

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
May 6, 2009

Statement Of Chairman Patrick Leahy (D-Vt.),
Senate Judiciary Committee,
Oversight Of The Department Of Homeland Security
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I thank Secretary Napolitano for appearing here today while managing so many responsibilities, not the least of which is a public health emergency. I commend her competent leadership during the current flu pandemic. The Obama administration's immediate actions and preparations stand in stark contrast to those of its predecessor following Hurricane Katrina. I appreciate the administration's efforts to keep the American public informed and reassured, and their efforts to convey common-sense ways we can all minimize the spread of this flu.

I also commend her early attention to our interests in working closely with Mexico in its struggle against drug trafficking, and against the violent cartels and gangs that pose serious threats to the people, communities, and Government of Mexico. Mexico is our neighbor, and finding appropriate ways to help it prevail against these lawless influences is in the interests of both of our countries. The Merida Initiative is a first step, but we need a comprehensive strategy that addresses the underlying causes that have enabled drug-related violence in Mexico and Central America to flourish.

Just last week, Secretary Napolitano issued new guidelines for the Immigration and Customs Enforcement agency's approach to conducting immigration worksite enforcement in order to combat the systematic unlawful exploitation of foreign workers that serve to harm them and to undercut American workers. The penalty for such lawbreaking and exploitation must be meaningful, and more than another cost of doing business.

I am also pleased that the Secretary is taking the issue of immigration detention very seriously, and that she is carefully reviewing past practices and procedures. In light of historically high rates of detention for asylum seekers and other non-criminal aliens, I hope the Department is giving careful consideration to the increased use of alternatives to detention, such as supervised release for those who pose no risk of harm to society. In my view, the United States should not be in the business of incarcerating children who have violated no laws. Alternatives to unnecessary incarcerations will save taxpayer dollars, and are far more appropriate for many who are currently in detention.

In addition, I think we can all agree that we need to ensure that foreigners are not dying while in custody. This is a blot on American principles, and has no place in American justice.

I saw the ceremony last week at which Secretary Napolitano and President Obama welcomed members of our armed services to American citizenship. Immigrants who risk all to defend this Nation deserve expedited citizenship consideration. Nor was this the first time Secretary Napolitano administered the oath to our soldiers. When she did so to a soldier at Walter Reed Army hospital last month, she recognized his service and honored his work to protect all Americans.

The new direction that the Department is taking can also be seen in the Secretary's willingness to take a fresh look at the REAL ID Act. Many states and many Americans believe that in its current form it is an onerous Federal mandate, and amounts to a national ID card in the guise of a driver's license. I joined Senator Akaka and others in supporting legislation last Congress to replace the rigid requirements of the current law with a negotiated rulemaking process that treated the states as equal partners in our efforts to improve identification security. I look forward to hearing the Secretary's views on this, and how legislation currently being discussed in the Senate might be a significant improvement. I agree with Secretary Napolitano that "there has got to be a better way than REAL ID."

I expect that the Department of Homeland Security will support the EB-5 Regional Center program. This program has resulted in billions of dollars in foreign investment and the creation of thousands of American jobs in communities across the country. I have long believed in the potential of this program. I encourage the Department to embrace it as a component of our economic recovery and to support it in such a way that makes the process as secure and as efficient as possible for American entrepreneurs and foreign investors. This is a program Congress should have made permanent before now. Having the Department's active engagement and support in this effort will be a tremendous help.

I continue to have concerns about the effects of unnecessary barriers to asylum seekers and refugees in need of our protection. Senator Kyl and I provided authority during the previous administration so that the Secretaries of State and Homeland Security could alleviate injustices through the provision of waivers. Little was subsequently done and some asylum seekers continue to sit in immigration detention despite meritorious claims. It may be the time to consider legislative changes to this law so that no one victimized by violence and repression, or who stood with the United States in opposition to an oppressive foreign government is blithely branded a 'terrorist' and denied our protection. As I have said before, the effect of these laws is contrary to our values as a Nation that respects human rights.

President Obama spoke again last week about the need for comprehensive immigration reform. We need to pursue that important goal together.

With that introduction, I welcome Secretary Napolitano to her first appearance before the Senate Judiciary Committee.

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