

RPTS DEANDCMN HERZFELD

MARKUP OF H.RES. 537, REQUESTING THAT THE  
PRESIDENT AND DIRECTING THAT THE ATTORNEY  
GENERAL TRANSMIT TO THE HOUSE OF  
REPRESENTATIVES ALL INFORMATION IN THEIR  
POSSESSION RELATING TO SPECIFIC  
COMMUNICATIONS REGARDING DETAINEES AND  
FOREIGN PERSONS SUSPECTED OF TERRORISM

Wednesday, June 24, 2009

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

The committee met, pursuant to call, at 10:43 a.m., in Room  
2141, Rayburn House Office Building, Hon. Steve Cohen presiding.

Present: Representatives Conyers, Berman, Nadler, Scott,  
Watt, Lofgren, Jackson Lee, Waters, Wexler, Cohen, Quigley,  
Gutierrez, Gonzalez, Weiner, Schiff, Wasserman Schultz, Maffei,

Smith, Sensenbrenner, Coble, Gallegly, Goodlatte, Lungren, Issa, Forbes, King, Franks, Gohmert, Jordan, Poe, Chaffetz, Rooney and Harper.

Staff Present: Perry Apelbaum, Staff Director/Chief Counsel; Ted Kalo, General Counsel/Deputy Staff Director; George Slover, Legislative Counsel/Parliamentarian; Sean McLaughlin, Minority Chief of Staff/General Counsel; Allison Halataei, Minority Deputy Chief of Staff/Parliamentarian; and Anita L. Johnson, Clerk.

Mr. Cohen. [Presiding.] Committee will come to order. We will get a little bit done here before we go further.

House Res. 537. Pursuant to notice I will call up House Resolution 537 requesting that the President and directing the Attorney General to transmit to the House of Representatives all information in their possession relating to specific communications regarding detainees and foreign persons suspected of terrorism, and move that it be reported adversely to the House.

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

[The information follows:]

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

Mr. Cohen. I recognize myself for an opening statement.

This resolution was introduced by Chairman Rogers of Michigan and referred to our committee. Under House rules we are required to report this within 14 legislative days of its introduction, or a privileged motion to discharge the committee could be filed on the House floor. The Rogers resolution of inquiry calls for any and all information in the administration's possession relating to the issue of so-called Miranda warnings to persons detained in Afghanistan to be released.

I urge Members to support the motion to report the resolution adversely for two reasons; namely because the administration already stated there has been no change in policy on this matter since the Bush administration, and secondly because any information the administration would have relates to classified or otherwise sensitive case-specific information that should not be publicly released.

First, the FBI has confirmed that there has been no administration policy change and no instruction of any new nature for FBI agents to Mirandize terror suspects abroad. FBI Director Mueller, who was first appointed by President Bush, wrote in a June 12 letter to all Members that the practice of providing Miranda warnings occurs, as it did before this administration, only on a case-by-case basis when it is determined that it will enhance national security by preserving the integrity of the

evidence to ultimately bring some terror suspects to justice.

Director Mueller's letter explained that the practice has been occurring for years, quote/unquote. Indeed when the Bush administration asked early 2008 that it intended to bring capital murder charges against six men allegedly linked to the 9/11 terrorist attacks, it did so based partly on information the men disclosed to FBI questioners at Guantanamo after they had effectively administered a standard U.S. Miranda warning.

I ask unanimous consent this letter be included in the record.

Mr. Smith. Without objection.

Mr. Cohen. Without objection, consent has been granted.

[The information follows:]

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

Mr. Cohen. Second, the administration has also disclosed to us in a telephone call by Assistant Attorney General Ron Wright to relevant Majority and Minority staff that the only documents that would be responsive to the resolution are individual case files on terror suspects that contain sensitive national security information. Forcing production of such information would seriously risk harming our Nation's efforts to bring terrorists to justice.

The resolution before us is incredibly broad. There are no limitations of time, scope or breadth in compliance with would a set of dangerous precedent of compromising sensitive and classified case files concerning ongoing military and criminal matters. Accordingly I recommend that we report this resolution unfavorably.

[The information follows:]

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

Mr. Cohen. I now recognize our Ranking Member, the Honorable Lamar Smith of Texas, for a statement.

Mr. Smith. Mr. Chairman, my statement is about as long as yours, but I don't intend to read it quite as quickly. So I would prefer to give my statement when we get back from this vote and not hold the Members so that we will be too rushed.

Mr. Cohen. Thank you.

We have how much time to go? I think the general consensus is that we will now go and proceed and do our constitutional duty. So without objection, this committee is in recess, and we will come back immediately after we vote.

