

Statement of

The Honorable Patrick Leahy

United States Senator

June 23, 2011

**Opening Statement of Chairman Patrick Leahy (D-Vt.),
On S. 1145, the Civilian Extraterritorial Jurisdiction Act
Senate Judiciary Committee, Executive Business Meeting
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Today, the Committee considers the Civilian Extraterritorial Jurisdiction Act. I thank Senators Durbin, Blumenthal, Franken, and Whitehouse for cosponsoring this important legislation. This is a matter on which I have also sought to consult with Senators Grassley, Sessions and Graham over the last few years as I have worked on these matters. Now, more than ever, Congress must make sure that our criminal laws reach serious misconduct by American Government employees and contractors wherever they act. This bill accomplishes that goal by allowing United States contractors and employees working overseas who commit serious crimes to be tried and sentenced under U.S. law.

In a hearing last month, the Senate Judiciary Committee heard from the Justice Department and from experts on contractor accountability why clarifying criminal jurisdiction over American employees and contractors overseas will aid diplomacy and our national security. The hearing also explored how best to ensure that doing so would not impair our Nation's intelligence activities. Today, I will offer a substitute bill that reflects careful work with the administration, the intelligence community and with the leadership of the Senate Select Committee on Intelligence. We have agreed upon language that promotes accountability but ensures that the intelligence community can continue its activities unimpeded. The administration, including the intelligence agencies and the Department of Justice, supports this substitute language and amendment. They have helped construct it. I urge all members of the Committee to accept this carefully developed approach. I especially want to thank Senator Feinstein for her help in getting to this agreement.

The United States has dramatically more Government employees and contractors working overseas than ever before, but the legal framework governing them is unclear and outdated. Tragic events in Iraq and Afghanistan highlight the need to strengthen the laws providing for jurisdiction over American Government employees and contractors working abroad. In September 2007, Blackwater security contractors working for the State Department shot more than 20 unarmed civilians on the streets of Baghdad, killing at least 14 of them, and causing a rift in our relations with the Iraqi government. Efforts to prosecute those responsible for these shootings have been fraught with difficulties, and our ability to hold the wrongdoers in this case accountable remains in doubt.

I worked with Senator Sessions and others in 2000 to pass the Military Extraterritorial Jurisdiction Act, and then, again, to expand it in 2004. That law provides criminal jurisdiction over Defense Department employees and contractors, but it does not explicitly cover people working for other Federal agencies, like the Blackwater security contractors. Had jurisdiction in

the tragic Blackwater incident been clear, FBI agents likely would have been on the scene immediately, which could well have prevented some of the problems that have plagued the case. Other violent incidents have made all too clear that the Blackwater case was not an isolated incident. As the military mission in Iraq winds down and as the draw down in Afghanistan that the President announced last night begins, fewer and fewer of the thousands of Americans who stay on in these countries will be covered by current law. The Civilian Extraterritorial Jurisdiction Act will fill this gap.

This bill also provide greater protection to Americans, as it would lead to more accountability for crimes committed by U.S. Government contractors and employees against Americans working abroad. We have heard of too many cases like that of Jamie Leigh Jones, a young American working in Iraq, viciously raped by contractors. Currently, criminal jurisdiction over atrocious crimes like that committed abroad is complicated and depends too greatly on the specific location of the crime, which makes prosecutions inconsistent and sometimes impossible. We must fix the law to help ensure that victims will not see the perpetrators escape accountability.

Ensuring criminal accountability will also improve our national security and protect Americans overseas. Importantly, in those instances where the local justice system may be less than fair, this explicit jurisdiction will also protect Americans by providing the option of prosecuting them in the United States, rather than leaving them subject to hostile and unpredictable local courts. Our allies, including those countries most essential to our counter-terrorism and national security efforts, work best with us when we hold our own accountable.

In the past, legislation in this area has been bipartisan, and the bill we consider today should be no different. I ask the members of the Judiciary Committee to support this commonsense bill.

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