared to the overwhelming number of people who file for protection is probably minuscule compared to the number of cases of people who are seeking that protection. And to say that we are going to allow them to share that information and contact the alleged abuser because somehow that is going to root out fraud, or somehow that further protects victims is completely counterintuitive and makes absolutely no sense to me.

With that, I will yield the balance of my time to Mr. Deutch.

Mr. Deutch. I thank my friend. I feel compelled to respond to some of what I have heard here today.

First, the suggestion that we don't need to have a special unit because look at how things work outside of the immigration context, it is exactly because of the way things work outside of this context that we have this special unit. It is because of the domestic violence courts that were created to address the fact that someone is the victim of domestic violence every 15 seconds in this country, that is why we created these to begin with.

And it is not just me who thinks this is a good idea. The fact

is that in 2005, this committee, led by then-Chairman Sensenbrenner, liked the unit so much that it specifically recommended the unit process all immigration petitions related to VAWA cases. That is number one.

Number two, the suggestion that Mr. King made that we turn our attention to the true victims, I am not sure what that means. And, Mr. King, I am going to give you the opportunity to explain, because as I look at this, this VAWA unit with its specially -- its specially trained agents, it is this VAWA unit that in the last year approved 4,238 petitions and denied almost 2,000 because they are specially trained, specially trained to root out fraud. But of the 4,238, how many of those victims are not -- how many of them are the wrong victims, and which are the right victims, and why shouldn't -- how can you make the assertion that somehow this entire system is fraudulent?

Chairman Smith. And the gentleman yields back his time and has the last word on his amendment.

Mr. Deutch. If Mr. King would like to answer.

In which case I would simply point out that so much of what we have heard here, Mr. Chairman, about this rampant fraud is just belied by the facts. It is not the case. And should we address any evidence of fraud to the extent that it arises? Absolutely. Should we repeal something that has been successful, so successful that it has been pointed to as a model, and that roots out fraud every day better because of the specific training that they have received? We shouldn't do that. That is why I have offered this amendment, and I hope that my colleagues will support it.

I yield back.

Ms. Sanchez. Reclaiming my time, I would urge my colleagues to support the amendment, and I yield back the balance of my time.

Chairman Smith. Thank you both.

The question is on the Deutch amendment.

All in favor, say aye.

Opposed, no.

In the opinion of the chair, the noes have it. The amendment is not agreed to.

The clerk will call the roll.

Mrs. Lofgren. Mr. Chairman, I would like a recorded vote.

Chairman Smith. I have already requested that the roll be called.

The Clerk. Mr. Smith?

Chairman Smith. No.

The Clerk. Mr. Smith votes no.

Mr. Sensenbrenner?

[No response.]

The Clerk. Mr. Coble?

[No response.]

The Clerk. Mr. Gallegly?

Mr. Gallegly. No.

The Clerk. Mr. Gallegly votes no.

Mr. Goodlatte?

Mr. Goodlatte. No.

The Clerk. Mr. Goodlatte votes no.

Mr. Lungren?

[No response.]

The Clerk. Mr. Chabot?

Mr. Chabot. No.

The Clerk. Mr. Chabot votes no.

Mr. Issa?

[No response.]

The Clerk. Mr. Pence?

[No response.]

The Clerk. Mr. Forbes?

[No response.]

The Clerk. Mr. King?

Mr. King. No.

The Clerk. Mr. King votes no.

Mr. Franks?

Mr. Franks. No.

The Clerk. Mr. Franks votes no.

Mr. Gohmert?

[No response.]

The Clerk. Mr. Jordan?

[No response.]

The Clerk. Mr. Poe?

[No response.]

The Clerk. Mr. Chaffetz?

Mr. Chaffetz. No.

The Clerk. Mr. Chaffetz votes no.

Mr. Griffin?

Mr. Griffin. No.

The Clerk. Mr. Griffin votes no.

Mr. Marino?

Mr. Marino. No.

The Clerk. Mr. Marino votes no.

Mr. Gowdy?

Mr. Gowdy. No.

The Clerk. Mr. Gowdy votes no.

Mr. Ross?

[No response.]

The Clerk. Mrs. Adams?

Mrs. Adams. No.

The Clerk. Mrs. Adams votes no.

Mr. Quayle?

[No response.]

The Clerk. Mr. Amodei?

[No response.]

The Clerk. Mr. Conyers?

Mr. Conyers. Yes.

The Clerk. Mr. Conyers votes aye.

Mr. Berman?

[No response.]

The Clerk. Mr. Nadler?

[No response.]

The Clerk. Mr. Scott?

Mr. Scott. Aye.

The Clerk. Mr. Scott votes aye.

Mr. Watt?

Mr. Watt. Aye.

The Clerk. Mr. Watt votes aye.

Ms. Lofgren?

Ms. Lofgren. Aye.

The Clerk. Ms. Lofgren votes aye.

Ms. Jackson Lee?

Ms. Jackson Lee. Aye.

The Clerk. Ms. Jackson Lee votes aye.

Ms. Waters?

[No response.]

The Clerk. Mr. Cohen?

[No response.]

The Clerk. Mr. Johnson?

Mr. Johnson. Aye.

The Clerk. Mr. Johnson votes aye.

Mr. Pierluisi?

Mr. Pierluisi. Aye.

The Clerk. Mr. Pierluisi votes aye.

Mr. Quigley?

[No response.]

The Clerk. Ms. Chu?

[No response.]

The Clerk. Mr. Deutch?

Mr. Deutch. Aye.

The Clerk. Mr. Deutch votes aye.

Ms. Sanchez?

Ms. Sanchez. Aye.

The Clerk. Ms. Sanchez votes aye.

Mr. Polis?

Mr. Polis. Aye.

The Clerk. Mr. Polis votes aye.

Chairman Smith. The gentleman from Wisconsin

Mr. Sensenbrenner?

Mr. Sensenbrenner. No.

The Clerk. Mr. Sensenbrenner votes no.

Chairman Smith. The gentleman from Virginia Mr. Forbes?

Mr. Forbes. No.

The Clerk. Mr. Forbes votes no.

Chairman Smith. The gentleman from California Mr. Issa?

Mr. Issa. No.

The Clerk. Mr. Issa votes no.

Chairman Smith. The gentleman from California Mr. Lungren?

Mr. Lungren. No.

The Clerk. Mr. Lungren votes no.

Chairman Smith. The gentleman from North Carolina Mr. Coble?

Mr. Coble. No.

Chairman Smith. The gentleman from Texas Mr. Gohmert?

Mr. Gohmert. No.

The Clerk. Mr. Gohmert votes no.

Chairman Smith. Another gentleman from Texas Mr. Poe?

Mr. Poe. Yes.

The Clerk. Mr. Poe votes yes.

Chairman Smith. The clerk will report.

The Clerk. Mr. Chairman, 11 Members voted aye, 17 Members voted nay.

Chairman Smith. The majority having voted against the amendment, the amendment is not agreed to.

The gentleman from Ohio Mr. Chabot is recognized.

Mr. Chabot. Thank you, Mr. Chairman. I move to strike the last word.

Chairman Smith. The gentleman is recognized for 5 minutes.

Mr. Chabot. Thank you, Mr. Chairman. I will be brief.

It was originally my intent to propose an amendment today to H.R. 4970 to authorize the Attorney General to award grants to eligible nonprofit organizations to assist Federal, State, tribal and local law enforcement agencies in the speedy recovery of missing children, elderly individuals, including, of course, women, and disabled individuals through the use of a rapid telephone and cellular alert call system.

A person goes missing almost every 40 seconds in the United States with 800,000 children reported missing just last year alone. It is the first hours of a disappearance that are most vital. According to one study by the Department of Justice among cases involving children abducted and murdered, 74 percent were slain in the first 3 hours. Therefore, when a person goes missing, immediate action is critical.

Although the current AMBER Alert system has proven quite successful in locating missing persons, my amendment would have bridged a critical gap in missing persons recovery efforts.

I support this bill, H.R. 4970, in its current form, and I believe it is imperative that we reach a bipartisan consensus in order to continue providing the necessary assistance to victims of abuse. At the same time, moving forward, I think we must ensure that we are providing the necessary tools to protect our children, elderly individuals and disabled individuals who are, let us face it, the most vulnerable folks among us in many cases, who may have differing needs than the victims we are discussing in particular in this bill.

I appreciate that the bill we are considering may not be the most appropriate vehicle to discuss an additional children and elderly persons program, and therefore I look forward with working with the chair and with the committee to advance this effort in the near future. Therefore, I will not offer that amendment at this time, and I yield back the balance of my time.

Chairman Smith. Thank you, Mr. Chabot. I appreciate your statement, and I also appreciate your leadership and rightly pointing

us to other individuals who are victims and being a strong voice on their behalf. Thank you.

Mr. Conyers. Mr. Chairman, may I offer my statement, get unanimous consent to put it in the record?

Chairman Smith. Without objection, the ranking member's statement will be made part of the record.

[The statement of Mr. Conyers follows:]

***** COMMITTEE INSERT *****

Chairman Smith. Are there other amendments?

Ms. Jackson Lee. Mr. Chairman?

Chairman Smith. The gentlewoman from Texas Ms. Jackson Lee.

Ms. Jackson Lee. I have amendment No. 14 at the desk, please.

It starts on page 143.

Chairman Smith. The clerk will report the amendment.

The Clerk. Amendment to H.R. 4970 offered by Ms. Jackson Lee of Texas, Ms. Zoe Lofgren of California and Mr. Polis of Colorado. Page 143, beginning on line 3, strike section 801 and redesignate provisions accordingly.

Page 154, beginning beginning on line 22 --

Chairman Smith. Without objection, the amendment will be considered as read.

[The amendment of Ms. Jackson Lee follows:]

***** INSERT 6-1 *****

Chairman Smith. The gentlewoman is recognized to explain the amendment.

Ms. Jackson Lee. This amendment is offered by myself, Ms. Lofgren and Mr. Polis. And I think it, again, has us right back at what we have tried to query from our friends on the other side of the aisle, which is seemingly that we are doing immigration changes, because I wouldn't call it reform, in a bill that deals with violence against women, vulnerable, needing protection, should not be a respecter of status. So my amendment, along with my colleagues, seeks to eliminate sections 801, 802, 806 and 813.

