

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I am really very glad we were able to reach agreement today to pass these four bills by unanimous consent and will send them to the President to be signed into law.

I want to acknowledge and thank my colleague and friend from Nevada Senator CORTEZ MASTO. I also want to acknowledge Senator MARKEY from Massachusetts. They worked with us to try to get us to the place we are today in which we were able to move these bills across the floor.

I also want to thank the chairman of the Energy Committee and the ranking member, Chairman LEE and Ranking Member HEINRICH. Their teams worked with us on the Energy and Natural Resources Committee, as well as the cloakroom teams, to make sure we were able to be successful today.

The Senate passed all four of these measures last December, so we have seen them once. Now we have seen them twice. But the House ran out of time at the end of the last Congress to take them up, so we are where we are. But now these bills are going to be going to the President for his signature.

Two of the bills we just passed are important for Alaska Natives, and I am proud to have been able to work on these important measures. It has been a multiyear effort to get them to the President's desk. Again, I don't care, really, if we send an H.R. or if we send a Senate bill to the President; we just want to get it accomplished. We want to get some things done for Alaska.

The first measure, which is H.R. 42, amends the Alaska Native Claims Settlement Act, or ANCSA. It amends it to ensure that when Alaska Native elders, the blind, and the disabled receive dividends from their settlement trusts, they do not inadvertently become, then, ineligible to participate in Federal needs-based assistance programs.

This is pretty common sense. You have a situation where Alaska Natives who are aged, blind, or disabled should not have to choose between accepting the settlement trust income they are entitled to or qualifying for Federal benefits such as supplemental security income, SSI, or SNAP, the Supplemental Nutrition Assistance Program, as well as housing assistance. Now, with this bill, they are not going to have to make that choice.

The second measure is H.R. 43, the Alaska Native Village Municipal Lands Restoration Act. What this does is eliminate a requirement under ANCSA, section 14(c)(3), that Alaska Native village corporations convey land to the State of Alaska to be held in trust for future municipalities, which are not likely to ever be established.

So what we are doing with this measure is sunseting this requirement and allowing village corporations to regain title to conveyed lands. This will allow village corporations to fully utilize

their lands for the benefit of their communities. This is what we want to see happen. Again, it has been a long time coming. So I am pleased that we are here.

I am hopeful that the Senate can pass more of these similar, very non-controversial bills through the unanimous consent process. We shouldn't get into the practice where we wait until the end of a Congress or perhaps even multiple Congresses for a package to be knit together. People in these communities are waiting on us, as Senator CORTEZ MASTO noted in her State of Nevada and in my State of Alaska. They are waiting on us to deliver these small legislative priorities that will allow them to move forward, whether it is economic development or just making sure that there is a level of equity and fairness.

So I thank my colleagues, I thank the Energy Committee, as well as the floor team, and my staff who helped us move these measures forward.

I yield the floor.

EXECUTIVE CALENDAR

NOMINATION OF RODNEY SCOTT

Mr. WYDEN. Mr. President, I rise to oppose the nomination of Rodney Scott to lead the U.S. Customs and Border Protection Agency. In my view, this is yet another appalling nomination from the Trump administration.

As a senior Federal official, agents in Mr. Scott's direct chain of command tried to cover up their culpability in the beating death of a man in their custody with his help. His record, in my view, is disqualifying for someone seeking one of the most important law enforcement posts in the Nation.

U.S. Customs and Border Protection has extraordinary discretion to conduct searches of Americans' belongings and phones and to interrogate American citizens at border crossings and to seize illicit goods. The Agency has more than 60,000 employees. Leading this Agency requires someone whose judgment and character are unquestioned. Mr. Scott does not meet that bar.

In 2010, Mr. Scott led the San Diego sector of the Border Patrol, a position that included oversight of a unit that tampered with evidence after agents beat and tased Mr. Anastasio Hernandez-Rojas while in their custody. He died of those injuries soon after.

This unit taped over recordings of the incident and served an illegal subpoena on the hospital for the man's medical records and then refused to share them with local law enforcement. This is according to allegations filed with the Inter-American Human Rights Commission of the Organization of American States and by police investigators.

