

far more pervasive than the Defense Department had previously acknowledged. General Kern, the investigation's appointing officer, testified before the Senate Armed Services Committee that there could be as many as 100 ghost detainees, but his panel could not thoroughly investigate the matter because the CIA refused to cooperate in the inquiry.

These revelations should not come as a surprise—human rights groups have been calling for an investigation into the ghost detainee issue for months. I first wrote to the National Security Advisor about mistreatment of detainees in June 2003, including a request for information on prisoners transferred in secret by the United States to other nations for interrogation. A report on secret detentions was released on June 17, 2004, by Human Rights First. The report, titled, *Ending Secret Detentions*, describes a number of officially undisclosed locations that sources—typically unnamed government sources quoted in the press—have described as detention centers for terrorism suspects. These sources have discussed facilities in Iraq, Afghanistan, Pakistan, Jordan, Diego Garcia, and on U.S. war ships. The ICRC has not been allowed access to these facilities. It issued a public statement in March expressing its growing concern over “the fate of an unknown number of people captured . . . and held in undisclosed locations.” To date, its requests have been denied.

After being rebuffed by the CIA, the Fay-Jones panel asked two offices to conduct further investigations into the ghost detainee issue: the Department of Defense Inspector General and the CIA Inspector General. Once again, this would result in one branch of government to policing itself. Like the Fay-Jones panel, the Inspectors General lack the authority to follow such investigations beyond their own departments—again allowing many questions to remain unanswered. We need to know what role senior administration officials in the White House, Justice Department, Defense Department, and CIA played in formulating the policies that allowed the illegal detention of ghost detainees. We know this problem emanated from senior officials—Secretary Rumsfeld admitted in June that he approved the secret detention of one detainee at the request of CIA Director Tenet. Only an independent commission with significant authority will be able to fully investigate this matter.

The Fay-Jones report also found that civilian contractors were complicit in the abuse of detainees. We already knew this, but the panel's findings raise new questions about whether the contractors will be held accountable for their actions. Thus far, one contractor has been charged for abuse in Afghanistan, but no charges have been filed against contractors in Iraq. As P.W. Singer points out in his recent Washington Post op-ed, “Army investigators are at a loss over how to hold the contractors accountable. The Army

referred individual employees' names to the Justice Department more than three months ago, but Attorney General Ashcroft has yet to take action.” As these cases are referred to the Justice Department, the Judiciary Committee must fulfill its oversight responsibility to ensure these crimes do not go unpunished. Given the reports and allegations of abuses of Iraqi prisoners that involved civilian contractors, I am deeply troubled at the passivity being displayed by the Department of Justice. If loopholes exist in the law, the Department should be working with Congress to fill them.

Some argue that another investigation will prevent us from putting the scandal behind us, but ignoring the problem will not make it go away. Each week brings new allegations that reveal how much we still don't know. Human rights groups and journalists have been unrelenting in their efforts to uncover this scandal, and I applaud their contributions. The report released recently by the War Crimes Project revealed unreported deaths in Afghanistan. Veteran journalist Seymour Hersh claims in his new book that senior military and national security officials were repeatedly warned in 2002 and 2003 that prisoners were being abused. Mr. Hersh writes that FBI agents notified their superiors about abuses at Guantanamo and that these reports were passed along to officials at the Pentagon. The ACLU continues to fight in Federal courts to compel the administration to release documents related to torture. Even without further Government action, this scandal is not going to go away. It is time for us to lead the investigation, rather than wait to read about the latest discovery of abuse in tomorrow's paper. We must establish an independent commission.

In the coming months, the remaining Pentagon investigations will come to an end. It will be like finding an old jigsaw puzzle in the back of the closet—it looks complete, but you can never tell if there are pieces missing until you try to put it together. An independent commission can take on this important task; it will ensure that no pieces are missing and that we have a complete, unbiased assessment of a sad chapter in our Nation's history. The 9/11 Commission showed us that it can be painful to dredge up the past, but it is also a necessary step to moving forward.

#### CHILDREN'S HEALTH PROTECTION AND IMPROVEMENT ACT OF 2004

Mr. ROCKEFELLER. Mr. President, yesterday marked a critical juncture in the fight to provide comprehensive and affordable health care coverage for our Nation's children. Congress had a tremendous opportunity to improve the quality of life for hundreds of thousands of children, not just for the foreseeable future, but also over the long term. September 30, 2004, should have

gone down in history as the day Congress set aside partisan politics and took a stand for children. Unfortunately, yesterday will be remembered as the day Congress chose political rhetoric over action and failed to protect health care coverage for children in working families.

