But the efforts made to extend this should be bipartisan. The House is going to do what they do, and they are going to send us a piece of legislation. They have not had time—I have spoken to the Speaker, and she has not had time, through her committees, for them to come up with the necessary work to have a conference that is meaningful because they are not ready for that. So they are going to send us a message and we are going to have to act on that.

If we pass it, it will not be what the President wants. If we have a little more time, the House, which has been working recently with the White House quite well on the stimulus package and other things, maybe could work something out. But you can't create something out of nothing, and that is what the President wants. He is looking for an excuse to wave his banner of ''be afraid, terror.'' That is what he and the Vice President have done.

We understand the law is important. We believe it should be extended for a short period of time. If it is not extended, it is not the fault of the Congress, it is the fault of Bush and CHENEY. We are doing everything we can to work this out. If it doesn't pass in the manner he wants, and it won't in the next few days—he wants total immunity for these phone companies that have cooperated or haven't cooperated with him, whatever the evidence shows. So I repeat, if we don't get an extension, the law will lapse. It is not the fault of the Congress, it is the fault of the White House.

Mr. President, I think we should announce what we are going to be doing here today.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business for 1 hour, with the time equally divided.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. FEINSTEIN. Mr. President, it is my understanding that I have reserved time, 15 minutes, to speak in morning business.

The ACTING PRESIDENT pro tempore. That is correct.

Mrs. FEINSTEIN. I thank the Chair.

CIA INTERROGATIONS AND ARMY FIELD MANUAL

Mrs. FEINSTEIN. Mr. President, yesterday was a big day before the Senate. We had the Foreign Intelligence Surveillance Act bill. Today is an even bigger day because the intelligence authorization bill is going to be before the Senate, and today we will grapple with something that I think should be major in our consciousness and major in our deliberations. It is central to who we are as a nation. The question is whether the United States should continue to go to the ''dark side,'' down the road of torture, and continue to allow the CIA and other intelligence agencies to practice or outsource state-sanctioned torture. To me, the answer is clear, and I hope it is to everyone. The answer should be no.

Today we are living in a legal limbo, where the rules are shrouded by ambiguity. The time has come to change this once and for all. The way to do it is to support the fiscal year 2008 intelligence authorization bill, which would prohibit all interrogation techniques by the CIA and place the intelligence community under the uniform standard of the Army Field Manual. If that bill passes, and it has passed the House of Representatives, if it passes here today, we have a uniform standard for the entire American Government with respect to coercive interrogation techniques.

The Army Field Manual, which looks like this, has 19 interrogation protocols. They are proven, they are flexible, and they are effective. The CIA interrogation program, on the other hand, I believe, is immoral, illegal, sometimes ineffective, and often counterproductive. I wish to simply read something which appeared in the newspapers, and what this says is:

> The book on interrogation has been written. We just need to follow it.

And they refer to this book, Mr. President.

> Cruel and inhuman and degrading treatment of prisoners under American control makes us less safe, violates our Nation's values, and damages America's reputation in the world. That is why, in 2004, the bipartisan 9/11 Commission called for humane treatment of those captured by the United States Government and our allies in the struggle against terrorism. Congress and the Pentagon responded with clear and comprehensive new rules for the military so that interrogation techniques practiced by the military today are both humane and effective. But not all United States agencies are following these rules. Congress should require the entire U.S. Government and those acting on its behalf to follow the Army Field Manual on Human Intelligence Collector Operations. Doing so will make us safer while safeguarding our cherished values and our vital national interests.

This was signed by Zbigniew Brzezinski, Warren Christopher, Lawrence Eagleburger, Slade Gorton, Lee Hamilton, Gary Hart, Rita Houser, Karla Hills, Thomas Kean, Anthony Lake, John Lehman, Richard Leon, Robert McFarlane, Donald McHenry, Sam Nunn, Thomas Pickering, Ted Sorensen, and John Whitehead. It is a bipartisan group that has come out with this, and I believe we should absorb it and use that information.

The Army Field Manual provision has the support of the Intelligence Committees. I offered the amendment in the conference between the House and the Senate on the intel authorization bill. It was passed by the Senate and it was passed by the House, and it is part of the bill, and as I said, the House has passed their bill. The amendment was the subject of passionate and considered debate in Congress. It has unique support—18 former security officials, as I have said—and this Army Field Manual was issued in its current form by the Department of the Army in September of 2006. It followed the requirements of the Detainee Treatment Act, and it applies uniformly across all elements of the military and civilian elements of the Department of Defense.

The manual was published after more than 3 years of drafting and coordination. This was the most scrutinized field manual the Army has ever produced, including reviews and comments by every relevant Pentagon office, every combatant commander, the White House, the DNI, the CIA, and the Defense Intelligence Agency. The Departments of Justice and State have also concurred with the manual's guidance. For the first time ever, the Army consulted with Congress in the persons of Senators MCCAIN, WARNER, and LEVIN in drafting the manual.

The manual complies with the Uniform Code of Military Justice, the Geneva Conventions, and the Detainee Treatment Act. There is perhaps no more authoritative figure on the manual than our commanding officer in Iraq, GEN David Petraeus. In a response to a survey showing that American troops in Iraq would consider torture in order to save their comrades, Petraeus wrote to the entire multinational force on May 10, 2007, and here is some of what he said:

> Certainly, extreme physical action can make someone ''talk''; however, what the individual says may be of questionable value. In fact, our experience in applying the interrogation standards laid out in the Army Field Manual shows that the techniques in the manual work effectively and humanely in eliciting information from detainees.

Now, what does the manual do? It specifically authorizes 19 approaches—you could call them interrogation techniques—and they are well thought out and each one is several pages on how to apply it. One of them can only be used on unlawful army combatants with the prior approval of the combatant commander. These techniques describe ways to build rapport with the detainee in order to get him or her to share information.

GEN Michael Maples, the Director of the DIA, recently rebutted the contention that the Army Field Manual wouldn't have covered the interrogation method used by an FBI special agent to get Saddam Hussein to finally come clean that he had no weapons of mass destruction.

So the manual specifically prohibits eight techniques, and here is what they are:

Forcing a detainee to be naked, perform sexual acts, pose in a sexual manner; placing hoods or sacks over the

head of a detainee; using duct tape over the eyes; beatings, electric shock, burns, or other forms of physical pain; waterboarding—very much the talk of the Nation; use of military working dogs; inducing hypothermia or heat injury; conducting mock executions; depriving detainee of necessary food, water, or medical care.

Those are the eight prohibited techniques in the Army Field Manual. It also incorporates what is called the ''golden rule,'' and this is important. It is an approach to interrogation. It requires military personnel to ask this question: If an interrogation technique were to be used against an American soldier, would I believe the soldier had been abused?

Adopting this conference report would extend that ''golden rule'' to CIA interrogations, to station agents all across the globe, and make sure that no coercive technique could be used if we would not be comfortable with the same technique being used against an American citizen.

Now, here are some facts about the CIA program. The CIA has used coercive techniques on detainees since September 11, 2001, under the President's authorization and approval of the Department of Justice. The CIA has waterboarded three detainees—Abu Zubaydah, Abd al-Rahim al-Nashiri, and Khalid Shaikh Mohammed.

The White House believes that waterboarding could be used in the future, even though General Hayden has recently publicly questioned its legality. The CIA has used contractors for interrogations, as General Hayden admitted in an open, public hearing this past week. So the CIA has outsourced what is an inherently governmental function of questionable legality and morality.

