

Gray appears to be sensitive to these problems. While he remains outwardly committed to the Harrier and the tilt-rotor program, he worries about the pervasive fascination at the staff level with "programmatically forces" instead of real "fighting forces."

However, Gray is also sending out mixed signals to the working level marines who have to translate his reformist zeal into detailed plans and budgets. For example, he wants to buy an assault gun, a form of light tank, which resurrects a weapon that failed miserably in World War II.

When the Marines start sorting out their must-have tactical needs from nice-to-have technical wants, they're likely to discover a lot they can do without.

They just might figure out a way to produce a Marine Corps the country can afford.

If Gray is successful in making the real, the heavy and expensive corps more like the lean, tough, deployable Marine Corps of myth, the Marines will be restored to what he calls "real preparedness."

"Anybody can have a bag full of numbers to look good," he says. "We're going to make sure we have the right people and organizations for combat."

Mr. GRASSLEY. If General Krulak would look from the bottom up, instead of the top down, he would quickly realize that sergeants and lieutenants are needed more than generals.

Mr. President, I will be meeting with General Krulak in the near future to discuss this issue.

I hope we both come away from this meeting with a fresh perspective on what the Marine Corps really needs right now.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

#### DECISION BY THE FIRST CIRCUIT COURT OF APPEALS

Mr. BIDEN. Mr. President, I rise this evening to discuss a decision handed down by the First Circuit Court of Appeals, and I will be introducing a bill to correct what I think was a serious mistake the court made.

Mr. President, let me briefly discuss the court's decision. A few months ago, the First Circuit Court of Appeals made, in my view, a serious mistake—a very big mistake. It said that the term "serious bodily injury," a phrase used in one of our Federal statutes, does not include the crime of rape.

Mr. President, let me tell you about this case. One night near midnight, a woman went to her car after work. While she was getting something out of the back seat of her car, a man came up behind her with a knife and forced her into the back seat of her own car. He drove her to a remote beach, ordered her to take off her clothes, made her squat down on her hands and knees, and he raped her. He raped her. After the rape, he drove off in her car, leaving her alone on the side of the road naked.

This man was convicted under the Federal carjacking statute. That statute provides for an enhanced sentence of up to 25 years if the convicted person

inflicts serious—the term of art—serious bodily injury.

If he inflicts serious bodily injury in the course of the carjacking, the statute provides for an enhanced sentence, a longer sentence, of up to 25 years.

When this case got to the sentencing phase, after the defendant had been convicted of raping the woman in the manner that I just pointed out, the prosecutor asked the court to enhance the sentence, because under the statute if serious bodily injury occurred, then an additional 25 years was warranted. And the prosecutor reasoned, as I do, that rape constituted serious bodily injury.

The trial judge agreed with the prosecutor and gave the defendant the statutory 25-year maximum, finding that rape constituted serious bodily injury. But when the case went up to the First Circuit Court of Appeals, that court said no. It said, if you can believe it, that rape is not serious bodily injury.

Mr. President, I have spent the bulk of my professional career as a U.S. Senator and prior to that as a lawyer making the case that we do not take seriously enough in this country the crime of rape, and until we do we are not going to be the society we say we wish to be and we are not going to impact upon the injury inflicted on women in this society.

But the Circuit Court of Appeals ruled that rape does not constitute serious bodily injury under our statute. To support its ruling—and I am now quoting the opinion of the First Circuit Court of Appeals—the court said: "There is no evidence of any cuts or bruises in her vaginal area."

I apologize for being so graphic, but that is literally a quote from the court ruling. That, in my view, is absolutely outrageous.

Senator HATCH and I and Congressman CONYERS in the House are going to be offering a bill to set matters straight. Under the U.S. Criminal Code, serious bodily injury has several definitions. It includes a substantial risk of death, protracted and obvious disfigurement, protracted loss or impairment of a bodily part or mental faculty, and it also includes extreme physical pain. It takes no great leap of logic to see that a rape involves extreme physical pain. And I would go so far as to say that only a panel of male judges could fail to make that leap and even think, let alone rule, that rape does not involve extreme pain.

