Mullen, Admiral, U.S. Navy, Chief of Naval Operations; T. Michael Moseley, General, U.S. Air Force, Chief of Staff; James T. Conway, General, U.S. Marine Corps, Commandant of the Marine Corps, be printed in the RECORD.

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

THE JOINT CHIEFS OF STAFF,
Washington, DC, April 2, 2007.

Hon. THAD COCHRAN,
Ranking Member, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR COCHRAN: On behalf of the Soldiers, Marines, Sailors and Airmen of our Armed Forces and their families, please accept our thanks and appreciation for continuing to provide the necessary resources and legislation to fight the Long War.

With the increasing pace of operations and materiel needs in Iraq and Afghanistan, we ask that the Congress expeditiously complete its work on the Fiscal Year 2007 Emergency Supplemental. Timely receipt of this funding is critical to military readiness and force generation as we prosecute the war on terror. Given the current status of this legislation, we are particularly concerned that funding could be significantly delayed.

Without approval of the supplemental funds in April, the Armed Services will be forced to take increasingly disruptive measures in order to sustain combat operations. The impacts on readiness and quality of life could be profound. We will have to implement spending restrictions and reprogram billions of dollars. Reprogramming is a short-term, cost-inefficient solution that wastes our limited resources. Spending restrictions will delay and disrupt our follow-on forces as they prepare for war, possibly compromising future readiness and strategic agility. Furthermore, these restrictions increase the burden on service members and their families during this time of war.

Thank you again for your unwavering support of our service members and their families. We are grateful for your steadfast interest in providing them the best equipment, the best training and a quality of life equal to the quality of their service. We look forward to working with you on measures to enhance our Nation's security.

Sincerely,

PETER J. SCHOOMAKER,
General, U.S. Army, Chief of Staff.
MICHAEL G. MULLEN,
Admiral, U.S. Navy, Chief of Naval Operations.
T. MICHAEL MOSELEY,
General, U.S. Air Force, Chief of Staff.
JAMES T. CONWAY,
General, U.S. Marine Corps, Commandant of the Marine Corps.

Mr. COCHRAN. Mr. President, I yield back the remainder of the time available on this side.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COURT SECURITY IMPROVEMENT ACT OF 2007

The PRESIDING OFFICER. The Senate will resume consideration of S. 378, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 378) to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members and for other purposes.

Mr. LEAHY. Mr. President, today we continue to debate and consider the Court Security Improvement Act of 2007. It should not be a struggle to enact this broadly supported consensus legislation. We made some progress yesterday but failed to get to final passage of this important legislation. I hope we can get there later today.

I would like to thank the majority leader for his support and leadership on this bill. Senator REID knows all too well about the need for greater court security since the last courthouse tragedy occurred in Nevada. Nobody has been a stronger supporter of this legislation. He helped us pass similar protections twice last year. It is no surprise to me that yesterday he met with the head of the U.S. Marshals Service. Sadly, they reported a 17 percent increase in attacks this year. We cannot delay our response any further in the face of this trend.

Senator DURBIN, our assistant majority leader, has been consistently dedicated to getting this legislation passed. The tragic murder of Judge Lefkow's husband and mother in her home State of Illinois serves as a terrible reminder of why we need this legislation. Senator DURBIN has worked tirelessly to prevent any further tragedies from befalling our Federal judges.

As I have noted before, this legislation has broad bipartisan support. Yesterday Senator CORNYN gave a powerful statement in support of this legislation. Senator CORNYN is a former member of his State's judiciary. I urge Members to consider his views and support for these important provisions providing for increased security. Even the White House has issued a supportive Statement of Administration Policy.

Yesterday a number of amendments were filed, but none of them was relevant to the important purpose of court security. There will be other opportunities to consider worthwhile amendments. I look forward to working with Senator COBURN on Department of Justice reauthorization later this year.

We made some progress yesterday. The Senate adopted the Kyl-Feinstein amendment that was adopted in committee. I thank Senator SPECTER for working with me on an important managers' amendment. That amendment made several technical fixes and clarified our treatment and protection of magistrate judges and the Tax Court judges.

Last night after significant debate we had a vote on an amendment offered by Senator COBURN. Regretfully, it took from 10:30 a.m. to 5:30 p.m. for the Senator from Oklahoma to be ready to offer his amendment. Once offered we dealt with it promptly.

I would like to thank Senator WHITEHOUSE for helping me manage this bill yesterday. His eloquent words in support of this legislation were much appreciated.

I thank Senators KLOBUCHAR and BROWN for helping me manage this legislation today during the Judiciary Committee's oversight hearing with Attorney General Alberto Gonzales.

I hope that today we can finish our work on this important legislation.

Mr. BROWN. Mr. President, I understand the Senator from Nevada has an amendment he wishes to offer.

AMENDMENT NO. 897.

Mr. ENSIGN. Mr. President, I call up amendment No. 897.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 897.

Mr. ENSIGN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend title 28, United States Code, to provide for the appointment of additional Federal circuit judges, to divide the Ninth Judicial Circuit of the United States into 2 circuits, and for other purposes)

At the end of the bill, add the following:

TITLE VI: NINTH CIRCUIT SPLIT

SEC. 601. SHORT TITLE.

This title may be cited as the ''The Circuit Court of Appeals Restructuring and Modernization Act of 2007''.

SEC. 602. DEFINITIONS.

In this title:

(1) FORMER NINTH CIRCUIT.—The term ''former ninth circuit'' means the ninth judicial circuit of the United States as in existence on the day before the effective date of this title.

(2) NEW NINTH CIRCUIT.—The term ''new ninth circuit'' means the ninth judicial circuit of the United States established by the amendment made by section 603(2)(A).

(3) TWELFTH CIRCUIT.—The term ''twelfth circuit'' means the twelfth judicial circuit of the United States established by the amendment made by section 603(2)(B).

SEC. 603. NUMBER AND COMPOSITION OF CIRCUITS.

Section 41 of title 28, United States Code, is amended—

(1) in the matter preceding the table, by striking ''thirteen'' and inserting ''fourteen''; and

(2) in the table—

(A) by striking the item relating to the ninth circuit and inserting the following:

''Ninth	California, Guam, Hawaii, Northern Mariana Islands.''

and

(B) by inserting after the item relating to the eleventh circuit the following:

''Twelfth	Alaska, Arizona, Idaho, Montana, Nevada, Oregon, Washington.''.

SEC. 604. JUDGESHIPS.

(a) NEW JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate, 5 additional circuit judges for the new ninth circuit court of appeals, whose official duty station shall be in California.

(b) TEMPORARY JUDGESHIPS.—

(1) APPOINTMENT OF JUDGES.—The President shall appoint, by and with the advice and consent of the Senate, 2 additional circuit judges for the former ninth circuit court of appeals, whose official duty stations shall be in California.

(2) EFFECT OF VACANCIES.—The first 2 vacancies occurring on the new ninth circuit court of appeals 10 years or more after judges are first confirmed to fill both temporary circuit judgeships created by this subsection shall not be filled.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 605. NUMBER OF CIRCUIT JUDGES.

The table contained in section 44(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

''Ninth ..... 20''

and

(2) by inserting after the item relating to the eleventh circuit the following:

''Twelfth ..... 14''.

SEC. 606. PLACES OF CIRCUIT COURT.

The table contained in section 48(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

''Ninth	Honolulu, Pasadena, San Francisco.''

and

(2) by inserting after the item relating to the eleventh circuit the following:

''Twelfth	Las Vegas, Phoenix, Portland, Seattle.''.

SEC. 607. LOCATION OF TWELFTH CIRCUIT HEADQUARTERS.

The offices of the Circuit Executive of the Twelfth Circuit and the Clerk of the Court of the Twelfth Circuit shall be located in Phoenix, Arizona.

SEC. 608. ASSIGNMENT OF CIRCUIT JUDGES.

Each circuit judge of the former ninth circuit who is in regular active service and whose official duty station on the day before the effective date of this title—

(1) is in California, Guam, Hawaii, or the Northern Mariana Islands shall be a circuit judge of the new ninth circuit as of such effective date; and

(2) is in Alaska, Arizona, Idaho, Montana, Nevada, Oregon, or Washington shall be a circuit judge of the twelfth circuit as of such effective date.

SEC. 609. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.

Each judge who is a senior circuit judge of the former ninth circuit on the day before the effective date of this title may elect to be assigned to the new ninth circuit or the twelfth circuit as of such effective date and shall notify the Director of the Administrative Office of the United States Courts of such election.

SEC. 610. SENIORITY OF JUDGES.

The seniority of each judge—

(1) who is assigned under section 608, or

(2) who elects to be assigned under section 609,

shall run from the date of commission of such judge as a judge of the former ninth circuit.

SEC. 611. APPLICATION TO CASES.

The following apply to any case in which, on the day before the effective date of this title, an appeal or other proceeding has been filed with the former ninth circuit:

(1) Except as provided in paragraph (3), if the matter has been submitted for decision, further proceedings with respect to the matter shall be had in the same manner and with the same effect as if this title had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which the matter would have been submitted had this title been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings with respect to the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) If a petition for rehearing en banc is pending on or after the effective date of this title, the petition shall be considered by the court of appeals to which it would have been submitted had this title been in full force and effect at the time that the appeal or other proceeding was filed with the court of appeals.

SEC. 612. TEMPORARY ASSIGNMENT OF CIRCUIT JUDGES AMONG CIRCUITS.

Section 291 of title 28, United States Code, is amended by adding at the end the following:

''(c) The chief judge of the Ninth Circuit may, in the public interest and upon request by the chief judge of the Twelfth Circuit, designate and assign temporarily any circuit judge of the Ninth Circuit to act as circuit judge in the Twelfth Circuit.

''(d) The chief judge of the Twelfth Circuit may, in the public interest and upon request by the chief judge of the Ninth Circuit, designate and assign temporarily any circuit judge of the Twelfth Circuit to act as circuit judge in the Ninth Circuit.''.

SEC. 613. TEMPORARY ASSIGNMENT OF DISTRICT JUDGES AMONG CIRCUITS.

Section 292 of title 28, United States Code, is amended by adding at the end the following:

''(f) The chief judge of the United States Court of Appeals for the Ninth Circuit may in the public interest—

''(1) upon request by the chief judge of the Twelfth Circuit, designate and assign 1 or more district judges within the Ninth Circuit to sit upon the Court of Appeals of the Twelfth Circuit, or a division thereof, whenever the business of that court so requires; and

''(2) designate and assign temporarily any district judge within the Ninth Circuit to hold a district court in any district within the Twelfth Circuit.

''(g) The chief judge of the United States Court of Appeals for the Twelfth Circuit may in the public interest—

''(1) upon request by the chief judge of the Ninth Circuit, designate and assign 1 or more district judges within the Twelfth Circuit to sit upon the Court of Appeals of the Ninth Circuit, or a division thereof, whenever the business of that court so requires; and

''(2) designate and assign temporarily any district judge within the Twelfth Circuit to hold a district court in any district within the Ninth Circuit.

''(h) Any designations or assignments under subsection (f) or (g) shall be in conformity with the rules or orders of the court of appeals of, or the district within, as applicable, the circuit to which the judge is designated or assigned.''.

SEC. 614. ADMINISTRATION.

The court of appeals for the ninth circuit as constituted on the day before the effective date of this title may take such administrative action as may be required to carry out this title and the amendments made by this title. Such court shall cease to exist for administrative purposes 2 years after the date of enactment of this Act.

SEC. 615. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title, including funds for additional court facilities.

SEC. 616. EFFECTIVE DATE.

Except as provided in section 604(c), this title and the amendments made by this title shall take effect 12 months after the date of enactment of this Act.

Mr. ENSIGN. Mr. President, we are debating a bill about court security. The court security bill is about the administration of justice. Some would argue that the amendment I have offered, while relating to the courts, does not deal with court security. Both the underlying bill and my amendment deal with the administration of justice. There are provisions in the bill that are not strictly dealing with court security, and I believe this is an appropriate place to talk about this amendment and an appropriate time for the Senate to vote on my amendment. It is something we have been working on for a few years.

My amendment recognizes that the ninth circuit, by far being the largest circuit in the United States, is too large, the administration of justice is too slow, and that the ninth circuit needs to be broken up at this point. It needs to be split up so the people, such as the people who live in the State of Nevada, can receive justice in a way that is fair and that is also expeditious.

In the past, the United States has gotten to a point with other circuits where we have decided that they are too large and need to be split. Some have argued that splitting up the ninth circuit is for ideological reasons, but that is not why I have offered this amendment. Many who used to be opposed to splitting up the ninth circuit 5 or 10 years ago now understand that for the sake of the administration of justice, the ninth circuit needs to be split up. It is by far and away the largest circuit in the United States.

We have had testimony in front of the Judiciary Committee, and many articles have been written, on why so many of the ninth circuit decisions are overturned by the U.S. Supreme Court.

The Ninth Circuit, far and away, has more of its decisions overturned by the Supreme Court than any other circuit. Well, Mr. President, we had testimony that one of the reasons a lot of people believe that to be the case is not that the jurists on the Ninth Circuit may be less competent than those in other circuits, but that is because of the overwhelming caseload, the circuit doesn't have the time to consider the cases that other circuits do but the use of the en-banc panel, instead of the full circuit, contributes to this problem.

