

events of last night, Senator GRAHAM's time was taken.

Mr. President, I think the time of the Senator from Florida starts at 10 o'clock.

The PRESIDENT pro tempore. The Parliamentarian informs me Senator GRAHAM will have to use his time now.

Mr. REID. He would have to use his time now?

The PRESIDENT pro tempore. Yes.

Mr. REID. I ask unanimous consent that the order now before the Senate be modified to allow the Senator from Illinois to speak for up to 10 minutes in morning business, and that like time be extended to the Republicans.

Mr. DURBIN. Reserving the right to object, I would be happy to yield to the Senator from Florida to go first, and I will follow him. That would be fine with me, 10 minutes after Senator GRAHAM.

Mr. REID. And that Senator GRAHAM be given his 30 minutes. I ask that my consent be modified.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

The Senator from Florida.

INTELLIGENCE LESSONS

Mr. GRAHAM of Florida. Mr. President, yesterday I spoke to the Senate relative to my assessment of the responsibility for the attacks of September 11, 2001, some of the lessons learned from those attacks, and the status of the implementation of those lessons. I explained that my view was that those terrible events would have been prevented if our national intelligence community had been better organized and more clearly focused on the problem of terrorism. And if the Congress and the President had drawn on those lessons learned from the tragedy of 9/11 and initiated reforms of the intelligence community, we might well have avoided some of the embarrassments of the flawed intelligence on weapons of mass destruction or the misleading use of that intelligence which formed the basis of the war against Iraq. Today I would like to continue my discussion of those lessons that we should have learned and implemented.

As chairman of the Senate Select Committee on Intelligence for most of the 107th Congress, I had the honor of cochairing a bipartisan, bicameral committee charged with investigating the events of the intelligence community and their activities before and after the attacks of September 11. We set out to determine whether or not there was anything more we could have done to prevent the attacks and, specifically, if our intelligence community had problems that needed to be corrected.

The importance of our task was well understood. The 9/11 attacks were not the work of a crazed individual but, rather, were the result of a sophisticated plot carried out by a group of 19

terrorists and an undetermined number of facilitators who prepared for the execution of their plot over a period of almost 2 years. We can, we must, improve our ability to detect and disrupt plots of this nature. We can do so by ensuring that our intelligence-gathering networks are operating in an optimal manner and that any flaws in our intelligence community are addressed as quickly and effectively as possible.

Our committee identified a number of problems with our current intelligence-gathering system. We followed up with recommendations on how to fix these problems. By conducting this inquiry, making these recommendations, Congress not only assumed the responsibility for determining what happened before and after September 11 as related to our intelligence community, but it also assumed a responsibility relative to the implementation of the recommendations.

The American people will respond to future terrorist attacks by asking: What did we learn from the previous attack and how has that information been used to give the American people greater protection? They have the right to ask this question and we have an obligation to give them a good answer: What have you done with the information and the lessons learned? How have you implemented those lessons in a way to give me and the American people a greater sense of security?

So far, we have not made acceptable progress toward providing an answer to the American people. In fact, if we had to give it today, it would not be an answer of which we would be proud.

A large number of the problems identified by the joint inquiry and a series of commissions which preceded the joint inquiry have not been addressed. In my previous statement, I discussed those recommendations which related specifically to the issue of counterterrorism. This morning, I would like to address those recommendations which deal with the structure of the intelligence community.

Our national intelligence community is beset by a number of serious problems. There is a lack of leadership at the top and the absence of a coordinated national intelligence policy that gives us agencies with priorities, missions, and resources that do not necessarily complement one another.

As an example, in December of 1998, the Director of Central Intelligence, the man who has the statutory responsibility for the coordination of all of our various intelligence agencies, told senior managers of the CIA that he considered the United States to be at war with al-Qaida and that the intelligence community, all of its agencies, working in a coherent manner, should devote as many resources as possible to combating that terrorist organization.

While this statement might seem to be a positive step, a step in the right direction, our joint inquiry found that the DCI was either unable or unwilling to enlist other intelligence agencies in

this effort. The troops either didn't hear or simply ignored the bugle call of war.

