

1 NATIONAL CAPITOL CONTRACTING

2 RPTS HASKELL

3 HJU117000

4 MARKUP OF H.R. 115; H.R. 510;

5 H.R. 613; H.R. 1039; H.R. 1892; H.R. 1761

6 Thursday, April 27, 2017

7 House of Representatives,

8 Committee on the Judiciary,

9 Washington, D.C.

10           The committee met, pursuant to call, at 10:20 a.m., in  
11 Room 2141, Rayburn House Office Building, Hon. Bob Goodlatte  
12 [chairman of the committee] presiding.

13           Present: Representatives Goodlatte, Sensenbrenner,  
14 Smith, Chabot, Issa, Franks, Gohmert, Jordan, Poe, Gowdy,  
15 Labrador, Farenthold, Collins, Buck, Ratcliffe, Roby,  
16 Johnson of Louisiana, Biggs, Conyers, Nadler, Lofgren,  
17 Jackson Lee, Cohen, Johnson of Georgia, Deutch, Bass,  
18 Richmond, Jeffries, Cicilline, Swalwell, Lieu, Raskin,  
19 Jayapal, and Schneider.

20           Staff Present: Shelley Husband, Staff Director; Branden

21 Ritchie, Deputy Staff Director; Zach Somers, Parliamentarian  
22 and General Counsel; Bobby Parmiter, Chief Counsel,  
23 Subcommittee on Crime, Terrorism, Homeland Security, and  
24 Investigations; Jason Cervenak, Counsel, Subcommittee on  
25 Crime, Terrorism, Homeland Security, and Investigations; Meg  
26 Barr, Counsel, Subcommittee on Crime, Terrorism, Homeland  
27 Security, and Investigations; Alley Adcock, Clerk; David  
28 Greengrass, Minority Counsel; Danielle Brown, Minority  
29 Counsel; Monalisa Deugeu, Minority Counsel; Matthew Morgan,  
30 Minority Counsel; Elizabeth McElvein, Minority Professional  
31 Staff Member; Keenan Keller, Minority Counsel; Perry  
32 Apelbaum, Minority Chief Counsel; Veronica Eligan, Minority  
33 Professional Staff Member; and Joe Graupensperger, Minority  
34 Counsel.

35 Chairman Goodlatte. The Judiciary Committee will come  
36 to order, and without objection, the chair is authorized to  
37 declare a recess at any time.

38 Pursuant to notice, I now call up H.R. 115 for purposes  
39 of markup, and move that the committee report the bill  
40 favorably to the House.

41 The clerk will report the bill.

42 Ms. Adcock. H.R. 115, to amend title 18, United States  
43 Code to provide additional aggravating factors for the  
44 imposition of the death penalty based on the status of the  
45 victim.

46 [The bill follows:]

47 \*\*\*\*\* INSERT 1 \*\*\*\*\*

48 Chairman Goodlatte. Without objection, the bill is  
49 considered as read and open for amendment at any time, and I  
50 will begin by recognizing myself for an opening statement.

51 Current law provides a list of 16 aggravating factors a  
52 jury is required to consider when deciding whether a death  
53 sentence is warranted in a particular case. These factors  
54 include whether the defendant acted in an especially  
55 heinous, cruel, or depraved manner; whether the defendant  
56 engaged in substantial planning and premeditation; whether  
57 the victim was particularly vulnerable; or whether the  
58 victim was a high public official. High public official,  
59 for purposes of the statute, includes a litany of high-  
60 ranking public persons, from the President, to a foreign  
61 head of state, to a judge or a law enforcement officer.

62 Currently, however, the law only contains specific  
63 protections for Federal officers, not State or local  
64 officers. H.R. 115, the Thin Blue Line Act, amends Federal  
65 law to add the killing of a State or local law enforcement  
66 officer as an aggravating factor for a jury to determine,  
67 during the sentencing phase of a trial, when the jury is  
68 considering whether a sentence of death is justified.

69 This legislation enjoys broad support in the law  
70 enforcement community, and it is easy to understand why.  
71 From Seattle to Dallas to New York City, in recent years,  
72 police officers have laid down their lives in the service of

73 their communities. They serve every day, often with little  
74 to no recognition or support. According to the National Law  
75 Enforcement Officers Memorial Fund, 41 police officers have  
76 died in the line of duty already this year.

77 Now, it is true that the scenarios where this provision  
78 applies may be limited. It is true that the vast majority  
79 of homicide cases are prosecuted in State courts. It is  
80 also true that the circumstances where a defendant killed a  
81 State or local law enforcement officer during the commission  
82 of a Federal capital offense are probably limited. But this  
83 legislation is, nonetheless, vitally important in the  
84 scenarios where it will apply. For example, it would likely  
85 apply in some terrorism cases.

86 We all remember that the terrorist who bombed the  
87 Boston Marathon killed an MIT police officer during their  
88 flight from justice. It also may apply to situations where  
89 a State or local officer is killed serving as a member of a  
90 Federal taskforce.

91 Moreover, this legislation sends a simple message: the  
92 stalking and killing of law enforcement officers must not,  
93 and will not, be tolerated. H.R. 115 is a good bill that  
94 will provide the men and women of law enforcement, who serve  
95 and protect our communities every day, with the support they  
96 deserve.

97 As we move towards 2017 Police Week, I urge my

98 colleagues to support this important legislation.

99           It is now my pleasure to recognize the ranking member  
100 of the Judiciary Committee, Mr. Conyers of Michigan, for his  
101 opening statement.

102           [The prepared statement of Chairman Goodlatte follows:]

103 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

104 Mr. Conyers. Thank you, Chairman Goodlatte. Members  
105 of the House Judiciary Committee, the intentions of H.R.  
106 115, the Thin Blue Line Act, is, maybe, admirable. But I  
107 support providing a deterrent to protect our first  
108 responders. But make no mistake, this is a death penalty  
109 bill. As such, we should give this legislation the serious  
110 scrutiny merited by a sentence with such finality and  
111 history of disproportionate minority application.

112 In the first place, there has been no demonstration of  
113 a need for an additional aggravating factor in death penalty  
114 cases to address attacks on law enforcement or first  
115 responders. While the committee has held no hearings on  
116 this legislation, a review of recent Federal prosecutions  
117 does demonstrate that Federal prosecutors already have the  
118 tools they need to seek the death penalty in cases involving  
119 the killing of law enforcement officers or first responders.

120 For example, in the Boston Marathon bombing case, the  
121 defendant, Dzhokhar Tsarnaev, was found guilty and sentenced  
122 to death in Federal court for his role in the bombing. In  
123 this case, the death penalty was only available in Federal  
124 court because the State of Massachusetts has abolished the  
125 death penalty.

126 In States that permit capital punishment, the death  
127 penalty is already available for killings of law enforcement  
128 or first responders, and States that do not have the death

129 penalty treat killings of law enforcement or first  
130 responders as they do their most highly-aggravated offenses,  
131 providing for life without parole sentencing.

132 In addition, this bill has the potential to unsettle  
133 the constitutional framework around capital punishment.  
134 When the Supreme Court sought to untangle the array of State  
135 death penalty statutes in the early-1970s, the major  
136 objective was to end the arbitrary application of capital  
137 sentences. In *Furman v. Georgia* and *Gregg v. Georgia*, the  
138 court developed the doctrine of narrowing, which allows  
139 States to specify aggravating circumstances or factors to  
140 determine whether any eligible defendant was particularly  
141 worthy of the death penalty.

142 This doctrine is reflected in the Federal system in  
143 section 3592 of the criminal code with 16 enumerated  
144 aggravating factors for Federal death penalty-eligible  
145 offenses. H.R. 115 would add a 17th aggravating factor to  
146 the list.

147 By continuing to add aggravating factors, Congress  
148 continues to broaden the scope of the death sentence, where  
149 it can reach such general application that we transgress the  
150 lines defined by the court in *Furman v. Georgia*. Experts in  
151 capital jurisprudence have called this aggravator creep.

152 The lawyer and author Scott Turow describes the emotion  
153 and politics behind the process, and here is what he said:

154 "The furious heat of grief and rage the worst cases inspire  
155 will inevitably shortcut our judgment, and the fundamental  
156 equality of each survivor's loss, the manner in which the  
157 wayward imaginations of criminals continue to surprise us,  
158 will inevitably cause the categories for death eligibility  
159 to expand a slippery slope of what-about-hims."

160       Now, finally, all of us realize that next week is  
161 Police Week and that we will be visited by our constituents  
162 in law enforcement. Rather than continuing to use the death  
163 penalty as a political tool, let's enact real reform  
164 measures that will protect law enforcement, first  
165 responders, and their communities.

166       Mr. Chairman, over the last year, and particularly last  
167 week in Houston, we have engaged in important, bipartisan  
168 discussions about how to improve public safety. I hope we  
169 can move away from these kinds of messaging bills and bring  
170 our important work from the policing taskforce before the  
171 full committee.

172       And for these reasons, I urge my colleagues to oppose  
173 this legislation, and I thank the chairman, and yield back  
174 the balance of my time, if there is any.

175       [The prepared statement of Mr. Conyers follows:]

176 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

177 Chairman Goodlatte. The chair thanks the gentleman.

178 Are there any amendments?

179 For what purpose does the gentleman from Colorado seek  
180 recognition?

181 Mr. Buck. Mr. Chairman, I have an amendment at the  
182 desk.

183 Chairman Goodlatte. The clerk will report the  
184 amendment.

185 Ms. Adcock. Amendment to H.R. 115 offered by Mr. Buck.

186 Page 1, line 8 --

187 [The amendment of Mr. Buck follows:]

188 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

189 Chairman Goodlatte. Without objection, the amendment  
190 is considered as read, and the gentleman is recognized for 5  
191 minutes on his amendment.

192 Mr. Buck. Thank you, Mr. Chairman. I am introducing  
193 an amendment to strengthen the core purpose of this  
194 important piece of legislation. My amendment will  
195 strengthen the legislation by adding targeting of law  
196 enforcement officers, prosecutors, firefighters, and first  
197 responders to the list of aggravating factors to be  
198 considered during a Federal death penalty case.

199 Our law enforcement officers, firefighters, and first  
200 responders are the fabric that holds our communities  
201 together. They protect and serve, no matter how dangerous  
202 the job is. In turn, it is our job to protect them and  
203 ensure they are not targeted for violence simply because of  
204 the uniform they wear.

205 My friend and colleague, Mr. Buchanan, introduced the  
206 Thin Blue Line Act which provides significant new  
207 protections for police officers, firefighters, prosecutors,  
208 and first responders. This bill ensures that murdering or  
209 attempting to murder these brave individuals is considered  
210 an aggravating factor in favor of the death penalty during  
211 jury deliberations.

212 According to the National Law Enforcement Officers  
213 Memorial Fund, there were 66 police shootings, deaths, in

214 2016, up 67 percent from the previous year. The National  
215 Association of Police Organizations also note that ambush-  
216 style killings of law enforcement officers increased by 167  
217 percent in 2016.

218 By instituting harsher penalties for those who would  
219 target law enforcement officers, we will provide a strong  
220 deterrent against these senseless acts of violence. We must  
221 protect the men and women who serve our communities and  
222 deter those who would target our law enforcement and first  
223 responders while they are on duty or because of their status  
224 as a law enforcement officer or first responder.

225 I encourage all members to support my amendment and  
226 passage of this bill. Thank you, and I yield back the  
227 remainder of my time.

228 Chairman Goodlatte. Would the gentleman yield? Would  
229 the gentleman yield?

230 Mr. Buck. Yes.

231 Chairman Goodlatte. I want to thank the gentleman for  
232 yielding. This amendment offered by the gentleman from  
233 Colorado makes minor but important changes to H.R. 115.  
234 Specifically, the amendment adds the words "or targeted" to  
235 the legislation in two places to clarify that the  
236 aggravating factor established by the bill applies to  
237 situations where the victim was killed or targeted because  
238 of his or her status as a police officer.

239           This is needed, because the statute amended by H.R.  
240 115, which applies to crimes carrying a capital sentence,  
241 could of course include situations where the defendant did  
242 not necessarily kill the victim outright. For example, this  
243 amendment would ensure the law applies to defendants who  
244 intentionally inflict serious bodily injury that results in  
245 the death of the victim. In such a situation, it would be  
246 appropriate for the jury to determine whether the victim was  
247 targeted because of his or her status as a police officer.

248           I support the gentleman's amendment because it improves  
249 the legislation to ensure it fully protects our men and  
250 women in blue.

251           For what purpose does the gentlewoman from Texas seek  
252 recognition?

253           Ms. Jackson Lee. Mr. Chairman, to strike the last  
254 word.

255           Chairman Goodlatte. The gentlewoman is recognized for  
256 5 minutes.

257           Ms. Jackson Lee. Mr. Chairman, there is no doubt of  
258 the bipartisan respect and honor for our first responders,  
259 including our firefighters. There is no lacking in stories  
260 of heroism, across America, by members of the United States  
261 Congress and neighbors and friends and local elected  
262 persons, who rely upon them to serve their cities and  
263 counties and States.

264 I have concerns about the Thin Blue Line Act of 2017,  
265 though I certainly adhere to the opposition to targeting  
266 first responders, including firefighters, as we have done  
267 with police officers. These many brave men and women serve  
268 our country proudly and place themselves in harm's way while  
269 saving lives and protecting our communities.

270 Last week, we had the opportunity to be engaged in my  
271 district, as Mr. Conyers indicated, with law enforcement,  
272 and we were impressed and welcomed the insightful commentary  
273 that they made about how they can serve their community  
274 better, how they can bring peace and tranquility, or at  
275 least bring communities together. Likewise, I am proud of  
276 the first responders in my hometown, for they have done an  
277 amazing job and deserve our support in protecting them.

278 Again, this bill, however, would add to the already 16  
279 existing aggravating factors in 18 U.S.C., which currently  
280 gives great latitude and prosecutorial discretion, another  
281 aggravating factor. This bill is not necessary to achieve  
282 the goal indicated, as the government is armed with the  
283 statutory girth to charge individuals and present before a  
284 jury the death penalty for killing of peace officers and, in  
285 some instances, first responders. Instead, this bill  
286 needlessly duplicates Federal laws that already enhance the  
287 sentences of persons charged with such crimes and invokes an  
288 irrational mechanism to promote the death penalty at a time

289 where public opinion is relatively high in opposition to the  
290 death penalty.

291 We are seeing, as it relates to lethal injections,  
292 companies that are providing the particular dosage and  
293 particular chemical to use for the death are refusing to  
294 sell them to States. Survivors of murder victims often feel  
295 that the death penalty system only prolongs their pain and  
296 does not provide the resolution they need, while the  
297 finality of life sentence without parole allows them to move  
298 on knowing justice is being served.

299 The death penalty, if we think about cost, is extremely  
300 costly, and thus, it would be prudent to ameliorate the  
301 needless and exuberant costs on our taxpayers, while finding  
302 alternative means to address the end goal.

