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# United States Senate

COMMITTEE ON SMALL BUSINESS  
WASHINGTON, DC 20510-5350

EMILIA OSWALDO, STAFF DIRECTOR  
PATRICIA H. FORBES, DEMOCRATIC STAFF DIRECTOR AND COUNSEL

December 18, 2000

## VIA FACSIMILE

The Honorable William S. Cohen  
Office of the Secretary of Defense  
1000 Defense Pentagon  
Washington, D.C. 20301-1000

Dear Secretary Cohen:

On Friday, December 15th, the Congress reauthorized the Small Business Innovation Research (SBIR) program for eight years as part of the omnibus Labor-HHS appropriations bill. Though Congress and the Office of Management and Budget have all along considered the SBIR program to be in effect under the Continuing Resolutions, and are extremely disappointed that many of the ten agencies that participate in the program have delayed making SBIR awards, the Senate and House have now officially endorsed and extended the program.

Upon the President's signing of the bill, DoD is mandated to continue the SBIR program. We have been told that the Department is poised to make awards immediately, and therefore we ask that the DoD make all pending SBIR awards and fully implement the SBIR program without further delay. Because time is of the essence for the small businesses who are awaiting their funding, we further ask that DoD submit to the Senate Committee on Small Business a report by Friday, January 5th, on the status of each Phase I and Phase II award that was in the pipeline on December 15th. The report should include the number of Phase I and Phase II SBIR proposals received for FY2001, how many of those DoD intends to fund, how many awards can be expected to be made with FY2001 SBIR funds, how many have been funded, the total dollar amount of the awards, and the dollar amount of funding left to be disbursed.

To avoid more disruption of the program, we also want to make clear that this legislation requires all agencies participating in the program to set aside 2.5 percent of their extramural research and development (R&D) budgets for the entirety of FY2001, October 1, 2000 through September 30, 2001. Please confirm in your letter transmitting the report referenced above that the 2.5 percent of DoD's extramural R&D budget has been reserved for, or allocated to, the FY2001 SBIR program.

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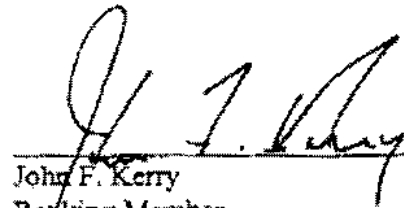
The Honorable William S. Cohen  
December 18, 2000  
Page Two

Lastly, while we disagree with DoD's interpretation of program's status under the Continuing Resolutions, we genuinely appreciate the Department's staff who are dedicated to and work on behalf of the SBIR program. We look forward to a continued constructive relationship with DoD's SBIR program office and encourage your staff to call if we can be of any help in expediting the release of awards. Committee staff contacts are: for Senator Kerry, Ms. Kevin Wheeler at 202-224-8496, and for Senator Bond, Mr. David Bohley at 202-224-5175.

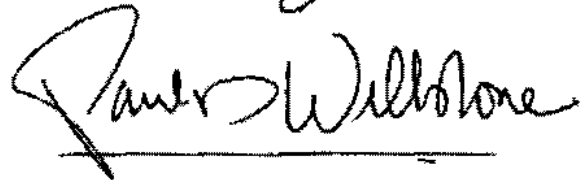

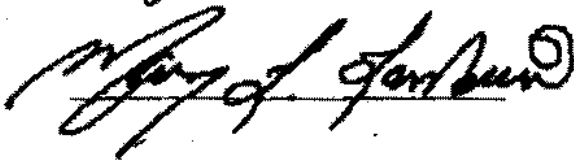
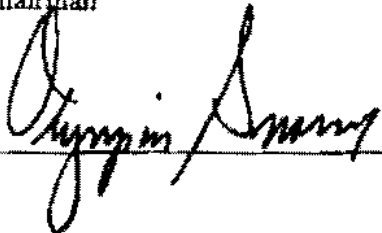
Sincerely,



Christopher S. Bond  
Chairman



John F. Kerry  
Ranking Member



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JOSEPH I. LIEBERMAN  
CONNECTICUT  
COMMITTEES:  
ARMED SERVICES  
ENVIRONMENT AND PUBLIC WORKS  
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March 1, 2001

Honorable Donald H. Rumsfeld  
Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20301-1000

Dear Secretary Rumsfeld:

On February 5, 2001 I delivered a presentation to the 37th annual Wehrkunde Munich Conference on Security Policy. The themes of this year's Wehrkunde were Transatlantic Relations and European Security, and Russia's Role in World Politics. During the conference I participated in a panel on shaping a common security environment with Russia.

Knowing of your interest in this subject, I am enclosing a copy of my remarks. I hope you will find them of interest and would be delighted to receive any comments you might have on them.

Sincerely,

  
Joseph I. Lieberman

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LIS BROWNLEE, STAFF DIRECTOR  
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# United States Senate

COMMITTEE ON ARMED SERVICES  
WASHINGTON, DC 20510-6050

SENATE OFFICE BUILDING  
WASHINGTON, DC 20540  
MARCH 21 2001 7:57

March 21, 2001

The Honorable Donald Rumsfeld  
Secretary of Defense  
Office of the Secretary of Defense  
The Pentagon, Room 3E880  
Washington, D.C. 20301-1000

Dear Mr. Secretary:

The Airland Subcommittee of the Senate Armed Services Committee has strongly supported efforts by the Chief of Staff of the Army to fundamentally change the force we have today to be better able to respond to 21<sup>st</sup> Century defense challenges. This transformation is essential to our national security and we are confident that ongoing defense reviews will validate that need. The Army has initiated a robust research and development effort that will hopefully yield "leap ahead" technologies that can be harnessed to ensure our forces will continue to dominate on future battlefields. We hope that the Army will aggressively pursue the necessary initiatives to field its Objective Force beginning in 2008, or sooner if technological advances allow. We believe that hard decisions will need to be made to assure that adequate resources will be available. We urge you to assist the Army in this regard.

We would like to bring to your attention that Congress, in the National Defense Authorization Act for Fiscal Year 2001, has asked for reports from the Army and from the Department of Defense that will lay out a "road map" for the Objective Force and place the requirements and capabilities of that force in a joint context. In particular, Congress is seeking an understanding of the evaluation process, including experimentation and operation analyses, that will support the validation of the Objective Force's operational requirements and support subsequent decisions.

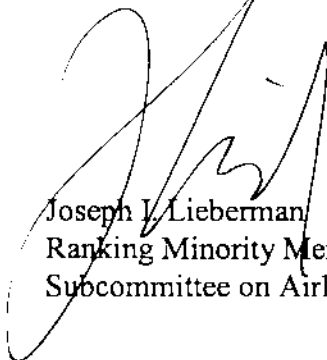
As part of the overall transformation initiative, the Subcommittee has closely followed a parallel effort by the Army to field Interim Brigade Combat Teams (IBCTs). As you are undertaking your strategic review of defense strategy and programs, we want to remind you of the requirements established by the National Defense Authorization Act for Fiscal Year 2001 with regard to the IBCTs and the Interim Armored Vehicle acquisition program. The law requires the Secretary of the Army to develop and execute a plan for comparing the costs and operational effectiveness of the infantry carrier variants of the selected interim armored vehicles and the troop-carrying medium armored vehicles currently in the inventory. The law further requires the Secretary of Defense to certify that the results of the comparison warrant continued obligation of funds for that program. We are very interested in knowing whether the Army can substantially meet its requirement for this interim capability through organizational and doctrinal

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changes, but with minimal equipment changes, in order to preserve scarce resources for the true transformation -- the fielding of the Objective Force.


We agree with your recent testimony, in which you stated your view that we must explore opportunities to improve existing equipment through technology insertion in order to harness resources necessary to accelerate research and development efforts. We look forward to continued dialogue with the Army and the Department as the transformation initiative moves forward.

With kind regards,



Joseph I. Lieberman  
Ranking Minority Member  
Subcommittee on Airland

Sincerely,



Rick Santorum  
Chairman  
Subcommittee on Airland

cc: General Eric K. Shinseki, USA  
Chief of Staff, US Army

JOSEPH I. LIEBERMAN  
CONNECTICUT

COMMITTEES:  
ARMED SERVICES  
ENVIRONMENT AND PUBLIC WORKS  
GOVERNMENTAL AFFAIRS  
SMALL BUSINESS

OFFICE OF THE  
SECRETARY OF DEFENSE

2001 APR -6 AM 7:18

United States Senate

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April 2, 2001

Mr. Donald H. Rumsfeld  
Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20301-1000

Dear Secretary Rumsfeld:

As you move to fill the crucial position of DARPA director, I am writing to bring your attention to the recommendations of a recent Defense Science Board (DSB) Task Force, chaired by Mr. Vincent Vitto, evaluating DARPA's investment strategy. These recommendations were prepared in response to DARPA's apparent tendency in the late 90's, discussed by many observers, to selectively pursue technologies with payoff in the near-term while abandoning technologies with potential for payoff in the mid-term (*i.e.* five to seven years). By following this strategy, DARPA, in effect, was abandoning its longstanding and remarkable focus on revolutionary technologies and shifting much of its portfolio to short-term procurement. Experts in the defense technology community felt that DARPA's neglect of these revolutionary technologies might compromise our ability to maintain the national defense, and companion and complementary commercial economic vigor, in coming decades. In July 1999, the Task Force published their findings and recommendations in a report entitled, "Investment Strategy for DARPA." I write to urge that you take these recommendations into account as you select a new DARPA director.

Of particular interest to me is progress in implementing the following recommendations:

*Recommendations on Strategic Planning* - The DSB Task Force recommended that DARPA formulate and implement a more deliberate, centralized strategic "Plan" based on long-term DARPA strategic vision and goals. The DSB noted that the Plan should reflect a rationalization of military needs, intelligence assessments, and trends in private industry, especially in the selection of research thrust areas. Included in this effort should be the establishment of strong collaboration with Joint and Service experimentation programs to strengthen DARPA ties to the warfighting CINCs. DSB also recommended that this Plan be periodically communicated throughout the Office of the Secretary of Defense, as well as to the Joint Staff and the private sector. I also suggest DoD provide appropriate members of Congress with the elements and strategy behind the Plan to assist in our work on Defense Authorization and Appropriations. As you evaluate DARPA, I'd appreciate a report on what progress has been made on these recommendations.

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*Recommendations on Investment Portfolio* - The DSB Task Force called for a shift in DARPA's investment portfolio to once again emphasize mid-term (as well as longer-term) programs that develop revolutionary technologies and system-level experiments. DARPA's traditional strength has been its ability to identify a broad range of emerging technologies and develop high-risk, high-payoff programs that have led to our current military technological dominance. A shift away from this, towards near-term technology demonstrations and related acquisition, or an overemphasis on any one specific technology area, could severely hamper efforts to build the military of the future. What progress has been made on these recommendations on research focus? Can you quantify for me where and how DARPA is focusing its investments?

*Recommendations on Research Coordination* - The DSB also recommended that DARPA become a stronger partner with both private industry and Service laboratories, and pointed out that DARPA must coordinate research activities with both of these sectors to avoid duplication and maximize scarce resources. DARPA must also develop strong relationships with the Services and industry to speed the technology transition process, so that we get the best technologies to the field as quickly as possible. This must include work with Service System and Materiel Commands and Joint Forces Command to define realistic transition plans as well as meaningful experiments and demonstrations that provide early feedback on new systems. Success in the transition of technologies to industry and the Services will demonstrate the unique value of investments in DARPA and its programs to both Congress and senior DoD officials. In effect, DSB argues that although DoD has a profound technology transition problem, this problem would be better addressed by DARPA through better coordination with the Services rather than running its own, separate, short-term acquisition effort. What progress has been made to set up coordination mechanisms in these areas?

*Recommendations on Personnel Management* - A great strength of DARPA over the years has been its technical staff. Over the years, DARPA has maintained its excellence by maintaining a brilliant staff that is at the forefront of science and technology, but still understands the needs of the military and the role of industry in technology development. Preserving DARPA's role into the future means continuing that tradition, even if it means modifying management strategies to reflect new economic and technical realities.

This past year, I have spent some time examining methods to establish connections between the scientific and warfighting communities. It is these connections that have been the backbone of our past and current efforts to modernize our military. As the lead agency for defense technology development, DARPA should also take the lead in strengthening the bond between science and the military. I agree with the DSB's recommendation that in order to strengthen ties to the military, DARPA and DoD should create more joint billets that will attract the very best military officers as Program Managers. To familiarize new Program Managers from the science world with their military customer, DSB suggested that DARPA should institute programs of instruction and orientation on future military doctrine, tactics, threats and acquisition policies. And since industry is the most important partner in the development and production of any new technology, it is critical that DARPA hires more Program Managers with established connections to commercial companies. DARPA is to be congratulated on its extensive and successful use of the new hiring authorities granted by the Congress in the Defense Innovation Provisions (Public

Law 105-261, Section 1101), which I am pleased to have helped develop.

The DSB Task Force had a number of recommendations that I believe will support DARPA's efforts to retain and improve its world class technical staff. DARPA's policy of rotating Program Managers has kept its staff fresh and at the frontiers of scientific advancement. This should be continued, but, as DSB noted, balanced to minimize the disruptions caused by changing managers part way through a program. This may imply adopting a flexible rotation policy allowing both short-term and extended-term managers. Since most DARPA programs are created and shaped by the enthusiasm of individual program managers, this may mean matching the length of staff tenures to the duration of their programs, while taking steps when necessary to maintain program and overall office continuity. What progress is DARPA making on preserving and expanding its talent base, including specific progress on the DSB recommendations previously cited?

Along these lines, I would ask that you further consider the possibility of instituting different cultures in DARPA's science and system offices. In the science offices, the current policy of fairly high manager turnover rates, 3-4 year programs, and selection of bright, young scientists as managers is perhaps ideal for accomplishing DARPA's core mission of both preventing and achieving technological surprise. On the other hand, in the system offices, longer duration programs that follow-through with semi-militarized prototypes, and selection of mature program managers who deeply understand the service customer, who have demonstrated program management skills, and who will commit to remain for the duration of their programs are perhaps better for accomplishing DARPA's technology transition mission.

I would appreciate your prompt written review of DARPA's progress on these issues and the above suggestions, so that we may have your responses in time for consideration in this year's authorization. When ready, I suggest your staff also brief my senior staff on your findings.

Thank you for your assistance.

With my best regards,



Joseph I. Lieberman  
United States Senator



STROM THURMOND, SOUTH CAROLINA  
CHARMAN EMBERTUS  
JOHN MCCAIN, ARIZONA  
DISE SMITH, NEW HAMPSHIRE  
JAMES M. INHOFE, OKLAHOMA  
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JACK REED, RHODE ISLAND  
DANIEL K. AKAKA, HAWAII  
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S. BENJAMIN NELSON, NEBRASKA  
JEAN CARRAHAN, MISSOURI  
MARK DAYTON, MINNESOTA

LES BROWN, J.E. STAFF DIRECTOR  
DAVID S. LYLES, STAFF DIRECTOR FOR THE MINORITY

# United States Senate

COMMITTEE ON ARMED SERVICES  
WASHINGTON, DC 20510-8050

OFFICE OF THE  
SECRETARY OF DEFENSE

2001 MAR 28 AM 7:57

March 21, 2001

The Honorable Donald Rumsfeld  
Secretary of Defense  
Office of the Secretary of Defense  
The Pentagon, Room 3E880  
Washington, D.C. 20301-1000

Dear Mr. Secretary:

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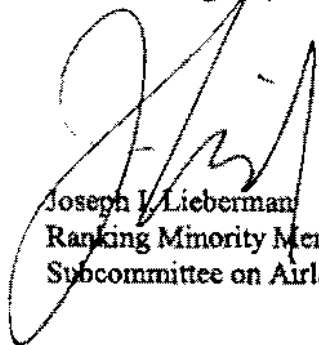
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changes, but with minimal equipment changes, in order to preserve scarce resources for the true transformation -- the fielding of the Objective Force.

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With kind regards,



Joseph I. Lieberman  
Ranking Minority Member  
Subcommittee on Airland

Sincerely,



Rick Santorum  
Chairman  
Subcommittee on Airland

cc: General Eric K. Shinseki, USA  
Chief of Staff, US Army

CARL LEVIN, MICHIGAN  
DANIEL K. AKAKA, HAWAII  
RICHARD J. DURBIN, ILLINOIS  
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THAD COCHRAN, MISSISSIPPI  
ROBERT F. BENNETT, UTAH  
JIM BUNNING, KENTUCKY

2002 MAR 04 10 33 AM

# United States Senate

COMMITTEE ON  
GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

JOYCE S. RECHTSCHAFFEN, STAFF DIRECTOR AND COUNSEL  
HANNAH S. SISTARE, MEMORITY STAFF DIRECTOR AND COUNSEL

February 28, 2002

Via Facsimile (703/695-5860)  
and First-Class Mail

The Honorable Donald H. Rumsfeld  
Secretary  
United States Department of Defense  
The Pentagon  
Washington, DC 20301-1155

Dear Secretary Rumsfeld:

We invite you, or your designee, to appear as a witness at a hearing before the Committee on Governmental Affairs on Wednesday, March 6, 2002 at 9:30am in Room 216 of the Hart Senate Office Building entitled "Who's Doing Work for the Government?: Monitoring, Accountability and Competition in the Federal and Service Contract Workforce."

Service contracts account for an estimated 43 percent of all Federal spending on contracts, with spending estimated at \$87 billion in 2000. For several decades, there has been a growing reliance on contractors to deliver government services and assist in the performance of government functions. The Administration launched a major initiative last year requiring Federal agencies to compete or directly contract for performance of more government activities, with specific percentage annual goals imposed.

The purpose of this hearing is to examine how Federal departments and agencies make decisions to outsource services, the extent of public-private competition for the work, and how the costs and quality of services being performed in the private sector under contract with the Federal government are being monitored and evaluated. The hearing will focus on directives issued to Federal departments and agencies to compete or directly convert to contract performance a cumulative total of 15 percent of their commercial activities, an estimated 130,000 jobs, over the next two years, and how OMB and Federal agencies are implementing the Administration's competitive sourcing plan, including efforts to give in-house talent a fair opportunity to compete for the work. We will also look at the Scorecard Standard in the FY2003 Budget which requires that agencies compete public-private or direct conversion competition on no less than 50 percent of the full-time equivalent employees listed on the approved FAIR Act inventories in order to get a "green light."

While the Committee is very interested to hear your general views on these matters, it would assist us if you would address the following points in your testimony: How has the Department of Defense (DoD) reevaluated what it considers inherently governmental activities following the terrorist attacks on September 11<sup>th</sup> in light of new security concerns and the need to emphasize homeland security as outlined

U03957 /02

The Honorable Donald H. Rumsfeld  
February 28, 2002  
Page Two

in the Quadrennial Defense Review? How has DoD assessed whether it may have already contracted out capabilities to the private sector that are essential to the DoD mission, or conversely if divesting or competing certain functions would improve DoD focus on its mission? How do military requirements and readiness factor into DoD decisions on whether to compete a particular activity? Do you routinely do an analysis of what mix of civilian employee, military, and contractor personnel would be most efficient and cost-effective for a particular activity before deciding whether to compete it? What other ways are you considering to generate savings as an alternative to simply reducing manpower? What is the status of DoD's Federal Activities and Inventory Reform (FAIR) Act list for 2001? What challenges does DoD face in meeting the Administration's directive to compete or out-source fifteen percent of jobs considered commercial over the next two years?

The oral presentation will be limited to five minutes, though a longer written statement may be submitted for the official record. This will allow adequate time to engage in questions and answers with Members of the Committee. Committee rules require that the prepared statement be submitted to the Chief Clerk by 9:30am on Monday, March 4, 2002. Accordingly, we ask that a copy of the written statement and a brief biography be e-mailed to Darla Cassell, Chief Clerk, Committee on Governmental Affairs, United States Senate at: [darla\\_cassell@govt-aff.senate.gov](mailto:darla_cassell@govt-aff.senate.gov).

We look forward to your participation in this hearing. Should you have any questions, please contact Lee Ann Brackett with Chairman Lieberman's office at (202) 224-2627 and Ellen B. Brown with Ranking Member Thompson's office at (202) 224-4751.

Sincerely,



Joseph I. Lieberman  
Chairman



Fred Thompson  
Ranking Member

JIL/FT:dde

JOSEPH I. LIEBERMAN

CONNECTICUT

COMMITTEES

ARMED SERVICES

ENVIRONMENT AND PUBLIC WORKS

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United States Senate

WASHINGTON, DC 20510-0703

April 4, 2002

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The Honorable Donald Rumsfeld  
Secretary of Defense  
1000 Defense Pentagon  
Room 3E880  
Washington, DC 20301-1000

Dear Mr. Secretary:

I am writing to express my concern regarding a particular issue with our Foreign Military Sales Program (FMS) and its potential negative impact on the Direct Commercial Sales Program of a domestically manufactured helicopter, the SH-2G. It is my strong belief that our FMS program and efforts by U.S. private industry to sell aircraft and other items overseas should be mutually reinforcing. Indeed, the successful sale of U.S. defense and aerospace products to overseas customers is often accomplished by coordinated efforts between U.S. Government and industry officials to assemble the most attractive package of goods and services that will support mutual interests.

The SH-2G "Super Seasprite" maritime helicopter is produced by Kaman Aerospace Corporation, which is based in Connecticut and also has facilities in Arizona, Colorado, Florida, and Massachusetts. The U.S. Navy has a limited number of excess SH-2G helicopters in desert storage that are being considered for federally-supported transfer to other nations. These helicopters are built by Kaman Aerospace and are the base aircraft that Kaman Aerospace is currently marketing in over a dozen countries worldwide. Kaman Aerospace is concerned that the uncoordinated sale or grant of these excess helicopters by the federal government would result in unintended direct competition with its own marketing efforts. Having expended significant resources marketing its helicopters in the international arena, Kaman Aerospace is concerned that the uncoordinated sale or grant of these aircraft would undermine the company's efforts to sell new or remanufactured helicopters.

Over the past year, Kaman Aerospace has briefed appropriate individuals in the relevant government agencies (DOD, State, Commerce) about its concerns and has proposed an alternative, more collaborative approach to aircraft allocations that would support U.S. manufacturers' sales rather than degrade sales. Kaman Aerospace has proposed that the U.S. would place excess government SH-2G helicopters in certain countries in numbers where they would act as "seed" aircraft for a direct sale of new aircraft rather than as unintended direct competition. Kaman Aerospace believed that this proposal had been well received and that the concept of "seed" aircraft had the support of the named agencies.

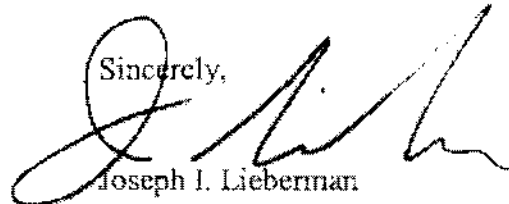
U06155 /02

Unfortunately, as requests for these excess helicopters have come to the federal government, it appears that the agencies that administer the FMS programs have continued to overlook the concept of "seed" aircraft and the goal of eliminating unintended direct competition. This outcome is damaging to the nation's aerospace manufacturing infrastructure and, consequently, to our national and homeland security interests.

American companies already face significant disadvantages in competing with foreign aerospace manufacturers that receive extensive support from their governments. I am sure you agree that our government should provide appropriate assistance to American companies when it can. At a minimum, government coordination with the manufacturer to enhance the foreign policy and economic impact of the disposition of a small number of helicopters should be possible. Particularly since, in the maritime, medium size/weight class of helicopters, Kaman Aerospace is the only U.S. manufacturer.

I am hopeful that your Department will support the "seed" aircraft approach and work more closely with Kaman Aerospace on the disposition of the remaining excess U.S. Navy SH-2G helicopters. The goal here is to complement our defense industry, provide mutual military support for friends and allies, and enhance overseas sales of U.S. equipment. Thank you very much for your assistance.

Sincerely,



Joseph I. Lieberman  
United States Senator

JIL:aae

APR 22 2002 11:31AM

SENATE

SECRETARY OF DEFENSE

NO. 165

P. 2-4

CONNECTICUT

COMMITTEES

ARMED SERVICES

ENVIRONMENT AND PUBLIC WORKS

GOVERNMENTAL AFFAIRS

SMALL BUSINESS

2002 APR 24 AM 7:37

# United States Senate

WASHINGTON, DC 20510-0703

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HOME PAGE:

http://fieberman.senate.gov

April 22, 2002

The Honorable Tom Ridge, Director  
Office of Homeland Security  
1600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20500

The Honorable Tommy G. Thompson, Secretary  
Department of Health and Human Services  
200 Independence Avenue, NW  
Washington D.C. 20201

The Honorable Donald Rumsfeld, Secretary ✓  
Department of Defense  
The Pentagon  
Washington D.C. 20301

The Honorable O'Neill, Secretary  
Department of Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

The Honorable Don Evans, Secretary  
Department of Commerce  
Constitution Ave. and 14<sup>th</sup> Street, NW  
Washington, D.C. 20230

The Honorable Mitch Daniels, Director  
Office of Management and Budget  
Old Eisenhower Executive Office Building  
Washington D.C. 20503

Dear Directors Ridge and Daniels and Secretaries Thompson, Rumsfeld, O'Neill, and Evans:

I am writing to determine the Administration's position on legislation I have introduced, S. 1764, to provide incentives for private sector biotechnology and pharmaceutical companies to develop countermeasures to biological agents, chemical toxins and nuclear attacks that might be directed at the United States. I believe this legislation will compliment the Administration's request for appropriations to deepen our preparedness and look forward to working with the Administration in a bipartisan manner.

U07226 /02

I have a series of question about the Administration's strategy regarding development of countermeasures as it pertains to this legislation.

My review finds that we have very few countermeasures for the agents and toxins that might be deployed against us. We were fortunate that Cipro had been developed and approved for anthrax, and that it proved to be effective against the strain of anthrax that was deployed as a terror weapon last October, but we need to recognize that we have no vaccines or drugs for most of the other CBN weapons. Does the Administration agree there is a wide and dangerous countermeasures gap?

The government has funded basic research regarding countermeasures and it should continue to do so. I do not believe, however, that we should rely on this approach for most of the applied research that needs to be done, which I believe should be the responsibility of the biotechnology and pharmaceutical industries. Does the Administration agree?

My legislation would provide incentives for investors to fund research at biotechnology and pharmaceutical companies for good business reasons. With these incentives we could rely on the entrepreneurship of private companies to develop the countermeasures we need. It proposes a comprehensive plan of tax, procurement, patent, and liability incentives to spur investor funding of this research -- all under the control and direction of the Administration. Does the Administration believe we need to enact incentives to enable the private sector to conduct this research and what is its position on the specific incentives I have proposed be enacted?

My legislation also provides incentives for the development of research tools powerful enough so that we could quickly develop and deploy a countermeasure to an agent or toxin we had not anticipated, including an agent generically modified to evade countermeasures. This may be the most important provision of the legislation. Does the Administration believe that we need to enact incentives for the development of these research tools is an essential element of our preparedness strategy?

I very much appreciate your review of my legislation and response to these questions. I look forward to working with the Administration on this critical homeland defense issue.

I am sending copies of this letter to a wide range of Administration officials who have expertise and responsibilities bearing on this issue. I am attempting to facilitate the Administration providing a comprehensive and detailed response to the issues raised in my legislation.

Thank you very much for your assistance. If you have any questions regarding this inquiry, please contact me or have your staff contact Chuck Ludlam of my staff at 224-4041.

Sincerely,

  
Joseph I. Lieberman



CC: Seth Carus, Office of the Vice President  
Nick Calio, Assistant to the President  
Eve Slater, Assistant Secretary for Health, HHS  
Jerry Hauer, HHS  
Mary Kay Mantho, HHS  
DA Henderson, HHS  
Stewart Simonson, HHS  
Scott Lillibridge, HHS  
Phil Russell, HHS  
Alan Gilbert, HHS  
Robert Kadlec, OHS  
Frank Cilluffo, OHS  
Wendy Grubbs, OHS  
Sally Canfield, OHS  
Elias Zerhouni, NIH  
Ruth Kirchstein, NIH  
Anthony Fauci, NIH  
Richard Carmona, Surgeon General Nominee  
James Rogan, PTO  
Mark Weinberger, Treasury  
Mark McClelland, Council of Economic Advisors  
Ann Phelps, White House  
John Marburger, OSTP  
Rachel Levinson, OSTP  
Stan Sokul, OSTP  
Floyd Kvamme, PCAST  
Joshua Lederberg, NAS  
Barry Bloom, NAS  
Richard Klausner, NAS  
Lewis Banskomb, NAS  
Anna Johnson-Winegar, DOD  
William Winkeuwerder, DOD  
Jane Alexander, DARPA  
John Jennings, DARPA  
John Carney, DARPA  
Steve Younger, DITRA  
Dr. Eileen Preisser

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RICHARD A. HERTLING, MINORITY STAFF DIRECTOR

# United States Senate

COMMITTEE ON  
GOVERNMENTAL AFFAIRS  
WASHINGTON, DC 20510-8250

OFFICE OF THE  
SECRETARY OF DEFENSE

2002 MAY 23 AM 9:05

May 8, 2002

Secretary of Defense



SA0009703

The Honorable Donald Rumsfeld  
Secretary of Defense  
Department of Defense  
Washington, DC 20301

Dear Mr. Secretary

I hereby authorize the Honorable George V. Voinovich and a staff member, Jom Crosley, to travel on official business to Bulgaria, Macedonia, Kosovo, the Slovak Republic, Slovenia and Belgium during the period of May 28 through June 1, 2002. This travel will follow Senator Voinovich's participation in the NATO Parliamentary Assembly meeting in Sofia, Bulgaria during the period of May 24-28, 2002. Senator Voinovich will be reviewing national security and humanitarian issues facing the region. Mrs. Voinovich will accompany the Senator for reasons of protocol at no expense to the U.S. Government.