The lack of consistent, coordinated priorities is paralleled by a lack of consistent, predictable funding as well as the lack of internal accountability. This shortage of resources meant that the intelligence community simply did not have enough personnel to perform all the functions that were needed. This left the intelligence community ill-prepared to deal with the rapidly changing terrorist threat.

One of the reasons for the unpredictability and decline of funding of the intelligence community was the mistaken belief that the end of the cold war yielded a peace dividend for the American people when it came to defense spending, including a reduced need to spend money on intelligence.

Mr. President, in fact, the change from the single focus on the Soviet Union and its allies to the current world of diverse, constantly changing, emerging threats such as weapons of mass destruction and international terrorist groups has increased demand and, therefore, the cost of intelligence.

The first recommendation made by our commission urges the creation of a Cabinet-level director of national intelligence, appointed by the President and subject to Senate confirmation. We made this our first recommendation because we think it is the most important recommendation and one that can do the most to prevent another 9/11 tragedy. I gratefully recognize the excellent work of Senator FEINSTEIN in championing this issue.

The director of national intelligence would be responsible for establishing consistent priorities for all of our national intelligence agencies and assuring that these agencies work together, rather than independently, by coordinating budgets and resources and managing interagency relationships. We made this recommendation because of the obvious need for strong leadership in our intelligence community.

It is clear that prior to 9/11 our intelligence-gathering agencies had no comprehensive strategy for counterterrorism. Intelligence priorities were inconsistently formulated and applied throughout the various agencies and were not effectively leveraged through interagency coordination. The joint inquiry report offers specific details of FBI supervisors who thought there was no need to pay attention to Saudi citizens in the United States while at the same time the CIA was tracking suspected Saudi terrorists around the world.

The director of the national security agency, which is responsible for our electronic eavesdropping, described the problem of unclear priorities when he said: "We had about 5 number 1 priorities."

Although the Director of Central Intelligence is normally the head of the intelligence community, in practice he

has functioned as the head of one of those agencies, the CIA, with limited influence over other organizations. The limited ability of the Director of Central Intelligence to mobilize other intelligence agencies in the war against al-Qaida is a tragic example of this point. Before 9/11, personnel in many intelligence agencies—particularly the FBI—had not even heard his statement on the topic, let alone acted upon it.

The DCI does have some budgetary authority, but it cannot be exercised effectively without the cooperation of the Department of Defense since many intelligence agencies are run through the Department of Defense. It is therefore necessary to appoint a strong director of national intelligence who is not the head of any specific intelligence agency. This is a recommendation which has been consistently made by citizens, commissions, and governmentally appointed commissions which have reviewed the intelligence community in the recent past.

So far, Congress and the administration have not acted on this first recommendation and indeed appear to be moving in the opposite direction. The recent creation of an Under Secretary of Defense for Intelligence will serve to further separate the Defense Department from the civilian intelligence agencies rather than improving cooperation. Legislation has been introduced to accomplish this necessary restructuring, but as of this date it has not had a hearing before the Senate Select Committee on Intelligence.

This is an issue which now sits upon the shoulders of the Congress. If we fail to act, we will be held accountable when the next preventable terrorist act occurs.

Another important recommendation was No. 11, which called for the recruitment and development of greater numbers of quality intelligence personnel. Obviously, the need for more counterterrorism training is a major part of this recommendation, as is the need for more linguists and an expanded intelligence community reserve corps that could provide relevant expertise when special circumstances arise.

The committee also recommends an expansion of education grant programs, such as the national security education program. Included among the suggestions for improving the workforce was one calling for legislation that instills the concept of jointness or interoperability among the various agencies. This is similar to the 1986 Goldwater-Nichols Act, which applied the concept of jointness to the military. One way jointness has been instilled in the military is by having service members serve tours of duty with another service or in a multiservice command. This reform is widely recognized as having substantially improved our military's ability to fight and win wars, as was so dramatically demonstrated in Iraq.

