There are very few principles in our Constitution or in the amendments in our Bill of Rights that are more sacred than protecting people and their homes from unreasonable search and seizures.

As I was in my office discussing matters with some constituents, the gentleman from North Carolina, who had a very long and distinguished career in law enforcement, came up and spoke in favor of H.R. 666, but what the gentleman said are words to this effect, that the fourth amendment applies only to law-abiding citizens, as he was 2 months ago.

I say to my colleague, ''The fourth amendment applies to everyone in this country, whether you're a law-abiding citizen, whether you are driving down the road and being stopped by the police, or whether you are walking home at night and being stopped by the police. We are all citizens, and we all have the protection of the fourth amendment against unreasonable search and seizures.''

□ 1610

Having been a police officer for 12 years, 12 years of having worked the road while I was a police officer, I also went back and got my law degree and was assigned to special investigations. I also taught constitutional law, search and seizure and criminal law at the Michigan State police academies, and I continued to work the road and to do special investigations.

No matter who you are, the fourth amendment applies to you. We do not know when the resources of the State or local or Federal Government will turn their resources on you, and you then become a suspect. You do not suddenly lose your fourth amendment rights. You cannot lose these rights.

The gentleman from Florida mentioned the Arizona versus Evans case, and he said in his comment ''We all know he was guilty.'' That is the reason why we need the fourth amendment, because we do not know people are guilty until they are tried by a jury of their peers. It is not a subjective standard. It is reasonable search and seizure.

The Leon standard as articulated by the Supreme Court in 1984, that was a Reagan Supreme Court that decided Leon. Last night we were handling President Reagan as a hero of the line item veto. Today we are saying his Court did not know what they were doing? It cannot be both ways. It cannot be both ways.

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. STUPAK. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, I have no problem with the Leon decision or what his Court decided. They did not have before them anything but the warrant cases. They had no nonwarrant cases we have up here today. So I have no squabble at all with Leon.

Mr. STUPAK. Mr. Chairman, reclaiming my time, how can one get on the floor and say under this law we all knew in Evans versus Arizona the gentleman was guilty? That is the kind of standard we cannot have.

Mr. MCCOLLUM. Mr. Chairman, if the gentleman will yield further, I never said the gentleman was necessarily guilty. I said there are many cases where the people were guilty out there who have been getting off on technicalities. Not necessarily that case. We know the evidence in that case was not allowed in, and therefore that is the problem. We assume that might have made him guilty. It might not have.

Mr. STUPAK. Mr. Chairman, reclaiming my time, the reason we don't allow it in is because the standard is to be proven guilty beyond a reasonable doubt. Beyond a reasonable doubt is a fair and honest doubt growing out of the evidence or the lack of evidence. The lack of evidence comes in when evidence illegally obtained is excluded from the courtroom procedure. It is not the subjective standard that the gentleman argues, but rather a very, very profound standard with parameters on it that the Supreme Court gives to all of us and the Constitution has guaranteed.

Let us be clear about this: The ABA studies at the time of the Leon case found that less than 1 percent of the individuals arrested for felonies are released because of illegal search and seizures, less than 1 percent. So there is a huge standard here, a very sacred standard, and we should not disregard it. Your H.R. 666, while well-intended, puts a good faith exception, and we do not know what that good faith is, other than the good faith as articulated in a police report. But the Conyers amendment says take the highest authority we have, the Supreme Court, let us codify it, and bring some reasonableness to the standard.

Believe me, if we are wrong on one or two, so be it. But less than 1 percent. Not everyone is guilty. You do not know when the resources of government will be turned on you.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. STUPAK] has expired.

(At the request of Mr. CONYERS and by unanimous consent, Mr. STUPAK was allowed to proceed for 1 additional minute.)

Mr. STUPAK. Mr. Chairman, I yield to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, the gentleman has been a law enforcement officer for many years in Michigan. I would just like to ask the gentleman, were the exceptions to the exclusionary rule sufficient while the gentleman was operating as a law enforcement officer? You have the good faith exception, you have the emergency exception, you have a number of provisions that it seems to me would allow any officer, even without a warrant, to be able to operate, and certainly in most cases to get a warrant from the magistrate.

Mr. STUPAK. Mr. Chairman, reclaiming my time, the requirement I always felt was proper, having spent 12 years there. If I may expand, warrants are not needed in exigent circumstances like hot pursuit. Consent searches, you do not need a warrant. Stop and frisk, you do not need a warrant. Before you place someone in your squad car to transport them, you do not need a warrant. Inventory searches upon arrest, you do not need a warrant. Automobile searches, you do not need a warrant. Independent sources, and I can go on and on.

Mr. MCCOLLUM. Mr. Chairman, I move that the Committee do now rise for the purposes of having the minority leader and the majority leader conduct a colloquy on the further order of business today.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SCHIFF) having assumed the chair, Mr. RIGGS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 666) to control crime by exclusionary rule reform, had come to no resolution thereon.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I take this time to inquire of the majority leader about consultations we have been having on trying to work out a procedure for the consideration of the rest of the crime bills.

Mr. Speaker, I yield to the distinguished majority leader.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding. Let me preface my remarks by saying we have been having consultations, not only between the minority leader and myself, but between the chairman of the committee and the distinguished gentleman from Michigan [Mr. CONYERS] and other members of the committee, and the Committee on Rules, and they have been going well. So I think I can report to the Members with a high degree of confidence a probable schedule for today and the remainder of the week, with a few caveats interceded.