Section 802 as modified by previous amendments, but in actuality the provision that requires the victim to have an existing prosecution or investigation going forward is still in place, which I believe and the amendment suggests does not adequately provide for the protection of the members necessary -- of the victims necessary.

The 801 section that has already been discussed, I think the singular aspect of that is the destroying of confidentiality and eliminates, if you will, the protection that a woman needs to be able to stay safe and to help her prosecutors, meaning law enforcement and ultimately the prosecutors, prosecute the case. I think that is denied, and you have then the problem of dealing with a person who is vulnerable and in essence has no protection.

Along with that, 801 requires the consideration of uncorroborated evidence provided by abusers. Again, may I remind everyone that the abuser has the power. The abuser in most instances, regardless of

gender, if you have a relationship, has the documentation for the individual victim. It raises the standard of proof that victims have to meet. Again, time is short when you lose your status, and managing to secure counsel, managing to secure information can be very difficult.

Going to section 802, as I mentioned, that it enhances the conditions that U visa relief on the existence of an active investigation and prosecution, meaning conditions the U visa relief on that.

Section 806 eliminates the provision in existing law allowing U visa recipients to apply for permanent residency if they fully cooperate with law enforcement.

I am going speak at length about this, because, again, this seems to suggest there is a wave, there is a tsunami of individuals who are standing in line begging to be abused, threatened to the inch of their life so they can get citizenship.

I assure you if you do the research, you will find that the numbers of individuals coming across the Mexican border has gone down. Most immigrants came for economic enhancement. Most immigrants out of status are overstays. They came, they stayed. They came legally, which may have been, in fact, a couple where the spouse has a status due to visa, the spouse has a legal permanent residency, but yet the abused has nothing.

So I take offense at the suggestion that someone would barter to become a citizen by misusing, if you will, this visa that comes about

because you have been violently abused. And I will offer to separate these, because I believe that 806 really goes to the heart of undermining that any victim inside the United States, statused, or they may be unstatused, the victim of violent abuse, should be able to have the perpetrator come to justice.

The last one, 813, is a GAO report on section 802, which, again, is to suggest -- and it follows the line of immigration -- is this really true, doubting the reporting of someone abused. And I frankly believe that that is not the popular approach of in essence victims who are trying to protect their children, who are trying to protect themselves, would in essence commit fraud by saying, I have been abused or this person has abused me, and they have not.

I ask my colleagues to support striking sections 801, the remaining provisions of section 802 and 806 and 813. I ask my colleagues to support this amendment.

Chairman Smith. Thank you, Ms. Jackson Lee.

I will recognize myself in opposition to the amendment.

The amendment does seek to strike sections 801, 802 and 806. We have already extensively discussed section 801, so I will focus my comments and objections on sections 802 and 806.

The U visa was created in order to allow illegal immigrant victims of crime to stay temporarily in the U.S. in order to assist with the apprehension, investigation and prosecution of their perpetrators. Under current law illegal immigrants are only required to likely be helpful in the investigation or prosecution of crime to receive U visas.

They don't need to provide an actual benefit to law enforcement officials. The lack of an actual assistance requirement has significantly limited the ability of law enforcement officials and prosecutors to solve crimes and prosecute criminals. Meanwhile illegal immigrants get an unearned gift, a legal stay in the U.S.

Section 802 of the bill requires that in order to receive a U visa, an illegal immigrant must actually aid law enforcement officials and prosecutors with the investigation and prosecution of the crime. Moreover, the illegal immigrant must provide such aid in a timely fashion. These are commonsense provisions. Without these requirements, the U visa will continue to be just another route by which illegal immigrants can claim victimization and be allowed to remain in the U.S. This is a loophole that needs to be closed.

The primary justification for U visas is to make illegal immigrants available to assist law enforcement in solving crimes and prosecuting criminals. For this purpose temporary U visas allow aliens to remain in the United States for 4 years or longer to assist law enforcement officials, which should be more than enough.

Similarly, the temporary S visa program has long been available to immigrants who possess critical information needed by law enforcement officials to investigate crimes or prosecute criminals. There is no provision of permanent residence for S visa recipients. Neither should there be for U visa recipients.

The grant of permanent residence is essentially a pathway to citizenship and represents amounts -- amounts to amnesty for tens of

thousands of illegal immigrants. Section 806 of the legislation eliminates the provision of permanent residence, and this amendment strikes section 806, and therefore the amendment should be rejected.

I will yield back the balance of my time.

Ms. Lofgren. Mr. Chairman?

Chairman Smith. The gentlewoman from California Ms. Lofgren is recognized.

Ms. Lofgren. First I must point out that you are simply incorrect as to the S visa. Section 245(j) of the Immigration Nationality Act allows for S visa beneficiaries to apply for green cards if they contribute to criminal or terrorism investigations or prosecutions.

Secondarily, I want to go to the two sections of the U visa provisions that would be changed by the amendment that are very important. First, the active investigation or prosecution requirement in the underlying bill is a huge mistake, and I would ask unanimous consent to put in the record a letter dated May 7th received from a number of law enforcement officials, including someone from the San Antonio, Texas, police department.

Chairman Smith. Without objection.

[The information follows:]

***** COMMITTEE INSERT *****

Ms. Lofgren. The law enforcement officials point out that it is sometimes certainly not the victim's fault that you can't be in active investigation. For example, the perpetrator may be eluding arrest and yet still be a threat to the victim. And I will give you an example of a case brought to my attention of a young girl who was 12 who was raped multiple times by a family friend. She was afraid and confided only to her friends. Finally, the perpetrators moved away, and the friend who she confided in told their pastor, who told her parents, and then they finally sought the U visa. The police consulted with the prosecutor, who didn't want to sign a certification for this little girl until her testimony had been completed, so she testified.

The abuser was convicted, and under the underlying bill this little girl would no longer be eligible for a U visa because there was no active investigation. It was all done by the time they applied. So she would be out of luck. I don't think that was probably what was intended, but that is how the bill is written.

It is important that you have the ability to get a permanent residence visa if there is hardship and it is in the national interest after you get a U visa. And you have situations, and I will just mention a couple that have been brought to my attention, where you have substantial abuse.

The case of Maria, who was married to a legal resident, she was abused repeatedly. Finally she received her U visa. Her husband was convicted. Her husband was deported. But if she were on a visa that was only 4 years in length, she would be back with him in El Salvador,

and she would be abused and potentially even killed.

There are so many cases, I can't read them all. But as the law enforcement officials point out in their letter, and I will read it, if the U visa becomes a temporary 4-year visa after which the victim must leave the United States or be deported, victims will not risk the increased danger to themselves and their children to come forward and work with law enforcement to prosecute criminals. If victims do not -- do come forward, under the proposed law changes, this is what will happen to them. They will report the crime, work with law enforcement to prosecute the perpetrator. If the perpetrator is convicted and deported or only deported, he will be removed from the United States and lie in wait to retaliate against the victim, knowing that in 4 years she, too, will be deported, and he can take his revenge.

So the cost to the victim and her family will be too high. With the proposed changes, the victims will choose not to report the crime, to stay in the United States and suffer escalating violence in communities where the police will be there if they were only to be called.

You know, we made a decision 7 years ago on a bipartisan basis that it was more important to provide for the U visa and the possibility of permanent relief than to have women murdered by their abusing spouses. I think, whether or not that is the intention, we are departing from that in this bill, and we are saying we would rather have the women murdered than to provide for permanent status so that they can come forward.

That is not where we should be. I think it is really an appalling decision. It is at variance with what we have done with the Violence Against Women Act since I have been a member of this committee, since 1995 and 1996. We have worked together to say the victims are going to come first, and now they don't. The abusers are coming first in this law. I think it is a shame, and Ms. Jackson Lee's amendment would fix it.

Chairman Smith. The gentlewoman's time has expired.

The gentleman from Michigan Mr. Conyers.

Mr. Conyers. Mr. Chairman, thank you.

I rise in strong support of the Jackson Lee-Lofgren-Polis amendment, and I would ask unanimous consent to insert into the record the American Civil Liberties Union views on the Violence Against Women Reauthorization Act.

Chairman Smith. Without objection, that will be made a part of the record.

[The information follows:]

***** COMMITTEE INSERT *****

Mr. Conyers. Thank you.

Chairman Smith. The question is on the Jackson Lee amendment.

All in favor --

Mr. Polis. Mr. Chairman, I move to strike the last word.

Chairman Smith. The gentleman from Colorado is recognized.

Mr. Polis. I thank the gentleman.

As a cosponsor of this amendment, I wanted to speak to its importance and hopefully urge the committee to pass it.

In its current form this bill would only serve to increase the violence against women, and I want to give a couple of examples from Colorado about how the U visa process works, and how, absent these changes, this bill would have led to abusers being free to abuse others.

The first story I want to share is one of Lupe. Lupe grew up in El Salvador, was married at a young age to a very abusive husband. She tried to run away. He caught her and brought her to the mountains of El Salvador, tied her up, abused her. Lupe was eventually able to escape to the U.S., even though she had to make the very difficult decision to leave her two daughters behind.

In the United States she met a man in Colorado who seemed nice at first. They went to live together, and he became abusive. If she didn't want to have sex with him, he would rape her. He beat her. It went on for 6 months until she had the courage to leave him. He kept harassing her. One day he physically attacked her so bad that she was admitted to the hospital, where she almost lost an eye. The assault was so traumatic that she was unable to sleep and still suffers from

tremendous anxiety from the attack.

Lupe sought help and support from a domestic violence agency organization in northern Colorado. With their help she was able to navigate the legal process, obtain a U visa as a victim of a crime because she cooperated in the investigation and prosecution of the assault against her. Now she has been reunited with her two girls, who are in school in Colorado. She has become fluent in English, and her goal is to earn a college degree in business.

Under the current language of this amendment, Lupe would only have been able to come forward -- if she had come forward, she would have been guaranteed to have been deported from this country. She would likely still be caught in a vicious cycle of abuse with no recourse, knowing that the very authorities that she should trust to prosecute her abuser are in league with the very authorities that would see her removed from this country and removed from any hope of seeing her children again.

Another Coloradan for whom it was absolutely essential that this amendment passes is Maria. Maria worked in a restaurant and was alarmed when her best friend Angela didn't come to work, didn't call. She went to Angela's house and looked for her. Her car was there. Angela's boyfriend said he didn't know where Angela was.