It would be appreciated if the Department of Defense could furnish such assistance as may be required, including military transport in theater, to facilitate this trip. It would also be appreciated if the Department of the Marine Corps be assigned to escort Senator Voinovich. The expenditure of funds for payment of actual and necessary expenses and such transportation as may be required is authorized by Title 31, U.S.C., 1108(g).

Thank you for your assistance in this matter.

Sincerely,

Joseph I. Lieberman  
Chairman

JL:lib

U08883 / 02

JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN

CARL LEVIN, MICHIGAN  
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JOYCE A. REICHTENBACH, STAFF DIRECTOR AND COUNSEL  
RICHARD A. HERTLING, MINORITY STAFF DIRECTOR

# United States Senate

COMMITTEE ON  
GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6280

SECRET

2002 MAY 30 AM 9:47

May 29, 2002

The Honorable Donald Rumsfeld  
Secretary  
Department of Defense  
The Pentagon  
Washington, DC 20301

Dear Secretary Rumsfeld:

I am writing to ask that you act promptly to extend the public comment period for the draft data quality guidelines recently proposed by the Department of Defense. Organizations representing environmental, health, safety, labor, and civil rights concerns have contacted me to say that they need additional time to review the draft guidelines published by the Department and other agencies and to provide comments. The issues raised by these guidelines are extremely complex and have important implications for federal programs that protect the public. It is essential that agencies have the benefit of a full range of public comments, and the 30-day comment period provided by the Department of Defense and several other agencies, all expiring at the end of May, is inadequate for this purpose.

Federal data quality legislation, enacted as part of the FY2001 Consolidated Appropriations Act, requires the Director of OMB to issue guidance to Federal agencies on the quality of information disseminated by the agencies and requires each agency subsequently to issue guidelines on the quality of information disseminated by that agency. The guidelines issued by OMB and proposed by the agencies are far-reaching, dealing with standards for agency risk analysis, peer review, and other matters, which have been debated in related contexts over the course of many years in Congress.

While guidelines developed by various agencies differ among themselves, many of the agencies' comment periods are overlapping or simultaneous - for example, the Environmental Protection Agency and the Departments of Defense, Health and Human Services, Labor, and Transportation have all set 30-day comment periods that run through the end of May. A number of other agencies set comment periods extending to early June. It is unrealistic to expect the public to comment under this schedule.

Agencies frequently afford 90-day periods for the public to comment on complex matters. I therefore ask that you provide at least a 90-day period for the public to comment on the draft guidelines.

The Honorable Donald Rumsfeld  
May 29, 2002  
Page 2

Please let me know promptly how you intend to respond to this request. Thank you very much for your consideration.

Sincerely,

  
Joseph I. Lieberman

III:lbm

United States Senate  
WASHINGTON, DC 20510

OFFICE OF THE  
SECRETARY OF DEFENSE

2003 MAR 17 PM 2:34

March 12, 2003

The Honorable Donald H. Rumsfeld  
Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20301-1000

Dear Secretary Rumsfeld:

On August 1, 2002, we wrote to you to express our continuing concern over the inability of the defense laboratories to competitively attract and retain highly skilled scientists and engineers needed to assure America's defense technological leadership meet the challenging threats that confront us. In other words, we remain very concerned that DoD laboratories are suffering from a deteriorating "brain drain" that will seriously damage our defense technological superiority over time. In this letter, we asked a number of specific questions regarding the Department's continuing inability to implement the flexible hiring and personnel authorities provided over the last several years. Regrettably, the letter we received two months later from Under Secretary Aldridge did not respond with the information that we had requested. A copy of the August 1 letter is attached, as well as the response letter from Under Secretary Aldridge.

For example, we asked for a list of the requests submitted under Section 246 of the National Defense Authorization Act for FY 1999 and Section 245 of the National Defense Authorization Act for FY 2000 for personnel demonstration projects to encourage employment and retention of top scientific talent, as well as the date of each request, its status, and final disposition or projected decision date. It is our understanding from the GAO's preliminary inquiry on this matter that roughly 100 requests were made to the Department for various personnel-related proposals under Sections 246 and 245. It is our further understanding that, of these requests, only one was fully approved, three were implemented unsatisfactorily, and four are still in process or only partially accomplished. We also understand that at least 3 requests have been made to the Department for personnel demonstration projects under Section 342 of the National Defense Authorization Act for FY 1995, and that to date none of these requests have been approved by the Department. We had also specifically asked for a list that detailed the requests for hiring authorities submitted by the Defense laboratories and test and evaluation centers that could be effected pursuant to Section 1114 of the National Defense Authorization Act for FY 2001, along with the date of each request, its status, final disposition or projected decision date by OSD, and OSD rationale for any disposition. It is our understanding that at least 13 requests were made to the Department from its R&D agencies for various flexible hiring authorities to enable DoD to compete in the hiring of top scientific and technical talent under Section 1114, and that to date none of these requests have been implemented by the

U03572 / 03

Department. Accordingly, we request that you verify this information and provide us with a detailed list of requests for special hiring flexibility, new demonstration projects, and proposed changes to existing demonstration projects, the date of each request, the reasons for their approval or disapproval, and a schedule for their implementation. We had also requested a schedule of when laboratory directors will be provided with direct hire authority. Please provide us with this schedule.

We also reiterate our request that all pending Science and Technology personnel demonstration project requests, which apparently have faced lengthy and ongoing delays, be released for Federal Register publication immediately. Because of their role in supporting the laboratory missions, we have been tracking the progress of the Department in using the direct hiring authorities over the years. We understand that the requests for direct hiring authorities have been carefully developed by laboratory managers and human resource experts to effectively use the statutory programs which were enacted to address the critical workforce shortages of scientists and engineers in the Department laboratories. We continue to be disappointed that the Department is unwilling to use the broad authorities Congress has provided to reverse this decline of key personnel, as it appears that the requests for direct hiring authorities mentioned above can be accomplished on behalf of the Science and Technology demonstrations under existing authorities. We note that a study conducted by the Deputy Director, Defense Research and Engineering ("DoD Laboratory S&E Workforce Framework of HR Features for the Alternative Personnel System", dated September 30, 2002) details how Section 1114 authority can be appropriately applied to laboratory needs. We were also disturbed to see a memorandum from the Principle Deputy Under Secretary for Acquisition, Technology and Logistics (from Michael W. Wynn, dated October 29, 2002), stating that many of the Department laboratories are unable to discharge their missions.

While we understand that DoD has for a number of years been developing a proposed DoD-wide alternate personnel system, of course, there will be considerable additional time before that proposal, when completed, can be reviewed and considered by Congress. Meanwhile, we feel that action must be taken now to halt the talent drain and enhance the scientific competitiveness of our defense laboratories, where the legal authorities have long been established and extensive innovative applications have long been pending.

We request your prompt attention to this critical security matter, and would appreciate your timely and full response.

Sincerely,

My Aunt

My Girl

Red Kandy

# United States Senate

WASHINGTON, DC 20510

2002 AUG -5 PM 3:36

August 1, 2002

The Honorable Donald H. Rumsfeld  
Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20301-1000

Dear Secretary Rumsfeld:

We are writing to highlight our concerns with the Department of Defense's efforts to recruit and retain top-flight scientific and engineering talent for its laboratories. Not only is such talent necessary to expand our long-term military capabilities and advantages, but the unpredictable nature of the emerging threats of the future elevates the importance of human intellectual capital as the driver for innovative research and technologies central to our defense.

Despite this critical need, the defense laboratories have witnessed a steady erosion of talent due to an aging workforce, competition from the private sector, and byzantine and lengthy hiring processes that frustrate efforts to infuse new talent. The problem has been, and will continue to be, compounded by a nationwide decline in the number of students graduating with degrees in mathematics, engineering, and the physical sciences. Taken together, these factors are draining our laboratories of the expertise they will require in the future to successfully execute their core missions.

In order to avert a potential crisis situation, the Senate Armed Services Committee has invested significant time and resources over the last several years in an attempt to provide the Department with the authority and flexibility to hire and retain world-class scientists and engineers for its laboratories. Some of the results of these efforts are codified in Section 342 of the National Defense Authorization Act for FY 1995, Section 1114 of the National Defense Authorization Act for FY 2001, Section 246 of the National Defense Authorization Act for FY 1999, and Section 245 of the National Defense Authorization for FY 2000.

We have become increasingly dissatisfied, however, with the systematic underutilization of these provisions by the Department, as well as the apparent absence of intention or commitment on its part to take full advantage of the authorities conferred therein. For example, despite assurances to the contrary given by Secretary Aldridge, the Undersecretary of Defense for Acquisition, Technology and Logistics, before the Senate Armed Services Committee's Emerging Threats and Capabilities Subcommittee hearing on June 5, 2001, direct hire authority for scientific and engineering personnel has yet to be provided to the laboratories. Moreover, the Department has repeatedly failed to act in a timely manner to process proposals submitted under Section 342 to initiate new Science & Technology demonstration projects or revise previously-approved demonstration

U12574 / 02



projects. In fact, the Department sent notice to all of the services in March 2002 that it would discontinue processing of all demonstration-related activities.

The Department's commitment to utilizing these authorities is also brought into question by recent attempts to propound legislation seeking to establish a DoD-wide alternative personnel system. We do not oppose such a system in principle, and encourage the Department to aggressively experiment with novel personnel systems and practices for all personnel in the Department. However, the proposed legislation, as written, contradicts the Congressional intent underlying Sections 342 and 1114 by transferring control and approval authority over demonstration projects away from the Secretary of Defense, in effect halting ongoing efforts to reform the laboratories and improve their performance. Enactment of this legislation in its current formulation would negate the flexibility that this Committee has undertaken in the past to obtain for the Department's laboratories.

In view of our concerns, we request the following information:

- 1) A list of the requests submitted by defense laboratories and test and evaluation centers for special hiring authorities that could be effected pursuant to Section 1114. The date of each request should be indicated, as well as its status, final disposition or projected decision date, and rationale for any disposition. If a request was disapproved, please identify the disapproving organization and the rationale for disapproval.
- 2) A list of the requests submitted under Section 342, Section 245, and Section 246 for personnel demonstration projects, the date of each request, its status, and final disposition or projected decision date.
- 3) A schedule of when laboratories will be provided with direct hire authority.

We request your prompt attention to this matter, and would appreciate your timely response.

Sincerely,

\_\_\_\_\_  
  
\_\_\_\_\_

\_\_\_\_\_  
  
\_\_\_\_\_

Pat Kennedy

Bill Nelson

John McCain

TOD STONE, ALASKA  
DEBBY VOICHOVA, IOWA  
RON COLEMAN, MINNESOTA  
ARLEN SPECTER, PENNSYLVANIA  
ROBERT BYRD, WEST VIRGINIA  
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MARK PENCOR, ARIZONA

MICHAEL D. BORK, STAFF DIRECTOR AND CHIEF COUNSEL  
JOYCE A. REED, TECHNICAL MINDSET STAFF DIRECTOR AND COUNSEL

# United States Senate

COMMITTEE ON  
GOVERNMENTAL AFFAIRS  
WASHINGTON, DC 20510-6250

2003 APR - 8 PM 2:57

April 7, 2003

Via Facsimile (703) 693-5530  
and First-Class Mail

The Honorable Powell Moore  
Assistant Secretary of Defense for Legislative Affairs  
United States Department of Defense  
1300 Defense Pentagon  
Washington, DC 20301-1300

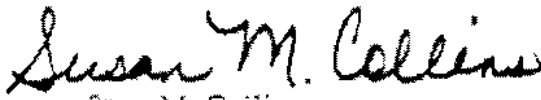
Dear Mr. Moore:

We would like to invite an Administration witness to testify at a hearing before the Committee on Governmental Affairs entitled "Prosecuting Iraqi War Crimes: A Consideration of the Different Forum Options." The hearing will take place on Thursday, April 10, 2003 at 12:00 noon in Room SD-342 of the Dirksen Senate Office Building. We ask that the testimony address the issue of war crimes and the law of armed conflict, and specifically, the Administration's position with respect to reports of Iraqi war crimes.

The Committee requests that the witness summarize his/her testimony in five minutes, though a longer written statement may be submitted for the official record. This will allow adequate time to engage in questions and answers with Members of the Committee. Committee rules require that the testimony be submitted by 12:00 noon on Tuesday, April 8, 2003. You should deliver the written statement and a brief biography via electronic mail to Darla Cassell, Chief Clerk, Committee on Governmental Affairs, United States Senate, 340 Dirksen Senate Office Building, Washington, DC 20510, at: [darla\\_cassell@govt-aff.senate.gov](mailto:darla_cassell@govt-aff.senate.gov).

We look forward to the Administration's participation in this hearing. Should you have any questions, please contact David Kass with the Republican Committee staff at (202) 224-4751, Tom Swanton with Senator Specter's office at (202) 224-4254 and Cynthia Lesser with the Democratic Committee staff at (202) 224-2627.

Sincerely,



Susan M. Collins  
Chairman



Joseph I. Lieberman  
Ranking Member

SMC JIL:ddc

U05205 / 03

JOSEPH I. LIEBERMAN  
CONNECTICUT

COMMITTEES:  
ARMED SERVICES  
ENVIRONMENT AND PUBLIC WORKS  
GOVERNMENTAL AFFAIRS  
SMALL BUSINESS

2003 JUN -3 PM 3:52

United States Senate  
WASHINGTON, DC 20510-0703

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http://lieberman.senate.gov

June 2, 2003

The Honorable Donald H. Rumsfeld  
Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20301-1000

Dear Secretary Rumsfeld:

I am writing to you to express my concern about the loss to the U.S. economy of the high-end semiconductor chip manufacturing sector and the resulting serious national security implications. I would like to direct your attention to the White Paper that accompanies this letter, which outlines the fact that this migration of high-end chip manufacturing to East Asian countries, particularly China, is a result of concerted foreign government action, through a large array of direct and indirect subsidies to their domestic semiconductor industries, exacerbated by changing market conditions. This offshore shift in semiconductor manufacturing is occurring at a time when these components are becoming a crucial defense technology advantage to the United States, due to the present and future needs of advanced processors in the defense and intelligence communities. This White Paper lists a number of possible actions the defense and intelligence communities should consider to prevent this serious loss of U.S. semiconductor manufacturing and design capability.

I request that the Department of Defense submit to me a report and plan of action to respond to this impending national security threat. This report should provide an analysis of the semiconductor manufacturing issues that relate to defense and national security, as well as an analysis of the potential solutions that are discussed in the White Paper. The report should also detail the steps that will be taken to counteract this loss of critical components for U.S. defense needs, as well as a timetable for the implementation of such steps. I request your immediate attention to this matter and your timely response within 6 months.

Sincerely,

  
Joseph I. Lieberman  
UNITED STATES SENATOR

cc: Lt. Gen. Michael V. Hayden  
Peter B. Teets

U08523 / 03

SUSAN M. COLLINS, MAINE, CHAIRMAN

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MICHAEL D. BOFF, STAFF DIRECTOR AND CHIEF OF STAFF  
LOYD A. REUTSCHAPPEL, SENIOR STAFF DIRECTOR AND COUNSEL

# United States Senate

COMMITTEE ON  
GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

May 27, 2003

Via Facsimile (703/697-8299)  
and First-Class Mail

The Honorable Paul Wolfowitz  
Deputy Secretary of Defense  
United States Department of Defense  
1010 Defense Pentagon  
Washington, DC 20301

Deputy Secretary of Defense



SB0002234

Dear Mr. Wolfowitz:

We would like to invite you to testify at a hearing before the Committee on Governmental Affairs entitled "Transforming the Department of Defense Personnel System: Finding the Right Approach." The hearing will take place on Wednesday, June 4, 2003 at 9:30 a.m. in Room SD-342 of the Dirksen Senate Office Building.

Specifically, the Committee asks that you address the Administration's proposal to grant the Secretary of Defense authority to transform significantly its civilian personnel system. We ask that you explain why the Administration's proposal is needed, and why you believe it is preferable to alternative approaches.

The Committee requests that you summarize your testimony in ten minutes, though a longer written statement may be submitted for the official record. This will allow adequate time for you to engage in questions and answers with Members of the Committee. Committee rules require that your testimony be submitted by 9:30 a.m. on Monday, June 2, 2003. You should deliver your written statement and a brief biography via electronic mail to Jennifer Gagnon, Committee on Governmental Affairs, United States Senate, 340 Dirksen Senate Office Building, Washington, DC 20510, at: [jennifer\\_gagnon@govt-aff.senate.gov](mailto:jennifer_gagnon@govt-aff.senate.gov).

We look forward to your participation in this hearing. Should you have any questions, please contact Ann Fisher with the Republican staff at (202) 224-4751 and Larry Novcey with the Democratic staff at (202) 224-2627.

Sincerely,

Susan M. Collins  
Chairman

Joseph I. Lieberman  
Ranking Member

SMC/JIL:ddc

U09130 / 03

TED STUYVES, ALASKA  
GEORGE V. VOINOVICH, OHIO  
NORM COLEMAN, MINNESOTA  
ARLEN SPECTER, PENNSYLVANIA  
ROBERT F. BENNETT, UTAH  
PETER G. FITZGERALD, ILLINOIS  
JOHN E. SUNUNU, NEW HAMPSHIRE  
RICHARD C. SHELBY, ALABAMA

JOSEPH I. LIEBERMAN, CONNECTICUT  
DANIEL L. EVIN, MICHIGAN  
DANIEL K. AKAKA, HAWAII  
RICHARD J. DURBIN, ILLINOIS  
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MARK DAYTON, MINNESOTA  
FRANK LAUTENBERG, NEW JERSEY  
MARK PRYOR, ARKANSAS

# United States Senate

COMMITTEE ON GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

MICHAEL D. BOFF, STAFF DIRECTOR AND CHIEF COUNSEL  
JOYCE A. RECHTSCHAFFEN, MINORITY STAFF DIRECTOR AND COUNSEL

December 18, 2003

The Honorable Donald H. Rumsfeld  
Department of Defense  
The Pentagon  
Washington, D.C. 20301

Dear Secretary Rumsfeld:

Yesterday, the Deputy Director of the Defense Contract Audit Agency (DCAA), Michael Thibault, informed staff of the Governmental Affairs Committee of highly disturbing new information about the extent and nature of Halliburton's overcharges for fuel imported into Iraq from Kuwait. As you may know, I have previously called for your department's inspector general to conduct an investigation of the prices that Halliburton has charged for these fuel imports, and I have asked you to evaluate whether the Halliburton Corporation should be considered for suspension or debarment proceedings as a result of the recent allegations regarding overcharges for the fuel. The new information that was made available to the Committee staff yesterday only furthers my concerns regarding the issue. This information demands your immediate attention and requires a through investigation by your department.

Mr. Thibault revealed that auditors working for the Halliburton subsidiary Kellogg Brown & Root (KBR) had prepared a draft audit warning the company of serious problems with its fuel importation contracts with the U.S. government. The Halliburton auditors warned that the prices the company was charging to import fuel from Kuwait into Iraq were excessive, and that the company's prices and contracting procedures were in violation of Federal Acquisition Regulations. An auditor with the DCAA discovered this internal Halliburton document in the course of a routine audit, took extensive notes on its contents, and then presented the document to KBR officials. Since then, Halliburton has refused requests by DCAA officials to provide a copy of the document. This extraordinary internal audit suggests that Halliburton had been previously warned by its own auditors that it was overcharging for the fuel, but apparently ignored these important warnings and continued to charge the federal government inflated prices.

Mr. Thibault also indicated that the publicly reported preliminary estimate of Halliburton's overcharges for fuel delivery is too low. DCAA auditors have compared the prices that Halliburton charged for fuel transported from Kuwait (\$2.27 per gallon) with the prices that the company charged for importing fuel from Turkey (\$1.18 per gallon) and calculated that the federal government had been overcharged a total of \$61 million, since the company could have saved that amount by importing all of its needs from Turkey. However, according to Mr. Thibault, the calculated overcharge of \$61 million only considered fuel that was delivered as of September 30, 2003. Since Halliburton has continued to import fuel from Kuwait, the estimated

U21174 / 03

The Honorable Donald H. Rumsfeld  
December 18, 2003  
Page Two

overcharge will undoubtedly increase when the post September 30<sup>th</sup> fuel deliveries are taken into account. Furthermore, as Mr. Thibault conceded, the price Halliburton negotiated for imported fuel from Turkey may not be the best point of comparison when determining the reasonableness of Kuwaiti fuel prices. Fuel should cost considerably less when imported from Kuwait, because transportation costs are much lower. The true cost of Halliburton's overcharges are therefore likely to be much higher than the calculations made in DCAA's preliminary audit, a future audit may conclude.

There is one final point raised by Mr. Thibault that should be brought to your attention. Halliburton claimed to U.S. contracting officials that the company used a competitive bidding process, soliciting multiple bids, to award the subcontract for importing fuel from Kuwait. However, a competitive procedure would not be possible, since only one company – Altanmia Commercial Marketing Co., which was awarded the subcontract – is licensed by the Kuwaiti government to export fuel from the country.

This raises serious questions about why Halliburton consented to be overcharged by its Kuwaiti subcontractor, and why it misrepresented the nature of the contract. It is worth noting, first of all, that Halliburton does benefit from its subcontractor's overcharges, as its payment from the U.S. government is a percentage of the total contract cost – the profit motive itself may well be one explanation for Halliburton's actions. Recent news reports have also suggested that the Army Corps of Engineers and the U.S. embassy in Kuwait may have directed Halliburton to purchase oil from Kuwait. If true, such behavior could have been grossly inappropriate, and these allegations deserve an immediate inquiry. As Mr. Thibault confirmed, even if a U.S. government official did issue such instructions to Halliburton, that would be no excuse for Halliburton to have incurred such excessive overcharges.

In all, the information that Mr. Thibault provided to the Committee staff is extremely troubling. Not only does this information suggest that Halliburton likely was aware of its overcharges and that it was violating federal procurement regulations, it also suggests that the extent to which the company overcharged the federal government is far greater than has been previously acknowledged. In addition, this information raises new questions regarding why Halliburton officials decided to import exorbitantly priced Kuwaiti fuel, and why it inaccurately characterized the contract to U.S. officials as having been competitively bid.

The ongoing DCAA audit has provided a helpful starting point for such an investigation, but the DCAA's audit only seeks to determine the amount of the overcharge, and is not responsible for investigating possible misdeeds by Halliburton or government officials. The American people deserve to know the truth behind these overcharges by the Halliburton Corporation, and I, therefore, ask that you begin an immediate investigation into this new information.

The Honorable Donald H. Rumsfeld  
December 18, 2003  
Page Three

Thank you for your prompt attention to this request.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Lieberman". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Joseph I. Lieberman  
Ranking Member

cc Department of Defense Inspector General Joseph E. Schmitz



TED STEVENS, ALASKA  
GORDON V. NOYOLA, CHIEF OF STAFF  
NORM COLEMAN, MINNESOTA  
ARLEN SPECTER, PENNSYLVANIA  
ROBERT J. BENNETT, UTAH  
PITTA G. FITZGERALD, ILLINOIS  
JOHN L. ROUSSEAU, NEW HAMPSHIRE  
RICHARD C. SHULTZ, ALABAMA

JOSEPH I. LIEBERMAN, CONNECTICUT  
DARRELL EMMA, MICHIGAN  
DANIEL K. AKAKA, HAWAII  
RICHARD J. DURBIN, ILLINOIS  
THOMAS R. CARPER, DELAWARE  
MARK DAYTON, MARYLAND  
FRANK LAUTENBERG, NEW JERSEY  
MARK PRYOR, ARKANSAS

MICHAEL D. BORD, STAFF DIRECTOR AND CHIEF OF STAFF  
MICHAEL REICHSBERGER, CHIEF OF STAFF, DIRECTOR AND COUNSEL

# United States Senate

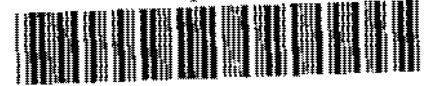
COMMITTEE ON  
GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

December 14, 2003

The Honorable Donald H. Rumsfeld  
Department of Defense  
The Pentagon  
Washington, D.C. 20301

Secretary of Defense



SA0032592

Dear Secretary Rumsfeld:

Recent news articles indicate that an internal Department of Defense audit has uncovered evidence that a subsidiary of the Halliburton Corporation – Kellogg Brown & Root – overcharged the federal government for work it completed in postwar Iraq as part of a no-bid contract awarded to the company in March. These new allegations, when coupled with past concerns about Halliburton, raise serious questions about whether the company is fit to serve as a government contractor.

According to news reports, a draft audit by the Defense Contract Audit Agency has concluded that Halliburton overcharged the federal government \$61 million for importing fuel into Iraq. It was also alleged that the company submitted a proposal, later rejected by the Pentagon, to provide cafeteria services in Iraq that appeared to overcharge the government by \$67 million. Allegations of price gouging by Halliburton began to surface in recent weeks after it was disclosed that the company was charging – on average – \$2.64 per gallon to import gasoline into Iraq from Kuwait – more than double what the Iraqi state oil company and others have paid to import gasoline.

If proven to be true, Halliburton's overcharges are extremely troublesome, especially when considered with the company's past history. In 2002, Halliburton agreed to pay \$2 million in fines to settle fraud charges alleging that it inflated prices when performing repair and maintenance work for the U.S. military at Fort Ord, California. The General Accounting Office also found evidence in 1997 and 2000 that Halliburton engaged in questionable billing practices for work that it performed for the U.S. Army in the Balkans. In addition, the Securities and Exchange Commission is conducting a formal investigation into Halliburton's accounting practices.

Federal Acquisition Regulations outline a series of general standards that prospective federal contractors must adhere to. Among these standards is a requirement that contractors "[h]ave a satisfactory record of integrity and business ethics." (FAR 9.104-1(d)) Based on current and past allegations against Halliburton, there needs to be a careful review of whether the company has complied with this important requirement. I therefore ask that you evaluate

The Honorable Donald H. Rumsfeld  
December 14, 2003  
Page Two

whether Halliburton should be considered for suspension or debarment proceedings, which could prevent the company from bidding on any federal contracts for a number of years.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Lieberman". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Joseph I. Lieberman  
Ranking Member

# United States Senate

WASHINGTON, DC 20510

January 6, 2004

The Honorable Donald Rumsfeld  
Secretary of Defense  
The Pentagon  
Washington, DC 20301

Dear Mr. Rumsfeld:

The Senate Governmental Affairs Committee worked closely with the Department of Defense (DoD) to establish the National Security Personnel System (NSPS), which became law as part of this year's National Defense Authorization Act on November 24, 2003. During the Committee's deliberations on S. 1166, the Senate version of NSPS, Senator Voinovich offered an amendment which was adopted by unanimous consent to exclude DoD research laboratories from inclusion in NSPS. The laboratories were previously granted special personnel demonstration project authority pursuant to section 342 of the National Defense Authorization Act of Fiscal Year 1995 and section 1101 of the Strom Thurmond National Defense Authorization Act of Fiscal Year 1999. The purpose of these flexibilities was to establish innovative human resources systems to facilitate scientific and technical excellence.

The Defense Authorization conference committee decided to retain but modify the Voinovich amendment to continue the personnel flexibilities currently enjoyed by the labs while the authorities established in NSPS are implemented. Section 1101 of the National Defense Authorization Act for Fiscal Year 2004, chapter 99, section 9902(c) is a compromise that allows for the inclusion of the labs in NSPS after October 1, 2008, but only if the Secretary determines that the flexibilities provided by NSPS are greater than those already provided to the labs.

It has come to our attention, however, that DoD is seeking to standardize the personnel flexibilities currently enjoyed by the labs under a best practices initiative that is intended to reflect the not yet established NSPS. We understand this to be an administrative step before full integration of the labs into NSPS.

