

the sign-in law in 2009—was designed to protect our sensitive intelligence sources and methods and to comply with the laws of war. Why abandon them? It will come as no surprise to my colleagues that I also disagree with the administration's "ready, fire, aim" strategy of handling the Christmas Day bomber.

On December 25, when Abdulmutallab landed on our shores, rather than incorporate intelligence into his interrogation, he was, after 50 minutes of brief questioning, Mirandized and offered a lawyer. Not surprisingly, he clammed up for 5 weeks. Intelligence is perishable and that 5 weeks was time that our intelligence system should have been operating on the questions he was only 5 weeks later answering. I don't know what purpose there was in Mirandizing him. That is an exclusionary rule. The only reason to offer Miranda rights is so you can use the words of the suspect against him. There is plenty of evidence of this guy who had strapped chemical explosives to his legs, set them off, and burned himself in front of 200 witnesses. It doesn't matter what he says, you can convict him. Why weren't our intelligence agencies consulted on the important decision of whether to Mirandize him? At least the FBI agents questioning him should have had the benefit of the intelligence that other agencies knew. Who is running the war on terrorism? I am afraid it is the Justice Department or the White House. Why did the White House announce what the few of us who were notified of his cooperation warned not to disclose? Not only did they disclose that information the day after we were advised, they disclosed the fact that Abdulmutallab's family came here to pressure him. Why on Earth would you do that? What message does that send? Unfortunately, to the family, they now have targets on their backs, because the terrorists know that they have convinced a member of their family to talk. What does it say to future sources? We are going to be concerned if they provide information that our intelligence agencies asked for that they will be identified by the White House and put at great risk.

The handling of the Christmas Day bomber also showed something else. When the President took away the powers of the CIA to question terror suspects, he said: We will handle it in the White House. We found out on December 25, 11 months after he announced it, that there was no high value detainee interrogation operation set up. They had no plans on how to do it. These people are supposed to be interrogating high value detainees and for a year they didn't set it up until after the attack.

Our intelligence chiefs testified early this month in an open hearing that there will be attempts by terrorists to attack again. Yet the administration waited until after the attack to begin the process of setting it up. These are

all important policy questions to raise. If the White House had its way, I wouldn't be asking them, but I am asking them because I am very fearful that our security has been lessened, and that this is a subject this body must address.

Article I of the Constitution created a legislative branch to help ensure that nobody in government is above oversight and being held accountable. I as a Senator have a right and responsibility as a Member of this body and as a representative of the people of my State to shine a light on policies that I think need to be changed, and I will continue to do so regardless of what is said about me. I am concerned that these policies of the administration have moved us back to a pre-9/11 mentality. That failed in the past and it will again.

In terms of the debate, my colleagues from California and Vermont have raised questions in a letter. They said we ought to try these terrorists in an article III court because the rule of law must prevail. Well, I agree, but we have a law. It is called the military commissions law that was passed and signed into law last year by the President that carries out the laws of war. Those are places which are much safer in terms of handling the terrorists, in terms of handling classified information.

Finally, they say that we should not—they strongly believe we ought to bring all of these people to article III courts and the prosecutors and everybody can handle those. It is not the prosecutors or the intelligence community we are worried about, No. 1. It is the cost, because the terrorist trial is going to bring undesirables here, and the city of New York figures it is going to have to spend over \$2 million a year. They do not want it. Nobody else wants it.

I tell you, even more important, when Khalid Shaikh Mohammed was apprehended, he said: My lawyer and I will see you in New York. He wants to come to New York or Washington or someplace where he can get a lot of media attention—and believe me, were he to be tried here, he would get a lot of media attention—because he wants to be able to spread his message to others who might be vulnerable that they need to join him in the jihad.

I also pointed out that disclosure of sensitive information has and will be released if you try him in an article III court because any defense attorney bound to provide the best defense for their clients will have to get into what the intelligence community knew, how they knew it about him, and that is a disaster. That is why I welcome the discussion and I urge a change in policy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

#### TRIALS OF DETAINEES

Mr. DURBIN. Madam President, it is so interesting to notice the change of approach. When President Bush was in office and we were fighting terrorism, Democrats would come to the floor and question interrogation and prosecution and be reminded over and over again by the Republican side of the aisle that we were literally interfering with national security and the authority of the Commander in Chief. I took those criticisms lightly because we do have a responsibility in Congress to speak out as a separate branch of government if we disagree with the Executive. Now to hear the other side, they have completely switched their position. Now they believe it is fair game to question the decisions that are being made on a daily basis by this President of the United States relative to our national security.

