

The CDC, the American College of Sports Medicine, and the U.S. Surgeon General have come together to recommend that, for adults, 30 minutes of moderate-intensity activity 5 or more days a week will actually stabilize and reverse the trends we have seen. It is clear that additional physical activity will have even increased benefits on the part of the body that I specialized on, the heart, but also chronic diseases such as diabetes, probably some cancers, clearly lung disease as well. Again, if we can all concentrate on that 30 minutes.

In terms of weight gain, it is not clear yet. We can't accurately predict and say this is how much exercise you need to do to prevent weight gain or reverse weight gain because it is such an individual matter. But we all know physical activity plays a very prominent role in reversing weight gain. It is an important aspect of weight control. It helps promote caloric balance. It helps promote general well-being. In fact, it also helps control appetite.

I mention all this, and I am delighted you will see a lot of Senators and staff members wearing one of these little pedometers. I happen to have one on now. I am a little embarrassed to open up and read how many steps I have taken today. As of 9:30 this morning I have only taken 625 steps. That is too little because by the end of the day I need to have taken a recommended 8,000 or 10,000 steps.

In fact, yesterday I only took about 4,500 steps. So I need to reach my goal of 8,000 to 10,000 over the course of the day. What it does cause me to do is at least think about, instead of taking the elevator right outside the doors, to walk up those two flights of steps, or instead of riding in a car a block or two blocks or three blocks, go ahead and walk on the beautiful day that we have outside. The feedback one gets really helps you think, and then hopefully gives you sort of secondary reinforcement to incorporate that into your lifestyle.

The daily step goals can vary. What I encourage people to do is wear these little inexpensive pedometers. All they do is measure your steps. They do that fairly accurately. People's steps are different lengths, but they give you a way to monitor the activity you do each day, but then also how much you can improve by altering your lifestyle just a little bit. That feedback is very important in terms of changing lifestyle.

During last week—and we will see how long it lasts; I hope it will be for a while—all of my staff have gone out and gotten these little, tiny plastic devices which they are wearing. This week we are going to be measuring our baselines to see where we are, and then we will see in the future how much improvement there is. In fact, later today we will all go out and take a little jog around The Mall. All of us will try bringing our counts up. We try to do a lot within our own Senate community.

I encourage my colleagues to do the same. It is really a matter of raising awareness and changing our lifestyles, which will definitely improve health.

I thank the CDC Foundation and the America on the Move organization for supplying us with these devices. I should also mention for those of my colleagues and others who are listening today who wish to find out more about the pedometers and the importance of daily exercise, two Web sites. The one I highly recommend is the CDC Web site. I will give my colleagues both those addresses. The Web site for America on the Move is [www.americaonthemove.org](http://www.americaonthemove.org). The Web site for the CDC is [www.cdc.gov](http://www.cdc.gov).

You don't have to run. You can walk. You can use a pedometer doing that, and you can make great strides toward a healthier lifestyle.

A couple of key points:

The 30-minute minimum does not have to be done at one time in terms of the official recommendations. You can do it in three 10-minute intervals over the course of the day. You want to be walking at a fast enough intensity where it will make a difference enough to accelerate the heart rate modestly for each of those 10-minute periods.

Finally, I will close with the best part of all of this, which is that it is never too late. No matter what age you are, you can actually change your overall health status, your quality of life, and how long you live if you decide today to change your lifestyle. It will make a difference. It doesn't matter how old you are, how unfit your baseline is, or how inactive you are. Current research shows that starting a more active lifestyle through exercise can make you healthier and improve your quality of life.

That is my health tip for day. It is a little bit about what we do as physicians, as one who exercises regularly, and as one who believes it can make a difference. I know the distinguished occupant of the Chair, the distinguished President pro tempore, is a religious exerciser.

I wanted to make that very brief statement.

I yield the floor.

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#### RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

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#### MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business with Senators permitted to speak for up to 10 minutes each.

Who seeks recognition?

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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#### POLITICIZATION OF THE NOMINATION PROCESS

Mr. DASCHLE. Mr. President, our Constitution has vested the Senate with the responsibility of advising and consenting on the President's nominations.

Throughout the full range of administration appointments—from top Cabinet officials, to Federal judges, to boards and commissions—the Senate's role is to speak for the American people and ensure the highest standards of public service are maintained throughout our Government.

We have exercised this oversight authority with extraordinary restraint. Democrats have sought to participate in the nomination process and work together with the administration and the majority in a bipartisan fashion to confirm public servants in the highest traditions of our Nation.

Regrettably, the administration has chosen to reject the course of bipartisanship, even though Democrats have tried to accommodate the President's goal of filling judicial vacancies. The Senate has confirmed a record 173 Federal judges, rejecting only 3.