Some of my colleagues will argue that September 30 only marked a statutory deadline and didn't really matter in terms of coverage for kids. I strongly disagree. Yesterday's deadline was about keeping our promise to America's working families that their children will have access to comprehensive, affordable, and reliable health care coverage. We in Congress have broken that promise, and it is unconscionable to think that Members would go home to campaign while the health care of some of most vulnerable children hangs in the balance.

We must act now to preserve health care coverage for children enrolled in the Children's Health Insurance Program, CHIP. This is too important an issue to delay even a day. Senators CHAFEE, KENNEDY, SNOWE, and I, along with Congressmen BARTON and DINGELL, have a bipartisan, bicameral bill on the table right now that will protect coverage for America's children. The Children's Health Protection and Improvement Act has the support of 48 bipartisan cosponsors in the House of Representatives and 33 bipartisan cosponsors in the Senate. Our legislation has been endorsed by over 100 local, state, and national organizations including the National Governors Association, the American Academy of Pediatrics, the American Hospital Association, the National Association of Children's Hospitals, the Catholic Health Association, Families USA, the Children's Defense Fund, and the March of Dimes. There is no reason why we cannot pass this legislation today.

If my colleagues were to talk to their Governors about the merits of the Children Health Protection and Improvement Act, all 50 Governors would say that our legislation addresses the long-term Federal funding shortfalls that will occur in SCHIP over the next 3 years.

If my colleagues were to visit doctors' offices and hospital emergency rooms and talk to general practitioners, pediatricians, and surgeons, these providers would confirm that our legislation makes it easier for children to access health services and reduces our Nation's growing uncompensated health care burden.

Most importantly, if my colleagues were to talk to working families in their home states who rely on CHIP, working families would say that our legislation guarantees real coverage for their children. Our legislation gives working families the peace of mind that comes from knowing their children would not just receive health care coverage tomorrow, next month, or next year, but for the next several

years until the CHIP program is reauthorized in fiscal year 2007.

It seems that some in this body are more concerned with sound bites than with actually providing health coverage for children. Of course, we can all attest to the success of the Children's Health Insurance Program over the years. We can all cite the 5.8 million children who were covered last year. But, I ask my colleagues, how are we going to do to protect the coverage of those 5.8 million children and ensure that even more children are covered?

While I strongly support greater outreach and enrollment in the CHIP program, the bottom line is that outreach is not a solution to States' coverage problems. States aren't covering additional children under CHIP because they cannot afford to cover the children already enrolled in their programs. In fact, according to the Kaiser Commission on Medicaid and the Uninsured, states are implementing measures—such as enrollment caps, premiums and enrollment fees, eligibility cuts, restricted benefits, and increased co-payments to scale back outreach and enrollment instead of increase them. The State of Florida is a prime example of this. Enrollment in Florida's CHIP program is closed for some children who are undeniably eligible. Outreach to more children who meet the eligibility requirements for Florida KidCare is futile if those kids cannot access actual coverage.

States are experiencing both State and Federal funding shortfalls that prevent them from covering kids. Senator GORDON SMITH and I offered legislation earlier this year to address State budget shortfalls. The State Fiscal Relief Act would extend the federal fiscal relief enacted last year to help resolve state budget deficits and prevent cuts in critical programs and services, including health care. Yet, Congress has yet to consider this important legislation. And now, Congress has failed to preserve approximately \$1.1 billion in expiring CHIP funds for coverage. Our failure to act is sending a very strong message to the states that not only is Congress not willing to assist with budget shortfalls during an economic downturn, Congress is also not willing to uphold the federal guarantee of CHIP coverage.

CHIP is a Federal entitlement, and the Federal Government has a responsibility to make certain the program has the requisite funding to insure eligible children. Additional Federal funding for CHIP outreach should only be pursued after we have made sure states have the federal funding needed to cover the children currently on their rolls. Otherwise, outreach efforts will be ineffective because children will not have access to actual coverage.

The Children's Health Protection and Improvement Act would prevent nearly \$1.1 billion in expiring CHIP funds from reverting to the Treasury so that states with unmet needs can use the money to preserve coverage for chil-

dren currently enrolled and higher-spending states can cover additional children. Our legislation would also establish redistribution rules that will keep CHIP money in the CHIP program through fiscal year 2007.

