

enjoy the stable, safe life he was providing for his own family.

“When the U.S. soldiers drive by,” he told her, “the children will scramble like mad in the dust just to get thrown a simple pencil from us. They don’t even have pencils. I was born for this, it’s my duty, to protect those families over there.”

So Edwin went back, leaving for Afghanistan again in early January with the 1st Battalion of the 102nd Infantry Regiment, a Connecticut National Guard unit based in New Haven. Like Edwin, many of those who went with him were not on their first deployment. But they fought with courage and commitment. And when Staff Sergeant Rivera made the ultimate sacrifice for his country, he did so in defense of his mates.

Staff Sergeant Rivera will be missed. But his selflessness, his commitment to his family, and his love of country will not be forgotten; rather, they will remain as an inspiration to his two young sons and to all of us who honor his service.

SOMALIA

Mr. FEINGOLD. Madam President, once again, I wish to express my concern about the situation in Somalia. To put it frankly, the situation is appalling. Since the start of fighting in 2007, at least 21,000 people have been killed and more than 1.5 million have been displaced. Thousands of refugees continue to pour into overcrowded camps in Kenya, Ethiopia, Yemen, and elsewhere. For those who remain in Somalia, the United Nations refugee and food agencies are unable to reach many of them because of the insecurity and threats to humanitarian staff. The terrorist group al Shebaab and other armed groups continue to wage war against the Transitional Federal Government, the TFG, in Mogadishu as well as against one another in an effort to expand their territorial control. Al Shebaab has resorted to using suicide bombings, most recently in an attack inside a mosque in Mogadishu, which killed dozens of civilians. Meanwhile, al Shebaab is employing increasingly brutal tactics to maintain its control over certain areas—carrying out executions, chopping off hands and legs, and forcibly conscripting youth.

Mr. President, we should be appalled at this situation, but we should also be concerned because of the direct ramifications for our national security. Al Shebaab’s leadership has links to al-Qaida, and it has indicated, through public statements, that it intends to provide support to al-Qaida affiliates in Yemen. Even more disconcerting, it has recruited a number of Americans to travel to the region and fight with it. In October 2008, a Somali-American blew himself up in Somalia as part of a coordinated attack by al Shebaab, reportedly becoming the first known suicide bomber with U.S. citizenship. The Justice Department has since brought

terrorist charges against over a dozen people for recruiting and raising funds for Americans to fight with al Shebaab. Last September, the Director of the National Counterterrorism Center, Michael Leiter, testified that “the potential for al-Qaida operatives in Somalia to commission Americans to return to the United States and launch attacks against the Homeland remains of significant concern.” Earlier this year, the New York Times reported that an American from Alabama, Omar Hammami, has become a key figure in al Shebaab. Just this past weekend, two other Americans, neither with family ties in Somalia, were arrested in New Jersey for allegedly planning to fight in Somalia with al Shebaab. This is very troublesome news and brings home the implications of Somalia’s ongoing crisis.

The Obama administration has been right to refocus attention on Somalia—and to consider regional dynamics at the same time. I am also pleased that the administration has been clear in its support for the Djibouti peace process. I am, however, concerned that this process—as currently constituted—is not sufficient to unite Somalis and mitigate the ongoing crisis. As the situation there turns more dreadful, I worry that the process is becoming increasingly detached from events on the ground. Furthermore, we must acknowledge that while the administration continues to provide assistance—both materiel and diplomatic—to the TFG, we still do not have an overarching strategy for Somalia that ties our programs and policies together. As a result, we appear to be grasping at straws to “do something” while our national security increasingly hangs in the balance.

Under the previous administration, our approach toward Somalia lacked coherence and was shortsighted. This discord gave rise to conflicting agendas that undermined each other and our credibility. Without clear policy guidance, the current administration’s efforts—however well intentioned—may fall into the same trap. There is great risk that by focusing too narrowly on tactical decisions we will continue to operate without a larger strategy.

Now, I understand in the early months of the administration there was an interagency effort to review our policy toward Somalia and the Horn of Africa. However, it is also my understanding that no overarching policy was established. Now is the time to renew such an effort, and as part of this initiative, we need some way to measure whether we are making progress. The administration has rightly pressed the TFG to broaden its appeal and strength, but we have seen no major improvement on that front. With the exception of its agreement with Ahlu Sunna wal Jama, the TFG has done little to expand its reach and undercut its opposition. The TFG has not become more inclusive, and it has not projected an attractive political vision

to counter that of armed opposition groups. As a result, it is not becoming more legitimate in the eyes of Somalis.

