

from injuries sustained when his vehicle struck an improvised explosive device in Naka, Afghanistan on October 20.

He was assigned to the 2nd Battalion, 27th Infantry Regiment, 25th Infantry Division (Light), Schofield Barracks, HA. He was from Perris, CA.

CPL Dale E. Fracker, Jr., age 23, died on November 24 in Deh Rawod, Afghanistan, when an improvised explosive device detonated near his unit.

He was assigned to the Army's 2nd Battalion, 5th Infantry Regiment, 25th Light Infantry Division, Schofield Barracks, HA. He was from Apple Valley, CA.

Mr. President, 25 soldiers who were either from California or based in California have been killed while serving our country in Operation Enduring Freedom. I pray for these Americans and their families.

#### FOREIGN AFFAIRS COUNCIL TASK FORCE REPORT

Mr. LUGAR. Mr. President, I commend to my colleagues the November 2004 Task Force Report of the Foreign Affairs Council entitled "Secretary Colin Powell's State Department: An Independent Assessment."

This nonpartisan report prepared under of the sponsorship of the Council and on behalf of the 11 organizations that comprise the Council represents the work of some of the most distinguished leaders in our Nation's foreign policy establishment.

The report chronicles the impressive achievements of Secretary Powell and Deputy Secretary Armitage and their team over the last 4 years.

One of Secretary Powell's greatest achievements was his effort to reform the leadership culture of the State Department. Through an increased focus on the management, training and empowerment of the Department's Foreign Service officers and civil servants, the Secretary strengthened the team of individuals who execute our Nation's foreign policy. Secretary Powell complemented these management changes with key steps to raise morale and foster team spirit.

The Secretary has been personally committed to working with interested Members of Congress to strengthen the Department over the past 4 years. He most notably worked to improve diplomatic readiness including: the hiring of new officers, a commitment to long-term training, especially language training; and significant improvements in information technology infrastructure. He addressed staff shortages stemming from budget cuts in the Nineties by recruiting and hiring more Foreign Service officers, consular officers, and diplomatic security personnel. In the area of information technology, Secretary Powell provided desktop access to the Internet for all State Department employees worldwide and developed a state-of-the-art messaging system to replace the cur-

rent World War II telegram system. Most recently, he decided to strengthen the Department's capacity to play a major role in planning, organizing and leading the civilian component of stabilization and reconstruction operations.

Secretary Powell worked to overcome a crisis in embassy construction and security in which only one new safe and functional embassy was being built each year. The State Department is currently managing \$4 billion in construction projects in comparison to the \$700 million when Secretary Powell took office. Committed to improvements in embassy security, the Secretary has overseen the construction of 13 embassies in 2-year period—completing these projects on time and under budget. Twenty-six additional embassy projects are currently underway. With Congressional support for full funding, this building program can be completed and all our departments and agencies operating overseas will enjoy safer and more functional work environments as soon as possible.

The foreign policy achievements of Secretary Powell are many. Soon after assuming his post, the Secretary adeptly managed the crisis over the shoot down of an American P-3 aircraft over China. He has worked tirelessly to achieve United States objectives in the war on terrorism. He has sought to strengthen important relationships with Russia, China, India, Pakistan, and has provided critical support for further expansion of NATO. The Secretary has exhibited distinguished leadership promoting United States interests around the globe. He has represented our country honorably and ably overseas and is widely known and admired on every continent.

Secretary Powell has also worked to strengthen relations on the domestic front. Upon assuming his position, the Secretary committed to improving relations between the State Department and the Congress. I think many who have worked with the Secretary during his tenure would attest to the achievement of this goal.

I ask my colleagues to join me in commending Secretary Powell on his success and in wishing him well in any future endeavor he undertakes.

I ask unanimous consent that the executive summary of this report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECRETARY COLIN POWELL'S STATE DEPARTMENT: AN INDEPENDENT ASSESSMENT—NOVEMBER 2004

#### EXECUTIVE SUMMARY

In the summer of 2000 some 1,400 Foreign Service personnel, a quarter of the officer corps, attached their names to an Internet protest of their working conditions. In early 2004 the State Department had 200 Civil and Foreign Service volunteers, more than it could handle, for the 146 positions it was opening in Baghdad. The difference was Colin Powell and the gifted team of senior managers he assembled at the State Department.

Secretary Powell arrived at the State Department determined to fix a broken institution. He launched a two-pronged strategy. First, change the leadership culture so that managers at all levels focus on training, empowering and taking care of their people. Second, remedy critical management deficiencies: (1) restore diplomatic readiness by rebuilding State's staff; (2) give State modern information technology (IT); (3) focus on security of the nation (visas and passports), of information and of Americans abroad, including U.S. government employees (also involves holding overseas staffs to the minimum necessary—right-sizing); (4) assure safe, healthy and secure facilities, especially overseas buildings; and (5) relate budgets to agreed strategies, policies and priorities. Visa and passport security required reshaping consular affairs to deal with the post-9/11 world. Secretary Powell also had to address two other major management issues: improving State's congressional relations and overhauling public diplomacy following the 1999 merger of USIA into State.