In the intelligence community, there is too much isolation among intel-

ligence agencies and between those agencies and the users of intelligence. As an example, the intelligence community, having examined the likely means of attack by al-Qaida, identified hijacking of commercial airliners to be used as weapons of mass destruction as a particularly significant part of the arsenal of al-Qaida. However, the Federal Aviation Administration was not notified of this new form of threat. Therefore, the training and protocols of flight crews had been to not attempt to resist hijackers but, rather, to succumb until the plane was on the ground and then let other law enforcement and professionals attempt to negotiate with the hijackers, and that was the form of action that was still in place on September 11.

Possibly, had the FAA been aware of this new threat of taking command of a plane not for economic or political purposes but to use it as a weapon, airlines would have been better prepared to deal with this particular generation of hijackers. We need our intelligence community to substantially improve its capability in the same way that the military has.

By working and training on a joint basis, intelligence agencies can conserve resources and help personnel gain an appreciation for a wider variety of intelligence-gathering tactics and techniques. If this recommendation had been implemented earlier, it could have reduced our vulnerability.

Our joint inquiry found that a shortage of staff was a near universal problem for intelligence agencies before 9/11. For instance, at the CIA's counterterrorism center, employees were required to work extremely long hours with no relief. Overworking these critical personnel made them less effective and lowered their morale to the point where retention had become a problem. Problems similar to that of the CIA's counterterrorism center existed at the FBI, the National Security Agency, and the shortage of Arabic linguists at the National Security Agency became especially pronounced. Linguists continue to be in short supply, in part because qualified linguists cannot be trained overnight.

Counterterrorism training has been stepped up in other areas, but raising our capabilities to an adequate level will still require more personnel with enhanced and expanded training.

The Intelligence Authorization Act for Fiscal Year 2004 included pilot programs for training students who will form the future of the intelligence community.

No legislation regarding jointness has yet been passed despite the clear, positive results achieved by previous efforts in similar and relevant parts of the Federal Government.

The joint terrorism task forces set up by the FBI have had some success in bringing together officials from different agencies. It was one of these groups which was responsible for the capture of Zaccaria Moussaoui, the so-

called 20th hijacker. If more of these task forces had been set up before 2001, and if those that did exist had all the personnel they needed to be effective, we can only imagine what might have been accomplished, what might have been prevented.

Recommendation No. 12 regards our national intelligence budget and suggests several measures to ensure our investments in intelligence provide maximum benefits. It calls for more flexibility in the budget to be accompanied by greater oversight and raises the idea of a cost-benefit analysis by an independent agency.

It also urges the President and the Congress to develop a budget that includes a sustained, long-term investment in counterterrorism to replace the unpredictable funding stream that currently exists. Providing the intelligence community with an adequate level of base funding would obviously increase budget stability and assist in long-term planning.

Contrary to that, for the past several years, counterterrorism programs have been funded primarily through supplemental appropriations which were often in response to a specific event, such as the September 11 tragedy, and therefore the supplemental appropriations varied greatly from one year to the next.

Intelligence officials who were interviewed by our joint inquiry were understandably critical of this system since it makes it more difficult to plan sustainable counterterrorism programs. This dynamic still persists, despite its obvious flaws, despite its obvious contribution to the increased—the unnecessarily increased—vulnerability of the American people.

There have been significant increases in our intelligence budget, but in 2003, a substantial portion of our counterterrorism budget still came from supplemental appropriations.

Another problem with the intelligence budget is the way it is tied to the Defense Department's budget. During the 1990s, we made significant cuts to the Defense Department budget, and the intelligence budget was cut proportionately.

While the end of the cold war meant we could reduce the size of our Armed Forces, intelligence requirements actually increased due to the diversification of the threat. In addition, greater budget stability in our efforts to fight terrorism would be better served by greater budget flexibility. It is currently quite difficult for intelligence officials to shift resources from one priority to the other as circumstances require. Even small adjustments require prolonged formalized approvals.