Going forward, we need clear guidance on what we expect to achieve with our support for the TFG, the Djibouti Process, and our efforts to weaken al Shebaab and provide humanitarian assistance. Without such a coordinated and measurable approach, we run the risk of continuing to fund the same initiatives with little progress made. Such an assessment is important not only so that American taxpayers know their money is being well spent, but also so we know our safety and security are being enhanced.

There are some thoughtful observers who believe that the best option for the United States might be to just disengage altogether and let this crisis play out. The stakes are too high to do that. However, these observers are right that a continuation of the status quo will only further entrench the crisis. The current efforts by the United States and the international community are insufficient to change the fundamental dynamics of the situation. We need to go back to the drawing board and develop a strategy with measurable goals and a clear plan of how we will reach them.

We also need to consider whether appointing a Special Envoy for the Horn of Africa, to help create and drive policy, is once again appropriate. For years I have called for the creation of such a position—at a very senior level—but to no avail. I do believe that now is the time for this position to be considered particularly because of the direct national security implications, but also because the crisis in Somalia requires a regional approach. We need a senior official to regularly connect the dots between a number of countries in the region including Ethiopia, Eritrea, Kenya, and Yemen in order to develop an effective strategy. In addition, having a senior envoy focused on addressing this crisis can help show the people of Somalia that we are finally serious about helping their efforts to achieve a future free of terror and conflict.

In thinking about how we fit counterterrorism concerns into a broader strategy, we must be practical. Mr. President, tactical operations against individuals and networks may be justified in some cases, especially if the targets have clear ties to al-Qaida and pose a direct threat to the United States. But we need to think hard about the strategic implications and potential risks of these operations because at the same time we need to reach out to, work with, and support all Somalis who seek a more stable and secure country. The perception that the United States is only interested in tactical counterterrorism operations in Somalia has generated suspicion among Somalis and fueled anti-Americanism. Not taking that into account when planning or authorizing any tactical operations is counter-productive.

Equally as important to our counterterrorism goals is the need to continue

pressing for an inclusive and functional system of governance that can enforce the rule of law and provide security. In addition to supporting the TFG, we should look for creative ways to work with other governments and non-governmental actors to encourage political consensus and reconciliation among different groups in Somalia. We need to look at the grassroots and local level and see how they can be bolstered and expanded. Helping Somalis to come together around a shared political vision and to translate that vision into a political system that makes a tangible difference in people's lives is the surest way to address our national security concerns over the long term.

Achieving stability and restoring the rule of law in Somalia will not be easy or quick—nearly two decades of dysfunction have made sure of that—but we must have a strategy in place if we are to proceed. We cannot respond in an uncoordinated and ad hoc manner to the conditions that breed and empower terrorist organizations and we cannot address them on the cheap. Our national security, the fate of Somalia's people, and the region's stability demand nothing less.

PRESIDENTIAL RECORDS ACT

Mr. LIEBERMAN. Madam President, recently the Obama administration asked the National Archives to speed up its already planned release of Supreme Court nominee Elena Kagan's records from her time in the Clinton administration.

I applaud the administration's openness. But this speedy release of documents is not required by the current Presidential Records Act and might have been impossible under an Executive order issued by former President George W. Bush. That order allowed former Presidents, Vice Presidents, and their heirs to withhold the release of documents indefinitely by claiming Executive privilege.

On his first day in office, President Obama repealed the Bush Executive order, but a future President could just as easily change it back or add new impediments to the timely release of an administration's records.

I have long championed legislation to make it clear that these documents are the property of the American people and therefore should be subject to timely release.

But we cannot move forward with this legislation because my friend, colleague, and ranking member on the Judiciary Committee, Senator JEFF SESSIONS, has placed a hold on it.

Regarding the release of the Kagan documents, Senator SESSIONS recently told the Washington Post:

I think all the documents that are producible should be produced. The American people are entitled to know what kind of positions she took, and what kind of issues she was involved with during her past public service.