303 The end goal is, I do not want any first responder  
304 targeted. I do not want them to lose their life, be maimed,  
305 or injured. I want them to be respected. I believe that,  
306 in law enforcement, part of their commitment is prevention,  
307 safety, and security, educating the community to ensure that  
308 bad guys are not on the streets. And so I would hope that  
309 we would have a discussion, and I hope to offer an amendment  
310 that addresses the dastardly act, but also recognizes the  
311 enormous difficulty with continuing to add aggravating  
312 causes for the death penalty.

313 With that, I yield back.

314 Chairman Goodlatte. The question occurs on the  
315 amendment.

316 For what purpose does the gentleman from Rhode Island  
317 seek recognition?

318 Mr. Cicilline. Move to strike the last word.

319 Chairman Goodlatte. The gentleman is recognized for 5  
320 minutes.

321 Mr. Cicilline. I would ask if the gentleman would  
322 yield to a question, that sponsored the amendment?

323 It appears that the amendment adds the word "or  
324 targeted" to line 14 on page 2, which would, it seems to me,  
325 create an inconsistency between line 1, where it says, "The  
326 defendant killed or attempted to kill," and sets forth a  
327 number of circumstances, and then section B says, "The  
328 circumstance referred to in subparagraph A is that the  
329 person was killed."

330 Now, we add "or targeted." So there is a requirement  
331 of death in line 14, which we are now changing to targeted,  
332 and there is no definition of what you mean by targeted. Is  
333 it your intention to cover results in which the officer or  
334 first responder is not, in fact, killed or attempted to be  
335 killed, because that is already in the statute, but simply  
336 targeted, and if so, what is the definition of targeted?

337 You are now providing for the death penalty for someone  
338 who might be convicted of targeting without a definition of

339 what that means. We know it does not mean killed or  
340 attempted to kill. But does it mean say bad things to?  
341 Does it mean harass? I mean, we are talking about the death  
342 penalty, and I think, in the absence of a definition, is it  
343 your intention that that be that broad?

344 Mr. Buck. My intention is that the word "targeted"  
345 would refer to a situation that someone makes either an  
346 attempt or targets, so an attempted killing would be  
347 shooting at an officer, for example. A targeting of an  
348 officer, I think, goes beyond just an attempted killing and  
349 may include something as a conspiracy to kill an officer,  
350 where the act -- go ahead.

351 Mr. Cicilline. No, I was just going to say, I think  
352 that, if it is a conspiracy to either kill or attempt to  
353 kill, that is already covered by the statute. So, you know,  
354 I understand the gentleman's intention. I am not suggesting  
355 I do not support the goal here, but I think, if you add the  
356 word "targeted" without a definition, and you already have  
357 "kill" or "attempted to kill," it leads to just sort of your  
358 own kind of interpretation of what that means, and I am sure  
359 that is not what you intended. And I think, in the absence  
360 of a definition, this is very dangerous just to use that  
361 word without explaining what it means.

362 Mr. Buck. I do not think "targeted" is any more  
363 ambiguous than the word "attempted."

364 Mr. Cicilline. Well, how is it different? If you have  
365 either "killed" or "attempted to kill," then there is  
366 another category, which at least you are discussing, which  
367 says "targeted." What exactly does that mean, and should  
368 that not be in the statute? Court is not going to have the  
369 benefit of this debate. They are going to have to look at  
370 the words of the statute. There is no definition for  
371 "targeted," and it is hard to imagine what would qualify as  
372 "targeted" that is not an attempt.

373 Mr. Buck. And it may be redundant, but I do not think  
374 it is ambiguous, in the sense that a jury will have the  
375 opportunity to determine if, in fact, something is targeted.  
376 I am not sure how much more definition it could be given.

377 Mr. Cicilline. Well, I thank you, and I will reclaim  
378 my time.

379 Mr. Chairman, I would urge my colleagues to reject this  
380 amendment. I mean, I accept the notion that it is well-  
381 intentioned, but when you are tinkering and modifying a  
382 death penalty statute, authorizing a court to execute  
383 another human being, there absolutely must be clarity in  
384 what those aggravating factors are.

385 It is unclear to me at all; first of all, there is no  
386 definition for "targeted." And it is hard to imagine what  
387 that means beyond "killed" or "attempted to kill," and to  
388 leave that to sort of our own thoughts and our own

389 development of what we think "targeted" means is not how we  
390 should be writing criminal justice statutes, particularly in  
391 the area where the most extreme punishment is imposed, the  
392 loss of life.

393 And so I would urge my colleagues to reject this  
394 amendment, and I yield back.

395 Mr. Conyers. Mr. Chairman?

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

398 Mr. Conyers. I rise in opposition to the Buck  
399 amendment.

400 Chairman Goodlatte. The gentleman is recognized for 5  
401 minutes.

402 Mr. Conyers. I merely wanted to add to the excellent  
403 discussion that has preceded me about some of the vagueness  
404 involved, is that there is a real constitutional danger of  
405 these proliferating aggravating factors. We are up to 16  
406 and counting.

407 Arguments about vagueness in the overall scope of the  
408 application of these aggravating factors should be  
409 concerning to everyone on this committee. The potential of  
410 this amendment to unsettle the constitutional framework  
411 around capital punishment and potentially contribute to the  
412 arbitrary application of capital sentences should cause  
413 everyone on this committee to pause before agreeing to this

414 revision.

415 I think this vagueness and overall scope of the  
416 application of these aggravating factors lead me to not  
417 support the Buck amendment, and I hope that the majority of  
418 us on the committee will do the same.

419 I thank the chairman, and yield back.

420 Chairman Goodlatte. For what purpose does the  
421 gentleman from Maryland seek recognition?

422 Mr. Raskin. I move to strike the last word.

423 Chairman Goodlatte. The gentleman is recognized for 5  
424 minutes.

425 Mr. Raskin. Thank you, Mr. Chairman. I just wanted to  
426 follow up on the line of thinking presented by the gentleman  
427 from Rhode Island and the ranking member.

428 The substitution of the word "targeted" for "killed,"  
429 I think, does introduce serious problems of constitutional  
430 vagueness, but I think, also, it may undercut what I think  
431 the intention of the amendment is, because "killed" has an  
432 objective reality, obviously, because it has got physical  
433 proof connected to it. It is going to sweep in both people  
434 who are killed and targeted and people who are killed but  
435 not targeted. So I do not know whether it was the intention  
436 of the author of the amendment, but this really does narrow  
437 the statute and in a kind of constitutionally-problematic  
438 way.

439           So I would rise in opposition to the amendment. I  
440 yield back.

441           Chairman Goodlatte. Does the gentleman yield back?

442 Okay, thank you.

443           The question occurs on the amendment offered by the  
444 gentleman from Colorado.

445           All those in favor, respond by saying aye.

446           Those opposed, no.

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

449           Mr. Conyers. Could we have a recorded vote on --

450           Chairman Goodlatte. Recorded vote is requested, and  
451 the clerk will call the roll.

452           Ms. Adcock. Mr. Goodlatte?

453           Chairman Goodlatte. Aye.

454           Ms. Adcock. Mr. Goodlatte votes aye.

455           Mr. Sensenbrenner?

456           Mr. Sensenbrenner. Aye.

457           Ms. Adcock. Mr. Sensenbrenner votes aye.

458           Mr. Smith?

459           [No response.]

460           Mr. Chabot?

461           Mr. Chabot. Aye.

462           Ms. Adcock. Mr. Chabot votes aye.

463           Mr. Issa?

464 [No response.]  
465 Mr. King?  
466 Mr. King. Aye.  
467 Ms. Adcock. Mr. King votes aye.  
468 Mr. Franks?  
469 Mr. Franks. Aye.  
470 Ms. Adcock. Mr. Franks votes aye.  
471 Mr. Gohmert?  
472 [No response.]  
473 Mr. Jordan?  
474 [No response.]  
475 Mr. Poe?  
476 [No response.]  
477 Mr. Chaffetz?  
478 [No response.]  
479 Mr. Marino?  
480 [No response.]  
481 Mr. Gowdy?  
482 Mr. Gowdy. Yes.  
483 Ms. Adcock. Mr. Gowdy votes yes.  
484 Mr. Labrador?  
485 [No response.]  
486 Mr. Farenthold?  
487 [No response.]  
488 Mr. Collins?

489 Mr. Collins. Yes.

490 Ms. Adcock. Mr. Collins votes yes.

491 Mr. DeSantis?

492 [No response.]

493 Mr. Buck?

494 Mr. Buck. Aye.

495 Ms. Adcock. Mr. Buck votes aye.

496 Mr. Ratcliffe?

497 Mr. Ratcliffe. Yes.

498 Ms. Adcock. Mr. Ratcliffe votes yes.

499 Mrs. Roby?

500 Mrs. Roby. Aye.

501 Ms. Adcock. Mrs. Roby votes aye.

502 Mr. Gaetz?

503 [No response.]

504 Mr. Johnson of Louisiana?

505 [No response.]

506 Mr. Biggs?

507 Mr. Biggs. Aye.

508 Ms. Adcock. Mr. Biggs votes aye.

509 Mr. Conyers?

510 Mr. Conyers. No.

511 Ms. Adcock. Mr. Conyers votes no.

512 Mr. Nadler?

513 Mr. Nadler. No.

514 Ms. Adcock. Mr. Nadler votes no.  
515 Ms. Lofgren?  
516 Ms. Lofgren. No.  
517 Ms. Adcock. Ms. Lofgren votes no.  
518 Ms. Jackson Lee?  
519 [No response.]  
520 Mr. Cohen?  
521 [No response.]  
522 Mr. Johnson of Georgia?  
523 [No response.]  
524 Mr. Deutch?  
525 [No response.]  
526 Mr. Gutierrez?  
527 [No response.]  
528 Ms. Bass?  
529 [No response.]  
530 Mr. Richmond?  
531 Mr. Richmond. No.  
532 Ms. Adcock. Mr. Richmond votes no.  
533 Mr. Jeffries?  
534 Mr. Jeffries. No.  
535 Ms. Adcock. Mr. Jeffries votes no.  
536 Mr. Cicilline?  
537 Mr. Cicilline. No.  
538 Ms. Adcock. Mr. Cicilline votes no.

539 Mr. Swalwell?

540 Mr. Swalwell. No.

541 Ms. Adcock. Mr. Swalwell votes no.

542 Mr. Lieu?

543 Mr. Lieu. No.

544 Ms. Adcock. Mr. Lieu votes no.

545 Mr. Raskin?

546 Mr. Raskin. No.

547 Ms. Adcock. Mr. Raskin votes no.

548 Ms. Jayapal?

549 Ms. Jayapal. No.

550 Ms. Adcock. Ms. Jayapal votes no.

551 Mr. Schneider?

552 Mr. Schneider. No.

553 Ms. Adcock. Mr. Schneider votes no.

554 Chairman Goodlatte. The gentleman from Louisiana?

555 Mr. Johnson of Louisiana. Aye.

556 Ms. Adcock. Mr. Johnson votes aye.

557 Chairman Goodlatte. The clerk will report.

558 Ms. Adcock. Mr. Chairman, 12 members voted aye; 11

559 members voted no,

560 Chairman Goodlatte. And the amendment is not agreed

561 to.

562 Are there further amendments to H.R. 115?

563 The amendment is agreed to.

564 Are there further amendments to H.R. 115? Are there  
565 any amendments to H.R. 115?

566 Mr. Cicilline. Mr. Chairman?

567 Chairman Goodlatte. For what purpose does the  
568 gentleman from Rhode Island seek recognition?

569 Mr. Cicilline. I have an amendment at the desk.

570 Chairman Goodlatte. The clerk will report the  
571 amendment.

572 Ms. Adcock. Amendment to H.R. 115 offered by Mr. --

573 Mr. Chabot. I reserve a point of order.

574 Chairman Goodlatte. Okay. A point of order has been  
575 reserved.

576 The clerk will report the amendment.

577 Ms. Adcock. Amendment to H.R. 115 offered by Mr.  
578 Cicilline. Add, at the end of the bill, the following:  
579 section 3, study and recommendations on appointment of  
580 counsel --

581 [The amendment of Mr. Cicilline follows:]

582 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

583 Chairman Goodlatte. Without objection, the amendment  
584 is considered as read, and the gentleman is recognized for 5  
585 minutes on his amendment.

586 Mr. Cicilline. Thank you, Mr. Chairman. The killing  
587 of a law enforcement officer or a first responder in the  
588 line of duty is always a tragedy, and I strongly support  
589 efforts to ensure these cases are dealt with justly and  
590 swiftly.

591 I also strongly believe that every criminal defendant  
592 should have the assistance of a competent and effective  
593 lawyer. High-quality advocacy is all the more important in  
594 a death penalty case. The stakes are too high and the  
595 consequences are irrevocable when a person's life is on the  
596 line.

597 That is why my amendment would direct the Attorney  
598 General to submit recommendations to Congress on guidelines  
599 for the appointment and performance of defense counsel in  
600 death penalty cases. The quality of defense counsel in a  
601 death penalty case is imperative to ensuring a reliable  
602 determination of guilt and a just outcome.

603 Representing a defendant in capital crime cases  
604 presents unique complexities and challenges at each stage.  
605 Defense counsel must not only have mastery over this complex  
606 area of law, but must also stay up to date on relevant  
607 developments in the area of forensic science and psychology.

608           In 2003, the American Bar Association formally adopted  
609 guidelines for the appointment and performance of defense  
610 counsel on capital cases, which were amended in 2008. The  
611 ABA guidelines state, "Every task ordinarily performed in a  
612 representation of a criminal defendant is more difficult and  
613 time-consuming when the defendant is facing execution. The  
614 responsibilities thrust upon defense counsel in a capital  
615 case carry with them psychological and emotional pressures  
616 unknown elsewhere in the law.

617           In addition, defending a capital case is an  
618 intellectually rigorous enterprise requiring command of the  
619 rules unique to capital litigation and constant vigilance in  
620 keeping abreast of new developments in a volatile and  
621 highly-nuanced area of the law."

622           And I would like, at this time, Mr. Chairman, to enter  
623 the ABA's guidelines on appointing counsel on death penalty  
624 cases into the record.

625           [The information follows:]

626           \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

627 Mr. Cicilline. In addition, given a lack of fail-safes  
628 once a wrongful execution has been carried out, States must  
629 commit to ensuring effective representation from the very  
630 beginning during the trial stage.

631 In a real-life example, the Oklahoma Death Penalty  
632 Review Commission, a bipartisan body, including a former  
633 Oklahoma governor, released a report this week unanimously  
634 recommending a moratorium on the death penalty until  
635 significant reforms have been accomplished. This commission  
636 was put together after the State put innocent people to  
637 death and botched executions took place, including that of  
638 Clayton Lockett in 2014, who regained consciousness mid-  
639 execution.