Now, Maria heard on the evening news about an unidentified woman who had been tied up by her neck behind a pickup truck and dragged to death. Maria suspected the boyfriend based on his behavior and some clues she picked up on. She went to work. She discussed the situation

with her coworkers, but all of her coworkers that she spoke with were undocumented, so none of them wanted to call the police for help.

But Maria wanted to see justice for her friend, so she summoned the courage to call the police. She met with the detectives, she cooperated fully, and she became a star witness in the prosecution and successful conviction of Angela's murderer, her boyfriend. She was worried for her own safety, but because she was the victim of witness intimidation by the family of the boyfriend, she qualified for a U visa.

So, again, there would be a murderer free today if this bill passes without this amendment, not just in Colorado, but across the country. There will be abusers and murderers who will not be brought to justice because those who are their victims are scared of coming forward because of the lack of privacy, because of the fact that it would lead to their own deportation. That is not just, and that is not right, and it is a threat to public safety in general. Angel's boyfriend's next victim could have been anybody. It could have been an American. It could have been the son or daughter of any of us on this committee or in my constituency in Colorado.

I would like to yield the remainder of my time to the gentlewoman from Texas and the cosponsor of the amendment Ms. Sheila Jackson Lee.

Ms. Jackson Lee. I thank my cosponsors, and I would say, Mr. Polis, that among the heap of those that you have just articulated are women that have been thrown against the wall when they are pregnant, or women who have had children whose abusers put cigars or cigarettes into the face of their children.

So I would argue that there are two reasons that it seems my friends are opposing this amendment: One, to cut costs and to save money; two, to indicate that we must do immigration reform everywhere we can do.

Today we are talking about saving lives of women. And why I know this is a budget-cutting bill is because why would you close the Vermont service center, and why would you misinterpret when an amendment I offered just previously, and I look forward to Mrs. Adams in clarifying that, correctly determined that the audit that was at 40 percent now rises to 70 percent?

Chairman Smith. The gentlewoman's time --

Ms. Jackson Lee. I ask my colleagues to go on the side of the women and save lives and against cutting dollars, because when you cut dollars, you get a heap of dead bodies. Let us not do that. Let us provide for the opportunity for women to live and to live in dignity.

I yield back and ask the Jackson Lee amendment be supported along with Mr. Polis.

Chairman Smith. The question is on the Jackson Lee amendment.
All in favor, say aye.

Opposed, no.

The clerk will call the roll.

The Clerk. Mr. Smith?

Chairman Smith. No.

The Clerk. Mr. Smith votes no.

Mr. Sensenbrenner?

Mr. Sensenbrenner. Pass.

The Clerk. Mr. Coble?

[No response.]

The Clerk. Mr. Gallegly?

[No response.]

The Clerk. Mr. Goodlatte?

[No response.]

The Clerk. Mr. Lungren?

[No response.]

The Clerk. Mr. Chabot?

Mr. Chabot. No.

The Clerk. Mr. Chabot votes no.

Mr. Issa?

Mr. Issa. No.

The Clerk. Mr. Issa votes no.

Mr. Pence?

[No response.]

The Clerk. Mr. Forbes?

[No response.]

The Clerk. Mr. King?

Mr. King. No.

The Clerk. Mr. King votes no.

Mr. Franks?

Mr. Franks. No.

The Clerk. Mr. Franks votes no.

Mr. Gohmert?

Mr. Gohmert. No.

The Clerk. Mr. Gohmert votes no.

Mr. Jordan?

Mr. Jordan. No.

The Clerk. Mr. Jordan votes no.

Mr. Poe?

[No response.]

The Clerk. Mr. Chaffetz?

Mr. Chaffetz. No.

The Clerk. Mr. Chaffetz votes no.

Mr. Griffin?

[No response.]

The Clerk. Mr. Marino?

Mr. Marino. No.

The Clerk. Mr. Marino votes no.

Mr. Gowdy?

Mr. Gowdy. No.

The Clerk. Mr. Gowdy votes no.

Mr. Ross?

Mr. Ross. No.

The Clerk. Mr. Ross votes no.

Mrs. Adams?

Mrs. Adams. No.

The Clerk. Mrs. Adams votes no.

Mr. Quayle?

[No response.]

The Clerk. Mr. Amodei?

[No response.]

The Clerk. Mr. Conyers?

Mr. Conyers. Aye.

The Clerk. Mr. Conyers votes aye.

Mr. Berman?

[No response.]

The Clerk. Mr. Nadler?

[No response.]

The Clerk. Mr. Scott?

Mr. Scott. Aye.

The Clerk. Mr. Scott votes aye.

Mr. Watt?

[No response.]

The Clerk. Ms. Lofgren?

Ms. Lofgren. Aye.

The Clerk. Ms. Lofgren votes aye.

Ms. Jackson Lee?

Ms. Jackson Lee. Aye.

The Clerk. Ms. Jackson Lee votes aye.

Ms. Waters?

[No response.]

The Clerk. Mr. Cohen?

[No response.]

The Clerk. Mr. Johnson?

[No response.]

The Clerk. Mr. Pierluisi?

Mr. Pierluisi. Aye.

The Clerk. Mr. Pierluisi votes aye.

Mr. Quigley?

[No response.]

The Clerk. Ms. Chu?

[No response.]

The Clerk. Mr. Deutch?

Mr. Deutch. Aye.

The Clerk. Mr. Deutch votes aye.

Ms. Sanchez?

Ms. Sanchez. Aye.

The Clerk. Ms. Sanchez votes aye.

Mr. Polis?

Mr. Polis. Aye.

The Clerk. Mr. Polis votes aye.

Chairman Smith. The gentleman from Virginia Mr. Forbes?

Mr. Forbes. No.

The Clerk. Mr. Forbes votes no.

Chairman Smith. The gentleman from California Mr. Gallegly?

Mr. Gallegly. No.

The Clerk. Mr. Gallegly votes no.

Chairman Smith. The gentleman from North Carolina Mr. Coble?

Mr. Coble. No.

The Clerk. Mr. Coble votes no.

Chairman Smith. The gentleman from Wisconsin

Mr. Sensenbrenner?

Mr. Sensenbrenner. Aye.

The Clerk. Mr. Sensenbrenner votes aye.

Mr. Cohen. Yes. Aye.

The Clerk. Mr. Cohen votes aye.

Chairman Smith. Mr. Cohen. Okay.

The clerk will report.

The Clerk. Mr. Chairman, 10 Members voted aye, 15 Members voted nay.

Chairman Smith. The majority having voted against the amendment, the amendment is not agreed to.

Had he been present, Mr. Johnson would have voted --

Mr. Johnson. Yes.

Chairman Smith. Yes.

And had she been present, Ms. Waters would have voted yes.

Are there other amendments?

Mr. Pierluisi. Mr. Chairman, I have an amendment at the desk.

Chairman Smith. Would the gentleman suspend? I already committed to Mr. Scott to offering an amendment. We will come to you right after Mr. Scott, if that is all right.

Mr. Pierluisi. That is fine.

Chairman Smith. The gentleman from Virginia Mr. Scott is recognized.

Mr. Scott. Thank you, Mr. Chairman.

Mr. Chairman, I have three amendments I want to offer en bloc. One is Scott 69, and the other is Scott 06, and the other is Scott 05.

Chairman Smith. Okay. The clerk will report those three amendments to be offered en bloc.

The Clerk. Amendment to H.R. 4970 offered by Mr. Scott of Virginia. Page 94, after line 17, insert the following, and amend the table of contents accordingly: Section 305 --

Chairman Smith. Without objection, the amendments will be considered as read, and the gentleman is recognized to explain the three amendments.

[The amendments of Mr. Scott follow:]

***** INSERT 6-2 *****

Mr. Scott. Thank you, Mr. Chairman.

The first is a bill that has passed twice in the House, virtually unanimously twice, in the 110th and 111th Congress, the Campus Safety Act, which will establish a campus safety-public safety center to give colleges and universities the opportunity to do one-stop shopping to find out how they can make their campuses safe.

We have had situations like Virginia Tech and Northern Illinois University, and our colleague from Baltimore's nephew was murdered recently at Old Dominion University. Old Dominion now is putting together a comprehensive plan, but they are doing it on their own. It would be nice to have this at a one-stop shop where they could have the research available.

The second amendment, Mr. Chairman, was the amendment that would strike lines 1 through 3 on line -- on page 85. There is a provision that would automatically double the penalties if there is a prior offense and requires tribal court convictions to be used as a prior offense.

The problem, Mr. Chairman, is the long line of cases that require you to have -- prove as part of the prior offense that you had counsel, and it is unlikely that the tribal courts can show that they had constitutionally protected rights. The court can obviously notice that the defendant before them has had problems in the past and can take that into consideration, but to automatically double the penalty I think would be easily ruled as unconstitutional.

The third amendment, Mr. Chairman, would have appointments of

tribal liaisons to help them help the domestic violence prosecutions. They would assist in arresting and prosecuting domestic violence, dating violence and stalking; conducting training; and making sure that the law enforcement officers are aware of the powers they have. There is some question as to whether they know they have arrest powers. But this would have a liaison in each U.S. attorney office.

As there are already similar persons doing similar work, that person could be designated as the person, so there may not be any additional personnel. But if appointed, he would be required to do the training, and make people aware, and encourage the prosecution and investigation of the cases.

I yield back.

Chairman Smith. Thank you, Mr. Scott.

I have to say to the gentleman he has been very persuasive and convincing as to the merits of his three amendments, and with the concurrence of the gentlewoman from Florida Mrs. Adams, I recommend that we accept those amendments.

I will yield to the gentlewoman from Florida Mrs. Adams.

Mrs. Adams. Thank you, Mr. Chairman.

I want to thank Mr. Scott for working with us on these amendments, and I would agree that they are good amendments, and I encourage all our colleagues to support these amendments en bloc.

I yield back.

Chairman Smith. Thank you, Mrs. Adams.

All in favor of the amendments, say aye.

Opposed, no.

In the opinion of the chair, the ayes have it, and the amendments agreed to.

We will now go to the gentleman from Puerto Rico Mr. Pierluisi for purposes of offering an amendment.

Mr. Pierluisi. Thank you, Mr. Chairman. I have an amendment at the desk. I believe it is amendment 004.

Chairman Smith. The clerk will report the amendment.