More importantly, the CIA's interrogation techniques change. There is no uniform standard. There is no standard as to how they are to be combined, what the circumstances are. Think about this. Done with cold calculation, any interrogation technique, when applied over the course of hours or days or months, and in combination with other techniques, can cross the line into illegality. An interrogator can choose from a menu of coercive approaches, pick several of them, and go to work. So don't be fooled. Even the least coercive-sounding technique, when used relentlessly or in combination, can be torture.

Now, in addition to being immoral, I believe the CIA interrogation program is illegal.

I say this as a member of the Intelligence Committee, and I say this as one who has been briefed several times on these techniques. These techniques have violated the Convention Against Torture and the U.S. torture statute by inflicting severe physical or mental pain or suffering to others. It has violated Geneva Convention common article III, which prohibits outrages upon personal dignity, in particular humiliating and degrading treatment.

The medical research is clear. Coercive techniques cause severe pain and suffering. That is why both the AMA and the American Psychological Association have passed resolutions against their members participating in such interrogations.

In a letter dated September 13, 2006, retired General and former Secretary of State Powell wrote this:

> The world is beginning to doubt the moral basis of our fight against terrorism.

I think that says it in a nutshell. As every Member knows, we will never win the war on terror by capturing or killing or torturing all our enemies. We will only win the war by our ideals and by removing any public support for al-Qaida's vision.

Using torture cuts away from our moral high ground. It takes America into the ''dark side,'' and thus it reduces our ability to win this war. I believe we should end this now.

The military is the segment of the U.S. population most likely to be captured and interrogated by our enemies. They know any technique we authorize can be used against them, and that is the point. If the United States uses waterboarding, you can be sure that waterboarding will be used against our station agents, against our military. It is a mistake to do so.

That is why 43 retired generals and admirals, including 10 four-star officers, have signed a letter to Congress denouncing coercive techniques and supporting the single unified uniform standard for the entire Government, the Army Field Manual.

Here is what they wrote:

> We believe that it is vital to the safety of our men and women in uniform that the United States not sanction the use of interrogation methods it would find unacceptable if inflicted by the enemy against captured Americans. That principle, embedded in the Army Field Manual, has guided generations of military personnel in combat.

And the letter goes on.

I have listened to the experts such as FBI Director Mueller and DIA Director General Maples. They all insist that even with hardened terrorists you get more and better intelligence with the gloves on than when you take them off.

The CIA cannot show that coercive techniques are more effective than noncoercive techniques. And I wish I could say what I know from a classified setting, but I cannot. They point to the anecdotes they have declassified, while the counterexamples remain classified.

So I can only summarize and say this: This is the moment where the Senate stands up. The House has stood up. They have passed a bill. If we want to ban waterboarding, if we want to ban the eight techniques banned by the Army Field Manual, this is our moment to do so. I think we should stand tall. I think we should adhere to our principles. I think we should raise what we say internally and once again regain the world's credibility. I hope we maintain the Senate bill as it is.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, action on the fiscal year 2008 authorization bill for intelligence is so long overdue I do not even know how to explain it. It is over 2 years overdue. It is a very important bill.

Beginning in 1978, after the two congressional intelligence committees were established, the Congress passed an annual intelligence authorization bill every year. It does not sound interesting, but it has a great deal to do with how the intelligence community operates. We passed it for 27 consecutive years. And there was no exception to that. This legislation was one of very few nonappropriations measures that Congress has always considered ''must pass.'' Yet we have failed to pass it for the last number of years, and it is a matter of consternation.

The importance of our intelligence programs to our national security has always been very obvious. The importance of strong congressional oversight of the intelligence activities has been equally obvious; although it has been spottier in the recent past, it no longer is.

Then in 2005 and 2006, the bills reported out of the Senate Intelligence Committee were never brought to the Senate for consideration. There were internal reasons for that. I will spare the Presiding Officer from a discussion of those matters, and it is no longer important why.

But we have to do this bill. The intelligence authorization bill is the tool the Congress uses to provide direction, specific direction, and to enforce the oversight that we do. It involves many of the most sensitive national security programs conducted by the U.S. Government.

The 2008 authorization bill includes provisions to improve the efficiency of the intelligence community. It is a bland statement, but it is a very important series of parts. The bill produces better intelligence. We provided flexibility and authority to the DNI. We gave him a tremendous responsibility and then did not give him enough flexibility to exercise that responsibility. We do that in this bill.

We require much greater accountability from the intelligence community. That is oversight. We require greater accountability from the intelligence community and its managers. We improve the mechanisms for conducting oversight of intelligence programs and we reform intelligence program acquisition procedures. All of that is oversight.

Many of the provisions were included at the request of the National Intelligence Director in this bill. I always believe in reaching out to the professionals in doing this.

The creation of the DNI position was the result of the most significant reform of the intelligence community in 50 years. And the current DNI, ADM

Mike McConnell, is absolutely superb. The Office of Director of National Intelligence has now existed for 2½ years, and we have begun identifying ways to help the DNI better coordinate the 16 elements of the intelligence community, which are scattered around the Government, some of which do a very good job and some of which do not. Now he is pulling all of this together and he is doing a good job.

Starting with personnel authority, this bill uses a much more flexible approach to authorizing personnel levels. Those are very delicate. We also give the DNI the ability to exceed personnel ceilings by as much as 3 percent because he needs to have that. He is in the process of trying to figure out how to adjust all of this and work it right. He needs flexibility. It also provides additional flexibility to encourage the DNI to convert contractor positions to Government employees when appropriate.

Every Member knows the real power is the power of the purse. It is the same with the DNI. And this bill changes reprogramming requirements to make it easier to address, as they say, emerging needs in critical situations, a crisis. We give him the financial flexibility to do that. He needs that flexibility, and he now will have it if we pass this bill.

It authorizes the DNI to use interagency funding amongst his various agencies that he oversees to establish national intelligence centers if he so chooses. The bill also allows the DNI to fund information-sharing efforts across the intelligence community. That was the whole point of the 9/11 Commission. That is the whole point of reducing stovepipes.

Finally, it repeals several unneeded and burdensome reporting requirements. Frankly, we can use up a lot of people's time on something that we no longer need. We reduce some reporting requirements without in any way compromising accountability because oversight is the whole point of this bill.

As it increases the authority of the DNI, the bill also improves oversight of the intelligence community in other ways. The bill creates a strong independent inspector general in the office of the DNI. It has to be confirmed by the Senate. That is called oversight. Confirmed by the Senate. That means it has to report to the committee. Accountable to the committee. It has to tell us the truth. Confirmation allows inspectors general to do very difficult things within their own departments that maybe some of the leaders will not do.

It establishes statutory inspectors general in the National Security Agency, the NRO, the NGA and the Defense Intelligence Agency. So these are all there. They are all accountable. They are all oversight tools that we want.

The bill also gives the Congress more oversight of the major intelligence agencies by requiring Senate confirmation of the Directors of NSA and NRO. Right now we do not have to confirm them. If we do not confirm, that means they do not have the same relationship with the Senate. We confirm the CIA, but we do not confirm the NSA.

You tell me, particularly after we passed the FISA bill yesterday, how is it possible that we would not be able to confirm the head of the National Security Agency as well under this bill? We can, which makes him accountable to us, which means he reports to us, which means we can do oversight over him much more aggressively.

As we describe in our conference report:

> . . . of the need for NSA's authorized collection to be consistent with the protection of the civil liberties and private interests of U.S. persons.

Through confirmation of the NSA Director, we can ensure that continues or starts to be so.

As we increase the DNI's flexibility to manage personnel, we require an annual assessment. That sounds boring, but, no, it is not. It is very important—an annual assessment of personnel levels across the intelligence community: How are they distributed? Are they in the right place? Are people protecting their turf? The DNI is in charge of this. We want to give him all the support, and we want this all reported to us in our committee so we can watch it.

