

RPTR ZAMORA

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MARKUP OF:

H.R. 5422, TO ENSURE FUNDING FOR THE NATIONAL HUMAN TRAFFICKING
HOTLINE, AND FOR OTHER PURPOSES; AND

H.R. 1669, THE JUDGMENT FUND TRANSPARENCY ACT OF 2015

Wednesday, November 16, 2016

House of Representatives,
Committee on the Judiciary,
Washington, D.C.

The committee met, pursuant to call, at 11:17 a.m., in Room 2237, Rayburn House Office Building, Hon. Bob Goodlatte [chairman of the committee] presiding.

Present: Representatives Goodlatte, Smith, Chabot, Issa, King, Franks, Gohmert, Jordan, Chaffetz, Marino, Gowdy, Labrador, Farenthold, Walters, Buck, Ratcliffe, Trott, Bishop, Conyers, Nadler, Lofgren, Jackson Lee, Cohen, Bass, DelBene, Jeffries, Cicilline, and Peters.

Staff Present: Shelley Husband, Staff Director; Branden Ritchie, Deputy Staff Director; Zach Somers, Parliamentarian and General Counsel; Ryan Breitenbach, Counsel, Subcommittee on Crime, Terrorism, Homeland Security, and Investigations; John Coleman, Counsel, Subcommittee on the Constitution and Civil Justice; Alley Adcock, Clerk; Perry Apelbaum, Minority Chief Counsel and Staff Director; Danielle Brown, Minority Chief Legislative Counsel; James Park, Minority Chief Constitution and Antitrust Counsel; David Greengrass, Minority Counsel; Matthew Morgan, Minority Counsel; Joseph Ehrenkrantz, Minority Legislative Aide; Elizabeth McElvein, Minority Professional Staff; Aaron Hiller, Minority Chief Oversight Counsel; Veronica Eligan, Minority Professional Staff; Joseph Graupensperger, Minority Chief Crime Counsel; and Mauri Gray, Minority Detailee.

Chairman Goodlatte. Good morning. The Judiciary Committee will come to order.

And, without objection, the chair is authorized to declare a recess at any time.

Pursuant to notice, I now call up H.R. 5422 for purposes of markup and move that the committee report the bill favorably to the House.

The clerk will report the bill.

Ms. Adcock. H.R. 5422, to ensure funding for the National Human Trafficking Hotline, and for other purposes.

Chairman Goodlatte. Without objection, the bill is considered as read and open for amendment at any time.

[The bill follows:]

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

Chairman Goodlatte. And I will begin by recognizing myself for an opening statement.

Today, we consider H.R. 5422, a bill to ensure funding for the National Human Trafficking Hotline, and for other purposes. This bill corrects an inadvertent change made in the Justice for Victims of Trafficking Act of 2015 that caused grant funding for the National Human Trafficking Hotline to be processed through the Department of Justice rather than through the Department of Health and Human Services, as it had been historically.

The National Human Trafficking Resource Center is a toll-free hotline available to answer calls from anywhere in the United States 24 hours a day, 7 days a week, in more than 200 languages. The hotline's mission is to connect trafficking victims and survivors to critical support services and to equip the anti-trafficking community with the tools to effectively combat all forms of human trafficking.

This bill was introduced on June 9, 2016, by Congressman Ted Poe, who has been a tireless advocate for the prevention of human trafficking and for trafficking victims. This morning, we are keeping Congressman Poe in our prayers as he undergoes treatment for leukemia. He is a tremendous asset to this committee, and I am confident that his tenacious spirit will help him through a quick recovery.

I thank Congressman Poe for sponsoring this legislation that corrects an inadvertent oversight, and I urge my colleagues to support the bill.

It is now my pleasure to recognize the ranking member of the

committee, the gentleman from Michigan, Mr. Conyers, for his opening statement.

Mr. Conyers. Thank you, Chairman Goodlatte.

And, members of the committee, H.R. 5422 is a bipartisan measure intended to ensure funding for the National Human Trafficking Hotline. This commonsense bill would direct funding to the Department of Health and Human Services to administer the grant money for this hotline.

The crime of human trafficking is, of course, a terrible scourge that deprives people of their dignity, humanity, and freedom. Men, women, even children are held here against their will. They are often repeatedly beaten, starved, drugged, and forced to perform unspeakable acts under the threat of more brutality against themselves or to their loved ones.

Unfortunately, this awful crime continues to grow and spread because many victims are unable or afraid to leave those who hold them captive. Those who are able to escape their captors often fear retribution if they cooperate with law enforcement.

