

# *Study Guides* (Part I)

## WASAMUN MODEL UNITED STATES CONGRESS

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## **S.30 / H.R.2572: A bill to prohibit discrimination against the unborn on the basis of sex, and for other purposes**

### **Summary of the bill**

The bill makes it a federal offence punishable by up to five years in prison to perform an abortion because those involved do not want a child of a particular sex.

Women who undergo a sex-selective abortions may sue any medical professional involved in the procedure for damages. Fathers of the unborn children concerned may also take similar court action.

### **Introduction**

A sex-selective abortion is one performed because the predicted sex of the foetus does not match the preferences of the parent.

Some argue that the practice should be banned because it is a form of gender discrimination – one that most often results in female foetuses being terminated.

However, others contend that any limitation on the right to an abortion is an unwarranted infringement of a woman's moral right to make choices about her body and that government should not interfere in such a personal decision.

### **Abortion as a political and moral issue**

Abortion is one of the most charged and divisive subjects in American politics. To those who oppose the practice of abortions (who identify themselves as "pro-life" supporters), the act of terminating pregnancy is morally wrong. They believe that life begins at conception and that terminating an unborn foetus is a violation of the right to life of an innocent human being.

On the other side of the debate those who identify themselves as "pro-choice". They argue that women should have the choice of what happens to their own bodies: a moral right that includes deciding to have an abortion. Pro-choice advocates disagree that personhood begins at conception, arguing that human life either develops at some point over the course of pregnancy or at birth. They believe that human traits such as consciousness, communication and self-awareness are required for personhood to exist, and therefore an abortion is not a violation of the right to life.

### **Roe v. Wade (1973): Constitutional right to an abortion**

A women's decision to have an abortion is protected as a fundamental right by the United States Constitution. The 14th Amendment to the Constitution prohibits laws that "deprive any person of life, liberty, or property". The Supreme Court judged in a case known as Roe v. Wade (1973) that "liberty" includes a right to privacy and that prohibiting abortions breaches women's right to privacy.

### **Arguments in favour of banning sex-selective abortions**

Those that favour a ban argue that permitting parents to choose the sex of their child is discriminatory. For pro-life supporters, a termination is a violation of the right to life of a foetus simply on the basis of its sex.

Despite social and cultural change, women in the United States remain subject to unequal or unjust treatment on the basis of their gender. United States law addresses a range of such injustices, prohibiting discrimination in employment, education, housing and health

insurance. Proponents of a ban on sex-selective abortions argue that the principal of non-discrimination should also apply to decisions made concerning unborn fetuses.

Some people also worry that allowing sex-selective abortion creates imbalance in the sex ratio. The practice has been linked to cultures from East and South Asia, where there is a preference for sons. In some countries, this results in a higher number of boys being born than girls. A 2011 World Health Organization report found that in rural regions of some countries there was a ratio of 130 males to 100 females (compared to a biologically normal ratio of around 104 males to 100 females). However, there is no conclusive evidence that the practice is widespread in the United States, even among immigrant communities drawn from associated cultures.

### **Arguments against banning sex-selective abortions**

Some argue that any restriction on abortions should be balanced against the moral right of a woman to decide what happens to their own body. It could be argued that the government should not interfere in the very personal and private choice that a woman makes when deciding to terminate a pregnancy whatever its basis.

Furthermore, there may be reasons for a sex-selective abortion that are not based on discriminatory societal or cultural values. For example, a woman who was abused by a female family member as a child may find it difficult to form close relationships with women and would therefore struggle to raise a female child properly.

Debate over sex-selective abortions also impacts on the wider debate regarding the legality of abortions in the United States. One argument is that permitting restrictions on the right to an abortion on the basis of sex-selection could open the door to further restrictions on a woman's right to choose. For example, Indiana state law prohibits abortions on the basis of genetic abnormality or disability. A federal court has struck down this law as against the Constitution.

Provisions in the bill permit fathers or maternal grandparents to take court action in the event of a sex-selective abortion. It could be argued that providing the right to sue to anyone other than the mother is again undermining a woman's right to choose and make personal, private decisions herself.

### **Conclusion**

The debate over sex-selective abortions requires balancing two important rights: on the one hand, the right to an abortion, and on the other, the right to be treated equally and without discrimination including on the basis of sex. Congress must consider whether legislation is required to better balance these two important constitutionally protected freedoms.

## **S.559 / H.R.716: A bill to require the Secretary of Transportation to conduct a study on the unsafe use of electric scooters, and for other purposes**

### **Summary of the bill**

This bill directs the Administrator of the National Highway Traffic Safety Administration to conduct a study for Congress on the safe use of e-scooters including regulations such as the mandatory wearing of helmets and speed limits.

### **Introduction**

Electric scooters (or e-scooters) have rapidly become a feature of life in metropolises across the United States. For some, they offer an inexpensive and convenient means of making short trips and for travelling the “last mile” between public transportation hubs and final destinations. They can be more environmentally friendly than other forms of transport and have been particularly embraced by lower-income communities with poor access to automobiles.

However, some express worries about their safety, with accidents involving e-scooters leading to a number of serious injuries and deaths. Some pavements and open areas have also become littered with e-scooters discarded at the end of journeys. Cities have introduced a number of regulations ranging from capping their numbers and restricting where they can be ridden to outright bans.

### **What are e-scooters? How are they used?**

E-scooters are stand-up scooters powered by rechargeable electric motors. Most have a top speed of between 15 and 20 miles per hour. They are available for private purchase, but most are used in shared, hire schemes that operate using smartphone apps. Most journeys are less than five miles and cost around \$3, with the rider able to leave the scooter in a public space at their destination. E-scooter companies such as Bird, Spin and Lime provide financial rewards to those who then pick up discarded scooters, charge the batteries and return them.

Use of e-scooters has risen significantly over the past few years. According to the National Association of City Transportation Officials (NACTO), 85.5 million trips were made in 2019 using dockless e-scooters (more than double the 35.5 million rides made in 2018). In 2019, 109 U.S. cities had dockless scooter programmes. A significant minority (38%) of e-scooter rides took place in six cities where inhabitants have particularly embraced their use: Atlanta, Austin, Dallas, Los Angeles, San Diego and Washington DC.

Together with bike share programmes, e-scooters are a type of transportation known as “micromobility”.

### **Sustainable transportation**

At a time of growing concern over greenhouse and carbon emissions, and worries over urban traffic congestion, e-scooters may offer a more sustainable means of transportation.

Most e-scooter trips are short. NACTO found that the average scooter or bike share trip in 2019 was between 1 and 1.5 miles and lasted 11 to 12 minutes. However, such short trips make up a sizeable proportion of journeys made. According to the 2017 National Household Travel Survey, 35% of car trips in the United States are less than 2 miles and 60% are less than 5 miles. A survey by NACTO found 45% of users would have used a car to make their journey if an e-scooter was not available. Nearly two-thirds of users (65%) said that e-scooter adoption had reduced their use of taxis. The Environmental Protection Agency

estimates that halving the number of car journeys undertaken of under a mile would reduce carbon dioxide emissions by 2 million metric tons per year or the equivalent of taking 400,000 cars off the road.

That said, some have questioned their environmental impact. Many scooter trips are replacing trips done on foot, with NACTO finding that 28% of riders said that they would have walked the journey if no e-scooter was available. Replacing walking with scooting has a high environmental cost. In addition, there are public health concerns if scooter use is resulting in less physical activity walking or cycling. Furthermore, parking problems associated with scooter sharing can reduce the physical attractiveness of shared public spaces.

### **Parking problems**

The practical and safe storage of e-scooters has become a problem in a number of American cities. E-scooters can be discarded in public spaces at the end of journeys, with fees available to individuals who then charge and return the scooters. In some cases, this has resulted in scooters cluttering pavements where they become an unsightly aspect of urban living, and present trip hazards and obstacles to movement particularly for those with disabilities. In Santa Monica, CA and Alexandria, VA, for example, 42% and 72% of complaints related to micromobility transportation concerned inappropriately parked bikes or scooters.

Cities have attempted a number of methods to ensure more socially conscious parking. In San Francisco, CA, all scooters must be locked to existing street furniture such as lamp posts. This led to an 83% fall in complaints related to improper parking of bikes and scooters. Other cities, such as Sacramento, CA and Seattle, WA have provided more bike racks and scooter corrals.

### **Safety concerns**

E-scooters have been involved in a number of serious accidents. In 2019, there were eighteen deaths linked to scooter use. A 2019 study in Portland, OR found 1.8 hospital visits per 10,000 e-scooter trips and 1.5 visits per 10,000 miles travelled. While the National Highway Transportation Safety Administration compiles data on vehicle accidents, there is limited nationwide information on scooter related injuries or fatalities. It is therefore difficult to assess the risk of e-scooter use or compare it with other forms of transportation.

Many cities and states restrict scooters to roads and bike lanes. The terms and conditions of use established by e-scooter operators, and agreed to by riders through smartphone apps, also state that scooters should only be used on roads. However, such rules are not always in place, observed or enforced. Uneven surfaces, street furniture and pedestrians all present risks when riding on pavements.

Part of the problem is that, regardless of local laws, scooter users often choose to ride on pavements for their own safety. Riders are reluctant to travel on roads without protected bike lanes. Research by NACTO suggests that networks of interconnected bike lanes are important for providing safe micromobility transportation systems. Some cities have used scooter operator licensing fees to pay for extending bike lanes. In Santa Monica, CA, for example, operator fees paid for refurbishing nineteen miles of bike lanes in 2019.

Riders could take more responsibility for their own safety. A study on scooter use in Japan found that 94% of riders did not wear a helmet. The National Safety Council interest group has developed safety recommendations for scooter users including always wearing a helmet

and closed-toe shoes; only one person should ride at a time and always with both hands on the handlebars; and the wearing of high visibility clothing and lights at night.

Some have suggested that accidents will decrease as users become more proficient and practiced in riding scooters, and vehicle drivers become more aware to their presence and behaviours.

## **Regulation**

Regulation has taken a little time to catch up with the rapid expansion in demand for e-scooters. In many cases, operators have established themselves without consultation with local transportation officials. For example, Bird, Lime and Spin established e-scooter schemes in San Francisco, CA in 2018 without permission from local authorities.

Regulations differ across cities and states. Some cities have geo fences to restrict the use of e-scooters to certain areas, while others have limits on the number of scooters permitted. Other cities, such as New York, NY ban e-scooter operators, although this prohibition seems likely to be lifted soon. Some states have established minimum age limits, speed limits and restrictions on where scooters can be ridden. A minority of states also require riders to wear helmets, have driving licences and register privately owned scooters. For example, in 2021, riders in California must have a driving licence, be over the age of 15, wear a helmet if under the age of 18 and adhere to a 15 miles per hour speed limit. Differences in regulations across states can be confusing for users. For example, speed limits range from 15 miles per hour in California, Utah and Washington to 30 miles per hour in Florida and Missouri.

Mandatory safety measures, such as the wearing of helmets, are not always widely observed or enforced. A study of police action for riding bikes or scooters without a helmet in Seattle, WA found only 117 citations between 2017 and 2019. When helmet laws are enforced, there is evidence that police are disproportionately targeting riders in certain social or racial groups. For example, a study found that 60% of citations in Seattle, WA for not wearing a helmet were issued to homeless people. Research of police stops of cyclists between 2016 and 2018 in New Orleans, LA found 59.4% of stops were of African American cyclists, who make up 23.6% of the city's population. Data from Washington, DC between 2012 and 2017 found 87.7% of cyclists stopped by police were African Americans, who are 46.4% of the city's population.

## **Conclusion**

To many people living and working in American cities, e-scooters are a convenient, cost effective and environmentally sustainable means of transportation. Cities and states have adopted a range of measures to increase safety and address parking issues. Federal action could promote better decision making on future development of micromobility schemes and perhaps lead to nationwide safety standards similar to those that exist for motor vehicles. However, it could be argued that city and local governments are already being effective in regulating e-scooters in ways that match their local needs and priorities.

## **S.603 / H.R.2134: A bill to prohibit any requirement that a member of the Armed Services receive a vaccination against COVID-19**

### **Summary of the bill**

This bill prohibits federal funds being used to support the mandatory administering of COVID-19 vaccinations to members of the armed services. It prohibits punishments or other action being taken against servicemembers who refuse a vaccination.

### **Introduction**

The United States has been one of the countries hardest hit by the COVID-19 pandemic. As of October 2021, COVID-19 had caused 700,000 deaths in the United States. The pandemic also caused an economic crisis. According to the Brookings Institution, the pandemic ended 113 months of falling unemployment rates, with 20.5 million job losses and a doubling of food insecurity for households with children.

At the height of the pandemic, the federal government established Operation Warp Speed to accelerate the development, mass manufacture and distribution of COVID-19 vaccinations. By October 2021, 397 million vaccination doses had been administered, with 216 million Americans receiving at least one shot. According to the Centers for Disease Control (CDC), "The COVID-19 vaccines approved or authorized in the United States are highly effective at preventing severe disease and death, including against the Delta variant".

Under Executive Order 14043 of 9 September 2021, President Biden has ordered that all federal employees, including members of the armed services, must be vaccinated. The CDC states that: "Unvaccinated people remain the greatest concern: The greatest risk of transmission is among unvaccinated people who are much more likely to get infected, and therefore transmit the virus".

However, concerns have been raised about the compulsory administering of COVID-19 vaccinations. Although the vast majority of the American public have received two vaccine doses, there are still some who are cautious about vaccination. There is debate regarding the extent to which personal decisions regarding vaccination should be respected, with some believing that no one should be mandated to accept a vaccine. To some conservative Republicans, President Biden's order for federal employees to be vaccinated is an overreach of federal power that infringes on the personal liberties of citizens.