Mr. President, 20 percent of the country is in the Ninth Circuit. It is laden with immigration cases. It has too many cases per judge and, because of that, too many of the cases that need to be heard in a timely fashion are delayed. What our bill simply would do is to divide the Ninth Circuit up in a very fair manner. We have put this through judges and through studies and over the years we have modified it on exactly how to break it up. If people disagree with how we are deciding to break it up, we can talk about that. But the bottom line is that it is too large of a circuit, and the Ninth Circuit needs to be split up.

I think all but one of the judges in the State of Nevada—by the way, almost all these same judges used to be against splitting up the Ninth Circuit. Today, nearly all of them have come out in favor of splitting up the Ninth Circuit. The reason for that is we live in the fastest growing area in the country. Nevada, in 18 out of the last 19 years, is the fastest growing State. The other States in the Ninth Circuit, including Arizona, California, Washington, Oregon, Idaho, all of these States have booming populations. While we are the largest circuit in the United States, it is going to get increasingly worse in the future, as far as the size of the population, the number of cases per judge, while overwhelming now, it is only going to get worse in the future.

I believe this is an amendment that should be discussed as a separate bill on the floor. But we all know most bills cannot get time on the Senate floor. So you have to take the opportunity to offer amendments wherever you can. We have been trying to get this bill acted on for years and years and years. We now have a vehicle, dealing with the courts, where it is appropriate to offer this amendment. So that is why I am offering this amendment today.

Mr. President, again, amendment No. 897 would split the Ninth Circuit Court of Appeals. Because my home State of Nevada is under the jurisdiction of the Ninth Circuit, I have taken particular interest in how the Ninth Circuit functions. As a Senator from Nevada, I represent people who are on both sides of this issue. I have heard arguments for, and against, splitting the Ninth Circuit but, having listened to the debate, have concluded that it is time for Congress to split the Ninth Circuit.

The Ninth Circuit really has become too large to function as efficiently as it should. The population of the States in the Ninth Circuit is growing too fast for the circuit to manage its caseload. Cases working their way through the Ninth Circuit take far too long to come to resolution. The circuit is becoming increasingly dependent on visiting judges, who are not as familiar with circuit precedent, to manage its caseload. The reversal rate of cases heard by the Supreme Court which on appeal from the Ninth Circuit is much higher than the average of all Federal circuits. These problems require some form of action by Congress and, having studied the issue, simply adding more judges is not the solution.

Last year, the Judiciary Committee held a hearing on the issue of splitting the Ninth Circuit. As several Federal judges who were witnesses testified, adding more judges, in a circuit so geographically large, is not going to adequately address the need for collegiality among judges.

Mr. President, my primary motivation is to ensure that my constituents, the people of Nevada, have equal access to justice. Equal access to justice requires not only fair, but also prompt, resolution of a case. From my perspective, the current backlog in cases and the fact that the resolution of appeals takes far longer in the Ninth Circuit than any other circuit demonstrates that Nevadans are not guaranteed the promise that their claims will be heard with the same timeliness as persons living in other circuits. The adage of ''justice delayed is justice denied'' is appropriate with respect to the Ninth Circuit delays.

I believe we should consider the cost that unreasonable delay causes to the parties in a case. The lawyers and the judges live in this system. To these people, delays are not only reasonable but they are expected. A delay to someone who is part of the legal community is just the way things are done. But that is not the case for litigants. Ask any litigant whose case is waiting for a hearing on appeal. They take being sued personally and would tell you that their lives are on hold. They may fear they will lose their business, or their job, or their livelihood. It really does not matter whether the case involves business litigation, an immigration appeal, or a criminal matter.

If you talk to the parties to a case, they will tell you stories of the economic, social, and psychological toll extended litigation has on them and their families. That is why I am concerned about delays in the process.

That is also why I believe that some groups have endorsed my bill. For example, the Western States Sheriff's Association, which includes Nevada, has endorsed splitting the Ninth Circuit. I believe that the Association understands that America's law enforcement agencies have been devoting scarce budget resources to monitoring and dealing with criminal appeals that would otherwise be better devoted to protecting America's families if only appeals cases were resolved sooner rather than later.

I believe that it is not only the duty of Congress but also our obligation to ensure that the Judicial branch is operating efficiently. That is why we are considering the current legislation, the court security bill, because we want to ensure that judicial branch operates efficiently. And we know that it cannot, if those who work in the system—our judges and our court officers—do not feel safe. That is also why my amendment is so important.

I do not believe that splitting the Ninth Circuit would infringe on the ''independence of the judiciary'' as some might suggest. The Constitution provides Congress with the power to ''constitute'' or establish ''tribunals inferior to the Supreme Court,'' and also gives Congress the power to ''ordain and establish'' the lower Federal courts. Acting in accordance with the Constitution, Congress has used its authority to establish the Federal appeals courts and the Federal district courts, as well as other Federal courts. Congress has the ability to create courts of special jurisdiction, such as military courts, bankruptcy courts, and tax courts, and to limit the appeals jurisdiction of all Federal courts, including the Supreme Court of the United States. The Constitution clearly provides that the people, acting through their respective Congressional representatives, can enact legislation to split the Ninth Circuit. The prerogative of Congress to enact legislation to split the Ninth Circuit is consistent with the role of Congress established by the Constitution. The idea of splitting the Ninth Circuit is a proper action for Congress to take.

Finally, Mr. President, I would hope that Members of the Senate could agree that, regardless of where each of us may be on this issue, we could engage in an honest discussion and avoid attacking each other's motives. I have read with great interest the statements of people on the other side of this issue suggesting that split supporters, like myself, are only ''politically motivated'' or that supporters of a split are ''trying to punish'' the Ninth Circuit because of the perception of the circuit's ideology. Nothing could be further from the truth. I am sure the people who do not favor a split have likewise had similar attacks directed at them. We should not condone that rhetoric or impugn each others motives. I do not believe that it is in the Senate's, or the Nation's, best interest to attack someone else's motives. I have met with people on both sides of this issue and respect their views.

Let me conclude by saying this. The saying is that justice delayed is justice denied. In the Ninth Circuit that is what happens ever single day. Nevadans experience justice delayed too often. We are putting more and more of a burden on our Federal courts by the actions of the Senate. We need to now take the responsibility to make sure our various circuits around the country are not even more overburdened simply because of population growth. That is what has happened, and will continue to happen, in the Ninth Circuit. We have added a judge here and there. But the overall size of the Ninth Circuit, even if you add more judges, would not take care of the problems we are now experiencing. Some have argued that adding more judges would fix the problem, but it still would not

allow the full Ninth Circuit to hear many of the most difficult, challenging cases. The judges of the ninth are not able to work together as a full circuit and collaborate on some of the most difficult, challenging judicial cases.

That is why it is better to split up this circuit, so that more thoughtful decisions can be made in the administration of justice.

With that, I will yield the floor and ask my colleagues to support this very important amendment.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from North Dakota is recognized.

Mr. DORGAN. Madam President, April 22 marks the beginning of National Crime Victims' Rights Week, an annual commemoration that has been observed since the early 1980s to honor crime victims and call attention to their plight.

We have an opportunity to provide full justice to many victims of federal crime by passing legislation that will help federal criminal justice officials more fully recover court-order restitution that is owed to innocent crime victims. By ensuring victims receive the restitution they are entitled to, our proposal truly reflects the theme of this year's Crime Victims' Rights Week—Victim's Rights: Every Victim, Every Time.

I intend to offer an amendment with Senator GRASSLEY today that would improve the collection of federal criminal debt. Our amendment is being sent over to the floor at this point. I will describe it and the reason for offering it.

The amendment will be one in the form of a bill, S. 973, which I authored with my colleague, Senator GRASSLEY. We introduced it with Senators DURBIN and COLLINS. It is called the Restitution for Victims Of Crime Act. This piece of legislation will give Justice Department officials the tools they say are needed to help them do a better job of collecting court-ordered Federal restitution and fines.

In our court system in this country, there are, in many cases, fines that are levied against defendants who are found guilty of a crime. They are adjudged to be guilty and, therefore, are levied a fine by the court. In many cases, they are required to make restitution through orders of the court system. For some long while, I have been working on this issue because I have discovered that in the Federal court system, Justice Department data shows that the amount of uncollected criminal debt—that is, fines and restitution—is growing out of control. Believe it or not, the uncollected Federal criminal debt is nearly $46 billion. Think of that. It is almost $46 billion. These are fines that have been levied in our Federal court system against defendants adjudged to have been guilty. Restitution orders have been made that require someone to make financial restitution; yet some $46 billion is the amount of criminal debt that is unpaid. It is spiraling upward. It was $41 billion just a year ago. When I first called attention to this problem, it was well less than half of that. Yet very little has been done.

In my State of North Dakota, the Federal courts have about $18.7 million of uncollected criminal debt. That is up some $4 million from the preceding year. In my judgment, crime victims should not have to worry if those in charge of collecting the restitution on their behalf are making every effort to do so. We would expect that to be happening. Yet it is not. In some cases, it is because the tools don't exist. In some cases, it is because collecting the criminal debt has become kind of the backwater of the U.S. Attorney's Office.

At my request, GAO reviewed five white-collar financial fraud cases. What they have found is that certain offenders, those judged guilty, had taken expensive trips abroad, traveled overseas; had fraudulently obtained millions of dollars in assets and converted those assets to personal use. GAO also found offenders who had established businesses for their children; held homes and lived in homes worth millions of dollars that were located in upscale neighborhoods. So here we have a circumstance where we have people who have been judged guilty of certain things by the Federal court system. They have been told you have to pay a fine or you have to pay restitution. Yet despite the fact that they have not made restitution or paid their fine, according to the GAO evaluation at my request, some of them have decided we are not going to pay those things, we are going to take a trip overseas, live in multimillion dollar houses, we are going to transfer a business to the children so federal justice officials cannot get at it.

All of this is going on at a time when victims are waiting for restitution that has been ordered by the court. The proposal that Senator GRASSLEY and I have authored is a proposal based on a set of recommendations, some from the Justice Department, some from the task force on improving the collection of criminal debt. Justice Department officials believe the changes we suggest will remove many of the current impediments to better debt collection.

Our legislation offers the tools that we think are necessary, having worked with Justice officials and others and victims' rights organizations, to deal with these issues. Justice Department officials describe, for example, a circumstance where they were prevented by a court from accessing $400,000 in a criminal offender's 401(k) plan to pay a $4 million restitution debt to a victim. Let me say that again. This is an offender who was judged to be guilty and who had $400,000 in a 401(k) plan. He has been ordered to pay a $4 million restitution debt to a victim. The court said: No, you cannot take the $400,000 in the 401(k) plan because the defendant was complying with a $250 minimum monthly payment plan, and that precluded any other enforcement actions. So he is sitting there with nearly half a million dollars in liquid assets, and the victim is sitting over here having been defrauded. The court said you must pay restitution, and this person with nearly half a million dollars in assets is paying $250 a month, and the court says that is it, you cannot get the 401(k) funds from the victim. That is not fair. Our proposal would remove impediments like this in the future.

This legislation will address another major problem identified by the GAO for officials in charge of criminal debt collection. Many years can pass between the date a crime occurs and the date that a court will order restitution. That gives criminal defendants an ample opportunity to hide their ill-gotten gains. This bill sets up preconviction procedures for preserving assets for victims' restitution. We set up those preconviction circumstances—no, not to take the assets but at least be sure they are going to be preserved in the event they are needed for restitution.

These tools will ensure financial assets that are traceable to a crime are going to be available when a court imposes a final restitution order on behalf of a victim. These tools are similar to those already used in some states and by Federal officials in certain asset forfeiture cases. The Restitution for Victims Of Crime Act that I have introduced in the Senate as S. 973, with Senator GRASSLEY and others, has been endorsed by a number of organizations that are concerned about the well-being of crime victims and the rights of victims to receive the restitution ordered by federal courts: National Center for Victims of Crime, Mothers Against Drunk Driving, Parents of Murdered Children, Justice Solutions, and many others.

The U.S. attorney in North Dakota has said this legislation ''represents important progress toward ensuring that victims of crime are one step closer to being made whole.''

I have mentioned S. 973, and that is what I intend to offer as an amendment to the court security bill. I recognize the legislation itself doesn't deal with the narrower issue of the security of the courts, but it certainly deals with the functioning of the courts and the ability of a court to decide they are going to levy a fine or impose a restitution order on a person judged guilty of a crime and then be able to feel, at some point, they are going to be able to make that happen.

I mentioned earlier U.S. Attorney's Offices, as most of us know, are about investigating and prosecuting. They are involved when given investigation capability or given the results of investigations. If they believe a criminal act has occurred, they are involved in preparing to go to court to prosecute criminal actions.

They have also been given the responsibility to collect fines and restitutions. But the fact is, many U.S.

attorneys will admit they have a U.S. Attorney's Office that, by and large, in the front of that office is engaged in prosecuting wrongdoing, and in the back of that office, the collection of fines and restitutions is not a high priority and, frankly, is difficult for many of them.

I don't come here with harsh criticism in those circumstances. But I do say we should not stand for it, the Justice Department should not stand for it, and certainly victims should not stand for a circumstance where some $46 billion in court-ordered fines and restitution remains uncollected, while at least some are taking trips to London and have $400,000 in 401(k) accounts, are hiding their assets by transferring businesses to children, living in multimillion-dollar homes and deciding they won't pay the fines, they won't pay the restitution, and nothing much is going to happen to them because we are not very aggressive on behalf of victims or on behalf of this country in getting those fines and restitutions paid.

