

DIRECTING/REQUESTING CERTAIN INFORMATION RELATING TO
EXTRAORDINARY RENDITION OF CERTAIN FOREIGN PERSONS
TO BE PROVIDED TO THE HOUSE OF REPRESENTATIVES;
REQUESTING/DIRECTING CERTAIN DOCUMENTS RELATING TO
U.S. POLICIES UNDER THE UN CONVENTION AGAINST TOR-
TURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREAT-
MENT OR PUNISHMENT AND THE GENEVA CONVENTIONS
TO BE PROVIDED TO THE HOUSE OF REPRESENTATIVES;
AND REQUESTING/DIRECTING CERTAIN DOCUMENTS RELAT-
ING TO THE SECRETARY OF STATE'S TRIP TO EUROPE
IN DECEMBER 2005 TO BE PROVIDED TO THE HOUSE OF
REPRESENTATIVES

MARKUP
BEFORE THE
COMMITTEE ON
INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES
ONE HUNDRED NINTH CONGRESS

SECOND SESSION

ON

H. Res. 593, H. Res. 624 and H. Res. 642

FEBRUARY 8, 2006

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DIRECTING/REQUESTING CERTAIN INFORMATION RELATING TO EXTRAORDINARY RENDITION OF CERTAIN FOREIGN PERSONS TO BE PROVIDED TO THE HOUSE OF REPRESENTATIVES; REQUESTING/DIRECTING CERTAIN DOCUMENTS RELATING TO U.S. POLICIES UNDER THE UN CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT AND THE GENEVA CONVENTIONS TO BE PROVIDED TO THE HOUSE OF REPRESENTATIVES; AND REQUESTING/DIRECTING CERTAIN DOCUMENTS RELATING TO THE SECRETARY OF STATE'S TRIP TO EUROPE IN DECEMBER 2005 TO BE PROVIDED TO THE HOUSE OF REPRESENTATIVES

WEDNESDAY, FEBRUARY 8, 2006

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Committee met, pursuant to notice, at 3:08 p.m., in room 2172, Rayburn House Office Building, Hon. Henry J. Hyde (Chairman of the Committee) presiding.

Chairman HYDE. The Committee will come to order.

It is the intention of the Chair to consider all three of the resolutions of inquiry which are pending before the Committee in today's meeting. We will entertain debate on the three resolutions en bloc and postpone the votes until the completion of all debate. Based on conversation with the Ranking Democratic Member about important meetings this evening on both sides of the aisle, the votes will occur at 5 p.m.

Pursuant to notice, I call up H. Res. 593, directing the Secretary of State, the Secretary of Defense, the Secretary of Homeland Security and the Attorney General and requesting the President to provide certain information to the House of Representatives relating to extraordinary rendition of certain foreign persons; H. Res. 624, requesting the President of the United States and directing the Secretary of State to provide to the House of Representatives certain documents in their possession relating to United States policies under the United Nations Convention Against Torture and Other Cruel and Inhuman or Degrading Treatment or Punishment and the Geneva Conventions; and H. Res. 642, requesting the President and directing the Secretary of State to provide to the House of Representatives certain documents in their possession relating to the Secretary of State's trip to Europe in December 2005 for purposes of markup, and move their adverse recommendation to the House.

Without objection, the resolutions will be considered en bloc and will be considered as read and open for amendment at any point.

[The resolutions referred to follow:]

109TH CONGRESS
1ST SESSION

H. RES. 593

Directing the Secretary of State, the Secretary of Defense, the Secretary of Homeland Security, and the Attorney General, and requesting the President, to provide certain information to the House of Representatives relating to extraordinary rendition of certain foreign persons.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 8, 2005

Mr. MARKEY submitted the following resolution; which was referred to the Committee on International Relations

RESOLUTION

Directing the Secretary of State, the Secretary of Defense, the Secretary of Homeland Security, and the Attorney General, and requesting the President, to provide certain information to the House of Representatives relating to extraordinary rendition of certain foreign persons.

1 *Resolved*, That the Secretary of State, the Secretary
2 of Defense, the Secretary of Homeland Security, and the
3 Attorney General are directed, and the President is re-
4 quested, to provide to the House of Representatives, not
5 later than 14 days after the date of the adoption of this
6 resolution, all documents and records in their possession
7 relating to the rendition, transfer, or return to a foreign

3

2

1 country of any foreign person who has been imprisoned,
2 detained, or held for transfer to another country by, or
3 has otherwise been in the custody of, a department, agen-
4 cy, or official of the United States Government, or any
5 contractor of any such department or agency.

○

109TH CONGRESS
1ST SESSION

H. RES. 624

Requesting the President of the United States and directing the Secretary of State to provide to the House of Representatives certain documents in their possession relating to United States policies under the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Geneva Conventions.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2005

Mr. ACKERMAN (for himself, Ms. MCCOLLUM of Minnesota, Mr. MEEKS of New York, Ms. BERKLEY, Mrs. NAPOLITANO, Mr. CROWLEY, Ms. WATSON, Mr. WEXLER, Ms. LEE, Mr. BLUMENAUER, Mr. BROWN of Ohio, Mr. ENGEL, Mr. DELAHUNT, Mr. BERMAN, and Mr. PAYNE) submitted the following resolution; which was referred to the Committee on International Relations

RESOLUTION

Requesting the President of the United States and directing the Secretary of State to provide to the House of Representatives certain documents in their possession relating to United States policies under the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Geneva Conventions.

- 1 *Resolved*, That the President of the United States is
- 2 requested and the Secretary of State is directed to provide

1 to the House of Representatives, not later than 14 days
2 after the date of the adoption of this resolution—

3 (1) all documents, memoranda, and advisory
4 legal opinions in the possession of the President or
5 the Secretary of State, respectively, from the De-
6 partment of State provided to the Executive Office
7 of the President since September 11, 2001, relating
8 to—

9 (A) United States policies under the
10 United Nations Convention Against Torture
11 and Other Cruel, Inhuman or Degrading Treat-
12 ment or Punishment (1465 U.N.T.S. 113) to-
13 ward individuals captured by or transferred to
14 the United States or detained in United States
15 custody as part of the Global War on Terror;
16 and

17 (B) United States policies under the Gene-
18 va Conventions (6 U.S.T. 3114, 6 U.S.T. 3217,
19 6 U.S.T. 3316, and 6 U.S.T. 3516) toward in-
20 dividuals captured by or transferred to the
21 United States or detained in United States cus-
22 tody as part of the Global War on Terror; and

23 (2) all documents, including notes from meet-
24 ings, memos, and telephone and electronic mail
25 records of internal discussions since September 11,

1 2001, in the possession of the President or the Sec-
2 retary of State, respectively, relating to United
3 States policies under the United Nations Convention
4 against Torture and Other Cruel, Inhuman or De-
5 grading Treatment or Punishment and the Geneva
6 Conventions.

○

109TH CONGRESS
1ST SESSION

H. RES. 642

Requesting the President and directing the Secretary of State to provide to the House of Representatives certain documents in their possession relating to the Secretary of State's trip to Europe in December 2005.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 18, 2005

Ms. LEE submitted the following resolution; which was referred to the Committee on International Relations

RESOLUTION

Requesting the President and directing the Secretary of State to provide to the House of Representatives certain documents in their possession relating to the Secretary of State's trip to Europe in December 2005.

1 *Resolved*, That the President is requested and the
2 Secretary of State is directed to provide to the House of
3 Representatives, not later than 14 days after the date of
4 adoption of this resolution, all documents, including tele-
5 phone and electronic mail records, logs, calendars, min-
6 utes, memoranda, and advisory legal opinions, in the pos-
7 session of the President or the Secretary of State, respec-
8 tively, from the Department of State provided to the Exec-

1 utive Office of the President in preparation for and during
2 the Secretary of State's trip to Germany, Belgium, Roma-
3 nia, and Ukraine in December 2005, relating to—

4 (1) United States policies under the United Na-
5 tions Convention Against Torture and Other Cruel,
6 Inhuman or Degrading Treatment or Punishment
7 toward individuals captured by or transferred to the
8 United States or detained in United States custody;
9 and

10 (2) United States policies regarding any facility
11 outside of the territory of the United States for the
12 detention of individuals captured by or transferred
13 to the United States or detained in United States
14 custody.

○

Chairman HYDE. Today we are marking up our 10th, 11th and 12th resolutions of inquiry. In the debate surrounding these most recent resolutions, proponents have accused the United States of abusing detainees in its custody and of capturing suspected terrorists and delivering them to countries for the purpose of torture. The accusations come despite President Bush's repeated assurances that the United States does not believe in nor practice torture.

In January 2005, the President told the American people that "torture is never acceptable, nor do we hand over people to countries that do torture." Secretary of State Condoleezza Rice has likewise stated without qualification that "the United States has not transported anyone and will not transport anyone to a country where we believe he will be tortured. Where appropriate, the United States seeks assurances that transferred persons will not be tortured." These assurances are not empty. The Department of Defense has aggressively sought to uphold American values while it remains tough in the War on Terror.

In the past 2 years the Department of Defense has completed 12 investigations into detainee abuse. In one such investigation, former Secretary of Defense James Schlesinger led an independent and comprehensive examination of DOD's detention operations. In its final report, numbering over 100 pages, the Schlesinger panel concluded that "there is no evidence of a policy of abuse promulgated by senior officials or military authorities." Similarly, none of the other 11 investigations found any evidence of a policy that permits abuse.

Vice Admiral Albert Church, the Navy's Inspector General, led a comprehensive review of DOD detention operations. In his report issued March 10, 2005, Vice Admiral Church concluded there was no link between the U.S. interrogation policies and incidents of abuse.

While not identifying a policy of abuse, DOD's investigations have uncovered incidents of abuse and have made recommendations for reform. For instance, following its investigation of incidents of abuse at Abu Ghraib, the Schlesinger panel concluded that "command failures were compounded by poor advice provided by staff officers with responsibility for overseeing battlefield functions related to detention and interrogation operations. Military and civilian leaders at the Pentagon share this burden of responsibility."

DOD takes these recommendations seriously. From the 12 investigations into treatment of detainees, there have been 490 recommendations for reform. DOD has addressed or is in the process of addressing all of these recommendations. Some significant reforms which have already been implemented include the establishment of a Detainee Operations Oversight Council that regularly reviews the Department's detention practices. DOD has also established a Deputy Assistant Secretary for Detainee Affairs, responsible for detainee policy across the Department; a Detainee Affairs Division on the joint staff; and a 2-star officer responsible for detention operations in Iraq.

Further, DOD has improved its reporting relationship with the Red Cross and allows the Red Cross 24-hour access to the detention facilities at Guantanamo Bay.

