

Testimony of

The Honorable Orrin Hatch

October 9, 2002

Thank you Mrs. Chairman. I want to commend you for holding a hearing on this important topic. I, for one, am proud of the way that Congress has come together on issues of national security since the horrific attacks of September 11. In the wake of those tragic events we worked tirelessly to pass, by a near-unanimous vote of 99-1, the PATRIOT Act which included a critical set of reforms needed to unleash our government's ability to detect and prevent terrorist attacks.

Earlier this year, we continued our bipartisan efforts by unanimously passing the Enhanced Border Security and Visa Entry Reform Act. Like the PATRIOT Act, this legislation concluded long overdue common sense reforms needed to enhance our nation's security.

And It is my hope that enough of that robust bipartisan spirit remains today to overcome our differences and enact landmark legislation to create a Department of Homeland Security by the end of this year.

As the anniversary of the September 11 terrorist attacks that killed thousands of innocent Americans has just passed, it is critical that we examine whether the legislative reforms contained in the PATRIOT Act and the Enhanced Border Security and Visa Entry Reform Act have been successful. And it is equally important that we assess whether there is more we in Congress can do to ensure that our law enforcement and intelligence officials have all the tools they need to detect and prevent future terrorist attacks. While I am proud of our efforts to date, I believe that there are a number of additional legislative reforms that we should consider to assist our law enforcement and intelligence communities in their efforts to combat terrorism.

For example, with respect to the Foreign Intelligence Surveillance Act (FISA), I believe Senators Kyl and Schumer have identified a significant problem with the Act - the so-called "lone wolf" problem. Although the Joint Intelligence Committee held a hearing in July to consider the legislation, I am disappointed that the bill - which enjoys bipartisan support, as well as the support of the Administration - has not yet become law. There is little time left to do so, but I remain hopeful that Congress will enact this legislation this year.

I am also concerned that existing statutory constraints on the authority of federal officials to share such information with their state, local and international counterparts may be hindering our national efforts to combat terrorism. The events of September 11 have made it abundantly clear that we must improve our ability to gather, share, and analyze information within and among our federal, state and local agencies, as well as with our international allies. While the PATRIOT Act enhanced the ability of federal law enforcement and intelligence authorities to share grand jury and other sensitive information with one another, it did not address the sharing of information with state, local and international officials. This is another area I believe Congress needs to address.

Similarly, we may well need to revisit provisions of the PATRIOT Act that were intended to alleviate the problems created by the so-called wall that limits the sharing of foreign intelligence information between intelligence agents and criminal agents and prosecutors. Prior to September 11, we in Congress were well aware of these problems which were highlighted in reports prepared by Randy Bellows and the General Accounting Office. And there is little question that we included provisions in the PATRIOT Act to alleviate these problems. However, the precise scope of the level of coordination that was envisioned by the Act is currently under review by the Foreign Intelligence Surveillance Court of Review. Depending on the FISA court's ruling, we may need to consider additional legislation to address this issue.

These are just a few of the potential areas of legislative reform I believe Congress should consider. I am certain that our distinguished witnesses have much to contribute on this topic. I look forward to your testimony, and I thank all of you for appearing here today.

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