

WORLD PREMIERE OF “JUSTICE FOR SERGEI”



NOVEMBER 16, 2010

**Briefing of the
Commission on Security and Cooperation in Europe**

Washington: 2014

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ABOUT THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE

The Helsinki process, formally titled the Conference on Security and Cooperation in Europe, traces its origin to the signing of the Helsinki Final Act in Finland on August 1, 1975, by the leaders of 33 European countries, the United States and Canada. As of January 1, 1995, the Helsinki process was renamed the Organization for Security and Cooperation in Europe (OSCE). The membership of the OSCE has expanded to 56 participating States, reflecting the breakup of the Soviet Union, Czechoslovakia, and Yugoslavia.

The OSCE Secretariat is in Vienna, Austria, where weekly meetings of the participating States' permanent representatives are held. In addition, specialized seminars and meetings are convened in various locations. Periodic consultations are held among Senior Officials, Ministers and Heads of State or Government.

Although the OSCE continues to engage in standard setting in the fields of military security, economic and environmental cooperation, and human rights and humanitarian concerns, the Organization is primarily focused on initiatives designed to prevent, manage and resolve conflict within and among the participating States. The Organization deploys numerous missions and field activities located in Southeastern and Eastern Europe, the Caucasus, and Central Asia. The website of the OSCE is: <www.osce.org>.

ABOUT THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE

The Commission on Security and Cooperation in Europe, also known as the Helsinki Commission, is a U.S. Government agency created in 1976 to monitor and encourage compliance by the participating States with their OSCE commitments, with a particular emphasis on human rights.

The Commission consists of nine members from the United States Senate, nine members from the House of Representatives, and one member each from the Departments of State, Defense and Commerce. The positions of Chair and Co-Chair rotate between the Senate and House every two years, when a new Congress convenes. A professional staff assists the Commissioners in their work.

In fulfilling its mandate, the Commission gathers and disseminates relevant information to the U.S. Congress and the public by convening hearings, issuing reports that reflect the views of Members of the Commission and/or its staff, and providing details about the activities of the Helsinki process and developments in OSCE participating States.

The Commission also contributes to the formulation and execution of U.S. policy regarding the OSCE, including through Member and staff participation on U.S. Delegations to OSCE meetings. Members of the Commission have regular contact with parliamentarians, government officials, representatives of non-governmental organizations, and private individuals from participating States. The website of the Commission is: <www.csce.gov>.

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Commission on Security and Cooperation in Europe Washington, DC

The briefing was held at 5 p.m. in the U.S. Capitol Visitors Center, Orientation Theater North, Washington, DC, Kyle Parker, Policy Advisor, Commission on Security and Cooperation in Europe, moderating.

Commissioners present: Hon. Benjamin L. Cardin, Chairman, Commission on Security and Cooperation in Europe.

Panelists present: Kyle Parker, Policy Advisor, Commission on Security and Cooperation in Europe; Boris Nemtsov, Former Deputy Prime Minister, Russian Federation; Dr. Michael McFaul, Senior Director of Russia and Eurasian Affairs, National Security Council; and David Kramer, Executive Director, Freedom House.

Mr. CARDIN. Well, let me welcome you all here to the showing of “Justice for Sergei.” I’m Ben Cardin, I have the honor of Chairing the U.S. Helsinki Commission, and I thank you all for joining us tonight as we put a spotlight on Sergei Magnitsky on the anniversary of his death in a Russian prison.

This showing tonight coincides with showings in five other parliaments around the world as we make it clear what Russia has done—or not done, in this case, as far as investigating and holding those accountable for this action—a violation of Helsinki commitments. And our main purpose is to get Russia to do what’s right, to do a complete investigation and to bring to justice those who are responsible for Mr. Magnitsky’s arrest and ultimately death.

The priority of the Helsinki Commission, as I think you all know, is to raise issues of concern, particularly as it relates to the dignity of the person, the human dimension of the Helsinki process. We’ve raised specific cases, and we’ve done that throughout the history of the Helsinki Commission, which is now celebrating its 35th anniversary. We did that in regards to Soviet Jews when they were unable to emigrate from the Soviet Union.

We’ve done that with Roma children who have been denied opportunities for education and integration into societies of Western Europe. We’ve done that with journalists who have faced brutal attacks and been murdered for doing investigative reporting in their countries. In too many countries there’s been little action to bring those who are responsible to justice for those vicious attacks.

