I reiterate my strong support for this bill and the

balance that has been struck by the committee in the drafting of this

bill. It strikes the right balance. I am pleased to be an original

cosponsor.

In my remarks on Monday, I mentioned I was going to be submitting an

amendment concerning the relationship between the FBI foreign

intelligence functions and the national intelligence director. I thank

both the majority and the ranking member staff for working with my

staff to work out this amendment. It will be worked out and it will be

the chairman's intent to present this amendment for unanimous consent.

However, I will clearly state the intent of the amendment. The FBI

functions as part of the intelligence community in the gathering,

analyzing, and disseminating of information about the plans,

intentions, and capabilities of our foreign enemies, including, most

importantly, counter-terrorists. That effort, in my view, should be

under the overall supervision of the national intelligence director.

Let me be clear, though, this amendment does not mean the national

intelligence director should run or control operations inside the

United States. When the FBI, under the operational control of the FBI

director and the Attorney General, works as a foreign intelligence

agency, it should do so as part of that community under the general

guidance of the national intelligence director.

An excellent example of this issue is now part of the extensive

record of structural intelligence failure prior to the September 11

attacks, the way the intelligence community handled, or I should say

mishandled, the so-called Phoenix document information and the

Moussaoui information. Here we had in two different places FBI agents

acquiring factual information which is of clear foreign intelligence

value: that foreign individuals, associated with foreign terrorist

organizations, may have been learning to fly passenger planes. At the

very same time, the rest of the intelligence community had information

that al-Qaida was preparing to strike against the United States and

also that there had been past consideration of the use of airplanes in

an attack methodology.

Putting together these two disparate pieces of information is the

business of an effective intelligence community. But it did not happen,

in part, I believe, because the FBI part of the communication was not

linked up with the Central Intelligence Agency and the National

Security Agency parts of the community.

The bill before the Senate goes far toward remedying this by placing

the FBI foreign intelligence elements under the overall supervision of

the national intelligence director. I am concerned the bill presently

contains ambiguities that, if left in, will cause confusion in the

future. That is because the bill incorporates, with no change, current

law which defines the role of the FBI intelligence activities. However,

that law is confusing, it is internally inconsistent, and I believe it

is the source of many of the problems which beset the FBI as part of

the intelligence community.

This amendment does three basic things to fix this. I want the record

to reflect that. It clarifies critical definitions in the law. It makes

a small alteration in the current law to make clear that the term of

art ``counterintelligence'' is a subset of foreign intelligence, not an

alternative to foreign intelligence.

Second, it makes clear that when the FBI is engaged in law

enforcement, it is not part of the national intelligence program or

under the NID supervision, but removes the word ``counterintelligence''

from this so-called carve-out language. This is critical because this

language in existing law was the confusing foundation upon which much

of the wall between the FBI and the rest of the intelligence community

was built.

This amendment creates a directorate of intelligence in the FBI. As

written presently, the bill places the activities of the Office of

Intelligence of the FBI clearly within the national intelligence

program. This is good, but because the Office of Intelligence has no

statutory basis, it could be rendered useless in the future if that

office is removed or changed by a future FBI director.

This amendment renames the office the Directorate of Intelligence and

gives it a clear basis in law.

Finally, this amendment introduces some clarifying language to ensure

that the section governing ``FBI improvements'' is read to ensure that

these improvements come as part of a larger, coordinated effort, led by

the national intelligence director to improve the standards and

practices of the entire intelligence community.

It does this by ensuring that the FBI Director's improvement program

Is guided by the national intelligence director. And it defines a

``certified intelligence officer''--that is a term introduced for the

first time in the underlying bill--to make sure that ``certification''

means meeting intelligence community standards, developed by the

national intelligence director.

The bottom line is that the FBI's intelligence functions must be part

of a larger effort, guided by a strong leader, and linked carefully

with all the other agencies and Departments in the intelligence

community.

There are still two parts of this amendment that are being worked out

by staff. I appreciate their hard work very much and thank them. I also

would like to thank the chair and the ranking member for their

cooperation. I am very hopeful this amendment can later be adopted by

unanimous consent.

I thank the Chair.

Mr. President, I ask unanimous consent that amendment No. 3718 be set

aside for the present time.