

Statement of

# **The Honorable Patrick Leahy**

United States Senator  
Vermont  
September 8, 2005

Opening Statement Of Senator Patrick Leahy,  
Ranking Member, Committee on the Judiciary  
Executive Business Meeting  
September 8, 2005

The Senate returned this week to pass a resolution of solidarity with the victims of the devastation in New Orleans and the Gulf coast region, and another honoring Chief Justice William H. Rehnquist, who passed away last Saturday night after 33 years of service on the Supreme Court, including 19 as Chief.

This Sunday is September 11. Just as Americans joined together four years ago, we join together now to help the victims of a national catastrophe. Americans are opening cities and homes to those displaced from their own. The hearts and prayers of Vermonters and all Americans are with those we have lost, those who are still suffering, and those who are providing relief and shelter. We are keenly aware as well of the suffering that afflicts the people of Alabama, the state that is represented by Senator Sessions, a member of our Committee, and of the relief efforts that have been mounted by the people of the State of Texas, represented by Senator Cornyn, another member of our Committee.

The devastation and despair facing millions of our fellow Americans in the Gulf region is a tragic reminder of why we have a federal government and why it is critical that our government be responsive and accountable. It is at times like this that we see vividly why we need the federal government -- for our protection and security; to provide a safety net for those in need; to provide a timely lifeline to those in distress; and to provide necessary resources beyond the ability of any locality or State government.

Tragically, in the days immediately before and after Katrina struck the Gulf Coast, the machinery of government failed. In a moment of candor last week, the President said that "the results are not unacceptable." It was worse. The government failures that contributed to so many needless deaths bordered on the criminal.

I contrast the work of the press with the lack of an effective government response. The press did its job as an information source but also served as a lifeline to many survivors and their families. They became rescuers for many, as well as serving as reporters. They got to the scene of the tragedy immediately. In fact, they were there throughout. Their reports and the searing images they transmitted were critical factors in moving the American people to demand greater government responsiveness to begin to alleviate the suffering. Without the press fulfilling their

First Amendment responsibilities, I doubt that relief efforts would have been stepped up dramatically over the weekend. Even so, precious time was lost in the immediate aftermath, and as a result, so too were precious lives lost.

The full dimensions of the disaster are not yet known. Bodies of loved ones need to be recovered, families need to be reunited, those who were rescued need to be assisted, long-term health risks and environmental damage need to be assessed. But if anyone needed a reminder of the need and role for government, the last days have provided it. If anyone needed a reminder of the growing poverty and despair among too many Americans, we now all have it. That any would suggest that the poor who failed to drive out of New Orleans, in cars they did not have, somehow had it coming to them, or that they have no one to blame but themselves, is to victimize them, again. And if anyone needed a reminder of the racial divide that remains in the United States, no one can now doubt that we still have miles to go.

I believe that the American people want, expect and demand their government to help ensure justice and equal opportunity for all and especially for those who, through no fault of their own, were born into poverty. We are all Americans, and all Americans should have the opportunity to earn a fair share of the bounty and blessings that America offers. That is what has made this country a great nation.

We are measured by how this nation of abundance provides for those with the least and the politically powerless -- the old, the infirm, the very young, the poor. In the first days of last week, we failed that test. The American people deserve a government as good as they are and with a heart as big as theirs. The test is not just about money after the fact, although that is now essential to alleviate the suffering and devastation. The test also includes preparedness, responsiveness and accountability.

The unthinkable images of the last days will likely continue as this tragedy unfolds and its consequences rivet the attention of all Americans. This should be galvanizing Congress to action. How is it that we were unprepared for the disaster in New Orleans when the danger has been known for years? How is it that we can track the storm, the President can declare an emergency on Saturday before Katrina hit the Gulf Coast, and the Federal Emergency Management Agency can be so inept on Monday, Tuesday, Wednesday, Thursday and beyond? How can the American people have sufficient confidence that we are prepared or could respond effectively to a terrorist attack? Terrorists will not be subject to radar tracking, like a storm. Terrorists will not give us 36 hours' warning of where they will strike. If we cannot be prepared for hurricane season or, for that matter, flu season last year, how can we expect Americans to have confidence that we are prepared for terrorism?

It was four years ago that government failed to connect the dots or demonstrate the vision needed to head off the national tragedy on September 11. It was during a hearing of this Committee, when FBI agent Coleen Rowley was testifying about those tragic failures, that the Bush Administration reversed itself and endorsed the creation of a Department of Homeland Security. Congress created that Department in accordance with the President's design and has funded it with billions of taxpayer dollars. Four years later, the results are worse than "unacceptable." Indeed, what was until recently an effective and responsive agency providing federal leadership

and direction in emergencies, FEMA is under incompetent management and, by all accounts, contributed to increased suffering rather than fulfilling its mission.

