

NOVEMBER 5, 2009.

U.S. SENATE,  
U.S. Capitol,  
Washington, DC.

DEAR SENATORS: On September 11, 2001, the entire world watched as 19 men hijacked four commercial airliners, attacking passengers and killing crew members, and then turned the fully-fueled planes into missiles, flying them into the World Trade Center twin towers, the Pentagon and a field in Shanksville, Pennsylvania. 3,000 of our fellow human beings died in two hours. The nation's commercial aviation system ground to a halt. Lower Manhattan was turned into a war zone, shutting down the New York Stock Exchange for days and causing tens of thousands of residents and workers to be displaced. In nine months, an estimated 50,000 rescue and recovery workers willingly exposed themselves to toxic conditions to dig out the ravaged remains of their fellow citizens buried in 1.8 million tons of twisted steel and concrete.

The American people were rightly outraged by this act of war. Whether the cause was retribution or simple recognition of our common humanity, the words "Never Forget" were invoked in tearful or angry recitation, defiantly written in the dust of Ground Zero or humbly penned on makeshift memorials erected all across the land. The country was united in its determination that these acts should not go unmarked and unpunished.

Eight long years have passed since that dark and terrible day. Sadly, some have forgotten the promises we made to those whose lives were taken in such a cruel and vicious manner.

We have not forgotten. We are the husbands and wives, mothers and fathers, sons, daughters, sisters, brothers and other family members of the victims of these depraved and barbaric attacks, and we feel a profound obligation to ensure that justice is done on their behalf. It is incomprehensible to us that members of the United States Congress would propose that the same men who today refer to the murder of our loved ones as a "blessed day" and who targeted the United States Capitol for the same kind of destruction that was wrought in New York, Virginia and Pennsylvania, should be the beneficiaries of a social compact of which they are not a part, do not recognize, and which they seek to destroy: the United States Constitution.

We adamantly oppose prosecuting the 9/11 conspirators in Article III courts, which would provide them with the very rights that may make it possible for them to escape the justice which they so richly deserve. We believe that military commissions, which have a long and honorable history in this country dating back to the Revolutionary War, are the appropriate legal forum for the individuals who declared war on America. With utter disdain for all norms of decency and humanity, and in defiance of the laws of warfare accepted by all civilized nations, these individuals targeted tens of thousands of civilian non-combatants, brutally killing 3,000 men, women and children, injuring thousands more, and terrorizing millions.

We support Senate Amendment 2669 (pursuant to H.R. 2847, the Commerce, Justice, Science Appropriations Act of 2010), "prohibiting the use of funds for the prosecution in Article III courts of the United States of individuals involved in the September 11, 2001 terrorist attacks." We urge its passage by all those members of the United States Senate who stood on the senate floor eight years ago and declared that the perpetrators of these attacks would answer to the American people. The American people will not understand why those same senators now vote to

allow our cherished federal courts to be manipulated and used as a stage by the "mastermind of 9/11" and his co-conspirators to condemn this nation and rally their fellow terrorists the world over. As one New York City police detective, who lost 60 fellow officers on 9/11, told members of the Department of Justice's Detainee Policy Task Force at a meeting last June, "You people are out of touch. You need to hear the locker room conversations of the people who patrol your streets and fight your wars."

The President of the United States has stated that military commissions, promulgated by congressional legislation and recently reformed with even greater protections for defendants, are a legal and appropriate forum to try individuals captured pursuant to the 2001 Authorization for the Use of Military Force Act, passed by Congress in response to the attack on America. Nevertheless, on May 21, 2009, President Obama announced a new policy that Al-Qaeda terrorists should be tried in Article III courts "whenever feasible."

We strongly object to the President creating a two-tier system of justice for terrorists in which those responsible for the death of thousands on 9/11 will be treated as common criminals and afforded the kind of platinum due process accorded American citizens, yet members of Al Qaeda who aspire to kill Americans but who do not yet have blood on their hands, will be treated as war criminals. The President offers no explanation or justification for this contradiction, even as he readily acknowledges that the 9/11 conspirators, now designated "unprivileged enemy belligerents," are appropriately accused of war crimes. We believe that this two-tier system, in which war criminals receive more due process protections than would-be war criminals, will be mocked and rejected in the court of world opinion as an ill-conceived contrivance aimed, not at justice, but at the appearance of moral authority.

The public has a right to know that prosecuting the 9/11 conspirators in federal courts will result in a plethora of legal and procedural problems that will severely limit or even jeopardize the successful prosecution of their cases. Ordinary criminal trials do not allow for the exigencies associated with combatants captured in war, in which evidence is not collected with CSI-type chain-of-custody standards. None of the 9/11 conspirators were given the Miranda warnings mandated in Article III courts. Prosecutors contend that the lengthy, self-incriminating tutorials Khalid Sheikh Mohammed and others gave to CIA interrogators about 9/11 and other terrorist operations—called "pivotal for the war against Al-Qaeda" in a recently released, declassified 2005 CIA report—may be excluded in federal trials. Further, unlike military commissions, all of the 9/11 cases will be vulnerable in federal court to defense motions that their prosecutions violate the Speedy Trial Act. Indeed, the judge presiding in the case of Ahmed Ghailani, accused of participating in the 1998 bombing of the American Embassy in Kenya, killing 212 people, has asked for that issue to be briefed by the defense. Ghailani was indicted in 1998, captured in Pakistan in 2004, and held at Guantanamo Bay until 2009.

