

Testimony of

# **The Honorable Orrin Hatch**

June 6, 2002

Thank you Mr. Chairman. First, I want to commend you for holding this hearing on the oversight of the Department of Justice. This hearing raises critical issues. Our duties on this Committee, of examining and finding solutions to problems where needed, could complement the investigation of the bipartisan, bicameral Intelligence Committee, on which several members of this Committee also sit.

We have today before us Robert Mueller. He started the job as Director of the FBI one week prior to September 11th. At the time Bob Mueller stepped into the position of Director, the FBI was the subject of intense criticism and media coverage due to several high profile embarrassments, such as the handling of the McVeigh documents, the belated discovery of the Hanssen spy case, and the troubled Wen Ho Lee investigation. Despite these problems, Director Mueller willingly and enthusiastically accepted the difficult challenge of reforming the FBI. On September 11th, his challenges increased by several orders of magnitude.

But there was no question then, and there remains no question now, that Bob Mueller is the right person to implement essential changes at the FBI. His extraordinary qualifications, integrity and resilience make him the perfect fit for the job, especially in these trying times. Indeed, Director Mueller has demonstrated he has the ability to reform a troubled organization. In August 1998, the Clinton Administration asked him to serve as the interim U.S. Attorney for the Northern District of California at a time when the office was experiencing great institutional problems. In short order, Director Mueller turned the office around and rebuilt it into one of this nation's best. When it comes to management of a government office, Director Mueller's no-nonsense style has served him well. He has shown he has the ability to inspire others to do their best work for the American people.

While the FBI is composed of dedicated, hard working agents who are some of the best in the world, we cannot let our respect for these accomplished men and women blind us to the fact that reforming the FBI - its structure and its culture - is a critical mission, one that is imperative to the safety of all Americans in the face of a continuing terrorist threat to our country. This is what Bob Mueller has begun at the FBI which we will hear about today in detail.

There is no question that there are significant issues concerning the specific steps the FBI took in its pre-9/11 investigation and analysis, particularly in Minneapolis and in Phoenix. Special Agent Coleen Rowley has raised important issues relating to the FBI's handling of the Moussaoui investigation in Minneapolis. This Committee will not, and indeed cannot, shirk its duty to examine these difficult and troublesome issues. However, I want to emphasize that this inquiry should be forward looking with an eye towards reforming the FBI, protecting the American public, and making sure that such an act never occurs again on our soil. A forward looking examination will serve the American people far more than a typical Washington gotcha

investigation of missed clues and political fodder. We cannot afford such an inquiry. As we all recognize on this Committee and on the Intelligence Committee, this is a serious matter. Our focus must remain on reforming the FBI and giving Director Mueller the support and resources he needs to change the direction of this massive law enforcement agency. The American public deserves nothing less than the full and complete cooperation of this Committee to ensure that the FBI is reorganized and given the tools it needs to face the challenges of the future.

I want to take time here to specifically commend Director Mueller for his handling of Special Agent Rowley's letter. While it would have been easy to play the typical Washington game of pass the buck and blame someone else, Director Mueller has embraced Special Agent Rowley's letter and recognized that her observations underscore the need to implement his reorganization plan - one which aims at the heart of the issue - the FBI culture and possible structural roadblocks to effective law enforcement. To this end, Director Mueller has the confidence and the courage to welcome criticisms, to examine their merit, and to make sure that such criticisms are not simply swept under the rug, but are carefully and candidly weighed.

I think it is important to note that the new Director's recently-announced reorganization proposal addresses some of the criticisms and problems identified through the pre-9/11 inquiry. First and foremost, Director Mueller's reorganization proposal fundamentally alters the FBI's mission. Director Mueller has proposed a new forward-thinking approach -- one that is built on proactive detection and is aimed at preventing another deadly terrorist attack. To this end, Director Mueller has proposed a reorganization plan which will improve the FBI's analytic capacity; enhance its ability to gather, analyze and disseminate intelligence concerning terrorists and racketeers; further its ability to share information internally and with other law enforcement and intelligence agencies; and decentralize those functions that need to be reallocated to the field while centralizing critical intelligence gathering and analysis functions to support its overall mission of preventing crime before it occurs.

