

Ross went on to say:

If Andrew Johnson were acquitted by a nonpartisan vote . . . America would pass the danger point of partisan rule and that intolerance which so often characterizes the sway of great majorities and makes them dangerous.

Mr. President, I know morning business has expired. But in the absence of any other Senator seeking recognition, I ask unanimous consent to proceed for an additional 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, independence and dissent from the majority view has a great tradition in our country, further exemplified by independent, thoughtful U.S. Supreme Court Justices who formulated important legal principles which were later embraced as the law of the land.

In a series of powerful and famous dissents, Justice Oliver Wendell Holmes and Justice Louis Brandeis, articulated a logic so compelling that it became the majority view within a generation. Their examples serve as a reminder of the importance of dissent and independence.

As a law student, I was inspired by Justice Holmes's dissent in *Abrams v. United States*, when he wrote:

But when men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas—that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes can be successfully carried out. That, at any rate, is the theory of our constitution.

The theme of free-thought and independence, so artfully articulated by Justice Holmes, is also the foundation of "Profiles in Courage." I think the essence of that theme was best summarized by then-Senator John Kennedy, when he said:

Foreign ideology . . . fears free thought more than it fears hydrogen bombs.

Free thought is the ultimate road to truth. Free thought is the energy that drives the political machine that leads to good public policy in our society. Free thought, and its companion, freedom of speech and assembly and press, are the core attributes of democracy that are today taking root around the world.

"Free trade in ideas" cannot flourish when Senators are constrained to follow a political party's edict. When the merits of individual judicial nominees are debated and considered, without the counter-majoritarian filibuster preventing resolution, only then do we achieve Holmes's "best test of truth." Similarly, if the constitutional/nuclear option is debated and considered without adherence to the party line, we will pursue the tested process to find the truth that is "the only ground upon which [our] wishes can be successfully carried out."

The value of independence, expressed in the dissenting opinions of Holmes and Brandeis, called public attention to values which later became the pillars of our democracy. Dissenting in *Olmstead v. United States*, Justice Brandeis said:

The makers of our Constitution conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men. To protect that right, every unjustifiable intrusion by the Government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the [Constitution].

That view of the most basic "right to be let alone" later became the pillar of civil rights in our society in many contexts. It is the foundation of today's debate on the Patriot Act where representatives of the political right and the political left reference that value as the barometer of the balance of governmental power to provide for our Nation's security.

The Holmes/Brandeis independent views, expressed in Supreme Court dissents, later became the law of the land on such important issues as freedom of speech, prohibiting child labor, limiting working hours, and peremptory challenges in criminal cases.

These illustrations of Senatorial and judicial independence demonstrate the value of free thinking in deciding what is best for our Nation's long-range interests. Central to the definition of deliberation is thought. And we pride ourselves on being the world's greatest deliberative body. And thought requires independence—not response to party loyalty or any other form of dictation. The lessons of our best days as a nation should serve as a model today for Senators to vote their consciences on the confirmation of judges and on the constitutional/nuclear option.

If we fail, then I fear this Senate will descend the staircase of political gamesmanship and division. But if we succeed, our Senate will regain its place as the world's preeminent deliberative body.

I thank the Chair and thank my colleagues and yield the floor.

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#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. GRAHAM). Morning business is closed.

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#### EXECUTIVE SESSION

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#### NOMINATION OF JOHN D. NEGROPONTE TO BE DIRECTOR OF NATIONAL INTELLIGENCE

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session for the consideration of calendar No. 69, which the clerk will report.

The legislative clerk read the nomination of John D. Negroponte, of New York, to be Director of National Intelligence.

The PRESIDING OFFICER. Under the previous order, there will be 4 hours of debate equally divided between the two leaders or their designees, and the Democratic time will be equally divided between the Senator from West Virginia, Mr. ROCKEFELLER, and the Senator from Oregon, Mr. WYDEN.

The Senator from Kansas.

Mr. ROBERTS. Mr. President, I thank you.

Mr. President, as chairman of the Senate Select Committee on Intelligence, I rise today in strong support of the nomination of Ambassador John D. Negroponte to serve as our Nation's first Director of National Intelligence.

The committee held Ambassador Negroponte's confirmation hearing on Tuesday, April 12, and voted favorably to report his nomination to the full Senate on Thursday, April 14.

Now, the speed with which the committee acted upon this nomination and the nomination of LTJG, soon to be four-star general, Michael Hayden, to be the Principal Deputy Director of National Intelligence, really underscores the importance the committee, and I believe the Senate, places on continuing and ensuring reform of our Nation's intelligence community and, as a result, our national security.

While our intelligence community has a great number of successes—let me emphasize that—of which intelligence professionals should be justifiably proud—and the problem here is that when we have successes in the intelligence community, many times either the community or those of us who serve on the committee or those who are familiar with those successes cannot say anything about them because it is classified—but the intelligence failures associated with the attacks of 9/11 and the intelligence community's flawed assessments of Iraq's WMD programs underscored the need for fundamental change across the intelligence community.

In my years on the Senate Intelligence Committee, I have met many of these hard-working men and women of the intelligence community who work day in and day out with one goal in mind; that is, to keep this Nation secure and our people safe.

They are held back, however, by a flawed system that does not permit them to work as a community to do their best work. So we need to honor their commitment and their sacrifices by giving them an intelligence community worthy of their efforts and capable of meeting their aspirations and our expectations of them.

So responding to that demonstrated need for reform, Congress really created the position of Director of National Intelligence with the intent of giving one person the responsibility and authority to provide the leadership that the Nation's intelligence apparatus has desperately needed and to exercise command and control across all the elements of the intelligence community.

In short, through legislation, we created the DNI, the Director of National Intelligence, to provide the intelligence community with a clear chain of command and the accountability that comes with that.

To facilitate that chain of command, and to foster accountability, the National Security Intelligence Reform Act of 2004 gave the DNI significant management authorities and tools, including expanded budget authority, acquisition, personnel, and tasking authorities.

These authorities, however, are limited in significant ways, and the legislation leaves certain ambiguities about the DNI's authorities.

As a result, there are questions about the DNI's ability to bring about the kind of change and true reform necessary to address the failures highlighted by the 9/11 attacks and the assessments of Iraq's WMD programs.

So the task of resolving these ambiguities and questions will fall to the first Director of National Intelligence. As the WMD Commission pointed out in its recent report, the DNI will have to be adept at managing more through resource allocation than through command.

Moreover, the first DNI will define the power and scope of future Directors of National Intelligence and will determine, in large measure, the success of our efforts to truly reform the intelligence community.

Bringing about that reform is not going to be easy. Numerous commissions—many commissions—have identified the same failings as those that resulted in the legislation that created the DNI. Yet previous reform efforts have proven largely fruitless.

So immune to reform is the intelligence community that the WMD Commission described it as a "closed world" with "an almost perfect record of resisting external recommendations."

Allow me to relay one example to demonstrate this point.

Over 3 years have passed since the September 11 attacks, and the elements of the community have not made the progress that we want in sharing intelligence data amongst the community. The distinguished vice chairman and I call that "information access."

Elements within the intelligence community, unfortunately, continue to act—some elements—as though they own the intelligence data they collect rather than treating that data as belonging to the U.S. Government.

As a result of the community's failure to repudiate outdated restrictions on information access, and its refusal to revisit legal interpretations and policy decisions that predate the threats now confronting the United States, impediments to information access are reemerging—reemerging, even today—in the very programs designed to address the problem.

Clearly, then, the Nation's first Director of National Intelligence will

face tremendous challenges and will require unwavering support from both Congress and the White House.

I am pleased President Bush has made it very clear that the DNI will have strong authority in his administration. We in Congress must do our part, and we begin with the nomination of Ambassador Negroponte.

The President has made an excellent choice in choosing the Ambassador to serve as the first DNI. He has dedicated more than 40 years of service to our country. Over the course of his public service career, the Senate has confirmed him seven times, including five times for ambassadorial positions in Honduras, Mexico, the Philippines, the United Nations and, of course, most recently in Iraq. Ambassador Negroponte has also held a number of key positions within the executive branch, including serving as Deputy National Security Advisor.

In short, his career has been dedicated to intelligence and national security matters, and he has a great deal of experience to offer as the new Director of National Intelligence. He is well suited for this position. I look forward to working with him.

In my discussions with Ambassador Negroponte, I have made it clear that Congress and the American people expect him to make a difference in the intelligence community. I must say, on behalf of the Senate Select Committee on Intelligence and on behalf of my vice chairman and myself, we have promised to conduct aggressive, preemptive oversight in regard to helping the DNI answer the challenges he will face with regard to the capabilities we have or do not have with regard to the intelligence community.

We expect him to break down those barriers to information access I alluded to earlier. We expect him to improve the human intelligence capabilities we need. And ultimately, we expect him to provide leadership and accountability. In response to these questions, during his confirmation hearing, the Ambassador simply responded "I will" with conviction.

Clearly Ambassador Negroponte will face significant challenges. He is going to carry heavy burdens. I am convinced, however, he has the character, the expertise, and the leadership skills required to successfully meet these challenges and to shoulder these responsibilities.

I urge my colleagues to support this nomination, and I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I join with the chairman of the Intelligence Committee in what he has said. Today the Senate is considering the nomination of Ambassador John Negroponte to become the Nation's first Director of National Intelligence. Personally, I strongly support this nomination, and I will discuss the reasons why in a moment.

First, however, as the chairman did, I am going to take a few minutes to describe how critical this new position is to our country and its future, the magnitude of the challenges Ambassador Negroponte will face.

In 1947, Congress created the Central Intelligence Agency and the Director of Central Intelligence. The Cold War was upon us and the Nation needed intelligence about our new adversary. The structure we put in place at that time to keep tabs on the Soviet Union grew and took on additional missions over the next 40 years. But the intelligence community stayed primarily focused on that one target of the Soviet Union.

Then in 1990, the Soviet Union dissolved. The world changed dramatically, but our intelligence organizations for the most part did not. As a consequence, we have for the past 15 years made do with an intelligence system designed to penetrate and collect information about a single static adversary. There was no one in charge to force change from within, and before September 11 of 2001, there was little impetus for change from without.

The National Security Act of 1947, the genesis of all of this, designated the DCI to serve as the head of the Central Intelligence Agency, also the principal adviser to the President on intelligence matters, and the head of the U.S. intelligence community—all three of those assignments.

The Director of Central Intelligence ran the CIA, advised the President, but, frankly, never exercised the third responsibility, which is probably the most important other than advising the President, and that is managing the intelligence community itself.

Even after the events, tragic though they might have been, of 9/11, it took 3 years, two major investigations of those events, and the stunning intelligence failures prior to the Iraq war to break through the entrenched interests and to achieve reform that created the position of director of something called national intelligence, all of it.

The difficulty involved in the birth of this new office serves as a warning for the challenges that the Ambassador, if confirmed, as I hope he will be, will face. Bureaucracies are amazingly slow to change. That doesn't say anything bad about the people. That is the way the world works, whether it is corporate, private, or whatever. The bureaucracies are tenacious in defending their turf. Some of the stories are remarkable within the 15 intelligence agencies the Ambassador will have to oversee. Reform of the intelligence community will involve stepping on the turf of some of the most powerful bureaucracies in Washington. And first and foremost among those is the Department of Defense.

Eighty percent of our intelligence spending is in the DOD budget. The incoming Director of National Intelligence will have to quickly establish a close working relationship with the Secretary of Defense, but it must be a

relationship of equals, and Ambassador Negroponte must be willing to exercise the authority given him by the legislation and the President when he and the Secretary differ. In effect, the Director of National Intelligence supersedes the head of the Department of Defense.

Ambassador Negroponte also will encounter and need to manage the CIA, an organization accustomed to operating with tremendous autonomy, a world unto itself. Some of these agencies, such as the National Security Agency—they are called NSA—get acronyms, “no such agency”—that is part of the way their world operates. That is not to denigrate them, their public service, their public commitment, their willingness to offer up their lives for their country. But bureaucracy of a huge magnitude it surely is.

Then there is the FBI, an agency which is dominated by its law enforcement history and struggling to make itself into a full partner in the intelligence community. Some question whether that can be done; my mind is still open to it. They are trying. Most people say it is working at the top but not in the middle, because if you are a lawyer, you have a yellow pad, you go arrest somebody for breaking the law. If you are an intelligence officer, you find somebody you are suspicious of, and you don't arrest that person. You surveil that person, you trail that person, maybe for weeks, months, to find out where that person takes you and what intelligence we can learn from that.

But these are powerful organizations with very proud histories. They are populated by dedicated and talented public servants who have contributed to our security for decades. But our needs are now different. All of these agencies now must change the way they do business.

Ambassador Negroponte takes charge at a time when the intelligence community is reeling from criticism for the lapses prior to 9/11 and the significant failures related to prewar intelligence on Iraq.

The chairman and I worry about that because it affects morale. One doesn't want to affect morale. But on the other hand, intelligence agencies have to reflect the current needs of this country and act accordingly.

The loose amalgam of 15 intelligence agencies needs a leader who can change not simply the boxes on an organizational chart but the way we do intelligence. The different agencies traditionally have collected intelligence from their sources, analyzed it, put it into their databases, and then shared it as they deemed appropriate. The chairman and I are very fond—both of us—of saying the word “share” is now outmoded. There is a need-to-know basis from time to time. But if you share something, that means you own it and that you make the decision you will share it with somebody. We prefer the modern word for intelligence which is

going to have to be “access,” that anybody in that business has access to that intelligence automatically by definition unless there is a particular need-to-know restriction.

The Director of National Intelligence has to create a new culture where the process of producing intelligence is coordinated across agencies from the beginning. The collection strategies for various targets need to be unified, and the intelligence collected needs to be available to everyone with the proper clearance and the need to know that information.

That is the concept of jointness in operation that the Presiding Officer knows well because he is on the Armed Services Committee, as is my colleague, the chairman of the Intelligence Committee. Jointness is a concept the military has used and made work very effectively. It goes back to the Goldwater-Nichols Act almost 20 years ago, and it is something the Intelligence Committee is going to have to learn how to do. Making fundamental changes is absolutely essential in order to make sure our intelligence is timely, objective, and independent of political consideration.

The credibility of the intelligence community—and, by extension, the credibility of the United States—has suffered when key intelligence reports such as the prewar intelligence report on Iraq failed the test of being timely, objective, and independent as required by law. It is not something they just ought to be doing; it is required by the 1947 National Security Act.

Making major changes in the way the community operates and produces intelligence will be the first step for Ambassador Negroponte. He also must instill a sense of accountability. On this many of us feel strongly. The joint inquiry conducted by the Senate and the House Intelligence Committees into the events of 9/11 called for accountability for the mistakes made prior to the attack where thousands lost their lives. The WMD commission, which finished its work, also highlighted this issue.

But despite these findings and despite what one would think the country would assume and expect, no one has been held accountable for the numerous failures to share critical intelligence and act on intelligence warnings in the year and a half prior to the 9/11 attacks. Likewise there has been a lack of accountability over the failings in the collection, analysis, and use of intelligence prior to the Iraq war itself.

Accountability means people get fired or people get demoted or people get scolded or, concurrently, people are patted on the back, rewarded, encouraged, motivated further, held up before their colleagues as exemplary because they have done something particularly well.

So the Ambassador is not only going to have to deal with problems from the past, but he will have to face immediately the growing scandal sur-

rounding the collection of intelligence through the detention, interrogation, and rendition of suspected terrorists and insurgents. We have been subjected to an almost daily deluge of accusations of abuse stemming from these operations.

The intelligence we gain through these interrogations is, frankly, too important to allow shortcomings in this program to continue, and the Director of National Intelligence will be the official responsible for ensuring we have a comprehensive, consistent, legal, and operational policy on the detention and interrogation of prisoners because there is enormous flux in that whole area right now. The lack of clarity in these areas has led to confusion and likely contributed to the abuse we have witnessed.

Dealing with the many challenges is a tall order. But if anybody can succeed in the position of DNI, Director of National Intelligence, an entirely new position in the U.S. Government, one of the three or four toughest jobs in Washington, that person is Ambassador Negroponte. He has a 40-year career of public service, as has been indicated, in some of the most difficult and critical posts in the Foreign Service: Vietnam, the Paris peace talks, South and Central America, the U.N., and most recently in Baghdad.

He has been doing this for 40 years. One of the things I have appreciated particularly about him is that he is not a military person, not a political person, not an intelligence person. He is a diplomat. He is somebody who, through his entire career, has engaged in understanding the nuances of the cultures we have to deal with in the intelligence world and what follows intelligence across the world. But he also knows a great deal about intelligence and the military operations and the political aspects of life simply because you cannot be an ambassador and avoid those things.

He is a diplomat, a manager, a negotiator, which is crucial to bringing these agencies together and to go back and forth with the President and the Congress. He has extensive knowledge of the workings of the Government. That is a very prosaic statement, until one takes it at face value. Most people don't. They have extensive knowledge about certain parts of Government. He covers the ballfield. He has the temperament, standing, and self-confidence, frankly, to deal with the Washington bureaucracy. He has a great deal of confidence in himself, and he ought to—he has the backing of somebody called the President of the United States of America.

The Intelligence Reform Act provides the Director of National Intelligence with considerable authority. But in Washington, DC, the support of the President is invaluable in exercising authority. To put it another way, a person loses their stature pretty quickly if the President is not backing that

person in high-profile decisions, particularly in those instances when decisions meet resistance from the heads of other departments and other agencies which have full call on the President and his attention. The President's support will be absolutely critical to Ambassador Negroponte's success—and succeed he must, Mr. President.

The United States faces a period of enormous uncertainty and threat. The problems of international terrorism will be with us for many decades, and the proliferation of weapons of mass destruction poses a danger at this minute for the entire world and will for decades to come.

These are difficult targets for the intelligence community, but these are the things that threaten our security every moment. These are the issues the intelligence community must master. They are our front line of defense. The warfighter has not yet engaged properly until the intelligence has been collected and disseminated and policy is made from that. Ambassador Negroponte must lead all of us into a new era on intelligence. I think he is very well suited for the task, and I look forward to his swift confirmation.

