

1 NATIONAL CAPITOL CONTRACTING
2 RPTS CATALA
3 HJU066000

4 MARKUP OF H.R. 2152
5 Wednesday, March 7, 2018
6 House of Representatives,
7 Committee on the Judiciary,
8 Washington, D.C.

9 The committee met, pursuant to call, at 10:00 a.m., in
10 Room 2141, Rayburn House Office Building, Hon. Bob Goodlatte
11 [chairman of the committee] presiding.

12 Present: Representatives Goodlatte, Chabot, Issa, King,
13 Gohmert, Jordan, Marino, Gowdy, Labrador, Farenthold,
14 Collins, DeSantis, Buck, Ratcliffe, Gaetz, Johnson of
15 Louisiana, Biggs, Handel, Nadler, Lofgren, Cohen, Johnson of
16 Georgia, Jeffries, Cicilline, Raskin, Jayapal, Schneider,
17 and Demings.

18 Staff Present: Shelley Husband, Staff Director; Branden
19 Ritchie, Deputy Staff Director; Zach Somers, Parliamentarian
20 and General Counsel; Jason Cervenak, Counsel, Subcommittee

21 on Crime, Terrorism, Homeland Security, and Investigations;
22 Alley Adcock, Clerk; Danielle Brown, Minority
23 Parliamentarian and Chief Legislative Counsel; Joe
24 Graupensperger, Minority Counsel; Monalisa Dugue, Minority
25 Deputy Chief Counsel; Rachel Calanni, Minority Professional
26 Staff Member; Matthew Morgan, Minority Counsel; David
27 Greengrass, Minority Counsel; and Jason Everett, Minority
28 Counsel.

29 Chairman Goodlatte. Good morning. The Judiciary
30 Committee will come to order. And without objection, the
31 chair is authorized to declare a recess at any time.
32 Pursuant to notice, I now call up H.R. 2152 for purposes of
33 markup. I move that the committee report the favorably to
34 the House. The clerk will report the bill.

35 Ms. Adcock. H.R. 2152, to require States and units of
36 local government receiving funds under grant programs
37 operated by the Department of Justice, which use funds for
38 pretrial services programs, to submit to the Attorney
39 General a report relating to such program and for other
40 purposes.

41 [The bill follows:]

42 ***** INSERT 1 *****

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

46 Today, we consider H.R. 2152, The Citizens' Right to
47 Know Act of 2017, offered by the gentleman from Texas, Mr.
48 Poe. A little over 50 years ago, there were three pretrial
49 options for defendants accused of a crime. They were either
50 released on their own recognizance, commercial bail, or
51 remanded to custody.

52 When considering the options on whether to grant ROR --
53 release on one's own recognizance -- set a bail amount, or
54 remand, the judge considers a number of facts, including the
55 severity of the crime charged, the suspect's criminal
56 record, the danger posed to the public if the suspect is
57 released, and the suspect's ties to family, community, and
58 employment. Commercial bail ensures the appearance of the
59 defendant in court at no cost to the taxpayer.

60 The situation for defendants began to change in the
61 1960s. The first U.S. pretrial services program, the
62 Manhattan Bail Project, was established in 1961. The
63 Manhattan Bail Project was intended to help defendants who
64 are financially unable to pose the surety bond conditions
65 set in New York City. The program interviewed defendants to
66 gather information on community ties to determine a
67 defendant's likelihood of appearing in court.

68 Based on these interviews, low-risk individuals were
69 recommended for release on their own recognizance or the
70 defendants promised to appear without financial obligation.
71 Unfortunately, over the last four decades, pretrial release
72 programs have expanded well beyond their original scope and
73 purpose.

74 Today, there are over 300 pretrial release programs
75 nationwide whose participants routinely include violent and
76 repeat offenders, many of whom are able to post a commercial
77 bond and have done so in the past. In many instances, the
78 Federal Government has become a major source of funding for
79 pretrial release programs.

80 When the Bureau of Justice Statistics examined the
81 pretrial release phase of the criminal justice process using
82 data collected from a representative sample of felony cases
83 filed in the 75 largest U.S. counties, they found that,
84 compared to release on recognizance, defendants on financial
85 release were more likely to make all scheduled court
86 appearances. Defendants released on an unsecured bond or as
87 part of an emergency release were most likely to have a
88 bench warrant issued because they failed to appear in court.

89 H.R. 2152 says if a jurisdiction receives grant money
90 from the Department of Justice to operate a pretrial release
91 program with Federal dollars, that jurisdiction needs to
92 report to the Attorney General certain information

93 concerning the defendants. The bill requires the
94 jurisdiction to submit the criminal histories of the
95 defendants and the number of times the defendant has failed
96 to appear as ordered by the court. It also requires the
97 Attorney General to make public the information the
98 Department of Justice receives. In my mind, that is not a
99 whole lot to ask of these jurisdictions.

100 In fact, this bill is beneficial because citizens have
101 the right to know what types of defendants are being
102 released prior to their trial. If defendants have a long
103 history of criminal behavior or frequent failure to appear
104 in court, the community should know that.

105 Likewise, residents should be aware if their community
106 is running a successful pretrial services program. Simply
107 put, no matter what side of the bail or no-bail debate you
108 find yourself on, you should support this bill. Information
109 like this in the hands of the public is never a bad thing.
110 It will also be helpful to those of us who make policy on
111 these matters.

112 I want to thank Mr. Poe for introducing this
113 legislation, and I will be offering an amendment in the
114 nature of a substitute that I urge my colleagues to support.

115 [The prepared statement of Chairman Goodlatte follows:]

116 ***** COMMITTEE INSERT *****

117 Chairman Goodlatte. It is now my pleasure to recognize
118 the ranking member of the committee, the gentleman from New
119 York, Mr. Nadler, for his opening statement.

120 Mr. Nadler. Thank you, Mr. Chairman. Mr. Chairman and
121 colleagues, before I discuss the bill before us, I want to
122 say a word about what is not before us -- namely,
123 legislation to strengthen our firearm laws. This is the
124 committee's first markup session since the tragedy at
125 Marjory Stoneman Douglas High School on February 14th.

126 I want to recognize our colleague, Ted Deutch, who
127 represents Parkland, Florida, and who has worked tirelessly
128 to help the grieving families and who has been a fierce
129 advocate for sensible gun safety legislation.

130 As the Democratic Members of the Committee stated in
131 our letter to the chairman on February 21st, it is long past
132 due that the committee with jurisdiction over our gun laws
133 take action to reduce the level of gun violence, that is not
134 only a periodic, but still too frequent mass shooting issue,
135 and one that impacts communities across our country every
136 day.

137 At the end of last year, this committee reported the
138 bipartisan "Fix NICS" bill, which would help get more
139 information from State and Federal agencies into the
140 background check system. Of course, even the modest Fix
141 NICS bill only made it so far in this House as an

142 independent bill. Unfortunately, the House did not take it
143 up separately, but instead included it in a very dangerous
144 bill to expand the concealed carrying of firearms in this
145 country.

146 The Fix NICS bill is as good as far as its limited
147 scope will allow, but if we recognize that plugging gaps in
148 a worthy goal, then we should also proceed to plug the
149 biggest gap in the system. The fact that no matter how
150 complete the information in the system, the background check
151 requirement does not apply to guns sold by those who are not
152 licensed dealers.

153 That is what we should address without delay. Even
154 President Trump, in his meeting with the members of the
155 House and Senate, recently urged action on expanding
156 background checks. We should do this and more, including
157 addressing the issues of assault weapons, high-capacity
158 ammunition magazines, and gun violence protection orders.
159 We know what to do. We just need to summon up the will to
160 do it, and I hope that we will do so.

161 Any legislation to address these issues must be
162 processed promptly, but through regular order by this
163 committee. Relatedly, I note that we have been told that
164 H.R. 4909, the Stop School Violence Act, will be considered
165 on the floor under suspension of the rules next week.

166 Although that is a bipartisan bill concerning school

167 safety, I believe the committee should have marked it up so
168 that our members would have had an opportunity to discuss it
169 through our regular process. I hope we will follow that
170 process in the future.

171 Now, Mr. Chairman, I believe the consideration of the
172 issues underlying the bill before us is timely, but
173 unfortunately misguided. This committee should examine
174 pretrial services and bail issues with the goal of reforming
175 our Nation's bail system, not solely for the purpose of
176 protecting the use of money bail, which is unfair to the
177 indigent, unproductive, and expensive for American
178 taxpayers.

179 H.R. 2152, the Citizens' Right to Know Act, would
180 require a State or local government that uses Justice
181 Department grant funding to pay for a pretrial services
182 program to report annually certain information to the
183 Department about defendants who participate in the pretrial
184 services program.

185 Information that would be required to be report
186 includes, one, the name of each participant in the pretrial
187 services program and each occasion that person failed to
188 make an appearance; two, the previous arrest record of each
189 participant; and three, the amount of money allocated for
190 the pretrial services program.