One mechanism Congress established to help victims of trafficking is the 24-hour national hotline operated by the National Human Trafficking Resource Center. The hotline provides critical care and tends to the needs of victims and survivors of human trafficking in the United States, its territories, and in more than 200 different languages.

The Resource Center connects victims to services they need immediately and other legal advice and safe havens and to services that

can help them recover, including counselors and medical providers.

The Center not only handles calls for potential trafficking victims but also from law enforcement officers and officials, medical and legal professionals, legislators, and community members seeking to combat human trafficking. In 2015, the Center responded to more than 5,500 cases of human trafficking and received about 1,500 online reports of suspected human trafficking.

H.R. 5422 simply corrects an error created by an inadvertent change in the funding source for the hotline made by the Justice for Victims Act of 2015, which mistakenly directed funding from the hotline to the Justice Department instead of the Department of Health and Human Services, which is the agency actually responsible for funding the hotline.

I fully support H.R. 5422 and commend my colleagues, the already-mentioned gentleman from Texas, Mr. Poe, as well as the gentlelady from Texas too, Ms. Jackson Lee, Sheila Jackson Lee, for their diligent work on this bill and other efforts to combat human trafficking. I commend them both.

As we look forward to the next Congress, it is my hope, Mr. Chairman, that we will continue to find common ground on issues of mutual concern and work together to enact bipartisan bills such as this one. And so, accordingly, I urge adoption of this bill today.

And I yield back the balance of my time. Thank you.

Chairman Goodlatte. Thank you, Mr. Conyers.

And, without objection, all other opening statements will be made

a part of the record.

Are there any amendments to H.R. 5422?

For what purpose does the gentlewoman from California seek recognition?

Ms. Bass. Mr. Chair, I move to strike the last --

Chairman Goodlatte. We've been away for a little while.

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

Chairman Goodlatte. The gentlewoman is recognized for 5 minutes.

Ms. Bass. Thank you.

Mr. Chair, I also join with you in extending our best wishes and prayers to Judge Poe and commend his leadership on this issue. I was very happy to see this bill that will correct and move the funding from the Department of Justice to HHS.

This committee has worked on the issue of human trafficking and understands that it is a crime where victims can be found in districts and around the globe. Programs like the National Human Trafficking Hotline are designed to assist in identifying, preventing, and rescuing girls, boys, women, and men who have been trafficked.

A particular focus that I have worked on with other members of this committee is the trafficking of children and especially those children who are involved in the foster care system.

In Los Angeles, several years ago, 59 percent of the children arrested on prostitution-related charges were in the foster care system. Fortunately, in Los Angeles, as in many other cities, we are

beginning to look at the issue differently now, and children are not arrested anymore. Children who are found to be trafficked are actually triaged into services. And our country in general is becoming far more enlightened about how to address this issue.

One of the things that we are also beginning to do in the Los Angeles area is to involve the community, in particular the faith community, in identifying underage children that are trafficked and teaching pastors and other faith leaders how to identify trafficking victims. And the hotline is one of the things that we direct them to, in terms of a concrete activity where they can get involved in helping in the rescue of children.

One of the issues that I hope that this committee addresses in the future in regard to trafficking is shelter, because we know that one of the main reasons why -- whether it is a child or an adult goes back to the trafficker is because they don't have anyplace to go. So I am hoping that in the future we will begin to tackle that issue.

The other thing about reverting the funding back to HHS, I am hoping that it will allow for the better coordination and actually increasing of resources, because it is possible that the hotline funding can be aligned with other programs that address at-risk populations, including children.

And I yield back the balance of my time. Thank you.

Chairman Goodlatte. The chair thanks the gentlewoman.

Are there any amendments to H.R. 5422?

All right. Given the lack of a reporting quorum, further

proceedings on H.R. 5422 will be postponed.

Pursuant to notice, I now call up H.R. 1669 for purposes of markup and move the committee report the bill favorably to the House.

The clerk will report the bill.

Ms. Adcock. H.R. 1669, to amend title 31, United States Code, to provide for transparency for payments made from the Judgment Fund.

Chairman Goodlatte. Without objection, the bill is considered as read and open for amendment at any time.

[The bill follows:]

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

Chairman Goodlatte. I will begin by recognizing myself for an opening statement.

The Judgment Fund was originally set up to provide a mechanism for the Federal Government to pay damages to parties in a timely manner who have been harmed by the Federal Government. The purpose of the Judgment Fund is thus a good one, but the administration of it must be more transparent.

