MAKING IN ORDER AMENDMENTS EN BLOC DURING FURTHER CONSIDERATION OF H.R. 10, 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

Mr. HOEKSTRA. Madam Speaker, I ask unanimous consent that during further consideration in the Committee of the Whole of H.R. 10 pursuant to House Resolution 827 that it be in order at any time for the chairman of the Permanent Select Committee on Intelligence or a designee to offer amendments en bloc consisting of any of the amendments numbered 9, 16, 18, 20, and 22 printed in House Report 108-751; that amendments en bloc pursuant to this order may be considered as read, be debatable for 10 minutes equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence or their designees, not be subject to amendment and not be subject to a demand for a division of the question in the House or in the Committee of the Whole; and that the original proponent of the amendment included in such amendments en bloc may insert a statement in the CONGRESSIONAL RECORD immediately before the disposition of the amendments en bloc.

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

There was no objection.

9/11 RECOMMENDATIONS IMPLEMENTATION ACT

The SPEAKER pro tempore. Pursuant to House Resolution 827 and rule XVIII, 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. 10.

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. 10) to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes, with Mr. KOLBE (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the committee of the whole rose earlier today, amendment No. 7 printed in House Report 108-751 by the gentlewoman from West Virginia (Mrs. CARPER) was ordered off the Calendar. Pursuant to the order of the House of today, it shall be in order at any time for the chairman of the Permanent Select Committee on Intelligence or a designee to offer amendments en bloc consisting of any of the amendment numbers 20 and 22 printed in House report 108-751.

The amendments en bloc shall be considered read, shall be debatable for 10 minutes, equally divided and controlled by the chairman and the ranking minority member of the Permanent Select Committee on Intelligence or their designees, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

The original proponent of the amendment included in the amendments en bloc may insert a statement in the CONGRESSIONAL RECORD immediately before disposition of the amendments en bloc.

It is now in order to consider amendment No. 8 printed in House Report 108-751.

AMENDMENT NO. 8 OFFERED BY MR. CARTER. Mr. CARTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. CARTER: At the end of title II insert the following:

Subtitle J—Terrorist Penalties Enforcement Act of 2004

SEC. 2221. SHORT TITLE. This subtitle may be cited as the “Terrorist Penalties Enforcement Act of 2004”.

SEC. 2222. TERRORIST OFFENSES RESULTING IN DEATH; DENIAL OF FEDERAL BENEFITS TO TERRORISTS.

(a) In General.—Subtitle J of title 18, United States Code, is amended by adding at the end the following:

"§ 2339E. Terrorist offenses resulting in death

(a) Whoever, in the course of committing a terrorist offense, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.

(b) As used in this section, the term ‘terrorist offense’ means—

(i) a Federal felony offense that—

(A) a Federal crime of terrorism as defined in section 2339(b) except to the extent such crime is an offense under section 1383; or

(B) an offense under this chapter, section 175, 175b, 229, or 831, or section 226 of the Atomic Energy Act of 1954; or

(ii) a Federal offense that is an attempt or conspiracy to commit an offense described in paragraph (1).

‘§ 2339F. Denial of Federal benefits to terrorists

(a) An individual or corporation who is convicted of a terrorist offense (as defined in section 2339E) shall, as provided by the court on motion of the Government, be ineligible for any or all Federal benefits for any term of years or for life.

(b) As used in this section, the term ‘Federal benefit’ has the meaning given that term in section 421(d) of the Controlled Substances Act, and also includes any assistance or benefit described in section 115(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, with the same limitations and to the same extent as provided by the court with respect to denials of benefits and assistance to which that section applies.”.

(b) CONFORMING AMENDMENT TO TABLE OF SECTIONS.—The table of sections at the beginning of the chapter 113B of title 18, United States Code, is amended by adding at the end the following new items:

‘2339E. Terrorist offenses resulting in death.

2339F. Denial of federal benefits to terrorists.”.

(c) AGGRAVATING FACTOR IN DEATH PENALTY CASES.—Section 3592(c)(1) of title 18, United States Code, is amended by inserting “section 2339E (terrorist offenses resulting in death),” after “section 2338E,”.


Section 60003 of the Violent Crime Control and Law Enforcement Act of 1994, (Public Law 103-322), is amended, as of the time of its enactment, by adding at the end the following:

“(c) DEATH PENALTY PROCEDURES FOR CERTAIN PREVIOUS AIRCRAFT PIRACY VIOLATIONS.—An individual convicted of violating section 46502 of title 49, United States Code, or whose predecessor, made death in accordance with the procedures established in chapter 228 of title 18, United States Code, if for any offense committed before the enactment of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), but after the enactment of the Antihijacking Act of 1974 (Public Law 93-306), it is determined by the finder of fact, before consideration of the factors set forth in sections 3591(a)(2) and 3592(a) and (c) of title 18, United States Code, that one or more of the factors set forth in former section 46503(c)(2) of title 49, United States Code, or its predecessor, has been proven by the Government to exist, beyond a reasonable doubt, and that factors set forth in former section 46503(c)(1) of title 49, United States Code, or its predecessor, has been proven by the defendant to exist, by a preponderance of the evidence. The meaning of the term ‘especially heinous, cruel, or depraved’, as used in the factor set forth in former section 46503(c)(2)(B)(iv) of title 49, United States Code, or its predecessor, shall be narrowed by adding the limiting language ‘in that it involved torture or serious physical abuse to the victim’, and shall be construed as when that term is used in former section 3592(c)(6) of title 18, United States Code.”.

Conform the table of sections accordingly.

The CHAIRMAN pro tempore. Pursuant to House Resolution 827, the gentleman from Texas (Mr. CARTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. CARTER). Mr. CARTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today I offer an amendment, the Terrorist Penalties Enforcement Act, which will provide new and expanded penalties to those who commit fatal acts of terrorism.

Since September 11, Federal and State officials continue to work hard to prevent further terrorist attacks on our soil. However, some changes to the law to increase penalties after deadly terrorist attacks, a jury is still denied the ability to consider a death sentence or life imprisonment for a terrorist in many cases, even when the attacks result in death. It is immediately necessary to prevent further harm to our citi zens.

For example, in the case in which a terrorist causes massive loss of life by sabotaging a nuclear power plant or a national defense installation, there would be no possibility of imposing the death penalty under the statutes defining these offenses because they contain...
no death penalty authorizations. In contrast, dozens of other Federal violent crime provisions authorize up to life imprisonment or the death penalty in cases where victims are killed. Because the potential tragedy here is so great, we must hope that changing this law to recognize the death of life or death imprisonment will serve as a deterrent to would-be terrorists. It is one more tool in our arsenal.

Mr. Chairman, hearings have been held on this straightforward legislation, and it has been agreed to by the House Committee on the Judiciary. It will make terrorists who kill eligible for the Federal death penalty. This legislation will also deny these same terrorists any Federal benefits they otherwise may have been eligible to receive. These Federal benefits denied include Social Security, welfare, unemployment and food stamps.

As a former State District Judge for over 20 years, I have presided over five capital murder trials, three of which resulted in the death penalty. I understand the gravity of seeking and imposing the death penalty. However, from my experience, I believe the death penalty is a tool that can deter acts of terrorism and can serve as a tool for prosecutors when negotiating sentences.

I am pleased that President George Bush expressed his support for this legislation. In a speech to the FBI Academy, President Bush said, “For the sake of American people, Congress should change the law and give law enforcement officials the same tools they have to fight terror that they have to fight other crime.”

In Hershey, Pennsylvania, President Bush reemphasized the inequity in current law. President Bush said, “We ought to be sending a strong signal: If you sabotage a defense installation or a nuclear facility in a way that takes an innocent life, you ought to get the death penalty, the Federal death penalty.

This legislation today puts all would-be terrorists on notice that they will receive ultimate justice should they decide to plan and execute a future attack.

Mr. Chairman, I urge my colleagues to support this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I claim the balance in opposition.

Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this bill creates 23 new death penalties, making all Federal crimes of terrorism punishable by death. We would remind people that a 23-year study of over 4,500 death penalty cases found reversible error in 68 percent of the cases. We suspect that approximately 100 people in the last 10 years have been wrongfully executed. This burden falls disproportionately on minorities.

So when you talk about a strong signal, the signal, I guess, is you put people to death because, well, they might have been guilty. We know in the end the death penalty will not deter suicide bombers from completing their crimes. Furthermore, we have the problem of international law, the fact that most countries in the world, particularly our allies, do not have the death penalty and will not extradite criminals to the United States if they will be subject to the death penalty.

One of the problems with the Federal crimes of terrorism is that it is something that we could include some kind of a political protest. The death could occur by accident. It was not even intended. Somebody got trampled in the protest, for example, and here you are talking about the death penalty. But because it includes not only completing the crime and killing somebody, it includes support for someone. You might want to rename this the “Put Mama to Death Bill.” If a mother harbors her son, lets him stay at home, she would then become and everybody in the family becomes subject to the death penalty.

Mr. Chairman, this has nothing to do with reorganization of the intelligence community. It is not probable that we would reserve judgment on this and consider this bill and others when we consider the Patriot Act.

Mr. Chairman, I reserve the balance of my time.

Mr. CARTER. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. GREEN).

Mr. GREEN of Wisconsin. Mr. Chairman, it is simple. We must do everything we can to stop terrorists, and that starts with ensuring that all terrorist acts are punished swiftly and severely. This amendment sends a clear message that we take terrorism seriously; that we understand that terrorist acts are not really crimes, they are combat; that on 9/11 we were not merely assaulted, we were invaded; and when there is combat, when terrorists invade our soil in deadly fashion, we will punish those responsible with the heaviest possible penalties. To do less would be a disservice to those who have lost their lives and would send a signal of softness to those who still seek our destruction.

I was proud to work with the gentleman from Texas (Mr. CARTER) on this subject. I commend him for carrying it forward. It is important work. It is good work that he is doing. I urge my colleagues to support this amendment.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would point out that we will be considering the Patriot Act. I would hope that we would consider this legislation as part of that. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. CARTER. Mr. Chairman, I urge my colleagues to support this amendment.

Mr. Chairman, I yield back the balance of my time.
association or in the nearest such association with an entry level full-time paid individual.

(f) Effective Date.—This section applies only to provide analog to digital conversion, loss, or death caused by equipment that, for purposes of subsection (b), is donated on or after the date that is 30 days after the date of the enactment of this Act.

(g) Attorney General Review.—

(1) In General.—The Attorney General of the United States shall conduct a State-by-State review of the donation of firefighter equipment to volunteer firefighter companies during the 5-year period ending on the date of the enactment of this Act.

(2) Description.—The description of the review conducted under paragraph (1). The report shall include, for each State, the most effective way to fund firefighter companies, whether first responder funding is sufficient to respond to the Nation’s needs, and the best method to ensure that the equipment donated to volunteer firefighter companies is in usable condition.

AMENDMENT NO. 16 OFFERED BY MR. BARTON OF TEXAS

After section 5010 insert the following new section:

SEC. 5011. DIGITAL TELEVISION CONVERSION DEADLINE.

