



U.S. Senate Committee on Foreign Relations

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Opening Statement of Chairman Joseph R. Biden, Jr.

**Senate Foreign Relations Hearing on Extraordinary Rendition, Extraterritorial Detention, and Treatment of Detainees: Restoring Our Moral Credibility and Strengthening Our Diplomatic Standing
July 26, 2007**

Good morning. I'm glad that you all could be here today to discuss one of the defining challenges of our age: how to effectively combat international terrorism while both maintaining our national values and commitment to the rule of law, and respecting individual rights and civil liberties.

We meet today against the backdrop of the most recent National Intelligence Estimate, which concluded the terrorist threat to the United States from al Qaeda is back in full force. One conclusion we can draw from this is that the Administration's policies aren't working.

Today's hearing focuses on two of the less-often discussed, but no less controversial counterterrorism policies we've employed since September 11: extraordinary rendition and extraterritorial detention.

Rendition is the practice of detaining a terrorist operative in one foreign country and transferring him to the United States or to another foreign country. It has proved to be an effective way to take terrorists off the streets and collect valuable intelligence.

But the United States government's use of rendition has been controversial.

Foreign governments have criticized the practice because it operates outside the rule of law and has allegedly been used to transfer suspects to countries that torture or mistreat them or to secret, extraterritorial prisons.

As a result, the current rendition program has taken a toll on relationships with some of our closest foreign partners. Consider the following:

- Italy has indicted 26 Americans for their alleged role in a rendition.
- Germany has issued arrest warrants for an additional 13 United States intelligence officers.

- A Canadian Government commission has censured the United States for rendering a Canadian/Syrian dual citizen to Syria, where he was allegedly tortured.
- The Council of Europe and the European Union have each issued reports critical of the United States government's rendition program and European countries' involvement or complicity with that program.
- Sweden and Switzerland have each initiated investigations as well.
- Just yesterday, the United Kingdom issued a report on the United States rendition program, concluding that it would have "serious implications" for future intelligence relations between the US and the UK, one of our most important partners.

Rendition, as currently practiced, is undermining our moral credibility and standing abroad and weakening the coalitions with foreign governments that we need to effectively combat international terrorism. We also put our own intelligence officers at risk, by not providing them with clear guidelines to govern their conduct.

As one of our witnesses today recently wrote, "successful counterterrorism depends in part on convincing the world that there is no moral equivalency between the terrorists and the government they oppose. When the United States muddies these waters, this distinction begins to blur."

More ominous, the controversial aspects of the United States government's use of rendition have been used by propagandists and recruiters to fuel and sustain international terrorist organizations with a constant stream of new recruits.

Allegations of U.S. lawlessness and mistreatment make their job easier, adding a refrain to their recruitment pitch and increasing the receptivity of their target audience.

Our counterterrorism authorities should not only thwart attacks, take dangerous terrorists off the streets, and bring them to justice; these authorities should also strengthen international coalitions, win the hearts and minds of Muslim populations around the world, and deprive terrorists of a recruitment narrative.

In our long term effort to stem the tide of international terrorism, our commitments to the rule of law and to individual rights and civil liberties are among our most formidable weapons.

They are what unite foreign governments behind us in effective counterterrorism coalitions. They are what unite public opinion in support of our counterterrorism efforts and in condemnation of the terrorists and their tactics. They are what prevent the recruitment of the next generation of international terrorists.

If we continue to pursue a rendition program ungoverned by law, without sufficient safeguards and oversight, we will perpetuate a short term solution that exacerbates the long term problem. We will take individual terrorists off the streets at the expense of the foreign coalitions that are essential to our efforts to combat international terrorism, at the expense of facilitating the recruitment of a new generation of terrorists who are just as dangerous and far more numerous.

This is not a trade-off I believe we have to make. We can have a robust and agile rendition capability governed by the rule of law and subject to sufficient safeguards and oversight. In this way, we can take terrorists off the streets while at the same time strengthening our standing and credibility among foreign governments and the global community, and diminishing recruitment efforts the recruitment of tomorrow's terrorists.

Yesterday, introduced a bill – the National Security with Justice Act – that maintains rendition as a robust and agile tool in our fight against international terrorism, but brings that tool within the rule of law, provides additional safeguards against error, and prohibits rendering individuals to countries that will torture or mistreat them or to secret, extra-territorial prisons.

My bill also closes an intentional hole left open by the President's recent Executive Order on the treatment of detainees. The President's Order is notably silent on some of the more controversial techniques the CIA has allegedly used in the past, such as waterboarding, sleep deprivation, sensory deprivation, and extremes of heat and cold. When we countenance this treatment of detainees, we diminish our ability to argue that the same techniques should not be used against our own troops.

We cannot continue to equivocate and dissemble on this matter. We need to send a clear message that torture, inhumane, and degrading treatment of detainees is unacceptable and is not permitted by U.S. law. Period. Therefore, my bill prohibits *all* officers and agents of the United States from using techniques of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

Today, we have several distinguished experts who will help us understand how we can maintain these vital tools in our fight against terrorism without endangering the safety of our troops, jeopardizing the international partnerships so critical to this fight, and alienating moderate Muslim populations throughout the world.

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