to local communities linking their health care systems, along with providing grants for purchasing health information technology.

Creating a safe, secure and reliable system for medical records won't be easy, but if done properly, it could help health care providers reduce medical errors and provide better care to their patients. We could also see a substantial savings in administrative costs which will help lower health care costs for everyone.

S. 2710 is a good first step, and I am proud to be a co-sponsor. I am hopeful that the members of the Senate Committee on Health, Education, Labor and Pensions can work together to pass this bill soon, and that we can get it to the President's desk by the end of the year.

LABOR-HHS APPROPRIATIONS

Mr. GREGG. Mr. President, the Senate will soon have the opportunity to consider the 2005 Labor-Health and Human Services Appropriations bill recently passed the House. Included in that bill is a provision that would divert $500,000 in funding from the Office of the General Counsel at the Food and Drug Administration—FDA. As chairman of the committee with oversight over the FDA, I believe that such a provision is not only misguided, but based upon a flawed understanding of both the Agency and the facts.

According to the sponsors of this provision, such a punitive measure is warranted because the current Chief Counsel, Dan Troy, is taking the Agency ''in a radical new direction'' by filing amicus curiae briefs in product liability cases. Sponsors of this provision also claim that Mr. Troy's involvement in one such case is suspect because it involved Pfizer, a client of Mr. Troy's when he was with the law firm of Wiley, Rein & Fielding. Such charges are patently without merit, and I would like to take this opportunity to set the record straight.

First, Mr. Troy has not broken any new ground by having the FDA interject in product liability cases on the side of a defendants without the court requesting the Agency's position. I have here a letter addressed to me from five former FDA chief counsels—two of which are Democrats—affirming that Mr. Troy's actions are neither ''radical'' nor ''novel.'' I ask unanimous consent that a copy of that letter be printed in the RECORD.

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

JULY 21, 2004.

Re Hinchey Amendment to cut $500,000 from the appropriations for the FDA Office of Chief Counsel

Hon. JUDD GREGG,

Chairman, Health, Education, Labor and Pensions Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN GREGG: The undersigned comprise all of the former Chief Counsel to the Food and Drug Administration (in both Republican and Democratic Administrations), except for one who is currently an attorney in the Office of the General Counsel of the Department of Health and Human Services. We are writing to recommend reconsideration of the amendment to the FDA appropriations bill by Representative Hinchey of New York on the floor of the House of Representatives, which would reduce the appropriation for the FDA Office of Chief Counsel by $500,000 and would increase the appropriation for the Division of Drug Marketing, Advertising, and Communications in the FDA Center for Drug Evaluation and Research by a corresponding amount. We support additional funds for the Division of Drug Marketing, but we believe that the reduction of the appropriation for the Office of Chief Counsel and Representative Hinchey's reasons for penalizing that Office cannot be supported.

FDA's Office of Chief Counsel performs critical functions in the administration and enforcement of the Federal Food, Drug, and Cosmetic Act and other laws administered by FDA. The substantial reduction in the funding of that Office, therefore, would materially impair its ability to meet the needs of its client, FDA. Such impairment would be contrary to the public interest.

Representative Hinchey's reasons for penalizing the Office of Chief Counsel and criticizing FDA Chief Counsel Daniel E. Troy are set forth in the House Debate on the FDA appropriations legislation as reported in 150 Cong. Rec. H5598–H5599 (July 13, 2004). Representative Hinchey states that Mr. Troy ''has taken the agency in a radical new direction'' by submitting amicus curiae briefs in cases in which courts have been asked to require labeling for pharmaceutical products that conflicts with FDA decisions about appropriate labeling for those products. Representative Hinchey characterizes this activity as a ''pattern of collusion between the FDA and the drug companies and medical device companies'' in a way that has ''never happened before.''

These characterizations are inaccurate.

In Weinberger v. Bentex Pharmaceuticals, Inc., 412 U.S. 645 (1973), the Supreme Court agreed with the briefs filed by the Department of Justice on behalf of FDA that the agency has primary jurisdiction over new drug issues. In Jones v. Rath Packing Co., 425 U.S. 933 (1977), the FDA took the position in an amicus curiae brief submitted by the Department of Justice that federal food labeling requirements preempt inconsistent state requirements, and the Supreme Court agreed. In subsequent private tort litigation, FDA has taken the position, through amicus curiae briefs filed by the Department of Justice, that FDA decisions regarding drug product labeling and related issues preempt inconsistent state court determinations, and the courts have agreed. E.g., Bernhardt v. Pfizer, Inc., 2000 U.S. Dist. Lexis 16963 (November 16, 2000); Eli Lilly & Co. v. Marshall, 850 S.W. 2d 164 (Texas 1993). All of this was to protect a uniform national system of food and drug law. All of it occurred before Mr. Troy assumed his current position. In none of these cases did any court request FDA's opinion. Thus, there is ample precedent for the actions that Mr. Troy has recently been undertaking. His action is not radical or even novel.