(a) Findings.—The Congress finds the following:

(1) Congress granted television broadcasters additional 6 MHz blocks of spectrum to transition to digital broadcasting simultaneously with the analog broadcasts they transmit on their original 6 megahertz communications channels.

(2) The Congress finds that section 152(c)(1) of the Communications Act of 1934 should be amended to eliminate the 85-percent penetration test and to require broadcasters to cease analog transmissions by the close of December 31, 2006, so that the spectrum can be returned and repurposed for important public-safety and advanced commercial uses.

(b) Sense of Congress.—Now, therefore, it is the sense of Congress that section 152(c)(1) of the Communications Act of 1934 should be amended to eliminate the 85-percent penetration test and to require broadcasters to cease analog transmissions by the close of December 31, 2006, so that the spectrum can be returned and repurposed for important public-safety and advanced commercial uses.

AMENDMENT NO. 18 OFFERED BY MR. FOSSIELLA

Page 606, after line 17, insert the following (and redesignate subsequent subsections accordingly):

(d) Multi-Year Interoperability Grants.

(1) Multi-Year Commitments.—In awarding grants to any State, region, local government, or Indian tribe for the purposes of ensuring interoperability capabilities for emergency response providers, the Secretary may commit to obligate Federal assistance beyond the current fiscal year, subject to limitations and restrictions in this subsection.

(2) Restrictions.—

(A) Time Limit.—No multi-year interoperability commitment may exceed 2 years in duration.

(B) Amount of Committed Funds.—The total amount of assistance the Secretary has committed to obligate for any future fiscal year under paragraph (1) may not exceed $150,000,000.

(3) Letters of Intent.—

(A) Issuance.—Pursuant to paragraph (1), the Secretary may issue a letter of intent to an applicant committing to obligate from future budget authority an amount, not more than the Federal Government’s share of the project’s cost, for an interoperability communications project (including interest costs and costs of the cost of the project).

(B) Schedule.—A letter of intent under this subsection shall establish a schedule under which the Secretary will reimburse the Federal Government’s share of the project’s costs, as amounts become available, if the applicant, after the Secretary issues the letter, carries out the project as directed in the letter.

(c) Statutory Construction.—Nothing in this subsection shall be construed—

(i) to prohibit the obligation of amounts pursuant to this subsection in the same fiscal year as the letter of intent is issued; or

(ii) to apply to, or replace, Federal assistance intended for interoperable communications that is not provided pursuant to a commitment under this subsection.

(e) Attorney General Review.

(1) In General.—The Attorney General of the United States shall prepare and submit to the Congress a report on the results of the review conducted under paragraph (1). The report shall include, for each State, the most effective way to fund firefighter companies, whether first responder funding is sufficient to respond to the Nation’s needs, and the best method to ensure that the equipment donated to volunteer firefighter companies is in usable condition.

AMENDMENT NO. 20 OFFERED BY MR. MICA

Page 198, after line 22, insert the following (and redesignate subsequent subparagraphs of the quoted matter accordingly):

(D) Interoperable Communications Plans.—Any applicant requesting funding assistance from the Secretary for interoperable communications for emergency responders shall include in its Interoperable Communications Plan to the Secretary for approval. Such a plan shall—

(1) describe the current state of communications interoperability in the applicable jurisdictions among Federal, State, and local government entities, military installations, foreign governments, critical infrastructure, and other relevant entities;

(2) describe the available and planned use of public safety frequency spectrum and resources for interoperable communications within such jurisdictions;

(3) describe how the planned use of spectrum and resources for interoperable communications is compatible with surrounding capabilities and interoperable communications plans of Federal, State, and local governmental entities, military installations, foreign governments, critical infrastructure, and other relevant entities;

(4) include a 5-year plan for the dedication of Federal, State, and local government and private resources to achieve a consistent, secure, and effective interoperable communications system, including design and engineering, testing and technology development, procurement and installation, training, and operations and maintenance; and

(5) describe how such 5-year plan meets or exceeds any applicable standards and grant requirements established by the Secretary.
SEC. 2188. IN-LINE CHECKED BAGGAGE SCREENING.

The Secretary of Homeland Security shall take such action as may be necessary to expedite the installation and use of advanced in-line baggage-screening equipment at commercial airports.

Page 218, redesignate section 2188 of the bill as section 2189 and conform the title of the bill accordingly.

AMENDMENT No. 22 OFFERED BY MR. SHADEGG

In title V, at the end of chapter 3 of subtitle H (page 609, after line 21) add the following:

SEC. 5109. PILOT STUDY TO MOVE WARNING SYSTEMS INTO THE MODERN DIGITAL AGE.

(a) Pilot Study.—The Secretary of Homeland Security, from funds available for improving the national system to notify the general public in the event of a terrorist attack, and in consultation with the Attorney General and the heads of other appropriate Federal agencies, the National Association of State Chief Information Officers, and other stakeholders with respect to public warning systems, shall conduct a pilot study under which the Secretary may issue public warnings regarding threats to homeland security using a warning system that is similar to the AMBER Alert communications network.

(b) Report.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a report regarding the findings, conclusions, and recommendations of the pilot study.

The CHAIRMAN pro tempore. Pursuant to the order of the House earlier today, the gentleman from Virginia (Mr. HOEKSTRA) and the gentleman from California (Mr. CASTLE), a former member of the Permanent Select Committee on Intelligence, have had this discussion, that the gentleman from Virginia (Mr. CASTLE) asked and was given permission to revise and extend his remarks.

Mr. CASTLE. Mr. Chairman, I thank the chairman of the House Permanent Select Committee on Intelligence for yielding me time.

This is sort of like a deja vu discussion, that the gentleman from Virginia (Mr. CASTLE) and I have had this discussion before. I feel this legislation is necessary. There are some States that have waived the liability provisions to allow corporations to make donations of equipment to fire companies without liability, which is very, very important. A lot of these companies have very good and new equipment, hardly used because their fire needs are not as great as regular fire companies. They are willing to make this donation, but they are reluctant to do so because of the liability issues.

A few States have waived those provisions, but others have not. We simply would allow this throughout this country. I cannot imagine anything that is more dutiful or more beneficial to fighting fires in this country than this.

So he opposed this before, and I said at the time, I hope he is the only one who is opposing this, and he almost was. There were three people who opposed it. It carried by 397 to 3. Obviously, it has to do with what we are dealing with in this country in terms of terrorism, in terms of the problems of dealing with security in the United States of America, intelligence and all those other areas. Quite frankly, it is something that a lot of people want to get done, but we have got to find the vehicle for it, and this is a proper vehicle.

It was unopposed and that is the reason it was put in the en bloc amendment, agreed to by Members on both sides of the aisle. My sense is this is something that each and every one of us should be supporting so that both our rural and our urban fire departments can take advantage of this particular type of law and have emergency vehicles and other equipment donated to them without that concern of liability.

I would hope that his concerns about that, which he has expressed, would not lead to opposition to the en bloc amendment and, hopefully, ultimately, the passage of this, and we will all be protected.

Mr. SCOTT of Virginia. Mr. Chairman, will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, as the gentleman from Delaware has indicated, we have had this debate before, and I would just point out that my concerns with parts of the amendment are outweighed by the support of the other provisions in the other bills in the bloc. So I will not be opposing the bloc.

Mr. CASTLE. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I rise today in support of my amendment to H.R. 10 which is identical to legislation I introduced, H.R. 1787, the "Good Samaritan Volunteer Firefighter Assistance Act." On September 14 this legislation overwhelming passed the U.S. House of Representatives 397 to 3.

An amendment removes a barrier which currently prevents some organizations from donating surplus fire fighting equipment to fire departments in need. Under current law, the threat of civil liability has caused some organizations to destroy fire equipment, rather than donating it to volunteer, rural and other financially-strapped departments.

We know that every day, across the United States, firefighters respond to calls for help. We are grateful that these brave men and women work to save our lives and protect our homes and businesses. We may presume that our firefighters work in departments with the latest and best firefighting and protective equipment. When in reality there are an estimated 30,000 firefighters who risk their lives daily due to a lack of basic Personal Protective Equipment (PPE).

In both rural and urban fire departments, limited budgets make it difficult to purchase more than fuel and minimum maintenance. At the same time, certain industries are constantly improving and updating the fire protection equipment to take advantage of new, state-of-the-art innovation. Sometimes, the surplus equipment has never been used to put out a single fire. Sadly, the threat of civil liability causes many organizations to destroy, rather than donate, millions of dollars of quality fire equipment.

Not only do volunteer fire departments provide an indispensable service, some estimates indicate that the nearly 800,000 volunteer firefighters nationwide save state and local governments $36.8 billion a year. Of the 26,000 fire departments in the United States, more than 19,000 are all volunteer and another 3,800 are mostly volunteer.

Ten states: Alabama, Arizona, Arkansas, California, Florida, Indiana, Missouri, New York, South Carolina and Texas have passed similar legislation. In the seven years of the Texas program more than $12 million worth of firefighter equipment has been donated and given to needy departments—this includes nearly 70 emergency vehicles, more than 1,500 piece of communications equipment. In total more than 33,000 items have been donated.

Congress can respond to the needs of fire companies by removing civil liability barriers. Equipping our nation's first responders is essential as we fight the war on terror and I am...
Mr. BUYER. Mr. Chairman, I rise in strong support of this amendment sponsored by the Chairman of the House Energy and Commerce Committee. This amendment sets out the right approach for this nation to move toward the digital television transition and return much-needed spectrum for public safety and advanced commercial purposes, such as wireless broadband. The Congress, the Federal Communications Commission, as well as the telecommunications industry have spent valuable time and money for the advancement of the transition. A hard date will bring certainty to all those involved in this transition.

The Senate, in its just passed National Intelligence Reform bill, included a 2008 hard deadline for broadcasters to vacate only portions of the 700 MHz spectrum reserved for public safety. I do not believe this is the correct approach, nor do I believe that it adequately solves the public safety issue.

I commend the Chairman for his amendment and I look forward to our continued work as we move from an analog to a digital world.

Mr. COX. Mr. Chairman, I rise in support of the Barton Amendment by my colleague and good friend, Mr. SHADEGG of Arizona.

Mr. SHADEGG is a distinguished Member of the Select Committee on Homeland Security and ably serves as Chairman of its Subcommittee on Emergency Preparedness & Response.

Under Chairman SHADEGG’s leadership, the EP&R Subcommittee recently held a very informative and eye-opening hearing on the Barton Amendment. This committee next Congress on this and other proposals for interoperable radio communications. The tragic events of 9/11 underscore the need for this, and that is why we must move with deliberate speed to complete the transition.

But moving with deliberate speed does not mean moving recklessly and it does not mean grasping at well-intentioned half-measures that would either cause scores of television stations to literally go dark or would actually set in motion a transition that would dangerously delay the American people on terrorist watch lists, from being effectively denied the ability to fly?

There is no question that we must encourage our security officials to be vigilant. But, it is reasonable to expect that the Transportation Security Administration be able to maintain their watch lists to ensure that the system does not continue to erroneously flag the same law-abiding citizens every time they try to travel on a plane.