In closing, I also hope the Senate moves very quickly to confirm the President's nominee to be Principal Deputy Director of National Intelligence, and that is LTG Michael Hayden. This is a tandem made in Heaven. General Hayden understands the military, the lifelong service of it. He understands intelligence. He is Director of the National Security Agency. He has a profound, intuitive, knowledge-based understanding of what is under the rocks and what is plainly in sight, what is plainly good or wrong about the intelligence profession. He has led the National Security Agency for the last 6 years. It is an interesting fact that in the National Security Agency, under their roof, is the largest collection of mathematicians in this world. That may be known or not; I suspect it is. But these people do incredibly important things. He has led them now, having been reappointed three times. Together, Ambassador Negroponte and General Hayden make a powerful team. I am very pleased to support them both.

I thank the Chair and yield the floor.

Mr. ROBERTS. Will the vice chairman yield?

Mr. ROCKEFELLER. Of course.

Mr. ROBERTS. Mr. President, I thank the Senator for a very comprehensive statement. I thank him for what I think is a very accurate statement, more especially with the history he has outlined of the intelligence community; more especially with the contributions of the men and women within the intelligence community who have successes that obviously you cannot talk about, but the obvious need for reform because of what we have gone through; especially for the Senator's comment in relationship to the new DNI in relation to the Depart-

ment of Defense. That was right on target.

There has been a great deal of comment, as the vice chairman knows, that 80 percent of the funding of the intelligence budget goes to the military, and in terms of being the majority user of intelligence nobody would quarrel with that. I don't know of any Member of Congress who would say otherwise. I think we have made great progress between the intelligence and the military and the real-time analysis or real-time intelligence to the warfighter, even though our challenges in parts of the world are very great. But I point out—and I think the vice chairman agrees—that the principal user of intelligence—not majority but principal user of intelligence—is not the military, as important as they are; it is the President of the United States and the National Security Council and the Congress of the United States to determine policy.

I thank the Senator for bringing that out and I thank him for a very fine statement and also for being a fine vice chairman. We aggressively tried to provide insight and advice to the new DNI.

Mr. ROCKEFELLER. If my friend will yield, I further say that the President made an enormous contribution, which was sort of generally overlooked—not by those of us who work in this field of intelligence—when he made it very clear and made an executive decision that 80 percent of the budget that goes to the military, minus a few very specific tactical areas, and necessarily so, would be under the Director of National Intelligence. That was the President declaring that whoever is in that position will control the funding. Complications can arise, but the President has been clear about who is going to run this operation, and that is very important.

Mr. ROBERTS. Mr. President, I could ask for unanimous consent to lock in the order, but I think I can just make a suggestion with the few Senators we have here. I am sure more will come. Senator BOND has a time conflict and would like to be recognized for 10 minutes. Senator FEINSTEIN has been waiting, as has Senator WYDEN. And then Senator COLLINS will come to the floor very quickly, one of the coauthors of the Intelligence Reform Act. If we can have an understanding that that would be the order, I think that would be appropriate.

Also, I ask unanimous consent that the time consumed by any quorum calls be charged equally to both sides.

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

Mr. ROBERTS. Mr. President, I am more than happy to yield 10 minutes to a valued member of the committee, the Senator from Missouri, Mr. BOND.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I thank Chairman ROBERTS. As we all know, this February, President Bush nominated Ambassador John Negroponte to serve as the Nation's first Director of

National Intelligence. I rise today in strong support of his confirmation for this demanding position. I agree with the chairman and vice chairman; I can think of few people as well suited by experience, intelligence, and dedication to tackle this assignment. I heard the remarks of the vice chairman, and I wish to associate myself with those very fine remarks—particularly his remarks about General Hayden who is nominated to be the Principal Deputy. We are not talking about his nomination today, but I associate myself with the high commendation that has been made of this gentleman, who also deserves prompt confirmation, so that we can get about the critically important work of providing intelligence. Ambassador Negroponte's wealth of experience and outstanding track record should be well known to all of us. A proven leader and manager in our national security establishment, he served five tours as chief of mission in U.S. Embassies. He has worked closely not only with frontline intelligence officers but himself served as Deputy National Security Adviser. He has solid experience working with the U.S. military, as well as representatives of Cabinet departments. Most telling, his recent experience as U.S. Ambassador to Iraq and the United Nations provide him with a unique view into the spectrum of national security challenges we now face and how best to construct an intelligence apparatus to meet those challenges. He understands that while collecting, analyzing, and disseminating good intelligence are not only requirements of a sound foreign policy and a secure homeland, they are key elements. Most important, these are processes in dire need of repair. The Ambassador is the right choice at the right time to take on these challenges.

As we continue our war on terror against those who would do us harm, our intelligence community must also work to stem the proliferation and prevent the use of weapons of mass destruction, maintain a watchful eye on global competitors and adversaries, be alert to emerging threats, and provide guidance to policymakers on how best to positively influence global change. Most importantly, they must be able to provide policymakers with timely, accurate, and authoritative intelligence to manage, instead of reacting to looming threats. In short, the Ambassador has his work cut out for him.

He will have to invigorate human intelligence capabilities. Our spies and agents must not only collect better intelligence, they must work to penetrate the governments of rogue states, terrorist and insurgent organizations, and closed societies where some of the most devious plots to attack America and its people and interests, as well as our allies, are hatched. We know we have fallen short in our human intelligence—or HUMINT—capabilities leading up to the conflicts in Afghanistan and Iraq. We are going to have to correct that and we look for the DNI's leadership to do that.

As DNI, the Ambassador will have to work diligently to ensure that signals intelligence and other technical collection means are continuously updated, expanded, and modified to not only provide strategic intelligence but also actionable information for our war fighters—something in which I am personally most interested.

Our intelligence community is home to some of the world's finest minds which have averted disaster and provided the highest quality information to consumers from the President down to the privates on the front line. However, inferential analysis and "group think" are practices against which the DNI must guard. The DNI must ensure that rigorously competitive analysis models and improved analytics tradecraft be implemented.

The problem of inaccurate information sharing amongst agencies has been a recurring theme during the review of the Senate Select Committee on Intelligence of our recent intelligence failures leading to 9/11 and U.S. assessments of Iraq WMD programs. We have seen, unfortunately, even since 9/11, far too recent incidents where agencies working on common problems did not share that information and those sources. In this day, that is totally unacceptable. The DNI will not only face the challenge of ensuring that information is passed up and down the chain of command, but that colleagues working for different agencies within the intelligence community can and do regularly share and exchange information and ideas.

The Senate Select Committee on Intelligence, under the wise, compassionate guidance of Chairman ROBERTS, has espoused the idea of not merely information sharing but of information access. It is a difficult task. Sensitive information must be protected from disclosure, and too often protecting it from disclosure means not sharing it with people who are working on the same project. Nonetheless, the Ambassador has assured me that an analyst with a need to know will have access to the information, regardless of who collects it and who is working on it.

In the end, no matter what means is used to collect intelligence, it is the fine, brave, and dedicated men and women of the intelligence community who will make it work on any given day on the ground. It will be not only a responsibility but a duty of the DNI to ensure that these men and women receive the proper education and training to discharge their duties. While substantive expertise and technical prowess are essential, leadership and management training, along with mentorship programs are key elements that will ensure that we attract, as well as retain, the talented, motivated, and dedicated personnel we need.

The men and women of the intelligence community are our first tripwire to help stave off disaster. They can advise us on prudent courses of action to advance our national security

interests. They willingly take great risks and make great sacrifices daily. Accordingly, it is the solemn obligation of the DNI to ensure their ranks continue to be filled with competent visionaries, managers, and innovators who are willing to lead and care for them.

Over the years, this body has seen and even drafted recommendations to establish a DNI and/or a more accountable and powerful chief of our intelligence community. While the establishment of a DNI is historic, it was not established to the degree of budgetary and other powers that I, along with several of my colleagues, would have liked and thought would be very necessary. So the Ambassador will face challenges as he asserts his authority over the 15 intelligence agencies he will supervise. I hope he will use the implied powers of this position and the positive enforcement and support of the President to make sure the work that needs to be done is done and the DNI will have the power that, unfortunately, he was not given in the legislation but we believe he must exercise.

Reflecting on the recommendations of the 9/11 Commission, and the WMD Commission, as well as many pre-9/11 studies, and the work that has gone on in the Select Committee on Intelligence, I fully endorse and call on my colleagues to support Ambassador Negroponte as he establishes these powers to make sure our homeland is protected and our policymakers and warfighters on the ground are well informed.

Having met with Ambassador Negroponte at length and being well aware of his qualifications, I am confident he will not only meet these high standards but will set a fine precedent for all succeeding DNIs to follow.

I ask my colleagues to act quickly to confirm Ambassador Negroponte to lead our intelligence community so he may begin in earnest to make the difficult changes we believe are sorely needed.

I thank the Chair, I thank the managers of this nomination, and I urge prompt confirmation.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, as a member of the Intelligence Committee, I wish to make a few comments both about Ambassador John Negroponte and also LTG Michael Hayden. He is soon to be General Hayden, I understand.

Mr. ROCKEFELLER. Will the Senator allow me to yield to her such time as she may desire?

Mrs. FEINSTEIN. I certainly will. I thank the Senator from West Virginia.

I know General Hayden will be a four-star general very shortly. I think that is very good news. So we will have the first Director and Principal Deputy Director of National Intelligence.

I believe these are both excellent nominees. They will provide strong new overall management and leader-

ship to the intelligence community as it finally adapts to post-Cold War realities.

Ambassador Negroponte has served with distinction, both in Washington and around the globe. He served as United States Ambassador to four nations and to the United Nations. As Deputy National Security Adviser, Ambassador Negroponte was intimately involved in the formation and use of intelligence. He is well suited to overseeing the collection of vital intelligence needed for the United States to protect itself. Ambassador Negroponte comes to this new position without strong ties or bias to any specific intelligence agency. That is an enormous strength, and I believe he will be an honest broker and manager for the community. He has pledged that he will be a neutral and apolitical provider of intelligence to Government policymakers.

Although General Hayden's nomination is not before us at this time, I wish to say I hold him in the highest regard. He is a skilled manager and an expert in the workings of our Nation's intelligence apparatus. General Hayden led a remarkable turnaround of an enormously complex and technical agency, the National Security Agency. He was first made Director of the NSA under President Clinton and has had his tour extended three times by President Bush. That is a true testament to his leadership. He has proven his ability to establish a skilled and dedicated workforce. In short, General Hayden is a strong choice to be the day-to-day manager of the intelligence community.

Both men have the strength, the vision, and the determination that is necessary to be successful in their new positions.

As my colleagues know, I introduced legislation to create a DNI in the 107th Congress and again in the 108th Congress. So I was pleased to see that with the support of the 9/11 Commission and the chairs and ranking members of the Intelligence and Governmental Affairs Committees, this position was finally established.

As Director and Deputy Director of National Intelligence, these appointees face daunting challenges. The 15 intelligence agencies are a community in name only. The fiefdoms and turf battles—the stovepipes—between agencies may have lessened since September 11, but they continue to hinder our intelligence operations.

Our technical means for collecting intelligence must be adapted to this new nonstate terrorist world and its challenges. The acquisition and development of new intelligence systems need better management.

The demands for better human intelligence are well documented by reports, including the Congressional Joint Inquiry, our Intelligence Committee's Iraq study, the 9/11 Commission, and the President's own WMD Commission. Each of these reports

spells out, in stark terms, the organizational, the leadership, and the capability challenges that await Director Negroponete and General Hayden.

The U.S. intelligence estimates of Iraq's weapons of mass destruction were, as the WMD Commission stated, "dead wrong" before the war. There was a lack of solid intelligence, made worse by fundamental and inexcusable lapses in tradecraft and judgment. The systematic failings will take sustained leadership and vigorous oversight to correct.

Our intelligence capabilities in other crucial areas—Iran and North Korea among them—are still inadequate and unacceptable. As the war and postwar operations in Iraq show dramatically and tragically, we cannot govern effectively and cannot make informed decisions without timely and accurate intelligence. We cannot afford to fail again. The stakes are very large, indeed.

Thankfully, the recent Commission and Senate reports have also made important recommendations. Both Ambassador Negroponete and General Hayden have expressed willingness to make important changes. They will take steps to integrate and bolster intelligence collection and to end "group think" and untested assumptions. They will use red teams and alternative analysis when intelligence conflicts. This was a substantial lacking that led to the wrong judgments made in the Iraq National Intelligence Estimate that so many of us relied upon to make our judgment on how to vote to authorize the President with use of force in Iraq.

The Director also has the authority to put in place a management team and implement changes, including new mission managers and new centers, to focus attention on the most pressing problems.

I believe strongly it is going to take a strong and authoritative Director of National Intelligence to put our intelligence community back on the right track. Equally important, it will take forthright and impeccably objective leaders to restore the credibility both to the American people and to the world that was destroyed by the assessments of Iraqi weapons of mass destruction.

The legislation that created the DNI last year, the Intelligence Reform and Terrorism Prevention Act, spells out the framework for a strong DNI, but it did not fill in the details. The authorities and responsibilities that should have been made clear in law, I believe, will have to be instead established in practice. I have discussed privately and through the confirmation hearing process with Ambassador Negroponete the need for him to assert authority by taking bold action to lead and manage the intelligence community, and I will support him in doing so.

I have confidence the new Director shares this vision and will take the necessary steps immediately after tak-

ing office. General Hayden, with his experience in fighting these battles as Director of NSA, will be a key adviser and ally in fulfilling this charge.

The men and women who work for the 15 intelligence agencies are skilled and dedicated, but they need innovative, new tools and ways of doing business to meet our future strategic intelligence needs. I am confident that Director Negroponete and Deputy Director Hayden will work to provide these needs.

I thank the President for forwarding such skilled, nonpartisan nominees, and I wholeheartedly support their confirmation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I am delighted to yield 10 minutes to the distinguished chairman of the Homeland Security and Governmental Affairs Committee whose unflagging, untiring, persevering efforts, along with her coauthor, Senator LIEBERMAN, led to passage of the Intelligence Reform Act that has returned us to this whole process where we have Ambassador Negroponete and General Hayden, an outstanding team, not only to reform but to lead the intelligence community.

I thank the Senator for her leadership and her efforts. She persevered, and she was successful.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, first, I thank the distinguished chairman of the Senate Intelligence Committee and his extraordinary ranking member for all their work to improve the quality of the intelligence upon which our policymakers, our men and women who are on the front lines, and all of us rely.

Last July, the Senate leaders assigned the Homeland Security and Governmental Affairs Committee the task of developing legislation to implement the recommendations of the 9/11 Commission. The committee I am privileged to chair devoted more than 5 months to this important and complex issue that is so crucial to the safety and well-being of the American people. We successfully accomplished our assignment with the enactment of the Intelligence Reform and Terrorism Prevention Act of 2004, which the President signed into law in December.

During the committee's inquiry into how to fix the flaws in our Nation's intelligence capability that permitted so many dots to go unconnected for so long, one remedy emerged as being among the very highest priorities. Our intelligence community—15 disparate agencies and entities, each with its own expertise and experience—clearly needed one leader. The role of this leader has often been described as that of a CEO in business, a person with the ultimate authority over the operation and with the ultimate accountability for results. An even more succinct de-

scription was offered by former Secretary of State Powell at one of our committee's many hearings. He said what the intelligence community really needed was an empowered quarterback.

The new law creates the Director of National Intelligence as that empowered quarterback, with significant authority to manage the intelligence community and to transform it into, to use President Bush's term, a single unified enterprise.

I believe John Negroponete is the right person, the right leader to be that CEO, that empowered quarterback.

Ambassador Negroponete is an accomplished diplomat, which is a vital credential in the international war against terrorism. Having served very recently as our Ambassador in Iraq, he knows firsthand how important the intelligence provided is. He has been an intelligence consumer. Throughout his distinguished and varied career in service to our country, he has demonstrated strong, decisive leadership skills. These skills will be invaluable in exercising the Director of National Intelligence authorities and in carrying out the intelligence community transformation called for in our legislation.

The Ambassador's extensive experience in national security and foreign relations is a solid foundation for the weighty responsibilities he will have in this critical position. As the first DNI, Ambassador Negroponete will not only serve a critical role immediately, he will also establish the relationships and set the precedent for future DNIs. Thus, when I met with the Ambassador, I encouraged him to aggressively use the authorities we worked so hard to secure in the intelligence reform bill. One of those key authorities concerns the DNI's responsibility for determining the budget for the national intelligence program. He also will have significant authority to execute that budget and to transfer funds, if needed, to meet emerging threats and the greatest priorities.

Today, at a hearing before the Armed Services Committee on the nomination of General Hayden to be the No. 2 person to the DNI, I raised the issue with General Hayden about the need to aggressively exercise that budget authority. The law is very clear on this point, but already we have seen some signs from the Defense Department of a potential challenge to the new DNI in exercising that authority.

I think it should be very clear, through the legislative history and in our conversations today, that the DNI has a direct relationship to the heads of the National Security Agency and the other intelligence agencies that are housed within the Pentagon but serve not only the Department of Defense but all intelligence consumers. I was pleased to hear General Hayden's understanding of the extent of that authority.

Ambassador Negroponte will be the first intelligence CEO to set the community's budget, to establish community-wide intelligence gathering and analytical priorities, and to employ financial, technological, and human resources where and when they are most needed, or, as Secretary Powell might have put it, he will be calling the plays. This is an unprecedented challenge and unprecedented authority, and I am convinced John Negroponte will meet this challenge in an exemplary manner. I am convinced he understands the need to exercise that authority to the full extent of the law.

Ambassador Negroponte will provide our intelligence community with accomplished, experienced, dedicated, and needed leadership. I wholeheartedly urge my colleagues to approve this important nomination without any delay. Again, I commend the chairman and the ranking member for bringing this nominee so quickly to the Senate floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Oregon.

Mr. WYDEN. Mr. President, it is not easy for a member of the Senate Select Committee on Intelligence to oppose Ambassador Negroponte's nomination on the floor of this Senate. I am well aware that many do not share the concerns, and the views I will express this afternoon have not been arrived at casually.