We also required the inclusion of a statement that those levels are supported by adequate infrastructure, training, funding, and a review of the appropriate use of contractors, which has become a very interesting subject in these months and years.

This bill also addresses an issue that has concerned the committee for a long time, the lack of accountability for failures and programmatic blunders. That is called oversight.

We want accountability. We want it in front of us. We want our hands on it. The bill gives the DNI the authority to conduct accountability reviews across the intelligence community if he deems it necessary or if we request it in our committee. It is called oversight.

This also improves financial management by requiring a variety of actions related to the production of auditable financial statements. That sounds pretty boring, but, no, it is not. When you get into the intelligence community, when you get to classified numbers, things of that sort, it is very important to have someone watching. That is oversight. We will have that if this bill passes.

The final major theme in the bill is the reform of the acquisition process. The bill requires a vulnerability assessment of all major acquisition programs. Well, acquisition is a very large word in intelligence and a very expensive word. We have made some very big mistakes, we have not been able to correct them.

But that is a discussion for another day. So we have a classified annex. Any Senator who wants to look at what is behind all of those numbers can do that very easily.

I have other things I wish to talk about, particularly the Army Field Manual. But I have a whole different speech awaiting my colleagues on that later in the day.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. Mr. President, I thank my colleague with whom I have worked closely on this and many other matters.

One of the most important means that Congress has for conducting oversight of the intelligence community is through the annual authorization bill for the intelligence agency. Regrettably, we can't call it an annual Intelligence Authorization bill because Congress was unable to pass a bill in 2006 and 2007. Unfortunately, it appears we are on a path that may prevent us from getting an authorization bill signed for fiscal year 2008.

When I assumed the duties as vice chairman of the select committee at the beginning of this Congress, one of my top priorities—and that of the committee—was to get an Intelligence Authorization bill signed into law. During the first month of our tenure, we tried to resuscitate the fiscal year 2007 bill but could not get it out of the Senate. When the time came to fashion a bill for fiscal year 2008, we had better luck. But as Louis Pasteur once said, ''Chance favors the prepared mind.'' The committee worked hard to include in the chairman and vice chairman's mark only those provisions that had strong bipartisan support. Our rule was if either side objected to a provision, it would not be included. After our markup, we added a number of other good government provisions that had strong bipartisan support. Unfortunately, the committee also added a number of problematic provisions that caused our bill to stall on the floor.

I believed we had largely succeeded in our process of accomplishing the goals of a bipartisan bill. We worked closely with the administration to address some of their concerns. Some were easier to resolve than others. We all know there is one very problematic amendment relating to the Army Field Manual that was added during the conference between the House and the Senate. I will address that later. But now I wish to talk about some of the good things in this conference report.

First, I have often said—and I believe responsible observers now agree—that in creating the Director of National Intelligence, we gave him a tremendous amount of responsibility but darn little authority to get the job done. This conference report attempts to address that problem by giving the DNI clearer authority and greater flexibility to oversee the intelligence community. For example, section 410 gives the DNI statutory authority to use national intelligence program funds quickly to address deficiencies or needs relating to

intelligence information or access or sharing capabilities. The DNI may also use funds to pay for non-NIP—national intelligence program—activities and to address critical gaps in those areas.

Section 409 expands the number of officials in the office of the DNI who can protect sources and methods from unauthorized disclosure. This authority may now be delegated to the Principal Deputy Director of National Intelligence and the chief information officer of the intelligence community. These are all good things, all things the administration needs. We also included provisions that will ensure that the men and women of our intelligence community who must work undercover may do so at less risk of disclosure and, consequently, less risk to their personal safety.

Section 305 allows the DNI to delegate the authority to authorize travel on any common carrier for purposes of preserving cover of certain employees. Section 325 extends to the head of each intelligence community element the authority to exempt certain gifts from otherwise applicable reporting requirements. Without this exemption, detailed information about the receipt of gifts from foreign governments must be published in the Federal Register. Imagine if an undercover agent receives a gift from one of the targets he is working and has to report it in the Federal Register. That not only blows his cover, it probably ends his life. That is a great national security concern to operatives who have received such gifts as part of their covert actions.

One particular provision will reduce the personnel and resources used to respond to many congressional reporting requirements. In section 330—again, in response to a request of the DNI—we eliminated a number of reporting requirements. It is a small step but an important one, as each reporting requirement diverts valuable resources from the intended purpose. I hope, within the 2009 Intelligence Authorization bill, we can make even greater progress in reducing unnecessary and duplicative reporting requirements that burden the intelligence community.

There are a number of provisions in this conference report that are essential for promoting good government. Too often we have seen programs or acquisitions of major systems balloon in cost and decrease in performance. That is unacceptable. We as taxpayers are spending substantial sums of money to ensure that the intelligence community has the tools it needs to keep us safe. If we don't demand accountability in how these tools are operated or created, then we are failing the taxpayers. We are failing the intelligence community. We are failing the mission I would hope we all agree is essential.

I sponsored several amendments that require the intelligence community to perform vulnerability assessments of major systems and to keep track of excessive cost growth of major systems. This latter provision is modeled on the Nunn-McCurdy provision which has guided Defense Department acquisitions for years. I believe these provisions will encourage earlier identification, the solving of problems relating to the acquisition of major systems. Too often such problems have not been identified until exorbitant sums of money have been spent. In some cases, several billions of dollars have been blown before the waste stopped. Unfortunately, too often, once they have sunk a bunch of money into a project, they refuse to cancel it, even though they are continuing to throw good money after bad.

Similarly, the intelligence community must get a handle on their personnel. I don't share the belief some have that the Office of the Director of National Intelligence is too large. In fact, I think we need to make sure our National Counterterrorism Center and National Counterproliferation Center have more resources, not less. They are the ultimate idea for creating a centralized intelligence community, bringing analysts and collectors together from all of the 16 different elements of the community.

I am concerned about the number of contractors used by the intelligence community to perform functions better left to Government employees. There are some jobs that demand the use of contractors—for example, certain technical jobs or short-term functions—but too often the quick fix is to hire contractors, not long-term support. So this conference report includes a provision calling for an annual personnel level assessment for the intelligence community. These assessments will ensure that before more people are brought in, there are adequate resources to support them and enough work to keep them busy.

Finally, we have included section 312, which requires the DNI to create a business enterprise architecture that defines all intelligence community business systems. The endgame is to encourage implementation of interoperable intelligence community business systems, getting everyone on the same page; in sum, making sure everybody is talking to each other and everybody who needs to know can listen in, a simple but not-yet-achieved objective. Given the substantial sums of money we are spending on these systems, we should be making certain the systems are efficiently and effectively coordinated; again, a good government provision.

There were a number of adjustments we had to make. We responded to concerns of the administration, and I worked particularly with my Democratic colleagues—and I thank them for their support—to make adjustments that would allow the bill to clear the Senate for the first time in 2 years. Let me highlight some of those adjustments because it is important to remember how much effort it took to return the bill to a bipartisan state.

No. 1, we struck a section that would have required the President to provide Congress with any President's daily brief involving Iraq during a certain time period. The PDBs have not been disclosed. As a matter of fact, they only came to light when a former official in the previous administration put some PDBs in his BVDs and stuck them out at the archives for reasons no one has adequately explained.