Now more than ever Congress needs to fulfill our oversight responsibilities. I see that Senator Collins and Senator Lieberman are beginning to seek accountability. I am told that Senator Kyl put out a statement saying that he intends to hold hearings in our Terrorism and Homeland Security Subcommittee to understand what went wrong and what needs to be done so that we are better prepared in the future. He and I worked together on critical infrastructure issues more than a decade ago. I look forward to the hearings he and Senator Feinstein will hold. We need a credible investigation into the failings, not a partisan one.

This Committee, the Senate and the country face many challenges in the days ahead. We will be conferencing with the House on extending certain provisions of the USA PATRIOT Act and increasing accountability in that regard. We need to reauthorize the Violence Against Women Act. This Committee has been charged with finding more than \$300 million in budget cuts in the next few days.

Monday we begin hearings on the President's nomination this week of Judge John Roberts Jr. to succeed Chief Justice Rehnquist. We hope that the President will be consulting with us in connection with who he now intends to substitute as a nominee to succeed Justice O'Connor.

As a nation we are confronted with many challenges right now, including the crisis in the Gulf Coast and the skyrocketing price of gasoline and home heating fuels. That is not our only challenge. Here at home, the gap between the haves and the have-nots has widened with poverty rates increasing, while abroad the Administration's Iraq policy remains in crisis.

The Chairman and I have been working with Senator Landrieu, Senator Vitter and the Administrative Office of the Courts to develop legislation to help the federal court in the Eastern District of Louisiana. The burdensome new requirements of the bankruptcy law revisions set to go into effect on October 17 need to be revisited with respect to hurricane victims who cannot possibly meet them. I am writing the Attorney General to get an assessment of the impact on the federal criminal justice system and will be following up on ways that we can provide assistance to local law enforcement and support state and local courts. Much work lies ahead.

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Statement of Senator Patrick Leahy,  
Ranking Member, Judiciary Committee  
Consideration of the Reauthorization of the Violence Against Women Act  
September 8, 2005

I am pleased that today our Committee has turned to consideration of the reauthorization of the Violence Against Women Act, S. 1197, bipartisan legislation that will further our goal of ending domestic violence, dating violence, sexual assault and stalking. The enactment of the Violence Against Women Act over a decade ago marked an important national commitment to survivors of domestic violence and sexual assault. I am proud to join Senators Biden, Hatch, Specter and

others as an original cosponsor of this important measure. I want to especially recognize Senator Biden for his continued commitment to ending violence against women and children.

Earlier in my career as a county prosecutor in Vermont, I witnessed the devastating effects of domestic violence. Violence and abuse affect people of all walks of life every day and regardless of gender, race, culture, age, class or sexuality. Such violence is a crime and it is always wrong, whether the abuser is a family member, someone the victim is dating, a current or past spouse, boyfriend, or girlfriend, an acquaintance or a stranger.

The National Crime Victimization Survey estimates there were 691,710 non-fatal, violent incidents committed against victims by current and former spouses, boyfriends or girlfriends - also known as intimate partners - during 2001. Of those incidents, 85 percent were against women. The rate of non-fatal intimate partner violence against women has fallen steadily since 1993, when the rate was 9.8 incidents per 1,000 people. In 2001, the number fell to 5.0 incidents per 1,000 people, nearly a 50 percent reduction, but still unacceptably high. Tragically, however, the survey found that 1,600 women were killed in 1976 by a current or former spouse or boyfriend, while in 2000 some 1,247 women were killed by their intimate partners.

Our Nation has made remarkable progress over the past 25 years in recognizing that domestic violence and sexual assault are crimes. We have responded with better laws, social support and coordinated community responses. Millions of women, men, children and families, however, continue to be traumatized by abuse, leading to increased rates of crime, violence and suffering.

The Violence Against Women Act has provided aid to law enforcement officers and prosecutors, helped stem domestic violence and child abuse, established training programs for victim advocates and counselors, and trained probation and parole officers who work with released sex offenders. Now we on the Judiciary Committee and then the rest of our colleagues in Congress have the opportunity to reauthorize VAWA and make improvements to vital core programs, tighten criminal penalties against domestic abusers, and create new solutions to other crucial aspects of domestic violence and sexual assault. This is an opportunity to help treat children victims of violence, augment health care for rape victims, hold repeat offenders and Internet stalkers accountable, and help domestic violence victims keep their jobs.

Included in VAWA 2005 are reauthorizations of two programs that I initially sponsored that are vital to helping rural communities battle domestic violence in a setting in which isolation can make it more difficult for both victims and law enforcement. In a small, rural state like Vermont, our county and local law enforcement agencies rely heavily on cooperative, interagency efforts to combat and solve significant problems. That is why I sought to include the Rural Domestic Violence and Child Victimization Enforcement Grant Program as part of the original VAWA. This program helps make services available to rural victims and children by encouraging community involvement in developing a coordinated response to combat domestic violence, dating violence and child abuse. Adequate resources combined with sustained commitment will bring about significant improvements in rural areas to the lives of those victimized by domestic and sexual violence.

