Madam President, I thank the Chair and all of my friends

for giving me this opportunity to speak.

For Americans, the world changed on September 11, 2001. We learned--

at the cost of thousands of innocent lives--that treating terrorism as

a law enforcement matter won't keep Americans safe.

My real concern is that this administration doesn't understand that

every day now is like September 12. We cannot afford to revert back to

a 9/11 mentality. Instead, we need to treat the terrorists as what they

are--not common criminals but enemy combatants in a war.

I rise today to speak about my concerns with current terror-fighting

policies of this administration and the vital importance of

congressional oversight. Protecting this Nation from terrorist attack

is our highest duty in government. In our great democracy,

congressional oversight plays a critical role in ensuring that our

government protects our citizens from terror attacks. Unfortunately,

some in the White House don't agree.

Just this morning, a White House spokesperson on MSNBC charged that

``politicians in Congress'' should keep their opinions to themselves

when it comes to one of our most vital national security interests--

counterterrorism. I note in the previous administration, my colleagues

on the other side of the aisle were quite free to speak about their

views on the policies. Mr. Brennan, the Homeland Security adviser,

wrote an editorial in USA TODAY critical of congressional criticism of

the administration's counterterrorism policies and called them fear-

mongering that serve the goals of al-Qaida.

I welcome comments of substance from the administration and from the

other side on the criticism and the points I make, but you are not

going to be able to silence the legislative branch. To do so is

unworthy of the democracy we defend. One might believe that some were

trying to shift attention away from the decisions that were made in

recent years.

The bottom line is that my real beef is not with the White House

spokespeople--although it is disappointing when the National Security

Adviser claims that I have not told the truth about what he said--but

with the dangerous policies of the administration. Clearly, my

complaints are not directed at the men and women of the intelligence

community--which was an insinuation by the White House spokesperson--

because I believe the men and women of the intelligence community are

doing their very best job under at best difficult circumstances. What I

am concerned about is major broader policies over which they have no

control have been changed in a way to make their job more difficult,

and we should not be making their job more difficult.

One of the dangerous cases of ``ready, fire, aim'' and national

security policies was the President's pledge to close the terrorist

detention facility at Guantanamo Bay without any backup plans for the

deadly terrorists housed there or how to handle them or how to treat

them. There has been a temporary suspension of transfers of Gitmo

detainees to Yemen and Saudi Arabia, but we understand the larger

effort to transfer and release other dangerous Gitmo detainees

continues.

Let me be clear. The previous administration released terrorists and

sent them back to their homeland, some for rehabilitation, and 20

percent of them--1 out of 5--have returned to the battlefield and a

couple of them apparently were coaching and training the ``Underpants

Bomber.'' That was a big mistake. Stop making the mistakes. We can

learn from the mistakes we have made in the past. If we send more back,

they will be attempting to kill more Americans. We shouldn't compromise

our security here at home and the lives of our soldiers overseas to

carry out a campaign promise. If a campaign promise doesn't square with

national security, I humbly suggest that national security should

prevail.

There is another case, the administration's decision to end or to

bypass military commissions for detainees who are ready to plead

guilty, as Khalid Sheikh Mohammed was, to move him to New York City for

the show trial. I will address that later. But the administration

continues to prepare to try senior al-Qaida detainees in U.S. article

III criminal courts rather than the military commissions that Congress

designed for these difficult and complicated cases, to be used in a

courtroom that we constructed at Gitmo.

History has shown that civil criminal trials of terrorists

unnecessarily hemorrhage sensitive classified information. The East

Africa Embassy bombing trials made Osama bin Laden aware of cell phone

intercepts, and surprisingly al-Qaida and Osama bin Laden started using

different methods of communications. The trial of the first World Trade

Center bomber Ramzi Yousef tipped off terrorists to another

communications link that provided enormously valuable information.

Well, their use of that link that we were able to compromise was shut

down because they learned about it. Similarly, the trial of the ``Blind

Sheik'' Omar Abdel Rahman provided intelligence to Osama bin Laden. The

trial of Zacarias Moussaoui resulted in the inadvertent disclosure of

sensitive material. That is why former Attorney General Michael

Mukasey, who tried some of these cases, said you cannot prevent a

defense attorney from getting classified, highly confidential

information in the course of an article III criminal trial. We know for

a fact these civilian trials have aided the terrorists by giving them

information on our Intelligence Committee.