And we do it in the case of Sergei Magnitsky, a man who discovered corruption in Russia, public corruption, and brought it to the attention of the public officials. As a result, he was arrested, he was tortured, he was denied medical care, and at the age of 37, he died. We believe by putting a spotlight on these issues we make it clear that our objective is for Russia, a Participating State of the OSCE, to meet its commitments.

Indeed, it is our responsibility as a Participating State to raise these cases. The Helsinki Final Act acknowledges the right of any Participating State to bring up issues concerning compliance with the commitments in any other Participating State. And that is what we are doing. So tonight, we are going to see a showing of the film—"Justice for Sergei," which we hope will help put this case into proper perspective. We are dealing with the dignity of the individual. We're also dealing with public corruption in Russia and rewarding, not victimizing, those who bring public attention to where there is public corruption.

We are very pleased to have with us tonight Dr. Michael McFaul, who has been an advisor to Democratic and Republican administrations—he's a noted Russia expert and President Obama's top advisor in that country; Boris Nemtsov, who is the Former Deputy Prime Minister in Russia and is now part of the political opposition in Russia; and David Kramer, who is currently with Freedom House, but we know David as a former Commissioner of the Helsinki Commission, an active Commissioner when he was in the Bush administration.

We thank the three of them for joining us today, and leading off this evening as we get ready to view "Justice for Sergei." And with that, I will turn the program over to Kyle Parker of the Helsinki Commission so that we can move on with the agenda this evening. [Applause.]

Mr. PARKER. Thank you, Mr. Chairman. We are still awaiting Michael McFaul. Hopefully, he'll be here momentarily. But I would like to now recognize Mr. Boris Nemtsov, who, as the Senator mentioned is a prominent opposition figure in Russia and probably needs little introduction to an audience such as the one we have today. But I hope he can give us a uniquely Russian perspective on this case. Mr. Nemtsov, it's an honor to have you with us today. [Applause.]

Mr. NEMTSOV. Thank you very much. Thank you, Senator for so kind a presentation. I believe that Senator Cardin did a great job—a great job not for the United States, no, but for Russia. This is really very important. You know that 1 year ago, when Magnitsky died, a lot of his friends believed that he was killed in the prison.

And I think that the Justice for Sergei Magnitsky Act, which was prepared by Senator Cardin, described 60 persons who are responsible for his death. I think that this is important, because to talk about corruption, to talk about breaking of the Constitution, to talk about absence of human rights, absence of elections in Russia, and everything is great, but who is responsible? And what is the concrete result for that?

That's why I think that if this act will be adopted, finally—I hope that it will be—I think that it will be a signal for thousands of corrupted people inside Russia who operate outside the rule of law, without investigation, and who feel themselves very free and very lucky. That's why I think that this kind of proposal is most welcomed, grateful, and could be fruitful.

What's happened in Russia during these days? Just a few days ago, on the Day of Police—we have this day in our country, the 10th of November—top officials of the Min-

istry of Internal Affairs decided to honor guys who are on the Senators list. And a lot of them were awarded by special proclamation of bravery and patriotism.

Well, I think that it happened not because of the Day of Police holiday, but because of your act. I am sure of that. They want to show that such kind of matters will be under the protection of existing power, nevertheless what's happened in the U.S. Congress and what kind of proposals for these matters will be implemented.

Well, but I want to tell you that this is not, unfortunately, a unique story—I mean, this story about Magnitsky. I believe that first of all, we have a lot of such examples. For example, during the last 10 years, more than 100 journalists were killed. The last disaster happened at the beginning of November when journalist Oleg Kashin was hospitalized after brutal attack from bandits.

The bandits broke his fingers to show that it will be impossible for him to write. They broke his legs to make it impossible for him to ever make a step. And they show that to be an independent journalist is a real dangerous job. Generally speaking, I think that the reason why Magnitsky was killed is based on the atmosphere which we have now in Russia. This is an atmosphere of hatred and intolerance. Of course this—and it's very easy: If you are for Putin and for his policy, you are OK, you are in the safe position. If you are against him, you are an enemy.

For example, like Magnitsky, he will fight against corruption and corruption is inside his secret services. You are an enemy, that's why we will do everything to protect our corrupt system. And of course, these systems which I name, like Putinism, this really harms, first of all, Russia interests, and this is against the Russian people. And I believe that such kind of idea like Senator Cardin suggested has to be developed and promoted.

