

with very few options. One of those options is to force a resolution by exercising our rights as a minority to block cloture. That is not necessarily a permanent move. It means debate continues on the nomination and we cannot come to a vote. But I submit, if rational minds would come together—if Senator GRASSLEY and Senator CHAMBLISS could get the information they and their committees are entitled to and discharge their oversight responsibilities—we could come much closer to resolving the differences on this particular nominee.

Mr. CHAMBLISS. Mr. President, I rise in opposition to cloture on the nomination of James Cole to be the Deputy Attorney General of the United States.

Last December, I objected to further consideration of Mr. Cole's nomination because of the refusal of the Department of Justice, DOJ, to comply with reasonable document requests from the Senate Select Committee on Intelligence. Unfortunately, the President decided to circumvent the Senate and recess-appointed Mr. Cole on December 29, 2010.

Here we are 5 months later: the Justice Department is still thwarting the Intelligence committee's oversight.

The documents we have requested all relate to the Guantanamo Detainee Review Task Force that made recommendations to the Administration on whether to transfer, release, or detain Gitmo detainees. Over 2 years ago, the committee became aware of rising recidivism rates among former Gitmo detainees. At that time, the rate was around 11 percent—it is now above 25 percent. Congress has a unique obligation to the American people to ensure that no more dangerous detainees are released from Gitmo, and that those who have been released do not resume their terrorist ways. Each one of the documents we are seeking is essential to understanding why the task force made certain recommendations about certain detainees, especially those detainees our intelligence professionals judged were too dangerous to transfer.

The detainees remaining at Gitmo are among the worst of the worst, yet many are still designated for transfer. Given the upward trend in recidivism rates, the Intelligence Committee is reasonably concerned that some of the detainees who have been or may be transferred to third countries will reengage in terrorist activities. Lingering questions about the monitoring capabilities of countries that have accepted detainees add to these concerns.

In making its recommendations, the task force operated under guidance and recommendations from the Attorney General. The Department of Justice, however, refuses to provide a September 2009 Attorney General memorandum that reportedly recommends that an entire category of detainees be presumed to be eligible for transfer. If classes of detainees are to be presumed to be eligible for transfer by DOJ, then

I think the Intelligence Committee should know about it and why such guidance was considered appropriate.

The Department has also refused to provide the Intelligence committee with the task force's recommendations for the disposition of the detainees. The task force documents we have been given have entire portions of their recommendations blacked out. This is no way to conduct oversight and it certainly puts the committee at a disadvantage in trying to understand why transfer decisions were made. Interestingly, the Department has provided the recommendations made by review boards during the previous administration.

As with the September 2009 memorandum, the Department argues against giving this information to Congress because of "deliberative process." That assertion may work in a FOIA case or in the context of executive privilege, but there is no legal basis for using it to deny congressional oversight, especially where the documents pertain to national security matters. It is time for the Justice Department to abandon this baseless argument and give us the documents.

The Intelligence committee is also waiting for a list of the 92 detainees who were approved for transfer as of August 28, 2009, prior to the application of the September 2009 memorandum. The Department indicated in November 2010 that the list would be provided, but the committee has yet to receive it.

Last Friday, we heard from the Department for the first time in months, wanting to work something out on the documents in advance of the cloture vote on the Cole nomination. This is a bit ironic, considering that letters and e-mails from last year have gone unanswered. The best thing they can do now is to honor our request and give us the documents that we have requested.

The Department's obstruction of a congressional review is not the only reason I am opposing cloture. Mr. Cole still has not explained comments he made about the 9/11 attacks. In September 2002, he wrote an op-ed in which he called these attacks "criminal acts of terrorism against a civilian population." Following this logic, he diminished 9/11 to being no more than "the scourge of the drug trade, the reign of organized crime, and countless acts of rape, child abuse, and murder." He also argued that the protections of our criminal justice system "must be applied to everyone to be effective." I could not disagree more with this statement—no terrorist deserves the benefits of our criminal justice system.