When investigations uncover abuse, DOD holds accountable the individuals responsible. Following the shameful conduct at Abu Ghraib, the commanding general was relieved of her command and reduced in rank; the intelligence brigadier commander was relieved of his command; 47 memoranda of reprimand were issued; 24 soldiers were administratively separated; 8 courts martial were completed; 4 officers received nonjudicial punishment.

This disciplinary action and these investigations show that DOD takes seriously its responsibilities to uphold American values. This is what our Nation demands, that we aggressively fight the War on Terror, that we do so with the integrity and humanity that our values require. As President Bush stated last year, this country does not believe in torture. As President Bush stated last year, we do believe in protecting ourselves.

Given DOD's dedication and vigilant oversight, it is not only unnecessary, but irresponsible to demand reams of documents from the Executive Branch. We certainly must attempt to remedy the circumstances that allow incidents of abuse to occur. We owe this not only to ourselves, but to our soldiers who risk their lives for our ideals and to the American people. But adopting these resolutions will not accomplish this goal. These resolutions are political attacks based not on facts or documented incidents of abuse, these incidents have all been investigated, but instead on newspaper headlines.

I think there is a danger in this type of politics. The United States is at war. War is not a license for the President to break the law and it is not an excuse for a lapse in congressional oversight, but it does require the politics be placed below our national security.

In the course of DOD's investigations into detention issues, over 16,000 pages of documents were released. These documents include classified interrogation techniques that could alert our enemies to our sources and methods of gathering intelligence. We should examine these already published reports before demanding more documents, further compromising our Nation's security.

As the President explained last week in his State of the Union Address, there is a difference between responsible criticism that aims for success and defeatism that refuses to acknowledge anything but failure. Hindsight alone is not wisdom, and second-guessing is not a strategy.

It used to be said that politics stopped at the water's edge. To breach that long-respected limit would be a fateful step, one that would already open strained floodgates and expose us to immeasurable consequences.

None of us here are strangers to politics, but to disregard all consequences for our country in the search for political advantage extends beyond mere recklessness. I remind Members of this Committee that our country is at war. I am disheartened to have to state the obvious; that efforts such as these resolutions with which this Committee has been repeatedly burdened, and which all observers agree have as their primary motivation the securing of political gain in an election year, will have the effect of hindering and undermining the prosecution of that war, a conflict for which many of my Democratic colleagues voluntarily and enthusiastically voted

in favor. Are these individuals now asserting that they were brain-washed and have only now, years later, awakened to their responsibility of reflecting upon their actions before they are taken, especially for so momentous a decision as committing this country to a war; or do they now publicly declare their regret for their previous and unconditioned vote to proceed? Will they give this decision today greater scrutiny than their original vote, or will this one, too, be explained away at a later time as a product of deceit by others? Do they, with a straight face, now expect us to believe that these resolutions, were they to advance forward, would have no deleterious effects at all, nor do they take comfort in the hope and expectation that these will be defeated, thereby avoiding the consequences of their irresponsible action,

I doubt my remarks will change any vote today. It is, after all, an election year, and for that reason it is certain that these measures will continue to come before us but I will speak to the consciousness of those who vote in favor and ask that they at least silently confess to themselves that their actions pose real dangers to our country, however abstract these may seem, however soothing the rationalization, however great the temptations of political victory.

I urge you to join me in voting to report these resolutions of inquiry adversely.

I now turn to my friend Tom Lantos for his opening statement.

Mr. LANTOS. Thank you very much, Mr. Chairman.

Mr. Chairman, over the last 15 years, this House has been at the forefront of efforts to combat torture around the globe. In 1992, Congress adopted a measure to create a private cause of action in U.S. courts against those who perpetrate torture. In 1994, this very Committee adopted the implementing legislation for the Convention Against Torture, creating the way for the United States ratification of that critical treaty. And since 1998, our Committee has adopted a number of measures to provide relief to victims of torture around the world.

Mr. Chairman, the congressional attention to this matter is a legacy of which we should all be proud. It is based on our shared values that torture and inhumane treatment is not acceptable anywhere, and should be stamped out wherever it exists.

In particular, Mr. Chairman, I am sure that all of us agree that any person that comes into the custody of the United States should be treated humanely. Nor should the United States be involved in any transfer of any person to another country when we know they will be subject to torture or other inhumane treatment. In this context, Mr. Chairman, it is regrettable that this House has not had a single hearing or considered legislation relating to the specific questions that are raised by the three resolutions before us today. These resolutions relate to a number of events that have occurred and allegations that have been made regarding the Administration's application of the UN Convention Against Torture and the Geneva Conventions as they relate to individuals detained since September 11th, 2001.

As we all know, Mr. Chairman, we have been faced with instances of serious abuses of foreign nationals in U.S. custody. These abuses occurred most infamously at Abu Ghraib, but also oc-

curred in Afghanistan and elsewhere, where a number of detainees have died while in United States custody. And we have all heard allegations that a number of persons who have been transferred by the United States to other countries outside of the normal extradition process in a procedure often called “extraordinary rendition” have alleged that they have been mistreated and even tortured after being transferred.

There are many questions relating to this practice: How often has it happened, what countries have been party to such transfers, what assurances do we receive to be certain that those transferred are not abused, and what measures do we have for verifying that these assurances are carried out?

Because of the lack of answers to these questions, my colleague from Massachusetts, Mr. Markey, has introduced substantive legislation on this matter. Because no action has been taken on his legislation, he has now asked for information directly from the Administration on the issue of extraordinary rendition.

Mr. Chairman, I know that there have been many investigations on questions of torture. However, I am not aware of a single open hearing by any Committee on the issue of extraordinary rendition and its use by this Administration. The questions raised by Mr. Markey’s resolution, in my judgment, deserve answers.

Secondly, Mr. Chairman, real questions have been raised about how the Administration reached its legal conclusions regarding the application of these critical international obligations regarding torture, how these standards were applied at U.S. detention facilities around the world.

Mr. Chairman, if press and other reports are to be believed, individuals in the government who made decisions and drafted opinions for the President to set standards on treatment of detainees frequently did not consult formally with the State Department’s legal office on the interpretation and application of these critical international treaties before reaching their conclusions. In the first instance when they did, the Secretary of State had to send a memorandum formally objecting to their conclusions. Afterwards, perhaps because of the objections lodged then, it appears that the State Department was not consulted at all.

Ignoring the office which historically has had the strongest expertise in the application and interpretation of international law is a fundamental breakdown in our system of government, a breakdown which Congress must investigate. While there have been many inquiries into the abuses themselves, this system’s failure has also escaped any attention whatsoever, and Mr. Ackerman’s resolution before us today is designed to address that flaw.

Finally Mr. Chairman, in December, Secretary of State Rice visited Europe on the heels of allegations in the press that the United States was using secret detention facilities in certain European countries to interrogate our enemies in the War on Terror. I was gratified, Mr. Chairman, that Secretary of State Rice stated publicly during her trip that this Administration will apply the obligations of the UN Convention Against Torture to U.S. personnel everywhere, not just in the United States. Given U.S. global interests and reach, this was clearly the right decision, but it leaves many questions unanswered.

As we have discussed earlier, Mr. Chairman, it is far from clear how the original view that the convention does not apply outside the United States was arrived at, and whether the right offices in government were consulted. Indeed, the formal legal adviser to the Department of State who guided the convention through the Senate has unequivocally rejected this view.

We need to understand fully whether this is a change in a position or merely a position by those who have argued for a more limited reading of our international obligations in this area.

Mr. Chairman, some may say that this is only looking in the past for partisan purposes. This could not be further from the truth. Last December, this Congress adopted the so-called McCain Amendment, which prohibits torture and cruel, inhumane and degrading treatment. The implementation of this new provision of law is critical to the United States reestablishing itself as a leader in the human rights field and to making sure that no future abuses occur while foreign nationals are in U.S. custody.

Indeed, questions have already arisen regarding its implementation. The President's statement in signing the legislation containing the amendment suggests that he believes he has the constitutional authority to ignore this very important statute. If the State Department continues to be cut out of these issues, and if we in Congress remain unclear as to how these matters are dealt with more generally, much of the value of the McCain Amendment, both with respect to how it will be implemented to affect U.S. policy and our image abroad, may well be lost.

Mr. Chairman, I believe these resolutions of inquiry assert an appropriate role for Congress in the foreign policy process, and they provide the Executive Branch with the opportunity to put to rest doubts about its policies toward extraordinary renditions and its policies toward the Convention Against Torture and secret facilities. That is why I support all three of these resolutions and urge all of my colleagues to do likewise.

Mr. Chairman, if you will permit me, a number of Members who would like to have been here today have been unavoidably detained in their districts. Mr. Berman would have liked to have been here, but he and Mr. Gallegly of California agreed to pair their votes, and they will not be with us today. Likewise, Mr. Ackerman and Ms. Lee could not be here.

I ask unanimous consent that the statements of Mr. Berman, Mr. Ackerman and Ms. Lee be inserted in the record. And I thank you, Mr. Chairman.

Chairman HYDE. Well, without objection, all Member statements may be made a part of the record.

Mr. LANTOS. Thank you, Mr. Chairman.

[The prepared statement of Mr. Ackerman follows:]

PREPARED STATEMENT OF THE HONORABLE GARY L. ACKERMAN, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, I am frankly appalled that the Congress has had to debate the issue of torture and am equally appalled that the President fought the Congress tooth and nail in order to gain legal authority to torture detainees.

It has always been my understanding that we had laws against torture. It's unconstitutional under the 5th, 8th and 14th amendments of the constitution. In addition to the constitutional prohibitions, Federal as well as state laws prohibit it and there is a private right of action under the Torture Victims Protection Act that al-

lows victims to sue if torture was committed under actual or apparent authority or color of law of any foreign nation. We also have international treaty obligations. Under common article 3 of the Geneva Conventions, the United States has a duty to treat all prisoners of war or civilian detainees humanely. The Convention Against Torture not only obligates the United States to ban torture but also cruel, inhumane and degrading treatment.

So how is it, Mr. Chairman that last year the Congress found itself in a knock down drag out fight with the Administration over whether we could torture detainees? In my view, we got to that sorry state because the agency most responsible for and most knowledgeable about our obligations under international law was either not consulted or was ignored when its recommendations were presented.

It is that flawed process that led to unclear policies regarding treatment and interrogation of detainees and resulted in the abuses at Abu Ghraib.

The resolution I am offering today seeks to gain a clearer understanding of the role the State Department played, or didn't play, in the Administration's development of policies regarding detainees. This committee has not had any hearings on this subject and other than hearings on the specific abuses themselves by other committees, Congress has not investigated the matter any further. This is, I believe, a dereliction of duty.

