

Testimony of

The Honorable Orrin Hatch

July 25, 2002

I am pleased to welcome our good friend and former colleague, Attorney General Ashcroft, back to the Committee. It need not be said that these are challenging times for the country. Now, more than ever, we can fully appreciate the tireless and often heroic efforts of our federal law enforcement officials, generally, and your efforts, General Ashcroft, specifically.

General Ashcroft, you can be sure that the American public appreciates your leadership at the Department of Justice during these trying and anxious times. I want to personally commend you, the Department of Justice, and the entire Administration for your dedication and commitment to ensuring the safety of our citizens. We have to look no further than the daily press reports to appreciate the degree to which your efforts are protecting us from terrorist threats. Hardly a day goes by that we do not hear of yet another deadly terrorist attack in the Middle East. We appreciate that you are taking every lawful measure in your power to protect our citizens from such attacks.

While we applaud you and take great solace in the fact that there have been no new attacks in the ten months since September 11, we all recognize that we can and must do more to prevent future attacks on our country.

The Administration and Congress welcomed this challenge immediately following the September 11 attacks. Once the shock, outrage, and numbness wore off, we realized we were living in an entirely new world where many aspects of our everyday lives had been changed forever. The Administration showed leadership by sending proposed anti-terrorism legislation to Congress. Congress responded by putting aside partisan differences and passing the PATRIOT Act, with a near unanimous vote in the Senate. This Act provided the Justice Department with much needed tools to combat terrorism. It was a measured response that balanced the need to protect Americans with the need to protect Americans' civil liberties. And despite the dire predictions of some extremist groups, the PATRIOT Act has created no erosion of the civil liberties that we hold dear as Americans.

Today, I believe many of us would like to hear about the coordination of the Department of Justice with the recently proposed Department of Homeland Security. After carefully considering the input of Congress, academics, and other experts, the President proposed comprehensive legislation to create the new Department. There is little question that this proposal, which will merge components of dozens of government agencies and departments, is an ambitious one, but one that makes sense and will create efficiencies. Government entities that are charged with protecting our country's borders and infrastructure, assessing threats, and responding to national emergencies all must work collaboratively, effectively and efficiently to prevail in this War on Terrorism.

General Ashcroft, the Committee is well-aware of how essential it is to foster the effective sharing of information both within and among government agencies. Indeed, many of us believe the ability to enhance information sharing within government is the most critical challenge we face, and was the focus of some of the most important changes we made when we passed the PATRIOT Act. We welcome your comments on this subject.

We are also interested in hearing about the various reforms you have instituted in the Department of Justice to improve its ability to fight terrorism. FBI Director Mueller has told us about the Bureau's reorganization proposal, which addresses the information sharing problems that were highlighted by the September 11 attacks. Director Mueller also related how he has redirected the FBI's mission by focusing its resources to detect deadly terrorist attacks before they happen.

I will say again, as I said to Director Mueller, that it is a pleasure to see - for the first time in a decade - a close and cooperative working relationship between the Attorney General and the Director of the FBI. It stands as a testament to your leadership at the Department of Justice. Without full cooperation and effective communication, our country's ability to respond to the challenges posed by terrorist threats would be severely hindered.

Since September 11, we have also been made aware of reforms you have instituted within the Justice Department. You have created a large number of Anti-Terrorism Task Forces across the country which are working to integrate the communications and activities of local, state and federal law enforcement officers. You have also created the Foreign Terrorist Tracking Task Force in order to assist the FBI, the INS, Customs Service and other federal agencies in coordinating their efforts to bar aliens who are suspected of being involved in terrorist activities.

More recently, you announced amended guidelines that will assist the FBI in conducting investigations capable of preventing terrorist attacks. In my view, these guideline changes support, and in fact are critical to, the FBI's reorganization plan. While there appears to be bipartisan support for the revised guidelines, concerns have been voiced about their scope. It seems clear to me, however, that if we are serious about ensuring that the FBI can operate proactively, and investigate future, rather than merely past crimes, the FBI must have the ability to do things our Constitution permits, like search the Internet, use commercial data mining services, and visit public places.

You have also taken concrete steps to protect our borders. In June, you strengthened our nation's entry-exit registration system by extending the registration requirements for individuals who potentially pose a risk to our national security. This initiative will enhance the Department's ability to track the movements of such individuals in and out of our country.

Just last week, you invoked authorities granted by the PATRIOT Act to secure our borders by requesting the Secretary of State to designate nine additional groups as terrorist organizations. In December of last year, the Secretary designated, at your request, 39 such groups. Groups like al Qaeda, HAMAS, and Hezbollah, which enter our country to network and raise funds to finance terrorist attacks against innocent civilians here and abroad must be kept out of the United States.