The Ambassador is the consummate diplomat, a dedicated public servant, a well-liked person who is popular with Members of the Senate of both political parties. He has been confirmed by the Senate for a variety of posts. I have voted twice for those confirmations, but I am not convinced that Ambassador Negroponte is the right man for this job. I have reached this judgment based on my strong belief that a prerequisite for this position should be a willingness to be direct and forthcoming with policymakers even when the truth is difficult. Unfortunately, directness was nowhere in sight in the Ambassador's responses at his confirmation hearing last week.

At that hearing, the Ambassador was not even as direct and forthcoming in discussing controversial matters as he has been in the past. For example, at the hearing I discussed with the Ambassador his service in Honduras. I made it clear at the outset that I understand it makes no sense to relitigate a war that took place in Central America more than 20 years ago. In spite of the lengthy news accounts printed that morning, the morning of his confirmation hearing, providing new information documenting the Ambassador's continued backing of the Contras after the House had voted to halt U.S. support, I chose not to focus on those issues. I raised the Honduras issue last week and return to it this afternoon because I believe the record of the Ambassador's service there is particularly telling in terms of his judgment and his willingness to con-

front difficult facts, which I believe are two key requirements for the Director of National Intelligence.

For example, I find it especially troubling that the Ambassador's perception of the human rights situation in Honduras differs so dramatically from that expressed by the Central Intelligence Agency, the InterAmerican Court, the Honduras Human Rights Commission, and others. The Central Intelligence Agency released a report entitled "Selected Issues Relating to CIA Activities in Honduras in the 1980s" which found:

Honduran military committed hundreds of human rights abuses since 1980, many of which were politically motivated and officially sanctioned.

The CIA report linked the Honduran military personnel to death squad activities.

Mr. Negroponte, on the other hand, said in a September 12, 1982, letter that was printed in the New York Times Magazine that:

Honduras's increasingly professional armed forces are dedicated to defending the sovereignty and territorial integrity of the country, and they are publicly committed to civilian constitutional rule.

The InterAmerican Court for Human Rights heard cases concerning human rights abuses in Honduras. In 1989, the Court found:

A practice of disappearances carried out or tolerated by Honduran officials existed between 1981 and 1984; and

The Government of Honduras failed to guarantee the human rights affected by that practice.

In an October 23, 1982, letter printed in the Economist, Ambassador Negroponte wrote:

Honduras's increasingly professional armed forces are fully supportive of this country's constitutional system.

The Honduran Human Rights Commissioner released a report on forced disappearances that occurred in Honduras during Ambassador Negroponte's tenure. The report states:

[t]here existed within the Armed Forces a deliberate policy of kidnapping and forcibly disappearing persons.

Yet the introductory passage of the 1983 State Department Country Report issued while Mr. Negroponte was Ambassador stated:

The Honduran military, which ruled the country for almost 20 years before 1982, supports the present civilian government and is publicly committed to national and local elections, which are scheduled in 1985, as well as the observance of human rights.

The fact is, when you read what the Ambassador has said about Honduras, and what the CIA and others have said about the same time period, it is as if John Negroponte was an ambassador to a different country.

Given these sharp differences, I asked the Ambassador last week to reconcile this very large gap between what he saw and what others reported. I expected an answer that would have at least acknowledged these very substantial differences and indicated that in hindsight the Ambassador would have

been more outspoken about human rights practices.

Instead, the Ambassador tried to dismiss the issue altogether by simply saying the differences were not so great, something I thought was pretty hard to fathom, given the accounts I had provided to him.

The fact is, in trying to brush off this issue of Honduras, the Ambassador actually showed less candor last week than he has in the past. For instance, at his 2003 hearing before the Foreign Relations Committee when he was being considered for Ambassador to the United Nations, Mr. Negroponte stated the following about Honduran human rights abuses:

Maybe it was a mixed picture, Senator. I am more than willing to acknowledge that.

At the same hearing he said:

Could I have been more vocal? Well, you know, in retrospect, perhaps I could have been.

So you have to ask, as I have done, Why would the Ambassador be less direct last week than he had been previously? Certainly there was no national security reason for him to duck questions about events that are decades old. Perhaps the newspaper articles that morning made him fear Congress would get into issues he might find uncomfortable. That is certainly understandable, but it is absolutely unacceptable for a nominee tapped to head our Nation's intelligence community at a time when directness and forthrightness is more important than ever before. Throughout his confirmation hearing, on issue after issue, the Ambassador ducked and avoided giving anything resembling a straightforward answer.

I asked the Ambassador whether he foresaw his office involving itself in decisions relating to the implementation of the PATRIOT Act's surveillance powers, and in particular whether his office might weigh in on whether the Federal Bureau of Investigation should seek a FISC warrant.

His answer?

Senator, I am not entirely certain what my authorities would be under FISC.

I asked the Ambassador whether he would be willing to take a fresh look at the United States rendition policy, possibly the most controversial weapon being used in fighting terrorism today. Rendition involves sending a suspected terrorist from one country to another without court proceedings. Republican and Democratic administrations have used renditions in the past, but their use has increased significantly since 9/11, and the policy has certainly changed. Previously, most suspects were rendered to the United States. Now it works the opposite way. More and more often the United States is rendering suspects to foreign countries. News reports indicate that suspects are frequently being rendered to countries known to torture suspected terrorists, such as Syria, Egypt, Uzbekistan, and Saudi Arabia. While the United States gets assurances from foreign governments they will not use torture, U.S.

officials have little control over the situation once a suspect is in the hands of the foreign country.

Rendition is the practice used to address a very difficult dilemma. America may lack the evidence to bring a suspected terrorist into court; there is some proof of wrongdoing, but not enough for a court of law. If the suspect is not an American citizen, it is possible to send them elsewhere to be dealt with, but that can be a dicey prospect. Renditions get suspects off the streets, something which makes Americans safer. But the tactic has raised serious concerns for many of our citizens and for many people in other countries as well. I have heard those concerns, but I also recognize that renditions can serve a legitimate and valuable purpose. It is a question of how this policy is carried out. Our country needs to have a frank and candid and direct discussion about this policy of rendition. But, before that can happen, there needs to be some answers to some tough questions:

Have any suspects been rendered based on faulty intelligence and, if so, what amount of intelligence should be necessary before a rendition takes place?

Are there certain countries to which the United States should not render suspects?

Are the assurances the United States gets in the rendition area sufficient with regard to the use of torture?

Does the United States need to retain more control of suspects it renders, especially to countries that have weak human rights records?

How good is the intelligence the United States is getting from rendered suspects?

What is the effect of a rendition policy on America's diplomatic relations with other countries?

These are some of the important questions that need to be answered. So in an effort to examine Ambassador Negroponte's openness and to try to determine his judgment in a difficult area such as this, I asked the Ambassador whether he would be willing to take a fresh look at our rendition policy; not a point-by-point description of what he would do, but simply would he be willing to take a fresh look, a new inspection of this country's approach in rendition.

The Los Angeles Times summed up the Ambassador's response to my question about rendition with four words. They said: "Negroponte avoided the question."

The Ambassador, I would point out, ducked other important questions asked by members of the Senate Select Committee on Intelligence. For example, our colleague from Michigan, Senator LEVIN, asked the Ambassador to explain what action he would take if the Ambassador concluded policy-makers were making public statements that differed from the classified intelligence. There was no direct answer to that important question asked by Senator LEVIN.

Senator FEINSTEIN sought detailed information on how, with regard to countries such as Iran and North Korea, the Ambassador intended to assure the United States developed much needed credible intelligence. Ambassador Negroponte responded:

Well, Senator, the law prescribes a number of approaches to this.

Then I asked the Ambassador about the issue of overclassification of material in the area of national security. This is an issue that has concerned many in the Senate, of both political parties. I have been interested in this matter for some time.

I was, frankly, flabbergasted when 9/11 Commissioner Tom Kean, who did such a superb job in his work, with Lee Hamilton, former Member of the other body—Tom Kean said 75 percent of everything he saw when he chaired the 9/11 Commission that was classified should not have been classified. This is what Tom Kean said in the extraordinarily important inquiry he conducted.

The Central Intelligence Agency initially blacked out over 50 percent of the Senate Select Committee on Intelligence Report on Iraq's WMD programs and links to terrorist groups.

I will tell colleagues I thought Chairman ROBERTS and Senator ROCKEFELLER did a superb job in guiding our committee to a unanimous judgment with respect to Iraq and that important report. But if the CIA had had its way, page after page after page would have been blacked out.

The National Archives Information Security Office reported 14.2 million classification actions in 2003, twice the number recorded 10 years earlier. The agencies are becoming more creative in terms of how they overclassify. In addition to the traditional "limited official use," "secret" and "top secret," some agencies now have "sensitive security information," "sensitive Homeland Security information," "sensitive but unclassified" and "for official use only" classifications, as well.

Secrecy has become so pervasive it makes you wonder whether facts are being classified for legitimate reasons or to protect the individuals and agencies involved.

As I mentioned, this has been a bipartisan concern. I am particularly grateful for the work Senator LOTT has been willing to do with me. We took some modest steps in the intelligence reform bill to open this process and try to bring some balance back into the area of classification. But given this history, given the huge explosion in terms of overclassification of Government documents, I was interested in what the Ambassador had to say with respect to this.

When I first asked, he said:

Senator, I don't know about classification or overclassification.

But then he went on to make the mind-boggling claim that "Certainly the trend in my lifetime has been to reduce levels of classification wherever

possible. And I've seen that happen before my own eyes."

Troubling as that answer was and the nonanswers that I received to the other important questions I asked with respect to the PATRIOT Act and relating to rendition and other topics, as troubling as what I was told and wasn't told, is it is not only what the Director of National Intelligence will know that is so important but what he is willing to say that is vital.

In spite of the Ambassador's responses to these questions, I have no question in my mind of Ambassador Negroponte's ability to master the facts. What I am not confident of is his steadfast commitment to speaking those facts to ears that do not want to hear them. And history tells us the consequences of an inability or an unwillingness to speak truth to power can be disastrous.

This country saw what happened in the Bay of Pigs, an unsuccessful attempt by United States-backed Cuban exiles to overthrow the Government of the Cuban dictator Fidel Castro. It is a classic example of what can happen when America's intelligence community is unwilling or unable to be candid. In his review of the Bay of Pigs invasion release to the public in 1998, CIA Inspector General Lyman Kirkpatrick identified numerous failures. These include:

[The failure to subject the president, especially in its latter frenzied stages, to a cold and objective appraisal by the best operating talent available, particularly by those not involved in the operation, such as the Chief of Operations and the chiefs of the Senior Staffs;

[The failure to advise the president, at an appropriate time, that success has become dubious and to recommend the operation be, therefore, canceled and that the problem of unseating Castro be restudied;

The failure to maintain the covert nature of the project—"[f]or more than three months before the invasion the American press was reporting, often with some accuracy, on the recruiting and training of Cubans. Such massive preparations could only be laid to the U.S. The agency's name was freely linked with these activities. Plausible denial was a pathetic illusion."

This is what the inspector general said. This is not what a partisan said. Yet the CIA unrealistically plowed ahead, unwilling or unable to face the reality of the situation that the operation was doomed to fail, and as a result the CIA was humiliated, many died, our prestige was damaged.

Throughout the entire time our country was in Vietnam the intelligence community also failed to be forthright and was plagued by overoptimism. One example was particularly worth noting.

In 1963, the Board of National Estimate's draft Nation Intelligence Estimate concluded that "The struggle in South Vietnam at best will be protracted and costly [because] very great weaknesses remain and will be difficult to surmount."

Unhappy with the pessimistic conclusion, the Director of Central Intelligence John McCone rejected the draft



and instructed the board to seek the views of senior policymakers in revising the Nation's Intelligence Estimate.

So the final version of the 1963 statement:

We believe that Communist progress has been blunted and that the situation is improving . . .

As those who put together the Pentagon papers later observed:

The intelligence and reporting problems occurring during this period cannot be explained away . . . In retrospect [the estimators] were not only wrong, but more importantly, they were influential. As a result, a generation paid the price for the unwillingness or the inability of the intelligence community's inability to be forthright.

Now our country deals with those consequences.

Many in the Senate will remember George Tenet told the President of the United States that the weapons of mass destruction case against Iraq was a "slam dunk." Now America knows what George Tenet knew and what he was unwilling or unable to tell the President of the United States, that it wasn't a slam dunk at all.

The Niger yellowcake, the high-strength aluminum, the mobile weapons lab, the aerial vehicles, the intelligence provided by Curveball and the Iraqi National Congress witnesses, all of this intelligence was questionable and was being questioned by at least some members of the intelligence community.

However, George Tenet was not direct. He was not forthcoming. He told the President of the United States what the President wanted to hear. Whether he was unwilling or unable to be straight with the President, I cannot possibly determine. What I do know is that as a member of the Select Committee on Intelligence I want to do everything I can. I know every Member of the Senate wants to make sure these mistakes are not repeated. The stakes are simply too high.

The Intelligence Reorganization Act gave the Director of National Intelligence a whole lot of responsibility but very little enforcement power. As the Director works to make 15 intelligence agencies pull together, his credibility will be his currency. Critical to his success will be the understanding of all concerned that this person is going to be direct, that the person will be forthcoming, that the person will make sure that no matter who the truth hurts, no matter what policymakers think, they are going to get the facts.

Here is what I think the country needs. The United States needs a Director of National Intelligence who is going to speak truth to power, somebody who has, in Hamilton's words, the "gumption" to tell the President and other senior policymakers what they don't want to hear.

The United States needs a Director of National Intelligence who has the knowledge and the experience to step in and begin fixing the problems facing the intelligence sector immediately.

The United States needs a Director of National Intelligence who will break down existing walls inhibiting analysts throughout the intelligence community and, when appropriate, officials and citizens outside that realm from getting access to the information they need to keep Americans safe. The United States needs a Director of National Intelligence willing to, when necessary, go head to head with the agencies under his control, especially the Department of Defense. If the Director lets them push him around, he is doomed.

The United States needs a Director of National Intelligence to take control over the intelligence budget. Before Congress created the position, the intelligence community lacked a leader willing to make tough budget priority and tradeoff decisions. Each agency asked for funds. It was, in effect, a matter of passing the request along. This has to stop. There are not limitless resources. A strategic view, not a parochial lens, ought to be guiding budget decisions.

The United States needs a Director of National Intelligence to shape the intelligence agencies he oversees into a true community because, at this point, the phrase "intelligence community" is pretty much a misnomer. While coordination and cooperation have improved, the individual intelligence agencies persist in maintaining their own culture and collection practices. As the military services have learned to fight jointly, our intelligence collection agencies need to learn how to act together to gather critical information our policymakers and warfighters need to protect our country.

The United States needs a Director of National Intelligence who recognizes he cannot do this alone. This position is new and its authority, while substantial, is unclear. His fights with the administration over matters of significant national policy need not, and should not, always be kept quiet. If the Director of National Intelligence is to succeed, he will need to look to allies in the executive branch and here in the Congress to help.

While Ambassador Negroponte is surely a skilled diplomat and has many allies in the Senate, Senators of both parties I admire greatly, I am not confident the administration's nominee will meet these expectations.

For that reason, I will be voting no on the nomination of Ambassador John Negroponte to be Director of National Intelligence.

Mr. President, I want to wrap up with one additional point. I am pleased to be in strong support of General Hayden, who will, when the nominee is confirmed, be the deputy. I thought General Hayden's directness and openness at his confirmation hearing was particularly welcome.

For example, I asked him, on the matter of privacy rights, which is pretty important, given his past background at the NSA, how he would han-

dle that issue. I think there was a sense it is possible to fight terrorism ferociously while still protecting civil liberties. General Hayden, in contrast to what we heard at the earlier confirmation hearing, was refreshingly direct in his responses, where he talked about pushing right up to the line—I believe those were his exact words—but being sensitive to civil liberties.

So I am pleased to be able to say, on the floor of the Senate, I am looking forward to the support General Hayden will be receiving from the Senate shortly. I expect Ambassador Negroponte and General Hayden to be approved. My door will be open to both of them. As a member of the Intelligence Committee, it is my hope that both of these individuals will not hesitate to ask me and ask colleagues for help. The safety of our country depends on the performance of these two individuals in this key post.

Mr. President, with that, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, how much time remains on this side of the aisle?

The PRESIDING OFFICER. The Senator from West Virginia has 32 minutes.

Mr. ROCKEFELLER. Mr. President, I yield myself such time as I may consume, which will be less than that.

Mr. President, I am going to use this opportunity to speak on an unrelated issue, not entirely but somewhat, but one that is of critical importance to the intelligence community and the American people.

Last week, I filed an amendment to the emergency supplemental appropriations bill. Unfortunately, I was not able to bring the amendment before the Senate because it was not germane under postcloture rules. This amendment is important enough, however, that I will take just a few minutes to explain it.

My amendment was, and is, simple and straightforward. It expresses the sense of the Senate. It is not directive. It expresses the sense of the Senate that the Senate Select Committee on Intelligence should conduct an investigation into matters related to the collection of intelligence through the detention, interrogation, and rendition of prisoners. That is its purpose.

The amendment, as I indicated, does not direct the committee to undertake this much needed and long overdue congressional review. Rather, it is a statement by the Senate that the committee should carry out its oversight duties and carefully, thoroughly, and constructively evaluate the interrogation practices of the U.S. Intelligence Community.

A year has passed since the appearance of photographs graphically portraying the abuse of Iraqi prisoners at Abu Ghraib prison. Since then, we have

seen a steady stream of accusations relating to the way U.S. military and intelligence agencies treat individuals in their custody. Allegations of mistreatment have surfaced wherever the United States holds prisoners overseas—across Iraq, in Afghanistan, and at Guantanamo Bay.

Troubling new revelations have become almost a daily occurrence—literally a daily occurrence—with a disturbing number of these incidents resulting in prisoner deaths.

