

Other industries and companies in Louisiana are threatened by the current litigation system. Louisiana's economy is dependent on trade and the maritime industry. Many of our U.S.-flag shipping companies have asbestos issues because certain parts of their ships' engines were insulated with asbestos. These companies are equally concerned about the uncertainty created by the current system and their long-term ability to maintain solvency.

I do not have all the answers. I do know that legislation addressing this issue is very complex. Any bill should virtually guarantee that asbestos victims receive fair and adequate compensation and it should also give certainty to companies like McDermott. I realize that progress has been made during the course of negotiations, but we must build on this progress by continuing to negotiate. I think we can reach a bipartisan agreement and bring a bill to the floor as soon as possible.

**ATTORNEY GENERAL ASHCROFT'S  
APPEARANCE BEFORE THE SENATE  
JUDICIARY COMMITTEE IN  
2003**

Mr. LEAHY. Mr. President, March 4, 2004 was the 1-year anniversary of the last, brief appearance by Attorney General Ashcroft before the Senate Judiciary Committee. It was not an anniversary that we marked for celebration. Instead, we marked the day as a low point, and symbolic of the disdain shown by the administration for oversight by the people's representatives in Congress.

I recognize that the Attorney General was recently incapacitated by a personal medical condition. We all wished him a speedy and full recovery. Up through March 4, however, there was no explanation for ignoring his oversight responsibilities. The Attorney General has since resumed his duties after successful surgery and a brief respite. It is time now for him to answer the call of those oversight responsibilities by appearing before this committee.

Vigorous oversight is instrumental to ensuring that our law enforcement officials are effective and accountable, both in fighting crime and in preventing acts of terrorism. The lack of attention this Justice Department has given to oversight by the Senate Judiciary Committee regarding issues of national importance, including implementation of the USA PATRIOT Act, is, quite frankly, appalling. Reticence by the Nation's chief law enforcement officer to appear before the authorizing committee of the Senate would be disappointing any time. During these trying times in which the administration has chosen unilateral action it is inexcusable.

The written questions I posed to General Ashcroft in connection with last year's hearing did not get any response for 9 months, and even then, the so-

called answers were incomplete and unresponsive. In fact, the Justice Department has delayed answering numerous written oversight requests until answers are moot or outdated, or they respond in vague and evasive terms. This approach stymies our constitutional system of checks and balances. The checks and balance on the executive intended by the Founders and embodied in the Constitution are being put to the test by a secretive administration. More importantly, such flagrant avoidance of accountability fuels the sort of public distrust that is now associated with federal law enforcement and, in particular, with this Attorney General and his department.

Let me provide a few of what could be many, many examples:

On June 19, 2002, Senator GRASSLEY and I sent a letter to the Office of the Inspector General, regarding allegations made by an FBI whistleblower that posed several important questions about the problems in the FBI's translator program that have never been answered. The Attorney General has yet to intervene despite the unseemly delay. I raised the issue of translators in our first meeting on September 19, 2001, as we began the process of constructing what became the PATRIOT Act. I have attempted to follow up in the months and years since that time and have been given the run around with conflicting responses virtually each time I inquire. With the implications proper translation and translation capacities have for the country's security, these delays and this unresponsiveness is simply unacceptable.

Over 2 years ago, I began asking about the FBI's translation program. Yet, questions I posed to the Assistant Attorney General Wray during an October oversight hearing were greeted with a virtual blank stare and no knowledge about the issue at all. On March 2 of this year, I sent a letter to the Attorney General and FBI Director Mueller repeating some of what I have asked before and asking about new issues that have since been raised. Needless to say, no answers have been forthcoming.

On January 10, 2003, Senator FEINGOLD, Senator CANTWELL and I sent the Attorney General a set of questions regarding the Department's data-mining practices. On February 19, we were informed that our letter had been referred to the FBI for a response, and that a response would be provided no later than March 31. On March 18, we were advised that the FBI's response had been delivered to the Department for review and approval, and that the Department would transmit the final response to us directly. That was the last we heard on this matter. It has been over a year since we inquired. American's privacy interests should not be so easily sloughed aside.