[Recess.]

Mr. Cohen. The committee will now come back in order, and at this time I would like to recognize our Ranking Member for a long-awaited statement and apparently a rather long statement, the Honorable Lamar Smith of Texas. Thank you.

Mr. Smith. Thank you, Mr. Chairman. If I read it as quickly as you did, I would be over with in 3 minutes, but this may take 6 minutes instead.

Mr. Chairman, based on recent reports, the administration has embarked on a new policy which increasing numbers of terrorists detained in Afghanistan are being read Miranda warnings. Such a policy has grave implications for our national security. I have read the June 12 letter from FBI Director Robert Mueller to

Congressman Frank Wolf, which states that "there has been no policy change." With this resolution of inquiry request, however, is not a statement as to whether there has been a policy change; this resolution requests the documents and communications that define what the policy is. Consequently this resolution of inquiry remains as relevant as ever.

For that reason this committee should promptly report House Resolution 537, which requires the administration to produce documents about its Miranda policy in Afghanistan. The American people deserve this information.

Not only does the subject addressed by this resolution of inquiry harm our national security, so does another bill on the agenda today which weakens protections that would keep sensitive national security information safe from disclosure in lawsuits. This resolution of inquiry requests the administration send all documents and communications related to this new policy to Congress so it can fulfill its duty to protect America's national security.

We are all familiar with the Miranda warning. Now President Obama wants to extend to known terrorists the constitutional rights afforded criminal defendants on trial in the U.S. Bringing more terrorists onto U.S. soil, even for purposes of prosecuting them, risks granting them even more constitutional rights by the admission of the President's own Solicitor General. Once terrorists are given the right to remain silent, of course they do

just that. The result is no interrogations, no information and possibly more attacks.

Just ask 9/11 mastermind Khalid Sheikh Mohammed. When he was captured in 2003, he was not cooperative. According to President Clinton and CIA Director George Tenet, he said, quote, "I will talk to you guys after I get to New York and see my lawyer," end quote. But he wasn't read any Miranda rights, and his interrogation went forward whether he wanted it or not. As a result, Tenet said, the information we obtained from him saved lives and helped defeat al Qaeda. As Tenet wrote in his memoirs, I believe none of these successes would have happened if we had had to treat this terrorist like a white-collar criminal, read him his Miranda rights, and get him a lawyer who surely would have insisted that his client simply shut up.

The Justice Department says there has been no change in overall policy, but several of the individuals responsible for conducting the interrogations of detainees told Congressman Mike Rogers that a change of policy is exactly what has occurred. And while I am aware of one situation in which the previous administration gave a Miranda warning to a high-level detainee, that warning was conducted under unique circumstances in which a female detainee who was married to Khalid Sheikh Mohammed's nephew was waiting to be interrogated by FBI officials in Afghanistan and then grabbed the rifle of an Army warrant officer and attempted to shoot her captors. It was after this crime that she was read her

Miranda rights. She was not read her rights after her initial detention, but only after she committed the subsequent crime of attempted murder at the U.S. detention facility.

The reports that detainees are increasingly being told of a right to remain silent is disturbing not only for its policy implications, but also because it appears to violate one of President Obama's own policy statements. In a 60 Minutes interview aired in March, President Obama said, "Now do these detainees deserve Miranda rights? Do they deserve to be treated like a shoplifter down the block? Of course not."

Even Attorney General Eric Holder once recognized the need to be able to detain and interrogate terrorists outside the normal process of criminal prosecution, going so far as to say that terrorists are not even entitled to prisoner of war protections under the Geneva Conventions. In an interview on CNN in January 2002, Mr. Holder said that one of the things we clearly want to do with the prisoners is to have an ability to interrogate them and find out what their future plans might be, where other cells are located.

But now it appears the President and the Attorney General may be going well beyond considering terrorists prisoners of war by contemplating their detention in U.S. prisons as criminal defendants. We must assure the American people that the United States is not starting to treat sworn foreign enemies of America who are waging a war against us as U.S. citizens who are due their

Miranda rights, and the only way to do that is to support this resolution of inquiry.

Thank you, Mr. Chairman, for your patience, and I will yield back.

[The information follows:]

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

Mr. Smith. Mr. Chairman, I ask unanimous consent to have a statement by Congressman Elton Gallegly of California be made a part of the record.

Mr. Cohen. Without objection, thank you.

[The statement of Mr. Gallegly follows:]

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

Mr. Smith. Is it there any other Member who would like to have an opening statement?

Mr. Scott? No. Mr. Scott passes.

Mr. Lungren of California is recognized.