640 In a nearly 300-page report using the 2003 ABA  
641 guidelines as a template, the Oklahoma Commission made  
642 several recommendations related to competent counsel. The  
643 report found that several counties had only a handful of  
644 attorneys who were competent to handle capital defense trial  
645 services, and this could jeopardize fair proceedings in  
646 these cases. The commission's report found, "Oklahoma's  
647 experience with wrongful convictions demonstrates the  
648 experience of ensuring justice in the first instance, rather  
649 than cutting corners in the early stages of the case."

650 My amendment would address this very issue and, at the  
651 outset, help jurisdictions improve the qualifications and

652 training of their defense counsel in death penalty cases.

653 I urge my colleagues to support this amendment, and I  
654 ask unanimous consent, Mr. Chairman, that the guidelines for  
655 the appointment and performance of defense counsel in death  
656 penalty cases prepared by the American Bar Association be  
657 made part of the record.

658 [The information follows:]

659 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

660 Chairman Goodlatte. The chair thanks the gentleman.

661 Has the gentleman --

662 Mr. Cicilline. I yield back.

663 Chairman Goodlatte. Without objection, the documents  
664 are made part of the record.

665 Does the gentleman from Ohio insist on his point of  
666 order?

667 Mr. Chabot. Mr. Chairman, I would respectfully insist  
668 on my point of order.

669 H.R. 115 is a very narrow piece of legislation. It  
670 amends 18 U.S.C. 3592(c) to add that the killing or  
671 targeting of a State or local law enforcement officer is an  
672 aggravating factor for a jury to determine during the  
673 sentencing phase of the trial when the jury is determining  
674 whether a sentence of death is justified. The amendment  
675 goes beyond this subject matter and, therefore, is non-  
676 germane.

677 Mr. Cicilline. Mr. Chairman, may I be heard on the  
678 point of order?

679 Chairman Goodlatte. Yes, the gentleman is recognized  
680 on the point of order.

681 Mr. Cicilline. Mr. Chairman, I would say that the  
682 proposed bill adds an additional aggravating factor, thereby  
683 increasing the likelihood that additional individuals will  
684 be exposed to the death penalty, and it is perfectly

685 appropriate, in that context, to ensure that, as we are  
686 increasing the potential for the imposition of the death  
687 penalty, that we ensure that people are properly represented  
688 and that defense counsel are qualified to provide that  
689 representation and to reach reliable results.

690 So, I think it is absolutely germane. We are  
691 increasing the potential pool of individuals who are subject  
692 to the death penalty, and we have, at the same time, an  
693 ability to ensure that it is being done in a system that is  
694 just, fair, and reliable, and I suggest it is germane and  
695 ask that the gentleman's point of order be rejected.

696 Chairman Goodlatte. The chair is prepared to rule on  
697 the point of order. It is the opinion of the chair that the  
698 amendment is not germane.

699 Are there further amendments to H.R. 115?

700 Mr. Cicilline. Yes, Mr. Chairman. I have an amendment  
701 at the desk.

702 Chairman Goodlatte. The clerk will report the  
703 amendment.

704 Mr. Chabot. Mr. Chairman, I would reserve a point of  
705 order again.

706 Chairman Goodlatte. A point of order is reserved.

707 The clerk will report the amendment.

708 Ms. Adcock. Amendment to H.R. 115 offered by Mr.  
709 Cicilline. Add, at the end of the bill, the following:

710 Section 3, additional resources for defense counsel in  
711 capital cases.

712 [The amendment of Mr. Cicilline follows:]

713 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

714 Chairman Goodlatte. Without objection, the amendment  
715 is considered as read, and the gentleman from Rhode Island  
716 is recognized for 5 minutes on his amendment. Mr.  
717 Cicilline. Thank you, Mr. Chairman. If enacted, a Thin  
718 Blue Line Act would add an additional statutory aggravating  
719 factor, which could result in an increase in capital  
720 punishment cases throughout our country.

721 It is of the utmost importance for those facing the  
722 death penalty that they receive high-quality legal  
723 representation. Those familiar with the complexity of death  
724 penalty cases know the specialized skills and knowledge  
725 defense counsel must possess to carry out this specific job  
726 to the best of their ability. This is why my amendment  
727 would authorize funds for additional resources for defense  
728 counsel in capital cases.

729 Modern capital cases are impacted by constantly-  
730 changing, highly-nuanced legal principles and scientific  
731 developments. In order to meet these demands while still  
732 maintaining a high threshold of competency among defense  
733 counsel, we must appropriate the necessary funds and  
734 resources for the appointment of defense counsel in death  
735 penalty cases.

736 Capital cases are among the most financially  
737 burdensome, as these cases are time-consuming and demand  
738 extensive preparation. A report drafted for the Judicial

739 Conference of the United States in 2010 found that, between  
740 1989 and 1997, the median cost of a death penalty case was  
741 \$269,000.

742       Between 1998 and 2004, the cost went up to \$620,000.  
743 And I would ask, Mr. Chairman, unanimous consent that the  
744 report to the Committee on Defender Services to the Judicial  
745 Conference of the United States update on the cost and  
746 quality of defense representation and Federal death penalty  
747 cases be made part of the record.

748       Chairman Goodlatte. Without objection, it will be made  
749 part of the record.

750       [The information follows:]

751 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

752 Mr. Cicilline. As a result, most defendants cannot  
753 afford a lawyer and must rely on an appointed attorney to  
754 provide them with representation, even though few States are  
755 able to provide enough funds to compensate lawyers to  
756 thoroughly investigate and litigate a case. Therefore, even  
757 though an effective attorney can mean the difference between  
758 life and death, literally, capital defendants may be  
759 frequently represented by overworked and under-compensated  
760 lawyers that cannot meet the rigors of working on such a  
761 complex case.

762 This amendment will help to ensure that all defendants  
763 are provided the high-level defense counsel they deserve in  
764 a death penalty case. And I ask my colleagues to support  
765 this amendment that, as we expand the pool of individual's  
766 subject to the death penalty, that we ought to, at the same  
767 time, honor our constitutional obligations to ensure that  
768 those individuals are properly represented by competent  
769 counsel, so that we can rely on the conclusions in these  
770 matters that provide an irrevocable, irreversible decision,  
771 a decision imposing death.

772 Mr. Chabot. Would the gentleman yield?

773 Mr. Cicilline. Yes. I am happy to yield.

774 Mr. Nadler. Thank you. I thank the gentleman for  
775 yielding. I would also point out, in support of the  
776 gentleman's amendment, that much litigation and much expense

777 to the government is occasioned by allegations, in death  
778 penalty cases, that the death penalty should not be carried  
779 out because of the failure of adequate representation. You  
780 get a lot of litigation in the appellate courts based on the  
781 question of whether, in fact, there was adequate  
782 representation.

783       Aside from the fact that we need adequate  
784 representation as a matter of morality, this greatly  
785 increases the cost, ultimately, to the Federal government.  
786 So, if we are increasing the death penalty cases, \$5 million  
787 for a counsel, A, is moral and, B, would save the Federal  
788 Government a lot of money.

789       I yield back.

790       Chairman Goodlatte. Does the gentleman from Ohio  
791 insist upon his point of order?

792       Mr. Chabot. Yes, Mr. Chairman, I do insist on my point  
793 of order.

794       In the interest of time, I will just say it is not  
795 germane based upon the same argument as in the previous  
796 amendment.

797       Chairman Goodlatte. Does the gentleman from Rhode  
798 Island offering the amendment wish to speak on the point of  
799 order?

800       Mr. Cicilline. Yes. Yes, I do. Thank you, Mr.  
801 Chairman.

802 Mr. Chairman Goodlatte. The gentleman will be heard on  
803 his point of order.

804 Mr. Cicilline. Mr. Chairman, I would urge the chair to  
805 reject the point of order. The notion that our obligation  
806 to ensure adequate resources for a constitutionally-  
807 protected right to counsel is not germane to a discussion of  
808 a statute that expands the occasions in which an individual  
809 can be sentenced to death strains credulity.

810 It is absolutely a requirement, under our Constitution,  
811 that individuals have competent counsel in their defense in  
812 a criminal case. It is especially problematic when adequate  
813 and competent counsel is unavailable in a death penalty case  
814 because, as Mr. Nadler points out, that is often the claim  
815 that is raised on appeal.

816 And the notion that, we as the Congress of the United  
817 States, at the moment we are adding additional aggravating  
818 circumstances, however meritorious they are, to expand the  
819 imposition of the death penalty, at a time when there is so  
820 much evidence about the unreliability of proceedings that  
821 produce that result, that we are unwilling to even vote on  
822 an effort to ensure that there are sufficient resources for  
823 adequate defense counsel because we do not think it is  
824 relevant is, I think, a terrible, terrible stain on the  
825 Judiciary Committee.

826 This is the Judiciary Committee. If we do not take

827 responsibility for ensuring there are adequate resources,  
828 and we do not understand the connection between the  
829 imposition of the death penalty and adequate resources for  
830 defense counsel, God help our country. It is in our  
831 Constitution.

832 So, I urge you, Mr. Chairman, to reject that point of  
833 order.

834 Mr. Raskin. Will the gentleman yield?

835 Mr. Cicilline. And I will yield the balance of my time  
836 to defend this to the gentleman from Maryland.

837 Mr. Raskin. I also want to speak both on behalf of the  
838 amendment and on behalf of the germaneness of the amendment.

839 Chairman Goodlatte. The gentleman will suspend. The  
840 question is on the germaneness of the amendment.

841 Mr. Raskin. Okay.

842 Chairman Goodlatte. You can only speak to that.

843 Mr. Raskin. Okay. Then with respect to the  
844 germaneness of the amendment, the underlying legislation  
845 adds a new aggravating factor, which is the targeting, now,  
846 of a law enforcement officer, which is obviously an  
847 atrocious and terrible crime.

848 In my State of Maryland, we have experience with  
849 atrocious, terrible crimes leading to a death penalty  
850 verdict. And it is actually the reason that we abolished  
851 the death penalty in Maryland because there was a terrible

852 rape/murder of a 9-year-old girl, and Kirk Bloodsworth was  
853 prosecuted for the crime.

854 He was a former Marine, a ninth-generation Marylander,  
855 but he fit the FBI composite portrait exactly. He fit the  
856 psychological profile exactly, and he was convicted, and he  
857 swore to his jailer every day he was an innocent man. And  
858 he was going to go to this death, and then he learned about  
859 DNA evidence. And he wrote to his lawyer, who is now the  
860 chief judge of the D.C. Superior Court, and he begged him to  
861 get this DNA test. The lawyer took \$5,000 out of his own  
862 pocket to get it done.

863 The physical evidence only existed because the judge's  
864 secretary never believed that Bloodsworth was guilty. They  
865 were able to do the test, and it came back 99.9 percent  
866 certain it could not have been Bloodsworth in the case.  
867 They found the guy who actually did the crime, who committed  
868 the rape/murder, one floor below him in prison.

869 Now, had he not learned of DNA evidence, had his lawyer  
870 not been able to get the test done, had the evidence not  
871 been there, our State would have been executing an innocent  
872 man because it was a very inflammatory crime that totally  
873 inflamed the community. That is exactly the kind of crime  
874 that this legislation would address well: the killing of a  
875 police officer or, now, the targeting of a police officer or  
876 another law enforcement official.

877           People in these cases, if we are going to have the  
878 death penalty, need to have the best legal representation  
879 available. So, I think that the gentleman from Rhode  
880 Island's amendment is perfectly germane; it is totally  
881 responsive; and I think it is necessary to complete the  
882 legislative initiative in adding this factor to the death  
883 penalty.

884           I yield back to the gentleman from Rhode Island.

885           Chairman Goodlatte. The chair appreciates the  
886 argument, but they do not go to the question of germaneness.  
887 They go to the desire for having the amendment adopted.

888           The chair is prepared to rule on the point of order,  
889 and it is the opinion of the chair that the amendment is not  
890 germane.

891           Are there further amendments to H.R. 115?

892           Mr. Cicilline. Mr. Chairman?

893           Chairman Goodlatte. For what purpose does the  
894 gentleman from Rhode Island seek recognition?

895           Mr. Cicilline. I have an amendment at the desk.

896           Chairman Goodlatte. The clerk will report the  
897 amendment.

898           Ms. Adcock. Amendment to H.R. --

899           Mr. Chabot. Mr. Chairman, I am reserving the point of  
900 order.

901           Chairman Goodlatte. The point of order is reserved.

902           The clerk will report the amendment.

903           Ms. Adcock. Amendment to H.R. 115 offered by Mr.

904 Cicilline. Add, at the end of the bill, the following:

905 section 3, standards for the use of forensic science in

906 capital crime cases. Not later than 2 years --

907           [The amendment of Mr. Cicilline follows:]

908 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

909 Chairman Goodlatte. Without objection, the amendment  
910 is considered as read, and the gentleman from Rhode Island  
911 is recognized for 5 minutes on his amendment.

912 Mr. Cicilline. Thank you, Mr. Chairman. I know all of  
913 my colleagues would agree that the wrongful execution of a  
914 single person is one person too many. An important  
915 component for making sure that this never happens is the use  
916 of forensic science. My amendment would establish a  
917 commission to recommend to the Justice Department standards  
918 for the use of forensic science in capital cases.

919 In 1989, the first DNA exoneration took place, and  
920 since then, 349 people have been exonerated using DNA  
921 evidence, 20 of them who were on death row. The use of  
922 forensic science to analyze physical crime evidence is a  
923 vital part of our criminal justice system, and we should  
924 continue to invest time and resources in the advancement of  
925 the forensic science field.

926 At the beginning of this month, Attorney General Jeff  
927 Sessions said that he will not renew the National Commission  
928 on Forensic Science. The National Commission Charter  
929 expired on April 23rd, 2017.

930 The National Commission on Forensic Science was  
931 established in 2013 to work in partnership with the National  
932 Institute of Standards in Technology by the Department of  
933 Justice under then-President Obama. The commission was

934 comprised of prosecutors, defense counsel, victim advocates,  
935 judges, law enforcement academics, and members of the  
936 broader scientific community from across the country. It  
937 was tasked with the great responsibility of enhancing the  
938 practice and improving the reliability of forensic science.

939 In a statement released by the Department of Justice on  
940 April 12, 2017, announcing the expiration of the National  
941 Commission of Forensic Science, it states that, "The more  
942 effective a forensic system we have, the better equipped we  
943 are to solve crimes, more swiftly absolve any innocent, and  
944 bring in the guilty to justice." I strongly agree with this  
945 statement. That is why my amendment would require the  
946 Attorney General to establish and submit a report to  
947 Congress on the activities of the commission.

948 The responsibility of the commission would be to  
949 provide recommendations and advice to the Department of  
950 Justice concerning methods and strategies for strengthening  
951 the validity and reliability of forensic science, enhancing  
952 quality control in forensic science laboratories, and  
953 identifying ways the forensic science community can meet the  
954 increasing demands of the criminal justice system.

955 The National Commission of Forensic Science has made  
956 significant contributions during its tenure, which is  
957 summarized in the commission's business document reflecting  
958 fact looking toward the future. That includes work that

959 should be addressed moving forward. I would like to enter  
960 the commission's report into the record to showcase the  
961 commission's essential recommendations on improving the  
962 reliability of forensic science.