We struck two sections that contained controversial notification and funding restrictions. We struck a provision requiring declassification of the budgetary top line of the national intelligence program because it had already passed Congress in S. 4, the so-called 9/11 bill. We struck a section that required the CIA Director to make available to the public a declassified version of a CIA inspector general report on CIA accountability related to the terrorist attacks. That was also required by S. 4. It was about time the CIA internal IG report be made available. Everybody else had to air their failings, and it was time the CIA did so as well.

We struck a section that would have allowed the public interest declassification board to conduct declassification reviews at the request of Congress, regardless of whether the review is requested by the President. We also struck a provision that would have required a national intelligence estimate on global climate change, largely because the DNI, which is not equipped to conduct an NIE on climate change, had outsourced the responsibility for putting together an assessment, and there was no need to mandate this in law.

Finally, we made modifications to at least seven other provisions to address concerns raised by the administration and by our Senate colleagues. The end result was, we get a fiscal year 2008 Intelligence Authorization bill passed out of the Senate by unanimous consent in early October 2007. I thank my colleagues for allowing us to do that. It was long overdue, and it was a badly needed action. Then, however, we went to conference.

I urged my conferees to avoid inclusion of controversial provisions. We kept our negotiations to the base text of both bills. Given that we hadn't had an intel bill during the past 2 years, there were a lot provisions to negotiate. I guess you could say there was a lot of pent-up oversight. After a lot of hard work, we were able to merge the two bills in a manner we believed would receive strong bipartisan support. Unfortunately, despite my warnings, history again repeated itself. During the conference markup, the Senate adopted, by a one-vote margin, a controversial provision that limits the intelligence community to using only those interrogation techniques authorized by the U.S. Army Field Manual on human intelligence collector operations. As I will discuss later, to adopt that provision and put it into law

would, according to the Director of the CIA, shut down the most valuable intelligence collection program the CIA has, a program that has protected our homeland and our troops abroad from terrorist attacks. Because it was adopted, I couldn't sign the conference report that I and my colleagues worked so hard to enact.

Another consequence of that vote was it caused the conference report to languish in the Senate for more than 2 months now. Shortly after the passage of the conference report, the administration released a statement of administration policy and—certainly not to my surprise—at the top of their list of objectionable provisions was the limitation on interrogation techniques provisions. We have heard some misstatements on this floor about interrogation and the techniques used. Frankly, I share some of the same concerns raised by the administration with respect to this provision. Statements made about the interrogation program of the CIA are not accurate. They have been blown totally out of context, and they deserve a response. This section, if it were enacted in law—and it will not be—would prevent the intelligence community from conducting the interrogation of senior al-Qaida terrorists to obtain intelligence needed to protect the country from attack.

During its consideration of the Detainee Treatment Act of 2005, Congress wisely decided that while the Army Field Manual was a good standard for military interrogators who number in the tens of thousands, with limited supervision and limited training, it was not the standard that should be used by the CIA.

CIA interrogators are highly trained, operate under tremendous oversight and rules and supervision in interrogating those top hardened terrorist leaders, who have information on how the system operates and who the major players are. They do not outsource this job to contractors such as Blackwater or others. It is my understanding if they use contractors, it is former interrogators who are brought back in because of their experience. They are subject to the supervision of the CIA, with multiple layers of supervision and oversight by video cameras. It is highly irresponsible to say the CIA has outsourced torture. We do not do torture.

Now, a lot of people say we have lost a lot because of our inhumane treatment. They are referring to Abu Ghraib. We all agree that what was done at Abu Ghraib was inhuman and degrading. But it was not done by anybody in the intelligence field or for intelligence purposes. It was done by renegade troops who have been prosecuted, punished, and imprisoned for the violations of basic decency. Yes, that has hurt us worldwide, but that is not the standard which is allowable, permissible, or acceptable by any of our interrogators.

Mention has been made of eight techniques that are banned in the Army Field Manual. I agree, those techniques that are banned in the Army Field Manual should be banned. Those are not techniques that should be used. The Army Field Manual was meant for the Army in limiting the number of techniques that can be used. It applies to them only for the Army, for the Army's use. There are quite a number of techniques that fall within the same category that are not torture, inhuman, degrading, or cruel. If they are not included in the Army Field Manual, then they would not be permitted to be used, if this were made law, by the CIA, the FBI, or anybody else.

But to apply the Army Field Manual—it says you can only use these interrogation techniques if you get authorization from ''the first 0–6 in the interrogator's chain-of-command''—well, that would mean the CIA would have to go over to the Army and say: Do you have an 0–6 who can come over and look over the shoulders of our interrogators? Well, you do not have to worry about that because the CIA program would be ending.

It allows the Army to set the interrogation standards for the entire intelligence community. It is important that my colleagues recognize this interrogation provision is not an antitorture provision. The previous speakers have said we need to pass this law to outlaw torture. It is outlawed. The law prohibits the United States from using torture. This provision prevents the intelligence community from engaging in other lawful interrogation techniques that fall outside the scope of the Army Field Manual.

Why is that important? Because everything in the Army Field Manual has been published in the al-Qaida manuals. The top officials of al-Qaida know those techniques better than the interrogators know them. They know how to resist them, and they are ineffective.

Now, some on the other side of the aisle would like to frame this provision as being about waterboarding. It is not.

The Attorney General has publicly stated that the CIA no longer uses waterboarding. The technique is not one of the approved techniques. The Director of the CIA has publicly stated that there were only three individuals waterboarded and the technique has not been used since 2003. It was used in the crisis right after 2001, when tremendous amounts of valuable information were gained from the three individuals waterboarded.

What we are talking about here is not waterboarding. Some of my colleagues have said that the EITs are not effective—enhanced interrogation techniques. Well, that is absolutely not true. That is precisely the opposite of what the CIA Director has told us in our classified hearings and explained it.

Now, the CIA Director has said they have held less than 100 people in their custody, and less than one-third of those have been submitted to enhanced interrogation techniques.

These are the hardened terrorists who have the most information that is needed to protect our troops, our allies abroad, and those of us here at home.

Those techniques—which are different from but no harsher than the techniques that are in the Army Field Manual—are unknown to the detainees. Those detainees on whom the EITs—not including waterboarding—have been used have produced the most productive information and intelligence. Literally thousands upon thousands of the most important intelligent collections have come from the cooperating detainees who did not know what was going to happen to them, even though no torture, cruel, inhuman, or degrading techniques were used on them.

Many of the techniques that are used—and I have reviewed them—are far less coercive or strenuous than what we apply to our military volunteers: young men and women of America who join the Marines, the SEALs, the Special Operations Forces, or pilots who go through the survival, evasion, resistance, and escape training, or the SERE training. We do not even use the most strenuous of those techniques on our detainees.

Those who say we do not want our enemies to use any more harsh techniques than we use on them—well, good luck. You have seen Abu Musab al-Zarqawi beheading people. Those are not techniques that anybody would suggest. A beheading probably eliminates a source of further information.

But the problem is, the techniques that are used would be banned. The techniques—that are not cruel, that are not inhuman, that are used on our own voluntary military enlistees—are prohibited because they are not included in the Army Field Manual. One good reason they are not is because we do not want to publicize them or they would no longer be effective in use against those high-value detainees who will not cooperate otherwise. I cannot support a bill that contains that provision.

So here we are on the floor—the farthest we have gotten in 3 years. It looks as though history is going to repeat itself. No wonder congressional ratings are at an all-time low. I believe our inability to work in a bipartisan fashion on a consistent basis may be harming us. Yesterday's success with the FISA Amendments Act is a model example of what can be accomplished when we work together. For the most part, the committee's work on the Intel bill followed that model, although we were unable to protect the bipartisan compromise in the end.

