

Testimony of

The Honorable Patrick Leahy

July 25, 2002

We welcome you, Attorney General Ashcroft, to the Committee for the first time this year and the first time in more than eight months. Oversight hearings give us and the American people the opportunity to hear directly from you about the performance of the Department of Justice.

Oversight at its best makes government work better. Oversight today is more important than ever not only as a check, but to check whether the actions being taken by the federal law enforcement agencies under your direction are warranted and necessary to deal most effectively with the domestic front of the ongoing war on terrorism. I said at the time that we worked together last fall to enact the counter-terrorism bill, with all of its new authorizations for government power, that oversight of how the law is being used will be crucially important, and this Committee has worked hard to follow through on that belief and that pledge. I know that when you were a member of this Committee, you, too, appreciated the crucial role of congressional oversight. At a hearing in 1999, you said this: "I do think that oversight is one of the most important functions that we have as a Congress in our constitutional system, and I am glad to serve on a committee that takes the responsibility seriously." You were right. This Committee does take its responsibilities seriously, and we need your cooperation, in your current role, to perform them.

We have worked together in this effort to defend the public safety and national security, most significantly in the crafting of the USA PATRIOT Act last year after the horrendous September 11 terrorist attacks. The Congress is continuing to work closely with the White House in crafting a new Homeland Security Department. The product for the American people is a better one when the branches of our government work constructively together for the good of the nation.

The hardworking men and women who have spent careers at the Department of Justice working for the public good have done some excellent work, endured many long and stressful hours, and have achieved some great successes. I know you are as proud of them as am I. Yet in evaluating the Justice Department's performance as an organization, we have some concrete facts that cannot be ignored or rhetorically minimized.

The first fact is that, in 2001, the first year of your tenure, the nation's crime rate for murder, rape, robbery, aggravated assault, burglary, and theft reversed its trend and rose by 2 percent over the 2000 rate. The murder rate climbed more, up by 3.1 percent. Our new crime rate reverses nine years of declining crime rates, and that should concern us all.

The reversal in the crime rate might suggest that the Justice Department is focusing primarily on preventing terrorist attacks in the post-9/11 era. Yet the second fact - demonstrated by Department records obtained by a nonpartisan organization associated with Syracuse University under the Freedom of Information Act - shows that counter-terrorism efforts are not a valid excuse for rising crime. FBI referrals for prosecutions of bank fraud, bank robbery and narcotics

cases remained virtually unchanged after 9/11. Even after 9/11, federal prosecutors declined 61 percent of international and domestic terrorism cases referred to them by the FBI in the six months from October, 2001 to March, 2002.

The third fact is that before September 11th, the Department's counter-terrorism efforts were facing problems. Our bipartisan oversight activities over the past six months have amply confirmed that fact. These problems were, in part, a management issue. When FBI supervisors are banned from appearing before the special FISA court tasked with issuing the most sensitive national security related orders, when the Justice Department and FBI scramble to come up with new procedures to ensure accuracy in presentations to that court, when information technology is so outdated that critical information, such as the Phoenix Memorandum and other intelligence information, is not marshaled to bolster the application for a court order in the Moussaoui case, we have serious management problems - and in many respects, these problems persist.

These counter-terrorism problems were also, in part, a resource issue. Between 1992 and 2000, the number of FBI "intelligence officers" steadily increased by 357 percent, but in 2001, this number starting declining, with a 5 percent decrease in that year alone.

The fourth fact is that FBI requests for certain increases in its counter-terrorism budget for Fiscal Year 2003 were rejected - not by the Congress, not by the White House Office of Management and Budget, but by the Department of Justice. Press accounts earlier this summer reported that the Attorney General turned down a \$58 million FBI request for counter-terrorism resources in the current year's budget. In fact, the Attorney General's 31-page request to OMB on September 10, 2001, regarding the Department's FY03 budget needs made virtually no reference to counter-terrorism, except to eliminate \$65,000,000 for "counter-terrorism equipment grants." The budget request did not recommend the budget enhancements requested by the FBI for "Foreign Language Services," "Counter-terrorism Field Investigations," and "Intelligence Production (Field and HQs Intelligence Research Specialists)," totaling \$57,814,000. After 9/11, the Congress and the White House worked together to supplement the counter-terrorism budget for Fiscal Year 2002 with an additional \$745,000,000, but opportunities were clearly missed to ensure that critical resources were allocated to this important mission before September 11th.

The last time you were here, you brought an Al Qaeda operations manual to make the point that the war on terrorism is serious and that you take it seriously. At the start of this hearing I want to make clear to the Attorney General and to others that everyone in this room is against terrorism. There is no more serious business that we deal with in our responsibilities, day in and day out. Mr. Attorney General, just as you have taken an oath to support the Constitution, so has each of us.

We will all have questions for you about how these facts and your actions measure up under the terms and spirit of the Constitution. I will try to make sure your time here is well spent to fulfill the responsibilities we all share under the Constitution.

We have a lot to do on behalf of the American people. All of us who are privileged to serve and represent the American people in our institutions of government need to work together.

#####