### **What are the benefits of COVID-19 vaccinations?**

The CDC currently recommends that everyone over the age of 12 should get a COVID-19 vaccination. According to the CDC, COVID-19 vaccination helps protect against becoming infected or severely ill with COVID-19. Vaccination also reduces the ability of the disease to pass from person to person. Speaking in April 2021, White House Coronavirus Response Coordinator Jeff Zients stated: "Virtually all Covid-19 hospitalizations and deaths in United States are now occurring among unvaccinated individuals".

The effectiveness of all COVID-19 vaccines available in the United States has been proven in clinical trials. Studies analysing the effectiveness of COVID-19 vaccines in real-world conditions confirm their effectiveness. No vaccine is 100% effective and some people who have been vaccinated will still become ill. Nevertheless, vaccination may reduce the severity of symptoms in vaccinated individuals who still contract COVID-19.

According to the CDC, all COVID-19 vaccines available in the United States are safe. The CDC states that: “Millions of people in the United States have received COVID-19 vaccines under the most intense safety monitoring in U.S. history”.

### **How many Americans have been vaccinated against COVID-19?**

According to the CDC, as of October 2021, 75.9% of the American population over the age of 12 has received at least one vaccine dose, and 65.5% have received two doses. Over 185 million Americans have been fully vaccinated, with 5.7 million receiving a booster shot.

According to the Pew Research Center, public opinion is largely supportive of vaccination, with 73% agreeing that “vaccines are the best way to protect Americans from COVID-19” describes their views very or somewhat well. However, 51% of Americans believe that the statement “there’s too much pressure on Americans to get a COVID-19 vaccine” describes their own views very or somewhat well.

### **What is the Department of Defense’s policy towards non-COVID-19 vaccinations?**

The armed forces established its first vaccination programme in 1777 during the American War of Independence when George Washington directed that the Continental Army be inoculated against smallpox.

The Department of Defense maintains a number of “mandatory immunization requirements” for military personnel. The department tends to follow recommendations made by the Centers for Disease Control and Prevention (CDC) and its Advisory Committee on Immunization Practices (ACIP). As of 2021, all servicemembers are required to be vaccinated for eight diseases: Adenovirus; Hepatitis A and B; Influenza; Measles; Mumps and Rubella; Meningococcal; Poliovirus; Tetanus-Diphtheria; and Varicella.

Vaccinations are provided in military treatment centres, during basic training or through TRICARE (the military’s healthcare programme). The Department of Defense is also responsible for medical documentation, vaccine procurement and patient safety of any immunization provided to servicemembers.

### **Can servicemembers opt out of mandatory vaccinations?**

Servicemembers are able to request to opt out of any mandatory vaccination under limited circumstances.

Healthcare professionals may authorise medical exemptions where servicemembers have underlying health conditions or when a vaccine would trigger an adverse reaction. A unit commander may authorise an exemption if the servicemember is within 180 days of leaving the military or within 30 days of leaving a post.

The Religious Freedom Restoration Act also permits exemptions for religious reasons. In these cases, the unit commander is required to:

- Consult with medical, legal and chaplaincy representatives;
- Advise the servicemember on potential adverse impact on “deployability, assignment, or international travel”; and
- Ensure that a military doctor advise the servicemember on the benefits and risks of not being vaccinated.

A unit commander may choose to revoke a religious exemption where “the individual and/or unit are at imminent risk of exposure to a disease for which an immunization is available”.



In situations where a servicemember refuses a mandatory vaccination without an authorised exemption, commanders may initiate disciplinary action under the Uniform Code of Military Justice.

### **Who is required to be vaccinated?**

Under Executive Order 14043 of 9 September 2021, President Biden has ordered that all federal employees be vaccinated against COVID-19. The order applies to both civilian and uniformed employees of the Department of Defense.

Members of the federal workforce may apply for an exemption for medical or religious reasons. In cases of noncompliance where no exemption exists, the Safer Federal Workforce Task Force says that an “enforcement process” should be initiated. This process should begin with a five-day period of education and counselling, and be followed by a suspension from work of not more than fourteen days. Those still refusing to comply with the order can have their federal employment terminated.

The Safer Federal Workforce Task Force says that unvaccinated federal staff should generally be required to follow additional safety procedures including the wearing of masks, social distancing and testing.

### **Why are some people concerned about COVID-19 vaccination?**

The CDC insists that COVID-19 vaccination is safe. However, some are concerned about the safety of vaccinations. According to the Pew Research Center, 81% of those not vaccinated said that the statement “We don’t really know yet if there are serious health risks from COVID-19 vaccines” described their views somewhat or very well (compared to 54% of those vaccinated). A similar proportion of unvaccinated Americans (80%) consider the phrase “Public health officials are not telling us everything they know about COVID-19 vaccines” to reflect their beliefs somewhat or very well (compared to 44% of those vaccinated).

Others are supportive of vaccination, but believe that it should be a personal decision free from government mandate or coercion. Some conservative Republicans believe that mandatory vaccinations are an overreach of the federal government’s power that infringes on personal liberty. Former medical doctor, Senator Rand Paul of Kentucky, warned during a congressional committee hearing: “As we contemplate forcing parents to choose this or that vaccine, I think it is important to remember that force is not consistent with the American story, nor is force consistent with the liberty our forefathers sought when they came to America”. However, he acknowledged that “the benefits of vaccines greatly outweigh the risks”, and that he and his family had made the personal decision to be vaccinated. Senator Paul has expressed concern that government action regarding COVID-19 vaccinations could act as a precedent to justify future mandatory vaccinations against seasonal flu.

Public attitudes towards vaccination do differ according to political ideology. Pew found in August 2021 that 90% of liberal Democrats said they had received at least one dose of vaccine, compared with 63% of moderate or liberal Republicans and 58% of conservative Republicans.

### **What other COVID-19 safety measures are in force at military installations?**

As of October 2021, all individuals on military installations or performing official defence duties are required to wear masks indoors in “areas of substantial or high community transmission”. Masks are mandatory in all military correctional and healthcare settings, and

unit commanders may introduce stricter guidelines for masks if they deem it necessary. These safety measures are updated as CDC guidance changes.

The Department of Defense's directives on mask wearing currently apply regardless of vaccination status. However, for a short period in Summer 2021, individuals who were fully vaccinated were permitted not to wear masks if they choose, while masks remained mandatory for those unvaccinated.

The Department of Defense conforms to guidance from the Safer Federal Workforce Task Force, and has taken a number of steps to limit the spread of COVID-19. These include limiting the number of persons occupying workspaces through methods such as remote working and flexible workhours.

## **Conclusion**

The CDC considers COVID-19 vaccination to be a highly effective means of preventing severe illness and death. Those who are not yet vaccinated are at greatest threat of becoming infected and spreading the virus. The vast majority of Americans have received two doses of COVID-19 vaccine, but a minority remain cautious about being vaccinated. Some believe that personal decisions regarding vaccination should be respected even if those concerned are members of the armed services.

## **S.1326 / H.R.2434: A bill to clarify the definitions of certain terms relating to marriage under federal law to prevent child marriages, and for other purposes**

### **Summary of the bill**

This bill requires the federal government to define “marriage” as a legal union between persons over the age of 18. This would prevent any persons married under from accessing federal benefits such as Social Security, health insurance, retirement savings and benefits provided to military veterans.

### **Introduction**

Only four states in the United States have banned the marriage of persons under the age of 18 with exception. Child marriage occurs when one or both parties are under the age of 18. Child marriage is currently legal in twenty-four states with parental or judicial consent, and a further twenty states without any form of parental or judicial consent. Data from forty-one states shows that over 200,000 children were married in the United States between 2000 and 2015, the vast majority (87%) being girls to older men. There is no federal law governing child marriage in the United States, leaving child marriage law to be decided by states individually. Child marriage is viewed as a form of abuse in many jurisdictions, and there is evidence that child marriage leaves underage parties more prone to sexual abuse, reduced access to educational opportunities, early pregnancy and psychological trauma.

However, child marriage is a traditional religious and cultural norm in many rural communities in the United States. For some families, it is a means of moving children into their own households to extend or ensure the economic sustainability of the family unit. In some morally conservative communities, where access to abortions is limited, marriage facilitates the raising of children in cases of underage pregnancy.

Aside from the arguments for and against restricting the practice, there is also the question of whether the regulation of marriage should be the responsibility of the federal government, or if the matter is best decided at a local, state level.

### **Child marriage in numbers**

Child marriage is widespread across the United States and the world. Across cultures, factors such as gender inequality, cultural tradition and economic insecurity are risk factors for child marriage. According to the Child USA think-tank, approximately forty children are married each day in the United States.

Child marriage is substantially more common in Southern states and those with larger rural populations. Alabama, for example, saw 8,600 child marriages between 2000 and 2015, with one such marriage being between a fourteen year old girl and seventy four year old man (the state later raised its minimum marriage age to sixteen).

Rates of child marriage are falling: over 23,500 children (from thirty-eight states' data) were married in 2000 compared to approximately 9,200 in 2010. Between 2000 and 2015, 1% of child marriages involved children under fifteen years old, 4% of married children were fifteen, 29% were sixteen and 67% were seventeen. Children as young as twelve were granted marriage licenses in Alaska, Louisiana and South Carolina, and thirteen-year-olds were allowed to marry in fourteen states. Of those who married under the age of eighteen, 86% married adults. Around 60% of adults who married minors were between eighteen and twenty years old; 37% were between twenty-one and twenty-nine; and 3% were over twenty-nine.

## **Reasons for child marriage**

A study by Nicholas Syrett concluded that minors are most likely to marry in areas that are rural and less affluent. Children from cities and who were raised in middle class or wealthy families are far less likely to marry before eighteen. The highest rates of child marriage occur in Idaho (84 per 10,000 in 2010), Kentucky (73 per 10,000) and West Virginia (64 per 10,000). Idaho has a large rural population, with 28% of residents living in a rural area. It also ranks forty-first in terms of household income and is the seventh least densely populated state. Significantly, the 2010 rural population of Kentucky was the eighth highest in the country at 41.6%. West Virginia has the third highest rural population at 51.3% and the lowest median household income of any state. It also has the fourth highest poverty rate, third highest unemployment rate and the lowest college attainment rate.

Child marriage is viewed as a cultural norm in many rural areas. It is considered an important part of the local religious and cultural heritage. Many families also rely on early marriage to move young people into their own households to maintain the economic sustainability of the family unit. Sometimes, families will be close units that share income and wealth, and child marriages permit extension of such units. Also, rural societies are often more closed and children far less likely to go to college or move away from the area in which they grew up, meaning that marrying young is perceived as the next developmental step in their lives.

In morally and religiously conservative communities, child marriage can permit young people to engage in sexual intercourse without family or community disapproval. In areas where public disapproval and legal restrictions reduces access to abortions, marriage can provide the best means of raising children in situations where an abortion might otherwise have occurred.

## **Federal and state responsibilities**

There is no federal law governing child marriage in the United States, with individual states decided their own restrictions. Advocates against child marriage suggest that the federal government has a duty to regulate a practice that has implications across state borders, with any marriage in one state requiring legal recognition by others.

However, some believe that marriage is a private act that the federal has no role in regulating. They consider that any restrictions on marriage are best made at the state level, where local people can best influence the laws to reflect the local culture and public opinion. There is also an argument that any federal regulation of marriage may act as a precedent for further federal laws affecting marriage.

## **Opposition to child marriage**

Interest groups such as Child USA, Equality Now and Frontline argue that underage marriage is form of child abuse. They suggest that girls who marry before eighteen are at increased risk of domestic violence, forced pregnancy, and negative health consequences, while being denied education and economic opportunity. They are also at a drastically increased risk of suicide.

Worldwide, stillbirths and new-born deaths are 50% higher among offspring of child mothers than offspring of mothers between the ages of 20 and 29. Girls in the United States who marry before the age of 19 are also 50% more likely to drop out of high school and four times less likely to graduate from college. From a health perspective, studies show that child

who are married in the United States are vulnerable to higher rates of psychiatric disorders, in addition to physical, emotional, or verbal abuse.

The fact that individual states control their own marriage laws can mean that safeguards and exceptions vary significantly between jurisdictions. In many states, children of any age can be granted a marriage license provided that certain conditions are met. Some states do not require proof of age or proof of state residency, allowing for further abuse. The exceptions allowed for parental and judicial consent (the approval of a local judge) also facilitate child marriage. Parental consent can sometimes facilitate coercion where children are forced into marriage by family members. Often, only one parent is required to give consent, and the consent of a parent is also a facilitating factor when seeking judicial consent. In such cases, the will of the minor involved may be disregarded. Judges lacking the intricate knowledge of possible coercive control and partner violence can, in some cases, put children at further risk. To children's rights advocates, setting the age floor for marriage at eighteen without any exceptions is the only way to protect girls from marriage.

In Missouri, the minimum age was raised to sixteen in 2018. Prior to the passage of this law, in 2015 a man drove his fourteen year old daughter a thousand miles from Idaho to Kansas City to marry the twenty four year old man who had got her drunk and raped her, resulting in pregnancy. Both husband and father were arrested back in Idaho. In this case, parental coercion and varying state laws allowed for a child to be abused and forced to marry another abuser by her own father.

### **The “statutory rape exception”**

To children's rights advocates, the ‘statutory rape exception’ is a terrible violation of girls’ rights. Statutory rape is when one of the parties to sexual activity is below the age of consent. Given that children are not allowed to offer consent, statutory rape does not always have to be forcible. Under Title 18 U.S. Code Section 2243(a), sexual abuse of a minor occurs when someone at least four years older knowingly engages in a sexual act with somebody between the ages of twelve and sixteen. However, this law negates the crime when “the persons engaging in the sexual act were at that time married to each other”. At a federal level, therefore, child marriage can be used as a valid defence against statutory rape. This exception might encourage abusers to coerce or convince children to marry them. Repealing this law is seen by advocates as a simple and necessary step towards aligning the United States with international standards and protecting child brides from sexual abuse.

