

continues to ensnare those deserving of our protection who pose no legitimate threat to the United States. Currently, over 7,000 individuals who were granted refugee status or asylum, and who have since petitioned the Government for lawful permanent residence, are on hold and in legal limbo because the agency has not implemented the authority granted under law. These are individuals whom our Government has already screened and deemed eligible for protection under the same set of facts now being held against them to erroneously claim that they are threats to the United States.

And in some cases, these are people that bravely stood by the United States in Iraq and elsewhere. Saman Kareem Ahmad served as a translator for the U.S. Marines in Iraq. He came to the United States on a special visa, supported by the Marine captain with whom he served, and with commendations from GEN David Petraeus. But because he had served with the Kurdish democratic party in Iraq in opposing Saddam Hussein, Mr. Ahmad was initially denied a green card because he was deemed to have been part of a terrorist organization under the law's definition. It took press reporting and congressional oversight to resolve this injustice. Such a result is at odds with our values.

As the result of legislation Senator KYL and I sponsored, and which became law, the agency was directed to establish a process for exempting certain groups from the material support bars. In practice, an individual who is granted refugee status or asylum is eligible to later petition to adjust their status to lawful permanent residence. Yet, rather than apply the exemption authority granted under law, the agency appears to assume the terrorism bars apply in many of these cases, and then holds the cases until it determines whether the individual applicants are eligible for a waiver. This is not what Congress intended. A significant percentage of the more than 7,000 pending cases are petitions from refugees or asylees who were previously admitted to the United States. They are being penalized for actions that took place prior to their admission to the United States, often for activity that was not barred at the time, and which they disclosed prior to lawful admission to our nation. These individuals should be granted a presumption of admissibility, assuming no other factors of inadmissibility apply to their cases.

Equally troubling is the effect of agency inaction on individuals in removal proceedings. Asylum seekers in removal proceedings are not considered for a waiver of the terrorism-related bars unless and until a final order of removal is issued. This inefficient system forces asylum seekers to engage in a lengthy appeals process if they believe they have a valid claim for relief. Reviewing such cases for waivers at the early stages of removal proceedings will lead to more efficient operations

within the agency and the immigration courts. It will also save genuine asylum seekers from unnecessary anguish and enable them to more quickly integrate into American society.

I intend to work in earnest with the Obama administration to solve this problem once and for all. If the executive branch is unwilling or unable to make the needed administrative changes to policy, then I will introduce legislation once again. Should legislation be necessary, I expect the administration and the agencies to work with me in a constructive manner to restore common sense and fairness to our treatment of refugees and asylum seekers.

#### INTELLIGENCE INVESTIGATIONS

Mr. LIEBERMAN. Mr. President, it has now been nearly 8 years since our country was attacked on September 11, 2001, as 19 al-Qaida members hijacked four jet airplanes and crashed three of them into the World Trade Center and the Pentagon. The passengers on the fourth plane, Flight 93, learned of the other attacks, fought back against the hijackers, and heroically gave their lives to prevent that plane from reaching its target in Washington, DC. That target was probably this very building—the U.S. Capitol.

In the last 8 years, our homeland has not been attacked again. The reasons for this are many. We created a Department of Homeland Security, and we adopted reforms in our intelligence community recommended by the 9/11 Commission. We are now consistently connecting the intelligence dots that were not connected before 9/11. We have denied safe haven to terrorist organizations in Afghanistan, Iraq, and other countries around the world. And we have worked with our allies to prevent terrorist groups from gaining access to nuclear and radiological materials and to combat terrorist financing.

One of the most important reasons why we have not been attacked again in the last 8 years is the tireless work of the men and women who serve in our intelligence agencies. While the attacks of 9/11 have receded into the memory of many Americans, I assure my colleagues that is not the case for the intelligence community. They know that the threat of terrorism has not diminished and are working each day to detect and disrupt terrorist plots targeting America and our allies.

They know that the threats we face are ones that could imperil the lives of countless Americans. Just last year, the Commission on the Prevention of Weapons of Mass Destruction determined that it is “more likely than not” that a nuclear or biological weapon of mass destruction will be used against the United States in a terrorist attack within the next five years. Should a nuclear device detonate in an American city, it could instantly kill hundreds of thousands of people and render the city uninhabitable for years.