963 The commission provided a unique forum for a wide  
964 variety of stakeholders to participate in the important  
965 conversations surrounding improving forensic science.  
966 Additionally, the commission spurred discussion around  
967 forensic science at the State and local levels.

968 The success of the National Commission on Forensic  
969 Science solidifies the importance of incorporating this  
970 amendment in the Thin Blue Line Act. This amendment will  
971 ensure the continued improvement of our forensic science  
972 abilities and eliminate the concern of a similar commission  
973 expiring.

974 I ask my colleagues to support this amendment and show  
975 their support for the science industry and enhancements of  
976 our techniques for prosecuting and processing evidence in  
977 criminal cases.

978 And with that, I yield back the balance of my time and  
979 ask unanimous consent that the National Commission on  
980 Forensic Science report, dated April 11, 2017, be made part  
981 of the record.

982 Chairman Goodlatte. Without objection, it will be made  
983 part of the record.

984 [The information follows:]

985 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

986 Chairman Goodlatte. Does the gentleman from Ohio  
987 insist upon his point of order?

988 Mr. Chabot. Mr. Chairman, as much as it pains me, I  
989 must, once again, insist on my point of order against my  
990 friend from Rhode Island's amendment for the same reason,  
991 without again stating the argument, but it is a non-germane.

992 Chairman Goodlatte. The gentleman from Rhode Island,  
993 does he wish to be heard on the germaneness of his  
994 amendment?

995 Mr. Cicilline. Yes, I do, Mr. Chairman. Hope springs  
996 eternal. Mr. Chairman, I would ask --

997 Chairman Goodlatte. He is recognized for that purpose.

998 Mr. Cicilline. I would ask to reject or I would ask my  
999 colleague, Mr. Chabot, to withdraw his point of order. This  
1000 would, again, be the third time that the Judiciary Committee  
1001 of the United States House of Representatives would rule  
1002 that the reliability and the use of forensic evidence or the  
1003 validity of a conviction, the reliability of that  
1004 determination that results in the death of a citizen or an  
1005 individual of the United States, is irrelevant at the time  
1006 that we are expanding the category of individuals who will  
1007 be subjected to the death penalty.

1008 It just simply is not the case that there is no  
1009 connection between the quality of evidence, the use of  
1010 forensic science in the context of the ability to both

1011 prosecute and exonerate individuals for some of the most  
1012 serious crimes.

1013 I think it strains belief to say that there is no  
1014 germaneness, no connection, no relative value on determining  
1015 the reliability of a conviction, the use of scientific  
1016 evidence in an effort to enhance that at the moment that you  
1017 are increasing the number of individuals who will be  
1018 subjected to the most extreme punishment, irreversible,  
1019 irrevocable sentence of death.

1020 And I urge the chairman, though he has ruled twice to  
1021 the contrary, to find that there is a connection; there is a  
1022 relevance; it is germane because, as we intensify, as we  
1023 enlarge the number of people who are subjected to this, we  
1024 ought to take additional precautions to make sure we are  
1025 getting it right, and that is what this commission does.

1026 And the notion that it is not relevant to continue the  
1027 work of a group to -- again it is prosecutors, defense  
1028 lawyers, victims, advocates, to enhance the use of forensic  
1029 evidence and the collection and development of that  
1030 evidence, which, just as often, is used to prosecute  
1031 individuals as it is to exonerate them, that that is not  
1032 germane to the imposition of a death penalty and to adding a  
1033 category, I think, is an unreasonable argument, and I ask  
1034 either Mr. Chabot to withdraw his point of order or ask the  
1035 chairman to reject it.

1036 Chairman Goodlatte. The chair thanks the gentleman and  
1037 is prepared to rule on the point of order.

1038 And in this instance, the gentleman from Rhode Island  
1039 may be pleased to learn that the committee on both sides of  
1040 the aisle is working on legislation dealing with standards  
1041 for use of forensic science. And that is also going on  
1042 outside of the committee, but in this case, in the opinion  
1043 of the chair, the amendment is not germane to the  
1044 legislation before us now, and, therefore, it is not in  
1045 order.

1046 Are there further amendments to H.R. 115?

1047 Mr. Richmond. I have an amendment at the desk.

1048 Chairman Goodlatte. The clerk will report the  
1049 amendment of the gentleman from Louisiana.

1050 Ms. Adcock. Amendment to H.R. 115 offered by Mr.  
1051 Richmond --

1052 Mr. Chabot. Mr. Chairman, I would insist on a point of  
1053 order.

1054 Chairman Goodlatte. A point of order is reserved.

1055 And the clerk will report the amendment.

1056 Ms. Adcock. Amendment to H.R. 115 offered by Mr.  
1057 Richmond of Louisiana. Add, at the end of the bill, the  
1058 following --

1059 [The amendment of Mr. Richmond follows:]

1060

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

1061 Chairman Goodlatte. Without objection, the amendment  
1062 is considered as read, and the gentleman is recognized for 5  
1063 minutes on his amendment.

1064 Mr. Richmond. Thank you, Mr. Chairman. My amendment  
1065 would simply direct the Department of Justice to conduct a  
1066 study on racial disparities, as well as disparities based on  
1067 sexual orientation, religion, and gender identification, and  
1068 the implementation of the death penalty in the United  
1069 States, and develop recommendations to mitigate these  
1070 disparities.

1071 Any discussion of the death penalty must include the  
1072 recognition that capital punishment in the United States has  
1073 not been administered equally. In a 1990 study, the GAO  
1074 found a pattern of evidence indicating racial disparities in  
1075 the charging, sentencing, and imposition of the death  
1076 penalty.

1077 African-American defendants are significantly more  
1078 likely to receive the death penalty than white defendants.  
1079 According to the NAACP, whites make up 46 percent of murder  
1080 victims, but 76 percent of victims in death penalty cases  
1081 since 1976. African-Americans make up 50 percent of the  
1082 murder victims, but only 15 percent of the victims in death  
1083 penalty cases since 1976.

1084 Though these studies are revealing, it is far past time  
1085 that the Department of Justice conduct a review of these

1086 disparities and develop a strategy to ensure equal justice  
1087 under the law, regardless of race, ethnicity, religion,  
1088 gender, or sexual orientation.

1089         And for that, I would ask that my colleagues support  
1090 the amendment, but, Mr. Chairman, if I could inquire,  
1091 because we went straight into amendments, when will we have  
1092 a chance to strike the last word and speak on the bill as a  
1093 whole?

1094         Chairman Goodlatte. It is appropriate to do that at  
1095 any time during the markup.

1096         Mr. Richmond. Okay. Well, I would insist on this  
1097 amendment. And I would just say, Mr. Chairman, without  
1098 arguing whether we should keep the death penalty or not, if  
1099 we are going to have the death penalty, we need to make sure  
1100 that it is colorblind and that it does not discriminate and  
1101 that we at least owe it to the American people to make sure  
1102 that they have confidence in the justice system and that  
1103 justice is colorblind.

1104         So, for that, I would urge my colleagues to support the  
1105 amendment.

1106         Chairman Goodlatte. The chair thanks the gentleman.

1107         The gentleman from Ohio, does he insist on his point of  
1108 order?

1109         Mr. Chabot. Yes, I do insist on my point of order. I  
1110 would, once again, note that H.R. 115 is very narrow

1111 legislation that amends 18 U.S.C., section 3592(c) to add  
1112 the killing or targeting of a State or local law enforcement  
1113 officer as an aggravating factor for a jury to determine  
1114 during the sentencing phase of the trial when the jury is  
1115 determining whether a sentence of death is justified, and  
1116 this amendment goes beyond the subject matter and,  
1117 therefore, is not germane.

1118 Chairman Goodlatte. Does the gentleman from Louisiana  
1119 wish to address the issue of the point of order raised by  
1120 the gentleman from Ohio?

1121 Mr. Richmond. Yes.

1122 Chairman Goodlatte. The gentleman is recognized.

1123 Mr. Richmond. The GAO found a pattern of evidence  
1124 indicating racial disparities in the charging sentences and  
1125 imposition of the death penalty. We are expanding the  
1126 reasons and aggravating factors to apply the death penalty,  
1127 so we are expanding the potential use of the death penalty,  
1128 which GAO says is discriminatory. So, for us to add in a  
1129 section that required the Justice Department to review and  
1130 come up with a conclusion of whether there are disparities,  
1131 whether it is discriminatory, and how do we alleviate that,  
1132 I think is very germane.

1133 We are going to increase the use of the death penalty  
1134 that we know is already discriminatory, but we do not want  
1135 the Justice Department to look at those factors. I think it

1136 is very appropriate and it is germane if we are expanding  
1137 the use of the death penalty. GAO has already said it is  
1138 discriminatory, and now we are just asking that, since we  
1139 are expanding it, give us the full information on the  
1140 discriminatory effects of the death penalty. I think it is  
1141 very appropriate, and I think it is very germane.

1142 Ms. Jackson Lee. I would like to strike the last word.

1143 Chairman Goodlatte. The gentleman from Louisiana can  
1144 yield to the gentlewoman only on the issue of the  
1145 germaneness of his amendment, if he chooses to do so.

1146 Mr. Richmond. I will yield a minute to the gentlelady  
1147 from Texas.

1148 Ms. Jackson Lee. Let me rise to support the  
1149 gentleman's amendment. And it is obvious that this is a  
1150 narrowly-drawn bill. That is the basis of the opposition  
1151 and the question of germaneness, but the chair has the  
1152 ability to waive the point of order, recognizing that the  
1153 gentleman's amendment is a crucial amendment.

1154 It is long documented that the burden of death penalty  
1155 falls, in particular, on the African-American community,  
1156 though the question of the gentleman's amendment is to raise  
1157 issues of race, ethnicity or national origin, gender  
1158 identity, sexual orientation, religious identify or  
1159 affiliation.

1160 I think that, if we are a committee of justice, in this

1161 instance, criminal justice, this amendment is a fair  
1162 amendment, an unbiased amendment to add to a bill that is  
1163 moving and adding another factor to the death penalty.

1164 With that, I yield back to the gentleman.

1165 Mr. Richmond. I would thank the gentlelady from Texas  
1166 and now yield to Mr. Raskin.

1167 Mr. Raskin. Thank you, very much. I just want to  
1168 speak to the germaneness of the gentleman from Louisiana's  
1169 amendment.

1170 The Supreme Court in a decision called McCleskey v.  
1171 Kemp, which was a case dealing with the killing of a police  
1172 officer, a white police officer, by an African-American  
1173 defendant, found that there was a systemic pattern of racial  
1174 bias within the death penalty. They found it was four times  
1175 more likely for a defendant to receive the death penalty if  
1176 his or her victim were white than if his or her victim were  
1177 African-American. And this was especially pronounced in the  
1178 kind of case that would be affected precisely by this  
1179 legislation, where there is the killing of a police officer.

1180 Nonetheless, the Supreme Court said this was not a  
1181 matter for the courts to deal with as a matter of equal  
1182 protection; it was a matter for Congress to deal within  
1183 legislation. It is hard to think anything more germane than  
1184 the amendment offered by the gentleman from Louisiana  
1185 because he is basically accepting the invitation of the

1186 Supreme Court and saying it is our responsibility to make  
1187 that in the proliferation of aggravating factors for the  
1188 death penalty, especially those dealing with the killing of  
1189 police officers, that there is no racial bias or other kinds  
1190 of bias that infiltrate the process. So I think this is  
1191 clearly relevant, it is clearly material, and it is clearly  
1192 germane. I yield back to the gentleman.

1193 Chairman Goodlatte. Will the gentleman yield back?

1194 Mr. Richmond. I yield back the balance of my time.

1195 Chairman Goodlatte. The chair thanks the gentleman and  
1196 is prepared to rule on the point of order. The chair would  
1197 note that there is work ongoing in this committee, led by  
1198 the ranking member, the gentleman from Michigan, on the  
1199 gathering of information regarding various types of crimes  
1200 as a part of our overall criminal justice reform effort, and  
1201 that will continue and I am in hopes that it will result in  
1202 some legislation that can be passed through the committee in  
1203 a bipartisan fashion.

1204 However, with regard to the amendment offered, it was  
1205 correctly noted that this is a narrowly drawn bill and it is  
1206 the opinion of the chair that the amendment is not germane.  
1207 Are there further amendments to H.R. 115?

1208 Mr. Richmond. Yes, Mr. Chair, I have an amendment at  
1209 the desk.

1210 Chairman Goodlatte. The clerk will report the

1211 amendment.

1212 Mr. Chabot. Reserving a point of order, Mr. Chairman.

1213 Chairman Goodlatte. A point of order has been

1214 reserved, and the clerk will the amendment.

1215 Ms. Adcock. Amendment to H.R. 115, offered by Mr.

1216 Richmond of Louisiana. Add at the end of the bill the

1217 following: section 3, study on exoneration of persons

1218 convicted of capital crimes not later than two years after

1219 the date of enactment of this act --

1220 [The amendment of Mr. Richmond follows:]

1221 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

1222 Chairman Goodlatte. Without objection, the amendment  
1223 is considered as read and the gentleman is recognized for 5  
1224 minutes on his amendment.

1225 Mr. Richmond. Thank you, Mr. Chairman. This amendment  
1226 would direct the Department of Justice to conduct a study on  
1227 exonerations of inmates on death row and offer  
1228 recommendations to reduce the number of wrongful  
1229 convictions. The study would examine whether there are  
1230 disparities among falsely convicted inmates based on race,  
1231 religion, gender ID, or sexual orientation, and offer  
1232 recommendations to reduce these disparities.

1233 The study would also examine the types of evidence that  
1234 led to the exoneration to understand how we can improve the  
1235 system and future prosecutions.

1236 According to one academic study published in 2014, 1.6  
1237 percent of death row inmates were exonerated between 1973  
1238 and 2004. Even more shocking, the study estimates that more  
1239 than 4 percent of death row inmates are innocent. The sad  
1240 truth is that wrongful convictions, like many of the other  
1241 failing points of our criminal justice system,  
1242 disproportionately affect minorities.

1243 This happens for many reasons, including the  
1244 overreliance on eyewitness identification, which studies  
1245 have shown time and time again disproportionately hurts  
1246 minorities charged with a crime. And we know that this

1247 aspect plays a role in death row cases because according to  
1248 the Innocence Project, 63 percent of death row inmates  
1249 exonerated by DNA testing are African-American.

1250         Despite the best efforts of everyone involved in the  
1251 criminal justice system, wrongful convictions do still  
1252 happen. When the price of a wrongful conviction is an  
1253 innocent person spending years of their life behind bars,  
1254 that is bad enough. When the price of an innocent person  
1255 being killed by the government, that is unconscionable. For  
1256 us to not to try to learn from the past and improve the  
1257 system, for us to do anything less than our best to make  
1258 sure that an innocent person is not sentenced to death would  
1259 be a failure of moral leadership. And for those reasons, I  
1260 would ask my colleagues and the chairman to support this  
1261 amendment on wrongful incarceration and the wrongful  
1262 implementation and sentencing of the death penalty.