Mr. Lungren. Thank you very much, Mr. Chairman. As was stated by our Ranking Member, the resolution today is a very simple resolution, one simple request that the President and the Attorney General provide information regarding recent instances in which individuals suspected of terrorism, captured and detained in Afghanistan had been read Miranda warnings.

The assurance we received from the Justice Department and the Director of the FBI is that this is not a change in policy. I hope that is so. Unfortunately, there seem to be other things which suggest that is not the case, all the way from closing Guantanamo Bay, the prison there, which was set up specifically for the purpose of conducting military commissions or tribunals to effect decisions with respect to those who were detained there and others that were found on the battlefield. We have been told that the alternative to that is to bring them to the United States and subject some of them to criminal trials.

Just this week we have seen an article in the New York Times where the New York City Police Department's top counterterrorism official said the Obama administration's decision to put some senior terrorism suspects on trial in the United States could

siphon away resources from terrorism investigations. This top counterterrorism official for the New York City Police Department went on to say that we need to be prepared for the consequences of an indictment and a prosecution that goes badly and results in the release of someone who we really do not want released in the United States.

The article goes on to say that Federal law enforcement officials disputed his assertion, saying that even if acquitted, terrorism suspects who are not American citizens would be placed in immigration custody pending deportation proceedings to their native countries.

Here is the problem with that: What if those countries don't want to take them back? What if we don't want them going back to a terrorist country? What if, in fact, they claim that they are endangered if returned to that country? Our laws do not allow us to deport someone to a country in which they believe they will receive physical harm. So do we keep them in detention?

The problem is we have a decision of the Supreme Courts which provides that after 6 months, a removal alien cannot be detained if there is no significant likelihood of removal to a reasonably foreseeable future. This case came out of the ninth circuit. And although the Supreme Court, when it reviewed it, said that they were not then considering the issue of terrorism or other special circumstances where other special arguments may be made, in the ninth circuit they told us that in that particular case, spelled

Z-A-D-V-Y-D-A-S, the petitioner is -- and these are the words of the ninth circuit -- an ordinary violent criminal. If a need to protect the community did not justify the detention of a killer, it similarly does not justify the detention of this petitioner, though the government now makes the additional allegation that the petitioner's dangerousness is a result of his mental condition, and presence of a personality disorder does not transform his case into a matter of national security.

What I am saying is at the present time we have a case on the books which says that we cannot detain someone whom we wish to deport for longer than 6 months. That is why these issues are so important. If, in fact, this administration is making a policy change, a policy shift with respect to the handling of our detainees around the world, we ought to know about that. And if the fact that they are Mirandizing more and more of these detainees is an indication of that, this committee, this Congress, needs to be informed of that.

The only way we can make that judgment is if, in fact, this inquiry is adopted by this committee and by the House and goes to the administration to give us that information. In other words, we need to have this information so that we can make these judgments because of the absolutely serious implications for the safety of our constituents and the American people around this country.

Let us remember the Miranda decision does not so much create

a right for criminal defendants since we have framed that way; rather, it provided a bright line for law enforcement officers. And while it preserves the fifth amendment privilege to be free from self-incrimination, it also serves as safeguard evidence obtained by the police in order to effectively prosecute domestic criminal defendants.

Query: Does that make it applicable to the circumstances of someone who is detained as a result of being found on the battlefield attempting to kill Americans in different parts of the world? I would argue it does not. I would argue it is, frankly, serious to change this from a wartime situation involving what we believe to be illegal enemy combatants to regular criminal defendants. And so for us to exercise our constitutional authority, we need this information, and I would hope that we would have a unanimous vote on this particular request for inquiry.

Mr. Cohen. Thank you, sir.

[The information follows:]

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

Mr. Cohen. There is nobody -- Ms. Wasserman Schultz, do you seek an opening statement?

Ms. Wasserman Schultz. I do not.

Mr. Cohen. That is the way it is. And I recognize Mr. Poe from Texas.

Mr. Poe. Thank you, Mr. Chairman.

I think it is imperative that we find out through this Presidential inquiry what is taking place with the Justice Department. Miranda is a limited ruling by the Supreme Court. It applies to law enforcement officers after they arrest someone, and they are supposed to give certain warnings to prove that the statement the arrested defendant makes is voluntary. It applies to law enforcement when they arrest somebody. Somebody breaks in your home, and you capture the burglar, and the burglar confesses that he is in to steal. You don't have to give him Miranda warnings because you are not law enforcement. And it is a narrow ruling by the Supreme Court. States have adopted the Miranda philosophy by the Supreme Court and made it enacted into their legislative laws.