The Clerk. Amendment to H.R. 4970 offered by Mr. Pierluisi of Puerto Rico and Ms. Jackson Lee of Texas. Page 163, line 22, strike section 214 (p) and insert the following: (a) In General. Section 214 --

Mr. Pierluisi. Mr. Chairman, I ask unanimous consent to dispense with the reading of the amendment.

Chairman Smith. Without objection, the amendment will be considered as read, and the gentleman is recognized to explain his amendment.

[The amendment of Mr. Pierluisi follows:]

***** INSERT 6-3 *****

Mr. Pierluisi. My amendment relates exclusively to the U visa recapture issue. As has been noted, in the year 2000, Congress created the U visa program, which currently allows law enforcement officials to request up to 10,000 visas each year for noncitizen victims of serious crimes.

In order to receive a U visa, the crime victim must obtain a certification from a law enforcement agency that the victim has been, is being, or is likely to be helpful to police and prosecutors who are investigating that crime and working to bring the alleged perpetrator to justice.

It was not until September 2007, 7 years after this legislation was enacted, that the administration finally issued regulations to implement the U visa program. Between fiscal year 2001 and fiscal year 2008, not a single U visa was issued. In fiscal year 2009, 5,825 U visas were issued, leaving 4,000 U visas unused. In both fiscal year 2010 and fiscal year 2011, the 10,000 visa cap was reached before the end of the fiscal year, reflecting the importance of the U visa program.

Responding to calls from many law enforcement officials, the recently approved bipartisan Senate bill contains a provision that would allow these officials, beginning in the current fiscal year, to recapture the roughly 34,000 visas that were authorized but were not utilized in the 4-year period between fiscal year 2006 and fiscal year 2009. The Federal Government could use this pool of recaptured visas to make available an additional 5,000 visas per year; that is, to increase the number of annual U visas for deserving individuals from

10,000 to no more than 15,000. Once those 34,000 recaptured visas have all been used, this provision would expire, and the annual cap would return to 10,000. Mr. Chairman, my amendment would simply conform the bill before us to the bipartisan Senate bill with respect to the U visa recapture provision.

My colleagues on the other side the aisle claim to be strong champions of law enforcement, and I think they are absolutely sincere when they make that assertion. That is why it is so baffling and disappointing that the majority has declined to include the U visa recapture language in its base bill, given that this language is overwhelmingly supported by the law enforcement community.

For example, in a letter dated February 1, Chuck Canterbury, the national president of the Fraternal Order of Police, writing on behalf of the order's 333,000 members, endorsed the recapture provision and observed, I quote, "U visas are an invaluable tool that allows law enforcement to do its job more effectively and makes it easier to pursue prosecution of criminals," end quote.

This sentiment has been echoed by numerous other law enforcement organizations. To take another example, John Adler, the president of the Federal Law Enforcement Officers Association, wrote the following on behalf of its 26,000 members, I quote: "By limiting the number of U visas law enforcement can request, Congress is effectively amputating the long arm of the law. Law enforcement officers and prosecutors don't hand out U visas like cotton candy. U visas are an essential tool, carefully used by law enforcement and tempered with

great scrutiny," end quote.

In total, I have 9 letters from 15 current and former law enforcement officials that say exactly the same thing. Mr. Chairman, I respectfully ask permission to make these letters part of the record.

[The information follows:]

***** COMMITTEE INSERT *****

Mr. Pierluisi. I would ask my Republican colleagues whether they have any letters from law enforcement officials that oppose this recapture provision, and, if not, whether this gives them any pause about whether they are doing the right thing here.

I must say, it is difficult to avoid the conclusion that my colleagues on the other side of the aisle are so blinded by their anti-immigrant animus that they are willing to abandon what I know to be genuine commitment on their part to aiding victims of serious crimes and to giving law enforcement the tools they need to investigate and prosecute those crimes. I hope they will reconsider their position.

I urge my colleagues to support this narrow amendment which simply mirrors the language in the bipartisan Senate bill, and I yield back the balance of my time.

Chairman Smith. Thank you, Mr. Pierluisi.

I will recognize myself in opposition to the amendment.

Since the establishment of the U visa program in 2000, there, as the gentleman has said, has been an annual cap of 10,000 recipients. According to the Congressional Budget Office estimates, this amendment actually will increase the number of illegal immigrants who will receive U visas by over 60,000. By adding the unused visas from previous years along with the family members who are eligible for U visas, the CBO estimates not only that it will increase to 60,000, but the cost to the American taxpayers will be over \$100 million in additional public benefits and other expenses.

And let me say to the gentleman, I believe that the provisions

in the bill that I would call sort of antiabuse provisions, where we require an individual not just to be likely to support or help law enforcement officials, but where they will actually provide real information to help law enforcement officials, will actually reduce the demand for these types of visas, and therefore that is another reason why I believe we do not need to raise the cap.

In any case, I do support the -- I mean, I do oppose the amendment.

And the gentlewoman from California Ms. Lofgren is recognized next.

Ms. Lofgren. Mr. Chairman, first, I would like to ask unanimous consent to include in the record a report by domestic violence experts and researchers about this bill.

Chairman Smith. Without objection, that will be made a part of the record.

[The information follows:]

***** COMMITTEE INSERT *****

Ms. Lofgren. And I would like to speak in favor of Mr. Pierluisi's amendment.

Chairman Smith. The gentlewoman continues to be recognized.

Ms. Lofgren. And just to quote from an additional letter from the many law enforcement officials, the letter that we entered into the record a short time ago, this is what they say: "When the fear of deportation and exploitation is reduced, immigrant crime victims feel safe identifying violent criminal offenders. The U visa cap of 10,000 was reached in September of 2011. When the number of requests for certifications exceeds the cap, immigrant crime victims are forced to wait. Waiting can be dangerous. The delay provides violent criminal offenders and the friends and families of violent criminal offenders with the opportunity to use physical violence and death threats to convince crime victims not to testify. When criminals have additional time to terrorize crime victims and convince them not to participate in a criminal investigation or prosecution, more and more violent offenders go free. We strongly urge an increase in the number of U visas granted on an annual basis so that more violent criminal offenders can be arrested and held accountable."

I think that letter speaks volumes about what this is about. This is about joining law enforcement across our great country in fighting offenders, fighting those who abuse women, and failure to respond to their plea means that we are on the side of the abusers, not on the side of law enforcement and on the side of victims.

So I strongly support Mr. Pierluisi's amendment. And I don't

know if he wishes additional time, but if so, I would be happy to yield him time.

Mr. Pierluisi. Thank you, and I will be brief.

Mr. Chairman, I am troubled by the fact that there have been no oversight hearings confirming the alleged fraud, and I also -- this sounds like we are second-guessing, we would be second-guessing law enforcement authorities in America. Are we saying that they are not capable of determining whether a victim is cooperating duly, and they are not capable of managing their own cases and deciding that they need the victim's cooperation and support and so requested these visas? There has been no oversight.

And so I am troubled by the fact that we are making this drastic change, and on top of it that we are preventing the use of these visas that were not requested because there were no regulations in a way that will have not much of a fiscal impact. This is a 5,000 cap each year, so we would be using these unused visas for a period of time until the law enforcement community consumes them. And we would be deferring to the law enforcement community in terms of whether they have to be extended or issued or not.

So with that I will yield back.

Ms. Lofgren. Thank you, Mr. Pierluisi.

And I would be happy to yield additional time to my colleague. Ms. Jackson Lee is going to ask for her own time.

Now, I will just say one other thing about the cost of this. In the Senate bill there is an increase in some fee authority, so the Senate

bill is not scored to cost the taxpayers anything at all. I think it is important to note that.

But the failure to respond to law enforcement will cost us something. It will cost us something in terms of lives. It will cost us something in terms of children traumatized, neighbors put at risk by violent offenders. There is a cost to society if domestic violence is not met with a very firm law enforcement response with an eye towards protecting the victims. If you don't protect the victims, they can't come forward.

And so I regret to say that the bipartisan consensus on this very clear principle appears to have been lost here in the House. To their credit, the Senate, a fractious body from time to time, did finally come together, as we should. So I hope that we can at least take a step forward by supporting Mr. Pierluisi's very solid amendment.

I yield back.

Chairman Smith. Thank you, Ms. Lofgren.

The gentlewoman from Texas Ms. Jackson Lee.

Ms. Jackson Lee. I thank the gentlelady, and I thank Mr. Pierluisi for his amendment. And I was very delighted to join him as a cosponsor on this amendment. And I thank the gentlelady from California for reminding us that some things are far more important than dissension and contentiousness.

I think our friends in the Senate determined that there are millions of women waiting for the Violence Against Women Act to be reauthorized, particularly the grant programs that are welcomed by

religious groups and law enforcement groups together, law enforcement groups or religious groups that may not have worked together on other issues.

This amendment is again in saving lives, and what disappoints me is that I realize that we now are reauthorizing in a completely different economic climate. We are authorizing in the backdrop of Greece and their vote, in the backdrop of France and their vote; and that what has been dictated to my friends on the other side of the aisle is that every bill that they pass must have cost savings.

You can't cost save on life, and you can't cost saving on the voice of law enforcement officers. And I read to you the words of Mr. Dave Thomas, a 15-year police officer and the founder of the Montgomery County Police Department Domestic Violence Unit. He explains in a letter urging Congress to double the number of U visas authorized under the law, which tracks the amendment that Mr. Pierluisi and myself have offered.

The language says, or his letter says, "To those of us in law enforcement, 10,000 more visas translates into getting 10,000 more violent criminals out of our neighborhoods. Victims who are safe, away from their perpetrator, and self-sustaining make excellent witnesses."

That is what these visas represent. This is not trying to suggest that we are expanding immigration. We are not. These visas are particularly about women who have been violated and who have been subject to violence.

It is also a fiscally responsible approach. It recaptures visas.

It is paid for by a fee. And, again, what do you equate to the loss of life? What do you equate to throwing pregnant women up against walls? What do you equate to someone hanging on for dear life? What do you equate to children who live with these abusers likewise seeing their mother abused or, in essence, someone of a different gender, male or female? Who do you care about?

And I would say that this is a sensible amendment. It goes back to capture for victims who need protection or cannot get it because of the limit that we now have on the U visa.

The other point is to assess or determine without facts that, again, women who seek U visas are either perpetrating fraud, or there are too many of them, because that is the easy way to gain status in the United States and be able to remain and to separate from one's spouse. I don't believe that that is a route that most people would rather take.

