

ATF's crime gun tracing system is easy for law enforcement and it is free. Several years ago I reached out and challenged all of the law enforcement agencies in Illinois to submit the guns they had seized in crimes for tracing through the ATF. I am pleased to report that 388 Illinois agencies are now using the system called eTRACE but there are still thousands and thousands of law enforcement agencies across America that are not tracing their crime guns.

The legislation I am introducing is called the Crime Gun Tracing Act. It will require law enforcement agencies that apply for Federal COPS grants to report how many crime guns they recovered in the last year and how many they submitted for tracing. It will then give a preference in COPS grant awards to agencies that traced all the crime guns they recovered.

To be clear, law enforcement agencies should not just sit around and wait for a bill to pass before they start tracing crime guns. Tracing brings enormous benefits at virtually no cost. Agencies should not wait for this bill; they ought to start tracing today if they have not done so already. But the reality is many police departments, sheriffs' offices, have not been doing this. My bill will create an incentive for them to start.

Let me say something else. The Senate needs to confirm a Director to head the ATF. For the record, ATF has never had a Senate-confirmed Director. The Senate refused to confirm a Director under President George W. Bush and refused the second proposed Director under President Obama. Now a third candidate is being considered.

Since the Director position began requiring Senate confirmation in 2006, ATF has only had short-term Acting Directors, temporary leaders.

Whether it is a Republican President or a Democratic President, the gun lobby and their friends in the Senate have objected to every nominee. It looks as if they are preparing to mount an effort to stop the most recent nominee by President Obama, Todd Jones of Minnesota.

To be effective and accountable, Federal law enforcement agencies need Senate-confirmed leadership. But the gun lobby has done everything it can to keep this agency leaderless and weak. This is beyond hypocritical.

After the tragedy in Newtown, Mr. Wayne LaPierre of the National Rifle Association appeared before our Senate Judiciary Committee and said he opposed efforts to close gun loopholes because "we need to enforce the thousands of gun laws that are currently on the books." Well, the agency that enforces Federal gun laws and refers gun cases for Federal prosecution is the ATF. In fact, for the past 15 years there has been a provision written in an appropriations bill, a gun lobby rider, that prohibits any of ATF's enforcement functions from being moved to another agency. So the NRA is making

sure that the ATF is the only game in town when it comes to enforcing gun laws, and then they are making sure it never has a permanent Director.

I want to put the gun lobby on notice. If we can't get a Senate-confirmed Director for the ATF, then I am going to move to repeal the rider and bring in other Federal agencies with Senate-confirmed leadership—such as the Federal Bureau of Investigation—to make sure gun laws are enforced effectively in this country. The National Rifle Association and the gun lobby cannot have it both ways. They cannot complain that the gun laws are not being enforced and then stop any effort to put a permanent leader in place at this agency. The gun lobby has to make that choice. If they want to enforce gun laws on the books, they can work with us to confirm a Director at the ATF. If they want to keep blocking the ATF from having a Director, we will have to get other agencies involved to make sure laws are enforced. It is that simple.

In closing, I again extend my sympathy and prayers to the victims and families of gun violence. We have to do our part in Washington to put an end to this. We haven't had the votes we needed yet, but we should not give up. The American people are counting on us to make America safer.

Mr. President, I now ask unanimous consent that my last statement be placed in a separate part of the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TYMOSHENKO IMPRISONMENT

Mr. DURBIN. Mr. President, I rise to discuss an issue that I hoped I wouldn't need to bring up today but unfortunately I do. I am referring to the continued imprisonment of the former Prime Minister of Ukraine, Yulia Tymoshenko, who has now sat in jail for almost 2 years.

In the fall of 2011 Ms. Tymoshenko was imprisoned for a 7-year term on charges that she abused her office in connection with a natural gas contract with Russia. I cannot judge the wisdom of that contract, but what is deeply troubling to me is the appearance of selective and politically motivated imprisonment of a former political leader in the democratic nation of Ukraine.

Ukraine is a promising and hopeful new member of the community of free-market democracies—one with a solid future in the West. It has strong ties to Europe and the United States.