For instance, a number of CIA officials were aware of the need for more agents in Afghanistan prior to 2001 but were unable to reassign resources away from other priorities. The Director of the National Security Agency has discussed similar problems. The 2004 Intelligence Authorization Act permits the

Director of Central Intelligence to authorize the employment of additional civilian personnel if he believes this is necessary.

This is a small step in the right direction, but more flexibility is still needed. This flexibility must be accompanied by increased congressional oversight.

It became apparent during the course of our joint inquiry that the intelligence community does not have a clear idea of how much money it spends on counterterrorism, and accounting methods vary among the different agencies.

In light of this, it seems appropriate that a cost-benefit analysis from an outside agency would be very helpful, but so far no real efforts have been made to undertake such a step.

Recommendation No. 15 suggests that the President and the Congress evaluate and consider revising the intelligence classification process. This task would pursue the twin goals of expanding access to important information and assuring that classified intelligence information is not disclosed inappropriately.

The current system of intelligence classification is not the result of a thoughtful, open debate, but is, rather, the product of a series of Executive orders rooted in cold war mentality and issued with little or no consultation of Congress.

Many people with extensive knowledge of the system have suggested there is a tendency toward too much secrecy and that this has had a predictably negative effect on the flow of information.

There was an interesting column recently in the *New York Times* talking about one of the core problems within the Government of Saddam Hussein prior to the war, and that was that all parts of that society practiced secrecy and deception; that the army deceived Saddam Hussein as to just what it was doing to prepare for war; scientists deceived Saddam Hussein as to the state of their development of weapons of mass destruction; Saddam Hussein attempted to fool the people of Iraq, and our intelligence agencies were fooled by all of the above.

Allowing an increase in a curtain of secrecy to fall over the information of our United States agencies will have the same effect the veil of secrecy did in Iraq, and that is to make us less secure, more vulnerable because we have not shared information in a way that can increase our security.

By treating so much of this information as treasure to be guarded, intelligence agencies can actually reduce the information's usefulness. By reducing biases toward excessive secrecy, Congress and the President can help make sure more information gets to the people who need it, particularly those such as first responders, local government, law enforcement officials, and Federal agencies, such as the Federal Aviation Agency.

There is a suspicion among many Americans—and I believe it is justified—that classification is being used to shield politically embarrassing information from public scrutiny, as was the case with the information on the role of foreign governments in the September 11 attack.

Unfortunately, little progress has been made so far in the task of reviewing the use of classified information, particularly in the area of intelligence. The Intelligence Authorization Act requires the President to report on the barriers to sharing classified information. Congress has not yet given serious consideration to this important topic.

Another very important recommendation issued by the joint committee, which has also been largely ignored, is recommendation No. 16, which calls for a new standard of accountability in the intelligence community. Given the continued and increasing use of intelligence information in our national policymaking, whether it is to fight terrorism, to determine the true capability of a potential adversary, or to reduce the proliferation of weapons of mass destruction, it is critically important that we have accountability mechanisms in place that review intelligence agencies' failures in order to learn from those mistakes. To date, no personnel in intelligence or other affected agencies has been sanctioned as a result of the tragedy of September 11.

It is also true that no one has been sanctioned for the apparently incorrect intelligence assessments upon which the case to go to war in Iraq was predicated. Weapons of mass destruction alleged to exist in Iraq have not been found and, according to David Kay, our lead investigator, it is unlikely they will ever be found. This raises in stark terms the responsibility of the President to determine who is accountable for intelligence failures and what should be the appropriate sanction of those responsible.

It is as though the chairman of the steamship company that owned the *Titanic* put all of the blame for the tragedy on the iceberg and declared that was the end of it; the captain of the ship would be let off scot-free.

At the same time, it is unclear if any rewards or recognitions have been given for outstanding performance in the intelligence community, outstanding performance such as that of those who contributed to the capture of Saddam Hussein.

If we want our intelligence agencies to be as good as they can be and they must and should be, then we must assure that they have systems in place to reward exceptional performance and to deal with bad performance appropriately. Currently, there are no systems performing this function and all attempts to bring accountability to our intelligence-gathering programs have been made in an ad hoc manner. We must demand that the intelligence community establish standards of ac-

countability since reliable intelligence is critical to our security as citizens and our credibility as a nation.