These three judges were far outside the mainstream and had troubling records of judicial activism in service to extreme ideology. They were rejected for that reason.

In spite of the Senate's judgment, the President has chosen to take the unprecedented step of using recess appointments to bypass the Senate on two occasions. First, in order to appoint Charles Pickering to the Fifth Circuit Court of Appeals. And second, to appoint William Pryor to the Eleventh Circuit Court of Appeals.

At no point has a President ever used a recess appointment to install a rejected nominee on to the Federal bench. And there are intimations that there will be even more recess appointments in the coming months.

These actions not only poison the nomination process, but they strike at the heart of the principle of checks and balances that is one of the pillars of the American democracy.

This cannot continue. What is at stake here is not just a few nominations. What is at stake is the Senate's obligation to represent the American people and check unrestrained executive power.

This White House is insisting on a radical departure from historic and constitutional practices. They have broken the process and we want to fix it.

And we stand ready to fix it. I have spoken to the majority leader about my serious concerns.

Let us be clear: We will continue to cooperate in the confirmation of Federal judges, but only if the White

House gives us assurances that it will no longer abuse the process and that it will once again respect our Constitution's essential system of checks and balances.

Sadly, this is not the only area in which the administration has chosen to cast aside traditions of bipartisanship and cooperation.

One of the minority's less visible yet vital responsibilities is the naming of Democratic candidates to sit on government boards and commissions.

These boards span the entire range of government responsibilities, from engaging young people in community and national service, to overseeing financial markets, to supervising the security of America's nuclear facilities, to protecting Americans from illegal energy company price-gouging.

They may not get a lot of headlines, but the public servants who sit on these boards perform an extraordinary service to their Nation and have a direct influence on the security, prosperity, health, and well-being of the American people.

Once again, Democrats have tried to work in a bipartisan fashion. In the 108th congress alone, we have confirmed 419 of the President's non-judicial nominations.

Because of the importance of these boards, many have a statutory requirement of bipartisanship. Others have bipartisan participation by long-established practice.

Their purpose is not simply to serve one party or another, or the administration in power at the moment, but the entire Nation. In order to provide our Nation with responsible stewardship, these boards must resist political manipulation and partisan divisions.

For decades, the nomination and confirmation process has honored the unique and vital role of these boards and commissions. During the Clinton administration, for instance, Republican nominations were considered and approved, even when the nominees were outspoken opponents of administration policy.

The same was true during the administrations for Ronald Reagan and George H.W. Bush.

During the current administration, however, that standard has been cast aside. And a divisive form of political gamesmanship has been allowed to extend to the nomination process. Talented candidates are being prevented from serving their Nation. The views and communities they represent are not being heard. And the American people are losing out as a result.

Among the candidates rejected by the administration are potential nominees to the Commodity Futures Trading Commission, the Equal Employment Opportunity Commission, the Export-Import Bank, the Federal Energy Regulatory Commission, the Corporation for National and Community Service, and many more.

Let me give you a brief background on just a few of these rejected candidates.

For instance, Warren Stern. Early in 2003, Mr. Stern was recommended to serve in the Democratic position on the Defense Nuclear Facilities Board. Shortly afterward, he was rejected on the grounds that he did not have "enough scientific background."

The charge is absurd on its face. Mr. Stern has degrees in physics, nuclear engineering, and national security studies. He was selected as the State Department's Senior coordinator for Nuclear Safety, and he coordinates the work of the Department of Energy and the Nuclear Regulatory Commission in the field of international nuclear safety policy.

Last July, while his nomination was supposed to be under consideration at the White House, the State Department conferred upon him the Superior Honor Award, for "developing and implementing a diplomatic and technical strategy for the control of dangerous radioactive materials."

At a time when our intelligence community tells us that America's nuclear facilities are being targeted by terrorists, Mr. Stern brings an extraordinary range and depth of experience that will make America safer. But he is being denied the chance to serve for no reason.

Take Dr. Chon Noriega. Dr. Noriega was nominated in March of 2003 to the Corporation for Public Broadcasting. He was recommended because Democrats believe that Public Broadcasting can do much more to reach out to America's growing Hispanic community.

As the Nation's foremost academic authority on Hispanic media, Dr. Noriega is uniquely suited to help the Corporation for Public Broadcasting achieve this goal. Dr. Noriega is the Associate Director of UCLA's Chicano Studies Research Center and the author of eight books on the topic of Hispanic media.

America's Hispanic community could have no more passionate or effective advocate than Dr. Noriega. Yet the administration has once again refused to nominate a superbly qualified candidate, and the Nation's largest minority community has one less advocate as a result.