The amicus curiae briefs filed by the Department of Justice at the request of Mr. Troy protect FDA's jurisdiction and the integrity of the federal regulatory process. There is a greater need for FDA intervention today because plaintiffs in courts are intruding more heavily on FDA's primary jurisdiction then ever before. In our judgment, Mr. Troy's actions are in the best interests of the consuming public and FDA. If every state judge and jury could fashion their own labeling requirements for drugs and medical devices, there would be regulatory chaos for these two industries that are so vital to the public health, and FDA's ability to advance the public health by allocating scarce space in product labeling to the most important information would be seriously eroded. By assuring FDA's primary jurisdiction over these matters, Mr. Troy is establishing a sound policy of national decisions that promote the public health and, thus, the public interest.

We therefore recommend that the $500,000 cut from the appropriations for the FDA Office of Chief Counsel be restored.

Sincerely yours,

PETER BARTON HUTT (1972–1975).
RICHARD A. MERRILL (1975–1977).
RICHARD M. COOPER (1977–1979).
NANCY L. BUC (1980–1981).
THOMAS SCARLETT (1981–1989).

Mr. GREGG. Mr. President, second, as stated in the letter from the five former FDA chief counsels, the FDA has been filing amicus briefs for such purposes since long before Mr. Troy's tenure. Mr. Troy is responsible for safeguarding the FDA's ability to carry out the responsibilities Congress has given the Agency, and his interest in those cases has been to preserve the FDA's authority and to safeguard the Agency's primary jurisdiction.

Finally, if Mr. Troy's previous work for a client—in this case Pfizer—automatically precluded him from representing a federal agency in any matter affecting that client, such a policy would not only discourage, but make it extremely difficult for any private sector attorney from taking a job in government. Additionally, I know from personal experience that Mr. Troy has the character and the integrity to recuse himself from a matter when appropriate. On at least one occasion in which my office was required to interact with the FDA, Mr. Troy recused himself from involvement in the matter, citing his interest in complying strictly with FDA rules.

Mr. Troy's actions are neither inappropriate nor unprecedented. Rather, these are examples of Mr. Troy doing his job and enforcing the law. I urge my colleagues to carefully consider these facts before supporting any provision, such as this one, that would undermine the FDA's ability to protect the public health and patient access to safe and effective life-saving therapies.

AVIATION SECURITY

Mr. HOLLINGS. Mr. President, the 9/11 Commission released its report today on the events leading up to 9/11, and the security failures that precipitated this tragedy. The Senate Commerce Committee has spent a great deal of its time and attention on aviation security over the years. I have served in the U.S. Senate for more than 38 years. This institution can be slow to make decisions, but when needed, this body can move quickly and effectively. After 9/11, we acted immediately

to create the Transportation Security Administration in an effort to force real change in our aviation security regime. Fast action to bolster our Nation's aviation security was critical to restore the trust of travelers in an air transportation system that was on the verge of collapse.

Congress has often acted decisively during the deliberation of aviation security issues. For example, following the work of a prior presidential commission, a bipartisan group, led on the Senate side by Senator LAUTENBERG and former Senator D'Amato, investigated the 1998 destruction of Pan Am Flight 103 over Lockerbie, Scotland, and made numerous recommendations. We took up and passed many of them as part of the Aviation Security and Improvement Act, P.L. 101–604. I also was in the Senate as a wave of hijacking to Cuba in the late 1960s and early 1970s led to the wide use of metal detectors at commercial airports.

Unfortunatley, the current threat to security is a more sophisticated one, and one that has forced our government to change the way we deal with security in general. Prior to 9/11, we had a poorly paid screener workforce, with a high turnover rate. Post 9/11, we have a better trained, better paid workforce with a relatively low turnover rate. Some, however, want to turn back the clock. We cannot let that happen.