H.R. 1669, the Judgment Fund Transparency Act, is as much about disclosure to the public of information about government activities as it is about oversight. Indeed, given the requirements set out by the Judgment Fund statute and in light of recent cases, it is clear that greater oversight is needed with regard to government litigation and resulting payments made by the government. In this respect, H.R. 1669 is intended to protect the institutional integrity of this body as it relates to the power of the purse.

James Madison in Federalist No. 58 stated, "The House of Representatives cannot only refuse but they alone can propose the supplies requisite for the support of government. They, in a word, hold the purse, that powerful instrument by which we behold, in the history of the British Constitution, an infant and humble representation of the people gradually enlarging the sphere of its activity and importance and finally reducing, as far as it seems to have wished, all the overgrown prerogatives of the other branches of government."

Under the current Judgment Fund statute, a final judgment or a

settlement against the government will be paid out of the Judgment Fund as long as three conditions are met. First, payment must not be otherwise provided for. Second, the Secretary of the Treasury must certify payment. And, third, the judgment must be payable according to one of several specified statutory provisions.

These provisions provide a finite set of circumstances in which the Judgment Fund may be used. However, reports about recent payments from the Judgment Fund have questioned whether the fund is being used appropriately. In order for Congress to properly do its job of exercising oversight over the Judgment Fund, we need to have more information about the payments being made from the fund. For these reasons, I strongly support this bill.

And, at this time, I am pleased to recognize the ranking member of the committee, the gentleman from Michigan, for his opening statement.

Mr. Conyers. Thank you, Chairman Goodlatte.

Members of the committee, while the purpose of H.R. 1669, the Judgment Fund Transparency Act, is ostensibly to promote greater transparency in government, I fear that its real purpose may be once again to attack the Obama administration's integrity.

The bill would require the Treasury Department to publicly disclose via the Internet various details about payments it makes on claims paid out of the Judgment Fund, most of which is already available on the Department's Web site.

I question the impetus for the bill, which seems to be assertions

by some that the Obama administration's payment of money to Iran to settle longstanding, prerevolutionary legal claims was somehow illegitimate. If that is the case, I reject such a premise and hope that most of the committee will do as well.

To begin with, no one can dispute that the administration's use of the Judgment Fund to settle Iranian claims against the United States earlier this year was perfectly legal. The State Department negotiated a \$1.7 billion deal to settle claims between the United States and prerevolutionary Iran, which included \$1.3 billion in interest paid out of the Judgment Fund.

In 1989, Justice Department opinion makes clear that the State Department may seek payment from the Judgment Fund to pay claims or settlements stemming from matters before the U.S.-Iran Claims Tribunal, as was the case here. Indeed, Professor Paul Figley, the witness of the majority, acknowledged that, and I quote, "the Obama administration had the authority under the Judgment Fund statute to pay and settle the Iranian claim with interest," end quotation.

In addition to being perfectly legal, the Obama administration's actions actually saved American taxpayers billions of dollars. I know that \$1.3 billion sounds like a large sum for interest payments, and it is; but the United States, however, could have owed Iran billions more for over 30 years' worth of interest on the principal owed to Iran if we had not settled those claims when we did. The Iran payments demonstrate that the Obama administration acted prudentially to protect American taxpayers.

And, finally, contrary to what some critics claim, the administration has been fully transparent. The Iran payments were disclosed to the public at the time that they were made. The Obama administration announced the Iran payments when they were made in January of 2016, and there is no doubt that the administration made no effort to hide them.

And so there is no support for any characterization of these payments as ransom. While the Obama administration has acknowledged that it withheld payments to ensure that Iranians followed through on the release of four of our own American prisoners, these negotiations were carried out by separate teams and were unrelated.

In short, the Obama administration's actions regarding the Iran payments, by themselves, do not justify additional scrutiny of the Judgment Fund.

I thank the chair and yield back the balance of my time.

Chairman Goodlatte. The chair thanks the gentleman.

Without objection, I would like to submit for the record statements by Representative Chris Stewart, the chief sponsor of this legislation, and by Senator James Lankford. Without objection, they will be made a part of the record.

[The statement of Mr. Stewart follows:]

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

[The statement of Senator Lankford follows:]

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

Chairman Goodlatte. Are there any amendments to H.R. 1669?

For what purpose does the gentleman from Arizona seek recognition?

Mr. Franks. Mr. Chairman, I have a statement.