The last recommendation I would like to address today is No. 17. This calls for the removal of inappropriate and obsolete barriers between intelligence and law enforcement agencies engaged in counterterrorism. It advises the administration to report to Congress regarding the removal of these barriers so that Congress can take whatever legislative actions are appropriate.

Our joint inquiry found that the various agencies engaged in counterterrorism have been surprisingly reluctant to share information with each other. Example: In the months before the September 11 attack, the CIA was aware of two terrorists associated with al-Qaida, Khalid al-Mihdhar and Nawaf al-Hazmi. These two terrorists had attended a planning session in Malaysia, a session at which both the attack on the USS *Cole*, which was to occur in November of 2000, and the attack on the World Trade Center, the Pentagon, and the failed effort that ended in a field in Pennsylvania had been discussed.

Both of these terrorists attended a planning conference for purposes of proceeding with those two terrorist attacks, and then acquired visas for travel to the United States, because the CIA had not informed law enforcement or border protection agencies of the threat posed by these individuals. The FBI and other agencies did not seem to have received this information which could have helped disrupt the 9/11 attack.

Similarly, the FBI prevented its agents from participating in an effort to track down these terrorists on the grounds that this was not a job for criminal investigators. The FBI was reluctant to share information regarding counterterrorism because of concerns about legal barriers preventing collaboration between intelligence and law enforcement agencies. These concerns sprang partly from an overly restrictive Department of Justice policy and partly from misunderstanding among agents regarding the law. Sharing of intelligence information with law enforcement agencies was seen as particularly difficult, almost taboo. This was a clear contradiction of the law that existed prior to September 11.

Legal considerations also seem to have impaired information sharing by the National Security Agency and the CIA as well. However, these agencies, particularly the CIA, were also motivated by an overly zealous desire to protect sources. While protecting sources and methods is certainly an important goal, these sources and methods are not very useful if we cannot effectively use the information they provide to us.

From a legislative point of view, significant progress has been made in this area. Congress has passed legislation removing legal restrictions regarding

the sharing of intelligence information. Agency heads have updated obsolete and inappropriate guidelines. Intelligence community personnel now seem to have a much clearer picture of what methods and actions are available to them.

Unfortunately, while the legislative barriers to information sharing have been removed, the fact is that effective information sharing is still not taking place between intelligence and law enforcement, and this is a special problem between Federal intelligence and law enforcement agencies and State and local law enforcement.

I frequently hear complaints that agency culture, habit, and inertia, have preserved problems that should have been solved, making this yet another area in which the lessons of 9/11 have not been learned and not been applied effectively.

September 11 was a wake-up call. It alerted us to the fact that our intelligence agencies were not performing at the level required during this era of terrorism. We have just received our first report card. The report card is to tell us how well we have done since September 11 in applying lessons learned to the greater protection of the American people. We have received a grade of F. The false assertion of large stockpiles of weapons of mass destruction in Iraq demonstrates that we have not yet made the reforms to our intelligence agencies that are required.

The next report card will come when we have the next intelligence failure. The President and the Congress will both be held accountable if we have not acted on these necessary reforms to protect the safety of the people of America.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I thank the distinguished Senator from Florida for his extraordinarily enlightening and very helpful discussion in this series of speeches he is giving this week. I think we would all do well not only to listen but to read and to thoughtfully consider much of what he has shared with us. He speaks with experience and extraordinary credibility, and I applaud him for taking the time and making the effort that he has to bring this important issue before us in a meaningful way.

IRAQ INTELLIGENCE COMMISSION

Mr. DASCHLE. Mr. President, the vital interest of our national security is critical to our understanding of the degree to which we can cope with the circumstances involving the intelligence failure we have now experienced over this past year or more. Two important voices have been added to the growing chorus, raising questions about the accuracy and the veracity of the allegations the administration used to take this country to war. Just yesterday Secretary Powell made clear the importance of the prewar claims,

suggesting that the case for war was much weaker without the allegations of existing stockpiles of weapons. When asked whether he would have recommended an invasion last year if he knew then what he knows now, Secretary Powell said:

I don't know, because it was the stockpile that presented the final little piece that made it more of a real and present danger and threat to the region and to the world.