### **Conclusion**

Child marriage is pervasive in the United States, with only four states completely forbidding the practice. In most cases, these were girls aged sixteen and seventeen marrying men in their twenties. In rural areas and states, particularly southern states and morally conservative communities, there is a history of child marriage that is an accepted religious and cultural norm. Some also believe that marriage is a private act where the federal government has no jurisdiction. They believe that any regulations are best established at a local, state level so that the law can reflect local culture and public opinion.

On the other hand, several child and women's advocacy groups maintain that just because these marriages are considered culturally acceptable does not mean that they are right. Girls who marry young are consistently deprived of educational and economic opportunities, and are more susceptible to spousal abuse and negative physical and mental health effects. Child marriage is not confined to older teenagers, with children as young as twelve granted marriage licenses in various states since 2010. In such cases, a child cannot be expected or allowed to give informed consent, and as such ‘consent’ from parents and judges cannot

reasonably be given. Closing the statutory rape loophole is one change that these groups fight for on a federal level, but the state level inconsistencies are critical in the continued abuse of children compelled to marry against their will.

## **S.1654 / H.R.3511: A bill to amend Public Law 115–97 (commonly known as the Tax Cuts and Jobs Act) to prevent oil and gas exploitation in the Arctic National Wildlife Refuge**

### **Summary of the bill**

The bill repeals Section 20001 of Public Law 115–97 (16 U.S.C. 3143 note), which permits exploration for oil and gas in the Arctic National Wildlife Refuge in Alaska. The effect of the bill would be for the law to no longer permit exploration and drilling in the wildlife refuge.

### **Introduction**

The Arctic National Wildlife Refuge (the Arctic Refuge) is an area of protected wilderness in northeast Alaska. It is the largest national wildlife refuge in the United States, comprising 19 million acres (78,050 km<sup>2</sup>).

In 2017, the Tax Cuts and Jobs Act opened up 1.5 million acres in the refuge to oil and gas drilling. This area of the refuge is known as the Coastal Plain or the “1002 Area”. Supporters of drilling in the refuge argue that it is necessary for economic growth, job creation and to reduce American dependency on foreign sources of oil. Leases were sold to eleven tracts of land in January 2021.

However, opponents argue that exploitation the oil and gas reserves in the coastal plains irreparably harms fragile ecological systems that support wildlife on the tundra of the Arctic plain. In particular, they say that drilling disrupts the habitats of polar bears and Porcupine caribou, which the Gwich'in indigenous people rely on for their subsistence and cultural survival.

On his first day in office, President Biden signed an Executive Order temporarily halting drilling activity in the refuge. All oil and gas leases in the refuge have been suspended by the Department of the Interior. This bill would embed in legislation the discontinuation of oil exploration in the Coastal Plain, making it harder for future administrations to overturn the suspension of drilling.

### **Arguments in favour of protecting the Arctic Refuge from drilling**

The Arctic Refuge has been designated by Congress as a wilderness under the Wilderness Act of 1964. This is the highest level of land protection for public lands and is reserved for the wildest and most biodiverse landscapes.

The refuge is the largest area of pristine, undeveloped wilderness in the United States and home to an extraordinary range of biodiversity. According to the US Fish & Wildlife Service, the region is home to 42 fish species, 37 land mammals, eight marine mammals, and more than 200 bird species, which migrate to the region from all 50 states. The refuge is a critical habitat for polar bears and one of the most regularly used denning areas in Alaska. The decline of sea ice due to climate change has made such habitats increasingly important. The refuge also hosts a large population of Porcupine caribou, which use the Coastal Plain for spring calving. There also species of wolves, ermine, lynx and muskoxen.

The Gwich'in indigenous people rely on the refuge's wildlife for their subsistence and culture. They are particularly dependent on the Porcupine caribou and the herd's calving grounds on the Coastal Plain. The caribou are used for food, shelter, clothing and bedding. There are around 9,000 Gwich'in people living across the Arctic region as a whole. They refer to the Coastal Plain as “the sacred place where life begins”. The Gwich'in are opposed to drilling because they say it could make their way of life unsustainable.

However, those that support drilling in the refuge question the impact that it will have on the habitat. They claim that drilling to the west of the refuge in the Prudhoe Bay region has not critically harmed wildlife and that the local caribou herd has increased in size. They say that the Coastal Plain makes up only around 15% of the total refuge, and that drilling operations will only occupy a small segment of the 1.5 million acres of the 1002 Area.

### **Arguments in favour of exploring the oil and gas reserves in the Coastal Plain**

The Arctic Refuge is thought to contain significant reserves of oil and gas, with between 4.3 and 11.8 billion barrels of oil left unexplored. The Trump administration argued that failing to exploit those natural resources “deprives our country of potentially thousands and thousands of jobs and billions of dollars in wealth”.

A 2015 study by the Institute for Energy Research suggests that drilling in the Arctic Refuge could increase national output by \$40 billion and create an additional 77,000 jobs. Alaska’s economy already depends on the oil industry for one-third of its jobs, but there is evidence that existing oil fields are declining in output. Senator Murkowski of Alaska claims that drilling in the refuge will create \$2 billion in fees over the next ten years, which will be shared half-and-half between the Federal and Alaskan governments. However, these predictions for revenue generation and job creation have been questioned by opponents of drilling.

However, some question the likely government revenue to be gained from leases. The first leases sold in January 2021 raised \$14.4 million, which was far less than expected. No major oil companies bid for the leases and nine out of the eleven were purchased by the Alaskan state government’s own development company. To some extent, this was the result of the sale taking place during a period of particular uncertainty in oil and gas markets.

Fully exploiting national oil reserves could reduce American dependency on foreign oil. The United States is reliant on imports of oil for its economic wellbeing. The five top petroleum exporters to the United States in 2018 were Canada, Saudi Arabia, Mexico, Venezuela, and Iraq. Some believe that the United States unduly alters its foreign policy towards these countries due to the fact that it relies on their oil exports.

However, some analysts argue that the size of oil reserves likely to be drawn from the refuge are unlikely to have any significant effect on global oil prices. Estimates place the proportion of worldwide reserves held in the refuge to be about 0.55%.

### **Conclusion**

Congress must balance Alaska’s drive for economic development with the potential damage to the Arctic habitat and cultural ways of the indigenous people. At the moment, the Coastal Plain is safe from oil and gas exploration after leases sold during the Trump administration were suspended by President Biden. However, some believe that a change to the law is required to embed legal protection of the wildlife refuge and make it harder to re-establish drilling under a future administration.



## **S.2142 / H.R.1213: A bill to ensure that consumers can make informed decisions in choosing between meat products and imitation products, and for other purposes**

### **Summary of the bill**

This bill restricts the labelling of food products using the word “meat” to those that contain meat derived from animals.

### **Introduction**

The United States has become a leading world centre in the development of products that imitate meat. Some believe that such products offer a healthier, more environmentally friendly and ethical alternative to a meat-based diet.

However, others believe that consumers are being misled and confused by labels that include the word “meat” when they do not contain any real animal products. A number of states have regulated the sale of meat imitation products to prohibit the use of certain words on their packaging.

### **American consumption of meat: High but falling**

Americans are some of the biggest consumers of meat in the world. According to the Food and Agriculture Organization (FAO), the Average American eats 24 kg of pork, 26 kg of veal and beef and 50 kg of poultry meat per year.

Americans who eat a purely plant-based diet are a minority, with a Gallup poll in 2018 finding 5% of people in the United States identifying as vegetarian and 3% as vegan.

However, many Americans are seeking to reduce their meat consumption for a variety reasons. A Gallup poll in 2020 found 23% of Americans ate less meat over the previous year than before. The trend fall in meat consumption is particularly evident amongst young people, women and minorities, with veganism rapidly increasing amongst African Americans.

### **Why is there demand for imitation meat products?**

One reason why more Americans do not choose a plant-based diet is that they enjoy the taste, texture, consistency, bite feel and look of meat. A range of plant-based, meat-imitation products have been developed to satisfy those consumers who would like to follow a vegetarian or vegan diet, but feel they would miss eating meat. Products such as “veggie burgers” have existed for decades, but in the past these have tended to match little more than the shape of their meat alternatives. It is only recently that products have been created that genuinely mimic the eating experience associated with meat.

American companies are world leading in developing meat imitation products. Two of the largest companies in the industry are based in California: Beyond Meat, which supplies restaurants including KFC, Pizza Hut and Taco Bell, and Impossible Foods, which produces the meat-free Impossible Whooper sold in Burger King outlets across the United States. As of March 2020, Impossible Foods was valued as a company at \$4 billion.

The COVID crisis has seen a significant surge in demand for plant-based meat products, with sales increasing 264% over the first nine weeks of lockdown.

### **Are meat imitation products healthier?**

Many believe that a plant-based diet is healthier. Meat is a good source of protein, vitamins and minerals. Red meat is an important source of iron and vitamin B12. However, some meats are high in saturated fat, which can contribute to weight gain, raise blood cholesterol

levels and increase the risk of heart disease. The United States has one of the highest mortality rates due to heart disease amongst developed countries. Health reasons are one driver of a rise in veganism amongst African Americans, who are more likely in the United States to be at risk of obesity, heart disease and diabetes.

However, some question whether meat imitations are a healthier option. Comparing a serving of 85% lean ground beef with a Beyond Meat “Beyond Burger”, the Center for Consumer Freedom suggests the beef product contains less fat (15g compared with 18g) and fewer calories (215 compared to 250). Many meat imitations are also high in salt, which is associated with diabetes and heart disease. The Center for Consumer Freedom also claims that many of the plant-based products used in meat imitations are heavily processed in order to mimic meaty tastes and textures, which reduces vitamin and mineral content. Some critics call imitation meat “franken-meat”: suggesting it is created in an unnatural lab process.

### **What are the environmental and ethical benefits of meat imitation products?**

Meat imitation products are more environmentally friendly. Livestock production is a major contributor to greenhouse gas emissions. The think-tank Chatham House estimates that the global meat and dairy industry is responsible for 14.5% of green house gas emissions. That is more than the emissions produced by world transportation: motor vehicles, trains, ships and aeroplanes combined. Livestock production also contributes to deforestation, desertification, soil erosion and pressure on the water supply. According to Impossible Foods, its imitation burger uses 95% less land and 74% less water, and emits 87% less greenhouse gas than making a beef burger using meat from cows.

Some consumers are turning away from meat products for ethical reasons. There is increasing realisation of the animal welfare concerns associated with large scale meat production methods. According to the American pressure group PETA, “the food industry is one of the biggest exploiters of animals and is responsible for mass suffering and death”. They claim that animals bred for meat production live in crowded and unsanitary conditions, are subject to cruel treatment and suffer pain during the slaughter process.

One further, recent driver of demand has been disruption to meat production caused by COVID. Slaughterhouses and meat packing plants are at particular risk of COVID outbreaks. According to the Centers for Disease Control and Prevention (CDC), as of July 2020, in the 23 states that gathered data there were 16,233 cases of COVID in 239 meat processing facilities. Some consumers have reduced meat consumption due to worries about the safety of meat or because meat became scarcer following disruption to supplies. Meat processing facilities were criticised for continuing production during the crisis without regard for the health of employees, leading to some boycotting meat products for ethical reasons.

### **Why should the labelling of meat imitation products be better regulated?**

The labelling of food is strictly regulated in the United States. This protects the consumer, ensuring that if they buy a product labelled in a certain way it contains what is says on the label. For example, under federal food labelling law a frozen cherry pie must contain at least 25% weight of cherries.

Some argue that labelling a product “meat” when it does not contain real meat is misleading. They say that the rushed consumer running into a supermarket to buy some hotdogs or beef burgers should be certain that they are buying the real thing from a quick reading of the label. As one campaigner for the Missouri Cattlemen’s Association puts it with a car analogy, “You can’t put a Corvette sticker on a Chevrolet and call it a Corvette”.

There is some evidence that consumers are confused by the labels. A 2020 survey commissioned by the National Cattlemen's Beef Association found that 32% of participants believed that a Beyond Meat's "Beyond Burger" contained real meat (when it is an entirely planted-based, meat imitation product).

### **Why do meat imitation producers say they should be able to use words such as "meat"?**

Those who produce meat imitations claim that it is important to label products with words that consumers will recognise on the packaging. If words such as "meat" are not used on the label, then consumers will not know what the products are: there is no widely recognised alternative for describing an imitation meat that does not use the word "meat". New consumers can only identify meat imitation products if words such as "burger", "sausage", "hotdog" or "meat" are used on labels. As Michele Simon, head of the Plant Based Foods Association, points out "There's just limited words in the English language to convey a concept that the consumer already understands... The point is that we should not have to engage in linguistic gymnastics."

The Plant Based Foods Association believes that self-regulation of labelling is the best approach to protect consumers. It has produced a range of labelling rules for its members to ensure that certain terms are used consistently.

### **Conclusion**

The United States has become a world leader in the development and production of imitation meat at a time when many are seeking to reduce their meat consumption for health and environmental reasons. Congress is responsible for protecting the consumer from misleading food labelling. However, it is difficult to identify suitable alternative words for labelling products that imitate real meat.

## **S.2375 / H.R.1382: A bill to prohibit federal funding of the Planned Parenthood Federation of America**

### **Summary of the bill**

This bill prohibits any federal funding of Planned Parenthood. It also restricts funding of organisations that provide goods or services to Planned Parenthood.

### **Introduction**

Established in 1921, Planned Parenthood is the largest provider of sexual health services in the United States. In 2019-20, its clinics provided services to 2.4 million people across the United States.