Following this course of action would be a mistake. It would contravene Congressional intent, which is that the labs should continue to enjoy their personnel flexibilities until October 1, 2008, outside of either NSPS or a best practices initiative. The Senate-House conference established the October 1, 2008, decision date because it will take many years for DoD to establish and implement NSPS. The new system will face countless challenges and undergo many modifications. It would be hasty to standardize the labs

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when the final architecture of NSPS is far from complete. By comparison, the Department of Homeland Security, which was established over a year ago and which has one-third the number of civilian employees, has not yet issued the regulations for its new personnel system.


Waiting until 2008 provides the opportunity to determine if NSPS or the existing personnel demonstration authority is more advantageous for the labs. As such, we would expect that you will continue to use the existing laboratory personnel authority to create a truly preeminent national security laboratory system so that the Secretary could make a real choice in 2008.

Please advise us at as soon as possible of the intentions of the Department of Defense regarding efforts to include the labs in NSPS. Thank you.


Sincerely,

  
George V. Voinovich  
United States Senator

  
Joseph I. Lieberman  
United States Senator

  
Susan Collins  
United States Senator

  
Mike DeWine  
United States Senator

  
Jeff Sessions  
United States Senator



2-12

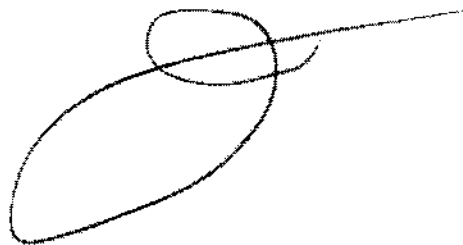
SENATOR JOSEPH I. LIEBERMAN

Dear Don -

THANKS FOR YOUR  
 KIND NOTE. IT MEANT A  
 LOT TO ME,  
 HAVE YOUR FOLKS CALL,  
 IT WOULD BE A PLEASURE  
 (over)

TO GET RECLAIM.

BASTI

A large, stylized handwritten signature or scribble consisting of several overlapping loops and a long horizontal stroke extending to the right.

43002

**Congress of the United States**  
**Washington, DC 20515**

February 25, 2004

20040225 10 11 00

The Honorable Donald H. Rumsfeld  
Secretary of Defense  
U.S. Department of Defense  
The Pentagon  
Washington, DC 20301

Dear Mr. Secretary:

We are writing to express our serious concerns about a proposal for a new Department of Defense (DoD) labor relations system that was distributed to congressional staff on February 6, 2004.

The National Defense Authorization Act (NDAA), which was passed by Congress last November, provided that DoD could not waive Chapter 71 of Title 5 of the U.S. Code.<sup>1</sup> Chapter 71 sets forth the right of employees to join unions, the right of unions to bargain collectively, the duty of unions and management to bargain in good faith, the determination of appropriate bargaining units, and protections against unfair labor practices. However, the NDAA also allowed DoD to set up a new labor system for the next six years "to address the unique role that the Department's civilian workforce plays in supporting the Department's national security mission."<sup>2</sup> Through these two provisions of the NDAA, Congress intended that DoD protect the basic employee rights contained in Chapter 71, yet allowed DoD to modify the procedures for resolving labor-management disputes for the next six years. However, any such modifications would have to be consistent with Chapter 71 in furtherance of the Department's "national security mission."

Notwithstanding Congress' desire to balance employee rights and DoD's need for flexibility, we believe the recent DoD proposal abrogates the essential principles of Chapter 71 and goes well beyond what Congress intended in the NDAA. The DoD proposal effectively eliminates collective bargaining by providing only perfunctory "consultation" followed by unilateral implementation. This is not good-faith collective bargaining. It is noteworthy that the DoD proposal states that the new labor relations system "will not employ any provisions of 5 USC Chapter 71."

The details of the DoD proposal contain wholesale changes to the current federal employee labor relations system, including changes to internal union procedures, which have no relation to the Department's national security mission. These changes appear to be aimed solely at making it more difficult for employees to join unions. Such changes undermine the Civil Service Reform Act of 1978, which plainly stated that the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in

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<sup>1</sup> National Defense Authorization Act for Fiscal Year 2004 (P.L. 108-136), § 9902(d)(2).

<sup>2</sup> *Id.* at § 9902(m) (emphasis added).

decisions which affect them safeguards the public interest and contributes to the effective conduct of public business.

Among the most significant changes sought by DoD are:

- DoD can unilaterally decide what personnel changes are “significant” enough to be subject to collective bargaining;
- DoD is required to engage only in “consultation” with unions over proposed personnel changes. If DoD and its unions cannot reach agreement, the Department can unilaterally implement the personnel changes and cut off all post-implementation negotiations;
- DoD can unilaterally issue regulations to supersede existing collective bargaining agreements negotiated by the Department and its unions;
- Large numbers of DoD employees — including some clerical employees, some professional employees, attorneys, and term-appointment employees — will be prohibited from joining unions;
- DoD can establish unrealistic requirements for the creation of a new bargaining unit;
- DoD is absolved of all liability should it mishandle union dues withheld from employee paychecks; and
- DoD can interfere in internal union procedures by requiring unions to provide a new fee-for-service arrangement for employees who do not wish to join unions but would like union representation on specific matters.

We believe the DoD proposal is also contrary to Congress’ intent in other respects. The NDAA stated that the establishment of the new DoD personnel system must be “prescribed jointly with the Director” of the Office of Personnel Management (OPM). Based on our conversations with OPM officials, we understand that OPM has played only a minor role in the formulation of this proposal.

In addition, the NDAA states that any labor relations system developed by DoD must provide for “independent third party review of decisions.”<sup>3</sup> Under the DoD proposal, this review would be provided by a newly created Defense Labor Relations Board (DLRB) that would be located within the Department and whose members would be selected solely by the Secretary. We do not see how such a system could possibly be “independent.”

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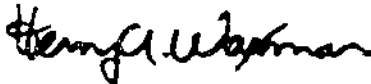
<sup>3</sup> Id. at § 9902(m)(6).



The Honorable Donald H. Rumsfeld  
February 25, 2004  
Page 3

We understand that the proposal provided to congressional staff is only an initial proposal and may be modified after consultations with employee groups. However, we strongly urge the Department to withdraw this proposal immediately and submit a new proposal that is consistent with the intent of Congress.

Sincerely,



Henry A. Waxman  
Ranking Minority Member  
Committee on Government Reform  
U.S. House of Representatives



Joseph I. Lieberman  
Ranking Minority Member  
Committee on Governmental Affairs  
U.S. Senate



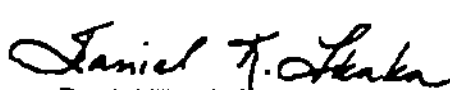
Ike Skelton  
Ranking Minority Member  
Committee on Armed Services  
U.S. House of Representatives



Carl Levin  
Ranking Minority Member  
Committee on Armed Services  
U.S. Senate



Richard J. Durbin  
Ranking Minority Member  
Subcommittee on Oversight  
of Government Management,  
the Federal Workforce, and  
the District of Columbia  
Committee on Governmental  
Affairs  
U.S. Senate



Daniel K. Akaka  
Ranking Minority Member  
Subcommittee on Financial  
Management, the Budget,  
and International Security  
Committee on Governmental  
Affairs  
U.S. Senate



Danny K. Davis  
Ranking Minority Member  
Subcommittee on Civil Service  
and Agency Organization  
Committee on Government  
Reform  
U.S. House of Representatives

JOSEPH I. LIEBERMAN

CONNECTICUT

COMMITTEE

ARMED SERVICES

ENVIRONMENT AND PUBLIC WORKS

GOVERNMENTAL AFFAIRS

SMALL BUSINESS

SECRET

2004 MAR 23 AM 11:25

# United States Senate

WASHINGTON, DC 20510-0703

SENATE OFFICE BUILDING  
WASHINGTON, DC 20510  
202-224-3311

FACSIMILE

ONE CONGRESSional Plaza

7th Floor

WASHINGTON, CT 06103

860-543-8460

Toll Free 1-800-225-6605

SENATOR LIEBERMAN

senator@lieberman.senate.gov

lieberman

http://lieberman.senate.gov

March 5, 2004

The Honorable Donald H. Rumsfeld, Secretary  
U.S. Department of Defense  
The Defense Advanced Research Projects Agency  
1000 Defense Pentagon  
Washington, DC 20301-1000

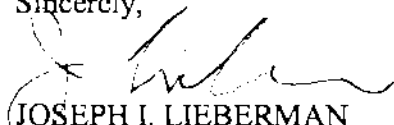
Dear Secretary Rumsfeld:

I am writing in support of the application submitted by Advanced Optics & Systems (AOS) for funding through the U.S. Department of Defense (DOD)'s Defense Advanced Research Projects Agency (DARPA).

It is my understanding that AOS will utilize funds acquired from DARPA to help retain jobs in Connecticut and to participate in the state's economic recovery. AOS, founded by three Connecticut residents, is committed to the development and expansion of technology which will help to secure our country's safety.

The State of Connecticut is burdened with a period of high unemployment and the advancement of companies such as AOS will help to alleviate that burden. Therefore, I respectfully request that you give AOS's application for funding full and fair consideration. Thank you for your time and attention to this matter.

Sincerely,



JOSEPH I. LIEBERMAN  
United States Senator

0 SD 04225-04

JIL/kmm

Secretary of Defense



SA0034575

JOSEPH I. LIEBERMAN  
CONNECTICUT



UNITED STATES SENATOR  
WASHINGTON, D. C. 20510

SECRET

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3-23

Date Don -

I HAVE FOR YOU  
NOTE ABOUT MY  
SWAN SPEECH ON  
"RESNANT."

I ENJOYED OUR  
NIGHT BREAKFAST.

Best,

NOT PRINTED AT GOVERNMENT EXPENSE

OSD 04831-04



# United States Senate

WASHINGTON, DC 20510

SECRET  
2004 APR 13 11:11:53

April 13, 2004

The Honorable Donald H. Rumsfeld  
Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20301-1000

The Honorable Paul Wolfowitz  
Deputy Secretary of Defense  
1010 Defense Pentagon  
Washington, DC 20301-1010

Dear Secretaries Rumsfeld and Wolfowitz:

DOD has recognized that cutting-edge and domestically produced advanced semiconductors are essential to our network centric warfare and defense transformation, and therefore to our national security. As your Department is aware, world semiconductor processing leadership is now being transferred to China, with design, and research and development (R&D) leadership widely expected to follow. Deputy Secretary Paul Wolfowitz's thoughtful directive to DOD and service leadership of October 10, 2003 recognized this, and outlined a "Defense Trusted Integrated Circuit Strategy" which focused on both short and long term solutions for ensuring domestic supplies. We appreciated the Department's sharing of this memorandum with our Committees.

Deputy Secretary Wolfowitz's directive led to the establishment of a "trusted foundry" approach, assuring a secure supply of domestic integrated circuits that can meet DOD and NSA's current needs. While the trusted foundry approach mitigates the urgency of diminishing supplies, the memorandum recognized it remains a short-term solution. Therefore, we were greatly encouraged by the two longer-term components of the strategy: 1) funding key research initiatives and 2) maintaining a healthy U.S. commercial industry. We concur that a commitment to U.S. R&D efforts in advanced semiconductor production and an initiative to ensure a healthy U.S. industry base are critical to assuring the technological leadership DOD must have for intelligence and security reasons.

Numerous critical defense applications now under consideration will demand an array of cutting-edge semiconductor devices with performance levels beyond what is currently available. The transformation to network centric warfare, where people, sensors, satellites, and weapons systems will be linked across the globe, will require DOD to have first and trusted access to advanced processing capabilities that allow secure, robust, reliable, and rapid communications. It is therefore crucial that we begin taking methodical steps to retain a healthy domestic semiconductor industry base.

We are concerned that while significant progress has been made on the trusted foundry approach, very limited progress has been made on the other two major steps in Deputy Secretary Wolfowitz's directive: assuring U.S. R&D leadership and a healthy U.S. semiconductor production sector. We therefore respectfully request a progress report on the work to date, detailing how DOD will commit to funding relevant R&D efforts in the foreseeable future and what policies it will support to ensure a healthy U.S. industry base, and the timetable for completing this work. Since such an effort will affect our Committees' planning, and upcoming authorization and funding, we would appreciate receiving a copy of DOD's plan as soon as possible. We

appreciate the Department's understanding of the seriousness of the problem and look forward to working with you to resolve it.

Sincerely,



---

Joseph I. Lieberman  
Senate Armed Services Committee



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Kay Bailey Hutchison  
Senate Appropriations, Defense Subcommittee

cc: Lt. Gen. Michael V. Hayden  
Peter B. Teets

TED STEVENS, ALASKA  
GEORGE V. VOINOVICH, OHIO  
NORM COLEMAN, MINNESOTA  
TONY GOSLORN, OKLAHOMA  
LINCOLN CHAPPEL, RHODE ISLAND  
ROBERT F. BENNETT, UTAH  
PETE DOMENICI, NEW MEXICO  
JOHN WARNER, VIRGINIA

JOSEPH I. LIBERMAN, CONNECTICUT  
CARL LEVIN, MICHIGAN  
DANIEL K. AKAKA, HAWAII  
THOMAS R. CARPER, DELAWARE  
MARK DAYTON, MINNESOTA  
FRANK LAUTENBERG, NEW JERSEY  
MARK PRYOR, ARKANSAS

MICHAEL G. BOFF, STAFF DIRECTOR AND CHIEF COUNSEL  
JOYCE A. REDYCHOFFEN, MINORITY STAFF DIRECTOR AND COUNSEL

# United States Senate

SECRET

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

2005 JAN 27 AM 7:05

WASHINGTON, DC 20510-6250

January 26, 2005

The Honorable Donald Rumsfeld  
Secretary of Defense  
The Department of Defense  
Washington, DC 20301

Dear Secretary Rumsfeld:

We are writing to seek additional information about the Department of Defense's development of a human intelligence capability reportedly called the "Strategic Support Branch." Recent news stories have discussed the Department's apparent creation of a "full spectrum" human intelligence capability to conduct human intelligence operations and possibly covert operations across a host of countries. As authors of the Intelligence Reform and Terrorism Prevention Act of 2004, we are concerned that this capability could undermine Congress's vision for intelligence reform as embodied in this new law.

The Intelligence Reform and Terrorism Prevention Act of 2004, signed into law by President Bush on December 17, 2004, enacts the most comprehensive overhaul of our nation's intelligence agencies in more than 50 years. The legislation's objective is to ensure that the Intelligence Community has the leadership, resources, personnel, coordination, and oversight necessary to counter the security threats of today and the future. Central to the legislation is the creation of a strong Director of National Intelligence (DNI) - one person who will be in charge of and accountable for the Intelligence Community. Under the legislation, the DNI serves as the head of the Intelligence Community and the principal intelligence adviser to the President.

The legislation also states that the Director of the Central Intelligence Agency (CIA) reports to the DNI. Under the legislation, the CIA Director has the responsibility to "collect intelligence through human sources" and -

provide overall direction for and coordination of the collection of national intelligence outside the United States through human sources by elements of the intelligence community authorized to undertake such collection and, in coordination with other departments, agencies, or elements of the United States Government which are authorized to undertake such collection, ensure that the most effective use is made of resources and that appropriate account is taken of the risks to the United States and those involved in such collection.

OSD 01781-05

Intelligence Reform and Terrorism Prevention Act of 2004, P. L. 108-458, section 1011 (adding section 104A to Title I of the National Security Act of 1947, 50 U.S.C. section 402 et seq.).

The legislation envisions that intelligence agencies' capabilities will be integrated by mission-oriented National Intelligence Centers, which will conduct all-source strategic analysis and also drive collection requirements. The legislation also establishes a National Counterterrorism Center (NCTC) to forge unity of effort across the Executive Branch, both by integrating the Intelligence Community's capabilities against terrorism and by conducting strategic operational planning against terrorism on an Executive Branch-wide basis.

Based on our concern that the Department's alleged development of a "full spectrum" human intelligence capability would detract from the Intelligence Reform and Terrorism Prevention Act of 2004, we ask that you provide us answers to the following questions:

- To what extent does the Department's reportedly expanded human intelligence capability duplicate or overlap with the CIA's capabilities? Is the Department's human intelligence capability focused only on counterterrorism - or also on other intelligence topics? And how will the CIA Director ensure that the most effective use is made of the nation's human intelligence capabilities?
- Will the NCTC Director, who reports to the DNI regarding all counterterrorism intelligence matters, have access to the human intelligence developed by this Department capability relating to the national counterterrorism effort? And if the Department's human intelligence activities extend beyond terrorism, will they be integrated with other intelligence capabilities via the National Intelligence Centers?
- How does the DNI retain authority over and accountability for the Intelligence Community and fulfill the role of being the President's principal advisor on intelligence if the Department has a competing worldwide intelligence capability?
- The intelligence reform bill does not materially alter statutory requirements contained in Title 50 of the United States Code for Presidential authorization of covert action and notification to Congress. We understand that there are different authorization and notification requirements for activities carried out under the authority of Title 10 of the United States Code as opposed to Title 50. However, we are concerned that a broad interpretation of Title 10 authority could allow the Executive Branch to engage in covert action without complying with Title 50 authorization and notification requirements. Please describe in detail the Department's plans for compliance with Title 50 requirements concerning covert action or provide the legal basis for any conclusion that Title 50 does not apply in certain circumstances.

Staff of the Senate Committee on Homeland Security and Governmental Affairs have attempted for more than a month to secure information from the Department on these matters,

which have now received widespread media attention. We write because we know that you understand the importance of Congressional oversight of Executive Branch actions as well as Congress's responsibility to ensure that its laws are faithfully executed.

Thank you for your consideration of this request.

Sincerely,



Susan M. Collins  
Chairman



Joseph I. Lieberman  
Ranking Member



JOHN WARREN, VIRGINIA, CHAIRMAN

JOHN MCCAIN, ARIZONA  
JAMES M. INHOFE, OKLAHOMA  
PAT ROBERTS, KANSAS  
JOFF PARDONIA, ALABAMA  
SUSAN M. COLLINS, MAINE  
JOHN ENRON, NEVADA  
JAMES M. TALENT, INDIANA  
SARNEY CHANTLER, GEORGIA  
LINDSEY D. GRAHAM, SOUTH CAROLINA  
ELIZABETH ROLE, NORTH CAROLINA  
JOHN CORNYN, TEXAS  
JOHN THUNE, SOUTH DAKOTA

CARL LEVIN, MICHIGAN  
EDWARD M. KENNEDY, MASSACHUSETTS  
ROBERT C. BYRD, WEST VIRGINIA  
JOSEPH I. HERRMAN, CONNECTICUT  
JACK REED, RHODE ISLAND  
DANIEL K. AKAKA, HAWAII  
BILL NELSON, FLORIDA  
E. BENJAMIN NELSON, NEBRASKA  
MARK DAYTON, MINNESOTA  
EVAN BAYH, INDIANA  
HILLARY RODHAM CLINTON, NEW YORK

JUDITH A. ANGLEY, STAFF DIRECTOR  
RICHARD D. DEARDRE, DEMOCRATIC STAFF DIRECTOR

# United States Senate

COMMITTEE ON ARMED SERVICES  
WASHINGTON, DC 20510-6060

February 4, 2005

2005 FEB -7 AM 8:29  
OFFICE OF THE  
SECRETARY OF DEFENSE

The Honorable Donald Rumsfeld  
Secretary of Defense  
1000 Defense Pentagon  
Washington, D.C. 20301-1000

Dear Mr. Secretary:

We are writing to express our concern about the Department's implementation of pay increases authorized for members of the Senior Executive Service serving in the Office of the Secretary of Defense and the defense agencies.

Two years ago, the Department of Defense requested legislation to allow greater flexibility to pay its senior executives on the basis of their performance. We responded by enacting Section 1125 of the National Defense Authorization Act for Fiscal Year 2004, which eliminated the established system for paying senior executives and required the Department of Defense and other federal agencies to pay senior executives "based on individual performance, contribution to the agency's performance, or both, as determined under a rigorous performance management system."

The Department has now taken the first steps toward implementing section 1125. In a memorandum dated January 12, 2005 (copy attached), the Under Secretary of Defense for Personnel and Readiness informed DOD components that "Because of changes to the statute and regulations governing executive pay and performance, you may not grant an across-the-board increase to Senior Executive Service (SES) members." Instead, senior executives were to receive individual pay increases of up to 2.5 percent "for your top performers," with lesser increases for others "based on their relative standing."

On the same day, however, the Director of Administration and Management for the Office of the Secretary of Defense (OSD) issued a memorandum (copy attached) directing an across-the-board pay raise of 2.5 percent - the maximum increase allowable - for all senior executives in OSD and the defense agencies who are political appointees and who receive a fully satisfactory rating. By contrast, career SES who received the same fully successful rating would receive a lesser increase of 2% of basic pay.

The decision to use the status of an employee - as either career or non-career- as a factor in the awarding of a pay raise appears to be inconsistent with the law, and the Department's

stated intent to pay employees on the basis of their performance. We are concerned that this decision could undermine the credibility of DOD pay systems not only with senior executives, but also with other employees who will be entering pay-for-performance systems when the new National Security Personnel System is implemented.

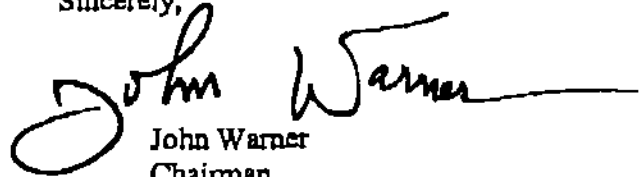
For these reasons, we request your review of the January 12, 2005 memorandum of the Director of Administration and Management to ensure that the pay increase for senior executives in OSD and the defense agencies is implemented in a manner that is both consistent with the requirements of section 1125 and in the best interests of the Department of Defense. Please inform us of the results of your review.

Thank you for your assistance in this matter.

Sincerely,



Carl Levin  
Ranking Member  
Armed Services Committee



John Warner  
Chairman  
Armed Services Committee



Joseph Lieberman  
Ranking Member  
Homeland Security and  
Governmental Affairs Committee



Susan Collins  
Chairman  
Homeland Security and  
Governmental Affairs Committee

Attachments

Congress of the United States

Washington, DC 20515

February 7, 2005

MS 0629-0011 7:24

The Honorable Donald Rumsfeld  
Secretary of Defense  
3E3890 The Pentagon  
Washington, DC 20301

Dear Secretary Rumsfeld:

As you know, the President signed into law the FY2005 Department of Defense Appropriations Act (Public Law 108-287) last August. Section 8014(a)(3) of this law says that contractors cannot gain an advantage in the bidding process by eliminating health benefits, offering inferior health insurance plans, or requiring contract employees to pay a higher percentage for their health insurance than federal employees. The provision levels the playing field for federal employees and contractor employees when it comes to health benefits and fair competition.

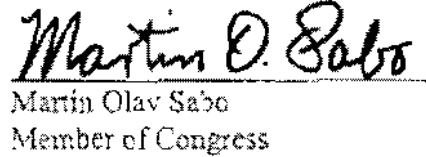
We write in response to a November 12th letter to the Office of Management and Budget from Deputy Under Secretary of Defense Philip Grone, which says that the provision should be repealed, or grandfathered so as not to affect in-progress public-private competitions.

The law does not allow grandfathering. It applies to all public-private competitions as of the date of enactment, including those in progress as of that date.

We will oppose any efforts to repeal or grandfather Section 8014(a)(3), and seek your reassurance that the law is being implemented as enacted.

Sincerely,

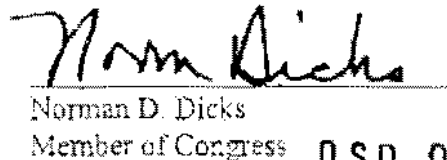
  
Edward M. Kennedy  
United States Senate

  
Martin Olav Sabo  
Member of Congress

  
Henry Reid  
United States Senate

  
David R. Oberhelman  
Member of Congress

  
Richard J. Durbin  
United States Senate

  
Norman D. Dicks  
Member of Congress

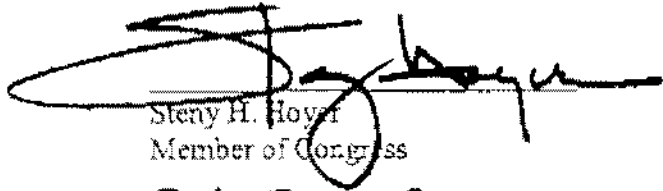
OSD 02625-05

The Honorable Donald Rumsfeld  
Secretary of Defense  
February 7, 2005

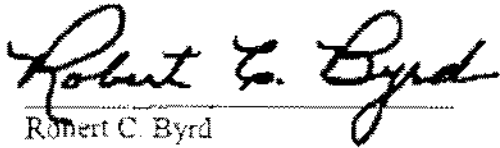
Page 2 of 2



Carl Levin  
United States Senate



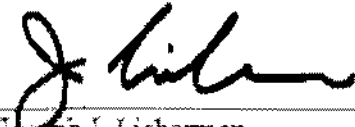
Steny H. Hoyer  
Member of Congress



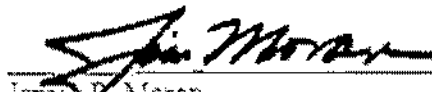
Robert C. Byrd  
United States Senate



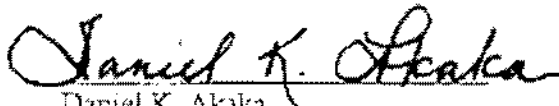
Ike Skelton  
Member of Congress



Joseph I. Lieberman  
United States Senate



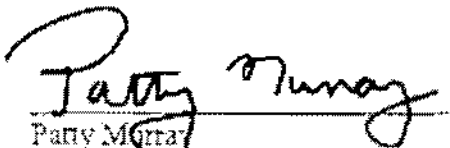
James P. Moran  
Member of Congress



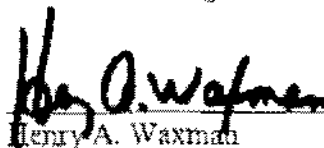
Daniel K. Akaka  
United States Senate



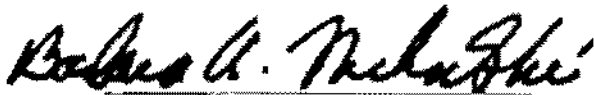
Peter J. Visclosky  
Member of Congress



Patty Murray  
United States Senate



Henry A. Waxman  
Member of Congress



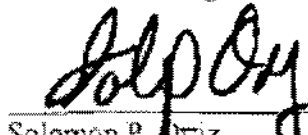
Barbara A. Mikulski  
United States Senate



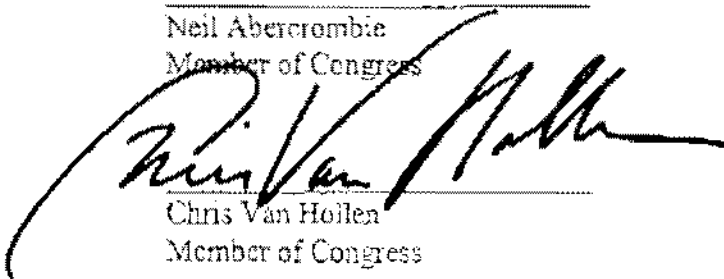
Jim Cooper  
Member of Congress



Neil Abercrombie  
Member of Congress



Solomon P. Ortiz  
Member of Congress



Chris Van Hollen  
Member of Congress



James R. Langevin  
Member of Congress

cc: Joshua B. Bolten, Director  
Office of Management and Budget

SUSAN M. COLLINS, MAINE, CHAIRMAN

TED STEVENS, ALASKA  
 GEORGE V. VOITHACH, OHIO  
 NOAM COLEMAN, MINNESOTA  
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 MARK DAYTON, MINNESOTA  
 FRANK LAUTENBERG, NEW JERSEY  
 MARK PRYOR, ARKANSAS

MICHAEL D. BEPP, STAFF DIRECTOR AND CHIEF COUNSEL  
 JOYCE A. REICHSCHAFFEN, MINORITY STAFF DIRECTOR AND COUNSEL

# United States Senate

COMMITTEE ON  
 HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
 WASHINGTON, DC 20510-6250

February 18, 2005

The Honorable Donald Rumsfeld  
 Secretary of Defense  
 The Department of Defense  
 Washington, DC 20301

Dear Secretary Rumsfeld:

We are writing in response to your letter of February 14, 2005 that replied to our letter of January 26, 2005 inquiring about news reports concerning the development of an expanded Department of Defense (DoD) human intelligence capability.

It is unfortunate that, despite our Committee staff calling your office to get the fax number then faxing you the letter several hours before it was made public, you did not learn about it until reading of it the next day. We hope that our communication is better in the future.