I believe this can be done in a way that maintains aviation security, improves the effectiveness of watch lists, and demonstrates to our fellow citizens that America afford our fellow citizens the same freedoms and opportunities to all of its law-abiding citizens, even during this war on terrorism.

Specifically, this amendment will: establish a timely and fair process for individuals identified as a threat to appeal the determination; and to correct any erroneous information, include a method by which TSA will be able to maintain a record of air passengers who have been misidentified; and prevent repeated delays of misidentified passengers by ensuring the record contain information determined by TSA to authenticate the identity of such a passenger.

As we work toward policies that secure our homeland, we must not forget that there are U.S. citizens who are of Middle Eastern descent. They have greatly contributed to American society and are deserving of equal treatment under the Constitution of the United States.

These various cultures and races became citizens of the United States just as our ancestors did, and they are our neighbors, co-workers, friends, and family members. Most of all, they are our fellow Americans.

It is unfortunate that these Americans have been forced to bear the brunt of our increased security demands.

In the past, when American law enforcement confronted challenges to our safety and security from espionage, drug trafficking and organized crime, we were able to meet those challenges in ways that preserved our fundamental freedoms and civil liberties.

We must meet the challenge of terrorism with this same careful regard for the Constitutional rights of Americans and respect for all human beings.

Last week, the House Transportation and Infrastructure Committee unanimously approved these provisions and I urge my colleagues to support this amendment today.

Mr. UPTON. Mr. Chairman, I rise in support of the Barton Amendment.

Part of the spectrum which the broadcasters are to return at the end of the DTV transition is much needed for public safety inter-operable radio communications. The tragic events of 9/11 underscore the need for this, and that is why we must move with deliberate speed to complete the transition.

But moving with deliberate speed does not mean moving recklessly and it does not mean grasping at well-intentioned half-measures that would either cause scores of television stations to literally go dark or would actually set in motion a transition that would dangerously delay the hands of public safety because they are riddled with ill-defined exceptions.

Moreover, we need to consider consumers’ analog television sets which could go dark once broadcasters cease analog broadcasting— if we do not take care to do this right. Helping public safety and minimizing consumer disruption need not be mutually goals.

I support the Barton amendment because it says that we should impose a hard-date for the end of the entire transition as part of a comprehensive digital television transition bill to be enacted next Congress. I look forward to working in the Energy and Commerce Committee next Congress on this and other proposals to minimize consumer disruptions, focusing on how to get low-cost digital-to-analog converter boxes into the hands of consumers, not to mention other policy matters that are relevant to the transition. The Barton Amendment signs us up to move—not with reckless abandon—but with deliberate speed to ensure that we really get spectrum into the hands of public safety in an expeditious fashion.

I urge all of my colleagues to support the Barton Amendment.

Mr. COX. Mr. Chairman, I rise in strong support of the Fossella-Stupak amendment. From the first World Trade Center bombing in 1993 to the attacks on September 11, 2001, the inability of our first responders to communicate adequately and effectively has posed a serious threat to our Nation’s ability to respond to acts of terrorism and other emergencies.

Regrettably, there is no silver bullet or panacea that will enable us to attain interoperable...
communications overnight. And, contrary to the good intentions of some of my colleagues on the other side of the aisle, merely throwing more money at the problem or creating new grant programs is not the answer. We already have enough programs.

Indeed, since 2002, the Federal government has already spent more than $1.2 billion in grant assistance specifically for the purpose of enhancing interoperable communications. And, unfortunately, our progress has been disappointing. The primary reason for this—according to the Government Accountability Office—is the lack of interoperable communications grant programs “present challenges to short- and long-term planning.” That is why I rise in support of the Fossella-Stupak Amendment. It does not create a new interoperable communications grant program. Rather, it gives the Department of Homeland Security much needed flexibility to support State and local short- and long-term planning for interoperable communications.

Specifically, under the Fossella-Stupak Amendment, the Department may issue Letters of Intent to commit future funding for interoperable communications for up to three years. These commitments must be made pursuant to existing grant programs.

States and local governments have been reluctant to invest in expensive and complicated communications systems due to uncertainty over the availability of Federal funds from year to year. Providing cash-strapped States and local governments with reasonable assurance that multi-year Federal assistance will be available should spur comprehensive planning and meaningful investments in communications.

The Fossella-Stupak Amendment also requires applicants to develop multi-year interoperable communication plans. Such plans are essential for long-term planning, such as coordinating communications strategies with different agencies and neighboring jurisdictions, and for preventing funds from being wasted on hastily planned systems. I understand that numerous fire service and law enforcement groups, State and local government, and other entities representing the public safety community played a key role in drafting this Amendment. They and I support this Amendment, and so should you.

I commend Representatives FOSSELLA and STUPAK for their leadership and vision in offering this important Amendment.

As Chairman of the Select Committee on Homeland Security, I strongly encourage my colleagues to support this Amendment.

Mr. DINGELL. Mr. Chairman, I agree with Chairman Barton that the digital television transition has taken too long and that we need to quickly get our police officers, firefighters, and other first responders an additional 24 megahertz of spectrum to help them safely do their jobs. This spectrum, currently occupied by television channels 63, 64, 68, and 69, is set to be turned over to first responders once the stations broadcasting on those channels transition to digital. Can the federal government speed this up?

Some have proposed getting first responders this spectrum more quickly by requiring certain broadcasters to return their spectrum by the end of 2006. This suggestion, though well intentioned, is a simplistic approach to a complex problem. It does not ensure that the public safety sector will be ready to use this new spectrum. Also, this suggestion, by supplanting certain broadcasters directly, and shutting down others to prevent interference, will prevent many consumers from receiving important programming such as local news and weather. Finally, it will also disproportionately harm the Latino, Hispanic, and Asian-American community by shutting down a number of Spanish-language stations. Likewise, the amendment before us today does not reflect the complexity of this issue. Although I agree with Chairman Barton that we need to speed up the digital transition, the amendment suffers from a number of deficiencies. First, it would establish a hard deadline of December 31, 2006, when all analog television broadcasts on all channels would cease. Such an absolute declaration is premature. It would not allow enough time for affordable equipment to come to market or to properly educate consumers about the transition. Moreover, it could result in many consumers losing their television service. That must not happen.

Congress needs to address the digital transition issue soon in a comprehensive way, addressing the three major issues. First, we need to expedite public safety’s access to new spectrum and provide them with certainty so they know when they will be receiving new spectrum. Certainty will allow first responders time to plan how to use the spectrum. It will also allow them time to line up the funding necessary to make use of the spectrum once it becomes available.

Second, we need to implement a far-reaching plan to educate consumers on what will happen once the digital transition is complete. It is important that consumers know when the transition will take place, how it will take place, and what it means for them with regard to their television viewing.

Third, consumers should not bear unfair cost burdens, and we need to have a program in place to provide subsidies so that no one is left behind as the United States transitions to digital television.

I am pleased that Chairman Barton recognizes the need to tackle these issues in a thoughtful and comprehensive way. Unfortunately, the Barton Amendment before us today because it is premature and could lead to consumers losing their television service.

I am confident, however, that regardless of which party controls the House next Congress, the Committee on Energy and Commerce will work on a bipartisan basis to properly address these issues in a way that will speed up the digital transition, provide certainty to public safety regarding new spectrum, and protect consumers from losing their television service.

Mr. MICA. Mr. Chairman, the amendment I propose to the Barton Amendment expresses the sense of the Congress that the digital television transition has taken too long and that we need to quickly get our police officers, firefighters, and other first responders an additional 24 megahertz of spectrum to help them safely do their jobs. This spectrum, currently occupied by television channels 63, 64, 68, and 69, is set to be turned over to first responders once the stations broadcasting on those channels transition to digital. Can the federal government speed this up?

Some have proposed getting first responders this spectrum more quickly by requiring certain broadcasters to return their spectrum by the end of 2006. This suggestion, though well intentioned, is a simplistic approach to a complex problem. It does not ensure that the terrorist watch-lists prior to the flight’s departure, and it ensures that future flights will not take off with known terrorists on board.

Secondly, my amendment requires TSA to establish an appeal process for passengers wrongly placed on terror watchlists. The amendment also establishes a requirement for DHS to track passengers erroneously flagged under the Department’s new pre-screening system. The watchlists are incredibly important tools, but they are far from perfect.

Last week, I learned that several members of Congress, including the Chairman of the Transportation Committee, have been prevented from boarding airliners because they shared the first and last name of someone on the watchlist.

This provision will ensure that they and others are not unnecessarily delayed on future flights.

Lastly, this amendment directs the Department of Homeland Security to take all necessary actions to expedite the installation and use of advanced in-line baggage-screening equipment at commercial airports.

I am disappointed that language to provide incentives for non-Federal entities using these systems was not included in H.R. 10 due to short-sighted CBO scorekeeping.

However, I do believe the Administration has the authority to pursue this approach, and, hopefully, this section will encourage them to do so.

We worked closely with members on both sides of the aisle to develop this amendment. A similar amendment passed the Transportation Committee unanimously last week and I urge all of my colleagues to vote in favor of this amendment.

Mr. PICKERING. Mr. Chairman, I rise today to support the Amendment being offered by Mr. Barton, Chairman of the House Energy and Commerce Committee. First, I would like to thank Chairman Barton for his leadership on this issue. I agree with Chairman Barton that H.R. 10 is not the vehicle by which to effectively transition this precious public spectrum to public safety and valuable commercial and non-licensed uses. To address all issues and concerns, we must take a comprehensive approach and develop a comprehensive solution so that our first responders receive all the tools they need and the American people see the many benefits of digital technology. The Senate proposal is the wrong approach and I hope we will work to accomplish our goal in a more all-inclusive process focusing on all broadcast issues. We cannot effectively address the digital transition piece by piece. I look forward to working with Chairman Barton on this very important issue in order to find a date that is appropriate and achievable in order to effectively transition to that new and exciting digital age of television that will promote public safety, encourage innovation, create jobs, and benefit all Americans.

Mr. BARTON of Texas. Mr. Chairman, my amendment expresses the sense of the Congress that the way to get valuable spectrum promptly into the hands of public safety officials without shutting off consumers’ televisions is to enact comprehensive, hard-deadline digital television legislation.

The Senate-passed 9/11 bill, however, requires the return of only a portion of that spectrum, rather than all the spectrum that broadcast stations are currently using for analog broadcasts. Broadcasters estimate that these provisions would shut off as many as 75 stations.
Many of these broadcasters carry major networks in major markets. Because the Senate bill does not require the other broadcasters to vacate their analog spectrum, there will be nowhere to relocate these 75 stations.

By waiting until the 109th Congress set a date-certain for all broadcasters to clear their analog spectrum that they use for analog broadcasts, we can turn spectrum over to public safety sooner, and all broadcasters will be able to move to their final digital channels. The remaining spectrum can be auctioned for advanced commercial services, such as wireless broadband. Some of the billions of dollars generated can then be used for digital-to-analog converter boxes so that households relying on over-the-air analog broadcasts can continue to use their analog televisions.

