

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
March 15, 2007

Opening Statement of Chairman Patrick Leahy
Senate Judiciary Committee
Executive Business Meeting
March 15, 2007

The Committee has another ambitious agenda before it today. It includes the only nomination to fill one of the 22 vacancies now in the 93 U.S. Attorney offices across the country whose paperwork is even done. Amazingly, there are only two other nominations for the remaining 21 vacancies.

We only completed action on one bill last week. In addition to the six bills carried over from last week, I have added our bipartisan Freedom of Information Act bill and a bill on disaster assistance fraud introduced by Senator Sessions and Senator Landrieu. I hope that we can make more substantial progress on these eight legislative proposals this week than we did last week. We also have a number of resolutions introduced by Senators, from both sides of the aisle and both on and off the Committee, on a variety of subjects.

In order to make progress, I urge Senators to refrain from delaying action with controversial amendments on topics not germane to the bills.

Before we get to any of those matters, however, I will ask the Committee to proceed to provide the authorization we need, if subpoenas are necessary, as we proceed with our investigation into the mass firings of U.S. Attorneys around the country.

In the wake of our second hearing on this matter and our meeting last week, we continue to press for answers. The facts have begun to emerge. The Attorney General has admitted "mistakes were made" but he and the White House continue to stand by their actions, which have done so much to undercut the independence of federal law enforcement and to besmirch the reputations of former Bush appointees. The Attorney General's chief of staff has in the last week resigned -- or been fired. Some e-mails were leaked by the Administration to the press in an attempt to control the story. Front pages and editorial pages across the country have been filled with stories and columns about these developments.

I can report that some, limited, factual information is finally being provided to us and our House Judiciary counterparts. The factual record remains incomplete, however, despite our best efforts. On Tuesday, we witnessed the Attorney General himself claiming lack of personal knowledge

and the need for an investigation to get to the bottom of this affair. Of course his pronouncement comes almost two months after he testified under oath before this Committee rather definitively that there was no cause for concern.

The Attorney General has previously written to Chairman Specter following a hearing in which he apparently gave inaccurate information. I would not be surprised to receive a similar letter from him taking back his January 18 testimony this year. It was at best misleading and inaccurate, as was the testimony of his Deputy Attorney General in February and his special assistant before the House Judiciary Committee last week.

I am not saying anything about the Attorney General this morning that I have not conveyed to him personally. He knows how displeased I am with what he did and what he said about it. True accountability means being forthcoming and there being consequences for bad actions.

Other Senators, both Republican and Democratic, have called for the Attorney General's resignation. The Attorney General truly does serve "at the pleasure of the President." The President determines the standard of conduct, candor, competence and effectiveness for his Administration. President Bush spoke yesterday in support of his appointment as Attorney General.

I have a greater concern. I want the American people to have a Justice Department and United States Attorneys offices that enforce the law without regard to political influence and partisanship. I want the American people to have confidence in federal law enforcement and I want our federal law enforcement officers to have the independence they need to be effective and merit the trust of the American people.

Sadly, what we have heard from the Administration has been a series of shifting explanations and excuses and a lack of accountability or acknowledgement of the seriousness of this matter.

The women and men replaced and whose reputations were then stained by those seeking to justify these firings as "performance related" were appointees of President Bush. Several had significant achievements in office and glowing performance reviews. It makes one wonder whether they were simply too independent and effective for this Administration? What were the real motivations for their firings? Who within the Administration were the moving forces behind the mass firings and who was involved? We now have strong reason to believe that, despite the earlier protestations to the contrary, Karl Rove and political operatives at the White House and for the Republican Party played a role, along with those in the White House Counsel office.

I hope all Senators share the desire to get to the bottom of this as soon as possible. We would like to authorize the subpoena authority we need to follow through on this matter.

Given the revelations in the press over the past few days we have added the Attorney General's successor as White House Counsel, her associate White House Counsel and Mr. Rove to the authorizations. I hope to obtain their cooperation and all relevant information without having to utilize subpoenas. Having the authority from the Committee to proceed, as needed, will be helpful in that regard.