Although we appreciate your response, our January 26<sup>th</sup> letter raises many questions that remain unanswered. The Intelligence Reform and Terrorism Prevention Act of 2005 seeks to transform our nation's intelligence capabilities by creating a Director of National Intelligence (DNI) with responsibility, authority, and accountability for the Intelligence Community. Funds and activities approved by Congress prior to the intelligence legislation could not have taken into account the legislation's vision for intelligence transformation and the creation of a DNI. Intelligence transformation and the DNI's assertion of control over the new National Intelligence Program and the Intelligence Community necessitate re-examining funds and activities throughout the Intelligence Community and related funds and activities across the Executive Branch.

Therefore, we again request answers to the larger questions posed in our January 26<sup>th</sup> letter, namely:

- Whether you intend for DoD's reported human intelligence activities to remain subject to the CIA Director's larger authorities to ensure that our nation's human intelligence capabilities are as effective as possible.
- Whether the National Counterterrorism Center and other National Intelligence Centers will have access to intelligence from DoD relevant to their respective missions.

OSD 03516-05

- The implications of DoD's reported human intelligence capabilities for the DNI possessing responsibility, authority, and accountability for the Intelligence Community and fulfilling the role of the President's principal advisor on intelligence.

In addition, our January 26<sup>th</sup> letter asked for a description of DoD's plans for complying with statutory requirements in Title 50 of the United States Code for notifying Congress of any covert action or for the legal basis for DoD's conclusions that Title 50 requirements may not apply in certain circumstances. The statement in your letter that "DoD operations that merit Presidential approval have received it" does not address what DoD's legal interpretations are nor whether Congressional notification is required in certain circumstances.

You note in your letter that your staff informed you that Committees with oversight responsibilities have been briefed on these matters. Your staff is mistaken, as our Committee is responsible for oversight of the effectiveness of all government departments and, specifically, over national security methods and processes. Accordingly, we look forward to your response to our inquiry.

Sincerely,



Susan M. Collins  
Chairman



Joseph L. Lieberman  
Ranking Member

*rec'd 6 Jan 06*

341 RUSSELL SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-0303  
(202) 224-3235

CHAIRMAN  
COMMITTEE ON INDIAN AFFAIRS  
COMMITTEE ON ARMED SERVICES  
COMMITTEE ON COMMERCE,  
SCIENCE, AND TRANSPORTATION

# United States Senate

5353 NORTH 16TH STREET  
SUITE 108  
PHOENIX, AZ 85018  
(602) 952-2410

4703 SOUTH LAKESHORE DRIVE  
SUITE 1  
TEMPE, AZ 85282  
(480) 897-6289

407 WEST CONGRESS STREET  
SUITE 103  
TUCSON, AZ 85701  
(520) 670-6334

TELEPHONE FOR HEARING IMPAIRED  
(802) 952-0170

December 20, 2005

Mr. Thomas F. Gimble  
Acting Inspector General  
Department of Defense  
400 Army Navy Drive  
Arlington, VA 22202-4704

Dear Mr. Gimble:

There have been allegations by a small number of Department of Defense employees and contractor personnel regarding a DOD program known as ABLE DANGER. These individuals have asserted that the program identified Mohamed Atta and other eventual 9/11 hijackers as much as two years before the 9/11 attacks. Some of them recall seeing Atta's name and photograph on a link analysis chart prepared in early 2000. None of them has explained how the ABLE DANGER unit could have identified Atta two years before any other government agency.

It has been reported that some individuals who worked on ABLE DANGER have said that they tried to pass the information on Atta and the other hijackers to the FBI more than a year before 9/11, but that they were prevented from doing so by the Special Operations Command which allegedly determined that it potentially violated legal restrictions imposed on the military concerning intelligence collection on U.S. persons.

DOD representatives have briefed a number of Congressional committees on the results of DOD's ABLE DANGER investigation. These officials report that DOD has conducted an exhaustive review of some 9.5 million documents related to ABLE DANGER and have found no evidence substantiating the claim that such a chart ever existed. They have noted that a few individuals do have a vague recollection of such a chart, but that there are inconsistencies in their memories. Pentagon spokesmen have issued similar statements publicly.

Despite these efforts, questions about ABLE DANGER still linger. The fundamental questions that must be answered are: Did the Department of Defense identify Mohamed Atta and/or other eventual 9/11 hijackers before September 11, 2001? If it did so, why did the Department fail to share that information with the FBI, CIA, and other government agencies deeply involved in countering al Qaeda? In addition, troubling allegations suggest that DOD may have destroyed a large quantity of ABLE DANGER records.

OSD 00284-06

Given the serious allegations that have been raised, we request that the Department's Inspector General investigate the ABLE DANGER controversy, including interviewing all witnesses, and reviewing all documents. Your investigation should examine troubling allegations that have been raised suggesting that DOD may have destroyed a large quantity of documentary records. This investigation should clarify the purpose of ABLE DANGER, the roles and first-hand knowledge of those who are making the allegations, as well as those of their ABLE DANGER colleagues. It also should determine why the program was closed down. Among other things, it should investigate whether leads on al Qaeda hijackers were not passed to the FBI because of the objections of SOCOM lawyers and commanders.

---

Additionally, we ask that you examine whether any materials produced by ABLE DANGER identified 9/11 hijackers and whether this information was passed to the Congressional *Joint Inquiry into 9/11* or to the *9/11 Commission*, or, if such information was not passed to the panels, why it was not.

Congress and the American public have a right to know whether the allegations made by some of ABLE DANGER's former personnel are valid. As always, thank you for your consideration of this important matter.

Sincerely,



John McCain  
U.S. Senate



Joseph Lieberman  
U.S. Senate

JM/rf



SUSAN M. COLLINS, MAINE, CHAIRMAN

TED STEVENS, ALASKA  
GEORGE V. VOINOVICH, OHIO  
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FRANK LAUTENBERG, NEW JERSEY  
MARK PRYOR, ARKANSAS

OFFICE OF THE  
SECRETARY OF DEFENSE

# United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
WASHINGTON, DC 20510-6250

783 FEB -9 AM 3:40

MICHAEL D. BOPP, STAFF DIRECTOR AND CHIEF COUNSEL  
JOYCE A. RECHTSCHAFFEN, MINORITY STAFF DIRECTOR AND COUNSEL

January 26, 2006

The Honorable Gordon England  
Deputy Secretary  
Department of Defense  
Washington, DC 20301

Dear Mr. Secretary:

We are writing to urge that you agree to an interview by staff of the Committee on Homeland Security and Governmental Affairs as part of the Committee's investigation into governmental preparedness for and response to Hurricane Katrina.

At every opportunity this Committee has attempted to work co-operatively with the Department of Defense to obtain the facts regarding the Department's participation in the preparations for and response to Hurricane Katrina. Although the Committee has clear authority to employ more formal means to compel the production of documents and witnesses, to date we have taken pains to establish and maintain a consensual approach with the Department.

In this context, we are disappointed by your refusal to be interviewed by Committee staff and your insistence that you will answer the Committee's inquiries only in testimony at a Committee hearing. Although we have asked that you or the Secretary testify at an upcoming Committee hearing, we believe that such a hearing would be most productive if, prior to the hearing, we establish the factual record as accurately as possible. By doing so, we could narrow the range of factual matters explored at the hearing while ensuring that the hearing can focus adequately on lessons learned and recommendations for improving our emergency preparedness.

We have sought to provide the Department and its witnesses every opportunity to explain the scope and magnitude of the Department's preparations for and response to Hurricane Katrina and to respond to any criticisms leveled against it. This process has proved invaluable to us in learning the facts about what happened and in evaluating the Department's response. Your failure to appear for an interview could prevent the Committee from obtaining a complete and accurate record of the Department's response.

Finally, we note that your refusal to be interviewed by Committee staff is contrary to the practice of other Departments. Indeed, the Department of Homeland Security has already consented to a staff interview of its Deputy Secretary, a position you know well.

OSD 02088-06

The Honorable Gordon England  
Deputy Secretary, Department of Defense  
Page 2

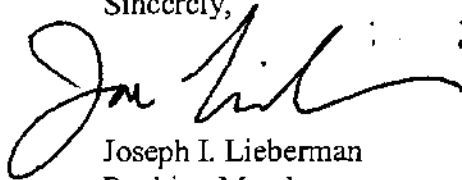
We therefore urge you to reconsider your decision and to agree to a staff interview this week so that we will be prepared for your testimony at the Committee's hearing on February 9.

We ask that you contact us directly or have your staff contact Tom Eldridge (202-224-4751) or Dan Berkovitz (202-224-2627) by Tuesday January 31st at 9 a.m. to let us know whether you will agree to our request.



Susan M. Collins  
Chairman

Sincerely,



Joseph I. Lieberman  
Ranking Member

SUSAN M. COLLINS, MAINE, CHAIRMAN

TED STEVENS, ALASKA  
GEORGE V. VOINOVICH, OHIO  
NORM COLEMAN, MINNESOTA  
TOM COBURN, OKLAHOMA  
LINCOLN CHAFFE, RHODE ISLAND  
ROBERT F. BENNETT, UTAH  
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JOHN WARNER, VIRGINIA

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CARL LEVIN, MICHIGAN  
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THOMAS R. CARPER, DELAWARE  
MARK DAYTON, MINNESOTA  
FRANK LAUTENBERG, NEW JERSEY  
MARK PRYOR, ARKANSAS

MICHAEL D. BOPP, STAFF DIRECTOR AND CHIEF COUNSEL  
JOYCE A. RECHTSCHAFFEN, MINORITY STAFF DIRECTOR AND COUNSEL

# United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
WASHINGTON, DC 20510-6250

February 3, 2006

Via First-Class Mail, Fax (703-695-5860),  
and Email (roger.carstens@osd.mil)

The Honorable Donald H. Rumsfeld  
Secretary of Defense  
1010 Defense Pentagon  
Washington, DC 20301

Dear Mr. Secretary:


We would like to invite you to testify at a hearing titled, "Hurricane Katrina: The Defense Department's Role in the Response," before the Committee on Homeland Security and Governmental Affairs ("Committee") on Thursday, February 9, 2006, at 10 a.m. in SD-342 in the Dirksen Senate Office Building. The hearing is being held in connection with the Committee's investigation into the preparedness for and response to Hurricane Katrina.

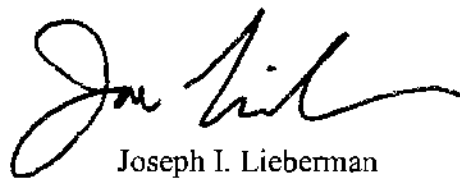
Specifically, we ask that you discuss in your testimony what steps the Department took to prepare for the hurricane, how the Department coordinated requests for assistance, how the Department coordinated the movement and command and control of National Guard and active duty troops, and, based on your experience in Hurricane Katrina, your recommendations to improve the ability of the Department of Defense to respond to future catastrophes that overwhelm state and local capabilities.

The Committee requests that you summarize your testimony in 10 minutes, although a longer written statement may be submitted for the official record. This will allow adequate time for you to engage in questions and answers with members of the Committee. Committee rules require that your testimony be submitted by 10 a.m. on Tuesday, February 7, 2006. Please send your written statement and a brief biography via email to the Committee's chief clerk, Trina Tyrer, at [trina.tyrer@hsgac.senate.gov](mailto:trina.tyrer@hsgac.senate.gov).

We look forward to your participation in this hearing. If you have any questions, please contact Tom Eldridge with the majority staff at 202-224-4751 or Dan Berkovitz with the minority staff at 202-224-2627.

Sincerely,

  
Susan M. Collins  
Chairman

  
Joseph I. Lieberman  
Ranking Member

SUSAN M. COLLINS, MAJRE, CHAIRMAN

TED STEVENS, ALASKA  
 GEORGE V. VOINOVICH, OHIO  
 NORM COLEMAN, MINNESOTA  
 TOM COBURN, OKLAHOMA  
 LINCOLN CHAFFET, RHODE ISLAND  
 ROBERT F. BENNETT, UTAH  
 PETE DOMENICI, NEW MEXICO  
 JOHN WARNER, VIRGINIA

JOSEPH I. LIEBERMAN, CONNECTICUT  
 CARL LEVIN, MICHIGAN  
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 THOMAS R. CARPER, DELAWARE  
 MARK DAYTON, MINNESOTA  
 FRANK LAUTENBERG, NEW JERSEY  
 MARK PRYOR, ARKANSAS

MICHAEL C. OOPF, STAFF DIRECTOR AND CHIEF COUNSEL  
 JOYCE A. RECHTSCHIFFER, MINORITY STAFF DIRECTOR AND COUNSEL

## United States Senate

COMMITTEE ON  
 HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
 WASHINGTON, DC 20510-6250

February 17, 2006

The Honorable Donald Rumsfeld  
 Secretary  
 Department of Defense  
 Washington, DC 20301

Dear Secretary Rumsfeld:

We are writing to follow up on our September 28, 2005, letter in which we asked you to provide the Homeland Security and Governmental Affairs Committee with documents and information in aid of the Committee's investigation into the nation's preparedness for and response to Hurricane Katrina. We appreciate the material that you have given to the Committee, but thus far we have not received from you certification that the Department's production is complete. So that we can determine the precise status of your production, we ask that you provide us with the following information no later than February 24, 2006:

- 1) Please describe the status of your production. Please specifically address each item in the Committee's September 28, 2005, letter, and state whether you have responded to it completely, partially or not at all.
- 2) To the extent you have not fully complied with any item, please explain the basis for that lack of compliance and when you intend to complete your response to that item.
- 3) Please state whether you are withholding any information, document or categories of information or documents. Please state whether you are not producing, or only partially producing, information or documents related to particular officials, employees or particular topics. Please identify any such officials, employees or topics, provide a log of all documents or information so withheld, and state the basis on which you are withholding such information or documents.
- 4) If you have withheld information or documents that refer or relate to the White House, the Executive Office of the President, or the Office of the Vice President, or a staff member or official thereof, including the President or the Vice President, please provide a log that includes each document or piece of information and the basis on which you have withheld it.

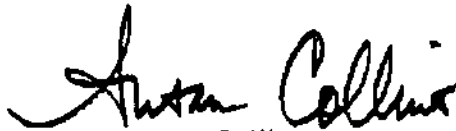
As we prepare to report to the Senate our findings and recommendations, we need to be assured – and to assure the American people – that we are doing so based on a complete and full

QSD Q2647-06

The Honorable Donald Rumsfeld  
February 17, 2006  
Page 2

understanding of the events surrounding Hurricane Katrina. Your cooperation in this regard will be greatly appreciated.

Sincerely,

  
Susan M. Collins  
Chairman

  
Joseph I. Lieberman  
Ranking Member

SUSAN M. COLLINS, MAINE, CHAIRMAN

TED STEVENS, ALASKA  
 GEORGE A. VOINOVICH, OHIO  
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 ERNEST CHANG, RHODE ISLAND  
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 JOHN WARNER, VIRGINIA

JOSEPH I. LIEBERMAN, CONNECTICUT  
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 THOMAS H. CARPER, DELAWARE  
 MARK DAYTON, MINNESOTA  
 FRANK LUTTERBERGER, NEW JERSEY  
 MARK PRYOR, ARIZONA

MICHAEL D. BOFF, STAFF DIRECTOR AND CHIEF COUNSEL  
 JENYEA A. REDYCHAWFER, SENIOR STAFF DIRECTOR AND COUNSEL

# United States Senate

COMMITTEE ON  
 HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
 WASHINGTON, DC 20510-6250

SECTION OF THE SENATE  
 OFFICE OF THE CLERK

MAR 27 PM 10:50

March 24, 2006

The Honorable Donald H. Rumsfeld  
 Secretary  
 Department of Defense  
 1000 Defense Pentagon  
 Room 3E880  
 Washington, D.C. 20301-1000

Dear Mr. Secretary:

The Committee on Homeland Security and Governmental Affairs is considering the nomination of David Norquist to be Chief Financial Officer at the Department of Homeland Security. We are writing to request access to documents that may be relevant to our consideration of the nominee.

In 2004 the U.S. government provided to the United Nations International Advisory and Monitoring Board redacted copies of several audit reports by the Defense Contract Audit Agency regarding work by Halliburton subsidiary KBR under the Restore Iraqi Oil Contract awarded by the Army Corps of Engineers. Mr. Norquist was involved in discussions concerning the request by IAMB for copies of audit reports by the Defense Contract Audit Agency, and what redactions should be made to the documents.

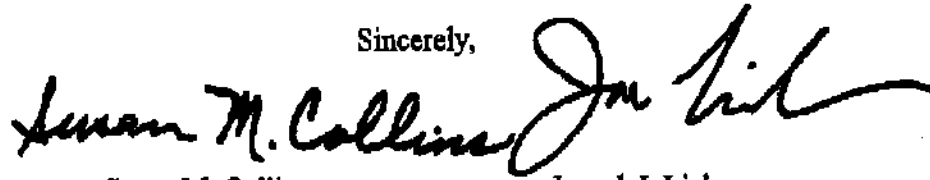
On April 14, 2005, the Chair of the House Subcommittee on National Security, Emerging Threats and International Relations and the Ranking Member of the House Committee on Government Reform sent you the attached letter requesting documents relevant to their review of why the audit reports had been redacted. A number of documents were provided to the Subcommittee. The Department of Defense allowed Committee staff to review additional documents which they were not permitted to copy.

The House Subcommittee has provided us with copies of all the documents it had received from the Department pursuant to its request. We are writing to request access to the documents Committee staff reviewed at the Pentagon last year. We also request any documents that are responsive to the House request of April 14, 2005 but that were not provided or shown to the House Subcommittee, with the exception of those documents withheld as privileged.

OSD 04938-06

If you have any questions about this request please contact Jennifer Hemingway of Majority staff at (202) 224-4751 or Kevin Landy of Minority staff at (202) 224-2627. Thank you for your assistance in this matter.

Sincerely,

Handwritten signatures of Susan M. Collins and Joseph I. Lieberman. The signature of Susan M. Collins is on the left, and the signature of Joseph I. Lieberman is on the right, overlapping the first one.

Susan M. Collins  
Chairman

Joseph I. Lieberman  
Ranking Member

# United States Senate

WASHINGTON, DC 20510

March 15, 2007

The Honorable Robert Gates  
Secretary of Defense  
Washington, DC 20301

Dear Secretary Gates:

We are writing today to urge you, in the strongest possible terms, to ensure that the Mental Health Task Force—established by Sec. 723 of the National Defense Authorization Act of 2006—remains a top priority for the Department of Defense.

As you know, Lieutenant General Kevin Kiley, the Co-Chair of the Mental Health Task Force, has submitted his retirement papers to the United States Army, and we are concerned that his departure could delay the completion of the Task Force report. As such, we request that you provide the Task Force with the resources and support necessary to complete its critical mission and deliver its report on time to Congress.

We have significant concerns about the mental health services our service members are receiving. We believe there is a need for improved pre- and post-deployment mental health screenings so that service members with severe mental illnesses, many of whom are prescribed psychotropic medicines, are not further harmed; for comprehensive mental health education at all levels and standardized services, including family support services, across military installations; and for concrete measures to eliminate the stigma associated with seeking mental health treatment. Those who serve in our armed forces should not feel discouraged from seeking care for any reason.

We also believe that we must have a clear and accurate assessment of the quality and quantity of mental health care professionals available to provide assistance to our troops. Service members cannot be forced to wait for care because of a shortage of mental health providers. Tragedies have occurred because service members did not receive the care they needed. This must end.

The recent reports on the conditions at Walter Reed Army Medical Center, and the problems in our VA medical system, underscore the need for the Mental Health Task Force to provide clear recommendations that address these concerns.

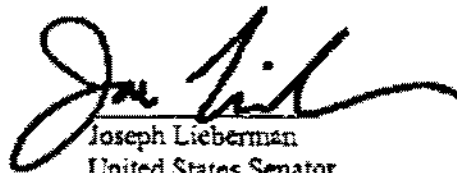
In light of the extraordinary sacrifices of our brave men and women in uniform, we urge that this report include far-reaching and meaningful changes. We stand ready to work with you to ensure that you have the resources needed to implement the Task Force recommendations. In essence, the Mental Health Task Force provides an opportunity to change history—to truly take care of those who have dedicated a portion of their lives in service to our nation. It will also send a strong message to future generations of service members that they, and their families, will be duly taken care of.

Thank you for your prompt consideration of this important request.

Sincerely,



Barbara Boxer  
United States Senator



Joseph Lieberman  
United States Senator

OSD 04155-07





# United States Senate

WASHINGTON, DC 20510

May 22, 2007

The Honorable Robert Gates  
Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20301

Dear Secretary Gates:

In recent months, troubling allegations have surfaced at Ft. Carson, Colorado, suggesting that soldiers are not receiving adequate care for mental health problems incurred as a result of combat service in Iraq and Afghanistan.

Specifically, soldiers have asserted that they are not receiving comprehensive treatment for Traumatic Brain Injury (TBI) and mental health issues, such as Post Traumatic Stress Disorder (PTSD). They have also alleged that the command climate discourages soldiers from seeking help for these problems. As a result, we dispatched members of our staff to Ft. Carson last week to investigate these claims.

While Ft. Carson has taken some important steps to improve care for soldiers—including implementing mandatory TBI screening and enhancing the pre- and post-deployment screening process—the reality remains that the base is facing significant challenges in providing mental health care services. The Department of Defense Mental Health Task Force recently found that the stigma of mental illness and injury is pervasive across our Armed Forces—and Ft. Carson is proving to be no exception.

After meeting with soldiers as well as commanders at the base, our staff concluded that the stigma of mental illness is a significant barrier to care. They also determined there is a considerable lack of resources to adequately support the psychological needs of our service members and their families, and a lack of training and education regarding mental health problems for leaders from the division level to the unit level. These issues are severely impairing the ability of our Army and the Department of Defense to produce and maintain the best trained and equipped military fighting force in the world.

While visiting the base, our staff received a commitment from Major General Jeffrey Hammond, Commander 4<sup>th</sup> Infantry Division, that he will investigate claims of command intimidation and lack of access to timely mental health services. They also received his commitment to train military personnel on the mental health challenges many of our service members face.

OSD 08766-07



5/23/2007 2:26:23 PM

While we are pleased at this commitment, it is apparent that the challenges at Ft. Carson cannot be solved by General Hammond alone. Therefore, we urge you to ensure that Ft. Carson and every other military installation facing similar problems are given the resources and direction necessary to provide an optimal level of care for our service members. We will be following up with a more detailed staff report on Ft. Carson in the near future, and we expect the Department of Defense to immediately review those findings and take appropriate action to see that any and all problems are corrected.

Congress and the American people have made clear, especially following the revelations at Walter Reed Army Medical Center, that substandard care for injured service members will not be tolerated. These men and women have stood up for our country, and we have no greater obligation than to stand with them and their families in their hours of greatest need.

Please respond as soon as possible to indicate your plans to address these issues.

Sincerely,

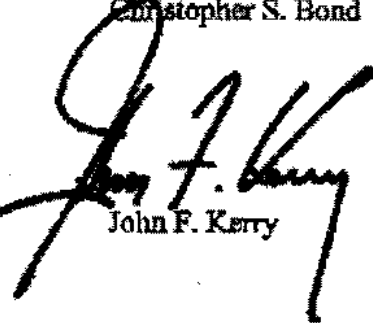
  
Barbara Boxer

  
Barack Obama

  
Christopher S. Bond

  
Hillary Rodham Clinton

  
Joseph R. Lieberman

  
John F. Kerry

JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN

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 JOHN S. SUNUNU, NEW HAMPSHIRE

MICHAEL L. ALEXANDER, STAFF DIRECTOR  
 BRANDON C. MILNOR, MINORITY STAFF DIRECTOR

# United States Senate

COMMITTEE ON  
 HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
 WASHINGTON, DC 20510-8260

February 8, 2008

The Honorable Robert M. Gates  
 Secretary  
 Department of Defense  
 Washington, DC 20301-1000

Dear Secretary Gates:

As part of our ongoing oversight into the threat of nuclear terrorism, the Homeland Security and Governmental Affairs Committee is reviewing the readiness of the nation's military and civilian agencies to protect the population of the United States from nuclear terrorism.

The effects of a nuclear attack on the United States are almost beyond comprehension. Even if we only consider the impact that a relatively small 10-kiloton nuclear device would have on a city center, the devastation would be catastrophic. From the epicenter of the blast to a distance of approximately one-third of a mile, every structure would be destroyed and virtually no one would be left alive. In the second circle of destruction, extending three-quarters of a mile from ground zero, buildings would experience devastating structural damage and most people in this ring would be killed or seriously injured. A third circle reaching out one mile would be ravaged by fires and radiation. Downwind of the blast, radioactive debris would begin to spread across the region, potentially exposing tens of thousands of people to lethal doses of radiation. Immediately after such an attack, our country would face challenges that we have never faced before.

Although improved security for nuclear stockpiles and fissile materials in Russia and elsewhere have helped to reduce the risk of nuclear terrorism, the threat of terrorists building or acquiring a nuclear weapon remains. While building an improvised nuclear device remains a difficult undertaking, the frightening truth is that simple nuclear weapons are based on 60-year old technology and such weapons are relatively easy to design and make. The primary obstacle to terrorists building a nuclear weapon is not the know-how required, but rather the difficulty of obtaining fissile material. However, there are many hundreds of tons of fissile materials, including highly enriched uranium, being stored in hundreds of sites worldwide, often under inadequate security arrangements. Potential sources of fissile materials and the knowledge necessary to build nuclear weapons continue to proliferate in countries with ties to radical and terrorist organizations. In addition to the threat of a terrorist organization building an improvised nuclear device, there remains the constant threat of a bomb being stolen or otherwise acquired from existing nuclear stockpiles that are not always adequately secured.

OSD 01878-08



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The Honorable Secretary Gates  
February 8, 2008  
Page 2 of 5

While our primary goal must be the prevention of such an attack, we must also prepare for the eventuality that a determined terrorist may succeed despite our best efforts. The threat of nuclear theft by terrorist groups and the catastrophic consequences of such an attack dictate that our country be prepared. An effective response requires well-exercised plans that clearly enumerate roles and responsibilities at all levels of government. While the responsibility for responding to most small and medium-sized disasters naturally begins at the local level, planning and responding to a large-scale disaster, such as the detonation of a nuclear device in the United States, clearly require a robust Federal role. The destruction and devastation of such an attack would present humanitarian and logistical challenges that would overwhelm the capabilities of cities and states and require the Federal government to quickly marshal all of its assets and capabilities, as well as those of other States, localities, the private sector, and non-profits. However, the Government Accountability Office recently described the Federal government's ability to prepare for, respond to, recover, and rebuild from catastrophic events as needing "fundamental reform" and included catastrophic planning as a key area for Congressional oversight.

The Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 741, *et. seq.*) requires the development of a national preparedness system and a target level of preparedness that can ensure the nation's ability to prevent, respond to, and recover from natural disasters, acts of terrorism, and other man-made disasters. The Act requires, among other things, that the President ensure that each Federal agency with responsibilities under the National Response Plan ("NRP") and its successors, including the National Response Framework ("NRF"):

- 1) has the operational capability to meet the national preparedness goal;
- 2) complies with the National Incident Management System;
- 3) develops, trains, and exercises rosters of response personnel to be deployed when the agency is called upon to support a Federal response; and
- 4) develops operational plans and the corresponding capabilities, including crisis planning, to respond effectively to natural disasters, acts of terrorism, and other man-made disasters to ensure a coordinated Federal response.

Pursuant to the Act, the Administrator of FEMA, acting in coordination with the heads of appropriate Federal agencies, is required to submit to Congress a report on the Nation's level of preparedness for all hazards. To date, we have not yet received this report.

Protecting our nation against nuclear terrorism involves many critically important tasks, including: non-proliferation activities, collecting and analyzing intelligence about the evolving threat of nuclear terrorism, devising a global and domestic nuclear detection system, and planning and preparing to respond to the detonation of a nuclear device in the United States. However, at this time, non-proliferation activities are not included in this particular inquiry. Rather, the Committee's current review of the nation's readiness to protect the population of the United States from nuclear terrorism builds upon work already conducted with respect to the programs of the Domestic Nuclear Detection Office at the Department of Homeland Security, the role of FEMA in preparing the country to respond to a catastrophic event, and other Federal programs.

