



Department of Justice

STATEMENT OF

ARTHUR M. CUMMINGS
EXECUTIVE ASSISTANT DIRECTOR
FEDERAL BUREAU OF INVESTIGATION

BEFORE THE

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON HUMAN RIGHTS AND THE LAW

HEARING ENTITLED

“NO SAFE HAVEN: ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATORS,
PART II”

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Good afternoon, Chairman Durbin, Ranking Member Coburn and Members of the Subcommittee. I am pleased to be here with you today to discuss the FBI's efforts as they relate to human rights enforcement.

Philosopher George Santayana once said, "Those that fail to learn from history are doomed to repeat it." While the modern notion of human rights came into focus more clearly in the days after World War II and with the creation of the United Nations, the idea of human rights was alive and well even before the Magna Carta was ever penned. Sadly, though, human rights violations remain the rule rather than the exception in many countries.

For example, the State Department's 2009 Human Rights Report found that while these rights tend to thrive in democratic, civil societies and that there is indeed a greater demand for personal and political freedom, there are also significant governmental efforts to deny those freedoms in many countries. According to the State Department, in Africa, several countries have played a stabilizing role on the continent as they embraced the rule of law but in other parts, human rights abuses have continued. Asia also had a mixed record on human rights. In Europe and Eurasia, the influx of immigrants from economically strained areas has contributed to an increase in nationalism and hate crimes.

For its part, the FBI is committed to supplementing the international community's efforts to advance human rights. Our mission is to identify human rights violators in the U.S. and bring them to justice for violations committed within and outside of the United States. We investigate violators for both human rights and traditional criminal violations. For example, together with U.S. Immigration and Customs Enforcement (ICE), we investigated Roy M. Belfast, aka "Chuckie Taylor," son of the former Liberian dictator Charles Taylor. Chuckie Taylor was found guilty in federal court on multiple counts of torture and violent crime offenses for his role in commanding the paramilitary Anti-Terrorist Unit in Liberia between 1999 and 2003. In addition, together with the U.S. Army Criminal Investigations Division, the FBI investigated Steven D. Green, a Ft. Campbell, Kentucky soldier who was eventually convicted of sexually assaulting a 14-year old Iraqi girl and murdering both the girl and her family.

FBI JURISDICTION

Since 1988, Congress has enacted a series of statutes that have expanded the FBI's investigative jurisdiction of human rights issues in the international arena. For example, Chapter 50A of Title 18 was enacted in 1988, adding the offense of genocide to the U.S.

criminal code. Torture was included in 1994 and war crimes in 1996. Most recently, in October 2008, the Recruitment of Child Soldiers was added in Chapter 118.

Executive Order 13107, which outlined the implementation of human rights treaties, required each Executive agency to “designate a single contact officer who will be responsible for overall coordination of the implementation” of the Order. The Order also required agencies to “maintain current awareness of United States international human rights obligations that are relevant to their functions” and to “perform such functions so as to respect and implement those obligations fully.” FBI responsibilities in this regard include the investigation of allegations of genocide, torture, war crimes, and the recruitment of child soldiers, and the development of a collaborative working relationship with ICE.

Although our authority in this area has grown with the enactment of the aforementioned laws, our reach remains limited by legal restrictions. For example, for many well-known international human rights atrocities, the statutes of limitations have run or the atrocities took place before the laws were enacted, thereby implicating the *ex post facto* clause of the Constitution. In addition, it is often difficult to identify cases with the requisite nexus to the United States. Human rights offenses under Title 18 of the U.S. code generally require the human rights violator to be a U.S. national, to have committed the offense against a U.S. national, or to be present in the U.S. The identification of targets that satisfy this nexus is challenging because the majority of these abuses occur in foreign countries where access to witnesses and evidence is often limited. In addition, the violator is often protected by a regime that is sympathetic to the violator or politically embarrassed by the allegations of human rights abuses. Nonetheless, the FBI has had success in bringing human rights violators to justice, and expects to have success in the future as well.

FBI’s HUMAN RIGHTS ENFORCEMENT STRATEGY

The FBI recognizes that respect for human rights helps to secure the peace, deter aggression, promote the rule of law, combat crime and corruption, strengthen democracies, and prevent humanitarian crises. With additional funding for human rights enforcement provided by Congress in the FY2009 budget, we are expanding our investigative efforts in this area and establishing a Human Rights Offenses Program. As part of this program, the FBI will utilize four key strategies – joint investigations, training, intelligence collection, and assistance to international investigative bodies - to fulfill our commitment to the enforcement of human rights laws and the promotion of human rights principles.

First, utilizing “rule of law” principles, the FBI will, together with our domestic and international law enforcement partners, investigate priority human rights cases using established investigative techniques and protocols. Second, the FBI will train its own personnel and those of our foreign counterparts to ensure that human rights investigations are conducted in a manner consistent with “rule of law” principles. These trainings will strengthen our investigative efforts and promote institutionalized respect for human rights. Third, the FBI will aggressively collect domestic and international intelligence on human rights violators and violations through its 56 field offices, 60 foreign Legal Attaches, network of sources within and outside of the United States, and relationships with domestic and international law

enforcement partners. Fourth, in response to requests from international and foreign investigative bodies, the FBI will provide assistance that advances efforts to enforce human rights laws in foreign and international legal fora.

The FBI plans to dedicate supervisory personnel at FBI Headquarters to manage the Human Rights Offenses Program. A program manager will ensure that the FBI's domestic field offices and foreign Legal Attaches are fully engaged in advancing our human rights mission. In addition, FBI plans to dedicate a number of additional personnel at Headquarters to support the program. Together, the team managing the Human Rights Offense Program will conduct a domain assessment of human rights violations that will enable the FBI to determine how to focus its investigative and intelligence-gathering efforts in an efficient and informed manner, provide day-to-day support to domestic field agents and overseas Legal Attaches, coordinate with prosecutors at the Department of Justice, and coordinate with ICE and other agencies on potential joint investigations.

With this dedicated corps of personnel, the FBI intends to issue human rights intelligence requirements to its 56 domestic field offices and its 60 foreign Legal Attaches. We will develop performance measures and hold periodic reviews to ensure that agents and analysts in the field are actively addressing human rights cases. We plan to identify human rights coordinators in each office, and work with the Department of Justice Criminal Division to conduct trainings that will enable us to develop a body of experts who are dedicated to the investigation and prosecution of human rights abuses.

Eventually, the FBI hopes that based on its domain analysis, it will be in a position to forward deploy dedicated Assistant Legal Attaches (ALATs) in countries with a history of human rights violations that fall within the scope of U.S. human rights laws. These ALATs would be expected to establish contacts with human rights officials in the Embassies and local non-government organizations, collect intelligence on human rights, and support human rights investigations.

Through these efforts, the FBI expects to increase its contribution to the international community's ongoing effort to bring human rights violators to justice. With the benefit of lessons learned and the development of best practices, the manager of the Human Rights Offenses Program will adjust the FBI's strategy as necessary to maximize the program's effectiveness.

Chairman Durbin, Ranking Member Coburn and Members of the Subcommittee, I appreciate the opportunity to come before you today and share the work that the FBI is doing to address human rights violations. I am happy to answer any questions.