First of all, we expect to be able to finish the exclusionary rule reform today, and there is a very good likelihood we could be out by 7 o'clock this evening. We would begin tomorrow at 11 o'clock and, if necessary, we would finish the exclusionary rule.

We would then begin an attempt to finish the effective death penalty, subject to a unanimous-consent request that I will make in a moment that has been cleared on both sides of the aisle.

We ought to be able to be out tomorrow night by a reasonable time, about 8 o'clock possibly.

We should mention that in our proceedings tomorrow on the effective death penalty, there will be 6 hours in which we would consider amendments.

On Thursday, we would convene at 9 o'clock. We would have a limit on 1-minutes, and we would begin the discussion on prisons, and we could expect to go late Thursday night.

On Friday, subject to a unanimous-consent request, we would begin at 10 o'clock in the morning. We should be able to finish our discussion of the prison bill. The we would begin to attempt to finish the criminal alien deportation bill, trying to be out by 3. We will rise at 3 in any event on Friday and we may have to have a unanimous-consent request later on to facilitate that.

That would make it possible for us to convene the House at 2 o'clock next Monday and have a general debate that would allow Members to be sure they would not face a vote before 5 o'clock Monday afternoon. We would hope on Monday to finish the Criminal Alien Deportation act and begin local law enforcement block grants.

We should expect a late night next Monday. On Tuesday, we would convene at 11 o'clock and finish local law enforcement blocks grants, and Tuesday could be a possible late night.

Obviously, we have been receiving, I think, very good dialog, debate, and cooperation from all Members. Certainly the discussions between the leadership teams, not only in the committee and the minority leader's office as well as mine, have gone well. So let me just encourage the Members to know this represents what we consider to be a highly probable schedule outcome, and clearly we will try not to surprise anybody. I think the 3 o'clock departure on Friday is something they can by very certain about, and they can be quite confident they would face no votes before 5 on Monday.

With those comments, I would yield back.

□ 1620

Mr. GEPHARDT. I thank the gentleman. I would just like to add some other items that we have been discussing. One was that we would like to be able to have an hour of general debate on the prisons bill by unanimous consent, if we can get it, on Wednesday. We would also hope to have the House convene at 9 a.m. on Friday and would be willing to agree to limit 1-minutes, if that would be helpful to get us started on that day at an earlier point.

Obviously, we have got to get some unanimous-consents to get rules up. We would like to finish the criminal alien deportation bill on Friday so that Monday could be dedicated to the law enforcement block grants, along with Tuesday. Obviously, we have to get a unanimous-consent. And we have to agree to the rule.

We would like to have open rules, but we are willing to agree to some time limits which we can talk among ourselves with the Committee on Rules about so that we can assure everyone that we can finish these bills when the gentleman would like to finish them on the schedule. But having an open rule and requiring us to discipline the amendment process would be a good way for us to proceed.

Mr. ARMEY. Mr. Speaker, if the gentleman will continue to yield, the gentleman is correct. I do need to correct my earlier statement.

On Thursday, the House will convene at 10 and there will be a limit on 1-minutes. And we will be asking unanimous consent presently for Friday, for the House to convene at 9.

Mr. GEPHARDT. I thank the gentleman.

HOUR OF MEETING ON FRIDAY, FEBRUARY 10, 1995

Mr. ARMEY. Mr. Speaker, I ask unanimous consent then when the House adjourns on Thursday, February 9, 1995, it adjourn to meet at 9 a.m. on Friday, February 10, 1995.

The SPEAKER pro tempore. (Mr. SCHIFF). Is there objection to the request of the gentleman from Texas?

There was no objection.

PROCEDURE FOR CONSIDERATION OF H.R. 729, THE EFFECTIVE DEATH PENALTY ACT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the bill, H.R. 729, be considered in the following manner:

The Speaker at any time may declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 729) to control crime by a more effective death penalty, and that the first reading of the bill shall be dispensed with. All points of order against consideration of the bill shall be waived. General debate shall be confined to the bill and shall not exceed 1 hour, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate, the bill shall be considered for amendment under the 5 minute rule for a period not to exceed 6 hours. It shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule the amendment in the nature of a substitute ordered reported by the Committee on the Judiciary, and all points of order against the substitute shall be waived. The committee amendment in the nature of a substitute shall be considered as having been read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

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

There was no objection.

EXCLUSIONARY RULE REFORM ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 61 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 666.

□ 1624

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 666) to control crime by exclusionary rule reform, with Mr. RIGGS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier, pending was amendment No. 3 offered by the gentleman from Michigan [Mr. CONYERS].

Is there further debate on the amendment offered by the gentleman from Michigan?

Mr. SCHIFF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to point out, first of all, that the amendment offered by the gentleman from Michigan, if enacted into law ultimately, allows for a good faith exception to the exclusionary rule. I understand the gentleman makes a distinction between how his amendment is worded and how H.R. 666 is now worded. I will address that in a moment.

But I want to point out that both H.R. 666 and the amendment of the gentleman from Michigan would codify in some form a good faith exception to the exclusionary rule. My point, obviously, is that if all constitutional rights are not going to come to an end under the amendment of the gentleman, which allows a good faith exception to the exclusionary rule, all constitutional rights are not going to come to an end under H.R. 666.

Let me more precisely address the difference between the amendment from the gentleman from Michigan and this bill.

Basically, though there is another exception in the gentleman's amendment, basically the gentleman's amendment would codify the Leon case which allows this good faith exception when there is a warrant used by a police officer and that warrant is later determined to be invalid. But the point