191 If the unit of government fails to comply with the

192 reporting requirement, it will lose its entire funding under
193 the relevant program for the following fiscal year. The
194 requirements in this bill largely mirror legislative
195 initiatives being advanced by the ALEC, the American
196 Legislative Exchange Council, in the States under the guise
197 of transparency.

198 Now, citizens do have the right to know what the
199 government is doing, and I support the reporting of
200 information that will educate us as to what is taking place.
201 As for H.R. 2152, however, I question whether the categories
202 of information that must be reported under the bill are
203 designed to do that or are adequate to tell us about the
204 efficacy of these programs.

205 In addition, the bill requires that this information be
206 made publicly available by the Attorney General. The ACLU
207 has written to us to express concerns about this publication
208 requirement and the harms to individuals resulting from the
209 sharing of their arrest records and personally identifying
210 information. I share these concerns.

211 I will discuss these issues more fully in connection
212 with the substitute amendment, which will be offered
213 shortly. However, my principal concern is that we are
214 marking up the wrong bill. A colleague representative, Ted
215 Lieu, who cannot attend the markup today, introduced not one
216 -- but two -- measures that would eliminate the use of money

217 bail in the States.

218 H.R. 1437, the No Money Bail Act, would reduce Justice
219 Department grant awards to States that do not eliminate
220 money bail. H.R. 4019, the Pretrial Integrity and Safety
221 Act, takes a slightly different approach by providing grant
222 funding assistance to States that eliminate money bail and
223 favor systems that evaluate defendants to place appropriate
224 conditions on their release and follow-up with monitoring.

225 Instead of considering H.R. 2152 today, we should be
226 advancing one of these bills. We are not doing that,
227 unfortunately. Therefore, in connection with the substitute
228 amendment, my colleagues and I will discuss our specific
229 concerns with this bill. I hope that we will be able to
230 address some of these issues. If we do, we can support the
231 bill. If we do not, I will oppose the bill.

232 Whatever the outcome today, I hope this discussion will
233 highlight the need to do something about the real problem:
234 our Nation's unjust money bail system. Thank you. I yield
235 back.

236 [The prepared statement of Mr. Nadler follows:]

237 ***** COMMITTEE INSERT *****

238 Chairman Goodlatte. The chair thanks the gentleman. I
239 now recognize myself for the purpose of offering an
240 amendment in the nature of a substitute, and the clerk will
241 report the amendment.

242 Ms. Adcock. Amendment in the nature of a substitute to
243 H.R. 2152, offered by Mr. Goodlatte. Strike all that
244 follows after the enacting clause and insert the following.
245 Section 1, short title --

246 [The amendment of Chairman Goodlatte follows:]

247 ***** INSERT 2 *****

248 Chairman Goodlatte. Without objection, the amendment
249 will be considered as read and I recognize myself to explain
250 the amendment.

251 This amendment in the nature of a substitute makes one
252 substantive change to the legislation. The amendment adds
253 one additional piece of information required by the State or
254 unit of local government that is to be submitted to the
255 Attorney General. It requires them to report the amount of
256 money allocated for the pretrial services program.

257 The underlying bill requires these entities to report
258 on the number of occasions that the defendants failed to
259 make an appearance as well as the defendants' criminal
260 history.

261 This new section will allow citizens to see if their
262 tax dollars are being judiciously used to fund pretrial
263 services. It provides another level of transparency to
264 these programs. It also helps us, as legislators, to have
265 this information as we make decisions in this area of
266 criminal justice policy.

267 I urge my colleagues to support this amendment, and I
268 am pleased to recognize the gentleman from New York for his
269 remarks on the amendment.

270 Mr. Nadler. Thank you, Mr. Chairman. Mr. Chairman, my
271 comments concerning the underlying bill apply equally to
272 this substitute amendment, which I believe is a lost

273 opportunity to actually do something that would make our
274 systems of pretrial release more just. And that is to
275 eliminate money bail.

276 With respect to the specifics of the bill, I have a
277 concern about the information that the bill requires to be
278 reported -- particularly the name of each participant of the
279 pretrial services program and each occasion that the named
280 person failed to make an appearance.

281 The reporting of this information, without proper
282 context, in addition to being unfair to those whose
283 information will be made public, will not be useful to those
284 of us seeking to understand how these programs are operating
285 and the relative merits of different approaches.

286 As outlined by the Pretrial Justice Institute, the
287 three goals of the pretrial release decision are, one, to
288 maximize pretrial release; two, to maximize public safety;
289 and three, to maximize court appearances. The information
290 required to be reported by this bill would only address the
291 third factor, with respect to court appearances.

292 I am concerned that the information to be reported does
293 not tell us anything about the first two factors: maximizing
294 pretrial release and public safety. I understand that an
295 amendment will be offered by one of our colleagues to
296 address this concern.

297 In addition, I reiterate my primary concern with

298 respect to this bill, which is that it does not accomplish
299 any degree of reform of bail in this country. Therefore, I
300 will offer an amendment to provide incentives for the States
301 to eliminate money bail. I look forward to our discussion
302 of the substitute amendments that I and other members will
303 offer. I thank you and yield back.

304 Chairman Goodlatte. Are there any amendments to the
305 amendment in the nature of a substitute? For what purpose
306 does the gentleman from Tennessee seek recognition?

307 Mr. Cohen. Strike the last word.

308 Chairman Goodlatte. The gentleman is recognized for 5
309 minutes.

310 Mr. Cohen. Would the chair yield for a question? This
311 amendment here: will it require appropriations to fund the
312 data and study of pretrial services?

313 Chairman Goodlatte. I do not believe it would.

314 Mr. Cohen. There would be a study, right?

315 Chairman Goodlatte. It requires the States that have
316 pretrial services programs to report. It would not require
317 the Federal Government to expend.

318 Mr. Cohen. But they will report to whom?

319 Chairman Goodlatte. To the Department of Justice.

320 Mr. Cohen. And the Department of Justice, then, would
321 do a study?

322 Chairman Goodlatte. I do not think it calls for a

323 study.

324 Mr. Cohen. Just a report. Just a report

325 Chairman Goodlatte. Correct.

326 Mr. Cohen. Well, if that is all they are going to do,
327 is report, nobody is going to study it, then it is a total
328 waste of time and money. Because the only reason to report
329 is to make a study and to analyze those figures. And that
330 takes people away from what they would otherwise be doing.

331 In my experience as an attorney in Memphis, which was
332 about 30 years in private practice, pretrial services was
333 looked at -- the good guys. They were people that
334 recommended to the judge and the judge relied on them for
335 reports on individuals, on whether there should be a low
336 bond or no bond, and sometimes they could get people out
337 without any bond on their own recognizance, on that
338 recommendation.

339 The study of pretrial services is kind of interesting.
340 We want them to send up data and analyze it, but we do not
341 want to study anything about guns. We do not study guns.
342 In fact, we have got a law that says the CDC cannot do a
343 study on violence and guns and what that does to our
344 society. We just had 17 people killed in Parkland, Florida.
345 And have we done anything about guns? Nada. Nothing. It
346 is going the same way as bump stocks: nothing.

347 And this country is not just children -- which is

348 horrendous -- it is people going to concerts in Las Vegas;
349 it is people at government offices in San Bernardino, with
350 adults using AK-47s. And have we asked anybody to send us
351 data on people that buy guns and who they are? Have we
352 tried to study that? Have we looked at minors and
353 purchasing semiautomatic weapons or high-capacity magazines?
354 Nothing. But we are going to have a study of pretrial
355 services.

356 I would submit to the committee members, we are
357 fiddling while Rome burns. Our children are dying, our
358 citizens are dying, our public is less safe. Our country is
359 in crisis. Mr. Cohn resigns. People are leaving the
360 administration. It is not a place where people want to go
361 to work. People are smarter. They do not get on the
362 Titanic. They have seen the movie. It is being acted out
363 at 1600 Pennsylvania Avenue live, and we are looking at
364 studying pretrial services?

365 Something is missing, Mr. Chairman. I would like to
366 ask you, once again, to do something in this committee on
367 preserving democracy, studying elections -- saying that our
368 elections will be safe and free of Russian interference in
369 2018, and 2020, and thereafter -- looking into guns and
370 protecting our children, and not necessarily making local
371 governments make reports on pretrial services that will sit
372 in the dust bin at Justice Department and gather dust for no

373 purpose. I yield back.

374 Chairman Goodlatte. Are there any amendments to the
375 amendment in the nature of a substitute? For what purpose
376 does the gentleman from Georgia seek recognition? Do you
377 have an amendment?

378 Mr. Johnson of Georgia. Move to strike the last word.

379 Chairman Goodlatte. Let me recognize the gentleman
380 from New York since he does indeed have an amendment. The
381 clerk will report the amendment.