Rape is one of the most brutal and serious crimes any woman can experience. It is a violation of the first order, but it has all too often been treated like a second-class crime. According to a report I issued a few years ago, a robber is 30 percent more likely to be convicted than a rapist. A rape prosecution is more than twice as likely as murder prosecutions to be dismissed. A convicted rapist—and I want to get this straight—is 50 percent more likely to receive probation than a convicted robber. And you tell me that we take

this crime we say is one of the most heinous crimes that can be committed by one human being on another seriously?

Look at those statistics. We treat robbery—robbery—more seriously than we do rape. No crime carries a perfect record of arrest, prosecution and incarceration, but the record for rape is especially wanting. The first circuit decision helped explain why, in my opinion. Too often our criminal justice system, as the phrase goes, just doesn't get it when it comes to crimes against women.

I acknowledge men can and have been raped as well, and a similar infliction of pain occurs, but the fact is well over 95 percent of the rapes are rapes of women.

If the first circuit decision stands, it would mean that a criminal would spend more time behind bars for breaking a man's arm than for raping a woman. If a carjacking occurred, and I was the man whose car was carjacked, and in the process of the carjacking my arm was severely broken, for that fellow who was convicted of raping the woman, had he broken my arm, there is no doubt the prosecution's request for an enhanced penalty of 25 years would have been upheld.

Think of that. We have a statute on the books that says you can enhance a penalty to 25 years for carjacking and inflicting serious bodily harm. Had it been a man with a broken arm, that guy would have been in jail for 25 years. But this was a woman who was raped. The court said, no, it does not meet the statutory requirement of serious bodily injury.

For 5 long years, Mr. President, I worked to pass a piece of legislation that I have cared about more than any other thing I have done in my entire Senate career and the thing of which I am most proud. That is the Violence Against Women Act. My staff and I wrote that from scratch. It took a long time to convince our colleagues and administrations, Democrat and Republican, that it was necessary. For 5 long years we worked to pass that law.

The act does a great many practical things. It funds more police and prosecutors specifically trained and devoted to combating rape and family violence. It trains police, prosecutors and judges in the ways of rape and family violence so that they can better understand, as, in my view, the first circuit did not understand, the nature of the problem and how to respond to the problem.

The violence against women legislation provides shelter for more than 60,000 battered women and their children. It provides extra lighting and emergency phones in subways, bus stops and parks because of the nature in which the work force has changed.

The woman sitting behind me who helped author that legislation is here at 9:30 at night. In my mother's generation, there were not many women who left work at 9:30 or 10:30 at night.

Today, there are millions and millions, like men, who do, and we recognize the need to protect them better than they have been by providing the most effective—the most effective—crime prevention tool there is: lighting. It provides for more rape crisis centers. It sets up a national hotline that battered women can call around the clock to get advice and counseling.

I am working on the ability for them when they call to also be able to get a lawyer who will handle their case pro bono—for free—and help guide them through the system. They were getting rape education efforts going with our young people so we can break the cycle of violence that begets violence.

I might note parenthetically, one of the reasons I wrote this legislation initially, the Violence Against Women Act, is that I came across an incredible study, a poll done in the State of Rhode Island, of, I think, seventh, eighth and ninth graders. I am not certain, to be honest. I think seventh, eighth and ninth graders.

It asks, in the poll conducted, the survey, "If a man spends \$10 on a woman, is he entitled to force sex on her if she refuses?" An astounding 30-some percent of the young men answering the question said, "Yes." But do you know what astounded me more? Mr. President, 25 percent of the young girls said "yes" as well. We have a cultural problem here that crosses lines of race, religion, ethnicity, and income. We just do not take seriously enough the battering of our women—our women, is the way our friends like to say it—of women in this country. This is especially true when it comes to victims who know their assailants. For too long we have been quick to call these private misfortunes rather than public disgraces.

The Violence Against Women Act also meant to do something else beyond the concrete measures that I mentioned. It also sent a clarion call across the land that crimes against women will no longer be treated as second-class crimes. For too long the victims of these crimes have been seen, not as innocent targets of brutality, but as participants who somehow bear some shame or even some responsibility for the violence inflicted upon them.

As I said, this is especially true when it comes to victims who know their assailants. For too long we have been quick to call theirs a private misfortune rather than a public disgrace. We viewed the crime as less than criminal, the abuser less than culpable, and the victim as less than worthy of justice.

In my own State of Delaware, until recently, if a man raped a woman he did not know, he was eligible, if he brutally did it, to be convicted of first-degree rape. But do you know what? We had a provision in our law, and many States had similar provisions, that said if the woman knew the man, if the woman was the social companion of the man, then he could only be tried for

second-degree rape, the inference being that somehow she must have invited something because she knew him, she went out with him.