Additionally, federal rules risk that classified evidence protected in military commissions would be exposed in criminal trials, revealing intelligence sources and methods and compromising foreign partners, who will be unwilling to join with the United States in future secret or covert operations if doing so will risk exposure in the dangerous and hostile communities where they operate. This poses a clear and present danger to the public. The safety and security of the American

people is the President's and Congress's highest duty.

Former Attorney General Michael Mukasey recently wrote in the Wall Street Journal that "the challenges of terrorism trials are overwhelming." Mr. Mukasey, formerly a federal judge in the Southern District of New York, presided over the multi-defendant terrorism prosecution of Sheikh Omar Abdel Rahman, the cell that attacked the World Trade Center in 1993 and conspired to attack other New York landmarks. In addition to the evidentiary problems cited above, he expressed concern about courthouse and jail facility security, the need for anonymous jurors to be escorted under armed guard, the enormous costs associated with the use of U.S. marshals necessarily deployed from other jurisdictions, and the danger to the community which, he says, will become a target for homegrown terrorist sympathizers or embedded Al Qaeda cells.

Finally, there is the sickening prospect of men like Khalid Sheikh Mohammed being brought to the federal courthouse in Lower Manhattan, or the courthouse in Alexandria, Virginia, just a few blocks away from the scene of carnage eight years ago, being given a Constitutionally mandated platform upon which he can mock his victims, exult in the suffering of their families, condemn the judge and his own lawyers, and rally his followers to continue jihad against the men and women of the U.S. military, fighting and dying in the sands of Iraq and the mountains of Afghanistan on behalf of us all.

There is no guarantee that Mr. Mohammed and his co-conspirators will plead guilty, as in the case of Zacarias Moussaoui, whose prosecution nevertheless took four years, and who is currently attempting to recant that plea. Their attorneys will be given wide latitude to mount a defense that turns the trial into a shameful circus aimed at vilifying agents of the CIA for alleged acts of "torture," casting the American government and our valiant military as a force of evil instead of a force for good in places of the Muslim world where Al Qaeda and the Taliban are waging a brutal war against them and the local populations. For the families of those who died on September 11, the most obscene aspect of giving Constitutional protections to those who planned the attacks with the intent of inflicting maximum terror on their victims in the last moments of their lives will be the opportunities this affords defense lawyers to cast their clients as victims.

Khalid Sheikh Mohammed and his co-conspirators are asking to plead guilty, now, before a duly-constituted military commission. We respectfully ask members of Congress, why don't we let them?

Respectfully submitted,  
(Signed by 249 Family members).

#### IRAQ RECONSTRUCTION

Mr. LIEBERMAN. Madam President, I wish to commemorate the sixth anniversary of what is known today as the Office of the Special Inspector General for Iraq Reconstruction. Six years ago, on November 6, 2003, President Bush signed Public Law 108-106, the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan. The reconstruction effort at the time was under the direction of the Coalition Provisional Authority, CPA, and Congress, appropriately, provided for an Inspector General of the Authority to oversee the CPA's expenditures.

As the administration moved toward ending the CPA and transferring sovereignty back to the Iraqi people through its interim government, it became clear that it was important to maintain oversight of the multiagency reconstruction effort underway in Iraq. In Public Law 108-375, the Ronald W. Reagan National Defense Authorization Act for fiscal year 2005, Congress decided to redesignate the CPA IG as the Special Inspector General for Iraq Reconstruction, or SIGIR, with responsibility for reviewing programs funded with amounts appropriated or otherwise made available for the Iraq Relief and Reconstruction Fund.

The law provided, uniquely at the time, that the SIGIR report directly to both the Secretary of Defense and the Secretary of State, and that its quarterly reports be sent directly to the Congress.

As the reconstruction effort for Iraq grew in complexity Congress asked SIGIR to review additional funding streams; it is now responsible for reviewing "all funds appropriated or otherwise made available for the reconstruction of Iraq."

Since SIGIR reviews reconstruction funds expended by all agencies, it can compare the effectiveness of different agencies' practices and approaches to related problems. In addition, the frequent reorganizations of the reconstruction effort and the widespread pattern of having some agencies carry out work on behalf of others has made cross-agency reviews critical to providing accountability for expenditures. SIGIR has been able to provide precisely that type of cross-agency scrutiny.

SIGIR's productivity is notable. It has submitted 23 quarterly reports to Congress and published 4 "lessoned learned" reports, including the comprehensive account entitled "Hard Lessons: The Iraq Reconstruction Experience." It has issued 155 audit reports, 159 project assessments, inspections, and 96 limited onsite assessments.