Amongst its services are cancer screening, pregnancy testing, sexually transmitted infections (STI) testing, emergency contraception, sex education, hormone therapy for transgender patients and abortions. Around 75% of its patients are on low incomes.

Abortion is one of the most charged and divisive subjects in American politics. Planned Parenthood's provision of abortions therefore attracts considerable political debate, particularly as some of its other services receive funding from the federal government.

Planned Parenthood carried out 354,871 abortions in 2019-20 and provided 584,003 emergency contraception kits (also known as the morning after pill). This is a significant proportion of the around 620,000 legal abortions performed each year in the United States, according to figures from the Centers for Disease Control and Prevention.

Abortions amount to around 3% of the total healthcare services provided by Planned Parenthood each year.

The public is generally supportive of the organisation, but with views divided along party lines. A Gallup poll found in 2018 that 62% of Americans held a favourable view of Planned Parenthood, with 89% of Democrats and 36% of Republicans holding a favourable view.

### **Pro-life arguments**

To those who oppose the practice of abortions (known as "pro-life" supporters), the act of terminating pregnancy is morally wrong. They believe that life begins at conception and that terminating an unborn foetus is a violation of the right to life of an innocent human being.

### **Pro-choice arguments**

On the other side of the debate are "pro-choice" supporters. They argue that women should have the choice of what happens to their own bodies: a moral right that includes deciding to have an abortion.

Pro-choice advocates disagree that personhood begins at conception, arguing that human life either develops at some point over the course of pregnancy or at birth. They believe that human traits such as consciousness, communication and self-awareness are required for personhood to exist, and therefore an abortion is not a violation of the right to life.

### **Republican and Democrat views on abortion**

Although supporters of both sides of the debate exist in both parties, pro-life arguments tend to be favoured by Republicans, while Democrats tend to be pro-choice. A Pew poll in 2018 found 76% of Democrats believe that abortion should be legal in most cases, while 36% of Republicans agree (compared to 58% across the population as a whole).

Politicians tend to be more polarised on the issue than the general public and this is particularly the case in Congress. There are only two firmly pro-choice Republican Senators: Susan Collins (MA) and Lisa Murkowski (AK), who have both spoken out against Republican attempts to defund Planned Parenthood. There are three pro-life Democratic Senators: Bob Casey (PA), Joe Donnelly (IA) and Joe Manchin (WV).

### **Roe v. Wade (1973): Constitutional right to an abortion**

A woman's decision to have an abortion is protected as a fundamental right by the United States Constitution. The 14th Amendment to the Constitution prohibits laws that "deprive any person of life, liberty, or property". The Supreme Court judged in a case known as *Roe v. Wade* (1973) that "liberty" includes a right to privacy and that prohibiting abortions breached women's right to privacy.

The Supreme Court also found in another case, *Doe v. Bolton* (1973), that government may not unduly restrict a woman's fundamental right to an abortion with regulations that substantially limit access to the procedure.

### **Using federal funds to pay for abortions**

Pro-life supporters believe that, although the right to an abortion is constitutionally protected, it is morally wrong to require pro-life citizens to pay for abortions through their taxes. They argue that using the money that they pay in federal taxes to carry out abortions is a breach of their religious liberty and freedom of conscience.

Each year, Congress passes a measure known as the Hyde Amendment. This prevents federal funds allocated to the Department for Health and Human Services and Medicare (a national health insurance programme) being spent on abortions. Similar laws prevent federal tax income being spent on abortions by the Armed Services, federal prisons and the Peace Corps, or in the form of federal employees' health insurance coverage.

### **Federal funding of Planned Parenthood**

In 2019-20, Planned Parenthood received \$618.1 million in government funding, amounting to 38% of its total revenue. Most of this funding comes through federal initiatives such as Medicaid, which is designed to cover healthcare costs for low-income people.

No federal funds provided to Planned Parenthood are used to carry out abortions – the Hyde Amendment would make such spending unlawful. Instead, Medicaid funding is used on preventative treatments such as cancer screening, birth control or STI testing.

### **Arguments for defunding Planned Parenthood**

However, pro-life campaigners believe that using tax income to fund an organisation that carries out abortions is tantamount to federal funding of abortions, irrespective of the fact that their taxes are not directly spent on abortions.

They argue that federal money for other healthcare services allows Planned Parenthood to more easily fund its abortion provision. They say that federal funds are used to maintain facilities, cover administrative costs, pay staff and so on, which support all the services that Planned Parenthood offers, including abortions.

Planned Parenthood is also a political interest group, which campaigns on a range of political issues. These include campaigns to improve healthcare access for undocumented immigrants and support of the #DefundThePolice initiative. According to OpenSecrets, Planned Parenthood and its affiliates spent \$887,439 on government lobbying and

\$18,877,029 on campaigning during 2020. In 2020, 99% of its campaign spending beyond donations directly to candidates either supported Democratic or opposed Republican candidates. Again, federal money is not used to fund such political activities. However, it would seem fair for some Republicans to resent taxpayer subsidisation of an organisation that so actively opposes its party platform.

### **Allegations of malpractice**

There are also allegations that Planned Parenthood has overbilled the federal government for the services that it carries out through programmes such as Medicaid.

A report by the pro-life Charlotte Lozier Institute identifies a number of cases of alleged waste, abuse and potential fraud by Planned Parenthood affiliates. In 2013, Planned Parenthood paid \$4.3 million to settle a court suit claiming that it had fraudulently billed Medicaid for services by clinics in Texas.

Planned Parenthood deny all such allegations of misuse of federal funds.

### **Arguments against defunding Planned Parenthood**

Supporters of Planned Parenthood argue that restricting federal funding will result in a reduction in sexual and other health services available to the poor. The organisation operates around 40% of the sexual health clinics offering services to people with low incomes. Amongst healthcare services it provided in 2019-20 were 542,659 breast examination and pap tests, leading to 75,578 identifying the early signs of cancer. It also conducted 861,664 HIV tests and diagnosed 308,135 STIs.

Without easy access to birth control, this could cause a rise in unwanted pregnancies. Planned Parenthood estimate that their birth control and family planning services prevented 395,000 unwanted pregnancies in 2019-20. Without the interventions of Planned Parenthood, such pregnancies might have otherwise led to abortions. Ending federal funding of Planned Parenthood could therefore not only reduce the access that the poor have to sexual health services, but also potentially lead to a rise in abortions.

Furthermore, there is an argument that taxpayers should not be permitted to opt out of funding government initiatives for personal moral reasons. For example, pacifists cannot opt out of providing taxes for defence spending.

### **Conclusion**

Planned Parenthood is a valuable agent in the support of federal healthcare initiatives including the provision of health services to the economically disadvantaged. No federal money is used to support the carrying out of abortions, which would be an illegal use of funds. However, many resent the federal government funding other services of an organisation that provides more than half of the legal abortions carried out each year in the United States. Congress needs to balance the benefits of Planned Parenthood's services with the moral objections of a significant number of taxpayers.

## **S.J.Res.18 / H.J.Res.38: A bill to propose an amendment to the Constitution of the United States that limits the number of terms that a Member of Congress may serve**

### **Summary of the bill**

This joint resolution proposes a constitutional amendment to introduce term limits on those elected to Congress. It proposes members of the House of Representatives and the Senate be permitted to serve for a maximum of two terms.

### **Introduction**

A term limit is a restriction on the number of times that an elected official can be re-elected. There are currently no term limits for Members of Congress. However, the Twenty-Second Amendment to the Constitution restricts American Presidents to a maximum of two terms in office (that is, a total of eight years).

Former President Trump is amongst those who has called for term limits to be established for Members of Congress. He argues that this would help “drain the swamp” of corrupt and incompetent politicians with relationships that are too close with lobbyists and special interests.

### **Arguments in favour of imposing Congressional term limits**

Some believe that spending too much time living within the Washington DC “beltway” means that Members of Congress become out of touch with their constituents. Hertel-Fernandez et al. (2018) found in a survey of senior congressional staffers that their estimates of public support for various policies were significantly different from the reality. In none of five policy areas were staffers able to estimate constituent’s opinions with accuracy. For example, on the question of background checks for gun ownership, Republicans underestimated public support by 49 percentage points and Democrats underestimated by 11 percentage points.

There is the worry that Members of Congress who lose touch with feeling in their constituencies instead fall under the influence of other actors such as lobbyists or special interests. A 2015 Gallup poll found that most people thought their Members of Congress were “out of touch with average Americans” (79%), “focused on the needs of special interests” rather than the needs of their constituents (69%) and corrupt (52%).

Politics is currently viewed as a career, with Members of Congress serving long stretches in Washington DC. Some worry that this means that Members of Congress are too focused on re-election and raising money to pay for campaigning rather than passing laws to address national problems. Career politicians feel less urgency to implement policies, since there is no time limit on their exercise of power.

Term limits would also help reduce the incumbency rate in congressional elections. The incumbency rate is the percentage of elected officials who retain their seats after an election. In 2016, the incumbency rate was 97% in the House of Representatives and 93% in the Senate. A high incumbency rate is viewed as bad for democracy because it suggests that those already in power have an unfair advantage in elections. For example, incumbents tend to be able to raise far more money to pay for election campaigns than their opponents. In 2018, incumbent Senators raised on average \$15,576,236 to fight the mid-term election, but their challengers raised an average of £2,117,319. Term limits would permit congressional election races to be fairer and more evenly matched.

It is also the case that term limits are accepted by voters in other types of elections. American presidents are limited to two terms, 36 states have term limits for state governors

and 15 states impose term limits on state legislators. A 2013 Gallup poll found 75% of the public are in favour of establishing term limits for Members of Congress.

### **Arguments against term limits**

The principal problem with term limits is that they restrict democratic choice. A fundamental democratic principle is that the people should have free choice over who they want to represent them. Term limits would constrain that choice, forcing voters to choose between candidates who had not yet reached their term limits.

Term limits would also reduce the political experience of lawmakers, meaning that they may be less confident or able in carrying out their duties. Legislation has grown in complexity, requiring experience to draft and understand. The ability to understand such complex legislation will fall if Members of Congress can only serve for a limited period.

Term limits could increase corruption. Special interests would grow in power because they would hold more years of political experience than the congressmen they are lobbying. Carey et al. (2011) concluded that use of term limits in state legislatures increased reliance on special interests and the power of the executive. Washington DC would probably have more lobbyists because Members of Congress who have reached their term limits would find lobbying an attractive career choice. Again, this could encourage corrupt practices.

### **Conclusion**

Term limits have long been viewed as a solution to mending public trust in Congress, ending the dominance of those naturalised to Washington DC's beltway politics and out of touch with the opinions of the "folks back home". However, it would take a selfless and statesmanlike member of Congress willing to vote themselves out of a relatively secure and long-term job by introducing term limits.



## **S.404 / H.R.1342: A bill to prohibit use of the pursuit intervention technique (PIT) manoeuvre and similar pursuit tactics by law enforcement agencies**

### **Summary of the bill**

The bill prohibits use of the Pursuit Intervention Technique (or PIT manoeuvre) by federal law enforcement agencies. It also withholds certain federal crime reduction grants for states that do not ban the manoeuvre within their jurisdictions. An amendment has been submitted that would fall short of prohibition, but instead impose limitations on the tactic's use.

### **Introduction**

The Pursuit Intervention Technique (or PIT manoeuvre) is a tactic used by law enforcement officers to end vehicle pursuits. High speed vehicle pursuits are often required to apprehend felons and serious traffic violators who pose a threat to public safety. Such pursuits are dangerous for officers, suspects and bystanders, and the police require tactics to bring a chase to an end where there is potential risk to life.

However, use of the PIT manoeuvre is not without its own dangers. An investigation by the Washington Post in 2020 found that thirty people have died in PIT manoeuvres since 2016. At a time when there is increased scrutiny of police tactics that lead to injury or death, some have called for a nationwide ban on the use of the PIT manoeuvre.

### **The PIT manoeuvre**

The PIT manoeuvre was developed in the United States in the 1970s and has since been adopted by a number of foreign law enforcement agencies. It aims to force a suspect vehicle to rotate sideways abruptly, causing the driver to lose control and stop. To carry out the manoeuvre, an officer matches the speed of the fleeing vehicle and then manoeuvres the pursuit vehicle so that it contacts its rear end. If completed successfully, the pursuit vehicle will then continue forward while the suspect vehicle is brought to a stop.

It is not known what proportion of state and local law enforcement agencies permit PIT manoeuvres by their officers. A 2020 Washington Post survey of 142 of the largest city and state law enforcement agencies found 74 (52%) did not use the tactic.

There is no national requirement to record use of the PIT manoeuvre or related injuries or fatalities. Publicly available data in some jurisdictions provides some insights. For example, records of the Georgia State Police show that the tactic was used 1,500 times between 1997 and 2020, with 34 related deaths. There is evidence that use of the tactic is increasing in some jurisdictions. An investigation by Arkansas-based Fox affiliate KLRT-TV found that Arkansas State Police have attempted the technique 306 times between 2017 and 2020, with half of those incidents taking place in 2020.

### **Risk of injury and death**

According to an investigation by the Washington Post, at least thirty people died in PIT manoeuvres between 2016 and 2020. Hundreds have been injured including law enforcement officers. In September 2021, a 12-year-old child was killed following a PIT manoeuvre carried out by a Georgia State Patrol trooper. In 2017, two teenagers were killed after the tactic was employed by the North Carolina State Highway Patrol.

The Washington Post's research found that eighteen out of thirty PIT-related deaths occurred after vehicles failed to stop for minor traffic violations such as speeding. In two cases, drivers were suspected of serious felonies and in two cases the drivers were reported as suicidal. Ten victims were passengers and four were bystanders or victims of a crime

being carried in the vehicle. People of colour accounted for nearly half of all fatalities: one Native American, four Hispanic and nine Black.