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Statement of Senator Patrick Leahy,
Chairman, Senate Judiciary Committee,
On Authorization for Subpoenas for the U.S. Attorney Investigation

March 15, 2007

Over the last several months, the Judiciary Committee has used the tools at its disposal -- hearings, investigation and oversight -- to uncover an abuse of power that threatens the independence of U.S. Attorneys offices around the country and the trust of all Americans. We have probed the mass firings of eight U.S. Attorneys and are trying to get to the truth in order to prevent these kinds of abuses from happening again.

In the next few days, I hope the Senate will finally debate and adopt the Feinstein-Specter-Leahy substitute favorably reported by this Committee to the Senate last month. Senator Feinstein entitled the bill "Preserving United States Attorney Independence Act of 2007." She was right. We need to close the loophole exploited by the Department of Justice and the White House that enabled this abuse to occur. For more than a month, some have blocked consideration of this bill on the floor. We sought consent to proceed on February 15th and there was objection. Senator Feinstein even sought to offer it as an amendment to S.4 but, again, there was objection.

What we have learned this week in the few documents we have seen from the Department of Justice shows that officials at the Department and the White House chose to exploit this authority to make an end run around the Senate. It is time to roll back the change in law that has contributed to this abuse.

But that is not the end of our job. Every time we learn more details about the ouster of these U.S. Attorneys the story grows more troubling. Had we stopped asking questions after the testimony of the Attorney General and other Department officials, we would not know the truth.

The White House and the Attorney General have dodged Congress's questions and ducked real accountability. In the past they have counted on a rubberstamping Congress to avoid accountability. I trust that we will work together in bipartisanship to get to the bottom of this.

The Attorney General has admitted "mistakes were made," but he and the White House continue to stand by their actions, which have done so much to undercut the independence of federal law enforcement and to besmirch the reputations of former Bush appointees. The President of the United States and the Attorney General are not living up to their responsibility for setting the moral standard for this Administration.

I made no secret during our confirmation proceedings of my concern whether Mr. Gonzales could serve as an independent Attorney General of the United States on behalf of the American people and leave behind his role as counselor to President Bush. The Department of Justice

should serve the American people by making sure the law is enforced without fear or favor. It should not be a political wing of the White House.

Where is the accountability? For six years accountability has been lacking in this Administration. Loyalty to the President is rewarded over all else. That lack of accountability, and lack of the checks and balances that foster it, must end. We do not need another commendation for the "heckuva job" done by those who have failed in their essential duties to the American people. True accountability means being forthcoming and there being consequences for bad actions.

The Department finally has provided some limited factual information to us and our House Judiciary counterparts. The factual record remains incomplete, however, despite our best efforts. We do not have an agreement on witnesses and the incomplete set of documents we have received so far are redacted, leaving us without highly relevant information about the firings. We have received no documents or assurances that witnesses would be produced by the White House. The Justice Department and the White House have worn out the benefit of the doubt after so many shifting explanations and excuses and a lack of accountability or acknowledgement of the seriousness of this matter. It erodes credibility and undermines accountability when an Administration so cavalierly handles its responsibility to provide honest oversight answers to the Legislative Branch and to this Committee.

On Tuesday, we witnessed the Attorney General himself claiming lack of personal knowledge and the need for an investigation to get to the bottom of this affair. Of course his pronouncement came almost two months after he had testified under oath before this Committee rather definitively that there was no cause for concern. The Senate Judiciary Committee opened the door to the truth by beginning this investigation and performing real oversight. I thank Senator Schumer for chairing our hearings. As I have said over the last few days, the Committee will summon whoever is needed to get to the bottom of this.

We have asked for Administration officials and now former officials to cooperate with the Committee and I hope that they will. If they cooperate, we will not need to issue subpoenas. But we did not start to get the truth from the Department or the Administration until we put subpoena authorizations on our agenda last week.

Just a few weeks ago this Administration's Attorney General and Deputy Attorney General failed to tell Congress the whole truth about this matter while under oath. Their explanations have not held up and now we have the resignation -- or firing -- of the Attorney General's Chief of Staff. I hope they cooperate, but this is too important to trust to hope. This is an Administration with a serious credibility problem. By authorizing subpoenas, the Committee maintains the flexibility it needs to move ahead with its investigation and pursue the truth.

Through the Committee's oversight work so far, we now know some of the answers to many questions we have been asking, and the answers are not good. We now know that their refusal to send nominations to the Senate is part of a plan to do an end run around the Senate's role.