This photo shows police officers leading former Ukrainian Prime Minister Yulia Tymoshenko out of the courtroom after the verdict in her case in Kiev on October 11, 2011.

Ukraine is a great nation. It has helped NATO in Bosnia, Libya, Iraq, and Afghanistan. It is a major contributor and a valuable international peacekeeper. It was an early leader in throwing away the shackles of the So-

viet Union and declaring its own independence.

In 2004 Ms. Tymoshenko and countless other Ukrainians organized a series of historic protests known as the Orange Revolution to address electoral fraud in the Presidential election in those days.

Ukraine's future is clearly with the community of democracies, and that is why the imprisonment of this former Prime Minister is so troubling. When a nation is a member of a community of democracies, it can't selectively throw its political opponents in jail for questionable policy decisions. If a poor policy decision is made, let the voters decide at the ballot box.

In the neighboring dictatorship of Belarus, 2010 Presidential candidate Mikalai Statkevich, who had the temerity to run against the strong-man dictator Viktor Lukashenko, still sits in jail because he challenged the dictator in an election. I might remind my friends in Ukraine that they do not want to be compared to Belarus. They should be democratic.

Countless international human rights groups and other countries have decried the charges against Ms. Tymoshenko and called for her release. The Parliamentary Assembly of the Council of Europe passed a resolution in January of 2012 declaring that the articles under which Ms. Tymoshenko was convicted were overly broad in application and effectively allow for ex post facto criminalization of normal political decisionmaking. Later that year both the European Parliament and our very own Senate passed resolutions condemning the sentencing of Ms. Tymoshenko and calling for her release.

The European Court of Human Rights, which settles cases of rights abuses after plaintiffs have exhausted appeals in their home country courts, recently considered this case and ruled that Ms. Tymoshenko's pretrial detention was unlawful, that the lawfulness of her detention had not been properly reviewed, her right to liberty had been restricted, and that she had no possibility to seek compensation for her unlawful deprivation. That is unacceptable.

I truly hope this ruling will finally create the circumstances for a face-saving way out of this mess. Unfortunately and regrettably, it has not happened. That is why I joined my colleagues, Senators RUBIO, BOXER, BARRASSO, MURPHY, and CARDIN, in submitting a resolution on the matter. It is simple and straightforward and expresses continued concern about Ms. Tymoshenko's selective and politically motivated detention.

I will close by saying that I was in Ukraine last year. I met with Prime Minister Azarov and President Yanukovich. They were generous hosts and very kind. They told me that something would be done in a positive way about Ms. Tymoshenko's imprisonment. That was a year ago and nothing has happened. I was optimistic then

and I will remain optimistic, but I want the Ukraine Government to know that we are going to hold them to the standards of democracy. They cannot imprison political opponents. You beat them in an election, move on to lead, and you are held accountable by the people who vote.

I hope a decision will be made in the near future to release Ms. Tymoshenko.

Mr. DURBIN. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask to speak as if in morning business for 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### IMMIGRATION REFORM

Mr. GRASSLEY. Mr. President, when I closed last night I posed nine questions to Secretary Napolitano about the immigration bill. She said that when confirmed, she would answer questions that Congress put before her. My questions came at the end of her hearing on the immigration bill, and we have not received an answer now in 49 or 50 days. I would appreciate answers to those questions.

I would like to speak about the entry-exit system in the legislation before us. One of the concerns that has been made about the immigration bill before us is that it weakens current law in several areas. Now, when I go to my town meetings, I invariably get somebody who says: We don't need more legislation; just enforce the laws that are on the books. Those very same constituents of mine would probably be really chagrined at the fact that we have legislation before us that would weaken current law.

Well, we had a lengthy discussion during the Judiciary Committee markup about provisions dealing with criminal activity and deterring illegal immigration in the future. I have found that many existing statutes in this legislation—1,175 pages—have been revised and watered down, which sends exactly the wrong signal that should be sent to the people who seek to intentionally break our laws.

The sponsors of the bill have claimed that the bill will make us safer. They insist that the people will "come out of the shadows," thus allowing us to know exactly who is here, where they are, and whether they are a national security risk.