1263         Mr. Conyers. Would the gentleman yield?

1264         Mr. Richmond. Yes, I would yield the balance of my  
1265 time to the ranking member.

1266         Mr. Conyers. I thank you very much. I support this  
1267 amendment, and getting a growing uncomfortable feeling that  
1268 the strategies being used to preclude any votes on these  
1269 very relevant amendments as not being germane is getting a  
1270 little bit astounding to me.

1271         And so, Mr. Chairman, I ask unanimous consent to enter

1272 three letters into the record in opposition to the bill that  
1273 is under discussion.

1274 Chairman Goodlatte. Without objection, they will be  
1275 made a part of the record.

1276 [The information follows:]

1277 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

1278 Mr. Conyers. Yes. I just wanted to identify them if I  
1279 may. The NAACP Legal Defense Fund letter opposing the bill;  
1280 the Leadership Conference on Civil and Human Rights, which  
1281 has their own reasons for opposing the bill; and the  
1282 American Civil Liberties Union, the ACLU, have theirs. And  
1283 I thank the chair for allowing these to be entered into the  
1284 record, and I yield back.

1285 Chairman Goodlatte. Does the gentleman from Ohio  
1286 insist on his point of order?

1287 Mr. Chabot. Yes, Mr. Chairman, I do insist upon my  
1288 point of order. And again, to save time, I will just state  
1289 that it is not germane. This is a very narrowly crafted  
1290 piece of legislation and based upon the same argument  
1291 before, I do insist on it.

1292 Chairman Goodlatte. Does the gentleman from Louisiana  
1293 offering the amendment wish to speak on the point of order?

1294 Mr. Richmond. Yes.

1295 Chairman Goodlatte. The gentleman is recognized.

1296 Mr. Richmond. Mr. Chairman, I want to be crystal-clear  
1297 about what we are doing. We are expanding and increasing  
1298 the likelihood that the death penalty will be used. The  
1299 reports show that 4 percent of the people on death row are  
1300 actually innocent, so we are increasing the likelihood that  
1301 an innocent American citizen will be killed and we do not  
1302 want to look at why or we can prevent that?

1303           If we do not pass this amendment and whatever blocks  
1304 it, please consider yourself as a coconspirator in the  
1305 murder of an innocent American citizen. This is  
1306 unconscionable --

1307           Mr. Chabot. Mr. Chairman?

1308           Mr. Richmond. -- that we cannot get to this point.

1309           Mr. Chabot. Mr. Chairman, I think the gentleman --  
1310 Chairman Goodlatte. For what purpose does the  
1311 gentleman from Ohio seek recognition?

1312           Mr. Chabot. Mr. Chairman, I think the statement of the  
1313 gentleman goes beyond the bounds of the rules on this  
1314 committee.

1315           Chairman Goodlatte. The gentleman may want to  
1316 reconsider his point because it does go to the motive of  
1317 members and that is not appropriate based on the rules of  
1318 the House.

1319           Mr. Richmond. No, I did not say anything about the  
1320 motives and if someone is offended, then let them be  
1321 offended. We are talking about an innocent American --

1322           Mr. Chabot. Mr. Chairman, could we have the clerk read  
1323 back the words of the gentleman --

1324           Mr. Richmond. That is fine.

1325           Mr. Chabot. -- or whatever appropriate thing that the  
1326 chair thinks we should do. There are certain decorum that  
1327 we are supposed to hold in this committee and --

1328 Chairman Goodlatte. I think, rather than getting into  
1329 a dispute about this, I would prefer to rule on the point of  
1330 the order.

1331 Mr. Richmond. Well, I was not finished, and since  
1332 something has been attributed to me that someone finds  
1333 offensive or indicating my motives --

1334 Chairman Goodlatte. He does find it offensive because  
1335 you said they should consider themselves a coconspirator,  
1336 which is impugning the motives of the individual engaging in  
1337 this debate in the Judiciary Committee.

1338 Mr. Richmond. No.

1339 Chairman Goodlatte. The chair is prepared to rule on  
1340 the gentleman's request that the gentleman's word be taken  
1341 down unless the gentleman is either prepared to withdraw  
1342 those words or --

1343 Mr. Richmond. You can take the words down. You can do  
1344 whatever you want. We are talking about killing innocent  
1345 American citizens and we are getting sensitive about the  
1346 wording that I use?

1347 Chairman Goodlatte. The gentleman will suspend, and  
1348 the clerk will report the words. All right, the gentleman -  
1349 -

1350 Mr. Chabot. The words were something along the lines  
1351 of "anybody that supports either this legislation or this  
1352 point of order is a coconspirator in murder."

1353 Mr. Nadler. Mr. Chairman?

1354 Chairman Goodlatte. All right, so the gentleman from  
1355 Ohio can describe the words that he finds --

1356 Mr. Chabot. The words he just said were my  
1357 recollection of the words, not having a recorded device. I  
1358 would encourage the gentleman from Louisiana, who I have  
1359 great respect for, to continue with his debate. Is he  
1360 willing to withdraw that particular segment that I just --  
1361 my best recollection of what was said?

1362 Mr. Nadler. Would the gentleman yield?

1363 Mr. Chabot. I would be happy to yield.

1364 Mr. Nadler. Thank you. I just want to point out that  
1365 you can be a coconspirator in fact without a negative  
1366 motive. So one can construe the words --

1367 Mr. Chabot. Reclaiming my time, this is not going to  
1368 do it --

1369 Chairman Goodlatte. The chair is prepared to rule on  
1370 the motion of the gentleman from Ohio to take down the words  
1371 of the gentleman from Louisiana and he does not agree with  
1372 the conclusion of the gentleman from New York. It is a  
1373 clear impugning of the motives of another member of this  
1374 committee. If the gentleman would withdraw --

1375 Mr. Richmond. Mr. Chairman, let me do my best to  
1376 clarify --

1377 Chairman Goodlatte. The gentleman may proceed.

1378 Mr. Richmond. -- what I was saying. And I think the  
1379 gentleman from New York is absolutely right. If in fact the  
1380 study is right that 4 percent of people who are on death row  
1381 are innocent, if you follow to its logical conclusion, if we  
1382 execute 100 people, four will actually be innocent. And my  
1383 comment was if you prevent the amendment you are in fact a  
1384 coconspirator -- wait, let me finish -- you are in fact a  
1385 coconspirator in the death of four out of 100 Americans. It  
1386 does not mean that that is your motive. Wait, let's be  
1387 clear about what I am saying.

1388 Chairman Goodlatte. Conspiracy by its very nature  
1389 implies a motive.

1390 Mr. Richmond. No, it implies an action and I practice  
1391 criminal defense law.

1392 Mr. Nadler. Will the gentleman yield?

1393 Mr. Richmond. It implies the action.

1394 Mr. Nadler. Will the gentleman yield?

1395 Mr. Richmond. Yes, I will yield.

1396 Mr. Nadler. Would you consider that describing a  
1397 person as a co-participant instead of coconspirator?

1398 Chairman Goodlatte. The gentleman is not recognized.  
1399 The gentleman is not recognized. It is the ruling of the  
1400 chair --

1401 Mr. Richmond. I will strike the coconspirator  
1402 altogether.

1403 Chairman Goodlatte. The gentleman has withdrawn.

1404 Mr. Richmond. It would be an innocent bystander while  
1405 it happens.

1406 Chairman Goodlatte. All right, the gentleman has  
1407 withdrawn. The chair is prepared to rule on the point of  
1408 order, and it is the opinion of the chair that the amendment  
1409 is not germane. Are there further amendments to H.R. 115?

1410 Mr. Nadler. Mr. Chairman?

1411 Chairman Goodlatte. For what purpose does the  
1412 gentleman from New York seek recognition?

1413 Mr. Nadler. In light of the importance of the subject  
1414 and the narrowness of the ruling, I appeal the ruling of the  
1415 chair.

1416 Mr. Sensenbrenner. Mr. Chairman?

1417 Chairman Goodlatte. For what purpose does the  
1418 gentleman from Wisconsin seek recognition?

1419 Mr. Sensenbrenner. I move to table the appeal.

1420 Chairman Goodlatte. The question is on the motion  
1421 tabled.

1422 All those in favor, say aye.

1423 Those opposed, no.

1424 In the opinion of the chair, the ayes have it and the  
1425 motion is tabled.

1426 Mr. Nadler. I request a roll call vote, please.

1427 Chairman Goodlatte. Roll call vote is requested, and

1428 the clerk will call the roll.

1429 Ms. Adcock. Mr. Goodlatte?

1430 Chairman Goodlatte. Aye.

1431 Ms. Adcock. Mr. Goodlatte votes aye.

1432 Mr. Sensenbrenner?

1433 Mr. Sensenbrenner. Aye.

1434 Ms. Adcock. Mr. Sensenbrenner votes aye.

1435 Mr. Smith?

1436 Mr. Smith. Aye.

1437 Ms. Adcock. Mr. Smith votes aye.

1438 Mr. Chabot?

1439 Mr. Chabot. Aye.

1440 Ms. Adcock. Mr. Chabot votes aye.

1441 Mr. Issa?

1442 Mr. Issa. Aye.

1443 Ms. Adcock. Mr. Issa votes aye.

1444 Mr. King?

1445 [No response.]

1446 Mr. Franks?

1447 Mr. Franks. Aye.

1448 Ms. Adcock. Mr. Franks votes aye.

1449 Mr. Gohmert?

1450 [No response.]

1451 Mr. Jordan?

1452 [No response.]

1453 Mr. Poe?  
1454 [No response.]  
1455 Mr. Chaffetz?  
1456 [No response.]  
1457 Mr. Marino?  
1458 [No response.]  
1459 Mr. Gowdy?  
1460 [No response.]  
1461 Mr. Labrador?  
1462 Mr. Labrador. Yes.  
1463 Ms. Adcock. Mr. Labrador votes yes.  
1464 Mr. Farenthold?  
1465 [No response.]  
1466 Mr. Collins?  
1467 [No response.]  
1468 Mr. DeSantis?  
1469 [No response.]  
1470 Mr. Buck?  
1471 Mr. Buck. Aye.  
1472 Ms. Adcock. Mr. Buck votes aye.  
1473 Mr. Ratcliffe?  
1474 Mr. Ratcliffe. Yes.  
1475 Ms. Adcock. Mr. Ratcliffe votes yes.  
1476 Mrs. Roby?  
1477 [No response.]

1478 Mr. Gaetz?  
1479 [No response.]  
1480 Mr. Johnson of Louisiana?  
1481 Mr. Johnson of Louisiana. Aye.  
1482 Ms. Adcock. Mr. Johnson votes aye.  
1483 Mr. Biggs?  
1484 Mr. Biggs. Aye.  
1485 Ms. Adcock. Mr. Biggs votes aye.  
1486 Mr. Conyers?  
1487 Mr. Conyers. No.  
1488 Ms. Adcock. Mr. Conyers votes no.  
1489 Mr. Nadler?  
1490 Mr. Nadler. No.  
1491 Ms. Adcock. Mr. Nadler votes no.  
1492 Ms. Lofgren?  
1493 Ms. Lofgren. No.  
1494 Ms. Adcock. Ms. Lofgren votes no.  
1495 Ms. Jackson Lee?  
1496 Ms. Jackson Lee. No.  
1497 Ms. Adcock. Ms. Jackson Lee votes no.  
1498 Mr. Cohen?  
1499 Mr. Cohen. No.  
1500 Ms. Adcock. Mr. Cohen votes no.  
1501 Mr. Johnson of Georgia?  
1502 [No response.]

1503 Mr. Deutch?

1504 Mr. Deutch. No.

1505 Ms. Adcock. Mr. Deutch votes no.

1506 Mr. Gutierrez?

1507 [No response.]

1508 Ms. Bass?

1509 [No response.]

1510 Mr. Richmond?

1511 Mr. Richmond. No.

1512 Ms. Adcock. Mr. Richmond votes no.

1513 Mr. Jeffries?

1514 Mr. Jeffries. No.

1515 Ms. Adcock. Mr. Jeffries votes no.

1516 Mr. Cicilline?

1517 Mr. Cicilline. No.

1518 Ms. Adcock. Mr. Cicilline votes no.

1519 Mr. Swalwell?

1520 Mr. Swalwell. No.

1521 Ms. Adcock. Mr. Swalwell votes no.

1522 Mr. Lieu?

1523 Mr. Lieu. No.

1524 Ms. Adcock. Mr. Lieu votes no.

1525 Mr. Raskin?

1526 Mr. Raskin. No.

1527 Ms. Adcock. Mr. Raskin votes no.

1528 Ms. Jayapal?

1529 Ms. Jayapal. No.

1530 Ms. Adcock. Ms. Jayapal votes no.

1531 Mr. Schneider?

1532 Mr. Schneider. No.

1533 Ms. Adcock. Mr. Schneider votes no.

1534 Chairman Goodlatte. The gentleman from Ohio?

1535 Mr. Jordan. Yes.

1536 Ms. Adcock. Mr. Jordan votes yes.

1537 Chairman Goodlatte. The gentleman from South Carolina?

1538 Mr. Gowdy. Yes.

1539 Ms. Adcock. Mr. Gowdy votes yes.

1540 Chairman Goodlatte. The gentleman from Georgia?

1541 Mr. Collins. Yes.

1542 Ms. Adcock. Mr. Collins votes yes.

1543 Chairman Goodlatte. The gentleman from Texas?

1544 Mr. Farenthold. Yes.

1545 Ms. Adcock. Mr. Farenthold votes yes.

1546 Chairman Goodlatte. The gentlewoman from Alabama?

1547 Mrs. Roby. Aye.

1548 Ms. Adcock. Mrs. Roby votes aye.

1549 Chairman Goodlatte. The gentleman from Georgia?

1550 Mr. Johnson of Georgia. No.

1551 Ms. Adcock. Mr. Johnson votes no.

1552 Chairman Goodlatte. Has every member voted who wishes

1553 to vote? The clerk will report.

1554 Ms. Adcock. Mr. Chairman, 16 members voted aye; 15  
1555 members voted no.

1556 Chairman Goodlatte. And the motion is tabled.

1557 Ms. Jackson Lee. Mr. Chairman, I have an amendment at  
1558 the desk.

1559 Chairman Goodlatte. The clerk will report the  
1560 amendment.

1561 Ms. Adcock. Amendment to H.R. 115 --

1562 Mr. Chabot. Reserving a point of order, Mr. Chairman.

1563 Chairman Goodlatte. A point of order is reserved. The  
1564 clerk will report.

1565 Ms. Adcock. Amendment to H.R. 115, offered by Ms.  
1566 Jackson Lee of Texas. Page 2, line 1, strike "the  
1567 defendant" and insert the following: subject to subparagraph  
1568 C, "the defendant." Page 2 --

1569 [The amendment of Ms. Jackson Lee follows:]

1570 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

1571 Chairman Goodlatte. Without objection, the amendment  
1572 is considered as read and the gentlewoman is recognized for  
1573 5 minutes on her amendment.