The Honorable Secretary Gates  
February 8, 2008  
Page 3 of 5

To assist the Committee in determining the current state of the nation's operational readiness to protect the people of the United States from nuclear terrorism and to carry out critical response missions in the event of the detonation of a nuclear device in the United States, we ask that you provide written answers to the following questions on behalf of your department or agency:

- I. Describe the roles, responsibilities, and authorities (under Federal law, Presidential directive, or any other relevant strategic or operational plan) of each component in your department or agency that relates to:
  - A. collecting and analyzing intelligence on the current threat of the detonation of a nuclear device in the United States;
  - B. developing, testing, evaluating, acquiring, and/or deploying radiation detection technologies either overseas or in the United States; and
  - C. responding to the discovery of nuclear weapons and/or fissile materials within the United States (including your department or agency's role, responsibilities and authorities in identifying, destroying, securing, disabling, or disposing of such weapons or materials).
- II. With respect to each specific role, responsibility, or authority identified in response to Question I:
  - A. provide a detailed inventory (including the specific resources, funding, personnel, and operational assets) of your department or agency's current capabilities to carry out each specific role, responsibility or authority; and
  - B. list the names and positions of the key personnel involved in acting pursuant to that authority or discharging that role and responsibility.
- III. Describe the roles, responsibilities, and authorities of each component in your department or agency in responding to the detonation of a nuclear device in the United States. Include your department or agency's roles, responsibilities, and authorities under Federal law, the National Response Framework (NRF), any annexes to the NRF or its predecessor, the NRP, any other government-wide, departmental, or agency disaster preparedness plan, or any relevant strategic or operational plan. With respect to each specific role, responsibility or authority:
  - A. list the names and positions of the key personnel involved in acting pursuant to that authority or discharging that role and responsibility; and
  - B. provide a detailed inventory (including the specific resources, funding, personnel, and operational assets) of your department or agency's current capabilities to

The Honorable Secretary Gates  
February 8, 2008  
Page 4 of 5

carry out its responsibilities in the event of the detonation of a nuclear device in the United States, including:

1. a detailed description of how your department or agency's capabilities would be utilized in response to the detonation of a nuclear device in the United States;
2. the time-frame within which the capabilities can be deployed in response to such an event;
3. the current state of readiness of these capabilities to respond to such an event;
4. the emergency communications assets maintained by your department or agency; and
5. the names and positions of the individuals that are most knowledgeable about the inventory of your department or agency's response capabilities.

IV. Describe how, after the detonation of a nuclear device in the United States, your department or agency would support the NRF, any annexes to the NRF or its predecessor, the NRP, any other government-wide, departmental, or agency disaster preparedness plan, or any relevant strategic or operational plan. In addition:

- A. specify all operational plans that have been developed by your department or agency to respond to such an event; and
- B. list the names and positions of the individuals who are most knowledgeable about your department or agency's planning activities to respond to such an event.

V. Describe how your department or agency is coordinating with other Federal agencies in preparing, planning, and training for responding to the detonation of a nuclear device in the United States. Please:

- A. specify the dates and locations of interagency meetings that officials from your department or agency have participated during the last 24 months regarding the development of interagency response plans to respond to such an event;
- B. describe your department or agency's participation in any interagency training activities during the last five years that simulated such an event; and

The Honorable Secretary Gates

February 8, 2008

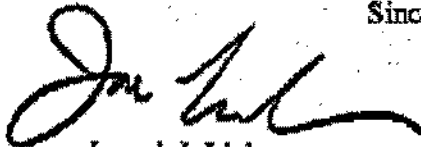
Page 5 of 5

C. provide the names and positions of the individuals who are most knowledgeable about your department or agency's participation in such interagency activities and who have direct responsibility for ensuring the readiness of your department or agency to carry out its missions.

VI. Identify all operational plans, inventories of your department or agency's response capabilities, or any other documents or information that your department has provided or will be providing to the Administrator of FEMA or the White House that will enable the President to fulfill his annual certification obligations under 6 U.S.C. 753(d).

We request you provide the requested information as it becomes available, but not later than February 29, 2008. Should you believe that your response to this letter will require the disclosure of classified information, please let us know in advance of this date so that we may determine whether alternate arrangements for production are appropriate. We thank you and your staff in advance for your cooperation. If you or your staff has any questions concerning this request, please contact Eric Andersen of the Committee's majority staff at 202-224-2627 or Rob Strayer or Keyur Parikh of the Committee's minority staff at 202-224-4751.

Sincerely,



Joseph I. Lieberman  
Chairman



Susan M. Collins  
Ranking Member

JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN

CARL LEVIN, MICHIGAN  
DANIEL K. AKAKA, HAWAII  
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GEORGE V. VOINOVICH, OHIO  
NORM COLEMAN, MINNESOTA  
TOM COBURN, OKLAHOMA  
PETE V. DOMENICI, NEW MEXICO  
JOHN WARNER, VIRGINIA  
JOHN E. SUNUNU, NEW HAMPSHIRE

MICHAEL L. ALEXANDER, STAFF DIRECTOR  
BRANDON L. MILHORN, MINORITY STAFF DIRECTOR

# United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
WASHINGTON, DC 20510-6250

February 25, 2008

The Honorable Robert Gates  
Secretary  
Department of Defense  
Washington, DC 20301-1000

Dear Secretary Gates:

The Committee on Homeland Security and Governmental Affairs is investigating the threat of nuclear terrorism and our military and civilian agencies ability to detect nuclear weapons and respond to a nuclear detonation in the United States. This investigation will include a series of hearings.

We request your cooperation and the cooperation of relevant agencies and officials in your Department. In particular, the Committee's first hearing will address the threat of nuclear terrorism against the United States. We will be requesting unclassified testimony from officials of several departments and agencies regarding the federal government's assessment of the current and projected threat of a nuclear attack against the United States.

We ask that officials from your Department work with Committee staff by providing requested briefings and information. Officials of your department should also be prepared to offer unclassified hearing testimony regarding the threat of nuclear terrorism.

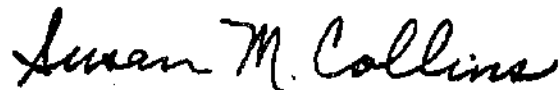
We are also working with the Congressional Research Service and Government Accountability Office on this topic and ask that you provide responsive information should they request it.

Thank you for your assistance. If you have any questions, please contact Jonathan Kraden with the majority staff at 202-224-2627 or Keyur Parikh with the minority staff at 202-224-4751.

Sincerely,



Joseph I. Lieberman  
Chairman



Susan M. Collins  
Ranking Member

OSD 03418-08



3/12/2008 1:46:24 PM



JOSEPH I. LIEBERMAN  
CONNECTICUT



UNITED STATES SENATE  
WASHINGTON, D. C. 20510

May 12, 2008

Dear Secretary Gates,

On June 12<sup>th</sup>, I will be hosting the *Chaz and AJ in the Morning* radio program in my Senate office for the second year in a row. *Chaz and AJ* is a very popular radio show on WPLR based out of Milford, Connecticut. They will be broadcasting live from my office from 5:30 am until 10:00 am. I would like to invite you to appear on the show for 10 minutes, or as much time as your schedule allows.

*Chaz and AJ* have been good friends of mine for many years now, and have consistently been ranked among the top morning radio programs in all of Connecticut. They have interviewed some of the nation's top newsmakers, and conduct all of their interviews with professionalism and a great sense of humor. The show is very neutral, and they are listened to and enjoyed by citizens of all political ideologies.

I sincerely hope you can join me on the air live with *Chaz and AJ* on Thursday, June 12<sup>th</sup>. For more information, or to confirm your participation and reserve a time, please contact Scott Overland in my office at (202) 224-0975 or [scott\\_overland@lieberman.senate.gov](mailto:scott_overland@lieberman.senate.gov). While we would love to have you live from my office, if your schedule restricts you to a phone interview, we can accommodate that and would greatly appreciate your participation.

Sincerely,

Joseph Lieberman  
UNITED STATES SENATOR

OSD 06291-08



# United States Senate

WASHINGTON, DC 20510

July 10, 2008

The Honorable Robert Gates  
Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20301-1000

Dear Secretary Gates:

We are writing today regarding the procedures governing Combat Status Review Tribunals (CSRTs). As you know, the Supreme Court recently held in *Boumediene* that detainees held at Guantanamo Bay, Cuba, have the constitutional right to file habeas corpus petitions in federal court. In that opinion, the Supreme Court stated that the current procedural protections in CSRTs are inadequate and do not eliminate the need for *habeas corpus* review.

Deliberations are ongoing in Congress regarding how best to respond to the Supreme Court's decision in *Boumediene*. In the future, though, it is likely that the United States will need the ability to detain additional enemy combatants in the War on Terror. In *Boumediene*, the Supreme Court stated that the necessary scope of *habeas corpus* review for a person detained by the United States depends in part upon the credibility of previous proceedings. For future detainees, then, the necessary scope of *habeas corpus* review could be limited to some degree by amending the CSRT process to strengthen those aspects that the Supreme Court perceived as deficient.

We urge you to enhance the procedural safeguards of the CSRT process to reinforce the military's rightful role in deciding the combat status of detainees. Specifically, we recommend that you provide military counsel for detainees, increase access to exculpatory information, and enhance the ability of the detainee to rebut the government's evidence. These enhancements will bolster the adversarial nature of the CSRT process and meet the Supreme Court's standards for an adequate tribunal process.

Unfortunately, given the Supreme Court's recent decision, the courts will be involved in determining whether individual detainees are a threat to our national security. By strengthening the procedural safeguards in the CSRT process, though, the government can retain the military's primary role in processing new detainees and limit the need for federal courts to consider *habeas corpus* petitions in the future.

We look forward to working with you to defend the military's role in adjudicating detainees by enhancing the adversarial nature of CSRT proceedings.

Sincerely,



Joe Lieberman  
United States Senator



Lindsey O. Graham  
United States Senator

OSD 09184-08



JOSEPH I. LIEBERMAN  
CONNECTICUT

COMMITTEES:  
ARMED SERVICES  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
SMALL BUSINESS

## United States Senate

WASHINGTON, DC 20510-0703

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ONE CONSTITUTION PLAZA  
7TH FLOOR  
HARTFORD, CT 06103  
860-549-8463  
TOLL FREE: 1-800-225-5605  
HOME PAGE:  
<http://Lieberman.senate.gov>

January 29, 2008

The Honorable Robert M. Gates  
Secretary of Defense  
The Pentagon  
Washington, DC 20301-1000

Dear Secretary Gates,

I write to express my concern over reports that funding has been withheld from the Multi-Platform Radar Technology Insertion Program (MP-RTIP). As you know, the Fiscal Year 2008 Supplemental Appropriations Conference Report directed that more than \$85 million was to be devoted to continued development of this critical technology. Any decision to withhold these funds would violate the clearly expressed intent of Congress, but would also deny our military an important upgrade in intelligence, surveillance, and reconnaissance capabilities.

In previous correspondence, I have conveyed my concerns about delays in the Air Force's acquisition strategy for MP-RTIP, as the service has so far contracted less than \$6 million of the funds that Congress has provided for this program. Given recent reports that funds may be withheld from the program altogether, it now appears that the Department of Defense risks canceling the next generation radar technology that could provide our nation's warfighters with both an unblinking eye over the battle field and the ability to better track cruise missiles. Absent such a capability, we will leave our forces very vulnerable on future battle fields.

Please inform me as to your intent to comply with the Conference Report direction on fully funding MP-RTIP technology, and the Air Force's strategy for executing this program in an expeditious manner. In addition, I request an update about the Department of Defense's plans for meeting its evolving battlespace management requirements.

I thank you as always for your consideration and look forward to your response

Sincerely,



Joseph I. Lieberman  
UNITED STATES SENATOR

Cc: Michael J. McCord

OSD 01072-09



Congress of the United States

Washington, DC 20510

January 30, 2009

The Honorable Robert M. Gates  
Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20301-1000

Dear Secretary Gates:

We write regarding the OMB Circular A-76 review of installation management functions under the Defense Logistics Agency Enterprise Support organization (DES). It is our understanding that the Department of Defense's Competitive Sourcing Official is disinclined to approve a request by the Defense Logistics Agency (DLA) to undertake an internal re-engineering effort as an alternative means of ensuring workplace efficiency and cost savings.

Upon reviewing the recent concerns raised by the General Accountability Office regarding the level of savings achieved under OMB Circular A-76, and the information provided to our offices regarding DLA's alternate approach, it appears the latter offers a viable alternative that would result in savings more quickly.

Given our mutual interest in ensuring the DES mission is accomplished in an efficient and cost-effective manner, we respectfully request the Department to give all due consideration to the internal re-engineering effort developed by DLA.

We look forward to your response.

Sincerely,

George V. Kinnear

Shirley Brown

Joe Hill

Daniel K. Skala

J. Webb

Bob Carey, Jr.

Mark R. Adams

Susan M. Collins

OSD 01166-09



Letter to Secretary Gates  
January 30, 2009  
Page Two

Dennis J. Kucinich

Marjorie DeFilippis

Robert A.

Pat Tiberi

Angela Lomax

John + Susan

John G. Suter

Brian Sutton

Pat a party

John W. ...

John ...

John ...

JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN

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MICHAEL L. ALEXANDER, STAFF DIRECTOR  
BRANDON L. MILHORN, MINORITY STAFF DIRECTOR AND CHIEF COUNSEL

# United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
WASHINGTON, DC 20510-6250

March 27, 2009

The Honorable Robert Gates  
Secretary of Defense  
1000 Defense Pentagon  
Washington DC 20301-1000

Dear Secretary Gates:

As Chairman of the Senate Homeland Security and Governmental Affairs Committee, I am writing to request that the Department of Defense sponsor a visit by Committee Staff to U.S. Northern Command Headquarters in April 2009. The purpose of the visit would be to examine NORTHCOM's capabilities for CBRNE consequence management and support to civil authorities, its role in and preparations for border security operations, and preparedness for pandemic influenza, as part of my Committee's homeland security oversight responsibilities.

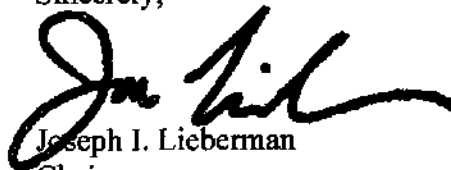
I would very much appreciate if U.S. Northern Command could accommodate such a visit on April 6-8, 2009. It is requested that the Department of the Navy be assigned the action agent for the trip. Committee staff members planning to attend are as follows:

Eric Andersen, Majority Professional Staff Member  
Aaron Firoved, Majority Professional Staff Member  
Blas Nufiez-Neto, Majority Professional Staff Member  
Thomas Richards, Majority Professional Staff Member, OGM Subcommittee

Expenditure of funds for the payment of actual and necessary expenses, and such transportation as may be required, is authorized by 31 U.S.C. 1108 (g).

Thank you in advance for your assistance in coordinating this visit. Please contact Eric Andersen at (202) 224-2627 to coordinate the details of the trip.

Sincerely,

  
Joseph I. Lieberman  
Chairman

OSD 03753-09



JOSEPH I. LIEBERMAN  
CONNECTICUT

COMMITTEES:  
ARMED SERVICES  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
SMALL BUSINESS

**United States Senate**  
WASHINGTON, DC 20510-0703

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TOLL FREE: 1-800-275-5606  
HOME PAGE:  
<http://lieberman.senate.gov>

June 10, 2009

The Honorable Robert Gates  
Secretary  
U.S. Department of Defense  
1000 Defense Pentagon  
Washington, DC 20301

Dear Mr. Secretary,

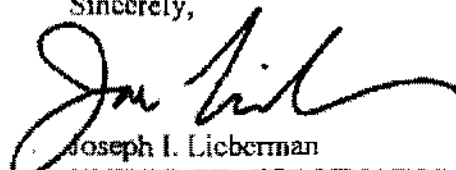
I read with great interest your speech to the Association of American Universities on April 14, 2008. On that occasion you noted the potential of the records of Saddam Hussein's Ba'athist regime, captured by American forces in 2003, to provide us "unprecedented insights" into the workings of dictatorial third-world regimes. You rightly compared this collection of materials to the Smolensk archives, upon which scholars of the Soviet Union like Merle Fainsod based much of their research. You also announced that the Defense Department was funding an effort to open a Conflict Records Research Center at the National Defense University.

I strongly support your goal of making the records of Saddam Hussein's regime available to the broad scholarly community for research and study. However, I am concerned by the apparent slow pace of this valuable project. I note that the Defense Department has yet to establish a Conflict Records Research Center in the 15 months that have passed since your announcement, nor does the opening of such a center appear to be on the horizon.

I would therefore be grateful for a progress report on your efforts to establish a Conflict Records Research Center at the National Defense University, a timeline for its creation, as well as an estimate of the resources that the Defense Department will devote to the center over the long term.

Thank you for your attention to this matter and your commitment to this worthy and important endeavor.

Sincerely,

  
Joseph I. Lieberman  
UNITED STATES SENATOR

OSD 06538-09



<del>SECDEF</del>	<del>DEPSECDEF</del>	<del>ASST</del>	<del>EXECSEC</del>	<del>USEP</del>
<del>USEI</del>	<del>ESD</del>	<del>CSF</del>	<del>CBLCH</del>	<del>FILE</del>

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JOSEPH I. LIEBERMAN  
CONNECTICUT



UNITED STATES SENATE  
WASHINGTON, D. C. 20510

July 28, 2009

The Honorable Robert M. Gates  
Secretary of Defense  
1000 Defense Pentagon  
Washington, D.C. 20301

Dear Secretary Gates,

BOB

I write to thank you for your prompt answer to my request last week for the Department of Defense's position on the amendment that Senator McCain and I introduced to cancel the second engine for the Joint Strike Fighter and restore funding for the procurement of urgently needed U.S. Marine Corps helicopters. I was very happy when the Senate adopted our amendment unanimously, and I know that we could not have done it without your support.

As always, Assistant Secretary of Defense Elizabeth King and her staff were incredibly helpful and responsive to my requests for information as the Senate addressed this critical issue.

As we work to complete the 2010 National Defense Authorization Act, I look forward to working with you and your exceptional team to guarantee that Congress does not again authorize or fund the alternate engine at the expense of the programs that are needed to keep our nation safe.

I thank you again for your continued service.

Sincerely,

Joseph I. Lieberman  
UNITED STATES SENATOR

CC: The Honorable Elizabeth King, Assistant Secretary of Defense for  
Congressional Affairs

A GOOD  
WIN!

OSD 09132-09





# United States Senate

WASHINGTON, DC 20510

January 15, 2010

The Honorable Robert M. Gates  
Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20310-1000

Dear Secretary Gates:

We write today regarding a Taiwan-related directive in the FY10 National Defense Authorization Act (NDAA) conference report, which was signed into law by President Obama on October 28, 2009. Under this directive, the Department of Defense (DoD) is required to provide Congress with a formal assessment of the state of Taiwan's air defense force within 90 days of the bill's enactment.

According to the DoD's 2009 Annual Report on Military Power of the People's Republic of China, the military balance in the Taiwan Strait has been shifting in China's favor since 2000, marked by the sustained deployment of advanced military equipment to the Chinese military regions opposite Taiwan. Although DoD's 2002 report concluded that Taiwan "has enjoyed dominance of the airspace over the Taiwan Strait for many years," DoD's 2009 report states this conclusion no longer holds true. This dramatic change in such a short period of time is disturbing.

The report also maintains, "the security situation in the Taiwan Strait is largely a function of dynamic interactions among Mainland China, Taiwan, and the United States. The PLA has developed and deployed military capability to coerce Taiwan or attempt an invasion if necessary.

PLA improvements pose new challenges to Taiwan's security, which has historically been based upon the PLA's inability to project power across the 100 nautical-mile Taiwan Strait, natural geographic advantages of island defense, Taiwan's armed forces' technological superiority, and the possibility of U.S. intervention."

The *Taiwan Relations Act of 1979 (TRA)* requires that, in furtherance of the principle of maintaining peace and stability in the Western Pacific region, the United States shall make available to Taiwan such defense articles and defense services in such quantity "as may be necessary to enable Taiwan to maintain a sufficient self-defense capability," allowing that "the President and the Congress shall determine the nature and quantity of such defense articles and services based solely upon their judgment of the needs of Taiwan . . . ."

In 2006, Taiwan asked to purchase 66 U.S.-made F-16 aircraft in an effort to update its fighter fleet and maintain its self-defense capability. Taiwan is still flying 1990s-vintage F-16s, Mirage 2000-5s and Indigenous Defense Fighters, as well as F-5s acquired in the 1970s. These aircraft are increasingly difficult and costly to maintain, making replacing them both a safety and national security concern. On April 22, 2009, Taiwanese President Ma Ying-jeou made it clear to the Obama Administration that this request still stands. That request has yet to be granted. Barring an additional order for new aircraft from Taiwan, the F-16 production line could be forced to begin

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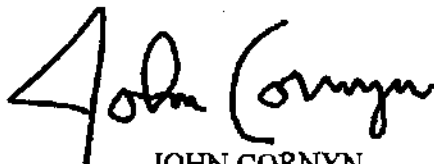
closing down in the middle of next year. Once line shutdown has begun, it would be difficult and cost-prohibitive to restart, as resources are shifted to other programs, supply lines atrophy, and employees are reassigned. Therefore, if this request is going to receive serious consideration, it is necessary that that occur in the immediate future.

In order for Congress to fulfill its obligations under the *TRA* and make an informed determination regarding the defense articles and services that the U.S. should make available to Taiwan, we require an accurate assessment of Taiwan's current air defense shortfalls. To that end, we request that the DoD include the following items in its report to Congress, per the FY10 NDAA directive:

- A thorough and complete assessment of the current state of Taiwan's air force, including number and type of aircraft; age of the aircraft; capability of the aircraft; and effectiveness of the aircraft in the face of a full-scale concerted missile and air campaign by China;
- An analysis of the specific weapons systems and platforms that Taiwan would need to provide for its self-defense and maintain control of its airspace;
- An evaluation of the impact on Taiwan's deterrent capability of the retirement of aircraft over the next five years;
- An assessment of when Taiwan's current fleet of F-16s will become obsolete in the face of Chinese threats and how long it would take to retrofit and upgrade those F-16s;
- Options for the U.S. to remain in compliance with the terms of the *TRA* in providing for the defense of the island;
- A determination as to the likely closure date of the F-16 line;
- A notional timeline, beginning in January 2010, detailing the specific steps in the interagency approval process that would have to be completed to ensure that, if the sale of F-16 aircraft are approved, these aircraft could be manufactured prior to the F-16 production line closing; and
- Options for Taiwan to procure aircraft with similar capabilities, in the event that the sale of the F-16 aircraft to Taiwan does not occur prior to the shutdown of the F-16 production line.

We appreciate your attention to this important national security issue. Thank you for your continued leadership of the Department of Defense and your service to our men and women in uniform.

Sincerely,



JOHN CORNYN  
United States Senator



JAMES M. INHOFE  
United States Senator



JOE LIEBERMAN  
United States Senator

JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN

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ROBERT F. BENNETT, UTAH

# United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

MICHAEL L. ALEXANDER, STAFF DIRECTOR  
BRANDON L. MILHORN, MINORITY STAFF DIRECTOR AND CHIEF COUNSEL

January 13, 2010

The Honorable Robert M. Gates  
Secretary  
U.S. Department of Defense  
1000 Defense Pentagon, Room 3E718  
Washington, DC 20301

Dear Secretary Gates:

The Committee on Homeland Security and Governmental Affairs has initiated an investigation into the events surrounding the November 5, 2009, shootings at Fort Hood, Texas, pursuant to the Committee's authority under Rule XXV(K)(1) of the Standing Rules of the Senate, Section 101 of S. Res. 445 (108th Congress), and Section 12 of S. Res. 73 (111th Congress). The purpose of our investigation is to assess the information the U.S. Government had prior to the shootings and the actions it took in response to that information. Ultimately, the investigation will identify the steps necessary to protect the United States against future acts of terrorism by homegrown violent Islamist extremists.

We are committed to completing a comprehensive fact-finding investigation concerning the U.S. Government's failure to identify Major Nidal Malik Hasan as a possible threat and to take action that may have prevented the attacks. Even at this stage of our investigation, however, it has become apparent to us that DoD's approach to the threat of servicemembers who adopt a violent Islamist extremist ideology needs to be revised. Updating that approach will protect from suspicion the thousands of Muslim-Americans who serve honorably in the U.S. military and maintain the bonds of trust among servicemembers of all religions which is so essential to our military's effectiveness.

I. DoD Should Update Its Approach to Extremism in the Ranks Given the Threat of Homegrown Terrorism Inspired by Violent Islamist Extremism.

During the past four years, our Committee has conducted an extensive investigation of the threat facing the United States from homegrown terrorism inspired by violent Islamist extremism. The Committee's work makes clear – particularly in light of the increased number of attacks, plots, and arrests during 2009 – that the threat of homegrown terrorism inspired by violent Islamist extremism has evolved and is expanding. In over a dozen incidents in 2009, U.S. citizens or residents sought to mount an attack within the United States, including one who shot two Army recruiters in Arkansas, a number who apparently fought for al-Shaabab in Somalia, seven men in North Carolina who allegedly planned to attack the Marine base in



Quantico, Virginia, and several who plotted to bomb a synagogue in New York City. The violent Islamist terrorist threat includes individuals who self-radicalize by visiting Internet websites or reading other propaganda that promotes terrorist causes, *i.e.*, without any connection to or affiliation with an established or recognized group. Efforts to detect and disrupt terrorist activity are complicated when these self-radicalized terrorists operate as “lone wolves.”

This Committee and senior Executive Branch officials have identified domestic violent Islamist extremism as a rising threat. As Secretary of Homeland Security Janet Napolitano recently stated, “We’ve seen an increased number of arrests here in the U.S. of individuals suspected of plotting terrorist attacks, or supporting terror groups abroad such as al Qaeda. Homegrown terrorism is here. And, like violent extremism abroad, it will be part of the threat picture that we must now confront.”

The Department has previously adopted policies to address servicemembers engaged in certain violent extremist activities. Policies exist that address servicemembers who become involved in both racist activities and criminal gangs. However, there have been cases of servicemembers becoming radicalized to violent Islamist extremism, including Sergeant Hasan Akbar, who murdered fellow servicemembers at Camp Pennsylvania in Kuwait in 2003. Given these events, and the increasing incidence of violent Islamist extremism in the United States, the Department must revisit its policies and procedures to ensure that violent radicalization, whether based on violent Islamist extremist doctrine or other causes, can be identified and action taken to prevent attacks before they occur.

Exhibiting signs of violent extremist views, behaviors, or affiliations, including those associated with violent Islamist extremism, is incompatible with military service and access to classified or sensitive information. An April 2005 report by DoD’s Defense Personnel Security Research Center, *Screening for Potential Terrorists in the Enlisted Military Accessions Process*, concluded that “the allegiance to the U.S. and the willingness to defend its Constitution must be questioned of anyone who materially supports or ideologically advocates the legitimacy of Militant Jihadism” and that “determination of participation in or support or advocacy of Militant Jihadist groups and their ideologies should be grounds for denial of acceptance into the Armed Forces of the U.S. and denial of access to classified or sensitive information.” As seen in the cases of Major Hasan and Sergeant Akbar, the adoption of violent Islamist extremism has been associated with violence against military personnel and other Americans.

We believe that DoD’s approach to countering the threat of violent extremism by servicemembers needs to be updated to reflect the current threat of homegrown violent Islamist extremism faced by the United States. Even though we have not completed our investigation of Major Hasan’s conduct and his colleagues’ and commanders’ response to him specifically, we make the following recommendations based on our knowledge of the overall threat of homegrown violent Islamist extremism, our careful review of relevant DoD and Army policies, and interviews and testimony of former high-ranking DoD personnel, intelligence, and military officials and briefings by current officials. We may supplement these recommendations based on the specific facts of Major Hasan’s case and on additional information.

## II. DoD Should Increase Training of DoD Personnel Concerning Violent Islamist Extremism.

Increased training of servicemembers at all levels – from enlisted personnel to commanders – is needed to ensure that they can understand the warning signs of violent Islamist extremism. Such training will need to be crafted carefully and will likely need to vary by rank. Training should include:

- Why exhibiting violent Islamist extremist views, behaviors, or affiliations is incompatible with military service and access to classified or sensitive information.
- The process of violent radicalization, including the warning signs of violent Islamist extremism.
- Servicemembers who exhibit signs of violent Islamist extremist views, behaviors, or affiliations are not necessarily members of any established or recognized group. Instead, the servicemember could be a “lone wolf,” having undergone a process of self-radicalization via Internet sites, literature, or videos.
- What violent Islamist extremism is, and how terrorists distort the Islamic faith to promote violence.

Existing DoD policies provide some authority for commanders and other appropriate officials to respond to servicemembers that exhibit signs of violent extremist views, behaviors, or affiliations. However, commanders should be trained to apply such policies to servicemembers who exhibit signs of violent Islamist extremism and to recognize those signs in a specific servicemember. Relevant policies include but are not limited to:

- Army Regulation 600-20, *Army Command Policy*: This policy gives every commander broad discretion to prohibit activities by servicemembers in order to preserve good order, discipline, and morale. Training should ensure that commanders are aware that exhibiting signs of violent Islamist extremist views, behaviors, or affiliations by a servicemember would constitute a threat to good order, discipline, and morale. The training should explain the difference between religious faith and observance, on the one hand, and violent extremist views, behaviors, and affiliations on the other – albeit recognizing that warning signs of extremist views, behaviors, and affiliations should not be ignored just because they are comingled with religious faith or observance.
- DoD Directive 1332.30, *Separation of Regular and Reserve Commissioned Officers*: Training of DoD personnel should clarify that exhibiting violent Islamist extremist views, behaviors, or affiliations by an officer would constitute substandard “attitude or character” for which separation from military service may result.

