

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
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Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Judiciary Committee,
Hearing On "Holding Criminals Accountable: Extending Criminal Jurisdiction To Government
Contractors And Employees Abroad"
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Today, the Committee considers the need to ensure accountability for crimes committed by Government contractors and employees abroad. President Obama has been working hard to improve America's credibility in the world, our reputation for justice, and our commitment to the rule of law. A key component of that important mission is ensuring accountability for those who represent us overseas. Accountability is crucial, not just for our image abroad and our diplomatic relations, but for ensuring our national security.

To promote accountability, Congress must make sure that our criminal laws reach serious misconduct by American Government employees and contractors wherever they act. That is why I introduced the Civilian Extraterritorial Jurisdiction Act in the last Congress, and I will soon introduce similar legislation this year.

Tragic events in Iraq in 2007 made clear 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. Had jurisdiction for these offenses been clear, FBI agents likely would have been on the scene immediately, which could well have prevented the problems that have plagued the case.

Other incidents have made all too clear that the Blackwater case was not an isolated incident. Private security contractors have been involved in violent incidents and serious misconduct in Iraq and Afghanistan, including other shooting incidents in which civilians have been seriously injured or killed. In these cases too, there have not been prosecutions.

In the last Congress, the Senate Judiciary Committee heard testimony from Jamie Leigh Jones, a young woman from Texas who took a job with Halliburton in Iraq in 2005 when she was 20-years-old. In her first week on the job, she was drugged and gang-raped by co-workers. When

she reported this assault, her employers moved her to a locked trailer, where she was kept by armed guards and freed only when the State Department intervened.

Ms. Jones testified about the arbitration clause in her contract that prevented her from suing Halliburton for this outrageous conduct, and Congress has moved to change the civil law to prevent that kind of injustice. Criminal jurisdiction over these kinds of atrocious crimes abroad, however, remains complicated, depending too greatly on the specific location of the crime, making prosecutions inconsistent and sometimes impossible. We must fix the law to help avoid arbitrary injustice and ensure that victims will not see their attackers escape accountability.

I worked with Senator Sessions and others in 2000 to pass the Military Extraterritorial Jurisdiction Act, and then again to amend it in 2004, so that U.S. criminal laws would extend to all members of the U.S. military, to those who accompany them, and to contractors who work with the military.

The next step is to establish clearly that all U.S. government employees and contractors who commit crimes while working abroad - whether they work with the military or not - can be charged and tried in the United States. As the military withdraws from Iraq and Afghanistan, the American presence in those countries will consist largely of civilian employees and contractors. There must be accountability for all of those who represent our Government overseas. And in those instances where the local justice system may be less 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.

Ensuring criminal accountability will also improve our national security. 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. We cannot afford the distrust created by employees and contractors acting with impunity and disregard for the rule of law, as so clearly happened in the Blackwater case. Moreover, the talented men and women we need to advance our national security efforts will be more likely to step forward and serve if we stamp out the lawless atmosphere in places like Iraq and Afghanistan. That is why the Civilian Extraterritorial Jurisdiction Act is supported by people like Ignacio Balderas, CEO of security contractor Triple Canopy.

In the past, legislation in this area has been bipartisan. I hope it will be again. I have been working with the Justice Department to make this legislation better and particularly to ensure that the legislation will be formulated in a way that will ensure criminal accountability, but will not impact the conduct of U.S. intelligence agencies abroad. I hope that we will be able to rapidly pass this important reform into law with bipartisan support. I look forward to hearing from our witnesses about how we can move forward on this important issue.

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