What my friend from Missouri, who has every right to come to the floor and speak his mind representing his State, has failed to mention is one basic fact: Since 9/11, 195 terrorists have been convicted in article III courts in the United States of America. Decisions were made by Republican President George W. Bush to prosecute suspected terrorists in article III courts, and, yes, that would involve Miranda warnings because they believed that was the most effective place to try them.

There was an alternative, so-called law-of-war approach, to use military commissions. How many of these suspected terrorists were actually tried before military commissions since 9/11? Three. Madam President, 3 have been convicted before military commissions, 195 in the courts of our land.

Now come the Republicans to say: We want to stop any conviction in any criminal court in America. We believe the people should only be convicted by military commission.

I take a different view. I believe this President, this Attorney General, and all of the people involved in national security should have the options before them: Use the best forum available to bring out the facts and to result in a conviction.

Do I fear our court system will be used by these alleged terrorists? They may try. They have not had much luck. When Zacarias Moussaoui, the so-called 19th 9/11 terrorist, was tried in Virginia, I don't think it changed America one bit. I don't think it changed the way we live and the security we have. Incidentally, he was convicted and is serving a life sentence in a supermax prison, one of our Federal penitentiaries.

Those who argue that we should never consider it ignore the obvious. Look at the list of terrorists convicted in Federal courts aside from Zacarias Moussaoui: Ramzi Yousef, the mastermind of the 1993 World Trade Center bombing; Omar Abdel Rahman, the so-called Blind Sheikh; the al-Qaida sleeper agent Ali Al-Marri from my State of Illinois, where he was arrested; Ted

Kaczynski, the Unabomber; and Terry Nichols, the Oklahoma City coconspirator. Our courts work. Why would we choose to tie the hands of this administration to choose the most effective place to try a terrorist?

This notion, too, about keeping Guantanamo open, that it was just President Obama's idea, no, it happened to be Senator McCain's idea as well, his opponent in the Presidential election. He called for the closing of Guantanamo, as well as GEN Colin Powell, who was head of not only our State Department but head of national security under former Presidents. It is an indication to me that this, on a bipartisan basis, is something that should be done and done in a careful way. I would agree with that. But let's be honest. There has been a bipartisan consensus that this is a good thing to do to make America safe.

The last point I would like to make on this issue is that we have a responsibility to tell the world that those who are accused of terrorism will be tried in our courts or before our military commissions in a way that respects due process so that at the end of the day, we do not have an outcome where people question whether we applied the principles and values to these trials as we apply them to other trials involving Americans.

For those who argue they should be given the back of the hand, ignored, no warnings, no due process, at the end of the day we will not be stronger if we follow that counsel and that advice regardless of the outcome and afraid America's intentions will be questioned. I want us to be strong in this world, not fearful and shuddering and quivering before these alleged terrorists. We need to stand up strong, be safe as a nation, gather the information.

This so-called Christmas Day bomber who was found on this plane, whether he should have been Mirandized or not, the fact is, after a short period of time his family was brought to where he is being held in a Federal penitentiary—I might add, in Michigan—and after meeting with them, he gave even more information. To argue that he has not been helpful and not forthcoming I think states something the record does not reflect.

#### SNOWFALL IN WASHINGTON

Mr. DURBIN. Madam President, I first came here as a student in 1963. It is a great city. I went to college here, law school here. I lived a big part of my life, at least part time, in Washington, DC. I never could get over how people in this town reacted to snow. I am convinced that infants born in Washington, DC, are taken from the arms of their loving mothers right when they are born into a room where someone shows a film of a snowstorm with shrieking and screaming so that those children come to believe snow is a mortal enemy, like a nuclear attack, be-

cause I have seen, for over 40 years here, people in this town go into a full-scale panic at the thought of a snowfall. We joke about it. Those of us from parts of the country that get snow and know how to live with it cannot get over how crazy the reaction is many times. But in fairness, this has been a heck of a snowstorm. It is the largest on record in Washington, DC.