382 Ms. Adcock. Amendment to the amendment in the nature
383 of a substitute to H.R. 2152, offered by Mr. Nadler. Add at
384 the end the following --

385 [The amendment of Mr. Nadler follows:]

386 ***** COMMITTEE INSERT *****

387 Chairman Goodlatte. Without objection, the amendment
388 is considered as read and the gentleman is recognized for 5
389 minutes on his amendment.

390 Mr. Nadler. Thank you. Mr. Chairman, before my
391 statement on the amendment, since it is based on a bill by
392 Mr. Lieu, who could not be here, I ask unanimous consent to
393 insert into the record the statement by Mr. Lieu.

394 Chairman Goodlatte. Without objection, it will be
395 admitted.

396 [The information follows:]

397 ***** COMMITTEE INSERT *****

398 Mr. King. Mr. Chairman, I reserve a point of order.

399 Mr. Nadler. On the statement?

400 Mr. King. I reserve a point of order on the amendment.

401 Chairman Goodlatte. Oh, okay. A point of order is
402 reserved.

403 Mr. Nadler. Very good. Thank you. Mr. Chairman, as I
404 have mentioned previously today, I believe we should
405 eliminate the use of money bail in this country. That is
406 why I offered this amendment, to incentivize States to
407 eliminate money bail.

408 Under the amendment, States that have not eliminated
409 the payment of money as a condition of pretrial release in
410 criminal cases within 3 years of enactment of this bill will
411 not be eligible to receive Byrne Justice Assistance grants
412 from the Justice Department.

413 This amendment is based on the No Money Bail Act,
414 introduced by our colleague representative Ted Lieu, who is
415 not able to attend the markup today. He and I share the
416 view that the continuation of money bail is an injustice
417 that is national in scope and which demands a national
418 solution.

419 The money bail system does not address criminality, but
420 rather penalizes poverty and the inability to pay. It is
421 unfair and expensive. Nine out of 10 people are awaiting
422 their trial in jail are there because they could not afford

423 to pay bail.

424 This costs taxpayers billions of dollars every year in
425 incarceration costs because we have to pay for these
426 individuals to be needlessly detained. Incarcerating people
427 because they cannot afford to pay their bail only
428 perpetuates their financial difficulties by preventing them
429 from going to work, buying groceries for their family, and
430 paying for rent, and other expenses.

431 Some of the people who are held in pretrial detention
432 are set up to fail. Studies show that people who are
433 detained during pretrial have worse trial outcomes than
434 people who are able to afford their freedom while awaiting
435 trial. This is partly because many people plead guilty to
436 the charges simply so that they can be released rather than
437 face a lengthy pretrial detention.

438 Defendants with more resources purchase their release,
439 while defendants with limited or no financial resources
440 remain in jail, regardless of whether they are a danger to
441 their communities or whether they are unlikely or likely to
442 show up in court for their hearings. In fact, the ability
443 to pay money bail is not an indicator of a danger that one
444 may pose to others.

445 Research has found that in many of the largest U.S.
446 jurisdictions, approximately half of people detained in jail
447 would have been less likely to be re-arrested than those who

448 had been released.

449 Pretrial services programs that promote alternative
450 forms of pretrial release are less expensive and more
451 effective. Right outside these walls, the District of
452 Columbia has eliminated the use of money bail. As a result,
453 85 percent of defendants are released before a trial, more
454 than 90 of percent of whom return to court and stay arrest-
455 free while their cases is pending.

456 This is compared to an average of only 40 percent of
457 defendants being released before a trial of whom about 72
458 percent return to court under the money bail system. These
459 facts supporting the need and benefits of eliminating money
460 bail are the reasons I offer this amendment.

461 And let me just stress again; there are two legitimate
462 purposes for pretrial detention. One is to assure that
463 someone will show up for his trial. And two is to protect
464 the public from dangerous criminals being released. Those
465 determinations can and should be made by the judge based on
466 all the evidence, and all the factors, and all the
467 information before the judge.

468 The ability of the accused to pay money does not tell
469 us that he is more or less likely to show up for trial, and
470 it does not tell us that he is more or less likely to be a
471 danger. It simply puts people in jail because they cannot
472 afford bail.

473 We know that there are many judges who will assign
474 nominal bail: \$250, almost every case. It is minor;
475 nothing. But the \$250 may be unaffordable and keep someone
476 in jail for a lengthy period of time and at great cost to
477 the taxpayers and in great unfairness to the accused.

478 So we ought to have a system in which the judge, based
479 on all the evidence, determines the risk of flight, the risk
480 of showing up, the likelihood of showing up in court, and
481 the risk of the public, and make pretrial decisions based on
482 that basis, and not on the basis of jail.

483 A century ago, we used to think nothing of holding
484 people in jail because they could not pay their debts. Now
485 we think that is a barbaric practice. The money bail system
486 should go in the same direction. I offer this amendment,
487 and I ask that my colleagues work with me to achieve this
488 goal of greater justice, not to mention saving the taxpayers
489 a lot of money. I yield back.

490 Chairman Goodlatte. Does the gentleman insist on his
491 point of order?

492 Mr. King. Mr. Chairman, yes, I insist on the point of
493 order.

494 Chairman Goodlatte. The gentleman will state his
495 objection.

496 Mr. King. Mr. Chairman, the underlying substitute
497 amendments creates a reporting requirement on pretrial

498 services. The Nadler amendment prohibits States from
499 requiring defendants to post bail. While this amendment is
500 as close to the line on germaneness, I believe it crosses
501 the line, and therefore, I must insist on my point of order
502 and I yield back.

503 Chairman Goodlatte. Does the gentleman from New York
504 wish to be heard on the point of order?

505 Mr. Nadler. Yes. I will simply say that,
506 unfortunately, the point of order is well-taken, but
507 illustrate the fact that this amendment is offered -- in the
508 way it is, on a bill that it is -- and the point of order
509 made is an illustration of the problem that we face in that
510 we are dealing with a minor aspect of the bail system
511 instead of dealing with the bail system as a whole, which we
512 should do, and I hope this committee will do. I will
513 withdraw the amendment.

514 Chairman Goodlatte. The gentleman withdraws the
515 amendment. Are there other amendments to H.R. 2152,
516 substitute? What does the gentleman from --

517 Mr. Johnson of Georgia. I move to strike the last
518 word.

519 Chairman Goodlatte. The gentleman from Georgia is
520 recognized for 5 minutes.

521 Mr. Johnson of Georgia. Thank you, Mr. Chairman. This
522 bill has an ominous name to it: the Citizens' Right to Know

523 Act. It is ominous in that it implies that pretrial
524 services offered by the State and local governments must be
525 something wrong with it, and so there must be something that
526 is being withheld from the people. And this Citizens' Right
527 to Know Act of 2017 would purport or implies that it is
528 meant to, you know, provide some kind of transparency and
529 make things better.

530 And nothing could be further from the truth. You know,
531 pretrial services run in State and local court systems
532 across the country. Why would the Federal Government decide
533 it now wants to gum up their processes by having them report
534 to the Federal Government these varies categories of
535 numbers, you know, thus taking away from the work that they
536 do?

537 There is something wrong with this; this does not smell
538 right. And I suspect what it is is just an attempt by this
539 committee to show that it is doing something, when in fact,
540 the committee is not taking care of the business that is
541 pertinent to the citizens of America that should be overseen
542 by this committee.

543 This committee brings this legislation up for a markup
544 today when, in fact, there are many other issues that we
545 need to address that have gone unaddressed. So this is kind
546 of like putting clothing on a pig to make the pig look good,
547 when in fact, the pig is just a pig. This committee is not

548 doing the work that the American people would benefit from
549 if it was doing its job.

550 Job Number 1, oversight of the excesses of the Trump
551 administration. Not one hearing before this committee in
552 the last year and 3 months on any excesses of the Trump
553 administration. We have just had some obligatory
554 appearances by the FBI and the DOJ. They come here every
555 year to give their report. And that is the extent of our
556 oversight. It is a poor record. I want to associate my
557 remarks with those of Representative Steve Cohen, who was
558 eloquent in his assessment of this bill and its
559 imperfections.

560 I mean, we are going to require the reporting of
561 information, but then there is no follow-up once that
562 information is received. So it is clear and convincing
563 evidence that this is just something to gum up the works of
564 the State and local governments, while at the same time
565 providing a cloak for inaction by this committee on issues
566 of importance to the American people.

567 Such as, how could an 18-year-old down in Florida,
568 accused of killing 17 of his fellow students -- how could he
569 walk in and purchase a weapon of war at the age of 18?
570 Hours after he becomes 18 years of age, walks in and
571 purchases a weapon of war -- an assault weapon.

572 We have not had any hearings on that issue. And so, I

573 would just implore the committee. We still have time before
574 this year ends to salvage to reputation of this great
575 committee and to do something that the American people would
576 be prod of us for doing. And with that, I will yield back.