Chairman Goodlatte. I think you have a substitute.

Mr. Franks. Okay. May I make a statement before I do the substitute?

Chairman Goodlatte. Yes, you may make a statement. The gentleman is recognized for 5 minutes.

Mr. Franks. Yes, sir.

Mr. Chairman, the Constitution states that, quote, "no money shall be drawn from the Treasury but in consequence of appropriations made by law." This power over the purse, James Madison stated in Federalist Paper No. 58, quote, "may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people for obtaining a redress of every grievance and for carrying into effect every just and salutary measure."

It is clear that our Nation's founding generation understood that establishing popular control over government finance would provide an essential check on the executive branch. The tyrannical assertion by the authority, by the British Crown, as detailed in our Declaration of Independence, no doubt fostered distrust of unelected officials who were not directly accountable to the people.

Nevertheless, Congress has over time delegated its fiscal

responsibilities to the executive branch, particularly with regard to the payment of litigation awards against the United States. In 1956, Congress enacted the Federal Judgment Fund to pay final judgments, quote, "not otherwise provided for by another source of funds."

Over time, Congress has modified the judgment statute to, for example, allow for the payment of compromised settlements of actual or imminent litigation entered into by the Attorney General. Congress has also removed that cap that had restricted the Judgment Fund's availability to a certain threshold amount. Today, the Judgment Fund is described as a, quote, "permanent, indefinite appropriation that requires no congressional action to make payments of any amount for certain claims against the United States."

Certification by the Treasury Department is one of the final administrative steps before the Judgment Fund is available. This process is performed by the Department's financial management service. While not reviewing the merits of the underlying claim in its certification process, it performs the important task, among others, of confirming that the claim is not, quote, "otherwise provided for by another source of funds." In sum, the Treasury Department determines whether the statutory conditions for payment have been met, including the Judgment Fund's legal availability.

As the Judgment Fund's gatekeeper, the Treasury Department also maintains the information provided by agencies seeking payment. While the U.S. Treasury Department provides an online database, quote, "for the purpose of tracking the status of approved Judgment Fund payments,"

it is difficult to search, fields are incomplete, and it provides little information useful to the general public. For example, the names of plaintiffs are not used. The names of plaintiffs' counsel are also not listed. Without such information, there is little context provided for the listed payment amounts.

H.R. 1669, the Judgment Fund Transparency Act, introduced by Congressman Chris Stewart, is a commonsense bill intended to make publicly available certain information regarding claims paid for the Judgment Fund. It codifies and improves the service that the Treasury Department is providing, and I would ask all members to support this important bill, Mr. Chairman.

And, finally, I would offer an amendment in the nature of a substitute that will require additional information be made publicly available for payments to foreign states. And I plan to have a more detailed description of this amendment once it is offered.

And thank you, Mr. Chairman.

Chairman Goodlatte. For what purpose does the gentleman from Tennessee seek recognition?

Mr. Johnson. I would like to make an opening statement.

Chairman Goodlatte. The gentleman is recognized for 5 minutes.

Mr. Johnson. Thank you, Mr. Chair.

When this bill came before us, there was concern on my part and others' that this was a failed attempt to question the Iran agreement and the administration. And while I am in favor of transparency and continue to be and will always be, I had some problems with it at the

time for that reason.

Of course, a lot of things have changed. And I hope that, as things have changed, that those who were prominent in talking about and having a special subcommittee on oversight of excessive government regulations and oversight of the executive will still have that concern about legislative prerogative and about Article I.

I think this committee has the potential to be very bipartisan in standing up for Article I, which is an article that I am not sure is known on 5th Avenue and 56th Street. I don't think they know what Article I is. And Article I is us. And we are going to have, as the Judiciary Committee, an important role in making sure that the executive doesn't run over the legislative branch, the judicial branch, and every other branch.

So it will be interesting in the next 4 years to see how much we do that. I hope my colleagues will join me in having great oversight over the executive. I am in favor of transparency. This is transparent. We need as much transparency as we can get with this new administration that seems to have very little concern about transparency and very little concern about tradition.

And the Constitution is something that is a tradition. It is more than a tradition; it is what we swear an oath to uphold. And Article I is the first article. So I look forward to all the people who have brought bills. And we have had hearings on the importance of oversight, on the importance of this committee standing up for legislative authority, knowing that this is the body that the

people -- it is the People's House, the most direct election.