1574 Ms. Jackson Lee. I thank the chairman. My colleagues,  
1575 I think it is worthy of considering the concerns that have  
1576 been expressed by members, but as well to acknowledge that  
1577 no member is in any way covering or advocating for the  
1578 dangerous acts of attacking our first responders or peace  
1579 officers. But it is very clear that the challenges that  
1580 come from death penalty cases in some instances delay  
1581 justice for families.

1582 My amendment indicates, in considering the aggravating  
1583 factors set forth in this paragraph, the court shall also  
1584 consider the possibility of a sentence to a term of  
1585 imprisonment for life without possibility of parole. And I  
1586 believe in the discussions that have been had of the factors  
1587 of innocence, the factors of discrimination, this should be  
1588 considered appropriately.

1589 This bill would not expand the number of Federal cases  
1590 eligible for the death penalty nor would it allow more cases  
1591 to be prosecuted federally. Rather, it would expand the  
1592 number of specifically enumerated aggravating factors.

1593 So, therefore, knowing the difficulty of death penalty  
1594 cases and the fact that Federal prosecutors already have the  
1595 tools they need to seek the death penalty in case involving

1596 the killing of a State law enforcement, the idea of the life  
1597 without parole in many instances brings justice to families  
1598 more readily than following a line of the death penalty.

1599 The tools are already in place and the difficulties  
1600 with the death penalty are already known. And I believe my  
1601 amendment is a fair amendment that is germane, that should  
1602 be considered.

1603 In light of the fact that this is duplicative and that  
1604 murder victims suffer with longwinded and long-extended  
1605 penalty systems dealing with the challenges of the death  
1606 penalty and, as well, adding to the death penalty with more  
1607 and more aggravated offenses when Federal prosecutors  
1608 already have the ability to bring justice for those who have  
1609 suffered really does not add to, I believe, the spirit of  
1610 this committee and the fact that we are here for justice,  
1611 not to hear ourselves be tough on crime.

1612 We are here for justice, and that is justice to the  
1613 victims and certainly justice to those who have fallen and  
1614 justice to the process that warrants the reflection on the  
1615 difficulty of the implementing of the death penalty. I  
1616 would ask my colleagues to support the Jackson Lee  
1617 amendment.

1618 As I do that, let me take a personal privilege to  
1619 acknowledge Jordan Wright, who is 9 years old, standing  
1620 behind me in pink, in grade 5. She skipped two grades; very

1621 studious and passionate about government, has two brothers,  
1622 and she is participating in Take Your Daughters to Work.  
1623 And I see a beautiful picture here sitting in my office.  
1624 And then Alina Goswami, 10 years old, fourth grade, River  
1625 Oaks Elementary, attended the Girls Inc. camp. And she is  
1626 here visiting and she is considering the Peace Corps. Both  
1627 of them are here visiting the Judiciary Committee.

1628 With that, I ask my colleagues to support the Jackson  
1629 Lee amendment and I yield back.

1630 Chairman Goodlatte. Does the gentleman from Ohio  
1631 insist on his point of order?

1632 Mr. Chabot. Mr. Chairman, we will withdraw our point  
1633 of order on this.

1634 Chairman Goodlatte. The chair recognizes himself in  
1635 opposition to the amendment. This amendment offered by the  
1636 gentlewoman from Texas seeks to amend H.R. 115 by including  
1637 life without parole for the death penalty in this statute.  
1638 I must oppose the amendment.

1639 The purpose of the underlying bill is to provide the  
1640 same protections for State and local public safety officers  
1641 as are currently provided to Federal law officers. In  
1642 capital cases, Federal juries can currently consider the  
1643 killing of a Federal law enforcement officer as an  
1644 aggravating factor in determining whether the ultimate  
1645 penalty is justified. It makes logical sense that State and

1646 local officers should receive the same protections.

1647 It does not make sense to include life without parole  
1648 in this statute since the statute lays out the aggravating  
1649 factors for determining whether capital punishment is  
1650 justified. And I believe the concern is misplaced and, in  
1651 fact, may actually be creating a mandatory minimum sentence  
1652 with the language that the gentlewoman has offered, and I  
1653 know of her concern about mandatory minimum sentences.

1654 So I must oppose the amendment as offered by the  
1655 gentlewoman and I urge my colleagues to join me in doing so.

1656 The question is on the amendment offered by the  
1657 gentlewoman from Texas. All those in favor, respond --

1658 Ms. Jackson Lee. Mr. Chairman, excuse me.

1659 Chairman Goodlatte. For what purpose does the  
1660 gentlewoman from Texas seek recognition? She has already  
1661 spoken on the bill.

1662 Ms. Jackson Lee. I understand. Could you get time so  
1663 I can speak? Just ask for time so I can answer --

1664 Mr. Raskin. Mr. Chairman, I would like to be  
1665 recognized if I might.

1666 Chairman Goodlatte. The gentleman is recognized for 5  
1667 minutes.

1668 Mr. Raskin. And then I will yield to the gentlelady  
1669 from Texas.

1670 Ms. Jackson Lee. Thank you. By far this is not a

1671 mandatory minimum, Mr. Chairman, and that is a buzzword to  
1672 further undermine the idea that it is an alternative to the  
1673 death penalty. It is not a mandatory minimum; the language  
1674 is considering the aggravating factors set forth in this  
1675 paragraph. "The court shall also consider the possibility  
1676 of a sentence to a term of imprisonment for life without  
1677 possibility of parole."

1678         The mandatory minimum of a death sentence is there is  
1679 no end to that. So I disagree; my language is "in  
1680 considering and the possibility of," which is to suggest  
1681 that there are more dangers fraught with the death penalty  
1682 by adding another aggravating factor, and this is to counter  
1683 the adding of another aggravating factor and to acknowledge  
1684 the strong opposition that all of us would have on the  
1685 killing of a first responder or a law enforcement officer.  
1686 And I think this does not in any way be characterized as a  
1687 mandatory minimum, and so I ask my colleagues to support the  
1688 amendment.

1689         Mr. Poe. Mr. Chairman?

1690         Chairman Goodlatte. Does the gentleman from Maryland  
1691 yield back?

1692         Mr. Raskin. I yield back, yes.

1693         Chairman Goodlatte. The gentleman from Texas?

1694         Mr. Poe. I move to strike the last word.

1695         Chairman Goodlatte. The gentleman is recognized for 5

1696 minutes.

1697 Mr. Poe. Mr. Chairman, I will be brief. I appreciate  
1698 my friend Ms. Jackson Lee's legislation and her amendment,  
1699 but in the big scheme of things, what happens if we adopt  
1700 this amendment? It relegates local and law enforcement  
1701 officers to second class law enforcement officers, that they  
1702 are not protected the same way that Federal officers are  
1703 protected under Federal law. I think that is wrong.

1704 Our peace officers, whether they are working in cut-  
1705 and-shoot Texas as a deputy sheriff or they are working for  
1706 the FBI, Federal law, when it comes to punishment of  
1707 offenders against them, should apply equally and not treat  
1708 local, State peace officers as second-class peace officers  
1709 under law. I yield back.

1710 Mr. Cohen. Will the gentleman yield?

1711 Mr. Poe. I have yielded back.

1712 Chairman Goodlatte. For what purpose does the  
1713 gentleman from Tennessee seek recognition?

1714 Mr. Cohen. Thank you, Mr. Chair.

1715 Chairman Goodlatte. For what purpose does the  
1716 gentleman from Tennessee seek recognition?

1717 Mr. Cohen. To strike the last word.

1718 Chairman Goodlatte. The gentleman is recognized for 5  
1719 minutes.

1720 Mr. Cohen. That was a test. Mr. Poe brings up a good

1721 issue, and I am concerned about this because I was a police  
1722 legal adviser. And I think when somebody targets a first  
1723 responder they are looking at people that are there to  
1724 protect us and that is wrong. But to say they are second  
1725 class and they should be added here, you can be added if you  
1726 are involved in a Federal taskforce, but right now, if you  
1727 are a high-ranking government public official, it includes  
1728 Federal officials. Does this make a governor a second-class  
1729 official, wherefore, if you shoot a governor or you shoot a  
1730 mayor or you shoot a DA, that you are a second-class  
1731 official?

1732 And if that is the case, should we include governors  
1733 and mayors and DAs and stretch it to that? I mean, I am  
1734 just not sure and I do not know that we should, but I do not  
1735 know that we should not. And you know, Roy "Cut-and-Shoot"  
1736 Harris would have been confused about this as well. You  
1737 know Roy "Cut-and-Shoot," do not you, judge?

1738 Mr. Poe. Yes, sir, I do.

1739 Mr. Cohen. Yes, sir, I thought you do. We are  
1740 probably the only two people here that do. You know, I do  
1741 not know. Judge, do you have any thought about that, about  
1742 governors and mayors and --

1743 Mr. Poe. If the gentleman will yield?

1744 Mr. Cohen. Please, yes.

1745 Mr. Poe. I think under the legislation we are dealing

1746 with peace officers, law enforcement officers, not other  
1747 State government officials. I yield back.

1748 Mr. Cohen. But we are trying to include them so they  
1749 are not second-class citizens. In the bill right now, the  
1750 aggravating factors would not include these other public  
1751 officials if they are not Federal, I think.

1752 Ms. Jackson Lee. The bill deals with first responders.

1753 Mr. Poe. If the gentleman yields back --

1754 Mr. Cohen. Yes, sir.

1755 Mr. Poe. -- or yields to me, we are only talking about  
1756 law enforcement first responders. We are not talking about  
1757 Governors and members of the State House. We are talking  
1758 about --

1759 Mr. Cohen. I guess you are right, because it could be  
1760 another bill. The principal bill deals with officials, but  
1761 this amendment only deals with law enforcement.

1762 Mr. Poe. That is correct.

1763 Mr. Cohen. So I will yield. And I do remember the  
1764 12th round TKO is 1958, I think it was. And I yield back  
1765 the balance of my time.

1766 Chairman Goodlatte. The question occurs on the  
1767 amendment offered by the gentlewoman from Texas.

1768 All those in favor, respond by saying aye.

1769 Those opposed, no.

1770 In the opinion of the chair, the noes have it and the

1771 amendment is not agreed to.

1772 Are there further amendments to H.R. 115?

1773 Mr. Richmond. Mr. Chairman?

1774 Chairman Goodlatte. For what purpose does the  
1775 gentleman seek recognition?

1776 Mr. Richmond. I do have an amendment, but I can --

1777 Chairman Goodlatte. The gentleman is recognized.

1778 Mr. Richmond. No, I was going to tell you I can just  
1779 do it as striking the last word and commenting on the bill.

1780 Chairman Goodlatte. The gentleman is recognized for 5  
1781 minutes.

1782 Mr. Richmond. Thank you, Mr. Chairman. I think that,  
1783 as we have traveled the country with the community policing  
1784 taskforce, I think that we have learned a lot about law  
1785 enforcement, and a lot about the fears and the danger that  
1786 they face. And I just want to add in for the record that if  
1787 we were serious about preventing the harm to our police  
1788 officers that serve our communities, that we would focus  
1789 more on the before-death action than the after-the-killing  
1790 action.

1791 So, when we start increasing the penalty, all we are  
1792 doing is affecting what happens to the criminal afterwards.  
1793 And when I practiced criminal law, I promise you, not one  
1794 defendant ever walked in my office and said, "I committed  
1795 this crime because the death penalty was not the

1796 punishment."

1797           In fact, most people who kill police officers do not  
1798 care about the penalty. One, they never think they will be  
1799 caught, or two, they think they are going to die in the  
1800 process anyway. So, if we want to really protect our police  
1801 officers, there are a couple things that I think we should  
1802 be doing as a committee that we have heard from our law  
1803 enforcement officers.

1804           Their go-bags that they have should have better body  
1805 armor in it that may prevent bullets coming out of long  
1806 guns, which we have not banned, from going through their  
1807 vest and then their body. We could limit the large-capacity  
1808 ammunition cartridges so that they are not outgunned like  
1809 the two police officers and the one sheriff in Baton Rouge  
1810 in my district who were outgunned when they answered the  
1811 call of a person walking down the street with a gun, or the  
1812 long gun that had the ability to have a sniper picking off  
1813 police officers in Dallas, Texas.

1814           So I just think that it is a commendable exercise that  
1815 we are doing here, but I truly believe that it is an  
1816 exercise in futility because it will not save a life. And I  
1817 think that we can save police officers' lives by equipping  
1818 them with better body armor; we can ban the most dangerous  
1819 things.

1820           And, Mr. Chairman, if you remember, this weekend the

1821 officers and others testified about a domestic terrorist  
1822 group that has killed more police officers than anyone else,  
1823 and we have yet to have a hearing on it in Homeland Security  
1824 or Judiciary or talk about whether the feds are coordinating  
1825 an effort to fight against this specific group, who target  
1826 and do not recognize the force of police officers.

1827         So, I would just urge you, Mr. Chairman, that this will  
1828 pass, but that we also get into some things that will  
1829 prevent the pain and the suffering of the families in the  
1830 first place, so that we can prevent the unnecessary death of  
1831 our people who have sworn to protect and serve our  
1832 communities. And I think that, as we have traveled the  
1833 country, we have learned a number of ways in which we can do  
1834 that, and I think that the committee would definitely  
1835 benefit by having, probably, a classified briefing on the  
1836 group that is the largest threat to our police officers and  
1837 who have killed more police officers than anyone else in the  
1838 country over the last couple years.

1839         I think that that would be very beneficial to  
1840 preventing these atrocities from happening in the first  
1841 place.

1842         And with that, Mr. Chairman, I yield back.

1843         Chairman Goodlatte. The chair thanks the gentleman for  
1844 his well-considered comments.

1845         Without objection, a letter from the Sergeants

1846 Benevolent Association of the Police Department of New York  
1847 City, on behalf of 13,000 members of the Sergeants  
1848 Benevolent Association, in support of the Thin Blue Line  
1849 will be made a part of the record.

1850 [The information follows:]

1851 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

1852 Chairman Goodlatte. Are there further amendments to  
1853 H.R. 115?

1854 Mr. Conyers. Mr. Chairman?

1855 Chairman Goodlatte. For what purpose does the  
1856 gentleman from Michigan seek recognition?

1857 Mr. Conyers. To strike the last word.

1858 Mr. Chairman and members of the committee, I am  
1859 concerned about the series of rulings emanating from the  
1860 chair on the subject of germaneness. And this is the first  
1861 time in a long while that the committee has taken up the  
1862 issue of the death penalty, and it is so important.

1863 But these rulings from the chair may have been  
1864 technically correct. I am not quite sure that they are;  
1865 they leave me concerned about the fact that we are, perhaps,  
1866 not getting at the real heart of the concerns of this  
1867 subject matter on the death penalty.