As the vice chairman of the Senate Intelligence Committee, I have invested a very significant amount of time and effort to provide meaningful

oversight of the intelligence community through this bill. I know my distinguished chairman, Senator ROCKEFELLER, has made those same efforts and shares the goal.

However, I have often said that no bill is better than a bad bill. Right now, with this provision in it, this is a bad bill because what it would do, according to the Director of National Intelligence, is to shut down the most effective interrogation program the CIA has to use to induce cooperation from those leaders of al-Qaida and other terrorist organizations who know about the plots to attack the United States and to attack our allies.

Mr. President, I urge my colleagues to support cloture so we can move forward on the process on this legislation, but the President has stated he will veto the bill and, regrettably, I must say that despite all the good things in the bill, he is correct. We cannot afford the risk to this country, to our personal safety, to our desire to avoid another 9/11, by saying we can no longer allow the CIA to use the acceptable techniques that are not published but that are very effective in assuring cooperation of high-value detainees whom we in this country capture through the CIA. Regrettably, while I urge my colleagues to support cloture, I cannot urge them to pass this measure.

I yield the floor.

The PRESIDING OFFICER (Mr. MENENDEZ). The Senator from Oregon.

Mr. WYDEN. Mr. President, how much time do I have remaining at this time?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. WYDEN. Mr. President and colleagues, I ask unanimous consent to have my time—you said I have 3 minutes; I see my friend on the floor—to have my time extended by 3 minutes so I would have a total of 6 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BOND. That is acceptable. No objection.

Mr. President, I ask unanimous consent for 2 additional minutes after that, if that could be part of the request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WYDEN. Mr. President, thank you, and I thank my friend from Missouri as well.

I especially want to express my appreciation for the outstanding work of Senator FEINSTEIN, my seatmate on the Intelligence Committee, who I think understands it is possible in this country to fight terrorism ferociously and still be sensitive to American values and the rule of law. That is what I want to spend a few minutes talking about because I think under the approach developed by Senator FEINSTEIN this legislation does that.

I start by responding to the point my friend from Missouri has made about the most dangerous terrorists whom we are involved in interrogating. It seems to me these individuals are literally human ticking timebombs. They have information, for example, about operations we absolutely must have information on in order to protect the American people. But I have come to the conclusion it is possible to get this essential information we need from these human ticking timebombs—the time-sensitive threat information—without practices that violate our values and violate the rule of law.

The reason I have come to that conclusion—and why I so strongly support what Senator FEINSTEIN is doing—that is what some of our key officials tell us in the executive branch. For example, this week, I asked FBI Director Mueller about whether it was possible to use noncoercive techniques effectively in terms of getting this information from human ticking timebombs, and the Director said, to his credit, yes, it was possible to use noncoercive techniques to get the information necessary to protect the United States of America. The fact is, the military has said it as well.

It is that core principle Senator FEINSTEIN has picked up in her work. She believes, as I do, we will take no backseat to anyone in terms of fighting the terrorists relentlessly, but we can do it, as Director Mueller and the military have said, in line with the rule of law and in line with American values.

With respect to the role of the military, they already abide by interrogation rules that are flexible and effective. They have been used by professional military interrogators with many years of experience, and they are clearly effective.

Some have suggested, incorrectly in my view, that the military rules make better interrogators, follow the same rules as new recruits, but that is not right. The Army Field Manual actually makes it quite clear which techniques are authorized for all servicemembers and which require special permission to use.

It is my view that our country has paid dearly for this secret interrogation program. My friend from Missouri has indicated, in his view, you cannot torture, but the case was strong for the Feinstein amendment a couple months ago, and it is even stronger today because General Hayden has said that in the past, waterboarding has been used and, in fact, my view is that the need for this legislation, just on the basis of the developments over the last few weeks, is even more important than it was because these practices that have come to light in the last few weeks have damaged our relations, damaged our moral authority.

The tragic part of this, on the basis of the answers from Mr. Mueller in open session this week and the military is that these coercive techniques are not effective or even necessary. I share the view of my friend from Missouri about how important it is to get this time-sensitive threat information.

He and I have talked about this on many occasions. Of course, we cannot get into any of the matters that are classified. I share his view, but it is possible, I say to my colleagues, to get that information without breaching the values Americans hold dearly and the rule of law.

I hope my colleagues will support the important work by the Senator from California. This is an issue we have looked at. It has had bipartisan support in the past.

I am very appreciative of what Senator MCCAIN, who knows a little bit about this, has had to say in the past about fighting terrorism relentlessly and protecting our values.

I hope my colleagues will support the efforts of the Senator from California. If her case was strong several months ago, I think it is even stronger today on the basis of what we have learned in open session.

Mr. FEINGOLD. Mr. President, I support the intelligence authorization conference report, which is so important to Congress's efforts to conduct oversight of the intelligence community. The administration's illegal actions and its relentless efforts to obtain vast new eavesdropping authorities make oversight more important than ever. I particularly support the provision limiting interrogation techniques to those authorized by the Army Field Manual. I was a cosponsor of this amendment when it was offered in conference, and I am pleased that it has the support of bipartisan majorities of both the Senate and House Intelligence Committees. It represents, at long last, an important step toward bringing this administration into conformity with the law and with our national principles. It also represents a clear decision by the very Members of Congress who have been briefed on the CIA's interrogation program that the use of so-called enhanced interrogation techniques is not in our country's best interests.

When the intelligence authorization bill was marked up by the committee in May, I made my position clear. I could not support the CIA's program on moral, legal, or national security grounds. When I was finally fully briefed on the program, it was clear that what was going on was profoundly wrong. It did not represent what we, as a nation, stand for, or what we are fighting for in this global struggle against al-Qaida. And it was not making our country any safer. I also concluded that if the American people knew what we in the Intelligence Committee knew, they would agree.

The program also cannot stand up to any serious legal scrutiny. To take just one interrogation technique that the administration has acknowledged using in the past, waterboarding is torture, pure and simple. Everyone knows this. The rest of the world knows this. And, in every other context, our own government knows this. What Orwellian

world do we inhabit in which the administration attempts to argue otherwise? And in what world does waterboarding not ''shock the conscience,'' the test required by the Detainee Treatment Act? I suspect that the administration knows full well that its legal justifications for the program are empty, and that is why the Attorney General has refused to tell Congress why he believes the program is legal and has instead referenced Justice Department analyses that have also been withheld from Congress.

The CIA's interrogation policy is undermining our ability to fight al-Qaida. It has diminished our standing in the world, precisely when we should be providing global leadership against this growing threat. And it has denied us the moral high ground that is so critical if we are to reach out to parts of the world in which al-Qaida seeks to operate and recruit. By passing this conference report, we can begin to reverse this damage. We can also, finally, reassure our troops that torture is torture and that if you are captured by the enemy, the American government will not equivocate about the Geneva Conventions protections to which you are entitled.

The administration has repeatedly attempted to sell this program by arguing that Members of Congress have been briefed, as if the mere fact of telling members of Congress means that the program must be legal. The President made this argument last fall. And the Director of the CIA did so again last week. But, what the administration always fails to mention is that as members of the Intelligence Committees have learned about the program, opposition has steadily increased. I have sent a classified letter detailing my serious concerns and so, too, have others. And now, we have bipartisan majorities of both intelligence committees saying ''enough is enough.''

It has long been my position that interrogation techniques should be limited to those authorized by the Army Field Manual. This approach brings the CIA into conformity with the rules by which our men and women in uniform defend our nation and themselves. We fought Nazi Germany and the battles of the Cold War without resorting to government-sanctioned torture. We can surely defend America and defend our principles now. It is time to bring an end to this stain on our Nation, and to make the American people proud again.

