

to guarantee the smooth operation of our Federal justice system.

Judge Guirola is a 1979 graduate of the University of Mississippi Law School, and he received his undergraduate degree from William Carey College in 1973. He has had a distinguished career in the law over the past quarter of a century and has gained broad experience from the various positions he has held. He has served as an assistant district attorney, an attorney in private practice, an attorney for the Jackson County Board of Supervisors, and an attorney for the Mississippi Highway Department.

Judge Guirola began his Federal service as an assistant U.S. Attorney for the Eastern District of Texas in 1990, and he was named as a U.S. magistrate judge for the Western District of Texas in 1993. He served in this position until 1996, when he returned to Mississippi to become a U.S. magistrate judge for the Southern District of Mississippi, the position he currently holds. He clearly has an extensive knowledge of the Federal court system, and his experience will be a tremendous asset for the country. It is no surprise that the ABA's Standing Committee on the Federal Judiciary has unanimously found Judge Guirola to be "well qualified" to serve as a Federal district court judge.

Judge Guirola has also demonstrated a commitment to education and instruction. He has been an adjunct professor at William Carey College and the University of Southern Mississippi. He also has given lectures and conducted seminars for the U.S. Attorney General's Advocacy Institute, the Federal Bar Association, the Mississippi Bar Association, the Mississippi Law Enforcement Officers Academy, the Texas Department of Public Safety, and the U.S. Probation Office. In addition, he has authored a number of legal articles and scholarly pieces.

Judge Guirola is well-known and respected in his community, State and profession. His nomination has received widespread support in the State of Mississippi because of his reputation for fairness and hard work. I know that Judge Guirola will make an excellent district court judge, and I congratulate him on his confirmation by the Senate.

#### JUDICIAL CONFIRMATIONS

Mr. LEAHY. Mr. President, last night the Senate confirmed two more Federal judicial nominees of President Bush: Judge Louis Guirola to the Southern District of Mississippi and Neil Wake to the District of Arizona. With these confirmations, the Senate has now confirmed 173 judicial nominees of this President. That is more than during the entire four years of the first term of President Reagan, from 1981 through 1984, and just two fewer than were confirmed in all 4 years of President Clinton's second term in office from 1997 through 2000. We have reduced the number of vacancies in the

Federal courts to 43, the lowest number in more than 13 years.

These two confirmations bring to four the number of judicial nominees confirmed in the first few weeks in session this year. The American people should remember that the Republican Senate leadership in 1996 allowed only 17 judicial nominees of President Clinton to be confirmed all year. I remain confident that with the cooperation of the administration, the Senate this year will be able to match the total from that Presidential election year, the last year of President Clinton's first term. We are well ahead of the pace Republicans achieved in 1996. The four judges confirmed so far this year is four more than were confirmed on this date in 1996.

The two nominees confirmed last night had their hearings this year but two others, J. Leon Holmes and Judge Dora Irizarry, had hearings last year, were reported by the Judiciary Committee last year, and still have not been scheduled for a vote by the Republican leadership. Democrats have been ready to debate and vote on these nominees for many months. They have generated some controversy and will need to be debated before the vote, but there is no Democratic "hold" on either nomination of which I am aware and no Democratic objection to a full and fair debate on each as far as I know.

#### TERRORIST ATTACKS

Mr. GRAHAM of Florida. Mr. President, yesterday, March 11, 2004, was a solemn day.

Two and a half years ago to the day, 19 terrorists hijacked four airliners and crashed them into the World Trade Center, the Pentagon, and a field in rural Pennsylvania.

It is fitting that we pause today to remember the nearly 3,000 innocent people who lost their lives that day. It is also fitting that we take a moment to remember the responsibilities that we undertook in the aftermath of those horrible events. We in public office undertook a particularly important obligation, as we vowed to take action to prevent terrorist attacks of that magnitude from happening again.

In his speech delivered before a joint session of Congress on September 20, 2001, President Bush put it this way: "Americans are asking, How will we fight and win this war? We will direct every resource at our command—every means of diplomacy, every tool of intelligence, every instrument of law enforcement, every financial influence, and every necessary weapon of war—to the disruption and to the defeat of the global terror network."

Unfortunately, we have not met that commitment.

We now know that the terrorist attacks of September 11 were the result of a sophisticated plot that developed over many months and required coordination among a number of individuals.

If our national intelligence agencies had been better organized and more focused on the problem of international terrorism, this tragedy would have been avoided.

Incredibly, it is now 30 months later, and the basic problems in our national intelligence community that contributed to our vulnerability on 9/11 have not yet been seriously considered, much less resolved.