The actions were so egregious that the Human Rights Commission concluded a few weeks ago that the U.S. Government violated Mr. Rojas's family's right of access to justice.

Mr. President, I ask unanimous consent that the Critical Incident Team's and DHS Inspector General's reports about the incident, first obtained by the Project on Government Oversight, be printed in the RECORD.

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

DEPARTMENT OF HOMELAND SECURITY OFFICE OF INSPECTOR GENERAL—REPORT OF INVESTIGATION

Case Number: I10-CBP-SND-00957.

Case Title: Use of Force Incident (Death of Anastacio Hernandez Rojas).

Report Status: Final.

Alleged Violation(s): 18 USC 242: Deprivation of Rights Under Color of Law.

SYNOPSIS

This investigation was initiated on May 29, 2010, based upon receipt of a referral from the Joint Intake Center, Washington, D.C., reporting that (b) (6), (b) (7)(C); Customs and Border Protection Officer (CBPO), CBP, San Diego, California, used a non-lethal, Electronic Control Device (ECD) commonly known as a "Taser," to subdue Anastacio Hernandez-Rojas, an undocumented alien (UDA), during an altercation on May 29, 2010, with several U.S. Department of Homeland Security officers. Hernandez-Rojas as subsequently lost consciousness and was transported to a local hospital, where he was placed on a ventilator and declared brain dead by medical personnel and subsequently died on May 30, 2010.

Our investigation, which included a review of the San Diego Police Department (SDPD), Homicide Detail Report Number 10-027149, did not disclose any evidence of misconduct or violations of Use of Force policies of CBP or Immigration and Customs Enforcement (ICE) by the CBP and ICE employees involved in the incident. Our review revealed that during the voluntary return of Hernandez-Rojas, he became verbally and physically combative after he was released from his restraints at the pedestrian gate and assaulted the Border Patrol Agents (BPAs) who were escorting him. Even after he was restrained again in handcuffs after the assault, Hernandez-Rojas' resistance and combative behavior continued when DHS personnel attempted to place Hernandez-Rojas into a government vehicle which led to the deployment of the ECD by CBPO b6, b7c. The deployment of the ECD and the level of force utilized by the DHS personnel during the incident were found to be in accordance with both CBP and ICE use of force policies.

The U.S. Department of Justice (USDOJ), Civil Rights Division, Washington, D.C. declined prosecution of DHS personnel citing lack of prosecutorial merit.

Reporting Agent

Name: (b) (6), (b) (7)(C).
Title: Special Agent.
Signature: (b) (6), (b) (7)(C)
Date: 7/8/11.

Approving Official.

Name: (b) (6), (b) (7)(C).
Title: Special Agent-in-Charge.
Signature: (b) (6), (b) (7)(C).
Date: 7/14/11.

Distribution:

San Diego Field Office: Original.
Headquarters: cc
Component(s): cc
Other: cc

DETAILS

This investigation was initiated on May 29, 2010, based upon receipt of a referral from the Joint Intake Center, Washington, D.C., reporting that (b) (6), (b) (7)(C), Customs

and Border Protection Officer (CBPO), CBP, San Diego, CA, used a non-lethal, Electronic Control Device (ECD) commonly known as a “Taser,” to subdue Anastacio Hernandez-Rojas, an undocumented alien (UDA), who was physically combative with several U.S. Department of Homeland Security (DHS) officers. Hernandez-Rojas subsequently lost consciousness and was transported to a local hospital, where he was placed on a ventilator and declared brain dead by medical personnel. Hernandez-Rojas died on May 30, 2010. (Exhibit 1)

Allegation: DHS employees used excessive force thereby violating the civil rights of Anastacio Hernandez-Rojas.

On August 3, 2010, DHS Office of Inspector General (OIG) reviewed the San Diego Police Department (SDPD) Homicide Detail Case Number 10-027149, reporting that on May 28, 2010, U.S. Border Patrol Agents (BPA) apprehended Anastacio Hernandez-Rojas and b6, b7c, (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), while attempting to enter into the United States illegally near Otay Mesa Mountain, San Diego, CA. Anastacio Hernandez-Rojas and (b) (6), (b) (7)(C) were subsequently transported to the United States Border Patrol (USBP), Chula Vista Border Patrol Station (CHU), San Diego, CA., for processing and removal from the United States.