Mr. LEAHY. Mr. Presdient, this Report contains a provision that reinforces the prohibition against our Government engaging in torture. It expressly prohibits interrogation techniques that are not authorized by the United States Army Field Manual. By passing this bill, we will not only respond to this administration's ambiguity about torture by reiterating that it is off the table, we will be sending a message to the world that the United States is a country that does not tolerate torture. Whether waterboarding is torture and illegal does not depend on the circumstances.

When it comes to our core values—that which makes our country great and defines America's place in the world—it does not depend on the circumstances. America, the great and good Nation that has been a beacon to the world on human rights, does not torture and should stand against torture.

Let me be clear. This provision should not be necessary. Waterboarding, and other forms of torture, are already clearly illegal. Waterboarding has been recognized as torture for the last 500 years. President Teddy Roosevelt prosecuted American soldiers for waterboarding more than 100 years ago. We prosecuted Japanese soldiers for waterboarding Americans during World War II.

I support this provision, despite the fact that there is no question that waterboarding is already illegal, because this administration has chosen to ignore the law. They have admitted they have engaged in waterboarding, otherwise known as water torture, and they refuse to say they will not do it again. The positions they have taken publicly on this subject are, I believe, so destructive to the core values of this Nation and our standing in the world, that this Congress should say, again—very clearly—that our Government is not permitted to engage in these shameful practices.

Tragically, this administration has so twisted America's role, laws and values that our own State Department and high-ranking officials in our Department of Justice cannot say that waterboarding of an American is illegal. If an enemy decided to waterboard an American soldier, they can now quote statements from high officials in our own Government to support their argument that the technique breaks no laws. That is how low we have sunk.

Our top military lawyers and our generals and admirals understand this issue. They have said consistently that waterboarding is torture and is illegal. They have told us again and again at hearings and in letters that intelligence gathered through cruel techniques like waterboarding is not reliable, and that our use and endorsement of these techniques puts our brave men and women serving in the armed forces at risk. That is why they have so explicitly prohibited such techniques in their own Army Field Manual, and it is an example that the rest of the Government should follow.

So, despite the fact that the law is already clear, I urge the Senate to pass this provision, and I urge the President to promptly sign it into law, making the policy of our Nation clear. Our values cannot permit this to be an open question. We must put an end to the damage that this administration's positions have caused to our standing and the risks that they have taken with the safety of American citizens and soldiers around the world.

Mr. LEVIN. Mr. President, I urge my colleagues to support the intelligence authorization conference report which includes a requirement that all Government agencies, including the CIA, comply with the Army Field Manual on Interrogations in the treatment and interrogation of detainees.

The result will be a single standard of treatment for detainees, a standard consistent with American values and international standards. The Army Field Manual is consistent with our obligations under Common Article 3 of the Geneva Conventions, which prohibits subjecting detainees to ''cruel treatment and torture.'' This is the standard to which our soldiers are trained and which they live by.

Consistent with this standard, the Army Field Manual specifically prohibits certain interrogation techniques. These include: forced nudity; ''waterboarding,'' that is, inducing the sensation of drowning; using military working dogs in interrogations; subjecting detainees to extreme temperatures; and mock executions.

Unfortunately, the Bush administration has insisted that it reserves the right for the CIA to engage in certain ''enhanced interrogation techniques.'' It has been reported that these CIA techniques include ''waterboarding.'' While this Justice Department continues to refuse to say one way or the other, let there be no doubt: waterboarding is torture.

The Judge Advocates General of all four services have told us unequivocally that waterboarding is illegal.

Requiring that all Government agencies comply with the standards of the Army Field Manual is not mushy intellectualism. It is hard-headed pragmatism. When we fail to live up to our own standards for humane treatment, we compromise our moral authority. Our security depends on the willingness of others to work with us and share information, information which could prevent the next attack. When we project moral hypocrisy, we lose the support of the world in the fight against the extremists.

Requiring a single standard for the treatment of detainees consistent with the Army Field Manual protects our men and women in uniform, should they be captured. It strengthens our hand in demanding that American prisoners be treated humanely, consistent with values embodied in the Field Manual.

I urge my colleagues to support the intelligence authorization conference report with the provision that standards in the Army Field Manual for treatment of detainees will apply to all elements of the intelligence community.

Mr. GRAHAM. Mr. President, I oppose the conference report on the intelligence authorization bill.

I was troubled to learn the Intelligence Committees inserted in the conference report a provision to apply

the Army Field Manual to the CIA program. This was done without any hearing or vote in either the House or the Senate.

I strongly regret the committee chose this course of action since it denies the Senate the opportunity to fully appreciate the implications of such a restriction on the CIA program.

It would be a colossal mistake for us to apply the Army Field Manual to the operations of the CIA. I have been briefed on the current CIA program to interrogate high value targets. It is aggressive, effective, lawful and in compliance with our legal obligations. Unfortunately, the intelligence authorization bill as currently drafted will destroy the CIA program.

I believe in flexibility for the CIA program within the boundaries of current law. The CIA must have the ability to gather intelligence for the war on terror. In this new war, knowledge of the enemy and its plan is vitally important and the Army Field Manual provision will weaken our intelligence gathering operations.

It is regrettable that the debate on the intelligence authorization bill has become a debate about waterboarding. Waterboarding is not part of the CIA program.

However, waterboarding, under any circumstances, represents a clear violation of U.S. law and it was the clear intent of Congress to prohibit this practice. In 2005 and 2006, the Senate overwhelmingly and in a bipartisan fashion stood up against cruel, inhuman and degrading treatment and abided by the Supreme Court's decision in the Hamdan case that that those in our custody are protected by the Geneva Conventions. Indeed, senior administration officials assured us that the language contained in the Military Commissions Act clearly outlawed waterboarding.

Imagine my surprise when the Attorney General and Director of National Intelligence stated that waterboarding may be legal in certain circumstances. I cannot understand what legal reasoning could possibly lead them to this conclusion.

Given the Attorney General's recognition during his nomination hearing that the President cannot waive congressionally mandated restrictions on interrogation techniques, including those included in the McCain amendment and the Military Commissions Act, it is inexplicable that the administration not only has failed to publicly declare waterboarding illegal, but has actually indicated that it may be legal.

During the past several weeks we have heard many justifications for the administration's incomprehensible legal analysis. At the end of the day, it appears it is the view of the administration is that the ends justify the means and that adhering to our values, laws, and treaty obligations will weaken our nation. I strongly disagree.

I support aggressive interrogation of detainees in the in the war on terror. And the CIA program is a vital component in securing our Nation. As we interrogate and detain those who are intent on destruction of our country and all those who fight for liberty, we can never forget that we are, first and foremost, Americans. The laws and values that have built our Nation are a source of strength, not weakness, and we will win the war on terror not in spite of devotion to our cherished values but because we have held fast to them.

Mr. McCAIN. Mr. President, I oppose passage of the intelligence authorization conference report in its current form.

During conference proceedings, conferees voted by a narrow margin to include a provision that would apply the Army Field Manual to the interrogation activities of the Central Intelligence Agency. The sponsors of that provision have stated that their goal is to ensure that detainees under American control are not subject to torture. I strongly share this goal, and believe that only by ensuring that the United States adheres to our international obligations and our deepest values can we maintain the moral credibility that is our greatest asset in the war on terror.

That is why I fought for passage of the Detainee Treatment Act, DTA, which applied the Army Field Manual on interrogation to all military detainees and barred cruel, inhumane and degrading treatment of any detainee held by any agency. In 2006, I insisted that the Military Commissions Act, MCA, preserve the undiluted protections of Common Article 3 of the Geneva Conventions for our personnel in the field. And I have expressed repeatedly my view that the controversial technique known as ''waterboarding'' constitutes nothing less than illegal torture.