Finally, and perhaps most absurdly, is the administration's refusal to nominate Judge Patricia Wald to the Legal Services Corporation. Judge Wald served on the U.S. Circuit Court of Appeals for the District of Columbia for 20 years, the last 5 as its chief judge.

After her retirement from the circuit court, she was asked to serve as a judge on the International Criminal Tribunal for the Former Yugoslavia.

Judge Wald is a brilliant jurist, whose probity, integrity, and commitment to the American legal system are unassailable. So respected is she that just last month, President Bush asked her to sit on the commission investigating the collection and use of intelligence leading up to the Iraqi War.

If she can be trusted with the responsibility of restoring confidence in the

intelligence system on which America's security depends, surely she is qualified and trustworthy enough to help extend legal representation to Americans who cannot afford it.

Democrats have tried to work together with the administration to continue the bipartisan process of nominations, both for boards and for the Federal bench.

Repeatedly, we have asked the administration to conduct the nomination process in a bipartisan manner, and we have been denied.

The administration has crossed a line and it is time it pulls back. We can no longer stand by and watch this critical aspect of our responsibilities be undermined by the intrusion of partisan politics.

Whether it is a nomination to a board or a lifetime appointment to the Federal bench, we cannot allow the Senate's role to be disregarded.

Once we have confidence that the integrity of this process is restored, Democrats will be accommodating to the White House's nominations.

We hoped for a different result, but the administration has left us no choice. I ask my Republican colleagues to reach out to administration officials and urge them to return this process to its traditions of bipartisanship and cooperation.

I yield the floor.

The PRESIDENT pro tempore. The deputy Democratic leader is recognized.

Mr. REID. Before the Democratic leader leaves the floor, Mr. President, through you to the distinguished Senator from South Dakota, is it true we have approved 173 Federal judges during the time President Bush has been President?

Mr. DASCHLE. As of this day, March 26, I answer the Senator from Nevada, we have approved 173 judges and 419 nonjudicial nominations by this administration. I don't know whether the nontraditional nominations is some kind of record over 3 years, but we now know the judicial record of 173 has not been equaled.

So the answer is yes, we have cooperated as fully as any Congress has in accommodating an administration with regard to appointments it considers to be of value to the country. We are only asking for similar consideration of the nominations and a recognition of the importance of the constitutional process of advise and consent, which is why I expressed the concern this morning about the recess appointments of those judges who have not been confirmed in the Senate.

Mr. REID. I also ask, through the Chair to the distinguished Democratic leader, it is also true, is it not, that 173 judges have been approved; we have been, through your direction, very selective and turned down five, two of whom the President has done an unusual thing of making recess appointments. So right now, there are I believe three who have in effect been turned down.

Mr. DASCHLE. The Senator is correct. There have only been 3 out of 173 now that have not been given the authority to serve on the bench and, as I said, for good reason—either their unwillingness to cooperate with the nominating process or fulfill their obligation to provide information regarding their positions, or the fact that they have clearly demonstrated extreme positions on issues that fall way outside the mainstream of philosophical thinking and prevented their confirmation.

The Senator is correct: 173 is the accurate number today.

Mr. REID. Mr. President, I ask unanimous consent—and if I am out of line, the Chair in his capacity as the Senator from the State of Alaska can object—to speak for up to 15 minutes in morning business rather than 10.

The PRESIDENT pro tempore. Without objection, it is so ordered.

#### ATTACKING THE MESSENGER

Mr. REID. Mr. President, when you cannot attack a man's ideas, attack the man. Sadly, that is what we have seen over the last few days in the case of Richard Clarke, a dedicated public servant.

Before this week, few Americans knew who Mr. Clarke was. But now, according to this morning's Washington Post, 9 out of 10 people in America know who Richard Clarke is.

Those who did know Mr. Clarke knew him as a person who has devoted his entire adult life to serving his country and keeping our country safe.

As a distinguished Senator, Bob Kerrey said yesterday—and he knows a thing or two about patriotism—Clarke did many things to keep this country safe, that none of us will ever know about. That is the nature of counterterrorism.

Mr. Clarke has served four Presidents—three Republicans and one Democrat. In fact, he called the first President Bush the best national security professional he had ever worked for. That goes to the very basic knowledge that President Bush, among his other assets, was also head of the Central Intelligence Agency.

Mr. Clarke worked in the State Department, and then led the counterterrorism effort in the White House for more than 10 years.

This is how important he was and how much confidence everyone had in his abilities: On the day of the tragedy of September 11, he was put in charge—I repeat, put in charge—of coordinating the White House response. Even today, after he retired from public service, Mr. Clarke continues to make a contribution to our national security.

