

Testimony of

The Honorable Russ Feingold

September 10, 2002

I want to thank Sen. Leahy for holding this very important hearing on the implementation of the Patriot Act and FISA. I want to especially compliment Senator Feinstein and Senator Specter for their very well-informed and precise analysis of the question that is before us today.

Frankly, this abuse by the Department of Justice of the language of the bill and unreasonable interpretation of the language of the bill is just the reason why I could not in the end vote for the USA PATRIOT Act. I feared that this kind of attempt would be made. This is one of several examples where I think the language, as troubling as the language was to me in many cases, is strained even beyond a reasonable interpretation in a way that does not comport with the intent of even those who supported the legislation.

One year ago today, none of us anticipated the terrible events of September 11th. Yet, since then I have watched America come together in many wonderful ways: communities uniting, people taking the time to help others and a Congress committed to protecting our country. But I believe that in our haste to develop legislation to help America that perhaps we went too far in some areas.

The courts have played a significant role in exercising their role of oversight. There have been important recent court decisions prohibiting holding immigration proceedings in secret, requiring the disclosure of the identities of the hundreds of individuals rounded up since 9/11, and questioning the designation and indefinite detention of U.S. citizens as enemy combatants. Even in the most recent FISA decision we have been discussing today, it is the court and not the Department of Justice that has called out for restraint in our anti-terrorism efforts.

Last fall, as the Senate debated the Patriot Act there were very few voices, advocating a slower gait as we raced towards passing some of the most radical changes to law enforcement in a generation. And that makes this hearing all the more important.

Chairman Leahy did the right thing in holding this hearing. Congress has an important oversight responsibility and must exercise that responsibility. We must carefully examine what we have done in the battle against terrorism and what this Department of Justice will ask us to do in the future.