So I will favor this bill. It is much similar to a bill that I have, where I was the lead Democratic sponsor on the Open Book on Equal Access to Justice Act, which I think Ms. Lummis and I sponsored and which passed and was a good bill, a good compromise.

And so I thank the chairman, and I look forward to working on this committee as a strong, strong check for the American public on what could be a very unusual 4 years.

I yield back the balance of my time.

Chairman Goodlatte. The chair thanks the gentleman.

And I now recognize the gentleman from Arizona for purposes of offering an amendment in the nature of a substitute.

Mr. Franks. Well, thank you, Mr. Chairman.

Mr. Chairman, in early September, the Subcommittee on the Constitution and Civil Justice --

Chairman Goodlatte. If the gentleman would suspend, the clerk will report the amendment.

Ms. Adcock. Amendment in the nature of a substitute to H.R. 1669, offered by Mr. Franks. Strike all that follows after the enacting clause --

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

[The amendment of Mr. Franks follows:]

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

Chairman Goodlatte. And I will now recognize Mr. Franks to explain the amendment.

Mr. Franks. All right. Thank you, Mr. Chairman.

Mr. Chairman, in early September, the Subcommittee on the Constitution and Civil Justice heard a hearing titled "Oversight of the Judgment Fund: Iran, Big Settlements, and the Lack of Transparency." At the hearing, witnesses expressed support for H.R. 1669, the, quote, "Judgment Fund Transparency Act," a bill that would statutorily require information making public payments about the Judgment Fund.

Professor Figley, for example, stated, quote, "Maintaining a fog around the Judgment Fund payments undercuts the transparency that makes for better government. No strong governmental interest supports keeping Judgment Fund information secret. Routine publication of Judgment Fund payments would bring the disinfecting sunlight of disclosure and would discourage payments made for illegitimate or irrelevant reasons."

Professor Kinkopf of the Democrat-invited witnesses at the hearing stated in his written testimony, the information that H.R. 1669 would, quote, "require the executive to disclose would allow the public and Congress to monitor the use of the Judgment Fund and to have some basis for identifying instances of overreach," unquote. He further stated that the bill was a modest measure that respects the constitutional separation of powers while allowing Congress to fulfill its constitutional responsibilities.

My amendment to H.R. 1669 is very much in line with the underlying purpose of the bill, which is increased transparency and accountability with regard to the final judgment of the settlements paid by the Judgment Fund. Indeed, this amendment ensures that the Treasury Department continues to make public data that includes but is not limited to the following data fields: the docket number, the court jurisdiction, the payment ID number, and the date the payment was sent. It also includes information about the payment amounts, including the principal amount, attorneys' fees, and the cost and interest amount.

Further, this amendment would require that additional information be made public if the funds are being paid to a foreign state, including the method of payment, the currency used, and the name and location of financial institutions the payment is routed through to reach the foreign state.

And, finally, Mr. Chairman, this amendment makes it clear that the disclosure of information required in this bill is not considered a violation of title 5 of the United States Code except with regard to children under the age of 18. This particular provision is in direct response to Professor Figley's testimony, in which he stated that the Treasury Department refused to release the names of claimants or individual attorneys in Freedom of Information Act requests, claiming that such information violated title 5.

As Professor Figley points out, for the purposes of comparison, that a, quote, "matter of policy, the Department of Justice will not agree to settlements or consent decrees that contain confidentiality

provisions," unquote. Moreover, I agree with his statement that there is, quote, "little reason to keep successful claimants from being identified as successful claimants."

And, with that, Mr. Chairman, I would just urge all members to support this amendment, which improves on this much-needed transparency bill.

Mr. Conyers. Mr. Chairman?

Chairman Goodlatte. For what purpose does the gentleman from Michigan seek recognition?

Mr. Conyers. I rise with some concerns about the substitute amendment.

Chairman Goodlatte. The gentleman is recognized for 5 minutes.

Mr. Conyers. Thank you very much.

Members of the committee, to begin with, it contains in this substitute a broadly worded provision that may erode personal privacy protections. Let me explain.

Specifically, this provision would deem the disclosure of information required by the legislation as not being a clearly unwarranted invasion of personal privacy for the purposes of title 5 of the United States Code. This broad reference to title 5 could be construed to sweep away personal privacy protections under the Privacy Act and the Freedom of Information Act and maybe even some other statutes.

Any legislation that obliges the government to publish information, and especially private information, about individuals

without their explicit consent should give every single member of this committee some excuse to pause and rethink where we are going with this substitute amendment.