At least 26 prisoners have died in American custody. The disturbing charge has been leveled against the United States that we are exporting torture through rendition practices that lack accountability.

Who can honestly say these events and allegations are not serious enough to warrant an Intelligence Committee investigation?

The collection of intelligence through interrogation and rendition is an extremely important part of our counterterrorism effort and one of our most important intelligence tools.

But this tool, as with all others, must be applied within the bounds of our laws and our own moral framework. It must be subject to the same scrutiny and congressional oversight as every other aspect of intelligence collection. This, unfortunately, has not been the case.

Despite the critical importance of interrogation-derived intelligence and the growing controversy surrounding detention, interrogation, and rendition practices and policies, the Congress has largely ignored the issue, holding few hearings that have provided only limited insight.

More disturbingly, in this Senator's judgment, the Senate Intelligence Committee—the committee charged with overseeing intelligence programs, and the only committee with the jurisdiction to investigate all aspects of this issue—is, in this Senator's judgment, sitting on the sidelines and effectively abdicating its oversight responsibility to media investigative reporters who go at it very aggressively and on a daily basis.

As the Intelligence Committee's vice chairman, I have been pushing, for the past 3 months, for an investigation into the legal and operational questions at the heart of the detention and interrogation controversy.

My requests, and those of other committee members, have been rebuffed, based upon the argument that we have been fully informed on the particulars of our detention and interrogation program, and the Intelligence Committee need only monitor these operations.

The point has also been made that the Intelligence Committee should not undertake an investigation into these issues because the CIA Inspector General is conducting his own investigation. I reject this notion that the Senate should cede to the executive branch its oversight responsibilities. Carrying out oversight is why the Senate Intelligence Committee exists.

Effective congressional oversight is not achieved passively waiting for and accepting the parameters of internal executive branch reviews. We are separate in our responsibilities, executive and legislative. While it is true that the CIA inspector general is investigating specific allegations of abuse involving intelligence personnel, those specific cases represent a small portion of what the Intelligence Committee should be examining. Many fundamental legal and operational issues are outside the inspector general's very limited focus and deserve the Intelligence Committee's immediate attention.

We have a duty to not simply monitor but to actively inquire about the conduct of congressionally funded activities—that is our job—especially activities such as prisoner interrogation that can have life or death implications. Down the road, if we don't set these rules straight, that can come back to haunt our soldiers and their safety.

Up to this point, the Intelligence Committee oversight that I am speaking of has been, in the judgment of this Senator, abdicated to the press over the past year. Here is a sampling, which I will go through quickly, of headlines from articles that have been published in recent weeks: "Interrogator Says U.S. Approved Handling of Detainee Who Died"; "White House Has Tightly Restricted Oversight of CIA Detentions"; "FBI Report Questions Guantanamo Tactics"; "Questions Are Left by C.I.A. Chief on the Use of Torture"; "CIA's Assurances on Transferred Subjects Doubted—Prisoners Say Countries Break No-Torture Pledges"; "Europeans Investigate CIA Role in Abductions"; "Army Details Scale of Abuse of Prisoners in an Afghan Jail"; "Prisoners at Abu Ghraib Said to Include Children"; "Army, CIA Agreed on 'Ghost' Prisoners"; "Lack of Oversight Led to the Abuse of Detainees, Investigator Says"; "Ex-CIA Lawyer Calls for Law on Rendition"; "CIA Avoids Scrutiny of Detainee Treatment"; "Files Show New Abuse Cases in Afghan and Iraqi Prisons"; "CIA Is Seeking New Role on Detainees"; "FBI Agents Allege Abuse of Detainees at Guantanamo Bay"; "CIA Was Wary of U.S. Interrogation Methods in Iraq."

I think the Presiding Officer gets the drift.

I ask my colleagues to consider the finding made by General Fay in his recent report on the abuses at Abu Ghraib. General Fay found that CIA practices "led to a loss of accountability, abuse . . . and the unhealthy mystique that further poisoned the atmosphere at Abu Ghraib."

General Fay was unable to fully investigate the CIA's role at Abu Ghraib and other prisons. The Senate Intelligence Committee, however, is not unable to do that. That is our job.

These and other reports highlight the need for the sort of strong congressional oversight that in my judgment

is now absent. There are many legal and operational questions that we should be investigating to ensure that this vitally important intelligence collection program is not continually hampered by vague and confusing legal and operational directives.

For example, on March 18, 2005, the Central Intelligence Agency issued a statement that:

CIA policies on interrogation have always followed legal guidance from the Department of Justice.

That may be so, but was that legal guidance supportable? A lengthy legal opinion of the Department of Justice on interrogation practices, which had been issued in secret in August 2002, was quickly repudiated by the White House when it became public in June of 2004 and was superseded by a public Justice Department legal opinion in December of 2004. As that episode indicates, secret law is an invitation to great error.

The Intelligence Committee, which includes members of the Senate Judiciary Committee, must conduct a complete examination of the legal guidance that CIA and Defense Department interrogators have been given. What supporting roles do the CIA and FBI play in the interrogation of suspects at military-run institutions? And how are their activities coordinated, if they are?

It has been publicly reported that the CIA requested that a number of prisoners held in Iraq not be registered and be kept from international inspection—so-called ghost detainees—and that FBI officials lodged strenuous complaints about the mistreatment of prisoners held at Guantanamo Bay. I cannot emphasize how strongly those FBI objections were. These reports and others strongly suggest that different agencies are operating by different sets of interrogation and detention rules, which is a recipe for disaster.

The Congress should evaluate the general policy guidelines for which it is appropriate to render a detainee to another country, and what intelligence is gained from such practice.

More specifically, we must examine the validity of assurances that the United States is given when detainees are rendered to other countries that they will not be tortured. The Congress should undertake, with the intelligence community, case studies of interrogations, including the methods used and, importantly, the reliability of the information obtained. As with other intelligence tools, we should consider on the basis of facts, rather than surmise, what works, what does not work, to obtain reliable information that actually contributes to our national security. The Congress should examine plans for the long-term detention or prosecution of persons detained or rendered for interrogation purposes.

Should the United States, for example, hold detainees without trial for years or decades to come? Is it acceptable to do that for the reason that the

detainees' acknowledgment of their actions came during interrogations that would neither meet the standards of a U.S. court or U.S. military commission?

The reality may be that if Congress continues to default in its oversight and legislative responsibilities, that the courts, in fact, themselves will end up filling that vacuum. The threat of terrorism is going to be with us for many years, if not decades. The intelligence we gain through interrogations will be crucial in protecting Americans themselves against future attacks. If we are to optimize those counterterrorism efforts, we need to have a plan, not an ad hoc policy, for how to deal with people in our custody.

America is not a nation that uses or condones torture. We are party to international agreements that prohibit these acts, and we demand humane treatment for our citizens when they are arrested abroad and for our soldiers when they are captured on the battlefield. We must uphold the same high standards for individuals in our custody or we will rightly be branded as hypocrites, and we will put our soldiers and our citizens in danger. I cannot emphasize that enough.

Next year will mark the 30th anniversary of the Senate Intelligence Committee. The committee was created in the crucible of an extensive bipartisan investigation in 1975, led by Senators Frank Church and John Tower, into allegations of abuse by U.S. intelligence agencies. One conclusion, as described by Howard Baker—somebody I admire enormously—was that the congressional oversight system had provided “infrequent and ineffectual review” and that “many of the abuses revealed might have been prevented had Congress been doing its job.”

Accordingly, the resolution establishing the Intelligence Committee charged it to “provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and the laws of the United States.”

It is time for the Senate Intelligence Committee to carry out the vigilant legislative oversight that is our duty and which a number are calling for us to do. We should launch a comprehensive and constructive investigation into the detention, interrogation, and rendition practices of the intelligence community because it is long overdue.

Mr. President, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD several editorials that have appeared around the country calling for congressional action. They include editorials from many newspapers, including the Washington Times and newspapers from Tennessee, Oregon, Florida, Maryland, New York, and California.

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

[From the St. Petersburg Times, Feb. 17, 2005]

#### INVESTIGATE THE CIA

The extensive use of “extraordinary rendition,” by which the CIA moves terrorist suspects to undisclosed prisons around the world for interrogation, has to be the agency’s worst kept secret. News reports abound of potentially dozens of al-Qaida suspects held overseas by the CIA, incommunicado and without charge or turned over to the security services of other nations known for their abusive treatment of prisoners, such as Egypt and Syria.

Congress has been inexcusably reluctant to investigate these actions. The Republican leadership apparently has been happy to let the CIA dirty its hands with extralegal strategies in the nation’s efforts to fight terrorism. But thanks to some pushing by Sen. John D. Rockefeller IV, D-W.Va., the ranking Democrat on the Senate Intelligence Committee, Congress may begin to open its eyes. Rockefeller has asked the committee to open a formal investigation into the CIA’s use of detention, interrogation and rendition. Rockefeller told the New York Times that he felt the committee would be “derelict if we did not carry out our oversight responsibilities.”

Until now, Congress has done little more than shrug as more evidence has emerged of U.S. intelligence services engaging in brutal interrogations. During the Senate confirmation proceedings of Attorney General Alberto Gonzales, it became clear that the CIA had solicited the Justice Department memorandum giving legal cover to those who use aggressive techniques against prisoners. The CIA wanted to protect its agents from criminal liability. And the administration’s view remains that the CIA is not bound by the president’s 2002 directive that prisoners in American custody be treated humanely. Late last year, when some in Congress sought to impose new limits on abusive interrogation tactics by the CIA, the White House intervened and the those limits were dropped.

Congress has willingly collaborated in this charade that America is maintaining its moral authority in the world even as it adopts the tactics of human rights abusers. But as former Secretary of State Colin Powell and retired military leaders have repeatedly warned, when America approves of the use of torture it puts its own soldiers in danger of facing the same brutality.

Rockefeller’s call for an investigation seems to have some momentum. Sen. Pat Roberts, R-Kan., the Intelligence Committee’s chairman, is open to the suggestion. This is Congress’ duty. The committee should demand a full accounting of every detainee under the direct or indirect control of the CIA, and it should demand to know precisely what techniques have been used to elicit information. This has been allowed to go on far too long.

[From the Sunday Oregonian, Mar. 6, 2005]

#### THE TORTURE BUSINESS LANDS IN PORTLAND

(By David Sarasohn)

It could make you wonder if congressmen are interested in economic development.

Rep Earl Blumenauer, D-Ore., is actually asking Congress to investigate a hometown company. Moreover, the company is in a booming business, which will be profiled on “60 Minutes” tonight.

In fact, this worldwide business is so big, nobody even knows how big it is—or how big it could get.

You’d think we’d want a piece of it.

But at the end of February, Blumenauer wrote leaders of the International Relations

Committee, “I am simply appalled by continued revelations in the media regarding the torture of detainees in American custody, whether by CIA officials, military personnel, or after being transferred to foreign governments.

“The extensive reports of physical and mental abuse at American detention facilities around the world, the evidence of detainees being turned over to other countries to be interrogated and tortured, and continued efforts by the Bush administration to restrict legal and constitutional protections from detainees form a compelling case that these are not isolated incidents but administration policy.”

Moreover, Blumenauer wrote, “I am additionally troubled by the use of a Gulfstream V jet registered to a shadowy—and possibly illegal—dummy front company, Bayard Foreign Marketing LLC, in my hometown of Portland, Oregon. Press reports have found no public record of the company’s alleged owner, nor have calls to their office been successful at locating him. The evidence certainly points to a violation of Oregon law in order to hide the true nature and breadth of this extraordinary rendition program.”

Picky, picky, picky.

Here we have a Portland company involved in what is clearly a growth industry—the United States shipping prisoners secretly around the world to be tortured by countries that lack the U.S. Constitution or scruples—and people insist on looking at it as a human rights violation instead of an economic development opportunity.

In November, the Sunday Times of London reported a flight log for the Gulfstream showing more than 300 flights to countries such as Libya and Uzbekistan—countries that not only offer an expansive view of interrogation, but are normally difficult to get to from Portland. It’s not clear if passage on the plane is ever round-trip.

At the time, the plane was owned by Premier Executive Transport Services of Dedham, Mass., which the Boston Globe found had the same non-existent corporate structure as Bayard Foreign Marketing. “Sightings of the plane,” said the Globe, “. . . have been published in newspapers across the globe and on the Internet.”

Tonight, “60 Minutes” profiles another plane in the same business, a Boeing 737 that has made 600 flights since 9/11, including 10 to Uzbekistan—where the British ambassador at one point complained to his superiors and to U.S. authorities about how the prisoners were being tortured, techniques involving rape, suffocation and immersing limbs in boiling liquid.

As one of the CIA agents who set up the program explains to the show’s reporter, “It’s finding someone else to do your dirty work.”

Except that nobody around the world seems to be fooled. When Blumenauer went to East Asia to inspect tsunami damage, people everywhere—China, Thailand, Indonesia—wanted to talk about what happened to those in U.S. custody. “It just happened repeatedly,” he said Friday.

Last week, when the State Department issued its annual report on human rights, countries from China to Turkey responded that the United States had no standing to comment on the issue. Noting the irony of the United States condemning countries where it was shipping its prisoners, William F. Schulz of Amnesty International suggested, “The State Department’s carefully compiled record of countries’ abuses may perversely have been transformed into a Yellow Pages for the outsourcing of torture.”

Congress, thinks Blumenauer, might at least want to ask some questions.

"There is so much of what is happening that is not accountable," he says. "To suggest that there are thousands of people caught up with this is no exaggeration."

And Blumenauer is now even more interested, since he's found the program is almost a constituent.

Torture, it seems, now has a Portland address.

[From the Times Union, Mar. 10, 2005]  
TORTURE ON THE WING

Most Americans would cringe at any suggestion that there are parallels between the human rights abuses in Argentina during the 1970s, and Central Intelligence Agency interrogations of suspected terrorists today. But the similarities are there, and that should shame the Bush administration and Congress. An investigation is more than warranted.

During the years when a military junta ruled Argentina, suspected political opponents "disappeared." They were imprisoned by government forces and tortured. Many were murdered, but some were returned to the streets to tell their stories.

No one has suggested that the CIA interrogators have systematically murdered captives, to be sure. Nor is there any way to know if American citizens have been seized. But the very secrecy of these operations, and the lack of accountability, raise the possibility that such abuses can occur.

What is known is distressing enough. Recent news accounts have detailed how CIA agents or mercenaries—it's hard to tell because the captors are masked—have been abducting suspected terrorists, putting them aboard planes and flying them to countries like Syria, Saudi Arabia, Egypt and Afghanistan, where they are interrogated and tortured.

The abductions aren't a new development, either. Indeed, former President Clinton once advocated kidnapping Osama bin Laden and turning him over to Saudi Arabia, where he would face "streamlined" justice. But according to a New York Times article printed in this newspaper Sunday, the abductions have been stepped up markedly in response to the terrorist attacks of Sept. 11, 2001. There is no requirement that the CIA get prior approval from the Justice Department or the White House to seize a suspect. And by sending captives to foreign countries, there is no obligation to afford the captives any rights under American law, including the prohibition against torture.

Defenders of these operations claim that they are justified because they have produced information that has saved American lives by thwarting possible terrorist attacks. Others argue that in a time of war, extreme measures are often necessary. Given the urgency of breaking up terrorist plots, they argue, there is little time to observe a long legal process. Moreover, the suspects are most likely foreigners or illegal immigrants, not citizens who are being deprived of their right to due process.

The consequences of such abductions can't be so easily dismissed, however. Without a system of checks and balances, there is no way to know whether there was good reason to detain someone. That point was driven home during an interview with one detainee, who told the television news program "60 Minutes" last Sunday of being abducted while on vacation in Macedonia, shackled, put on a plane and flown to the Middle East for interrogation. He was later released on his own in Albania after, he claims, his captors acknowledged they had confused his name with that of a terror suspect.

Then there's the matter of placing Americans living abroad at risk of being abducted

by terrorist organizations who hope to use their hostages to bargain for their comrades' release.

Finally, and hardly least, there is the damage to America's image and values. At the least, Congress should demand some system of accountability to prevent abuses. More than that, it should investigate the claims that these operations have indeed provided life-saving intelligence, or if they have merely tarnished the image of a nation committed to the rule of law.

[From the Fresno Bee, Mar. 14, 2005]

GLASS HOUSES HUMAN RIGHTS REPORT HAS ONE GLARING OMISSION—THE UNITED STATES

As required by Congress, the State Department has issued its annual report on human rights progress, or the lack of it, in countries around the world.

Among those faulted are a number of U.S. allies, including the provisional government in Iraq that is partly a U.S. creature. As always, only one country was missing: the United States.

That's not entirely self-serving. This country doesn't rate itself because, as a State Department official put it, "it wouldn't have any credibility." Besides, he said, there's no shortage of critics, including U.S.-based human rights groups.

But this year's report comes at an especially awkward time. There is continuing evidence of abuses in U.S.-run prisons in Afghanistan, Iraq and at Guantanamo Bay, Cuba—the same kind of abuses for which State's report rightfully faults other governments. But there has not been the full, impartial probe that's needed to give a fuller picture of what happened and who, at whatever level, is responsible.

As long as the United States fails to fully investigate, report and correct its own lapses, it allows abusive regimes abroad to deflect criticism by asking: Who is the United States to judge?

Indeed, Russia and China did just that following publication of the State Department report.

It's a fair question, and part of the response should be a thorough attempt to go beyond the focus on abuses by low-level military and intelligence personnel. Too much is already known to accept the facile explanation that the accumulating scandal reflects only isolated "rogue" behavior.

And while there have been several investigations, and more continue, all have been conducted by or for the Pentagon, which is unlikely to point the finger of blame upward. Whatever the full truth may be about where ultimate culpability lies, an air of cover-up hovers over the process.

On Capitol Hill, Sen. Pat Roberts, the Republican chairman of the Senate Intelligence Committee, has rejected a proposal by the Democratic vice chairman, Sen. Jay Rockefeller, to launch a broad probe into the role of U.S. intelligence agencies in the detention, interrogation and "rendition"—transferring to the custody of foreign governments—of terror suspects. This standoff suggests a partisan approach to a vital national security matter.

