

In addition, I ask unanimous consent that the next 2 hours be under the control of Senators ROBERTS and CLELAND. I will be anxious to hear that presentation.

Mr. REID. Mr. President, I say to the leader, we are at a point now where people have spent literally months on the bill. It is good we are here. Senator LANDRIEU still has concerns. She wants to make sure everyone understands she may want to speak at least 2 hours and do some things with the legislation generally because of her unhappiness.

Mr. GORTON. Reserving the right to object, I ask the leader, does this mean we will start the actual debate on the Interior bill later today or will it be tomorrow?

Mr. LOTT. Mr. President, there is no time agreement, so we will not be running off agreed-to time. If Senators want to speak on the bill itself, he or she can. Since we do have 2 hours set aside now for Senator ROBERTS and Senator CLELAND, which will take us to 8 o'clock, I presume the decision will be that we will begin on the Interior bill first thing in the morning.

Mr. REID. Mr. President, I also say to the leader, we will all want to be getting our slippers on and pajamas ready for the big debate tonight.

Mr. LOTT. That is what I had in mind.

Mr. REID. By 8 o'clock.

Mr. LOTT. Did we get a clearance? Are the reservations withdrawn?

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

UNITED STATES PARK POLICE

Mr. THURMOND. Mr. President, I rise today to draw attention to a group of federal officers who carry out a vital mission and provide critical services, but are largely unknown to people not in the law enforcement community. I am referring to the men and women of the United States Park Police.

An agency within the Department of Interior, the United States Park Police traces its lineage back to 1791 when then President George Washington established a force of "Park Watchmen". In subsequent years, the authority of what has become the Park Police has been expanded so that today, that department is responsible for providing comprehensive police services in the National Capital Region. Furthermore, they have jurisdiction in all National Park Service Areas, as well as other designated Federal/State lands.

While you will find their officers in New York City and the Golden Gate National Recreation Area in San Francisco, the bulk of the officers and duties of the United States Park Police are right here in the National Capital Region. Park Police officers provide a multitude of services ranging from patrol to criminal investigation and from counter-terrorism to helping to protect the President. They are responsible for patrolling and providing police services in 22% of the geographic area of the

District of Columbia, which includes all the national monuments; as well as, Rock Creek Park, National Parklands in the Capital Region, and 300 miles of parkways in the District of Columbia, Maryland, and Virginia.

The United States Park Police is a tremendous asset, but I am deeply concerned that due to a lack of adequate funding, it is an asset that is losing its edge. Make no mistake, I question not the leadership of the Park Police nor the brave men and women who serve selflessly as officers and support personnel in that agency. Chief Langston and his officers will do yeoman's work no matter how well or how poorly funded their agency is, they are professionals and committed to protecting the public. I am worried that the Department of Interior lacks a commitment to providing sufficient funds to the law enforcement operations that fall under the authority of the Secretary of the Interior. The Park Police is now 179 officers below its authorized strength of 806 officers. Furthermore, it is an agency that loses approximately 50 officers a year either through retirement or lateral transfers. It is understandable that it is difficult for some Park Police Officers to resist the higher pay of other agencies, especially when you consider that over a 30-year period, a United States Park Police Officer makes approximately \$135,429 less than what the average salary is for officers at other agencies in this area. In addition to being short-handed, equipment, from the officers' sidearms to the agency's radio equipment is antiquated and in need of replacement. The Park Police needs our help.

It is truly a shame that the Park Police is facing the challenges it is today and we are in a position to do something about it. The men and women who serve as Park Police Officers have not had a raise since 1990, and we should support legislation that will give them a much needed pay boost. In an era when it is harder and harder to attract qualified individuals into public service, let alone a life threatening profession such as law enforcement, it is vital we do something to reward those who already serve, as well as, to attract new officers to an agency that provides services that keep the Capital Region safe.

It might sound cliché, but the United States Park Police is there when they are needed. They are there when someone suffers an emergency in the waters around Great Falls, they are on the parkways when someone is in need of assistance, and they are on the Mall keeping visitors to Washington safe. They were there when the tragic shooting took place in this building, and they landed their helicopter on the plaza outside the Capitol in a valiant attempt to get a wounded United States Capitol Police Officer transported to a local trauma center as quickly as possible. Giving the officers of the United States Park Police a

raise is not going to solve all of that agency's needs, but it will help recruit and retain personnel. More importantly, it is the right thing to do.

