Hatch, Grassley, Cornyn, Kyl, Specter;

S. 1845, Circuit Court of Appeals Restructuring and Modernization Act of 2005, Ensign, Kyl;

S. 394, Open Government Act of 2005, Cornyn, Leahy, Feingold;

S. 3880, Animal Enterprise Terrorism Act, Inhofe, Feinstein;

S. 2644, Perform Act of 2006, Feinstein, Graham, Biden;

S. 3818, Patent Reform Act of 2006, Hatch, Leahy.

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

COMMITTEE ON THE JUDICIARY

Mr. THUNE. Mr. President, I ask unanimous consent that the Subcommittee on Corrections and Rehabilitation be authorized to meet to conduct a hearing on ''Oversight of Federal Assistance for Prisoner Rehabilitation and Reentry in Our States'' on Thursday, September 21, 2006, at 2:30 p.m. in SD226.

Witness List:

Panel I: Mason Bishop, Deputy Assistant Secretary, Employment and Training Administration, U.S. Department of Labor, Washington, DC, Regina Schofield, Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice, Washington, DC, Robert Bogart, Director, Center for Faith Based and Community Initiatives, U.S. Department of Housing and Urban Development, Washington, DC, Cheri Nolan, Senior Policy Advisor, Criminal and Juvenile Justice at the Substance Abuse and Mental Health Administration, Department of Health and Human Services, Washington, DC.

Panel II: Roger Werholtz, Secretary of Corrections, Kansas Department of Corrections, Topeka, KS, Diane Williams, President and CEO, Safer Foundation, Chicago, IL.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. THUNE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 21, 2006 at 2:30 p.m to hold a closed hearing.

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

SPECIAL COMMITTEE ON AGING

Mr. THUNE. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Thursday, September 21, 2006 from 10 a.m.–12 p.m. in Dirksen 562 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON WATER AND POWER

Mr. THUNE. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power be authorized to meet during the session of the Senate on Thursday, September 21 at 2:30 p.m.

The purpose of the hearing is to receive testimony on S. 1106, to authorize the construction of the Arkansas Valley conduit in the State of Colorado, and for other purposes; S. 1811, to authorize the Secretary of the Interior to study the feasibility of enlarging the Argur V. Watkins Dam Weber Basin Project, UT, to provide additional water for the Weber Basin Project to fulfill the purposes for which that project was authorized; S. 2070, to provide certain requirements for hydroelectric projects on the Mohawk River in the State of New York; S. 3522, to amend the Bonneville Power Administration portions of the Fisheries Restoration and Irrigation Mitigation Act of 2000 to authorize appropriations for fiscal years 2006 through 2012, and for other purposes; S. 3832, to direct the Secretary of the Interior to establish criteria to transfer title to reclamation facilities, and for other purposes; S. 3851, to provide for the extension of preliminary permit periods by the Federal Energy Regulatory Commission for certain hydroelectric projects in the State of Alaska; S. 3798, to direct the Secretary of the Interior to exclude and defer from the pooled reimbursable costs of the unused capacity of the Folsome South Canal, Auburn-Folsom South Unit, Central Valley Project, and for other purposes; H.R. 2563, to authorize the Secretary of the Interior to conduct feasibility studies to address certain water shortages within the Snake, Boise, and Payette River systems in Idaho, and for other purposes; and H.R. 3897, to authorize the Secretary of the Interior, acting through the Bureau of Reclamation to enter into a cooperative agreement with the Madera Irrigation District for purposes of supporting the Madera Water Supply Enhancement Project.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 737, 831, 905, 906, 909, 910, 911, 912, 913, 914, 915, 916, and all nominations on the Secretary's desk. I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF JUSTICE

Kenneth L. Wainstein, of Virginia, to be an Assistant Attorney General. (New Position)

Frank R. Jimenez, of Florida, to be General Counsel of the Department of the Navy.

COAST GUARD

The following named officers for appointment in the United States Coast Guard to the grade indicated under title 14, U.S.C., section 271:

To be rear admiral (lower half)

Capt. Thomas F. Atkin, 0000
Capt. Christopher C. Colvin, 0000
Capt. Cynthia A. Coogan, 0000
Capt. David T. Glenn, 0000
Capt. Mary E. Landry, 0000
Capt. Ronald J. Rabago, 0000
Capt. Paul F. Zukunft, 0000

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Stephen Goldsmith, of Indiana, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2010. (Reappointment)

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

Sandra Pickett, of Texas to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2010. (Reappointment)

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

Roger L. Hunt, of Nevada, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 9, 2009.

John E. Kidde, of California, to be a Member of the Board of Trustees of the Harry S. Truman Scholarship Foundation for a term expiring December 10, 2011.

NATIONAL INSTITUTE FOR LITERACY

Eliza McFadden, of Florida, to be a Member of the National Institute for Literacy Advisory Board for a term expiring January 30, 2009, vice Douglas Carnine, term expired.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Jane M. Doggett, of Montana, to be a Member of the National Council on the Humanities for a term expiring January 26, 2012.

DEPARTMENT OF LABOR

Randolph James Clerihue, of Virginia, to be an Assistant Secretary of Labor.

NATIONAL SCIENCE FOUNDATION

Arthur K. Reilly, of New Jersey, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2012.

DEPARTMENT OF EDUCATION

Lauran M. Maddox, of Virginia, to be Assistant Secretary for Communications and Outreach, Department of Education.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

COAST GUARD

PN1965 COAST GUARD nomination of Tina J. Urban, which was received by the Senate and appeared in the Congressional Record of September 7, 2006.

PUBLIC HEALTH SERVICE

PN1851 PUBLIC HEALTH SERVICE nominations (256) beginning Judith Louise Bader, and ending Raquel Antonia Peat, which nominations were received by the Senate and appeared in the Congressional Record of July 27, 2006.

Mr. LEAHY. Mr. President, today we consider a nominee for the new position of Assistant Attorney General for the National Security Division. All too often, in the Bush-Cheney administration, national security has been cited as a justification for overriding the rule of law and for imposing unprecedented secrecy. With the acquiescence of the Republican-controlled Congress, this administration may be the most unresponsive in history and the most unaccountable.

Ken Wainstein is President Bush's selection to be the first Assistant Attorney General for National Security, a new position created by Congress. I will not oppose this nomination in the hope that Mr. Wainstein will work with us and be responsive to the Senate.