The other point that I would like to make that is sad, again, is to mention that this bill eliminates the Vermont center as a cost cutter, but it throws the responsibility to Department of Homeland Security officers, who have no training in this, heaping upon them the major responsibility of collecting data, of going through local rape kits that are backlogged because we did not get the amendment offered by many Members, including myself, passed, not even getting the amendment that dealt with the audit that increased it from 40 to 70 percent that was misinterpreted. So there is no supporting factors to help victims.

What is the local DHS offices going to do with added workload dealing with the sensitive issue of an abused victim whose life is time sensitive? They can't afford to stay on a desk of an overloaded, conscientious worker. They can't afford to wait like a student visa. They can't afford to wait like a renewal.

So I support the amendment because it saves lives, and law enforcement officers are begging for us to recapture those particular visas to save lives. And, as indicated, it is paid for, Mr. Chairman.

Chairman Smith. The gentlewoman's time is expired.

Ms. Jackson Lee. I yield back, and I ask my colleagues to support the Pierluisi amendment.

Chairman Smith. The gentleman from Michigan Mr. Conyers.

Mr. Conyers. Mr. Chairman, I have a unanimous consent request on behalf of our colleague from Puerto Rico Mr. Pierluisi. It is 11 letters from more than a dozen law enforcement personnel and organizations.

Chairman Smith. Without objection, that will be made part of the record.

[The information follows:]

***** COMMITTEE INSERT *****

Mr. Conyers. Thank you.

Ms. Sanchez. Mr. Chairman?

Chairman Smith. The gentlewoman from California Ms. Sanchez.

The Clerk. I move to strike the last word.

Chairman Smith. The gentlewoman is recognized for 5 minutes.

Ms. Sanchez. Thank you, Mr. Chairman.

I urge my colleagues to support Mr. Pierluisi's amendment because without it, additional victims are prevented from coming forward, fewer perpetrators will be apprehended, fewer women will be protected, and the public safety at large will be threatened.

We have heard about the various law enforcement officers and organizations that support the U visas, and I think we ought to listen to the people who are the ones that scrutinize the process and are the ones that provide the corroborating information for these victims to utilize the U visa process.

Law enforcement views the U visa as a tool that helps keep our communities safe by making sure that nobody is afraid to report a crime. The Fraternal Order of Police endorses the U visa provisions in the bipartisan Senate bill, stating that the U visa is -- and I am quoting here -- "essential to the law enforcement community." And the Federal Law Enforcement Officers Association wrote, quote, "U visas are an essential tool carefully used by law enforcement and tempered with great scrutiny," end quote.

So my question is, do we just wholesale not trust what our law enforcement community is telling us is an effective and useful tool

in getting violent criminals prosecuted? I mean, you are substituting the judgment of people whose job it is to work hand in hand with these victims to put violent offenders away, and yet you are saying wholeheartedly that we don't need to recapture the authorized U visas from prior years because somehow that is going to lead to this huge influx of undocumented immigrants.

And the reasoning is faulty, because this is a process by which there are multiple steps working hand in hand in law enforcement -- with law enforcement. So unless we are saying that all of these law enforcement agencies that are asking for the U visas are corrupt or completely inept, I don't understand why we wouldn't give them another tool to be able to do their job, which is protecting the general public at large and putting violent criminals behind bars.

For that reason I ask my colleagues to support Mr. Pierluisi's amendment. It is a great amendment to this bill.

I yield back the balance of my time.

Chairman Smith. Thank you, Ms. Sanchez.

The question is on the Pierluisi amendment.

All in favor, say aye.

Opposed, no.

The clerk will call the roll.

The Clerk. Mr. Smith?

Chairman Smith. No.

The Clerk. Mr. Smith votes no.

Mr. Sensenbrenner?

[No response.]

The Clerk. Mr. Coble?

[No response.]

The Clerk. Mr. Gallegly?

[No response.]

The Clerk. Mr. Goodlatte?

Mr. Goodlatte. No.

The Clerk. Mr. Goodlatte votes no.

Mr. Lungren?

[No response.]

The Clerk. Mr. Chabot?

Mr. Chabot. No.

The Clerk. Mr. Chabot votes no.

Mr. Issa?

[No response.]

The Clerk. Mr. Pence?

[No response.]

The Clerk. Mr. Forbes?

[No response.]

The Clerk. Mr. King?

Mr. King. No.

The Clerk. Mr. King votes no.

Mr. Franks?

Mr. Franks. No.

The Clerk. Mr. Franks votes no.

Mr. Gohmert?

[No response.]

The Clerk. Mr. Jordan?

[No response.]

The Clerk. Mr. Poe?

[No response.]

The Clerk. Mr. Chaffetz?

[No response.]

The Clerk. Mr. Griffin?

[No response.]

The Clerk. Mr. Marino?

Mr. Marino. No.

The Clerk. Mr. Marino votes no.

Mr. Gowdy?

[No response.]

The Clerk. Mr. Ross?

Mr. Ross. No.

The Clerk. Mr. Ross votes no.

Mrs. Adams?

Mrs. Adams. No.

The Clerk. Mrs. Adams votes no.

Mr. Quayle?

[No response.]

The Clerk. Mr. Amodei?

[No response.]

The Clerk. Mr. Conyers?

Mr. Conyers. Aye.

The Clerk. Mr. Conyers votes aye.

Mr. Berman?

[No response.]

The Clerk. Mr. Nadler?

[No response.]

The Clerk. Mr. Scott?

Mr. Scott. Aye.

The Clerk. Mr. Scott votes aye.

Mr. Watt?

[No response.]

The Clerk. Ms. Lofgren?

Ms. Lofgren. Aye.

The Clerk. Ms. Lofgren votes aye.

Ms. Jackson Lee?

Ms. Jackson Lee. Aye.

The Clerk. Ms. Jackson Lee votes aye.

Ms. Waters?

[No response.]

The Clerk. Mr. Cohen?

Mr. Cohen. Aye.

The Clerk. Mr. Cohen votes aye.

Mr. Johnson?

Mr. Johnson. Aye.

The Clerk. Mr. Johnson votes aye.

Mr. Pierluisi?

Mr. Pierluisi. Aye.

The Clerk. Mr. Pierluisi votes aye.

Mr. Quigley?

Mr. Quigley. Aye.

The Clerk. Mr. Quigley votes aye.

Ms. Chu?

[No response.]

The Clerk. Mr. Deutch?

Mr. Deutch. Aye.

The Clerk. Mr. Deutch votes aye.

Ms. Sanchez?

Ms. Sanchez. Aye.

The Clerk. Ms. Sanchez votes aye.

Mr. Polis?

Mr. Polis. Aye.

The Clerk. Mr. Polis votes aye.

Chairman Smith. The gentleman from Virginia Mr. Forbes?

Mr. Forbes. No.

The Clerk. Mr. Forbes votes no.

Chairman Smith. The gentleman from Wisconsin

Mr. Sensenbrenner?

Mr. Sensenbrenner. No.

The Clerk. Mr. Sensenbrenner votes no.

Chairman Smith. The gentleman from California Mr. Gallegly?

Mr. Gallegly. No.

The Clerk. Mr. Gallegly votes no.

Chairman Smith. The gentleman from California Mr. Lungren?

Mr. Lungren. No.

The Clerk. Mr. Lungren votes no.

Chairman Smith. The clerk will report.

The Clerk. Mr. Chairman, 11 Members voted aye, 12 Members voted nay.

Chairman Smith. A majority having voted against the amendment, the amendment is not agreed to.

As I understand it, we expect two more amendments. We will go now to the gentleman from Virginia and recognize him for the purpose of offering an amendment.

Mr. Scott. Mr. Chairman, I have two amendments I am offering en bloc. I don't know if you are counting that as one.

Chairman Smith. That is one, en bloc.

The Clerk. Mr. Chairman, I have two amendments I would like to offer en bloc, Scott 10 and Scott 11.

RPTS CASWELL

DCMN MAGMER

Chairman Smith. The clerk will report the amendment.

The Clerk. Amendment to H.R. 4970 offered by Mr. Scott of Virginia.

Page 185, lines 4 through 14, strike section 1005 (and amend the table of contents accordingly).

Chairman Smith. Without objection, the amendments will be considered as read.

[The amendment of Mr. Scott follows:]

***** INSERT 7-1 *****

Chairman Smith. The gentleman is recognized to explain his en bloc amendment.

Mr. Scott. Mr. Chairman, I think the committee is well aware of the issue involved in these two amendments. They delete the mandatory minimums from the bill.

The first one -- and we know that mandatory minimums have been studied. They distort the rational sentencing system. They discriminate against minorities and often violate common sense. Even if been everybody involved in the case, from the arresting officer, prosecutor, judge, victim, and everybody else, believes that the mandatory minimum sentence would be unjust or even absurd, the mandatory minimum aspect requires the judge to impose that sentence anyway.

Mr. Chairman, in the first amendment, amendment number 10, it eliminates the 5- and 10-year mandatory minimums for sexual assault. This could include a situation where an Indian child spikes the punch at a party, everybody gets sloppy drunk, somebody has sex, and they claim that they were taken advantage of.

Well, that would be -- he may deserve 5 years, but this bill would require a 5-year mandatory minimum.

In the second amendment, Mr. Chairman, you have penalties, increased from a -- what is now a misdemeanor to a felony with a 30-year mandatory minimum, which has the absurd situation of two people committing crimes, one commits this crime the day before this bill is signed into law and the other day after, one guy's commitment is a

misdemeanor, the other guy gets 30 years mandatory minimum.

Mr. Chairman, you know that doesn't make sense; and that is why these amendments ought to be adopted.

I would like to introduce for the record, Mr. Chairman, letters from -- letters which I will identify after somebody else speaks.

Chairman Smith. Without objection, the unidentified letters will be made -- part of the letter. Okay.

Mr. Scott. I found them. I found them.

Mr. Chairman, I ask unanimous consent that a letter from the ACLU Families Against Mandatory Minimum and several other groups criticizing the mandatory minimum and a letter from the National Association of Criminal Defense Lawyers and National Association of Defenders, which talks about the bill in total but starts off with the first paragraph opposing mandatory minimums with no death penalties --

Chairman Smith. Without objection, those letters will be made a part of the record.