I acknowledge that a person's name or the facts of his or her lawsuit, which may contain personally identifying information, is in many instances a matter of public record. There may be cases, however, where there is a strong public interest in maintaining privacy protections. Whistleblowers, for instance, may be dissuaded from filing suit against the government for misconduct if they fear retaliation after being identified in a disclosure under this bill. At a minimum, we should think carefully about the full ramification of what seems on its face, at least, to be a broad exemption to existing privacy protections.

In addition, I am concerned that the substitute amendment may make it impossible for the Treasury Department to comply with its requirements. Under the amendment, the Treasury Department must publish information for any payment from the Judgment Fund within 30 days of such payment, including claims paid from January 1, 2016, onward.

The problem, of course, is that for many claims paid since January 1 of this year, we are now well past the 30-day disclosure deadline. Even if the bill were to become law tomorrow, the Treasury Department --

Chairman Goodlatte. Would the gentleman suspend?

The committee needs to be in order. The gentleman deserves our

attention.

Mr. Conyers. Even if this bill were to become law tomorrow, the Treasury Department would already be out of compliance with its disclosure requirements for every Judgment Fund payment made prior to October 19, 2016.

Also, it is far from clear that the bill's 60-day delayed effective date would give the Treasury Department sufficient opportunity to comply. This effective date provision, after all, does not specifically reference the retroactively applied 30-day reporting deadline.

Finally, I question why we are proceeding so quickly with this bill, particularly given the lack of process. Had we more time to properly vet this substitute amendment, the text of which we only received last Thursday evening, perhaps some of the concerns I raised could have been addressed. And we have had no legislative hearings on the underlying bill itself, let alone the substitute amendment.

And so I plead with every member of this committee and hope that we can work together to address these concerns before this bill moves further in the legislative process.

I thank the chairman, and I yield back.

Chairman Goodlatte. Are there any amendments to the amendment?

Mr. Conyers. Mr. Chairman, may I ask unanimous consent to include the letter from the Professor Kinkopf, the professor of law?

Chairman Goodlatte. Without objection, the letter will be made a part of the record.

Mr. Conyers. Thank you.

[The letter follows:]

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

Chairman Goodlatte. Are there any amendments to the amendment in the nature of a substitute?

For what purposes the does the gentleman from Iowa seek representation?

Mr. King. Mr. Chairman, I have an amendment at the desk numbered 360.

Chairman Goodlatte. The clerk will report the amendment.

Ms. Adcock. Amendment to the amendment in the nature of a substitute to H.R. 1669, offered by Mr. King of Iowa. Page 1, line 9 --

Chairman Goodlatte. Without objection, the amendment is considered as read.

[The amendment of Mr. King follows:]

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

Chairman Goodlatte. And the gentleman is recognized for 5 minutes on his amendment.

Mr. King. Thank you, Mr. Chairman.

My amendment just simply goes into the substitute amendment of Mr. Franks and effectively strikes the words "or court order."

And I bring this up because of my concern that we will have judges that simply use what they would call discretion to block information that would otherwise need to be available to this Congress and perhaps to the public. And so the final component of this amendment says no court may issue an order prohibiting the disclosure of information under this subsection unless specifically authorized by statute to issue such order.

And I think it is part of the full disclosure piece of this. And for me, I have had great frustration in trying to get into this Judgment Fund and understand the dollars that are there, where they come from, where they sit, where they go, why this legislation is in front of us. And if we end up with a dark hole that could be creative by activist judges, then I think that it is a potential gap that we would regret if we don't address this today.

And so what I do is just simply prohibit the court from having the discretion to block this information from the public. I would urge its adoption.

And I would yield back the balance of my time.

Ms. Jackson Lee. Mr. Chairman?

Chairman Goodlatte. For what purpose does the gentlewoman from

Texas seek recognition?

Ms. Jackson Lee. To strike the last word.

Chairman Goodlatte. The gentlewoman is recognized for 5 minutes.

Ms. Jackson Lee. Let me join with the ranking member, Mr. Conyers, on some initial concerns, but I want to express the importance of the underlying bill. And I want to share with my good friend from Iowa and those of us who have come back, have the privilege of serving in the next Congress, we are good friends. We have been on this committee for a period of time.

I hold very dear the concept of three branches of government: the legislature, the executive, and, of course, the judiciary. We have some forms of oversight, the three branches, meaning the Congress, Senate and House, in their respective responsibilities, have influence or oversight -- I don't want to use the word "influence" -- oversight in some respective ways over our courts, over the executive, and, certainly, we represent the American people.