1868 The real fact of the matter is that, when you open the  
1869 issue, we must be prepared to deal with it in its totality:  
1870 forensic evidence, for example, effective assistance to  
1871 counsel, the discriminatory nature of the application of  
1872 this issue, and its unfair effect. So, I want everyone on  
1873 this committee to know that, in my dissenting views, if that  
1874 is what it turns out to be, I am going to review the  
1875 parliamentary appropriateness of almost all of these  
1876 proposals being turned down on the question of germaneness,

1877 and I want to be fair, but I think that this is a very  
1878 disturbing way for us to proceed on such a vitally important  
1879 and sensitive subject.

1880 I thank the chair.

1881 Chairman Goodlatte. Well, the chair will recognize  
1882 himself to respond to the gentleman's concerns and say that  
1883 I understand that the gentleman and other members on his  
1884 side of the aisle would like to review the totality of the  
1885 death penalty, but this is a very narrowly-drawn bill that  
1886 deals with one carve-out related to police officers. And,  
1887 as a result of that, the chair, while he respects the  
1888 gentleman's opinion, does not agree that those amendments  
1889 were germane.

1890 And I understand, also, that other aspects of criminal  
1891 justice reform need to be reviewed. I agree with that, and  
1892 we will do that. But with regard to this issue, this bill  
1893 is narrow, and the amendments offered were not germane, and  
1894 the chair stands behind his decisions ruling all but one of  
1895 the amendments to not be germane.

1896 Ms. Jackson Lee. Mr. Chairman, I would like to strike  
1897 the last word.

1898 Chairman Goodlatte. The gentlewoman has already done  
1899 that.

1900 All right. The gentlewoman is recognized for 5  
1901 minutes.

1902           Ms. Jackson Lee. I thank the gentleman very much. I  
1903 want to join my colleague, the ranking member, on the  
1904 importance of this discussion. I realize that this is a  
1905 narrowly-drawn bill, and I also realize that the universal  
1906 support for law enforcement officers and for first  
1907 responders, in some ways, clashes with what has been the  
1908 history of the death penalty in the last century and now,  
1909 that it is heavily burdened on people of color.

1910           It has been heavily burdened by enormous delays. We  
1911 have conflicts now with what technique is to be used, and I  
1912 do think it is worthy, worthy, that we have a full  
1913 discussion on the death penalty, putting it in the context  
1914 of this narrowly-drawn bill, to not consider alternatives,  
1915 to not consider the questions of discrimination, forensic  
1916 evidence, and other aspects of this very huge issue.

1917           And then I would offer to say the issues being raised  
1918 on both sides should be respected for the passion and the  
1919 emotion. I am no less a supporter of a firefighter in  
1920 Houston, in New York, in Jacksonville, in Los Angeles,  
1921 Chicago, or anywhere else, or law enforcement. I take no  
1922 backseat to anyone challenging those of us who have offered  
1923 alternatives to the death penalty.

1924           And therefore, this bill raises considerable problems  
1925 because it is not the question of the public servant, of  
1926 whom we have great respect, and of whom we have fought for,

1927 and whom this committee works with on a continuous basis.  
1928 But it is the idea that the death penalty raises serious  
1929 concerns and should be addressed.

1930 I conclude my remarks by a question, Mr. Chairman, that  
1931 may not be answered at this time. It deviates from the  
1932 bill, but it is within my timeframe. And that is that, at  
1933 the beginning of the session, we raised a number of  
1934 inquiries about a Russian investigation in this committee.  
1935 We have had none. The Senate Judiciary Committee will be  
1936 hearing from Deputy Attorney General Sally Yates. That is a  
1937 Judiciary Committee jurisdictional point, and that is the  
1938 Department of Justice.

1939 They will also add Director Clapper. We have done  
1940 nothing, and I think it belittles the overall responsibility  
1941 of this committee and its individual subcommittees that we  
1942 have not seriously looked at the chain of events dealing  
1943 with either Russian collusion, dealing with the actions of  
1944 Mr. Flynn, or dealing with the actions of the 2016 election.

1945 I would think, minimally, this committee should call  
1946 Deputy Attorney General Sally Yates at a hearing on this  
1947 issue, and I hope that this will be discussed in a manner  
1948 that we can do this as quickly as possible because I assume  
1949 that she is a willing witness before the Judiciary  
1950 Committee, and she would be in the Senate, and she would be  
1951 a willing witness before us.

1952           We just cannot just sit idly by while the fury of  
1953 investigations are going right by us, and we are the holders  
1954 of justice in this Congress. So I would ask the leadership  
1955 that we set a hearing dealing with the issues that have been  
1956 raised by members at the very beginning of this session,  
1957 which I understand, Mr. Chairman, you welcomed. You have  
1958 sent letters, as I understand, of inquiry, but I believe  
1959 this committee needs a hearing.

1960           With that, I yield back.

1961           Mr. Cicilline. Mr. Chairman?

1962           Chairman Goodlatte. For what purpose does the  
1963 gentleman from Rhode Island seek recognition?

1964           Mr. Cicilline. I move to strike the last word.

1965           Chairman Goodlatte. The gentleman is recognized for 5  
1966 minutes.

1967           Mr. Cicilline. Thank you, Mr. Chairman. Mr. Chairman,  
1968 I served as mayor of the city of Providence for 8 years, and  
1969 without question, the worst day of those 8 years was April  
1970 17th, 2005, when Sergeant Jimmy Allen, a Providence police  
1971 officer, was murdered in the Providence Police Station by a  
1972 suspect. And so I know what that means to a police  
1973 department, what it means to a community, what it means to a  
1974 city.

1975           But I must say, I am very disappointed that, in the  
1976 discussion of this added enhancement in this legislation,

1977 that this committee, pursuant to your rulings, has refused  
1978 to do what we can to ensure that, as we enlarge the group of  
1979 individuals that are exposed to the death penalty, that we,  
1980 at the same time, enhance the use of forensic evidence, be  
1981 sure that the proceedings produce reliable results, and  
1982 insist that the standards for the competence of defense  
1983 counsel be preserved and that the resources be available.

1984         And so it is easy to add a provision or another  
1985 aggravating condition, but I think, commensurate with that,  
1986 is our responsibility to be sure that the results are  
1987 reliable, that the system is fair, and that we are doing all  
1988 that we can to eliminate those instances of inaccurate  
1989 results, and we know from the DNA work that has been done  
1990 since that technique was been made available that that  
1991 happens with some frequency.

1992         But I suppose what is the most alarming to me is that,  
1993 as a result of an amendment that was adopted by this  
1994 committee, we have now added the word "targeted," which,  
1995 according to the sponsor of the amendment and the plain  
1996 language of the statute, is something different than  
1997 "killed" or "attempted to kill." It now also includes  
1998 "targeting" without any definition of what that means.

1999         And so we have now blown a huge hole open in the  
2000 imposition and the potential imposition of the death penalty  
2001 for a jury's evaluation of what might be considered

2002 "targeting." I know that is not the intention, but that is  
2003 now the result of this bill in its present form.

2004 And so, at the same time we have expanded the potential  
2005 use of the imposition of the death penalty, not just for  
2006 having "killed" or "attempted to kill," but for a whole new  
2007 category of activities, "targeting," with no definition of  
2008 what that means, at the very same moment we have done that,  
2009 we have rejected wholesale efforts to ensure that the system  
2010 is fair, that resources are available, that there are  
2011 standards for the competency of counsel, that we are  
2012 vigorous in our use of forensic evidence.

2013 That is completely unacceptable; it is inconsistent  
2014 with our constitutional obligations, I think inconsistent  
2015 with our responsibilities as a Judiciary Committee that is  
2016 charged with ensuring that our system of justice works. And  
2017 so I would sadly say that, although no one is more  
2018 supportive and understands the responsibility of keeping our  
2019 police officers and first responders safe than I do, we do  
2020 not do this in this amendment. It is a good talking point,  
2021 but it does not do that.

2022 And I yield the balance of my time to Mr. Cohen.

2023 Mr. Cohen. Thank you, sir. I am going to vote against  
2024 this with the misgivings that, as a former police legal  
2025 advisor and somebody that knows that, if somebody is  
2026 shooting somebody who is an official, like Gabby Giffords or

2027 a police officer, they are shooting at the whole system.

2028 And that is wrong.

2029 But I do agree with Mr. Cicilline: DNA has shown how  
2030 imperfect our system is. There was a State senator that was  
2031 murdered, when I was a State senator, named Tommy Burks, and  
2032 just a wonderful human being. And he was killed by his  
2033 opponent. And they found out about 10 days later that it  
2034 was his opponent that killed him. And he did not just kill  
2035 Tommy; he was killing the election system.

2036 And that was wrong, but it was a State offense. And  
2037 this is federalizing a State crime. To shoot a first  
2038 responder is a State offense, and State DAs are going to  
2039 indict and get the death penalty or seek the death penalty.  
2040 And I remember, when I was a senator, one of my colleagues  
2041 from Tennessee, in fact, made carjacking a Federal offense.  
2042 I do not think there has been a carjacking case ever brought  
2043 in Federal court, but at the time, it was the deal.  
2044 Everyone wanted to clamor on and be against carjacking.

2045 So, they made it a Federal offense. It was a State  
2046 offense. I passed the State carjacking law, and I thought,  
2047 "We do not need any carjacking Federal law," and we did not.  
2048 It has never been used. And this is a States issue, and we  
2049 do have to give up pride, so I do not think it makes police  
2050 officers second-class citizens. I think it makes States  
2051 first-class, political institutions, and it makes DAs first-

2052 class prosecutors.

2053         So, because of jurisdictional differences, I am going  
2054 to vote against it, and I just do not think that it is  
2055 necessary, that there can be already Federal cases with the  
2056 aggravating factors, but if they are not aggravating  
2057 factors, our first-class DAs will be able to bring an action  
2058 and appropriately so, so I yield back the rest of Mr.  
2059 Cicilline's time.

2060         Chairman Goodlatte. For what purpose does the  
2061 gentleman from New York seek recognition?

2062         Mr. Nadler. Strike the last word.

2063         Chairman Goodlatte. The gentleman is recognized for 5  
2064 minutes.

2065         Mr. Nadler. Mr. Chairman, I will be brief, and if I  
2066 repeat anything that was said before I came in a couple  
2067 hours ago, I apologize.

2068         Let me just say that, in addition to all the other  
2069 reasons that have been stated for opposing the bill, there  
2070 is a fundamental reason here. I remember when we, in the  
2071 Crime Bill of 1994, when we started down this road, some  
2072 people made fun of the fact that, you know, 90 percent of  
2073 murder prosecutions are on the State level, and all we were  
2074 doing was putting the death penalty on rare occasions, like  
2075 if you murder a Federal chicken plucker or if you murder  
2076 this one or that one, really just so we could say we were

2077 being tough, even though it would rarely occur.

2078           And we are doing more of that now, but the fundamental  
2079 objection to this bill is that it is one thing to say, in  
2080 effect, a mandatory death penalty for killing somebody. It  
2081 is another thing to say a mandatory death penalty for  
2082 attempting to kill somebody. When we put "targeting" in  
2083 here, you are establishing a mandatory death penalty for an  
2084 attempt that is not successful.

2085           I am not aware that we have in the law anywhere a death  
2086 penalty, certainly not a mandatory death penalty, for an  
2087 attempted murder. And here, we are establishing a mandatory  
2088 death penalty for an attempt, an unsuccessful attempt  
2089 because it says "targeting," so presumably, if you did not  
2090 kill the person, but you targeted them, you aimed the gun,  
2091 even if you did not hit the person or injure him in any way,  
2092 mandatory death penalty.

2093           I think that is a fundamental change for which there is  
2094 no reason. The law has always recognized a distinction  
2095 between a terrible act and an attempted terrible act. The  
2096 attempted terrible act ought to be punished, too, but not as  
2097 severely as accomplishment of the terrible act. And here we  
2098 are establishing a mandatory death penalty.

2099           Chairman Goodlatte. Will the gentleman yield?

2100           Mr. Nadler. Yes.

2101           Chairman Goodlatte. It is not mandatory. Read the

2102 law.

2103 Mr. Nadler. Well, number one, I think it is. But,  
2104 number two, my comments would apply, even if it is not  
2105 mandatory. A death penalty for an attempt I do not think is  
2106 preceded, and I would oppose it.

2107 I yield back.

2108 Chairman Goodlatte. A reporting quorum being present,  
2109 the question is on the motion to report the bill H.R. 115,  
2110 as amended, favorably to the House.

2111 Those in favor will say aye.

2112 Those opposed, no.

2113 The ayes have it. The bill, as amended, is ordered  
2114 reported favorably to the House.

2115 Mr. Conyers. I would like a recorded vote, please.

2116 A reported vote is requested, and the clerk will call  
2117 the roll.

2118 Ms. Adcock. Mr. Goodlatte?

2119 Chairman Goodlatte. Aye.

2120 Ms. Adcock. Mr. Goodlatte votes aye.

2121 Mr. Sensenbrenner?

2122 Mr. Sensenbrenner. Aye.

2123 Ms. Adcock. Mr. Sensenbrenner votes aye.

2124 Mr. Smith?

2125 Mr. Smith. Aye.

2126 Ms. Adcock. Mr. Smith votes aye.

2127 Mr. Chabot?

2128 Mr. Chabot. Aye.

2129 Ms. Adcock. Mr. Chabot votes aye.

2130 Mr. Issa?

2131 Mr. Issa. Aye.

2132 Ms. Adcock. Mr. Issa votes aye.

2133 Mr. King?

2134 [No response.]

2135 Mr. Franks?

2136 Mr. Franks. Aye.

2137 Ms. Adcock. Mr. Franks votes aye.

2138 Mr. Gohmert?

2139 [No response.]

2140 Mr. Jordan?

2141 Mr. Jordan. Yes.

2142 Ms. Adcock. Mr. Jordan votes yes.

2143 Mr. Poe?

2144 Mr. Poe. Yes.

2145 Ms. Adcock. Mr. Poe votes yes.

2146 Mr. Chaffetz?

2147 [No response.]

2148 Mr. Marino?

2149 [No response.]

2150 Mr. Gowdy?

2151 Mr. Gowdy. Yes.

2152 Ms. Adcock. Mr. Gowdy votes yes.  
2153 Mr. Labrador?  
2154 [No response.]  
2155 Mr. Farenthold?  
2156 Mr. Farenthold. Yes.  
2157 Ms. Adcock. Mr. Farenthold votes yes.  
2158 Mr. Collins?  
2159 [No response.]  
2160 Mr. DeSantis?  
2161 [No response.]  
2162 Mr. Buck?  
2163 Mr. Buck. Aye.  
2164 Ms. Adcock. Mr. Buck votes aye.  
2165 Mr. Ratcliffe?  
2166 Mr. Ratcliffe. Yes.  
2167 Ms. Adcock. Mr. Ratcliffe votes yes.  
2168 Mrs. Roby?  
2169 [No response.]  
2170 Mr. Gaetz?  
2171 [No response.]  
2172 Mr. Johnson of Louisiana?  
2173 Mr. Johnson of Louisiana. Yes.  
2174 Ms. Adcock. Mr. Johnson votes yes.  
2175 Mr. Biggs?  
2176 Mr. Biggs. Aye.