577 Chairman Goodlatte. For what purpose does the
578 gentleman from Rhode Island seek recognition?

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

580 Chairman Goodlatte. The gentleman is recognized.

581 Mr. Cicilline. And I also have an amendment at the
582 desk.

583 Chairman Goodlatte. The clerk will report the
584 amendment.

585 Ms. Adcock. The amendment to the amendment in the
586 nature of a substitute to H.R. 2152, offered by Mr.
587 Cicilline of Rhode Island. Page 2, Strike line 13 and all
588 that follows, through line 19.

589 [The amendment of Mr. Cicilline follows:]

590 ***** COMMITTEE INSERT *****

591 Chairman Goodlatte. without objection, the amendment
592 is considered as read, and the gentleman is recognized for 5
593 minutes on his amendment.

594 Mr. Cicilline. Thank you, Mr. Chairman. And before I
595 speak to my amendment, I, too, would like to add my voice to
596 my growing disappointment that this committee has been
597 unwilling to take up any of the dozens of gun safety
598 proposals that are pending before the Congress: the attempt
599 to prevent the most dangerous weapons, military-style
600 assault weapons, being placed in our communities; the
601 attempt to keep guns out of the hands of criminals, young
602 people, those with serious mental illness such that having a
603 firearm is a danger to themselves or others.

604 I, like so many of my colleagues, have introduced and
605 authored legislation designed to respond to the epidemic of
606 gun violence in our country. And sadly, this committee has
607 not has a hearing or taken up any these bills.
608 Specifically, legislation that would attempt to make it more
609 difficult for people with serious mental illness to buy
610 firearms.

611 I introduced, along with 170 cosponsors, a bill to
612 prevent bump stocks from being available, that turn semi-
613 automatic weapons to function as an automatic weapon. Last
614 week, introduced the Assault Weapons Ban with a 170 original
615 cosponsors. And again, there are many, many other bills

616 that would go a long way to reducing gun violence in our
617 country. And sadly, even despite the eloquent voices and
618 pleas from the young people from Parkland, for us to do
619 something, this committee still remains unwilling to do
620 that.

621 And I want to express my disappointment, and again,
622 urge the committee chairman to bring some of these proposals
623 to the committee for a debate and vote so that we can
624 demonstrate to the American people that we are doing
625 something to keep them safe and reduce gun violence in this
626 country.

627 Now with respect to my amendment, the amendment that I
628 have proposed would protect funding for State and local
629 governments that seek to offer pretrial service programs.
630 H.R. 2152 is short sighted because it would jeopardize
631 States' ability to offer pretrial services programs by
632 threatening their funding.

633 Congress should instead incentivize the use of pretrial
634 service programs which benefit defendant's courts and
635 taxpayers. For example, unnecessary detention before trial
636 results in burdensome cost to tax payers who spend
637 approximately \$38 million, per day, to jail people who are
638 awaiting trial.

639 Pretrial service programs importantly reduce the number
640 of defendants languishing in jail because they cannot pay

641 money bail even though they may not necessarily pose risk to
642 the community or risk of not appearing in court. Pretrial
643 service programs also benefit the courts by allowing judges
644 to make more informed decisions that take into account the
645 individual risks of each defendant and detail an appropriate
646 sentence for their circumstances.

647 This bill as currently drafted would entirely take away
648 funding from States that fail to report required information
649 regardless of the circumstance. Even if the failure to
650 comply when nonintentional. This standard does not target
651 willful failure to comply, it is arbitrary and overly
652 punitive for States that are administering pretrial release
653 programs in good faith.

654 My amendment would only allow funding to be taken away
655 from States that knowingly fail to comply with the reporting
656 requirements under this bill. My amendment would also
657 change a requirement that funding for States be reduced by
658 100 percent and instead reduce funding by a pro rata share
659 of the placement cost of each defendant not reported.

660 So it would be proportionate to the harm done or by the
661 noncompliance the occurred. A State's funding should not be
662 zeroed out if they are complaining in part with the
663 reporting requirement or failed to submit information in
664 error. I am concerned that if this section of the bill is
665 not amended, it could undermine the effectiveness of many

666 pretrial release programs.

667 If pretrial service programs that receive Federal
668 funding know that their future funding will be determined by
669 the number of names on a list of persons who missed a court
670 appearance or supervision appointment, they may be
671 incentivized to supervise less people.

672 In addition, if they know that they will not be judged
673 by a reasonable metric such as public safety standard or
674 maximizing court appearances, they may not focus their
675 supervision efforts on these goals. My amendment will
676 preserve funding for pretrial service programs which serve
677 the important function of reducing the high-cost, high-
678 incarceration rate and bringing down the cost to taxpayers
679 while also maximizing public safety needs and due process of
680 defendants. I urge my colleges to support this amendment
681 and yield back the balance of my time.

682 Chairman Goodlatte. The chair thanks the gentleman and
683 recognizes himself in opposition of the amendment. This is
684 unenforceable and this information is unknowable. The
685 Federal Government has no way of knowing if the locality is
686 underreporting and this amendment encourages the Federal
687 Government to micromanage these programs, which is not the
688 intent of this legislation. It is simply to get information
689 about which of these programs is cost-effective and which is
690 not based upon whether people show up at court following a

691 pretrial release program. So, I would urged my colleagues
692 to oppose the amendment.

693 The question occurs on the amendment offered by the
694 gentlemen from Rhode Island.

695 All those in favor respond by saying aye.

696 Those opposed, no.

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

699 Are there further amendments to --

700 Mr. Cicilline. Mr. Chairman?

701 Chairman Goodlatte. The gentlemen from Rhode Island is
702 recognized.

703 Mr. Cicilline. Mr. Chairman, I have an amendment at
704 the desk that I am offering on behalf of this gentlelady
705 from Texas.

706 Chairman Goodlatte. The clerk will report the
707 amendment.

708 Ms. Adcock. Amendment to the amendment in the nature
709 of a substitute to H.R. 2152 offered by Mr. Cicilline. Page
710 1, strike line 17 --

711 [The amendment of Mr. Cicilline follows:]

712 ***** COMMITTEE INSERT *****

713 Chairman Goodlatte. Without objection, the amendment
714 is considered as read and the gentleman is recognized for 5
715 minutes on his amendment.

716 Mr. Cicilline. Thank you, Mr. Chairman. H.R. 2152
717 according to its proponents is intended to bring
718 accountability to federally-funded pretrial release programs
719 by increasing oversight of such programs. However, this
720 bill raises substantial privacy concerns with regard to the
721 personal information that States and local governments would
722 be required to report and fails to require data that would
723 actually provide a report on the effectiveness of pretrial
724 release programs and money bail. I have a letter that was
725 sent from the ACLU today, which I would ask for unanimous
726 consent to be made part of the record.

727 Chairman Goodlatte. Without objection.

728 [The information follows:]

729 ***** COMMITTEE INSERT *****

730 Mr. Cicilline. Thank you, Mr. Chairman -- which voices
731 strong opposition to this bill because it would require
732 jurisdictions to report personally identifiable information
733 without providing any explicit privacy protections other
734 than the clause that subjects the information to any
735 applicable confidentiality requirements.

736 The jeopardy to the privacy interest of individuals who
737 have not been convicted of the crime for which they are
738 under pretrial supervision substantially outweighs the
739 public's minimal interest in the required information.

740 Furthermore, H.R. 2152 would require State and local
741 governments to report the names of each defendant under
742 pretrial supervision who fails to appear. This data,
743 without more, fails to further the intended goal of H.R.
744 2152. My amendment would replace the reporting requirements
745 in the existing bill with provisions that would actually
746 help us fully understand pretrial release programs and money
747 bail.

748 Ms. Jackson Lee's amendments would require State and
749 local governments to report the number and percentage of
750 defendants who appear at an initial bail hearing and are
751 released on their own recognizance, participate in a
752 pretrial release program without having financial
753 obligations imposed as a condition of their release,
754 participate in a pretrial release program without being

755 arrested for additional criminal activity, participate in
756 pretrial release programs without having a bench warrant
757 issued for their failure to appear, are released on money
758 bail and complete the pretrial period without being arrested
759 for additional criminal activity, and are released on money
760 bail and complete the pretrial period without having a bench
761 warrant issued for their failure to appear.

762 This amendment would allow for a wordless collection of
763 data that would provide a clear picture of the efficacy of
764 pretrial release programs and money bail instead of
765 presenting a one-sided account of a single element of a more
766 complex issue. I urge my colleagues to support the Jackson
767 Lee amendment and, with that, I owe back.

768 Chairman Goodlatte. The chair thanks the gentlemen who
769 recognized himself in opposition of amendment. This
770 amendment mandates States report on all defendants. This
771 amounts to an unfunded mandate and requires States to report
772 on defendants with no nexus to the Federal grants. It also
773 strikes the information in the underlying bill. If States
774 fail to comply with these requirements, they will be
775 forfeiting their right to future grants.

776 For those reasons, I cannot support the amendment. If
777 the gentlemen wishes to introduce this as a separate bill he
778 could certainly do that, but it does not have a nexus with
779 the Federal grant programs, and therefore I must oppose it.