A year ago this week, Secretary Powell made a lengthy presentation to the United Nations Security Council about the grave threat posed by Iraq's weapons of mass destruction. The Secretary of State did not speak of "weapons of mass destruction-related program activities," but of existing stockpiles—existing stockpiles of horrendous weapons and the means to deliver them. In large measure because of the alarming assertions by Secretary Powell and similar claims by President Bush, Vice President CHENEY, Secretary of Defense Rumsfeld, National Security Adviser Rice, and many other senior administration officials, a majority of Congress voted to give the President the authority to send troops to wage war against Iraq.

Late last month, Secretary Powell had something decidedly different to say. For the first time since his U.N. presentation he explicitly acknowledged the strong possibility his claims about Iraq's weapons were untrue, telling reporters on his trip to Georgia:

... what the open question is: how many stocks [the Iraqis] had, if any? And if they had any, where did they go? And if they didn't have any, then why wasn't that known beforehand?

A few days later, Dr. David Kay, Chief Weapons Inspector in Iraq until a couple of weeks ago, told the Armed Services Committee here in the Senate the administration's prewar intelligence on Iraq was, in his words, "all wrong." While several nonpartisan experts have reached similar conclusions about our intelligence and raised concerns about the accuracy of the administration statements on this issue, hearing Secretary Powell and Dr. Kay, two of this Nation's most respected and knowledgeable officials, speak in this manner, has raised some questions at home and abroad about the foundation of the administration's case for going to war against Iraq.

Given the significance of these questions, a broad, thorough, nonpartisan review of both the intelligence community's assessment of the threats posed by Iraq and the administration's use of this information is essential to restoring the trust of the American public and the international community in this administration and in the intelligence system itself.

The reason is clear. The most effective means to counterterrorism and the many other national security challenges facing this Nation today is by gaining and maintaining the support of the American people and assembling a international coalition. Accurate, un-

impeachable intelligence is one of the most crucial tools the President has at his disposal for rallying the American people and the world. If the President is to successfully convince Americans of the need to send daughters and sons into harm's way and urge our allies to support America's course of action, our intelligence must be seen as absolutely credible and accurate. National security experts of both parties have begun to warn that the lack of any weapons of mass destruction in Iraq after the administration's grave predictions in the runup to the war is undermining America's credibility, not only on Iraq but on other national security challenges as well.

For example, the United States increasingly believes that North Korea has used the last couple of years to create additional nuclear material and weapons. However, officials in South Korea and China have raised questions about these conclusions, in part by pointing to our intelligence community's failures in Iraq. This failure to reach a consensus on the threat posed by North Korea has greatly complicated efforts to effectively confront a nation that already possesses nuclear weapons and has been characterized as the world's greatest weapons proliferator.

Given these stakes, one would think the President would be the first to demand a full and complete accounting of the accuracy and use of Iraq prewar intelligence. Yet up until this past week-end, the President has stubbornly insisted there was nothing wrong with that intelligence or the alarming assertions that he and senior administration officials made in the days leading up to the start of the war in Iraq. In a remarkable about-face this past week, administration officials said publicly that the President will support the establishment of an independent commission, provided he appoints the commissioners and defines the scope of their work. As in other instances, the administration is apparently seeking to both convince the America public it supports a thorough investigation at the same time it stacks the deck against such an investigation effort ever occurring.

Although one of the major questions that needs to be addressed is whether senior administration officials exaggerated the nature of the threat to Iraq, the President is attempting to make the case that actions by these officials are best investigated by a commission whose members are appointed by and report to those very officials in the White House.

There is little reason to believe a commission appointed and controlled by the White House will have the independence and credibility necessary to investigate and bring closure to these crucial issues. Consider this: At the same time the Secretary of State was suggesting that it was an open question whether Iraq had any weapons of mass destruction and the chief weapons