The report reflected that (b) (6), (b) (7)(C), BPA, USBP, CHU, San Diego, CA. and (b) (6), (b) (7)(C) (b) (6), (b) (7)(C), processed Anastacio Hernandez-Rojas and (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) for removal and during processing, Anastacio Hernandez became verbally agitated and abusive towards the BPAs and that he refused to follow verbal commands provided by BPA's. Subsequently, (b) (6), (b) (7)(C), Supervisory Border Patrol Agent (SBPA), USBP, CHU, San Diego, CA., ordered that Anastacio be returned to Mexico for humanitarian reasons. (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) subsequently transported Anastacio to a pedestrian gate west of the SYS POE, commonly referred to as the “Whiskey Two” gate for removal from the U.S. While at the Whiskey Two gate, Anastacio Hernandez-Rojas became physically combative towards (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) when they removed his handcuffs. (b) (6), (b) (7)(C), Immigration Enforcement Agent (IEA), U.S. Immigration and Enforcement (ICE), Enforcement and Removal Operations (ERO), San Diego, CA., and (b) (6), (b) (7)(C), IEA, ICE, ERO, San Diego, CA observed Hernandez-Rojas' assaultive behavior and attempted to render assistance to (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) in regaining control of Hernandez-Rojas (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) deployed expandable batons and delivered strikes to Hernandez-Rojas' lower body and Hernandez-Rojas was again restrained using handcuffs placed behind his back. (b) (6), (b) (7)(C), BPA, USBP, Imperial Beach Station (IMB), San Diego, CA., was assigned to the Whiskey Two area and observed and subsequently assisted the DHS employees struggling to control Hernandez-Rojas and called via radio for a supervisor. (b) (6), (b) (7)(C) then assisted the other officers with the restraint of Hernandez-Rojas.

According to the SDPD report, based upon his assaultive behavior towards DHS employees, Hernandez-Rojas' voluntary return to Mexico was rescinded and efforts were made to place Hernandez-Rojas into custody for prosecution. When attempts were made by (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) to place Hernandez-Rojas into a nearby USBP unmarked vehicle, Hernandez-Rojas continued physical resistance and assaultive behavior, by kicking towards USBP and ERO personnel. Hernandez-Rojas was physically placed onto the ground in an effort to stop his assaultive behavior.

The SDPD report reflected that (b) (6), (b) (7)(C), acting Supervisory BPA (SBPA), Imperial Beach Station (IMB), San Diego, CA. arrived at the Whiskey Two gate with a government owned vehicle (GOV) equipped for prisoner transport minutes after being summoned by (b) (6), (b) (7)(C). At that time, (b) (6), (b) (7)(C)(b) (6), (b) (7)(C)(b) (6), (b) (7)(C)(b) (6), (b) (7)(C)(b) (6), (b) (7)(C) attempted to place Hernandez-Rojas, who was restrained by handcuffs into (b) (6), (b) (7)(C) GOV for transport. The report reflects that Hernandez-Rojas struck his head against the rear passenger door window of the transport GOV while agents attempted to aid his entry into the vehicle. Hernandez-Rojas was placed on the ground outside of the transport GOV due to his continued active resistance of DHS officers' efforts to control him.

The SDPD report reflected that (b) (6), (b) (7)(C), CBPO, CBP, SYS POE, San Diego, CA. responded to the area and deployed his Taser International, Model X-26, Electronic Control Device (ECD), commonly referred to as a “Taser” on Hernandez-Rojas in an attempt to control him, due to Hernandez-Rojas kicking and actively resisting. When the ECD was no longer utilized on Hernandez-Rojas, (b) (6), (b) (7)(C), CBPO, CBP, SYS POE, San Diego, CA. and (b) (6), (b) (7)(C) assisted by grabbing Hernandez-Rojas' legs. Hernandez-Rojas then became unresponsive and the employees present initiated first aid, including Cardio Pulmonary Resuscitation (CPR) to Hernandez-Rojas until the arrival of emergency medical personnel.