780 For what purpose does the gentleman from Georgia seek
781 recognition?

782 Mr. Johnson of Georgia. Move to strike the last --
783 Chairman Goodlatte. You are recognized for 5 minutes.

784 Mr. Johnson of Georgia. Thank you, Mr. Chairman. I
785 move in support or I speak in support of the Jackson Lee
786 amendment presented so ably by my colleague Mr. Cicilline
787 and I would make this observation. The underlying
788 legislation section 2, which is the reporting requirement,
789 could have the unintended consequence of benefiting the
790 private prison industrial complex.

791 We all know that this private prison industry is
792 growing by leaps and bounds. In fact, the stock went up
793 just as soon as President Trump took office because he made
794 certain promises to that industry, and that industry had
795 continued to prosper since that time.

796 This legislation, as I said, could have the unintended,
797 perhaps, consequence of benefiting that industry. Because
798 section 2 requires that any State or local government that
799 fails to report as required under section 2 would lose 100
800 percent of its funding under the grants that it receives
801 from DOJ.

802 It would lose 100 percent the following year for
803 failing to report, and so many of these States and local
804 governments are turning to the private prison industrial

805 complex, they are privatizing their jail systems and turning
806 that over to the private prisons which make a profit off of
807 detaining folks for as long as possible. They operate with
808 mandatory guaranteed beds, they get paid whether or not the
809 beds are filled or not, and so the incentive is to get the
810 beds filled.

811 And so, I just want to make that observation about this
812 legislation and I would hope that it is not our intent to
813 benefit that industry with this legislation, but it
814 certainly could be benefited as a result of this legislation
815 and with that I would yield back the balance of my time.

816 Chairman Goodlatte. For what purpose does the
817 gentleman from Maryland seek recognition?

818 Mr. Raskin. Move to strike the last word, Mr.
819 Chairman.

820 Chairman Goodlatte. The gentleman is recognized for 5
821 minutes.

822 Mr. Raskin. Thank you very much. I am rising in favor
823 of the Jackson Lee amendment because it would actually
824 require the collection of data that would improve the
825 effectiveness of pretrial release programs and money bail.

826 Having said that, Mr. Chairman, I must confess my
827 bewilderment and bafflement and alarm about where we are and
828 why we are even dealing with this legislation today. Across
829 the country, millions and millions of Americans are

830 demanding action on gun violence after the most recent
831 massacre that took place in Parkland, Florida where 27 of
832 our people were shot down by an AR-15, by a criminal who
833 decided to assassinate high school students and their
834 teachers.

835 The most recent poll demonstrates, Mr. Chairman, that
836 97 percent of the American people want a universal,
837 criminal, and mental background check on all gun purchases
838 in America. And we know that is perfectly constitutional
839 under the Second Amendment if you take the time to read the
840 *Heller v. District of Columbia* decision.

841 So we have got legislation that is being demanded by
842 the overwhelming majority of American people, almost a
843 unanimous verdict by the American people that we need a
844 universal background check, and yet the Judiciary Committee,
845 which has jurisdiction over guns in America, will not even
846 have a hearing on it.

847 And now we have a bill that comes before us about the
848 funding of pretrial release programs and oversight of
849 pretrial release programs without even hearing, and we rush
850 the legislation to a vote here. Without even a discussion
851 about the gun violence that is engulfing America.

852 How many massacres do we have to wait for? How much
853 more gun violence do we have to experience before we take
854 action? So, I am just stunned and bewildered about where we

855 are right now. It is hard for me to believe that we are
856 taking up this legislation we have not even had a hearing
857 on.

858 None of my constituents have asked us to do anything
859 about this, and yet thousands of my constituents have
860 marched on the Capitol and are coming back on Saturday,
861 March 24th, hundreds of thousands of people are coming to
862 march about gun violence and what are we doing about it? We
863 are doing nothing.

864 So look, we have taken an oath of office to uphold the
865 Constitution, which we are going to do. And we have taken
866 an oath of office to listen to our constituents and to try
867 to advance the general welfare.

868 The whole purpose of government, as you know, Mr.
869 Chairman, is to enforce the social contract. The basis of
870 the central contract is that we will be safer entering into
871 government together than if we do not have it. Without
872 government, life is nasty, brutish, and short. "Solitary,
873 poor, brutish, and short" is what Thomas Hobbes said. So,
874 we enter in government together to make ourselves safer. We
875 are failing the most elemental obligation of government. We
876 are not keeping our people safe.

877 And we get a parade of these bills that are voiced upon
878 us that nobody has asked for, that nobody really cares
879 about, and nobody is paying attention to and the people of

880 the United States want to know what are we doing to stop gun
881 violence in America? What are we doing to enforce the
882 social contract? What are we doing to keep kids safe in
883 public schools? What are we doing to keep people safe in
884 their churches? What are we doing to keep people safe in
885 the movie theaters? Well, right now, the Judiciary
886 Committee is doing nothing. I yield back, Mr. Chairman.

887 Mr. Johnson of Georgia. Would the gentleman yield?

888 Mr. Raskin. Yes, I would.

889 Mr. Johnson of Georgia. And I thank the gentleman for
890 yielding. I would also make the observation that this
891 legislation comes before us today for a markup without a
892 single hearing in a subcommittee or before the full
893 committee. This legislation is rushed to us and put in
894 front of us for action, and it is almost like its busy work.
895 I am puzzled as to why we are doing business this way. And,
896 with that, I will yield back.

897 Mr. Raskin. Well, thank you. I appreciate that. You
898 know, I am not saying that the issues contained in this
899 legislation are unimportant, but certainly they are not more
900 important than keeping the people of America safe, and
901 certainly that is what the people of America want on the
902 public agenda. So I do not understand how we are
903 prioritizing the work of the American people.

904 Now, a lot of pundits and commentators and a lot of

905 Americans believe that the NRA is dictating our agenda.
906 That is hard for me to believe, so that is why I am baffled
907 and bewildered, because I cannot believe that one special
908 interest group could override the clear demands of the
909 common good. I cannot believe that one lobby would be able
910 to essentially convince Congress to ignore a crisis in
911 public safety in the country.

912 Mr. Cohen. Would the gentleman yield?

913 Mr. Raskin. Yes I would.

914 Mr. Cohen. This bill has not had a hearing, is that
915 correct?

916 Mr. Raskin. As far as I know.

917 Mr. Cohen. Have there been just bill after bill after
918 bill that is gone to the floor if not to the committee with
919 no hearing?

920 Mr. Raskin. That is my understanding.

921 Mr. Cohen. It seems like it is in keeping with the
922 coming Passover. Why is this night different from all other
923 nights? Why is this bill different from all other bills?
924 It is not. It does not have a hearing. I yield back.

925 Chairman Goodlatte. The question occurs on the
926 amendment offered.

927 Mr. Nadler. Mr. Chairman?

928 Chairman Goodlatte. For what purpose does the
929 gentleman from New York seeks recognition?

930 Mr. Nadler. Strike the last word.

931 Chairman Goodlatte. The gentleman is recognized for 5
932 minutes.

933 Mr. Nadler. Mr. Chairman, I rise in support of the
934 amendment offered by Mr. Cicilline for the gentlelady from
935 Texas, Ms. Jackson Lee. The bill as offered, the bill in
936 front of us would reduce funding under certain programs to a
937 State by 100 percent if the State did not collect and
938 release the name of each defendant participating in a
939 pretrial release program, and whether that defendant failed
940 to make an appearance when he should have, and information
941 relating to the previous arrest record of each defendant
942 participating in the pretrial release program, and the
943 amount of money allocated for the pretrial release program.

944 The amendment would leave in place the amount of money
945 allocated for the pretrial release, pretrial services
946 program. But it would make two essential changes. One, it
947 would say we do not want to release personally identifying
948 information but we do want to release information that is
949 useful in the evaluation of the program.

950 So it says, instead of releasing the names of
951 defendants participating in pretrial release programs and
952 whether they showed up or not, it says we should release the
953 percentage of defendants who are released on their own
954 recognizance -- not their names, but the percentages; the

955 percentage of such people who participated in a pretrial
956 release program without bail; the percentage of such
957 defendants who are released on bail; the percentage of such
958 defendants who were released on bail who showed up for their
959 hearings; the percentage of defendants who were released
960 without bail who showed up for their hearings; and the
961 percentage of such defendants who completed the pretrial
962 period without being arrested for any subsequent, unrelated
963 offense.

964 This gives us useful information for evaluating the
965 pretrial release program. Is it effective or is it not
966 effective? Should we change it, should we not change it?
967 Evaluating the effectiveness of the bail system, does it
968 work, does it not work? It gives us useful information
969 without invading the privacy and putting out the personal
970 names, which is unnecessary.

971 Now if the purpose of the bill is to give information
972 so we can see the effectiveness of what we are doing, this
973 certainly improves the bill. I do not know of any other
974 purpose for the bill.