I have concerns about this administration's unilateral approach to national security issues. Four years ago, the Office of Legal Counsel at the Justice Department issued a secret legal opinion concluding that the President of the United States had the power to override domestic and international laws outlawing torture. The memo sought to redefine torture and asserted that the President enjoys ''complete authority over the conduct of war'' and asserted that application of the criminal law passed by Congress prohibiting torture ''in a manner that interferes with the president's direction of such core war matters as the detention and interrogation of enemy combatants would be unconstitutional.'' It seemed to assert that the President could immunize people from prosecution for violations of U.S. criminal laws that prohibit torture. This memo was withdrawn only after it became public because it could not withstand public scrutiny.

We have learned through the media of warrantless wiretapping and datamining conducted by this administration. This, despite the Foreign Surveillance Intelligence Act and its express provisions, as well as the actions of the Senate in voting to curtail the datamining programs by Admiral Poindexter at the Defense Department. We have yet to be provided with a convincing legal justification for these programs. We have yet to be able to investigate or hold the administration accountable. Instead, every effort at oversight and accountability has been obstructed or curtailed by the administration. The administration refuses to follow the law and submit matters to the FISA Court and claims state secrets to force court challenges to be dismissed. The administration tells the Senate when, what and how it may investigate. The Department of Justice's own internal Office of Professional Responsibility's probe of whether lawyers at the Department violated ethical rules in justifying these activities was shut down by the Attorney General and the White House.

I was disappointed 2 weeks ago when the Judiciary Committee reported out a bill on party lines that would rubberstamp the administration's warrantless wiretapping. We were told that the administration would only follow the law if we passed the legislation endorsed by Vice President CHENEY. This is a bill that would expand governmental power and reduce governmental accountability in an area in which we have been unable to engage in effective oversight. As I have said many times and as I continue to believe, we should not legislate in this area until we know more about the NSA's domestic spying activities and more about why the administration chose to flout the law and bypass both the FISA Court and the Congress.

I support Senator FEINSTEIN's bipartisan bill, which we also reported out of committee, and I commend her for her hard work to get it done. We should follow Senator FEINSTEIN's thoughtful, cautious, and narrowly tailored approach. Her bill addresses the one concrete problem with FISA that the Attorney General identified, by making it easier for the Government to initiate electronic surveillance in emergency situations. It also clarifies that FISA does not require the Government to obtain a warrant in order to intercept foreign-to-foreign communications, regardless of where the interception occurs.

At the same time, we should continue to press the administration for information. We should not take ''no'' for an answer. As this administration continues to expand its power, the Department of Justice should be advising the President to obey the law and respect the Congress and the courts, not just helping to rationalize actions and forestall oversight.

In theory, the new position to which Mr. Wainstein has been nominated might help Department of Justice attorneys to act responsibly on national security issues, rather than just to do the White House's bidding. It should put national security issues into the hands of experts, not political cronies. In fact, the WMD Commission recommended in March of last year that the different components of the Department's dealings with national security, terrorism, counterintelligence, and foreign intelligence surveillance be combined to eliminate deficiencies and inefficiencies in the Department's national security efforts. Congress acted to create the post. This new Assistant Attorney General position can only serve a useful role if the person who occupies it is willing to think independently. This administration has consistently prized loyalty over independence and expertise.

Mr. Wainstein has some experience as a prosecutor, but he has also been a loyal official of this administration for some time now. I hope that he will be able to look at the crucial national security issues to be handled by this new office with a critical eye and a view toward respecting law and the Congress. If he does, he will be a breath of fresh air in the Bush-Cheney administration.

Recently, Judiciary Committee Chairman SPECTER and I received a letter from the Fraternal Order of Police. The FOP ''endorsed'' Mr. Wainstein ''in order to facilitate his departure from the U.S. Attorney's Office.'' They criticized him for being ''unwilling to perform'' the function of investigating and prosecuting an alleged attack on a police officer. That is not what I would term high praise for his judgment. I ask unanimous consent that a copy of the letter be printed in the RECORD.

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

FRATERNAL ORDER OF POLICE,
Washington, DC, June 9, 2006.

Hon. ARLEN SPECTER,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

Hon. PATRICK J. LEAHY,
Ranking Member, Committee on the Judiciary, U.S. Senate, Washington. DC.

DEAR MR. CHAIRMAN SPECTER AND SENATOR LEAHY: I am writing on behalf of the members of the Fraternal Order of Police to advise you of our position on the nomination of Kenneth L. Wainstein, currently the U.S. Attorney for the District of Columbia, to be the Assistant Attorney General for the National Security Division at the U.S. Department of Justice.

The F.O.P. is very frustrated by the manner in which Mr. Wainstein is handling the investigation into the attack on a Federal law enforcement officer by U.S. Representative Cynthia L. McKinney. The grand jury has held this case for more than two months when the usual practice of a Federal prosecutor is to immediately arrest and swiftly indict people that attack police officers. It is clear to us that the accused in this case is receiving special treatment from Mr. Wainstein. This is unacceptable—had the officer's attacker in this case been a visitor to the Capitol instead of a U.S. Representative, it is likely that he or she would have already stood trial. Instead, under the stewardship of Mr. Wainstein, we have a seemingly endless grand jury proceeding and rumored talks of a plea deal, despite the fact that there has not even been an indictment.

Given that the basic function of a prosecutor is to investigate and prosecute cases, and given that Mr. Wainstein seems unwilling to perform this function in a simple assault case, the F.O.P. was initially reluctant to support his nomination to Assistant Attorney General. However, upon further reflection, we have reconsidered. There is a genuine need to have an effective and appropriately aggressive Federal prosecutor in the District of Columbia and, because the responsibilities of the position for which he has been nominated are largely advisory in nature, we have decided to advocate his swift and immediate confirmation in order to facilitate his departure from the U.S. Attorney's office. In so doing, we hope that his replacement will prove to be better able to handle pending cases—particularly those involving assaults on law enforcement officers.

Justice is something that must be vigorously pursued and Mr. Wainstein is waffling. We feel that someone of his temperament is better suited to a less operational position and, for this reason, on behalf of the more than 324,000 members of the Fraternal Order of Police, we urge his expeditious confirmation. I thank you both in advance for your consideration of our views on this matter. If I can be of any further help, please feel free to contact me or Executive Director Jim Pasco at my Washington office.

Sincerely,

CHUCK CANTERBURY,
National President.

Mr. LEVIN. Mr. President, Kenneth Wainstein is President Bush's nominee to be Assistant Attorney General for National Security at the Department of Justice. From July 2002 to March 2003, Mr. Wainstein was the general counsel at the FBI and from March 2003 until May 2004 Mr. Wainstein was the FBI Director's chief of staff.

