

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
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Mixed Messages: Who's In Charge?

Thank you, Mr. Chairman, and thank you, Secretary Ridge, for appearing before the Committee to discuss the state of our homeland security efforts. If the American people are uneasy about their security as we enter the summer traveling season, that may be because of the conflicting signals they are receiving from their Government. Yesterday we heard from the Attorney General, who two weeks ago took to the nation's television screens to warn them of an impending Al Qaeda attack. It had the appearance of the unilateralism that has come to characterize the Attorney General's handling of his job. Earlier the same day, Mr. Secretary, you appeared on many of those same television screens and encouraged Americans to "go out and have some fun" this summer. The American people are left to wonder whether they should be summering in fallout shelters or living the lives to which they had become accustomed before the September 11 attacks.

These doubts stem in part from the Administration's failure to follow the process Congress mandated in the Homeland Security Act of 2002. Under the Act, the Secretary of the Homeland Security Department is the only person authorized to issue public threat warnings. In broadcasting his own independent warnings, the Attorney General disregarded that law. I agree with the words of Christopher Cox, the Republican Chairman of the House Select Committee on Homeland Security: "In the Homeland Security Act, DHS was assigned the central coordinating role in this process. The absence of Secretary Ridge from [the] news conference held by the attorney general and the FBI director, and the conflicting public messages their separate public appearances delivered to the nation, suggests that the broad and close interagency consultation we expect, and which the law requires, did not take place in this case. The American public, state and local law enforcement, governors and mayors, and private sector officials with responsibility for critical infrastructure all deserve crystal clarity when it comes to terrorism threat advisories."

White House's Ambivalence And Partisanship About DHS

The Administration's lingering ambivalence about the Department of Homeland Security seems to be a residual byproduct from the process that created the Department. And as we review the Administration's failure to hew to the charter of the Homeland Security Act, it is instructive to consider the history of the Department's founding. Of course, the President initially opposed the efforts of Democrats, joined by some Republicans in Congress, to create a Department of Homeland Security in the first place. He then flip-flopped on the issue, embracing the creation of a new agency in an announcement timed to deflect attention from this Committee's oversight hearing with Coleen Rowley, the FBI agent who accused the Administration of negligence in its

reaction to the arrest of Zacarias Moussaoui the month before the September 11 attacks. After the President's conversion, he then barnstormed the nation and campaigned against Democratic Senators like Max Cleland, who agreed with the President's newfound goal of creating a new Department but wanted one that would respect the rights of the men and women who were working to keep our nation safe. And well before the Department was established, the White House for more than a year ignored outright - without even the courtesy of a dialogue, or even an acknowledgement - the appeals many of us had made for implementing the provisions of the USA PATRIOT Act that authorized help to our partners in homeland security, our state and local first responders. In the critical year after September 11th, the Administration also casually disregarded our appeals to implement other homeland security provisions Congress had included in the PATRIOT Act, such as the section on Northern Border security and the provisions to improve our translator capabilities.

It would be comforting if we could at least tell Americans that - despite the conflicting guidance from their leaders and the President's history of playing politics with homeland security - that their Government was doing everything possible and practical to keep them safe. Unfortunately, we cannot truthfully tell them that. As we sit here today, there is much left undone in securing our nation. And we have recently learned that a White House budget memorandum circulated within the Administration last month states that if there were to be a second Bush Administration, the President actually intends to cut spending for homeland security by \$1 billion in his next budget - the first budget he will submit once he knows he will not have to face American voters again. In other words, we should expect that whatever security gaps are present today will only worsen in coming years. Although such news may be shocking, it is the logical consequence of the obsession of the President and the Republican-controlled Congress with cutting taxes for the wealthiest Americans, regardless of the fiscal consequences. The top 1 percent may have benefited, but the nation as a whole is and will continue to be less secure because of the reckless fiscal policies of this Administration.

Broken Promises To First Responders

I look forward to hearing Secretary Ridge's view as to our most pressing security needs. First, however, I would like to share some of my most serious homeland security concerns, starting with the Bush Administration's failure to provide the necessary assistance for first responders throughout our nation. As the costs borne by law enforcement agencies across the country continue to rise, we need to increase funding for our nation's first responders. Instead, the President has proposed cutting overall funding for our nation's first responders by \$800 million. These cuts target vital emergency services affecting every State, regardless of size or population.

The Hart-Rudman report on domestic preparedness argued that the U.S. will fall approximately \$98.4 billion short of meeting critical emergency responder needs over the next five years if current funding levels are maintained. Clearly, the domestic preparedness funds available are insufficient to protect our people and prepare for and respond to future domestic terrorist attacks anywhere on American soil.

Indeed, a 2003 report by the Council on Foreign Relations found a number of serious flaws in the preparedness of our first responders. For example, the Council found that only 10 percent of fire

departments in the nation have the personnel and equipment to respond to a building collapse. The Council also wrote that most cities do not have the necessary equipment even to determine the kind of hazardous materials their emergency responders may be facing.