## III. DoD Should Revise its Policies to Address Violent Extremism Generally and Violent Islamist Extremism in Particular.

Other DoD policies should be revised to address servicemembers who exhibit violent extremist views, behaviors, or affiliations, including those associated with violent Islamist extremism.

The Department should update DoD Instruction 1325.06, *Guidelines for Handling Dissident and Protest Activities Among Members of the Armed Forces*. The Department originally issued the Instruction in response to Vietnam-era anti-war activities by servicemembers and has updated the Instruction to address servicemembers involved in supremacist activities and criminal gangs. The most recent version of the Instruction prohibits not only servicemember participation in certain organizations but also prohibits “actively advocat[ing] supremacist doctrine, ideology, or causes.” The inclusion of active advocacy broadens the instruction to cover situations in which a servicemember acts alone without involvement with a group. However, the history of the Instruction, combined with the common understanding of the term “supremacist,” suggests that the prohibition is limited to racial extremism. Accordingly, the Instruction should be broadened so that it clearly applies to other types of violent extremism, including violent Islamist extremism.

The Army also should update its Pamphlet 600-15, *Extremist Activities*. This pamphlet, issued in response to the racially-motivated murders committed by servicemembers at Fort Bragg in 1995 and DoD’s subsequent revision of Instruction 1325.06 in 1996, is heavily oriented toward supremacist activities and other racial extremism. The pamphlet should be expanded to address servicemembers who exhibit signs of violent Islamist extremist views, behaviors, or affiliations. Accordingly, the Army should revise the pamphlet to discuss signs of such views, behaviors, or affiliations. In doing so, the Army should specify that servicemembers who exhibit signs of violent Islamist extremist views, behaviors, or affiliations, may do so as the result of self-radicalization or as “lone wolves.” The Army should also consider how the Instruction should be revised to prospectively address future threats from other violent extremist ideologies. The other Services should make corresponding changes to their policies and procedures.

#### IV. DoD Should Ensure that Servicemembers Report Signs of Violent Islamist Extremism.

The Department and the Services should also revise their policies to ensure that servicemembers have a clear obligation to report servicemembers who exhibit signs of violent Islamist extremist views, behaviors, or affiliations. As General Keane testified before our Committee, “It should not be an act of moral courage for a soldier to identify a fellow soldier who is displaying extremist behavior. It should be an obligation.”

DoD’s policies do not clearly require that servicemembers report other personnel who exhibit signs of violent Islamist extremist views, behaviors, or affiliations. Neither the version of DoD Instruction 1325.06 on extremism, *Guidelines for Handling Dissident and Protest Activities Among Members of the Armed Forces*, in effect before the Fort Hood shootings nor the revised directive issued in November 2009 contains a reporting obligation by servicemembers with respect to the types of activities covered by that Instruction. In addition, DoD Instruction 5240.6, entitled *Counterintelligence (CI) Awareness, Briefing, and Reporting Programs*, includes a requirement that servicemembers report “circumstances that could pose a threat to security of U.S. personnel, DoD resources, and classified national security information.” This

Instruction could be read to require reporting of violent Islamist extremist activities by servicemembers. However, the reporting requirements within this policy focus primarily on threats from foreign intelligence services and terrorist organizations. As such, the policy's main requirement is that DoD personnel report contacts with such organizations, not that they report personnel who exhibit signs of violent Islamist extremist views, behaviors, or affiliations. The Department should revise its policies to ensure that servicemembers understand they have an obligation to report personnel who exhibit signs of violent Islamist extremist views, behaviors, or affiliations.

Likewise, Army policies are vague regarding the extent of any obligation that Army personnel have to report other personnel who exhibit signs of violent Islamist extremist views, behaviors, or affiliations. Army Pamphlet 600-15 contains a brief reference to servicemembers needing to "report specific indicators [of extremism] to the chain of command." But the Pamphlet does not detail an individual servicemembers' reporting obligations or sanctions for noncompliance, and thus contrasts to the highly structured reporting obligation for subversion and espionage under Army Regulation 381-12, *Subversion and Espionage Directed Against the U.S. Army (SAEDA)*. However, even Army Regulation 381-12 does not appear to require that Army personnel report other personnel who exhibit signs of violent Islamist extremist views, behaviors, or affiliations. For example:

- Army Regulation 381-12's requirements for reporting "contacts by [Army] personnel with persons whom they know or suspect to be members of or associated with...terrorist organizations" and "active attempts to encourage military or civilian employees to violate laws, disobey lawful orders or regulations, or disrupt military activities" do not seem to address servicemembers who merely exhibit signs of violent Islamist extremist views, behaviors, or affiliations and do not encourage other servicemembers to take any specific actions.
- Army Regulation 381-12 also requires reporting of "information concerning any international or domestic terrorist activity or sabotage that poses an actual or potential threat to Army or other U.S. facilities, activities, personnel, or resources." However, signs of violent Islamist extremist views, behaviors, or affiliations prior to any indication of terrorist activity or sabotage would not appear to trigger this reporting requirement.

Accordingly, the Army needs to revise its policies to clearly and unequivocally require that servicemembers report fellow servicemembers who exhibit signs of violent Islamist extremist views, behaviors, or affiliations. Concomitantly, the Army needs to ensure that its personnel receive training that clearly outlines their obligation to report indicators of violent Islamist extremist views, behaviors, or affiliation. The training should explain how such activities differ from the exercise of religious faith, including the practice of Islam. The other Services also should clearly require that their servicemembers report signs of violent Islamist extremist views, behaviors, or affiliations and provide training.

The threat posed by servicemembers who exhibit signs of violent Islamist extremist views, behaviors, or affiliations raises both personnel and counterintelligence / subversion concerns. The extremism policies referenced above are promulgated by the Undersecretary of

Defense for Personnel and Readiness and the Deputy Chief of Staff of the Army for Personnel while the counterintelligence/subversion policies referenced above are promulgated by the Undersecretary of Defense for Intelligence and the Deputy Chief of Staff of the Army for Intelligence. Senior Department and Service officials should ensure sufficient coordination between the personnel and the counterintelligence/ subversion components of their organizations to ensure that violent Islamist extremism among servicemembers is handled appropriately.

\* \* \*

Clearly, violent Islamist extremism is highly distinct from Islam, and thousands of Muslim-Americans serve honorably in the military. We believe that the changes recommended above will not serve to increase scrutiny of these servicemembers' religious beliefs or practices or to cause tension with their colleagues. To the contrary: we believe that the opposite will occur. Efforts by DoD to educate its personnel concerning what violent Islamist extremism is and what the warning signs of such extremism are – as distinguished from the practice of the Islamic faith – will increase trust between the thousands of Muslim-Americans serving honorably and their colleagues. Clear policies and training should foster greater respect for Muslim-Americans who serve in the military. We trust that, given the sensitivity of this issue, DoD will proceed to make the revisions and changes outlined in this letter in a manner that seeks to avoid unintended consequences and interpretations of its new policies and training.

We understand that the Department's initial review concerning the Fort Hood shooting is scheduled to conclude on January 15, 2010. We understand that the initial review will focus on the military's personnel evaluation system; we plan to review that system in the course of our full investigation. We assume that the Department's overall review will assess the adequacy of the Department's approach to violent Islamist extremism among DoD personnel and hope that our recommendations as outlined above will be helpful to your review. As mentioned above, we will continue our investigation and may make further recommendations in this area based on the specific facts concerning Major Hasan and any additional information.

Sincerely,



Joseph I. Lieberman  
Chairman



Susan M. Collins  
Ranking Member



JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN

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# United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-8250

MICHAEL L. ALEXANDER, STAFF DIRECTOR  
BRANDON L. MELNORN, MINORITY STAFF DIRECTOR AND CHIEF COUNSEL

March 24, 2010

The Honorable Robert M. Gates  
Secretary  
U.S. Department of Defense  
1000 Defense Pentagon, Room 3E718  
Washington, DC 20210

Dear Secretary Gates:

We are writing to express concern that the U.S. Department of Defense (DOD) is not moving quickly enough to transition to new telecommunications contracts before existing ones expire, putting the Department at risk of losing key services while also reducing the benefits of potential cost savings that exist under the new contracts.

The General Services Administration (GSA) telecommunications contracts provide basic network, telephone and information technology services to DOD. We recognize that these contracts are important for ensuring that your agency has the telecommunications abilities to perform its mission and efficiently manage taxpayer dollars. GSA's existing telecommunications program, known as FTS2001, is scheduled to expire in June 2011. To prepare for the transition, in 2007 GSA awarded contracts for a successor program, known as Networx.

As potentially the largest telecommunications services transition ever undertaken by the federal government, this transition has experienced significant challenges. We understand that GSA has been working to address those challenges; however, the cost savings projected by this transition have not been realized as some agencies have been slow to take appropriate steps to ensure a smooth transition. During the previous transition to FTS2001, delays were encountered that resulted in increased telecommunications costs and an estimated loss to the government of \$74 million in savings. We are concerned that a slow transition to Networx will be a repeat of the past. Specifically, every month that agencies delay transitioning to the new program, an estimated \$18 million of savings are lost.

Earlier this year, we expressed our concerns in a letter to the Office of Management and Budget (OMB) and received a briefing on what OMB is doing to assist with the transition. We understand that OMB worked with GSA to brief agency Chief Information Officers and Chief Acquisition Officers multiple times over the past six months regarding progress and actions needed for the transition. OMB also informed us of challenges agencies have faced and the factors that have caused Networx transition delays to date. While we are encouraged that progress has been made, we know that many agencies continue to be significantly behind in completing the necessary steps to finalize transition orders in time to achieve the cost savings.

<del>SECDEF</del>	<del>DEPSECDEF</del>	<del>SPL ASST</del>	<del>EXECSEC</del>	<del>USDP</del>
<del>USD</del>	<del>NSC COORD</del>	<del>CCD</del>	<del>CABLE CH</del>	<del>FILE</del>

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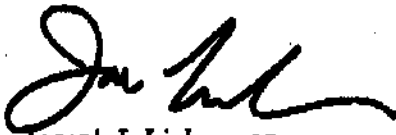
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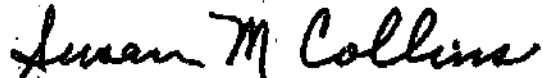
To better understand where large agencies, such as DOD, are in the transition we are interested in knowing the specific actions you have taken to prioritize this very important transition of telecommunication services. We believe that agencies should be taking advantage of the newest technologies provided by Networx instead of solely using the same or similar services from their existing contracts. As we noted in our letter to OMB, this is of particular concern given the security of federal networks and the opportunities to use new technologies to assist agencies in strengthening their cyber defenses. To this end, we ask that you report DOD's plans to the committee, as well as a description of any challenges that have slowed the transition, by April 9, 2010.

Thank you for your attention to this important matter and working to ensure the effective and efficient use of telecommunication services to perform DOD's missions. If you have any questions regarding this request, please contact Adam Sedgewick and Troy Cribb at (202) 224-2627 with Senator Lieberman's staff and Teresa Neven at (202) 224-4751 with Senator Collins' staff.

Sincerely,



Joseph I. Lieberman  
Chairman



Susan M. Collins  
Ranking Member

CARL LEVIN, MICHIGAN  
DANIEL K. AKAKA, HAWAII  
THOMAS R. CARPER, DELAWARE  
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GEORGE V. VOINOVICH, OHIO  
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LINDSEY GRAHAM, SOUTH CAROLINA

# United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

M CHAEL L. ALEXANDER, STAFF DIRECTOR  
BRANDON L. MILHORN, MINORITY STAFF DIRECTOR AND CHIEF COUNSEL

March 23, 2010

The Honorable Robert M. Gates  
Secretary  
U.S. Department of Defense  
1000 Defense Pentagon, Room 3E718  
Washington, DC 20301

Dear Mr. Gates:

We are writing to inform you that we have authorized the issuance of a subpoena to the Department of Defense (DoD).

1. The Committee's Investigation of the Government's Failure to Act on Warning Signs Before the Fort Hood Shooting.

As you know, the Committee on Homeland Security and Governmental Affairs is conducting a thorough, bi-partisan and independent investigation into the events surrounding the November 5, 2009, shootings at Fort Hood, Texas. In essence, the Committee wants to answer the questions on so many Americans' minds: given the warning signs of Major Nidal Malik Hasan's growing agitation at the U.S. and its military, why was he not stopped before he took thirteen American lives, and how can we prevent such a tragedy from happening again? In order to answer those questions, we must assess the information that the U.S. Government had prior to the shootings and the actions it took in response to that information. Unfortunately, actions by your Department have thus far made it impossible for us to conduct that assessment.

The Committee is conducting its investigation pursuant to its authority under Senate Rule XXV(K)(1), Section 101 of S. Res. 445 (108th Congress), and Section 12 of S. Res. 73 (111th Congress). Collectively, these rules and resolutions give the Committee unusually broad authority to investigate all branches and functions of the government.<sup>1</sup> Pursuant to that authority, the Committee has conducted numerous investigations of this sort in the past, delving into issues as sensitive as the handling of an investigation into espionage involving nuclear warhead designs

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<sup>1</sup> See S. Res. 73 Section 12(e)(2) (111th Congress) ("In carrying out the duties provided in [Section 12(e)(1)], the inquiries of this committee or any subcommittee of the committee shall not be construed to be limited to the records, functions, and operations of any particular branch of the Government and may extend to the records and activities of any persons, corporation, or other entity").



and allegations of efforts by the People's Republic of China to influence our elections improperly.

For more than three months, we have sought – unsuccessfully – your Department's cooperation. We thrice wrote to you to request witnesses and documents related to DoD's investigation of Major Hasan that occurred before the shootings and to obtain policies relevant to countering radicalization of military personnel. On November 13, 2009, we requested all policies and regulations concerning how DoD handles extremist servicemembers and information-sharing with other agencies. On November 20, 2009, we requested Major Hasan's personnel file. And on December 3, 2009, we requested witnesses and documents regarding Major Hasan's reported communications with the notorious purveyor of violent Islamist extremism, Anwar al-Aulaqi, or any other known or suspected violent Islamist extremists as well as any intelligence or investigative material held by DoD related to Major Hasan or violent Islamist extremism in the military generally. Also on December 3<sup>rd</sup>, we submitted a list of witnesses and documents related to Major Hasan's postings at Walter Reed Army Medical Center and Fort Hood and requested a meeting with DoD to develop procedures for ensuring that our investigation would not compromise the prosecution of Major Hasan. DoD produced precious little in response to these requests.

On January 22, 2010, we again sought the Administration's cooperation. We wrote to John Brennan, Assistant to the President for Homeland Security and Counterterrorism and National Security Advisor, who we understood was coordinating the Executive Branch's response to our requests. We expressed our disappointment with the Department's response and urged "in the strongest possible terms" that the Executive Branch comply with our requests. We stated that, if the Executive Branch did not comply, then we would begin the process of issuing subpoenas to compel production of the information we sought.

2. DoD's Refusal to Provide Key Documents to Our Committee.

Yet despite our clear authority to review matters surrounding the Fort Hood attack, our more than three months of patience, and our extensive efforts at accommodating any legitimate concerns, your Department continues to refuse to provide us with the material that we need to do our job. All DoD has given us is a closed briefing with senior DoD intelligence and personnel officials, a dated report on violent Islamist extremist service members which had already been cited by the media, access to a videotape of one of Major Hasan's presentations at Walter Reed Army Medical Center, and several hundred pages of documents – many of which are publically available DoD policies. While a small percentage of these documents contain relevant emails among DoD personnel and supporting documentation for a research project of Major Hasan's, they are clearly but a portion of what we requested. Even more disturbingly, DoD hid from us the names of its personnel in the emails, citing the privacy of those DoD personnel – even though disclosure to congressional committees of jurisdiction does not implicate the Privacy Act.<sup>2</sup>

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<sup>2</sup> 5 U.S.C. 552a(b)(9).

DoD also has asserted no basis, legal or otherwise, for refusing to provide us with Major Hasan's personnel file and other documents concerning him. In a recent and perplexing submission, the Department asserts that it does not possess any documents responsive to our request for material related to Major Hasan's contacts with violent Islamist extremists. It is hard for us to imagine that there are no documents responsive to this request including communications among DoD personnel, as press reports indicate that DoD personnel examined such contacts prior to the shooting. Moreover, it would seem virtually certain that these personnel kept some sort of documentation on such an important matter in view of DoD's objection to providing personnel on this issue based on their possible testimony in the criminal prosecution. Is it DoD's belief that its personnel neither generated nor kept documents about events about which they have sufficient knowledge to enable them to testify in court?

Even more disturbingly, DoD has refused to provide this Committee with a document – clearly relevant to our investigation – that it has already provided to other Congressional committees. Specifically, your officials will not give us access to an annex of the report entitled *Protecting the Force* by the DoD Independent Review Related to Fort Hood. This refusal is not justifiable because DoD has given the annex to the Senate Committee on Armed Services and presumably the House Committee on Armed Services. Further, DoD has apparently shown the annex to the media as evidenced by a recent article in the *Boston Globe*.<sup>3</sup>

The Senate Rules and resolutions cited at the outset of this letter give the Committee the authority to conduct this investigation as well as the power to seek the material we have requested. Our Committee has conducted numerous such investigations and has rarely faced such blanket refusals and unreasonable responses to its requests.

### 3. DoD's Refusal to Provide Key Witnesses to Our Committee.

Finally, DoD has categorically declined our request for DoD agents and officials to sit for interviews with Committee investigators.

#### A. Access to DoD Agents Who Investigated Major Hasan Prior to the Shootings.

Interviews with the DoD agents who were members of the Federal Bureau of Investigation's Joint Terrorism Task Forces that reviewed Major Hasan's communications or who were involved in DoD's subsequent investigation of him are critical for us to determine why DoD did not take further action against Major Hasan before he killed thirteen people. We first asked to interview these agents in our December 3, 2009, letter. Only last week – more than three months after our December 3<sup>rd</sup> request – did your staff inform the Committee that DoD objects to our interviewing these witnesses because your agents may testify in the criminal case against Major Hasan. In a subsequent phone conference with our staff on March 15, 2010, your staff declined to provide much further elaboration – asserting only that the prosecutors were

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<sup>3</sup> Bryan Bender, "Ft. Hood Suspect Was Army Dilemma," *Boston Globe*, February 22, 2010, available at [http://www.boston.com/news/nation/washington/articles/2010/02/22/ft\\_hood\\_suspect\\_was\\_army\\_dilemma/](http://www.boston.com/news/nation/washington/articles/2010/02/22/ft_hood_suspect_was_army_dilemma/).

concerned that our interviews would produce material that Major Hasan's attorneys could obtain via discovery.

Yet your staff would not explain why the issues we wish to discuss with the agents are even relevant to the prosecution; indeed, they refused to provide us any information about what relevant evidence your agents may provide at the trial. Even more importantly, your staff offered no basis for their assertion that our staff's interview notes or transcripts would be subject to discovery in the criminal case. When our staff pointed out that the Constitution's Speech or Debate Clause<sup>4</sup> erects an absolute bar to such discovery, our staff was met with nothing but silence.

Perhaps not surprisingly, the submission we received from the Department after this phone call on March 17, 2010, abandoned the argument that Senate documents would be discoverable, instead offering a new proposal at odds with your staff's concerns about creating discoverable material. DoD has now offered to have us submit written questions to the agents and to receive written responses – a process that would surely generate the precise type of new document in DoD's files that your staff just this week said you wanted to avoid.

This process is not acceptable to us. Our investigators must have the ability to question the personnel with actual knowledge of the events in person, without mediation through others and the possible censorship that would result. Just as importantly, with the discovery argument now apparently behind us, we have still heard no good explanation why face-to-face interviews with these agents should be off limits to us.

The Department recently gave us two letters from previous Administrations as a basis for its refusal to produce these agents to us – a January 27, 2000, letter from Assistant Attorney General Robert Raben to Rep. John Linder, Chairman of the House Committee on Rules's Subcommittee on Rules and Organization of the House, and a May 17, 2000, letter from Attorney General Reno to Senator Orrin Hatch, Chairman of the Senate Committee on the Judiciary. These letters do nothing to provide us with the understanding we seek of the Department's position. These letters deal with Congressional efforts to access investigative files from open criminal prosecutions or to conduct so-called parallel investigations of the precise events at issue in the criminal cases. As we have repeatedly emphasized, that is not what we are seeking. We do not wish to investigate the facts of the shootings or Major Hasan's actions on

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<sup>4</sup> The Constitution states regarding Senators and Representatives that "for any Speech or Debate in either House, they shall not be questioned in any other Place." Const. art. 1, § 6, cl. 1. It is well-settled law that documents and information gathered during a congressional investigation are immune from judicial discovery under the Speech or Debate Clause. *Brown & Williamson Tobacco Corp. v. Williams*, 62 F.3d 408, 420 (D.C. Cir. 1995). The Speech or Debate Clause permits Congress to conduct investigations and obtain information without interference from the courts. *Id.*, at 416. The privilege against discovery of materials protected by the Clause has been applied by courts in criminal proceedings against terrorists. See *U.S. v. Moussaoui*, Criminal No. 01-455-A, slip. op., pp. 2-3 (E.D.Va., March 2, 2006) (if "activities at issue are within the sphere of legitimate legislative activity, then 'the prohibitions of the Speech and Debate Clause are absolute'" (quoting *Eastland v. U.S. Servicemembers Fund*, 421 U.S. 491, 501 (1975))).

November 5, 2009 – the subject of the prosecution. We have no interest in prosecutors' files, nor in interviewing people who witnessed the shooting or the events immediately leading up to it. Instead, we are seeking to determine whether the Department properly handled information in its possession for at least one year prior to the shootings apparently pointing to Major Hasan's increasing radicalization. We have yet to hear how our efforts to make that determination would jeopardize the prosecution.

DoD also provided to us a December 8, 2009, letter from DoD General Counsel Jeh Johnson to Rep. Ike Skelton, Chairman of the House Committee on Armed Services, which merely makes general assertions regarding how the prosecution could be impacted by producing unspecified information and witnesses to Congress.

Without further elaboration from the Department, we are, frankly, at a loss to understand this eleventh-hour effort to use the prosecution as a basis for keeping DoD's agents from us. We question why this rationale is being asserted so long after our December 3<sup>rd</sup> request – which naturally raises our suspicion – and when the issues that our investigators wish to discuss with these agents seem tangential to the prosecution. Moreover, we have repeatedly assured DoD of our commitment to not compromising the prosecution of Major Hasan, and we have offered to work with DoD to develop arrangements to protect the prosecution. Indeed, we are confident that we can obtain the information we need from an interview with your agents without compromising Major Hasan's prosecution. DoD's mere assertion that these agents may be called as witnesses in the prosecution simply cannot serve as a talisman to ward off Congressional scrutiny of the Department's actions. It is growing difficult not to reach the conclusion that the Department simply does not want to cooperate with our investigation.

B. Access to DoD Officials Knowledgeable of DoD Policies Related to DoD's Reaction to Warning Signs of Major Hasan's Radicalization.

We are also concerned about DoD's unwillingness to allow our investigators to speak with higher-level officials concerning the policy and institutional context in which Major Hasan, his associates, and the DoD agents investigating him operated. DoD has instead offered only to allow four of those officials to appear on panels, in closed-session, before Members of the Committee. Moreover, it has insisted that even those discussions be restricted to general policy matters; apparently, DOD would refuse to allow Senators to ask its officials about facts specific to Major Hasan.

Respectfully, it is not for DoD to tell the Committee how to conduct an investigation of DoD, nor is it for DoD to purport to restrict the topics about which Members of the United States Senate may inquire. The United States Senate, most recently in Section 12(e)(3) of S. Res. 73, 111<sup>th</sup> Congress, has repeatedly reaffirmed the authority for staff of this Committee to conduct interviews in Committee investigations. Pursuant to that authority, Committee staff has on numerous occasions interviewed or deposed officials of similar or higher levels than those we now seek from DoD.

For example, during the Committee's 2005-6 investigation of government performance concerning Hurricane Katrina, Committee staff interviewed the following officials – including senior DoD officials – among others:

- Chairman of the Joint Chiefs of Staff, General Richard Myers<sup>5</sup>
- Deputy Secretary of Defense, Gordon England<sup>6</sup>
- Deputy Secretary of Homeland Security, Michael Jackson<sup>7</sup>

Likewise, in the course of the Committee's 1997 investigation into campaign fundraising practices during the 1996 Presidential elections, Committee staff interviewed the following officials, among others:

- White House Counsel, Charles Ruff<sup>8</sup>
- Counselor to the President and Special Envoy to the Americas, Thomas McLarty<sup>9</sup>
- Deputy Counsel to the President, Cheryl Mills<sup>10</sup>

The Committee has determined that staff-level interviews, not Member panels, are the best way for the Committee to determine what happened here. DoD has offered us no basis other than a vague reference to “protocol” for its efforts to try to tell us otherwise. Again, our investigative procedures – ones we and the agencies the Committee has investigated have long followed – hold otherwise.

#### 4. Our Authorization of a Subpoena Due to DoD's Recalcitrance.

In short, we are deeply disappointed by DoD's repeated rebuffing of our patient efforts to work cooperatively as we pursue our investigation.

Accordingly, pursuant to Committee Rule 5.C, we have jointly authorized the issuance of a subpoena for the items below which are critical for our investigation:

1. Major Hasan's official personnel file, along with records which constitute or reflect performance evaluations or assessments of performance or conduct, including but not limited to any such documents in personnel, training or credentialing records.
2. The annex DoD labeled “For Official Use Only” to the January 15, 2010, report by the DoD Independent Review Related to Fort Hood entitled *Protecting the Force*.

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<sup>5</sup> *Hurricane Katrina: A Nation Still Unprepared*, 109<sup>th</sup> Congress, 2<sup>nd</sup> Session, U.S. Senate, S. Rept. 109-322 (2006), at 656.

<sup>6</sup> *Id.*, at 649.

<sup>7</sup> *Id.*, at 652.

<sup>8</sup> *Investigation of Illegal or Improper Activities in Connection with 1996 Federal Election Campaigns*, 106<sup>th</sup> Congress, U.S. Senate, S. Prt. 106-30, Part VIII, at 6623.

<sup>9</sup> *Id.*, Part VI, at 4965.

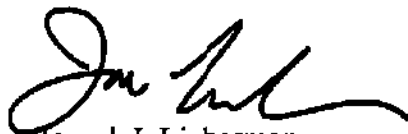
<sup>10</sup> *Id.*, at 5222.



3. Documents that provide the names and affiliations of personnel from the Defense Criminal Investigative Service, the Naval Criminal Investigative Service, the Defense Intelligence Agency (including the Counterintelligence Field Activity), the National Security Agency, the Army Criminal Investigative Command, the Army Intelligence and Security Command, or the Defense Security Services who (a) served on Federal Bureau of Investigation Joint Terrorism Task Forces in San Diego, CA, and/or Washington, DC, and/or the National Joint Terrorism Task Force during the period of time in which information linked to Major Hasan came into those entities (apparently October 1, 2008 – November 5, 2009), or (b) had knowledge of Major Hasan prior to November 5, 2009. We will subsequently issue subpoenas for these individuals by name if they are not produced to us as witnesses.
4. All transcripts, reports, or summaries of prosecutorial interviews of witnesses that were provided to the staff conducting the DoD Independent Review Related to Fort Hood.

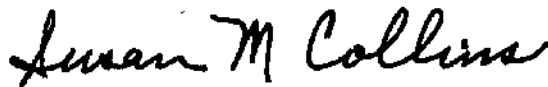
Before serving a subpoena for production of the documents outlined above, we will provide DoD with an opportunity to produce these documents expeditiously on a voluntary basis. We will need to receive a commitment from your staff by noon, April 12, 2010, that DoD intends to either produce these documents to our Committee or to negotiate an alternative schedule for production with our staff by noon, April 19, 2010. If we do not receive these documents by that date, then we will direct our staff to serve the subpoena. We remain committed to working with DoD to ensure that the Executive Branch proceedings against Major Hasan are not adversely affected in this matter. Please have appropriate DoD officials contact our staff directors Michael Alexander of the majority staff ((202) 224-2627) and Brandon Milhorn of the minority staff ((202) 224-4751) regarding this matter.

We thank you for your cooperation.