FBI documents, released in response to a Freedom of Information Act request, show that during Mr.

Wainstein's tenure at the Bureau, FBI agents at Guantanamo sent e-mails to FBI headquarters objecting to DOD interrogation techniques being used on detainees there. FBI agents described DOD's methods as ''torture'' techniques and expressed alarm over military interrogation plans.

Over the past several months I have posed a number of questions to Mr. Wainstein and Mr. Marion Bowman, who was his former deputy at the FBI General Counsel's office, regarding their knowledge of those concerns and their actions in response to hearing about them. I also requested from the Department of Justice a number of documents relevant to Mr. Wainstein's nomination.

Mr. Wainstein's June 19, 2006, answers confirm that he was aware and ''there was wide awareness within the FBI—that FBI personnel stationed at Guantanamo disagreed with the aggressive techniques that were authorized to be used there. . . .'' His July 14, 2006, letter to me indicated that the FBI's Office of General Counsel conveyed those concerns to the Department of Defense's General Counsel and said that his office expected that DOD would address the FBI concerns. Mr. Wainstein also told me in his July 14 letter that he discussed detainee interrogations with FBI Director Mueller and that the Director ''maintained a bright line rule barring FBI personnel from involvement in interviews that employed techniques inconsistent with FBI guidelines.'' I will ask that copies of my letters to Mr. Wainstein and his replies to me be printed in the RECORD.

In connection with Mr. Wainstein's nomination, I also posed a number of questions to Mr. Bowman, Mr. Wainstein's deputy in the FBI General Counsel's office. Over the August recess, I received a reply to my most recent letter to Mr. Bowman. I will ask that copies of my letters to Mr. Bowman and his responses to me be printed in the RECORD.

Mr. Bowman's answers to my earlier questions and his more recent response shed additional light on the concerns about detainee treatment at Guantanamo. Mr. Bowman wrote on June 27, 2006, that after he heard from FBI personnel in Guantanamo in late 2002, he believes that he ''recommended—to Wainstein—that we notify DOD's general counsel that there were concerns about the treatment of detainees at Guantanamo.'' Mr Bowman also said in that reply that he learned of ''legal concerns among some DOD personnel about the DOD tactics.''

With regards to the directive issued by FBI Director Mueller that FBI personnel ''stand clear'' of any interrogations that used techniques other than those approved by the FBI, Mr. Bowman wrote me on August 7, 2006, that he does not recall when Director Mueller issued the policy. However, Mr. Bowman recalled a discussion that reflected the concerns that FBI leaders had about what they were hearing from Guantanamo. Mr. Bowman told me:

> As soon as I heard [about concerns about interrogation tactics] from BAU [the Behavioral Analysis Unit] [in late 2002] I talked with (now retired Executive Assistant Director Pat D'Amuro who immediately said we (the FBI) would not be a party to actions of any kind that were contrary to FBI policy and that individuals should distance themselves from any such actions. . . . He made it abundantly clear that FBI would adhere to its standards and, to the extent possible, would not put itself in a position that would create even the appearance that those standards had been compromised by physical association with activities inconsistent with the tenets of the Bureau.

The responses of Mr. Wainstein and Mr. Bowman contrast with those of Alice Fisher, who the Senate confirmed earlier this week to be head of the Criminal Division at the Department of Justice. Throughout her nomination process, Ms. Fisher maintained that she heard nothing about FBI concerns regarding DOD interrogation techniques other than vague concerns about effectiveness. Mr. Wainstein has said that ''there was wide awareness within the FBI—that FBI personnel stationed at Guantanamo disagreed with the aggressive techniques that were authorized to be used there. . . .'' While Ms. Fisher was in the Criminal Division at DOJ and not the FBI, her claim of no awareness strikes me as somewhat incredible given the raging dispute going on between the FBI and DOD. As I urged in the debate on Ms. Fisher's confirmation, I felt it essential that documents which might shed light on whether she was aware of that dispute be made available to the Senate.

In Mr. Wainstein's case, I have been able to question officials who worked with Mr. Wainstein. Mr. Bowman answered my letters. In the case of Ms. Fisher, the Justice Department continues to block people who worked for her, namely David Nahmias and Bruce Swartz, from answering my questions.

I continue to be troubled by the Department of Justice's stonewalling of my requests for documents relevant to events at Guantanamo. The Department's stonewalling is simply the latest example of the Department's pattern of secrecy and obstruction.

For years, this administration has run roughshod over a compliant Republican-controlled Congress. Congressional oversight is desperately lacking. The Department's continuing denial to the Senate access to information we need to carry out our responsibilities violates fundamental constitutional principles. Every Senator should stand up for the right of any individual Senator to review relevant documents.

That said, Mr. Wainstein and his deputy Mr. Bowman have been forthcoming. They do not control the documents I seek. The Department of Justice does. Either or both of those men might be willing to provide them. Unfortunately, neither is in a position to do so. Mr. Wainstein has answered to the best of his ability and I will support his nomination.

Mr. President, I ask unanimous consent that the letters to which I referred be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, June 9, 2006.

Mr. KENNETH WAINSTEIN,
Washington, DC.

DEAR MR. WAINSTEIN: I have reviewed your answers to my Questions for the Record and would appreciate you clarifying a number of your responses and providing some additional information which is relevant to them and the consideration of your nomination.

1. Please provide an unredacted version of each of the documents contained in the packet I provided.

2. Question 1D (ii) in my questions asked whether you or anyone in your office raised concerns about Department of Defense (DoD) interrogation techniques with the DoD, including the DoD General Counsel. Your answer stated ''I also understand that the FBI's Office of the General Counsel conveyed those concerns to the DoD office of the General Counsel.''

(A) When did the FBI Office of General Counsel convey those concerns?

(B) Were those concerns conveyed orally or in writing? If orally, please summarize the substance of the concerns that were communicated. If in writing, please provide copies. In addition, please provide the name(s) of the person(s) in the FBI's Office of the General Counsel who communicated those concerns, if they were conveyed orally, or who drafted the communication, if they were conveyed in writing.

3. Question 2B asked about Document #2 in the packet I provided. Your response stated, ''I am not aware that any attorney from the FBI office of the General Counsel examined the legal analysis in the document . . .'' I am attempting to reconcile that response with several other documents in the packet I provided:

Document #2A, an email dated December 2, 2002, requests that the ''Legal Issues Doc'' be forwarded to ''Spike Bowman,'' presumably referring to Marion Bowman, a senior attorney in the FBI Office of General Counsel.

