

Senator Joseph Lieberman
Opening Statement
Hearing on the Nominations of Stewart Baker and Julie Myers
Committee on Homeland Security and Governmental Affairs
September 15, 2005

I join Senator Collins in welcoming Stewart Baker, nominated to become Assistant Secretary for Policy and Julie Myers, nominated to be the Assistant Secretary heading the Immigration and Customs Enforcement (ICE) Bureau at the Department of Homeland Security.

This Committee authored the original legislation to create the Department of Homeland Security, so we have a real and personal interest in seeing the department realize its full potential. Both of the positions for which you've both been nominated present great opportunities and great challenges, so I want to briefly touch on a few of the concerns that I have about issues facing both of these nominees.

First to Mr. Baker: When we created DHS, one of the guiding principles was to bring greater cohesion to federal homeland security missions that were then splintered among many different agencies. I've been thinking in the days following the unsatisfying performance post-Hurricane Katrina, as people are picking the department apart, we ought to remind people why we created the department. It's because there was disorganization before, And the reaction to what seems to have been an inadequate performance is not to go back to disorganization. It is to fix the organization, to make it work better.

In the early years of the Department, clearly and in some ways understandably, the initial goal of bringing all those disparate missions together has not been fully

realized, not realized as we had hoped. The Secretary has lacked the central staff and structure to chart Department-wide strategy and policy which could then be carried out in a coordinated way by the many components of the Department.

This shortcoming has come to the forefront in a number of recent examinations of the Department – including an oversight hearing that we in this Committee held in January of this year.

Now Secretary Chertoff, conducting his own internal review of the Department, has concluded that the Department needs a central policy shop.

Mr. Baker, of course, has been nominated to lead that office for the entire Department. Ultimately, we know Secretary Chertoff seeks legislation to elevate the office to become an Under Secretary for Policy, overseeing not only the immediate office but also offices for International Affairs, strategic planning, private sector, immigration statistics, as well as a new coordinator for asylum and refugee issues.

I believe the creation of a central policy office is a real step forward and certainly a step toward setting clear priorities for the Department and realizing some of the potential we envisioned when we created the Department. The Department, again perhaps understandably, in its early months has often been driven by the crisis of the day. It is essential, therefore, for this Department particularly to build a long-term strategic planning capability, and to develop policies that will set clear, enforceable priorities for many of the components of our homeland security effort. That effort will transcend any one person or office at the Department of Homeland Security, but the new policy office will, I think be an essential, core element toward building those capacities.

I have some questions about some of the details of the proposed new policy office. And I am concerned that the administration has not proposed adequate staffing for the new office that Mr. Baker would hold, given the breadth of issues it must address – I'm thinking particularly in the area of immigration policy, and I will take the liberty to ask some questions of Mr. Baker on that issue.

For Ms. Myers: The Bureau of Immigration and Customs Enforcement (ICE) is a vitally important agency with a daunting combination of missions. The defense of this nation from terrorist attacks should be the highest priority, and the agency's immigration and customs investigators have an important role to play in cracking down on human smuggling and money laundering activities that benefit terrorists.

ICE was created, through an internal reorganization after the new Department itself was established. The new agency required integrating the missions and cultures of what were once core Customs programs at Treasury and core immigration programs at INS. The agency, I think by most accounts, has gotten off to a rough start, in part because planning errors led to big budget shortfalls for its operations. While we've been given assurances that these management issues are being resolved, I do want to note that concerns still abound – including among some ICE employees who believe the current structure is hampering their ability to do their work. Indeed, as you probably know, there is an active debate as to whether the decision to split ICE from Customs and Border Patrol was fundamentally flawed and whether ICE should now be recombined with border protection. Although Secretary Chertoff did not recommend that as part of the Second Stage Review, I understand that this is not necessarily a closed issue within the

Department and it is certainly not a closed issue for members of this committee or Congress, including myself.

The Homeland Security Act requires the Assistant Secretary for this post has a minimum of five years of professional experience in law enforcement and five years of management experience. Both being important as you can tell from what you know and what I've said. You bring to this nomination a very impressive record and you are a very accomplished individual. I do want to say to you that I'm going to ask you about your management experience and ask you to make the case for why you believe you've satisfied the requirement for the five years of management experience that is uniquely required by statute for this position.

A final brief word - ICE is responsible for apprehending undocumented immigrants, detaining and deporting them. This is a very critical and important mission, also requiring priority setting. ICE has tried to focus its enforcement resources on detaining high priority aliens, such as criminal offenders and those who work at sensitive facilities such as airports and nuclear power plants. There are approximately 10 million undocumented immigrants in the country and 18,000 detention beds. Clearly we must utilize those beds for those who pose a risk to the community and the highest probability of flight. For many of the other individuals who are apprehended and who must await a hearing before an immigration judge, I believe we should utilize supervised release programs or alternatives to detention.

A final point that I made in the meeting that I had with you - the Commission on International Religious Freedom, that I was pleased to play a part along with our former colleague Don Nickles in creating, put out report earlier this year that was very critical of

our government's handling of those who seek asylum in this country from religious bigotry, or at worst, torture in the countries from which they come. I hope that if you're confirmed for this position that you'll take a close look to see if you can do what we promise, including on the base of the Statue of Liberty, to welcome those who seek asylum in this country of liberty.

Thank you very much, I look forward to the questioning.