Throughout these debates, I have said that it was not my intent to eliminate the CIA interrogation program, but rather to ensure that the techniques it employs are humane and do not include such extreme techniques as waterboarding. I said on the Senate floor during the debate over the Military Commissions Act, ''Let me state this flatly: it was never our purpose to prevent the CIA from detaining and interrogating terrorists. On the contrary, it is important to the war on terror that the CIA have the ability to do so. At the same time, the CIA's interrogation program has to abide by the rules, including the standards of the Detainee Treatment Act.'' This remains my view today.

When, in 2005, the Congress voted to apply the field manual to the Department of Defense, it deliberately excluded the CIA. The field manual, a public document written for military use, is not always directly translatable to use by intelligence officers. In view of this, the legislation allowed the CIA to retain the capacity to employ alternative interrogation techniques. I would emphasize that the DTA permits the CIA to use different techniques than the military employs but that it is not intended to permit the CIA to use unduly coercive techniques—indeed, the same act prohibits the use of any cruel, inhumane, or degrading treatment.

Similarly, as I stated after passage of the Military Commissions Act in 2006, nothing contained in that bill would require the closure of the CIA's detainee program; the only requirement was that any such program be in accordance with law and our treaty obligations, including Geneva Common Article 3.

The conference report would go beyond any of the recent laws that I just mentioned—laws that were extensively debated and considered—by bringing the CIA under the Army Field Manual, extinguishing thereby the ability of that agency to employ any interrogation technique beyond those publicly listed and formulated for military use. I cannot support such a step because I have not been convinced that the Congress erred by deliberately excluding the CIA. I believe that our energies are better directed at ensuring that all techniques, whether used by the military or the CIA, are in full compliance with our international obligations and in accordance with our deepest values. What we need is not to tie the CIA to the Army Field Manual but rather to have a good faith interpretation of the statutes that guide what is permissible in the CIA program.

This necessarily brings us to the question of waterboarding. Administration officials have stated in recent days that this technique is no longer in use, but they have declined to say that it is illegal under current law. I believe that it is clearly illegal and that we should publicly recognize this fact.

In assessing the legality of waterboarding, the administration has chosen to apply a ''shocks the conscience'' analysis to its interpretation of the DTA. I stated during the passage of that law that a fair reading of the prohibition on cruel, inhumane, and degrading treatment outlaws waterboarding and other extreme techniques. It is, or should be, beyond dispute that waterboarding ''shocks the conscience.''

It is also incontestable that waterboarding is outlawed by the Military Commissions Act, and it was the clear intent of Congress to prohibit the practice. The MCA enumerates grave breaches of Common Article 3 of the Geneva Conventions that constitute offenses under the War Crimes Act. Among these is an explicit prohibition on acts that inflict ''serious and nontransitory mental harm,'' which the MCA states ''need not be prolonged.'' Staging a mock execution by inducing the misperception of drowning is a clear violation of this standard. Indeed, during the negotiations, we were personally assured by administration officials that this language, which applies to all agencies of the U.S. Government, prohibited waterboarding.

It is unfortunate that the reluctance of officials to stand by this straightforward conclusion has produced in the Congress such frustration that we are today debating whether to apply a military field manual to nonmilitary intelligence activities. It would be far better, I believe, for the administration to state forthrightly what is clear in current law—that anyone who engages in waterboarding, on behalf of any U.S. Government agency, puts himself at risk of criminal prosecution and civil liability.

We have come a long way in the fight against violent extremists, and the road to victory will be longer still. I support a robust offensive to wage and prevail in this struggle. But as we confront those committed to our destruction, it is vital that we never forget that we are, first and foremost, Americans. The laws and values that have built our Nation are a source of strength, not weakness, and we will win the war on terror not in spite of devotion to our cherished values but because we have held fast to them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I have enjoyed a good working relationship with my good friend, the Senator from Oregon, but, unfortunately, he did not listen to all the testimony we had from the leaders of the intelligence community.

While he suggests we must fight terrorism and uphold our values, that is precisely what the CIA program is designed to do. Going forward, that is the program that will comport with all our values and our views, but it will be necessary.

The CIA's enhanced interrogation techniques, on which he and I have had the opportunity to be briefed, are different from but not outside the scope of those included for use in the Army Field Manual.

As I stated previously, the difference is that since they are not published, as the Army Field Manual is, they are not included in the al-Qaida handbook, they are not known to high-value targets with whom we may come in contact and be able to capture. We are talking only of a couple or three dozen at the most who require those techniques.

He said the FBI Director does not use any harsh techniques. But if you recall, in answer to one of my questions describing one of the techniques one of the FBI interrogators used, it is not in the Army Field Manual. They use different techniques. They use different techniques, but they would be limited to the Army Field Manual.

I suggest that when they are dealing with the criminals who may not be part of an organized terrorist conspiracy, they would not necessarily need to use them.

General Hayden did say that waterboarding was used three times in the past. He has stated clearly it is not being used now. He stated the different enhanced interrogation techniques that are similar to, but different from, the Army Field Manual are only used in very limited circumstances, and those circumstances are the circumstances in which high-value detainees, with knowledge of the organization, the threats they pose, the plots they are planning to undertake, will not talk as long as they are subjected only to techniques they are familiar with in the Army Field Manual.

Yes, the CIA, a couple, three dozen, somewhere in there, may have used enhanced interrogation techniques. Almost 10,000 valuable pieces of information have come from the CIA's program. We are safer in the United States because we have disrupted plots from Fort Dix to Lackawanna to Chicago to Torrance, CA—across this Nation—because of good intelligence—electronic surveillance and enhanced interrogation of high-value detainees.

If we take this step in the Congress, I believe the President will veto it, as he should, because to say that the CIA should be fitted into the Army Field Manual standard is, I believe, a real threat to the effectiveness of our collection.

Regrettably, discussions that imply on this floor that we continue to use or will continue to use any techniques that are cruel, inhumane, degrading or torture is not only simply wrong—flat wrong—but it is irresponsible because there are ears and eyes out there in the world, Al-Jazeera's and others, who will be picking them up, who will be transmitting them, and who will use that to tar the reputation of our intelligence collectors. They do not deserve that. Our security does not deserve that.

Let's be clear, we are not talking about any cruel, inhumane, degrading or torture techniques. They are different than what is published in the Army Field Manual. That is the only reason they are effective.

I regret the measure before us has this ban that will shut down the most valuable source of information our intelligence community has.

I cannot urge my colleagues to support final passage of this conference report.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I will use leader time to make a statement.

We are going to vote in a few moments whether to invoke cloture on the intelligence authorization conference report. It is my understanding the minority is going to support us on this vote. I appreciate that very much.

America has been without an intelligence authorization bill for almost 3 years. That is certainly long enough. The bill before us contains many important provisions that will strengthen our intelligence capabilities to fight terrorism and keep our country safe. The bill includes a number of provisions that will begin to restore proper congressional oversight and includes a provision sponsored by Senator FEINSTEIN that will require all intelligence professionals in the U.S. Government to adhere to the interrogation standards included in the Army Field Manual.

I appreciate the work of Senator FEINSTEIN, who has dedicated much of her life to making our country safer. She spends untold hours, along with other Intelligence Committee members, in the Hart Building, listening to and evaluating what is happening in the intelligence community in our country and around the world. She is a good Senator, and her insight into what needs to be done in this instance speaks volumes. I underline and underscore my appreciation for her work. I urge all my colleagues to join with me in voting to support her in this effort. We will have that opportunity because cloture is going to be invoked.