What's at stake in the investigation of prisoner abuses is the credibility of this country, which is likelier to be restored through an independent, nonpartisan investigation that lays out whatever facts it finds.

Perhaps there is no "smoking gun" to be found at the top. But for as long as the process remains an essentially in-house exercise, those annual State Department human rights reports will continue to raise the question: Who is the United States to judge?

[From the Baltimore Sun, Jan. 31, 2005]

AMERICAN SCAR; PERMITTING TORTURE BRANDS US IN THE WORST WAY  
(By George Hunsinger)

When the Senate confirms Alberto R. Gonzales as U.S. attorney general, the vote will be the beginning, not the end, of public debate about our government's policy on torture.

The Abu Ghraib scandal is only the most visible sign that this policy is inconsistent. Officially, our government opposes torture and advocates a universal standard for human rights. Yet, at the same time, it has allowed ingenious new interrogation methods to be developed that clearly violate these standards. They include stress positions, sleep deprivation, sexual humiliation and desecration of religious objects. These practices, which should never be used, are no less traumatic than the infliction of excruciating pain.

For religious people, torture is especially deplorable because it sins against God and against humanity created in God's image. It degrades everyone involved—planners, perpetrators and victims.

More than 225 Christian, Jewish, Muslim and Sikh religious leaders signed an open letter to Mr. Gonzales. They objected to his role in developing a narrow definition of torture and to his equally troubling assertion that some people are not subject to the protections of international law. They registered deep concern about our government's moral foundations, urging support—in practice, not just in words—for fundamental human rights.

Four steps must now be taken to clarify that our government has truly abolished torture.

First, Congress must remove the false partition placed between the military and intelligence services governing extreme interrogation techniques tantamount to torture. The Senate was right to pass, nearly unanimously, new restrictions for the Pentagon, CIA and other intelligence services. But congressional leaders in both houses later buckled under White House pressure and scrapped the language governing intelligence services.

Whether the military or intelligence services are conducting practices tantamount to torture is of absolutely no significance. Trying to differentiate between the two perhaps eases the conscience of decision-makers, but it is a distinction without a difference. It fails to insulate us from the absolute evil that is torture.

Second, Congress must outlaw "extraordinary rendition," a euphemism for torture by proxy. It means that detainees are secretly transferred to countries where torture is practiced as a means of interrogation. Although made public only through shocking cases, such as those of Maher Arar, who was deported to Syria by the United States, and Mamdouh Habib, an Australian citizen who was sent to Egypt before being held at Guantanamo, it has become a mainstay counterterrorism tool.

Does it really need to be said that "disappearing" people without any kind of due process is contrary to everything America stands for, not to mention our laws and treaties? The reasons for a detainee's arrest and his guilt or innocence are irrelevant. No sound moral argument can be made that enabling torture through rendition is permissible.

Third, Mr. Bush should make a clear statement that torture is wrong in any form and under any circumstances. He should state beyond a shadow of doubt that America will not be complicit in its commission. Leadership from the president would go a long way toward resolving the torture crisis.

Finally, America needs a special prosecutor. Our reputation has been so badly damaged by Guantanamo, Bagram and Abu Ghraib that no other remedy will do. The existing investigations are not enough because they have not been truly independent. Organizations such as the American Bar Association, Amnesty International and the highly respected International Commission of Jurists in Geneva have all insisted that an independent investigation is imperative.

Nothing less is at stake in the torture crisis than the soul of our nation. What does it profit us if we proclaim high moral values but fail to reject torture? What does it signify if torture is condemned in word but allowed in deed? A nation that rewards those who permitted and promoted torture is approaching spiritual death.

George Hunsinger is McCord professor of theology at Princeton Theological Seminary and coordinator of Church Folks for a Better America.

[From Chattanooga Times Free Press, Feb. 8, 2005]

#### STORIES FROM THE INSIDE

"During the whole time we were at Guantanamo," said Shafiq Rasul, "we were at a high level of fear. When we first got there the level was sky-high. At the beginning we were terrified that we might be killed at any minute. The guards would say to us, 'We could kill you at any time.' They would say, 'The world doesn't know you're here. Nobody knows you're here. All they know is that you're missing, and we could kill you and no one would know.'"

The horror stories from the scandalous interrogation camp that the United States is operating at Guantanamo Bay, Cuba, are coming to light with increased frequency. At some point the whole shameful tale of this exercise in extreme human degradation will be told. For the time being we have to piece together what we can from a variety of accounts that have escaped the government's obsessively reinforced barriers of secrecy.

We know that people were kept in cells that in some cases were the equivalent of animal cages, and that some detainees, disoriented and despairing, have been shackled like slaves and left to soil themselves with their own urine and feces. Detainees are frequently kicked, punched, beaten and sexually humiliated. Extremely long periods of psychologically damaging isolation are routine.

This is all being done in the name of fighting terror. But the best evidence seems to show that many of the people rounded up and dumped without formal charges into Guantanamo had nothing to do with terror. They just happened to be unfortunate enough to get caught in one of Uncle Sam's depressingly indiscriminate sweeps. Which is what happened to Shafiq Rasul, who was released from Guantanamo about a year ago. His story is instructive, and has not been told widely enough.

Rasul was one of three young men, all friends, from the British town of Tipton who were among thousands of people seized in Afghanistan in the aftermath of Sept. 11, 2001. They had been there, he said, to distribute food and medical supplies to impoverished Afghans.

The three were interviewed soon after their release by Michael Ratner, president of the Center for Constitutional Rights, which has been in the forefront of efforts to secure legal representation for Guantanamo detainees.

Under extreme duress at Guantanamo, including hundreds of hours of interrogation and long periods of isolation, the three men confessed to having been in a terrorist train-

ing camp in Afghanistan. They also said they were among a number of men who could be seen in a videotape of Osama bin Laden. The tape had been made in August 2000.

For the better part of two years, Rasul and his friends, Asif Iqbal and Rihuel Ahmed, had denied involvement in any terror activity whatsoever. But Rasul said they eventually succumbed to long months of physical and psychological abuse. Rasul had been held in isolation for several weeks (his second sustained period of isolation) when an interrogator showed him the video of bin Laden. He said she told him: "I've put detainees here in isolation for 12 months and eventually they've broken. You might as well admit it now."

"I could not bear another day of isolation, let alone the prospect of another year," said Rasul. He confessed.

The three men, all British citizens, were saved by British intelligence officials, who proved that they had been in England when the video was shot, and during the time they were supposed to have been in Qaida training camps. All three were returned to England, where they were released from custody.

Rasul has said many times that he and his friends were freed only because their alibis were corroborated. But they continue to worry about the many other Guantanamo detainees who may be innocent but have no way of proving it.

The Bush administration has turned Guantanamo into a place that is devoid of due process and the rule of law. It's a place where human beings can be imprisoned for life without being charged or tried, without ever seeing a lawyer, and without having their cases reviewed by a court. Congress and the courts should be uprooting this evil practice, but freedom and justice in the United States are on a post-9/11 downhill slide.

So we are stuck for the time being with the disgrace of Guantanamo, which will forever be a stain on the history of the United States, like the internment of the Japanese in World War II.

Mr. ROCKEFELLER. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, I regret that I am compelled to speak on this subject. The topic of the day is the confirmation of Ambassador John Negroponte to be the new National Director of Intelligence, but it appears as if that topic has now changed, and I have no alternative but to respond in that basically the purpose and the responsibilities of the Intelligence Committee have been challenged by the vice chairman.

I understand that the vice chairman feels strongly about this issue. We have discussed this at length—not as much as I had hoped and that we had intended to—to seek common ground, but he feels so strongly that he offered an amendment to the supplemental appropriations bill, which he has discussed.

I feel equally as strong, so much so that I filed a second-degree amendment in response. My second-degree amendment is in stark contrast to the amendment offered by my colleague and my friend. My amendment actually expresses support for our Armed Forces and intelligence officers, rather than calling into question their actions, while they are on the front lines in the

war on terror. The amendment underscored the Intelligence Committee's continuing aggressive oversight of all aspects of the war on terror, including terrorist detention and interrogation.

The Rockefeller amendment is a sense of the Senate, as he indicated, calling for the Intelligence Committee to launch yet another formal investigation of the men and women who are prosecuting the war against the terrorists. The proposed Rockefeller investigation, as I read the parameters originally proposed and then refined, I think would be virtually boundless in its exploration of any matter even tangentially related to the use of rendition, detention, and interrogation of terrorists.

I want my colleagues to know that these are the very tools that are being used by our brave men and women in the military and intelligence agencies to combat a continuing terrorist threat against every American and our interests. They are also critical in our efforts in Iraq and Afghanistan, and they are saving lives as I speak.

I oppose the efforts of Senator ROCKEFELLER to launch yet another wide-ranging investigation because I believe, despite what he believes—and reasonable men can certainly disagree—that it is currently unnecessary. I believe it would be impractical and damaging to the ongoing operations and morale of the people who are doing the job.

We are not sitting on the sidelines. We are not being passive, we are not rebuffing, we are not defaulting, and we sure as heck are not going to let the media drive the agenda within the Intelligence Committee with regard to classified information and our national security. The Senate Intelligence Committee, in the conduct of its normal but aggressive oversight responsibilities, is examining the broad issues of the effectiveness of interrogation operations, the humane treatment of detainees, the role of intelligence in tribunals and combatant status review boards, and, yes, rendition operations.

In conducting this oversight, just this past month committee staff—both minority and majority—once again visited the detention facility at Guantanamo Bay for onsite inspections, briefings, and discussions. The committee is continuing its oversight through visits, interviews of relevant individuals and personnel, through requests of documents, reviews of prior investigations, and briefings from intelligence community element, using basically the same methodology we used during the WMD review and investigation.

In other words, we are doing our job. I believe we are fulfilling our oversight responsibilities. And there are still ongoing investigations, including the Navy inspector general's investigation into FBI allegations of abuse at Guantanamo Bay in Cuba and the comprehensive efforts of the CIA inspector general of which we are fully informed to the degree that we have never been informed before.

Further, I believe the Rockefeller proposal is unnecessary because this issue has been thoroughly investigated over the past 3 years. We have investigated and investigated and investigated. In fact, we have investigated the investigations.

Let me give you an idea of how many times our own people have been investigated: in January 2002, the Custer report; January 2003, the DOD general counsel and DOD working group, with relation to the interrogation of detainees held in the global war on terrorism; September 2003, the Miller report; November 2003, the Ryder report; May 2004, the Navy inspector general review; June 2004, the Taguba report in regard to the tragedy that happened in Abu Ghraib; June 2004, the Jacoby report; July 2004, the Mikolashek report; August 2004, the Jones and Fay investigation; mid-August 2004, the Schlesinger Commission; August 2004, the Formica report; December 2004, the Army Reserve Command inspector general's assessment of military intelligence and military police training; March 2005, last month, the Church report.

This issue has been—and will continue to be—thoroughly investigated by inspectors general and criminal investigators from the DOD, all of the uniformed services, the CIA, and the Justice Department. It is hard to keep track, but I count at least 15 comprehensive national level investigations and well over 300 investigations of specific allegations of abuse. Between these investigations and our regular and aggressive oversight—I will emphasize, our regular, aggressive oversight—I am comfortable as chairman that the Intelligence Committee is meeting its responsibilities.

I want my colleagues to also think about something else. Last year, just as we have talked about, we enacted the most comprehensive reorganization of the intelligence community since its creation over 50 years ago. We created the position of the Director of National Intelligence and gave him new authorities and enormous responsibilities, further encumbered by our very high expectations. We have all spoken to that during this confirmation process.

If the Intelligence Committee embarks on an unnecessary and boundless what some would even call a fishing expedition that is surely to be tainted by politics, suggested by any leak that has appeared in the press, it will be the first thing that greets the new DNI when he takes office. As Ambassador Negroponte begins the difficult process of fixing what we and numerous commissions have said need fixing, he would be met with endless requests for documents, interviews, and hearings. So Ambassador Negroponte and General Hayden need to hit the ground running, and that would be exceedingly hard to do if they land right in the middle of an unnecessary congressional investigation.

I believe that would be a very serious mistake and contrary to the intent of Congress.

Finally, I oppose Senator ROCKEFELLER's investigation because it will hinder ongoing intelligence collection, and I believe it would damage morale.

My colleagues should know there is a consensus in the intelligence community that terrorist interrogations are the single best source of actionable intelligence against the ongoing plans and plots of our enemy. Terrorist interrogations today are saving lives in Iraq—American lives, Iraqi lives, Afghan lives—and are subverting plots against our own homeland.

The information gleaned from interrogating terrorists is doing exactly what I said in terms of the priority that we have and our responsibilities on the Intelligence Committee in reference to our national security. The majority of usable and actionable intelligence against al-Qaida comes from the terrorist interrogations and debriefings. We must preserve this irreplaceable source of information. Do it right, yes, but we must preserve it.

There is no doubt that this is a delicate intelligence oversight issue. The oversight of detention and interrogation does command a large portion of the Intelligence Committee staff and time and effort. We must continue to treat interrogation as a delicate oversight issue or we risk losing it.

I am concerned an unnecessary informal investigation would accomplish little beyond what we already do in the course of our normal and, yes, aggressive oversight efforts. As I have said on other occasions, it will likely cause risk aversion, the very thing we are trying to avoid.

The constant and repetitive investigations of our frontline personnel will have a chilling effect, a no-confidence vote, really, on the collection of intelligence through interrogations.

The Senate and the Intelligence Committee should be publicly supportive of our men and women of our Armed Forces and intelligence agencies because the overwhelming majority of these people are doing their best to protect us all. Where there have been allegations, they are reported and they are being investigated. And after they are investigated, they are turned over to the Justice Department, if warranted, and people are being charged.

Frankly, I am fast losing patience with what appears to me to be almost a pathological obsession with calling into question the actions of the men and women who are on the front line in the war on terror. Some of these very courageous individuals wear uniforms and some do not. They leave their spouses and children at home, after assuring them that everything will be all right, with the understanding that it may not be all right, and sometimes it is not all right. They travel to the other side of the world in the service of their country with a reasonable expectation that their country supports

them. At times they make mistakes, and sometimes they make serious mistakes for which they must account, and rightfully so, and we are doing that.

But as we sit here in the relative safety and comfort of the Capitol complex, I cannot help but think that some of us have lost our perspective. We will and must do our duty as elected officials. As I have indicated, we will continue aggressive oversight on this issue, and we will reach out to our friends across the aisle to incorporate their concerns. But, Mr. President, I say to my friends, we are at war. Therefore, our first and foremost duty is to support our troops and intelligence officers at home and abroad. I, for one, will not advocate using the constitutional authorities vested in this great institution as a blunt instrument on the very people we depend on to keep us safe every day.

I am on their side. And make no mistake, if we sanction another needless investigation, it will be a very public vote of no confidence in our men and women on the front lines in the war on terror. I, for one, have not lost confidence in our people.

The Senator from West Virginia referred to the almost daily revelations regarding the alleged abuses. It is very clear to me what is happening. Facts already known to us and to investigators are now finding their way into the press through Freedom of Information Act requests and, quite frankly, leaks. In Washington, a leak is not a leak until somebody gets wet. I can tell you, on the Intelligence Committee, we are right about up to here, and the same thing is true in many other agencies.

I do not think I am being conspiratorial when I suggest this is a deliberate effort to give the public the impression that this is an ongoing and growing problem. It is not. I do not believe it is. Mistakes have been made by our military and our intelligence agencies, and the Justice Department has responded properly with investigations of abuse and misconduct. We will oversee that. We are being told that, and we are being kept fully informed. I will always meet our oversight duties using facts not press reports.

I urge my colleagues to consider this, as we have two options to take. Again, I offer the open door of suggestions just as we did with the WMD inquiry to incorporate concerns of the minority on the committee with responsibilities as I see them as chairman of the Intelligence Committee and do our due diligence.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, how much time do I have remaining under the agreement that was entered into earlier?

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator has 29 minutes remaining.

Mr. WYDEN. Mr. President, I yield 5 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I thank my colleague. Needless to say, all of us on the Intelligence Committee do all of this for the protection of the American people and protection of the American troops. That goes without saying.

I have to say that all of the investigations to which my friend and distinguished chairman of the Intelligence Committee referred in his remarks were all about the military. None of them were authorized to get into or had access to information about the Central Intelligence Agency and its role. We do not investigate the military in particular; the Armed Services Committee does. We investigate the Central Intelligence Agency and any other intelligence efforts with respect to detention, interrogation, and rendition.

So there are lots of studies that have been done, but there are precious few, if any, that have been done with respect to the intelligence community.

I have put forward this amendment because I think it must be done. I do not consider it irrational. I do not consider it against our troops. I think I made the point it is in part to protect our troops because we are going to be facing these kinds of situations for years and years to come.

I look forward to and I have some confidence that the chairman and myself and members of the committee can come to an agreement on how we approach this in a way which works, gives us the information we need, and we can proceed forward to protect our soldiers.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I will speak very briefly on this matter because I would like to support Senator ROCKEFELLER's call for an inquiry into this area, particularly as it relates to rendition.

Let me begin by saying that I strongly agree with my friend and chairman, the distinguished Senator from Kansas, with respect to how important a time this is with our people in harm's way. Chairman ROBERTS is absolutely right that the fight against terrorists certainly is not a nice business. We understand that.

I want to take a minute and support Senator ROCKEFELLER in the hopes we can work this out and do it in a bipartisan way along the route we took with respect to Iraq, where we got a unanimous agreement in our committee and showed a difficult area could be tackled in a bipartisan way.

The reason I support Senator ROCKEFELLER and want this matter addressed is I think this inquiry could especially provide another useful tool in our fight against al-Qaida. I say that because the longer the war against al-Qaida and its

associates goes on, the more we realize what a sophisticated enemy we are facing.

Bin Laden and his followers understand the modern media, both here and abroad. They know that allegations of torture and mistreatment undercut our efforts amongst our allies and influences world opinion against the United States. It seems to me we cannot allow ourselves to be defamed by deceitful and murderous madmen who have learned how to manipulate public perception.