[The information follows:]

***** COMMITTEE INSERT *****

Chairman Smith. And the gentleman from California, Mr. Lungren, is recognized.

Mr. Lungren. Thank you very much, Mr. Chairman.

I rise in opposition to the amendment.

The bill, section 1005, amends section 2241 of Title XVIII -- that is the aggravated sexual abuse section -- to change any term of years or life to not less than 10 years or imprisoned for life for offenses committed by force or threat and, quote, not less than 5 years or imprisoned for life for other means, that is, incapacitation by drug or intoxicant.

There already exists the possibility of life imprisonment under this section 18 USC 2241(a) and (b). So any argument that a mandatory minimum sentence discourages victims from reporting abuse by their spousal partner, intimate partner, or dating partner doesn't seem to make any sense because conviction of such a crime can now result in life imprisonment or any term of years or both.

18 USC 2241 already contains mandatory minimums. In subsection (c), if the victim is under 12 years of age, a mandatory minimum sentence of 30 years is already imposed under already existing law. The mandatory sentencing scheme of H.R. 4970 is consistent with the seriousness of the crime.

I know the gentleman from Virginia and I have a disagreement on this. I do believe that mandatory minimums deter crime. In the case of aggravated sexual abuse, the abuser will be off of the streets and the victim can be truly helped and not revictimized by the abuser. And

we know that there are cycles of domestic violence, and the cycle of domestic violence is what will keep a victim from reporting a domestic or intimate partner, the fear that it will come back to harm them in the future. The cycle will remain unbroken because the abuser is not incarcerated and able to harm, threaten, or intimidate the victim or other victims.

Now, I know the gentleman is not arguing this is not a horrible crime. I happen to think it is among the worst of the worst. The victim here is either actually harmed by force, in fear of their life, or incapacitated by either, being made unconscious or impaired by an intoxicant.

This is a crime that society has identified as being particularly terrible by instituting the current sentencing scheme and by allocating significant resources to address this and related crimes. Under these circumstances, I believe a minimum sentence is appropriate. I do not believe in minimum sentences in all cases, but, because of the seriousness of these offenses, I do believe it makes sense.

Mandatory minimums, in many, many ways, began in our system as a result of the disparate treatment that we were seeing across the board in the Federal sentencing system, and it appeared to be resulting in unjust circumstances depending on the particular judge, even though you would find that there were similar circumstances with respect to both the victim and the criminal among different cases. It just seems to me that in this particular case mandatory minimums make sense.

We are talking about cycles of violence. We are talking about

cycles of abuse. We are essentially talking about those who commit these crimes in some of the most terrible circumstances. And we have heard arguments on both sides as we have debated different amendments concerning the real fear, intimidation, and terrible physical and psychological damage done to the victims. In light of that, it seems to me that mandatory minimums make sense in this particular case.

So I would -- with respect for my friend from Virginia and understanding his different view on mandatory minimums, I would respectfully oppose his amendment.

Chairman Smith. The gentleman's time has expired. Without objection, the gentleman is yielded an additional minute.

Mr. Scott. Would you yield?

Mr. Lungren. I would be happy to yield to my friend.

Mr. Scott. Mr. Chairman, I would just say to my friend from California that you have described cases where an appropriate sentence would well be 5 years, 10 years, 30, or even life. But there could be cases where everybody has agreed that that is not the appropriate case and the mandatory minimum requires you to impose a sentence that everybody agrees is absurd, violates common sense, would have to be imposed anyway because of the mandatory minimum. So I would think that, as the gentleman has said, there are cases where it would be appropriate, but not every single case, without exception.

Mr. Lungren. I would take back my time to suggest there is still, within the office of the prosecutor, the discretion that we all know is allowed and the prosecutors can charge as they believe appropriate,

taking into consideration the penalty involved as well. And I believe that any and all prosecutors of whom I am aware recognize that responsibility and exercise it, frankly, on a daily basis.

Thank you, Mr. Chairman. I yield back the balance of my time.
Chairman Smith. Thank you, Mr. Lungren.

The gentleman from Michigan, Mr. Conyers, is recognized.

Mr. Conyers. Mr. Chairman, I only wish that all prosecutors exercised their discretion in a very appropriate way on a daily basis. That would change the whole system of criminal justice in America.

Mandatory minimums have been studied extensively. They have been found to distort rational sentencing systems to discriminate against minorities and to violate common sense. And if everyone in a case involved, from the arresting officer, to the prosecutor, to the judge, and the victim, all believe that the mandatory minimum would be an unjust sentence for a particular defendant in a case, it still must be imposed.

Mandatory minimum sentences remove sentencing discretion from both the sentencing commission and the judge, regardless of the role of the offender and the particular crime, the offender's record or lack of thereof, or the facts and circumstances of the case. The judge has no discretion but to impose the mandatory minimum set by legislators long before the crime has ever been committed.

Please support this amendment.

Mr. Scott. Will the gentleman yield?

Mr. Conyers. Of course.

Mr. Scott. Is the gentleman aware of any cases where girlfriends of drug dealers end up getting more time than the drug dealer and murderers and rapists and robbers?

Mr. Conyers. Well, as the ranking member of the Crime Subcommittee, I know that you and I and most people on the committee know that that tragedy happens far, far too frequently.

Mr. Scott. Thank you.

Mr. Conyers. Thank you, Mr. Chairman.

Chairman Smith. Thank you, Mr. Conyers.

The question is on the Scott en bloc -- the gentleman from Nevada, Mr. Amodei.

Mr. Amodei. Thank you, Mr. Chairman.

I move to strike the last word.

Chairman Smith. The gentleman is recognized for 5 minutes.

Mr. Amodei. Thank you, Mr. Chairman, and I won't use that, and I will yield back.

I just want to add to the discussion that, having been a veteran of 15 years of doing this sort of work at the State level, that mandatory minimums are usually not the product of the request of the legislature. They are usually the product of victims who come before the legislature who are very disappointed with prosecutors and judges.

And so, in my experience, the genesis of mandatory minimum laws, although it is not that easy and it is a complex subject, in deference to my colleague from the Old Dominion -- but mandatory minimums in my experience were driven by victims of crime, not legislators. And

mandatory minimums were driven by, with all due respect to my colleagues that served on the bench, disappointment with things that happened on the bench.

So if you want to talk about whether they are a good thing or a bad thing, it is like that is people accessing the legislative system to try to right a perceived wrong.

And I yield back. Thank you.

Chairman Smith. Thank you, Mr. Amodei. I don't think that was a problem with Judge Poe, somehow, when he was on the bench.

The gentleman from Pennsylvania.

Mr. Marino. Mr. Chairman, I move to strike the last word.

With all due respect to my colleagues on the other side of the aisle, they leave out some information pursuant to the girlfriend of the drug dealer, who sometimes is subjected to mandatory minimums. And as a district attorney and as a United States attorney for 19 years, I, too, have prosecuted those individuals and have put some girlfriends and boyfriends away under mandatory minimums because -- simply because that individual, perhaps the girlfriend, and these are the facts that are left out, who will be answering the phone on a regular basis and handing the phone over to the boyfriend, who will talk the business, who will be answering the door, who will get a new car, who will get -- purchase jewelry, and none of them are employed. People running in and out of the house constantly.

So the girlfriend or the boyfriend is very much aware of the illegal activity that is taking place and is assisting in perpetrating

that crime by taking the messages, by answering the door, and by profiting from the illegal gains.

Mr. Scott. Would the gentleman yield?

Mr. Marino. Yes, sir.

Mr. Conyers. That is just fine. Then let's give the girlfriend a mandatory sentence.

Mr. Marino. You just made my point. I mean, if they are going to participate in the activities, she has got to suffer the consequences. And as far as mandatory --

Mr. Scott. Would the gentleman yield?

Mr. Marino. Yes, I will.

Mr. Scott. Is that behavior 24-1/2 years that Kemba Smith got or 20 years of mandatory minimums that they give? And is that worse than murdering and robbing and raping that routinely get 5, 10, 15, maybe 20 years? Is answering a phone like that worse than routine, I mean, run-of-the-mill murderers?

Mr. Marino. It is participating in a crime that breaks up families, that kills people, that causes the drug dealers and the drug addicts to participate in other violent crimes. So, yes, if you want to talk about it in a roundabout way, yes, that is true.

But as a prosecutor, too, I have not implemented the mandatory minimum based on ages, based on certain factors, based on discussions with the defense attorneys and judges as well. The prosecutors with whom I worked and that I know use the mandatory minimum in various situations based on the facts and not just because they could. They

did it because the facts merited the mandatory sentencing.

So I would have to come to the defense of the prosecutors and the fact that we do a good job. We are responsible in what we do, and we analyze each situation.

Mr. Lungren. Would the gentleman from Pennsylvania yield to me, behind you?

Mr. Marino. Yes.

Mr. Lungren. I appreciate all the discussion that has gone on. I would like to go back to the amendment itself. It deals with aggravated sexual abuse for offenses committed by force or threat or aggravated sexual abuse by other means, incapacitation by drug or intoxicant.

So I think it is interesting about the girlfriend and the boyfriend and so forth, but this particular mandatory minimum that we are talking about deals with aggravated sexual abuse, aided by or committed by force or threat, or incapacitation by drug or intoxicant.

And I thank the gentleman from Pennsylvania for his support of opposition to this amendment and just remind us that this is what the mandatory minimum we are talking about in this case is, aggravated sexual abuse obtained by means of force or threat or incapacitation by drug or intoxicant.

Chairman Smith. Does the gentleman yield back his time?

Thank you, Mr. Marino.

The question is on the amendment en bloc of the gentleman from Virginia, Mr. Scott.

All in favor, say aye.

Those opposed, no.

In the opinion of the chair, the noes have it, and the amendment is not agreed to.

Are there any other amendments?

Mr. Polis. Mr. Chairman, I have an amendment at the desk.

Chairman Smith. I believe this is the final amendment of the day, and the gentleman from Colorado is recognized.

Mr. Polis. I have an amendment at the desk.

Chairman Smith. The clerk will report the amendment.

The Clerk. Amendment to H.R. 4970 --

Mr. Polis. Mr. Chair, I ask unanimous consent that --

Chairman Smith. Without objection, the amendment will be considered as read.

[The amendment of Mr. Polis follows:]

***** INSERT 7-2 *****

Chairman Smith. The gentleman is recognized.