Mr. Chairman, there will be those who argue that we are engaged in a new and different kind of war and that the urgency to defend ourselves against terrorism requires us to employ methods that we would otherwise find unacceptable. I reject this fatuous argument on both moral and practical grounds.

Professional interrogators and senior military leaders are unambiguous in their rejection of arguments that torture is either useful or necessary. They know, and common sense should tell us, that information gathered by the use of torture is inherently unreliable; a torture victim will say anything to gain relief.

Morally, the real question isn't what standards al-Qaeda or the Iraqi insurgents adhere to, it's what standards do we set for ourselves.

By lowering our standards, the Administration has diminished the standing of the United States in the eyes of the world. In the minds of the international community the image of the World Trade Center on fire and collapsing has been replaced by the image of a hooded, shackled and naked prisoner standing on a box while a leering American soldier points her fingers at his genitals.

There will be those who say we have dealt with the abuses at Abu Ghraib and those responsible have been punished, and besides, now that the McCain amendment has been adopted, there really won't be any more torture. But I submit that the investigations have not gone far enough up the chain of command to establish true responsibility. And for those who would take comfort in the language included in the Defense Appropriations bill, I would suggest you look closely at the President's signing statement. In it, he asserts the authority to set aside portions of the law as he sees fit. This arrogation of power to the executive is truly dangerous Mr. Chairman and requires constant vigilance on the part of the Congress and this committee to ensure that the laws are faithfully enforced. The resolution I am offering today is a step towards that vigilance.

I urge my colleagues to support the resolution and oppose the Chairman's motion to report it adversely.

[The prepared statement of Ms. Lee follows:]

PREPARED STATEMENT OF THE HONORABLE BARBARA LEE, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA

Thank you, Mr. Chairman. Unfortunately, I'm unable to be here due to a personal matter but would like to submit this statement for the Record.

I would like to commend my friend and colleague, Congressman Markey for introducing this important and timely resolution of inquiry.

The issue of rendition—the extra-judicial transfer of detainees from one country to another—is particularly disturbing in light of recent revelations of a network of secret prisons in Europe.

Press accounts have placed the number of renditions under the CIA's purview at over 100.

But according to the administration, there seem to be conflicting opinions. We need to know the facts.

The Attorney General Alberto Gonzalez has said that the United States does not send any person "to countries where we believe or we know that they're going to be tortured."

Secretary Rice stated: “the United States has not transported anyone, and will not transport anyone to a country where we believe he will be tortured. Where appropriate the United States seeks assurances that transferred person will not be tortured.”

We need to know what assurances were given.

Furthermore, the administration has reportedly rendered terror suspects to nations known to torture prisoners including Egypt, Morocco, Pakistan, Saudi Arabia, Uzbekistan, and Syria.

Extra-judicial rendition to nations known to torture is a slippery slope that not only flies in the face of our principles as a nation to uphold human rights, and is contrary to Article 3 of the Convention Against Torture, it also jeopardizes our men and women in the armed services.

As the director of the CIA, Porter Goss notes: “I would agree that torture is not proper interrogation, and it doesn’t give you the results that professional interrogation would bring you.”

Mr. Chairman, we in Congress have an obligation under the constitution to get to the truth. Members of Congress have a duty to conduct oversight—and this Congress has neglected and ignored its duty.

Mr. Chairman, I urge my colleagues to reject the motion to report unfavorably and send this bill to the floor for full consideration by the House.

[The prepared statement of Mr. Berman follows:]

PREPARED STATEMENT OF THE HONORABLE HOWARD L. BERMAN, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, I deeply regret that I was unable to be present today for the committee’s consideration of H. Res. 593, H. Res. 624 and H. Res. 642, three resolutions of inquiry related to the treatment of detainees. I have cosponsored two of these important resolutions, and had I been present, would have strongly supported all three.

I am profoundly disturbed by the abuses that have occurred at Abu Ghraib and other U.S. detention facilities, and I believe Congress has a critical role to play in ensuring that our policy for the treatment of detainees is both morally and legally defensible. The passage of the McCain amendment was an important step in the right direction, but we must continue to press for a truly independent investigation of detainee abuses and demand that those responsible for these abuses—no matter what their position or rank—are held accountable for their actions.

To ensure that my absence would not affect the outcome of this markup, I have arranged to pair my vote with Mr. Gallegly, who is also absent today. Mr. Gallegly and I also agreed to the following statement: “Since I would have voted ‘no’ on the motions to report the resolutions unfavorably, and Mr. Gallegly would have voted ‘yes’, our votes would have cancelled each other out, with no net impact on the final tally. While both of us had good reason to be in Los Angeles, I would have flown back to Washington for these votes had I not been paired with Mr. Gallegly, and, conversely, Mr. Gallegly assures me that he would have been here had he not been paired with me.”

Chairman HYDE. Ms. Ros-Lehtinen, the Chair would announce we will hold statements that are designed to indicate or strike the last word will be limited to 5 minutes.

Ms. ROS-LEHTINEN. Thank you so much, Mr. Chairman.

Chairman HYDE. I say that, as my eyes settle on Mr. Burton, that we are going to limit it to 5 minutes.

Mr. BURTON. Mr. Chairman, with the tremendous number of Members here, I can see why you want to limit it to 5 minutes.

Ms. ROS-LEHTINEN. Thank you, Mr. Chairman.

House Resolution 593 requests documents on an issue that the Intelligence Committees in both Chambers in a bipartisan manner agree are the exclusive domain of the Intelligence Committees. Senator Rockefeller, as Vice Chairman of the Senate Select Committee on Intelligence, in arguing for a review of rendition, has stated no other Committee in Congress has the jurisdiction to review this issue.

Documents relating to U.S. rendition policy must be protected to provide for the safety of Americans and other personnel who transport these dangerous prisoners to and from the United States. We must consider the potential dangers associated with blanket requests for documents on rendition activities such as the one before us this afternoon. We must oppose this resolution and report it adversely.

I never feel quite comfortable limiting discussions on these matters simply to the procedural questions, and therefore wish to remind us all about a few substantive issues related to rendition. Rendition is legal under U.S. and international law, and U.S. law has specific prohibitions and safeguards against rendition for the purpose of torture.

The U.S. practice of rendition dates back to the mid-1990s and was established as a means of targeting al-Qaeda cells operating throughout the world. The policy has three major objectives: Keep terror suspects off the streets; bring to justice those wanted for terrorist activities; and, three, to collect critical intelligence about potential terrorist attacks being planned against the United States and our interests.

It is a policy that is aimed at saving lives. As former CIA Director George Tenet has stated, more than two dozen terrorists, half of them al-Qaeda suspects, were brought to justice by rendition between July 1998 and February 2000. That means that countless human beings, including American citizens, may have been saved and kept from harm's way as a result of this practice.

The U.S. has always, is now, and will continue to adopt policies that provide for the Nation's security and the safety of our American people, while remaining a bastion of freedom and democracy and a leader in defending human dignity and fundamental freedoms throughout the world. That was our position prior to 9/11, and it remains the U.S. position now.

How many more of these resolutions will we go through? My hope is that the Committee in the future will be able to use its time in a more positive manner rather than continue to be bogged down with measures that do not promote U.S. foreign policy interests, but rather may undermine U.S. counterterrorism efforts.

And then we move on to House Resolution 624 and 642, and they are of particular concern to me. As a political refugee from a regime that does not hesitate to use torture against its people simply for exercising their basic fundamental freedoms, I am troubled that these resolutions could be manipulated or misinterpreted to equate our Nation, again, a bastion of democracy, with repressive regimes. I am concerned that we may become instruments of what former Ambassador Jeane Kirkpatrick called the "Blame America First" crowd.

The U.S. position, the Administration position on torture is clear, and it is firm. As articulated by President Bush on March 15th of last year, this country does not believe in torture. As Secretary of State Rice reaffirmed on December 5th of last year, the United States has not transported anyone and will not transport anyone to a country where we believe he will be tortured.

Still, some may seek to argue that in a post-9/11 world, the United States has wavered in its commitment, and that is simply

not the case. The President has been and continues to be clear on this issue. Just last month President Bush once again assured the American people torture is never acceptable, nor do we hand over people to countries that do torture.

But, again, this commitment is more than rhetorical. The Department of Defense has provided wide access to detention facilities at Guantanamo, for example, with the Red Cross maintaining a permanent presence there with 24-hour access to the detention facilities.

I have traveled to Guantanamo. I have seen the lengths to which our personnel stationed there go to ensure the proper treatment of the terrorists housed there. I recently led a delegation to the Middle East that included a stop in Kuwait. My colleagues and I visited a United States military base that houses terrorist detainees. We never hear about this base precisely because of the careful treatment offered to these violent extremists.

We should be careful not to interpret isolated incidents of abuse, that are inexcusable and despicable, as being Administration policy. As concluded by an independent investigative panel chaired by a former Secretary of Defense, it said there is no evidence of a policy of abuse promulgated by senior officials or military authorities.

In addition, the response from the Administration to individual reports of detainee abuse has been to investigate, to prosecute, to take disciplinary action and implement an overwhelming majority of the recommendations for reform that it has been given.

Chairman HYDE. The gentlelady's time has expired.

Ms. ROS-LEHTINEN. Thank you, Mr. Chairman.

DOD has implemented 307 of the 490 recommendations provided from different sources. I ask that the resolution 624, 642 and 593 be reported adversely en bloc. Thank you, Mr. Chairman.

Chairman HYDE. Thank you.

Mr. Engel.

Mr. ENGEL. Thank you. Thank you, Mr. Chairman.

Anyone who knows my voting record knows that I have always felt that foreign policy needs to be bipartisan. I have been supportive on the War on Terror. I have tried to look at each issue as an issue. I have never tried to play politics with this. And I think it is very important that we look at these resolutions and understand what we are trying to do with them.

I agree with Mr. Lantos, I agree with virtually everything that he said. What really disturbs me is what is happening now is that any criticism or any questioning of any of the Administration's policies on anything has been dismissed as politics. They have used the cloak of homeland security as a reason to dismiss any legitimate questions about what the Administration's policies are. After all, we are the United States Congress, we are the United States House of Representatives; this is our role, this is our job. We are supposed to question.

Mr. Lantos pointed out, quite correctly, that not one Committee in this Congress has held one hearing on torture, not one hearing on wiretapping, not one hearing on secret courts. There is no independent counsel for anything. What are we supposed to do, just fold our hands and say to the Administration, okay, whatever you want, whatever you want, we are just going to go along with it?

