

Statement of  
**The Honorable Patrick Leahy**

United States Senator  
Vermont  
March 25, 2009

OPENING STATEMENT OF SENATOR PATRICK LEAHY (D-VT.),  
CHAIRMAN, SENATE JUDICIARY COMMITTEE  
HEARING ON "OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION"  
MARCH 25, 2009

Oversight is one of Congress's most important responsibilities, and one that this Committee will continue to fulfill. We did so in the last Congress, and we will do so in this Congress. Today, we welcome back to the Committee Director Mueller of the Federal Bureau of Investigation. It is now six months since our last FBI oversight hearing. I hope soon to hold an oversight hearing with Secretary Napolitano, and then with Attorney General Holder, who had his confirmation hearing before us just two months ago.

Today we examine the effectiveness of the Federal Bureau of Investigation in carrying out its critical missions to keep us secure while upholding the rule of law. In commemorating the 100th anniversary of the FBI last year, Director Mueller said:

"It is not enough to stop the terrorist - we must stop him while maintaining his civil liberties. It is not enough to catch the criminal - we must catch him while respecting his civil rights. It is not enough to prevent foreign countries from stealing our secrets - we must prevent that from happening while still upholding the rule of law. The rule of law, civil liberties, and civil rights - these are not our burdens. They are what make us better. And they are what have made us better for the past 100 years."

I agree. Today, we continue to conduct the oversight needed to be sure that the FBI carries out its responsibilities while maintaining the freedoms and values that define us as Americans.

There are many vital issues on which we can and must work together. One of particular importance is aggressive enforcement of the mortgage fraud and financial fraud that contributed to the massive economic crisis that is affecting so many Americans. As Director Mueller will share with us, the FBI's mortgage fraud caseload has more than doubled in the past three years, with all signs pointing to a continued increase in fraud cases. And then there is the need to police the use of the recovery funds. These cases are straining the FBI's resources.

The FBI is taking good steps to bulk up fraud enforcement and using creative measures, including new technologies and inter-agency task forces. In his budget outline, the President showed leadership by committing to provide additional resources to the FBI to investigate and prosecute mortgage fraud. In my view, we must do still more. More is needed to give investigators and prosecutors the resources they need to aggressively detect and prosecute these

insidious forms of fraud, and to provide the tools to do so efficiently and effectively. The Fraud Enforcement and Recovery Act of 2009 that I have sponsored with Senators Grassley, Schumer, Klobuchar and Kaufman will do exactly that. I appreciate the Bureau's assistance in developing this important legislation and its support for it. That bill was reported by this Committee on March 5. I hope a time agreement can be reached to consider this legislation in the Senate.

Similarly, over the last couple of years, Director Mueller has identified public corruption as the Bureau's top criminal priority. Recent high profile cases make clear the importance of aggressive enforcement of corruption laws to restore the public's confidence in government. The Public Corruption Prosecution Improvements Act, a bipartisan bill I introduced with Senator Cornyn, will give investigators and prosecutors the tools they need to ensure that corruption is never tolerated and is, instead, uncovered and punished. That bill has been considered and reported by this Committee as well, and is awaiting Senate action.

There are other issues that have arisen during the last few years on which we must work together to ensure that past problems are corrected. One is the misuse of "exigent letters," to obtain phone records and other sensitive records of Americans, including reporters, without a warrant. These letters claimed emergency conditions that were not applicable, and promised a follow-up legal process that never came. I hope that the Director will be able to assure us, and the Inspector General will confirm, that appropriate steps have been taken to prevent a repeat of that abuse. Moreover, I am concerned that records illegally obtained with these exigent letters may have been inappropriately retained by the government, and I hope that the Director will address these concerns.

I was also disturbed to see a recent study which showed that the FBI has been slower and less responsive than it should be in processing requests for information under the Freedom of Information Act. Open government is key to a strong democracy. It is a principle that has been embraced by the new President and Attorney General. The FBI needs to improve its responsiveness.

During this hearing we will discuss the good and the bad: How the FBI worked to clear the backlog in name checks for immigration and voting purposes; how the FBI has improved its crime lab testing; and how problems remain. We will begin our discussion of the expiring provisions of the PATRIOT Act, and what needs to be done in that regard.

In the area of violent crime, there are disturbing signs that crime rates may increase significantly in response to the financial crisis, and we need to explore the impact of cuts over the last several years in Federal aid to state and local law enforcement.

I applaud Director Mueller's efforts to recommit the FBI to its best traditions through his personal example and leadership. I appreciate the Director's openness to oversight and accountability, and look forward to his testimony. I thank the hardworking men and women of the FBI.

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