Mr. Polis. Thank you.

My amendment, which is cosponsored by Mr. Nadler, Mr. Quigley, Ms. Waters, and Ms. Chu, fills a major gap in the Violence Against Women Act. It is a gap that over two-thirds of the Senate agreed needs to be addressed, and it really helps to make sure that all victims of domestic abuse are protected.

The Violence Against Women Act needs to be an inclusive bill that covers all of today's families, whether those families are composed of a man and a woman or two women or two men, and that is why I am offering this amendment, to ensure that no one is denied protections based on their sexual orientation or their gender identity.

The language of the underlying bill explicitly provides nondiscrimination coverage to several categories of people, rightfully so. It makes sure that there is nondiscrimination coverage offered to people of different races, colors, religions, national origins, sex, as well as disability.

My amendment would also expressly include lesbian, gay, bisexual, transgender, and queer victims in this category as well.

Specifically, my amendment would ensure that all programs or activities that receive Federal funding from VAWA provide services regardless of a person's actual or perceived sexual orientation or gender identity.

Again, this language in the Senate received over two-thirds support. It certainly doesn't sanction or say anything about any

particular lifestyle that members of the committee may not personally agree with. It simply says that the law needs to be applied equally.

And just as there might be members of the committee that don't feel that a certain religion is correct or perhaps adhering to that religion might be destined to Hell or any afterlife, but, nevertheless, regardless of their religion, under American law, they should be protected from discrimination. So, too, with gay, lesbian, bisexual, and transgender American families.

The gender neutral language in the bill don't yet address the needs of the LGBT community because there are major barriers and broad evidence of discrimination based on sexual orientation and gender identity. In fact, studies show us that lesbian and gay families experience domestic violence just like heterosexual families do, same rate as the general population, but less than one in five gay and lesbian Americans who are victims of intimate partner violence receive help from a service provider.

And where Federal funds go, so, too, should go prohibitions against discrimination. My amendment would only offer the same protections against discrimination that are available based on race, based on gender, based on religion to Americans based on sexual orientation or gender identity.

I strongly feel this language shouldn't be controversial. Again, over two-thirds of the Senate passed this language.

We are talking about protecting people's rights and keeping families safe here, two principles that have strong bipartisan support.

And, again, just as there will always be on this committee and in Congress and in America and in the world disagreements about which religion or religions are correct or what the best way to live one's life is or whether divorces should ever be sanctioned or whether one should date or marry a member of the opposite sex or same sex or any of the other myriad ways that Americans in all their splendid diversity live their lives, the laws do need to be applied equally.

My amendment would simply ensure that, along with prohibiting discrimination based on race, color, religion, national origin, sex, and disability, we also include sexual orientation and gender identity, as is consistent with the laws of many States of our Union and as the Senate with a two-thirds bipartisan majority included in the Violence Against Women Act.

It is an important hole in this bill as it addresses the needs of anywhere from 1 to 5 percent of American families who may be formed this way and subject to this form of discrimination, and it is critical to protecting the partners, male and female, in same-sex relationships as well as transgendered Americans from discrimination and from spousal abuse.

I encourage this committee to adopt this amendment in a bipartisan way, and I yield back the balance of my time.

Chairman Smith. Thank you, Mr. Polis.

The gentleman from Iowa, Mr. King, is recognized.

Mr. King. Thank you, Mr. Chairman, and I appreciate the tone and the sentiment with which the gentleman from Colorado brings this

amendment.

I would note that this is at least the third discussion we have had in this markup on the same or similar subject matter.

And as I read through the gentleman's amendment, he mentioned some of the other -- some of the other categories here. If I just look at this amendment, race, color, some of this jumps out at me as being from Title VII of the Civil Rights Act, and I would submit that most of this language is lifted right out of Title VII of the Civil Rights Act. And those that stand out at me would be race, color, religion, color, national origin, sex, and then that would be the extent of it that I can see.

And the only other category that I see here is disability. All of those qualities are qualifiers, are either immutable characteristics or constitutionally protected. And when you add sexual orientation and gender identity, those are self-professed qualifications, rather than --

Mr. Polis. Would the gentleman yield?

Mr. King. I would finish my statement. Then I would yield to the gentleman. Because I expected we would have a discussion, Mr. Polis.

But I would make the point that when they wrote Title VII of the Civil Rights Act and they put these conditions in here, they were defined that way in a tight, compact way because they wanted to avoid self-professed claim to whatever the particular benefits or protection might have been. They wanted to allow for it to be independently

verified, and so that is part of the discussion. I don't hear much in today's dialogue, but it certainly was part of the discussion then.

And I would also make the point that this is supposed to be the Violence Against Women Act. And even though that is the case and that needs to be the subject of this discussion, we still are bringing up this subject of sexual orientation and gender identity when people, no matter what their sexual orientation or gender identity, are covered under this bill.

And so, as I look down through this, nothing prevents these funds from going to LGBT victims of domestic violence. And the individuals that I have mentioned experience domestic violence at roughly the same rate, as I think the gentleman from Colorado stated in his statement as well. And so if that violence is the same, then it would infer that the funding and the services to the victims would be the same or at least very similar.

We do have a study that was submitted into the Senate discussion of this, and there was a disappointment that it was only a 7 percent successful return out of 10,000 requests, and we are really short of data. But I don't disagree with the gentleman's statement that domestic violence seems to occur similarly, regardless of sexual orientation within a household. And I would like to see more real data on the subject matter before we would go further down this path, and I would like to see it taken up, if it is going to be, in another issue that is a proper vehicle for this, rather than the Violence Against Women Act.

And I am watching this list of special protected status expand and expand throughout my -- and I will say politically active lifetime -- and it makes one wonder who is not listed in this. After a while, if we list everybody in it, then there is no special protection whatsoever.

But this is a general, broad bill underneath us that does deal with the subject matter. It just doesn't deal with it specifically.

I certainly oppose the gentleman's amendment, but I would yield for his point.

Mr. Polis. Thank you. I thank the gentleman from Iowa.

This addresses a real lead. One to five percent of American families are same sex or include a transgender partner and they in the field every day face rampant discrimination.

The gentleman talked about the difference between immutable characteristics and constitutionality protected characteristics with regard to immutability, and the gentleman insinuated that gender identity or sexual orientation is a choice.

Mr. King. Reclaiming my time, I did not insinuate that. What I said is that is self-identified. But I would yield back to you.

Mr. Polis. You said that those are self-identified? I believe that, you know, religion and race and self-identified -- I mean, many of these religions --

Mr. King. I reclaim my time. No, I would disagree with that as well. And I am hearing words get put out here.

But looking at Title VII of the Civil Rights Act, I can name you

the immutable characteristics. Race and color and national origin and sex are all the immutable characteristics in Title VII of the Civil Rights Act. And beyond that the rest of those characteristics are constitutionally protected. Religion, for example, is a constitutionally protected segment under the First Amendment.

So I think these definitions are pretty tight on that. I think they were well thought out, and I think we get out on very thin ice when we try to expand the list within the Civil Rights Act.

And I would yield to the gentleman again.

Mr. Polis. Yes, and I would just add that disability has been added.

Mr. King. Excuse me, reclaim my time. That is an immutable characteristic, and it can be independently verified.

The gentleman from Colorado.

Mr. Polis. Yes, I would submit that sexual orientation and gender identity are also immutable characteristics of people, and that is what the evidence shows.

Mr. King. And reclaiming my time --

Chairman Smith. The gentleman's time has expired.

Mr. King. Mr. Chairman, could I ask unanimous consent for an additional 30 seconds?

Chairman Smith. Without objection, the gentleman is recognized for an additional 30 seconds.

Mr. King. Thank you, Mr. Chairman.

I would just make the point that if we are going to focus on

immutable characteristics, those being characteristics that are not self-identified but can be independently verified, then I think it is up to the gentleman to identify just how that might be. And at this point I don't know. I don't think society knows how. And I think it is a bigger question than we are ready to address now. But I oppose the amendment.

I yield back the balance of my time.

Chairman Smith. Thank you, Mr. King.

Let me say to the individuals of the committee, I think votes have just been called, is that correct?

I would like to have the final vote now, if that is possible, and I see some heads nodding, all except one.

The gentleman/gentlewoman from Texas, Ms. Jackson Lee. Does she have anything to add?

Ms. Jackson Lee. In this instance, I will make it brief by just responding to the gentleman from Iowa.

Let me say that I support Mr. Polis, the gentleman from Colorado's amendment, and I would take issue. There is data -- we can't present it as we speak -- on vast representations of the issue of LGBT. There is psychological data. There is any manner of data.

But what I would say is that there certainly is a rebuttal to suggest that anything is self-professed, and I would ask the gentleman from Iowa what his data is about LGBT being self-professed.

Again, it is a human being, and it is at this point the appropriate direction to restate it in legislation. We have restated

discriminatory practices or anti-discriminatory practices in a number of legislative initiatives, even with Title VII. We have restated it in the legislation. We are restating it here. We are ensuring that no grant, no action under Federal color of law will discriminate against the LGBT community, and it needs to be in this legislation.

And we are not in the business of limiting, Mr. Chairman. We are "we". We are in the business of being "we" to protect those that will be subjected to domestic violence, be they immigrant, Native American, LGBT, woman, man. That is what this bill happens to be. It is named VAWA, but it covers the vastness of Americans that is a "we" and then those who are here in this country that need that protection.

I ask my colleagues to support the amendment. I yield to the chairman for a moment.

Mr. Conyers. I merely want to ask unanimous consent to introduce into the record a letter sent by the Legal Momentum organization and 19 others to myself and Chairman Smith at this time, and I would thank the gentlelady.

Ms. Jackson Lee. You are quite welcome. I yield to the gentleman from Colorado.

Chairman Smith. Without objection, the letter will be made a part of the record.

[The information follows:]

***** COMMITTEE INSERT *****

Chairman Smith. The gentlewoman now yields to the gentleman from Colorado.

Mr. Polis. Thank you.

I would further address the gentleman from Iowa's remarks about it being self-professed and having to determine who, in fact, would be subject to these protections.

It is pretty clear who we are talking about here. We are talking about if a man is in a relationship with a man then he either is or is perceived to be gay or bisexual. If a woman is in a relationship with a woman, she is perceived to be or is gay or bisexual. I mean, there is no mystery about the professment of one's sexual orientation or gender or identity.