We have three types of people that we are talking about: Arrested criminals in the United States. We have people who are traditional enemy combatants that wear uniforms, and they are supported by a state government in war. And then we have the other group that is way out there, who are combatants under no

pretext of wearing uniforms, no military, not responsible to any organized state. And these are the people we are talking about. They have limited rights under all international law. And for the United States to say we are going to give these folks the Miranda warnings is absurd. And it should be a function only of, if ever, the Justice Department, not the executive branch.

The executive branch really has no authority to come in and say, we are going to give these arrested detainees, terrorists, whatever you want to call them, that don't fit the category of Geneva Convention because they are not military combatants under international law -- we are going to give them the Miranda warnings in Afghanistan. I think we need to know if this is going on in the Justice Department, where they get the authority to do this. And I suspect the administration doesn't have the authority to require these people to receive the Miranda warnings, because the purpose of Miranda is law enforcement in the United States arresting domestic criminals, giving them their warnings before a statement can be used in a court of law. And to expand it further without legislative authority or even a court ruling, I think, is something we should not do.

Anyway we need to find out that is going on, and we need to find out this information from the President.

I yield back.

Mr. Cohen. Thank you, sir.

[The information follows:]

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

Mr. Cohen. The gentleman from Arizona, the Ranking Member of the Commercial and Administrative Law, Mr. Franks is recognized.

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

Mr. Chairman, first I would like to identify strongly with the cogency of Mr. Poe's comments. I guess it takes a judge sometimes to really tell us how it all works, but I really think he was right on.

With that, Mr. Chairman, after 9/11 it became evident that it was necessary to take a fresh look at how to combat terrorism and, more importantly, how to prevent it. The law enforcement which focuses on punishing crimes after they have occurred and protecting the rights of those who have not yet been convicted of a crime had been virtually the only tool used by the United States against terrorists prior to 9/11, and it had clearly failed to protect America from attack.

As the 9/11 Commission concluded, "The law enforcement process is concerned with proving the guilt of persons apprehended and charged. It was not designed to ask if the events might be harbingers of worse things to come, nor did it allow for aggregating and analyzing facts to see if they could provide clues to terrorist tactics more generally."

The debate whether the procedures that govern the detention of enemy combatants should be supplemented with the procedures more akin to those that govern the detention of ordinary domestic

criminals was placed into stark relief at a recent hearing in the 111th Congress before the Subcommittee on the Constitution, Civil Rights, and Civil Liberties in the U.S. House of Representatives. I was present at that subcommittee, Mr. Chairman, hearing and served as Ranking Member, and there I bore witness to a critical exchange that I think was very telling between subcommittee Chairman Jerrold Nadler, whom I respectfully quote here today, not to insult him, but just for clarity, who represents the district in New York that contained the World Trade Center; and Bradford Berenson, a former White House counsel. So let me read, if I could, verbatim the exchanges between the two of them.

Mr. Nadler, quote: "I don't see how you can pick up someone in New York and say that his rights are different or less because he is accused of being an enemy combatant based on whatever information as opposed to his being accused of being a murderer."

The witness Bradford Berenson responded, "On that view we need to be clear about what that means."

And, Mr. Chairman, I hope we on the committee can be clear about what this means.

"It means that if we had captured Mohammed Atta on September 10th, we would have no choice but to treat him as a criminal defendant, which would have meant no interrogation, no intelligence, and the World Trade Center is coming down," unquote.

Mr. Nadler's response: Quote, "That's exactly right," unquote.

Mr. Chairman, I just hope that we can consider the reality of that response. Under the principles articulated by Chairman Nadler and President Obama, anyone suspected of being the organizer of a terrorist attack, based on intelligence information, even if that person is not an American citizen and is here illegally, should be treated as a common criminal, meaning that the suspected terrorist's right to remain silent pending trial in Federal court would have to be respected, and there would be no hope of preventing the attack, even if it meant the death of thousands or tens of thousands of people in America.

In an age of weapons of mass destruction, Mr. Chairman, when a handful of terrorists can now cause harm on a scale where only nations were once capable of doing, such a principle can only invite more tragedy that it can possibly prevent. We cannot afford to make a mistake of policy in this war on terrorism when it can cost thousands of innocent lives.

I would like to go on record, and I hope all the folks on our side here, this aisle, as being formally and firmly opposed to Mr. Obama's -- the Obama administration's extension of Miranda rights to terrorists. This is one of the issues, Mr. Chairman, that sort of separates the men from the boys, or perhaps in this case the Republicans from the Democrats, because it seems that the two parties are very rarely more divided than on the issues of national security. And I don't know if there could be any more stark contrast between the two parties. But for the good of the

country, I hope that we can come together and say this is something that we oppose as a Congress, granting Miranda rights to terrorists.