I agree with Senator SESSIONS and hope he will now release his hold on my

legislation so this kind of speedy release of documents and the right of the American people to view them will be the legal standard for all future Presidents.

A little history will help explain how we got to where we are today.

Securing Presidential documents is a problem as old as the Republic. George Washington had planned to build a library on his estate at Mount Vernon to house his Presidential papers. But Washington died before he could get his plan underway and his heirs were not always careful stewards of our Founding President's legacy.

Some of the documents were so badly stored they were eaten by mice. Others were sold off or given away haphazardly. One of Washington's heirs even took to cutting the signature from Washington's correspondence and sending it to collectors.

In a letter, this heir wrote:

I am now cutting up fragments from old letters and accounts, some of 1760 . . . to supply the call for anything that bears the impress of his venerated hand. One of my correspondents says, "Send me only the dot of an i or the cross of a t, made by his hand, and I will be content."

Despite this inauspicious beginning in preserving our Nation's history, for nearly two centuries it was presumed that the papers of former Presidents were their personal property to be disposed of however they or their heirs saw fit.

Think of all our national history that has been lost, destroyed or kept locked away far too long.

The bulk of Andrew Jackson's papers were scattered among at least 100 collections. Jackson's successor, Martin Van Buren, destroyed correspondence he decided was—I quote—"of little value."

The papers of Presidents Harrison, Tyler, Taylor, Arthur, and Harding were destroyed in fires—sometimes by accident, sometimes intentional.

President Lincoln's son Todd burned his father's Civil War correspondence and threatened to burn all of his father's Presidential papers until a compromise was reached with the Library of Congress that kept most of the papers sealed until 1947. This delay helped fuel conspiracy theories that the papers were kept hidden because they would show that members of Lincoln's Cabinet were part of the assassination plot—in effect, that Lincoln died in a coup.

Of course, when the papers were finally released, they showed that wasn't true, but it took 82 unnecessary years to put the rumor to rest.

These historical records are too valuable to be left to the judgment of former Presidents, the whims of their heirs, the caprice of nature or—as in George Washington's case—the appetite of rodents.

This situation finally began to change under President Franklin Roosevelt who, on December 10, 1938, announced he would build a library on his

estate in Hyde Park, NY, to house the papers and collections of his public life that stretched back to 1910, when he was elected to the State Senate of New York.

Roosevelt set a standard for openness, asking his aides and Cabinet Secretaries to contribute to the collection, and almost every President who followed carried on in the spirit of Roosevelt—also building libraries to house their papers.

But this system was voluntary and began to crumble with the resignation of our 37th President, Richard Nixon.

Nixon had an agreement with the General Services Administration, GSA, which would have allowed him to keep all his records locked away, including the infamous Watergate tapes, and mandated many of them be destroyed.

This put us right back where we started, with a former President choosing what historical records the public was entitled to. Congress passed legislation in 1974 specifically ordering that the Federal Government take control of Nixon's records and then in 1978 passed legislation declaring that Presidential papers were public property that must be turned over to the National Archives at the end of an administration and be open to the public after 5 years.

Systems, however, were put in place to allow a former President to review documents—and challenge their release on the grounds of Executive privilege. But the presumption was in favor of openness unless the former President could show the court a compelling reason to withhold the documents.

But then, as mentioned, President Bush weakened the law with Executive Order No. 13233, issued on November 1, 2001. Just to repeat, under this order, not only former Presidents and their heirs, but Vice Presidents and their heirs as well, could withhold the release of documents by claiming Executive privilege.

The order also required those challenging claims of Executive privilege to prove in court that they have a "demonstrated, specific need" for the documents—an impossibly high standard since only the document's author can know precisely what a document contains.

And since the Executive order also allowed for an indefinite review period, these records—housed in Presidential libraries maintained by the taxpayers—could be locked away for indefinite periods of time, making them about as useful as the ashes of Lincoln's letters.

In reversing Bush's Executive order, President Obama made clear that only the sitting President can claim Executive privilege—not their heirs, and not their Vice Presidents or the Vice Presidents' heirs.

In signing the new Executive order, President Obama said:

Going forward, anytime the American people want to know something that I or a former President wants to withhold, we will have to consult with the Attorney General and the White House Counsel, whose business