INTELLIGENCE AUTHORIZATION BILL

SECTION 303

Mr. BIDEN. Mr. President, section 303 of S. 2507, the Intelligence Authorization bill, as amended by the managers' amendment, establishes a new criminal offense for the unauthorized disclosure of properly classified information. Existing criminal statutes generally require an intent to benefit a foreign power or are limited to disclosures of only some types of classified information. Administrative sanctions have constituted the penalty for most other leaks.

While I support the basic objective of this provision, we must ensure that it will not be used in a capricious manner or in a manner that harms our democratic institutions.

I see two respects in which some caution is merited. First, it could be applied to trivial cases. I believe that former Secretary of Defense Caspar Weinberger once said that he told everything to his wife. If his discussions with his wife included classified information, he surely would have violated the letter of this bill. But so-called "pillow talk" to one's spouse is common, and I don't think we mean to throw people in jail for incidental talk to a person who has no intent either to use the classified information, to pass it on to others, or to publish it.

Mr. SHELBY. The Senator from Delaware is correct. The Committee expects that the Justice Department will use its prosecutorial discretion wisely. In some cases, administrative remedies are clearly more appropriate. In each case however—as under all criminal laws—prosecutors will need to judge whether criminal charges are warranted.

Mr. BIDEN. My second concern is that section 303 not be used as a justification for investigations of journalists. Our republic depends upon a free press to inform the American people of significant issues, including issues relating to foreign policy and the national security. If a leak statute were to become a back door for bringing the investigate apparatus of the federal government to bear on the press, we would be sacrificing our democratic institutions for the sake of protecting a few secrets. Much as we are dedicated to the protection of classified information, that would be a terribly bad bargain.

Mr. SHELBY. I agree with the Senator from Delaware 100 percent, and I can assure this body that in passing section 303, no member of the Select Committee on Intelligence intended that it be used as an excuse for investigating the press. That is why the scope of this provision is limited to persons who disclose, or attempt to disclose, classified information acquired

as a result of authorized access to such information. Such persons have a duty to protect classified information has no right to disclose that particular information to persons not authorized to receive it, persons, even if he or she should later become a journalist. By the same token, however, the statute is not intended to lead to investigation or prosecution of journalists who previously had authorized access to classified information and later, in their capacity as journalist, receive leaked information.

THE COUNTERINTELLIGENCE REFORM ACT OF 2000

Mr. SPECTER. Mr. President, I have sought recognition to discuss legislation arising from the investigation by the Senate Judiciary Subcommittee on Administrative Oversight and the Courts, which has been conducting oversight on the way the Department of Justice and the Federal Bureau of Investigation have responded to allegations of espionage in the Department of Defense and the Department of Energy. This bipartisan proposal will improve the counterintelligence procedures used to detect and defeat efforts by foreign governments to gain unlawful access to our top national security information by improving the way that allegations of espionage are investigated and, where appropriate, prosecuted.

Together with Senators TORRICELLI, GRASSLEY, THURMOND, SESSIONS, SCHUMER, FEINGOLD, BIDEN, HELMS and LEAHY, I introduced the Counterintelligence Reform Act on February 24 of this year. The Judiciary Committee unanimously reported the bill on May 18, and it was referred to the Senate Select Committee on Intelligence which also deals with espionage matters.

The Senate Intelligence Committee unanimously reported the bill on July 20, and has included the measure as an amendment to the Intelligence Authorization bill which passed the Senate today.

Few tasks are more important than protecting our national security, so building and maintaining bipartisan support for this legislation to correct the problems we identified during the course of our oversight was my top priority. The reforms contained in this legislation will ensure that the problems we found are fixed, and that the national security is better protected in the future.

To understand why this legislation is necessary, I would like to review two of the cases that the subcommittee looked at—the Wen Ho Lee case and the Peter Lee case. Former Los Alamos scientist Dr. Wen Ho Lee was arrested on December 10, 1999, and charged with 59 counts of violating the Atomic Energy Act of 1954 and unlawful gathering and retention of national defense information. In a stunning reversal on September 13, the government accepted a deal in which Dr. Lee would plead

guilty to one count of unlawfully retaining national defense information and would be sentenced to time served, in exchange for telling what he had done with the tapes. There remains a question as to whether Department of Justice officials tried to make up for their blunders in this case by throwing the book at Dr. Lee. The Judiciary Subcommittee on Department of Justice Oversight will continue to hold hearings on this matter, but it has been clear from the beginning that the Department of Justice bungled the investigation of Dr. Lee.