975 Now the chairman says that this would somehow eliminate
976 the nexus -- I think I am restating it -- would eliminate
977 the nexus to the funding. No, the funding referenced in the
978 bill, which is not changed by the amendment, is any grant
979 program operated by the Department of Justice which uses

980 funds received under such program for a pretrial services
981 program.

982 We are still dealing with the same funds, but we are
983 requiring information useful to the evaluation of the
984 effectiveness of those funds of that program. It is direct
985 nexus, because it tells us is the program working, is it not
986 working, perhaps could it be improved.

987 So I really do not understand the objection to the
988 amendment. I do not understand how you can say that it
989 removes the nexus to the funding, and I do not understand
990 why you would not want this information which is actually
991 useful information. As opposed to the version of the bill
992 now which has a little useful information relating to the
993 previous arrest record of each defendant, whether they
994 failed to make an appearance, that is useful information --
995 but the personal names are not useful information and an
996 invasion of privacy.

997 So we are being a little more comprehensive here, we
998 are taking out the invasion of privacy, so we are giving
999 more information as to whether the program is working,
1000 whether it might be improved et cetera. And we are using
1001 the exactly the same financial incentives to the State. We
1002 are not changing that in the bill at all. So, it is exactly
1003 the same nexus, better information.

1004 And without the amendment, without the amendment you

1005 have got a bill that is much less effective in giving us
1006 useful information, number one, and is invasive of personal
1007 privacy rights for no particular reason and no particular
1008 gain. So, therefore I support the amendment. And I have to
1009 say, that without the amendment, or without removing the
1010 personal names, we would have to oppose, I would have to
1011 oppose the bill. I yield back.

1012 Chairman Goodlatte. The question occurs on the
1013 amendment offered by the gentleman from Rhode Island.

1014 All those in favor, respond by saying aye.

1015 Those opposed, no.

1016 In the opinion of the chair, the noes have it. The
1017 amendment is denied.

1018 Mr. Cicilline. Request a recorded vote, Mr. Chairman.

1019 Chairman Goodlatte. A recorded vote is requested and
1020 the clerk will call a roll.

1021 Ms. Adcock. Mr. Goodlatte?

1022 Chairman Goodlatte. No.

1023 Ms. Adcock. Mr. Goodlatte votes no.

1024 Mr. Sensenbrenner?

1025 [No response.]

1026 Mr. Smith?

1027 [No response.]

1028 Mr. Chabot?

1029 [No response.]

1030 Mr. Issa?
1031 [No response.]
1032 Mr. King?
1033 Mr. King. No.
1034 Ms. Adcock. Mr. King votes no.
1035 Mr. Gohmert?
1036 [No response.]
1037 Mr. Jordan?
1038 [No response.]
1039 Mr. Poe?
1040 [No response.]
1041 Mr. Marino?
1042 Mr. Marino. No.
1043 Ms. Adcock. Mr. Marino votes no.
1044 Mr. Gowdy?
1045 [No response.]
1046 Mr. Labrador?
1047 [No response.]
1048 Mr. Farenthold?
1049 Mr. Farenthold. No.
1050 Ms. Adcock. Mr. Farenthold votes no.
1051 Mr. Collins?
1052 Mr. Collins. No.
1053 Ms. Adcock. Mr. Collins votes no.
1054 Mr. DeSantis?

1055 Mr. DeSantis. No.

1056 Ms. Adcock. Mr. DeSantis votes no.

1057 Mr. Buck?

1058 Mr. Buck. No.

1059 Ms. Adcock. Mr. Buck votes no.

1060 Mr. Ratcliffe?

1061 [No response.]

1062 Mrs. Roby?

1063 [No response.]

1064 Mr. Gaetz?

1065 [No response.]

1066 Mr. Johnson of Louisiana?

1067 Mr. Johnson of Louisiana. No.

1068 Ms. Adcock. Mr. Johnson votes no.

1069 Mr. Biggs?

1070 Mr. Biggs. No.

1071 Ms. Adcock. Mr. Biggs votes no.

1072 Mr. Rutherford?

1073 [No response.]

1074 Mrs. Handel?

1075 Mrs. Handel. No.

1076 Ms. Adcock. Mrs. Handel votes no.

1077 Mr. Nadler?

1078 Mr. Nadler. Aye.

1079 Ms. Adcock. Mr. Nadler votes aye.

1080 Ms. Lofgren?
1081 Ms. Lofgren. Aye.
1082 Ms. Adcock. Ms. Lofgren votes aye.
1083 Ms. Jackson Lee?
1084 [No response.]
1085 Mr. Cohen?
1086 [No response.]
1087 Mr. Johnson of Georgia?
1088 Mr. Johnson of Georgia. Aye.
1089 Ms. Adcock. Mr. Johnson votes aye.
1090 Mr. Deutch?
1091 [No response.]
1092 Mr. Gutierrez?
1093 [No response.]
1094 Ms. Bass?
1095 [No response.]
1096 Mr. Richmond?
1097 [No response.]
1098 Mr. Jeffries?
1099 Mr. Jeffries. Aye.
1100 Ms. Adcock. Mr. Jeffries votes aye.
1101 Mr. Cicilline?
1102 Mr. Cicilline. Aye.
1103 Ms. Adcock. Mr. Cicilline votes aye.
1104 Mr. Swalwell?

1105 [No response.]

1106 Mr. Lieu?

1107 [No response.]

1108 Mr. Raskin?

1109 Mr. Raskin. Aye.

1110 Ms. Adcock. Mr. Raskin votes aye.

1111 Ms. Jayapal?

1112 Ms. Jayapal. Aye.

1113 Ms. Adcock. Ms. Jayapal votes aye.

1114 Mr. Schneider?

1115 [No response.]

1116 Ms. Demings?

1117 [No response.]

1118 Chairman Goodlatte. The gentleman from Idaho?

1119 Ms. Adcock. Mr. Labrador votes no.

1120 Chairman Goodlatte. The gentleman from Tennessee?

1121 Mr. Cohen. Aye.

1122 Ms. Adcock. Mr. Cohen votes aye.

1123 Chairman Goodlatte. Has every member voted who wishes

1124 to vote?

1125 Ms. Jayapal. Mr. Chairman, how am I recorded?

1126 Chairman Goodlatte. The gentlewoman is recorded as a

1127 no.

1128 Ms. Jayapal. Thank you. Am I recorded as a no?

1129 Chairman Goodlatte. Oh as an aye; I apologize.

1130 Ms. Jayapal. You had me there for a moment, Mr.
1131 Chairman.

1132 Mr. Cicilline. Well, I better check. Mr. Chairman,
1133 how am I recorded?

1134 Chairman Goodlatte. Let me clarify that. The clerk
1135 will report how the gentlewoman is recorded.

1136 The gentleman from Illinois?

1137 Mr. Schneider. Yes.

1138 Ms. Adcock. Mr. Schneider votes yes.

1139 Chairman Goodlatte. And am I corrected that the
1140 gentlewoman is of an eye on the amendment? The clerk will
1141 report.

1142 Ms. Adcock. Mr. Chairman, 9 members voted aye; 11
1143 members voted no.

1144 Chairman Goodlatte. And the amendment is not agreed
1145 to.

1146 Are there further amendments to the amendment in the
1147 nature of substitute?

1148 Mr. Cicilline. Mr. Chairman, I have --

1149 Chairman Goodlatte. For what purpose does the
1150 gentleman from Rhode Island seek recognition?

1151 Mr. Cicilline. I have an amendment at the desk.

1152 Chairman Goodlatte. The clerk will report the
1153 amendment.

1154 Ms. Adcock. Amendment to the amendment in the nature

1155 of a substitute to H.R. 2152 offered by Mr. Cicilline of
1156 Rhode Island. Page 2, beginning on line 4, strike --

1157 [The amendment of Mr. Cicilline follows:]

1158 ***** COMMITTEE INSERT *****

1159 Chairman Goodlatte. Without objection, the amendment
1160 is considered as read, and the gentleman is recognized for 5
1161 minutes on his amendment.

1162 Mr. Cicilline. Thank you Mr. Chairman. This amendment
1163 would strike, on page 2, line 4, the words "the previous
1164 arrest record" and replace it with, "any prior convictions."
1165 My amendment would modify what State and local governments
1166 are required to report regarding the criminal history of
1167 defendants participating in pretrial service programs.

1168 Under the current language of H.R. 2152, governments
1169 must submit defendants' previous arrest records. My
1170 amendment would, instead, require State and local
1171 governments to submit information relating to any previous
1172 criminal convictions of defendants, because this is a more
1173 realistic metric of whether a defendant will succeed during
1174 pretrial release and much more likely to be the information
1175 already collected by pretrial services and provided to the
1176 court.

1177 In making this determination of judgements, consider
1178 the nature and seriousness of danger to others in the
1179 community as well as evidence of the defendants' character.
1180 When examining the history and character of a person, the
1181 court will certainly consider the person's criminal history,
1182 however arrest records are disproportionately higher among
1183 people of color and low income communities. Such

1184 individuals are subject to a lopsided arrest rate as a
1185 result of racial and class disparities at every stage of the
1186 criminal justice system, and this is confirmed by research
1187 by the Center for American Progress and the Justice Policy
1188 Center as well as many other organizations.