This is a devastating possibility that America faces every day and agents are working to prevent every second of every day.

For all of these reasons, I believe we have a responsibility to give our intelligence agencies and agents the resources and tools they need, as well as the respect and appreciation they have earned.

What we should not do is go backwards by investigating intelligence officials who served us on the front lines of this ongoing war on terrorism and acted within legal guidance they were given.

Attorney General Holder is still considering an investigation into CIA interrogators and contract employees. I fear that such an investigation could very well foster a climate of political recriminations and sap the morale of the intelligence community. Those near certain results would no doubt leave our country less safe.

President Obama had it right when he said that with regard to past behavior by the intelligence community, he is “more interested in looking forward . . . than looking backward.” Given the threats that we face as a nation, it is imperative that we follow the President's lead.

With regard to the treatment of detainees now in U.S. custody, the President has been clear. The Executive order he signed on January 22 of this past year requires that all detainees in U.S. custody “shall in all circumstances be treated humanely and shall not be subjected to violence to life and person” and that all interrogations carried out by the U.S. Government, whether by the military, the CIA, the FBI or any other government entity, shall comply with the Army Field Manual. The President's Executive order is consistent with the Detainee Treatment Act as well as the Convention Against Torture and Common Article 3 of the Geneva Conventions. Given that such policy changes have already been made, I can see no benefit from new investigations of intelligence officials, especially those who were doing what they thought was appropriate and necessary to keep us safe.

The 9/11 Commission did a positive and constructive investigation of past events that needed to be understood so that we did not repeat the mistakes that made that horrific day possible. The commission investigated the activities of agencies such as the CIA and FBI in the years and months prior to the attacks of 9/11, and was unsparing in pointing out where those agencies had missed opportunities to disrupt the plot. As a result of the commission's recommendations, we established the Director of National Intelligence and the National Counterterrorism Center, improved sharing of intelligence information, and strengthened our watchlisting and visa issuance systems. All of these initiatives make the United States safer today against the threat of terrorism.

A new investigation of interrogation procedures used on al-Qaida detainees would have no such benefits given that these procedures have now been changed. But an investigation into past practices could cause great harm.

An investigation could ruin careers of men and women who have sacrificed so much on our behalf and would have a chilling effect on intelligence efforts moving forward. The overhanging threat of investigations will force those in the intelligence services to be risk averse, which in turn would make us all less secure. In the war against an enemy that does not wear a uniform, that ruthlessly kills innocent civilians, that then hides among those very same civilians, and that uses our own freedoms to undermine and attack us, tough decisions under great pressure—life and death decisions—must be made by those whose job it is to protect our security and our freedom.

As CIA Director Leon Panetta recently wrote in the Washington Post:

The time has come for both Democrats and Republicans to take a deep breath and recognize the reality of what happened after September 11, 2001. The question is not the sincerity or the patriotism of those who were dealing with the aftermath of September 11. The country was frightened, and political leaders were trying to respond as best they could. Judgments were made. Some of them were wrong. But that should not taint those public servants who did their duty pursuant to the legal guidance provided.

As I said at the beginning, we must not take for granted the important fact that we have not been attacked on our homeland since September 11, 2001. That fact is not an accident nor is it just a product of good luck. It is mostly the result of the ceaseless efforts to protect our country by the brave men and women in our military, by all who work for civilian agencies involved in homeland security and counterterrorism, and last but not least, by the intelligence community. Those men and women are, as CIA Director Panetta pointed out, “truly America’s first line of defense.”

I urge the Attorney General not to go forward with the investigations being debated now. The collateral damage to America’s intelligence community could be severe and that is something no American should want.

#### SERVICE MEMBER BENEFITS EDUCATION

Mr. NELSON of Florida. Mr. President, I want to share a story I heard about retired MSG Michelle Fitz-Henry.

Michelle served our Nation for over 20 years. Her husband, Senior Chief Petty Officer Ted Fitz-Henry, was a Navy SEAL who served our Nation for 21 years.

Michelle told me that before her husband left home for the Middle East they went into the living room. He said to her, you know if anything happens to me, SBP is there for you.

When he said SBP, he was referring to the Survivor Benefit Plan, an annu-

ity that the Department of Defense (DOD) pays to survivors—the widows and orphans—of two groups of servicemembers.