And with that I yield back.

Mr. Cohen. Thank you, Mr. Franks.

[The information follows:]

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

Mr. Cohen. We have some time before we go vote. I recognize the gentleman from California, Pasadena, Mr. Schiff.

Mr. Schiff. I thank the gentleman.

Just to respond briefly to my colleague on the other side of the aisle, I don't think he should be referring to the members of the Minority as boys. We consider you men as well, however you decide this issue. But I do want to address --

Mr. Cohen. Does Ms. Schultz want to respond to that?

Mr. Schiff. I do want to address the underlying issue and the effort that is being made in the Minority through this motion and through others on the floor and in other committees to prevent the giving of Miranda warnings under any circumstance to terrorists captured overseas. And I have two concerns on the broader issue and then on this resolution as well.

The first is that the courts of appeals have held in cases that without giving a Miranda-type warning -- and, again, we are not talking about Miranda warnings in precisely the same form that we have in the United States -- but without giving some warning that demonstrates that the statements that are going to be made are voluntary, it may preclude their use in a criminal prosecution.

Now, I would think and expect that the circumstances in which our Armed Forces or FBI would be giving Miranda warnings to foreign nationals overseas would be exceedingly rare, and from

what we understand from the Justice Department, they are rare. Much as, however, the Minority would like to posit this as an Obama administration policy, it began under the Bush administration and began for the reason that we didn't want to preclude prosecution of terrorists in the United States. And the natural impact of what my friends in the Minority would have us do is basically immunize people from prosecution in the United States, immunize any statements that they make.

We have to allow some discretion for our agents overseas in appropriate cases to give warnings that make sure that the statements that people give can be used against them in a prosecution. We just can't preclude that. And again, it should be rare. It is, in fact, rare, but we shouldn't forbid it under every circumstance, unless we are just going to say we never want to bring these people to justice. I don't think that should be where we are.

Mr. Smith. Would the gentleman yield?

Mr. Schiff. If I can make one more comment, and then I will be happy to, and that is the second point in terms of this privileged resolution today. And that is we understand from the Justice Department that the only information that this would really apply to since there is no new policy or no change in policy is individual case files of terrorism suspects, when Miranda-type warnings have been given and when they haven't, which involve very sensitive information. And they are concerned, and

quite rightly so, that disclosure of where these warnings may have been given could jeopardize the cases themselves, and that is a more particularized concern with this request.

But again, on the broader issue, I don't think we should preclude ourselves from prosecuting foreign terrorism suspects and using their own words against them in those prosecutions. And if we take too much of an overbroad approach to this issue, we may preclude exactly that.

I would be happy to yield to my colleague.

Mr. Cohen. The gentleman yields.

Mr. Smith. I thank the gentleman for yielding.

I just want to point out that there is nothing in this inquiry that would prohibit anyone from receiving their Miranda rights as I believe you might have suggested. The point of inquiry is to find out what the facts are regarding whatever policy we might have about those Miranda rights being read to suspected terrorists.

I happen to feel, and many of my colleagues happen to feel, that this, in fact, would weaken our ability to secure our country and to protect American lives. But there is nothing in the inquiry itself, to make that point again, that would prohibit giving Miranda rights to any individual, and I thank the gentleman for yielding.

Mr. Schiff. Reclaiming my time. The gentleman is correct. As I prefaced in my initial remarks, I am addressing not only the

privileged resolution before us, but the broader attempt on the House floor and other committees to actually prohibit the giving of Miranda warnings.

But the other reservation still very much obtains to the motion before us, and that is that it would involve revealing sensitive data about very specific cases that the Justice Department feels could jeopardize those cases, and for that reason I have additional concern.

Mr. Lungren. Would the gentleman yield?

Mr. Schiff. Yes.

Mr. Lungren. Is there a way for us to draft this more narrowly that would satisfy the gentlemen's objection, or is the gentleman's position that any inquiry necessarily would interfere with the proper functioning of the Justice Department, and therefore we are unable as the oversight committee to gain information upon which we can make a determination as to policy judgments?

Mr. Schiff. I don't think, reclaiming what little time I have left -- I don't think that there is no way that this could be done that would satisfy the concerns of the Justice Department. I would think that there would be a way to protect the information. I would be more than willing to work with the gentleman and work with the Justice Department to see if we could do that, but I don't know that we can do that on the spot today.

Yielding back.

Mr. Cohen. Thank you.

Any other opening statements?

Ms. Jackson Lee. Mr. Chairman.