It seems to me we have to remain ever vigilant in our efforts to make our streets and our neighborhoods and our homes safer for all people, but in this case particularly for women. We need to make sure right now that no judge ever misreads the carjacking statute again and undermines the overwhelming purpose of my legislation in the first place, which was to change the psyche of this Nation about how we are to deal with the brutal act of rape. It is not a sex crime, it is an act of violence, a violent act.

Now, one of the most respected courts in the Nation has come down and said it does not constitute serious bodily injury. So, Mr. President, we need to make sure right now that no judge ever misreads the carjacking statute again. We need to tell them what we intend, what we always intended, that the words "serious bodily injury" mean rape, no ifs, ands, or buts. The legislation, a bill to be introduced by myself and Senator HATCH and others, does just that. It says, and I will read from one section:

Section 2119(2) of title 18, United States Code, is amended by inserting "including any conduct that, if the conduct occurred in the special maritime or territorial jurisdiction of the United States, would violate section 2241 or 2242 of this title" after "(as defined in section 1365 of this title)".

Translated into everyday English it means, serious bodily injury means rape. No judge will be able to, no matter how—I should not editorialize. No judge in the future, once we pass this legislation, will be able ever again to say that serious bodily injury does not include rape.

I thank Senator HATCH, and I would like to particularly thank Demetra Lambros, who is sitting behind me, a woman lawyer on my staff who worked with Representative CONYERS' staff to write this legislation, for the effort she has made and for calling this to my attention. I also thank Senator HATCH, who has always been supportive and very involved in this, and his staff, and Congressman CONYERS, the ranking member of the House Judiciary Committee.

I am confident if every Member—this is presumptuous for me to say, Mr. President—but as every Member of the Senate becomes aware of what this does, I cannot imagine there is anyone here or anyone in the House who will not support it.

I thank the Chair. I realize the hour is late. I thank the Chair for indulging me. Tomorrow, hopefully, we will be in a position to bring this legislation up and pass it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

make the following request. I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

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

#### MARITIME SECURITY PROGRAM

Mr. LOTT. Mr. President, I have always been a strong supporter of the U.S.-flag merchant marine, and America's maritime industry. That is why, last year I introduced the Maritime Security Act of 1995. This bill is the product of nearly a decade of bipartisan and bicameral effort. It will reform, streamline, and reduce Federal support for the U.S.-flag merchant marine, while at the same time revitalizing our U.S.-flag fleet.

The starting point for the Maritime Security Program is the simple and valid premise that America's merchant marine is a vital component of our military sealift capability.

Thus, in order to protect our military presence overseas, we must have a modern, efficient, and reliable sealift. On this point, the assessment of our Nation's top military leaders is unequivocal. Our military needs a U.S.-flag merchant marine to carry supplies to our troops overseas. We cannot, in fact, we must not, rely on foreign ships and foreign crews to deliver supplies into hostile areas.

Just recently I receive a letter from Adm. Thomas Moorer, the former Chairman of the Joint Chiefs of Staff, and Rear Adm. Robert Spiro, a former Under Secretary of the Army. They both enthusiastically endorsed the legislation. I have added this letter to a stack of letters sitting on my desk from many other distinguished military leaders who also have strongly backed the Maritime Security Act.

Not long ago, I also received endorsements of the Maritime Security Act from the Honorable John P. White, the current Deputy Secretary of Defense, and the Honorable John W. Douglass, the current Assistant Secretary of the Navy for Research, Development and Acquisition.

I also have received numerous letters from members of the Navy League of the United States.

Clearly, there is visible support from both the active and retired military community for the recognized value of this program.

The Maritime Security Act will ensure that our Nation will continue to have access to both a fleet of militarily useful U.S.-flag commercial vessels, and a cadre of trained and loyal U.S.-citizen crews. What's more, under this bill our military planners will gain access to the onshore logistical and intermodal capabilities of these U.S.-flag vessel operators. Instead of just getting a ship, our military gets access to port facilities worldwide, state-of-the-art computer tracking systems, intermodal loading and transfer equipment,

#### MORNING BUSINESS

Mr. GRASSLEY. Mr. President, for our distinguished majority leader, I