AMENDMENT TO H.R. 7636

OFFERED BY MR. ARMSTRONG OF NORTH DAKOTA

Add at the end of the bill the following:

SEC. 4. AUDIO RECORDING OF INTERVIEWS OF DETAINED INDIVIDUALS CONDUCTED BY CERTAIN FEDERAL LAW ENFORCEMENT OFFICERS.

(a) In General.—Each Federal law enforcement agency described in subsection (b) shall record, using an electronic audio recording technology, and may record, using a video recording technology, each interview of a detained individual conducted by an officer or employee of that agency in connection with an investigation of a Federal offense or an investigation with respect to which the agency is assisting a State, local or tribal law enforcement agency.

(b) FEDERAL LAW ENFORCEMENT AGENCY DESCRIBED.—A Federal law enforcement agency described in this section is each of the following:

(1) The Federal Bureau of Investigation.

(2) The Drug Enforcement Administration.

(3) The Bureau of Alcohol, Tobacco, Firearms, and Explosives.
(4) The United States Marshals Service.

(c) APPLICATION.—

(1) IN GENERAL.—The requirements under this section apply with respect to interviews of detained individuals, but do not apply with respect to communications with confidential informants or to any interview the officer reasonably believes is related to counterintelligence.

(2) EXTRATERRITORIAL APPLICATION.—In the case of an interview conducted by an officer or employee of a Federal law enforcement agency described in subsection (b) of a United States person outside of the United States, the requirements under this section apply.

(3) DEFINITION.—For purposes of this section, the term “United States person” means—

(A) a United States citizen or alien admitted for permanent residence in the United States; or

(B) any person who is being interviewed in connection with an investigation of any corporation, partnership, or other organization organized under the laws of the United States.

(d) INADMISSIBILITY.—
(1) IN GENERAL.—Except as provided in paragraph (2), a statement or information obtained during an interview, with respect to which the officer conducting the interview did not comply with this section, may not be offered as evidence by the Government in Federal court in a criminal proceeding.

(2) EXCEPTION.—A statement or information described in paragraph (1) may be offered as evidence by the Government in Federal court in the case that the Government shows exigent circumstances existed that made recording infeasible, and with respect to which the Federal law enforcement officer who failed to so record made a contemporaneous record explaining the infeasibility of recording.

(3) JURY INSTRUCTION.—In the case that a statement or information described in paragraph (1) is admitted in accordance with the exception described in paragraph (2), the court shall instruct the jury that the statement or information was required to be recorded, but was not recorded because of the exigent circumstances described in paragraph (2).

(c) RETENTION.—

(1) IN GENERAL.—Except as provided in paragraph (2), a recording of an interview described in
this section shall be clearly identified, catalogued, and retained for a period of 10 years beginning on the date on which the applicable investigation or any related judicial procedures is finally concluded, whichever is later.

(2) EXCEPTION.—A recording of an interview described in this section shall be clearly identified, catalogued, and retained indefinitely if the content of the recording is related to a judicial proceeding that involves a Federal capital offense or a State capital offense with respect to which the Federal law enforcement officer was assisting the law enforcement agency of the jurisdiction.

(f) RULES.—The Attorney General shall make rules to carry out this section.