Mr. Cohen. It has been suggested that because of the numerous people that would like to speak, and the fact that we have 5 minutes and 12 seconds until we are supposed to vote, that we would recess, and therefore I declare this meeting recessed and try to come back immediately thereafter.

[Recess.]

RPTS THOMAS

DCMN HERZFELD

[1:26 p.m.]

Ms. Wasserman Schultz. [Presiding.] I call the committee back to order and recognize the gentleman from Iowa for an opening statement.

The gentleman from Iowa is recognized for an opening statement.

Mr. King. Thank you, Madam Chair.

Initially, on the issue of reading Miranda rights to enemy combatants in foreign lands when we are engaged in acts that have all of the appearances of being the acts of war, with our U.S. military conducting themselves in a fashion that is designed to take on the enemy and, when in battle, kill the enemy and, when feasible, capture the enemy, I know of no example in the history of warfare in the world where anyone has presumed that those proceedings should stop and Miranda rights should be read.

I wish to associate myself with the statement made by the Ranking Member Mr. Smith at the beginning of this discussion. Also, other statements that I was able to listen to; Judge Poe, I wish to associate myself with his remarks, as well as Trent Franks' remarks on this issue.

I would frame it in perhaps a little bit different way. But the first place, Miranda rights are something that I haven't ever been particularly impressed with. It is something that I believe

was an addition to the constitutional understanding as it was ratified. And to think of the concept of an individual who has committed a crime, when we would like to think that those people who do so carry within them a guilt for what they are doing, maybe even a sense of conscience that was overcome for the moment while they committed the crime, and when they are arrested by law enforcement, if they say, I did it, I am sorry, and they beat the person that is reading their Miranda rights to the punch, that can't be used against them in a court of law.

Now, that concept is something absolutely foreign to a couple of centuries of law enforcement here in the United States. So I am not a great respecter of Miranda in the first place. And I would make the argument that I can't find Miranda in our Constitution. It is case law.

So by now, after all of these years of Miranda rights being read to defendants in the United States, it takes on the same kind of warning that is on a pack of cigarettes in a way: The Surgeon General has determined that smoking is hazardous to your health, or may be hazardous to your health. I don't know. It has been a long time since I read the language. But everybody knows this by now.

And it seems as though this Federal Government is turning into a complete nanny state, and it seems they would like to upgrade that language because the letters aren't big enough or bold enough, or maybe it is not worded quite right. And now we

would go off to foreign lands and read Miranda rights to enemy combatants. And maybe we can't say enemy combatants or terrorists or Islamic fundamentalist terrorists any longer because that is not politically correct.

I think this also fits in -- reading Miranda rights fits in also with some of the philosophy that has been projected across the Middle East. For example, one of them would be to make the statement -- and our Commander in Chief did this to the Iranians -- which is, well, no sovereign nation should be able to tell another sovereign nation whether they can develop a nuclear capability. One can only read into that that our President must presume the United Nation would make that call, not the sovereign United States of America.

The statement also to the Iranians that we don't want to interfere in their domestic affairs, and now we have Miranda rights being read in Afghanistan to enemy combatants that it is not politically correct any longer to call them that, and converting this global war on terror into a global law enforcement activity, which pretty shortly has to include bringing into this international law, it has already been part of the discussion, it is here.

And I would submit that this whole string of rights that have been conferred on people that have never seen the United States of America flows along through this. In spite of Article III, Section 2 stripping that took place within the Hamdan case, they

have conferred Geneva Convention rights on enemy combatants. And then behind that, the Miranda rights, and what is next? What is next for this administration? Is it going to be for civil rights? Antidiscrimination rights? What if there happened to have been discrimination motive involved in the law enforcement activities of the United States military in a foreign land, in Afghanistan, while they are defending the sovereignty and the safety of the American people? How far does this string of logic go before it comes to the point where it is ridiculous or ludicrous? Civil rights have already been argued that exist.

These are constitutional rights. Constitutional rights don't exist in other sovereign jurisdictions, not anyplace else in the world than the United States of America. And they are to be conferred upon people in this country, and some of them -- some of them beyond the citizenship requirement. But I would suggest the next thing beyond Miranda rights might be refundable tax credits for the enemy combatants in foreign lands.

Ms. Wasserman Schultz. The gentleman's time has expired.

Mr. King. I would ask unanimous consent to complete my statement, another 30 seconds, Madam Chair.

Ms. Wasserman Schultz. The gentleman has another 30 seconds.

Mr. King. Thank you, Madam Chair. I just wanted to check your style out, and I think it is quite fine.

Just to conclude this, that Miranda rights themselves were not designed in the original concept of our Constitution to be

conferred upon American citizens, and they certainly aren't fitting for enemy combatants in foreign lands.