In February 2003, I introduced S.315, the First Responders Partnership Grant Act. I have repeatedly asked the Chairman to mark up this bill, but he has declined to do so. The bill would provide \$4 billion annually to support our State and local public safety officers in the war against terrorism. Grants will be made directly to state and local governments and Indian tribes for equipment, training and facilities to support public safety officers in their efforts to protect homeland security and prevent and respond to acts of terrorism. This is essential Federal support that our law enforcement officers, firefighters and emergency medical service providers need and deserve. Unfortunately, this Committee has refused even to consider it.

Vulnerable Ports

I believe that our approach to port security is also insufficient, and I know that many of my colleagues on this Committee share that view. Senators Biden and Specter have introduced legislation to strengthen the security of our ports, as has Senator Feinstein. I hope to hear today whether the Secretary supports those bills.

More than 90 percent of the world's trade is moved in cargo containers. As CBS "60 Minutes" reported last summer, fewer than 2 percent of the 16,000 containers coming into the U.S. every day are inspected. Stephen Flynn, a senior fellow at the Council on Foreign Relations and a noted expert on seaport security, told "60 Minutes" last summer that the information provided by shippers is frequently unreliable and vague, and said, "The fact of the matter is criminals have been operating in seaports a long time. The bad guys know how open the system is. The good guys don't seem to have a real command on it here because we haven't paid as much attention to this problem as we need to."

The General Accounting Office has found that that the information that the Bureau of Customs and Border Patrol uses to determine which cargo should be searched is "one of the least reliable or useful for targeting purposes." In addition, the U.S. has been slow to install radiation detection portals at our ports, leaving us vulnerable to the smuggling of a nuclear or radiological weapon. I would appreciate an update from the Secretary on the installation of such devices.

Mass Transit Measures Idle

Our mass transit systems are similarly at risk, as this Committee discussed in an April hearing. While we will spend about \$4.5 billion on aviation security this year, we will devote only \$65 million to rail security, even though five times as many people take trains as planes every day. The Madrid bombing vividly demonstrated the potential vulnerability of mass transit, and I am concerned that the Administration is not responding forcefully enough to this threat. Last year, a survey of transit agencies by the American Public Transportation Association identified some \$6 billion in unmet security needs. These needs remain unmet today, and yet we have not received a plan from the Transportation Security Administration to address them.

There are a number of bills pending in the Senate by Senators Hollings, Schumer, Feinstein and others, including S.22, the Justice Enhancement and Domestic Security Act introduced in January 2003, that address rail security and funding issues. I hope the Secretary will tell us the Department's position on those bills.

Air Security Concerns Linger

While we have devoted substantial resources to our air security, problems remain. There have been several reorganizations of the TSA's airport screeners program, and I begin to wonder if and when we are going to get it right. Reports from the GAO and the DHS Inspector General's office suggest that the screening of baggage and passengers at our nation's airports remains lax, nearly three years after the September 11 attacks. Meanwhile, some Congressional Republicans are calling for yet another reorganization, in which the airport screeners would be returned to the private sector. On top of all this, the TSA has been slow in developing security procedures at port and rail facilities around the country. I would like to hear today what steps are being taken to correct the problems the GAO and the IG have found, and what continuing role and structure the Secretary envisions for the TSA.

Outsourcing And Unmet Immigration Responsibilities

Finally, I would like to say a few words about the immigration functions at DHS. Just last week, the Department awarded a contract worth up to \$10 billion to Accenture LLP to oversee and expand the US VISIT program, which Congress has approved to track the entry and exit of foreign visitors. Accenture's parent company - Accenture Ltd. -- could itself be considered a foreign visitor to the United States, as it has moved offshore to Bermuda. I am concerned that a contract this lucrative has been awarded to a company whose parent has chosen to leave the United States, while wholly American companies also submitted bids. I think this sends exactly the wrong message to corporations deciding whether they should continue to be headquartered here.

I think it also sends the wrong message when the President makes a splashy announcement in January promising to liberalize our immigration policies, and then does nothing to advance his own plan in the following five months. I still await the legislative proposal I sought from him in January. It appears that the President has abandoned his efforts in the face of harsh criticism from the right wing of his party. Our immigration problems, however, will not simply go away because the President's base opposes any realistic effort to deal with them.

At the very least, we should pass those bills that have strong bipartisan support, such as the DREAM Act - which continues to languish on the Senate floor - and the AgJOBS bill, which would help farmers and farm workers throughout the nation. I hope that the Secretary can shed light on his and the President's positions on those bills, and the President's plans for immigration reform during the remainder of his term.

Conclusion

I have raised a number of concerns in my remarks today, and I do not mean to imply that this is an easy job. These are trying times, these are major challenges, this is a new Department, and

you confront these dangers and uncertainties every moment of every day. We do appreciate your willingness to testify before the Committee. You have made yourself far more available than the Attorney General ever has. I believe that the Administration as a whole should take these concerns to heart and work with Congress to get the funding needed to address our security vulnerabilities, even at the cost of forsaking some of the President's tax cuts. We simply cannot meet our needs with the resources that we have available. I would urge the Secretary to convey this message to the White House.

We thank you for your testimony today.