On May 23, 2002, I wrote to the Attorney General to request a full accounting of any problems the Department or the FBI might be experiencing with re-

gard to the PATRIOT Act amendment authorizing "roving wiretaps" under the Foreign Intelligence Surveillance Act, FISA. In particular, I asked the Department to detail any problems involving technical and operational implementation of the new authority, the current statutory language, construction of that language by the FISA court, or a combination of any or all of these factors. I have received no response. Roving wiretaps were one of the more controversial authorities that we provided following September 11. Americans across the country are concerned and fearful that their privacy is being invaded by a federal government that may be repeating historical excesses. To reassure the public and to correct problems, we need answers—prompt answers. Ten months is too long to have to wait for such an accounting.

Other oversight letters that have remained unanswered for 6 months or more include questions about the Department's death penalty procedures, the status of regulations for reporting suspicion child exploitation matters, concern about the Wen Ho Lee espionage case, and the release of Office of Legal Counsel opinions.

Despite his having recently been a Member of the Senate and of the Senate Judiciary Committee, it would seem that in his current role as Attorney General, former Senator Ashcroft has forgotten that effective oversight of the Justice Department requires the Department's full and timely cooperation. When stale and incomplete responses to questions trickle in after months of delay, one has to wonder whether the Department is incapable of responding in a timely fashion or is deliberately stonewalling.

Congress is not the only one asking questions. In the past year, several Federal courts have criticized the Justice Department's use of tools to pursue terrorism-related activity and the unilateral power asserted by the executive branch. I regret that when Congress is not vigorous in its necessary oversight and when the Executive ignores our oversight, it falls to the courts as the only remaining check on Executive power to review its actions. That is why the Supreme Court will be spending so much time this year on terrorism cases. That is not the way it should be or needs to be. That is apparently the intention of the Executive, however. That contravenes the Constitution and denigrates our Government.

Last March, I was hopeful that the Attorney General's appearance before the committee would be the first of a series of hearings building on the important oversight activities we began in the last Congress, including the first comprehensive oversight of the FBI initiated in decades. Unfortunately, that important mission too seems to have fallen by the wayside. With the change in Senate leadership to the Republican Party, little interest has been

shown in effective congressional oversight. Our security and the American people are the losers in this regard.

Late on a February Friday afternoon—a time often used by the current administration to bury news stories—the FBI quietly released a report on its broken “Office of Professional Responsibility.” The report was occasioned in part by FBI whistleblowers who had the courage to stand up and denounce longstanding problems in the way the FBI disciplined itself. One recommendation of the OPR report was to adopt a reform Senator GRASSLEY and I have introduced over the last few years as part of our FBI Reform Act. Like oversight, our legislative efforts to improve the practices of the Executive branch also seem stymied. This Republican-controlled Senate will not even consider enacting reforms we all know are needed, that watchdogs within the Executive have endorsed.

So here we are, over 13 months after we last saw General Ashcroft, and we have no schedule for the long overdue appearance by the Attorney General of the United States before the oversight committee of the Senate. Republican Senators may have disagreed with Attorney General Reno’s leadership on certain issues, but they cannot say that she did not appear before the Judiciary Committee for hours and hours at a time and listen to our questions and seek to answer the questions of all Senators, Republicans and Democrats. By contrast, the current Attorney General found the time to make a 19-city cross country tour last year in which he appeared before friendly, hand-picked audiences and delivered a series of statements seeking to defend his use of the PATRIOT Act. He finds time to attend virtually every press conference on an indictment or case development in high profile cases. Yet he has not, and apparently will not, appear before the people’s elected representatives to answer our questions, hear our concerns and work with us to improve the work of the Department of Justice.

We in Congress have the constitutional obligation and public responsibility to oversee the Department of Justice’s operations. After September 11, after we expressed our sorrow for the victims and our determination to respond while preserving American freedoms, I publicly noted my regret that we had not performed more effective and thorough oversight of the Department of Justice in the years before 2001. During the 17 months in 2001 and 2002 when I chaired the Judiciary Committee I worked with all Members, Republicans and Democrats, to provide real oversight. There were times when the Attorney General used our hearings as a forum to attack us and our patriotism but we persisted to perform our constitutional duties. It is with deep regret that I report to the Senate and the American people that it is now more than a year since the Attorney General of the United States last appeared before the Senate Judiciary

Committee. It is with sadness that I note the lack of effective oversight the Committee and the Senate are conducting on matters that threaten the freedoms and security of the American people.