That is not the right course for this country. I plan offer the amendment shortly to address this problem. I am checking with Senator GRASSLEY for his cosponsorship. As I indicated, he was the primary cosponsor when we introduced the legislation earlier this year.

I hope that perhaps we can consider this legislation as an amendment that would be added to the court security bill.

Regarding the court security bill, I am pleased this bill is before the Senate. It is rather strange we had to have a recorded vote on whether we would have a motion to proceed to go to a court security bill, but I guess that is the strange, Byzantine circumstances of legislative activities these days in the Senate.

Now that it is before the Senate, this is important business, and we should proceed to consider amendments and then pass this legislation and move to the other issues that are before us.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BROWN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from North Dakota is recognized.

CONTRACTING ABUSES

Mr. DORGAN. Mr. President, we are considering the court security bill. At the moment, there is no one who wishes to speak on that legislation. I wish to speak about the Senate Armed Services Committee, which is now holding a hearing. I just finished testifying before the Senate Armed Services Committee. I wish to talk about that testimony.

The Armed Services Committee, under the chairmanship of Senator CARL LEVIN, is holding a hearing this morning on contracting abuses; that is, contracting abuses in Iraq especially under what is called the LOGCAP contract.

I testified that I chaired in the Democratic Policy Committee, over the last 3 years, 10 hearings on these issues of contract abuses. I suggested to the Armed Services Committee that they look into what is not only called the LOGCAP, which is a logistic contract which, in this case, Halliburton, or their subsidiary, KBR, provided certain logistics assistance to the Department of the Army under a contract worth billions of dollars, I suggested they also look into the RIO contract, which is Restore Iraqi Oil contract.

I pointed out to them that the woman who rose to become the highest contract official in the U.S. Corps of Engineers—she rose to become the highest civilian contract official in the Army Corps of Engineers—she said the awarding of the RIO contract, the Restore Iraqi Oil contract—Restore Iraqi Oil is what RIO stands for—to Halliburton and KBR was ''the most blatant contracting abuse I have seen in my entire career.'' This is from the top civilian contracting officer.

What happened to her? She paid for that with her job. For that she was demoted. Before she said that publicly, she was given outstanding evaluations every year. Once she said publicly what she had told them privately, and they ignored, they began the process of giving her performance evaluations that were inferior for demotion.

A couple of nights ago, I called the general, now retired, who brought this contracting officer in as the top civilian contracting officer. I said: What's the story?

He said: She has been dealt an awful hand, and it has been very unfair to her. She is a straight-shooter, she is competent, she speaks the truth. The fact is, she is paying for telling the truth.

I suggested to the Armed Services Committee that this woman, named Bunnatine Greenhouse, who had the courage to speak out against contracting abuse, should be called to testify.

We ought to put a stop to this stuff that when someone in the Federal Government speaks out and says there is abuse occurring, the taxpayers are being abused, the soldiers are being disserved, that somehow they injure their career by telling the truth. But let me go on.

I suggested the committee look into the RIO contract. I sent the issues raised by Bunnatine Greenhouse, who paid for her honesty with her job: she was demoted. I sent all that material to the inspector general. Seventeen months ago, I got a letter from the inspector general saying they received it, they looked into all those allegations, it has now been referred to the Justice Department, it is for their action, and because it is a criminal matter, they would not comment further.

Obviously, they believed there was something that was serious. That is the RIO, the Restore Iraq Oil contract.

There is another contract, and that is the purpose of the hearing this morning, the LOGCAP contract, once again, given to Halliburton and their subsidiary, Kellogg, Brown and Root. What I told them this morning is what I found in 10 hearings. I held up a white towel, a white hand towel that most would recognize. It hangs in the bathrooms in most homes.

A man named Henry Bunting came to us. Henry Bunting was in Kuwait. He was actually buying supplies for the troops in Iraq. Henry Bunting was a purchaser for KBR in Kuwait. They said to Henry Bunting: Buy some towels for the troops. So Henry goes about buying towels for the troops. But then the supervisor said: No, you can't buy those towels. You have to buy towels that have the embroidered name of KBR on the towel, triple the cost. Henry said it would cost a lot of money. It doesn't matter, the taxpayers are paying for this, cost plus. Triple the price of the towels so you can put the embroidered initials of the company on the towels.

How about $45 for a case of Coca-Cola? How about $7,500 a month to lease an SUV? Henry Bunting told us about that as well.

I described the other issues. Rory Mayberry—Rory showed up at a hearing. He was a food service supervisor for KBR in Iraq at a cafeteria. He said he was told by his supervisor: Don't you dare talk to Government auditors when they show up. If you do, you will get fired or you will get sent to an active combat zone. Don't you dare talk to a Government auditor.

He said: We routinely provided food to the soldiers that had expired date stamps on it.

The supervisor said: It doesn't matter—the expired date stamps—feed the expired food to the troops.

We know from previous press accounts that at one point that company was charging for 42,000 meals a day to soldiers when they were actually only feeding 14,000 soldiers. Rory said the same thing. Rory Mayberry, a supervisor in one of the KBR food service situations in Iraq said they were charging for meals for soldiers who weren't there, and the supervisor said: We are doing that because we had lost money previously, so now we are charging for meals that aren't being served to soldiers.

How about an eyewitness to an $85,000 brand new truck left beside the road in a noncombat zone in Iraq to be torched because they didn't have the proper wrench to fix the tire? It doesn't matter, the American taxpayer is going to buy the new truck, cost plus.

The list is almost endless. It is unbelievable the stories we have heard from people who wish to come forward.

One company, the same company under the LOGCAP contract, was to provide water to the military bases in Iraq—all of the bases. A whistleblower came to me and said: I have something you should see. It is a 21-page internal report, and it is written by a man named Will Granger who is in charge of all water going to the bases in Iraq. He is the KBR employee, Halliburton employee in charge of all water that goes to the bases in Iraq.

He said instead of treating the water, nonpotable water which soldiers use to shower, shave, sometimes brush their teeth, and so on, instead of treating the water as it was supposed to have been treated under the contract, the water was more contaminated with E coli and bacteria than raw water from the Euphrates River.

He said: Here is the internal report. The internal report said this was a near miss. It could have caused mass sickness or death.

That was from the internal report I had in my hand. The company said it never happened. This is the internal report made by the man in the company whose name is Will Granger, who said: Here is what we discovered.

Just after I held the hearing and described this situation, I received an e-mail from a young woman in Iraq who was an Army physician. She said: I read about this hearing about the water issue, the nonpotable water which was more contaminated than raw water from the Euphrates River that was being used for nonpotable water for soldiers. She said: It has happened on my base as well. She said: I started seeing these illnesses, conditions with the soldiers, and I had a lieutenant follow the waterline back. It is exactly the same circumstance—untreated water. We were paying for it, and the company wasn't doing what the contract requires, putting at risk those soldiers. The company denied it happened, but it is in black and white. The evidence exists.

I described these issues and other issues this morning to the Armed Services Committee. I am pleased they are holding hearings. It is long past the time for them to hold these oversight hearings finding out what is happening and what we can do about it.

Mr. President, these are important issues. I commend Senator LEVIN, Senator WARNER, and all members of the Armed Services Committee for taking a serious look at these issues. My interest is not in tarnishing any company or anything like that. My interest is in making sure the American taxpayers are not disserved, and they have been. And my interest is the American soldiers are treated properly, and they have not been. What I saw with the waste, fraud, and abuse with these contracts, in my judgment, is a disservice to the American taxpayer and a disservice to the country's soldiers, and the fact is, we can fix this.

I will describe at a later time the legislation I have introduced that deals with these contracting abuses so we can prevent them from ever happening again.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Ms. KLOBUCHAR. Mr. President, I am speaking in favor of S. 378, the Court Security Improvement Act of 2007. I have had a personal experience with court security issues when I was a prosecutor, the chief prosecutor in Hennepin County.

We had a very tragic incident, where a woman who had emotional difficulties came into our courthouse with a gun and gunned down a woman—an innocent woman—who was the guardian of her father's estate and was simply there to help. This had been a long-standing litigation battle. She tracked her down at the courthouse and shot her to death, and shot her own lawyer. Fortunately, he did not die. He survived. But this happened only a few floors below my office. We went on to prosecute this woman, and she was convicted and sentenced to life in prison for the murder and an additional 15 years for the attempted murder.

That is why I am such a strong proponent of this bill. The Court Security Improvement Act will significantly improve our ability to protect judicial officials and all those who help to protect the fair and impartial justice system in America.

The bill is going to improve court security by, first, enhancing measures that protect judicial personnel, witnesses, and family members of judicial personnel. I should note there is a provision in the bill that allows for State courthouses to apply for grants for things such as witness protection.

I will say, coming from running an office of nearly 400 people, but operating in a local court system as opposed to the Federal system, there are increasing problems for local prosecutors with witness protection. I can't even count the number of witnesses we had threatened during trials. We had a juror threatened who actually had to get off the case after a call was made to her home during a trial in a gang case. We are seeing an increasing number of cases where we have witnesses threatened. Obviously, we don't have the Federal Witness Protection Program in a local district attorney's office, so I am very pleased there are some provisions for this and some realization that this is a growing issue.

This bill would also increase funding for judicial security at the Federal and State levels. It would strengthen the relevant criminal penalties. It would authorize funds for the U.S. Marshals Service for judicial security. This is a good bill, and I stand in support of it.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SANDERS. I ask consent to speak as in morning business.

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

THE ECONOMY

Mr. SANDERS. Mr. President, we hear much from the Bush administration and our Republican friends, almost on a daily basis, about how wonderfully our economy is doing. I recall not so long ago being at a Budget Committee hearing when we heard the Secretary of the Treasury, Mr. Paulson, indicating in fact that the economy is doing ''just marvelous.''

Yet, for obvious reasons, the American people do not seem to agree with the Bush administration or with our Republican friends as to how well the economy is doing. I ask unanimous consent to have printed in the RECORD segments of two polls that were recently released, one by CBS News and one by Gallup.

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

CBS NEWS POLL

[Conducted 4/9–12/07; surveyed 994 adults; margin of error ±3% (release, 4/15). A response of * indicates less than 0.5 percent.]

How about the economy? Do you approve or disapprove of the way George W. Bush is handling the economy?

	Percent			
	All	Rep	Dem	Ind
Approve	36	66	13	33
Disapprove	57	27	79	60
Don't know/NA	7	7	8	7

How would you rate the condition of the national economy these days? It is very good, fairly good, fairly bad or very bad?

	Percent			
	All	Rep	Dem	Ind
Very good	8	19	1	5
Fairly good	51	61	44	48
Fairly bad	28	15	38	30
Very bad	11	4	15	15
Don't know/NA	2	1	2	2

Do you think the economy is getting better, getting worse or staying about the same?

	Percent			
	All	Rep	Dem	Ind
Better	11	24	4	7
Worse	44	23	59	47
Same	44	52	36	45
Don't know/NA	1	1	1	1

Over the past 10 years, do you think life for middle class Americans has gotten better or worse? (Percentage)

Better, 30
Worse, 59
Same (vol.), 7
Don't know/Refused, 4

In the past couple of years, would you say you have been getting ahead financially, just staying even financially or falling behind financially? (Percentage)

Getting ahead, 21
Staying even, 50
Falling behind, 27
Don't know/NA, 2

How much difficulty would you have if you had to pay an unexpected bill of one thousand dollars right away—a lot, a little, not much or none at all? (Percentage)

A lot, 43
A little, 24
Not much, 15
None at all, 17
Don't know/NA, 1

How concerned are you that you will have enough money to pay for major expenses, for example, healthcare, tuition, buying a home, and retirement? Are you very concerned, somewhat concerned, not very concerned or not at all concerned? (Percentage)

Very concerned, 46
Somewhat concerned, 33
Not very concerned, 14
Not at all concerned, 7

These last few questions are for background only. A person's social class is determined by a number of things including education, income, occupation and wealth. If you were asked to use one of these five names for your social class, which would you say you belong in—upper class, upper-middle class, middle class, working class or lower class? (Percentage)

Upper, 2
Upper middle, 13
Middle, 42
Working, 36
Lower, 7
Don't know/NA, 0

[From the Gallup Poll®, Apr. 16, 2007]

AMERICANS MORE IN FAVOR OF HEAVILY TAXING RICH NOW THAN IN 1939

(By Frank Newport)

PRINCETON, NJ.—About half of Americans advocate heavy taxation of the rich in order to redistribute wealth, a higher percentage than was the case in 1939. More generally, a large majority of Americans support the principle that wealth should be more evenly distributed in America, and an increasing number—although still a minority—say there are too many rich people in the country. Attitudes toward heavy taxes on the rich are strongly related to one's own income, and Democrats are much more likely to be in favor of income redistribution than are Republicans.

Basic Trends

A poll commissioned by Fortune Magazine in 1939 and conducted by famous pollster Elmo Roper included a question phrased as follows:

''People feel differently about how far a government should go. Here is a phrase which some people believe in and some don't. Do you think our government should or should not redistribute wealth by heavy taxes on the rich?''

At that time, near the end of the Depression, only a minority of Americans, 35%, said the government should impose heavy taxes on the rich in order to redistribute wealth. A slight majority—54%—said the government should not. (Eleven percent did not have an opinion.)

