

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
April 2, 2008

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Oversight: Department of Homeland Security
Senate Judiciary Committee
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The Judiciary Committee continues its important oversight responsibilities today as we hear from Secretary Chertoff of the Department of Homeland Security. I am confident Secretary Chertoff will tell us about what he views as the Department's successes. As I noted recently with respect to the publication of rules governing passport and entry requirements, the Department's record does not instill great confidence in how it has handled the Western Hemisphere Travel Initiative, the REAL ID Act, naturalization backlogs, the resettlement of Iraqi refugees and asylum seekers or the shameful, continuing aftermath from Katrina.

Recently, President Bush used the fifth anniversary of the Department to speak about spreading freedom and liberty around the world. Accordingly, in order to protect the freedom and liberties of Americans, we must adhere to the rule of law and honor America's commitment to basic human rights. The first Secretary of the Department, Thomas Ridge, has acknowledged that waterboarding is torture. This administration will not even share with this oversight Committee its legal justifications for waterboarding and other practices that we would condemn if visited upon an American anywhere in the world. Under this administration, we have sadly gone from the world's human rights leader to being lectured on human rights by the Pakistani and Chinese governments.

Sixty-six people have died since 2004 while in the Department's custody, some for lack of medical care or from outright neglect. There is no clearer indication that we have failed to adhere to the standards we would demand of others, and that we should demand of ourselves. Imagine the outrage if an American citizen were held in immigration detention in another country and died for lack of basic medical care. When it takes a lawsuit to improve substandard detention conditions for children and families at an immigration detention facility in Texas, the United States Government is failing its basic commitments to human rights and the rule of law.

I recognize that the Immigration and Customs Enforcement branch has worked with non-governmental organizations to make improvements in family detention standards and detention standards for asylum seekers who are fleeing to America to escape persecution in other parts of the world. But as the Department increased its enforcement activities, I would have expected it to have planned better.

We have also seen how this administration has failed to live up to its promises to resettle Iraqis who have helped the United States in their home country. This problem is compounded by the Department's inability to use the authority Congress has given it to address the terrible effects of the material support bar and related, overly broad definitions of 'terrorist organization'. The recent case of Saman Kareem Ahmad, now a language instructor for the U.S. Marines who has received commendations from General Petraeus for his service in Iraq, exemplifies these problems. Granted a special visa to come to the United States, Mr. Ahmad's green card application was denied by DHS, which said that the pro-American, anti-Saddam group the Kurdistan Democratic Party, with which Mr. Ahmad served, was a terrorist organization. How many more cases like Mr. Ahmad's will the media have to highlight before DHS acts swiftly to address this problem?

Mr. Secretary, here at home, you are well aware of my concerns about the Department's implementation of the Western Hemisphere Travel Initiative. The Department must now make good use of the time Congress has given to make sure that implementation goes smoothly, and to minimize disruption in Americans' lives and in our relationships with our good neighbors to the north and south. I also share the view of many on both sides of the aisle and across the country about the so-called REAL ID Act and its unfunded mandates for States. I agree that there are benefits to be gained by encouraging the States to make improvements in the identification they issue--everyone wants that. But I share the view that far greater cooperation would have been gained by partnering with the States, rather than imposing a costly Federal mandate. Bullying the States is not the answer, nor threatening their citizens' right to travel. From Maine to Montana, States have said no.

A Republican Congress rejected efforts toward comprehensive immigration reform and adopted its so-called Secure Fence Act. My recollection is that their bill entrusted you with power to "take all actions" you determine necessary and appropriate to achieve and maintain operational control over our borders. The Department's virtual fence pilot program, which was apparently designed without adequate consultation with the Border Patrol, does not work. Your Department has begun condemning the property of private citizens in Texas and Arizona who would prefer that you not construct a border wall on their property. And just yesterday, you announced that the Department has waived all environmental laws in areas across 470 miles of border lands. I wonder whether today you will speak out for sensible enforcement policies or defend the billions in taxpayer dollars being wasted in this mean-spirited, costly effort. The border fence and related actions scar not only our landscape but our legacy as a nation of immigrants.

Another example of lack of foresight has resulted in the backlogs at the Citizenship and Immigration Services branch. Having told Congress that higher fees would bring faster and better services, you now preside over citizenship application backlogs that could and should have been anticipated. These are applications from legal permanent residents and people who have followed the rules but who are being prejudiced by incompetent government planning. While I appreciate the recent efforts of Director Gonzalez and his hardworking staff, what I will be looking for today is your commitment, as the person in charge, to aggressively deal with this issue. What commitment will you make to this Committee, the Senate and the American people? Can you assure those who applied for U.S. citizenship before March 31, 2008 that their applications will be fully processed in time to register for the upcoming elections?

The American people want security. But they also want a Federal government that works, and which respects principles of Federalism, and the basic human rights and civil liberties that we all hold dear.

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