The first group of survivors includes those who lost a loved one serving on active duty.

In 2001, Congress passed a law allowing active duty servicemembers who are not eligible for retirement to be included in the SBP program. The SBP program provides the survivors of these fallen heroes with a monthly payment based upon the age of the spouse and the year the servicemember entered the service.

This was the right thing to do. It showed the Nation’s gratitude for servicemembers’ sacrifice. If a servicemember dies on active duty because of a military-connected cause, the servicemember and his or her family are automatically enrolled in the SBP program.

There is a second group of survivors who can also enroll in the SBP program. A veteran who is classified as a retiree—someone who has served for at least 20 years—is eligible to enroll in the program. After they leave the service, retirees can contribute a portion of their retirement pay to SBP. This contribution entitles their survivors up to 55 percent of the retiree’s base retirement pay after his or her death.

Since 1972, retirees have paid into the program with a portion of their retirement income in order to improve their family’s financial security upon their death. Some retirees have paid into the program for over 30 years.

What Michelle and Ted did not know was that the SBP they thought they could count on—approximately \$1,200 per month—would be reduced, dollar-for-dollar, by another benefit from the Department of Veterans Affairs dependency and indemnity compensation, DIC, program.

DIC is a monthly benefit payment to the survivors of all servicemembers who have died from a service-connected condition. That includes both those who die on active duty and veterans whose deaths resulted from a service-related injury.

What many SBP participants and their future survivors do not know is that the SBP-DIC dollar-for-dollar offset can leave widows and orphans with up to \$1,200 less per month than they had expected to receive. When planning a family budget this unforeseen reduction can be devastating.

For example, if a widow’s husband served for over 20 years, retired, paid into the SBP program and then died of a service-connected disability, she may think that she is entitled to both the full SBP and DIC payments. However, if she planned to receive \$1,300 per month from SBP and \$1,200 per month from DIC, she could be surprised to learn that the dollar-for-dollar offset would reduce her \$1,300 SBP payment by the \$1,200 DIC payment and she would be left with DIC intact, but only \$100 in SBP per month.

As this body knows well, for 8 years I have fought to repeal the law that offsets the monetary payments between the SBP annuity and the DIC benefit. This body may recall that in 2005 we took a step in the right direction and passed by 92–6 an amendment to repeal the unjust SBP-DIC offset. In the 2008 Defense authorization, we cracked the door to eliminating the offset by getting a “special payment” of \$50 per month. This special payment, called the special survivor indemnity allowance, is received by the widows and orphans whose SBP payments are offset by the DIC they receive. This year, the Congress increased the special payment to \$310 per month, by 2017, for the widows and orphans impacted by the SBP-DIC offset. This increase came from savings found in the tobacco legislation, which became law on June 22, 2009.

Michelle allowed me to speak of her case, but she isn’t alone. When widows, veterans, and constituents speak to me in support of my efforts to repeal this offset, they often tell me that they did not know that the offset existed.

If Michelle and Ted, with 39 years of combined service upon his death, didn’t know about this offset then we have a bigger problem out there: the Services don’t adequately educate our servicemembers and their families about their benefits, especially the offsets to their benefits. This year, we will change that.

The amendment I filed to the fiscal year 2010 National Defense Authorization Act, Senate Amendment No. 1808 to S. 1390, will increase servicemembers’ and their families’ awareness of their service-related benefits during transitions and events in a servicemember’s career.

My amendment will require the Services to provide information to servicemembers and their families about their disability, death, education, and survivor benefits, including any offsets.

My amendment requires the Services to provide this information when a servicemember enters or leaves the service either through retirement or at the end of his or her service. The services must also provide information when a servicemember is classified as having a service-connected disability and is unfit to perform their duty.

We all believe it is important for servicemembers and their families to receive certain benefits because of their service to the Nation. It is my guess that we also believe that servicemembers and their families should know about those benefits. We sometimes take for granted that we’re doing enough, but I believe we can do more and benefits education is a small but important step toward taking better care of our people.

Now I want to be clear, the Services are making honorable efforts to educate our troops about their benefits, but we all agree that we can do better. I asked the Services about their procedures, and I was surprised that there