I find it quite strange when you look at the previous Administration, the Clinton Administration. There were independent counsels, there were hearings. It was a cottage industry to investigate Bill Clinton over personal business. He was impeached, for crying out loud. And yet we are told now that we can't even legitimately question the Administration's policies.

I have no political motivations in this. I think that the United States needs to stick together in the War on Terror. I think the War on Terror is important to be fought. These are bad people that want to do us harm. I come from New York. My constituents died on September 11th. I take second fiddle to nobody in supporting the War on Terror, but we are the United States Congress, and we have an obligation to ask hard questions. This isn't a dictatorship where the Executive can just do whatever he or she wants and Congress just goes along. This is our role, and it isn't politics, it isn't an election year, as my friend the Chairman said. This is something that we need to do.

And so I think that these resolutions, these resolutions of inquiry, are legitimate resolutions. We want to find out the truth. And if there are certain things that the Administration feels will undermine national security, well, then, we understand that. But it cannot be that everything undermines national security, it cannot be that Congress can never question, it cannot be that Congress has no role to play.

We have checks and balances here. We are legitimate. Some people who frankly didn't support Justice Alito were afraid he didn't really come to grips with the checks and balances. We don't think that the Executive Branch should just be omnipotent. We are the Legislative Branch. This Committee, in order for it to be relevant, we should be having hearings, we should be questioning these things. It doesn't mean the Administration is always wrong, but it certainly doesn't mean the Administration is always right.

And so I would say to my friend the Chairman and to others, those of us that are supporting these resolutions don't do so out of politics or election year politics. We do it with all sincerity because we are Americans, we are Members of the United States Congress. We care very greatly about these things. We care about civil liberties.

Yes, we care about the War on Terror, and I will again take second place to no one, and my votes have shown that, but I believe we have a role to play as Members of Congress, and that is why I support these three resolutions.

I yield back.

Chairman HYDE. Mr. Burton of Indiana.

Mr. BURTON. I don't think that anybody, Mr. Chairman, is for torture. I don't think the President is for torture. The rendition that we have talked about, there has been no proof that there was torture involved. We have garnered some information from the procedures that have been utilized, but there has been no proof of torture.

The President has met with and given information to our Intelligence Committees in both the House and the Senate something like 40 times. He is keeping the Leadership of the House and our Intelligence Committees, who are sworn to keep secrets, unlike a

lot of Members of other Committees; he has told them what is going on. He is not ignoring Congress or trying to keep Congress in the dark.

He is trying to protect the people of the United States of America. He is trying to protect our troops in the field who are laying their lives on the line every day. He does believe that it is important that we extract from information we garner from terrorist operatives information that will protect Americans and save Americans from being killed or maimed or beheaded.

The people we are fighting against are animals. They are cutting off heads, going into schoolyards and blowing up kids at pizza parlors. They are putting IED's in the road to kill innocent people, even some of our news people. They are not the best guys in the world. And yet we are sitting here in this body and we are questioning the President, who has sworn to uphold the laws of this land and to protect Americans; we are questioning what he is trying to do to protect this country.

You talk about surveillance; I mean, the people who exposed what the NSC is doing ought to be arrested and tried for giving away information that could be deleterious to the security of the United States of America.

The President informed our intelligence agencies about what was going on. They knew about the wiretapping for a long, long time, but fortunately our enemies didn't. But now because of the big mouths in the media and Members of the Congress of the United States, the enemy knows that we tap cell phones, that we are tapping phone calls that are going out of this country to al-Qaeda operatives and others. They know now, so they are doing additional things to protect themselves. So the people who exposed this, in my opinion, gave aid and comfort to the enemy of the United States, to those who killed 3,000 plus people on September 11th, 2001, and who want to do this country harm.

Osama bin Laden said not too long ago he wants to once again attack the United States, and his minions and operatives say they are going to attack us again, they are going to kill a lot of people. Don't you think it is important we find out how to stop them? Don't you think it is important that we tap those phones of people who are calling known al-Qaeda operatives around the world and we want to know what they are doing before they kill more Americans?

This, my colleagues for whom I have the highest regard, is a war. This is a war. Americans are dying in this war. Americans died on 9/11. More died on 9/11 than died at Pearl Harbor. This is a war, and you have to do whatever is necessary, within the law, to protect the American citizens and the troops. That is what we have to do.

Now, nobody is for torture, and I have seen nothing that indicates the rendition that took place involved torture. Abu Ghraib, that has been dealt with. And I think the message has been sent, far and wide, is that we don't tolerate torture. But why don't you let the President alone and let him do his job? His number one responsibility he said time and time again is to protect America and its citizens and its troops.

And I truly believe that some of you are well intentioned. I have the highest regard for my colleague from California, he knows that, and I think a lot of people are well intentioned. But I think there are a lot of people on the other side of the aisle that are so hungry to get the Majority back, they are willing to do almost anything to put this President down and to drive his numbers down so you can get the Majority back.

If you want to get the Majority back, that is fine, but don't do it at the expense of the defense of the Nation and at the expense of a President who, in my opinion, is doing everything he can to protect us all.

I yield back.

Chairman HYDE. Ms. Berkley of Nevada.

Ms. BERKLEY. Thank you, Mr. Chairman.

I sit here in these hearings, I come back, as I have a responsibility to the people that I represent that I take very seriously. But hearing after hearing, meeting after meeting of this Committee, I find myself more and more insulted and offended by the comments coming from my colleagues from the other side.

I am not unpatriotic, I do not wish to give aid and comfort to the enemy, I do not sit here for political gain. I can think of better things to do with my time. But I think as a Member of Congress I have a role to play and a responsibility, and that responsibility is to participate in the Legislative Branch of Government and provide oversight to the Executive Branch of Government.

Now, I voluntarily and enthusiastically, as the Chairman said in his statement, supported going into Iraq, giving the President the powers to do that, but that did not mean I gave a blank check and everything that is done I have to agree with. That is not my role as a Member of Congress. My role is to have a vote and to have oversight. And I have a constitutional responsibility which I ought not, nor anybody else, abnegate.

We must not let Congress become irrelevant. We are not a rubber stamp to the Executive Branch of Government, and that is during wartime or not wartime.

Now, if you ask me, Mr. Chairman, if I had known when I voted to give the President the authority to go into Iraq that there were no weapons of mass destruction, that there was no nuclear threat imminent, that there was no imminent threat, and that there were no al-Qaeda ties, I cannot tell you that my vote would not have been different. And I suspect there are not too many people in this Congress that would have moved as quickly as we did. So please do not lecture me and insult me any further by questioning my patriotism and questioning who I am as a good American.

Now, President Bush may state that this Nation does not believe in torture. Who would possibly in this Nation believe in torture? But the infamous Abu Ghraib pictures, the disagreement over the McCain amendment, and the assertion by the Administration that the UN Convention on Torture does not apply outside the United States have, in my opinion, eroded our credibility and calls into question the President's statements.

Now, according to published reports, our State Department's legal office was not consulted on the application and interpretation of international agreements before policies regarding detainment

and interrogation were developed. This Congress has not looked into the issue of secret prisons in Europe and elsewhere. This Congress has not looked into what type of consent we received from countries where detention facilities were located. This Congress has not looked into alleged violations of the Conventions Against Torture and the Geneva Convention.

Now, our President speaks boldly of our mission to support free and open societies. I agree with him. A characteristic of free and democratic societies is transparency and openness and admitting your mistakes and failures.

The three resolutions of inquiry before us close a serious gap in congressional oversight, and it is the Legislative Branch's responsibility to investigate allegations of torture by U.S. personnel. We cannot sweep this under the rug and then go home to our constituents and tell them we are doing our job.

These resolutions, in my opinion, send a strong message to our friends abroad that our Government takes these investigations and these issues seriously. These resolutions send a strong message that our Government and this Administration is not above the law, that the United States Congress is engaged as an equal branch of government in our Government. And they tell the world that the United States can be trusted and that our word is our bond.

That, Mr. Chairman, is our responsibility, and I will be voting for these measures. Thank you very much.

Chairman HYDE. Mr. Chabot. Not here.

Mr. Rohrabacher.

Mr. ROHRABACHER. Thank you very much, Mr. Chairman.

I think that should we pass these resolutions or these requests by our friends on the other side of the aisle, that it would send a strong message, as was just indicated, but I think the message would be far different than the one we just heard expressed. Our friends and our enemies abroad would know that if the United States Government enters into a coalition with you to fight an enemy who is murdering Americans and others, that any confidentiality, any agreement of confidentiality between our governments would not be kept, and thus our friends who might wish to work with us in certain areas that might be somewhat controversial overseas would not feel that they could trust the United States Government's word in saying, well, look, this will be kept under wraps, so you don't have to face political pressure at home for being a friend of the United States. This will diminish trust in the United States of America if we force information that we have told our allies would be confidential—if we force that into the public.

First of all, let me say there is no reason—Mr. Lantos did not suggest that there had been no hearings on this issue. Mr. Engel, he did not suggest that. I listened very closely to Mr. Lantos. He said there had been no open hearings. That is what the real issue is here today, whether or not there are some things that are so important and so risky to the lives of our people who are putting themselves on the line overseas that we will make sure that the discussion of those issues takes place outside of the public purview, behind closed doors. We have an Intelligence Committee to do that job, and they have held their private hearings into this issue. There has been much inquiry into this.

And in terms of my colleague on the other side of the aisle who just suggested that we have never had any hearings on the wire-tapping, I am sorry, but I just think that there was—I forget what body it was, but the President's legal counsel Mr. Gonzales was just on TV discussing that at a hearing just 2 days ago, and I am sorry, I can't remember exactly what Committee that he was in front of.

Now, when we are at war and people are losing their lives, there are some things we can't bring out without risking the lives of our people and others. Our interrogation strategy of captured enemy soldiers is one of those things that should not be made a matter of public debate. And for those who are insisting upon it and are suggesting that those of us who think that this puts our people at risk do not equate that with some sort of attack on America's policy to begin with or an undermining of the war effort, I don't know what else we can think. What are the reasons behind that? Interrogation strategy of an enemy is not something to be discussed in public, otherwise Americans will die. Is that clear?

And so I would suggest that those we are forcing and trying to suggest that we have a closed society because we do not discuss that particular strategy in this war are not doing—well, are not thinking the same way I am, and I will just leave it at that.

Let me note that I think the issue of torture has been stretched out here, and we can discuss that as well if you want, but that is not what this is about. I don't necessarily think that Mr. Engel would think that it was a bad thing for someone to stop someone from blowing up a bus by using physical force on a captured terrorist if it meant saving the lives of thousands of kids who were going on school buses on a trip or on a train or whatever.