I am concerned about the amendment. I am trying to discern what impact it would have on an independent judiciary. What comes to mind is the potential of the judiciary, having facts and petitioners before them, whether it is a governmental agency, making a point that should be respected and that they, in their nonactivist posture but in the adherence to court precedent that may not be statutory, make a decision on the disclosure of information. And it would be up to Congress to counter that in whatever appropriate way that they would do it.

Normally, it would be possibly in its own action or legislative action.

So I am concerned about an amendment that specifically tells a court and judges all courts as being activist, because I don't view courts as being activist, because they can be activist in different ways, and I can see activism one way, and they can see another activism in another way. We hold them as an independent judiciary that can make decisions based on fact, law, precedent, et cetera.

So I would ask the gentleman, why are we having an amendment that is attempting to put these kinds of constraints on an independent judiciary? That is not something that I believe is appropriate. And, as it is explained, I would have to oppose this amendment, unless the gentleman, Mr. King, has any clarifying response.

He is indicating that he is -- his tears are coming out of his eyes, I assume. But I know that the opposition, in our numbers, will not prevail, but I hope the record reflects that this is an amendment that brings about a lot of challenges, and I would be of great concern as to the appropriateness of this amendment, and I think it does disservice to the underlying bill.

With that, I yield back.

[The statements of Ms. Jackson Lee follow:]

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

Chairman Goodlatte. The question occurs on the amendment offered by -- for what purpose does the gentleman from Michigan seek recognition?

Mr. Conyers. Mr. Chairman, I would like to make a statement.

Chairman Goodlatte. The gentleman is recognized for 5 minutes.

Mr. Conyers. First of all, I want to commend the gentlelady from Texas for her keen analysis of some of the problems involved.

And I would like to make it clear, the reason that I have some reluctance that grows the more I study this amendment. This amendment would further erode privacy protections under this bill -- a concern I am already worried about -- by reducing the discretion of the courts. The legislative body, this distinguished committee, is reducing effectively the discretion of the courts to protect sensitive personal information, potentially including that of minor persons.

Now, I hope that this rush to move this forward with so little critical examination -- this is a provision I have never contemplated before. But I would hope that the majority of this committee would join those of us who are opposed to the bill but, much more importantly at this current moment, opposed to this amendment itself. I would urge that you join us in opposing the amendment.

And I thank the chairman for allowing me to get this discussion moved forward in our decisionmaking process. I yield back the balance of my time.

Chairman Goodlatte. The chair thanks the gentleman.

The chair recognizes himself on the amendment and would say to

the gentleman from Iowa that I understand and fully support the intent that the gentleman has in this language. But the chair also shares some of the concerns just identified by the ranking member about certain types of information, that if there is not some kind of discretion left to the court with regard to a settlement involving sexual abuse of a minor by a government employee that is paid out of a Judgment Fund or -- who knows what types of judgments might require some discretion on the part of the court before the information is simply made publicly available to the Congress.

There might be ways to do it where the Congress gets the information but it is not made public. There might be ways to do it where the court is allowed discretion in certain limited ways but not discretion like the underlying bill seems to allow.

What I would suggest to the gentleman, if he is willing to do so, is that he withdraw the amendment and work with us as we move to the floor to perhaps fine tune this amendment and accomplish the goal that he has without raising the objections that you have just heard.

Mr. King. If the gentleman would yield.

Chairman Goodlatte. I would be happy to yield to the gentleman.

Mr. King. I thank the chairman for his judicious review of this. And I think we are working a little bit, from my standpoint, on a bit of a hurry-up and haven't had the opportunity to look at all of the ramifications. In fact, the chairman says, himself, who knows what might be in these judgment settlements, because that is why the legislation is before us; we don't know.

So I am hopeful that we can give it a real good look and take a look at the national security concerns that my friend Trent Franks has also put into my ear.

And with that in mind and with the preparations of potentially going to the floor, if we could have those discussions, under those conditions, I would be willing to ask unanimous consent to withdraw this amendment and take a look at it if we go to the floor with this bill.

Chairman Goodlatte. Without objection, the amendment is withdrawn.

The chair thanks the gentleman, and we will definitely work with him on his concerns.

Mr. King. Thank you, Mr. Chairman.

Chairman Goodlatte. And I understand the gentleman has another amendment.

Mr. King. Mr. Chairman, I have an amendment at the desk.

Chairman Goodlatte. The clerk will report the amendment.