I urge my colleagues to join me in expressing the Sense of the Congress that the responsible policy should be to address this issue comprehensively through regular order, not in a piecemeal fashion on a bill to implement the 9/11 Commission recommendations. I look forward next year to working with Ranking Minority Member DINGELL, Subcommittee Chairman UPTON, and Subcommittee Ranking Minority Member MARKY, along with all of the Members of the Energy and Commerce Committee, to pass hard-deadline legislation.

I urge my colleagues to vote for this amendment so that public safety gets its needed spectrum without making television go dark.

Mr. SCOTT of Virginia. Mr. Chairman, I yield back the balance of my time.

Mr. HOEKSTRA. Mr. Chairman, we have no additional speakers, and I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. KOLBE). The question is on the amendments and motions offered by the gentleman from Michigan (Mr. HOEKSTRA).

The amendments on bloc were agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 10 printed in House Report 108-751.

Mr. FOLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment. I urge my colleagues to join me in expressing the Sense of the Congress that the responsible policy should be to address this issue comprehensively through regular order, not in a piecemeal fashion on a bill to implement the 9/11 Commission recommendations. I look forward next year to working with Ranking Minority Member DINGELL, Subcommittee Chairman UPTON, and Subcommittee Ranking Minority Member MARKY, along with all of the Members of the Energy and Commerce Committee, to pass hard-deadline legislation.

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The CHAIRMAN pro tempore. It is now in order to consider amendment No. 10 printed in House Report 108-751.
Due to loopholes in current law, these criminals could be living in our States, in our towns, and even in our neighborhoods. There is nothing in current U.S. law to bar such monsters from the United States or to legally justify their removal from our country.

This byline, the INS says it cannot deport them. The Justice Department will not prosecute them. Torturers, death squad leaders, and human rights criminals who seek refuge in the United States have nothing to fear except our conscience.

Let me be perfectly clear: Torturers are terrorists. Many of us here today probably think of torturers as domestic terrorists, those just committing unspoken crimes in their own Nations, but that cannot be further from the truth.

Let us look at the facts. North Korea, Iran, Syria, Libya, Cuba, Sudan, the former regimes in Afghanistan, the Taliban, and Iraq, they are all State sponsors of terrorism, and all have some of the worst human rights records in history. They detain people for indefinite periods of time, commit brutal acts of torture and kill with little regard for human life. We would be naive to believe that torturers and terrorists are in many ways not one in the same.

The Anti-Atrocity Alien Deportation amendment, which the gentleman from New York (Mr. ACKERMAN) and I have worked on for the last 2 years, we are offering it today, will give the Federal Government another weapon in our war on terror. This amendment will, among other things, make aliens who commit torture or other human rights violations inadmissible and removable.

This bipartisan and bicameral provision will strengthen H.R. 10 by adding additional layers to our immigration laws, barring these criminals with clear ties to terror from ever entering our country or to legally justify their presence here.

For decades, those who have committed some of the most horrific acts against humanity have sought sanctuary here with impunity. This amendment would strip their protection once and for all. We cannot let these criminals and violators of human rights violations inadmissible and removable.

The Foley-Ackerman amendment will make sure that as we are consistent in our war on terror, we must do everything in our power to make sure that our Federal agencies have the tools they need to ensure our safety.

How do we know this? Because war criminals of torture, or other conflicts have been surreptitiously coming to the United States since World War II. We cannot continue to leave the United States open to monsters who have committed horrific atrocities against innocent civilians, and we need to slam that door shut and to shut it tightly.

Mr. HOSTETTLER. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I reserve the balance of my time.

Mr. ACKERMAN. Mr. Chairman, I ask unanimous consent to control the time in opposition and will be in favor of the legislation.

The CHAIRMAN pro tempore. Without objection, the gentleman from New York (Mr. ACKERMAN) is recognized for 5 minutes.

There was no objection.

Mr. ACKERMAN. Mr. Chairman, I yield myself such time as I may consume.

First, I want to say it has been a privilege to work with the gentleman from Florida (Mr. FOLEY) on a completely nonpartisan basis for almost half a decade on this particular legislation.

The Foley-Ackerman amendment closes the loophole that currently allows the United States to remain in the United States. This measure enjoys bipartisan support in both the House and the Senate. A bill sponsored by the chairman and ranking Democrat on the Senate Judiciary Committee, Orrin Hatch and Patrick Leahy, was reported out of the Judiciary Committee in that body.

At this very moment, with our Nation engaged in a conflict in Iraq, which previously had a regime that committed every kind of grotesque criminal behavior that our Nation deplores, the U.S. Code provides no, again, no, assurance that Saddam Hussein’s henchmen, Iraqi war criminals, perpetrators of torture or atrocities from there or other places could not somehow come into the United States and enjoy the very benefits that they have so cruelly deprived of others. It is hard to believe but it is true. Some of Saddam Hussein’s most brutal torturers, if they were able to hide their past and slip past the INS, they could conceivably apply and receive either U.S. permanent resident status or even possibly citizenship.

Mr. HOSTETTLER. Mr. Chairman, I rise in strong support of the Foley-Ackerman amendment to H.R. 10, the 9/11 Recommendations Implementation Act. This important amendment will close a longstanding gap that has allowed thousands of aliens who have tortured or otherwise abused the human rights of untold numbers in their home country to live in the United States.

They are living here in our country the lives that many of their victims will never enjoy. As we continue our war on terror, we must do everything in our power to make sure that our Federal agencies have the tools they need to ensure our safety.

The Foley-Ackerman amendment will not take such a step. This amendment will keep our country safe by barring admission into the United States and authorizing the deportation of any foreigner who has committed acts of torture or other human rights abuses abroad.

These criminals have committed some of the most atrocious acts ever imagined by mankind. We can no longer be a safe haven for those who seek to do us harm and have proven this by doing grave harm to others in the countries they have fled.

Mr. Chairman, I urge my colleagues to vote for this very important amendment.

Mr. ACKERMAN. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman for the time.

I rise to support this amendment because it spells out that immigrants who have committed torture or extrajudicial killings abroad are not eligible to enter the United States, and it changes the provisions that makes immigrants inadmissible if they have committed acts of genocide. The amendment also expands an existing bar against government officials who have committed severe violations of religious freedom.

I want to thank and commend the two gentlemen, and that is why I believe it is very important that H.R. 10 is clearly stripped of any violations of the convention against torture and to make sure that as we are consistent in
denying into the United States those who would commit genocide, torture and other heinous acts, that we accept the responsibility of having the high moral ground, making sure that no legislation that we pass would deport any alien to a place where they might be tortured and subjected to such horrific acts.

This is a very strong amendment. It puts us on the right side of the column, protecting those who would be subjected to the violence of those who would be interested in coming to this country, and I support the gentlemen in this amendment and would ask that we also consider the elimination of such language in our own H.R. 10. I support this amendment.

The CHAIRMAN pro tempore. The gentleman from New York (Mr. ACKERMAN) has one-half minute remaining.

Mr. ACKERMAN. Mr. Chairman, I have no further speakers, and I yield my time to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to thank my colleague the gentleman from New York (Mr. ACKERMAN) and the gentleman from Indiana (Mr. HOSTETTLER), Richard Kriger from my district, who brought this important issue to our attention who has been diligently tracking and identifying these criminals.

Let me read a couple of names: Marko Boskic, Bosnia, member of a group that killed 1,200 Bosnian Muslims in one day; Major General Jean-Claude Duperval, Haiti, implicated in the massacre at Raboteau, Haiti, 1994; Nikola Vukovic, beat Bosnian Muslims with rifles and metal pipes; Mohamed Ali Samatar from Somalia, oversaw the killing of more than 50,000 northern Somali Issaks; Abdi Ali Nur from Somalia, assisted in sham trials and the execution of hundreds of civilians. That is just a few of them.

I will enter this into the RECORD at this point so people can see.

### TABLE OF INDIVIDUALS ACCUSED OF ATROCITIES

<table>
<thead>
<tr>
<th>Name</th>
<th>Country</th>
<th>Crime</th>
<th>Time of atrocities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ruiz, Ricardo</td>
<td>Peru</td>
<td>Implicated in the torture of Leonor La Rosa and Manuela Luci Barreto. La Rosa was paralyzed, Barreto was killed.</td>
<td>1997</td>
</tr>
<tr>
<td>Brooks, Bruce</td>
<td>Bosnia</td>
<td>Member of group that killed 1,100 Bosnian Muslims in one day</td>
<td>July 15, 1995</td>
</tr>
<tr>
<td>Haji</td>
<td>Haiti</td>
<td>Implicated in massacre at Raboteau, Haiti</td>
<td>1994</td>
</tr>
<tr>
<td>Rwanda</td>
<td>Part of elite group that ordered the killings of 500,000 Tutsis</td>
<td>1994</td>
<td></td>
</tr>
<tr>
<td>Barreto</td>
<td>Rwanda</td>
<td>Beat Bosnian Muslims with rifles and metal pipes; carved a religious symbol into the forehead of one prisoner.</td>
<td>1994</td>
</tr>
<tr>
<td>Haji</td>
<td>Bosnia</td>
<td>Created paramilitary organization that killed over 3,000 pro-democracy activists</td>
<td>1991–1994</td>
</tr>
<tr>
<td>Duperval, Jean-Claude</td>
<td>Haiti</td>
<td>Overseeing deaths of 5,000 people</td>
<td>1991–1994</td>
</tr>
<tr>
<td>Duperval, Jean-Claude</td>
<td>Bosnia</td>
<td>Accused of torture and murder</td>
<td>Early 1990s</td>
</tr>
<tr>
<td>Duperval, Jean-Claude</td>
<td>Cambodia</td>
<td>Implicated in deaths of hundreds of people</td>
<td>Late 1970s–1993</td>
</tr>
<tr>
<td>Samatar, Mohamed Ali</td>
<td>Somalia</td>
<td>Overseas killing of more than 50,000 northern Somali Issaks</td>
<td>1971–1990</td>
</tr>
<tr>
<td>Samatar, Mohamed Ali</td>
<td>Somalia</td>
<td>Charged with political murders</td>
<td>1985</td>
</tr>
<tr>
<td>Samatar, Mohamed Ali</td>
<td>Somalia</td>
<td>Assisted in sham trials and executions of hundreds of civilians</td>
<td>Late 1960s</td>
</tr>
<tr>
<td>Marjorie, Ana Maria</td>
<td>Honduras</td>
<td>Member of Salvadoran army</td>
<td>1971–1990</td>
</tr>
<tr>
<td>Samatar, Mohamed Ali</td>
<td>Honduras</td>
<td>Tortured, beat and raped Ethiopians</td>
<td>1971–1990</td>
</tr>
<tr>
<td>Samatar, Mohamed Ali</td>
<td>Chile</td>
<td>Helped kill Chile’s foreign minister</td>
<td>1971–1990</td>
</tr>
<tr>
<td>Samatar, Mohamed Ali</td>
<td>Vietnam</td>
<td>Cuban interrogator that tortured American POWs during Vietnam War</td>
<td>1962–1975</td>
</tr>
<tr>
<td>Samatar, Mohamed Ali</td>
<td>Ukraine</td>
<td>Belonged to Nazi death squad that killed thousands of Jews</td>
<td>1941–1943</td>
</tr>
</tbody>
</table>

### GENERAL

Iran: Pro-democracy Iranian Students tortured in 1970s.