Document #2B, an email sent by Marion Bowman and dated December 3, 2002, is entitled ''Fwd Re Legal Issues Re GTMO.''

Document #2C, an email dated December 9, 2002, refers to a legal review being undertaken by Mr. Bowman and states that documents attached may be of interest to that review, including ''a review of interrogation methods by a DoD lawyer'' who ''worked hard to write a legal justification for the type of interviews they (the Army) want to conduct here.''

Document #2E, an email dated December 17, 2002, is a response from Marion Bowman and is entitled ''Fwd Legal Issues re Guantanamo Bay.''

Those emails clearly demonstrate that a senior attorney in your office was aware of legal issues being raised by FBI employees with regard to DoD interrogation techniques at Guantanamo. Indeed, they indicate that a review of those techniques was undertaken by that same senior attorney.

(A) Were you aware of FBI personnel at Guantanamo, or their supervisors, contacting Mr. Marion Bowman or other attorneys in the FBI Office of the General Counsel regarding legal issues relating to Defense Department interrogation techniques at Guantanamo in 2002 or 2003? If so, did you discuss this with anyone in the FBI or take any other action?

(B) Were you aware of Mr. Bowman or other attorneys in the FBI Office of General

Counsel ''reviewing legal aspects of interviews'' conducted at Guantanamo in 2002 or 2003? If so, did you discuss this with them or take any other action?

(C) Were you aware of Mr. Bowman or other attorneys in the FBI Office of General Counsel being provided documents ''of interest'' to a review of legal aspects of interviews at Guantanamo in 2002 or 2003, including a review of interrogation methods by a DoD lawyer? If so, did you review any of these documents, discuss this issue with anyone in the FBI, or take any other action?

(D) Were you aware of any comment that Mr. Bowman or other attorneys in your office may have made to FBI personnel in Guantanamo in 2002 or 2003 regarding DoD interrogation techniques? If so, what was the substance of such comment?

(E) If you were not aware of email exchanges or other communications between FBI personnel and Mr. Marion Bowman or other attorneys in the office of the FBI General Counsel regarding legal aspects relating to interrogation techniques at Guantanamo during the period you were FBI General Counsel, to what do you ascribe your lack of awareness?

(F) Please provide the name of the person who drafted the legal analysis in Document #2.

4. Your answer to Question 3 states that ''Subsequent to the May 20 hearing, the FBI surveyed its personnel who had been in Guantanamo to determine whether any witnessed mistreatment of detainees.'' Please provide the results of that survey.

5. Your answer to Question 4 states that ''in the months following 9/11, the FBI received numerous NSA tips . . .'' Are you aware any instance following 9/11, where the FBI raised a concern with the National Security Agency (NSA) about the workload created by the number of leads being provided to the FBI by the NSA?

6. Question 5 asked about concerns that Director Mueller reportedly had regarding the legal rationale for warrantless wiretaps. Your answer states that it would be ''inappropriate for me to describe any discussions I may have witnessed or had with Director Mueller on this topic.'' Please provide the legal basis for your decision not to describe those discussions.

I look forward to your prompt responses to my questions. Thank you.

Sincerely,

CARL LEVIN.

U.S. SENATE,
Washington, DC, June 9, 2006.

Mr. MARION BOWMAN,
Senior Counsel, Office of General Counsel, FBI Headquarters, Washington, DC.

DEAR MR. BOWMAN: I am writing in connection with the nomination of Kenneth Wainstein for the position of Assistant Attorney General for the National Security Division of the Department of Justice. Mr. Wainstein has indicated that you worked for and reported to him during his tenure as FBI General Counsel.

I asked Mr. Wainstein a series of questions concerning a packet of FBI documents (attached) which refer to concerns of FBI personnel at Guantanamo about aggressive interrogation techniques used by the Department of Defense (DoD). In his answers to my questions, Mr. Wainstein repeatedly stated that he could not recall specific information or documents contained in the packet. He also said that it was ''possible'' that you were ''the source'' from which he learned of FBI concerns with DoD interrogation techniques.

To assist me in filling in the gaps in Mr. Wainstein's answers, please answer the following questions:

1. In the packet provided, Document #1C, dated May 30, 2003 and addressed to your attention, summarizes FBI agents' objections in 2002 and 2003 to DoD's use of aggressive interrogation techniques which were ''of questionable effectiveness and subject to uncertain interpretation based on law and regulation.''

A. Do you remember Document # 1 C?

B. Were you aware, from Document # 1 C or otherwise, of FBI agents' concerns regarding military interrogators' use of aggressive interrogation tactics at Guantanamo? If so, when were you first aware of these concerns? Did you bring these concerns to the attention of Mr. Wainstein? If not, why not? If so, what was Mr. Wainstein's response to those concerns?

C. Were you aware of FBI agents' concerns that these techniques were not only ''of questionable effectiveness'' but also ''subject to uncertain interpretation based on law and regulation''? Did you raise these concerns with Mr. Wainstein? If not, why not? If so, are you aware of whether he took any actions or directed you to take any actions as a result?

2. In his answers to my questions, Mr. Wainstein stated that the FBI's Office of General Counsel (FBI OGC) conveyed FBI agents' concerns regarding DoD interrogation techniques to the DoD Office of General Counsel (DoD OGC). Did you participate in discussions with DoD officials, including from the DoD OGC, about FBI agents' concerns regarding DoD interrogation techniques? If so, did you inform Mr. Wainstein about the outcome of these discussions? If not, why not?

3. Document #1C also states that on December 2, 2002, an FBI employee sent several documents to the head of the Behavioral Analysis Unit (BAU) in Quantico, who stated he would forward these documents to you. According to Document #1C, the forwarded documents included: (1) a letter to Guantanamo Commanding General Major General Geoffrey Miller; (2) an Army Legal Brief on Proposed Counter-Resistance Strategies; and (3) a Legal Analysis of Interrogation Techniques by an FBI agent whose name is redacted. In his answers to my questions, Mr. Wainstein could not recall seeing any of the documents specified in Document #1C, though he said ''it is certainly possible'' that you raised the documents with him.

A. Did you receive and examine documents related to interrogation techniques at Guantanamo in late 2002, including any of the three documents specified in Document #1C? If so, when? Did you bring these documents to the attention of Mr. Wainstein? If not, why not? If so, are you aware of whether he took any actions or directed you to take any actions as a result?