Finally, most recently, the Administration announced Operation TIPS, a pilot program that will encourage private citizens to report to homeland security agencies suspicious activities that they

observe in the ordinary course of business. The program will enlist the resources of our ordinary citizens to report suspicious activity that is seen in public view. Our law enforcement officers cannot be at all places at all times, and I am interested to hear your views on that.

You have, in short, been a very busy man. And let me tell you right now how much I appreciate your dedication and hard work to the nearly endless task that awaits you.

As we, in our oversight capacity, scrutinize the inner workings of the Department of Justice to assess its performance in the War on Terrorism, we tend to focus on the Department's shortcomings, without fully crediting its successes. We are unaware of the countless uncovered schemes and diverted plots that never come to light. But occasionally, such victories are public for all to see.

Just last week, the Justice Department scored a major triumph in the John Walker Lindh case. While most Americans, including me, will never be able to understand what provoked that man to do the things he did, we were relieved to hear that he has been found guilty and faces a severe sentence for his criminal actions.

This week we learned that the Justice Department has succeeded in obtaining an indictment against five leaders of the Abu Sayyaf terrorist group that committed deadly hostage-taking acts against Americans and others in the Philippines.

Zacarias Moussaoui, the alleged 20th hijacker in the September 11 attacks, has been indicted on death penalty charges and awaits trial in the Eastern District of Virginia.

With each of these cases, this Administration, acting through its Department of Justice, and with the assistance of its allies overseas, sends a strong message to all who commit acts of terrorism against Americans: You will be found, you will be prosecuted, and you will be brought to justice.

I believe all of us are grateful to you, Mr. Attorney General, for your zealous but fair treatment of those who have been detained in connection with the September 11 attacks. There are some who would like us to pass legislation, or amend the Constitution, to provide enemy combatants with more rights than they are currently entitled. However, I believe that most reasonable, informed citizens would disagree with this approach. It seems odd to argue that our soldiers could - and should - shoot an enemy combatant in the battlefield, but must give them Miranda warnings and a full-trial with an American defense attorney if they survive the battle. The fact is, when compared to steps Presidents and Congresses have taken in previous wars in the name of security, it is preposterous to argue that the actions taken by our Department of Justice and Department of Defense are anything but measured.

I also want to applaud you for your aggressive response to crimes of corporate fraud. As each corporate scandal has come to light, you and the Securities and Exchange Commission have responded swiftly and effectively. As soon as evidence of corporate wrongdoing surfaced at Enron, the Department of Justice established a special Task Force to investigate the matter. Within weeks, federal prosecutors sought and obtained a grand jury indictment charging Arthur Andersen with obstruction of justice. Just last month, a jury convicted Andersen. Without a doubt, the Department, under your leadership, has delivered a clear message to the corporate

world, just as you have to the terrorist world. Abuses will not be tolerated. This Department is not a paper tiger.

I understand that the Justice Department's Enron Task Force continues to pursue vigorously a host of criminal investigations about which you cannot comment. Those who suggest that the Justice Department and the SEC could or should have accomplished more by now have little appreciation of the time, resources and effort it takes to investigate and prosecute a sophisticated white collar case successfully.

And those who question the Justice Department's and SEC's resolve should consider whether some of today's scandals could have been avoided through vigorous enforcement by the previous Administration. At a time when too many Americans are questioning whether laws or ethics remain present in boardrooms, it is reassuring to know that this Justice Department will not allow corporations that have defrauded investors and employees to walk away with a slap on the wrist.

Shortly, we in Congress will deliver to the President's desk legislation which will include additional criminal tools and enhanced penalties that will assist you and the SEC in these investigations and prosecutions. Thanks to the President's recent Executive Order, representatives of the Department of Justice will provide additional resources and a body of expertise that will offer direction in the investigations and prosecutions of significant financial crimes. It is evident that the Corporate Fraud Task Force is already hard at work. Just yesterday, Deputy Attorney General Thompson, the Task Force's head, announced that three Adelphia cable television executives have been charged with securities, bank and wire fraud. I am interested in hearing more about how you perceive this body will assist the Department and the SEC in combating corporate fraud.

In closing, I would like to extend a special thanks to you, General Ashcroft, for the degree to which you and Director Mueller have been responsive to the inquiries of this Committee and to the Joint Intelligence Committees. This is your third appearance before this Committee since September 11. Director Mueller has appeared here twice and has briefed members of this Committee in separate sessions as requested. And both of you have made senior Justice Department and FBI employees available to address various issues of concern. We sincerely appreciate the responsiveness you both have demonstrated, particularly in this time of war.

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