And I would also include that it can perceived and may, in fact, be somebody who is heterosexual who, because of certain stereotypes, is discriminated against by the police or official officers because they are, in fact, perceived to be gay and lesbian. And they may not even be gay or lesbian. Hence the need for these protections in this bill that has over two-thirds support in the Senate.

I would encourage my colleagues on both sides of the aisle to support this amendment, and I yield back to the gentlewoman from Texas.

Ms. Jackson Lee. Mr. Chairman, I yield back my time asking for support of the Polis amendment.

Chairman Smith. The question is on the Polis amendment.

All those in favor, say aye.

Those opposed, no.

In the opinion of the chair, the noes have it. The amendment is not agreed to.

Mr. Polis. Mr. Chairman, on that may I request a roll call, please.

Chairman Smith. We are expecting the votes will be held for us. We are going to vote on this amendment and then vote on final passage.

The clerk will call the roll on the Polis amendment first.

The Clerk. Mr. Smith?

Chairman Smith. No.

The Clerk. Mr. Smith votes no.

Mr. Sensenbrenner?

Mr. Sensenbrenner. No.

The Clerk. Mr. Sensenbrenner votes no.

Mr. Coble?

[No response.]

The Clerk. Mr. Gallegly?

Mr. Gallegly. No.

The Clerk. Mr. Gallegly votes no.

Mr. Goodlatte?

[No response.]

The Clerk. Mr. Lungren?

Mr. Lungren. No.

The Clerk. Mr. Lungren votes no.

Mr. Chabot?

Mr. Chabot. No.

The Clerk. Mr. Chabot votes no.

Mr. Issa?

Mr. Issa. No.

The Clerk. Mr. Issa votes no.

Mr. Pence?

[No response.]

The Clerk. Mr. Forbes?

Mr. Forbes. No.

The Clerk. Mr. Forbes votes no.

Mr. King?

Mr. King. No.

The Clerk. Mr. King votes no.

Mr. Franks?

Mr. Franks. No.

The Clerk. Mr. Franks votes no.

Mr. Gohmert?

[No response.]

The Clerk. Mr. Jordan?

Mr. Jordan. No.

The Clerk. Mr. Jordan votes no.

Mr. Poe?

Mr. Poe. No.

The Clerk. Mr. Poe votes no.

Mr. Chaffetz?

[No response.]

The Clerk. Mr. Griffin?

Mr. Griffin. No.

The Clerk. Mr. Griffin votes no.

Mr. Marino?

Mr. Marino. No.

The Clerk. Mr. Marino votes no.

Mr. Gowdy?

Mr. Gowdy. No.

The Clerk. Mr. Gowdy votes no.

Mr. Ross?

Mr. Ross. No.

The Clerk. Mr. Ross votes no.

Mrs. Adams?

Mrs. Adams. No.

The Clerk. Mrs. Adams votes no.

Mr. Quayle?

[No response.]

The Clerk. Mr. Amodei?

Mr. Amodei. No.

The Clerk. Mr. Amodei votes no.

Mr. Conyers?

Mr. Conyers. Aye.

The Clerk. Mr. Conyers votes aye.

Mr. Berman?

Mr. Berman. Aye.

The Clerk. Mr. Berman votes aye.

Mr. Nadler?

[No response.]

The Clerk. Mr. Scott?

Mr. Scott. Aye.

The Clerk. Mr. Scott votes aye.

Mr. Watt?

Mr. Watt. Aye.

The Clerk. Mr. Watt votes aye.

Ms. Lofgren?

Ms. Lofgren. Aye.

The Clerk. Ms. Lofgren votes aye.

Ms. Jackson Lee?

Ms. Jackson Lee. Aye.

The Clerk. Ms. Jackson Lee votes aye.

Ms. Waters?

Ms. Waters. Aye.

The Clerk. Ms. Waters votes aye.

Mr. Cohen?

Mr. Cohen. Aye.

The Clerk. Mr. Cohen votes aye.

Mr. Johnson?

Mr. Johnson. Aye.

The Clerk. Mr. Johnson votes aye.

Mr. Pierluisi?

Mr. Pierluisi. Aye.

The Clerk. Mr. Pierluisi votes aye.

Mr. Quigley?

Mr. Quigley. Aye.

The Clerk. Mr. Quigley votes aye.

Ms. Chu?

[No response.]

The Clerk. Mr. Deutch?

Mr. Deutch. Aye.

The Clerk. Mr. Deutch votes aye.

Ms. Sanchez?

Ms. Sanchez. Aye.

The Clerk. Ms. Sanchez votes aye.

Mr. Polis?

Mr. Polis. Aye.

The Clerk. Mr. Polis votes aye.

Chairman Smith. Who seeks to be recognized to vote?

The clerk will report.

Mr. Goodlatte. Mr. Chairman.

Chairman Smith. The clerk will suspend. The gentleman from Virginia.

The Clerk. Mr. Goodlatte votes no.

Chairman Smith. The clerk will report.

The Clerk. Mr. Chairman, 14 members voted aye, 18 members voted nay.

Chairman Smith. Majority voted against the amendment. The amendment is not agreed to.

Without objection, I am going to recognize the gentlewoman from Florida, Mrs. Adams, out of order for 15 seconds.

Mrs. Adams. Mr. Chairman, I want to correct the record.

Earlier in the day a member of the minority asserted that two prominent law enforcement groups had taken a position opposed to the bill. To the contrary, we have checked with both the National Sheriffs' Association and the Fraternal Order of Police and neither group has taken any position on this bill. They are not opposed to the bill.

I think it is important to correct the record on that point as these two groups are -- whose views are important to the members on both sides of aisle.

Chairman Smith. Thank you, Mrs. Adams.

A reporting quorum being present, the question is on reporting the bill favorably to the House.

All those in favor, say aye.

Those opposed, no.

In the opinion of the chair, the ayes have it. The bill, as amended, is ordered reported favorably.

Mr. Conyers. A record vote.

Chairman Smith. A recorded vote has been requested, and the clerk will call the roll.

The Clerk. Mr. Smith?

Chairman Smith. Aye.

The Clerk. Mr. Smith votes aye.

Mr. Sensenbrenner?

Mr. Sensenbrenner. Aye.

The Clerk. Mr. Sensenbrenner votes aye.

Mr. Coble?

[No response.]

The Clerk. Mr. Gallegly?

Mr. Gallegly. Aye.

The Clerk. Mr. Gallegly votes aye.

Mr. Goodlatte?

Mr. Goodlatte. Aye.

The Clerk. Mr. Goodlatte votes aye.

Mr. Lungren?

Mr. Lungren. Aye.

The Clerk. Mr. Lungren votes aye.

Mr. Chabot.

Mr. Chabot. Aye.

The Clerk. Mr. Chabot votes aye.

Mr. Issa?

Mr. Issa. Aye.

The Clerk. Mr. Issa votes aye.

Mr. Pence?

[No response.]

The Clerk. Mr. Forbes?

Mr. Forbes. Aye.

The Clerk. Mr. Forbes votes aye.

Mr. King?

Mr. King. Aye.

The Clerk. Mr. King votes aye.

Mr. Franks?

Mr. Franks. Aye.

The Clerk. Mr. Franks votes aye.

Mr. Gohmert?

[No response.]

The Clerk. Mr. Jordan?

Mr. Jordan. Yes.

The Clerk. Mr. Jordan votes aye.

Mr. Poe?

Mr. Poe. No.

The Clerk. Mr. Poe votes no.

Mr. Chaffetz?

[No response.]

The Clerk. Mr. Griffin?

Mr. Griffin. Yes.

The Clerk. Mr. Griffin votes aye.

Mr. Marino?

Mr. Marino. Aye.

The Clerk. Mr. Marino votes aye.

Mr. Gowdy?

Mr. Gowdy. Yes.

The Clerk. Mr. Gowdy votes aye.

Mr. Ross?

Mr. Ross. Aye.

The Clerk. Mr. Ross votes aye.

Mrs. Adams?

Mrs. Adams. Yes.

The Clerk. Mrs. Adams votes aye.

Mr. Quayle?

[No response.]

The Clerk. Mr. Amodei?

Mr. Amodei. Yes.

The Clerk. Mr. Amodei votes aye.

Mr. Conyers?

Mr. Conyers. No.

The Clerk. Mr. Conyers votes no.

Mr. Berman?

Mr. Berman. No.

The Clerk. Mr. Berman votes no.

Mr. Nadler?

[No response.]

The Clerk. Mr. Scott?

Mr. Scott. No.

The Clerk. Mr. Scott votes no.

Mr. Watt?

Mr. Watt. No.

The Clerk. Mr. Watt votes no.

Ms. Lofgren?

Ms. Lofgren. No.

The Clerk. Ms. Lofgren votes no.

Ms. Jackson Lee?

Ms. Jackson Lee. No.

The Clerk. Ms. Jackson Lee votes no.

Ms. Waters?

Ms. Waters. No.

The Clerk. Ms. Waters votes no.

Mr. Cohen?

Mr. Cohen. No.

The Clerk. Mr. Cohen votes no.

Mr. Johnson?

Mr. Johnson. Nay.

The Clerk. Mr. Johnson votes no.

Mr. Pierluisi?

Mr. Pierluisi. No.

The Clerk. Mr. Pierluisi votes no.

Mr. Quigley?

Mr. Quigley. No.

The Clerk. Mr. Quigley votes no.

Ms. Chu?

[No response.]

The Clerk. Mr. Deutch?

Mr. Deutch. No.

The Clerk. Mr. Deutch votes no.

Ms. Sanchez?

Ms. Sanchez. No.

The Clerk. Ms. Sanchez votes no.

Mr. Polis?

Mr. Polis. No.

The Clerk. Mr. Polis votes no.

Chairman Smith. Are there any other members who wish to be recorded?

If not, the clerk will report.

The Clerk. Mr. Chairman, 17 members voted aye, 15 members voted nay.

Chairman Smith. The ayes have it, and the bill, as amended, is ordered to be reported favorably.

Without objection, the bill will be reported as a single amendment in the nature of a substitute incorporating amendments adopted, and the staff is authorized to make technical and conforming changes. Members will have 2 days to submit views.

Let me thank the members for participating in a markup today. It has been a long one but a worthwhile one, and we stand adjourned.

[Whereupon, at 5:45 p.m., the committee was adjourned.]