B. If you examined the document described in Document #1C as an Army Legal Brief on Proposed Counter-Resistance Strategies, did you discuss the legal analysis contained in that document with Mr. Wainstein? If not, why not? If so, did either Mr. Wainstein or you have any concerns about that legal analysis?

4. Also contained in the packet I provided Mr. Wainstein were a number of other documents in which you were also named:

Document #2, entitled ''Legal Analysis of Interrogation Techniques,'' indicates that it was forwarded to you on November 27, 2002.

Document #2A, dated December 2,2002, entitled ''Legal Issues,'' requests that a ''Legal Issues Doc'' be forwarded to you or an appropriate person. Document #2B, dated December 3, 2002, is an email from you and is entitled ''Fwd Re Legal Issues Re GTMO.''

Document #2C, dated December 9, 2002, states that it includes a number of documents which may be ''of interest'' to you and states that you are ''reviewing legal aspects of interviews'' at Guantanamo. That same email describes one of the attachments as a ''review of interrogation methods by a DoD lawyer.''

Document #2E, another email from you, dated December 17, 2002, is entitled ''Fwd Legal Issues re Guantanamo Bay.''

A. Do you know the name of the author of the ''Legal Analysis'' document (Document #2)? If so, please provide the name.

B. Did you at any time discuss the analysis contained in the ''Legal Analysis'' document (Document #2) with Mr. Wainstein? If not, why not? If so, are you aware of whether he took any actions or directed you to take any actions as a result?

C. The ''Legal Analysis'' document (Document #2) describes one ''Category IV'' interrogation technique as ''Detainee will be sent off [Guantanamo], either temporarily or permanently, to Jordan, Egypt, or another third country to allow those countries to employ interrogation techniques that will enable them to obtain the requisite information.'' This would appear to suggest the use of rendition as an interrogation technique. Did you at any time discuss the issue of rendition with Mr. Wainstein? If not, why not? If so, are you aware of whether he took any actions or directed you to take any actions as a result?

Did you or any attorney in the FBI OGC conduct a review the legal aspects of interrogation techniques at Guantanamo? If not, why not? Did you or any other person in your presence discuss this review with Mr. Wainstein? If so, are you aware of whether he took any actions or directed you to take any actions as a result?

In addition, please provide unredacted copies of the documents in the attached packet for which you were the sender, a recipient, or in which you were specifically named.

Thank you for your prompt responses to these questions.

Sincerely,

CARL LEVIN.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, July 21, 2006.

Mr. MARION BOWMAN,
Senior Counsel, Office of General Counsel, FBI Headquarters, Washington, DC.

DEAR MR. BOWMAN: Thank you for your response to my letter of June 9, 2006. On June 29, 2006, I provided your response to Mr. Kenneth Wainstein and asked him some additional questions regarding FBI personnel's concerns over DoD interrogation techniques at Guantanamo. Mr. Wainstein responded to me on July 14, 2006. A number of issues, however, require further clarification.

Please provide answers to the following:

1. In Mr. Wainstein's responses of July 14, 2006, he states that he discussed concerns about detainee interrogations with Director Mueller ''at some point in 2002 or 2003.'' Further he states that ''The Director had made a policy decision to prohibit FBI personnel from participating in interrogation sessions in which non-FBI personnel were employing techniques that did not comport with FBI guidelines.''

A. In your response to my questions, you describe a telephone call you received from Behavioral Analysis Unit (BAU) personnel in late 2002 regarding their concerns about interrogation practices at Guantanamo. Did you discuss these concerns with Director Mueller in late 2002? If so, what was the nature of those discussions? Was Mr. Wainstein aware of those discussions?

B. When did Director Mueller issue the policy prohibiting the participation of FBI personnel from interrogations involving techniques that did not comport with FBI guidelines? Please provide any documents relating to the issuance of that policy.

2. In your response to Question #1B, you state that you recommended to Mr. Wainstein that your office notify the Department of Defense Office of General Counsel (DoD/OGC) that ''there were concerns about the treatment of detainees in Guantanamo.'' You add that Mr. Wainstein concurred in this suggestion. When did you first contact the DoD/OGC regarding FBI personnel's concerns about the treatment of detainees in Guantanamo? Was it in late 2002? To whom did you communicate these concerns?

3. In your response to Question #3A, you state that you received the ''Legal Issues Doc'' in late 2002 and that, ''Because at that time I was working under the assumption that DoD General Counsel was taking appropriate action with respect to this issue, I did not believe that any particular action was necessary on the part of the FBI.''

A. Did you provide the ''Legal Issues Doc'' to the DoD/OGC? If so, when?

B. Why did you assume at the time you received this document that the DoD/OGC was taking appropriate action? Was this based on your discussions with individuals in the DoD/OGC? If so, what was the nature of those discussions?

4. In your response to Question #3B, you state that you provided the attachments to Document #1C, including the Army Legal Brief on Proposed Counter-Resistance Strategies, to the Defense Humint Services Deputy General Counsel. Please provide the name of the individual in that office to whom you provided these documents. When did you do so?

5. In your response to Question #4A, you state that you don't know who authored the document entitled ''Legal Analysis of Interrogation Techniques,'' but that ''my understanding is that the document was not drafted by an FBI agent. Rather, an FBI agent copied it and forwarded it [to] FBI Headquarters.''

A. What is the basis for your understanding that this document was not authored by an FBI agent?

B. What is your understanding of the source from which the agent copied the contents of the document?

In addition, I remind you that my June 9, 2006, letter included a request for ''unredacted copies of the documents in the attached packet for which you were the sender, recipient, or in which you were specifically named.'' This request is still outstanding.

Thank you for your prompt response.

Sincerely,

CARL LEVIN.

JUNE 19, 2006.

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: This is in response to your letter dated June 9, 2006, requesting additional information regarding my nomination to be the first Assistant Attorney General for National Security. Below are the answers to your specific questions.

Answer to Question 1: I do not have unredacted copies of any of the documents you provided me at our meeting on May 15, 2006. I am aware that you have made similar inquiry to Director Mueller, and I have alerted the Department of Justice, Office of Legislative Affairs, of your request.

Answer to Question 2: I understand that Marion ''Spike'' Bowman conveyed concerns to the DoD General Counsel's Office about DoD interrogation techniques at some point. I do not know to whom Mr. Bowman spoke, how often, or the date of any communications.

