

as espionage and terrorism cases—prosecutors should ensure that they do not make decisions that, in fact, end up harming the national security.

The committee got it right. The committee went on to explain:

[T]he determination of whether to leave a subject in place should be retained by the host agency.

The history of the espionage consultation requirement is eerily reminiscent of the lack of consultation that occurred in the case of Abdulmutallab. In espionage cases, Congress has already recognized that when valuable intelligence is at stake, our national security should trump decisions based solely on prosecutorial equities. This requirement must be extended to the most significant threat facing our Nation, and that is the threat of terrorism.

I encourage the Senate to act quickly on this important legislation. The changes proposed are modest. They make common sense. But the consequences could be a matter of life and death.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2943

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CONSULTATION REQUIREMENT.**

(a) IN GENERAL.—Subject to subsection (b), no action shall be taken by the Attorney General, or any officer or employee of the Department of Justice, to—

- (1) initiate a custodial interrogation of; or
- (2) file a civilian criminal complaint, information, or indictment against;

any foreign person detained by the United States Government because they may have engaged in conduct constituting an act of war against the United States, terrorism, or material support to terrorists, or activities in preparation therefor.

(b) CONSULTATION.—

(1) IN GENERAL.—Subject to paragraph (2), the Attorney General shall consult with the Director of National Intelligence, the Director of the National Counterterrorism Center, the Secretary of Homeland Security, and the Secretary of Defense prior to taking any action identified in subsection (a).

(2) PRESIDENTIAL DIRECTION.—If, following consultation under paragraph (1), the Director of National Intelligence, the Director of the National Counterterrorism Center, the Secretary of Homeland Security, or the Secretary of Defense believe that any action identified in subsection (a) and proposed by the Attorney General may prevent the collection of intelligence related to terrorism or threats of violence against the United States or its citizens, the Attorney General may not initiate such action without specific direction from the President.

(c) ANNUAL REPORT.—The Attorney General shall report annually to appropriate committees of jurisdiction regarding the number of occasions on which direction was

sought from the President under subsection (b)(2) and the number of times, on those occasions, that the President directed actions identified in section (a) against such foreign person.

(d) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF JURISDICTION.—The term “appropriate committees of jurisdiction” shall include—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

(B) the Committee on Homeland Security of the House of Representatives;

(C) the Select Committee on Intelligence of the Senate;

(D) the Permanent Select Committee on Intelligence of the House of Representatives; and

(E) the Committees on Armed Services and Judiciary of the Senate and the Committees on Armed Services and Judiciary of the House of Representatives.

(2) ACT OF WAR, TERRORISM, MATERIAL SUPPORT TO TERRORISTS.—The terms “act of war”, “terrorism”, and “material support to terrorists” shall have the meanings given such terms in title 18, United States Code.

(e) SAVINGS CLAUSE.—Nothing in this section shall prevent the Attorney General, or any officer or employee of the Department of Justice, from apprehending or detaining an individual as authorized by the Constitution or laws of the United States except to the extent that activities incident to such apprehension or detention are specifically identified in subsection (a).

SUBMITTED RESOLUTIONS

**SENATE RESOLUTION 390—PROHIBITING TEXT MESSAGING BY EMPLOYEES OF THE SENATE WHILE DRIVING ON OFFICIAL BUSINESS**

Mr. CASEY (for himself, Mr. SCHUMER, and Mr. ROCKEFELLER) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 390

*Resolved,*

**SECTION 1. PROHIBITION ON TEXT MESSAGING BY EMPLOYEES OF THE SENATE WHILE DRIVING ON OFFICIAL BUSINESS.**

(a) DEFINITIONS.—In this resolution—

(1) the term “employee of the Senate” means any employee whose pay is disbursed by the Secretary of the Senate; and

(2) the term “text messaging” means reading from or entering data into any handheld or other electronic device, including for the purpose of SMS texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication.

(b) PROHIBITION.—An employee of the Senate may not engage in text messaging when—

(1) driving a Government owned or leased vehicle;

(2) driving a privately owned or leased vehicle while on official business; or

(3) using text messaging equipment provided by any office or committee of the Senate while driving any vehicle at any time.

(c) EFFECTIVE DATE AND APPLICATION.—This resolution shall apply to the 111th Congress and each Congress thereafter.

**SENATE RESOLUTION 391—RECOGNIZING THE 25TH ANNIVERSARY OF THE ENACTMENT OF THE VICTIMS OF CRIME ACT OF 1984 (42 U.S.C. 10601 ET SEQ.) AND THE SUBSTANTIAL CONTRIBUTIONS TO THE CRIME VICTIMS FUND MADE THROUGH THE CRIMINAL PROSECUTIONS CONDUCTED BY UNITED STATES ATTORNEYS’ OFFICES AND OTHER COMPONENTS OF THE DEPARTMENT OF JUSTICE**

Mr. CRAPO (for himself, Ms. KLOBUCHAR, and Mr. VITTER) submitted the following resolution; which was considered and agreed to:

S. RES. 391

Whereas the Victims of Crime Act of 1984 had its 25th anniversary in 2009;

Whereas for 25 years, the Victims of Crime Act of 1984 has provided funds to States for victim assistance and compensation programs to support victims of crime and those affected by violent crimes;

Whereas the Victims of Crime Act of 1984 enables approximately 4,400 community-based public and private programs to offer services to victims of crime, including crisis intervention, counseling, guidance, legal advocacy, and transportation shelters;

Whereas the Victims of Crime Act of 1984 provides assistance and monetary support to over 4,000,000 victims of crime each year;

Whereas the Crime Victims Fund established under the Victims of Crime Act of 1984 provides direct services to victims of sexual assault, domestic violence, child abuse, survivors of homicide victims, elderly victims of abuse or neglect, victims of drunk drivers, and other such crimes;

Whereas in 2008, with financial support from the Victims of Crime Act of 1984, State crime victim compensation programs paid a total of \$432,000,000 to 151,643 victims of violent crime;

Whereas since the establishment of the Crime Victims Fund in 1984, non-taxpayer offender-generated funds deposited into the Crime Victims Fund have been used to provide almost \$7,500,000,000 to State crime victim assistance programs and State crime victim compensation programs;

Whereas the Victims of Crime Act of 1984 also supports services to victims of Federal crimes, by providing funds for victims and witness coordinators in United States Attorneys’ offices, Federal Bureau of Investigation victim-assistance specialists, and the Federal Victim Notification System; and

Whereas the Victims of Crime Act of 1984 also supports important improvements in the victim services field through grants for training and technical assistance and evidence-based demonstration projects: Now, therefore, be it

*Resolved,* That the Senate recognizes—

(1) the 25th anniversary of the enactment of the Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.); and

(2) the substantial contributions to the Crime Victims Fund made through the criminal prosecutions conducted by United States Attorneys’ offices and other components of the Department of Justice.