### **Restrictions on the use of PIT**

A number of local and state jurisdictions have established procedures prohibiting use of the PIT manoeuvre or regulating its use. For example, the Los Angeles County Sheriff's Department require the following conditions to be met before use of the tactic:

- The risk of harm to deputies or the public outweighs the potential risk of implementing the PIT;
- Other reasonable means of apprehension (tire deflation devices, etc.) are not practical or have proven ineffective;
- A third unit has joined the pursuit and is in position to support the primary and secondary units;
- The speed of both the primary (radio car) and suspect vehicle is 35 miles per hour (mph) or less; and
- The primary unit's watch commander has given approval.

On receiving authorisation, the deputy carrying out the PIT should assess the location of the manoeuvre to decrease the risks including avoiding areas with congested traffic, pedestrians and road hazards such as blind curves. The sheriff's department prohibits use of the PIT manoeuvre on vehicles where the suspect is known to be armed, vehicles transporting hazardous materials, and heavy vehicles such as buses. The department considers use of a PIT manoeuvre against a motorcycle an act of deadly force and only permissible when such an act is justified under policies related to the use of deadly force. Use of the PIT manoeuvre by the department since 2005 has not resulted in death or serious injury.

Not all jurisdictions publish their regulations for the use of the PIT tactic, so it is difficult to assess how widespread such policies are. It seems that other jurisdictions do permit use of the PIT manoeuvre above 35 miles per hour, with Arkansas State Police using the tactic at 109 miles per hour in April 2020 after a suspect vehicle ran a red light and refused to stop. The resulting stop led to the death of a 34-year-old man and the injury of a law enforcement officer.

### **Alternative tactics**

A number of alternative tactics are available for ending pursuits. These include:

- Boxing involves surrounding a suspect vehicle with law enforcement vehicles and then slowing all the vehicles to a controlled stop.
- Road blocks involve placing law enforcement vehicles or barriers across a road ahead of a vehicle in order to force a stop.
- Spikes, tack strips or stingers are devices that spread across a roadway to puncture the tires of a suspect vehicle.

However, none of these tactics are without risk and require deployment with training and effective regulation. For example, an investigation by the New York Times found that thirty people had been killed through the use of spike strips between 1996 and 2015. Many of those killed were law enforcement officers struck by vehicles while deploying the strip.

### **Conclusion**

Law enforcement officers need effective means of ending vehicle pursuits that would otherwise pose imminent threat to public safety. No pursuit tactic is without risk. However, lawmakers may conclude that the risks to life involved in use of the PIT manoeuvre are too costly.

## **S.1521 / H.R.3221: A bill to prohibit use of kinetic impact projectiles by law enforcement agencies, and for other purposes.**

### **Summary of the bill**

This bill prohibits the use of kinetic impact projectiles by federal law enforcement officers. It restricts federal funding for state and local law enforcement agencies that do not also prohibit the use of kinetic projectiles.

### **Introduction**

In recent years, non-lethal crowd-control weapons have been increasingly used by law enforcement against violent offenders particularly during unlawful and violent assemblies. Kinetic impact projectiles are one type, and include rubber, plastic, PVC, hard foam and pepper-spray projectiles.

Law enforcement agencies use kinetic projectiles to control unlawful and violent assemblies. They permit law enforcement officers to deter or eliminate threats at a distance without unnecessary harm to themselves or bystanders while also limiting the likelihood of serious injury to offenders. According to the Major Cities Chiefs Association, a professional body representing senior police officers, "Less lethal munitions are explicitly used to prevent chaotic situations from becoming a threat to public safety and ultimately save lives".

However, the Major Cities Chiefs Association itself acknowledges that "Kinetic projectiles, if misused, are more likely than other types of less lethal munitions to cause serious injury". Use of kinetic projectiles have resulted in a number of serious injuries and fatalities, particularly when deployed incorrectly or at close range. Their deployment against a wave of political protests during the Summer of 2020 has caused some to call for their regulation or prohibition. Some argue that kinetic projectiles are often used in non-violent circumstances and contravene rights to freedom of speech, expression and peaceful assembly protected by the First Amendment to the Constitution.

### **History of Kinetic Impact Projectiles**

Early forms of kinetic projectiles used in the 1880s were sawed-off pieces of wooden broom handles shot at rioters in Singapore. British security forces used wooden bullets in Hong Kong, Malaysia and Singapore in the 1960s. Wooden and PVC bullets were then developed for use in Northern Ireland. The US started using rubber and plastic bullets during protests against the Vietnam War but banned their use after a death in 1971. They were reintroduced in the 1980s. Dozens of companies across the world now develop more than seventy-five different types of bullets and launchers.

### **The First Amendment and policing of unlawful and violent assemblies**

Law enforcement agencies are responsible for protecting lives and property. During political protests, they have a duty to maintain public order and prevent criminal activity, while also facilitating those wishing to peacefully exercise rights protected by the First Amendment to the Constitution.

Some interest groups argue that the use of kinetic projectiles contravenes the First Amendment by restricting the free exercise of the rights to assembly and political expression. However, First Amendment rights are not absolute and cannot be exercised without restraint. The Supreme Court found in *Cantwell v. Connecticut* (1940) that the "First Amendment does not provide the right to conduct an assembly at which there is a clear and

present danger of riot, disorder, interference with traffic on public streets, or other immediate threat to public safety, peace, or order”.

On occasion, police must control or manage crowds to reduce potential threat to life, counter criminal activity and end violence. According to the Major Cities Chiefs Association, there were 524 violent assemblies during the Summer of 2020, which included assaults on law enforcement officers, looting and arson. Such assemblies can pose a significant risk to the safety of officers, protestors and bystanders. Research by the Major Cities Chiefs Association of protests between May and July 2020 found 78% of law enforcement agencies experienced rocks and bricks being thrown at officers, 46% experienced incendiary devices including Molotov Cocktails and 51% experienced protestors armed with firearms. Five law enforcement agencies reported protestors discharging firearms against officers during that summer period. The same study found 72% of law enforcement agencies had officers injured in the line of duty during Summer 2020 protests. One city police department reported 462 officers injured, while another reported looting to one shopping mall resulting in damage costing \$70 million.

In this context, kinetic projectiles are sometimes deployed during violent assemblies where there is imminent danger to public safety. According to the Major Cities Chiefs Association “In these situations, the assembly has devolved into violence, looting, and other serious criminal activity, and is no longer a First Amendment activity”.

### **Regulations on the use of Kinetic Impact Projectiles**

Kinetic projectiles are designed to limit blunt force trauma and to reduce the risk of more serious injury to the offender, bystanders and law enforcement officers. Kinetic projectiles may have larger surface areas or have a hollow tube running through to limit risk of penetration and some may be light weight so that they lose speed in flight. While these safety measures are not fool proof and serious injuries can still occur, some kinetic projectiles are able to deliver a less-lethal alternative to live ammunition.

According to the Major Cities Chiefs Association, kinetic projectiles are tools that “should only be used as a last resort by police officers to prevent injury or significant property damage... Oftentimes, the behaviour that requires law enforcement to use less lethal munitions meets the legal definition of a riot in that jurisdiction”. It recommends that its members restrict the use of kinetic projectiles to targeting specific actors engaged in criminal activity that threatens safety. It is suggested that policies prohibit targeting of the head and the indiscriminate firing of kinetic projectiles into crowds. The Major Cities Chiefs Association’s recommendations also include proper training in kinetic projectile use and frequent retesting of qualified officers.

Many federal and state law enforcement agencies have rules about when kinetic projectiles may be used. The Los Angeles Police Department (LAPD), for example, states that kinetic projectiles must not be used unless “an officer reasonably believes that a suspect or subject is violently resisting arrest or poses an immediate threat of violence or physical harm”. The head, neck and torso are not to be targeted unless the use of lethal force has been authorised. kinetic projectiles are not to be used on those passively resisting or failing to comply.

The United Nations Office of the High Commissioner for Human Rights has also published guidelines for the proper use of CCWs. They state that any force should be used purely out of necessity when all peaceful options have been exhausted. They also state that the use of force must be proportionate to the seriousness of the threat, and that officers must take precautions to prevent loss of life and minimise injury when using force.

## **Injuries caused by kinetic projectiles**

A report compiled by the interest groups the International Network of Civil Liberties Organizations (INCLO) and the Physicians for Human Rights details the detrimental health effects that kinetic projectiles can have. Law enforcement worldwide is increasingly using CCWs in response to popular protests. Without adequate training, regulation, monitoring and accountability, they argue that there is an unacceptable level of injury, disability and death arising from kinetic projectile use. Using existing medical literature, the study identified 1,925 people with injuries from kinetic projectiles, 53 of whom died from their injuries. A further 294 suffered permanent disabilities. Seventy percent of documented injuries were considered severe.

There is some evidence that kinetic projectiles are more dangerous when fired at close range and that some kinetic projectiles have the same ability to penetrate the skin as live ammunition. When fired at a distance, these weapons can be inaccurate and cause injuries to vulnerable body parts and bystanders.

Around 49% of deaths and 84% of permanent disabilities resulted from blows to the head or neck, and injuries to the torso and abdomen also put people at risk of severe injury. A protest situation can sometimes restrict timely access to medical care, contributing to the severity of injuries.

The UN Guidance on Less Lethal Weapons in Law Enforcements recognises that the risks of kinetic projectiles include skull fracture and brain injury, permanent blindness, and death. It also notes that kinetic projectiles fired from an elevated position increased the risk of head injury and that targeting the torso can cause penetration at close range and damage to vital organs.

Kinetic projectiles caused a number of serious injuries during protests over the Summer of 2020. For example, in Los Angeles, Physicians for Human Rights (PHR) have identified at least twelve people who were struck on the head by kinetic projectiles during protests on the afternoon of 30 May. During such an incident, several people at the intersection of Beverly Boulevard and North Stanley Avenue were fired on with kinetic projectiles from above. Armed police standing on Etz Jacob Synagogue allegedly shot one man, C.J. Montano, from the roof while he had his hands up after capturing them on video. He suffered a blow to the head from a rubber bullet. This caused a traumatic brain injury, breaking the skin, leaving part of his skull exposed, and causing a brain bleed that resulted in him having to take anti-seizure medication. According to PHR, no evidence has been presented that any of the protesters shot in the head on 30 May were behaving in a manner that warranted lethal force, and as such the police force were in contravention of their own regulations on the use of kinetic projectiles.

## **Conclusion**

Organisations such as the International Network of Civil Liberties Organisations and Physicians for Human Rights call for kinetic projectiles to be banned, arguing that their inappropriate and disproportionate deployment has led to serious injuries and fatalities. They contend that the use of kinetic projectiles unduly restricts First Amendment rights to freedom of expression and political assembly.

However, law enforcement agencies require the necessary tools to control violent assemblies to prevent criminal activity and protect public safety. Kinetic projectiles are often deployed in situations where the risk to safety is acute, with protestors using a range of weapons including incendiary devices and firearms against police officers. Senior police

leaders argue that such violent situations are no longer forms of political expression. They contend that, when used according to best practice, kinetic projectiles form part of a range of responses to unlawful and violent assembly, and are deployed by trained officers who work under clear guidelines that limit potential risk to the public. #

## **S.1617 / H.R.3922: A bill to secure the right to vote of persons who have been incarcerated**

### **Summary of the bill**

This bill establishes that citizens shall not be denied the right to vote if they have been convicted of a criminal offence. The right exists for both those who have served and who are serving prison sentences.

The bill restricts federal funding of prisons in states where there are restrictions on the right to vote of those who have been convicted.

### **Introduction**

According to the Sentencing Project campaign group, approximately 5.2 million people or 2.3% of the total US voting age population cannot vote due to current or previous convictions.

Some believe that by committing a crime, individuals demonstrate their disrespect for the rule of law, democratic values and their civic responsibilities. Removing the franchise is part of their punishment for breaking the social contract with society.

However, others believe that the franchise is an absolute right that should never be removed. Learning to engage again with society through processes such as voting is an important part of rehabilitation and a sign of societal forgiveness.

### **The extent of disenfranchisement**

There are no Federal laws limiting the right to vote for those with criminal convictions. Any restrictions exist in state-level laws. In five states (Alabama, Mississippi and Tennessee) more than 8% of the adult population is disenfranchised due to criminal convictions.

The strictness of laws affecting the franchise of convicted criminals varies between states. As of 2020, in eleven states it is possible for felons to lose their voting rights indefinitely if they have committed certain crimes or have failed to pay fines. Some of these states permit voting rights to be restored by a judge or the state governor. Only Maine, Vermont and the District of Columbia have no voting restrictions on criminals, either in prison or after release.

### **Arguments against disenfranchising those with criminal convictions**

Some consider suffrage to be an absolute human right: the universal distribution of the franchise emphasizes each citizen's democratic equality, and defines us as members of adult society. It is a right provided by Article 21 of the Universal Declaration of Human Rights (1948) and expressed in the values of the United States Constitution. A YouGov poll in 2019 found that 71% of people believe that the right to vote is inherent to American democracy.

However, the Supreme Court ruled in *Richardson v. Ramirez* (1974) that states are permitted to deny the franchise to those with criminal convictions. Although the Eighth Amendment to the Constitution states that "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted", the Fourteenth Amendment permits denial of voting rights "for participation in rebellion, or other crime".

Providing incarcerated persons with the vote may encourage better policy. Politicians have to engage with prisoners as voters. This could help politicians to make better criminal justice policy and better understand social problems that lead to crime.

Furthermore, the right to vote can encourage rehabilitation by maintaining prisoners' link to society. It makes prisoners feel like they still have a stake in society and supports preparation for life after prison. Most prisoners come from communities where life opportunities are restricted, with high income and health inequalities, and where political participation is traditionally low. Disenfranchisement adds to their marginalisation and failure by society, possibly contributing to reoffending.