Afghanistan: Taliban.

Sources sorted by name of accused individuals:


20. These are articles from papers about criminals living in the United States. I urge my colleagues to vote for this very important national security measure. I thank my legislative counsel and legal director, Bradley Schreiber, and my staff for working so diligently.

As I mentioned, the gentleman from New York (Mr. ACKERMAN) and I have been doing this now for 4½ plus years. It has finally come to fruition. We thank our colleagues. We urge adoption of the amendment.

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

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. FEY). The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 11 printed in House Report 108-751. AMENDMENT NO. 11 OFFERED BY MR. GOODLATTE. Mr. GOODLATTE. Mr. Chairman, I offer an amendment. The CHAIRMAN pro tempore. The Clerk will designate the amendment. The text of the amendment is as follows:

Amendment No. 11 offered by Mr. Goodlatte. Page 253, after line 21, insert the following: **Subtitle J—Pretrial Detention and Postrelease Supervision of Terrorists**

SEC. 2221. SHORT TITLE. This subtitle may be cited as the “Pretrial Detention and Lifetime Supervision of Terrorists Act of 2004.”

SEC. 2222. PRESUMPTION FOR PRETRIAL DETENTION IN CASES INVOLVING TERRORISM.

Section 3144 of title 18, United States Code, is amended—

(1) in subsection (e)—

(A) by inserting “or” before “the Maritime”;

(B) by inserting after “or” or 2322b of title 18 of the United States Code” the following: “; or”
Mr. Chairman, this amendment makes simple changes to current Federal criminal law to ensure that those who have committed terrorist acts will not attempt to harm our citizens again. I urge my colleagues to support this important amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I rise to claim the time in opposition for the minority, and I yield myself such time as I may consume.

Mr. Chairman, this amendment adds to the list of crimes for which the presumption of detention occurs. It is an extraneous PATRIOT Act II provision not sought by the 9/11 Commission. This puts the defendant in a position where he has to prove the crime.

The Department of Justice has a bad record of detaining people who should not be detained. Brendon Mayfield, a lawyer in Seattle, was detained as a material witness in the Madrid train bombing. The Department of Justice was subsequently forced to admit that they had the wrong person, in that Mr. Mayfield had nothing to do with the crime, notwithstanding the fact that he had been charged on one of these presumptions of detention.

I would hope we would consider this when we consider PATRIOT Act II.

Mr. Chairman, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Chairman, I yield myself 15 seconds to say to the gentleman from Virginia (Mr. GOODLATTE). Many of the points he makes are valid, but I have an open mind in looking at this amendment, which might be fine-tuned to work more effectively. So for that reason, I oppose this amendment.

The continuing danger posed to national security by those who materially support terrorism, who are the vital links in the chain of any terrorist act, may be no less than that posed by the direct perpetrators, the triggermen, of terrorist violence. And the courts should be afforded the same degree of discretion in prescribing post-release supervision in all these cases as well.

The standard for every one of these amendments is whether or not this language enhances the safety and security of this country. Clearly, this amendment is a step in the right direction. It gives our courts some of the same tools they have in drug cases. I urge my colleagues to support this amendment.

Mr. SCOTT of Virginia. Mr. Chairman, I yield such time as she may consume to the gentleman from California (Ms. HARMAN), the ranking member of the Permanent Select Committee on Intelligence.

Ms. HARMAN. Mr. Chairman, I rise to discuss three subjects, the first of which is this amendment. Although I listened carefully to the gentleman from Virginia (Mr. GOODLATTE), I think many of the points he makes are valid, and I agree with him that we should not be coddling terrorists, but I think this amendment is ill timed and needs further consideration by this House.

The gentleman has said that he is not participating in an effort to expand the PATRIOT Act, but these ideas have been circulated in a package called PATRIOT Act II. My view of the PATRIOT Act, which I supported, is that next year is the right time to consider how to expand or contract it. I am a cosponsor of the SAFE Act, which would delete some provisions of the PATRIOT Act that are egregious, but I have an open mind in looking at some features of the PATRIOT Act that might be fine-tuned to work more effectively. So for that reason, I oppose this amendment.

I also will oppose the Hostetler amendment, which will be offered in a few minutes. I think it replaces the worst features of H.R. 10 with some other bad ones. Certainly, the outsourcing of terrorists, as some of us have called it, which some Members of the majority including the gentleman
from Illinois (Mr. HYDE), agree would violate U.S. law and the International Convention on Torture, is a terrible idea.

But there are other features of the Hostetler amendment that make asylum much harder to get, and in ways that have nothing whatsoever to do with finding and prosecuting terrorists, punish innocent immigrants. That is not the purpose of the debate today.

Finally, I want to comment on the en bloc amendment which was just offered and agreed to. I think it is a very good amendment, and the features of it I want to talk about are the Barton amendment, and the Fossella amendment, both of which have to do with interoperable communications.

We have done almost nothing since 9/11 effectively to deal with the failure to have communications equipment and adequate bandwidth with which to communicate, which was a major problem in New York and a major problem at the Pentagon. This administration is not even funding initiatives in this fiscal year for interoperable communications. There is a pending bill called the HERO Act, introduced by the gentleman from Pennsylvania (Mr. WELDON) and me, which has been badly withering on the vine for a year and a half, opposed by the broadcasters. These two amendments will help with multiyear funding, which we need for ports as well as interoperable communications, and will help convey the sense of the Congress that makes it clear we have to free up this bandwidth so that our first responders have the tools that they need.

So as we proceed this morning, Mr. Chairman, I hope we are all paying close attention to amendments. Some are good, some are less good. I would like to say to the gentleman from Virginia (Mr. GOODLATTE), who I think he is an extremely careful legislator and a very good lawyer, and I hope that next year we can work together to craft PATRIOT Act amendments both to eliminate provisions that do not work and to enhance provisions that do work that will keep America safe, find the bad guys, and protect our civil liberties and our constitution.

Mr. GOODLATTE. Mr. Chairman, I yield myself the balance of my time, and I say to the gentlewoman that I appreciate her comments, but I would also point out that we are engaged in the midst of a war against terror right now and a lot is going to happen in the next year, including the apprehension now and a lot is going to happen in the midst of a war against terror right now.

Secondly, there will be people who have been convicted of terrorist acts potentially released during that period of time, and if the court finds it appropriate to authorize lifetime supervision, we ought to get that supervision started now to keep track of people who may be in terrorist acts and give the court the authority to undertake that now, without waiting an additional year and expose our country to greater risks that will occur during that time.

So I urge my colleagues to support this amendment.

The CHAIRMAN pro tempore (Mr. KOLIE). The question is on the amendment offered by the gentleman from Virginia (Mr. GOODLATTE).

The exception was taken, and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. GOODLATTE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia (Mr. GOODLATTE) will be postponed. It is now in order to consider amendment No. 12 printed in House Report 108-751.

AMENDMENT NO. 12 OFFERED BY MR. GREEN OF WISCONSIN

Mr. GREEN of Wisconsin. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Mr. GREEN of Wisconsin:

Page 252, line 18, strike “DEPORTATION” and insert “REMOVAL” (and amend the table of contents accordingly).

Page 258, after line 5, insert the following (and amend the table of contents accordingly):

SEC. 3034. INADMISSIBILITY DUE TO TERRORIST AND TERRORIST-RELATED ACTIVITIES.

(a) In general.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended to read as follows:

"(I) in general.—Any alien who—

(Id) has engaged in a terrorist activity;

(II) a consular officer, the Attorney General, or the Secretary of Homeland Security, knows, or has reasonable ground to believe, is engaged in or is likely to engage after entry in any terrorist activity (as defined in clause (iv));

(III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorist activity;

(IV) is a representative (as defined in clause (v)) of—

(aa) a terrorist organization; or

(bb) a political, social, or other group that endorses or espouses terrorist activity;

(V) is a member of a terrorist organization described in subclause (I) or (II) of clause (vi);

(VI) is a member of a terrorist organization described in clause (vi)(I), unless the attorney general finds clear and convincing evidence that the alien did not know, and should not reasonably have known, that the organization was a terrorist organization;

(VII) endorses or espouses terrorist activity or persuades others to endorse or espouse terrorist activity or support a terrorist organization;

(VIII) has received military-type training (as defined in section 2399f(c)(1) of title 18, United States Code) for or on behalf of any organization that, at the time the training was received, was a terrorist organization under section 212(a)(3)(B)(vi); or

(bb) is an alien who inadmissible under subparagraph (A) or (B) of clause (vi), unless the alien can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization; or

(ce) to solicit funds or other things of value for—

(aa) a terrorist activity; or

(bb) a terrorist organization described in clause (vi)(I) or (vi)(II); or

(cc) membership in a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization; or

(V) to solicit any individual for—

(aa) to engage in conduct otherwise described in this clause; or

(bb) for membership in a terrorist organization described in clause (vi)(I) or (vi)(II); or

(cc) for membership in a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization; or

(d) TERRORIST ORGANIZATION DEFINED.—Section 1182(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)) is amended to read as follows:

(1) TERRORIST ORGANIZATION DEFINED.—As used in this subparagraph, the term ‘terrorist organization’ means an organization—

(I) designated under section 219;
Mr. Chairman, I rise to seek the time in opposition, and I yield myself such time as I may consume.

Mr. Chairman, I am puzzled why anybody would oppose this amendment. The amendment simply states that if you cannot be admitted to the United States because you are affiliated with a terrorist organization, then you can be deported if you get in through one way or another. We have a big problem with illegal aliens crossing both the northern and the southern border. If you do not go through the passport check and enter the United States illegally and you could not enter the United States legally and you are a terrorist organization, under this amendment, you cannot enter, and you cannot be admitted into this country andgrounds for deportation.

We are a welcoming country. I am a proud son of immigrants. But we cannot allow our welcoming arms to be a tool for terrorists who seek our downfall.

Mr. Chairman, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. GREEN), the distinguished chairman of the Committee on the Judiciary, who has produced so many of the important provisions of this legislation.

Mr. GREEN of Wisconsin. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. GREEN), the member opposite each will control 5 minutes.

The CHAIRMAN pro tempore. Pursuant to House Resolution 827, the gentleman from Wisconsin (Mr. GREEN) and a Member opposite each will control 5 minutes.

Mr. GREEN of Wisconsin asked and was given permission to revise and extend his remarks.

Mr. GREEN of Wisconsin. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my time is limited, so I will focus on just two aspects of this amendment that come largely from my own legislation, H.R. 4942.

First, this amendment recognizes that our enemy is not merely the terrorist who pulls the trigger or places the bomb or drives that rig truck, it is also those who through their material support make the violent act possible. They provide the training, they provide the shelter, the ID documents, the resources, the intelligence, the many dirty acts that help the chain of destruction. If we can break these links in the terrorist chain, then the chain will fall apart.