Mr. Cole has neither rejected these comments, nor really explained why he made them. Until he does so, I have to question his judgment and his suitability to be the second-in-command at the Justice Department.

It is for these reasons, I cannot support cloture on the nomination of Mr. Cole at this time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I ask for the regular order.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of James Michael Cole, of the District of Columbia, to be Deputy Attorney General.

Harry Reid, Patrick J. Leahy, Herb Kohl, Dianne Feinstein, Al Franken, Christopher A. Coons, Richard Blumenthal, Amy Klobuchar, Sheldon Whitehouse, Sherrod Brown, Mark Udall, Richard J. Durbin, Thomas R. Carper, Bernard Sanders, John D. Rockefeller IV, Jeanne Shaheen, Charles E. Schumer.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of James Michael Cole, of the District of Columbia, to be Deputy Attorney General shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Vermont (Mr. SANDERS) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Wyoming (Mr. BARRASSO), the Senator from South Carolina (Mr. GRAHAM), the Senator from Utah (Mr. HATCH), the Senator from Arizona (Mr. MCCAIN), the Senator from Kansas (Mr. MORAN), the Senator from Pennsylvania (Mr. TOOMEY), and the Senator from Louisiana (Mr. VITTER).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted "nay."

The yeas and nays resulted—yeas 50, nays 40, as follows:

[Rollcall Vote No. 67 Ex.]

YEAS—50

Akaka	Cantwell	Feinstein
Baucus	Cardin	Franken
Begich	Carper	Gillibrand
Bennet	Casey	Hagan
Bingaman	Conrad	Harkin
Blumenthal	Coons	Inouye
Brown (OH)	Durbin	Johnson (SD)

Kerry	Menendez	Shaheen
Klobuchar	Merkley	Stabenow
Kohl	Mikulski	Tester
Lautenberg	Murray	Udall (CO)
Leahy	Nelson (NE)	Udall (NM)
Levin	Nelson (FL)	Warner
Lieberman	Pryor	Webb
Lugar	Reed	Whitehouse
Manchin	Rockefeller	Wyden
McCaskill	Schumer	

NAYS—40

Alexander	DeMint	Murkowski
Ayotte	Enzi	Paul
Blunt	Grassley	Portman
Boozman	Heller	Reid
Brown (MA)	Hoeven	Risch
Burr	Hutchison	Roberts
Chambliss	Inhofe	Rubio
Coats	Isakson	Sessions
Coburn	Johanns	Shelby
Cochran	Johnson (WI)	Snowe
Collins	Kirk	Thune
Corker	Kyl	Wicker
Cornyn	Lee	
Crapo	McConnell	

NOT VOTING—10

Barrasso	Landrieu	Toomey
Boxer	McCain	Vitter
Graham	Moran	
Hatch	Sanders	

The PRESIDING OFFICER (Mr. MANCHIN). On this vote, the yeas are 50, the nays are 40. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader is recognized.

Mr. REID. Mr. President, I enter a motion to reconsider the vote by which cloture was rejected.

The PRESIDING OFFICER. The motion is entered.

LEGISLATIVE SESSION

Mr. REID. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

MORNING BUSINESS

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

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

TRIBUTE TO ALICE SAUDARGAS

Mr. DURBIN. Mr. President, I rise today to honor an outstanding Illinoisan, Alice Saudargas, and to thank her for her many years of service as she ends her term on the Rockford School Board.

Alice Saudargas is a remarkable public servant. She has dedicated her life to working with high-poverty schools and troubled children. Alice and her late husband Alex spent more than 70 years educating students in Rockford, and as she recently said “we loved every minute of it.”

Alice Christine Nesheim was born in 1916 in northern Illinois to Norwegian immigrants. She graduated first in her high school class and was the first in her family to attend college. She grad-

uated with a degree from DeKalb State Teachers College, which is now Northern Illinois University. While there, she met her husband Alex Saudargas and they moved to Rockford to start a family.

Alice raised ten children and supported Alex as he led the basketball team at West High School to two legendary state championships in 1955 and 1956. In those days, Alice could always be seen at West’s basketball games, cheering on the team.