Finally, laws affecting the voting rights of those with criminal convictions disproportionately hit African American, Latinx and male voters. In two states, Kentucky and Tennessee, more than one in five African American voters are disenfranchised due to felony-level convictions. In Arizona and Tennessee, an estimated seven percent of Latinx voters are similarly disenfranchised.

The American seems to be in favour of felons having the vote reinstated once they have left prison. A YouGov poll in 2019 found that 65% believed that non-violent felons should be allowed to vote after completing their sentences compared to 18% who believed that they should not. However, in the case of violent offenders, 65% believe that "terrible people" who commit the gravest crimes should be denied the franchise while in prison.

### **Arguments for disenfranchising those with criminal convictions**

By voluntarily breaking the law, it could be argued that prisoners have broken the unwritten contract that each citizen holds with society: to obey and respect commonly agreed upon rules in return for enjoying the rights provided by society. By undermining the rights of others, it follows that they should be stripped of their civic rights, such as voting and their say in who makes the law. It could be argued that the length of sentence or type of crime committed is irrelevant to the fact that criminals have taken a decision to break the law.

Removing the franchise could be a deterrent to criminal activity and part of the punishment. Giving criminals the right to vote and a say in the laws that they do not respect undermines the rule of law and the principles of justice. It is unfair on victims of crime, who have to live with the consequences of criminal activity, to permit criminals to influence public policy.

Furthermore, if prisoners are allowed to register in the constituency of the prison, then the demographics of that constituency will be altered. In most cases, it will significantly increase the population of young men with low educational attainment, who disproportionately make up prison populations. For example, until 2007, 96% of the adult population in the election ward of Anamosa in Iowa were incarcerated in the prison there and therefore unable to vote. If prisoners instead register in the constituencies of their former homes, there is the possibility of them changing the result in a seat where they do not live.

However, experience in other Western democracies that allow prisoners to vote is that very few actually register and then vote. For example, a 2016 campaign by the League of Women Voters to register inmates in Massachusetts resulted in only 300 inmates registering out of a population of about 1,600. That is not enough in most constituencies to significantly change demographics or the result. It would also follow that losing suffrage is not a deterrent if prisoners tend to choose not to use the right in jurisdictions where they are permitted to vote.

### **Conclusion**

The universal and equal right to vote is a foundation principle of liberal democracy. This bill attempts to ensure that the franchise can be exercised by all – even those who have committed crimes contrary to the laws established by democratic institutions. However, many believe that those who commit crime violate the unwritten contract with society and



should therefore be denied certain political rights alongside the loss of freedom that accompanies their incarceration.

## **S.2100: A bill to prohibit members of the Armed Services from having tattoos and body markings that include Confederate symbols**

### **Summary of the bill**

This bill prohibits the recruitment of individuals into the armed services who have tattoos or body markings that include Confederate symbols. The prohibition does not apply to those who have had the tattoo removed or obscured.

### **Introduction**

The wearing of tattoos has become increasingly fashionable in the United States. An Ipsos poll in 2019 found 30% of Americans have at least one tattoo. Tattoos are more prevalent amongst younger people, with 40% of 18 to 34-year-olds having at least one tattoo. Tattoos are often chosen to represent important aspects of personal identity, with tattoos containing imagery related to political causes increasing in popularity.

Recent concerns about extremist activity in the armed services have led to calls for a ban on recruitment of individuals who have tattoos that include Confederate symbols. Many associate Confederate iconography with racism, white supremacy and injustice against African Americans. However, some believe that Confederate symbols represent pride for southern culture and heritage, rather than advocating an extremist ideology. It could also be argued that tattoos are a form of expression that should be protected as free speech by the Constitution.

### **History of military tattoos**

Members of the armed services have a long tradition of wearing tattoos. Many Native American tribes practised tattooing, with warriors wearing body art to symbolise success in hunting or battle. Tattoos became fashionable amongst sailors in the 1700s following exposure to Polynesian cultures on long sea voyages. Indeed, the word tattoo is derived from the Samoan word tatau, which refers to the tapping of the tattooist's needle. According to the U.S. Naval History and Heritage Command, by the end of the 18<sup>th</sup> century, 20% of American sailors had a tattoo. Markings representing battle victories or atrocities committed by enemies became popular during the Civil War. After the war, the country's first tattoo shop was opened in New York in 1846. By the start of the twentieth century, around 90% of U.S. Navy sailors had tattoos. Although the social acceptability of tattoos steadily declined in the twentieth century, they remained popular amongst servicemembers. Attempts to regulate the acceptable tattoos began during the First World War, with naval recruits sometimes required to tattoo over imagery considered "immoral" such as undressed female figures.

Today, tattoos remain common amongst members of the armed services and veterans. To some extent the fashion is explained by the fact that military recruits are commonly young, male and not educated above High School level: all groups with above average incidence of tattoo wearing. Tattoos are often worn to create esprit de corps and bonds between members of the same military unit. Other members of the military wear tattoos as a means of self-expression in a profession otherwise promoting uniformity in appearance.

### **What was the Confederacy?**

The American Civil War was fought between two groups of states – the Confederacy and the Union. It was the bloodiest conflict in the history of the United States. The war claimed the lives of more than 620,000 soldiers – around 1 in 15 adult men and many more than the 410,000 American combatant deaths during the Second World War.

The war began in 1861 when a group of southern states decided to secede (separate from) the United States to form their own independent country known as the Confederate States of America (known as the Confederacy). This action was opposed by the northern states (known as the Union).

The causes of the war are complex, but it was triggered by the election as President of Abraham Lincoln, who wanted to prohibit slavery. Most northern states had banned the owning of slaves, but the economies of southern states remained dependent on slavery. To many, the war was about “state rights” – the right of states to determine their own policies on issues not explicitly covered by the Constitution.

Eleven states ultimately formed the Confederacy in 1861 (South Carolina, Mississippi, Florida, Alabama, Georgia, Louisiana, Texas, Arkansas, Tennessee, Virginia and North Carolina). The Confederacy developed all the features of an independent country including a constitution, currency, postal system, legal system - and a battle flag.

### **Confederate symbols and racism**

Many associate the Confederate battle flag and similar symbols with racism, white supremacy and injustice against African Americans. A number of white supremacist and extremist organisations have adopted the Confederate flag. After the murder of nine worshipers at an African American church in Charleston, SC in 2015, photographs were discovered of the shooter with Confederate flags. Protestors flew the Confederate flag alongside the Nazi swastika in Charleston in 2017 where a white supremacist deliberately drove a car into a crowd, killing one and injuring nineteen. The Confederate flag was also flown alongside a number of other flags by protestors during the storming of the Capitol building in Washington, DC in 2020. The Confederate flag has also been flown at meetings of the Ku Klux Klan (the KKK), a white supremacist hate group. The death of George Floyd in 2020 and Black Lives Matter movement caused a new wave of reflection on the appropriateness of displaying Confederate symbols.

A number of organisations have ended their display of Confederate flags as a result of its association with racism. South Carolina ended flying the confederate flag from its state capitol building shortly after the Charleston shootings. In 2020, the display of Confederate symbols was banned at Nascar racing events and, in 2021, the State of Mississippi replaced its state flag, which had included the Confederate flag in its top left corner.

### **Other interpretations of the Confederate flag**

According to a 2021 Quinnipiac poll, 56% of Americans associate the Confederate flag with racism. However, a significant minority (35%) instead believe that the flag represents Southern pride.

To some, Confederate symbols represent a rebellious spirit, opposition to government tyranny and pride in the distinct culture of southern states. According to the Anti-Defamation League, the Confederate flag is “still used by non-extremists, especially in the South, as a symbol of Southern heritage or history”.

There is a belief that the Confederate cause was more complex than slave ownership: a view that includes the “Lost Cause” view of southern aims during the war. This theory suggests that the war was primarily fought to preserve the Southern way of life and to protect “states’ rights”: the right of states to decide certain issues themselves free from Federal government interference. This interpretation of history portrays the Confederacy as the victim of a tyrannical Northern government seeking to subjugate the South. The Federal

government is viewed as denying the self-determination of the people of the South to form their own country. The “Lost Cause” remains a popular view in the South.

### **Tattoos as a form of political expression**

It could be argued that display of the Confederate flag, including in body art, is a form of free expression protected by the Constitution. In response to Nascar’s ban on Confederate symbols, President Trump argued that their display is a form of free speech.

Non-military employers have been challenged in court a number of times for policies limiting the public display of tattoos. However, in most cases courts have determined that the tattoos concerned have been considered forms of self-expression rather than forms of free speech designed to communicate a political opinion protected by the Constitution.

### **Extremism and the military**

The Department of Defense considers itself a leader in promoting diversity and inclusion. Servicemembers are prohibited from actively advocating or belonging to organisations that promote supremacist, extremist or criminal causes. Commanders are expected to detect and investigate incidents of extremist activity, and take action against perpetrators.

However, there is evidence that extremist groups are deliberately recruiting those with military backgrounds, and that a small minority of servicemembers are attracted to extremist ideologies. A report by the Center for Strategic and International Studies found that 6.4% of domestic terrorist incidents in 2020 were linked to active duty and reserve personnel. For example, Lieutenant Christopher Hasson, a Coastguard officer working in Washington DC, was arrested for planning to carry out a white supremacist attack on high profile politicians. In 2021, former soldier Daniel Baker was arrested for planning attacks on those with right wing ideologies and military officers. A number of active and former servicemembers were involved in the storming of the Capitol building in January 2021. Of 357 individuals who faced federal charges for their role in the incident, 43 had some form of military experience. A survey by the Military Times found 36% of its serving readers had recently witnessed examples of white nationalism or racism.

In response to concerns, Defense Secretary Lloyd Austin directed all commanders to hold a “stand-down” training day on combatting extremism. In January 2021, the department launched an investigation into the implementation of policies designed to counter extremist activity by servicemembers.

### **Existing military regulations on tattoos**

Each armed service has a separate policy prohibiting offensive tattoos. The U.S. Navy’s uniform regulations prohibit tattoos that are “obscene, sexually explicit, and or advocate discrimination based on sex, race, religion, ethnic, sexual orientation or national origin”. The Air Force and Space Force bans body markings that are “obscene, commonly associated with gangs, extremist, and/or supremacist organizations, or that advocate sexual, racial, ethnic, or religious discrimination”.

No armed service has a policy explicitly prohibiting tattoos containing Confederate imagery. However, current regulations have been interpreted to preclude those with Confederate tattoos from joining. In 2016, an Arkansas man gained national attention after he was denied enlistment to the Marine Corps due to tattoo of a Confederate flag.

The physical display of the Confederate flag is prohibited on all Department of Defence installations.

## **Conclusion**

The public display of Confederate symbols is increasingly associated with racism and extremism. Some members of Congress believe that people with tattoos containing such symbols have no place in the American armed services. An explicit mention of Confederate symbols in recruit policies regarding tattoos could communicate a clear message to extremists seeking to join the military. However, it is debateable whether an explicit ban on Confederate tattoos would be a significant change to current procedures that review potentially offensive tattoos at the recruitment stage. Furthermore, it seems likely that a number of those who exhibit Confederate symbols in body art are expressing southern cultural heritage rather than extremist views. Congress must also consider whether tattoos communicating other extremist political messages should also be explicitly banned or whether such body art – even if offensive – should be protected as a form of free speech.

**S.2436 / H.R.3377: A bill to amend Section 287(g) of the Immigration and Nationality Act to discontinue authorisation for State and local law enforcement officers to investigate, apprehend and detain aliens, and for other purposes**

**Summary of the bill**

This bill ends the 287(g) Program. The programme permits state and local law enforcement agencies to cooperate with Immigration and Customs Enforcement (known as ICE) in the enforcement of federal immigration laws.

A number of amendments propose reforms to the programme rather than its discontinuation.

**Introduction**

The situation on the United States' southwest border with Mexico has been identified by many as a severe security and humanitarian crisis. In July 2021, unauthorized migrants attempting to cross the border reached its highest monthly level ever, with 213,593 people detained by US Border & Customs Protection (US BCP). In 2021, there were 1,734,686 undocumented immigrants encountered by BCP compared to 458,088 in 2020.

The 287(g) Program permits federal, state and local law enforcement officers to cooperate in the enforcement of federal immigration laws. Expanding the scope and size of the programme was a significant element of the Trump administration's "zero tolerance" approach to illegal immigration. It derives its name from Section 287(g) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which increased penalties for undocumented immigrants involved in criminal activity.

Those who support the programme contend that it increases the efficiency of federal immigration enforcement and enhances public safety by extraditing undocumented immigrants who have committed serious crimes. Critics argue that it encourages racial profiling, deports mainly those with minor criminal history, and undermines relationships between police and local communities.

A number of public campaigns have resulted in state or local law enforcement departments withdrawing from the programme. During the 2020 presidential election campaign, President Biden made a commitment to limit the programme.

**Background to the 287(g) programme**

The 287(g) Program allows state and local law enforcement officers to perform certain duties of federal immigration officers. When a suspect is detained for offences within state or local jurisdiction, 287(g) authorises local law enforcement officers to conduct an interview to assess immigration status, check information on federal databases, make recommendations for detention and transfer suspects into the custody of Immigration and Customs Enforcement (known as ICE) amongst other powers. The 287(g) procedures only apply to suspects already detained by local officers for nonimmigration offences. Each law enforcement department may choose to process all arrests through the 287(g) system or only those detained for serious crimes.

State or local law enforcement officers are effectively temporarily deputized as federal officers. Officers must pass an ICE background check and complete a four-week training programme at the ICE Training Academy in Charleston, South Carolina before carrying out the 287(g) role. They must abide by federal civil rights law and regulations, and are supervised by ICE agents.