I wish to say a word on behalf of the people of the District of Columbia and all of the surrounding suburbs but especially for those who work on Capitol Hill, the Capitol Police as well as those in the Architect's office, who have literally been working night and day to make sure visitors who still come to this Capitol in the middle of a blizzard—I saw them yesterday coming up to take pictures of our Capitol dome—can come here safely. They have done an exceptional job. Today is no exception. Many of the members of our staff in the Senate and the folks who work here came trudging through the snow, and it was not easy to get here. I wish to say a word of thanks to all of them for the special sacrifice they have made and to say to the folks in Washington, DC: This was a heck of a snowstorm. You had every right to be concerned. Some of the other ones, maybe not, but this one was the real deal.

Madam President, how much time do I have remaining?

The PRESIDING OFFICER. Three minutes.

#### HOME FORECLOSURES

Mr. DURBIN. Madam President, I wish to say one last word about an issue that affects my State and many others too. We received news today that the foreclosures of houses in Illinois have increased dramatically over last year—a 25-percent increase in foreclosures in Illinois over the last year. The same thing is true of many other States. The States hit the hardest are Nevada, Arizona, California, Florida, Utah, Idaho, Michigan, Illinois, Oregon, and Georgia.

We have to do more. The current system we have to deal with foreclosures is not working well. I met this morning with Treasury Secretary Geithner and gave him some ideas. I hope my colleagues will join me in coming up with approaches that will try to save people from this terrible outcome of foreclosure. Many people have lost their jobs and cannot pay their mortgages. Understandable. Maybe we can help them stay in their houses as renters or some other circumstance. Some have seen the value of their home start to decline to the point where the value of the home is less than the outstanding mortgage and there is no incentive to continue to sacrifice and make a mortgage payment for a home that is worth a fraction of its original value.

Those are realities. But the reality of foreclosure is obvious. I was with Congresswoman JAN SCHAKOWSKY in Evanston, IL, a few days ago. We went

down Gray Street and saw homes that had been good, solid, middle-class homes now boarded up literally for years that have become a blight on that neighborhood, dragging down the value of every other home and threatening the safety of the neighborhood as they become drug and crime havens. We are also seeing a phenomena like that in places such as Marquette Park in Chicago where the depopulation of neighborhoods is leading to commercial flight—food deserts in the city of Chicago brought about by foreclosures.

These banks have not done enough, period. They have not stepped up to their responsibility. I tried to change the Bankruptcy Code to give us a fighting chance for a bankruptcy judge to rewrite a mortgage to avoid foreclosure, and I was defeated by the banks. They have a powerful lobby on Capitol Hill even to this day despite what we have gone through.

This foreclosure situation has gone from bad to worse. I don't believe America can truly recover economically until we address this issue in a forthright manner. I look forward to working with the Treasury Secretary and the administration to do that when we return from the Presidents Day recess.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

#### TERRORIST TRIALS

Mr. SESSIONS. Madam President, I wish to share a few thoughts on a matter of concern; that is, our national security and the procedure by which we are handling people we arrest who are attacking this country. It will be a bit of a follow-on to what Senator BOND of Missouri had to say. I disagree with my distinguished colleague, Senator DURBIN, the assistant Democratic leader in the Senate. He is a member of the Judiciary Committee. I think he is wrong about that. I serve on the Judiciary Committee, too, and I would like to share a few thoughts.

First, there has been a full-scale attempt to assert that President Bush tried most of the terrorists or terrorism-related cases that developed over the years in the normal civilian courts. That is true to some degree. I notice that in the 195 cases Senator DURBIN said were tried in the Federal courts, he counted the Unabomber and Terry Nichols, one of the ones who blew up the Oklahoma City Federal Building. There is a big distinction: The Unabomber was not officially at war with the United States, had not declared war on the United States as al-Qaida has, and the United States had not declared war on him or on Terry Nichols, who was unknown, I suppose, to anybody at the time he committed that crime and was tried. A lot of the other cases deal with such things as aiding a terrorist by providing money to some terrorist organization that supports terrorism, violating various