

“(B) projected earnings and other income of the offender; and

“(C) any financial obligations of the offender, including obligations to dependents.

“(3) A restitution order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender. A restitution order shall direct the offender to give appropriate notice to victims and other persons in cases where there are multiple victims or other persons who may receive restitution, and where the identity of such victims and other persons can be reasonably determined.

“(4) An in-kind payment described in paragraph (3) may be in the form of—

“(A) return of property;

“(B) replacement of property; or

“(C) services rendered to the victim or to a person or organization other than the victim.

“(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

“(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution to each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

“(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution to victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

“(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

“(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

“(A) any Federal civil proceeding; and

“(B) any State civil proceeding, to the extent provided by the law of the State.

“(h) A restitution order shall provide that—

“(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

“(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

“(A) log all transfers in a manner that tracks the offender’s obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful; and

“(B) notify the court and the interested parties when an offender is 30 days in arrears in meeting those obligations; and

“(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender’s address during the term of the restitution order.

“(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

“(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant’s employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant’s ability to comply with the restitution order.

“(k) An order of restitution may be enforced—

“(1) by the United States—

“(A) in the manner provided for the collection and payment of fines in subchapter B of chapter 229 of this title; or

“(B) in the same manner as a judgment in a civil action; and

“(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

“(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.”.

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

“(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant’s dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs.”; and

(4) by adding at the end thereof the following new subsection:

“(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.”.

The bill, as amended, was ordered to be engrossed and read a third time, was read a third time by title.

The question being put, *viva voce*,

Will the House pass said bill?

The SPEAKER pro tempore, Mrs. VUCANOVICH, announced that the yeas had it.

Mr. CONYERS objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 4, rule XV, and the call was taken by electronic device.

When there appeared { Yeas ..... 431  
Nays ..... 0

¶21.10

[Roll No. 97]

YEAS—431

Abercrombie	Cubin	Hastert
Ackerman	Cunningham	Hastings (FL)
Allard	Danner	Hastings (WA)
Andrews	Davis	Hayes
Archer	de la Garza	Hayworth
Armey	Deal	Hefley
Bachus	DeFazio	Hefner
Baesler	DeLauro	Heineman
Baker (CA)	DeLay	Herger
Baker (LA)	Dellums	Hilleary
Baldacci	Deutsch	Hilliard
Ballenger	Diaz-Balart	Hinchey
Barcia	Dickey	Hobson
Barr	Dicks	Hoekstra
Barrett (NE)	Dingell	Hoke
Barrett (WI)	Dixon	Holden
Bartlett	Doggett	Horn
Barton	Dooley	Hosettler
Bass	Doolittle	Houghton
Bateman	Dornan	Hoyer
Becerra	Doyle	Hunter
Beilenson	Dreier	Hutchinson
Bentsen	Duncan	Hyde
Bereuter	Dunn	Inglis
Berman	Durbin	Istook
Bevill	Edwards	Jackson-Lee
Bilbray	Ehlers	Jacobs
Bilirakis	Ehrlich	Jefferson
Bishop	Emerson	Johnson (CT)
Bliley	Engel	Johnson (SD)
Blute	English	Johnson, E. B.
Boehlert	Ensign	Johnson, Sam
Boehner	Eshoo	Johnston
Bonilla	Evans	Jones
Bonior	Everett	Kanjorski
Bono	Ewing	Kaptur
Borski	Farr	Kasich
Boucher	Fattah	Kelly
Brewster	Fawell	Kennedy (MA)
Browder	Fazio	Kennedy (RI)
Brown (CA)	Fields (LA)	Kennelly
Brown (FL)	Fields (TX)	Kildee
Brown (OH)	Filner	Kim
Brownback	Flake	King
Bryant (TN)	Flanagan	Kingston
Bryant (TX)	Foglietta	Kleccka
Bunn	Foley	Klink
Bunning	Forbes	Klug
Burr	Ford	Knollenberg
Burton	Fowler	Kolbe
Buyer	Fox	LaFalce
Callahan	Frank (MA)	LaHood
Calvert	Franks (CT)	Lantos
Camp	Franks (NJ)	Largent
Canady	Frelinghuysen	Latham
Cardin	Frisa	LaTourette
Castle	Funderburk	Laughlin
Chabot	Furse	Lazio
Chambliss	Gallegly	Leach
Chapman	Ganske	Levin
Chenoweth	Gejdenson	Lewis (CA)
Christensen	Gekas	Lewis (GA)
Chrysler	Gephardt	Lewis (KY)
Clay	Geren	Lightfoot
Clayton	Gibbons	Lincoln
Clement	Gilchrest	Linder
Clinger	Gillmor	Lipinski
Clyburn	Gilman	Livingston
Coble	Gonzalez	LoBiondo
Coburn	Goodlatte	Lofgren
Coleman	Goodling	Longley
Collins (GA)	Gordon	Lowe
Collins (IL)	Goss	Lucas
Collins (MI)	Graham	Luther
Combest	Green	Maloney
Condit	Greenwood	Manton
Conyers	Gunderson	Manzullo
Cooley	Gutierrez	Markey
Costello	Gutknecht	Martinez
Cox	Hall (OH)	Martini
Coyne	Hall (TX)	Mascara
Cramer	Hamilton	Matsui
Crane	Hancock	McCarthy
Crapo	Hansen	McCollum
Cremeans	Harman	McCrery

