The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HOW TO ADDRESS THE THREAT THAT CONFRONTS US TODAY

Mr. GREGG. Madam President, I want to talk a little bit about the issue of how we as a government and how we as a people are going to address what is clearly a threat that confronts us today in the area of terrorism.

Last week, the Commerce-State-Judicial bill was on the floor, and a number of initiatives in the area of terrorism were included in that bill. I certainly thank the assistant leader for his strong support for that bill, for the elements which were in that bill, and his speaking on behalf of it at that time.

Let me review, so we can put in perspective instead of as a goal what we have been doing and what we need to do in a number of areas, certainly not a comprehensive review but at least a preliminary review of what has to be done.

The Subcommittee on Commerce, Justice, State, and the Judiciary, on which I am the ranking member and Senator HOLLINGS is chairman, has held innumerable hearings on this issue over the last 5 years in an effort to try to get our arms around what is obviously an issue that is extremely difficult to get our arms around. It seems a bit hollow now in light of what happened on September 11, but there was an attempt at least to try to put some order into our effort at the Federal level.

Clearly, a dramatic amount still needs to be done, and the American people need to understand this is not going to be a simple exercise, an overnight exercise, or an exercise that can be completed in a week or a month or a year. Potentially it may take years before we as a nation are able to bring the threat of terrorism some resolution which makes us more comfortable with our ability to manage it and deal with it, especially when there are individuals willing to kill themselves and take innocent lives in order to accomplish their goals.

Let us begin with the basic threat and how we should address it. The issue of terrorism needs to be addressed on three basic levels. First is the intelligence level, both domestic and international. Second is the apprehension, the catching, of people before they commit the crime, before they undertake to violate our laws, before we undertake to capture them or attempt to bring them to justice. In this instance, under the terrorism instance, the whole mindset must shift in the area of apprehension to one of taking action before the event occurs because, as we have seen, when the event occurs it is so horrific and so horrific that it simply cannot be accepted as a consequence of not having taken action.

The third element is managing the crisis, managing the event. So it is intelligence; domestic/international; apprehension; and then, should an event occur, the managing of the event, both the immediate crisis and the aftermath, the consequences.

In the area of intelligence, it is very clear we have some significant needs. We can divide these needs fairly easily into the needs that involve using people in the gathering of intelligence and the needs that involve technology.

In the use-of-people area, we as a government have a very significant number of reasons, basically decided we would no longer hire unsavory characters in order to get information. That was a mistake. It was known by a lot of people who were in the intelligence-gathering community to be a mistake when it was done. The decision to rely primarily on electronic surveillance and our capacity to use electronic surveillance as the main way of gathering information was a belief in a system that simply did not work, as has been proven to us. The penetration of small cells, which are for the most part clan-nish-oriented, usually family groups, is extremely difficult. It is extremely difficult under any scenario, but it is virtually impossible if we do not use people who are not necessarily persons of high character by our definition.

Therefore, we as a government made a decision, which was wrong, and we are trying to reverse it today. This Senate has actually spoken on this issue in the policy of the Government, which up until Tuesday, September 11, was not to hire such individuals for the purposes of on-the-ground intelligence, should no longer be pursued. The CIA and other agencies which have intelligence needs have the authority to proceed with using human intelligence and people they need to hire to accomplish that. That is exactly what we should be doing today.

Unfortunately, and I think we have to understand this is different from what is the traditional law enforcement exercise.

In most law enforcement undertakings, we wait until the event occurs, until someone has committed an act which violates our laws, before we undertake to capture them or attempt to bring them to justice. In this instance, under the terrorism instance, the whole intent is to get people before they undertake to violate our laws, and it is difficult under any scenario, but it is virtually impossible if we do not use people who are not necessarily persons of high character by our definition.

I therefore believe we have the right to use the market of the United States as leverage for the purposes of accomplishing the protection of America. We have a huge economic market in the United States. The people making these products want to sell their products in the United States, whether it is...
this product or something else they make. I believe we should use the leverage of the American market as a way to say, if you are going to sell this type of activity anywhere in our world, and you want to sell something in the United States also, you have an obligation to comply with our needs for our national security under a strict legal judicial structure.

I am before you to set up a regime that will be fair, that will be subject to the judicial controls necessary to protect the constitutional rights of people who are law-abiding but will also give our intelligence community the access to the information they need when they know there is somebody out there using encryption technology for the purposes of pursuing a terrorist act in the United States. There is no excuse for anybody to be underwriting that type of activity in our country. That is the intelligence level.

The second level, as I mentioned, was the apprehension level. Apprehension is extremely difficult when you are dealing with the terrorist community. There is an entire law enforcement concept in this Nation that says we apprehend after the act occurs. Yet if we wait until after the act occurs in the area of terrorism, the harm is so extreme, as we saw in New York and in Washington, that it becomes very hard to justify allowing the event to occur before we have declared that the individual needs to be apprehended. We have to change our mindset and our approach, and in doing so we have to address our constitutional protections so that we do not end up undermining that because it will make the terrorist unsuccessful.

The simple fact is we are going to have to adjust our approach in the area of law enforcement to one of apprehending the event approaches rather than after the event. Second, we are going to have to face the fact that our borders are incredibly porous and we have to set up a new regime for managing our borders which allows the proper flow of individuals back and forth so we can have the access that people, for example, from Mexico wish to have to work in the United States. But we also have to have controls so we know who is coming into our country.

Again, I think the Guest Worker Program discussed in the works is a way to address that. I have some thoughts in that area. This will be a key element of the United States of how we apprehend individuals who are bent on committing acts of terror in our borders.

The third element involved is crisis management and consequence management. In general, our country needs to get its act under control. We have 46 agencies responsible for some element of terrorism or counterterrorism. There is tremendous overlap; that is, regrettable, turf issues. There is often indecision and lack of communication of information. In New York, there may have been a specific lack of communication of information. We need a centralized management structure within our Federal Government.

We have proposed in the Commerce-State-Justice-State bill it be divided for the purposes of domestic terrorist acts—no military but domestic terrorist acts—into two areas. In the Justice Department, the appointment of a Deputy Attorney General of Terrorism, with a cross-jurisdiction responsibility. Unless you have budget authority for this individual, there is no point in having such an individual.

The Justice Department for crisis management, the Federal Emergency Management Administration for consequence administration, they would essentially be coordinators of the issue of how we handle domestic terrorist events here in the United States. They would function as coequals, and would be sequential, however, in their response to an event.

This is just one proposal for how to do it. It is one that passed this Senate and has been strongly supported, for example, by the assistant leader, Senator Dole. It is also supported by the chairman of the Senate Judiciary Committee and the Senate Appropriations Committee.

As I mentioned, this is just one approach to accomplishing this goal, but we need to accomplish this goal, and we need to accomplish it quickly. The key to accomplishing it, as I mentioned, is whoever is given the responsibility for managing the terrorist portfolio, that individual also has to have the power to cut across the departmental lines because the only way you control things in this Government is if you control the dollars. If you do not control the dollars, you are not going to be able to control the activity. With the drug czar, we saw a complete failure of just naming someone to a position and claiming he has responsibility when he never got the authority to do the job. We cannot afford that on the issue of terrorism.

This is as much a public relations event. This must be an individual who has significant power and the responsibility and the capacity to carry out that responsibility because he has the power to do it.

My time has run out. I know there are other people who want to speak so I will yield the floor, but I do intend to speak further on this issue of how we manage our house on the issue of terrorism. There is a lot we need to do and a great deal that needs to be thought about in this area.

I especially thank the Senator from North Dakota for his courtesy.