What Senator ROCKEFELLER is talking about would provide us, through an inquiry, the opportunity to discredit information collected from al-Qaida and other terrorists in custody. Torture is not an effective way of getting valuable, credible intelligence. A suspect in extreme pain or psychological stress will lie about anything and everything necessary to stop what that suspect is enduring, and if the possibility of torture is removed, those analyzing the information will have greater faith in the reporting.

If, however, an investigation proves that torture was used by anyone, we will have an additional reason to question the information and better ability to determine the truth from fabrication. So I come to the floor today to say I support Senator ROCKEFELLER in terms of his request. I think Senator ROBERTS, the chairman of our committee, makes a very valid point about the sensitivity of this time, our people being in harm's way, terrorists will stop at nothing, and I think what Senator ROCKEFELLER is talking about could provide an additional tool, an additional opportunity, to strengthen the fight against al-Qaida by publicly correcting their lies and to give us an opportunity to expose the al-Qaida spin machine.

I have spoken at some length on the floor this afternoon, but I want to make clear that I hope the distinguished chairman and the ranking member can work this out. I support Senator ROCKEFELLER.

I yield the floor.

Mr. KOHL. Mr. President. I rise today in support of the nomination of Ambassador John D. Negroponte to serve as our first Director of National Intelligence, a position whose importance to our national security cannot be stressed enough.

After 9/11 and the failure of the intelligence community to predict the absence of weapons of mass destruction in Iraq, study after study has told us that our intelligence system is broken, and desperately in need of repair. We began the process of fixing our intelligence community in December, when we passed the Intelligence Reform Act of 2004. Arguably the most important part of that legislation was the creation of a new position—the Director of National Intelligence—with appropriate budgetary and personnel authority to effectively coordinate the fifteen different intelligence agencies. Eliminating

gaps and ensuring that our intelligence agencies are working together is vital to winning the war against al Qaeda, as well as to our long-term national security.

That having been said, the mere creation of this position was not a silver bullet. Many challenges lie ahead for the new DNI. Transforming our intelligence agencies—getting them to work together and share information—will not be easy. According to the Robb-Silverman Commission, turf battles are again emerging between the Central Intelligence Agency, CIA, Federal Bureau of Investigation, FBI, and Department of Defense, DOD. These turf battles contributed to past intelligence failures, and if we are going to truly reform the intelligence community, we need to put an end to this. The key to a well-functioning intelligence community is to resolve these disputes in the best interest of the country, and not one agency or another. Independence and strong leadership are essential to the DNI's success.

Good intelligence is vital to our ability to protect against the threats we face today, as well as the threats we will face in the future. That cannot happen without better management, a DNI to coordinate all of our intelligence efforts—to make sure everyone involved remembers that we are all on the same team, working toward the same goal. It is critical that he succeed in making meaningful changes to our intelligence community. These are high hurdles, but I believe Ambassador Negroponte is up to the job.

Mr. LEVIN. Mr. President, I want to discuss the nomination of John Negroponte to be the first Director of National Intelligence. This is a new position created by Congress as a key element of intelligence reform after the recommendations of the 9/11 Commission, and after the many failures we saw concerning intelligence on Iraq and weapons of mass destruction.

I want to discuss one particular aspect of the problems we had with the intelligence community, and how I hope Ambassador Negroponte will improve upon that situation.

In the course of conducting oversight of the executive branch, Congress requires information and documents produced by the executive branch, including from the intelligence community. This is especially true in cases where Congress, or members of Congress, are conducting oversight for which they are responsible.

Unfortunately, it has been disturbingly difficult to obtain information and documents from this administration on a number of serious issues and from a number of agencies, including from the intelligence community, as well as from the Defense and Justice Departments.

The only conclusion I can draw from my experience in seeking information and documents from this administration as part of my oversight responsibilities is that too often they have not cooperated fully or appropriately.

Let me turn to some specific examples. Each year, the Armed Services Committee holds a hearing with the senior leaders of the intelligence community on worldwide threats. After the hearings, members write questions for the record, and the answers are made part of the official hearing record.

Last year, on March 9, 2004, the Armed Services Committee held its annual worldwide threat hearing with the Director of Central Intelligence or DCI, George Tenet, and the Director of the Defense Intelligence Agency, Admiral Lowell Jacoby. But the CIA did not answer all the questions for the record until one year later, after I brought this delay to the attention of the new DCI, Porter Goss.

In June 2003, as the ranking member of the Armed Services Committee, I initiated a minority staff inquiry into the pre-war intelligence on Iraq, and the use of that intelligence by the administration. In order to conduct this inquiry, it was necessary to request many documents from the intelligence community, as well as from the Defense Department.

Although the intelligence community provided some documents, they stonewalled other requests. For example, on April 9, 2004, I wrote to Director of Central Intelligence George Tenet, requesting the declassification of three sets of briefing charts produced by the Office of Under Secretary of Defense Douglas Feith concerning the Iraq-al Qaeda relationship. The charts contained intelligence that only the intelligence community could declassify.

I knew that one slide, which had been declassified previously at my request, was highly critical of the intelligence community's assessment of the Iraq-al Qaeda issue, and that it had been shown to Defense Secretary Rumsfeld and later to the staffs of the Office of the Vice President and the National Security Council, but that it had not been shown to DCI Tenet when he was briefed.

On July 6th, I received a letter from Stanley Moskowitz, the Director of Congressional Affairs at the CIA. His letter said that in response to my April 9 request, the "declassification review of the charts is underway and we hope to have an answer to you shortly. We apologize for the delay."

However, although his staff told my staff that they were working on the request, and later that they had completed the review, the documents were not forthcoming, nor was an explanation for the delay. I finally received the documents earlier this month, after the current Director of Central Intelligence, Porter Goss, provided them.

In another example, on April 29, 2004, I requested the declassification of specific portions of three finished intelligence reports from the CIA concerning the relationship between Iraq and al Qaeda. I requested that they respond by May 10th, but they did not reply for 2 months.

In that same July 6th letter from Stanley Moskowitz, it said that, in response to my April 29 request, "the declassification review is underway and we hope to have an answer to you shortly."

However, the CIA did not provide an answer "shortly." It did not provide any answer until after Director Tenet had left the CIA, and I had brought the situation to the attention of the new management team. The declassified materials were finally provided on April 6, 2005, nearly a year after the request.

I have had similar problems with obtaining documents from the Department of Defense. I made a request for documents on November 25, 2003, and I am still awaiting documents from that request.

In that case, the Defense Department said it was withholding some of the documents to determine whether they were covered by executive privilege. It did so until late March, when it finally provided some of the documents, 16 months after my original request. I would note that it is unclear what possible executive privilege concern could exist for these documents, some of which were unclassified talking points to be used by Pentagon officials.

In the same case, the Defense Department originally told me they were withholding some documents containing intelligence information that was "Originator Controlled," also known as ORCON. The Department promised me that they would provide any documents cleared for release by the CIA. But instead of doing so, they simply swept all the CIA-cleared documents into their executive privilege review.

The new leadership of the CIA and the Intelligence Community, Porter Goss, is adopting a more responsive and responsible attitude toward congressional requests for information and documents than did his predecessor.

After I brought these delays to his attention at a hearing in March, he said he would look into the matter and ensure that the information was provided. And he did what he promised. On April 6th, he wrote me a letter as a follow-up to providing me the materials that had been delayed so long.

I would like to quote from the last paragraph of his letter:

You should have received answers to these requests months ago. There is no excuse for such delays. I have conveyed to my staff that this is not how the Agency will treat requests.

That is the right approach to take. After all the frustrating delays and stonewalling, it is a welcome breath of fresh air. And I hope the window stays open for the whole Intelligence Community.

This brings me back to the nomination of Ambassador Negroponte to be the new leader of the Intelligence Community. At his nomination hearing before the Intelligence Committee, I asked him about this problem of

stonewalling, ignoring, or delaying on requests for information and documents. I asked him if he would ensure that the intelligence community provides timely and responsive answers to such requests, and he basically said he would look into the situation.

Frankly, I was hoping he would have a more robust and positive answer, and that he would commit to taking steps, if confirmed, to ensure that the intelligence community is fully responsive in a timely manner to congressional requests for information and documents.

However, I am hopeful that when Ambassador Negroponte does look into the matter, he will be more responsive, in light of the law we just passed. He has a responsibility to the Nation, to the Congress, and to the people—not just to the President.

I have some of the correspondence outlining the problems I have described, and I would ask unanimous consent that they be printed in the RECORD.

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

U.S. SENATE,  
COMMITTEE ON ARMED SERVICES,  
Washington, DC, April 9, 2004.

Hon. GEORGE TENET,  
Director of Central Intelligence,  
Washington, DC.

DEAR MR. DIRECTOR: I am writing to request information and action relative to a series of three briefings presented by the Office of the Under Secretary of Defense for Policy (OUSDP), Douglas Feith, to several audiences, entitled "Assessing the Relationship between Iraq and al Qaeda." I believe you received a copy of these briefings as attachments to a letter written by Under Secretary Feith to me on March 25, 2004, a copy of which he sent to you.

According to Secretary Feith, the first briefing was presented to the Secretary of Defense in August, 2002. The second briefing was presented to you in August, 2002. The third briefing was presented to staff of the National Security Council (NSC) and the Office of the Vice President (OVP) in September, 2002.

I am requesting the following:

1. As these briefings contain intelligence information, I request that you declassify the briefings, to the greatest possible extent. One page used in two of the briefings (to the Secretary of Defense and to the NSC/OVP staffs) has already been declassified at my request.

2. Did the CIA see and clear these briefings before they were presented to the Secretary of Defense and to NSC and OVP staffs? If so, when? Did CIA request changes to the briefings? Given that they contain intelligence information controlled by the originating agencies, would such clearance requests be the normal course of action?

3. Please explain when you and when the CIA first learned of the existence of the OUSDP briefs; when you and the CIA first learned that this briefing was going to be (or had been) provided to the Secretary of Defense and to NSC and OVP staffs; and when the CIA first learned that a different version of the briefing was going to be (or had been) presented to NSC and OVP staffs than had been presented to the CIA.

4. Please provide the CIA's views on two aspects of these briefings: first, the substantive findings and conclusions (both implied and explicit) of the briefings; and second, the reliability of each intelligence item or report cited in the briefings.



5. Please provide your views on the appropriateness of two activities: first, the presentation by non-Intelligence Community personnel to senior policymakers or administration officials of any formal intelligence analysis that is not cleared by the Intelligence Community or made known to it; and second, the provision of comments and edits by entities outside of the Intelligence Community on the contents of Intelligence Community products, whether draft or final.

I appreciate your assistance in this request, and I look forward to your response by April 23, 2004.

Sincerely,

CARL LEVIN,  
Ranking Member.

U.S. SENATE,  
COMMITTEE ON ARMED SERVICES,  
Washington, DC, April 29, 2004.

Hon. GEORGE TENET,  
Director of Central Intelligence, Central Intelligence Agency, Washington, DC.

DEAR DIRECTOR TENET: I request that you declassify the following information:

(1) From the June 21, 2002 Counter-Terrorism Center document relating to Iraq's relationship to al Qaeda (CTC 2002-40078CH): In the Key Findings section, p. i, third bullet under the first paragraph; p. iii, second bullet; p. v in its entirety (the Scope Note); In the main body of the report, p. 6, the second section on the page (first and second columns, one paragraph and two sub-bullets).

(2) From the October 2, 2002 National Intelligence Estimate on Iraq and weapons of mass destruction (WMD) (NIE 2002-16HC): p. 68, the first non-bulleted full paragraph and the two subsequent sub-bullets.

(3) From the January 29, 2003 Counter-Terrorism Center document relating to Iraq and terrorism (CTC 2003-40004HJX): beginning on p. 16, the section that begins with the last paragraph on the page, all of page 17, and the first two bullets on page 19; p. 27, second column: the section heading and first full paragraph under the heading; and the second-to-last full paragraph.

I would expect that expeditious declassification should be possible, given that you have already declassified significant portions of the October 2002 NIE, including all the key judgments, all the text concerning uranium, and the alternative views of the State Department's Bureau of Intelligence and Research.

Please have a member of your staff call Richard Fieldhouse of the Committee staff at 202-224-0750 with any questions or requests for clarification.

I appreciate your assistance with this request and look forward to your response by May 10, 2004.

Sincerely,

CARL LEVIN,  
Ranking Member.

THE DIRECTOR OF CENTRAL  
INTELLIGENCE,  
Washington, DC, April 6, 2005.

Hon. CARL LEVIN,  
Committee on Armed Services, U.S. Senate,  
Washington, DC.

DEAR SENATOR LEVIN: I have confirmed that responses to the long outstanding requests you brought to my attention during the Senate Armed Services Committee (SASC) Global Intelligence Challenges hearing have now been provided to the Committee. As you made me aware, these requests were from last year's Worldwide Threat hearing, as well as from correspondence dating back to last April. As promised, I instructed Agency personnel to promptly complete their review and provide appropriate and meaningful answers.

You should have received answers to these requests months ago. There is no excuse for

such delays. I have conveyed to my staff that this is not how the Agency will treat requests.

Sincerely,

PORTER J. GOSS.

CENTRAL INTELLIGENCE AGENCY,  
Washington, DC, July 6, 2004.

Hon. Carl Levin,  
Ranking Democratic Member, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR LEVIN: I am responding on behalf of the Director of Central Intelligence to your letter of 9 April 2004 requesting information and action relative to a series of briefings presented by the Office of the Under Secretary of Defense for Policy, Douglas Feith, to several audiences, entitled "Assessing the Relationship between Iraq and al Qaeda." Specifically, you asked five questions. The responses to your questions are provided below.

1. As these briefings contain intelligence information, I request that you declassify the briefings, to the greatest possible extent. One page used in two of the briefings (to the Secretary of Defense and to the NSC/OVP staffs) has already been declassified at my request.

Answer: The declassification review of the charts is underway and we hope to have an answer to you shortly. We apologize for the delay.

2. Did the CIA see and clear these briefings before they were presented to the Secretary of Defense and to the NSC and OVP staffs? If so, when? Did CIA request changes to the briefings? Given that they contain intelligence information controlled by the originating agencies, would such clearance requests be the normal course of action?

Answer: CIA did not see or clear these briefings before they were given to the Secretary of Defense, NSC or OVP. The intelligence information used in these briefings was from products previously disseminated to IC and Executive Branch elements, to include DoD and the White House. There was no need for further clearance in presenting the intelligence information to the Secretary of Defense, NSC or OVP as the originator control clearance had been resolved at the time of initial dissemination.

3. Please explain when you and when CIA first learned of the existence of the OUSDP briefs; when you and the CIA first learned that this briefing was going to be (or had been) provided to the Secretary of Defense and to NSC and OVP staffs; and when CIA first learned that a different version of the briefing was going to be (or had been) presented to NSC and OVP staffs than had been presented to the CIA.

Answer: We first learned of the brief in mid-August 2002 when it was presented to the DCI. We believe it was at that point that we learned that it had been presented to senior levels in the Pentagon. We did not learn that it had been presented to the NSC and OVP or that there were different versions until earlier this year.

4. Please provide the CIA's views on two aspects of these briefings: first, the substantive findings and conclusions (both implied and explicit) of the briefings; and second, the reliability of each intelligence item or report cited in the briefings.

Answer: The CIA's January 2003 paper, Iraqi Support for Terrorism, represents the CIA views on the issues covered in the DoD slides. This paper has been provided to the Committee.

5. Please provide your views on the appropriateness of two activities: first, the presentation by non-Intelligence Community personnel to senior policymakers or administration officials of any formal intelligence anal-

ysis that is not cleared by the Intelligence Community or made known to it; and second, the provision of comments and edits by entities outside of the Intelligence Community on the contents of the Intelligence Community products, whether draft or final.

Answer: The DCI responded to a similar question from you at the 9 March 2004 hearing. He said, "My experience is that people come in and may present those kinds of briefings on their views of intelligence, but I have to tell you, Senator, I'm the President's chief intelligence officer; I have the definitive view about these subjects. From my perspective it is my view that prevails."

Lastly, in response to your 29 April 2004 letter requesting the declassification of information contained in two Counterterrorism Center publications and the October 2002 National Intelligence Estimate, the declassification review is underway and we hope to have an answer to you shortly.

Sincerely,

STANLEY M. MOSKOWITZ,  
Director of Congressional Affairs.

Mr. DOMENICI. Mr. President, I would like to express my support for John Negroponte to be the first Director of National Intelligence, DNI. I have the utmost respect for Ambassador Negroponte and confidence that he will excel in this position.

It is apparent that there is a need to improve our Nation's intelligence capabilities. The passage of the Intelligence Reform and Terrorism Prevention Act, by creating the position of Director of National Intelligence, is an important step in achieving this goal. Creating centralized leadership in the intelligence community will provide better management of capabilities and produce common standards and practices across the foreign and domestic intelligence divide. The position of DNI will better allow the intelligence community to set priorities and move resources where they are most needed. The position of DNI is going to be difficult and demanding. I believe Ambassador Negroponte's experience and character make him an excellent choice to take on this vast responsibility.

From 1960 to 1997 Ambassador Negroponte was a member of the Career Foreign Service, serving at eight different posts in Asia, Europe, and Latin America. He has been Ambassador to Honduras, Mexico, and the Philippines. Ambassador Negroponte also served as Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs and as Deputy Assistant to the President for National Security affairs.

More recently, Mr. Negroponte distinguished himself as ambassador to the United Nations, during the difficult time immediately after the terrorist attacks of September 11. Furthermore Mr. Negroponte last year became the first American Ambassador to Iraq since the fall of Saddam Hussein. In this role he played an important role in moving the nation of Iraq towards a democratic and stable future.

Ambassador Negroponte has a long and distinguished career during his more than 40 years of service to this

country. During that time he faced many challenges and difficult situations. I have the highest expectations that he will take on the assignment as Director of National Intelligence with the same dedication he has shown in the past. Under his leadership, I believe America will have the intelligence capability it so urgently needs to fight and win the continuing global war on terror.