Gallup asked this question again in 1998 and found the percentage willing to say that the government should redistribute wealth had gone up by 10 points (while the ''no opinion'' responses had dropped to 4% and the negative stayed slightly above 50%).

Now, the attitudes have shifted slightly again, to the point where Americans' sentiment in response to this question is roughly split, with 49% saying the government should redistribute wealth by heavy taxes on the rich, and 47% disagreeing.

People feel differently about how far a government should go. Here is a phrase which some people believe in and some don't. Do you think our government should or should not redistribute wealth by heavy taxes on the rich?

	Percent		
	Yes, should	No, should not	No opinion
April 2 to 5, 2007	49	47	4
April 23 to May 31, 1998	45	51	4
March 1939 [1]	35	54	11

[1] Roper for Fortune Magazine.

One must be cautious in interpreting changes between the 1939 poll, which was conducted using different sampling and methods than is the case today, and the current poll. It does appear safe to say, however, that based on this one question, the American public has become at least somewhat more ''redistributionist'' over the almost seven decades since the end of the Depression.

The current results of this question are in line with a separate Gallup question that asks whether various groups in American society are paying their fair share of taxes, or too much or too little. Two-thirds of Americans say ''upper-income people'' are paying too little in taxes.

As I read off some different groups, please tell me if you think they are paying their FAIR share in federal taxes, paying too much or paying too little?

Upper-income people:

	Percent			
	Fair share	Too much	Too little	No opinion
April 2 to 5, 2007	21	9	66	4
April 10 to 13, 2006	21	8	67	4
April 4 to 7, 2005	22	7	68	3
April 5 to 8, 2004	24	9	63	4
April 7 to 9, 2003	24	10	63	3
April 6 to 7, 1999	19	10	66	5
April 9 to 10, 1996	19	9	68	4
April 16 to 18, 1994	20	10	68	2
March 29 to 31, 1993	16	5	77	2
March 26 to 29, 1992	16	4	77	3

There is no trend on this question going back to the 1930s, but the supermajority agreement that upper-income people pay too little in taxes has been evident for the last 15 years.

More on attitudes toward wealth and the rich:

The most recent Gallup Poll included two other questions measuring attitudes toward wealth and the rich.

Do you feel that the distribution of money and wealth in this country today is fair, or do you feel that the money and wealth in this country should be more evenly distributed among a larger percentage of the people?

	Percent		
	Distribution is fair	Should be more evenly distributed	No opinion
April 2 to 5, 2007	29	66	5
January 10 to 12, 2003	31	63	6
September 11 to 13, 2000	38	56	6
April 23 to May 31, 1998	31	63	6
April 25 to 28, 1996	33	62	5
May 17 to 20, 1990	28	66	6
December 7 to 10, 1984D31	60	9	

The results of this question, asked seven times over the past 23 years, have consistently shown that Americans are strongly in favor of the principle that money and wealth in this country should be more evenly distributed. The current 66% who feel that way is tied for the highest reading on this measure across this time period in which the question has been asked.

A separate question asked:

As far as you are concerned, do we have too many rich people in this country, too few, or about the right amount?

	Percent			
	Too many	Too few	Right amount	No opinion
April 2 to 5, 2007	37	17	40	6
April 23 to May 31, 1998	25	20	50	5
May 17 to 20, 1990	21	15	55	9

Here we have evidence of a growing resentment toward the rich. The percentage of Americans who say there are too many rich people in the United States—although still a minority—is up significantly from the two times in the 1990s when this question was asked.

In summary, the data show that:

A significant majority of Americans feel that money and wealth should be distributed more equally across a larger percentage of the population.

A significant majority of Americans feel that the rich pay too little in taxes.

About half of Americans support the idea of ''heavy'' taxes on the rich to help redistribute wealth.

Almost 4 out of 10 Americans flat-out say there are ''too many'' rich people in the country

IMPLICATIONS

Most societies experience tensions revolving around inequalities of wealth among those societies' members. This seemingly inevitable fact of life has been at the core of revolutions throughout history. American society has been immune from massive revolts of those at the bottom end of the spectrum in part because the public perceives that the United States is an open society with upward social mobility. A recent Gallup Poll found a majority of Americans believing that people who make a lot of money deserve it, and that almost anyone can get rich if they put their mind to it. And a 2003 Gallup Poll found that about a third of Americans, including a significantly higher percentage of younger Americans, believed that they themselves would one day be rich.

The findings reviewed in this report most likely reflect at least in part the fact that it is easy to advocate greater taxation of the rich, since most Americans do not consider themselves rich.

In fact, a 2003 Gallup Poll found that the median annual income that Americans considered ''rich'' was $122,000. Since the average income in America is markedly below that, it follows that most Americans do not consider themselves rich. (Eighty percent of Americans put themselves in the middle class, working class, or lower class. Only 1 % identify themselves as being in the upper class, while 19% are willing to say the upper middle class.)

The data show that as one gets closer to being what Americans consider rich, one is also less interested in the rich being taxed heavily. This relationship is fairly linear; the more money one makes in general, the more likely one is to say that the government should not be imposing heavy taxes on the rich.

People feel differently about how far a government should go. Here is a phrase which some people believe in and some don't. Do you think our government should or should not redistribute wealth by heavy taxes on the rich?

Income	Percent	
	Yes, should	No, should not
$75,000+	35	62
$50,000 to $75,000	46	51
$30,000 to $50,000	58	41
$20,000 to $30,000	55	42
$20,000	64	26

There are also political differences in views on heavy taxes on the rich. Democrats are more than twice as likely as Republicans to agree that the government should redistribute wealth by heavy taxes on the rich.

People feel differently about how far a government should go. Here is a phrase which some people believe in and some don't. Do you think our government should or should not redistribute wealth by heavy taxes on the rich?

Party	Percent	
	Yes, should	No, should not
Republican	30	68
Independent	51	43
Democrat	63	32

BOTTOM LINE

Americans in general agree with the concept that money and wealth should be distributed more equally in society today, and that the upper-income class of Americans do not pay their fair share in taxes. About half of Americans are willing to go so far as advocate ''heavy taxes'' on the rich in order to redistribute wealth. These findings are despite the belief of many Americans that the rich deserve their money and the hopes Americans themselves harbor that they will be rich some day.

From a political viewpoint, these data suggest that a political platform focused on addressing the problems of the lower and middle classes contrasted with the rich, including heavier taxes on the upper class, could meet with significant approval, particularly among Democrats and those with lower incomes.

SURVEY METHODS

These results are based on telephone interviews with a randomly selected national sample of 1,008 adults, aged 18 and older, conducted April 2–5, 2007. For results based on this sample, one can say with 95% confidence that the maximum error attributable to sampling and other random effects is ±3 percentage points. In addition to sampling error, question wording and practical difficulties in conducting surveys can introduce error or bias into the findings of public opinion polls.

Mr. SANDERS. When the American people were asked by CBS News the question, ''Do you think the economy is getting better, getting worse or staying about the same?'' 11 percent of the American people said the economy is getting better, 44 percent thought it was getting worse, and 44 percent thought it was about the same.

Then, interestingly, in that same poll, when the American people were asked by CBS the question, ''Over the past 10 years, do you think life for middle class Americans has gotten better or worse?'' 30 percent said life has gotten better, 59 percent, almost a 2-to-1 margin, said life is getting worse, and 7 percent said the same.

Technology has exploded in recent years. Our workers are far more productive than used to be the case. Yet by a 2-to-1 margin the American people have said that life for the middle class is getting worse, not better.

In terms of the Gallup Poll, the Gallup people, from April 2 to April 5, asked some very interesting questions that we very often do not speak about here on the floor of the Senate. In my view, what we have seen since President Bush has been in office, in a general sense, is the shrinking of the middle class, an increase in poverty, and a growing gap between the rich and the poor—not something we talk about terribly often on the floor of the Senate, not something that is talked about terribly often in the corporate media. But here is the question, very interestingly, that Gallup asked the American people, between April 2 and April 5: ''Do you feel that the distribution of money and wealth in this country today is fair, or do you feel that the money and wealth in this country should be more evenly distributed among a larger percentage of the people?'' Answer: Distribution is fair, 29 percent; should be more evenly distributed, 66 percent.

Then the next question they asked, which was rather a clumsy question, I thought, and I was surprised by the answer, but this was the question. Question: ''People feel differently about how far a government should go. Here is a phrase which some people believe in and some don't. Do you think our Government should or should not redistribute wealth by heavy taxes on the rich?''

That is a pretty clumsy question. Do you know what the answer was to that rather clumsy question? Yes, should redistribute wealth, 49 percent; no, should not, 47 percent.

I mention this poll because it is important to understand that despite a lot of the rhetoric we hear from the White House and on the floor of the Senate, the American people understand that in terms of our economy, something is fundamentally wrong. They understand it because they are living the experience of working longer hours for lower wages; of working day after day, trying to pay the bills for their family, trying to send their kids to college, trying to take care of health care, trying to provide childcare for their kids. They know the reality of the economy because they are the economy.

Every single day the people of our country are seeing an economy which is forcing them in many instances to work longer hours for lower wages, an economy in which they wonder how their kids are going to be able to go to college, able to afford college; an economy in which they worry that for the first time in the modern history of our country, their children will see a lower standard of living than they do. That is the reality of the economy, in the eyes, I believe, of millions of American workers.

That perception that the American worker has of the economy is, in my view, the correct perception of what is going on. Since George W. Bush has been President, more than 5 million Americans have slipped into poverty, including 1 million children. This country now has the very dubious distinction of having by far the highest rate of childhood poverty of any major industrialized country on Earth. How do you have a great economy, a booming economy, when 5 million more Americans have slipped into poverty? Median income has declined in our country for 5 years in a row. Americans understand that the economy is not doing well when the personal savings rate is below zero, which has not happened since the Great Depression. How do we talk about a strong economy when 7 million Americans have lost their health insurance since President Bush has been in office, and when we now have, unbelievably, 47 million Americans who have no health insurance at all?

How can anybody come to the floor of the Senate, or anybody in the Bush administration talk about a strong economy, when we have 47 million Americans who have no health insurance at all; when 35 million Americans in our country, the richest country in the history of the world, struggled to put food on the table last year; and the number of the poorest, most hungry Americans keeps getting larger? The American people understand this is not an economy that is working for ordinary people. In this economy today, more and more of our brothers and sisters, our fellow Americans, are going hungry. Let's not talk about a booming economy when we have children in America who are hungry.

Mr. President, you and I have heard, over and over again, people talking about the importance of education for this country. Yet millions of working families do not know how they are going to be able to send their kids to college when the cost of college education is soaring, when the average person graduating a 4-year college leaves that school $20,000 in debt, when hundreds of thousands of young people are now giving up the dream of going to college because they don't want to come out deeply in debt? How do we talk about a booming economy when so many of our young people, some of the brightest, most able of our young people, are giving up the dream of going to college? How do you compete on the international and global economy if so many of our young people are not able to get the kind of education they need?

When we talk about a booming economy, how does that correlate with the fact that our manufacturing infrastructure is falling apart, that since President Bush has been in office we have lost over 3 million good manufacturing jobs, and when people go out to the store to shop, when they look at the product, they know where that product is manufactured today? It is not manufactured in the United States. Over and over again they see it is manufactured in China.

We have a trade deficit now of over $700 billion. In my small State of Vermont, not a manufacturing center, we lost 20 percent of our manufacturing jobs in the last 5 years and that phenomenon is going on all over this country. How do you have a booming economy when we are losing huge numbers of good-paying manufacturing jobs and we are on the cusp of losing millions of good-paying, white-collar information technology jobs?

Three million fewer American workers today have pension coverage than when President Bush took office. Half of private sector American workers have no pension coverage whatsoever. How does that speak to a strong economy? It was not so many years ago that workers understood that when they left their job, there would be a defined pension available to them. They knew what they were getting. Today, those days seem like ancient history. Fewer and fewer workers have solid pensions on which to depend.

What is important to understand is, while poverty is increasing, while the middle class is shrinking, while more and more people are losing their health insurance, while hunger is growing in America, while good-paying jobs are going to China, the truth is not all is bad in the American economy. We have to acknowledge that. Are there some people who in fact are doing well? The answer is yes. Today, the simple truth is the top 1 percent of the families in our country have not had it so good since the 1920s. When that poll I mentioned from Gallup talks about the American people wanting to seek an understanding of the unfair distribution of wealth, this is precisely what they are referring to.

Today in the United States we have by far the most unequal distribution of income and wealth of any major country on Earth. Let me highlight very briefly a recent study done by Professor Emmanuel Saez from the University of California-Berkeley and Professor Thomas Piketty from the Paris School of Economics. This is what they found. In 2005, while average incomes for the bottom 90 percent of Americans declined by $172, the wealthiest one one-hundredth of 1 percent reported an average income of $25.7 million, a 1-year increase of $4.4 million.

In other words, for the people at the very top, a huge increase in their income, while 90 percent of the American people saw a decline. The gap between the rich and the poor, the rich and the middle class, continues to grow wider.

The top 1 percent of Americans received, in 2005, the largest share of national income since 1928. And some people may remember what happened in 1929. The top 300,000 Americans now earn nearly as much income as the bottom 150 million Americans combined.