Even prior to 9/11, there are indicators that FAA was concerned with a number of events around the world regarding hijackings. Following Pan Am 103, we pushed to put bomb detection equipment in airports, but until TWA 800 blew up over Long Island in July of 1996, there was no real effort to fund aviation security.

Today TSA is spending $5.3 billion annually on all transportation security, and it is not enough. We have underfunded capital construction at airports, causing a delay in the installation of Explosive Detection Systems. We have a cap on the number of security screeners that can be hired, causing huge lines at many of our airports because we will not provide the money needed to do the job right. But aviation, comparatively, is in far better shape than maritime and rail—areas that are woefully underfunded. I have made this point to the new head of TSA, Admiral Stone, but it is OMB and the administration that are stonewalling the security funding. Simple as that.

With all we know about the threats, one would think that we would be able to fully fund our security needs, but OMB continues to play the types of games it plays with all agencies. Look at our Homeland Security Appropriations bill—no direction on how funds need to be allocated or which areas need greater attention. We have given the administration a blank check to spend the money on programs it believes will protect us, but it is not enough. If we keep refusing to take the proper actions to improve our transportation security, I am afraid that we will find ourselves once again responding to a national tragedy that could have been stopped with the proper actions and preparation.

I ask unanimous consent to print a New York Times editorial on aviation security in the RECORD, as well as a memorandum detailing hijackings from 1983 to 1991.

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

[From the New York Times, July 11, 2004]

A DANGEROUS RETREAT ON SECURITY

Bashing federal bureaucracies is a favorite sport among Republicans on Capitol Hill, but their fun should not come at the expense of national security. That is what is likely to happen if airport security checkpoints are once again turned over to profit-driven private contractors. Under a little noticed provision of the post-9/11 aviation security law that would undoubtedly shock most travelers, airports may soon have that option.

Air travelers find it reassuring that federal employees now guard the front lines in the war on terror, which makes it all the more surreal that a Sept. 10 mind-set could still persist on Capitol Hill. The Bush administration and House Republican leaders initially opposed the creation of the federal Transportation Security Administration after the 2001 terrorist attacks, arguing that private contractors should continue screening passengers. They gave in to the public demand for a federal takeover, but they made sure to plant the seeds of the effort's rollback. They set an arbitrary cap on the number of federal screeners and set up a pilot program of five airports that would continue being served by private companies, though their screeners have to meet the agency's standards and are paid the same.

Republican leaders are loath to see the federal government grow on their watch, and security industry lobbyists are eager to get a larger slice of the billions being spent to protect air travelers. So both want to see the pilot program expanded. Under the 2001 law, individual airports will be able to apply to opt out of the federal system later this year, and rely on private contractors overseen by the T.S.A.

None of this makes any sense. It has taken a herculean effort to deploy the agency's tens of thousands of officers at more than 400 airports in two years. The agency has vastly improved airport security, without perfecting it, and is still making progress.

It's true that the security provided by private firms at San Francisco and four lesser airports is a far cry from the lax pre–9/11 standard. Studies claim it is no better or worse than the security provided by the T.S.A. But that has been in a period when the federal agency was just getting up to speed, and when companies knew they were essentially on probation.

To privatize security at a time of growing complacency would be a dangerous step back. Air travelers do not want to see airports compromise security for the sake of convenience, or federal standards for the sake of profit margins.

SPECIAL ANALYSIS—CIVIL AVIATION INCIDENTS IN THE UNITED STATES, 1983–1992

This report is an ACI–200 analysis of 36 incidents involving the hijacking or commandeering of aircraft, which occurred in the United States and Puerto Rico between January 1, 1983 and October 1, 1992. The most recent of these incidents took place in February 1991. Twenty-nine of the incidents were hijackings, six were commandeerings, and one was a potential hijacking that was prevented at a security checkpoint. The purpose of this review is to determine what elements, if any, were common to these events. Incidents involving general aviation aircraft are not included in this report.

HIJACKER WEAPONS AND EXPLOSIVES

Persons who hijacked aircraft used a variety of methods, including the use and/or claim of real or fake weapons, explosive devices, or incendiary devices. In some instances, more that one method was used in a single incident.

Real weapons were used during five hijackings. Small knives (blade length of four inches or less), the most frequently employed weapon to hijack aircraft, were used in three incidents. One of these involved three persons using two knives. A handgun, a small pistol of unknown caliber, was used in only one hijacking. This incident involved an escorted prisoner who disarmed his three guards after he obtained a weapon apparently cached in the aircraft's lavatory by persons and means unknown. A plastic flare gun was used in another hijacking.

