

Testimony of

# The Honorable Patrick Leahy

May 15, 2003

This is National Police Week and in just a little while I have the honor of participating in the Police Memorial Day ceremony. Over the last several years we on this Committee have tried to honor our law enforcement officers and to act on legislation important to law enforcement.

I had asked that our agenda for the last couple of meetings include the bill Senator Graham and I introduced to ensure that the survivors of firefighters, police officers and EMS personnel who die of heart attacks or strokes in the line of duty be eligible to receive financial assistance through the Public Safety Officer Benefits (PSOB) program. We believe that our Hometown Heroes Survivors Benefits Act, S.479, is a worthwhile endeavor to close the loophole that prevents the families of our brave first responders from participating in the PSOB Program if their loved ones die of a cardiac-related attack while protecting us from harm.

Unfortunately, it is still not listed on the Committee's agenda for action, and an anonymous Republican hold on the Senate floor is keeping the Senate from passing it. I had hoped that we would be able to make progress on this bipartisan initiative before the end of this week. In addition, this week Senator Campbell and I were joined by Senator Hatch and Senator Reid in urging the Senate leadership to proceed to consideration of the Law Enforcement Officers Safety Act, S.253, which the Committee reported favorably for the second time earlier this year. I know this is a top priority for many in law enforcement, and I wish the Senate had taken it up this week.

On another legislative matter of urgent interest to law enforcement officers and agencies across the nation, I would again urge the Chairman to join with us and focus Committee attention on pending first-responder legislation that I have previously asked be considered by the Committee. Senator Daschle and I have introduced the First Responders Partnership Grant Act of 2003, S. 315 and S. 466. These pieces of legislation are of great interest to our state and local emergency response communities because they will supply our police officers, firefighters and EMS providers with the resources they need to bolster our security against terrorists. This is essential federal support that our law enforcement officers, firefighters and emergency personnel need and deserve.

Instead of focusing on these pressing law enforcement needs, and in spite of the progress we have made in reducing federal judicial vacancies to their lowest level in 13 years, the Committee remains fixated on judicial nominations to the exclusion of our other work. The only legislation even listed on the Committee agenda today concerns a judicial pay raise and authorizing another judgeship for Idaho. While I am a cosponsor of the judicial pay legislation and months ago introduced another legislative proposal on that subject, others on the Committee have asked that they be given an opportunity to consider the matter. Given that there have been no hearings on this subject, it is understandable that Senators want to be informed before being called upon to vote.

Similarly, although we have held no hearings on the workload demands in federal courts in Idaho, Utah, Iowa, Ohio, Alabama, Arizona, California, New York, North Carolina, South Carolina or other federal districts, we are being required to proceed on those matters this week.

Just last year we worked together to enact authorizations affecting more federal judgeships than Republicans had allowed in the preceding six years. Those 20 judgeships are just this summer becoming effective, and those important vacancies have yet to be filled. Democrats helped authorize 85 new judges in 1984 when President Reagan was in the White House. Democrats helped authorize 85 additional new judgeships when the first President Bush was in the White House in 1990.

During the years 1995 through 2000 Republicans in the Senate stalled action on judgeships for President Clinton to fill. Those few judgeships we were able to authorize were included as riders on appropriations bills, allowing 9 new

district court judgeships in 1999 and 10 new ones at the end of 2000, which were for President Clinton's successor to fill.

Last year during my chairmanship we included 20, including 15 new judgeships and five extensions of temporary judgeships, in an authorization bill, and thus we already have exceeded the new judgeships allowed President Clinton during his eight full years in office. In effect, we have authorized 30 additional judgeships for President Bush to nominate for, after Republicans allowed only nine to President Clinton, and after we had authorized 85 for the first President Bush and 85 for President Reagan. Does anyone discern a pattern and lack of balance? In the past two decades, Congress has authorized 200 judgeships for Republican Presidents to fill and only nine for a Democratic President. That is an unfortunate trend and one that should give any reasonable and fair person pause.

On legislation concerning asbestos-related claims, Chairman Hatch and I are continuing to work together. We are looking forward to sitting down and reviewing each other's thoughts soon so that we can move ahead in tandem. We have been working since our first hearing last year, through the hearing earlier this year, and since then in continuing discussions with insurers, corporations, labor representatives and legal representatives of asbestos victims to craft a fair proposal. I remain hopeful that we can reach consensus on an effective legislative solution. There remain some important issues on which we are working toward consensus. Working together we stand the best chance of success, and that is what we are trying to do.

Finally, I want to report briefly on progress we are making this week on judicial nominations. We have already confirmed 124 of President Bush's judicial nominees, including some of the most divisive and controversial sent by any President. I hope the Republican leadership will work with us to schedule a vote on the nomination of Consuelo Callahan to the Ninth Circuit without additional delay. She is a consensus nominee for which I expect bipartisan support, especially given the support of Senator Feinstein and Senator Boxer, her home-state Senators.

We should all acknowledge how far we have come from the 110 vacancies that we faced in the summer of 2001, this point now, when we have the lowest number of judicial vacancies in 13 years. The Administration has chosen confrontation with the Congress, with the Senate and with this Committee. With a modicum of cooperation we could achieve so much more. As it is, we have worked hard to repair the damage to the confirmation process, and we have achieved some significant results.

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