These problems are not a mystery, they are known weaknesses that simply have yet to be fixed. If we in the Congress do not take action to remedy these weaknesses, we will not be able to avoid accountability for the next attack.

A series of independent commissions and the Joint Inquiry conducted by the House and Senate Intelligence Committees in 2002 have identified a variety of issues that we must address. They fall into four categories:

One, setting priority targets for intelligence collection and analysis.

Director of Central Intelligence George Tenet declared war on al-Qaida in 1998, but few in the CIA—and almost no one in the other agencies that make up our Intelligence Community—responded to his clarion call.

Our national intelligence agencies continued to focus on states, such as Russia, China, Iran and Iraq. Despite Mr. Tenet's call for action, Osama bin Laden al-Qaida was not even near the top of our intelligence priority list on September 11, 2001. It was not until September 12 that they moved to the top of the list.

Part of the problem was that our intelligence community had no formal process for regularly reviewing and updating intelligence priorities to ensure that they accurately reflected the current security environment.

Furthermore, it does not appear that the heads of other intelligence agencies looked to the Director of Central Intelligence for leadership and priority-setting.

Even though George Tenet may have realized that non-state actors like al-Qaida needed more attention, the importance of these groups was not clear to other members of the intelligence community. The head of the National Security Agency, our Nation's electronic eavesdropping agency, was asked if he knew about Mr. Tenet's declaration of war with al-Qaida.

The director of the NSA said that yes, he was aware of Mr. Tenet's statement, but he did not think it applied to him or his organization.

Two, providing strong new leadership for the intelligence community.

Examples like this make it clear that we need to provide strong new leadership for the intelligence community. 9/11 exposed historic tensions within the Intelligence Community, and between intelligence agencies and law enforcement.

We need to empower a Cabinet-level official with the authority to end bureaucratic in-fighting and competition

for resources, as well as ensuring the sharing of information among all of those charged with protecting our homeland security—including first responders at the State and local level.

In many ways, our national intelligence community has resembled, and still resembles, a collection of independently operating actors, rather than a unified team that works together on counterterrorism and other missions.

Before 9/11, there were a number of barriers that prevented information from being shared among various agencies, and while many formal barriers have been removed, many informal ones remain in place.

Our joint, bipartisan congressional inquiry revealed that in the months before the September 11 attacks, our national intelligence agencies collected pieces of information that, taken as a whole, could have been used to disrupt al-Qaida's hijacking plot.

Unfortunately, this information was not shared with all of the right people, and helpful actions were not taken.

The CIA was aware that two terrorists associated with al-Qaida had obtained visas for travel to the United States, but it did not share this information with border protection agencies, or with the FBI, which could have kept an eye on these men once they were in the country.

The FBI was aware that a man arrested in Minnesota might have been planning a suicide hijacking, but it did not share this information with the Federal Aviation Administration, which could have increased security precautions on domestic flights.

Better information sharing between the FBI and CIA, as well as other intelligence agencies, could have increased the intelligence community's overall awareness of terrorist activities. And better information sharing between the intelligence community and all the various agencies who contribute to our homeland security could have helped these agencies move to an appropriate level of alertness. We have an obligation to make sure that better information sharing takes place, and the consequences of failure could be very high.

Three, setting priorities for limited resources.

A Cabinet-level official with authority over intelligence could also set priorities for limited intelligence resources.

The Intelligence Community did not adapt quickly enough after the end of the Cold War, during which we had come to rely more on satellites than on human assets—spies. There was no collective sense of importance within the Intelligence Community, including the Department of Defense, and as a result, investments in research and development—which were once a priority—suffered slippage.

Nearly all intelligence agencies faced significant staff shortages prior to 9/11, and this had a serious impact on their effectiveness. At the Central Intel-

ligence Agency, for example, many critical counterterrorism personnel were required to work long hours without relief. This obviously made these personnel less effective, and had a very negative effect on their morale.

Other intelligence agencies, such as the National Security Agency and the Federal Bureau of Investigation, faced similar staffing problems. In particular, these agencies lacked sufficient numbers of analysts and language specialists to support agents working in the field.

When agency directors tried to create solutions to these personnel problems, they were often unable to implement them.

The lack of clear counterterrorism priorities made it difficult for managers to reassign personnel from other areas. Moving money was almost as difficult as moving people, since intelligence community managers have limited budget authority.

Incredibly, these problems are still with us today. While all of our intelligence agencies have increased in hiring and training of counterterrorism personnel, many of them continue to face resource and personnel problems. Even relatively small shifts of resources still must go through a lengthy approval process, and it is not always possible to assign enough people to important areas.