Mr. Clarke has raised a few questions, important questions, such as: Was fighting terrorism a real priority for the Bush administration prior to September 11, or was it down the list of national security concerns, behind things such as missile defense?

According to an Associated Press story, President Bush's national security team met almost 100 times prior to September 11, but terrorism was the topic of only 2 of these sessions.

The next question: What actions were we taking to knock out Osama bin Laden and his henchmen, who had already successfully attacked several U.S. targets overseas?

Mr. Clarke says President Clinton was obsessed with this.

What were we doing in the first part of 2001, after President Clinton left office and was no longer there, obsessed in some way to get rid of Osama bin Laden? As you know, President Clinton ordered a missile launch in an attempt to get Osama bin Laden.

The next question deals with the Predators, unmanned aerial vehicles. These vehicles were developed 36 miles from Las Vegas in Indian Springs. These vehicles were and are an essential part of the weapons complex that is in Nevada. People do not realize that 40 percent of the airspace of this very large State of Nevada is restricted military airspace. One of the reasons is you can test the Predator, and what it can do and what it cannot do, because of the vast amount of airspace we have in Nevada. So I have a special interest in the Predator because of its basing in Nevada.

Question: Were we following Mr. Clarke's recommendations to utilize this tremendous tool more effectively in the fight against terror?

How much has the war in Iraq helped or hindered our war on terrorism?

Finally, one of the questions Richard Clarke asks: There were at least two of the September 11 hijackers in our country, if terrorism was a top priority, why weren't airport personnel on the lookout for these known terrorists?

These are questions Richard Clarke has asked, reasonable questions.

I refer to today's Washington Post, a front-page story, written by Mike Allen. Among other things, this newspaper article says—similar articles are being run all over America. After Clarke asked these questions, here is what Mike Allen said:

So this week, his aides—

President Bush's aides—

turned the full power of the executive branch on Richard A. Clarke, formerly the administration's top counterterrorism official, who charges in his new book that Bush responded lackadaisically in 2001 to repeated warnings on an impending terrorist attack.

When you cannot attack a man's ideas, or even his questions, you attack the man.

Allen goes on further to say:

They questioned the truthfulness of Clarke's claims, his competence as an employee, the motives behind the book's timing, and even the sincerity of the pleasantries in his resignation letter and [his] farewell photo session with Bush.

Just a few others things out of this long article:

James A. Thurber, director of the Center for Congressional and Presidential Studies of

American University, said he was stunned by the ferocity of the White House campaign [against] Clarke.

Thurber goes on also to say:

They are vulnerable, which is why they are attacking so hard. You have to go back to Vietnam or Watergate to get the same feel about the structure of argument coming out of the White House against Clarke's statements.

The article states:

A poll by the Pew Research Center for the People and the Press, conducted Monday through Wednesday, found significant public interest in Clarke's criticisms, with nearly nine in 10 . . . Americans surveyed saying they had heard of them [heard of his ideas]. Of those polled, 42 percent said they had heard "a lot" about his claims and 47 percent said they had heard "a little."

Ninety percent of the people in America are aware of what is going on with these ferocious attacks.

Are these legitimate questions? Is it a legitimate question to find out why the national security team met 100 times and only twice discussed terrorism? It is a legitimate question. It deserves a legitimate answer.

President Clinton was obsessed with taking out Osama bin Laden. Why wasn't the President of the United States, George W. Bush, obsessed with taking out Osama bin Laden? It is a valid question.

Why wasn't the Predator aircraft used to find and destroy Osama bin Laden and his operations? It is a question Richard Clarke raises. It deserves an answer.

Another question he raises—and America understands this; the people in Nevada understand this—how much has the war in Iraq helped or hindered the war on terrorism? That is a question that is running through the fiber of the American people.

Finally, Richard Clarke asks:

Why weren't we doing something to get rid of the terrorists who we already knew were here?

These are legitimate questions. I think there could be legitimate differences about the answers to these questions. We should be debating these issues and not whether Clarke's meeting with the President, when he left, was sincere, or attacking him personally about his not being a good employee. I do not think that is the right way to answer these questions.

When you cannot attack a man's ideas, you attack the man. That is wrong.

The questions that have been raised are legitimate, and they deserve answers. We should be debating these issues in a way that reflects the gravity and the seriousness of this challenge to our Nation. There is not a single one of these questions that has been asked that is not serious.

I think it is sad that, based on what we have seen in the past from this administration—I guess I should not be surprised. Any time this administration is faced with tough questions they do not want to answer, they respond by making personal attacks.