

Statement of

The Honorable Chuck Grassley

United States Senator

Iowa

July 9, 2008

Prepared Statement of Senator Chuck Grassley of Iowa

Senate Committee on the Judiciary

Department of Justice Oversight Hearing

Attorney General Michael Mukasey

Wednesday, July 9, 2008

Chairman Leahy, thank you for calling this hearing today on Department of Justice oversight. I appreciate Attorney General Mukasey appearing for another oversight hearing. These hearings go a long way to strengthen accountability in our federal government. I plan to ask a number of questions of the Attorney General and ask for his cooperation in securing documents and information that I have previously requested that remain outstanding; some of them have been for more than a year.

First off, I would like to discuss with the Attorney General some issues that are directly impacting my home state of Iowa following the devastating tornadoes and catastrophic flooding. I am concerned that as we start to repair vast parts of my state and the entire Midwest, unscrupulous individuals and government contractors may try to prey upon innocent individuals trying to rebuild. I am also concerned that given the large amount of relief that will be needed to bring things back to normal, we need to set up an effective umbrella of government oversight to ensure that monies appropriated go to those in need, not line the pockets of greedy contractors or be wasted by government bureaucracy.

I was glad to see that the Department of Justice issued some warnings via a press release that Iowans pay attention so they don't become "a victim twice" because of predatory pricing and/or contractor fraud. I want to ask the Attorney General what problems he sees, what role the Department can play in preventing this, and what the Department has done to work cooperatively with the plethora of federal agencies and various Inspectors General that will be providing and overseeing relief funding. I also want to follow-up with the Attorney General regarding a letter I sent with the Iowa Delegation asking for special consideration for law enforcement grant applications that may come in after the required deadlines or need amendment following the disasters in Iowa.

I also want to ask Attorney General Mukasey about the JBS merger that the Department of Justice is currently reviewing. A few months ago, I wrote to the Justice Department's Antitrust Division to express my serious concerns with the proposed JBS acquisition of National Beef Packing and the Smithfield Beef Group, and to urge a careful review of the merger. I'm worried that the JBS transaction could severely reduce the already limited number of buyers for the commodities of small, independent beef producers. The transaction could leave producers minimal selling options throughout large geographic regions. It would allow JBS to control the largest share of the beef market - approximately 32 percent of the beef processing market share - and potentially decrease product choice and increase product prices for the American consumer. With rising costs of food world-wide, I'm particularly concerned about the impact on shoppers in the grocery aisle.

Small independent producers, family farmers and other agricultural groups share my concerns about the merger and increased agribusiness consolidation. So do many antitrust experts, who expressed these concerns during a recent Judiciary Committee Antitrust Subcommittee hearing. The bottom line is the more I look at this proposed JBS transaction, the more I have problems with it, and I'm going to make sure the Justice Department knows.

Next, I plan on discussing the False Claims Act with the Attorney General and the impact a recent decision by the Supreme Court will have on fraud recoveries across the country. In *Allison Engine Co. v. United States ex rel. Sanders*, the Supreme Court dealt yet another blow to the False Claims Act and those who are seeking to root out fraud and abuse in Government programs. I want to hear from the Attorney General about some emerging decisions by District Courts that have rejected cases filed by the Justice Department based upon the Supreme Court ruling in *Allison Engine*--one of which is from my home state of Iowa. I know that the Department of Justice supported the whistleblower in *Allison Engine* and filed a brief similar to one I filed with the Supreme Court. I want to hear how the Department views the *Allison Engine* decision and whether a legislative fix is necessary to ensure that subcontractors who commit fraud against the government aren't given a free pass by ripping off contractors who ultimately stiff the American taxpayer with the bill.

I also want to check in with the Attorney General regarding new statistics that show a significant backlog of False Claims Act cases outstanding at the Department of Justice. Specifically, the Attorney General responded to questions from our last oversight hearing that over 900 False Claims Act cases are currently outstanding at the Department with more than 130 of those cases under judicial seal for more than 36 months. I want to find out what the delay is in these cases, if the Department needs additional resources to pursue these cases, and how long the Department believes it will take to adequately address these cases.

Finally, I would like to discuss the investigation into the 2001 Anthrax attacks. The Justice Department recently agreed to pay Dr. Stephen Hatfill \$5.8 million to settle his Privacy Act lawsuit. Although the government admitted no wrongdoing, the evidence points to Justice Department and FBI personnel as the sources of the leaks implying that Dr. Hatfill was the anthrax killer. Now, taxpayers are on the hook for the misconduct of anonymous government officials who have apparently faced no consequences for what they did. I'd like to know how much money the government spent fighting this lawsuit and whether there will ever be any serious attempt to hold any of the leakers accountable.

I hope the Attorney General will provide answers to these important questions and work to provide the Committee with the outstanding document and information requests I have.