According to the SDPD report, the San Diego Fire Department's Engine 29 and Medic 29 responded to the scene and continued providing first aid to Hernandez. Hernandez was transported to the Sharp Chula Vista Hospital, where he was determined to be “brain dead” according to medical staff.

The SDPD report reflected that on June 8, 2010, (b) (6), (b) (7)(C), Lieutenant, Homicide, San Diego Police Department, San Diego, CA., received information from a Mexican media outlet that (b) (6), (b) (7)(C), a civilian witness, had recorded the incident involving DHS employees and Anastacio. (Exhibit 2)

The DHS OIG received and reviewed the training records for (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C). The review revealed that on August 11, 2009, (b) (6), (b) (7)(C) passed the Basic Course for the expandable baton when he attended the Immigration Enforcement Academy at the Federal Law Enforcement Training Center in Brunswick, GA. On September 24, 2009, (b) (6), (b) (7)(C) received training and passed expandable baton training. [Agent's Note: ICE IEA certifies each agent with the expandable baton on a quarterly basis and the certification is valid for one year.] (Exhibit 3)

The DHS OIG reviewed five videos dated May 28, 2010, which were provided by (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) a civilian witness present in the area of the Whiskey Two gate at the approximate time of the incident with Hernandez-Rojas. The videos were grainy in appearance, poorly lit, and of poor overall image quality. No investigative value was derived from the review. (Exhibit 4)

The DHS OIG attempted to have the videos recorded on May 28, 2010, by (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) enhanced by the CBP Chicago Laboratory, Chicago, IL., to improve the picture quality of the video. Video enhancement efforts failed to improve the overall quality of the footage, which remained dark, grainy and lacking contrast. No individuals or movements could be identified from the video. (Exhibit 5)

The DHS OIG reviewed CBP Directive No. 4510-029, Policy on the Use of Electronic Controlled Devices” (Policy). The policy pertaining to ECDs was defined as “a device

that uses short-duration electronic pulses to overload a targeted muscle system, causing neuro-muscular incapacitation, with minimal risk of serious physical injury or death. The CBP policy did not prohibit the use of a reasonable number of ECD cycles for the purpose of controlling and restraining a handcuffed subject who demonstrated active resistance. (Exhibit 6)

The DHS OIG interviewed (b) (6), (b) (7)(C), CBPO, Primary Firearms Instructor, CBP, Otay Mesa, CA. (b) (6), (b) (7)(C) stated that CBPOs are trained to use necessary numbers of cycles to gain control of a suspect and explained that the ECD has an internal log which records deployments of each ECD. (b) (6), (b) (7)(C) explained that the log records the amount of time the trigger is depressed and it does not capture data when the device was properly deployed or if the ECD made direct contact with an object. (b) (6), (b) (7)(C) confirmed that (b) (6), (b) (7)(C) received training and was certified to carry an ECD at the time of the incident. (Exhibit 7)

The DHS OIG transported the ECD, Serial Number X00-419194, used in the Hernandez-Rojas confrontation to its manufacturer, Taser International, for testing. The ECD was evaluated and determined to be functioning within required specifications. (Exhibit 8)

The DHS OIG reviewed CBP training records pertaining to (b) (6), (b) (7)(C). The records verified that on December 2, 2009, (b) (6), (b) (7)(C) received training and recertification for the electronic control device (ECD). (Exhibit 9)

The DHS OIG reviewed the ICE Interim Use of Force Policy. The ICE policy does not prohibit the use of a collapsible baton, straight baton, or impact weapon on a handcuffed subject. [Agent's Note: (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) deployed their issued expandable batons and delivered strikes to Hernandez-Rojas at a time when Hernandez-Rojas was released from his handcuffs and fighting with BPAs.] (Exhibit 10)

The DHS OIG reviewed a copy of the San Diego County Medical Examiner, Autopsy Report, Case Number 10-1101, pertaining to the post mortem examination of Hernandez-Rojas. The autopsy report concluded that Hernandez-Rojas' cause of death was anoxic encephalopathy due to resuscitated cardiac arrest due to acute myocardial infarction while being restrained and the manner of death as homicide. (Exhibit 11)