State or local law enforcement agencies are not obliged to participate in the 287(g) programme. The decision to take part is often made by elected sheriffs or officials. A formal agreement (known as a Memoranda of Agreement or MOA) with the Department of Homeland Security is required for participation. Some MOAs contain a renewal date, but many agreements established during the Trump administration included no expiration date.

As of September 2021, the DHS had 144 signed MOAs with state and local partners.

### **Benefits of the 287(g) programme**

ICE describes the 287(g) programme as a “force multiplier in the identification, arrest, and service of warrants and detainers of incarcerated foreign-born individuals with criminal charges or convictions”. By mobilising local law enforcement in partnership with federal officers, the programme increases the efficient deployment of ICE resources to combat illegal immigration. At a time of significantly increasing undocumented immigration and rising caseloads, it is a degree of support that ICE requires. A 2017 report by the Department for Homeland Security’s inspector general found a number of ICE enforcement officers operating with overwhelming workloads.

Programme supporters argue that public safety is increased by removing criminals from communities in the United States after their sentences are served. In the 2020 fiscal year, the 287(g) programme helped identify 1,261 noncitizens convicted for dangerous drugs, 104 convicted for sexual offences or assaults, 377 convicted for obstructing police, 190 convicted for weapon offenses, and 37 convicted for homicide. Other serious offences encountered in 2020 through 287(g) encounters included aggravated domestic assault, assault on a police officer, sex trafficking, drug trafficking, child pornography, rape, sexual assault on a minor, and terroristic threats and acts.

According to ICE, it is more secure and controlled to identify and detain criminal noncitizens in local law enforcement facilities than in other settings. Conducting arrests while criminal noncitizens are at-large can pose additional risks for officers and the community, and may result in “collateral arrests”. Collateral arrests occur when ICE agents conducting an operation against a targeted immigrant, normally because they are a threat to public safety, arrest others that happen to be living or working at the scene.

ICE claims that the 287(g) Program “continues to receive overwhelmingly positive feedback from its partners”.

### **Racial profiling**

Some consider that 287(g) agreements increase the likelihood of racial profiling resulting in Latino communities being disproportionately targeted by law enforcement operations. Investigations by the Department of Justice have identified some sheriff offices engaged in racial profiling and constitutional violations while operating under 287(g) agreements. In 2011, the Department of Justice found that Sheriff Joe Arpaio and deputies in Maricopa County, Arizona were regularly conducting “sweeps” of Latino communities. An investigation of Alamance County Sheriff’s Office in North Carolina in 2012 found that sheriff deputies established checkpoints at roads leading to Latino neighbourhoods. These investigations found that Latino drivers were nine times more likely to be stopped in Maricopa County and ten times more likely to be stopped in Alamance compared to other drivers. Stops of Latino drivers in Alamance County were also more likely to result in arrest rather than a less serious citation.

According to ICE, “Racial profiling is simply not something that will be tolerated, and any indication of racial profiling will be treated with the utmost scrutiny and fully investigated”. Multicultural communication and the avoidance of racial profiling forms part of ICE training conducted for officers conducting 287(g) duties. This is often supplemented by related training programmes provided by officers’ own departments.

ICE says that it reacts quickly to any proved cases of racial profiling, rescinding the officer or agency’s 287(g) authority. Both the Maricopa and Alamance sheriffs’ offices involvement in 287(g) was terminated following investigations. Sheriff Joe Arpaio of Maricopa was subsequently convicted for contempt of court for failing to end racial profiling practices, but was later pardoned by President Trump.

Not all 287(g) participants collect data on the racial identity of persons they encounter, so it is difficult to quantify the extent of alleged racial profiling. However, as the Migration Policy Institute argues, “the perception of racial profiling – even when it cannot be documented – has been linked to declining support for law enforcement authorities”.

### **Minor criminal offences**

Critics of 287(g) claim that the programme mainly targets those detained for misdemeanours and traffic offences, rather than those who have committed serious crimes and pose the greatest threat to public safety. A 2010 study by the Migration Policy Institute found that around half of 287(g) encounters were for people who had committed misdemeanours or traffic offences. In jurisdictions where procedures require all detainees to be 287(g) processed, 80% of encounters were related to misdemeanours or traffic offences. In 2011, a study by the University of North Carolina at Chapel Hill found that 86.7% of 287(g) encounters in North Carolina were linked to misdemeanours and only 13.3% were felony-related. Many 287(g) are for traffic offences, such as driving without a license, which is difficult to avoid since most states prohibit undocumented aliens from applying for state driving licenses. This can create disproportionate fear amongst immigrant communities of having chance encounters with police that lead to their deportation linked to relatively minor offences.

### **Impact on community relations**

There is evidence that the involvement in 287(g) undermines relationships and cooperation between the Latino community and law enforcement. The Major Cities Chiefs Association found that “without assurances that contact with the police would not result in purely civil immigration enforcement action, the hard-won trust, communication and cooperation from the immigrant community would disappear”. A study in 2020 led by Tom Wong of the University of San Diego found that members of the Latino community in areas where local police support ICE immigration enforcement were less likely to trust that law enforcement officers will keep their families safe, or protect undocumented immigrants from abuse or discrimination. Respondents were also less likely to believe police would protect the confidentiality of witnesses to crime, or report a crime whether as a victim or witness. A 2009 study by the University of North Carolina School of Law and the American Civil Liberties Union of North Carolina suggested that “287(g) encourages, or at the very least tolerates, racial profiling and baseless stereotyping, resulting in the harassment of local residents and the isolation of an increasingly marginalized community.”

### **Direction and supervision**

A number of observers have identified deficiencies in the direction, supervision and oversight provided by ICE to 287(g) partners. The Department for Homeland Security’s inspector



general found in 2010 that some law enforcement agencies were not operating within the terms of their MOAs, and that ICE had failed to create controls to ensure effective operation of the programme. It also recommended more thorough reporting requirements to prevent racial profiling and civil rights violations.

Despite some reforms since, a Government and Accountability Office report in 2021 found that, in its newest programme model, ICE did “not have goals or measures to assess program performance or have an oversight mechanism for the partner agencies”. For example, ICE does not process data on the percentage of officers who are compliant with the programme’s training requirements. The GAO recommended establishing performance goals and measures; assessing programme structure and benefits to guide future expansion; and establishing processes to monitor compliance with MOAs.

## **Conclusion**

The 287(g) programme attracts legislative interest from its supporters, who want to expand the programme, and critics, who want it abolished. S.2436 / H.R.3377 seeks to discontinue the programme, but a number of amendments propose reforms.

## **S.2587 / H.R.3281: A bill to amend title 10, United States Code, to prohibit the charging of fees for the adoption of former military working dogs, and for other purposes**

### **Summary of the bill**

This bill addresses the care needs of military working dogs after retirement.

It prohibits the charging of fees for the adoption of retired military dogs.

It also authorises the Department of Defense to accept charitable donations to provide for the long-term care of retired dogs that have been adopted.

### **Introduction**

Military working dogs provide a valuable service to the United States armed forces. Around 1,600 military working dogs currently serve in roles including detection of IEDs, explosives and narcotics; tracking; search and rescue; and patrolling and guarding installations. Over one-hundred working dogs died on operations in Afghanistan and Iraq, with many more injured physically or psychologically on active service.

Dogs that can no longer perform military duties due to medical or behavioural issues may be adopted, transferred to other work such as civilian law enforcement or euthanised. Despite many dogs suffering from a range of physical and psychological medical conditions as a result of their military service, the cost of veterinary care becomes the sole responsibility of persons adopting the dog.

### **History of military working dogs**

The earliest recorded use of dogs in battle was in 600BC when they were used to defend the kingdom of Lydia in Greece. Several American units had mascots during the First World War including the 102<sup>nd</sup> Infantry's Sergeant Stubby, which would warn of attacks, locate wounded in no man's land and reputedly once captured a German soldier. His remains are now on display at the Smithsonian.

The United States did not officially start a military dog programme until 1942 with the establishment of a training centre and the requisition of 18,000 dogs for service during the Second World War. The Vietnam War remains the largest deployment of military dogs to a single theatre, with 1,600 dogs on operations in 1970. During one night attack, an Air Force dog, Nemo, saved the life of his wounded handler by guarding him until help arrived. Despite suffering two gunshot wounds to the head, Nemo, survived and returned home to . However, only 191 military working dogs ever return to the United States from Vietnam, with the remainder dying from wounds or medical conditions, euthanised or transferred to the South Vietnamese Army.

Hundreds of working dogs were deployed to support operations in Afghanistan and Iraq, with much reliance placed on canine detection of IEDs planted by insurgents. A Belgian Malinois named Cairo was involved in the 2011 raid that killed Osama Bin Laden. In 2012, a Marine Corps dog named Lucca became the first American recipient of the Dickin Medal, the highest award an animal can receive for gallantry during wartime.

In 2013, a national monument honouring military working dogs and their handlers was unveiled in Lackland, Texas. Although military dogs do not hold official ranks, it is a tradition that dogs hold a rank one above that of their handler so that any mistreatment is considered a serious offence.

## **Training military working dogs**

Training of all military dogs and handlers is undertaken by the Air Force at the 371<sup>st</sup> Training Squadron at Joint Base San Antonio-Lackland, Texas. The 371<sup>st</sup> leads on military dog and handler selection, training and breeding. The base also contains the Holland Veterinary Military Working Dog Hospital, the country's only specialist centre for dog rehabilitation therapy and post-operative care. The training of a military dog typically takes 120 days and costs more than \$40,000.

## **Battlefield and other threats to the health of military dogs**

Conflict areas are harsh environments for dogs, which are often deployed into situations and environments that would be too dangerous for their handlers. According to a 2018 study of the causes of dog deaths on operations in Afghanistan and Iraq, 31.5% of canine casualties were due to gunshot wounds, 26.1% to explosion or blast, and 9.8% to heat stroke. Diseases was the cause of 23% of casualties.

Military dogs can expect to have a career lasting around eight or nine years. Many leave service with physical and psychological injuries. A 2017 Government Accountability Office report found that the most common medical conditions amongst dogs released for adoption were dental, skin and musculoskeletal. Of those transferred to the not-for-profit Mission K9 adoption centre, around 60% have injuries. Military service can cause anxiety and stress to animals, and many dogs are retired with canine post traumatic stress disorder.

In addition to those who retire after a full service career, significant numbers of dogs become excess because they fail to meet standards during training or develop medical issues before initial military deployment. In 2015, for example, 74 dogs were released before beginning military careers.

## **Care for retired and excess dogs**

In 2000, Congress passed Robby's Law, a piece of legislation named after a military working dog that was euthanised despite attempts by his handler to adopt him. This law required that military working dogs be made available for adoption at the end of their services lives. Prior to Robby's Law, retired military dogs were commonly euthanized regardless of the dog's health. In some cases, this was the most cost effective rather than transporting dogs back from deployment overseas. This legislation has been amended a number of times since 2000.

Under current law, a vet is responsible for determining whether an animal is suitable for adoption. Dogs may be deemed unsuitable due to injury, illness or unresolvable behavioural problems. A retired or excess military dog may, in order of priority, be adopted by its former handler, adopted by other persons or transferred for further work with a law enforcement agency. Handlers wounded in action have the sole right to adopt their dogs, and close family members may adopt dogs if their handlers are killed in action.

Under the National Defense Authorization Act for FY2013, retired military dogs that cannot be suitably adopted at their location must be transferred back to Joint Base San Antonio-Lackland in Texas or another suitable location for adoption. This law ensures that retired dogs are returned to the United States and that adopters were not responsible for repatriation costs.

A fee may be charged for adoption of a former military dog. However, as of October 2021, adoptions organised by the 341<sup>st</sup> Training Wing at Joint Base San Antonio-Lackland, where most dogs are returned, do not carry a charge.

Those who adopt former military dogs are responsible for their veterinary care, although some not-for-profit organisations such as the U.S. War Dogs Association and American Humane organisation provide support. In 2017, the Government Accountability Office estimated that preventative care for a typical nine-year-old adopted military dog would cost \$1,295 per year (such as vaccines and medication to prevent heartworm, fleas and ticks). Care of a dog with a pre-existing condition caused by military service would cost significantly more. Current service personnel may have adopted animals cared for by military veterinary services in return for a fee. However, not all military installations have veterinary facilities.

Prior to 2011, the Department of Defense was required to report annually to Congress on the number of military dogs adopted or euthanised. In 2010, 276 dogs were adopted; 52 were transferred to other government or law enforcement agencies; 50 died of natural, accidental or similar causes; 44 were euthanised to prevent suffering due to medical conditions; 16 were euthanised because they were too dangerous for transfer or adoption; 7 were killed in action; and 1 was reported missing in action. A Government Accountability Office report examining the years 2011 to 2015 found between 267 and 557 dogs are adopted each year, up to 61 are euthanised, and between 25 and 154 are transferred annually to law enforcement.

## **Conclusion**

Their important roles during operations in Afghanistan and Iraq has heightened awareness and recognition of the service of military working dogs. Many believe that every effort should be taken to provide former military animals with a happy retirement with owners who are able to provide for their ongoing health needs.

## **S.2650 / H.R.1137: A bill to appropriate sufficient funds for the construction of a border wall between the United States and Mexico**

### **Summary of the bill**

The bill authorises the federal funding for the construction of a border wall along the United States' southern border. It aims to offset such funding by increasing the minimum fine for undocumented entry or stay in the United States from £250 to £3,000. It also intends to prohibit undocumented immigrants from living in housing provided by the Federal Housing Programs, taxing remittance payments sent overseas and reducing foreign aid to any country that's nationals are detained for breaking federal immigration laws.