Now, there is a fine thing there we have to discuss, whether or not that is moral or not. We are a moral society. The people that we are against, fighting against, the radical Muslims that we are fighting against, the terrorists that we are fighting against, they have no moral qualms about that at all. They will blow up buses filled with schoolchildren. And we will have to debate, we can debate, openly in just philosophical terms where that line is drawn. But for us to then discuss and force the President of the United States into exposing the intricate strategies of our Government to defeat that enemy based on the moral considerations as well as the practical considerations, I think, is an undermining of this war effort.

We are at war, our people are dying. The people that we send out to fight this war, we owe them, we owe it to them to take this very seriously and to not give in to this type of what I consider to be a type of moral grandstanding that is not based in rational terms.

So with that said, I would certainly support the Chair's efforts in this to protect the President's efforts and to protect our wartime strategies with those who are captured.

By the way, I heard a discussion last night on O'Reilly. Let me note we cannot treat enemy detainees in a war like this as if they have exactly the same rights as U.S. citizens. We cannot expect that and expect that we are going to win.

Where we draw the line is a matter of discussion. Where the line is being drawn, what our strategies are should be discussed behind closed doors. But we better be practical about this, or we are going to lose more lives to the enemy.

Thank you very much, Mr. Chairman.

Chairman HYDE. Ms. Watson of California.

Ms. WATSON. Thank you, Mr. Chairman.

I will attempt to be brief, but I believe this is a subject which deserves our closest attention. We are not only talking about torture and inhumane treatment, but we are talking about extraordinary rendition or irregular rendition. We are talking about America's course in this fight to defend our Nation, our values and our principles. And I feel very strongly as long as we defend these practices, we will be thwarted in our efforts to win this fight.

The practice of rendition and torture, I think that is what I heard indicated by the former speaker, it is not anything goes in time of war. We are trying to spread democracy around the world, and we have to practice it, otherwise we don't give the truth.

And I have been out there; I have been an Ambassador. And if we are a nation of laws, we have to live within our laws. The advocates of anything goes, and the Vice President seems to be key among them, make the argument that because our enemies are evil, we cannot hope to defeat them unless we, too, are willing to perpetrate their same type of acts.

We do need the facts. We as Members of Congress need to be trusted. We need to have those documents because we seek the truth. How can the truth be kept from us; how can we do wire-tapping and not let all Members of Congress in on that? Are we not trustworthy?

But the lessons of American history clearly show the hollowness of the argument. In World War II, America gained no strategic advantage from putting thousands of loyal citizens in detention camps. In Vietnam we did not save villages by destroying them. And ultimately the Cold War was not won through deception or war, it was won when thousands of people behind the Iron Curtain voted to join free societies rather than submit to tyranny.

The President has outlined his vision of how we would like to repeat this triumph of our values over theirs to benefit the people of the Middle East. We are asking people around the world to risk their lives to embrace our values. How can we in good consciousness ask them to do that when we as Americans won't defend these values here at home?

Well, it is said put your trust in the President. Well, I ask the question: Is he trustworthy? How do I know? I was not a Member of Intelligence where he shared what he planned through NSA. I think I would be convinced that he was trustworthy if I had the facts. And to criticize a critique as being political because this is an election year is disrespectful, and I am offended.

As a former Ambassador, I represented my country in my head and my heart and my actions, and to be accused of being political because I am up again in November, I think, is the greatest insult. I think in a free society we have an obligation to check and balance the policies of the Executive Branch.

The President has rightfully identified what fuels Islamic extremists. The fact that so many nations hold their people in contempt, with no acknowledgment of their human rights or human dignities, yet we hold up torture, or irregular rendition, as one of our most critical tools in advocating for those same human rights and human dignities? This is a hollow strategy. And we, as Congress, have an obligation to absolutely reject it.

The center of gravity for al-Qaeda and like-minded extremists is in their hateful ideology. Until we have a strategy that acknowledges that defeating extremists' ideology is our number one task, we are working against ourselves in the War on Terror and delaying the day when more of our fellow human beings can enjoy their inalienable rights and freedoms.

So, Mr. Chairman, I support all three proposals because I believe when the information is shared among us, we then will know the truth. And until that time, I cannot put my trust in people who say, just trust me. I like to have the proof so I, in my heart and in my head, can know what the truth actually is.

Thank you for the time, Mr. Chairman.

Chairman HYDE. Thank you, Ms. Watson.

Mr. Royce of California.

Mr. ROYCE. Thank you, Mr. Chairman. And Mr. Chairman, I am going to support your motion to report these resolutions adversely. As Chairman of the Subcommittee on International Terrorism and Nonproliferation, I have thought long and hard about the topics that are before us today. And I think we should have an honest debate to confront the practical and moral realities of fighting terrorism.

Unfortunately, Mr. Chairman, I don't feel that this is a honest debate. Few in Washington are, I think, honest debates these days. We owe it to ourselves, this Committee and the Congress, to get serious on these pressing topics.

In our fight against terrorism, one of the things I worry about most is complacency and the failure to evolve. The terrorists are changing quickly, yet we seem stuck in mind-sets of past decades.

Many still hope to fit today's fluid enemy into today's rigid legal framework. And I will tell you about a recent trip where I went to the border where I talked with a border patrol agent who showed me the scars and the bite marks on his arm where an individual from Uzbekistan who had been trained in an Afghan training camp, had bit—severely bitten this border patrol agent when he was stopped. This is the second time this Jihadist has attempted to come into the United States. The first time he was stopped at one of our international airports and turned back there.

You know, the further we get away from 9/11, the less we seem to be able to grasp the lethality, the lethal nature of this enemy. People seem to forget that, in fact, there are thousands of terrorists who wake up every morning who want nothing more to do than to kill as many Americans as possible by whatever means necessary.

I say this as the press continues to report stories that significantly hamper our intelligence operations. Ask any intelligence official here or in Europe, and they will tell you of this frustration. It is possible that these resolutions before us today could continue to expose sources and methods further tying one arm behind our

back. In the course of the development, the investigations of the detention issue, even 16,000 pages of documents regarding detainee operations have been released, the content of these documents include classified interrogation techniques that would alert al-Qaeda to our sources and methods of gathering intelligence.

The bipartisan Silverman-Robb Commission found that the public disclosure of interrogation techniques was counterproductive. Unfortunately, reporting I have read would make some wonder who the enemy really is, al-Qaeda or the Bush Administration. One newspaper went so far as to call Dick Cheney the "Vice President of Torture."

Mr. Chairman, this is sad. We are losing our perspective while the enemy is patiently plotting and planning. These threats we face are too great to be stuck in partisan politics.

I am afraid much has got lost in the so-called "torture debates." Terrorists have always been vague about what is most offensive to them. Is it sleep deprivation during interrogation? Is it stress techniques such as kneeling? Those can be degrading and cruel if you interpret the words expansively.

With respect to renditions, the press and the other side would have you believe that this is a procedure hatched by the Bush Administration so that they can torture at will. We have to get perspective on this. Renditions can be an important tool against terrorism. As Secretary Rice has said, renditions take terrorists out of action and save lives. This was not cooked up by the Bush Administration. DCI Tenet reported prior to 9/11, the CIA had rendered 70 terrorists to justice around the world. We take them back to their source, to the source country.

Many will be quick to say that we render suspects only to torture. However, there are practical reasons why one might want to render a suspect to a third country. By the way, we don't render to countries where we suspect torture. But we render to Jordan. A lot of these individuals are Jordanian; reports have cited Jordan as the primary receiver here of renditions. Jordanian intelligence is highly regarded in the Middle East. And who better to interrogate a suspect, a Jordanian suspect, than someone who knows the suspect's language and culture?

Mr. Chairman, there is a reality here that we are not alone in the struggle against terrorism. It is important to look to other countries to see how they handle this complex threat. I will remind my colleagues that the French averted an attack by jetliner on the Eiffel Tower. Now, many would be surprised to learn of the powers given to the French state, which is on the terrorists' front line when it comes to antiterrorist laws. The French response emanates from its long history in confronting terrorism. French antiterrorism laws have recently been strengthened. The law allows for the interrogation for terrorism suspects for 144 hours—

Chairman HYDE. Gentleman's time has expired.

Mr. ROYCE. Let me just say, Mr. Chairman, I am not suggesting that we—I do not advocate we do not deploy the French methods. But in closing let me just say, in terms of perspective, I think someone should point out that when there are violations of our laws, we court-martial. We court-martial those who have abused or violated the laws of the United States; and frankly, in those in-

stances where commanders in the field have failed to live up to our standards, they have been court-martialed.

And I appreciate your indulgence there with the time. Thank you, Mr. Chairman.

Chairman HYDE. Thank you, Mr. Royce.

Mr. Delahunt.

Mr. DELAHUNT. Yes, I will take 5 minutes. I want to commend and compliment Mr. Lantos, Mr. Engel, Ms. Berkley, Ms. Watson. I associate myself with their remarks. I thought their statements were very powerful.

And I agree; I want to note, with Dan Burton, that we should let the President do his job. I guess my position is rather simple, and that is that we should do our job and we are not doing it.

My friend from California just referenced Jordan because of the quality of their intelligence service. And we do rendite to Jordan according to him, and I clearly believe him. I would just like to know, do we rendite to Syria? Do we rendite to Uzbekistan? Do we rendite to Turkmenistan? But I guess I won't know that.

Mr. ROYCE. If the gentleman would yield, if we had rendered that individual to Uzbekistan, he would not have been back a second time to tear off a piece of the arm of the border patrol agent if he had tried to come into the United States a second time.

Thank you for yielding.

Mr. DELAHUNT. Again, I am sure there are numerous other individuals that have been rendited. I just simply want to know where they have been rendited. But I guess that information will not be forthcoming.

That has nothing to do with methods. It has nothing to do with sources. I would like to know that simple fact, because I would like to do my job, because we do have a responsibility.

This is not about politics. It certainly isn't about politics. It is about something far more important. It is about our Constitution. Are we going to betray our Constitution? Are we going to give the terrorists a win by turning our back on our constitutional responsibility?

Let me suggest, that too is part of the War on Terror, to stand up to the American Constitution and not to betray it. I agree with Congresswoman Berkley, who said, we haven't looked into anything, nothing. Believe me, I know because I am the Ranking Member on the Oversight and Investigations Subcommittee.

We have done a good job in terms of the United Nations, but request a hearing on anything that might potentially embarrass the Administration and the response is silence.

My good friend, the Chairman of that Subcommittee referenced a hearing that occurred yesterday in the Senate. They do it better than we do, I am embarrassed to say.