You and I have heard many of our friends here on the other side of the aisle talk about how much the wealthy are paying in taxes. My, my, my. Yet the reason for that is what we are seeing is, with the decline of the middle class, a huge increase in the percentage of the income being made by the people on top. Let me repeat it. The top 300,000 Americans now earn nearly as much income as the bottom 150 million Americans. Is that the kind of country we really want to become, with so few having so much and so many having so little? I do not think that is the America most people want to see us evolve into, an oligarchic form of society. That is wrong.

According to Forbes magazine, the collective net worth of the wealthiest 400 Americans increased by $120 billion last year to $1.25 trillion—$1.25 trillion for the wealthiest 400 Americans. That is an astounding number. The reality is that in America today, we have the people on the top who have more income, in some cases, than they are going to be able to spend in a thousand lifetimes, while people in Vermont, people in Ohio, people in Minnesota, people all over our country are struggling so hard to provide basic needs for their families.

One of the reasons the gap between the rich and the poor is growing wider and why we now have by far the most unequal distribution of income and wealth of any major country is due to the passage of massive tax breaks for millionaires and billionaires since President Bush has been in office.

Now, you stop and you take a look at the needs of the people of our country in the most basic sense.

Hunger is increasing. Well, what do we think? Should we eliminate hunger in America or do you give tax breaks to billionaires? I don't think too many people would disagree with what we should be doing.

We have a crisis in affordable childcare in America. We have single moms, working families, both parents going to work, trying to provide well for their 2-year-old, 3-year-old. They cannot provide affordable childcare. The Federal Government provides totally inadequate childcare. Do we increase funding for childcare or do we give tax breaks to millionaires?

We are all aware of the scandal at Walter Reed Hospital. We are all aware of the outrageously inadequate way we treat our veterans, men and women who put their lives on the line defending this country. Yet when they come home from Iraq, there is inadequate care at the hospital at Walter Reed and inadequate care and waiting lines at VA hospitals all over America. What is our priority? Do we take care of our veterans or do we give tax breaks to millionaires and billionaires?

In America, millions of children do not have any health insurance. What are our priorities?

People are paying 50 percent of their limited income for housing because we are not building affordable housing. What are our priorities?

We have a major crisis in global warming. We should be investing in sustainable energy, energy efficiency, not giving tax breaks to billionaires. What are our priorities?

Let me conclude by saying that I think the American people, on issue after issue, are far ahead of where we are in Congress. So we are going to have to work very hard to catch up to where the American people are. I think we should begin the process of doing that.

We need to fundamentally change our national priorities. We have to have the courage now to stand up to the wealthiest people and the largest corporations and say to those people: The free ride is over.

Our job is to represent the middle class, working families, the lower income people who are not getting justice from the Congress. When we stand and do the right thing for the middle class and working families of this country, I believe we are going to see a significant increase in the respect this body receives.

Mr. President, I yield the floor.

Ms. KLOBUCHAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BROWN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TESTER). Without objection, it is so ordered.

Mr. BROWN. Mr. President, I rise in support of this crucial legislation. I want to read into the record a statement from the Bush administration in support of the bill. It is from the Executive Office of the President, Statement of Administration Policy:

> The Administration supports Senate passage of S. 378 to strengthen judicial security. The legislation would enhance the ability of the Federal government to prosecute individuals who attack or threaten participants in the Nation's judicial system, including judges, lawyers, witnesses, and law enforcement officers. A Nation founded on the rule of law must protect the integrity of its judicial system, which must apply the law without fear or favor. The Administration also supports the provision to prohibit the filing of false liens against judges, prosecutors, and other government officials to retaliate against them for the performance of their official duties.

Another of the most important provisions of this bill was brought to our attention by Judge Carr of the Northern District Court in Toledo, OH. Judge Carr pointed out the importance of section 101 that ''enhances the ability of the Judicial Conference of the United States to participate in determining the security needs of the judicial branch by requiring the Director of the U.S. Marshals Service . . . to consult with the Judicial Conference on an ongoing basis regarding the security requirements of the judicial branch.''

This legislation makes sense for a variety of reasons. Not only must our judges be protected, but they must have a seat at the table in determining

the safety of our Federal courthouses and the personal safety of the employees of the Federal judiciary and the participants who come in front of the Federal bench.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. MCCASKILL). Without objection, it is so ordered.

Mrs. FEINSTEIN. Madam President, I rise in strong opposition to the amendment before us that will split the Ninth Circuit. We will be voting on a point of order at 2 o'clock.

I think it is very unfortunate that the pending bill, to make much-needed improvements in the security of our judges, is being threatened by a rehashing of an old and bad idea to split the circuit. There is a raft of reasons why the Senate should defeat this effort to divide the Ninth Circuit. First, it would be a serious blow to judicial independence if the circuit were to be split because of disagreement with its decisions. It would also result in an unfair distribution of the Ninth Circuit caseload. Judges in the new Ninth Circuit would be much more busy than their counterparts on the Twelfth Circuit. The proposal that is being made by Senator ENSIGN essentially takes California, Hawaii, Guam, and the Mariana Islands and puts them into their own Ninth Circuit, and takes all the big continental States that are now part of the Ninth Circuit and creates a Twelfth Circuit. That is the proposal that is before the body now.

This proposal would also destroy the current uniformity of the law in the West. It would have significant costs that the judiciary cannot afford to bear, given its already tight budgets, and it is opposed by the vast majority of the people who know the circuit best: its judges. Virtually overwhelmingly I think all but three or four of the judges in the Ninth Circuit oppose its splitting.

I agree with many of the Ninth Circuit's decisions. I disagree with some of them. However, the Framers of the Constitution intended the judiciary to be independent and free from congressional or Presidential pressure or reprisal. I am concerned that recent attempts to split the Ninth Circuit are part of an assault on the independence of the judiciary by those who disagree with some of the court's rulings.

As former Gov. Pete Wilson has stated:

> These attempts are judicial ''gerrymandering,'' designed to isolate and punish judges whose decisions some disagree with. They are antithetical to the Constitution.

That is not me saying that; that is the former Republican Governor of California.

Attempting to coerce or punish judges or rig the system is not an appropriate response to disagreements with a court's decisions. Rather, it is essential that we preserve our system of checks and balances and make it clear that politicians will not meddle in the work of judges. The configuration of the Ninth Circuit is not set in stone; however, any change to the Ninth Circuit should be guided by concerns of efficiency and administration, not ideology.

After a substantial review of the statistics, decisions, and reports from those who know the circuit best, it is clear that splitting the Ninth Circuit would hinder its mission of providing justice for the people of the West.

The split proposal before us would unfairly distribute judicial resources to the West. This is the key. The Ninth Circuit would keep 71 percent of the caseload of the current circuit but only 58 percent of its permanent judges. Any split we look at, because California is so big, tilts the circuit and, of course, all of the proponents of the circuit split take the judges with them. So it leaves a disproportionate share of a heavy caseload in the Ninth Circuit—unless you split California, and to split California creates a host of technical and legal problems.

Last year, the Ninth Circuit had a caseload of 570 cases per judge, as opposed to a national average of 381 cases per judge. So under the proposed split, the Ensign plan, the average caseload in the new Ninth Circuit would actually increase to 600 cases per judge, while the new Twelfth Circuit would have half that, 326 cases per judge. There is no effort to give the Ninth the new judges they would need to keep the caseload even. This inequitable division of resources would leave residents of California and Hawaii facing greater delays and with court services inferior to their Twelfth Circuit neighbors.

The uniformity of law in the West is a key advantage of the Ninth Circuit, offering consistency to States that share many common concerns. The size of the Ninth Circuit is an asset, offering a unified legal approach to issues from immigration to the environment. Dividing the circuit would make solving these problems even more difficult. For example, splitting the circuit could result in different interpretations in California and Arizona of laws that govern immigration, different applications of environmental regulations on the California and Nevada sides of Lake Tahoe, and different intellectual property law in Silicon Valley and the Seattle technology corridor. These differences would have real economic costs. These are border States, and trade and commerce in the Pacific is a huge part of what they do. Therefore, the legal consistency between them is an asset, not a disadvantage.

In a time of tight judicial budgets, splitting the circuit would add significant and unnecessary expense. The split actually would require additional Federal funds to duplicate the current staff of the Ninth Circuit and a new or expanded courthouse and an administrative building since existing judicial facilities for a Twelfth Circuit are inadequate. The Administrative Office of the U.S. Courts estimated that creating a Twelfth Circuit would have a startup cost of $96 million, with another $16 million in annual recurring cost.

If we are going to do anything, what we need is more judges on the Ninth Circuit. That is the key. With budget pressures already forcing our Federal courts to cut staff and curtail services, this is no time to impose new, unnecessary costs on the judiciary.

My colleague, Senator BARBARA BOXER, joins me in these remarks. She will have a separate statement.

Those who know the Ninth Circuit best overwhelming oppose the split. Of the active Ninth Circuit Court of Appeals judges, 18 oppose the split, to be exact, and only 3 support it. The district court and bankruptcy judges of the Ninth Circuit also oppose the split. Every State bar association that has weighed in on the split—Alaska, Arizona, Hawaii, Montana, Nevada, Oregon, and Washington—opposes breaking up the Ninth Circuit, and more than 100 different national, regional, and local organizations have written to urge that the Ninth Circuit be kept intact.

I believe splitting the Ninth Circuit would create more problems right now than it would solve. It will not solve the caseload problem of the circuit, and that is the critical issue. Those who propose the split do so to unfairly benefit themselves because they also take the judges from the Ninth Circuit and they add them to the Twelfth Circuit. They would end up having a caseload per judge of one-half of what the caseload would be in a new Ninth Circuit. So it is not a fair plan because it does not fairly distribute the resources based on caseload. I believe there is only one criterion for resources, and that is caseload. The judges must be where the cases are, and that should be an inescapable truth that we follow.

I urge the Senate to vote to sustain the point of order on the Ensign amendment to split the Ninth Circuit, and instead let's focus our attention on securing the courts and then, secondly, providing the judges who are necessary to equalize caseloads throughout the Nation.

Mr. President, I raise a point of order that the pending amendment violates section 505(a) of H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2004; that at 2 p.m. today, a vote occur on Senator ENSIGN's motion to waive the point of order, considered made by this agreement, with the time until 2 p.m. equally divided and controlled between Senators FEINSTEIN and ENSIGN or their designees; that if the motion to waive the Budget Act is not successful, then without further intervening action or debate, the bill be read a third time and the Senate vote

on passage of the bill; that if the motion to waive the Budget Act is successful, the provision on third reading and passage be vitiated.

I ask that the preceding be done by unanimous consent.

The PRESIDING OFFICER. (Mr. SALAZAR). Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SPECTER. Mr. President, I urge my colleagues to sustain the budget point of order because the underlying amendment, which would split the Court of Appeals for the Ninth Circuit, is not yet ripe for consideration by this body. The issue is a very complicated one as to what will happen with the Ninth Circuit. It is admittedly too large at the present time, but we have a lot of analysis to do as to which States ought to be in which divisions. It is an issue which the Judiciary Committee has wrestled with for some time. We took it up in the 109th Congress. The two confirmations of Chief Justice Roberts and Justice Alito took a great deal of time, as did the PATRIOT Act, and our bankruptcy legislation and class action reform, the confirmation process generally. I know Senator LEAHY, as chairman, plans to take up this issue as soon as we can do so. We are not ripe for action.

When we finish the next vote, we will be taking up final passage on the Court Security Act. I urge my colleagues to pass this important legislation. There is no doubt that there is a real threat to judges. We have seen violence right in the courtroom. We have seen violence against family members of Federal judges. We have seen the extraordinary situation that in April of 2005, cookies with rat poison were mailed to each of the nine Supreme Court Justices, also to FBI Director Robert Mueller, and others in the Federal establishment.

The core legislation was introduced during the 109th Congress in November 7, 2005. It passed unanimously. We need to pass it now to make some very important changes to provide for the security of our Federal judges.

I see the arrival of the Senator from California who has raised a budget point of order. I know we plan to vote imminently.

Mr. BAUCUS. Mr. President, I rise to express my opposition to the Ensign amendment. Splitting the circuit would have detrimental effects on the West—in particular, in my home State of Montana. Splitting the Ninth Circuit would eliminate uniformity of law in the West. States sharing common concerns such as the environment and Native American rights could end up with different rules of law. This would create confusion and cause serious problems between States.

And splitting the Ninth Circuit would impose huge new costs. A split would require new Federal funds for courthouses and administrative buildings. Existing judicial facilities are just not equipped for a new circuit. The Administrative Office estimates these start-up costs to be $96 million, and then $16 million in annual recurring costs under the proposed split. The judiciary budget is already stretched thin. The creation of a new and costly bureaucracy to administer the new circuit would just add to our growing deficit. And this proposal does not have the support of the people whom it will most directly affect.

Judges on the circuit oppose the split. Members of the State bars affected by the split oppose it. And almost 100 Federal, State, and local organizations oppose splitting the Ninth Circuit. Only 3 of the 26 active judges on the Ninth Circuit favor splitting the circuit. Many State bars oppose this proposal including Alaska, Washington, Nevada, Hawaii, and Arizona. Even the Federal Bar Association and the appellate section of the Oregon bar feel strongly that we should not split the Ninth Circuit. The State Bar of Montana does not support this proposal. The Montana bar unanimously passed a resolution opposing division of the Ninth Circuit.