Ms. SNOWE. Mr. President, I rise today in support of John Negroponte to be confirmed as the Director of National Intelligence. These are historic and perilous times as we continue to face enemies intent upon attacking us and the values and freedoms upon which our Nation was founded.

Because we still know very little about our Nation's most dangerous adversaries, the new Director of National Intelligence will be responsible for ensuring that this Nation's intelligence community has the collection and analytic expertise required to confront our greatest challenges no matter from which quarter they appear. While many are concerned about the emergence of China as a peer competitor in the Northern Pacific, we obviously still face the scourge of international terrorism, international criminal organizations and other transnational threats. And, of course, there remains the perplexing problem of gathering intelligence against closed societies such as Iran and North Korea so called "hard" targets.

Ambassador Negroponte has both the distinct privilege and solemn obligations that come with being the first Director of National Intelligence. How he leads, how he manages the community, how he shapes his role, the relationships he creates with the various agencies and their leaders will not only determine how effective he is in reforming our intelligence community but very likely how each of his successors will approach the oversight of our intelligence community as well. And the transformation he is charged with overseeing carries with it the future security of this Nation.

Our intelligence community professionals are the best in the world and every day they toil tirelessly, often unrecognized, in the shadows to keep this country safe. I believe they are eagerly looking for strong leadership so they can move forward with the business of securing the country.

It has been said that "A leader takes people where they want to go. A great leader takes people where they don't necessarily want to go but ought to be." I believe that John Negroponte possesses the experience and leadership necessary to take this Nation's 15 intelligence agencies and the thousands of dedicated professionals in those agencies who toil to protect us all to where they ought to be.

He has demonstrated a recognition of the need to refocus our intelligence community, so that disparate intelligence agencies are working together

more cooperatively, so that information access is improved to enable all relevant agencies to provide necessary input, and so that the intelligence products provided to national policy makers are not only timely but reflect the best judgment of the entirety of the intelligence community.

Ambassador Negroponte has taken on some of the toughest and most important jobs in our diplomatic service in his long and illustrious career as a Foreign Service Officer. He has been nominated for and confirmed as Chief of Mission in four embassies and as the President's representative to the United Nations. He has served in leadership positions within the Department of State and as a security advisor in the White House. John Negroponte has demonstrated the resolve and ability to take on tough management and policy positions and to perform admirably.

In the past 3 years, there have been four major investigations that have concluded that the time has come for significant reform in the intelligence community. In December 2002, the primary recommendation of the Joint Inquiry into the Terrorist Attacks of September 11, 2001 was that Congress should amend the National Security Act of 1947 to create a statutory Director of National Intelligence to be the President's principal advisor on intelligence with the full range of management, budgetary, and personnel responsibilities needed to make the entire U.S. Intelligence Community operate as a coherent whole.

Last July, the Senate Select Committee on Intelligence issued its Report on the U.S. Intelligence Community's Prewar Intelligence Assessments on Iraq that found that although the Director of Central Intelligence was supposed to act as head of both the CIA and the intelligence community, for the most part he acted only as the head of the CIA to the detriment of the intelligence product provided to National policymakers.

Later that month, the 9/11 Commission issued their report on the terrorist attacks and also recommended that the current position of Director of Central Intelligence should be replaced by a National Intelligence Director with two main areas of responsibility: to oversee National intelligence centers and to manage the National intelligence program and oversee the agencies that contribute to it.

Finally, earlier this month the President's Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction found the Intelligence Community is "fragmented, loosely managed, and poorly coordinated; the 15 intelligence organizations are a 'community' in name only and rarely act with a unity of purpose." They also concluded that the Director of National Intelligence will make our intelligence efforts better coordinated, more efficient, and more effective.

Clearly, with this many investigations and Commissions arriving at the

same conclusions time and again, for the sake and safety of the Nation we must begin the transformation of the fifteen agencies tasked with collecting and analyzing intelligence into a single, coordinated community with the ability to predict, respond to and overcome the threats our Nation will face. The confirmation of the first Director of National Intelligence is the first step in executing this extremely complex undertaking and time is of the essence. Indeed, I cannot recall a time when a nominee has come before the Senate with the entire community they have been nominated to lead in the midst of such sweeping transformation.

And once again, I believe the President has made an excellent choice in John Negroponte to lead the intelligence community through such a transformation.

I look forward to working with him in the coming years as we shape our intelligence community into a cohesive whole and as he defines the role of Director of National Intelligence. With a strong DNI and a focused intelligence team, our Nation will be safer. I urge my colleagues to join me in supporting the confirmation of John Negroponte the first Director of National Intelligence.

Mr. KERRY. Mr. President, the successes of the intelligence community are never really known to the American public. But the spectacular failures of the last few years have been apparent to us all. Blue-ribbon panels, presidential commissions, and common sense have all told us that the intelligence community needs reform. In recent months, with action by Congress and the administration, we've begun to see progress. With the vote on John Negroponte's nomination today, we will take an important step in giving life to the structural reforms we've debated for so many months.

John Negroponte faces a daunting challenge as the country's first Director of National Intelligence. It will be his responsibility to make intelligence reform a reality, to break-down the barriers between intelligence agencies, and to restore the credibility of the American intelligence community. There once was a time where the word of the President of the United States was enough to reassure world leaders. After the intelligence failures of the last few years, that is no longer true.

In his confirmation hearings, Mr. Negroponte identified ways to improve the intelligence process—formalizing lessons-learned exercises across the community; utilizing "Team B" analyses to avoid self-reinforcing analysis premised on faulty assumptions; improving inter-agency and community-wide cooperation; and removing barriers between foreign and domestic intelligence. He must also be able to work effectively with Secretary Rumsfeld and the Department of Defense—and its 80 percent of the intelligence

budget—to really reform the community. Many of us in Congress will support his efforts, and I urge President Bush to be steadfast in this regard as well.

But Mr. Negroponte's most immediate and urgent task will be to speak truth to power. When the intelligence does not support the policy goals or ambitions of the administration, Mr. Negroponte must never flinch, never waiver, never compromise one iota of his integrity or the integrity of the intelligence. He must also be willing to push analysts to challenge assumptions, consider alternatives, and follow the evidence wherever it may lead them. And when they do, he must back them with the full authority of his office.

Today we face many threats, the dangerous legacy of the Cold War in vast nuclear arsenals, the spread of weapons of mass destruction, the spread of terrorism, lingering disputes in various regions of the world, and new forces, like globalization, all crying out for leadership by the United States. The decisions policy makers make are influenced by many factors. But on issues of war and peace, on protecting this country, on determining our long-term national security needs and the direction of our foreign policy, there is no substitute for intelligence that is accurate, timely, and trusted.

Mr. Negroponte will shape the role of Director of National Intelligence in fundamental ways. He will be judged on whether or not America is safer at the end of his tenure than when he starts. For the sake of us all, I hope he succeeds.

Mr. WARNER. Mr. President, I strongly support the nomination of Ambassador John D. Negroponte to be the first Director of National Intelligence.

This is not a moment without precedent in history. President Roosevelt faced a similar situation in 1941 when he had disparate intelligence and information gathering organizations within the government, but did not have a single person in charge. President Roosevelt convinced a reluctant Colonel William J., Wild Bill, Donovan to be the first "Coordinator of Information," an organization that eventually became the Office of Strategic Services, OSS, and ultimately, the Central Intelligence Agency.

I would like to read a quote from the book, "Donovan of O.S.S.," by Corey Ford:

The appointment of Colonel Donovan as director of COI was formally announced by executive order on July 11, 1941, and his duties were defined in Roosevelt's own words: "To collect and analyze all information and data which may bear upon national security, to correlate such information and data and make the same available to the President and to such departments and officials of the Government as may the President may determine, and to carry out when request by the President such supplementary activities as may facilitate the securing of information important for national security not now available to the Government."

The directive was purposely obscure in its wording, due to the secret and potentially offensive nature of the agency's functions; and the other intelligence organizations, jealous of their prerogatives, took advantage of the vague phraseology to set loose a flock of rumors that Donovan was to be the Heinrich Himmler of an American Gestapo, the Goebbels of a controlled press, a super-spy over Hoover's G-men and the Army and Navy, the head of a grand strategy board which would dictate even to the General Staff. In vain, the President reiterated that Donovan's work, "is not intended to supersede or to duplicate or to involve any direction of or interference with the activities of the General Staff, the regular intelligence services, the Federal Bureau of Investigation, or of other existing agencies." The bureaucratic war was on.

It was a war all too familiar to Washington, the dog-eat-dog struggle among government departments to preserve their own areas of power.

Ambassador Negroponte and General Michael Hayden, USAir Force, his deputy, face a similar situation today, and I wish them well.

Some have said the Intelligence Reform and Terrorism Prevention Act of 2004 uses similarly "vague phraseology" in describing the authorities and responsibilities of the new Director of National Intelligence. Some say that Roosevelt was intentionally vague to allow the strong personality of Wild Bill Donovan to make this new intelligence organization work.

I think we have two very strong personalities in Ambassador Negroponte and General Hayden who are up to the task and will make this new Office of National Intelligence work. Their work will be even more effective as they forge strong alliances with their colleagues in other departments of Government.

As Ambassador Negroponte begins this important effort, I know he is mindful on the balance that must be maintained between the needs of national policy makers, military commanders on distant battlefields, and local and national homeland security officials, who are all charged with the safety and security of the American homeland. The support these elements enjoy today has not always been the case. When General Norman Schwarzkopf testified before the Senate Armed Services Committee in June 1991 regarding lesson learned during the first Persian Gulf War, he told the committee that responsive national intelligence support has been unsatisfactory from his perspective as the theater commander in charge of combat operations. Clearly, much has changed since 1991, but we must all remain vigilant in ensuring that intelligence support for our men and women in uniform is maintained and enhanced.

Ambassador Negroponte has a strong record of public service as the U.S. Ambassador to Honduras, Mexico, the Philippines, the United Nations, and most recently, Iraq. He has a great reputation as a problem solver who can be counted on for the epitome of candor and integrity.

John Negroponte has served his Nation faithfully and well. His willingness to take on this daunting challenge is a testament to a man who understands service to Nation and has, once again, answered the call to serve. We are fortunate to have a citizen of such character to undertake this important and challenging task of bringing our Intelligence Community together as a coherent, well-coordinated entity.

I strongly support confirmation of Ambassador John D. Negroponte to be the first Director of National Intelligence, and hope the spirit of Wild Bill Donovan guides and inspires his efforts.

Mr. HATCH. Mr. President, today I rise to give my enthusiastic vote of support for President Bush's nominee to be this Nation's first Director of National Intelligence. I have known Ambassador Negroponte for over 20 years, and his professional career as one of our Nation's best diplomats began 20 years earlier. And rarely have I voted in support of a Presidential nominee with greater confidence. I trust that my colleagues will lend their support unanimously to the President's selection for a position we are anxious to fill.

As he assumes the position we created last year to unify the intelligence community's capabilities as they have never been unified before, I offer Ambassador Negroponte my complete support, with three points to consider.

First, as I have told the nominee, this will be the most difficult job he will ever hold. And I say this to the man who has just returned from serving as our first ambassador to a liberated Iraq. During Ambassador Negroponte's nomination hearing two weeks ago, the distinguished chairman of the Senate Select Intelligence Committee, who also has my greatest respect, while reviewing the job requirements for the new position of DNI, candidly asked the nominee: "Why would you want this job?"

The answer, for those who know him, is that Ambassador Negroponte has always responded to the call by his country to take on difficult challenges. And we in the Senate have supported him by confirming him, to date, seven times.

Second, as I also told the nominee, and I have said to my colleagues: Osama bin Laden is not quaking in his hideaway because we have created the position of Director of National Intelligence. Let us be candid to ourselves about this. Too often in Washington, a bureaucratic response is mistaken for a solution. I hope we all recognize, after the years of discussing reform, that the legislation we passed last year initiates the beginning, not the end of reform.

And this leads to my third point. Ambassador Negroponte's mission, once we confirm him, is to take the elements of the intelligence community and de-Balkanize them. His mission will be to create a whole that is greater than the sum of the intelligence community parts. He will do

this by achieving what we call jointness between all parts of the community. When he does that—and this will have to do as much with creating new doctrine, and creating community culture that integrates this doctrine—then will our already impressive elements we have in our community be able to advance our security. Only then will we be creating the 21st century global intelligence capabilities that will make bin Laden's inevitable successors and wannabees sweat and run.

In my conversations with Ambassador Negroponte about his new brief, I have shared some of my ideas with him, and I have found him to be welcoming of these and all ideas. He understands the problems we face, as he has been a consumer of intelligence for most of his career, and he has spent his last tour in Iraq confronting the challenge of multiple armed groups dedicated to collaborating against us. I believe he knows what we need, and I know he is determined to take the impressive technological and human capacities already in place in our intelligence community and take it to the level necessary to give the American public a strategic intelligence capability we need and must have.

I believe Ambassador Negroponte has always served this country honorably. As we confirm him today, which I trust we will, I offer him my support and, once again, gratitude for choosing to serve his country in one of the most challenging positions in our history.

Ms. MIKULSKI. Mr. President, one of my top priorities is the real reform of our Nation's intelligence. The Intelligence Reform Act of 2004 was a first step toward transforming the U.S. intelligence community. Information sharing will be strengthened, while diverse opinion and independent analysis will be protected.

The single most important provision in the act was the creation of a Director of National Intelligence, who would have authority, responsibility, and financial control over the entire intelligence community.

The President has nominated an experienced diplomat to be Director of National Intelligence. Ambassador John D. Negroponte has worked hard for his country and has made personal sacrifices. When his country called, he has exposed himself to hardship and danger most notably in Vietnam and in Iraq.

He has also had extensive exposure to U.S. intelligence products and operations. He had intelligence coordination responsibilities in Washington on the National Security Council. He recently had responsibility for leading the U.S. Embassy in Baghdad during a time when intelligence on the Iraqi insurgency had the highest priority.

Yet I have serious concerns with certain aspects of Ambassador Negroponte's record—particularly his actions while he was ambassador to Honduras. There is a serious discrepancy between his description of the

Honduran government's human rights record during those years and that of the CIA Inspector General and non-governmental organizations. He has yet to show complete candor in discussing U.S. activities there with the Congress.

I believe that Ambassador Negroponte could have been more outspoken in reporting from his vantage point at the United Nations in the winter of 2003—when our country was on the verge of war.

Despite these concerns, I will vote for the confirmation of Ambassador Negroponte. I am encouraged by his responses to my questions during hearings before the Senate Select Committee on Intelligence.

In a very important exchange, he provided assurances that he will "speak truth to power." In response to my questions, Ambassador Negroponte said he would make sure that reliability problems with sources are put before decisionmakers. He agreed to explore mechanisms like the State Department's Dissent Channel to encourage those who see yellow flashing lights to express their views to senior officials and to protect dissenters from political retaliation. And he said that he himself would be taking the "unvarnished truth" to the President. He also said that all organizations under his purview will obey the law and that there will be full accountability.

These assurances are critical. My vote to confirm Ambassador Negroponte is based on them. As a member of the Senate Select Intelligence Committee, I will be watching closely to see that they are honored and will do what I can to contribute to Ambassador Negroponte's success as the first Director of National Intelligence.

Mr. FRIST. Mr. President, it is my pleasure to support the nomination of Ambassador John Negroponte to the post of Director of National Intelligence.

Mr. Negroponte is superbly qualified for this new and challenging position. I applaud the President on his choice of candidate. Last week, Mr. Negroponte was approved by the Senate Select Committee on Intelligence. I expect he will be confirmed with overwhelming, bipartisan support here on the Senate floor.

Mr. Negroponte's career in public service spans four decades and three continents. He has served in Europe, Asia and Latin America. He speaks five languages fluently, and has won Senate confirmation for 7 previous posts. He is widely regarded as one of our most distinguished and respected public officials.

Among his many career highlights, Mr. Negroponte has served as Ambassador to Honduras, Ambassador to Mexico, Ambassador to the Philippines, and Ambassador to the United Nations. He has served under multiple presidents, Republican and Democrat.

In 2004, President Bush nominated Mr. Negroponte to serve as our Ambassador to the newly liberated Iraq.

As his background attests, Mr. Negroponte has tackled many difficult and sensitive missions. He has also earned a reputation as a skilled manager—skills he will surely need in the job ahead.

As Director of National Intelligence, Mr. Negroponte will be responsible for overseeing the entire intelligence community. It will be Mr. Negroponte's job to keep America safe by bridging the gaps between our 15 intelligence agencies and improving information sharing between agencies.

He will determine the annual budgets for all National intelligence agencies and offices, and direct how these funds are spent. The Director will also report directly to the President.

It is a tough job and a tremendous responsibility. But I am confident that Mr. Negroponte will work hard to make the necessary reforms to help keep America safe.

We learned on 9-11 that the enemy is deadly and determined. He doesn't wear a uniform or march under a recognized flag. He hides in the shadows where he plots his next attack.

Dangerous weapons proliferation must be stopped. Terrorist organizations must be destroyed. And we must have an intelligence community that works together to confront these very real dangers so that we never suffer another 9-11 or worse.

I look forward to Mr. Negroponte's swift confirmation. He has served our country with honor and distinction over many years. America is fortunate to have a public servant of his caliber working hard on our behalf.

Mr. CORZINE. Mr. President, I rise today in support of the confirmation of John Negroponte to be our Nation's first Director of National Intelligence. This is a historic moment, and a critical step toward making our nation more secure. But it is also only the beginning of what will be a long and challenging effort to reform and improve our intelligence capabilities.

It is worth recalling how we got here. The establishment of the Director of National Intelligence would not have happened had it not been for the patriotism and passion of some remarkable Americans. Let me begin with the families of the victims of 9/11 who managed to turn their grief into real, effective action. The Family Steering Committee and, in particular, four 9/11 widows from my State who called themselves the "Jersey Girls," fought for real answers. They pushed for the creation of the 9/11 Commission, whose recommendations included the position for which Mr. Negroponte is being confirmed today. They also insisted that the administration cooperate fully with the Commission as it sought a full accounting of the terrorist attack. They did all this for one reason: they wanted America to be safer than it was on the day they lost their loved ones.