Joseph I. Lieberman  
Chairman

Sincerely,



Susan M. Collins  
Ranking Member

cc: The Honorable John Brennan  
Assistant to the President for Homeland Security and  
Counterterrorism and Deputy National Security Advisor  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

# United States Senate

WASHINGTON, DC 20510

April 13, 2010

The Honorable Robert M. Gates  
Secretary of Defense  
1950 Defense Pentagon  
Washington, DC 20310-0201

The Honorable John McHugh  
Secretary of the Army  
101 Army Pentagon, Room 3E700  
Washington, DC 20310-0201

Dear Secretary Gates and Secretary McHugh:

We write to request that the Department of Defense include the *Military Burn Trauma Research Program* in its annual budget request to Congress. This funding will be used to advance burn treatment and care for the hundreds of service members who have suffered significant burn injuries since the start of the wars in Iraq and Afghanistan.

While great strides have been made in burn treatment, further advances have been limited because of the difficulties associated with conducting burn research. In particular, burn patients are often located across vast geographic areas with varying levels of injury. In FY 2008 and 2009, Congress appropriated a total of \$6.4 million to help establish the *infrastructure* necessary to conduct this research and to initiate clinical trials for burn injuries. In FY 2010, an additional \$4.5 million was appropriated to fund and administer clinical trials.

Using previous funding, the Burns Outcomes Research Institute (BORI) is currently being established with the goal of conducting *multi-center* burn studies to advance the treatment of burns by fostering collaboration between military and civilian burn surgeons and researchers. The requested follow-on funding for FY 2011, if appropriated, will be used to fund and administer additional clinical trials.

BORI is a collaboration between the U.S. Army Medical Research and Materiel Command (USAMRMC), the United States Army Institute of Surgical Research (USAISR), and the American Burn Association (ABA)—the professional association of all the nation's burn health care professionals and burn centers.

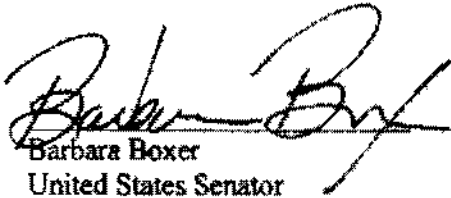
Given the tremendous improvements in battlefield medical care, more and more service members are surviving horrific injuries that would have been fatal only a short time ago. While they are being given a second chance at life, the reality is that many are being forced to do so with severe physical injuries and incapacitating scarring. These clinical trials will work to solve issues related to scarring and limitations in function and movement, enabling service members to return to society as independent and confident burn survivors.

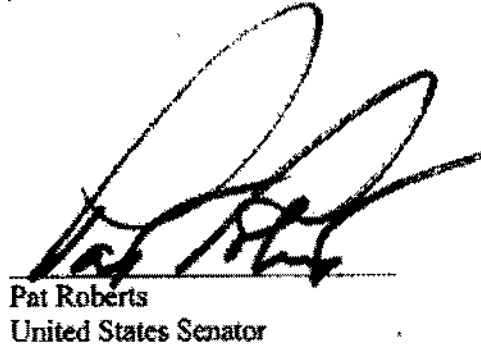
As such, we urge you to include funding for the Military Burn Trauma Research Program to conduct clinical trials as part of the Department's regular, annual budget requests



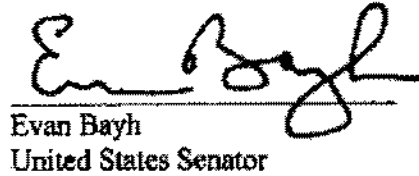
beginning in FY 2012. Thank you for your continued support of our service men and women, and for your consideration of this request.

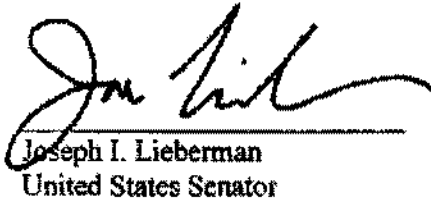
Sincerely,

  
Barbara Boxer  
United States Senator

  
Pat Roberts  
United States Senator

  
Richard J. Durbin  
United States Senator

  
Evan Bayh  
United States Senator

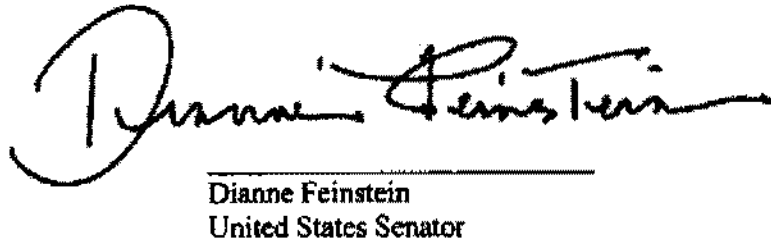
  
Joseph I. Lieberman  
United States Senator

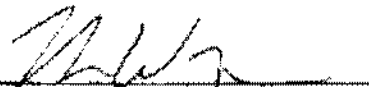
  
Sheldon Whitehouse  
United States Senator

  
Robert Menendez  
United States Senator


  
Maria Cantwell  
United States Senator

  
Jack Reed  
United States Senator

  
Dianne Feinstein  
United States Senator

  
Ron Wyden  
United States Senator

  
Mark Begich  
United States Senator

  
Charles E. Schumer  
United States Senator

  
Jeanne Shaheen  
United States Senator

  
Kirsten E. Gillibrand  
United States Senator

  
Roland W. Burris  
United States Senator

JOSEPH I. LIEBERMAN  
SENATOR

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## United States Senate

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May 10, 2010

The Honorable Robert M. Gates  
Secretary of Defense  
1000 Defense Pentagon  
Washington, D.C. 20301

Dear Mr. Secretary:

We write to thank you for your work in support of the Ground-based Midcourse Defense (GMD) system and to express our support for the 30 percent increase in GMD funding requested for Fiscal Year 2011. Despite that important step, we continue to have concerns that the GMD program faces an uncertain future.

First, we do not yet clearly understand how the Department plans to maintain the reliability of the GMD system over the duration of its operational life through 2032 in light of the pending conclusion of Ground-based Interceptor (GBI) production. Second, we seek additional clarification about the Department's plans to continue developing the 2-stage GBI as a hedging strategy in support of the Phased Adaptive Approach for missile defense in Europe.

Regarding the reliability of the GMD system over its operational life, we note that in his April 21 testimony before the Defense Subcommittee of the Senate Appropriations Committee, Lieutenant General Patrick O'Reilly explained that of the 52 GBIs planned for purchase, 30 will be operationally emplaced and the remainder will be used for testing and operational spares. He continued to explain that after 2019, only six of those GBIs will remain for reliability flight testing.

Is it possible to maintain the reliability of the GMD system over the 2020-2032 period with just six GBI flight tests, an average of one flight test every two years? By comparison, the Air Force conducts three flight tests of the Minuteman Intercontinental Ballistic Missile each year and the Navy conducts four annual flight tests of the Trident II D-5 Submarine-Launched Ballistic Missile to demonstrate the system reliability required by U.S. Strategic Command.

This is an urgent matter because the Department of Defense will soon reach its acquisition objective of 52 GBIs, and additional GBIs would be necessary to support a more rigorous GMD system reliability testing regime. We therefore urge you to clarify the process by which the Department will determine its requirements for reliability testing of the GMD system, and to request funding for any additional interceptors, as determined by those requirements, before GBI production ceases in 2012.

Turning to the Department's plans for the 2-stage GBI, we welcome the *Ballistic Missile Defense Review's* reaffirmation that the United States "will continue development and

OSD 05818-10



assessment of a two-stage ground-based interceptor" as a hedging strategy for the defense of the homeland. From the administration's statements on this topic, we understand that the 2-Stage GBI is specifically intended to serve as a hedge against either possible technical delays in the development of the SM-3 Block II or the risk that Iran will attain long-range ballistic missile capabilities more rapidly than expected.

We believe that if Iran fields a missile capable of reaching the United States, it is essential that we have a "shoot-look-shoot" capability for the defense of our homeland. We were therefore disappointed to see the testing schedule for the 2-stage GBI, because we do not think it supports this hedging strategy. Although the first flight test of a 2-stage GBI will occur this year, followed by an intercept test in fiscal year 2012, there will then be a four-year delay before the next intercept test in 2016.

Recent developments add urgency to our concerns. In its April 2010 *Report on the Military Power of Iran*, the Department of Defense concluded that with foreign assistance, "Iran could probably develop and test an intercontinental ballistic missile (ICBM) capable of reaching the United States by 2015." It is in light of this conclusion that we urge you to clarify exactly how the Department plans to develop the 2-stage GBI as a hedge, and whether it will be proven in time to deploy in response to Iran's ICBM program.

It is possible that our concerns about the long-term reliability of the GMD system may be addressed in the report required by Section 232 of the FY 2010 National Defense Authorization Act. In addition, we understand that the Department is preparing a report describing its plans to develop the 2-stage GBI, which we hope will address whether that interceptor will be deployable in time to serve as an effective hedge. We respectfully request that you submit both of these reports before the Senate Armed Services Committee marks up the FY 2011 National Defense Authorization Act later this month.

We thank you, again, for your strong support for the GMD program, and look forward to continuing this dialogue in the future.

Sincerely,



JEFF SESSIONS  
United States Senator



JOSEPH I. LIEBERMAN  
United States Senator

JOSEPH I. LIEBERMAN

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# United States Senate

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May 18, 2010

The Honorable Robert M. Gates  
Secretary of Defense  
The Pentagon  
Washington, DC 20301-1000

Dear Secretary Gates:

In advance of the Senate's deliberations on the National Defense Authorization Act for Fiscal Year 2011, I write to ask your opinion pertaining to the possible development and procurement of an alternate engine for the F-35 Joint Strike Fighter (JSF).

As you may recall, the Senate last year adopted an amendment (No. 1627) to the National Defense Authorization Act for Fiscal Year 2010 that prohibited any funds from being expended on the development or procurement of an alternate propulsion system for the F-35 Joint Strike Fighter until the Secretary of Defense certified in writing that the procurement of such a system would reduce the costs and improve the operational readiness of the Joint Strike Fighter fleet without either disrupting the program or resulting in the procurement of fewer JSF aircraft. Regrettably, this provision was stricken during the conference to resolve differences between the House and Senate versions of the bill.

I believe that this provision set a clear standard by which to determine whether the development of an alternate engine for the JSF would benefit our war fighters and would greatly appreciate your recommendation on whether Congress should include a similar provision in the 2011 National Defense Authorization Act.

Sincerely,

Joseph I. Lieberman  
UNITED STATES SENATOR

OSD 06413-10



CARL LEVIN, MICHIGAN  
DANIEL K. AKAKA, HAWAII  
THOMAS R. CARPER, DELAWARE  
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JOHN ENSIGN, NEVADA  
LINDSEY GRAHAM, SOUTH CAROLINA

# United States Senate

MICHAEL L. ALEXANDER, STAFF DIRECTOR  
BRANDON L. MILHORN, MINORITY STAFF DIRECTOR AND CHIEF COUNSEL

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
WASHINGTON, DC 20510-6250

May 24, 2010

The Honorable Robert M. Gates  
Secretary  
U.S. Department of Defense  
1000 Defense Pentagon, Room 3E718  
Washington, DC 20301

The Honorable Eric Holder  
Attorney General  
U.S. Department of Justice  
905 Pennsylvania Avenue, N.W.  
Washington, DC 20530

Dear Secretary Gates and Attorney General Holder:

We are writing in response to the failure of the Departments of Defense and Justice (DOD and DOJ) to comply with the subpoenas issued by the Senate Committee on Homeland Security and Governmental Affairs to compel production of documents critical to our investigation of how the government handled information concerning the alleged assailant, Major Nidal Malik Hasan, prior to the November 5, 2009, attack at Fort Hood, Texas. Our issuance of the subpoenas came after five months of unsuccessful efforts to obtain the Administration's cooperation with our requests for documents and interviews. It has now been more than one month since the subpoenas were served on you, and yet you have failed to produce to the Committee all the responsive materials sought in the subpoenas or to assert any legal basis for withholding the materials. While the two communications sent from your Departments to the Committee in response to the subpoenas (the Departments' April 27, 2010, letter and the DOD General Counsel's May 12, 2010, letter) explain the Departments' defiance of the subpoenas, neither letter offers any supportable legal ground for refusing to produce materials required by the subpoenas.

As explained below, the Committee rejects the Departments' offer to provide briefings for the Committee as a substitute for providing the documents sought by the subpoenas, and the Committee hereby puts you on notice that by Wednesday, June 2, 2010, you will be considered in default of the subpoena if the Departments have not produced the outstanding materials sought by the subpoenas or provided the Committee with legal defenses for not complying with the subpoenas.

I. Your Departments Have Failed To Comply With The Subpoenas' Request For Materials And To Assert Any Legal Defenses To Justify Such Defiance.

Your Departments are not in compliance with the subpoenas' requests for materials. Specifically, the Departments have failed to provide the materials sought by requests numbers 3 and 4 in the subpoena to Secretary Gates and request number 1 in the subpoena to Attorney General Holder. Those requests seek: (1) documents containing the names of front-line DOD and DOJ law enforcement and intelligence agents who reviewed Major Hasan's communications prior to the attack, and (2) the transcripts or summaries of prosecutorial interviews provided to





DOD's internal review conducted by former Secretary of the Army Togo West and retired Admiral Vern Clark. Your Departments' April 27 letter conveyed your refusal to provide these materials.

DOD and DOJ are also not in compliance with the subpoenas' requirement to specify a privilege as a basis for withholding the requested documents. Instruction (i) of the subpoenas directs DOD and DOJ to submit a privilege log that identifies information regarding each record withheld, including the privilege being asserted, in order for the Committee to rule on the validity of that privilege. As DOJ's Office of Legal Counsel has recognized, executive privilege – when properly asserted – is the sole privilege that is legally sufficient to justify non-compliance with a Congressional subpoena. 6 Op. Off. Legal Counsel 782, 784 n.5 (1983) (“As the doctrine is currently implemented, executive privilege may be formally invoked to prevent disclosures to Congress only by the President personally. Absent such formal invocation, executive officers are obliged to comply with all congressional requests for information in a manner consistent with their duty to execute the law.”) The consistent practice of every President since 1982 has been that only the President asserts executive privilege; a Department asserting executive privilege must indicate that the President himself has so authorized.

DOD and DOJ have not asserted executive privilege as a defense for their failure to produce the documents as required by the subpoenas. Instead, the Departments have offered weak and unsupported explanations for why they would prefer not to provide the Committee with the documents. Not only are such explanations unconvincing, but also they do not qualify as legal bases for withholding documents sought by Congressional subpoena. While we address these excuses at length in the attached annex, the following three points underlie the unpersuasive nature of the explanations you have offered:

- Our investigation's purpose is not to assess Major Hasan's culpability for the attack on November 5 or the conduct of the prosecution but rather to determine what information the government knew about Major Hasan before the shootings and what actions the government took as a result.
- Not only is there precedent for Congress interviewing front-line agents even when such agents are potential witnesses in a prosecution, but also a senior Federal Bureau of Investigation official has already interviewed some of the agents whom we wish to interview.
- Your Departments' putative concerns regarding pretrial publicity ignore the fact that (1) your Departments have repeatedly spurned our offer to negotiate protocols governing our disclosure of information that we would obtain, and (2) there has already been substantial publicity concerning the attack, with numerous Department officials having spoken to the media.

Simply put, the Departments are required to produce documents responsive to the subpoenas or to assert executive privilege as a basis for withholding them. You have done neither.

II. The Departments' Offer That The Committee Waive Its Right To The Requested Documents And Accept Senior-Level Briefings Is Unsatisfactory.

The DOD General Counsel's May 12 letter offered to provide the Committee with briefings by senior DOD and DOJ officials as a substitute for fully complying with the subpoenas. While the Committee is open to receiving briefings from Department officials as part of its investigation, the Departments' offer is unacceptable because it requires us to withdraw the subpoenas *before* receiving such briefings. The Committee surely cannot determine beforehand whether any briefing will provide it with a sufficient substitute to the information sought in the subpoenas. Accordingly, we cannot possibly agree to withdraw our subpoenas – or even, as the May 12 letter requested, provide a “reasonable degree of assurance” that we would do so – before receiving the briefings.

- It is highly unlikely that senior officials' briefings can substitute for direct interviews of the agents involved in reviewing and acting upon Major Hasan's communications prior to the attack. We would not expect briefings by senior officials to provide the sort of spontaneous interaction, including the ability to ask follow up factual questions and pursue lines of factual inquiry raised by unforeseen responses, that comes from directly interviewing the agents who have direct, factual knowledge of the actions that are the subject of the Committee's inquiry.
- Your Departments cannot offer any principled reason why DOD's internal review was permitted to examine the transcripts and summaries of prosecutorial interviews but Congress is blocked from doing so.

No DOJ or DOD investigators would ever be satisfied with second-hand briefings as opposed to interviewing actual witnesses and examining primary documents. Congress cannot fulfill its Constitutional responsibility to conduct oversight of the Executive Branch by accepting such second-hand information from the Departments.

We are not seeking a confrontation, and we are willing to consider other avenues for resolving this dispute short of enforcement of the subpoenas. For example, we have made clear that we are willing to accept briefings without pre-conditions. In the event that these briefings did provide us with some of the in-depth and detailed information that we expect to receive from reviewing documents and interviewing witnesses, we would be willing to modify our requests as appropriate; however, we will only accept such briefings without prejudice to our rights under the subpoenas. Furthermore, we have offered numerous times to negotiate protocols with your Departments in an effort to ensure that our Committee may access the information needed for our investigation while ameliorating any legitimate concerns that your Departments may have regarding the conduct of interviews and the use of information gleaned from the interviews and documents. Yet your Departments have refused to negotiate such protocols with us – even ignoring draft protocols that our staff submitted to your Departments in a good faith effort to open discussion.

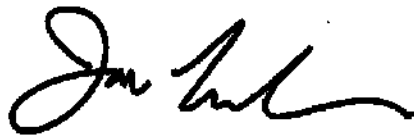
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Accordingly, to come into full compliance with your legal duties under the subpoenas, you must, by Wednesday, June 2, 2010 at 10 a.m., either (1) produce all outstanding materials

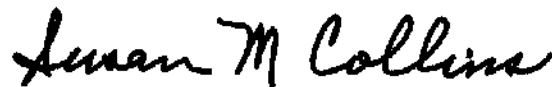
required by the subpoenas or (2) comply with Instruction (i) in the subpoenas and provide a privilege log regarding any responsive documents that have not been produced and specifying whether executive privilege is being asserted as to that document and whether the President has personally authorized the assertion of the privilege. The privilege log should contain sufficient information for the Committee to determine the legal and factual basis supporting any such assertion of privilege.

We, on behalf of the Committee, will rule expeditiously on any failure to produce materials required by the subpoena or on any assertions of privilege made by the Departments, and order the production of any materials that have been withheld without adequate legal justification. Should you fail to comply with any such order from the Committee, we would then convene the Committee on the earliest date practicable to consider measures for enforcing the subpoenas, including holding you in contempt of Congress.

Sincerely,



Joseph I. Lieberman  
Chairman



Susan M. Collins  
Ranking Member

United States Senate  
WASHINGTON, DC 20510

June 22, 2010

The Honorable Robert M. Gates  
Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20301

Dear Secretary Gates,

We write in regard to the October 2008 agreement to disestablish U.S.-Republic of Korea Combined Forces Command (CFC) and transition wartime operational control to separate U.S. and ROK military commands.

In recent months, senior South Korean leaders have expressed growing unease about this agreement and the April 2012 deadline for its execution. We share these concerns and supported a provision of the Senate Armed Services Committee's report to accompany S. 3454, the National Defense Authorization Act for Fiscal Year 2011, requiring that you update Congress on the possibility of adjusting the current plan. We believe this report will provide you with an opportunity to reexamine whether the 2006 agreement continues to make strategic sense and propose any new steps that would strengthen our crucial alliance with the Republic of Korea.

In our view, the agreement to disestablish Combined Forces Command was negotiated at a moment of unusual and regrettable tension in the U.S.-ROK alliance. As a result, the agreement was viewed throughout the Asia-Pacific region as reflecting a distancing of Washington and Seoul – a perception that we fear continues to haunt the current plan, despite the avowed and welcome interest of the current South Korean government in strengthening and deepening our alliance.

We reiterate the view expressed by the Senate Armed Services Committee that "in light of current tensions on the Korean peninsula and in the Asia-Pacific Region more broadly, this is a moment when the United States should be cautious about any actions that may be misperceived as a lessening of our security commitments to our allies and strategic partners in this vitally important region."

Although we pray for peace on the Korean Peninsula, we know that renewed conflict could erupt there with little warning. One of the best ways for the United States to help avoid such a conflict is by maintaining the solidarity of our relationship with South Korea, in fact and appearance.

We thank you for your considering our views on this important matter, and look forward to discussing it with you in greater detail in the future.

Sincerely,



John Thune  
UNITED STATES SENATOR



Joseph I. Lieberman  
United States Senator

OSD 07674-10



# United States Senate

WASHINGTON, DC 20510

July 23, 2010

The Honorable Robert Gates  
Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20301-1000

Dear Secretary Gates:

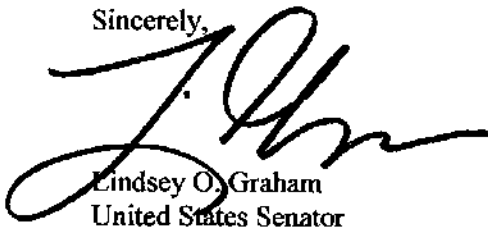
We are writing today regarding the July 12, 2010, DC District Court ruling in *International Counsel Bureau v. Department of Defense* pertaining to a *Freedom of Information Act* (FOIA) request to release photographs, videos, and audiotapes of four detainees at Guantanamo Bay Naval Base. The court ordered the release of 47 photographs and will hear additional arguments as to the release of 45 videos and 5 audiotapes.

The Department of Defense argued that the photographs are exempt from disclosure under FOIA "because release would disclose the identity of the detainees," and "would risk both [the detainees'] safety upon release, through reprisals, and would undermine their likely willingness to cooperate with the intelligence collection activities." Similarly, the Department of Defense argued that the videos and audiotapes at issue are exempt because disclosure would allow our enemies to "develop countermeasures or resistance tactics" and "circumvent security measures" in military detention facilities, "placing military members at risk and impeding the lawful conduct of military detention operations," or "risk disclosing intelligence sources and methods, causing harm to the national security."

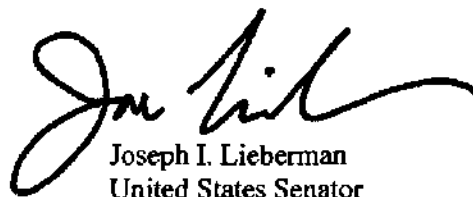
Although the Department of Defense argued that disclosure of these records would undermine detention operations and compromise intelligence gathering, you did not use your authority under the *Detainee Photographic Records Protection Act of 2009* to halt disclosure of any of the records at issue by certifying that public access would endanger American citizens or government employees deployed abroad.

Please advise us of your confidence that the disclosure of these records would not, in fact, endanger American citizens or government employees deployed abroad, such that use of the authority under the *Detainee Photographic Records Protection Act of 2009* is unnecessary. Thank you for your consideration of our request.

Sincerely,



Lindsey O. Graham  
United States Senator



Joseph I. Lieberman  
United States Senator

OSD 09058-10



# United States Senate

WASHINGTON, DC 20510

January 6, 2011

The Honorable Robert M. Gates  
Secretary of Defense  
1000 Defense Pentagon  
Washington, D.C. 20301

Dear Mr. Secretary:

Recent press reports suggest the Department of Defense is anticipating major cuts to selected defense programs. We write to urge you as you work toward improving efficiencies within the Department to take no action that would impair the development of the missile defense architecture as outlined by the Missile Defense Agency in the FY11-15 Future Years Defense Plan. Such reductions would be inconsistent with the President's support for missile defense as outlined in his December 18, 2010 letter to Senators Reid and McConnell during the debate on the New START Treaty, as well as your comments to the Senate Armed Services Committee in June in which you noted a likely increase in funding for missile defense in the FY 2012 budget request.<sup>1</sup>

We also recommend the Department of Defense examine carefully its strategy to sustain and modernize the Ground-based Midcourse Defense (GMD) system, which today is this country's only defense against long-range ballistic missile attack. As you may recall, some of us cautioned the administration in early 2009 that its plans to curtail further development of the GMD system and limit production to 44 Ground-based Interceptor (GBI) missiles was inconsistent with the administration's stated objective to ensure the effectiveness of the GMD system over its 20+ year service life. Thanks to your efforts, subsequent defense budgets included additional funding to improve the capability of the GMD system over time and to increase the number of GBIs purchased to 52.

Nevertheless, Congress remained concerned about administration plans for the GMD program, as noted in Section 232 of the National Defense Authorization Act for Fiscal Year 2010, which stated the "Secretary of Defense should ensure the reliability, availability, maintainability, and supportability of the Ground-based Midcourse Defense element of the Ballistic Missile Defense system throughout the service life of such element." Congress directed the Department to provide a plan to maintain the operational effectiveness of the GMD system through robust testing, aging, and surveillance activities as well as continued production of Ground-based Interceptors. The Government Accountability Office's (GAO) December 2010 review of this plan confirms our view that the administration's long-term strategy for

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<sup>1</sup> Secretary Gates: "As Secretary Clinton has pointed out, our request for missile defense in the '11 budget is \$700 million over the enacted FY '10 number, and we are looking at an increase beyond that of potentially up to another billion dollars for FY '12." Senate Armed Services Committee Hearing on New START, June 17, 2010.

OSD 00897-11



maintaining and improving the GMD system is inadequate. Specifically, the GAO concluded that the planned inventory of 52 GBIs needed through 2032 lacks analysis, and GAO could not understand, based on the information provided by the Department, how MDA determined the number of GBIs needed for operational spares and stockpile reliability testing.<sup>2</sup>

Senators Lieberman and Sessions wrote to you on May 10, 2010, expressing concern about the ability to maintain the reliability of the GMD system over the duration of its operational life through 2032 in light of the decision to procure only 52 GBIs. General O'Reilly, the Director of the Missile Defense Agency, testified to Congress in April 2010 that this would leave only 6 GBIs for reliability testing from 2020 through 2032. Due, in part, to the recent GMD test failures, we are informed by General O'Reilly that there now remain only 2 GBIs for reliability testing to cover the last 12 years of the GMD system. This number is clearly insufficient to address the needs of continued development and reliability testing, and for emergency deployment to the additional 8 silos in Fort Greely, Alaska, if necessary.

The recent flight test difficulties associated with the GMD system suggest there may be future uncertainties about what will be required to maintain and improve such a complex weapon system over 20-plus years. Prudence dictates that the government should maintain a technically competent industrial base to support further GBI production and be available to deal with any unexpected issues that arise in the course of future testing and operations. To be clear, while additional GBIs are needed for development, testing, and emergency deployment, it is preservation of the GMD/GBI industrial and engineering base that is most important to ensure the continued viability of GMD over time.

There also remains uncertainty regarding the administration's "hedge" strategy associated with the Two-stage Ground-based Interceptor, including the timeline and decision criteria for a decision to proceed with it as an alternative or complement to the SM-3 block II missile, should that missile encounter serious technical difficulty. The current flight test plan for the Two-stage GBI calls for a second intercept test in 2016, which leaves little time to field this system should there be a delay in deploying the SM-3 block IIA to Poland in 2018, as planned. It is important for the Department to present to Congress a coherent plan for "hedging" against technical failure of the current missile defense systems envisioned under the Phased Adaptive Approach in Europe and in the event the long-range threat to Europe and the United States matures more quickly than anticipated.

To assist Congress in its consideration of these matters, the National Defense Authorization Act for Fiscal Year 2011 includes a provision (Sec. 228) requiring the Secretary of Defense to select an entity outside the Department of Defense to conduct an independent review and assessment of the GMD system. We ask that you take action to ensure this study gets underway as soon as possible, so as to inform our review of the FY 2012 budget request for missile defense.

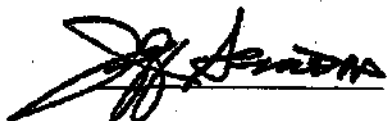
We thank you for your continued support of the GMD program and implore you to address what continues to be an inadequate strategy for maintaining and improving this

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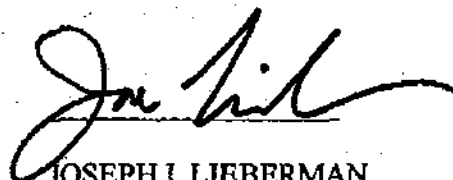
<sup>2</sup> Government Accountability Office, *DOD's Assessment and Plan for the Ground-based Midcourse Defense*, Interim Briefing presented to Congressional Defense Committees, October 15, 2010, page 22.

important component of our homeland defense. As you surely know, in its Resolution of Ratification for the New START Treaty, the Senate reaffirmed that it is U.S. policy to continue the modernization of the GMD system, as well as the continued development of the Two-stage Ground-based Interceptor as a technological and strategic hedge. We look forward to working with you to further these goals.