We ought to be listening to the people on the ground who deal with this issue every day, not creating hardship from our offices in DC. Let's be frank here. The motivation behind splitting the circuit is political. It is an attempt to control the decisions of the judiciary by rearranging the bench. The judiciary is supposed to be an independent branch of government. It must remain so. Splitting the circuit is not the right thing to do for Montana. It is not the right thing to do for the country.

Mrs. BOXER. Mr. President, once again we are faced with a proposal to split the Ninth Circuit Court of Appeals, which includes my home State of California.

The amendment before us today would create a ''new'' Ninth Circuit, with California, Hawaii, and Guam, and a new 12th Circuit, consisting of other Western States.

I oppose this amendment for three reasons: First, splitting the Ninth Circuit would place a greater burden on California Federal appellate judges. Under the new plan, California judges would constitute only 58 percent of the former circuit's judicial staff, but required to handle more than 70 percent of former circuit's total caseload. Second, splitting the Ninth Circuit is unnecessary. The Ninth Circuit has performed well according to most performance measures, despite having one of the highest caseloads per judge in the country. Third, splitting the Ninth Circuit is opposed by the majority of people who would be most affected—the judges and attorneys of the Ninth Circuit.

I urge my colleagues to reject this unnecessary amendment that has nothing to do with court security, and creates new problems and costs for the parties, lawyers and judges that practice in the Ninth Circuit.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Nevada is expected to make a motion to waive the Budget Act.

Mr. ENSIGN. Mr. President, I ask the Chair to rule on the point of order.

The PRESIDING OFFICER. The point of order is sustained.

The amendment falls.

Mr. KYL. Mr. President, I wish to comment on section 207 of the pending matter, the Court Security Improvement Act of 2007. Section 207 increases the statutory maximum penalties for the Federal offense of manslaughter. Pursuant to this legislation, the maximum penalty for involuntary manslaughter will be increased from 6 to 10 years, and the penalty for voluntary manslaughter will be increased from 10 to 20 years. This is a change that I sought to have included in last year's various court security bills. I am pleased to see that it will be included in this year's final Senate bill.

The need for an increase in the manslaughter statutory maximum penalty is made clear in testimony that was presented before the U.S. Sentencing Commission by Paul Charlton, the U.S. Attorney for the District of Arizona, on March 25, 2003. Despite recent changes to the guidelines for manslaughter offenses, the typical DUI involuntary manslaughter crime still is subject to a sentencing range of only 30 to 37 months. Yet, as Mr. Charlton noted in his testimony, under Arizona State law, the presumptive sentence for a typical DUI involuntary manslaughter offense is 10½ years. In other words, despite recent guidelines adjustments, the Federal criminal justice system still imposes a sentence for involuntary manslaughter in drunk driving cases that is only a third of the sentence that would be imposed for the exact same conduct under State law.

Mr. Charlton concluded that there is a ''dire need for immediate improvements to the manslaughter statutory penalty and sentencing guidelines.'' As he noted, ''the respect and confidence of surviving victims in the federal criminal justice system is severely undermined and will continue to be unless the statutory maximum penalties are increased to reflect the seriousness of the crime and the sentencing guidelines are comparably changed to reflect that increase.''

With this bill, the Congress finally acts on Mr. Charlton's recommendation to increase the statutory maximum. I would like to emphasize, however, that enactment of section 207 does not alone finish the job. As Mr.

Charlton noted in his testimony, even after Congress increased statutory penalties for these offenses in 1998, the sentences imposed by Federal courts ''remain[ed] inadequate to deter and punish offenders [as of March 2003] because the federal manslaughter sentencing guideline was never changed to reflect the increased penalty.''

The Sentencing Commission did eventually adjust the guidelines in response to the 1998 amendments, albeit 5 years after those changes were enacted. In case a staffer for the Sentencing Commission reads this speech in the CONGRESSIONAL RECORD, let me be clear: yes, we do expect the Commission to adjust the guidelines for voluntary and involuntary manslaughter in order to reflect the statutory changes made by section 207. And please persuade the Commissioners to act expeditiously. If this matter is not addressed during the next appropriate period for submitting proposed changes to the guidelines, I will contact the Commission to inquire why no adjustment has been made.

I ask unanimous consent that Mr. Charlton's 2003 testimony before the Sentencing Commission be printed in the RECORD.

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

TESTIMONY BEFORE THE U.S. SENTENCING COMMISSION

(By Paul Charlton)

Members of the U.S. Sentencing Commission, thank you for giving me the opportunity to appear before you to discuss sentencing in federal manslaughter cases. This topic is particularly important to the District of Arizona because my district routinely handles the highest number of prosecutions under the Major Crimes Act arising out of violations in Indian country, including federal manslaughter cases, in the United States. The low statutory and guideline sentences for these offenses are a topic of frustration routinely discussed among my counterparts with similar criminal jurisdiction responsibilities and who serve on the United States Attorney General's Native American Issues Advisory Subcommittee.

The District of Arizona encompasses the entire state of Arizona. We have exclusive authority to prosecute Major Crimes Act violations occurring within Arizona's 21 Indian Reservations. Two of the nation's largest Indian Reservations are located in Arizona—the Navajo Nation, with an approximate total population of 275,000 members and a land base of over 17 million acres spanning three states (Arizona, New Mexico and Utah), and the Tohono O'odham Nation, with an approximate total population of 24,000 members and a land base comparable to the state of Connecticut. Recent Department of Justice data revealed that the violent crime rate on the Navajo Reservation is six times the national average. In total, in calendar year 2002, my office handled a total of 64 manslaughter and 94 murder cases. In a two-year period ending September 2002, the Flagstaff division of the U.S. Attorney's Office (which responds to Northern Arizona federal crimes) handled 65 homicide prosecutions, including 27 manslaughter and 38 murder cases.

In the summer of 2001, this Commission held a hearing on the impact of the sentencing guidelines on Indians committing offenses in Indian country. The perception going into this hearing was that Indians sentenced under the federal sentencing guidelines are treated more harshly than those who are adjudicated in the State system. The experiences of federal prosecutors in my District as they relate to the crimes of voluntary and involuntary manslaughter are not consistent with this perception. Our perception, and that of many Indian and non-Indian victims, is that the federal criminal justice system is in many circumstances unjust. Consequently, the respect and confidence of surviving victims in the federal criminal justice system is severely undermined and will continue to be unless the statutory maximum penalties are increased to reflect the seriousness of the crime and the sentencing guidelines are comparably changed to reflect that increase.

In 1994, the United States Congress amended the penalty for involuntary manslaughter from three years to the current six year maximum term. [Footnote: See H.R. Conf. Rep. 103–711 (1994).] The primary purpose for the amendment was to correct the inadequacy of the three-year penalty as it applied to drunk driving homicides. In passing the amendment, one Senator noted ''Involuntary manslaughter most often occurs through reckless or drunken driving. A three-year maximum sentence is not adequate to vindicate the most egregious instances of this conduct, which takes an increasing toll of innocent victims' lives.'' [Footnote: 134 CONG. REC. S.7446–01 (statement of Sen. Byrd).] I applaud Congress' efforts in amending the law. However, it has become abundantly clear that the current statutory penalties remain inadequate to deter and punish offenders because the federal manslaughter sentencing guideline was never changed to reflect the increased penalty.

Today, the average range of sentence for a defendant for involuntary manslaughter is 16–24 months imprisonment followed by three years on Supervised Release. I would like to share with you some of the experiences faced by federal prosecutors assigned to DUI homicides in Indian country to illustrate the gravity of theses crimes, the comparable state sentences imposed, and to demonstrate the need for increased penalties and comparable sentencing guidelines:

Kyle Peterson, was charged with one count of involuntary manslaughter for the death of a 60-year-old man who was driving to work southbound on the Loop 101 Freeway in Phoenix. Peterson was driving north in the southbound lanes of the Loop 101. The two vehicles collided head-on as they entered a portion of the freeway located in Indian country. The victim was killed instantly. Peterson suffered serious head injuries but his recovery has been positive. At the time of impact Peterson's blood alcohol level was .158. He pled guilty to the charge of involuntary manslaughter with no agreements and was sentenced to 14 months in custody followed by three years on supervised release. In her victim impact statement, the decedent's widow stated ''[f]inally there is me rage at a system that allows a criminal to face almost no punishment because of Federal Sentencing Commission laws . . . DUI is a criminal offense. Why does the Federal system not treat it as such?''

Gaylen Lomatuwayma was charged with one count of involuntary manslaughter after he struck and killed the victim, who was walking along Navajo Route 2. The crash took place after a night of drinking in Flagstaff, Arizona. The defendant kept driving until his truck stopped working. He was indicted on one count of involuntary manslaughter and was sentenced to 21 months in custody followed by 3 years on supervised release.

In July, 2001, Zacharay Guerrero was driving intoxicated on the Salt River Pima-Maricopa Reservation near Phoenix when he failed to stop at a clearly posted stop sign. He collided with a vehicle occupied by two female tribal members. On impact, both females were ejected from the vehicle, which ignited in flames and burned at the scene. Guerrero fled the scene. Investigation revealed that the defendant's vehicle had an impact speed of between 64 and 70 mph (while the posted speed limit was 35 mph) and the victim vehicle had an impact speed of 9 mph. One victim died at the scene. The medical examiner attributed her death to multiple blunt force trauma due to the motor-vehicle impact. The second victim died two months later. While there were small amounts of alcohol detected in the victim/driver's blood, the accident reconstructionist did not believe it was a significant contributing factor to the crash. Guerrero was charged and plead guilty to two counts of involuntary manslaughter, with no sentencing agreement. The guideline calculation resulted in a total offense level 13, with acceptance of responsibility, or a sentencing range of only 12–18 months. Only because of Guerrero's prior criminal history did he receive a sentence of concurrent terms of 37 months, the high end of the applicable guideline range.

In November 2001, Ernest Zahony was driving eastbound on hwy 160 near the Old Red Lake Trading Post on the Navajo Indian Reservation. He crossed the center line and struck a family headed westbound on their way to a late Thanksgiving dinner. The driver was pinned behind the steering wheel and later died as a result of her injuries. Five other occupants, including children, received serious injuries. The defendant walked away from the scene and was found about a mile away. The defendant admitted to drinking all night and into the morning. At the time of the crash, he is estimated to have had a .252 blood alcohol level. The court, applying an upward departure, sentenced the defendant to 40 months in custody.

Victim families routinely hear or read about state drunk-driving homicide cases where long sentences are imposed by state court judges. Without exception, every Assistant U.S. Attorney and Victim Advocate assigned to federal drunk driving homicides must go through the painful process of explaining to victim families that the long sentences meted out in the state court system do not apply because the defendant will be sentenced under the federal sentencing guideline scheme. Victim families cannot comprehend that had the crime occurred in state jurisdiction, the defendant would be imprisoned for a substantially longer term.

To illustrate this, in Arizona state court, the crime of manslaughter is designated either ''dangerous'' or ''non-dangerous.'' [Footnote: Case illustrations were provided by the Arizona Chapter of MADD. Explanation of state sentencing categories were provided by the Maricopa County Attorney's Office.] In Maricopa County, DUI homicides are almost exclusively charged as ''dangerous'' felonies. [Footnote: According to the Maricopa County Attorney's Office, ''non-dangerous'' felonies are reserved for those DUI homicides with great evidentiary weaknesses and are rarely, if ever, charged.] The sentence for manslaughter ''dangerous'' ranges from seven to 21 years in custody and yields a presumptive 10½ year sentence.

For example, the Maricopa County Attorney's Office stated that generally, where an intoxicated defendant crosses a center line striking and killing someone, he/she will almost assuredly receive a sentence of 10½ years. If the individual has a prior drunk driving history, the range of sentence increases by 2 years. In cases where a passenger in a defendant's car is killed, the

range of sentence generally is 7–10½ years in custody.

Compare Arizona v. Bruguier with United States v. Lomatuwayma. In Bruguier, the defendant was sentenced to 11½ years for driving while intoxicated and striking and killing an individual who was jogging along a roadway.

Ironically, if any of the victims in the above-mentioned cases were injured, rather than killed, each defendant would have been sentenced under the assault statute, resulting in much harsher penalties. [Footnote: Similarly, the statutory maximum for Assault with a Dangerous Weapon and Assault Resulting in Serious Bodily Injury is no more than 10 years and a $250,000 fine. 18 U.S.C.§113. The Base Offense Level is 15 and allows for specific offense characteristics which may result in a substantially higher sentencing range.] To address the low statutory and guideline penalty for involuntary manslaughter cases, my office applies alternative or additional charges in appropriate cases such as assault or second degree murder. This approach enhances the penalties available to the court. Also, the added charges will hopefully deter the defendant from future conduct, and provide a means to advocate on behalf of the surviving victims.

For example, Sebastian Lopez plead guilty to Second Degree Murder for committing a DUI homicide and was sentenced to 11½ years in custody. At the time of this offense, Lopez was serving a sentence of federal probation for a prior DUI homicide. In total, this defendant had four prior DUI convictions, three involving accidents and one involving death, yet he remained undeterred by his first DUI homicide crime and federal sentence.