### **Introduction**

The situation on the United States' southwest border with Mexico has been identified by many as a severe security and humanitarian crisis. In July 2021, unauthorized migrants attempting to cross the border reached its highest monthly level since 2006, with 213,593 people detained by US Border & Customs Protection (US BCP). In 2021, there were 1,734,686 undocumented immigrants encountered by BCP compared to 458,088 in 2020.

Building a wall along the southwest border was a significant Trump pledge during the 2016 presidential election campaign. President Trump originally promised to construct a wall along the full 2,000-mile border. However, that plan was later amended to propose covering around half the border where natural obstacles such as mountains and rivers are not already a deterrent.

On his first day in office, President Biden issued a proclamation pausing further construction of the border wall and redirecting funds from the project.

### **Why is unauthorized immigration identified as a problem?**

President Trump declared the situation on the southern border as a national emergency. He feared unauthorized immigration causes significant strain on public services and immigration courts. The White House said in a May 2019 statement that rising levels of unauthorized immigration are having "profound consequences on every aspect of national life – overwhelming our schools, overcrowding our hospitals, draining our welfare system and causing untold amounts of crime".

The Department of Homeland Security highlights that 43.7% of all criminal cases filed in US District Courts in 2016 were in border areas (Arizona, Southern District of California, New Mexico, Western and Southern Districts of Texas). In these five border districts, 73.5% of federal offenders sentenced for felonies or Class A misdemeanours in 2016 were non-citizens.

### **What barriers exist already on the southwest border?**

US BCP has long used barriers to secure the southern border. The first barriers were constructed near San Diego in 1991 and now include a variety of fencing, walls, anti-vehicle obstacles and supporting infrastructure such as roads, lighting and cameras. There were 654 miles of barrier along the border with Mexico when Trump took office, consisting of 354 miles of barrier designed to deter pedestrians and 300 miles of anti-vehicle barriers.

### **Why is building a wall viewed as a solution?**

Proponents of constructing a border wall believe it is the best means of preventing and deterring unauthorized entry to the United States, both by migrants and criminal traffickers.

US BCP suggests that constructing barriers in the Yuma region in 2005 reduced unauthorized immigration by 82% and reduced assaults on border protection agents by 95%. At the same time, seizures of methamphetamines increased 8,000% and heroine seizures rose by 39,554%.

However, this period also coincided with a significant expansion in the number of customs agents patrolling the border, so it is difficult to identify the effect of the barrier.

### **Why do some oppose building a border wall?**

Some have questioned the effectiveness of a wall, with existing barrier types easily scaled with sufficient preparation and determination. There is also the possibility of tunnelling under the barrier or exploiting gaps created by the weather.

There are also practical problems in extending the border barrier. Up to this point, most barriers have been constructed on land owned by the Federal government. Extension is likely to require construction on land owned by private individuals or Native American tribes, who may not wish to sell. Lengthy legal processes are likely to result from any attempt to force sale of the land.

Others have questioned whether concentrating on the US-Mexico border is the best means of addressing unauthorized immigration. The majority of unauthorized migrants residing in the United States initially enter the country legally at airports, but then stay beyond the period permitted by their visas.

According to the Department of Homeland Security, in 2018 there were 396,579 apprehensions on the southwest border compared to an estimated 666,582 people overstaying on their visas. Mexicans made up less than half (47%) of unauthorized immigrants in 2017. It could be argued that approaches designed to reduce immigration from other countries, such as targeted foreign aid, might be a more cost-effective means of reducing unauthorized entry.

Some analysts also suggest that the border wall has actually contributed to longer stays by unauthorized entrants. In the past, a relatively open border permitted Mexican workers to move freely between the United States and Mexico in response to seasonal labour demands. However, increased barriers and patrols have possibly meant that those illicitly entering the United States are more reluctant to make return trips to Mexico. One University of Pennsylvania study suggests that 5.3 million fewer unauthorized immigrants would be residing in the United States if border enforcement had not risen since the 1980s.

### **Why did President Trump find it difficult to fund a border wall?**

Extending the border barrier would be expensive. Estimates range from \$12bn to \$70bn for the length of wall currently envisaged. US CBP says that a new border wall would cost on average \$6.5 million per mile to construct. There is also a need to maintain and patrol the wall once erected. Around \$50 million is currently spent each year on maintenance and repair of the current barrier system including roads, bridges, gates, lighting and drainage. Some consider that such a sum would be better spent on other priorities.

Any money allocated to the construction of the wall would require approval from Congress and then signing into law by the President. Congress has so far been reluctant to provide additional funds. In 2018, the Federal government was partly shut down for 35 days because President Trump refused to sign any spending bill into law that did not include \$5.7 billion funding for the wall.

## **Funding initiatives to pay for the border wall**

This bill intends to pay for a border wall between the United States and Mexico through various fund-raising initiatives:

- The bill proposes fining aliens detained for migration offences, requiring them to pay a fine of at least \$3,000. US Customs & Border Protection apprehended 396,579 people in 2018 on the south-western border. Assuming that all those detained have the funds to pay a fine, the bill's proposal could raise more than \$1 billion.
- The bill requires the Secretary of State to reduce international aid by \$2,000 for every alien arrested for migration offences. The sum would be taken from funds allocated to the country of citizenship of the offending migrant. US Customs & Border Protection apprehended 396,579 people in 2018 on the south-western border. If such detentions continue at a similar level, under the bill's proposals all international aid given by the United States to Mexico would be discontinued (\$67 million in 2018).
- The bill also imposes a 5% tax on remittances being sent by electronic fund transfer outside the United States. A remittance is a transfer of money by a foreign worker to an individual in their home country. In many developing countries, including Mexico, remittances are a major source of national income and are critical to development. According to the United Nations, "remittances sent by migrants to their families back home are fundamental for governments, international organizations and other partners in realizing their sustainable development objectives". The World Bank estimates in 2017 that migrants in the United States transferred \$67 billion in remittances, so this could theoretically raise \$3.3 billion.

Members of Congress should reflect on the viability and desirability of these initiatives as a means of raising funds for the construction of the border wall.

## **Conclusion**

Many consider there to be a national emergency on the southern border, which has been ignored by President Biden. The construction of a border wall is viewed as a practical solution to the problem by many Republican legislators representing constituencies near the border. However, its construction has been expensive and some believe that funding is better directed towards other priorities.

**S.2947 / H.R.1845: A bill to amend title 18, United States Code, to penalize false communications to cause an emergency response (also known as swatting), and for other purposes**

**Summary of the bill**

This bill makes it a federal crime to “convey false or misleading information” that “may reasonably be expected to cause an emergency response” (an act known as “swatting”).

It establishes a prison sentence of up to five years for the crime. Cases of swatting that lead to serious injury carry a sentence of up to 20 years and life imprisonment for incidents that lead to loss of life.

**Introduction**

Swatting is a form of harassment involving making hoax or “prank” call to the emergency services. Hoaxers often report that a violent crime is underway with the intention of triggering a rapid and largescale response from law enforcement to the victim’s home or workplace. The term is derived from the name given to specialist police units known as Special Weapons and Tactics (SWAT) teams, which often respond to calls involving active shooters, bombs, hostage taking or other violent crimes. In some cases, cases of swatting have led to accidental deaths.

**Development of swatting and common types of victim**

Swatting developed within the online gaming community in the late 2000s. Victims are often people filming live streams on Twitch and YouTube while playing video games. This permits swatters to watch the victim’s reaction and the chaos created by the hoax as the police arrive.

The practice has since spread to celebrities, with high profile victims including Tom Cruise, Miley Cyrus, Bruce Jenner and Kris Kardashian. Political figures are also victims of swatting including Black Lives Matter activist Melina Abdullah and Congresswoman Katherine Clark (D-MA), who has led legislative efforts against swatting in Congress.

Federal Bureau of Investigation (FBI) experts estimate that there are around 1,000 cases of swatting in the United States each year.

**Swatting techniques**

Swatting is often associated with the doxing, the act of discovering and revealing personal information without consent. Where victims are not directly known to them, swatters will use a variety of doxing techniques to find a home address. They may publicly post a victim’s address on the internet to encourage others to acts of swatting.

Swatters use a variety of methods to disguise their own identities while swatting. Caller ID spoofing is sometimes used to deceive emergency call handlers into believing that the call is coming from a different source. Sometimes the spoofed phone number is at the victim’s own address in order to heighten the believability to emergency services. Teletypewriter (TTY) relay services are also often used, which read text messages as voice calls for the deaf or those with hearing problems. Both these techniques require neither extensive technical knowledge or expense. There have also been cases where swatters have used fake social media accounts to broadcast reports of incidents with the intention of encouraging unconnected individuals to contact the police.



## **Consequences of swatting**

Law enforcement officers often respond rapidly, robustly and in force to reports of active shooters or hostage taking. Seeking to quickly contain a situation and minimise further loss to life, officers will commonly forcefully gain entry to addresses with guns drawn. Such pressured circumstances can lead to force being accidentally used against innocent bystanders. There have been three prominent cases of swatting that have led to serious injury or death:

- In 2015, police in Maryland received a call from a man who said his name was Tyran Dobbs. The caller claimed to have barricaded himself into his home with explosives and demanded a cash payment to release the hostages he had taken. In reality, the call was a hoax created by Zachary Lee and a co-conspirator from Coventry in the United Kingdom. The SWAT team that responded shot Dobbs twice with rubber bullets during the arrest, resulting in significant injuries to his face and chest. Dobbs later required surgery including facial reconstruction. The incident was linked to a dispute involving an online game. Zachary Lee was sentenced to five years for the swatting incident.
- In 2017, Casey Viner and Shane Gaskill got into an argument while playing Call of Duty online. When Viner threatened to swat Gaskill, he goaded Viner and gave him a false address. Viner turned to a serial swatter, Tyler Bariss, for help in swatting Gaskill. On arriving at the incorrect address in Wichita, Kansas, officers encountered Andrew Finch, who had walked out onto his porch to talk to the police. Believing that Finch was reaching for a gun at his waistband, an officer shot and killed Finch. Bariss was sentenced to 20 years on fifty-one charges related to the incident, while Viner received a 15-month sentence and ban from playing video games.
- In 2020, police responded to false reports that a woman had been shot and bombs planted at the home of Mark Herring in Bethpage, Tennessee. On hearing the arrival of police, Herring picked up a firearm to investigate. Although Herring surrendered the firearm without shots being fired, he then suffered a fatal heart attack. The hoax call was designed to intimidate Herring into giving up his valuable @tennessee Twitter handle. Herring's address had been placed on an online Discord channel by 18-year-old Shane Sonderman, while the hoax call was made by a British national who cannot be extradited due to his age. Sonderman received a 5-year sentence on federal conspiracy charges.

## **Use of resources**

In addition to the risk to life, swatting can lead to a significant waste of limited resources. The deployment in 2015 that led to police shooting Tyran Dobbs with rubber bullets involved 40 officers and cost \$10,000. In 2014, over 60 officers including hostage negotiators, SWAT officers and helicopters responded to a false report of an active shooter who had taken hostages in Long Beach, Long Island. The hoax call was made by a 17-year-old who had become upset at the conduct of an opponent while playing the Call of Duty video game. The police deployment cost \$100,000.

## **Investigation and prosecution challenges**

It is rare that swatters are prosecuted under state or federal law. Investigations can be complex and costly. Swatters use a variety of techniques to disguise their identities, and specialist computer investigators are normally required for tracing. In many cases, multiple law enforcement agencies are required to cooperate because investigations cross local,

state and international borders. For example, the investigation of the swatting incident that led to the death of Mark Herring involved FBI offices in Memphis, Tennessee and Akron, Ohio, the Los Angeles Police Department, the Summer County Sheriff's Office and authorities in the United Kingdom. The Tyran Dodds case similarly involved an international investigation, with the call to Maryland emergency services again originating from the United Kingdom.

## **Sentencing**

Some believe that swatting is best deterred through harsher sentencing. Although some states have introduced local laws that ban the practice, swatting is not specifically prohibited under federal law. There have been several bipartisan attempts in Congress to establish swatting as a federal crime attracting harsh penalties, but they have so far stalled.

Nevertheless, most offenders can be prosecuted under a variety of federal statutes. The lengthy sentences given to high profile swatters, such as Bariss' 20-year sentence in the Finch case, perhaps demonstrate that existing laws and sentencing parameters are sufficient.

## **Other solutions**

A number of states have introduced practices to reduce incidents of swatting. For example, a number of states have introduced training for 911 call handlers to help in the identification of potential swatters. In Seattle, individuals are able to register their addresses with police if they feel they are at particular threat of swatting. Call handlers will check details with the register before initiating an emergency response. Officers are still likely to be despatched to the address, but their approach and tactics will be different in order to minimise harm to potential swatting victims.

Some believe that police tactics are partly to blame for the public threat of swatting. They consider law enforcement officers are too ready to resort to lethal or deadly force, resulting in accidental shootings when deployed to swatting incidents. Tyran Dobbs and Andrew Finch were unarmed when police used force against them. In both cases, law enforcement officers claimed that they saw the victim reach for a gun at their waistbands before opening fire. Some have suggested that police officers require more training in the proportional use of force and de-escalation techniques.

Some observe a "militarization" of police has contributed to an over-readiness to use force. Police militarization involves police officers adopting the appearance, weapons, tactics and behaviour of members of the armed services. SWAT units, which often deploy to swatting incidents involving false reports of active shooters and hostage taking, are seen as particularly prone to militarization. Such teams commonly wear military-style helmets and green or camouflage uniforms, carry automatic rifles, and are transported in armoured vehicles. There is a belief that militarization creates a police culture where force is more likely to be used.

## **Conclusion**

Efforts to address swatting have so far been bipartisan, with consensus that the issue should be addressed. It is debatable whether establishing swatting as a federal crime carrying harsh sentences will significantly reduce the problem.