The accomplishments are extraordinary:

Employees at all levels, Foreign Service and Civil Service alike, feel empowered and respected. Morale is robust. "One Mission, One Team" has taken root as a value.

Leadership and management training are now mandatory for all mid-level and senior officers. Career candidates for Ambassador or Deputy Chief of Mission (DCM) appointments have the inside track if they have demonstrated leadership qualities. The Foreign Service employee representative, the American Foreign Service Association (AFSA), wants to write this practice into the permanent rulebook.

Congress has given State virtually all of the resources Secretary Powell requested. Congress understands that the increases for diplomatic readiness, information technology, overseas buildings and diplomatic security are permanent parts of the budget, not one-time catch-up costs.

State has achieved most of its Diplomatic Readiness Initiative (DRI) staffing goals. With its new, first-rate recruitment and marketing program, State has redressed in three years almost the entire personnel deficit of the 1990s (some 2,000 employees hired above attrition) and increased the diversity and quality of Foreign Service officers and specialists.

All the hardware for modern IT is now installed and on a four-year replacement cycle. All desks are finally linked worldwide. Information security is greatly enhanced. A new, robust, state-of-the-art message and archiving system (SMART) is being tested to do away with yesteryear's inadequate telegrams and their risky distribution and storage.

The new Overseas Buildings Office (OBO) has completed 13 safe, secure, functional buildings in two years and under budget. Twenty-six more are on the way. This contrasts with the pre-2002 rate of about one building per year. Congress and OMB have praised OBO effusively. Security upgrades have thwarted terrorist attacks at several posts.

The Deputy Secretary personally chairs the senior reviews of the Bureaus' Performance Plans (BPPs—policy-related budgets) and the bureaus in turn hold ambassadors accountable for their Mission Performance Plans (MPPs).

The senior reviews include USAID. There is a first-ever five-year Joint State-USAID Strategic Plan. And the new State-USAID Joint Management Councils, one for policy and one for management operations, are running effectively.

There are experiments with "virtual posts" which aid "right-sizing" and public

diplomacy (15 of them as of October 2004—see p. 6).

Administrative operations at six embassies have qualified for ISO 9000 certification (p. 12), a point of pride, efficiency and service. The goal is to certify for ISO 9000 all administrative functions at all posts, meaning that all administrative functions at all posts meet ISO (International Organization for Standardization) criteria for certification for administrative excellence.

Visa operations use new IT systems and rigorously carry out post-9/11 security requirements—sometimes to the detriment of other U.S. programs and interests, despite energetic leadership efforts to maintain “open doors” along with “secure borders.”

Many of the management improvements are institutionally well-rooted, partly because the new Foreign Service cohorts will demand that they stay. But many are vulnerable in a budget crisis, and others require more work. Key tasks:

1. State must maintain its partnership with Congress. Secretary Powell has been the critical actor in this regard, but he also has enabled his senior and mid-level subordinates to carry much of the load. This practice must continue.

2. Integration of public diplomacy into the policy process is still deficient. Experimentation on multiple fronts is needed to make the public diplomacy function more effective. Ideas include training, expansion of the ways public diplomacy officers relate to the Under Secretary for Public Diplomacy, and aggressive action to make public diplomacy a part of all policy development.

3. State's public affairs efforts need to go beyond explaining current policies to the public. They need to engage the public on a sustained basis regarding what the Department of State is and what its people do, especially overseas, as a way to build public confidence in the institution and confidence in the policies it is explaining and carrying out.

4. Diplomatic readiness is incomplete, budget outlooks are grim, and there are new needs: positions to replace those reprogrammed from diplomatic readiness to cover Iraq and Afghanistan; positions to provide surge capacity for crises; and positions to staff the new, congressionally-proposed Coordinator for Stabilization and Reconstruction. State should develop a ready reserve of active-duty personnel who have strong secondary skills in critical fields, plus a select cadre of recallable retirees with like skills (see Appendix A). Continuous attention to the recruitment system is needed to remain competitive. And State must protect its training resources, including those for hard language and leadership/management training, from raids to cover operational emergencies. Sending people abroad without the requisite training is like deploying soldiers without weapons.

5. State must update its overseas consular staffing model to account for post-9/11 changes in workloads and procedures, so that the U.S. can truly have both “safe borders and open doors”.

6. State has to find a way to staff hardship posts adequately, using directed assignments if necessary in order to assure Service discipline.