You know that there is this Jackson-Vanik problem. I've seen that this is from the past because Jackson-Vanik was adopted when it was the Soviet Union and it was a problem of Jewish immigration. Now, there is no Soviet Union and there is no problem of immigration for Jewish people and for everybody.

That's why my first idea is to cancel Jackson-Vanik and to adopt a new act, which I name "support Russian democracy act." My main idea is to organize a stop list or a blacklist—I don't know how to say it—for people who are responsible for violation of the constitution, violation of the rule of law, election fraud, and those who are responsible for censorship in my country.

I have one candidate who has to be involved. His name is Mr. Surkov. He is Deputy Chief of the Kremlin Administration. He is responsible for domestic policy. It's a strange decision of Mr. Medvedev, but he was appointed like Michael McFaul, who is fortunately here, as Co-Chairman of the Commission for Development of Civil Society, Democracy, and Freedom. This is a bad joke but this is what we have.

Well, this gentleman is responsible not only for censorship and false elections, but he is responsible for young organizations which organize demonstrations, rallies, and other events to fight against opposition and human-rights protesters.

I think that if such kind of act will be under discussion here, it will be much more useful for promoting democracy in Russia and promoting the rule of law than just statements that we are concerned about, for example, some situation inside a prison or inside opposition, what's happening on Triumph Square on the 31st of December or the 31st of October.

I think that it will be more effective because to fight against the country, this is a very ineffective policy. To fight against absolutely understandable persons—a very clear position because a lot of people in Russia believe that if you continue Jackson-Vanik, for example, you are against Russia the country. If you are against people who break the constitution and rights of Russian people, you are for Russia and you want to improve situation of Russia.

That's why I believe that such an act will be very important for improving the situation because a lot of people here in Washington and in America asked me how we can help you to promote freedom and democracy. This is my proposal.

Next point is WTO and START treaty ratification. I think that ratification of START treaty is important and it's important for Russia and for the States and for the world because this is arms control and transparency. This is a good idea. Well, and WTO too because as Russia becomes a part of the global economy, liberalization of foreign trade is in the interest of international trade and for Russia too.

And I think that the main message from America will be great if you ask that you protect human rights, you protect freedom, democracy, the rule of law and you don't want to oppress the country, and millions of Russian people. I think that this is important.

I believe that this proposal from Cardin is great because you do not touch the country. You are concentrated on murders. That's very, very important. We have to distinguish, you know, Russian people and criminals. We have to distinguish between murderers and honest men. We have to distinguish between corrupt bureaucrats and honest people.

I think that such a policy is very modern, very fruitful, and I believe that, finally, it will be a historic act. Thank you. Senator it's a great job. Thank you. [Applause.]

Mr. PARKER. Thank you, Mr. Nemtsov, for your statement tonight.

I would now like to recognize Dr. Michael McFaul, who is President Obama's top Russia advisor, for whatever remarks he may wish to offer. Dr. McFaul is one of America's preeminent Russia scholars and advises not only President Obama, but I believe was the expert called in by then-National Security Advisor Condoleezza Rice to brief President Bush before one of his earlier meetings with Vladimir Putin. He also has great expertise on this particular case and met personally with the mother of Sergei Magnitsky last May.

Thank you for being here tonight, Mike. It's a great pleasure to have you here, the podium is yours.

Mr. MCFAUL. Thank you. I have a big speech in my bag over there, which I've decided to leave in my bag because I want to get out of the way and get to the event of the evening. So let me just say a couple of brief things. The speech in my bag is President Obama's strategy for advancing democracy and human rights in Russia. We should have more interaction up here to talk about this and the specifics.

But as I walked over here, I decided it's not appropriate to do that right here and right now. I think the focus of tonight should be on Sergei Magnitsky and those other people like Boris Nemtsov and others who are probably here that are fighting for the issues that some ultimately had to give their lives for.

I welcome what has happened in terms of what Senator Cardin and his staff have done to bring attention to these issues. From our perspective at the White House, we share the same goals. The President has been crystal clear about this in numerous speeches, including most recently, his speech at the United Nations in terms of what we

aim to do in using American power and American principles, and American society to advance democracy, and human rights everywhere.

Regarding Russia, we have a very specific set of things that we're trying to do. I think we need to be honest—the challenges are hard. I think Boris and I would agree. I consider him—he's my old friend. He's my colleague now and he'll be my friend after I get out of the government. We are small-D democrats to the end of our lives.