SIGIR's staff in Baghdad and Arlington, VA, produces timely, useful reporting to program managers, senior Department leadership, and Congress. Its quarterly reports present a comprehensive, closely documented, snapshot of the reconstruction effort and conditions on the ground to provide context for understanding progress, or lack of progress, in Iraq's reconstruction. In recent quarters, reports have included province-by-province descriptions of the status of reconstruction and the pace of political change. The audit and inspections groups work in "real time," so that managers can improve processes quickly, often before reports are formally published.

SIGIR's reviews have been extremely useful to both the administration and Congress in assessing the many challenges of the reconstruction. The performance by the SIGIR office has also been recognized by the Council of Inspectors General on Integrity and Effi-

ciency, formerly the President's Council on Integrity and Efficiency, PCIE, for demonstrating integrity, determination and courage in providing independent oversight and unbiased review of U.S. reconstruction efforts in Iraq, and for exemplifying the highest ideals of government services as envisioned by the tenets of the Inspector General Act.

SIGIR's auditors and investigators carry out their work under dangerous and difficult circumstances. Its employees in Baghdad, in addition to being separated from their families and living under difficult conditions, are subject to considerable physical danger. Five have been wounded by indirect fire. Today I would especially like to pay tribute to SIGIR auditor Paul Converse, who died of wounds sustained in the Easter 2008 rocket attack on Baghdad's International Zone. Mr. Converse made the ultimate sacrifice in service to his country.

As my colleagues know, the reconstruction effort in Iraq suffered initially from uncoordinated and insufficient planning and has been characterized too often by poor contract oversight. The security situation in Iraq also increased the complexity of executing reconstruction projects. From its audits of specific projects such as the Basrah Children's Hospital and the Mosul Dam, to its broad reviews of thematic issues such as human capital management and contract administration, the SIGIR reports have provided a frank look at, and a better understanding of, the shortcomings, the successes, and the challenges of reconstruction.

So today I salute all the hard-working current and former staff of SIGIR, SIGIR's long-serving Deputy Inspector General, Ginger Cruz, and, of course, Stuart Bowen, who has ably served as the Special Inspector General for 6 years. Their work has been extremely influential on the evolution of reconstruction efforts in Iraq, and undoubtedly will help inform future U.S. relief and reconstruction efforts. Their efforts are greatly appreciated by this Senator.

#### LAND AND WATER CONSERVATION AUTHORIZATION AND FUNDING ACT

Mr. BAUCUS. Madam President, I rise today to speak about legislation that I introduced on Friday with Senator BINGAMAN—the Land and Water Conservation Authorization and Funding Act of 2009—which would establish permanent funding for the Land and Water Conservation Fund. This bill makes it certain that the funds available in the Land and Water Conservation Fund—LWCF—are not subject to the annual whims of Congress, but instead that these funds are available at a steady, reliable, certain level that will allow us to protect land and water well into our future.

For over 30 years, the LWCF has been used to purchase lands from willing

sellers for the purposes of conservation. It is authorized at a spending level \$900 million per year. However, Congress has rarely approved the full \$900 million, and appropriations have varied widely. The result is a program that sometimes moves forward in fits and starts rather than with a consistent level of investment from year to year.

Even with this situation, the LWCF is an incredibly successful and important program for our land conservation needs. In Montana, the LWCF has funded the acquisition of key treasures such as the Sun Ranch in Madison County and the Iron Mask Ranch in Broadwater County. We have areas all over Montana in the pristine ecosystem of the Rocky Mountain Front that are standing in line, just waiting for LWCF funds to be available.

We cannot afford to wait any longer. We need to take steps today, this Congress, to fix this long-standing problem and establish permanent funding for the LWCF to protect Montana's resources well into the future.

#### WYOMING FARM BUREAU FEDERATION

Mr. BARRASSO. Madam President, I wish to recognize the Wyoming Farm Bureau Federation's 90 years of service. Since its first meeting, the Wyoming Farm Bureau Federation has advocated for Wyoming farm and ranch families in local, State and Federal policy. The organization has been a leader in advocating for low taxes, less government, multiple use, and most of all private property rights for generations. The Wyoming Farm Bureau Federation provides organization, resources, and service to our agriculture community.

Among the strengths of the Wyoming Farm Bureau Federation is the organization of the Farm Bureau Young Farmers & Ranchers Program. This program provides resources and leadership for men and women beginning their careers in agriculture. The program is laying the foundation for future leaders in Wyoming agriculture and our rural communities.

Wyoming Farm Bureau Federation serves as a reliable source of agriculture and business information in Wyoming. Many in Wyoming turn to Wyoming Farm Bureau Federation as the source for up-to-date agricultural news. The organization provides timely information and valuable insight into current issues facing Wyoming and America.

Wyoming Farm Bureau Federation members will celebrate 90 years of service at their annual meeting this week in Casper, WY. They will remember the pioneer spirit that brought together farmers and ranchers from Wyoming's counties 90 years ago. The foresight of those early members has allowed the Wyoming Farm Bureau Federation to be the leading agriculture organization that it is today.

Wyoming Farm Bureau Federation has led the way to preserve individual