We have talked a lot about the need for border security in the last week. I think it is the most important thing we can do for our national security and to protect our sovereignty. Border se-

curity is what the people demand. This legislation has weak border security provisions.

Amazingly, when I bring up border security, I am told by proponents of the bill that we don't need to put our entire focus on the border. Well, tell that to the people of grassroots America. These authors remind me that about 40 percent of the people here illegally are visa overstays or people who never returned to their home country. I don't dispute that 40-percent figure. I couldn't agree more that visa overstays need to be dealt with as much as people who are here undocumented and did not come here on a visa. We need to know who is in our country and when they are supposed to depart, and then we need to know if they actually leave.

We realized this way back in 1996 when we created the entry-exit system. At that time, Congress—and still today—under the law, called for a tracking system to be created, and this followed the first bombing of the World Trade Center. We knew there were gaping holes in our visa system, and that is why the entry-exit system was set up. Unfortunately—and the people of this country probably don't believe this—we had legislation calling for this system to be in place and it still is not in place. Administration after administration—and that is Democratic, Republican, and now Democratic—dismissed the need to implement an effective entry-exit system, thumbing their noses at the laws on the books. So here we are today—17 years later—wondering when that system and mandate from Congress will be achieved.

When introduced, the bill before us did nothing to track people who left by land. It did nothing to capture biometrics of foreign nationals who departed. We approved an amendment in committee that made the underlying bill a little bit stronger, but it fell short of current law. Current law says we should track all people who come and go by using biometrics. It says the entry-exit system should be in place at all air, sea, and land ports. We already know that anything less than what is in current law will not be effective.

The Government Accountability Office has stated that a biographic exit system, such as the one set forth in the underlying legislation, will only hinder efforts to reliably identify overstays and that without a biometrics exit system, "DHS cannot ensure the integrity of the immigration system by identifying and removing those who have overstayed their original period of admission—a stated goal of US-VISIT." If we don't properly track departures, we won't know how many people are overstaying their visas and we won't have any clue of who is in our country.

Some will say: We can't afford it. Some will say: Our airports aren't devised in such a way to capture biometrics before people board airplanes. They will find any excuse not to implement current law, and that is why this

current law hasn't been executed in the last 17 years.

This is a border security and national security issue. Without this system in place, we are not in control of our immigration system.

Senator VITTER's amendment, which is pending, would ensure the current law is met before we legalize millions of people. I encourage my colleagues to understand how this bill weakens our ability to protect the homeland. I also encourage the adoption of the Vitter amendment when we vote at 3 o'clock.

I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### BORDER SECURITY, ECONOMIC OPPORTUNITY, AND IMMIGRATION MODERNIZATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 744, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 744) to provide for comprehensive immigration reform and for other purposes.

Pending:

Leahy/Hatch amendment No. 1183, to encourage and facilitate international participation in the performing arts.

Thune amendment No. 1197, to require the completion of the 350 miles of reinforced, double-layered fencing described in section 102(b)(1)(A) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 before registered provisional immigrant status may be granted and to require the completion of 700 miles of such fencing before the status of registered provisional immigrants may be adjusted to permanent resident status.

Landrieu amendment No. 1222, to apply the amendments made by the Child Citizenship Act of 2000 retroactively to all individuals adopted by a citizen of the United States in an international adoption and to repeal the pre-adoption parental visitation requirement for automatic citizenship and to amend section 320 of the Immigration and Nationality Act relating to automatic citizenship for children born outside of the United States who have a United States citizen parent.

Tester amendment No. 1198, to modify the Border Oversight Task Force to include tribal government officials.

Vitter amendment No. 1228, to prohibit the temporary grant of legal status to, or adjustment to citizenship status of, any individual who is unlawfully present in the United States until the Secretary of Homeland Security certifies that the US-VISIT System (a biometric border check-in and check-out system first required by Congress in 1996) has been fully implemented at every land, sea, and air port of entry and Congress passes a joint resolution, under fast track procedures, stating that such integrated entry and exit data system has been sufficiently implemented.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I am encouraged that later today the Senate will vote on four amendments to the