And today there was before a Senate Committee an appearance by the Special Inspector General for the Iraq constitution about the magnitude of corruption and fraud that has gone on and continues in Iraq. I have asked for a hearing on that. I am sure Mr. Bowen would be happy to come before the Subcommittee which I serve as Ranking Member, but we can't get a hearing there. But he made an interesting statement. He said, oversight delayed is oversight

denied, and that is what is happening in the United States Congress.

I am sad. I love this Committee, I love this institution, and I think that we are demeaning both the Committee and the institution by not putting as a priority our constitutional responsibility of oversight and serving as a check and balance, as my previous Democratic colleagues have articulated. We are going to be judged harshly by history.

Our role is not to sit here and serve as props. It is to be aggressive and it is to challenge, whether it is a Democratic presidency or a Republican presidency. We have failed to do that. And it looks like we are going to continue along that road until the American people say, Enough. I yield back.

Chairman HYDE. Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman, and I certainly want to thank you and our Ranking Member for bringing these three pieces of legislation for consideration by our Committee.

Mr. Chairman, we all know that this is not the first time that issues such as these have not been deliberated and debated before our Committee; and I am torn by the fact of all the exchanges of views and thoughts about what is happening not only in our Committee, but certainly in our country.

As I recall, Mr. Chairman, the President was not the only official in our national Government who took that sacred oath of office, and the substance of that oath simply says that we are to support and defend the Constitution of the United States. And as I recall, every Member of this Committee of this House, as well as every Senator of this body that makes up the Congress of the United States also took that same oath, given to understand that we have a system of government that is of equal basis or standing in terms of the responsibilities of the President and the responsibilities that we have as Members of the Congress.

I believe it was Lord Acton who said that power corrupts and absolute power corrupts absolutely. Mr. Chairman, I am not suggesting that our President is corrupt. But I think sometimes the system and all the events and all the things that have transpired to the span of the last 4 or 5 years have brought to us this point in time now in terms of, What are we really to do? And I had always hoped that when dealing with issues, these issues should always be on a bipartisan basis.

With all due respect to my dear friend from Indiana who made these statements that these terrorists are animals because they cut other people's heads off, I recall there was a story about the famous writer Robert Louis Stevenson who spent the last 4 years of his life on my island of Samoa, and he was complaining about my people where we have a ritual where we go to war—we cut other guys' heads off when we go to war. And so Robert Louis Stevenson was complaining about how barbaric we were, uncivilized we were, why were we doing this?

So one of our paramount chiefs came about and brought a Bible. And there was this little story in the book of Samuel, I think that this guy was named David who killed this huge guy named Goliath, who is 10 foot tall, and with Goliath's own sword, he cut off Goliath's head. And we thought, Well, the Lord doesn't seem to

mind that David cut Goliath's head off. So it seems to us that I don't think there was anything wrong with our ritual that we cut other people's heads off when we go to war.

So with all due respect to my good friend from Indiana, for whom I have highest respect, these people are not animals. They are human beings. And for whatever reasons, what motives, what they are doing, I am not one to judge.

But we do have a very serious problem before us, Mr. Chairman of the issues that have literally torn our country. We are in the middle of the fact that our country is divided truly on this issue of the war in Iraq.

I think that we are still feeling the pains of Vietnam, wanting to know that when we commit an act of war, what do we do as leaders of our nation and how should we go about doing it, so that we have the support of all the American people and not be so divisive the way we are.

I absolutely want to say that we are not wanting to do all this because we want the majority back. I think we have a greater responsibility in the fact that we took that oath in supporting and defending the Constitution just as much as the President has that responsibility. And I think that is the reason why we are doing this, Mr. Chairman.

We talk about—how we got there in Vietnam is questionable. Even now our own President has admitted that our intelligence was faulty, the information was faulty, but he still believes he made the right decision.

For myself, it seems to me that if you premise your decisions on false information and false intelligence, then the decision, the results of it, will also be very bad in my humble opinion.

The fact that it was not Saddam Hussein who caused 9/11, it was Osama bin Laden. I fully supported the resolution that we go to Afghanistan and seek out Osama bin Laden and the al-Qaeda; but somewhere along the line, midstream, we decided as a country, or the leaders of the Administration started thinking we had to go after Saddam Hussein.

I think the classic example, Mr. Chairman, shows that somewhere along the line we have some problems if our own Secretary of State, Colin Powell, before the Security Council and before the world, after spending 4 days in the headquarters of the CIA, rummaging through every bit of paper, saying what is there that is valid intelligence information that is going to be based on the statement that he went and made before the United Nations and before the world, only to admit now, months later, that that information was bogus, gives me to express my sense of concern.

Chairman HYDE. Without objection, the gentleman is granted another 5 minutes.

Mr. FALEOMAVEGA. Mr. Chairman, you are so kind. Thank you so much.

And we have this fellow named Chalabi, whom we paid \$400,000 a month for faulty intelligence, and this guy named Curveball, whom we accepted as our primary informant and said, It is okay to do all this.

Mr. Chairman, we even had the British and German intelligence officials challenging the information the CIA had given to our President.

Chairman HYDE. Will the gentleman yield?

Mr. FALEOMAVAEGA. I gladly yield to my good Chairman.

Chairman HYDE. Would you dwell for a few moments on what happens to Israel if America is chased out of the Middle East?

Mr. FALEOMAVAEGA. Mr. Chairman, you will not find a better supporter of the state of Israel under any conditions and all the problems affecting the livelihood and the status of that State.

Chairman HYDE. But who is protecting Israel?

Mr. FALEOMAVAEGA. None other than the United States of America, Mr. Chairman.

Chairman HYDE. Oh, you are so right. Thank you.

Mr. FALEOMAVAEGA. Mr. Chairman, I cannot agree with you more. Thank you.

I would be willing to say that of the 3 resolutions that we are proposing here, Mr. Chairman, to maybe put another suggestion that we hold closed sessions if there is a concern. And I am sure that every Member of this Committee, both Democrat and Republican, does not want to give aid and assistance to the enemy to those who tried to kill our soldiers and all of that.

Why not hold closed sessions on some of the issues that we are raising here and bring these people to bear? Let's discuss and let's put it so that we can have a better understanding of the situation.

The issue of rendition is well known when a German citizen of Arab descent was cruelly tortured and for all these things that have come out in the open, unfortunately, to seriously question. And that is the reason why we are saying, if we are doing it with a German citizen of Arab descent, might it also be possible there might be 100 renditions that have been committed wrongly against citizens of other countries?

I don't know, but it certainly would help if we had some kind of a sense of understanding of what is going on with our Government, and I think, as an equal branch of government, those of us who serve on the legislative side, I think we should be entitled to know what the Administration is doing.

The question of domestic surveillance, I am happy the Senate is holding hearings, and I sincerely—Mr. Chairman, we should hold hearings here too concerning the issue of domestic surveillance, because it does impact and does seriously implicate our responsibilities and our foreign policies that are currently being administered or implemented or by the Administration.

I won't get into the specifics of the issues of the debate on domestic surveillance, but there are certainly serious questions raised by both Republicans and Democrats in the Senate, and I am sure the same is true even here on our side as Members of the House.

With that, Mr. Chairman, I—again, I want to thank you for allowing me additional time to express my views. And I just wish that this could have been done on a bipartisan basis. I feel that issues like this should always be done on a bipartisan basis, but unfortunately it doesn't appear that way.

And I thank you and I yield back the balance of my time.

Chairman HYDE. I would like to tell the gentleman this has been retroactively bipartisan.

Mr. FALOMAVEGA. Thank you, Mr. Chairman.

Chairman HYDE. Well, we don't—we have run out of speakers, which is a rare occurrence.

Without objection, the previous question is ordered on the three resolutions and the Committee stands in recess until 5 o'clock p.m.

[Recess.]

Chairman HYDE. Committee will come to order.

The Chair will now put the question on the three motions to report adversely the resolutions of inquiry as follows: H. Res. 593, Markey, on rendition; H. Res. 624, Ackerman, on torture; H. Res. 642, Lee, on Secretary of State and torture.

Shall we vote a voice vote or does someone want the rollcall?

Mr. LANTOS. We are not requesting the rollcall, Mr. Chairman.

Well, depending on how things shape up. Yes, let's have a rollcall, Mr. Chairman.

Chairman HYDE. All right, we will have a rollcall, and we will vote on each individual resolution.

So first, H. Res. 593, the Markey resolution on rendition. Call the roll. The clerk will call the roll.

Ms. RUSH. Mr. Leach

[No response.]

Ms. RUSH. Mr. Smith of New Jersey.

[No response.]

Ms. RUSH. Mr. Burton

Mr. BURTON. Yes.

Ms. RUSH. Mr. Burton votes yes.

Mr. Gallegly

[No response.]

Ms. RUSH. Ms. Ros-Lehtinen

Ms. ROS-LEHTINEN. Yes.

Ms. RUSH. Ms. Ros-Lehtinen votes yes.

Mr. Rohrabacher.

Mr. ROHRABACHER. Yes.

Ms. RUSH. Mr. Rohrabacher votes yes.

Mr. Royce.

Mr. ROYCE. Yes.

Ms. RUSH. Mr. Royce votes yes.

Mr. King

Mr. KING. Yes.

Ms. RUSH. Mr. King votes yes.

Mr. Chabot.

Mr. CHABOT. Yes.

Ms. RUSH. Mr. Chabot votes yes.

Mr. Tancredo.

Mr. TANCREDO. Yes.

Ms. RUSH. Mr. Tancredo votes yes.

Mr. Paul.

Mr. PAUL. No.

Ms. RUSH. Mr. Paul votes no.

Mr. Issa.

Mr. ISSA. Yes.

Ms. RUSH. Mr. Issa votes yes.