I have lots of small-D democrats all over the world that will be my friends—well, maybe they won't after my time in the government—I hope they'll still talk to me after my time in government. The challenges—but what I want to say is you can have lots of strategies and aspirations, but the circumstances for undertaking these struggles are very difficult.

We, of course, like others, believe that when we see injustices like what was done to Sergei Magnitsky that we need to speak out openly, honestly, and forthrightly about that. We did when Sergei Magnitsky was killed. We did again today with the statement out of the State Department.

We do so every time we get a chance, when we engage with the Russians, including just 2 days ago, where I was with the President in Yokohama meeting with President Medvedev, where we had a very long, difficult, but earnest discussion about the recent beating of journalists and why it's good to say words of support for them, but we also need to follow through in the prosecution of criminals.

We had another discussion about rule of law. And we should have discussions with those that we disagree with. We continue to do so. And if we need help from others to prod us—I see David Kramer here. I consider him one of my allies in this, too—if we need help from people to prod us to do more, we welcome that. We do not run away from that.

But the real thing I want to focus on and the last thing I want to say is when you think about Russia, I plead with you to not think of it as some monolithic totalitarian place because it's not. Because there are people like Sergei Magnitsky. There are people like Boris Nemtsov. There are even people the Russian Government that, if they were here listening to us and what we're talking about, would agree with us.

Whether they can do anything about it, whether others can do anything about it, what's the timing, what's the right tactics, we can debate all those things, right? But you need to constantly remember that there are people every day that are getting up and not—and the beauty—I get to sit over at the White House and write my statements and meet with very interesting people, but they're out there with no protection, afraid to come home at night, afraid of what might happen to them to fight for these kinds of issues.

We need to remember that they exist and support them every day that we can. And I appreciate that this event is happening because this is one of the many ways that we should do that.

Finally, I just want to say one personal thing. I did meet Sergei Magnitsky's mother last May. And I've talked to many people about the trial and about the new legislation and the enforcement of the new legislation. I did all that in preparation to meet with his mother. And I was all ready with all my talking points about what we're doing and—to show that we are keeping vigilant about what happened to her son.

She came in—we were meeting at the Sakharov museum, by the way, and she came in. And I started to talk about this stuff. She didn't want to hear about any of it. She

just wanted me to listen to her stories about her son. And I'll tell you, it was without question the most difficult meeting I've ever had as a government official. It just was.

And she wanted me to know what he did when he was 8 years old, what he did when he was 13, what he did in school, the aspirations he had, his family. And that was more powerful than any other thing I was going to say to her about justice. She wanted to be heard. She wanted me, as the White House representative, to know who her son was.

This film helps to establish that for many more people. And I know that for her, when she met with me, that was the most important thing she wanted me to know and I thank you all, the organizers, for this and for those that produced the film because this is the message, this is the way that we can help her, A), that we know her son, and, B), that we carry on her son's struggle as we go forth.

So thank you very much. [Applause.]

Mr. PARKER. Thank you very much, Mike, for that wonderfully human statement and sharing your personal experience meeting with Sergei's mother. As we'll see shortly, she plays quite a role in the film and we'll get to see some of those same photos I think that you probably sat around at the Sakharov Center and looked at.

And in fact, this film is also being screened today at the Sakharov Center in Moscow, as well as airing on TV stations across some of the Russian-speaking world. It will be aired, I believe, in Tomsk, I believe Ekho Moskvyy, a large radio station in Moscow, will carry some of it.

TV stations in Moldova, Poland, and other countries will air the film. And of course, the Sakharov Center is a museum we have followed quite closely, particularly some of their other difficulties which they unfortunately, have had no shortage of.

I would now like to offer the podium to our former Commissioner, David Kramer, who previously served as Assistant Secretary for Democracy, Human Rights, and Labor, and is currently Executive Director of Freedom House. David, it's great to have you with us tonight. And I hope you can offer us a perspective from civil society and the NGO world on this case. Thank you.

Mr. KRAMER. Thank you very much, Kyle. Mr. Chairman, thank you very much for doing this, both for hosting the event and for sponsoring the legislation, which I certainly agree with my friend, Boris, is a very important bill. I hope it picks up support in the new Congress and moves forward.

I'm really honored to be here and also to be on a panel with two close friends. I have great respect for Mike McFaul and all the work he has done. Even sometimes when we don't see eye-to-eye, I still know that your heart is absolutely in the right place and I appreciate that very much, Mike.