Director Mueller's recently-announced comprehensive reorganization package comes on the heels of his initial reorganization of FBI Headquarters. As we all know, in late 2001, Director Mueller reorganized the FBI's Headquarters to reflect the changing priorities and direction of law enforcement by assigning four new Executive Assistant Directors to oversee counterintelligence and counterterrorism matters, criminal investigations, law enforcement services, and the administration of the FBI. He also created two new divisions to address computer-facilitated crimes and security, and four new offices to address information technology, intelligence, records management and law enforcement coordination with state and local law enforcement partners. Finally, Director Mueller accelerated a major overhaul of the FBI's technology system which will better enable it to gather, analyze and share information and intelligence.

Like Director Mueller, Attorney General Ashcroft recognized the need for increased FBI oversight and reform as soon as he took office. And prior to September 11th, he enlisted the assistance of a number of independent reviewers. In March 2001, in response to the Hanssen case, Attorney General Ashcroft established an independent review board headed by William Webster to examine the FBI's security procedures. In July 2001, the Attorney General hired management consultants to study the FBI, and he expanded the jurisdiction of the Justice Department's Inspector General to include oversight over the FBI.

In the wake of September 11th, Attorney General Ashcroft worked closely with this Committee and Congress to ensure passage of the Patriot Act, which has provided the law enforcement community with additional tools and resources necessary to attack terrorist organizations. And like Director Mueller, Attorney General Ashcroft took quick and affirmative steps to protect the American public and fight the war against terrorism. The Attorney General established 93 Anti-Terrorism Task Forces across the country which are working to integrate the communications and activities of local, state and federal law enforcement officers. He created the Foreign Terrorist Tracking Task Force in order to assist the FBI, INS, Customs Service and other federal agencies in coordinating their efforts to bar from the United States aliens who are suspected of being involved in terrorist activities.

Last week, Attorney General Ashcroft announced amended investigative guidelines that will assist the FBI in conducting investigations capable of preventing terrorist attacks. These guideline changes support, and in fact are critical to, the FBI's reorganization plan.

Although I am pleased to learn that there is bipartisan support for these guideline revisions, I understand that concerns have been voiced about their scope. It seems obvious to me, however, that if we are serious about ensuring that the FBI can and does operate proactively, investigating future, rather than merely past crimes, the Bureau must be given the ability to do things our Constitution permits like search the Internet, use commercial data mining services, and visit public places. There is little question that the number one concern of all Americans is to make sure that we protect our country against terrorist attacks, not provide more rights to suspected terrorists than our Constitution requires. Our safety and security depend on striking the right balance.

Director Mueller and Attorney General Ashcroft should be commended for the degree to which they have focused their cooperative attention on reforming their respective institutions. Both have instituted independent investigations, and both have been responsive to the inquiries of this Committee and the joint Intelligence Committees. Not only has the Director testified before this Committee, he has also briefed members of this Committee and made other senior FBI employees available to address various issues of concern, including those raised by the Phoenix memorandum and the Rowley letter. This is the first time in the past decade that the Director of the FBI and the Attorney General actually have a cooperative working relationship, as they should.

We will also hear today from the Honorable Glenn Fine, the Inspector General of the Justice Department, who is in the process of completing a number of investigations relating to subjects of this hearing. His conclusions will be a valuable resource in this restructuring process. I look forward to hearing from him.

There is no question we need to consider how to improve all components of the Department of Justice to best protect the American people. In our oversight role, we should not blindly accept proposed reforms, but instead ask tough questions to ensure that they will address the problems that exist. However, we cannot, and should not, try to micromanage the Department of Justice. We will succeed in being a constructive and integral part of this reform process if, and only if, we work collaboratively with those in the Department of Justice, the FBI and the INS. We all

need to recognize that this is a process that will take time. At the same time, we must act as expeditiously as possible because the stakes are so high.

# # # #