Mr. Chabot. Mr. Chairman?

Chairman Goodlatte. For what purpose does the gentleman from Ohio seek recognition?

Mr. Chabot. I reserve a point of order.

Chairman Goodlatte. The gentleman reserves a point of order. The clerk will report the amendment.

Ms. Adcock. Amendment to the amendment in the nature of a substitute to H.R. 1669, offered by Mr. King of Iowa. Add, at the end

of the bill, the following --

Chairman Goodlatte. Without objection, the amendment is considered as read.

[The amendment of Mr. King follows:]

***** INSERT 1-6 *****

Chairman Goodlatte. And the gentleman is recognized for 5 minutes on his amendment.

Mr. King. Thank you, Mr. Chairman.

This is a longstanding endeavor on my part, having long looked into the Judgment Fund and the distribution of those funds and come up empty almost every time because we have had an intransigent administration that just refused to cooperate. And I think everybody on this committee has watched witnesses come before this committee and either run out the clock or refuse to answer questions or even take the Fifth.

So, to get to the bottom of the billions of dollars that have been distributed under the Judgment Fund, this underlying substitute amendment of Mr. Franks is prospective, in that it produces a look into it, but not a deep enough look.

And so this amendment calls for a GAO audit, an audit, and that not later than 1 year after the day of the enactment of this act, we would actually have an audit by the Comptroller General of the United States to audit the payment and the amounts. And that report would go to the Judiciary, the Oversight, and the Appropriations Committee in both the House and the Senate.

And that is part of what I believe is the object of this underlying bill, is to put sunlight on the Judgment Fund and also to take out of the hands of the executive branch the ability to transfer funds, whether or not it is their political favorites, that this Congress needs to be appropriating the money. We have to know where it goes before we

can make those decisions. And we should not leave it up to the judgment of the people that are now managing the Judgment Fund.

And I would go further, Mr. Chairman, and suggest that we need to do a GAO study that looks backwards, not only the prospective, the audit going forward, but the retrospective audit going backwards. We should know over, say, the last 10 years what has gone into the Judgment Fund, where it has been distributed, and what is left in that Judgment Fund.

And so I just call for this audit going forward. I don't know that that is even enough to get us the sunlight on this that we need. But I would urge the adoption for this amendment for the GAO audit. The annual audit is simply what the amendment does, and urge its adoption and yield back the balance of my time.

Chairman Goodlatte. Would the gentleman yield?

Mr. King. Yes, I would.

Chairman Goodlatte. I thank the gentleman for yielding.

And, again, I appreciate the gentleman's objective. I think that the problem we have here is that this amendment is beyond the scope of the bill, and, as you know, there will be a motion made to disallow the amendment as nongermane.

However, I think there may be a way to accomplish this that does satisfy the gentleman's concerns. And, again, if the gentleman would be willing to withdraw this amendment, we would be happy to work with him on finding a way to accomplish his objective that still is within the scope of this bill.

Mr. King. Well, and reclaiming my time and recognizing that the ability to request an appropriate GAO study exists within the purview of the chair and the committee and understanding an openness to that request for not only a prospective but a retrospective audit request and an opportunity to work on this as we go to the floor, I would thank the chairman for his indulgence. And I would ask unanimous consent then to withdraw my amendment.

Chairman Goodlatte. The chair thanks the gentleman, and the chair will work closely with him on both these ideas so we can address his concerns. And, without objection, the amendment is withdrawn.

Are there further amendments to the amendment in the nature of a substitute?

The question is on the amendment in the nature of a substitute.

All those in favor, respond by saying aye.

Those opposed, no.

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

A reporting quorum being present, the question is on the motion to report the bill, H.R. 1669, as amended, favorably to the House.

Those in favor, respond by saying aye.

Those opposed, no.

The ayes have it, and the bill, as amended, is ordered reported favorably.

Members will have 2 days to submit views. And, without objection, the bill will be reported as a single amendment in the nature

of a substitute incorporating all adopted amendments. And staff is authorized to make technical and conforming changes.

We will now return to reporting H.R. 5422. A reporting quorum being present, the question is on the motion to report the bill, H.R. 5422, favorably to the House.

All those in favor, respond by saying aye.

Those opposed, no.

The ayes have it, and the bill is ordered reported favorably. Members will have 2 days to submit views.

This completes our business for the day. I thank all the members for their participation and for their expeditious consideration of these bills. And the markup is adjourned.

[Whereupon, at 12:08 p.m., the committee was adjourned.]