Additionally, federal prosecutors routinely seek upward departures to increase a drunk driving defendant's final adjusted sentence. However, courts are reluctant to impose upward departures in manslaughter cases. In United States v. Merrival, 176 F.3d 1079 (8th Cir. 1999), a case prosecuted by the District of South Dakota, the defendant was charged with one count of Involuntary Manslaughter for the DUI homicide of his two passengers, which included a 5-month-old infant. The defendant plead guilty to the indictment and the district court departed upward to sentence him to 70 months in custody. In imposing sentence, the court stated that the defendant's conduct was extremely dangerous and resulted in two deaths and severe bodily injury to the three surviving victims. In upholding the sentence, the Eighth Circuit stated ''[w]e make special note, however, that in imposing a departure of this magnitude, the district court acted at the outermost limits of its discretionary authority.'' Id. at 1082. Consequently, federal courts themselves appear to struggle with finding a just sentence for these crimes and remain reluctant to impose an upward departure even in the most egregious cases.

Additionally, if a defendant's tribal criminal history reflects repeated criminal conduct while they are under the influence of alcohol, a prosecutor may seek an enhanced sentence pursuant to U.S.S.G. §4A1.3, Adequacy of Criminal History. [Footnote: This section may only be applied where a defendant's prior sentence(s) are not factored into his sentencing guideline range. 4A1.3(a).] However, federal court judges are reluctant to apply an upward departure even where a defendant has prior multiple tribal court DUI convictions. Recently, Dale Haskan received a 14 month sentence for the DUI homicide of a 15-year-old girl. Haskan had multiple prior DUIs in tribal court dating back 20 years. The district court ruled that only one of his prior convictions was admissible because of inadequate documentation and his concern whether Haskan was represented in tribal court on those multiple convictions.

Depending on the extent and substance of a defendant's tribal criminal history, the facts, and the character of the victim, a court may make legal and factual findings that the defendant is entitled to an enhancement. See United States v. Betti Rowbal, 105 F.3d 667 (9th Cir. Nev.) (Unpublished Decision). In drunk driving homicides, however, it is hard for a prosecutor to argue that the Sentencing Commission did not take into account the loss of life or the degree of a defendant's intoxication. Id. Therefore, sentencing enhancements in these cases, although routinely sought, are difficult to substantiate and thus are rarely imposed. It is my hope that these examples will serve to illustrate the dire need for immediate improvements to the manslaughter statutory penalty and sentencing guidelines.

I would like to briefly address second degree murder. As you consider addressing manslaughter, I urge the Commission to reexamine the murder sentencing guidelines in relationship to the statutory maximum penalty, life imprisonment. The Commission must evaluate whether the 33 base offense level is appropriate given that second degree murder involves a high level of culpability on the part of the defendant. [Footnote: With a Criminal History of I and a 3-level adjustment for Acceptance of Responsibility, a defendant would face an adjusted offense level of 30 (97–121 months in custody).] For example, Douglas Tree plead guilty to Second Degree Murder for beating his girlfriend's 18 month old daughter. Her injuries included a fractured clavicle and fractured ribs. He waited until his girlfriend came home to take the child in for medical treatment. The infant was hospitalized, placed on life support and later died. Tree received a 142 month sentence. Leslie Vanwinkle was also charged with Second Degree Murder for the beating death of his 70-year-old father. Vanwinkle was sentenced to a term of 151 months in custody. These crimes are among the most malicious and often occur with weapons including knives, rocks and shovels. The use of a firearm gives prosecutors the leverage of charging a gun violation, which drastically enhances the second degree murder sentence.

Finally, should the Commission increase the manslaughter sentencing guideline, it must evaluate the impact that the existing second degree murder guideline will have relative to any increase. I therefore encourage the Commission to consider creating specific offense characteristics that reflect the more egregious and aggravated type of murder.

The frustration felt by the victim families, prosecutors, and often expressed by district court judges in imposing sentences is all to common in my district and experienced by every federal prosecutor with similar federal criminal jurisdictional responsibilities. So, I am thankful and encouraged that this Commission continues to have an interest in this area. I am also encouraged that the Commission developed the Native American Ad Hoc Advisory Committee to more thoroughly review the perceptions of Indian Country Crimes and Sentencing disparity. My colleagues and I on the Attorney General's Native American Issues Advisory Committee look forward to the Committee's findings. Thank you again for extending to me the invitation to speak to you today.

Mr. LEAHY. Mr. President, I appreciate the hard work of my colleagues in coming to agreement to proceed to final passage of this important legislation.

This bill has been a top priority of the Federal judiciary. I introduce it back in January, and it proceeded through regular order. We held a hearing, issued a committee report, considered floor amendments, and debated the measure.

Now it is time to vote for its passage. We can and we must provide for increased security for our Federal judges.

Physical attacks on our judges threaten not only the dedicated public servants who serve in these roles but also the institution. Our Nation's Founders knew that without an independent judiciary to protect individual rights from the political branches of Government, those rights and privileges would not be preserved. Our Federal courts are the ultimate check and balance in our system of government.

We owe it to our judges to better protect them and their families from violence to ensure that they have the peace of mind to do their vital and difficult jobs.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mrs. FEINSTEIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The bill having been read the third time, the question is, Shall it pass?

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 135 Leg.]

YEAS—97

Akaka	DeMint	Lott
Alexander	Dodd	Lugar
Allard	Dole	Martinez
Baucus	Domenici	McCaskill
Bayh	Dorgan	McConnell
Bennett	Durbin	Menendez
Biden	Ensign	Mikulski
Bingaman	Enzi	Murkowski
Bond	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Brown	Graham	Nelson (NE)
Brownback	Grassley	Obama
Bunning	Gregg	Pryor
Burr	Hagel	Reed
Byrd	Harkin	Reid
Cantwell	Hatch	Roberts
Cardin	Hutchison	Rockefeller
Carper	Inhofe	Salazar
Casey	Isakson	Sanders
Chambliss	Kennedy	Schumer
Clinton	Kerry	Sessions
Coburn	Klobuchar	Shelby
Cochran	Kohl	Smith
Coleman	Kyl	Snowe
Collins	Landrieu	Specter
Conrad	Lautenberg	Stabenow
Corker	Leahy	Stevens
Cornyn	Levin	Sununu
Craig	Lieberman	Tester
Crapo	Lincoln	Thomas

Thune	Warner	Wyden
Vitter	Webb	
Voinovich	Whitehouse	

NOT VOTING—3

Inouye	Johnson	McCain

The bill (S. 378), as amended, was passed, as follows:

S. 378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Court Security Improvement Act of 2007''.

TITLE I—JUDICIAL SECURITY IMPROVEMENTS AND FUNDING

SEC. 101. JUDICIAL BRANCH SECURITY REQUIREMENTS.

(a) ENSURING CONSULTATION WITH THE JUDICIARY.—Section 566 of title 28, United States Code, is amended by adding at the end the following:

''(i) The Director of the United States Marshals Service shall consult with the Judicial Conference of the United States on a continuing basis regarding the security requirements for the judicial branch of the United States Government, to ensure that the views of the Judicial Conference regarding the security requirements for the judicial branch of the Federal Government are taken into account when determining staffing levels, setting priorities for programs regarding judicial security, and allocating judicial security resources. In this paragraph, the term 'judicial security' includes the security of buildings housing the judiciary, the personal security of judicial officers, the assessment of threats made to judicial officers, and the protection of all other judicial personnel. The United States Marshals Service retains final authority regarding security requirements for the judicial branch of the Federal Government.''.

(b) CONFORMING AMENDMENT.—Section 331 of title 28, United States Code, is amended by adding at the end the following:

''The Judicial Conference shall consult with the Director of United States Marshals Service on a continuing basis regarding the security requirements for the judicial branch of the United States Government, to ensure that the views of the Judicial Conference regarding the security requirements for the judicial branch of the Federal Government are taken into account when determining staffing levels, setting priorities for programs regarding judicial security, and allocating judicial security resources. In this paragraph, the term 'judicial security' includes the security of buildings housing the judiciary, the personal security of judicial officers, the assessment of threats made to judicial officers, and the protection of all other judicial personnel. The United States Marshals Service retains final authority regarding security requirements for the judicial branch of the Federal Government.''.

SEC. 102. PROTECTION OF FAMILY MEMBERS.

Section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in subparagraph (A), by inserting ''or a family member of that individual'' after ''that individual''; and

(2) in subparagraph (B)(i), by inserting ''or a family member of that individual'' after ''the report''.

SEC. 103. FINANCIAL DISCLOSURE REPORTS.

(a) EXTENSION OF AUTHORITY.—Section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App) is amended by striking ''2005'' each place that term appears and inserting ''2009''.

(b) REPORT CONTENTS.—Section 105(b)(3)(C) of the Ethics in Government Act of 1978 (5 U.S.C. App) is amended—

(1) in clause (ii), by striking ''and'' at the end;

(2) in clause (iii), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(iv) the nature or type of information redacted;

''(v) what steps or procedures are in place to ensure that sufficient information is available to litigants to determine if there is a conflict of interest;

''(vi) principles used to guide implementation of redaction authority; and

''(vii) any public complaints received in regards to redaction.''.

SEC. 104. PROTECTION OF UNITED STATES TAX COURT.

(a) IN GENERAL.—Section 566(a) of title 28, United States Code, is amended by striking ''and the Court of International Trade'' and inserting '', the Court of International Trade, and the United States Tax Court, as provided by law''.

(b) INTERNAL REVENUE CODE.—Section 7456(c) of the Internal Revenue Code of 1986 (relating to incidental powers of the Tax Court) is amended in the matter following paragraph (3), by striking the period at the end, and inserting ''and may otherwise provide, when requested by the chief judge of the Tax Court, for the security of the Tax Court, including the personal protection of Tax Court judges, court officers, witnesses, and other threatened persons in the interests of justice, where criminal intimidation impedes on the functioning of the judicial process or any other official proceeding.''.

(c) REIMBURSEMENT.—The United States Tax Court shall reimburse the United States Marshals Service for protection provided under the amendments made by this section.

SEC. 105. ADDITIONAL AMOUNTS FOR UNITED STATES MARSHALS SERVICE TO PROTECT THE JUDICIARY.

In addition to any other amounts authorized to be appropriated for the United States Marshals Service, there are authorized to be appropriated for the United States Marshals Service to protect the judiciary, $20,000,000 for each of fiscal years 2007 through 2011 for—

(1) hiring entry-level deputy marshals for providing judicial security;

(2) hiring senior-level deputy marshals for investigating threats to the judiciary and providing protective details to members of the judiciary and assistant United States attorneys; and

(3) for the Office of Protective Intelligence, for hiring senior-level deputy marshals, hiring program analysts, and providing secure computer systems.

TITLE II—CRIMINAL LAW ENHANCEMENTS TO PROTECT JUDGES, FAMILY MEMBERS, AND WITNESSES

SEC. 201. PROTECTIONS AGAINST MALICIOUS RECORDING OF FICTITIOUS LIENS AGAINST FEDERAL JUDGES AND FEDERAL LAW ENFORCEMENT OFFICERS.

(a) OFFENSE.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

''SEC. 1521. RETALIATING AGAINST A FEDERAL JUDGE OR FEDERAL LAW ENFORCEMENT OFFICER BY FALSE CLAIM OR SLANDER OF TITLE.

''Whoever files, attempts to file, or conspires to file, in any public record or in any private record which is generally available to the public, any false lien or encumbrance against the real or personal property of an individual described in section 1114, on account of the performance of official duties by that individual, knowing or having reason to know that such lien or encumbrance is false or contains any materially false, fictitious, or fraudulent statement or representation, shall be fined under this title or imprisoned for not more than 10 years, or both.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 73 of title 18, United States Code, is amended by adding at the end the following new item:

''1521. Retaliating against a Federal judge or Federal law enforcement officer by false claim or slander of title.''.

SEC. 202. PROTECTION OF INDIVIDUALS PERFORMING CERTAIN OFFICIAL DUTIES.

(a) OFFENSE.—Chapter 7 of title 18, United States Code, is amended by adding at the end the following:

''§ 119. Protection of individuals performing certain official duties

''(a) IN GENERAL.—Whoever knowingly makes restricted personal information about a covered official, or a member of the immediate family of that covered official, publicly available—

''(1) with the intent to threaten, intimidate, or incite the commission of a crime of violence against that covered official, or a member of the immediate family of that covered official; or

''(2) with the intent and knowledge that the restricted personal information will be used to threaten, intimidate, or facilitate the commission of a crime of violence against that covered official, or a member of the immediate family of that covered official, shall be fined under this title, imprisoned not more than 5 years, or both.

''(b) DEFINITIONS.—In this section—

''(1) the term 'restricted personal information' means, with respect to an individual, the Social Security number, the home address, home phone number, mobile phone number, personal email, or home fax number of, and identifiable to, that individual;

''(2) the term 'covered official' means—

''(A) an individual designated in section 1114; or

''(B) a grand or petit juror, witness, or other officer in or of, any court of the United States, or an officer who may be serving at any examination or other proceeding before any United States magistrate judge or other committing magistrate;

''(3) the term 'crime of violence' has the meaning given the term in section 16; and

''(4) the term 'immediate family' has the meaning given the term in section 115(c)(2).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 18, United States Code, is amended by adding at the end the following new item:

''119. Protection of individuals performing certain official duties.''.

SEC. 203. PROHIBITION OF POSSESSION OF DANGEROUS WEAPONS IN FEDERAL COURT FACILITIES.

Section 930(e)(1) of title 18, United States Code, is amended by inserting ''or other dangerous weapon'' after ''firearm''.

SEC. 204. CLARIFICATION OF VENUE FOR RETALIATION AGAINST A WITNESS.