Some of my colleagues have expressed concerns that our bill would not lead to new children being enrolled in CHIP. These concerns are simply unfounded. My home State of West Virginia, for example, is looking at the feasibility of a CHIP expansion that would cover an additional 4400 children under 300 percent of poverty. The biggest barrier to West Virginia going forward with this expansion is the lack of Federal funds. My state and many others are still recovering from the so-called "CHIP dip," when Federal CHIP funding was \$1 billion lower in fiscal years 2002–2004 than it was in fiscal year 2001. However, under the Children's Health Protection and Improvement Act, WV would qualify for redistributed funds which would give the state the ability to proceed with the expansion.

Finally, I respond to the claims made by some that the Secretary of Health and Human Services should be allowed to redistribute approximately \$660 million in unspent fiscal year 2002 funds to the six states projected to have shortfalls next year. There are several problems with this approach. First, such an approach would concentrate the vast majority of the expiring fiscal year 2002 funds in just six states, when a total of 30 states would qualify for redistributed funds.

Second, unlike the Rockefeller-Chafee-Kennedy-Snowe bill, this approach would not address Federal funding shortfalls in these states in fiscal years 2006 and 2007. Moreover, such a proposal is likely to open up a larger Federal shortfall in fiscal years 2006 and 2007 for the other 12 states projected to have insufficient Federal funding before SCHIP is reauthorized in fiscal year 2007. This is because these 12 states would receive less in redistributed fiscal year 2002 funds under such a proposal than they would otherwise receive under our legislation.

Third, and most importantly, the Centers for Medicare and Medicaid Services, CMS, has not offered a specific formula for allocating funds to states that need them the most in fiscal year 2005, so there is no guarantee that CMS would actually do so. Furthermore, it is critical to note that Congress acted in both 2000 and 2003 to set a specific statutory formula for redistribution and has never allowed the administration, neither the previous one nor the current one, decide how to reallocate unspent funds. Leadership in both the House and the Senate supported these previous redistributions, which have directly contributed to the success of the CHIP program in recent years, so it is unclear why there seems to be a change in position now.

In recent days, several new ideas have been proposed for how to deal

with expiring CHIP funds. Perhaps if it were March or April, and we had ample time to analyze these far-reaching proposals, then we could adequately consider each one. But, the fact of the matter is that we have a strongly bipartisan bill, supported by the Governors of all 50 States, that is ready to go right now. Our legislation has been properly vetted and appropriately scrutinized. The score of our bill is relatively small in relation to the number of children who would be covered. And, our legislation is the product of a long collaborative effort between states, advocacy groups, and Members of Congress instrumental in the creation of the CHIP program. I see no reason why we cannot pass this legislation now.

I am encouraged by Chairman GRASSLEY's statement that he wants to address the long-term Federal CHIP funding shortfalls. After all, the Finance Committee has a history of protecting health care coverage for children. It is where the CHIP program was created and where previous redistributions were conceived. I cannot imagine that members of the Finance Committee would want to jeopardize such a remarkable history by failing to protect CHIP coverage for hundreds of thousands of children over the next three years. I look forward to working with Chairman GRASSLEY and other members of the Finance Committee to pass a unanimous consent agreement on CHIP before we go home next week.

I also call on the President to take a similar stand for children. For reasons that are inconceivable to me, some of my colleagues on the other side of the aisle have indicated that our legislation is partisan or politically motivated. That could not be further from the truth. Our legislation has strong bipartisan support in the House and the Senate, and all of the cosponsors have worked hard to keep this bill from becoming part of election-year politics. There is no reason for Congress not to pass our legislation next week and for the President not to sign it into law. Our children cannot afford to wait.

#### NATIONAL MUSEUM OF THE AMERICAN INDIAN

Mr. JOHNSON. Mr. President, I speak about the Smithsonian's new Museum of the American Indian. In June 1989, when I was still a Member of the House of Representatives, I cosponsored legislation to establish the National Museum of the American Indian within the Smithsonian Institution. The 15-year odyssey for this museum has presented us with more than just items behind glass. This museum tells the story of North and South America's native peoples. It shows their journey through time and gives optimism for the future.

First, I thank all those who have been involved since this process began so many years ago, in particular, Senators INOUE and CAMPBELL, the original sponsors of this bill. The efforts of