The Rural Grants Program section of VAWA 2005 reauthorizes and expands the existing education, training and services grant programs that address violence against women in rural

areas. This provision renews the rural VAWA program, extends direct grants to state and local governments for services in rural areas and expands areas to include community collaboration projects in rural areas and the creation or expansion of additional victim services. This provision includes new language that expands the program coverage to sexual assault, child sexual assault and stalking. It also expands eligibility from rural states to rural communities, increasing access to rural sections of otherwise highly populated states. This section authorizes \$55,000,000 annually for 2006 through 2010, which is an increase of \$15 million per year.

The second grant program initiative on which I have focused is the Transitional Housing Assistance Grants for Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking. This program, which became law as part of the PROTECT Act of 2003, authorizes grants for transitional housing and related services for people fleeing domestic violence, sexual assault or stalkers. At a time when the availability of affordable housing has sunk to record lows, transitional housing for victims is needed now more than ever. Today more than 50 percent of homeless individuals are women and children fleeing domestic violence. We have a glaring problem that is in dire need of a solution and this program is part of the solution.

Transitional housing allows women to bridge the gap between leaving violence in their homes and becoming self-sufficient. Our bill, VAWA 2005, amends the existing transitional housing program by expanding the current direct-assistance grants to include funds for operational, capital and renovation costs. Other changes include providing services to victims of dating violence, sexual assault and stalking; extending the length of time for receipt of benefits to match that used by Housing and Urban Development transitional housing programs; and updating the existing program to reflect the concerns of the service provision community. The provision would increase the authorized funding for the grant from \$30,000,000 to \$40,000,000.

The Violence Against Women Act passed the Senate in 1994 and with it we declared that the United States takes the problem of violence against women seriously. The law declared that "[a]ll persons within the United States shall have the right to be free from crimes of violence motivated by gender," and we enacted meaningful reform. Regrettably, in *United States v. Morrison*, the Supreme Court struck down portions of the Act. That case involved a young woman who was allegedly raped by two classmates while attending college. Our law allowed a victim of violence to seek civil remedies when the violence was motivated by gender-based animus. Congress showed in its findings that justice is too often denied to women and a majority of states supported our law and the civil remedy it provided. By a narrow 5 to 4 vote, the Supreme Court struck down this portion of the Violence Against Women Act and second-guessed the judgment of Congress on this remedial cause of action.

This is a stark reminder of what is at stake as we soon consider nominations to fill the current two vacancies on the United States Supreme Court. Consistent with our oaths of office and allegiance to the Constitution, a majority of the United States Senate, the House of Representatives, the President of the United States and four of the nine Justices on the Supreme Court thought the remedial action we provided to victims of violence constitutional. Sadly, it was not enough to save this important aspect of our legislative program from a declaration of unconstitutionality by an activist Supreme Court.

Regrettably, there are members of our Committee who plan to offer amendments today that serve as nothing more than poison pills to sink this bill. Notably, they object to the inclusion of Title VIII, which improves and expands the immigration protections for battered women. It also ensures that victims of trafficking are supported with measures such as permitting their families to join them in certain circumstances, expanding the duration of a T-visa, and providing resources to victims who assist in investigations or prosecutions of trafficking cases brought by state or federal authorities. I find it shameful that someone would move to strike provisions that aim to protect the most vulnerable members of our population, particularly as we are reminded so vividly by the devastation of Hurricane Katrina that government's most crucial role is that of protecting and helping those who need it most. I will oppose these amendments.

According to the annual Vermont Crime Report, the number of forcible rapes reported in Vermont increased in 2004 to the highest level in seven years, while the amount of violent crime remained unchanged and overall crime fell by about 5 percent from 2003. Reported incidents of rape rose by 58 percent, from 117 in 2003 to 185 in 2004. The average age of the victim was 21, 47 percent of victims were younger than 18 years old, in 74 percent of the cases the perpetrator was an acquaintance of the victim, and in a quarter of the cases the defendant was a family member or intimate partner of the victim. In only 1 percent of the cases was the perpetrator a stranger. These figures cause me concern because violent crime has declined throughout our nation during that same time period. Numbers like these are why reauthorizing VAWA is so vital.

Now it is time to strengthen the prevention of violence against women and children and its devastating costs and consequences. This legislation is an important part of our efforts to increase awareness of the problem of violence, to save the lives of battered women, rape victims and children who grow up with violence and to continue progress against the devastating tragedy of domestic violence. I urge prompt action on this legislation.