1189 As a result, an arrest history is not helpful for
1190 judges when determining character in a detention hearing,
1191 nor is it necessarily dispositive of defendant's behavior.
1192 In contrast, a criminal conviction is more helpful to judges
1193 when considering the person's character and dangers to the
1194 community.

1195 A criminal conviction better reflects a defendants'
1196 actual actions which the defendant has been found without a
1197 reasonable doubt to have committed. It may be reasonable to
1198 require pretrial service programs to provide data related to
1199 the outcomes of their work. However, the information
1200 reported should reflect the realities of the criminal
1201 justice system and prioritize the goals of pretrial release
1202 including public safety and ensuring court appearances, as
1203 well as honoring our constitutional standards.

1204 So I urge my colleagues to support this amendment which
1205 I think is common sense, will ensure that the best and most
1206 accurate information is included, and will, at the same
1207 time, comport with accepted constitutional standards. And
1208 with that I yield back.

1209 Chairman Goodlatte. Will the gentleman yield?

1210 Mr. Cicilline. I am happy to yield.

1211 Chairman Goodlatte. I think the gentleman's amendment
1212 is well founded and I support it, and I urge my colleagues
1213 to join me in accepting the amendment.

1214 The question occurs on the amendment offered by the
1215 gentleman from Rhode Island.

1216 All those in favor respond by saying aye.

1217 Those opposed, no.

1218 The ayes have it, the amendment is agreed to.

1219 Are there further amendments to the amendment in the
1220 nature of substitute?

1221 Ms. Jayapal. Mr. Chairman, I have an amendment at the
1222 desk.

1223 Chairman Goodlatte. The clerk will report the
1224 amendment.

1225 Ms. Adcock. Amendment to the amendment in the nature
1226 of a substitute to H.R. 2152 offered by Ms. Jayapal of
1227 Washington. Add at the end of the bill the following:
1228 Section 3, GAO will report on bail bonds mid practices.
1229 Report required not later than 1 year following enactment --

1230 [The amendment of Ms. Jayapal follows:]

1231 ***** COMMITTEE INSERT *****

1232 Chairman Goodlatte. Without objection, the amendment
1233 is considered as read and the gentlewoman is recognized for
1234 5 minutes on her amendment.

1235 Ms. Jayapal. Thank you so much, Mr. Chairman. I did
1236 want to begin by adding my agreement with many of colleagues
1237 who have spoken out about the need to have hearings on gun
1238 safety laws in this committee. I am very proud of my home
1239 State of Washington that, just yesterday, became the latest
1240 State to pass -- and the Governor signed yesterday -- a ban
1241 on bump stocks and we also just had a Senate committee pass
1242 a bill that would enhance background checks on rifle
1243 purchases and raise the legal age to buy rifles to 21.

1244 And, Mr. Chairman, I just believe that Republicans and
1245 Democrats across the country are looking for ways to make
1246 our kids safe. To have them be able to go to school without
1247 worrying about being shot, to have them be able to go to
1248 school fully focused on learning and these young people are
1249 incredible. They are courageous, they are brave. They
1250 cannot vote but they expect us to do what is right for them
1251 to be able to survive.

1252 So I really hope, Mr. Chairman, that we will have some
1253 hearings on responsible gun safety legislation so that we
1254 can actually address some of the critical issues that are in
1255 front of us.

1256 I did want to say that there is a connection between

1257 this bill and the NRA in that this bill, in States across
1258 the country, has been promoted by a group called ALEC and
1259 that is the American Legislative Exchange Council -- funded
1260 by the NRA by the Koch brothers -- has moved a number of
1261 bills around stand-your-ground in States across the country.

1262 And my concern, Mr. Chairman, is that I think that this
1263 has been a way to undermine the pretrial programs across the
1264 country and actually try to bring in more money for private
1265 bail bondsmen industry.

1266 And so my amendment simply says, if we are going to get
1267 information on the pretrial programs, let's also ask the GAO
1268 to do a report to hold bail bondsmen to the level of
1269 transparency that this bill demands of pretrial services
1270 programs.

1271 Mr. Chairman, there are currently no surveys to support
1272 any reported use of evidence-based practices by bails
1273 bondsmen. In stark contrast, nearly all the pretrial
1274 service programs report using objective risk criteria to
1275 evaluate whether someone can be safely released into the
1276 community under supervision.

1277 And while I do not believe that it is necessary to
1278 subject pretrial release programs to further reporting and
1279 scrutiny -- and I completely agree with Mr. Nadler's
1280 previous amendment to actually completely eliminate the bail
1281 money program -- it only follows logically that if we are

1282 going to require this information of the pretrial services
1283 programs, then we should also subject bail bondsmen, who
1284 will benefit from this bill, to the same level of scrutiny
1285 and transparency.

1286 I hope that this information will lead us down the path
1287 to finally eradicate money bailed, but if we find
1288 information that is to the contrary, then we would be
1289 interested in that information as well. Currently, only the
1290 United States and the Philippines permit this unjust
1291 practice of writing bonds for a profit to exist. Most
1292 countries, including England, Canada, Australia, and others
1293 have eliminated this model as unsafe.

1294 And four States: Illinois, Kentucky, Oregon, and
1295 Wisconsin, have actually abolished the practice. Instead of
1296 cracking down on pretrial release for the benefit and profit
1297 of bail bondsmen, we should be looking at ways to strengthen
1298 and expand pretrial release at a minimum.

1299 Tax payers spend about \$38 billion each day on pretrial
1300 detention, and yet about 60 percent of people in jail are
1301 there not because they have been convicted of a crime, but
1302 because they simply cannot afford bail. Pretrial release
1303 programs cost just a fraction of continued incarceration.
1304 On average, \$7 a day compared to over \$200 a day for a jail
1305 bed. I am deeply troubled by the fact that we continue to
1306 jail people for low level offenses -- things like sleeping

1307 under the highway or driving without a license -- simply
1308 because they cannot make bail. A May 2017 report by the
1309 Federal Reserve found that 44 percent of Americans would not
1310 be able to come up with \$400 to cover emergency expenses.
1311 Imagine, then, how difficult it is for people who have lower
1312 incomes to come up with anywhere from \$500 to \$2,500 for
1313 bail?

1314 Locally, the District of Columbia eliminated its
1315 reliance on money bail and consequently 85 percent of
1316 defendants are released before trial. Of this number, more
1317 than 90 percent returned to court and stay arrest free while
1318 their cases are pending. This has huge benefits for our
1319 communities and our economy, but most importantly for people
1320 who would otherwise be incarcerated and their families.
1321 People should not lose their jobs or their homes because
1322 they are incarcerated while they await a fair trial.
1323 Families should not have to choose between putting bail for
1324 a loved one or putting food on the table or paying rent.

1325 So this amendment is really just to say, "Let's get the
1326 information about the bail bondsmen industry at the same
1327 time." I know, my home State of Washington, we have tried a
1328 number of times to get information, but because it is a
1329 private, for profit industry, we have not been able to get
1330 the kind of information that we need. A GAO report would
1331 allow us to get information from both the pretrial services

1332 as well as the bail bondsmen industry and really evaluate
1333 how well the system is working for us.

1334 I hope that my colleagues will approve this amendment,
1335 and I ask for your support, Mr. Chairman.

1336 Chairman Goodlatte. Would the gentlewoman yield? And,
1337 without objection, the gentlewoman is recognized for an
1338 additional minute if she would yield to me.

1339 Ms. Jayapal. Of course.

1340 Chairman Goodlatte. I think your amendment is well
1341 intentioned, it is a lot to digest here. We just received
1342 it. A couple of things: I would suggest, one, if you would
1343 be willing to withdrawal the amendment, we will work with
1344 you in good faith to incorporate as much of this as we can
1345 in the bill as we move to the floor. But in addition to
1346 that, there is no need to have legislation request a GAO
1347 report. So, above and beyond what we do with the
1348 legislation, if the gentlewoman, again, withdraw the
1349 amendment, I will be happy to work with her on requesting a
1350 GAO report. We can do that without legislation.

1351 Ms. Jayapal. I would be happy to do that, Mr.
1352 Chairman. I withdraw the amendment, hope that we can
1353 incorporate some pieces of this as well as write a letter
1354 with you requesting a GAO report.

1355 Chairman Goodlatte. I am sure we can do that. Without
1356 objection, the amendment is withdrawn. Are there further

1357 amendments to H.R. 2152 the amendment in nature of
1358 substitute?