Answer to Questions 3 A), B), C), D) and E): As I have previously indicated, I do not recall having seen the document marked as #2, or the various emails marked #2A, #2B, #2C, #2D or #2E; nor do I recall having specific conversations about them with Mr. Bowman or any other FBI Office of General Counsel (OGC) lawyer. I do not recall ever hearing that Mr. Bowman or any other OGC lawyer was undertaking any formal legal review or legal analysis of interrogation techniques employed by another agency. I did not produce any formal legal opinion or OGC legal memorandum on this topic while I was General Counsel.

As I previously explained, I was aware—and there was wide awareness within the FBI—that FBI personnel stationed at Guantanamo disagreed with the aggressive techniques that were authorized to be used there and believed they were not effective at soliciting useful information that could be used in subsequent prosecutions. As I saw In response to the first set of questions (Question 1, subpart Fiii), it is certainly possible that Mr. Bowman or other OGC attorneys were among those from whom I heard about those concerns.

Answer to Question 3F): I do not know who authored the document labeled #2.

Answer to Question 4: I do not have the results of the survey conducted after the Director's May 20, 2004 hearing. I left the FBI on May 29, 2004, to become the interim United States Attorney for the District of Columbia. As I indicated in my previous responses to your first set of post-hearing questions, I do not know anything about the results of the survey beyond the information publicly disclosed by Director Mueller that I cited in my previous responses.

Answer to Question 5: I do not know whether the FBI raised any such concern with the NSA.

Answer to Question 6: My view that it would be inappropriate for me to comment about discussions with Director Mueller is based upon the confidentiality interests that are implicated by my role as his chief of staff and FBI General Counsel. I have been advised that this is consistent with longstanding executive branch concerns that disclosure of such communications would chill the provision of candid, frank advice to senior officials, such as Director Mueller, which is important to their effective, fully-informed decision-making.

I have made every effort, however, to respond to committee requests for information relating to my fitness for the position of Assistant Attorney General. I have met with individual Senators and remain available for further meetings with any Senator who would like to speak with me. I also have responded to multiple rounds of pre- and post-hearing questions, in addition to my appearances before the two separate committees of the Senate relating to my nomination. I have been happy to provide this information, and I remain ready and willing to provide information relevant to the Senate's consideration of my fitness and ability to fulfill the responsibilities of the Assistant Attorney General for National Security.

Thank you for the opportunity to provide this additional information regarding my previous responses, and I look forward to the Committee's consideration of my nomination.

Sincerely,

KENNETH L. WAINSTEIN.

JULY 14, 2006.

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: Thank you for the questions in your June 29, 2006, letter, and for your questioning throughout this confirmation process. I have carefully reviewed your questions, and I have drafted my responses based on my review of the written responses from Mr. Bowman and the Federal Bureau of Investigation (FBI) e-mails and memos that you provided me.

I. CONCERNS REGARDING INTERROGATIONS AT GUANTANAMO

The first of your two questions relates to concerns about the interrogation techniques that Department of Defense (DOD) personnel were using with detainees in Guantanamo. I appreciate your concern about the treatment of detainees. As a criminal prosecutor for most of the past seventeen years, I have frequently been questioned about the treatment and interrogation of suspects, defendants and prisoners in my prosecutions. I have litigated suppression motions in numerous homicide and other criminal cases where I had the burden of demonstrating that a confession was procured under conditions and circumstances that passed constitutional muster. I have always considered this scrutiny to be a part of my job, and I recognize the government's fundamental obligations toward those it holds in custody.

As I explained in previous responses, it was fairly well known during my tenure at the FBI that some FBI personnel were concerned about the DOD's use of aggressive interrogation techniques in Guantanamo. There was a sentiment that DOD's techniques were not effective in eliciting useful information and that DOD should instead use the rapport-building approach that is routinely practiced by the FBI and law enforcement in general. There also was a concern that DOD's techniques could complicate the introduction of subsequent admissions by detainees in any potential future criminal prosecutions.

Your letter inquires about the concerns regarding DOD interrogations that were communicated to former Deputy General Counsel Marion Bowman in late 2002 an early 2003. During this time period, I recall hearing about the concerns described in the previous paragraph. However, as I have previously explained, I do not recall hearing any reports of torture or illegal conduct, and it was my understanding at that time—and remains my understanding today—that the techniques of concern to FBI personnel had been authorized by the Department of Defense.

Although I heard concerns about the DOD interrogation techniques during that time period, I do not recall hearing them specifically from Mr. Bowman. As I indicated in previous responses, it is entirely possible that he and I discussed the issue, but there is nothing about any such conversation(s) that sets it apart in my memory. Similarly, while Mr. Bowman believes he would have spoken to me about some of the concerns he was hearing, his written responses indicate that he also cannot recall any specific conversations. Moreover, he makes clear that any conversations we might have had on this topic would have been simply advisory in nature in that he believed the concerns were being addressed by DOD and that they required no FBI action beyond his contacting the DOD General Counsel's Office.

Your letter asks whether I informed Department of Justice officials or Director Mueller regarding any concerns I heard about Guantanamo interrogations or directed others to so inform them. While I do not recall discussing concerns about detainee interrogations with an one in Main Justice—or directing anyone else to do so—I do recall orally discussing detainee interrogations with Director Mueller at some point in 2002 or 2003. The Director had made a policy decision to prohibit FBI personnel from participating in interrogation sessions in which non-FBI personnel were employing techniques that did not comport with FBI guidelines. The Director—described his reasons for

this policy in his response to Questions for the Record after his April 5, 2005, testimony before the Judiciary Committee (which are summarized in my June 5, 2006, responses to your questions for the record on pages 2–3). When this issue came up from time to time during my service at the FBI, the Director and I discussed FBI concerns about aggressive interrogation techniques and he maintained a bright-line rule barring FBI personnel from involvement in interviews that employed techniques inconsistent with FBI guidelines.

II. CONVERSATIONS ABOUT THE TERRORIST SURVEILLANCE PROGRAM I

Your second question asks whether I am asserting any privilege in declining to describe any conversations I had with Director Mueller regarding the legal rationale for the Terrorist Surveillance Program. The short answer is that I am not invoking a privilege; rather, my response comports with the longstanding Executive Branch practice of protections the dentiality of internal advice and other deliberatlons. It is my understanding that this practice is based largely on the importance of ensuring that policy makers receive the complete, sometimes differing, views of subordinates as they consider significant issues. If employees have to worry that their deliberations will be disclosed outside of the agency; then they will become reluctant to provide their candid input and the decision making process will suffer.