McDade	Porter	Stark
McDermott	Portman	Stearns
McHale	Poshard	Stenholm
McHugh	Pryce	Stockman
McInnis	Quillen	Stokes
McIntosh	Quinn	Studds
McKeon	Radanovich	Stump
McKinney	Rahall	Stupak
McNulty	Ramstad	Talent
Meehan	Rangel	Tanner
Meek	Reed	Tate
Menendez	Regula	Tauzin
Metcalf	Reynolds	Taylor (MS)
Meyers	Richardson	Taylor (NC)
Mfume	Riggs	Tejeda
Mica	Rivers	Thomas
Miller (CA)	Roberts	Thompson
Miller (FL)	Roemer	Thornberry
Mineta	Rogers	Thornton
Minge	Rohrabacher	Thurman
Mink	Ros-Lehtinen	Tiahrt
Moakley	Rose	Torkildsen
Molinari	Roth	Torres
Mollohan	Roukema	Torricelli
Montgomery	Roybal-Allard	Towns
Moorhead	Royce	Trafficant
Moran	Rush	Tucker
Morella	Sabo	Upton
Murtha	Salmon	Velazquez
Myers	Sanders	Vento
Myrick	Sanford	Visclosky
Nadler	Sawyer	Volkmer
Neal	Saxton	Vucanovich
Nethercutt	Scarborough	Waldholtz
Neumann	Schaefer	Walker
Ney	Schiff	Walsh
Norwood	Schroeder	Wamp
Nussle	Schumer	Ward
Oberstar	Scott	Waters
Obey	Seastrand	Watt (NC)
Olver	Sensenbrenner	Watts (OK)
Ortiz	Serrano	Waxman
Orton	Shadegg	Weldon (FL)
Owens	Shaw	Weldon (PA)
Oxley	Shays	Weller
Packard	Shuster	White
Pallone	Sisisky	Whitfield
Parker	Skaggs	Wicker
Pastor	Skeen	Williams
Paxon	Skelton	Wise
Payne (NJ)	Slaughter	Wolf
Payne (VA)	Smith (MI)	Woolsey
Pelosi	Smith (NJ)	Wyden
Peterson (FL)	Smith (TX)	Wynn
Peterson (MN)	Smith (WA)	Young (AK)
Petri	Solomon	Young (FL)
Pickett	Souder	Zeliff
Pombo	Spence	Zimmer
Pomeroy	Spratt	

NOT VOTING—3

Frost	Wilson	Yates
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So the bill was passed.

A motion to reconsider the vote whereby said bill was passed was, by unanimous consent, laid on the table.

*Ordered*, That the Clerk request the concurrence of the Senate in said bill.

#### ¶21.11 PROVIDING FOR THE CONSIDERATION OF H.R. 666

Mr. DIAZ-BALART, by direction of the Committee on Rules, called up the following resolution (H. Res. 61):

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 666) to control crime by exclusionary rule reform. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused

it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

When said resolution was considered. After debate,

On motion of Mr. DIAZ-BALART, the previous question was ordered on the resolution to its adoption or rejection and under the operation thereof, the resolution was agreed to.

A motion to reconsider the vote whereby said resolution was agreed to was, by unanimous consent, laid on the table.

#### ¶21.12 EXCLUSIONARY RULE REFORM

The SPEAKER pro tempore, Mr. CUNNINGHAM, pursuant to House Resolution 61 and rule XXIII, declared the House resolved into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 666) to control crime by exclusionary rule reform.

The SPEAKER pro tempore, Mr. CUNNINGHAM, by unanimous consent, designated Mr. RIGGS as Chairman of the Committee of the Whole.

The Acting Chairman, Mr. HOBSON assumed the Chair; and after some time spent therein,

The SPEAKER pro tempore, Mr. SCHIFF, assumed the Chair.

When Mr. RIGGS, Chairman, reported that the Committee, having had under consideration said bill, had come to no resolution thereon.

#### ¶21.13 HOUR OF MEETING

On motion of Mr. ARMEY, by unanimous consent,

*Ordered*, That when the House adjourns on Thursday, February 9, 1995, it adjourn to meet at 9 a.m. on Friday, February 10, 1995.

#### ¶21.14 ORDER OF BUSINESS—PROVIDING FOR CONSIDERATION OF H.R. 729

On motion of Mr. ARMEY, by unanimous consent,

*Ordered*, That the Speaker at any time may declare the House resolved into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 729) to control crime by a more effective death penalty, and that the first reading of the bill be dispensed with. All points of order against consideration of the bill shall be waived. General debate shall be confined to the bill and shall not exceed one hour, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate, the bill shall be considered for amendment under the five-minute rule for a period not to exceed 6 hours. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in

the nature of a substitute ordered reported by the Committee on the Judiciary, and all points of order against the substitute shall be waived. The committee amendment in the nature of a substitute shall be considered as having been read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

#### ¶21.15 EXCLUSIONARY RULE REFORM

The SPEAKER pro tempore, Mr. SCHIFF, pursuant to House Resolution 61 and rule XXIII, declared the House resolved into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 666) to control crime by exclusionary rule reform.

Mr. RIGGS, Chairman of the Committee of the Whole, resumed the chair; and after some time spent therein,

#### ¶21.16 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. CONYERS:

Page 2, strike line 1 and all that follows through the end of the bill and inserting the following:

#### SEC. 2. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT OR STATUTE.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end of the following:

#### “§ 2237. Good faith exception for evidence obtained by invalid means

“Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in objectively reasonable reliance—

“(1) on a warrant issued by a detached and neutral magistrate or other judicial officer ultimately found to be invalid, unless—

“(A) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

“(B) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

“(C) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

“(D) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid; or

“(2) on the constitutionality of a statute subsequently found to be constitutionally invalid.”

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of chapter 109 of