Flammable liquids (or liquids claimed to be flammable) were used in seven hijacking incidents. Hijackers threatened to ignite liquids in bottles or aerosol hair spray-type cans with cigarette lighters, candles, or matches. Fake explosive devices were displayed in ten incidents and explosive devices were claimed in eight others. Fake weapons, including a starter pistol and a realistic looking toy pistol, were used in three hijackings and weapons were claimed in two others. One hijacker neither used nor claimed a weapon or explosive device. None of the hijacking incidents involved the use of an actual explosive device.

Except for the escorted prisoner who had been searched, all of the individuals who used real weapons to effect a hijacking went through preboard screening procedures at airport security checkpoints. Weapons were usually hidden in carry-on luggage or on the hijacker. The hijacker who used a starter pistol to effect his act passed it through screening in carryon luggage. He also had a pair of scissors and two knives in his carry-on, but these were well within acceptable standards of the time and were not used in the hijacking. Although it does not appear that there were any especially intricate attempts at concealment, a cassette radio was reportedly used to hide a knife in one incident.

A potential hijacking was prevented when two individuals were arrested before the aircraft became airborne. Three individuals who had aroused suspicion prior to boarding their flight were searched at the security checkpoint. One person passed through the checkpoint and went on into the aircraft; however, one of his accomplices was found to have a plastic flask of gasoline strapped to his leg. The first individual was again searched and was found to have a toy pistol as well as a flask of gasoline. Their accomplice was not caught.

COMMANDEERINGS

Real weapons—two knives, two handguns, and a fire ax—were used in five commandeering incidents, and a fake explosive device was used in a sixth. Although access was gained to aircraft in five incidents, a ticketed passenger was involved in only one. None of the aircraft that were commandeered became airborne, and the situations were resolved through negotiations and/or arrests.

Two commandeering incidents involved persons who went through preboard screening. In one incident, an individual had a fishing knife in his carry-on luggage. Although

he had no ticket, he realized from observing the screening procedure that he did not need one co enter the sterile area. Once through the security checkpoint, he ran past a gate attendant during boarding and on to a jetway where he used his knife to force his way into the aircraft. The second incident involved a ticketed passenger who, upon boarding his flight, displayed a device consisting of wires and an electrical switch.

Persons who circumvented security checkpoints were involved in three commandeering incidents. Security procedures were observed by the suspects in two of these. One individual, who after watching screening procedures realized she would not be able to pass her handgun through the checkpoint, determined that she could walk quickly past security personnel via the passenger exit ramp; the other individual waited until deplaning passengers caused an automatic door to open. Both of these persons brandished handguns (.22 and .25 caliber) when challenged, and each was able to access an aircraft. In a third incident, an individual grabbed a knife at a food concession area. He ran past a security checkpoint to the door of the aircraft, which was closed, and was thus prevented from gaining access to the plane.

One commandeering incident also involved a passenger who had been deplaned and was already in the sterile area. He broke through an alarmed door and gained access to the Air Operations Area. He then entered an aircraft being serviced and held several crew members hostage with a fire ax he found on board.

MENTAL DISORDERS

Nine of the 36 incidents (25%) were committed by persons who were diagnosed as either being mentally incompetent to stand trial or suffering from various mental disorders. For example, charges were dismissed against the ticketed passenger who displayed a fake explosive device upon boarding the aircraft because he was determined to be suffering from a mental disorder. In another situation, the individual who held hostages aboard an aircraft with a fire ax was suffering from a mental disorder; he committed his act because he believed ''Mafia hit men'' were about to kill him.

Real weapons were used in three incidents by persons suffering a mental disorder; two had handguns, and one person obtained a fire ax on board in aircraft. Security measures were circumvented on two occasions. One hijacker suffering a mental disorder used a fake weapon, a starter pistol, but also bad a pair of scissors and two knives in his carry-on luggage.

Five of the nine incidents that involved persons suffering mental disorders were hijackings, and four were commandeerings. Claims of explosives or weapons occurred in three incidents. Fake explosive devices were displayed in two incidents; in one of these, the hijacker displayed a fake device but had a two liter soda bottle filled with gasoline, which he apparently had intended to use, in baggage he was made to check.