But Alice wanted to have a personal impact on the lives of Rockford’s neediest students. She went back to school and earned her master’s degree in education from Northern Illinois University. Alice worked as a special education teacher and eventually became a principal of Elmwood Center, a school for emotionally disturbed children. The students there called her “Big Mama” and they always appreciated the love, support, and care she showed them.

Alice retired from the school district in 1986 at the age of 70, but she didn’t slow down or lose her passion for education. She led committees to help make the Rockford schools more inclusive of all children and to maintain the legacy of West High School. At the age of 84, Alice was appointed to complete a term on the Rockford School Board. She was subsequently elected in her own right and served on the board for 11 years. Her last day as a Rockford School Board member was April 26.

Alice is supported in all her endeavors by her 9 surviving children, 16 grandchildren, and 14 great-grandchildren as well as the hundreds of students she has supported and mentored throughout her long career. She has touched the lives of countless individuals in my state. She is renowned for her commitment to Rockford’s neediest children, her strong spirit, and of course her trademark laugh.

Although Alice’s time on the Rockford School Board has come to an end, I know that this won’t be the end of her service or commitment to the community. I understand that she plans to write a book about her life and work. That will be quite a story.

I thank Alice for her lifelong efforts to improve the lives of others in and around Rockford. I wish her all the best.

TRIBUTE TO JODY HERNANDEZ

Mr. MCCONNELL. Mr. President, in the midst of all our other business, I would like to just pause and take a moment to recognize the outstanding work of Jody Hernandez, who left us yesterday after 16 years of dedicated Senate service. Jody came to Washington, by way of San Antonio, after graduating from Vanderbilt University. Over the years, she has lent her talents to the Republican Policy Committee, the Budget Committee, and with Senator Don Nickles on and off the Hill. David Schiappa convinced her to come

back to the Senate in 2005, and she has been an indispensable part of the Senate floor team ever since. Whenever any of us had a question, she had the answer. She has been a friendly and welcoming presence in the cloakroom, regardless of how long her day was. She has been a tremendous help to every one of us. And we will all miss her. But we are all delighted that she has found her partner in life, and we wish her and her new husband, LCDR Glenn Wright, U.S. Navy, many years of happiness and every success as they begin their life together. Jody and Glenn met on a church trip to Israel in October and recently tied the knot. So I am sure many adventures lie ahead. We thank her for her good cheer, her professionalism, and her service.

RECOGNIZING THE ALLY FOUNDATION

Mr. BROWN of Massachusetts. Mr. President, I rise today to honor The ALLY Foundation, an inspirational organization in Massachusetts. In the summer of 2002, a young woman named Alexandra “Ally” Zapp walked into a fast food restaurant’s restroom in Massachusetts and was brutally murdered.

Soon after Ally’s death, her parents learned that the man who killed Ally was not just an employee of the restaurant but an extremely dangerous sexual predator with 24 previous criminal convictions, including rape and kidnapping.

Ally’s mother, Andrea Casanova, and stepfather, Steven Stiles, turned their anger to resolve and their sadness to hope and founded The ALLY Foundation. The ALLY Foundation is dedicated to changing the way our society deals with sexual predators and educating policymakers, employers, and the general public on sexual violence. Their work initially involved learning all they could about sexual violence, poring over research, attending conferences, and interviewing dozens of experts. Andrea soon became an expert herself and a compelling presence at sex offender management conferences.

Andrea and Steve’s tireless research confirms that current criminal statutes and incarceration guidelines as they pertain to sexual violence often go unenforced and are at best inconsistent. There are an estimated 600,000 sex offenders in the country and authorities have not accounted for as many as 100,000 offenders.

The ALLY Foundation does more than merely raise awareness of a problem; they’re helping to solve it. Within 2 years of Ally’s murder, The ALLY Foundation had already made a significant impact on public policy, including helping to pass Massachusetts’s sexually dangerous commitment law—known as the Ally Zapp Law—to keep sex offenders predators off the street after they complete their criminal sentence.

Ally’s tragic death and countless other attacks were the result of a legal