The second thing these provisions do is common sense. It makes material support of terrorism, especially those who participate in military-style training, grounds for being inadmissible into this country and grounds for deportation.

We are a welcoming country. I am the proud product of immigrants. But we cannot allow our welcoming arms to be a tool for terrorists who seek our downfall.

Mr. Chairman, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to seek the time in opposition, and I yield myself such time as I may consume.

Mr. Chairman, no one is opposed to identifying and denying admission to terrorists, and no one is opposed to deporting terrorists who are found in the United States. However, we should not exclude or deport someone as a terrorist who is an innocent person. This amendment would make that possibility more likely by expanding the already clearly worded provisions for excluding and deporting individuals on terrorism grounds.

The terrorist removal provisions presently in the Immigration Nationality Act specify that terrorist organizations must be designated by the Secretary of Homeland Security, as a terrorist organization, after finding that the organization engages in the activities described in subclauses (I) through (VI) of clause (iv).

The terrorist removal provisions presently in the Immigration Nationality Act specify that terrorist organizations must be designated by the Secretary of Homeland Security, as a terrorist organization, after finding that the organization engages in the activities described in subclauses (I) through (VI) of clause (iv).

[c] EFFECTIVE DATE. The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to acts and conditions constituting a ground for removal occurring or existing before, on, or after such date.

SEC. 3035. DEPORTABILITY OF TERRORISTS.

(a) In General. -Section 237(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(B)) is amended to read as follows:

(b) TERRORIST ACTIVITIES. -Any alien who would be considered inadmissible pursuant to subparagraph (B) or (F) of section 212(a)(3) is deportable.

(c) DEPORTATION OF ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST ORGANIZATIONS. -Section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

(d) EFFECTIVE DATE. -The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to acts and conditions constituting a ground for removal occurring or existing before, on, or after such date.

The CHAIRMAN pro tempore. Pursuant to House Resolution 827, the gentleman from Wisconsin (Mr. GREEN) and a Member opposite each will control 5 minutes.

Mr. GREEN of Wisconsin asked and was given permission to revise and extend his remarks.

Mr. GREEN of Wisconsin. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my time is limited, so I will focus on just two aspects of this amendment that come largely from my own legislation, H.R. 4942.

First, this amendment recognizes that our enemy is not merely the terrorist who pulls the trigger or places the bomb or drives that rig truck, it is also those who through their material support make the violent act possible. They provide the training, they provide the shelter, the ID documents, the resources, the intelligence, the many dirty acts that help the chain of destruction. If we can break these links in the terrorist chain, then the chain will fall apart.

The second thing these provisions do is common sense. It makes material support of terrorism, especially those who participate in military-style training, grounds for being inadmissible into this country and grounds for deportation.

We are a welcoming country. I am the proud product of immigrants. But we cannot allow our welcoming arms to be a tool for terrorists who seek our downfall.

Mr. Chairman, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to seek the time in opposition, and I yield myself such time as I may consume.

Mr. Chairman, no one is opposed to identifying and denying admission to terrorists, and no one is opposed to deporting terrorists who are found in the United States. However, we should not exclude or deport someone as a terrorist who is an innocent person. This amendment would make that possibility more likely by expanding the already clearly worded provisions for excluding and deporting individuals on terrorism grounds.

The terrorist removal provisions presently in the Immigration Nationality Act specify that terrorist organizations must be designated by the Secretary of Homeland Security, as a terrorist organization, after finding that the organization engages in the activities described in subclauses (I) through (VI) of clause (iv).

Moreover, I would be surprised if someone removed on that basis would ever be allowed to return to the United States.

Under current law, involvement with a terrorist organization is not a ground for removal unless that person knew or should have known that it was a terrorist organization. The amendment would require the alien to demonstrate by clear and convincing evidence that he did not know and should not reasonably have known that it was a terrorist organization. The amendment would create a higher standard that would be much more difficult to prove. In fact, I am not sure that it is possible to establish the negative proposition that you did not know something.

Finally, the changes that this amendment would make would apply retroactively, which would increase the likelihood of ensnaring innocent people. I urge you to vote against this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. GREEN of Wisconsin. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. SENSENBERGER), the distinguished chairman of the Committee on the Judiciary, who has produced so many of the important provisions of this legislation.

Mr. SENSENBERGER. I thank the gentleman for yielding me this time.

Mr. Chairman, I am puzzled why anybody would oppose this amendment. The amendment simply states that if you cannot be admitted to the United States because you are affiliated with a terrorist organization, then you can be deported if you get in through one way or another. We have a big problem with illegal aliens crossing both the northern and the southern border. If you do not go through the passport check and enter the United States illegally and you could not enter the United States legally and you are a terrorist organization, under this amendment, you cannot enter, and you cannot be admitted into this country andgrounds for deportation.

The amendment is as simple as that, meaning if they do get in when they should not, they should be able to be removed and sent out of the country and make America safer.

I urge support of the amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Let me just say that the important part of this is that the amendment would require the alien to demonstrate by clear and convincing evidence that he did not know and should not reasonably have known that it was a terrorist organization. This is a higher standard and would be much more difficult to prove. And might I say we are adding this to a bill that frankly the White House and the Administration has indicated it strongly opposes any overbroad expansion of expeditious removal. This is clearly in that ballpark.
The administration has concerns with the overbroad alien identification standards proposed by the bill and unrelated to security concerns. All of these amendments that we will be talking about, we have a clear statement by the White House that they oppose. But the chairman of the full Committee on the Judiciary has indicated that he would not stand for the expansion of section 411 of the PATRIOT Act. In fact, the chairman said that it will be done “over my dead body.” I think we are doing here right now. Even if we do so, we need to do so with far more detailed review and judicial committee hearings and the understanding of the imbalance between civil liberties and respect for the judicial system and the right of someone to go into the courts and prove otherwise than what we are doing here under H.R. 10 which is supposed to be, as the 9/11 Commission has said, the overhaul of the U.S. intelligence agencies.

Mr. Chairman, I reserve the balance of my time.

Mr. GREEN of Wisconsin. Mr. Chairman, I yield 1 ½ minutes to the gentleman from Indiana (Mr. HOSTETTLER) chairman of the committee on Immigration, Border Security, and Claims.

(Mr. HOSTETTLER asked and was given permission to revise and extend his remarks.)

Mr. HOSTETTLER. Mr. Chairman, I rise in strong support of this amendment and commend my colleague from Wisconsin for his work on this issue. Currently, terrorists and their supporters can be kept out of the United States, but as soon as they set foot in the U.S. on tourist visas, for example, we cannot deport them for many of the very same offenses. This hinders our ability to protect Americans from those alien terrorists who have infiltrated the United States. This amendment makes aliens deportable for terrorist-related offenses to the same extent that they would not be admitted in the first place to the United States. Another deficiency in current law is based on a flawed understanding of how terrorist organizations operate. The Immigration and Nationality Act now reads that if an alien provides funding to terrorist organizations, it is highly likely that any material support to these organizations will ultimately inure to the benefit of their criminal, terrorist functions, regardless of whether such support was ostensibly intended to support nonviolent, nonterrorist activities.

Money given to terrorist organizations is fungible. Senator DIANNE FEINSTEIN has rightly stated that, “I simply do not think that so-called humanitarian works by terrorist groups can be kept separate from their other operations.”

I urge my colleagues to support the amendment.

Mr. GREEN of Wisconsin. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think what is interesting to listen to today are the arguments on the other side. Where they cannot win on the merits, they choose to throw up a smoke screen of process, no matter how far off point it may be. This amendment stands for a very simple proposition, those who materially support terrorists, who make the terrorist operation possible by providing training, intelligence, logistics, transportation, those who materially support terrorism should not be here. They should not be allowed in this country; and if they are in this country, they should be deported. We must have this tool. If we are truly going to make this country safe, if we are truly going to disrupt terrorism before the trigger is pulled or the bomb is set, before lives are lost, we must have these tools.

Those who support terrorism intellectually through their training support and harboring terrorists, those who operate and move in the shadows of the terrorist operation, they do not belong here. They are every bit as dangerous as the one who would pull the trigger. I urge my colleagues to support this amendment. I think it is a vitally important tool in our overall effort in homeland security.

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

The CHAIRMAN pro tempore (Mr. COLBIE). The gentlewoman from Texas (Ms. JACKSON-LEE) is recognized to close for 2 minutes.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

We do not want terrorists in this country and we certainly want to be able to identify the terrorists as everyone might expect we would want to do. This amendment, is, in particular, overbroad, has an ability to wrap up innocent individuals, and it goes against what the administration has said. The administration strongly opposes the overbroad expansion of expedited removal authorities.

I would ask my colleagues to deny this amendment, to reject it, and I ask the ayes to appear to have it.

Mr. GREEN of Wisconsin. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Wisconsin (Mr. GREEN).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. GREEN of Wisconsin. Mr. Chairman, I yield the balance of my time.

Mr. HOSTETTLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment. The text of the amendment is as follows:

Amendment No. 13 offered by Mr. HOSTETTLER.

Mr. HOSTETTLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Wisconsin (Mr. GREEN).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. GREEN of Wisconsin. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Wisconsin (Mr. GREEN) will be postponed.

It is now in order to consider amendment No. 13 printed in House Report 108–751.

AMENDMENT NO. 13 OFFERED BY MR. HOSTETTLER.

Mr. HOSTETTLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment. The text of the amendment is as follows:

Amendment No. 13 offered by Mr. HOSTETTLER:

Page 243, beginning on line 12, strike “and the officer determines that the alien has been physically present in the United States for less than 1 year” and insert “and the officer determines that the alien has been physically present in the United States for less than 1 year”.

Page 244, beginning on line 7, strike “the officer determines that the alien has been physically present in the United States for less than 1 year” and insert “the officer determines that the alien has been physically present in the United States for less than 1 year”.

Page 245, line 5, strike “the central motive” and insert “a central reason”.

Page 254, strike line 8 and all that follows through line 24 on page 255 and insert the following:

SEC. 3032. DETENTION OF ALIENS BARRED FROM REMOVAL PENDING REMOVAL.

(a) In General.—Section 241 of Immigration and Nationality Act (8 U.S.C. 1231) is amended by adding at the end the following:

"(1) Detention of Aliens Barred From Removal Pending Removal.—"

"(v) In General.—In order to protect the United States from those aliens who would threaten the national security or endanger the lives and safety of the American people, the Secretary of Homeland Security may, in the Secretary’s discretion, determine that any alien who has been ordered removed from the United States and who is..."
described in subsection (b)(3)(B) is a specially dangerous alien and should be detained until removed. This determination shall be reviewed every six months until the alien is removed. In making this determination, the Secretary shall consider the length of sentence and severity of the offense, the loss and injury to the victim, and the future risk to the community.

“2. Aliens Granted Protection Restricting Removal.—Any alien described in paragraph (1) who has been ordered removed, and who is not entitled to any other protection under the immigration law, as defined in section 101(a)(17), restricting the alien’s removal, shall be detained. The Secretary of State shall be informed in a timely manner. Such alien shall be protected if removed from the United States.”