It is my understanding a Republican or a Democrat will raise a point of order regarding the Feinstein amendment. The reason a Democrat would do it is to move this along, to get this over with. There is no reason to wait 30 hours postcloture, with everyone wondering when it will come up. We should do it, get it out of the way, work out some agreeable time with my colleagues, or we will go ahead and do it ourselves. There is an hour under the rule to debate the motion. There will be an effort to waive this point of order which, under the rules, requires 60 votes. Should Republicans force a vote to waive the point of order, I urge all my colleagues to waive the point of order.

This is a question of moral authority. The Senate should stand as one to declare that America has one standard of interrogation. We are living as Americans in a world where everything we do is watched and watched very closely. We are asking other countries to follow our moral lead, to embrace our way of life, to aspire to the American standard of liberty. Yet I fear too often this administration's actions betray those goals.

A couple weeks ago, Attorney General Mukasey refused to say that waterboarding is legal. What is waterboarding? We know what it is. It came from the Inquisition and King Ferdinand and Queen Isabella. That is where it originated. It is nothing new. It has been going on for centuries, and it is torture at its worst where you, in effect, drown somebody and revive them after they can no longer breathe.

Last week, CIA Director Hayden publicly confirmed the United States had waterboarded individuals who were in our custody. The next day, the White House affirmatively declared waterboarding is legal and President Bush is free to authorize our intelligence agencies to resume its use.

President Bush may not care much what we in Congress, Democrats or Republicans, think. For 6 years, he had carte blanche to do what he wanted.

The last year has not been that way. We are an equal branch of Government, and it is time we made him understand this.

The administration can develop as many novel and convoluted legal theories as it wishes, but they cannot change the simple fact that has long been settled law, that waterboarding is torture and it is illegal. It is illegal in America, and it is illegal throughout the world. In decades past, America has prosecuted our enemies and even our own troops for waterboarding.

This debate is not just about one kind of torture. It is not just about waterboarding. It is about ensuring that no form of torture, cruel or inhumane interrogation techniques that are illegal under the Geneva Conventions and prohibited by the Army Field Manual, are used. This includes beating prisoners. This includes sexually humiliating prisoners. It includes threatening them with dogs, depriving them of food and water, performing mock executions, putting electricity charges on various parts of their body, burning them.

These techniques are repugnant. They are repugnant to every American. They fly in the face of our most basic values. They should be completely off limits to the U.S. Government. We have already seen the damage these torture efforts can cause. The world saw it in the Abu Ghraib prison situation. The revelation that American personnel had engaged in such terrible behavior, behavior we have always strongly condemned when used by others, caused tremendous damage to our Nation's moral authority. The recruiting opportunity it provided our terrorist enemies cannot be understated and cannot be undone.

This is not a Senator saying this. Forty-three retired military leaders of the U.S. Armed Forces have written us a letter strongly stating that all U.S. personnel, military and civilian, should be held to a single standard. These honored leaders wrote:

> We believe it is vital to the safety of our men and women in uniform that the United States not sanction the use of interrogation methods it would find unacceptable if inflicted by the enemy against captured Americans.

They stated the interrogation methods in the Army Field Manual ''have proven effective'' and that they ''are sophisticated and flexible.''

My friend, the ranking member of this committee, says these horrible techniques are necessary. They are not. They are not necessary. There are many things that have been used and can be used, as indicated by these 43 leading military experts. They say present interrogation techniques, setting these others aside, are sophisticated and flexible and they work. They explicitly reject the argument that the field manual is too simplistic for civilian interrogators.

Our commander in Iraq, General Petraeus, a four-star general, whom we like to throw around here as knowing all and has done a wonderful job in Iraq, wrote an open letter to the troops in May. He had this to say:

> Some may argue that we would be more effective if we sanctioned torture and other expedient methods to obtain information from the enemy.

He went on to say:

> They would be wrong. . . . [H]istory shows that [such actions] are frequently neither useful nor necessary.
>
> Certainly, extreme physical action can make someone ''talk;'' however, what the individual says may be of questionable value.

We all know that.

> In fact, our experience in applying the interrogation standards laid out in the Army Field Manual . . . shows that the techniques in the manual work effectively and humanely in eliciting information from detainees.

So says General Petraeus.

Mr. President, just yesterday, a bipartisan group of foreign policy experts joined to call upon Congress to endorse the application of the Army Field Manual standards across all U.S. agencies.

The group included, but was not limited to, the Chairman and Vice Chairman of the 9/11 Commission, Governor Keane and Congressman Hamilton; two former Secretaries of State; three former national security advisers; a former Secretary of the Navy; and other highly regarded officials from both parties.

The Bush administration's continued insistence on its right to use abusive techniques gives license to our enemies abroad, puts at risk our soldiers and citizens who may fall into enemy hands, and serves as an ongoing recruiting tool for militant extremists.

Meanwhile, the widespread belief that our country uses abusive interrogation methods has weakened our ability to create coalitions of our allies to fight our enemies because other countries have at times refused to join us.

Mr. President, many of us thought the Congress had addressed the issue of torture once and for all when we overwhelmingly passed the McCain amendment in 2005.

But President Bush immediately issued a signing statement casting doubt on his willingness to enforce a ban on torture, and his administration has worked ever since to undermine what Senator MCCAIN offered and was passed here overwhelmingly.

This vote today gives Congress the chance to show President Bush that we meant what we said 3 years ago when we passed the McCain amendment.

Today, we have an opportunity to begin to rebuild America's precious and diminished moral authority. Today, we can strengthen the war on terror.

I urge us to stand together to support cloture and, if necessary, to vote to waive the point of order on the Feinstein amendment, which is part of the very good conference report dealing with intelligence authorization.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 1 minute 23 seconds.

Mr. BOND. Mr. President, regrettably, the record doesn't meet the issue before us. Waterboarding is not an issue here. Waterboarding is not banned. The techniques that are being used are in compliance with all of the convention. They are not torture, cruel, or humanly degrading.

The only reason to have a separate program, which Congress recognized in the 2005 Military Detainee Act, for having a different standard was for a few high-value targets who needed different techniques—not more harsh techniques but techniques that are less severe than the training techniques we put our enlisted Marines, SEALs, Special Forces, and the pilots through. If they are not published in the Army Field Manual, they don't know about them, and that leads them to cooperate.

The most successful intelligence collection program that the CIA has does not involve torture or any kind of unlawful conduct. It is unfortunate—and I regret to say very harmful—to the United States to suggest that it does. I strongly believe we cannot afford to shut down the CIA's interrogation of high-value detainees.

I yield the floor.

Mr. REID. Mr. President, don't you think this great country of ours—the moral authority of the world—can continue our work, our interrogation of prisoners, both military and civilian, by not beating them, sexually humiliating them, bringing dogs and having dogs chomp at them, like at Abu Ghraib? Do we need to deprive them of food and water, provide mock executions, shock them with electricity, as was done during the first gulf war to American prisoners who were captured by the Iraqis, one of whom was from Nevada? We don't need to do that. We don't need to burn them. We don't need to cause them other types of pain that are listed in field manuals.

Mr. President, we have 43 leading military experts who have told us that. We have had the two people who led the 9/11 Commission who have told us that you don't need that, along with former Secretaries of State and national security advisers to various Presidents, Democrats and Republicans.

America is better than this. We don't need to do this. The CIA can get along without having to do all these terrible things. We are told by General Petraeus that these techniques don't work anyway and that any of the information you get is unreliable. Listen to General Petraeus. Let's do the right thing on this issue when it comes up, Mr. President.