III. CONCLUSION

I trust that this letter responds to your questions. It has been my objective throughout this process to be as candid and forthcoming as possible, and to assure you that I am worthy of your confidence to handle the important national security responsibilities of the position for which I have been nominated. With the establishment of the National Security Division awaiting my confirmation, I am anxious for you to allow my nomination to proceed to a vote before the United States Senate. There is much work to be done to stand up the new Division.

Please let me know if you have any further questions, as I would be happy to meet with you at your convenience to respond to them. Thank you once again for your consideration throughout this process.

Sincerely,

KENNETH L. WAINSTEIN.

U.S. SENATE,
Washington, DC, June 29, 2006.

Mr. KENNETH WAINSTEIN.
Washington, DC.

Dear MR. WAINSTEIN: I have reviewed your June 19th reply and Mr. Marion Bowman's June 27th reply to my June 9th letters and would appreciate your responses to he following questions.

Mr. Bowman's response, a copy of which is enclosed, states that he is confident that he spoke with you about a call he received from FBI Behavioral Analysis Unit (BAU) personnel in fall 2002 expressing concern with certain Department of Defense (DoD) interrogation tactics in use at Guantanamo. In addition, Mr. Bowman's response states that, approximately one month after BAU personnel contacted him with their concerns, he was informed about ''legal concerns'' that DoD personnel had with the tactics. Mr. Bowman states that he believes that he would have discussed these legal concerns with you. Mr. Bowman also states that he believes that he showed you or discussced with you the ''Legal Analysis of Interrogation Techniques'' document referenced in document #1 C. That document refers to examples of coercive interrogation tchniques which may violate 18 U.S.C. s. 2340 (Torture Statute).''

Please advise whether, at any time, you informed or directed others to inform Director Mueller and/or any Department of Justice (DOJ) official, including but not limietd to officials in the Attorney General's office, DOJ's Office of Legal Counsel, or DOJ Criminal Division of concerns about DoD interrogation tactics that had been brought to your office, regardless of the source of those concerns. If so, please provide the name of the official(s) you contacted or who were contacted at your direction. If concerns were communicated in writing, please provide a copy; if orally, please describe the substance of the conversation. If you did not contact any such official(s) or direct others to do so, please advise me as to why you did not.

You also state in your letter that ''the confidentiality interests that are implicated by my role as his chief of staff and FBI General Counsel'' preclude you from answering my questions regarding your conversations with Director Mueller on the legal rationale for warrantless wiretaps.

Please advise as to whether you are asserting any privilege in declining to describe those discussions and provide the legal basis for that privilege and your assertion of it.

Finally, following my staffs discussion with the Department of Justice, I will provide the Department with a list of documents from the previously provided packet that I request be provided in unredacted form.

I look forward to your reply.

Sincerely,

CARL LEVIN.

AUGUST 7, 2006.

Hon. CARL LEVIN,
U.S. Senate, Committee on Armed Services, Washington, DC.

SENATOR LEVIN: You sent me a second set of questions with respect to Mr. Kenneth Wainstein, which I received on Friday, August 4, 2006. Your focus, once again, is ''detainee'' issues. Let me preface my reply by informing you that I no longer work for the Department of Justice. In consequence, I have no access to any of the documents that you reference and, because of a computer change in recent years, did not have personal access to them when I last replied. Additionally, because I no longer work for the Department of Justice, my answers to your questions should not imply concurrence by the Department of Justice or the Federal Bureau of Investigation in any of my responses.

You asked:

1. In Mr. Wainstein's responses of July 14, 2006, he states that he discussed concerns about detainee interrogations with Director Mueller ''at some point in 2002 or 2003.'' Further he states that ''The Director had made a policy decision to prohibit FBI personnel from participating in interrogation sessions in which non-FBI personnel were employing techniques that did not comport with FBI guidelines.''

A. In your response to my questions, you describe a telephone call you received from Behavioral Analysis Unit (BAU) personnel in late 2002 regarding their concerns about interrogation practices at Guantanamo. Did you discuss these concerns with Director Mueller in late 2002? If so, what was the nature of those discussions? Was Mr. Wainstein aware of those discussions?

Answer: To the best of my recollection, I never discussed detainee issues with Director Mueller.

B. When did Director Mueller issue the policy prohibiting the participation of FBI personnel from interrogations involving techniques that did not comport with FBI guidelines? Please provide any documents relating to the issuance of that policy.

Answer: I do not recall when Director Mueller issued that policy. However, I can tell you that the operational prohibition came earlier. As soon as I heard from BAU I talked with (now retired) Executive Assistant Director Pat D'Amuro who immediately said we (the FBI) would not be a party to actions of any kind that were contrary to FBI policy and that individuals should distance themselves from any such actions. That conversation was longer than indicated so I want to be sure the ''sound bite'' is not misinterpreted. EAD D'Amuro was not saying that FBI would ignore anything unlawful. He made it abundantly clear that FBI would adhere to its standards and, to the extent possible, would not put itself in a position that would create even the appearance that those standards had been compromised by physical association with activities inconsistent with the tenets of the Bureau.

Answer: You will have to seek any documents from the Department of Justice as I no longer have access to any of them.

2. In your response to Question #1B, you state that you recommended to Mr. Wainstein that your office notify the Department of Defense Office of General Counsel (DoD/OGC) that ''there were concerns about the treatment of detainees in Guantanamo.'' You add that Mr. Wainstein concurred in this suggestion. When did you first contact the DoD/OGC regarding FBI personnel's concerns about the treatment of detainees in Guantanamo? Was it in late 2002? To whom did you communicate these concerns?

Answer: I cannot be precise. My best guess, which is probably pretty accurate, is that it was mid- to late November of 2002. I first called the acting Deputy General Counsel for Intelligence. Subsequently I talked with the Principal Deputy General Counsel and the General Counsel. My best recollection is that I talked briefly with the Principal Deputy shortly thereafter and with both Principal Deputy General Counsel and the General Counsel several months later. I'm sorry; I can't be more precise than that.

3. In your response to question #3A, you state that you received the ''Legal Issues Doc'' in late 2002 and that, ''Because at that time I was working under the assumption that DoD General Counsel was taking appropriate action with respect to this issue, I did not believe that any particular action was necessary on the part of the FBI.''

A. Did you provide the ''Legal Issues Doc'' to the DoD/OGC? If so when?

Answer: I offered the documents to the General Counsel's office and described generally the contents of the documents included in the bundle that was forwarded to me by BAU, but was told that they believed they already had all the documents I possessed.