Prior to 2001, many CIA officials knew that more agents were needed in Afghanistan, but they were unable to move resources away from other priorities. By giving our intelligence agencies more budget flexibility, we can empower them to address problems further in advance, and begin thinking about solutions, instead of waiting for a crisis to occur before taking any action.

Long term planning is also constrained by the process we use for funding our intelligence agencies. Instead of providing them with a sustained, stable source of funding, we insist on giving them relatively small budget allocations, and then increasing this through the use of supplemental appropriations bills. Counterterrorism programs have relied heavily on these supplemental appropriations for several years, and this continues today in spite of repeated claims that we have increased our focus on counterterrorism.

If we wish to get the most out of our investment in counterterrorism, we must make it possible for Intelligence Community directors and managers to engage in long term planning, rather than simply jumping from one crisis to the next.

Of course, increased flexibility must be accompanied by increased oversight. As hard as it is for most Americans to believe, the Intelligence Community has only a vague idea of how much money it spends on counterterrorism.

Most agencies do not regularly examine how much they spend on counterterrorism, and those that do use inconsistent accounting methods—and often base their data on rough estimates.

If we do not know how much we are spending on counterterrorism priorities, it will obviously be very hard for us to see if our investment is being spent wisely. A cost-benefit analysis from an independent agency would be very helpful in this regard, but so far there have been no serious efforts to undertake such an effort.

Four, establishing a competent domestic counterterrorism capability.

Finally, we must begin establishing a competent domestic counterterrorism capability.

The FBI has looked at its intelligence-gathering role through the prism of a law-enforcement agency. If asked how many suspected terrorists or terrorist sympathizers are estimated to live in any given major American city, the FBI would respond with the number of open investigative files its field office had there.

Americans have to decide what we expect of our domestic intelligence-gathering capability—and how much intrusion into our personal lives we are willing to accept.

Then we must make a choice: Can we accomplish our goal with an agency that has a mixed law-enforcement and intelligence-gathering mission, or should we create a separate domestic intelligence-gathering unit such as Great Britain's MI5?

For the immediate future, our national security interests are best served by acting to make the FBI as effective as it can be. However, we must also consider our other options and decide if we can do better.

The FBI continues to perform its intelligence mission in a commendable fashion, but detecting and disrupting terrorist plots before they can be executed requires a very different approach than apprehending perpetrators of crimes that have already taken place.

If we look around the world, we can see that there are many different models for domestic intelligence gathering, and many different models for domestic law enforcement. Here in America we must decide what sort of institution best fit our needs and circumstances, and as these circumstances change, we should not be afraid to make our institutions change as well.

This must first begin with a debate over the best possible structure for our domestic intelligence and law enforcement programs. I am sorry to say this debate has not yet taken place.

The problems that I have discussed today need to be fixed as soon as possible. Ignoring them will not make them go away. Old habits, differences in agency culture, and bureaucratic inertia are not acceptable excuses for procrastination and delay.

If we do not address them quickly and effectively, we will be blind to emerging threats, and we will leave ourselves vulnerable to future attacks.

On the other hand, if we can repair these weaknesses then we can give the

hard-working men and women of our Intelligence Community the tools they need to help prevent such attacks from taking place.

As we reflect on the horrific events that stunned our Nation two and a half years ago, and pay tribute to those who lost their lives, we must recommit ourselves to our responsibility to do everything we can to prevent such events from happening again.

If there is another terrorist attack in our country, the American people will look to their elected leaders and ask us what we learned from September 11, and how that information was used to protect them.

We must be able to tell both those who lived—and those who died—that we did everything we could.

#### LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

In Dix Hills, NY, in March 2000, a young man's remains were found in a plastic container in a park in Queens. The teen's social security number and racial and anti-homosexual epithets were written on the skull with a marker.

I believe the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

#### LOWER OIL PRICES

Mr. LEVIN. Mr. President, last night the Senate voted to accept the amendment I offered with Senator COLLINS to the fiscal year 2005 budget resolution to lower oil prices by placing over 50 million barrels of oil on the open market rather than depositing it in the Strategic Petroleum Reserve—SPR—as the administration had planned. I would like to note for the record that this amendment already is accomplishing its objective of lowering oil prices. At 11:30 a.m. this morning, just hours after the news of this amendment reached the markets, oil prices fell. According to Reuters, "NYMEX crude oil futures fell more than \$1 Friday morning after a U.S. Senate vote seeking to bar more shipments of crude oil to the U.S. emergency stockpile."