We're here to remember and honor Sergei Magnitsky and what happened to him. And what, I would argue, is that his case is indicative of a much larger problem in Russia, where I fear there is an environment where murders like his can happen without any accountability, without any rule of law, without any accountability for officials who engage in this kind of activity, where attacks on critics, on journalists, on opposition figures are not only tolerated, but in some cases they're rewarded.

We saw that just last week with five ministry of interior officials who earlier in the year had been promoted in their jobs and last week were given awards for distinguished service, people who are directly involved and implicated in the Magnitsky case, as well as in the fraud and embezzlement that Magnitsky uncovered in 2008 and 2009.

And I think what we see here is a total lack of decency and lack of shame. Just yesterday, as I'm sure all of you have seen in the press, the Ministry of Internal Affairs came to the conclusion that it was Magnitsky who stole the \$230 million, not people in the Ministry of Internal Affairs. This is like spitting on a dead man's grave. He can't defend himself. He's not here anymore and so he's an easy victim now.

But even if the charges were true, and I would daresay I bet the charges are not true, does that mean it's permissible to deny a human being medical treatment that he desperately needs to stay alive in prison? Or does that mean that what happened to him is therefore excusable because he had stolen all this money, as they allege?

It seems to me that officials in Russia feel that they can get away, literally, with murder. And that I think this is a problem not just for Russians, it's a problem for all of us who live in democratic societies. What kind of regime puts Mikhail Beketov, who was savagely beaten in 2008, lost a leg, unable to speak, on trial for slander for something he'd written beforehand about the mayor of Khimki and finds him guilty?

Medvedev talks about rooting out corruption, rooting out legal nihilism, and yet the FSB, the MVD, and security services defy him openly, whether it's from declaring their income, as he said they had to do, or not bringing about justice in any of the cases that he denounces. It's time to clean house there. It's time to look in mirrors and see that the responsibility is in the reflection. And yet there doesn't seem to be any interest in doing that.

The Chairman of the Union of Russian Journalists was quoted by Interfax last week as saying that "since 1991, more than 300 journalists had been killed in Russia and in most cases, we do not know who killed them or on whose orders." They include people like Poltkovskaya, Listyev, Baburova, and Khlebnikov and others. The list sadly goes on and on.

Yesterday, there were 200 people gathered to protest attacks on journalists. Two hundred is a number that is far too small. The attacks recently on Oleg Kashin and Anatoly Adamchuk and others, people feel they can get away with this, that there's no justice. In fact that these kinds of attacks are encouraged if not rewarded. And that is a mood and an atmosphere that needs to change in Russia.

This should be a concern not only to Russians and to human-rights activists, it should be a concern to foreign investors, too, for what kind of country is this in which you seek to do business? I know a lot of companies have done very well in Russia over the years, but Hermitage Capital was the leading foreign investor in Russia until they decided to turn on Bill Browder.

There are others who aren't as famous who have died in Russian prisons and in detention for lack of proper medical condition. And Rossiyskaya Gazeta, state newspaper, said that only in the last 2 years, more than 500 people have died in pretrial detention in Russia, many from severe health conditions. These are huge problems that, as the Senator said, are of concern to all of us who have signed the Helsinki Accords and all of us who live in democratic civil societies. That's why this film today is so important.

Thank you. [Applause.]

Mr. PARKER. Thank you, David, for your eloquent statement.

Very shortly, we'll begin the film. I would ask that there be no recording of the film due to copyright issues. This is the world premiere. Just before we press "play," I'd just offer a couple of reflections on the film.

The Helsinki Commission hears many heartbreaking stories of the human cost of trampling fundamental freedoms. And it's a challenge not to give up hope and to yield to the temptation of cynicism and to be hardened to the suffering around us.

And while we use trends, numbers, and statistics to help us understand and deal with an issue, we must never forget the reality of the individual person who is behind that issue. I think that you will find this film gently but effectively tells the human story, the real story.

Though heartbreaking, "Justice for Sergei" reminds us that there are things more valuable than success, comfort or even life itself. Truth is one of those things. May Sergei's example be a rebuke to those whose greed or cowardice has blinded them to their duties, an inspiration to even greater integrity for those laboring quietly in the mundane yet necessary tasks of life, and a comfort to those wrongly accused.

[NOTE.—The film referred to may be viewed at www.justiceforsergei.com.]

[Whereupon, at 6:30 p.m., the briefing ended.]



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