2177 Ms. Adcock. Mr. Biggs votes aye.  
2178 Mr. Conyers?  
2179 Mr. Conyers. No.  
2180 Ms. Adcock. Mr. Conyers votes no.  
2181 Mr. Nadler?  
2182 Mr. Nadler. No.  
2183 Ms. Adcock. Mr. Nadler votes no.  
2184 Ms. Lofgren?  
2185 Ms. Lofgren. No.  
2186 Ms. Adcock. Ms. Lofgren votes no.  
2187 Ms. Jackson Lee?  
2188 [No response.]  
2189 Mr. Cohen?  
2190 Mr. Cohen. No.  
2191 Ms. Adcock. Mr. Cohen votes no.  
2192 Mr. Johnson of Georgia?  
2193 [No response.]  
2194 Mr. Deutch?  
2195 [No response.]  
2196 Mr. Gutierrez?  
2197 [No response.]  
2198 Ms. Bass?  
2199 Ms. Bass. No.  
2200 Ms. Adcock. Ms. Bass votes no.  
2201 Mr. Richmond?

2202 [No response.]

2203 Mr. Jeffries?

2204 Mr. Jeffries. No.

2205 Ms. Adcock. Mr. Jeffries votes no.

2206 Mr. Cicilline?

2207 Mr. Cicilline. No.

2208 Ms. Adcock. Mr. Cicilline votes no.

2209 Mr. Swalwell?

2210 Mr. Swalwell. Aye.

2211 Ms. Adcock. Mr. Swalwell votes aye.

2212 Mr. Lieu?

2213 Mr. Lieu. No.

2214 Ms. Adcock. Mr. Lieu votes no.

2215 Mr. Raskin?

2216 Mr. Raskin. No.

2217 Ms. Adcock. Mr. Raskin votes no.

2218 Ms. Jayapal?

2219 Ms. Jayapal. No.

2220 Ms. Adcock. Ms. Jayapal votes no.

2221 Mr. Schneider?

2222 [No response.]

2223 Chairman Goodlatte. The gentlewoman from Alabama?

2224 Mrs. Roby. Aye.

2225 Ms. Adcock. Mrs. Roby votes aye.

2226 Chairman Goodlatte. The gentleman from Texas, Mr.

2227 Gohmert?

2228 Mr. Gohmert. Aye.

2229 Ms. Adcock. Mr. Gohmert votes aye.

2230 Chairman Goodlatte. The gentleman from Georgia?

2231 Mr. Collins. Yes.

2232 Ms. Adcock. Mr. Collins votes yes.

2233 Chairman Goodlatte. The gentleman from Idaho?

2234 Mr. Labrador. Yes.

2235 Ms. Adcock. Mr. Labrador votes yes.

2236 Chairman Goodlatte. The gentleman from Illinois?

2237 Mr. Schneider. No.

2238 Ms. Adcock. Mr. Schneider votes no.

2239 Chairman Goodlatte. The gentleman from Georgia?

2240 Mr. Johnson of Georgia. No.

2241 Ms. Adcock. Mr. Johnson votes no.

2242 Chairman Goodlatte. Has every member voted who wishes

2243 to vote?

2244 The clerk will report.

2245 Ms. Adcock. Mr. Chairman, 19 members voted aye; 12

2246 members voted no.

2247 Chairman Goodlatte. The ayes have it, and the bill, as

2248 amended, is ordered reported favorably to the House.

2249 Members will have 2 days to submit views.

2250 Without objection, the bill will be reported as a

2251 single amendment in the nature of a substitute,

2252 incorporating all adopted amendments. The staff is  
2253 authorized to make technical and conforming changes.

2254 The chairman would advise the committee that we have  
2255 five more bills. The committee will stand in recess for  
2256 lunch, and we will reconvene at 1:00 p.m.

2257 [Recess.]

2258 Chairman Goodlatte. The committee will reconvene.  
2259 Pursuant to notice, I now call up H.R. 510 for purpose of  
2260 markup and move the committee report the bill favorably to  
2261 the House.

2262 The clerk will report the bill.

2263 Ms. Adcock. H.R. 510: to establish a system for  
2264 integration of rapid DNA instruments for use by law  
2265 enforcement to reduce violent crime and reduce the current  
2266 DNA analysis backlog.

2267 [The bill follows:]

2268 \*\*\*\*\* INSERT 2 \*\*\*\*\*

2269 Chairman Goodlatte. Without objection, the bill is  
2270 considered as read and open for amendment at any time, and I  
2271 will begin by submitting my opening statement for the  
2272 record.

2273 [The prepared statement of Chairman Goodlatte follows:]

2274 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

2275 Chairman Goodlatte. And the chair now recognizes the  
2276 gentleman from Michigan Mr. Conyers.

2277 Mr. Conyers. Thank you, Mr. Chairman. My colleagues,  
2278 this is a bill intended to integrate rapid DNA technology  
2279 into the FBI's combined DNA index system known as CODIS.

2280 DNA technology is a valuable and ever-changing element  
2281 of our criminal justice system. They often play a critical  
2282 role in the conduct of many criminal investigations of  
2283 Federal, State, and local law enforcement agencies. Rapid  
2284 DNA involves a fully automated, hands-free process designed  
2285 to produce a DNA profile in minutes at the booking stage  
2286 outside of a crime laboratory. Existing law, however, does  
2287 not provide for the inclusion of rapid DNA analysis into  
2288 CODIS, and so H.R. 510 addresses this need by authorizing  
2289 law enforcement to conduct rapid DNA analysis, so long as  
2290 rapid DNA machines used are accredited, upload the result to  
2291 the national index, even when not performed by crime  
2292 laboratories.

2293 This will add a real-time layer to the CODIS system and  
2294 save a significant amount of time and resources. H.R. 510  
2295 has significant, real-world consequences. For example,  
2296 Detroit, as of this January, has tested approximately 10,000  
2297 backlogged sexual assault kits, which resulted in 2,616 DNA  
2298 matches, the identification of 784 potential serial rapist;  
2299 78 convictions obtained by the Wayne County Prosecutor's

2300 Office; and DNA links to crimes in 40 States and the  
2301 District of Columbia.

2302       The addition of rapid DNA information to the CODIS  
2303 database will help identify serial rapists if matches are  
2304 made through the laboratory analysis of sexual assault kit  
2305 samples.

2306       In addition, I would hope that the use of rapid DNA  
2307 would allow other DNA labs to focus more of their time and  
2308 energy reducing the backlogs of untested sexual assault kits  
2309 across this country.

2310       I thank Representative Jim Sensenbrenner, our former  
2311 chairman, and Eric Swalwell for their work on this important  
2312 piece of legislation, which will provide law enforcement  
2313 with a valuable investigative tool, and commend them for  
2314 their efforts to ensure the inequity and quality of the  
2315 analysis and instruments that will be utilized as a result  
2316 of this bill.

2317       Thank you, Mr. Chairman. I yield back any time  
2318 remaining.

2319       [The prepared statement of Mr. Conyers follows:]

2320 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

2321 Chairman Goodlatte. The chair thanks the gentleman.  
2322 It is now my pleasure to recognize the sponsor of the bill,  
2323 the gentleman from Wisconsin, Mr. Sensenbrenner, for his  
2324 opening statement.

2325 Mr. Sensenbrenner. Mr. Chairman, as much as we are  
2326 about ready to vote and in the interest of getting this bill  
2327 out before we all depart for the floor and go our separate  
2328 ways after the votes, I ask unanimous consent that my  
2329 opening statement, together with letters from Sergeants  
2330 Benevolent Association and the NYPD and the Police  
2331 Foundation, be put into the record, and I would urge all of  
2332 my colleagues simply to put statements in the record. This  
2333 is a good and bipartisan bill, and let's get it moving  
2334 before we depart.

2335 Chairman Goodlatte. The chair thanks the gentleman,  
2336 and without objection, his statement and the documents were  
2337 made part of the record.

2338 [The prepared statement of Mr. Sensenbrenner follows:]

2339

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

2340 Chairman Goodlatte. Are there any amendments to H.R.  
2341 510?

2342 For what purpose does the gentlewoman from California  
2343 seeks recognition?

2344 Ms. Lofgren. To strike the last word and very briefly.

2345 Chairman Goodlatte. The gentlewoman is recognized.

2346 Ms. Lofgren. I am just delighted that we are at this  
2347 stage. I met with the rapid DNA company a number of years  
2348 ago and sent them over to talk to Jim Sensenbrenner. Not  
2349 only does this have the benefit of rapidly getting the DNA  
2350 tested, there is a benefit that it is less intrusive.

2351 Part of the problem with DNA testing is that you can  
2352 learn everything about not only that person, but their  
2353 family. This DNA testing only tests certain points of the  
2354 genome. It is just as accurate, but it does not say  
2355 everything about that person and his family, so it is a  
2356 great boon. I think Jim Sensenbrenner and certainly our  
2357 colleague, Mr. Swalwell. This is really a good day. It is  
2358 going to be good for victims, good for justice, but also  
2359 good privacy.

2360 Thank you, and I yield back.

2361 Chairman Goodlatte. The chair thanks the gentlewoman.

2362 Mr. Swalwell. Mr. Chairman?

2363 Chairman Goodlatte. For what purpose does the  
2364 gentleman from California seek recognition?

2365 Mr. Swalwell. Strike the last word.

2366 Chairman Goodlatte. The gentleman is recognized for 5  
2367 minutes.

2368 Mr. Swalwell. Thank you. Mr. Chairman, I believe  
2369 that, as my colleague from California stated and who has  
2370 supported this, this is an opportunity to catch the guilty  
2371 and clear the innocent in a faster way. So I just want to  
2372 highlight rapid DNA, one of the biggest proponents in my  
2373 district, IntegenX, located in Pleasanton, California, they  
2374 do great work in this area, and I appreciate their advocacy.  
2375 And I also just appreciate Mr. Sensenbrenner's willingness  
2376 to work with us on this, so that we can bring justice for  
2377 more victims and make sure that more innocent people are  
2378 cleared.

2379 And with that, I yield back.

2380 Chairman Goodlatte. Are there any amendments to H.R.  
2381 510?

2382 A reporting quorum being present, the question is on  
2383 the motion to report the bill H.R. 510 favorably to the  
2384 House.

2385 Those in favor, respond by saying aye.

2386 Those opposed, no.

2387 The ayes have it, and the bill is ordered reported  
2388 favorably. The members will have 2 days to submit views.

2389 Pursuant to notice, I now call up H.R. 613 for purpose

2390 of markup and move that the committee report the bill  
2391 favorably to the House.

2392 The clerk will report the bill.

2393 Ms. Adcock. H.R. 613: to amend title 18 United States  
2394 Code to require that the director of the Bureau of Prisons  
2395 ensure that each chief executive officer of a Federal penal  
2396 or correctional institution provides a secure storage area  
2397 located outside of the secure perimeter of the Federal penal  
2398 or correctional institution for firearms carried by  
2399 employees of the Bureau of Prisons and for other purposes.

2400 [The bill follows:]

2401 \*\*\*\*\* INSERT 3 \*\*\*\*\*

2402 Chairman Goodlatte. Without objection, the bill is  
2403 considered as read and open for amendment at any time, and I  
2404 will begin by putting my opening statement in the record and  
2405 recognizing the gentleman from Michigan, Mr. Conyers, for  
2406 his opening statement.

2407 [The prepared statement of Chairman Goodlatte follows:]

2408 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

2409 Mr. Conyers. Mr. Chairman and my colleagues, H.R. 613  
2410 is intended to facilitate the ability of the Federal Bureau  
2411 of Prisons' correctional officers to carry personal firearms  
2412 for protection as they commute to and from their jobs. This  
2413 is a bipartisan bill that the committee favorably considered  
2414 as part of a more comprehensive prison reform bill in the  
2415 last Congress, but which did not receive consideration by  
2416 the full House. And I hope you, as well, remain supportive  
2417 of this proposal.

2418 The Bureau of Prisons' correctional officers are  
2419 already authorized to carry concealed firearms, of course,  
2420 for self-protection while off duty under the Law Enforcement  
2421 Safety Act; therefore, this bill would not alter their  
2422 existing rights to do so.

2423 However, there currently is no mechanism to allow these  
2424 correctional officers to store firearms that they would  
2425 carry on their way to their jobs at the Bureau of Prisons'  
2426 facilities; therefore, they are precluded from bringing  
2427 their personal firearms onto the premises of these  
2428 facilities and are, in effect, thereby, precluded from  
2429 carrying firearms for personal protection as they travel to  
2430 and from work.

2431 To address this issue, H.R. 613 would require the  
2432 Bureau of Prisons to allow property-qualified correctional  
2433 officers to bring personal firearms onto the premises of

2434 Bureau facilities in a manner that minimizes any possible  
2435 security or safety risks.

2436         The Bureau would be required to either provide the  
2437 officers with a secure storage area for their firearm  
2438 located outside the secure perimeter or allow the officers  
2439 to store their firearms in vehicle lockboxes approved by the  
2440 Bureau. Without question, correctional officers perform an  
2441 essential function within our criminal justice system, and  
2442 we depend on them to ensure Bureau facilities are safe and  
2443 managed efficiently.

2444         For some correctional officers, the inability to carry  
2445 a firearm to and from work could leave them vulnerable to  
2446 those who would seek to do them harm as they travel to and  
2447 from work. This bill is named in honor of Lieutenant  
2448 Albarati, a Bureau officer who was ambushed and ultimately  
2449 murdered as he drove home from his job at a bureau detention  
2450 center. Lieutenant Albarati was specifically targeted for  
2451 the work he did at the institution. Hopefully, this  
2452 legislation will prevent future vehicle attacks on these  
2453 officers.

2454         So, I encourage my colleagues to join me in supporting  
2455 this important measure that would allow Bureau correctional  
2456 officers to protect themselves, if necessary, without  
2457 jeopardizing safety and security of facilities in which they  
2458 work.

2459 I hope you will support it, and I thank the chairman  
2460 and yield back the balance of my time.

2461 Chairman Goodlatte. The chair thanks the ranking  
2462 member.

2463 Are there any amendments to H.R. 613?

2464 A reporting quorum being present, the question is on  
2465 the motion to report the bill H.R. 613 favorably to the  
2466 House.

2467 Those in favor, respond by saying aye.

2468 Those opposed, no.

2469 The ayes have it, and the bill is ordered reported  
2470 favorably. Members will have 2 days to submit views.

2471 We have a series of votes on the floor and about 9  
2472 minutes remaining in the vote. The committee will stand in  
2473 recess and reconvene immediately following this vote series.

2474 Thank you all.

2475 [Whereupon, at 1:41 p.m., the committee recessed.]