Mr. Flake.
 Mr. FLAKE. Yes.
 Ms. RUSH. Mr. Flake votes yes.
 Mrs. Davis.
 Mrs. DAVIS. Yes.
 Ms. RUSH. Mrs. Davis votes yes.
 Mr. Green.
 Mr. GREEN. Yes.
 Ms. RUSH. Mr. Green votes yes.
 Mr. Weller.
 Mr. WELLER. Yes.
 Ms. RUSH. Mr. Weller votes yes.
 Mr. Pence.
 Mr. PENCE. Yes.
 Ms. RUSH. Mr. Pence votes yes.
 Mr. McCotter.
 Mr. McCOTTER. Yes.
 Ms. RUSH. Mr. McCotter votes yes.
 Ms. Harris.
 Ms. HARRIS. Yes.
 Ms. RUSH. Ms. Harris votes yes.
 Mr. Wilson.
 Mr. WILSON. Yes.
 Ms. RUSH. Mr. Wilson votes yes.
 Mr. Boozman.
 Mr. BOOZMAN. Yes.
 Ms. RUSH. Mr. Boozman votes yes.
 Mr. Barrett.
 Mr. BARRETT. Aye.
 Ms. RUSH. Mr. Barrett votes yes.
 Mr. Mack.
 Mr. MACK. Yes.
 Ms. RUSH. Mr. Mack votes yes.
 Mr. Fortenberry.
 Mr. FORTENBERRY. Yes.
 Ms. RUSH. Mr. Fortenberry votes yes.
 Mr. McCaul.
 Mr. McCAUL. Yes.
 Ms. RUSH. Mr. McCaul votes yes.
 Mr. Poe.
 Mr. POE. Yes.
 Ms. RUSH. Mr. Poe votes yes.
 Mr. Lantos.
 Mr. LANTOS. No.
 Ms. RUSH. Mr. Lantos votes no.
 Mr. Berman.
 [No response.]
 Ms. RUSH. Mr. Ackerman.
 [No response.]
 Ms. RUSH. Mr. Faleomavaega.
 Mr. FALEOMAVAEGA. No.
 Ms. RUSH. Mr. Faleomavaega votes no.
 Mr. Payne.
 [No response.]

Ms. RUSH. Mr. Brown.
 [No response.]
 Ms. RUSH. Mr. Sherman.
 Mr. SHERMAN. No.
 Ms. RUSH. Mr. Sherman votes no.
 Mr. Wexler.
 Mr. WEXLER. No.
 Ms. RUSH. Mr. Wexler votes no.
 Mr. Engel.
 Mr. ENGEL. No.
 Ms. RUSH. Mr. Engel votes no.
 Mr. Delahunt.
 Mr. DELAHUNT. No.
 Ms. RUSH. Mr. Delahunt votes no.
 Mr. Meeks.
 [No response.]
 Ms. RUSH. Ms. Lee.
 [No response.]
 Ms. RUSH. Mr. Crowley.
 Mr. CROWLEY. No.
 Ms. RUSH. Mr. Crowley votes no.
 Mr. Blumenauer.
 [No response.]
 Ms. RUSH. Ms. Berkley.
 Ms. BERKLEY. No.
 Ms. RUSH. Ms. Berkley votes no.
 Mrs. Napolitano.
 Mrs. NAPOLITANO. No.
 Ms. RUSH. Mrs. Napolitano votes no.
 Mr. Schiff.
 Mr. SCHIFF. No.
 Ms. RUSH. Mr. Schiff votes no.
 Ms. Watson.
 Ms. WATSON. No.
 Ms. RUSH. Ms. Watson votes no.
 Mr. Smith of Washington.
 Mr. SMITH OF WASHINGTON. No.
 Ms. RUSH. Mr. Smith of Washington votes no.
 Ms. McCollum.
 [No response.]
 Ms. RUSH. Mr. Chandler.
 Mr. CHANDLER. No.
 Ms. RUSH. Mr. Chandler votes no.
 Mr. Cardoza.
 Mr. CARDOZA. No.
 Ms. RUSH. Mr. Cardoza votes no.
 Chairman Hyde.
 Chairman HYDE. Yes.
 Ms. RUSH. Chairman Hyde votes yes.
 Chairman HYDE. Mr. Leach.
 Mr. LEACH. No.
 Ms. RUSH. Mr. Leach votes no.
 Chairman HYDE. Mr. Smith of New Jersey.
 Mr. SMITH OF NEW JERSEY. Yes.

Ms. RUSH. Mr. Smith of New Jersey votes yes.

Chairman HYDE. Clerk will report.

Ms. RUSH. On this vote there are 24 yeases and 16 noes.

Chairman HYDE. The ayes have it. Motion to report is adversely is adopted.

And Ms. Ros-Lehtinen.

Ms. ROS-LEHTINEN. Thank you, Mr. Chairman, pursuant to the rule, I request 2 days provided for the filing of views on the report of the resolution of inquiry.

Chairman HYDE. Without objection, so ordered.

The question occurs on the motion to report the resolution H. Res. 624, Mr. Ackerman adversely.

All in favor say aye.

All opposed, no.

And the clerk will call the roll.

Ms. RUSH. Mr. Leach.

Mr. LEACH. No.

Ms. RUSH. Mr. Leach votes no.

Mr. Smith of New Jersey.

Mr. SMITH OF NEW JERSEY. Yes.

Ms. RUSH. Mr. Smith of New Jersey votes yes.

Mr. Burton.

Mr. BURTON. Yes.

Ms. RUSH. Mr. Burton votes yes.

Mr. Gallegly.

[No response.]

Ms. RUSH. Ms. Ros-Lehtinen.

Ms. ROS-LEHTINEN. Yes.

Ms. RUSH. Ms. Ros-Lehtinen votes yes.

Mr. Rohrabacher.

Mr. ROHRABACHER. Yes.

Ms. RUSH. Mr. Rohrabacher votes yes.

Mr. Royce.

Mr. ROYCE. Yes.

Ms. RUSH. Mr. Royce votes yes.

Mr. King.

Mr. KING. Yes.

Ms. RUSH. Mr. King votes yes.

Mr. Chabot.

Mr. CHABOT. Yes.

Ms. RUSH. Mr. Chabot votes yes.

Mr. Tancredo.

Mr. TANCREDO. Yes.

Ms. RUSH. Mr. Tancredo votes yes.

Mr. Paul.

Mr. PAUL. Yes.

Ms. RUSH. Mr. Paul votes yes.

Mr. Issa.

Mr. ISSA. Yes.

Ms. RUSH. Mr. Issa votes yes.

Mr. Flake.

Mr. FLAKE. Yes.

Ms. RUSH. Mr. Flake votes yes.

Mrs. Davis.

Mrs. DAVIS. Yes.
 Ms. RUSH. Mrs. Davis votes yes.
 Mr. Green.
 Mr. GREEN. Yes.
 Ms. RUSH. Mr. Green votes yes.
 Mr. Weller.
 Mr. WELLER. Yes.
 Ms. RUSH. Mr. Weller votes yes.
 Mr. Pence.
 Mr. PENCE. Yes.
 Ms. RUSH. Mr. Pence votes yes.
 Mr. McCotter.
 Mr. MCCOTTER. Yes.
 Ms. RUSH. Mr. McCotter votes yes.
 Ms. Harris.
 Ms. HARRIS. Yes.
 Ms. RUSH. Ms. Harris votes yes.
 Mr. Wilson.
 Mr. WILSON. Yes.
 Ms. RUSH. Mr. Wilson votes yes.
 Mr. Boozman.
 Mr. BOOZMAN. Yes.
 Ms. RUSH. Mr. Boozman votes yes.
 Mr. Barrett.
 Mr. BARRETT. Yes.
 Ms. RUSH. Mr. Barrett votes yes.
 Mr. Mack.
 Mr. MACK. Yes.
 Ms. RUSH. Mr. Mack votes yes.
 Mr. Fortenberry.
 Mr. FORTENBERRY. Yes.
 Ms. RUSH. Mr. Fortenberry votes yes.
 Mr. McCaul.
 Mr. MCCAUL. Yes.
 Ms. RUSH. Mr. McCaul votes yes.
 Mr. Poe.
 Mr. POE. Yes.
 Ms. RUSH. Mr. Poe votes yes.
 Mr. Lantos.
 Mr. LANTOS. No.
 Ms. RUSH. Mr. Lantos votes no.
 Mr. Berman.
 [No response.]
 Ms. RUSH. Mr. Ackerman.
 [No response.]
 Ms. RUSH. Mr. Faleomavaega.
 Mr. FALEOMAVAEGA. No.
 Ms. RUSH. Mr. Faleomavaega votes no.
 Mr. Payne.
 [No response.]
 Ms. RUSH. Mr. Brown.
 [No response.]
 Ms. RUSH. Mr. Sherman.
 Mr. SHERMAN. No.

Ms. RUSH. Mr. Sherman votes no.
 Mr. Wexler.
 Mr. WEXLER. No.
 Ms. RUSH. Mr. Wexler votes no.
 Mr. Engel.
 Mr. ENGEL. No.
 Ms. RUSH. Mr. Engel votes no.
 Mr. Delahunt.
 Mr. DELAHUNT. No.
 Ms. RUSH. Mr. Delahunt votes no.
 Mr. Meeks.
 [No response.]
 Ms. RUSH. Mr. Crowley.
 Mr. CROWLEY. No.
 Ms. RUSH. Mr. Crowley votes no.
 Mrs. Lee.
 [No response.]
 Ms. RUSH. Mr. Blumenauer.
 [No response.]
 Ms. RUSH. Ms. Berkley.
 Ms. BERKLEY. No.
 Ms. RUSH. Ms. Berkley votes no.
 Mrs. Napolitano.
 Mrs. NAPOLITANO. No.
 Ms. RUSH. Mrs. Napolitano votes no.
 Mr. Schiff.
 Mr. SCHIFF. No.
 Ms. RUSH. Mr. Schiff votes no.
 Ms. Watson.
 Ms. WATSON. No.
 Ms. RUSH. Ms. Watson votes no.
 Mr. Smith of Washington.
 Mr. SMITH OF WASHINGTON. No.
 Ms. RUSH. Mr. Smith of Washington votes no.
 Ms. McCollum.
 [No response.]
 Ms. RUSH. Mr. Chandler.
 Mr. CHANDLER. No.
 Ms. RUSH. Mr. Chandler votes no.
 Mr. Cardoza.
 Mr. CARDOZA. No.
 Ms. RUSH. Mr. Cardoza votes no.
 Chairman Hyde.
 Chairman HYDE. Aye.
 Ms. RUSH. Mr. Hyde votes yes.
 Mr. Brown.
 Mr. BROWN. Votes no.
 Chairman HYDE. Mr. Payne.
 Mr. PAYNE. No.
 Ms. RUSH. Mr. Payne votes no.
 I don't have Mr. Brown.
 Mr. Brown votes no.
 Chairman HYDE. Clerk will report.
 Ms. RUSH. On this vote, there are 25 yeses and 17 noes.

Chairman HYDE. The ayes have it. The motion to report adversely is adopted.

Ms. ROS-LEHTINEN. Mr. Chairman.

Chairman HYDE. Yes, Mrs. Ros-Lehtinen.

Ms. ROS-LEHTINEN. Thank you, Mr. Chairman. Pursuant to the rule, I request that 2 days be provided for the filing of views on the report on the resolution of inquiry.

Chairman HYDE. Without objection, so ordered.

The question occurs on the motion to report the resolution H. Res. 642, Lee, adversely. All in favor will vote aye.

All opposed, nay.

And the clerk will call the roll.

Ms. RUSH. Mr. Leach.

