

Testimony of

The Honorable Sheila Jackson Lee

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Good morning. Chairman Leahy, Senator Hatch, members of the Judiciary Committee -- thank you for this opportunity to testify today.

Ten months ago, our nation came under attack. In a calculated, deliberate manner, terrorists slammed planes into the World Trade Center, the Pentagon, and a field in Pennsylvania, killing thousands. These attacks were acts of war against our nation, and an assault on the values for which we stand - the values of equality, justice, and freedom. This unprecedented assault brought us face to face with a new enemy, and demanded that we think anew and act anew in order to protect our citizens and our values.

Immediately following the attacks, I ordered a top-to-bottom review and reorganization of the Department of Justice. Our objective was to mobilize the resources of our law enforcement and justice system to meet a single, overarching goal: to prevent future terrorist attacks on the United States and its citizens.

The review found that America's ability to detect and prevent terrorism has been undermined significantly by restrictions that limit the intelligence and law enforcement communities' access to, and sharing of, our most valuable resource in this new war on terrorism. That resource is information.

Many of these restrictions on information were imposed decades ago, in order to address the real and perceived abuses of law enforcement and intelligence of the 1960s and early 1970s. In the second half of the 1970s, the pendulum of reform swung beyond correcting abuses into imposing what we now recognize as excessive constraints on our intelligence gathering and sharing capabilities.

In the late 1970s, reforms were made reflecting a cultural myth that we could draw an artificial line at the border to differentiate between the threats we faced. In accordance with this myth, officials charged with detecting and deterring those seeking to harm Americans were divided into separate and isolated camps. Barriers between agencies broke down cooperation. Compartmentalization hampered coordination. Surveillance technology was allowed to atrophy, eroding our ability to adapt to new threats. Information, once the best friend of law enforcement, became the enemy.

- Intelligence gathering was artificially segregated from law enforcement, effectively barring intelligence and law enforcement communities from integrating their resources. Under the Foreign Intelligence Surveillance Act, known as FISA, a criminal investigator examining a terrorist attack could not coordinate with an intelligence officer investigating the same suspected terrorists. As compartmentalization grew, coordination suffered.

- Reforms erected impenetrable walls between different government agencies, prohibiting them from cooperating in the nation's defense. The FBI and the CIA were restricted from sharing valuable information. And as limitations on information sharing tightened, cooperation decayed.

- FBI agents were forced to blind themselves to information readily available to the general public, including those who seek to harm us. Agents were barred from researching public information or visiting public places unless they were investigating a specific crime. And as access to information was denied, accountability deteriorated.

- As information restrictions increased, intelligence capabilities atrophied. Intelligence-gathering techniques created in an era of rotary phones failed to keep pace with terrorists utilizing multiple cell phones and the internet. As technology outpaced law enforcement, adaptability was lost.

The culture of rigid information compartmentalization that took root in the 1970s continued, irrespective of changes in Administrations, throughout the 1980s and 1990s. As late as 1995, we found that the guidelines governing FISA procedures were tightened to a degree that effectively prohibited coordination between intelligence officers and prosecutors within the Department of Justice.

Based on this review, we concluded that our law enforcement and justice institutions - and the culture that supports them - must improve if we are to protect innocent Americans and prevail in the war against terrorism. In the wake of September 11, America's defense requires a new culture focused on the prevention of terrorist attacks. We must create a new system, capable of adaptation, secured by accountability, nurtured by cooperation, built on coordination, and rooted in our Constitutional liberties.

Congress has already taken the first, crucial steps to adapt to our changing security requirements.

The passage of the USA-PATRIOT Act made significant strides toward fostering information sharing and updating our badly outmoded information-gathering tools. The Patriot Act gave law enforcement agencies greater freedom to share information and to coordinate our campaign against terrorism. Prosecutors can now share with intelligence agents information about terrorists gathered through grand jury proceedings and criminal wiretaps. The intelligence community now has greater flexibility to coordinate their anti-terrorism efforts with our law enforcement agencies.

The Patriot Act also modernized our surveillance tools to keep pace with technological change. We now have authority under FISA to track terrorists who routinely change locations and make use of multiple cell phones. Thanks to the new law, it is now clear that surveillance tools that were created for hard line telephones - pen registers, for instance - apply to cell phones and the internet as well.

The recently announced reorganization of the Federal Bureau of Investigation is a second way we have risen to meet the new challenges we face. Our reorganization comes in the midst of the largest criminal investigation in United States history, and the expansion of FBI-led Joint Terrorism Task Forces to each of the 56 FBI field offices. Our reorganization refocuses the FBI on a terrorism prevention mission that is different from the past. Instead of being reactive, agents

will now be proactive. Instead of being bound by rigid organizational charts, our work force will become flexible enough to launch new terrorism investigations to counter threats as they emerge.

Management and operational cultures will be changed to enhance this adaptability. Over 500 field agents will be shifted permanently to counter-terrorism. Subject matter experts and historical case knowledge will be centralized so they are accessible to field offices, the intelligence community, and our state and local law enforcement partners.

The counter-terrorism division at FBI headquarters will be restructured and expanded significantly to support field offices and other intelligence and law enforcement organizations. And finally, we will enhance the FBI's analytical capacity and integrate our activities more closely with the CIA.

A third way in which we have acted to enhance our homeland security is by giving updated guidance to our FBI agents in the field. After a meticulous review of the previous Attorney General's guidelines, which unnecessarily inhibited agents from taking advantage of new information technologies and public information sources, revised guidelines were announced in May. These new directions to FBI agents are crafted carefully to correct the deficiencies of the old guidelines, while protecting the privacy and civil liberties of all Americans.

Throughout this reform process, the Department of Justice has been guided by four values - the four principles that shape and inform our new anti-terrorism mission: Adaptability. Accountability. Cooperation. Coordination. By following these lodestars, we have worked with Congress and our partners in law enforcement to correct the excesses of the past and to achieve a more stable, secure equilibrium in our justice policy. The creation of the Department of Homeland Security will prove critical to this process of restoring balance to our security policy.

- President Bush has mandated that the new Department of Homeland Security be an "agile organization" capable of meeting "a new and constantly evolving threat."

- We have sought to achieve greater accountability for our obligation to protect the rights of all Americans. The proposed Department of Homeland Security would ensure that homeland security activities and responsibilities are focused in a single department. For the first time, America will have under one roof the capability to identify and assess threats to our homeland, match these threats to our vulnerabilities, and act to ensure the safety and security of the American people. All Americans will know where the buck stops and with whom.

- We have sought to foster greater cooperation among all aspects of intelligence and law enforcement, be they federal, state or local. The proposed Department would exemplify a new ethic of information sharing in government. FBI Director Mueller put it best. The FBI, he told a congressional panel earlier this month, would provide Homeland Security the access, the participation, and the intelligence necessary for this proposed department to achieve its mission of protecting the American people.

President Bush has called on Congress and the American people to re-examine past practices and to reorganize our government in order to confront the challenge that history has placed before us.

His call echoes that of another President, over a hundred years ago, who appealed to Congress and the nation to rise to the daunting task that lay before it.

"The dogmas of the quiet past are inadequate to the stormy present," Abraham Lincoln told Congress in 1862, just before issuing the Emancipation Proclamation. "The occasion is piled high with difficulty, and we must rise with the occasion. As our case is new, so we must think anew and act anew."

Securing our homeland is the responsibility with which history has charged us; it is the mission which calls us to think anew and act anew for our nation's defense. I thank you for this opportunity to testify today, and I look forward to working with you to rise to this responsibility.

Thank you very much.

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