Specific destinations were given in five of the situations involving persons with mental disorders. In one commandeering incident, the individual wanted to take control of the aircraft and immediately crash it in order to commit suicide.

HIJACKINGS TO CUBA

Cuba was the destination of choice in 22 of the 29 hijackings since January 1983. Fourteen of the first 16 flights hijacked to Cuba, between May 1, 1983, and December 31, 1984, actually landed in Havana. No flights have successfully been hijacked to Cuba since.

Of the 14 hijackings that ended in Cuba, real weapons were used in three. A flare gun was used in one incident, a handgun was used by the escorted prisoner in another, and a knife and aerosol spray can was used in the third incident. Fake explosive devices were displayed in six incidents; two of these were used in combination with a claim of a flammable liquid and/or a fake weapon. Two hijackers also claimed to possess an explosive device. Incendiary devices were claimed in six incidents, sometimes in connection with the use of other devices or claims. In one such incident, the hijacker poured a liquid that smelled like gasoline or kerosene on himself and his seat and then sat holding a lit candle.

Eight of the hijacked flights did not divert to Cuba. A real weapon, a knife, were used in just one of these incidents. Another incident involved the use of a fake weapon (starter pistol) and a claim of explosives. Fake explosive devices were exclusively claimed in one incident and used in three others, once with a claim of a flammable liquid. A weapon was alleged in one incident, and one incident occurred in which neither a device nor a weapon was used or claimed.

Many of the hijackers who sought to go to Cuba had arrived in the United States during the Mariel Boatlift in the early 1980s and wanted to return. Their motivations included homesickness, financial problems, discouragement, and a desire to see family or sick relatives. These individuals usually spoke and understood only Spanish. Several hijackers, however, were non-Cubans who committed their acts for political reasons, that is, to escape the United States and/or find support for the ''revolution.'' Some of the hijackers who wanted to go to Cuba, furthermore, suffered from mental disorders.

Most, if not all, of the hijackers who landed in Cuba were arrested and subsequently tried, convicted, and sentenced to prison. This fact was widely publicized in the United States and may have been a factor in a sharp drop in the number of subsequent hijackings to Cuba (17 between May 1983 and January 1985, and one each year from 1987 through 1991).

OTHER HIJACKINGS

Of the seven hijackings in which Cuba was not given as a destination, two aircraft landed where the hijacker demanded and the others continued on course. The hijackers used fake explosive devices in two incidents, claimed explosives in three, and claimed weapons in two. Real weapons were not used in these incidents.

MULTIPLE HIJACKERS

Only three of the 36 incidents involved more than one person. Two of these were hijackings, neither of which was especially sophisticated, and the third was a potential hijacking that was prevented at the security checkpoint. None of the commandeering incidents involved more than one person.

In one incident, a hijacker produced a bottle of liquid that smelled like gasoline and locked himself in the rear lavatory, while an accomplice went to the forward galley holding a device that was later determined to be fake. The two hijackers were seated one row apart. The second incident occurred when a passenger in the aft galley grabbed a flight attendant and held a knife to her throat. At the same time, two accomplices arose from their seats; one held a knife and the other a can of aerosol spray and a cigarette lighter. The potential hijacking involved the two individuals detected with flasks of gasoline tied to their legs. One person had passed through the security checkpoint and was on board the aircraft when his accomplice was stopped at the checkpoint. The first individual was again searched and was found to have a toy pistol in addition to the flask of gasoline. Both individuals stated that a third person who was with them, and who was not caught, paid them to transport the devices.

One other incident occurred in which a hijacker was supposed to have accomplices. He and three others had planned to commit the hijacking, but, unknown to him, the others did not board the flight after one had been detected with a knife at the security checkpoint. It was only after the hijacker rose from his seat and announced his demand to go to Cuba that he realized he was alone.

OTHER FACTS

Only two of the individuals involved in the 36 incidents were females. One woman successfully hijacked a flight to Cuba using a plastic flare gun, and the other ran past a security checkpoint with a handgun, gained access to an aircraft, and held several hostages before being arrested. This second individual was determined to be suffering from a mental disorder.

Many of the individuals involved in the hijackings had purchased flight tickets paid for in cash. More often than not, these were same-day purchases of one-way, economy class tickets. A few of the hijackers remained in their assigned seats throughout the incident. More than half of the hijackings were initiated by the hijacker either notifying a flight attendant orally or in writing, or by physically accosting a crew member. Several hijackers simply stood up and announced their act, and a few locked themselves in a lavatory. A few also created disturbances, such as pouring liquid on themselves or their surroundings and threatening to ignite it. There is evidence of preplanning in all but one of the incidents. Finally, there are no indications that any hijackers were familiar with the operation of an aircraft.