The military commission system--and we passed a measure to regulate

the sign-in law in 2009--was designed to protect our sensitive

intelligence sources and methods and to comply with the laws of war.

Why abandon them? It will come as no surprise to my colleagues that I

also disagree with the administration's ``ready, fire, aim'' strategy

of handling the Christmas Day bomber.

On December 25, when Abdulmutallab landed on our shores, rather than

incorporate intelligence into his interrogation, he was, after 50

minutes of brief questioning, Mirandized and offered a lawyer. Not

surprisingly, he clammed up for 5 weeks. Intelligence is perishable and

that 5 weeks was time that our intelligence system should have been

operating on the questions he was only 5 weeks later answering. I don't

know what purpose there was in Mirandizing him. That is an exclusionary

rule. The only reason to offer Miranda rights is so you can use the

words of the suspect against him. There is plenty of evidence of this

guy who had strapped chemical explosives to his legs, set them off, and

burned himself in front of 200 witnesses. It doesn't matter what he

says, you can convict him. Why weren't our intelligence agencies

consulted on the important decision of whether to Mirandize him? At

least the FBI agents questioning him should have had the benefit of the

intelligence that other agencies knew. Who is running the war on

terrorism? I am afraid it is the Justice Department or the White House.

Why did the White House announce what the few of us who were notified

of his cooperation warned not to disclose? Not only did they disclose

that information the day after we were advised, they disclosed the fact

that Abdulmutallab's family came here to pressure him. Why on Earth

would you do that? What message does that send? Unfortunately, to the

family, they now have targets on their backs, because the terrorists

know that they have convinced a member of their family to talk. What

does it say to future sources? We are going to be concerned if they

provide information that our intelligence agencies asked for that they

will be identified by the White House and put at great risk.

The handling of the Christmas Day bomber also showed something else.

When the President took away the powers of the CIA to question terror

suspects, he said: We will handle it in the White House. We found out

on December 25, 11 months after he announced it, that there was no high

value detainee interrogation operation set up. They had no plans on how

to do it. These people are supposed to be interrogating high value

detainees and for a year they didn't set it up until after the attack.

Our intelligence chiefs testified early this month in an open hearing

that there will be attempts by terrorists to attack again. Yet the

administration waited until after the attack to begin the process of

setting it up. These are all important policy questions to raise. If

the White House had its way, I wouldn't be asking them, but I am asking

them because I am very fearful that our security has been lessened, and

that this is a subject this body must address.

Article I of the Constitution created a legislative branch to help

ensure that nobody in government is above oversight and being held

accountable. I as a Senator have a right and responsibility as a Member

of this body and as a representative of the people of my State to shine

a light on policies that I think need to be changed, and I will

continue to do so regardless of what is said about me. I am concerned

that these policies of the administration have moved us back to a pre-

9/11 mentality. That failed in the past and it will again.

In terms of the debate, my colleagues from California and Vermont

have raised questions in a letter. They said we ought to try these

terrorists in an article III court because the rule of law must

prevail. Well, I agree, but we have a law. It is called the military

commissions law that was passed and signed into law last year by the

President that carries out the laws of war. Those are places which are

much safer in terms of handling the terrorists, in terms of handling

classified information.

Finally, they say that we should not--they strongly believe we ought

to bring all of these people to article III courts and the prosecutors

and everybody can handle those. It is not the prosecutors or the

intelligence community we are worried about, No. 1. It is the

cost, because the terrorist trial is going to bring undesirables here,

and the city of New York figures it is going to have to spend over $2

million a year. They do not want it. Nobody else wants it.

I tell you, even more important, when Khalid Shaikh Mohammed was

apprehended, he said: My lawyer and I will see you in New York. He

wants to come to New York or Washington or someplace where he can get a

lot of media attention--and believe me, were he to be tried here, he

would get a lot of media attention--because he wants to be able to

spread his message to others who might be vulnerable that they need to

join him in the jihad.

I also pointed out that disclosure of sensitive information has and

will be released if you try him in an article III court because any

defense attorney bound to provide the best defense for their clients

will have to get into what the intelligence community knew, how they

knew it about him, and that is a disaster. That is why I welcome the

discussion and I urge a change in policy.