

AMENDMENT TO H.R. 5658, AS REPORTED
OFFERED BY MR. HOLT OF NEW JERSEY, Ms.
SCHAKOWSKY OF ILLINOIS, MRS. TAUSCHER
OF CALIFORNIA, AND MR. GRIJALVA OF ARI-
ZONA

Add at the end of title X, the following:

1 SEC. 10 ___. REQUIREMENT FOR VIDEOTAPING OR OTHER-
2 WISE ELECTRONICALLY RECORDING STRA-
3 TEGIC INTELLIGENCE INTERROGATIONS OF
4 PERSONS IN THE CUSTODY OF OR UNDER
5 THE EFFECTIVE CONTROL OF THE DEPART-
6 MENT OF DEFENSE.

7 (a) IN GENERAL.—In accordance with the Army
8 Field Manual on Human Intelligence Collector Operations
9 (FM 2-22.3, September 2006), or any successor thereto,
10 and the guidelines developed pursuant to subsection (e),
11 the Secretary of Defense shall take such actions as are
12 necessary to ensure the videotaping or otherwise electroni-
13 cally recording of each strategic intelligence interrogation
14 of any person who is in the custody or under the effective
15 control of the Department of Defense or under detention
16 in a Department of Defense facility.

1 (b) CLASSIFICATION OF INFORMATION.—To protect
2 United States national security, the safety of the individ-
3 uals conducting or assisting in the conduct of a strategic
4 intelligence interrogation, and the privacy of persons de-
5 scribed in subsection (a), the Secretary of Defense shall
6 provide for the appropriate classification of video tapes or
7 other electronic recordings made pursuant to subsection
8 (a). The use of such classified video tapes or other elec-
9 tronic recordings in proceedings conducted under the De-
10 tainee Treatment Act of 2005 (title 14 of Public Law 109-
11 163 and title 10 of Public Law 109-148), the Military
12 Commissions Act of 2006 (10 U.S.C. 948 et seq.; Public
13 Law 109-366), or any other provision of law shall be gov-
14 erned by applicable rules, regulations, and law.

15 (c) STRATEGIC INTELLIGENCE INTERROGATION DE-
16 FINED.—For purposes of this section, the term “strategic
17 intelligence interrogation” means an interrogation of a
18 person described in subsection (a) conducted at a theater-
19 level detention facility.

20 (d) EXCLUSION.—Nothing in this section shall be
21 construed as requiring—

22 (1) any member of the Armed Forces engaged
23 in direct combat operations to videotape or otherwise
24 electronically record a person described in subsection
25 (a); or

1 (2) the videotaping or other electronic recording
2 of tactical questioning, as such term is defined in
3 the Army Field Manual on Human Intelligence Col-
4 lector Operations (FM 2-22.3, September 2006), or
5 any successor thereto.

6 (e) GUIDELINES FOR VIDEOTAPE AND OTHER ELEC-
7 TRONIC RECORDINGS.—

8 (1) DEVELOPMENT OF GUIDELINES.—The Sec-
9 retary of Defense, acting through the Judge Advo-
10 cates General (as defined in section 801(1) of title
11 10, United States Code, (Article 1 of the Uniform
12 Code of Military Justice)), shall develop and adopt
13 uniform guidelines designed to ensure that the
14 videotaping or other electronic recording required
15 under subsection (a), at a minimum—

16 (A) promotes full compliance with the laws
17 of the United States;

18 (B) is maintained for a length of time that
19 serves the interests of justice in cases for which
20 trials are being or may be conducted pursuant
21 to the Detainee Treatment Act of 2005 (title 14
22 of Public Law 109-163 and title 10 of Public
23 Law 109-148), the Military Commissions Act of
24 2006 (10 U.S.C. 948 et seq.; Public Law 109-
25 366), or any other provision of law;

1 (C) promotes the exploitation of intel-
2 ligence; and

3 (D) ensures the safety of all participants
4 in the interrogations.

5 (2) SUBMITTAL TO CONGRESS.—Not later than
6 30 days after the date of the enactment of this sec-
7 tion, the Secretary of Defense shall submit to the
8 Committees on Armed Services of the Senate and
9 House of Representatives a report containing the
10 guidelines developed under paragraph (1). Such re-
11 port shall be in an unclassified form but may include
12 a classified annex.