We have asked why the Administration has removed U.S. Attorneys and not had nominees lined up to replace them. We have asked why home-state Senators were not consulted in advance. We have asked why there are now 22 districts with acting or interim U.S. Attorneys instead of

Presidentially appointed, Senate-confirmed U.S. Attorneys. This includes the districts of all eight of the U.S. Attorneys fired recently without cause. Yet the White House has nominated only three people for these 22 spots.

We have learned that most of the U.S. Attorneys that were asked to resign were doing their jobs well and were fired for not bending to the political will of some in Washington. Apparently, their reward for their efforts at rooting out serious public corruption is an unprecedented pink slip.

So many critical questions remain. Why were these women and men replaced when several had significant achievements in office and glowing performance reviews? And why have their reputations been stained by those seeking to justify these firings as "performance related"? Were they simply too independent for this Administration? What were the real motivations for their firings? Who within the Administration were the moving forces behind the mass firings and who was involved? What involvement did the White House have in the legislative process that allowed this abuse of power to occur?

I hope all Senators share the desire to get answers to these questions and many others as soon as possible. The progress we have made has only come since we put subpoenas on the agenda last week. We should authorize the subpoena authority we need to follow through and get to the bottom of the matter. Given the revelations in the press over the past few days we have added the Attorney General's successor as White House Counsel, her associate White House Counsel and Karl Rove, the President's deputy chief of staff, to the authorizations. I hope to obtain their cooperation and all relevant information without having to utilize subpoenas. Having the authority from the Committee to proceed, as needed, will be helpful in that regard.

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Statement of Senator Patrick Leahy
Chairman, Senate Judiciary Committee,
On the Nomination of John Wood to be United States Attorney for the Western District of
Missouri

March 15, 2007

As the Committee seeks to investigate the firing of so many United States Attorneys across the country, it is ironic that we finally have a nominee for one of the 22 vacancies on which the required paperwork has been submitted. Most importantly, both home state Senators have approved our proceeding to consider the nomination of John Wood to be United States Attorney for the Western District of Missouri.

Of course, the Committee has proceeded on scores of United States Attorney nominees by this President when I previously chaired the Committee. We likewise proceeded to report the nominations of several other relatives of Republican Senators for U.S. Attorney and also lifetime appointments to the judiciary.

The nomination of John Wood is another in a long line of nominations with deep roots in this Administration. He has been counselor to the Deputy Attorney General. He was Chief of Staff to Michael Chertoff at the Department of Homeland Security during Hurricane Katrina and its aftermath. While he served in that capacity his wife was a somewhat controversial nominee to be the Assistant Secretary for Immigration and Customs Enforcement at DHS. He has held a number of other Administration positions, as well.

There are currently 22 districts -- out of 93 total - without a Senate-confirmed United States Attorney. For these 22 openings, the President has submitted just three nominations. This is one of those three.

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Statement of Senator Patrick Leahy
Chairman, Senate Judiciary Committee on
S.236, the Federal Agency Data Mining Reporting Act

March 15, 2007

With respect to the data mining reporting act, I was glad to see language worked out by Senator Kyl and Senator Feingold on the Senate floor and the Senate adopt the Kyl amendment and pass that language in connection with our consideration of S.4 last week. I understand that Senator Feingold has prepared a substitute to the bill incorporating that language and adopting that compromise. Accordingly, is there objection to adopting the substitute and reporting out the bill?

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Statement of Senator Patrick Leahy
Chairman, Senate Judiciary Committee on
S. 261, the "Animal Fighting Prohibition Enforcement Act of 2007"

The bill has broad, bipartisan support with 24 Senate co-sponsors, and more than 300 co-sponsors in the House. The bill has been endorsed by the United States Department of Agriculture, the Humane Society of the United States, and numerous other animal rights and law

enforcement groups, including more than 400 police departments nationwide. It is concerned with public health concerns related to the potential spread of avian flu and other diseases from cock fighting.

Last week a Senator circulated two potential amendments unrelated to the substance of this measure. Those amendments reflected legislative proposals that were not enacted into law last Congress and that were rejected by the House Judiciary Committee this year as add-ons to this bill. I would urge all Members to consider the animal fighting bill on its own merits, and not to hold the bill hostage to divisive amendments. The previously circulated amendments are not germane. Having adopted the amendment offered by Senator Specter to clarify that the bill is not intended to affect hunting, I hope that we can now proceed to report this measure.