We also owe an enormous debt to the 9/11 Commission, led by former New Jersey Governor Tom Kean and former Congressman Lee Hamilton. The Commission's hard work, persistence, intellectual honesty, and political neutrality brought about something truly incredible: a national consensus. The Commission's meticulous and thorough study of the events leading up to and including September 11 and its wise and succinct recommendations gave us an understanding of the past and a path forward. And, by involving the American people in their deliberations, they helped generate public support for much needed reform.

It is almost impossible to overstate the challenges ahead for the new Director of National Intelligence. The intelligence failures that led to the terrorist attack of September 11, 2001, happened in part because of a lack of coordination among our intelligence agencies. It is the DNI's job to resolve this problem. Mr. Negroponte will need the President's support. He will also need Congress' support. He has mine.

The DNI will also have to correct the intelligence failures that led to the war in Iraq. That includes ensuring that intelligence analyses are objective and that those analyses are used appropriately by policy makers. The DNI will need to speak truth to power, to tell policymakers the hard truth about what we know and what we don't know. Intelligence must guide policy, and not vice versa.

Our intelligence serves many purposes, from informing foreign policy to supporting tactical military decisions. The new DNI will be responsible for guiding our priorities. But this position would not have been created had we not been attacked on our soil, on September 11, 2001. The intelligence community has new consumers: the Department of Homeland Security, Federal, State and local government officials, law enforcement and our Nation's first responders. It is critical that these people have the information they need to protect us.

Mr. Negroponte is highly qualified for this position and I am proud to support his confirmation. But he cannot do this alone. This and future administrations and the Congress must stay engaged in and remain committed to the hard work of intelligence reform.

Mr. LIEBERMAN. Mr. President, I rise today to express my support for this historic nomination of Ambassador John Negroponte to be the first Director of National Intelligence named under the Intelligence Reform and Terrorism Prevention Act of 2004—the most sweeping reform of the intelligence community in over 50 years. With this appointment, we will finally have a single official with the authority, responsibility, and accountability to lead a more unified and more integrated intelligence community capable of avoiding the unacceptable intelligence failures recounted in excruciating detail by the independent 9/11

Commission and, more recently, by the President's WMD Commission.

I am confident Ambassador Negroponte is up to this admittedly difficult task. With a career in public service spanning over four decades, Ambassador Negroponte has demonstrated the commitment and determination this post demands. His service in numerous Foreign Service posts across Asia, Europe, and Latin America—and most recently as the U.S. Ambassador to Iraq—has certainly provided him with the global perspective of our intelligence needs that the position requires. And, having served in senior positions here in Washington at the State Department and at the National Security Council, Ambassador Negroponte has developed the bureaucratic skills that the DNI must exercise in order to be effective.

The most important factor in whether Ambassador Negroponte—indeed, whether the entire intelligence reform effort—succeeds, is the degree of support provided by President Bush and the White House in the early but formative stages of this process. The path toward reform is always a difficult one, particularly with the likely array of bureaucratic and institutional obstacles the DNI is likely to confront. As the WMD Commission candidly recognized, “The Intelligence Community is a closed world, and many insiders admitted to us that it has an almost perfect record of resisting external recommendations.” It should come as no surprise that the array of strong statutory authorities provided to the DNI under the legislation can, in and of itself, only accomplish so much; implementation will now be the crucial test, and the President must show the same level of commitment he demonstrated during the final push to pass the intelligence reform legislation in the last Congress.

I am encouraged in this regard by the President's remarks in announcing the nomination of Ambassador Negroponte. President Bush said:

In the war against terrorists who target innocent civilians and continue to seek weapons of mass murder, intelligence is our first line of defense. If we're going to stop the terrorists before they strike, we must ensure that our intelligence agencies work as a single, unified enterprise. And that's why I supported, and Congress passed, reform legislation creating the job of Director of National Intelligence.

As DNI, John will lead a unified intelligence community, and will serve as the principle advisor to the President on intelligence matters. He will have the authority to order the collection of new intelligence, to ensure the sharing of information among agencies, and to establish common standards for the intelligence community's personnel. It will be John's responsibility to determine the annual budgets for all national intelligence agencies and offices and to direct how these funds are spent. Vesting these authorities in a single official who reports directly to me will make our intelligence efforts better coordinated, more efficient, and more effective.

Unfortunately, we had no single official who effectively forged unity of ef-

fort across the intelligence community prior to September 11. We had no quarterback. Prior to this legislation, the Director of Central Intelligence (DCI) had three jobs: No. 1. principal intelligence advisor to the President; No. 2. head of the CIA; and No. 3. head of the intelligence community. As the 9/11 Commission concluded: “No recent DCI has been able to do all three effectively. Usually what loses out is management of the intelligence community, a difficult task even in the best case because the DCI's current authorities are weak. With so much to do, the DCI often has not used even the authority he has.”

The new Director of National Intelligence has two main responsibilities: to head the intelligence community and to serve as principal intelligence advisor to the President. As principal advisor to the President, the DNI is responsible—and accountable—for ensuring that the President is properly briefed on intelligence priorities and activities. The CIA Director will now report to the DNI, who is not responsible for managing the day to day activities of that agency while also heading the intelligence community. In fact, the legislation specifies that the Office of the DNI may not even be collocated with the CIA or any other element of the intelligence community after October 1, 2008.

As head of the intelligence community, the DNI will have—and must effectively use—the wide range of strong budget, personnel, tasking, and other authorities detailed in the legislation to forge the unity of effort needed against the threats of this new century. I am pleased that Ambassador Negroponte, appearing before the Senate Select Committee on Intelligence, indicated he has heeded the advice from many quarters, including the President's WMD Commission, to push the envelope with respect to his new authorities.

Perhaps the most significant of these authorities is the DNI's control over national intelligence funding, now known as the National Intelligence Program NIP. Money equals power in Washington, or to paraphrase one of the witnesses who testified before the Senate Homeland Security and Governmental Affairs Committee as we drafted the intelligence reform legislation, former DCI James Woolsey: “The Golden Rule in Washington is that he who has the gold, makes the rules.” For instance, with respect to budget development, the bill authorizes the DNI to “develop and determine” the NIP budget—which means that the DNI is the decision-maker concerning the intelligence budget and does not share this authority with any department head.

Once Congress passes the national intelligence budget, the DNI must “ensure the effective execution” of the NIP appropriation across the entire intelligence community whether the funds are for the CIA, NSA, the Federal Bureau of Investigation, or any element of the intelligence community.

The Director of the Office of Management and Budget must apportion those funds at the "exclusive direction" of the DNI. The DNI is further authorized to "direct" the allotment and allocation of those appropriations, and department comptrollers must then carry out their responsibilities "in an expeditious manner." In sum, the DNI controls how national intelligence funding is spent across the executive branch, regardless of the department in which any particular intelligence element resides.

In order to marshal the necessary resources to address higher priority intelligence activities, the DNI has significantly enhanced authorities to transfer funds and personnel from one element of the intelligence community to another. And, in addition to these budget and transfer authorities, the legislation provides the DNI with many new and increased authorities by which to effectively manage the sprawling intelligence community and force greater integration and cooperation among intelligence agencies. The DNI has the power to develop personnel policies and programs, for example, to foster increased "jointness" across the intelligence community—like the Goldwater-Nichols Act accomplished in the military context. The DNI also has the authority to exercise greater decision-making with respect to acquisitions of major systems, such as satellites, to task intelligence collection and analysis, and to concur in the nominations or appointments of senior intelligence officials at the Departments of Defense, Homeland Security, Treasury, State, and Energy, the FBI, and elsewhere across the executive branch.

More important than any individual authority, however, is the sum total. There is no longer any doubt as to who is in charge of, or who is accountable for, the performance of the United States intelligence community. It is the DNI. Until exercised in practice, however, these authorities are simply the words of a statute. And, unless exercised, they will atrophy. Timidity, weakness, even passivity are not an option. History will judge harshly a DNI who squanders this opportunity to spread meaningful and lasting reform across the intelligence community. And our national security depends upon it.

I fully anticipate that Ambassador Negroponte will rise to the occasion. He must, and I believe he will, hit the ground running, boldly face the inevitable challenges and frustrations that lie ahead, and aggressively assert the authorities with which he has been provided. But the DNI will not be alone. With the full support of the President, the Joint Intelligence Community Council—composed of the Secretaries of State, Treasury, Defense, Energy, Homeland Security, and the Attorney General—will advise the DNI and make sure the DNI's programs, policies, and directives are executed within their respective departments in a timely man-

ner. And, if confirmed, the President's nominee for Principal Deputy DNI, NSA Director Lieutenant General Michael Hayden, will be a most valuable asset in leading the reform effort.

We have largely provided Ambassador Negroponte with the flexibility to establish the Office of the DNI as he sees fit in order to accomplish the goal of reform. In addition to his Principal Deputy, he may appoint as many as four other deputies with the duties, responsibilities, and authorities he deems appropriate. And, in addition to the National Counterterrorism Center, which is specifically mandated under the legislation, Ambassador Negroponte is authorized to establish national intelligence centers, apart from any individual intelligence agency, to drive community-wide all-source analysis and collection on key intelligence priorities. These national intelligence centers have significant potential to shift the center of gravity in the intelligence community from individual stove-piped agencies toward a mission-oriented integrated intelligence network.

In sum, we have provided Ambassador Negroponte with the tools to get the job done. Now, with the backing of the President, he must use those authorities to transform the intelligence community as envisioned by the 9/11 Commission, expected by Congress, and needed for the security of the American people. On September 11, 2001, it became painfully evident that the threats we face as a nation had evolved, and that our national security structure needed to evolve accordingly. Ambassador Negroponte will now have the opportunity to help our intelligence community meet these new security challenges. I wish him well.

Mr. BUNNING. Mr. President, I speak today on the nomination of John Negroponte to be the first Director of National Intelligence. I want to express my full support for his confirmation.

John Negroponte is without question one of the most qualified public servants to fill this position. Over the past four decades he has continually worked to advance American policy both domestically and abroad.

He is a career diplomat and served in the United States Foreign Service from 1960 to 1997. Among his most notable posts are Vietnam, the Philippines, Honduras and Mexico.

After the Foreign Service, Mr. Negroponte was appointed as the U.S. Ambassador to the United Nations from September 2001 until June 2004. After that, he was confirmed overwhelmingly by the Senate as the first U.S. Ambassador to the new democratic Iraq.

Throughout his ambassadorship in Iraq, he received immense praise even from the harshest of critics for his removal of corruption in the reconstruction effort in Iraq. He later oversaw, what many deemed impossible—the first successful Iraqi democratic elections. As we have seen through his

leadership in Iraq, democracy has quickly taken root in the country and I believe it will continue to grow.

While the position of the Director of National Intelligence is new to our Government, I am confident that Mr. Negroponte will be successful in his endeavors to create a united intelligence entity. His experience and success in Iraq will serve him well in this new position.

Intelligence reform is an issue that we know all too well. It has been widely addressed in a variety of government bodies since September 11 and continues to be the topic of many debates. I commend President Bush in his efforts to directly confront this problem and to create a more unified and efficient intelligence apparatus.

I am confident the Senate will overwhelmingly confirm Mr. Negroponte. I wish him well in his new position and with the daunting task of reforming our intelligence agencies. It is not an easy one. Despite this challenge, I believe he will make our intelligence efforts better coordinated, more efficient and more effective.

Mr. SALAZAR. Mr. President, I rise in support of Ambassador John Negroponte's nomination to be the first Director of National Intelligence.

I am pleased President Bush filled this critical position, and pleased that the Senate Intelligence Committee moved with such dispatch to move him through the process. The Director of National Intelligence will be one of the most difficult jobs in Washington. The director will have to integrate information from 15 Federal agencies involved in gathering anti-terrorism information.

To break down the boundaries that fracture our intelligence community, Negroponte will have to draw on more than 40 years' experience in the Foreign Service. He served as U.S. ambassador to the United Nations from 2001 until last June, when he became the first U.S. ambassador to Iraq since the 1991 Gulf War. He served in the U.S. Embassy in Vietnam from 1964 to 1968 and has been ambassador to Mexico, the Philippines and Honduras.

Mr. Negroponte is going to have to take advantage of his closeness with President Bush to overcome some of the institutional inertia within the intelligence community. However, Negroponte cannot allow that closeness to be a double-edged sword. The DNI needs to be an independent voice. He needs to be able to withstand pressure from the President and report threats to American security as they are, not as others want them to be.

I hope that Ambassador Negroponte will make it a priority to improve the flow of accurate, timely and actionable intelligence to state and local security officials.

Right now, local officials—our front line in the battle for homeland security—are getting intelligence from a dozen Federal terrorism watch lists. They get conflicting or incomplete

data or information that has no impact on them. They don't have the resources and expertise to process intelligence, form a complete picture of the threats they face, and what steps they can take.

We need to move away from a "need-to-know" intelligence culture to a "need-to-share" one. State and local emergency officials represent more than 800,000 sworn law enforcement officers and 95 percent of America's counter-terrorism capability. They are on the front lines of the war on terror and they need better information in order to protect us.

I recognize that will be difficult to do, and I also recognize that the solutions to this problem will require new thinking. But after serving with Colorado's police officers for 6 years as Attorney General, I also know that the current system of information and intelligence sharing is absolutely insufficient. We can do better—and we must do better.

Mr. REID. Mr. President, I rise to express my support for the nominations of Ambassador John Negroponte and General Michael Hayden to be Director and Deputy Director of National Intelligence.

The Senate's swift action on these two nominations is but the latest example of how the Senate's confirmation process should work, and, for the vast majority of President Bush's nominees, has worked.

It is really a simple formula for success: the President puts forward good, qualified nominees and the committee of jurisdiction and the full Senate act expeditiously to approve the nomination.

In nominating Ambassador John Negroponte and General Michael Hayden to be Director and Deputy Director of National Intelligence, the President has put forward people with long years of dedicated service to the country.

Some have concerns about Ambassador Negroponte's previous service on Latin American issues, and these questions are certainly legitimate to explore.

Ambassador Negroponte and General Hayden are men who have wide support across both parties, men who have proven track records as professional public servants.

Together, these two men are good choices for the important new positions at the top of our intelligence community.

With Ambassador Negroponte's recent experience in Iraq, long experience in diplomatic matters, and years of time as a "customer" of intelligence, I am hopeful he will focus on improving how intelligence is used.

It is essential that he put in place the personnel and processes necessary to help the intelligence community avoid future colossal failures like Iraq, where in an effort to make the case for the use of force there, the President and the intelligence community repeatedly asserted that Saddam possessed weapons of mass destruction.

As has become increasingly clear over time, Saddam did not possess stockpiles of these terrible weapons and a number of questions have been raised about whether the administration shaped or misused the available intelligence.

Never again should a Secretary of State be sent in front of the United Nations to make the President's case for war based on evidence that was so terribly flawed.

If Ambassador Negroponte can prevent such misuse of intelligence, and speak truth to power, he will be a successful Director.

If Ambassador Negroponte is to succeed in developing the right intelligence and ensuring that it is used properly, he will have to dramatically transform our intelligence agencies.

In the intelligence reform bill we passed last year, we demanded that someone take charge of improving the intelligence agencies' performance. In that bill, we gave him the tools and the mandate needed.

Working with his Deputy Director, General Hayden, who has nearly 3 decades of experience in transforming intelligence as a military officer, I expect Ambassador Negroponte to transform the intelligence community.

The first step in this critical transformation must be to dramatically improve our intelligence collection capabilities, especially our human intelligence efforts, against the 21st century threats of terrorism and the proliferation of weapons of mass destruction.

I hope these nominees will maximize their use of the strong, new authorities Congress provided them in last year's bill. Our Nation's security rests in large measure on their efforts. I wish them every success in their endeavors.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, if there is no other Member on our side who wishes to speak, I yield back the remainder of my time.

Mr. WYDEN. I may be the only one with time remaining and I yield back the remainder of my time as well.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. ROBERTS. Mr. President, I yield back all time on the pending nomination, other than the 5 minutes that will be reserved for Senator STEVENS; provided further that the vote on the confirmation of the nomination occur at 3:45 today. I further ask that at 3:30 today the Senate resume consideration of the emergency supplemental bill for the final 15 minutes of debate and that

the votes scheduled on the two amendments and final passage occur immediately following the vote on the Negroponte nomination. I ask that all votes in the sequence after the first be limited to 10 minutes in length and that there be 2 minutes for debate equally divided between the votes. Finally, I ask unanimous consent that following this consent, the Senate proceed to a period for morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

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

#### MORNING BUSINESS

#### THE BOLTON NOMINATION

Mr. SMITH. Mr. President, I rise today to speak in behalf of John Bolton to be the U.S. Permanent Representative to the United Nations. I know this nomination is gaining controversy. Yet the more I listen to it, I realize there may be an attempt to kill his nomination from a thousand cuts.

It is not unusual in this town to see someone with a strong personality being subject to all kinds of innuendo and charges and hearsay. Certainly all of these things warrant investigation so that the Senate can perform its advise and consent duty. However, I think it is also very important we remember the President's right to nominate the individuals he believes are important in order to pursue his policies after his election, an election he earned at the ballot box, and the right conferred upon him by the Constitution.

I rise here not as an opponent of the United Nations, but as one deeply disappointed in the United Nations in the 9 years in which I have served as a Senator. The U.N. is going through a challenging period, one that is raising questions about its effectiveness and ability to fulfill its mission on a global scale. New and unprecedented challenges face the United States and our allies. We cannot solve all the world's problems on our own. We need to continue to work with our allies to combat threats around the world, especially the threat of terrorism and the spread of weapons of mass destruction, for those two factors in combination probably pose the greatest security threat to our Nation and the civilized world.

An efficient and effective United Nations can still play a valuable role in world affairs. The U.N. demonstrated this by its response to the tsunami disasters that befell Indonesia, India, Sri Lanka, Thailand and the other nations