Section 1513 of title 18, United States Code, is amended by adding at the end the following:

''(g) A prosecution under this section may be brought in the district in which the official proceeding (whether pending, about to be instituted, or completed) was intended to be affected, or in which the conduct constituting the alleged offense occurred.''.

SEC. 205. MODIFICATION OF TAMPERING WITH A WITNESS, VICTIM, OR AN INFORMANT OFFENSE.

(a) CHANGES IN PENALTIES.—Section 1512 of title 18, United States Code, is amended—

(1) so that subparagraph (A) of subsection (a)(3) reads as follows:

''(A) in the case of a killing, the punishment provided in sections 1111 and 1112;'';

(2) in subsection (a)(3)—

(A) in the matter following clause (ii) of subparagraph (B) by striking ''20 years'' and inserting ''30 years''; and

(B) in subparagraph (C), by striking ''10 years'' and inserting ''20 years'';

(3) in subsection (b), by striking ''ten years'' and inserting ''20 years''; and

(4) in subsection (d), by striking ''one year'' and inserting ''3 years''.

SEC. 206. MODIFICATION OF RETALIATION OFFENSE.

Section 1513 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(B)—

(A) by inserting a comma after ''probation''; and

(B) by striking the comma which immediately follows another comma;

(2) in subsection (a)(2)(B), by striking ''20 years'' and inserting ''30 years'';

(3) in subsection (b)—

(A) in paragraph (2)—

(i) by inserting a comma after ''probation''; and

(ii) by striking the comma which immediately follows another comma; and

(B) in the matter following paragraph (2), by striking ''ten years'' and inserting ''20 years''; and

(4) by redesignating the second subsection (e) as subsection (f).

SEC. 207. GENERAL MODIFICATIONS OF FEDERAL MURDER CRIME AND RELATED CRIMES.

Section 1112(b) of title 18, United States Code, is amended—

(1) by striking ''ten years'' and inserting ''20 years''; and

(2) by striking ''six years'' and inserting ''10 years''.

TITLE III—PROTECTING STATE AND LOCAL JUDGES AND RELATED GRANT PROGRAMS

SEC. 301. GRANTS TO STATES TO PROTECT WITNESSES AND VICTIMS OF CRIMES.

(a) IN GENERAL.—Section 31702 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13862) is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) in paragraph (4), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(5) by a State, unit of local government, or Indian tribe to create and expand witness and victim protection programs to prevent threats, intimidation, and retaliation against victims of, and witnesses to, violent crimes.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 31707 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13867) is amended to read as follows:

''SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated $20,000,000 for each of the fiscal years 2007 through 2011 to carry out this subtitle.''.

SEC. 302. ELIGIBILITY OF STATE COURTS FOR CERTAIN FEDERAL GRANTS.

(a) CORRECTIONAL OPTIONS GRANTS.—Section 515 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762a) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(4) grants to State courts to improve security for State and local court systems.''; and

(2) in subsection (b), by inserting after the period the following:

''Priority shall be given to State court applicants under subsection (a)(4) that have the greatest demonstrated need to provide security in order to administer justice.''.

(b) ALLOCATIONS.—Section 516(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762b) is amended by—

(1) striking ''80'' and inserting ''70'';

(2) striking ''and 10'' and inserting ''10''; and

(3) inserting before the period the following: '', and 10 percent for section 515(a)(4)''.

(c) STATE AND LOCAL GOVERNMENTS TO CONSIDER COURTS.—The Attorney General may require, as appropriate, that whenever a State or unit of local government or Indian tribe applies for a grant from the Department of Justice, the State, unit, or tribe demonstrate that, in developing the application and distributing funds, the State, unit, or tribe—

(1) considered the needs of the judicial branch of the State, unit, or tribe, as the case may be;

(2) consulted with the chief judicial officer of the highest court of the State, unit, or tribe, as the case may be; and

(3) consulted with the chief law enforcement officer of the law enforcement agency responsible for the security needs of the judicial branch of the State, unit, or tribe, as the case may be.

(d) ARMOR VESTS.—Section 2501 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ll) is amended—

(1) in subsection (a), by inserting ''and State and local court officers'' after ''tribal law enforcement officers''; and

(2) in subsection (b), by inserting ''State or local court,'' after ''government,''.

TITLE IV—LAW ENFORCEMENT OFFICERS

SEC. 401. REPORT ON SECURITY OF FEDERAL PROSECUTORS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the security of assistant United States attorneys and other Federal attorneys arising from the prosecution of terrorists, violent criminal gangs, drug traffickers, gun traffickers, white supremacists, those who commit fraud and other white-collar offenses, and other criminal cases.

(b) CONTENTS.—The report submitted under subsection (a) shall describe each of the following:

(1) The number and nature of threats and assaults against attorneys handling prosecutions described in subsection (a) and the reporting requirements and methods.

(2) The security measures that are in place to protect the attorneys who are handling prosecutions described in subsection (a), including threat assessments, response procedures, availability of security systems and other devices, firearms licensing (deputations), and other measures designed to protect the attorneys and their families.

(3) The firearms deputation policies of the Department of Justice, including the number of attorneys deputized and the time between receipt of threat and completion of the deputation and training process.

(4) For each requirement, measure, or policy described in paragraphs (1) through (3), when the requirement, measure, or policy was developed and who was responsible for developing and implementing the requirement, measure, or policy.

(5) The programs that are made available to the attorneys for personal security training, including training relating to limitations on public information disclosure, basic home security, firearms handling and safety, family safety, mail handling, counter-surveillance, and self-defense tactics.

(6) The measures that are taken to provide attorneys handling prosecutions described in subsection (a) with secure parking facilities, and how priorities for such facilities are established—

(A) among Federal employees within the facility;

(B) among Department of Justice employees within the facility; and

(C) among attorneys within the facility.

(7) The frequency attorneys handling prosecutions described in subsection (a) are called upon to work beyond standard work hours and the security measures provided to protect attorneys at such times during travel between office and available parking facilities.

(8) With respect to attorneys who are licensed under State laws to carry firearms, the policy of the Department of Justice as to—

(A) carrying the firearm between available parking and office buildings;

(B) securing the weapon at the office buildings; and

(C) equipment and training provided to facilitate safe storage at Department of Justice facilities.

(9) The offices in the Department of Justice that are responsible for ensuring the security of attorneys handling prosecutions described in subsection (a), the organization and staffing of the offices, and the manner in which the offices coordinate with offices in specific districts.

(10) The role, if any, that the United States Marshals Service or any other Department of Justice component plays in protecting, or providing security services or training for, attorneys handling prosecutions described in subsection (a).

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. EXPANDED PROCUREMENT AUTHORITY FOR THE UNITED STATES SENTENCING COMMISSION.

(a) IN GENERAL.—Section 995 of title 28, United States Code, is amended by adding at the end the following:

''(f) The Commission may—

''(1) use available funds to enter into contracts for the acquisition of severable services for a period that begins in 1 fiscal year and ends in the next fiscal year, to the same extent as executive agencies may enter into such contracts under the authority of section 303L of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253l);

''(2) enter into multi-year contracts for the acquisition of property or services to the same extent as executive agencies may enter into such contracts under the authority of section 304B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254c); and

''(3) make advance, partial, progress, or other payments under contracts for property or services to the same extent as executive agencies may make such payments under the authority of section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255).''.

(b) SUNSET.—The amendment made by subsection (a) shall cease to have force and effect on September 30, 2010.

SEC. 502. BANKRUPTCY, MAGISTRATE, AND TERRITORIAL JUDGES LIFE INSURANCE.

(a) IN GENERAL.—Section 604(a)(5) of title 28, United States Code, is amended by inserting after ''hold office during good behavior,'' the following: ''bankruptcy judges appointed under section 152 of this title, magistrate judges appointed under section 631 of this title, and territorial district court judges appointed under section 24 of the Organic Act of Guam (48 U.S.C. 1424b), section 1(b) of the Act of November 8, 1877 (48 U.S.C. 1821), or

section 24(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1614(a)),''.

(b) CONSTRUCTION.—For purposes of construing and applying chapter 87 of title 5, United States Code, including any adjustment of insurance rates by regulation or otherwise, the following categories of judicial officers shall be deemed to be judges of the United States as described under section 8701 of title 5, United States Code:

(1) Bankruptcy judges appointed under section 151 of title 28, United States Code.

(2) Magistrate judges appointed under section 631 of title 28, United States Code.

(3) Territorial district court judges appointed under section 24 of the Organic Act of Guam (48 U.S.C. 1424b), section 1(b) of the Act of November 8, 1877 (48 U.S.C. 1821), or section 24(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1614(a)).

(4) Judges retired under section 377 of title 28, United States Code.

(5) Judges retired under section 373 of title 28, United States Code.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any payment made on or after the first day of the first applicable pay period beginning on or after the date of enactment of this Act.

SEC. 503. ASSIGNMENT OF JUDGES.

Section 296 of title 28, United States Code, is amended by inserting at the end of the second undesignated paragraph the following new sentence: ''However, a judge who has retired from regular active service under section 371(b) of this title, when designated and assigned to the court to which such judge was appointed, shall have all the powers of a judge of that court, including participation in appointment of court officers and magistrate judges, rulemaking, governance, and administrative matters.''.

SEC. 504. SENIOR JUDGE PARTICIPATION IN THE SELECTION OF MAGISTRATE JUDGES.

Section 631(a) of title 28, United States Code, is amended by striking ''Northern Mariana Islands'' the first place it appears and inserting ''Northern Mariana Islands (including any judge in regular active service and any judge who has retired from regular active service under section 371(b) of this title, when designated and assigned to the court to which such judge was appointed)''.

SEC. 505. FEDERAL JUDGES FOR COURTS OF APPEALS.

Section 44(a) of title 28, United States Code, is amended in the table—

(1) in the item relating to the District of Columbia Circuit, by striking ''12'' and inserting ''11''; and

(2) in the item relating to the Ninth Circuit, by striking ''28'' and inserting ''29''.

Ms. CANTWELL. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Ms. CANTWELL. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

Ms. CANTWELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. KLOBUCHAR). Without objection, it is so ordered.

IRAQ

Mr. REID. Madam President, the White House has been telling America that Democrats are doing the wrong thing by calling for a change of course in Iraq. They say holding the Iraqi Government accountable is wrong. They say finding a political solution in Iraq is wrong. They say redeploying troops out of a civil war is wrong. They have said even debating a strategy for changing course is dangerous, and many Senate Republicans have backed that up by blocking several of our attempts to debate this issue here on the Senate Floor.

The American people want us to debate the war, and they want us to change the course. Listen to what the President's own Secretary of Defense Robert Gates said in the last few hours, and I quote:

> The debate in Congress has been helpful in demonstrating to the Iraqis that American patience is limited. The strong feelings expressed in the Congress about the timetable probably has had a positive impact in terms of communicating to the Iraqis that this is not an open-ended commitment.

The President and some of my Republican colleagues have also attempted to create a false crisis by claiming that Democrats are putting the troops in danger by not sending the supplemental bill immediately. But today, the Pentagon acknowledged what Democrats have long known—that President Bush continues to misstate the reality on the ground and in Iraq to score political points.

Like the nonpartisan Congressional Research Service, the Pentagon now acknowledges that it can pay for the Iraq war at least through June with the funds that have already been provided.

I hope the President and our Republican colleagues in Congress will put these false claims aside so we can get back to working toward a bipartisan solution.

Yesterday I met with President Bush to express the will of the American people, senior military officials, and a bipartisan majority of Congress that we must change course in Iraq. I told President Bush that, going on to 5 years, more than 3,300 American soldiers lost, tens of thousands wounded, a third of them gravely wounded, and billions and billions of dollars depleted from our Treasury, we as a country must change course in Iraq.

Conditions in Iraq get worse by the day. Now we find ourselves policing another nation's civil war. We are less secure from the many threats to our national security than we were when the war began. As long as we follow the President's path in Iraq, the war is lost. But there is still a chance to change course and we must change course. No one wants us to succeed in the Middle East more than I do. But there must be a change of course. Our brave men and women overseas have passed every test with flying colors. They have earned our pride and our praise. More important, they deserve a strategy worthy of their sacrifice.

The supplemental bill we passed with bipartisan support offers that. It includes a reasonable and attainable timeline to reduce combat missions and refocus our efforts on the real threats to our country's security. It offers a new path, a new direction forward. If we put politics aside, I believe we can find a way to make America safer and stronger.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. ALEXANDER. Madam President, I ask unanimous consent that I may speak as in morning business for as much time as I may require.

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

Mr. ALEXANDER. I thank the Chair.

(The remarks of Mr. ALEXANDER pertaining to the introduction of S. 1168 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. ALEXANDER. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

GONZALES V. CARHART

Mr. HATCH. Madam President, yesterday was a good day for democracy. It was a great day for American constitutionalism. I have said it before. I will continue to say it. All too often, we see judicial decisions on America's most important social issues made without any constitutional warrant.

Too difficult to convince your community that it should not pray before football games? No problem. Just find a judge to say that the practice is unconstitutional.

Too discouraged by the slow pace of the march toward same-sex marriage? Find a judge to declare that the State constitution has allowed it all along. A constitutional right to same-sex marriage—''presto chango.''

Americans of all political stripes understand that this highjacking of social policy from the people's representatives is deeply misguided.

A good number of law professors, law students, judges, and politicians still continue to inject the judicial branch