The DHS OIG interviewed (b) (6), (b) (7)(C), Doctor of Osteopathy (DO), Chief Medical Examiner, San Diego County, San Diego, CA, regarding the autopsy report pertaining to Hernandez. (b) (6), (b) (7)(C) stated that Hernandez-Rojas' use of methamphetamine was prior to his arrest and that Hernandez-Rojas' heart attack likely began when he had collapsed at the Whiskey Two gate area. (b) (6), (b) (7)(C) said that there was no medical evidence that Hernandez-Rojas was a victim of excessive force. (Exhibit 12)

The DHS OIG discussed the results of this investigation with the United States Department of Justice (DOJ), Civil Rights Division (CRD), Washington, D.C., who declined prosecution of any DHS employee involved in this matter, citing that insufficient evidence existed to prove that any crime was committed. (Exhibit 13)

EXHIBITS

Number	Description
1	Memorandum of Activity, Receipt of Complaint, dated May 31, 2010.
2	Memorandum of Activity, San Diego Police Homicide Report, dated August 3, 2010.
3	Memorandum of Activity, Records Review, dated June 2, 2010.
4	Memorandum of Activity, Review of videos, dated August 18, 2010.
5	Memorandum of Activity, Laboratory Coordination, dated September 16, 2010.

Number	Description
6	Memorandum of Activity, Review of ECD Policy dated August 12, 2010.
7	Memorandum of Activity, Interview of (b) (6), (b) (7)(C), dated September 13, 2010.
8	Memorandum of Activity, Diagnostic test of Taser, dated October 18, 2010.
9	Memorandum of Activity, Records Review, dated June 3, 2010.
10	Memorandum of Activity, ICE Interim Use of Force Policy, August 19, 2010.
11	Memorandum of Activity, Review of Autopsy Report, dated August 20, 2010.
12	Memorandum of Activity, Interview of (b) (6), (b) (7)(C), dated August 23, 2010.
13	Memorandum of Activity, U.S. Attorney Coordination, dated May 3, 2011.

**CRITICAL INCIDENT INVESTIGATIVE TEAM
SAN DIEGO SECTOR**

On Friday May 28, 2010, at approximately 1:00 a.m., the Critical Incident Investigative Team responded to an assault on a Federal Agent resulting in a civilian death. The following report is the product of the Critical Incident Investigative Team's investigation into this matter and is based solely on the results of said investigation.

This report is available upon approval of the Chief Patrol Agent of the San Diego Border Patrol Sector. Requests for copies of this report shall be submitted in writing to the Chief Patrol Agent at the address shown on the following page.

Subpoenas for documents and/or investigating agents of the Critical Incident Investigative Team should be directed to the Chief Patrol Agent, attention Office of the Assistant Chief Counsel.

Case Agent: Senior Patrol Agent, Critical Incident Investigative Team.

Date Submitted:

Reviewing Supervisor: Supervisory Border Patrol Agent, Critical Incident Investigative Team.

Date Approved:

**CRITICAL INCIDENT INVESTIGATIVE TEAM
SAN DIEGO SECTOR**

Reviewed: Assistant Chief Patrol Agent, Critical Incident Investigative Team Program Coordinator.

Date Approved:

Critical Incident Investigative Team

San Diego Sector:

Office: 3752 Beyer Blvd, San Ysidro, California 92173-1952.

Mail: United States Border Patrol, San Diego Sector, Critical Investigative Team, 2411 Boswell Road, Chula Vista, California 91914-3519.

Phone:

Fax:

Approved: Paul A. Beeson, Chief Patrol Agent, San Diego Sector.

Date Approved:

Chief Patrol Agent:

Office: 2411 Boswell Road, Chula Vista, California 91914-3519.

Mail: Chief Patrol Agent, United States Border Patrol, 2411 Boswell Road, Chula Vista, California 91914-3519.

Phone:

Fax:

Office of Assistant Chief Counsel

San Diego Sector:

Office: 2411 Boswell Road, Chula Vista, California 91914-3519.

Mail: United States Border Patrol, San Diego Sector Counsel, 2411 Boswell Road, Chula Vista, California 91914-3519.