(b) Severability.—If any amendment, or part of any amendment, made by subsection (a), or the application of any amendment or part of any amendment to any person or circumstance, is held to be unconstitutional—

(1) the Secretary of Homeland Security shall continue to seek the removal of any alien described in section 241(j)(1) of the Immigration and Nationality Act, as amended by the National Security Act of 1947, or any amendment made by subsection (a) of such Act; and

(2) the Secretary of State shall continue to seek the removal of any alien described in section 241(j)(2) of the Immigration and Nationality Act, as amended by this Act, would be protected upon removal.

The CHAIRMAN pro tempore. The gentleman from Indiana (Mr. Berman) each will control 5 minutes.

Mr. Hostettler. Mr. Chairman, I ask unanimous consent to extend the debate on this amendment to 20 minutes.

The CHAIRMAN pro tempore. The gentleman from Indiana (Mr. Hostettler) and the gentleman from California (Mr. Berman) each will control 10 minutes.

Mr. Hostettler. Mr. Chairman, I yield my time such as I may consume.

I urge my colleagues to support this amendment. It is supported by leadership, including Chairman Henry Hyde, and will protect the American people from dangerous aliens while continuing our Nation’s proud history of providing refuge to the innocent oppressed. This amendment will protect the American people in the same way as section 3032, which it replaces, would have. Section 3032 would have barred aliens who posed a threat to the American public from seeking our country’s protection.

The CHAIRMAN pro tempore. Then, finally, in section 307 to mass-
Mr. HOSTETTLER. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. BLUNT), majority whip.

Mr. BLUNT. Mr. Chairman, I thank the gentleman from Indiana for yielding me this time.

Because of the strange conflict in current law, terrorists and criminals who are not citizens of our country but for some reason get here are, in fact, being released into our society. There are three amendments, as the gentleman from Indiana (Mr. BLUMENTHAL) pointed out. I think it is better to debate them one at a time. That is why we do that. We are going to vote on them one at a time.

This amendment is an important amendment because it deals with that specific problem. I cannot believe anyone in this House would want violent criminals from other countries who somehow get here to be able to re-enter our country. This amendment allows that those criminals would be detained.

There is a great example of a Jordanian who was convicted in Jordan of conspiracy to bomb a Jordanian school for American children. He is convicted of a conspiracy where his goal, his target, American children. He somehow got to this country.

Under the current interpretation of the courts, we cannot send him back to Jordan because he might be tortured, but we also cannot detain him. So in that interpretation this person is likely to be set free in some community in the United States, a person who is conspiring to kill American children in Jordan. So we would put him in a community of the United States that is full of American children, nobody but American children, to kill in that community? That cannot be allowed.

What the gentleman from Indiana’s (Mr. HOSTETTLER) amendment does is address the concern that we all have about sending anybody into a place where they would be punished in a way that we think was not appropriate.

I have got to tell my colleagues the appropriateness to this body and anywhere else and even as we would talk personally of a punishment for some whose target was to kill American children, it is hard to imagine how that punishment could be too difficult, but that is not what we are about in this society. This amendment would allow that person to be detained.

If one catches a rattlesnake on one’s farm, they do not look at it and say, “this is definitely a rattlesnake, let us go up and release it in the front yard.” What this amendment does is say, “if they catch that rattlesnake and they say we are going to be able detain this rattlesnake, even though he did not commit his crime in the United States. We are not going to let this criminal who was, in this case, targeting American children, in other cases might be a murderer, in other cases might be a rapist, in other cases might be a pedophile, we are not going to let this person go and release him in our community simply because we have no place to send him back to and he did not commit the crimes that there was an agreement that he committed in the United States.

This is a good amendment. It improves this bill. But the underlying bill was designed to deal with the concern that we could not find an adequate way to deal with until the gentleman from Indiana (Mr. HOSTETTLER) worked hard to come up with this amendment.

I urge support for this amendment. We are debating these and voting on them one at a time. I urge that this amendment be adopted.

Mr. BERMAN. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from Michigan (Mr. CONYERS) (Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Chairman, I reluctantly rise to tell the gentleman from Indiana (Mr. HOSTETTLER) of the Committee on the Judiciary that this breaks our deadlock, but it simply does not go far enough and I am hoping that he will carefully consider the arguments being made by his colleagues, particularly on the Committee on the Judiciary, to see why it is that we think that even the Hostettler amendment can be approved.

I rise in strong opposition to this amendment, the Hostettler Amendment allows for some of the broadest and most damaging immigration changes we have passed in several decades, and will decimate legal protections in our laws of expedited removal, asylum, and extraordinary rendition and torture.

Expedited removal (Section 3006)—The Hostettler Amendment would amend the immigration laws to permit summary deportations for persons who cannot prove that have physically been in the U.S. for more than 5 years. While the amendment deletes the provision that allowed asylum for persons who applied this summary deportation provision to asylee applicants, it still suffers from several glaring loopholes that would result in deeming immigrants facing the legal nightmare of summary deportation. Groups who would lose legal protections under the Hostettler Amendment include:

- Traffic-fucking victims, and victims of rape, incest, kidnapping, and domestic violence. Currently, the Trafficking Victims Protection Act allows these victims to remain in the U.S. so they are not subject to further violence and abuse. Under the Hostettler Amendment, trafficking victims and other victims of rape, incest and kidnapping would be subject to mandatory deportation.

Battered women and children. The Violence Against Women Act provides that battered immigrant women and children are permitted to remain here, so they are not forced to face further battering and violence. Under the Hostettler amendment, these immigrants could be plucked off the street and subject to mandatory deportation.

Cubans who arrived in the U.S. by sea or by land. Currently, the Attorney General has only discretionary power to exempt Cubans who arrive in the U.S. via land or sea from expedited removal. Under the Hostettler amendment, this discretionary power would again be obviated by the mandatory requirement of expedited removal. This would mean that Cubans who arrive at our shores would face automatic summary deportation.

Asylum (Section 3007)—Under the Hostettler amendment, the rights of all asylum candidates would be impaired, decimating our historic commitment to refugees and persecuted immigrants. Among other things, the Hostettler Amendment would:

- Require an asylum applicant to prove that a credible reason for his or her being persecuted was race, religion, nationality, membership in a particular social group, or political opinion; a far more difficult evidentiary burden than current law.

- Permit adjudicators to deny asylum because the applicant is unable to provide specific corroborating specific, and deny judicial review of such denials.

- Introduce brand new credibility grounds for denying asylum, such as “demeanor,” any inconsistency in statements (even if attributable to fear of retribution), and other subjective factors that introduce barriers to asylum, particularly for traumatized victims of torture and violence.

Exlude country conditions from human rights organizations, journalists, and other relevant, reliable and more recent information that may be obtained from State Department reports.

Extraordinary Rendition/Torture (Section 3032)—The Hostettler Amendment would also allow immigrants to be returned to countries where they could be tortured in violation of the Convention Against Torture. This is because the amended provision would allow our government to send an individual to a country with a history of human rights violations even if a U.S. immigration judge has determined he or she would face torture, as long as the Secretary of State had merely asked the country if they would agree not to torture the immigrant. In essence, we would be substituting the judgment of a foreign diplomat from Syria, China or the Sudan, for that of a judge in the U.S., with the immigrant facing excruciating torture if the judge was right.

Another problem with the Hostettler Amendment is that it would create unreviewable authority on the part of the DHS to detain non-citizens who are found to be at risk of torture or persecution in their home countries.

The Hostettler amendment is opposed by a wide range of human rights, civil liberties and immigration groups, including the ACLU, the American Immigration Lawyers Association, Amnesty International, the Center for Victims of Torture, the Hebrew Immigrant Aid Society, Human Rights Watch, the US Committee for Refugees, the National Council of La Raza and the U.S. Conference of Catholic Bishops. I urge No vote.

Mr. BERMAN. Mr. Chairman, I yield myself 15 seconds.

In response to the last speaker, he demonstrated why it is a smoke screen. The issue of criminal aliens is a serious issue which we should have to deal with; so they insert that into the Hostettler amendment. But what they do is leave a gaping loophole whereby a country that utilises torture gives assurances to the United States and therefore gets back the person whom they are going to torture.
Mr. Chairman, I yield 9½ minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in strong opposition to the Hostettler amendment. The Hostettler amendment amends the ill-considered and counterproductive torture provisions in H.R. 10 in a way that still allows foreigners to be subjected to torture.

How does it do this? The Hostettler amendment gives the Secretary of Homeland Security the power to detain certain foreigners that, “in the Secretary’s unreviewable discretion,” the Secretary has determined to be a specially dangerous alien that should be detained until removed. Such persons would be held behind bars indefinitely with no recourse to a court or another independent fact finder empowered to review the basis for the Secretary’s decision. Any foreign person that the Secretary of Homeland Security decides is “especially dangerous” can just be locked up forever with no trial or just deported.

And the Hostettler amendment stipulates that the Secretary of State shall seek diplomatic assurances that such alien shall be protected if removed from the United States.” That means that the State Department is supposed to seek diplomatic assurances from a country that it will not torture somebody after a U.S. judge already has found that this country likely would, in fact, torture that person. Are we really going to trust the assurances of the countries that our own State Department says torture detainees?

Mr. Chairman, we should really call this the “In Syria we trust” amendment or perhaps the “In Sudan we trust” amendment. The assurances that these countries have provided that they would not torture have proved completely unreliable in practice.

In 2002, Maher Arar, a Syrian-born citizen, was intercepted at New York’s JFK Airport and deported to Syria, where he was detained and reportedly tortured. The Washington Post has reported that while Syria provided “diplomatic assurances” that Arar would not be mistreated, these assurances proved worthless. Maher Arar was tortured anyway.

America should not be outsourcing torture to countries like Syria and the Sudan. America should be relying not on diplomatic assurances from countries that we already know practice torture, particularly when a U.S. judge has already found that it is more likely than not that the deported person would be tortured if they were sent there.

We as America cannot preach temperance from a bar stool. If we want to protect our own Marines and soldiers from torture, we must have the same standard for protecting prisoners that we have under our control from torture. We cannot build a new generation of nuclear bunker busters and then tell the Muslim nations they should not want nuclear weapons, and we cannot tell the Muslim world not to torture American prisoners at the same time we are sending Muslim detainees to countries that we know are going to torture those prisoners.

We cannot exist in a world where the United States is not the moral leader. This amendment must be defeated.

Mr. HOSTETTLER. Mr. Chairman, I yield to my colleague from Wisconsin (Mr. SENSENIBRNER), distinguished chairman of the Committee on the Judiciary.

Mr. SENSENIBRNER. Mr. Chairman, I rise in support of the Hostettler amendment, which I believe deals with the issue of compliance with the torture amendment in a humane manner that will safeguard the safety of the American people.

Let me say why this is necessary. Under current law, as interpreted by the courts, a criminal who has committed a crime or conspired to commit a crime in another country, or someone who is a terrorist watch list can come to the United States. When they get here, they claim asylum. It takes a while to adjudicate asylum applications.