And I thank the discretion of the Chair.

Ms. Wasserman Schultz. In honor of my style, you are welcome.

There does not appear to be a quorum present. The Clerk will call the roll for purposes of establishing a quorum.

The Clerk. Mr. Conyers.

[No response.]

The Clerk. Mr. Berman.

[No response.]

The Clerk. Mr. Boucher.

[No response.]

The Clerk. Mr. Nadler.

[No response.]

The Clerk. Mr. Scott.

[No response.]

The Clerk. Mr. Watt.

[No response.]

The Clerk. Ms. Lofgren.

[No response.]

The Clerk. Ms. Jackson Lee.

[No response.]

The Clerk. Ms. Waters.

[No response.]

The Clerk. Mr. Delahunt.

[No response.]

The Clerk. Mr. Wexler.

[No response.]

The Clerk. Mr. Cohen.

Mr. Cohen. I am here. Present.

The Clerk. Mr. Johnson.

[No response.]

The Clerk. Mr. Pierluisi.

[No response.]

The Clerk. Mr. Quigley.

[No response.]

The Clerk. Mr. Gutierrez.

Mr. Gutierrez. Here.

The Clerk. Mr. Sherman.

[No response.]

The Clerk. Ms. Baldwin.

[No response.]

The Clerk. Mr. Gonzalez.

[No response.]

The Clerk. Mr. Weiner.

[No response.]

The Clerk. Mr. Schiff.

[No response.]

The Clerk. Ms. Sanchez.

[No response.]

The Clerk. Ms. Wasserman Schultz.

Ms. Wasserman Schultz. Here.

The Clerk. Mr. Maffei.

[No response.]

The Clerk. Mr. Smith.

Mr. Smith. Present.

The Clerk. Mr. Goodlatte.

[No response.]

The Clerk. Mr. Sensenbrenner.

[No response.]

The Clerk. Mr. Coble.

[No response.]

The Clerk. Mr. Lungren.

Mr. Lungren. Present.

The Clerk. Mr. Gallegly.

[No response.]

The Clerk. Mr. Issa.

[No response.]

The Clerk. Mr. Forbes.

[No response.]

The Clerk. Mr. King.

Mr. King. Here.

The Clerk. Mr. Franks.

Mr. Franks. Here.

The Clerk. Mr. Gohmert.

[No response.]

The Clerk. Mr. Jordan.

[No response.]

The Clerk. Mr. Poe.

[No response.]

The Clerk. Mr. Chaffetz.

Mr. Chaffetz. Present.

The Clerk. Mr. Rooney.

[No response.]

The Clerk. Mr. Harper.

[No response.]

The Clerk. Mr. Nadler.

Mr. Nadler. Present.

The Clerk. Mr. Gonzalez.

Mr. Gonzalez. Present.

The Clerk. Madam Chair, 11 Members responded "present."

Ms. Wasserman Schultz. There not being a -- I am sorry,

Mr. Berman?

Mr. Berman. Quorum call?

Ms. Wasserman Schultz. You are here, Mr. Berman.

Mr. Berman. I am here.

Ms. Wasserman Schultz. Mr. Weiner.

Mr. Weiner. I am present.

Ms. Wasserman Schultz. Mr. Forbes?

Mr. Forbes. Here.

Ms. Wasserman Schultz. Mr. Issa?

Mr. Issa. Present.

Mr. Wasserman Schultz. Mr. Scott?

Mr. Scott. Present.

Ms. Wasserman Schultz. Mr. Gutierrez?

Mr. Gutierrez. I am present.

Ms. Wasserman Schultz. Mr. Jordan.

Mr. Jordan. Present.

Ms. Wasserman Schultz. Mr. Maffei?

Mr. Maffei. Here.

Ms. Wasserman Schultz. You are present.

Mr. Gohmert?

Mr. Gohmert. I am present.

Ms. Wasserman Schultz. You are present.

Mr. Cohen.

Mr. Cohen. Still present.

Ms. Wasserman Schultz. Chairman Conyers.

Chairman Conyers. Here.

The Clerk. Mr. Harper?

[No response.]

Ms. Wasserman Schultz. The clerk will report.

The Clerk. Madam Chair, 21 Members voted or reported being present.

Ms. Wasserman Schultz. A reporting quorum being present, the

question is on reporting the resolution adversely to the House. Those in favor, say "aye." Those opposed, "no."

The "ayes" have it, and the resolution is ordered reported adversely.

Mr. Issa. Recorded vote, please.

Ms. Wasserman Schultz. A recorded vote is requested. As your name is called, all those in favor of reporting the resolution adversely to the House will vote "aye." All of those opposed to reporting the resolution to the House will vote "no."