The critical turning point in this case came on August 12, 1997, when the Department of Justice's Office of Intelligence Policy and Review (OIPR) turned down an FBI application for an electronic surveillance warrant under the Foreign Intelligence Surveillance Act, or FISA. OIPR believed that the application was deficient because it did not show sufficient probable cause, and therefore decided not to let the application go forward to the special FISA court.

In making this determination, the DoJ made several key errors. The Department of Justice used an unreasonably high standard for determining probable cause, a standard that is inconsistent with Supreme Court rulings on this issue. For example, one of the concerns raised by OIPR attorney Allan Kornblum was that the FBI had not shown that the Lees were the ones who passed the W-88 information to the PRC, to the exclusion of all the other possible suspects identified by the DoE Administrative Inquiry. That is the standard for establishing guilt at a trial, not for establishing probable cause to issue a search warrant.

DoJ was also wrong when Mr. Kornblum concluded that there was not enough to show that the Lees were "presently engaged in clandestine intelligence activities." The information provided by the FBI made it clear that Dr. Lee's relevant activities continued from the 1980s to 1992, 1994 and 1997, yet that was deemed to be too stale, and the DoJ refused to send the FBI's surveillance request to the FISA court.

When FBI Assistant Director John Lewis raised the FISA problem with the Attorney General on August 20, 1997, she delegated a review of the matter to Mr. Dan Seikaly, who had virtually no experience in FISA issues. It is not surprising then, that Mr. Seikaly again applied the wrong standard for probable cause. He used the criminal standard, which requires that the facility in question be used in the commission of an offense, and with which he was more familiar, rather than the relevant FISA standard which simply requires that the facility "is being used, or is about to be used, by a foreign power or an agent of a foreign power."

The importance of DoJ's erroneous interpretation of the law as it applied to probable cause in this case should not be underestimated. Had the warrant been issued, and had the FBI been

permitted to conduct electronic surveillance on Dr. Lee, the Government would probably not be in the position—as it is now—of trying to ascertain what really happened to the information that Dr. Lee downloaded. There should be no doubt that transferring classified information to an unclassified computer system and making unauthorized tape copies of that information—seven of which contain highly classified information and remain unaccounted for—created a substantial opportunity for foreign intelligence services to access our most important nuclear secrets.

The FISA warrant could have and should have been issued at several points, some before and some after it was rejected in 1997. Each key event where the FISA warrant was not requested and issued represents another lost opportunity to protect the national security. For example, Dr. Lee was identified by the Department of Energy's Network Anomaly Detection and Intrusion Recording system (NADIR) in 1993 for having downloaded a huge volume of files.

As the name of the system implies, it is designed to detect unusual computer activity and look out for possible intruders into the computer. Individuals who monitored the lab's computers knew that Dr. Lee's activities had generated a report from the NADIR system, but didn't do anything about it. They didn't even talk to him. An opportunity to correct a problem, to protect national security, just slipped away.

In 1994, Lee's massive downloading would have again showed up on NADIR, but DoE security people never took action. Now, we're told, they can't even find records of what happened. Yet another missed opportunity to protect the national security by looking into what was going on.

When Wen Ho Lee took a polygraph in December 1998, DoE misrepresented the results of this test to the FBI. DoE told the FBI that Dr. Lee passed this polygraph when, in fact, he had failed. This error sent the FBI off the trail for two months.

When Wen Ho Lee failed a polygraph on February 10, 1999, the FISA warrant should have been immediately requested and granted. It wasn't.

The need for legislation to address these problems is obvious. The unclassified information on this case shows clearly that it was mishandled. The classified files make that point even more clear. Last year the Attorney General asked an Assistant U.S. Attorney with substantial experience in prosecuting espionage cases to review the Wen Ho Lee matter. That prosecutor, Mr. Randy Bellows, conducted a thorough review of the case and confirmed all of our major findings: the case was badly mishandled, the FISA request should have gone forward to the court. The list goes on. Our counter-intelligence system failed in this case, and the information at risk