1359 Ms. Jayapal. I am on a streak of good luck, Mr.
1360 Chairman, so I have another amendment at the desk.

1361 Chairman Goodlatte. The clerk will report the
1362 amendment.

1363 Ms. Adcock. Amendment to the amendment in the nature
1364 of a substitute to H.R. 2152 offered by Ms. Jayapal of
1365 Washington. Page 2, insert after line 24 --

1366 [The amendment of Ms. Jayapal follows:]

1367 ***** COMMITTEE INSERT *****

1368 Chairman Goodlatte. Without objection, the amendment
1369 is considered as read, and the gentlewoman is recognized for
1370 5 minutes on her amendment.

1371 Ms. Jayapal. Thank you, Mr. Chairman. This amendment
1372 would just exempt States and local governments that already
1373 provide the release information that is required under State
1374 Sunshine Laws. So in States like Florida, for example,
1375 pretrial service programs have long tracked data on
1376 participants, and the information is available to the public
1377 under Florida Sunshine Laws. And all of this was true,
1378 actually, prior to a Florida 2008 passage of a law similar
1379 to the one that we are considering today.

1380 So, under that law, Florida programs were required to
1381 produce new and, in my opinion, redundant reports rather
1382 than focusing on the true mission of helping the courts and
1383 supervising defendants, excuse me, and following passage of
1384 the law, the Florida legislature found, and this is a quote,
1385 "that some of the reporting requirements add limited value
1386 or are ambiguous."

1387 So who does find these reports useful? Bail bondsmen
1388 seeking to use the data to undermine pretrial services so
1389 they can increase their profits. And we need to be clear
1390 about the intent of this bill. And under the guides of
1391 increasing transparency, I believe that it is doing
1392 something else that seeks to undermine these pretrial

1393 programs.

1394 All my amendment does, Mr. Chairman, it says that if
1395 States are already providing this information and its
1396 available under the Sunshine Laws, then let's exempt those
1397 States from having to do more work and duplicate, frankly,
1398 in many instances, the work that they are already doing. I
1399 hope that you might accept this amendment, Mr. Chairman, and
1400 I ask for support. I yield back.

1401 Chairman Goodlatte. The chair thanks the gentlewoman
1402 and recognizes himself to oppose the amendment, reluctantly,
1403 but I frankly think the language in the bill is more
1404 practical. This amendment would necessitate the people in
1405 the Department of Justice having to ascertain each and every
1406 one of these laws and then jurisdiction by jurisdiction,
1407 State by State, contact them to request the information.

1408 Whereas, in point of fact, if you have a Sunshine Law
1409 in a particular State, you are already providing the
1410 information. It is not a significant additional burden to
1411 simply send it on to the Federal Government as well.

1412 So, for that reason I do not think this is a practical
1413 amendment and I would have to oppose it. Again, if the
1414 gentlewoman wants to withdraw, we are happy to work with
1415 her, but I think that the bill as drafted is more practical.
1416 The --

1417 Ms. Jayapal. Thank you. I am going to go ahead and

1418 just keep it in, but I appreciate your comments.

1419 Chairman Goodlatte. The question occurs on the
1420 amendment offered by the gentlewoman from Washington.

1421 All those in favor respond by saying aye.

1422 Those opposed, no.

1423 In the opinion of the chair, the noes have it. The
1424 amendment is not agreed to.

1425 Are there further amendments to H.R. 2152, the
1426 amendment in the nature of substitute?

1427 The question is on the amendment in the nature of a
1428 substitute as amended.

1429 All those in favor respond by saying aye.

1430 Those opposed, no.

1431 In the opinion of the chair, the ayes have it and the
1432 amendment in the nature of substitute is agreed to.

1433 Reporting quorum being present, the question is on the
1434 motion to report the bill H.R. 2152 as amended favorably to
1435 the House.

1436 All those in favor respond by saying aye.

1437 Those opposed, no.

1438 The ayes have it.

1439 A recorded vote has been requested, and the clerk will
1440 call roll.

1441 Ms. Adcock. Mr. Goodlatte?

1442 Chairman Goodlatte. Aye.

1443 Ms. Adcock. Mr. Goodlatte votes aye.
1444 Mr. Sensenbrenner?
1445 [No response.]
1446 Mr. Smith?
1447 [No response.]
1448 Mr. Chabot?
1449 [No response.]
1450 Mr. Issa?
1451 [No response.]
1452 Mr. King?
1453 Mr. King. Aye.
1454 Ms. Adcock. Mr. King votes aye.
1455 Mr. Gohmert?
1456 Mr. Gohmert. Aye.
1457 Ms. Adcock. Mr. Gohmert votes aye.
1458 Mr. Jordan?
1459 [No response.]
1460 Mr. Poe?
1461 [No response.]
1462 Mr. Marino?
1463 Mr. Marino. Yes.
1464 Ms. Adcock. Mr. Marino votes yes.
1465 Mr. Gowdy?
1466 [No response.]
1467 Mr. Labrador?

1468 [No response.]
1469 Mr. Farenthold?
1470 Mr. Farenthold. Yes.
1471 Ms. Adcock. Mr. Farenthold votes yes.
1472 Mr. Collins?
1473 Mr. Collins. Aye.
1474 Ms. Adcock. Mr. Collins votes aye.
1475 Mr. DeSantis?
1476 Mr. DeSantis. Aye.
1477 Ms. Adcock. Mr. DeSantis votes aye.
1478 Mr. Buck?
1479 Mr. Buck. Yes.
1480 Ms. Adcock. Mr. Buck votes yes.
1481 Mr. Ratcliffe?
1482 [No response.]
1483 Mrs. Roby?
1484 [No response.]
1485 Mr. Gaetz?
1486 Mr. Gaetz. Yes.
1487 Ms. Adcock. Mr. Gaetz votes yes.
1488 Mr. Johnson of Louisiana?
1489 Mr. Johnson of Louisiana. Yes.
1490 Ms. Adcock. Mr. Johnson votes yes.
1491 Mr. Biggs?
1492 Mr. Biggs. Yes.

1493 Ms. Adcock. Mr. Biggs votes yes.
1494 Mr. Rutherford?
1495 [No response.]
1496 Mrs. Handel?
1497 Mrs. Handel. Yes.
1498 Ms. Adcock. Mrs. Handel votes yes.
1499 Mr. Nadler?
1500 Mr. Nadler. No.
1501 Ms. Adcock. Mr. Nadler votes no.
1502 Ms. Lofgren?
1503 Ms. Lofgren. No.
1504 Ms. Adcock. Ms. Lofgren votes no.
1505 Ms. Jackson Lee?
1506 [No response.]
1507 Mr. Cohen?
1508 Mr. Cohen. No.
1509 Ms. Adcock. Mr. Cohen votes no.
1510 Mr. Johnson of Georgia?
1511 Mr. Johnson of Georgia. No.
1512 Ms. Adcock. Mr. Johnson votes no.
1513 Mr. Deutch?
1514 [No response.]
1515 Mr. Gutierrez?
1516 [No response.]
1517 Ms. Bass?

1518 [No response.]
1519 Mr. Richmond?
1520 [No response.]
1521 Mr. Jeffries?
1522 Mr. Jeffries. No.
1523 Ms. Adcock. Mr. Jefferies votes no.
1524 Mr. Cicilline?
1525 Mr. Cicilline. No.
1526 Ms. Adcock. Mr. Cicilline votes no.
1527 Mr. Swalwell?
1528 [No response.]
1529 Mr. Lieu?
1530 [No response.]
1531 Mr. Raskin?
1532 Mr. Raskin. No.
1533 Ms. Adcock. Mr. Raskin votes no.
1534 Ms. Jayapal?
1535 Ms. Jayapal. No.
1536 Ms. Adcock. Ms. Jayapal votes no.
1537 Mr. Schneider?
1538 Mr. Schneider. I vote nay.
1539 Ms. Adcock. Mr. Schneider votes no.
1540 Ms. Demings?
1541 Ms. Demings. No.
1542 Ms. Adcock. Ms. Demings votes no.

1543 Chairman Goodlatte. The gentleman from Idaho?

1544 Ms. Adcock. Mr. Labrador votes yes.

1545 Chairman Goodlatte. The gentleman from California?

1546 Mr. Issa. Yes.

1547 Ms. Adcock. Mr. Issa votes yes.

1548 Chairman Goodlatte. Has every member voted who wishes

1549 to vote? The gentleman from Texas?

1550 Mr. Gohmert. Am I a yes?

1551 Ms. Adcock. Yes.

1552 Chairman Goodlatte. All right. The clerk will report.

1553 Ms. Adcock. Mr. Chairman, 14 members voted aye; 10

1554 members voted no.

1555 Chairman Goodlatte. The ayes have it and the bill is

1556 ordered reported favorably to the House. Members will have

1557 2 days to submit views and, without objection, the bill will

1558 be worded as a single amendment in the nature of a

1559 substitute incorporating all adopted amendments and staff is

1560 authorized to make technical and conforming changes.

1561 This concludes our business for today. I thank all the

1562 members for attending. And the markup is adjourned.

1563 [Whereupon, at 11:37 a.m., the committee was

1564 adjourned.]