They also can say if he is immediately deported, then he would be tortured if he went back home. So the way it stands now under the current law, that person could be free to commit crimes, free to commit terrorist acts until the time comes for the asylum hearing. And then if the person were found not to be eligible for asylum, they still could not be deported if they thought that they would be tortured when they come back home.

So if we cannot send them home under the torture convention, and that is the case in many Middle Eastern countries, we cannot detain them, then they are out on the street posing a danger to society.

What the Hostettler amendment does in this circumstance is say that they can be detained. And there are procedural safeguards in the Hostettler amendment that set up standards for detention and require a review every 6 months. If my colleagues vote against this amendment, they are going to have these people out on the street.

They should be detained. They should be deported. If we cannot deport them, then let us give the Department of Homeland Security the authority to detain them.

Mr. BERMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Ms. JACKSON-LEE), ranking member of the Immigration, Border Security, and Claims Subcommittee.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for yielding me this time and for his leadership. I thank the chairman of the subcommittee and the chairman of the full committee for their comments.

I agree with the chairman of the full committee. Keep them, detain them here. The problem with this amendment is that it is subjected to persons who are not terrorists. It is subjected to persons who can cause harm but are not terrorists. This amendment should be defeated.

The White House has already said that the President of the United States opposes provisions dealing with sending people to places where torture occurs. The President made it clear that the United States remains committed to not tolerate torture and that the United States remains committed to comply with its obligations under the convention against torture and other cruel, inhuman, or degrading treatment or punishment.

The amendment offered by the gentleman from Indiana amendment does not solve the problem. It requires, or asks, the Secretary of State to simply ask a country not to torture the individual. Do my colleagues believe that Sudan would comply with that? That is not the case. This amendment is subject to mistake.

Let me just read Cat Stevens: “I am a victim.” Although the circumstances are different, he was yanked off a Washington-bound plane and sent home. The singer, formerly known as Cat Stevens, says he became the victim of an “unjust and arbitrary system.” This is what we are passing now.

“I was devastated,” he wrote. “The unbelievable thing is that only 2 months earlier, I had been having meetings in Washington with top officials from the White House Office of Faith-Based and Community Initiatives to talk about my charity work.”

The real key in this amendment is that we should deal with this question in another separate opportunity to really address this in a fair manner. This amendment will be a wide, wide, wide net, and what will happen with this net? Innocent persons will be forced to places where they will be tortured.

The President is standing up against it. We stand up against it. I will simply argue that this is not the appropriate vehicle to use. This goes against the convention against torture, and I ask my colleagues to consider a high moral ground in this and to vote against the amendment. We must also support the two Smith of New Jersey amendments to eliminate the very bad H.R. 10 provisions subjecting deported persons to possible torture against the convention against torture.

This amendment would make minor changes to the expedited removal provisions in section 3006, but we need more than minor changes. We need to eliminate expedited removal proceedings entirely. Expedited removal proceedings are conducted by immigration officers who are not even attorneys. There is no hearing before an immigration judge, no right to counsel, and no appeal. Nevertheless, despite this complete absence of due process, someone removed from the United States in expedited removal proceedings is barred for 5 years from returning.

The amendment also would modify section 3032 to specify that people who have received
To comply with the convention against torture, it is important that we pass this amendment.

I thank the gentleman from Indiana (Mr. HOSTETTLER) for his hard work. MR. BERMAN. Mr. Chairman, I yield myself the remaining time.

I am going to vote against the Hostetttler amendment because, number one, it is a smoke screen by pretending to fix 3006 and 3007, the amendments that will follow this amendment when we come back to the Committee of the Whole, because it has a glaring loophole involving assurances from the torturing country that they will not torture. That means it is still in violation of the Convention Against Torture. Members will decide how they are going to vote on that particular amendment.

The point I want to make most of all is that they favor the change in my amendment, while not perfect, it is expected to fix a glaring loophole involving assurances from the torturing country that they will not torture. That means it is still in violation of the Convention Against Torture. Members will decide how they are going to vote on that particular amendment.

The amendment was agreed to.

Amendment No. 14 offered by Mr. KIRK

Amendment No. 14 offered by Mr. KIRK
The vote was taken by electronic device, and there were—ayes 385, noes 30, not voting 17, as follows:

[Roll No. 513]

**AYES—385**

Abercrombie
Anderl
Allen
Alexander
Allen
Andrew
Andrews
Akin
Alger
Alexander
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Allan
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Mr. RUSH, Mr. SMITH of New Jersey, Ms. LINDA T. SANCHEZ of California, Mr. WAXMAN and Mr. SHERMAN changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:
Mr. FILNER, Mr. Chairman, on rolloca No. 514, I was in my Congressional District on official business. Had I been present, I would have voted "aye."
AMENDMENT 12 OFFERED BY MR. GREEN OF WISCONSIN

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Wisconsin (Mr. GREEN) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk redesignated the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded. A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—aye's 283, noes 132, not voting 17, as follows:

[Roll No. 516]

AYES—283

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett
Barton
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop
Bishop
Blackburn
Blunt
Boehner
Bonilla
Bomer
Bono
Boswell
Booher
Boyd
Bradley
Brown
Brown
Burns
Burton
Buxton
Camp
Cannon
Cantor
Capito
Cardenas
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clayburn
Coble
Cole
Collins
Cooper
Cotello
Cox
Cramer
Crane
Crenshaw
Cunningham
Davis
Davis
Davis
Deal

 безопасность, как один из обоих аргументов. За были в пользу

Mr. RUSH, Mrs. MALONEY, and Mr. DICKS changed their vote from “aye” to “no.” So the amendment was agreed to.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Members are advised that 2 minutes remain in this vote.

Mr. WYNN changed his vote from “aye” to “no.” So the amendment was agreed to.

Mr. WYNN changed his vote from “aye” to “no.” So the amendment was agreed to.

The CHAIRMAN pro tempore (Mr. ADERHOLT) (during the vote). Members are advised that 2 minutes remain in this vote.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Members are advised that 2 minutes remain in this vote.

Mr. WYNN changed his vote from “aye” to “no.” So the amendment was agreed to.

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Wisconsin (Mr. GREEN) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

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The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded. A recorded vote was ordered.

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The vote was taken by electronic device, and there were—aye's 283, noes 132, not voting 17, as follows:

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AYES—283

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Burton
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Cannon
Cantor
Capito
Cardenas
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clayburn
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Mr. RUSH, Mrs. MALONEY, and Mr. DICKS changed their vote from “aye” to “no.” So the amendment was agreed to.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

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Mr. WYNN changed his vote from “aye” to “no.” So the amendment was agreed to.

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RECORDED VOTE

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 безопасность, как один из обоих аргументов. За были в пользу

Mr. RUSH, Mrs. MALONEY, and Mr. DICKS changed their vote from “aye” to “no.” So the amendment was agreed to.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Members are advised that 2 minutes remain in this vote.

Mr. WYNN changed his vote from “aye” to “no.” So the amendment was agreed to.

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Wisconsin (Mr. GREEN) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk redesignated the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded. A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—aye's 283, noes 132, not voting 17, as follows:

[Roll No. 516]

AYES—283

Aderholt
Akin
Alexander
Bachus
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Coble
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Deal

 безопасность, как один из обоих аргументов. За были в пользу

Mr. RUSH, Mrs. MALONEY, and Mr. DICKS changed their vote from “aye” to “no.” So the amendment was agreed to.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Members are advised that 2 minutes remain in this vote.

Mr. WYNN changed his vote from “aye” to “no.” So the amendment was agreed to.
The result of the vote was announced as above recorded.

Stated against:
Mr. FILNER. Mr. Chairman, on rolcall No. 516, I was in my congressional district on official business. Had I been present, I would have voted "no." 

Mr. HUNTER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. TERRY) having assumed the chair, Mr. ADERHOLT, Chairman pro tempore of the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 10) to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes, with Mr. ADERHOLT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, the amendment numbered 12 was agreed to. Pursuant to House Report 108-751 by the gentleman from Wisconsin (Mr. GREEN) had been disposed of.

It is now in order to consider amendment No. 14 printed in House Report 108-151.

AMENDMENT NO. 14 OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 14 offered by Mr. SMITH of New Jersey:

Strike section 3006 (page 242, line 18 through page 244, line 9) and redesignate provisions and conform the table of contents accordingly.

The CHAIRMAN pro tempore. Pursuant to House Resolution 827, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Wisconsin (Mr. SENSENBRUNNER) each will control 5 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, section 3006 would make one of the most sweeping, unfair changes in immigration policy in the last decade and, if enacted, would pose life-threatening consequences for asylum seekers, trafficking victims, men, women, and children. Section 3006 would radically alter existing law with respect to expedited removal, and it would mandate that any noncitizen found in the U.S. be summarily deported if an immigration officer determined that the person had not been inspected upon entry to the country and could not prove to the immigration officer that he or she had been living in the U.S. for more than 5 years.

This mandate, Mr. Chairman, effectively transforms what was a discretionary program managed by Homeland Security and requires them to impose this procedure anywhere, including in the interior of the U.S.

Section 3006 would be especially harmful for women and children who are escaping a range of gender-related persecutions such as rape, sexual slavery, trafficking and honor killings since persons scarred by such trauma often require time before they can step forward to express their claims.

Mr. Chairman, section 3006 would provide for a super-expedited process of removing these people from the United States, with virtually no right of review, thus eviscerating protections that Congress has provided over the last several years for such victims in the Victims of Trafficking and Violence Protection Act which I was the prime sponsor of and is the law of the land.

Mr. Chairman, I want all of my colleagues to know that President Bush, in his SAP which came out yesterday, made it very clear that he is against this provision. The Bush administration wants this out. Mr. Sanders on both sides of the aisle, Democrats and Republicans, to vote for my amendment which would strip it. Also, there are some 40 organizations, the U.S. Catholic Conference of Bishops; National Council of Evangelicals; Refugees International; and Human Rights First—a whole array from the left, right, middle, and everywhere else, who say this is an unwarranted change, an unfair change in our immigration policy. It does not belong here.

Mr. SENSENBRUNNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is not an issue of humanitarian application of our immigration refugee laws. It is an issue of securing our borders. None of the people the gentleman from New Jersey described would be subject to this if they have come to the United States and entered legally with a claim of persecution under the Refugee Act or a claim of asylum because of what is going on in their home country.

Simply stated, the amendment of the gentleman from New Jersey would strike the expedited removal provisions of this bill. The expedited removal provisions say that the provision of existing law shall be used when the INS picks up somebody who is illegally in this country and who has not been here for 5 years or more.

What is going on is that there are a lot of non-Mexicans that are coming across the southern border. Many of these people come from the Middle East. Without having the expedited removal procedures that are contained in this law, we are stuck with these people. This is a tremendous security threat to the United States. And what the provision that the gentleman from New Jersey seeks to strike is a provision that says that you do not have to jump through all kinds of legal hoops to get these people who have illegally entered the United States out of our country or who have entered legally and have overstayed their visas. It is as simple as that. This is a question of border security. It is not a question of persecuting all of the list of people that the gentleman from New Jersey talked about.

If you want secure borders in this country, the only vote on the Smith amendment is "no."

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 2 minutes to my good