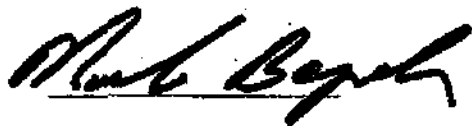
Sincerely,



JEFF SESSIONS  
United States Senator



JOSEPH I. LIEBERMAN  
United States Senator



MARK BEGICH  
United States Senator



JOSEPH I. LIEFERMAN, CONNECTICUT, CHAIRMAN

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# United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

MICHAEL L. ALEXANDER, STAFF DIRECTOR  
BRANDON I. MILBORN, MINORITY STAFF DIRECTOR AND CHIEF COUNSEL

February 3, 2011

The Honorable Robert M. Gates  
Secretary  
U.S. Department of Defense  
1000 Defense Pentagon, Room 3E718  
Washington, DC 20310

Dear Secretary Gates:

We enclose for your attention the final report from our investigation of the terrorist attack at Fort Hood on November 5, 2009, that claimed the lives of 13 people and injured dozens of others. In committing this terrorist attack, Army Major Nidal Malik Hasan was motivated by violent Islamist extremism. Our investigative report finds that both the Department of Defense (DoD) and the Federal Bureau of Investigation (FBI) missed opportunities to identify the violent radicalization of Major Hasan and failed to take action that might have prevented the attack.

The Senate Committee on Homeland Security and Governmental Affairs launched this investigation immediately after the attack. As you know, President Obama himself acknowledged the importance of a Congressional investigation of the government's performance when he said on November 14, 2009, "I know there will be inquiries by Congress, and there should be." Our investigation was informed by the Committee's more than four-year investigation of homegrown terrorism, its authorship of comprehensive intelligence reforms, and its oversight of homeland security generally.

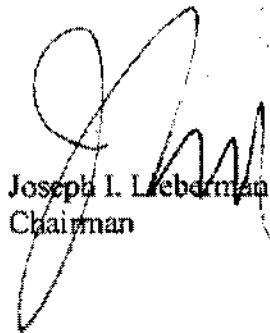
We commend you for instituting a comprehensive review after the attack in order to identify lessons-learned on a variety of subjects, including force protection and emergency response. Our investigation focused specifically on the government's performance with respect to Major Hasan prior to the attack, and we believe that there are additional lessons to be learned for DoD beyond its current review. Our report finds that DoD still fails to explicitly identify our terrorist enemy as the ideology of violent Islamist extremism and instead subsumes this threat within workplace violence or violent extremism generally. Our report also recommends that DoD update its policies and training on extremism and religious accommodation to ensure that violent Islamist extremism among service members is identified and not tolerated and that commanders take the necessary disciplinary action. Our report also identifies significant failures by the FBI in its inquiry into Major Hasan prior to the attack, including its failure to share threat information with DoD, and raises our concern that the FBI's transformation is incomplete and faces systemic challenges.

OSD 01252-11



We would be grateful for your thoughts on this report and on actions that DoD can take to maximize our nation's defenses against homegrown terrorism.

Sincerely,



Joseph I. Lieberman  
Chairman



Susan M. Collins  
Ranking Member

JOSEPH I. LIEBERMAN  
CONNECTICUT

## United States Senate

WASHINGTON, D.C. 20510

February 22, 2011

The Honorable Robert M. Gates  
Secretary  
U.S. Department of Defense  
The Pentagon  
Washington, D.C. 20301

**RE: DARPA BAA 10-83**

Dear Secretary Gates:

It is my pleasure to write in support of the application submitted by Wraith Technologies, LLC for funding through the Defense Advanced Research Projects Agency.

Wraith Technologies, LLC seeks funding to support the development of an autonomous deployable system to convert atmospheric CO<sub>2</sub> to liquid fuels (JP-8) on-site. I understand that this project could change the way the military views fuel logistics in terms of cost and remote site availability. Wraith anticipates that it would provide complete field engineering services to set up, conduct start-up, operate the system at the steady state level and maintain the hardware in forward combat theaters. Wraith's team consists of four other Connecticut companies and as such, will allow this state to create both high level engineering and manufacturing jobs in our clean energy economy. Equally important, this project has the potential to contribute to economic recovery and environmental health in Connecticut.

Wraith's proposal (BAA 10-83) addresses the concerns expressed by the DARPA STO Program Manager. I support the proposal set forth by Wraith Technologies, LLC and respectfully request that their application for funding receive full and fair consideration. Thank you for your time and consideration.

Sincerely,



Joseph I. Lieberman  
UNITED STATES SENATOR

JIL/jmj/kmm

OSD 02189-11



JOSEPH I. LIEBERMAN  
CONNECTICUT



UNITED STATES SENATE  
WASHINGTON, D.C. 20510

February 22, 2011

The Honorable Robert M. Gates  
Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20301

Dear Secretary Gates,

I greatly appreciated your call last week for the Senate to continue to reject the unnecessary extra engine for the F-35 Joint Strike Fighter, as it did when the issue was last put to a vote in July 2009. In anticipation of a possible debate and vote on this important issue when the Senate takes up a spending bill for the remainder of fiscal year 2011, I write to ask if you could further explain why you believe the Senate should terminate funding for the extra engine and whether such a decision would impose an unacceptable level of risk on our military forces.

I thank you in advance for your consideration of this request and for your continued service.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Lieberman".

Joseph I. Lieberman  
United States Senator

OSD 02665-11



JOSEPH I. LIEBERMAN  
CONNECTICUT

COMMITTEES:  
ARMED SERVICES  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
SMALL BUSINESS

**United States Senate**  
WASHINGTON, DC 20510-0703

SENATE OFFICE BUILDING  
WASHINGTON, DC 20510  
(202) 224-4041

STATE OFFICE:  
ONE CONSTITUTION PLAZA  
7TH FLOOR  
HARTFORD, CT 06103  
860-549-8463  
TOLL FREE: 1-800-225-5605  
HOME PAGE:  
<http://lieberman.senate.gov>

June 2, 2011

The Honorable Robert M. Gates  
Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20301

Dear Secretary Gates,

I write to ask for your views on Section 252 of H.R. 1540, the National Defense Authorization Act for Fiscal Year 2012, which would require the Defense Department to provide support and allow the use of property for General Electric and Rolls Royce to "self-fund" the continued research, development, testing, and evaluation of the F136 engine for the Joint Strike Fighter. During debate in the House of Representatives, proponents of this provision argued that the Defense Department could provide such support and use of property at no cost to the Federal Government.

I would appreciate your thoughts on whether such an arrangement would indeed be cost-free for the Federal Government, and if not, what further restrictions would be necessary to ensure that no federal funds are spent in support of such a "self-funded" arrangement.

I would also welcome any additional views that you may wish to offer on the Joint Strike Fighter program. I thank you in advance for your consideration of this request and for your many years of public service.

Sincerely,

  
Joseph I. Lieberman  
UNITED STATES SENATOR

OSD 07329-11



JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN

CARL LEVIN, MICHIGAN  
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MICHAEL L. ALEXANDER, STAFF DIRECTOR  
NICHOLAS A. ROSSI, MINORITY STAFF DIRECTOR

## United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
WASHINGTON, DC 20510-6250

June 15, 2011

The Honorable Robert M. Gates  
Secretary of Defense  
United States Department of Defense  
1000 Defense Pentagon  
Washington, DC 20301-1000

Dear Secretary Gates:

We know how committed you have been to addressing shortcomings in the systems of the Department of Defense and the Veterans Administration for providing care, support, treatment and rehabilitation for the men and women returning from battle with injuries and illnesses. We are concerned about some troubling reports about the state of the Warrior Transition Units (WTU) as the locus for providing these services to our American Wounded Warriors. In response, we request your cooperation in answering the attached WTU questions about the program.

Please provide a response to these questions by July 11, 2011. If you have any questions about this request, please have your staff contact Robert Graves or Katy French on my staff at 202-224-4751.

Sincerely,



Joseph I. Lieberman  
Chairman



Susan M. Collins  
Ranking Member

Enclosure

OSD 07353-11



JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN

CARL LEVIN, MICHIGAN  
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RON JOHNSON, WISCONSIN  
ROB PORTMAN, OHIO  
RAND PAUL, KENTUCKY  
JERRY MORAN, KANSAS

MICHAEL L. ALEXANDER, STAFF DIRECTOR  
NICHOLAS A. ROSSI, MINORITY STAFF DIRECTOR

# United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
WASHINGTON, DC 20510-6250

June 10, 2011


The Honorable Robert Gates  
Secretary of Defense  
U.S. Department of Defense  
1000 Defense Pentagon  
Washington, DC 20301

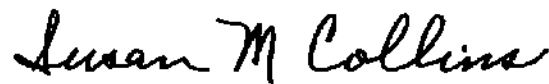
Dear Secretary Gates:

On February 24, 2011, the Commission on Wartime Contracting issued a report containing 32 recommendations to Congress and the Administration related to contingency contracting. The report is available on the Commission's web site at [http://www.wartimecontracting.gov/docs/CWC\\_InterimReport2-lowres.pdf](http://www.wartimecontracting.gov/docs/CWC_InterimReport2-lowres.pdf). As the Chairman and Ranking Member of the Senate Committee with jurisdiction over federal procurement policy, we are interested in enacting permanent, systemic reforms to contingency contracting practices that would prevent the instances of waste, fraud, and abuse that too often have accompanied contracts associated with the wars and reconstruction efforts in Iraq and Afghanistan. Toward that goal, we respectfully request the Department's views on the recommendations made by the Commission in its February 24 report.

If your staff has questions about this request, please have them contact Troy Cribb with the majority staff at 202-224-2627 or Trey Hicks with the minority staff at 202-224-4751.

Sincerely,

  
Joseph I. Lieberman  
Chairman

  
Susan M. Collins  
Ranking member

OSD 07370-11



# United States Senate

WASHINGTON, DC 20510

July 12, 2011

The Honorable Leon Panetta  
Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20301-1000

Dear Secretary Panetta:

Media reports last week about the capture, interrogation on board a Navy ship for more than two months, and decision to transfer a detainee from military custody overseas to the United States for civilian trial raise a number of serious policy issues.

We are very concerned that this policy appears to be a circumvention of the clear intent of many in Congress that terrorists captured abroad under the Authorization for Use of Military Force should not be brought into the United States for trial. Further, there appears to be no precedent for this action. In addition to the concerns listed below, the American people must be assured that terrorists are not brought into the United States for trial only to be released as a result of an acquittal, a short sentence, or some other action such as inability of the United States to deport an individual that allows the terrorist in the United States to remain here and be released into the general population.

Recent testimony by Vice Admiral William H. McRaven before the Senate Armed Services Committee highlighted these issues even before the decision to transfer Ahmed Abdulkadir Warsame to New York for civilian trial was announced last week. According to Admiral McRaven, detention of high-value terrorists who are captured by U.S. military forces outside Afghanistan and Iraq is subject to case-by-case decisions about where detention could be carried out because the United States lacks an overarching policy for how to handle such detainees. Admiral McRaven was not the first to note the obvious negative impacts of the lack of such a policy. Your predecessor, Secretary Gates, the Chairman of the Joint Chiefs of Staff, Admiral Michael Mullen, and you, have all recently testified before Congress that the United States lacks a clear answer to this question. We believe this is an intolerable situation.

In answers to questions at his nomination hearing, Admiral McRaven testified, "In many cases, we will put them on a naval vessel and we will hold them until we can either get a case to prosecute them in U.S. court or..." In response to a follow-up question concerning how long detainees could be held at sea, Admiral McRaven replied, "Sir, I think it depends on whether or not we think we can prosecute that individual in a U.S. court or we can return him to a third-party country." McRaven concluded by saying, "If we can't do either one of those, then we'll release that individual and that becomes the—the unenviable option, but it is an option."

In light of this testimony as well as that of other senior officials, and the specific circumstances of the Warsame case, we ask that you provide answers to the following questions.

OSD 08570-11





Does the United States have an established, consistent policy for detaining terrorists captured or turned over to U.S. military forces outside the United States, particularly those captured outside Afghanistan or Iraq?

Do disposition options differ based whether a detainee may be held under the Authorization for Use of Military Force or the President's constitutional authority as Commander-in-Chief? If so, how and why?

Is transferring such a detainee to the detention facility at Guantanamo Bay an option that is presented for consideration to the President's senior national security advisors?

If not, what prevents that option from being considered given that the detention facility at Guantanamo was created to house law of war detainees and the closure of Guantanamo is unlikely to be achieved until a broader solution to the disposition of existing long-term detainees held there is developed?

In how many cases since January 2009 have captured terrorists been held on Navy ships, excluding those who were captured as part of anti-piracy operations?

How many such detainees held at sea were transferred to a third-party country?

What were the terms of such transfers, if they occurred, and did such transfers result in trial, incarceration, or other measures to mitigate the threat to the United States and its allies?

How many such detainees have been released; to which countries or foreign entities were such detainees released; and what were the terms and mitigation measures applied to such releases? We note that at least one individual captured with Warsame was released within a few days, according to media reports.

If a detainee who has been held and interrogated under the law of war is acquitted as a result of a civilian trial in the United States, will that individual return to military custody for detention under the law of war?

Would individuals who have served a modest criminal sentence or those awaiting deportation be returned to military custody?

If such a return to military custody takes place, where will the detainee be held?

Thank you for your prompt attention on this matter.

Sincerely,



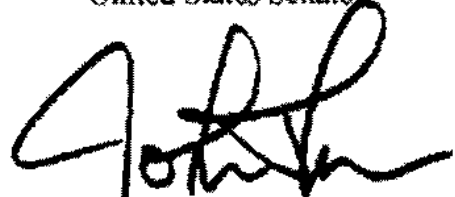
John McCain  
United States Senator



Mitch McConnell  
United States Senator



Jon Kyl  
United States Senator



John Thune  
United States Senator



Joseph Lieberman  
United States Senator



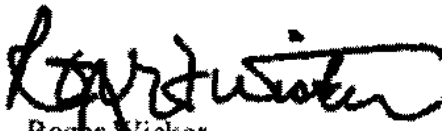
James Inhofe  
United States Senator



Jeff Sessions  
United States Senator



Saxby Chambliss  
United States Senator



Roger Wicker  
United States Senator



Scott Brown  
United States Senator



Rob Portman  
United States Senator



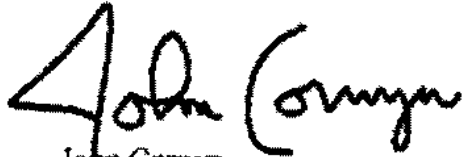
Kelly Ayotte  
United States Senator



Susan Collins  
United States Senator



Lindsey Graham  
United States Senator




John Cornyn  
United States Senator



David Vitter  
United States Senator



Orrin Hatch  
United States Senator



Tom Coburn  
United States Senator



James Risch  
United States Senator



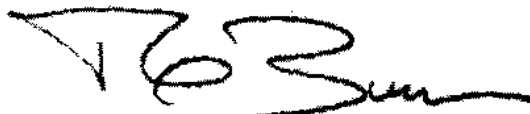
Daniel Coats  
United States Senator



Marco Rubio  
United States Senator



Jim Webb  
United States Senator



Richard Burr  
United States Senator

# United States Senate

WASHINGTON, DC 20510

July 21, 2011

The Honorable Leon Panetta  
Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20301-1000

Dear Secretary Panetta:

We write to you today to strongly oppose the reported transfer of an extraordinarily dangerous senior Hezbollah operative, Ali Mussa Daqduq, from U.S. military custody to the Government of Iraq. We believe such a transfer puts in jeopardy the safety of our troops in Iraq.

Daqduq, as you know, is the highest ranking Hezbollah operative currently in our custody. In 2005, Daqduq was directed by senior Hezbollah leadership to go to Iran and train Iraqi extremists. Daqduq trained these Iraqis on the use of explosively formed penetrators, mortars, rockets, and other terrorist tactics and is suspected of orchestrating a brazen kidnapping in Karbala, Iraq, in 2007 that resulted in the murder of five U.S. military personnel. If he is released from custody, we firmly believe he will seek to harm or kill more American servicemen and women.

Our concern is that Iraq's current legal regime could allow for Daqduq to return to the fight either as a result of an inability to detain and prosecute him under Iraqi criminal laws, ineffective incarceration, or other challenges. We know that matters such as these remain the subject of ongoing discussions with our Iraqi partners, but we believe that the potential transfer of Daqduq to Iraqi authority could pose an unacceptable risk to U.S. national security interests.

While we may not all be in agreement on long term plans for Guantanamo Bay, that debate does not mitigate the fact that with the absence of a proposal from the Administration on how to proceed with detainees if the detention facility at Guantanamo Bay is closed, it appears that Guantanamo Bay is the only available detention facility. It is absolutely clear that the policy option that most reduces the risk to Americans' safety is the one the Administration apparently refuses to consider—law of war detention at Guantanamo with or without trial by military commission. We urge the Administration to closely evaluate the legal authority available to bring Daqduq's case before a military commission.

If he is released from United States custody, there is little doubt that Daqduq will return to the battlefield and resume his terrorist activities against the United States and our interests. For this reason, we urge you to take whatever steps you can to block Daqduq's transfer to the Iraqi Government and out of U.S. custody.

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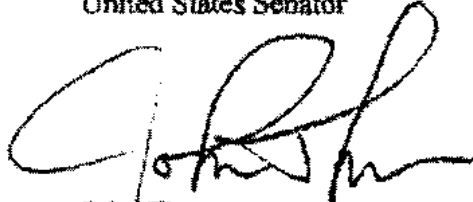


Thank you for your prompt attention on this matter.

Sincerely,


  
John McCain  
United States Senator

  
Mitch McConnell  
United States Senator

  
John Thune  
United States Senator

  
James Inhofe  
United States Senator

  
Jeff Sessions  
United States Senator

  
Saxby Chambliss  
United States Senator

  
Roger Wicker  
United States Senator

  
Scott Brown  
United States Senator

  
Kelly Ayotte  
United States Senator

  
Lindsey Graham  
United States Senator

  
David Vitter  
United States Senator

  
Chuck Grassley  
United States Senator



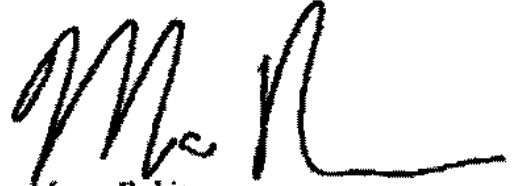
Orrin Hatch  
United States Senator



Richard Burr  
United States Senator



Roy Blunt  
United States Senator



Marco Rubio  
United States Senator



Jon Kyl  
United States Senator



Joseph Lieberman  
United States Senator



Mark Kirk  
United States Senator



Susan Collins  
United States Senator

## United States Senate

WASHINGTON, DC 20540-2296

April 25, 2012

The Honorable Leon E. Panetta  
Secretary of Defense  
United States Department of Defense  
1400 Defense Pentagon  
Washington, DC 20301

Dear Secretary Panetta,

When the repeal of Don't Ask, Don't Tell (DADT) took effect on September 20, 2011, then-Under Secretary of Defense for Personnel and Readiness Dr. Clifford Stanley issued a memorandum providing guidance to the military services regarding applications from veterans separated on the basis of their sexual orientation seeking changes to their discharge paperwork. The memorandum made clear that Discharge Review Boards (DRBs) "should normally grant requests to change the narrative reason for a discharge... [and that] requests to re-characterize the discharge to honorable and/or requests to change reentry codes to an immediately-eligible-to-reenter category" should be granted when the original discharge was based solely on DADT and there "were no aggravating factors in the record, such as misconduct." The guidance goes on to say that while "each request must be evaluated on a case-by-case basis," having "an honorable or general discharge should normally... indicate the absence of aggravating factors."

While this guidance was an important step in the right direction, it is insufficient for the vast majority of veterans discharged under DADT. The current process is protracted and overly burdensome for veterans who—according to Dr. Stanley's guidance—should be entitled to have their discharge documents corrected. Our understanding is that many veterans who meet the criteria outlined above must first gather their service-related paperwork, which many veterans do not possess. The veteran must then file an application with the supporting documentation to overcome the presumption of the DRB that the discharge was proper. To accomplish this, the veteran must argue that the discharge should be changed according to the standards of "propriety" or "equity," per DRB regulations. Only after overcoming this presumption will the DRB change the discharge paperwork.

We understand that changing discharge paperwork is not a small matter and that in most cases, a careful case-by-case evaluation is warranted. But as long as a former service member's Narrative Reason for a discharge is "Homosexual Conduct," "Homosexual Act" or "Homosexual Marriage," that service member is compelled to be "out" to any future civilian employer and anyone else who sees the document. Likewise, the negative reentry code serves as a barrier to employment opportunities.

Therefore, the process should be streamlined for those veterans discharged under DADT who have honorable or general discharges and only seek changes to their narrative reason for discharge and their reentry code. We thus respectfully request that the Department clarify that DRBs shall correct discharge paperwork upon receipt of a basic DD Form 293 application, provided that



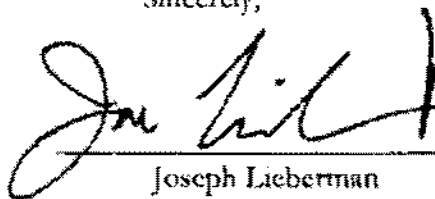
the DRB can then obtain the veteran's DD Form 214 and service record. The Department should further clarify that, where there are no aggravating factors in the service member's record, the presumption should be in favor of correction.

Veterans who were discharged under DADT should not be compelled to carry with them a narrative reason for separation that indicates their sexual orientation to anyone who sees their discharge document. In order to begin to put the regrettable policy of DADT fully behind us, the process of getting these documents corrected needs to be accessible and achievable for all. Thank you for your attention to this important matter.

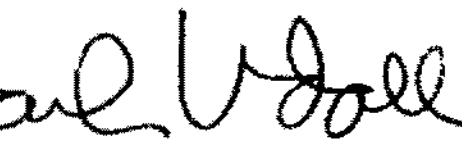
Sincerely,



Kirsten E. Gillibrand  
Kirsten E. Gillibrand  
United States Senator



Joseph Lieberman  
Joseph Lieberman  
United States Senator



Mark Udall  
Mark Udall  
United States Senator

CC:

The Honorable Jo Ann Rooney  
Acting Under Secretary of Defense

The Honorable Jeh Johnson  
General Counsel



# United States Senate

WASHINGTON, DC 20510

June 29, 2012

The Honorable Leon E. Panetta  
Secretary of Defense  
1000 Defense Pentagon  
Washington, D.C. 20301

Dear Mr. Secretary:

The president's Fiscal Year 2013 budget request for National Nuclear Security Administration (NNSA) Weapons Activities was \$370 million short of the amount prescribed in the report required by Section 1251 of the National Defense Authorization Act for Fiscal Year 2010. In addition to delaying the life-extension programs for the W-76 and B-61 weapons, the FY13 request indefinitely defers construction of the Chemistry and Metallurgy Research Replacement Nuclear Facility (CMRR-NF) – a plutonium handling facility that is a key part of the nuclear stockpile stewardship program and necessary to meet DoD pit requirements -- for at least five years.

While the House and Senate Energy and Water Appropriations Subcommittees supported the president's request, both the House-passed and Senate Armed Services Committee-reported versions of the National Defense Authorization Act for Fiscal Year 2013 include provisions and funding authorization that direct the administration to make CMRR-NF operational by 2024. The House bill also prohibits NNSA from expending funds in support of the administration's alternative plutonium strategy.

The February 2, 2011, message from the President to the Senate on the New START Treaty stated that the President intends to "(a) accelerate to the extent possible, the design and engineering phase of the Chemistry and Metallurgy Research Replacement (CMRR) building and the Uranium Processing Facility (UPF); and (b) request full funding, including on a multi-year basis as appropriate, for the CMRR building and the UPF upon completion of the design and engineering phase for such facilities." We believe that the linkage between nuclear modernization and the New START Treaty was clearly defined at the time of ratification and remains so today. Thus, we are concerned about the impact that failing to fulfill this critical commitment could have on future treaties the Senate may be asked to consider.

The president's FY13 budget request for NNSA weapons activities also failed to include several documents necessary to assess the administration's plans beyond next year, including NNSA's *Future Years Nuclear Security Program* (a five-year budget document required by legislation), an updated *Stockpile Stewardship Management Plan* (a 20-year plan that provides details about the size and modernization of the stockpile), and the congressionally mandated "1043" annual report (which replaces the 1251 plan, a 10-year estimate of modernization budget



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requirements). We now understand these plans will not be completed until sometime this summer.

The Senate and House Armed Services Committees have shown that, despite the challenging fiscal environment, the national security imperative for CMRR-NF justifies the prioritization of this key modernization project. Both the SASC and HASC direct construction of CMRR-NF while prohibiting the expenditure of funds for the hastily conceived alternative approach, which could cost in excess of \$1 billion and does not meet DoD mission requirements. We believe that the administration should begin the necessary planning and include in the FY14 budget and beyond funding for CMRR-NF's completion.

The Department of Defense and NNSA are collectively responsible for maintaining the nuclear deterrent. We therefore urge you to work with the administration and NNSA to continue CMRR-NF design activities this year and build an out-year budget to support construction and operation by 2024, as this provision will likely be directed by the final version of the National Defense Authorization Act for FY13.

In addition to funding CMRR-NF in the out-year budgets, the administration will need to work with congressional appropriators to secure funding for CMRR-NF in FY13. The original need for CMRR-NF funding in FY13 was \$300 million. The Armed Services Committees authorize the use of remaining FY12 CMRR-NF funds in FY13 (about \$160 million). The House provided an additional \$100 million for CMRR-NF, while the Senate committee authorized an additional \$150 million in FY13 from within NNSA's budget. The Senate committee also gave the Secretary of Defense the authority to transfer up to \$150 million to NNSA for weapons activities in FY13 (in addition to the \$125 million authority for FY12), which could close the gap.

The current NNSA alternative strategy does not meet critical national defense mission requirements. Given the recent action by the House and the Senate Armed Services Committees, there is clear support for funding and for the administration's plan, as stated in the 1251 report, to build CMRR-NF and "ensure the United States can maintain a safe, secure, and effective arsenal over the long-term."

Sincerely,



JON KYL  
United States Senator



BEN NELSON  
United States Senator



JOHN McCAIN  
United States Senator



JOE LIEBERMAN  
United States Senator



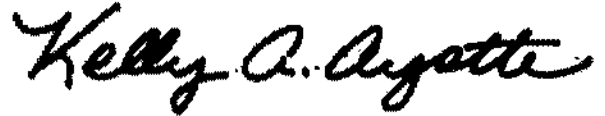
BOB CORKER  
United States Senator



JOHNNY ISAKSON  
United States Senator



JAMES M. INHOFE  
United States Senator



KELLY AYOTTE  
United States Senator

CC: Dr. Ashton Carter, Deputy Secretary of Defense  
Dr. Frank Kendall, Under Secretary of Defense for Acquisition, Technology, and Logistics  
Dr. James Miller, Under Secretary of Defense for Policy  
Admiral James Winnefeld, Jr., Vice Chairman of the Joint Chiefs of Staff  
General Robert Kehler, Commander, U.S. STRATCOM  
Mr. Thomas D'Agostino, Administrator, National Nuclear Security Administration

JOSEPH I. LIEBERMAN  
CONNECTICUT

UNITED STATES SENATE  
WASHINGTON, D.C. 20510

July 2, 2012

Dear Secretary Panetta:

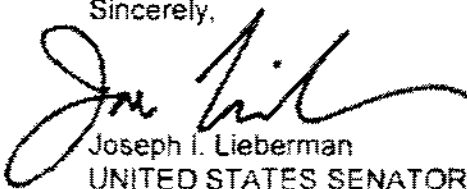
The STOCK Act (Public Law 112-105), which was enacted in April, 2012, contains a provision requiring that senior federal employees' public financial disclosure reports must be published on the internet by August 31, 2012, and be made searchable on the internet next year.

I would be very interested to know whether you or others at the Department of Defense believe that implementation of the disclosures required by the STOCK Act might cause any unintended consequences regarding the national security or the personal security of individual employees. I ask that you please respond at your nearest convenience to describe any possible unintended consequences or risks that you may identify in your analysis of this law.

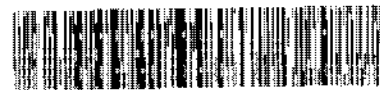
In responding to this request, please feel free to have any Department personnel contact my Legislative Director Chris Griffin (202-224-4041) or members of my Homeland Security and Governmental Affairs Committee staff Larry Novey or Troy Cribb (202-224-2627).

Thank you very much for your assistance.

Sincerely,



Joseph I. Lieberman  
UNITED STATES SENATOR



OSD008195-12