ANALYSIS

During the past nine years, several elements common, to the 36 hijackings and commandeering incidents in the U.S. are evident: Generally only one person was involved in each incident; one-fourth of all suspects were suffering from some form of mental disorder; international terrorists were not involved in any of the incidents; most incidents were preplanned acts rather than spur of the moment decisions; actual explosive devices were not used; hijackers frequently claimed to possess explosive or incendiary devices; actual weapons were used more frequently during commandeering incidents than in hijacking situations; many of the perpetrators simply wanted to go somewhere for a variety of economic, social, or family reasons, and either could not afford a ticket or had no other means of transport; and there were no deaths to passengers or aircraft crew members.

Many of the incidents occurred either within the sterile area or on board aircraft. Although security procedures at screening checkpoints do not appear to have been at fault in the majority of these cases, some security failures did occur. Actual weapons were taken through screening checkpoints in six incidents. Small knives were used in three hijackings, a plastic flare gun in one incident, and a handgun in another. A small fishing knife was used in a commandeering incident. Fake weapons, a realistic looking toy pistol and a starter pistol, were used in three hijackings.

Several hijackings were committed with common, innocuous-looking items. More than one-third of these incidents were committed by persons carrying hoax explosive devices, for example, a pump toothpaste container attached to a flashlight, a large chalice-like cup, and a cellular telephone. Threats were also made to ignite gasses in aerosol cans or flammable liquids (as claimed) in bottles and flasks in some incidents.

There were, however, some security successes. One hijacking was prevented at a security checkpoint and another did not take

place as planned. The first incident involved the two individuals each of whom had a flask of flammable liquid tied to his leg. In the second incident, the discovery of a knife at a checkpoint resulted in the boarding of only one of four persons who planned to hijack the aircraft to Cuba.

At the same time that these types of incidents were taking place in the United States, a different kind of aircraft hijacking was occurring in other parts of the world. These incidents, some of which involved U.S. registered carriers, were noteworthy because of their complexity, duration, and deadliness. They include the hijackings of Trans World Airways Flight 847 and Kuwaiti Air Flight 422, which involved multiple and often zealous, well-armed, well-trained, and disciplined hijackers. Unlike their contemporary U.S. counterparts, these individuals often demonstrated a willingness to die rather than fail and to kill others if their demands, which were frequently politically-motivated, were not met. In many instances, passengers were killed as a result of the actions of such hijackers.

Why such incidents did not occur in the United States during the past nine years is a matter of conjecture. Many theories have been advanced, including logistical and operational problems for international terrorists, non-interest by U.S. domestic terrorist groups, and difficulties (or perceived difficulties) in accessing targets. It should not be presupposed from this, however, that such hijackings will never occur in the U.S. Politically motivated hijackings by multiple hijackers have, in fact, taken place in the U.S., but not within the past 9 years.

During the past nine years, hijackers in the United States have acted in striking contrast to some of their more noteworthy international counterparts. They usually have not been motivated by the same political forces, such as the freeing of political prisoners or providing publicity for a cause, and they have not exhibited the lame propensity to die and kill others rather than fail.

The fact that handguns were seldom used and actual explosive devices never used in domestic hijackings during the past nine years is interesting, but it should not be assumed that future hijackers will act similarly. It is not known why this occurred; it may be a reflection of either better screening procedures or a perception that it is too difficult to pass a gun on board an aircraft. Since several small knives and other items, such as a pair of scissors and a starter pistol, were successfully passed through screening checkpoints in a carry-on bag, however, the system is not infallible.

Although most U.S. hijackings during the past nine years were committed by persons acting alone, it should not be assumed that future incidents will follow this format. If there are accomplices, however, they will likely identify themselves in the beginning of the incident rather than remain hidden. Based on past experiences, the hijacker(s) may possess ore or more weapons or a flammable liquid, a fact which they likely will make known, or they may claim to possess an explosive device.

Hijackings should be taken seriously unless it is obvious that there is no threat or danger. It is often difficult to determine if a claimed weapon, explosive device, or incendiary device is real. The hijacker(s) should be given the benefit of the doubt until circumstances prove otherwise.