Mr. LEACH. No.

Ms. RUSH. Mr. Leach votes no.

Mr. Smith of New Jersey.

Mr. SMITH OF NEW JERSEY. Yes.

Ms. RUSH. Mr. Smith of New Jersey votes yes.

Mr. Burton.

Mr. BURTON. Yes.

Ms. RUSH. Mr. Burton votes yes.

Mr. Gallegly

[No response.]

Ms. RUSH. Ms. Ros-Lehtinen.

Ms. ROS-LEHTINEN. Yes.

Ms. RUSH. Ms. Ros-Lehtinen votes yes.

Mr. Rohrabacher.

Mr. ROHRABACHER. Yes.

Ms. RUSH. Mr. Rohrabacher votes yes.

Mr. Royce.

Mr. ROYCE. Yes.

Ms. RUSH. Mr. Royce votes yes.

Mr. King.

Mr. KING. Yes.

Ms. RUSH. Mr. King votes yes.

Mr. Chabot.

Mr. CHABOT. Yes.

Ms. RUSH. Mr. Chabot votes yes.

Mr. Tancredo.

Mr. TANCREDO. Yes.

Ms. RUSH. Mr. Tancredo votes yes.

Mr. Paul.

Mr. PAUL. Yes.

Ms. RUSH. Mr. Paul votes yes.

Mr. Issa.

Mr. ISSA. Yes.

Ms. RUSH. Mr. Issa votes yes.

Mr. Flake.

Mr. FLAKE. Yes.

Ms. RUSH. Mr. Flake votes yes.

Mrs. Davis.

Mrs. DAVIS. Yes.

Ms. RUSH. Mrs. Davis votes yes.

Mr. Green.

Mr. GREEN. Yes.
 Ms. RUSH. Mr. Green votes yes.
 Mr. Weller.
 Mr. WELLER. Yes.
 Ms. RUSH. Mr. Weller votes yes.
 Mr. Pence.
 Mr. PENCE. Yes.
 Ms. RUSH. Mr. Pence votes yes.
 Mr. McCotter.
 Mr. McCOTTER. Yes.
 Ms. RUSH. Mr. McCotter votes yes.
 Ms. Harris.
 Ms. HARRIS. Yes.
 Ms. RUSH. Ms. Harris votes yes.
 Mr. Wilson.
 Mr. WILSON. Yes.
 Ms. RUSH. Mr. Wilson votes yes.
 Mr. Boozman.
 Mr. BOOZMAN. Yes.
 Ms. RUSH. Mr. Boozman votes yes.
 Mr. Barrett.
 Mr. BARRETT. Yes.
 Ms. RUSH. Mr. Barrett votes yes.
 Mr. Mack.
 Mr. MACK. Yes.
 Ms. RUSH. Mr. Mack votes yes.
 Mr. Fortenberry.
 Mr. FORTENBERRY. Yes.
 Ms. RUSH. Mr. Fortenberry votes yes.
 Mr. McCaul.
 Mr. MCCAUL. Yes.
 Ms. RUSH. Mr. McCaul votes yes.
 Mr. Poe.
 Mr. POE. Yes.
 Ms. RUSH. Mr. Poe votes yes.
 Mr. Lantos.
 Mr. LANTOS. No.
 Ms. RUSH. Mr. Lantos votes no.
 Mr. Berman.
 [No response.]
 Ms. RUSH. Mr. Ackerman
 [No response.]
 Ms. RUSH. Mr. Faleomavaega
 Mr. FALEOMAVAEGA. No.
 Ms. RUSH. Mr. Faleomavaega votes no.
 Mr. Payne.
 Mr. PAYNE. No.
 Ms. RUSH. Mr. Payne votes no.
 Mr. Brown.
 Mr. BROWN. No.
 Ms. RUSH. Mr. Brown votes no.
 Mr. Sherman.
 Mr. SHERMAN. No.
 Ms. RUSH. Mr. Sherman votes no.

Mr. Wexler.
 Mr. WEXLER. No.
 Ms. RUSH. Mr. Wexler votes no.
 Mr. Engel.
 Mr. ENGEL. No.
 Ms. RUSH. Mr. Engel votes no.
 Mr. Delahunt.
 Mr. DELAHUNT. No.
 Ms. RUSH. Mr. Delahunt votes no.
 Mr. Meeks.
 [No response.]
 Ms. RUSH. Ms. Lee.
 [No response.]
 Ms. RUSH. Mr. Crowley.
 Mr. CROWLEY. No.
 Ms. RUSH. Mr. Crowley votes no.
 Mr. Blumenauer.
 [No response.]
 Ms. RUSH. Ms. Berkley.
 Ms. BERKLEY. No.
 Ms. RUSH. Ms. Berkley votes no.
 Mrs. Napolitano.
 Mrs. NAPOLITANO. No.
 Ms. RUSH. Mrs. Napolitano votes no.
 Mr. Schiff.
 Mr. SCHIFF. No.
 Ms. RUSH. Mr. Schiff votes no.
 Ms. Watson.
 Ms. WATSON. No.
 Ms. RUSH. Ms. Watson votes no.
 Mr. Smith of Washington.
 Mr. SMITH OF WASHINGTON. No.
 Ms. RUSH. Mr. Smith of Washington votes no.
 Ms. McCollum.
 [No response.]
 Ms. RUSH. Mr. Chandler.
 Mr. CHANDLER. No.
 Ms. RUSH. Mr. Chandler votes no.
 Mr. Cardoza.
 Mr. CARDOZA. No.
 Ms. RUSH. Mr. Cardoza votes no.
 Chairman Hyde.
 Chairman HYDE. Yes.
 Ms. RUSH. Mr. Hyde votes yes.
 Chairman HYDE. The clerk will report.
 Ms. RUSH. On this vote there are 25 yeses and 17 noes.
 Chairman HYDE. And the ayes have it. The motion to report adversely is adopted.
 Ms. ROS-LEHTINEN. Mr. Chairman.
 Chairman HYDE. Yes, ma'am.
 Ms. ROS-LEHTINEN. Pursuant to the rule, I request the 2 days provided for the filing of views on the report on the resolution of inquiry.
 Chairman HYDE. Without objection, so ordered.

The Committee stands adjourned.

[Whereupon, at 4:35 p.m., the Committee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE BRAD SHERMAN, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA

Many of the concerns expressed by my colleagues are legitimate. The resolutions seek a breadth of sensitive information that should give us all pause. However, it is important to keep a few points in mind regarding this process that should mitigate these concerns significantly.

First, these resolutions do not have the force of a subpoena, and failure to comply cannot lead to contempt. Compliance with these resolutions is a matter of comity between the political branches of government. There have been numerous instances where the Executive has failed to provide documents requested by the House, and the only real or perceived punishment for that failure has been political. I am sure that if these resolutions were to pass, the Executive Branch's interest in obtaining unfurnished advice would be kept in mind by the Bush administration.

Next, even if these resolutions were binding, the Executive would be free to claim its privilege. The courts have recognized an executive privilege, and officials have often claimed it effectively. Generally, absent an ongoing investigation of criminal behavior, the courts have shown a strong inclination to recognize the privilege. In any case, no court is going to enforce these resolutions; these are not judicial proceedings, but the principles are the same. The Executive Branch, like every one of us, should be free to seek information and advice from its staff, without fear that those giving the advice will pull their punches.

The Executive Branch is free to partially comply. There are instances in the past where the Executive's responses to both judicial requests and these lesser political requests provided only some of the information requested.

Secrecy can be protected. There is nothing about this process which would void provisions of our national security law on classified information—and access to it. All normal processes for the protection of classified information can and should be followed.

The perceived need to resort to resolutions of inquiry regarding the operation of our government demonstrates the frustration felt by Members of Congress as we seek to conduct our oversight responsibility. Hopefully, if we work together in a more cooperative and bipartisan manner, the filing of such resolutions will become a relative rarity again. Members on both sides of the aisle need to realize, as they seek information on our government's operations, high officials have the necessary right to keep the deliberative process away from publicity and a duty to secure highly sensitive information. The scope of all resolutions of inquiry must be limited by these rights and duties. It is precisely because the Executive has these rights and duties that we should not yield to fears about injecting ourselves into the deliberative process and fears about exposure of classified information.

PREPARED STATEMENT OF THE HONORABLE ADAM B. SCHIFF, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman: This nation's unique place in the international community, our role as leader of the free world, and our ability to marshal grand coalitions in the cause of liberty and democracy has rested in large part on our being a symbol of what a nation can be when what is right is not subverted by expediency.

Like every member of this Committee, like every member of this Congress, I want the President and the Administration to have all of the authority that it needs to

prevent further acts of terrorism against the United States and to do everything possible to protect our forces deployed in Iraq, Afghanistan and elsewhere.

However, I have become increasingly concerned about certain actions that undermine our security even if undertaken in the name of fighting terrorism. Torture, mistreatment of prisoners and rendition when there is a likelihood of torture or mistreatment are illegal, immoral and would set us back in the war on terror and our efforts to stabilize Iraq.

Not only is there overwhelming evidence that torture and mistreatment are not effective in producing actionable intelligence, they also serve to harden opposition to the United States in the Muslim world and act as a recruiting tool for al Qaeda and other Islamic extremist groups.

As I have noted many times in this committee and on the floor of the House, my colleagues in the majority are seemingly allergic to meaningful oversight, and this reluctance to play our vital institutional role has both harmed our nation's security and forced members on this side of the aisle to use the rules of the House to try to force Congress to be more vigorous in its supervision of the Executive. And I am not alone in my disquiet. In May 2004, Senator Chuck Grassley, the Republican chairman of the Senate Finance Committee, expressed his unease about the lack of oversight in Congress. The majority in this Congress, Senator Grassley acknowledged, "has delegated so much authority to the executive branch of government, and we ought to devote more time to oversight than we do."

Today this Committee has an opportunity to make a fresh start by reporting these resolutions favorably to the full House. It would be a small but meaningful step towards reasserting our institutional prerogatives.

Throughout his public life, President Reagan invoked the puritan leader John Winthrop's vision of the new world as an example to humanity and I think that his invocation is fitting at this time in our national life. "We shall be as a city upon a hill," Winthrop wrote in 1630. "The eyes of all people are upon us; so that if we shall deal falsely with our God in this work we have undertaken and so cause him to withdraw present help from us, we shall be made a story and by word through the world we shall open the mouths of enemies."

We must deal honestly with the challenges facing our nation and shun practices that undermine our moral authority. By conducting the oversight these measures would allow, we can ensure our continuing place as a "city upon a hill."

Mr. Chairman, I urge my colleagues to report these resolutions favorably and I yield back.

