

Testimony of  
**The Honorable Orrin Hatch**

March 6, 2003

Statement of Chairman Orrin G. Hatch  
Before the United States Senate Committee on the Judiciary  
Executive Business Meeting

On The "Law Enforcement Officers Safety Act of 2003"

This legislation allows qualified law enforcement officers and retired officers to carry, with appropriate identification, a concealed firearm that has been shipped or transported in interstate or foreign commerce regardless of State or local laws. Importantly, this legislation does not supersede any State law that permits private persons to prohibit or restrict the possession of firearms on any State or local government properties, installations, buildings, bases or parks. Additionally, this bill clearly defines what is meant by "qualified law enforcement officer" and "qualified retired [or former] law enforcement officer" to ensure that those individuals permitted to carry concealed firearms are highly trained professionals.

Such legislation not only will provide law enforcement officers with a legal means to protect themselves and their families when they travel interstate, it will also enhance the security of the American public. By enabling qualified active duty and retired law enforcement officers to carry firearms, even if off-duty, more trained law enforcement officers will be on the street to enforce the law and to respond to crises.

I urge my colleagues to vote in favor of this important piece of legislation to provide that extra layer of protection to current and retired law enforcement officers, their families, and the public.

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On S. 113 "To Exclude United States Persons from the Definition of 'Foreign Power' Under the Foreign Intelligence Surveillance Act of 1978 Relating to International Terrorism"

I want to commend Senators Kyl, Schumer, Biden and DeWine for offering this substitute amendment to S.113, in order to address a glaring omission in the Foreign Intelligence Surveillance Act of 1978 - the use of FISA to gather intelligence concerning a lone wolf terrorist, that is, a non-United States person who is engaged in international terrorism or preparation thereof.

This bi-partisan substitute amendment will enhance the ability of the FBI to investigate, detect and prevent terrorists from carrying out devastating attacks on our country. Specifically, the substitute amendment would amend the Foreign Intelligence Surveillance Act to include lone wolf terrorists who engage in international terrorism or activities in preparation thereof without a showing of membership in or affiliation with an international terrorist group. A significant gap in the current statute exists with respect to application of the foreign power requirement to lone wolf terrorists. The substitute amendment would authorize FISA surveillance or searches when law enforcement and intelligence agents identify an individual involved in international terrorism but cannot link the terrorist to a group.

The Administration strongly supports amending FISA to include non-United States lone wolf terrorists. The Administration sent a letter to the Committee yesterday supporting S.113. Just two days ago in our hearing on the war on terrorism, both Attorney General Ashcroft and FBI Director Mueller indicated their strong support for fixing this glaring omission in the FISA statute. In fact, Director Mueller testified, both before our Committee and previously before the Senate Select Committee on Intelligence, there is an increasing threat of lone extremists who have the motive and ability to carry out devastating attacks against our country.

We need to provide law enforcement and intelligence agencies with the tools needed to protect our country from deadly terrorist attacks. With the possibility of war against Iraq increasing in the near future, the risk of terrorist attacks against our country may well rise. We need to ensure that our country has the ability to investigate and prevent such attacks if carried out by a lone extremist.

While some opponents of the measure suggest that such a fix is not needed or claim that the FBI failed to properly apply the law in the Moussaoui investigation, that is simply besides the point: The September 11th attack against our country highlighted the need to fill in this gap in the FISA statute.

While I support the substitute amendment, I oppose the provision subjecting the lone wolf terrorist fix to the sunset provision. As everyone knows, I opposed including the sunset in the PATRIOT Act, and I oppose applying that same sunset to this provision as well. If enacted, the lone wolf terrorist fix would sunset on December 31, 2005, less than 3 years from now. That makes little sense to me and will only serve to jeopardize legitimate law enforcement and intelligence agency efforts to disrupt terrorists and protect our country.

FISA provides that electronic surveillance or physical searches may be authorized when there is probable cause to believe that the target is either an agent of, or is himself, a "foreign power" -- a term that is currently defined to include only foreign government or international terrorist organizations. Requiring a link to government or international terrorist organizations may have made sense when FISA was enacted in 1978; in that year, the typical FISA target was a Soviet spy or a member of one of the hierarchical, military-style terror groups of that era.

Today, the United States faces a much different threat. We are principally confronted not by specific groups or governments, but by a movement of Islamist extremists which does not maintain a fixed structure or membership list, and its adherents do not always advertise their affiliation with this cause. Moreover, in response to our country's efforts to fight terrorism

worldwide, terrorists are increasingly operating in a more decentralized manner, far different from the terrorist threat that existed in 1978. The threat posed by a lone terrorist may be very real and may involve devastating consequences, even beyond those suffered by our country on September 11. Given this increasing threat, we have to ensure that intelligence and law enforcement agencies have sufficient tools to meet this new - and even more dangerous - challenge.

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