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Statement of Senator Patrick Leahy
Chairman, Senate Judiciary Committee
On S. 231, the Edward Byrne Memorial Justice Assistance Grant Program
and S. 368, COPS Improvements Act of 2007
March 15, 2007

Today, the Committee is considering reauthorizing or expanding two essential law enforcement programs: the Edward Byrne Memorial Justice Assistance Grant Program and the Community Oriented Policing Services Program. Now, more than ever, these programs are needed to help state and local law enforcement agencies meet the new demands of homeland security and to reduce the steady rise in violent crime over the last few years.

Since Fiscal Year (FY) 2004, the President has proposed cuts to direct state and local law enforcement programs. If the President's FY08 budget proposal is accepted, it would result in a total cut of \$3.624 billion, or 77 percent of FY 2004 levels. The proposed decimation of both the COPS program and Byrne program would mean an end to police hiring grants and school resource officers, and drastic reductions in technology, equipment, and support staff grants - on which state and local law enforcement agencies heavily rely. In the wake of recent news reports and studies that cite the alarming increase in violent crime in the last few years, these proposed cuts to vital state and local law enforcement assistance programs are dangerous and unacceptable.

S. 231, Edward Byrne Memorial Justice Assistance Grant Program

I am pleased to be a cosponsor of Senator Feinstein's bill, S. 231, which would reauthorize the Edward Byrne Memorial Justice Assistance Grant Program through 2012 at a level of \$1.095

billion. This reauthorization is an extension of the authorization established in the Violence Against Women Reauthorization Act of 2005 (Public Law 109-162).

I am a longtime supporter of the Edward Byrne Memorial State and Local Law Enforcement Assistance Program and the LLEBG Program, both of which have been continuously targeted for elimination by this Administration. Byrne funding is the backbone of counter-drug enforcement and prosecution efforts in Vermont and in States across the country. Over the years, States have been able to support a broad spectrum of projects within corrections, courts, training, forensics, and domestic violence and victim services. Chances are none of these initiatives will be possible under the new Byrne program formula because of the drop in funding level and funding distribution method.

I am also glad that this reauthorization also includes reserved funds that allow the Attorney General to set aside up to 5 percent of the total amount made available for Byrne formula grants for States or local governments to combat, address or otherwise respond to precipitous or extraordinary increases in crime; or to prevent, compensate for or mitigate significant programmatic harm resulting from operation of the new Byrne formula. Congressman Sensenbrenner and I came to this agreement during negotiations on the Violence Against Women Reauthorization Act of 2005, and I appreciated his willingness to work with me to find a solution to ease the loss of Byrne grants by small rural States during tough fiscal times.

S. 368, COPS Improvements Act of 2007

On January 23, 2007, I was glad to join with Senator Biden in introducing the COPS Improvements Act of 2007. The Community Oriented Policing Services (COPS) program is a proven success and I commend Senator Biden for his unwavering support of the COPS program.

S. 368 would reauthorize and expand the ability of the Attorney General to make grants aimed at increasing the number of cops on the streets and in our schools. To accomplish this goal, this bill would authorize a separate \$600 million to hire more officers so that we can improve and expand upon community policing, which will in turn help reduce crime. Additionally, it would authorize \$200 million a year for district attorneys to hire community prosecutors and \$350 million per year for technology grants.

Our State and local law enforcement agencies are stretched thin with year after year of substantial reductions in funding and yet have an increased role in homeland security responsibilities. Let's give our law enforcement officers the tools they need to reduce crime and protect our citizens. I urge the Committee to support our State and local law enforcement agencies and pass S. 231 and S. 368.

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Statement of Senator Patrick Leahy

Chairman, Senate Judiciary Committee
On the Safe Babies Act of 2007
March 15, 2007

I am pleased to support the "Safe Babies Act of 2007," a bill that is very important to Senator Harkin and that is co-sponsored and strongly supported by Senator Specter. This bill puts judges in family courts together with experts and community organizations to make sure that abused or neglected babies and toddlers receive the services they need. It is vital to provide for these most vulnerable members of our society, as these children, and society as a whole, bear great costs if we allow them to continue to be abused and neglected. I appreciate the energy that Senator Harkin has devoted to this issue, and I hope and expect that this bill will not be controversial.

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