7. State has some distance to go before it reaps the full benefit of its new IT systems. The SMART system is almost a year behind schedule, albeit for good reasons. More formal training of users is needed and a cadre of IT coaches (today's secretaries?) should be developed to help overseas users. A common computerized accounting and control application is still being developed: the Joint [State-USAID] Financial Management System (JFMS). It is overdue.

8. “Right-sizing”—aligning the U.S. government presence abroad to reflect our na-

tional priorities and to attain policy objectives as efficiently as possible—has barely begun. It should be pursued in multiple venues: interagency capital cost-sharing for overseas buildings; wider use of “virtual posts” (see p. 6); conscious use of MPPs and, with White House support, the BPP senior reviews to manage the overseas presence of all U.S. agencies; completion of State's regional support center program; and ISO 9000 certification for all overseas administrative operations that have “critical mass.”

9. Future Secretaries, Deputy Secretaries, Under Secretaries and Assistant Secretaries must engage fully in management and leadership processes as well as in congressional relations.

10. Finally, Congress and the executive branch have a series of management issues they need to examine together, including: the long-term relationship between State, USAID and other U.S. assistance vehicles (e.g., Millennium Challenge, U.S. Global AIDS program), and where in the budget and the appropriations structure it is most appropriate to fund State and USAID (perhaps merged under a separate “national security account”).

### JUSTICE FOR ALL ACT

Mr. CORNYN. Mr. President, almost 2 months ago, we passed H.R. 5107, the Justice for All Act. That bill was the product of months, even years, of hard work and dedication of many on both sides of the aisle. The final product includes a number of important provisions and badly needed funding for State criminal justice systems and, for that, I am happy to see it pass. However, in order to gain my support, as well as that of a number of my colleagues, a number of compromises were made with respect to certain aspects of the Innocence Protection Act section of the bill.

Specifically, the House majority leader, Mr. DELAY, and other members of the Texas delegation in the House inserted into the bill a provision designed to protect the capital representation system that is in place in Texas. Section 421(d)(1)(C) was added specifically to ensure that Texas or any State with a similarly structured system would qualify as an “effective system” under the statute.

My support of the bill depended entirely on that provision and on the generally agreed-upon understanding of what that provision accomplishes. As made clear in a colloquy given on this floor at the time of the bill's passage, on October 9, 2004, between myself, Senator SESSIONS and the chairman of the authorizing committee, Senator HATCH, who also happened to be the author and sponsor of the legislation, “it is this system [in Texas] or any future version of it that specifically is intended to be protected by this language.” Further, we agreed that “Texas will not have to change a thing in order to receive grants under this bill—it is automatically pre-qualified.” Mr. HATCH also noted that it was his understanding that “at least half a dozen other States also will automatically pre-qualify for funding under this proviso.”

Typically, I would not take the floor to make this point so long after the date of passage.

But with regard to the Justice for All Act, I do feel compelled to respond to a statement the senior Senator from Vermont made on the floor on November 19, 2004—a full 41 days after the passage of H.R. 5107 on October 9, 2004, indicating a different view of the meaning of this provision and others. The final bill was the product of careful negotiations that sought to protect many different States' interests. It does not represent the wish-list of the Senator from Vermont. Suffice to say that the bill likely would not even have been enacted had the interests of the different States, interests such as those protected by the revised section 421, been adequately protected. Indeed, I would further note that views of the senior Senator from Vermont are hardly authoritative with regard to this bill. It is the senior Senator from Utah that is the author and lead sponsor of the bill and the chairman of the committee that reported the bill. And as the senior Senator from Utah made clear at the time that the bill was enacted, actual legislative history, he and I understood the bill to carve out a State such as Texas that had pre-existing capital appointment systems.

The senior Senator from Vermont also attempts to take some liberties with the meaning of other parts of the Justice for All Act's capital-counsel subtitle. He alleges that its grant provisions should be “strictly interpreted by grant administrators”; that a \$125-an-hour rate for defense attorneys is what is “reasonable”; that defense attorneys' pay should be pegged to prosecutors' pay, and should include geographic cost-of-living adjustments; that the capital-counsel entity may not delegate some of its functions to individual trial judges; and that capital-improvement grants may not be used to higher prosecutors.

None of these ambitions for the Justice for All Act has support in the actual text of the law. Indeed, some of these assertions directly contradict the understanding of the law at the time that it was enacted. For example, as the senior Senator from Utah made clear to the Senator from Alabama at the time that the bill passed the Senate, and well before House passage of the accompanying enrolling resolution made Senate passage final, nothing in section 421 precludes a State from structuring the capital-counsel entity so that general rules and rosters are set by a larger group of qualified judges, and application of those rules in individual cases, selection of counsel from the roster and approval of fees and expenses, is made by a qualified trial judge presiding over the case.

Further, I would like to include the attached letter from the Texas Task Force on Indigent Defense regarding H.R. 5107, the Justice for All Act (P.L. 108-405), into the CONGRESSIONAL RECORD. This letter responds directly