NATIONAL PURPLE HEART RECOGNITION DAY

Mr. DURBIN. Mr. President, I am in support of S. Con. Res. 112 which supports the goals and ideals of National Purple Heart Recognition Day. This award was created by General George Washington, who established the Honorary Badge of Distinction in the figure of a heart in purple cloth or silk on August 7, 1782. Since that time, more than 1,535,000 Americans have received Purple Hearts, and their numbers are growing daily as the war in Iraq continues to take its toll.

Over 5,000 Americans have been wounded in Iraq, many of them suffering horrific injuries. One such American is SP Gabe Garriga, one of my constituents. Specialist Garriga volunteered for the Illinois National Guard right after September 11, when he was just 17 years old, because he felt obligated to go and make a difference.

In the summer of 2003, his unit was deployed to Iraq. On July 14, 2003, Specialist Garriga was rushing to help defend a checkpoint in Baghdad. The checkpoint had been breached by an Iraqi car that sped through without stopping, and U.S. soldiers feared that this was yet another suicide bomber. In the rush to defend the checkpoint, Garriga's Humvee slammed into another Humvee and he was thrown from his gun turret directly into burning fuel canisters.

The wounds this young man suffered were absolutely horrendous. He had second and third degree burns over almost half his body and severe abdominal injuries. Doctors gave him a 1 percent chance for survival, but he beat those daunting odds.

Specialist Garriga deserves everything this Nation can give him in return for his service and sacrifice and that includes a Purple Heart.

This award was reinstated in 1932, a century and a half after General Washington created his Badge of Military Merit. At that time, Army regulations defined the conditions for the award as ''a wound which necessitates treatment by a medical officer and which is received in action with an enemy.''

There is no doubt that Specialist Garriga's wound necessitated medical treatment—27 operations are blunt testimony to that terrible fact. And there is no doubt in my mind that Gabe was involved in action with an enemy when he and his comrades were rushing to defend that breached checkpoint in a time of war. Nonetheless, over a year later, he has still not received a Purple Heart.

Current Army regulations reiterate the conditions spelled out in 1932 and add ''It is not intended that such a strict interpretation of the requirement for the wound or injury to be caused by direct result of hostile action be taken that it would preclude the award being made to deserving personnel.''

Seeking to prevent a suicide bombing against U.S. troops or officials or against innocent Iraqi civilians is the act of a soldier engaged in the fight against terrorism. President Reagan, in fact, explicitly expanded the terms of the award to include those wounded or killed as the result ''of an international terrorist attack.''

So, this year, as the anniversary of the creation of this commendation approaches and as we vote to recognize this day, I also urge the Army to award Specialist Garriga the Purple Heart as a symbol of our recognition of his sacrifice in the war in Iraq. He has earned it.

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION REPORT

Mr. SARBANES. Mr. President, I rise to call to the attention of my colleagues the release on June 15 of the 2004 Report to Congress of the United States-China Economic and Security Review Commission.

The Commission was created by Congress on October 30, 2000, as part of the National Defense Authorization Act for 2001. Its principal sponsor in the Senate was Senator BYRD. The charter of the Commission provides that it be composed of 12 Commissioners, 3 of whom are appointed by each of the Congressional leaders in both the House and Senate. The Commission is thus bipartisan, and reflective of the leadership of both the House and the Senate.

The purpose of the Commission, according to its charter, is to ''monitor, investigate and report to Congress on the national security implications of the bilateral trade and economic relationship between the United States and the People's Republic of China.'' The Commission is required by its charter to submit an annual report to Congress, which must include a full analysis, along with conclusions and recommendations for legislative actions, if any, of the national security implications for the United States of trade and current account balances, financial transactions, and technology transfers with the People's Republic of China.

In preparation for its 2004 annual report, the Commission held 11 public hearings, including field hearings in Columbia, SC, and San Diego, CA. Through these hearings the Commission heard the perspectives of members of Congress, current and former senior government officials, representatives of industry, labor and finance, academics, journalists, and citizens. The Commission took testimony from more than 130 witnesses.

The Commission's fact-finding and examination process also included funding statistical analyses of China's role in world trade and investment, and its compliance record with its WTO commitments. Moreover the Commission contracted for the translation of articles from influential publications within China discussing Beijing's economic and security strategies and its perceptions of the United States.

During the course of its deliberations, the Commission developed a broad bipartisan agreement on the issues it was charged by Congress to