

Statement of  
**The Honorable Patrick Leahy**

United States Senator  
Vermont  
January 18, 2007

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Chairman, Committee On The Judiciary  
Hearing On Department of Justice Oversight  
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Today, this Committee holds an important hearing to examine the operations of the Department of Justice - the federal agency entrusted with ensuring the fair and impartial administration of justice for all Americans. I take our oversight responsibility very seriously.

#### Restoring Privacy and Civil Liberties

In the 32 years since I first came to the Senate - during the era of Watergate and Vietnam - I have never seen a time when our Constitution and fundamental rights as Americans were more threatened by their own government. Just this last weekend, the President and Vice President indicated that they intended to override the will of the American people, as expressed in the most recent national elections, and ignore actions of Congress in order to escalate the war in Iraq. This Administration has circumvented express congressional prohibitions on creating databanks of information on law-abiding Americans over the last five years.

For years, this Administration has engaged in warrantless wiretapping of Americans contrary to the law. Since this troubling program was first revealed, I have urged this Administration to inform Congress about what the government is doing and to comply with the checks and balances Congress wrote into law in the Foreign Intelligence Surveillance Act. I welcome the President's change of course yesterday to not reauthorize this program and to, instead, seek approval for all wiretaps from the Foreign Intelligence Surveillance Court, as the law requires. We must engage in all surveillance necessary to prevent acts of terrorism, but we can and should do so in ways that protect the basic rights of all Americans, including the right to privacy. The issue has never been whether to monitor suspected terrorists but doing it legally and with proper checks and balances to prevent abuses. This reversal is a good first step, but there are still several outstanding questions that remain. To ensure the balance necessary to achieve both security and liberty for our Nation, the President must also fully inform Congress and the American people about the contours of the Foreign Intelligence Surveillance Court order authorizing this surveillance program and of the program itself.

The President has issued signing statement after signing statement declaring the law to be not what Congress passed and he has signed, but what he finds convenient. And, regrettably, the Administration has all too often refused to answer the legitimate oversight questions of the duly-

elected representatives of the American people. Unfortunately, this Justice Department has been complicit in advancing these government policies which threaten our basic liberties and overstep the bounds of our Constitution.

## Human Rights

The Department has also played a pivotal role, in my view, in eroding basic human rights and undercutting America's leading role as an advocate for human rights throughout the world. Last week, the world marked the fifth anniversary of the arrival of the first prisoners at Guantanamo Bay with protests. That facility has replaced Abu Ghraib in the eyes of many, including some of our closest allies, as a symbol of repression. Although the President had said that he wanted to close it down, he is now proposing stepped up use and construction projects that threaten to make the detention center at Guantanamo Bay a permanent fixture in the world.

For more than two years, we have sought answers from the Department of Justice about reported and, in some instances, documented cases of the abuse of detainees in U.S. custody. I wrote to Attorney General Gonzales regarding press reports that the Central Intelligence Agency has finally acknowledged the existence of additional classified documents detailing the Bush Administration's interrogation and detention policy for terrorism suspects. I am glad that, after initially refusing to provide any new information in response to my inquiries, the Attorney General wrote to me last week to say that he would work to develop "an accommodation that provides the Judiciary Committee with a sufficient understanding of the Department's position on legal questions related to the CIA program." That is a good first step, and I will work with him to reach the accommodation that he suggested. But, I remain disappointed that the Department of Justice and the White House have continued to refuse to provide the requested documents to the Committee.

We have a democratic government in which Congress is entitled to know and review government actions. The President and Vice President of the United States should not be operating a secret and separate regime in which their official acts and policies cannot be known by the people's elected representatives.

The Administration's secret policies have not only reduced America's standing around the world to one of the lowest point in our history, but these policies also jeopardize the Department's own efforts to prosecute terrorism. Last week, USA Today reported that the Department's terrorism case against Jose Padilla is imperiled by concerns that Mr. Padilla's treatment during his lengthy detention and back and forth designations as a defendant and enemy combatant have eroded his mental capacity to such a great extent that he cannot fairly be tried. Any trial of Khalid Sheikh Mohammad as the mastermind of 9/11 will have to overcome challenges based on his treatment and detention.

And, after the Administration and the Republican-led Congress eviscerated the Great Writ of habeas corpus -- not just for detainees but for millions of permanent residents living in the United States -- this Department of Justice filed a legal brief expressly supporting that result, raising the specter that millions living in the United States today can now be subjected to indefinite government detention.

## Civil Rights and Crime

This week we commemorated the life and contributions of Dr. Martin Luther King, Jr. Sadly, the while the Department has defended the constitutionality of the Voting Rights Act, I am concerned that it is backing away from the vigorous enforcement of the Voting Rights Act that the President promised only a few months ago. I am concerned that, in nearly six years of power, the Bush Administration has filed only one suit on behalf of African-American voters under Section 2 of the Voting Rights Act, the key section that provides a cause of action for discrimination against minority voters.

I am also deeply concerned that the Department of Justice is retreating from its core mission to hold those who would violate our criminal laws accountable. Last week, the President told us that he plans to spend \$1.2 billion more, on top of the billions already sent to Iraq for reconstruction. Despite mounting evidence of widespread corruption, contracting fraud and billions unaccounted for, the Department of Justice has not brought a single criminal case against a corporate contractor in Iraq.

The Department must also do better at addressing the dangers that Americans face at home. According to the FBI's preliminary crime statistics for the first half of 2006, violent crimes in the United States rose, again. Some of us are concerned that this Administration has forgotten the lessons that led to our success during the Clinton years and that the rise in violent crime is related to this Administration's \$2 billion cut in aid to state and local law enforcement programs. While it is more than willing to spend more and more American taxpayers' funds for police in Iraq, this Administration is cutting back funding for our state and local police at home.

## Conclusion

This Committee has a special stewardship role to protect our most cherished rights and liberties as Americans and to make sure that our fundamental freedoms are preserved for future generations. There is much work to be done to repair the damage inflicted on our Constitution and civil liberties during the last six years.

Attorney General Gonzales, I thank you for agreeing to come here today. I look forward to hearing your views and answers to our questions. We need to work together to move forward.