The Clerk will call the roll.

The Clerk. Mr. Conyers?

[No response.]

The Clerk. Mr. Berman?

Mr. Berman. Aye.

The Clerk. Mr. Berman votes "aye."

Mr. Boucher?

[No response.]

The Clerk. Mr. Nadler.

Mr. Nadler. Aye.

The Clerk. Mr. Nadler votes "aye."

Mr. Scott.

[No response.]

The Clerk. Mr. Watt?

[No response.]

The Clerk. Ms. Lofgren?

[No response.]

The Clerk. Ms. Jackson Lee?

[No response.]

The Clerk. Ms. Waters?

[No response.]

The Clerk. Mr. Delahunt?

[No response.]

The Clerk. Mr. Wexler?

[No response.]

The Clerk. Mr. Cohen.

Mr. Cohen. Aye.

The Clerk. Mr. Cohen votes "aye."

Mr. Johnson?

[No response.]

The Clerk. Mr. Pierluisi?

[No response.]

The Clerk. Mr. Quigley?

Mr. Quigley. Aye.

The Clerk. Mr. Quigley votes "aye."

Mr. Gutierrez?

Mr. Gutierrez. Aye.

The Clerk. Mr. Gutierrez votes "aye."

Mr. Sherman?

[No response.]

The Clerk. Ms. Baldwin?

[No response.]

The Clerk. Mr. Gonzalez.

Mr. Gonzalez. Aye.

The Clerk. Mr. Gonzalez votes "aye."

Mr. Weiner?

Mr. Weiner. Aye.

The Clerk. Mr. Weiner votes "aye."

Mr. Schiff?

[No response.]

The Clerk. Ms. Sanchez?

[No response.]

The Clerk. Ms. Wasserman Schultz.

Ms. Wasserman Schultz. Aye.

The Clerk. Ms. Wasserman Schultz votes "aye."

Mr. Maffei?

Mr. Maffei. Aye.

The Clerk. Mr. Maffei votes "aye."

Mr. Smith?

Mr. Smith. No.

The Clerk. Mr. Smith votes "no."

Mr. Goodlatte?

[No response.]

The Clerk. Mr. Sensenbrenner?

[No response.]

The Clerk. Mr. Coble.

Mr. Coble. No.

The Clerk. Mr. Coble votes "no."

Mr. Gallegly?

[No response.]

The Clerk. Mr. Lungren.

Mr. Lungren. No.

The Clerk. Mr. Lungren votes "no."

Mr. Issa?

Mr. Issa. No.

The Clerk. Mr. Issa votes "no."

Mr. Forbes?

Mr. Forbes. No.

The Clerk. Mr. Forbes votes "no."

Mr. King?

Mr. King. No.

The Clerk. Mr. King votes "no."

Mr. Franks?

Mr. Franks. No.

The Clerk. Mr. Franks votes "no."

Mr. Gohmert?

Mr. Gohmert. No.

The Clerk. Mr. Gohmert votes "no."

Mr. Jordan?

Mr. Jordan. No.

The Clerk. Mr. Jordan votes "no."

Mr. Poe?

[No response.]

The Clerk. Mr. Chaffetz.

Mr. Chaffetz. No.

The Clerk. Mr. Chaffetz votes "no."

Mr. Rooney?

[No response.]

The Clerk. Mr. Harper.

Mr. Harper. No.

The Clerk. Mr. Harper votes "no."

Ms. Wasserman Schultz. Are there any other Members that wish to record their votes?

Mr. Wexler. Yes. Aye.

The Clerk. Mr. Wexler votes "aye."

Mr. Sensenbrenner?

Mr. Sensenbrenner. No.

The Clerk. Mr. Sensenbrenner votes "no."

Mr. Schiff?

Mr. Schiff. Aye.

The Clerk. Mr. Schiff votes "aye."

Ms. Wasserman Schultz. Chairman Conyers?

Chairman Conyers. Aye.

The Clerk. Mr. Conyers votes "aye."

Ms. Wasserman Schultz. Mr. Scott?

Mr. Scott. Aye.

The Clerk. Mr. Scott votes "aye."

Ms. Wasserman Schultz. Are there any other Members that wish to record their votes?

The clerk will report.

The Clerk. Madam Chair, 13 Members voted "aye," 12 Members voted "nay."

Ms. Wasserman Schultz. The "ayes" have it, and the resolution is ordered reported adversely.

Members will have 2 days to submit their views.

And there being no further business before the committee, the committee stands adjourned.

[Whereupon, at 1:46 p.m., the committee was adjourned.]