#### CHILD ABUSE PREVENTION MONTH

Mr. DOMENICI. Mr. President, I rise today in recognition of April as Child Abuse Prevention Month.

Child abuse continues to be a significant problem in the United States. It was estimated that in 2001, 903,000 children were the victims of child abuse or neglect. Child abuse is a crime perpetrated on the innocent and the defenseless.

In 2003, there were 17,345 substantiated child abuse or neglect cases in New Mexico. We must protect these children who cannot protect themselves. By acknowledging April as Child Abuse Prevention Month, we are increasing awareness in the hopes that no more children live in fear.

Across this Nation, numerous individuals and organizations dedicate countless hours of selfless work in the fight against child abuse. Many of the organizations that work to end child abuse began at the local level. I would like to acknowledge one of these organizations from my home State in Las Cruces, NM. The child abuse awareness team consists of around 40 members who recognized a need in their community and resolved to make a change. This team of volunteers, law enforcement agents, school personnel and social service agency representatives, continually strives to protect the children in Dona Ana County.

The child abuse awareness team educates the community about child abuse prevention and reporting child abuse and neglect, promotes enforcement of child abuse and neglect laws, and provides advocacy for child abuse victims. They believe the most effective child abuse prevention programs succeed when the entire community is involved. The child abuse awareness team has developed this support system within the community by creating partnerships among social service agencies, schools, religious and civic organizations, law enforcement agencies, and the business community.

The child abuse awareness team is taking the right steps in preventing child abuse incidents. I would like to specifically recognize the founder of this community organization Jesús Frietze, a social worker who saw a need in his community and took action. It is noble actions, from individuals like Jesús, who make a difference not only in the local communities but in our States and our Nation.

By taking this month to recognize the problem of child abuse, I hope we will all do our part to combat this epidemic.

#### THE PARTIAL BIRTH ABORTION BAN ACT COURT TRIALS

Mr. SANTORUM. Mr. President, I rise today to draw the attention of my colleagues to an issue that is currently being debated in Federal district courts in New York, Nebraska, and San Francisco. Today, the Partial Birth Abortion Ban Act, which we overwhelmingly passed and saw signed into law last year, is being challenged in three Federal courts across the country. This law bans the gruesome procedure known as partial birth abortion, which is performed over a three-day period in the second or third trimester of pregnancy. In this particular abortion technique, the physician delivers all but the baby’s head through the birth canal, stabs the baby in the base of the skull with curved scissors, and then uses a suction catheter to remove the child’s brain.

As we have seen these trials go forward, I have been disturbed at some of the testimony that has been given in opposition to this legislation, and I wanted to ensure that my colleagues were aware of it.

In particular, in the testimony of these doctors who are challenging this law, we see a complete disregard for any consideration of the pain a child experiences during a late-term abortion. On March 30, in the New York case, the judge asked the doctor testifying whether the fetus having pain ever crossed his mind. The witness, who does not perform partial birth abortions, but who has been present when they were done, replied, “No.” The judge further questioned the witness as to whether the mother of the child was informed as to the specifics of the procedure in terms that the patient can understand.

The Witness: I guess I would say that whenever we describe medical procedures we try to do so in a way that’s not offensive or gruesome or overly graphic for patients.

The Court: Can they fully comprehend unless you do? Not all of these mothers are Rhodes scholars or highly educated, are they?

The Witness: No, that’s true. But I’m also not exactly sure what using terminology like sucking the brains out would . . .

The Court: That’s what happens, doesn’t it?

The Witness: Well, in some situations that might happen. There are different ways it could be dealt with, but that is one way of describing it.

This witness further testified that up until the last steps of a partial birth abortion, the feet of the child could be moving.

On April 5, another doctor testifying for the plaintiffs in New York showed similar callous disregard for the pain the fetus might feel.

The Court: Do you ever tell them (the women) that after that is done you are going to suction or suck the brain out of the skull?

The Witness: I don’t use suction.

The Court: Then how do you remove the brain from the skull?

The Witness: I use my finger to disrupt the central nervous system, thereby the skull collapses and I can easily deliver the remainder of the fetus through the cervix.