C. Why did you assume at the time you received this document that the DoD/OGC was taking appropriate action? Was this based on your discussions with individuals in the DoD/OGC? If so, what was the nature of those discussions?

Answer: This could be a very lengthy response, but the short version is that, based on my experiences as a 27–year veteran of military service, a substantial portion of which dealt both with issues of the Law of Armed Conflict and, for a variety of reasons, directly with the DoD General Counsel's office (through multiple General Counsels), I believed bringing the issue to the attention of appropriate authority would result in any remedial action deemed necessary or appropriate. When I talked with the acting Deputy General Counsel for Intelligence, a person whom I knew well, I was told that the matter was not in his purview, but that it was being handled by the Principal Deputy. That made perfect sense to me, as the acting Deputy General Counsel for Intelligence had no military experience, while the Principal Deputy was retired military.

4. In your response to Question #3B, you state that you provided the attachments to Document #1C, including the Army Legal Brief on Proposed Counter-Resistance Strategies, to the Defense Humint Service's Deputy General Counsel. Please provide the name of the individual in that office to whom you provided these documents. When did you do so?

Answer: The Deputy General Counsel for Defense Humint Services is retired Colonel James Schmidli. My best guess on timing was in the mid-December 2002 to mid-January 2003 time frame. I did not give copies to Mr. Schmidli, but he did read them in my office.

5. In your response to Question #4A, you state that you don't know who authored the document entitled ''Legal Analysis of Interrogation Techniques'' but that ''my understanding is that the document was not drafted by an FBI agent. Rather, an FBI agent copied it and forwarded it [to] FBI Headquarters.

A. What is the basis for your understanding that this document was not authored by an FBI agent?

Answer: To the best of my recollection, this is what I was told when the documents were forwarded to me.

B. What is your understanding of the source from which the agent copied the contents of the document?

Answer: I have no present recollection of that.

In closing, I will remind you that any documents you desire will have to be requested from the Department of Justice. I hope this is helpful to your understanding that this period was one in which facts were still uncertain but reasonably believed to be in the hands of the Department of Defense for any actions necessary. In that respect, it is my firm belief that Mr. Wainstein acted with complete propriety throughout.

Respectfully,

M.E. BOWMAN,
CAPT, JAGC, USN (ret.).

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

UNANIMOUS-CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that at 5:20 on Monday, September 25, the Senate proceed to executive session for the consideration of the following judicial nomination on the executive calendar; No. 920, Francisco Besosa to be a United States District Judge for the District of Puerto Rico; provided further that the time until 5:30 be equally divided between the chairman and ranking member of the Judiciary Committee or their designee; provided further that at 5:30 the Senate proceed to a vote on the nomination, with no intervening action or debate; that following the vote the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

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

MEASURE DISCHARGED AND REFERRED—H.R. 2965

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be discharged from further consideration of H.R. 2965 and that the bill be referred to the Committee on the Judiciary.

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

MEASURE READ THE FIRST TIME—S. 3925

Mr. FRIST. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3925) to provide certain authorities for the Secretary of State and the Broadcasting Board of Governors, and for other purposes.

Mr. FRIST. Mr. President, I now ask for a second reading, and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read for the second time on the next legislative day.

MEASURE PLACED ON THE CALENDAR—H.R. 503

Mr. FRIST. Mr. President, I understand there is a bill at the desk due for a second reading.

The PRESIDING OFFICER. The clerk will report the bill by title for the second time.

The legislative clerk read as follows:

A bill (H.R. 503), to amend the Horse Protection Act to prohibit the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of horses and other equines to be slaughtered for human consumption, and for other purposes.

Mr. FRIST. Mr. President, in order to place the bill on the calendar under the provisions of rule XIV, I object to further proceedings.

The PRESIDING OFFICER. Objection is heard.

Without objection, the bill will be placed on the calendar.

DESIGNATING DECEMBER 13, 2006, AS A POLISH DAY OF REMEMBRANCE

Mr. FRIST. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 579, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 579) designating December 13, 2006 as a Day of Remembrance to honor the 25th anniversary of the imposition of martial law by the Communist government in Poland.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent the resolution be agreed, to the preamble be agreed to, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

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

The resolution (S. Res. 579) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 579

Whereas, on May 9, 1945, Europe declared victory over the oppression of the Nazi regime;

Whereas Poland and other countries in Central, Eastern, and Southern Europe soon fell under the oppressive control of the Soviet Union;

Whereas for decades the people of Poland struggled heroicly for freedom and democracy against that oppression, paying at times the ultimate sacrifice;

Whereas, in 1980, the Solidarity Trade Union was formed in Poland;

Whereas membership in the Solidarity Trade Union grew rapidly in size to 10,000,000 members, and the Union obtained unprecedented moral power that soon threatened the Communist government in Poland;

Whereas, on December 13, 1981, the Communist government in Poland crushed the Solidarity Trade Union, imprisoned the leaders of the Union, and imposed martial law on Poland;

Whereas, through his profound influence, Pope John Paul II gave the people of Poland the hope and strength to bear the torch of freedom that eventually lit up all of Europe;

Whereas the support of the Polish-American community while martial law was imposed on Poland was essential in encouraging the people of Poland to continue to struggle for liberty;

Whereas the people of the United States were greatly supportive of the efforts of the people of Poland to rid themselves of an oppressive government;

Whereas the people of the United States expressed their support on Christmas Eve 1981 by lighting candles in their homes to show solidarity with the people of Poland who were suffering under martial law;

Whereas, in 1989, the people of Poland finally won the right to hold free parliamentary elections, which led to the election of Poland's first Prime Minister during the post-war era who was not a member of the Communist party, Mr. Tadeusz Mazowiecki; and

Whereas, in 2006, Poland is an important member of the European Union, one of the closest allies of the United States, a contributing partner in the North Atlantic Treaty Organisation, and a reliable partner in the war on terrorism that maintains an active and crucial presence in Iraq and Afghanistan: Now, therefore, be it

Resolved, That the Senate—

(1) designates December 13, 2006, the 25th anniversary of the imposition of martial law by the Communist government in Poland, as a Day of Remembrance honoring the sacrifices paid by the people of Poland during the struggle against Communist rule;

(2) honors the people of Poland who risked their lives to restore liberty in Poland and to return Poland to the democratic community of nations; and

(3) calls on the people of the United States to remember that the struggle of the people of Poland greatly contributed to the fall of