This amendment is a win-win for the American people. Low supplies of oil in private inventories are a main reason for high prices. With more oil on the open market, prices for gasoline, heating oil, jet fuel and diesel fuel will de-

cline and consumers will benefit. At the same time, our cities and States will gain from additional funds for homeland security.

The amendment directs the Department of Energy—DOE—to cancel delivery of 53 million barrels of crude oil currently planned for deposit into the SPR and to sell this oil on the open market. By selling oil on the open market, the Federal Government would generate over \$1.7 billion in additional revenues. The amendment would allocate a portion of the \$1.7 billion for deficit reduction and place the remainder in a reserve fund to be used for more homeland security funding for the States.

I will continue to work within the Congress to persuade—or require, if necessary—the Administration to suspend shipments of oil to the SPR to lower prices further.

I ask unanimous consent that the attached article on the drop in oil prices due to the Senate's action last night be printed in the RECORD.

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

[From Reuters News Service, Mar. 12, 2004]  
NYMEX OIL FALLS OVER \$1 ON POSSIBLE SPR  
SHIPMENTS HALT

NEW YORK.—NYMEX crude oil futures fell more than \$1 Friday morning after a U.S. Senate vote seeking to bar more shipments of crude oil to the U.S. emergency crude stockpile.

The move, which aims to reduce oil prices by keeping more supply in the market, countered, for the moment, fears that oil facilities were once again at risk after Thursday's terror bomb attacks in Madrid killed nearly 200 people and injured more than 1,400 others.

NYMEX crude for April delivery fell as low as \$35.30 a barrel, down \$1.48 on the day, before bouncing back a bit to \$35.40.

#### NOMINATION OF DR. MARK MCCLELLAN TO BE ADMINIS- TRATOR OF CMS

Mr. KENNEDY. I am pleased to support the nomination of Dr. Mark McClellan to be the Administrator of the Center for Medicare and Medicaid Services. There is no more important agency in providing quality health care for the American people, and Dr. McClellan is superbly qualified for this important post.

Dr. McClellan has served with distinction in the Treasury Department during the Clinton administration and as a health policy advisor and commissioner of FDA in the Bush administration. He has immense intellectual gifts, a distinguished background as an economist and physician, and tremendous energy, commitment, and integrity. I am particularly pleased that he is an adopted son of Massachusetts, having received his M.D. from the Harvard Medical School.

Mark and I have worked closely on a number of issues during his tenure at the White House and the FDA. While we certainly don't always agree, I have

always felt that we were working toward the same goals of quality health care. At the FDA, he was committed to modernizing the agency to assure that it brought the best scientific tools of the new century of the life sciences, to regulating the drug development process, and speeding safe and effective products to market. He made a tough call to protect the health of women in his decision on silicone breast implants, and he has been aggressive in his attempts to remove dangerous dietary supplements, most notably Ephedra, from the market. He has been particularly generous with his time in meeting with the Massachusetts device and biotechnology industries, so that he could understand their concerns and that they could gain a deeper appreciation of the most productive way to work with the FDA.

At CMS, Mark will have to implement the deeply flawed Medicare bill—a challenging task under the best of circumstances. I was encouraged by his comments at his confirmation hearing indicating that, unlike others in the Bush administration, he understands the need to maintain Medicaid as an individuals entitlement guaranteeing health care for the poorest of the poor and to end the pernicious policy of overpaying Medicare HMOs because they enroll the healthiest senior citizens.

In summary, I am pleased to support Dr. McClellan's nomination. He is a superb choice to head a critically important agency.

#### PRESIDENT BUSH AND THE ASSAULT WEAPONS BAN

Mr. LEVIN. Mr. President, last week, the Senate passed a 10-year extension of the assault weapons ban. We passed the assault weapons ban in 1994 because law enforcement agencies asked for it, and we extended it last week at their urging.

Studies have shown that the assault weapons ban works. According to National Institute of Justice statistics reported by the Brady Campaign to Prevent Gun Violence, gun trace requests for assault weapons declined 20 percent in the first calendar year after the ban took effect, dropping from 4,077 in 1994 to 3,268 in 1995. This statistic indicates that fewer of these weapons were making it onto the streets.

As my colleagues know, the 1994 law banned the production of certain semi-automatic assault weapons and high-capacity ammunition magazines. The 1994 law banned a list of 19 specific weapons as well as a number of other weapons incorporating certain design characteristics such as pistol grips, folding stocks, bayonet mounts, and flash suppressors. This law should not be allowed to sunset on September 13, 2004. This law does not need to sunset. Our Nation's law enforcement officers support this legislation, the President even has expressed his support, and the Senate passed an extension.