Phone:

Fax:

Mr. WYDEN. Mr. President, Mr. Scott admitted before the Finance Committee that he signed the illegal subpoena and expressed no remorse for his actions. He appears so unfazed by these allegations of brazen lawlessness that it seems inevitable he will sanc-

tion similar abuses of power if he is confirmed to lead Customs and Border Protection.

Since Donald Trump took office, on far too many occasions, CBP has shown contempt for the constitutional rights of Americans. For example, in Texas, a 10-year-old U.S. citizen was left in Mexico with her family after being stopped by CBP on her way to a doctor's appointment for brain cancer treatment.

In Washington, CBP detained a family of six, including a pregnant mother who was still breastfeeding her baby, a U.S. citizen. CBP held them in a windowless cell for 24 days. They had no access to due process or ability to contest their detention.

In Arizona, a 19-year-old U.S. citizen with intellectual disabilities, who has difficulty speaking, writing, and reading, was arrested by CBP and charged with illegal entry, despite being an American. CBP kept him detained for 10 days.

There are countless gut-wrenching stories like this. Courts have already raised concerns about CBP's inability to uphold the Constitution.

I am of the view that America needs strong enforcement at the border to protect our people against criminals and drug traffickers, but that does not have to come at the expense of violating Americans' constitutional rights.

Our country does not need a border Agency that indiscriminately violates the rights of Americans or one that feels like it is above due process and above the law. That doesn't make our country safer. It only leads to corruption, more wrongful arrests, and more wrongful deaths.

Americans do not need to choose between security and our rights. We can have both, just as Ben Franklin said many years ago. I fear that confirming Mr. Scott would make our country less secure and less free. For that reason, I strongly oppose this nomination.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant executive clerk proceeded to call the roll.

Mr. HOEVEN. 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. HOEVEN. Mr. President, I ask unanimous consent that the next vote be called.

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

VOTE ON SCOTT NOMINATION

The question is, Will the Senate advise and consent to the Scott nomination?

Mr. HOEVEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. BARRASSO. The following Senators are necessarily absent: the Senator from Mississippi (Mrs. HYDE-SMITH) and the Senator from Alabama (Mr. TUBERVILLE).

Mr. DURBIN. I announce that the Senator from Georgia (Mr. OSSOFF) is necessarily absent.

The result was announced—yeas 51, nays 46, as follows:

[Rollcall Vote No. 321 Ex.]

YEAS—51

Banks	Fischer	Moran
Barrasso	Graham	Moreno
Blackburn	Grassley	Mullin
Boozman	Hagerty	Murkowski
Britt	Hawley	Paul
Budd	Hoeven	Ricketts
Capito	Husted	Risch
Cassidy	Johnson	Rounds
Collins	Justice	Schmitt
Cornyn	Kennedy	Scott (FL)
Cotton	Lankford	Scott (SC)
Cramer	Lee	Sheehy
Crapo	Lummis	Sullivan
Cruz	Marshall	Thune
Curtis	McConnell	Tillis
Daines	McCormick	Wicker
Ernst	Moody	Young

NAYS—46

Alsobrooks	Hickenlooper	Sanders
Baldwin	Hirono	Schatz
Bennet	Kaine	Schiff
Blumenthal	Kelly	Schumer
Blunt Rochester	Kim	Shaheen
Booker	King	Slotkin
Cantwell	Klobuchar	Smith
Coons	Lujan	Van Hollen
Cortez Masto	Markey	Warner
Duckworth	Merkley	Warnock
Durbin	Murphy	Warren
Fetterman	Murray	Welch
Gallego	Padilla	Whitehouse
Gillibrand	Peters	Wyden
Hassan	Reed	
Heinrich	Rosen	

NOT VOTING—3

Hyde-Smith	Ossoff	Tuberville
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The nomination was confirmed.

The PRESIDING OFFICER (Mr. BANKS). Under the previous order, the motion to reconsider is considered made and laid upon the table and the President will immediately be notified of the Senate's actions.

The majority leader.

LEGISLATIVE SESSION

Mr. THUNE. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. THUNE. Mr. President, I move to proceed to executive session to consider Calendar No. 138.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Daniel Zimmerman, of North Carolina, to be an Assistant Secretary of Defense.