

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
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Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Judiciary Committee,
Hearing On "Securing America's Safety: Improving The Effectiveness
Of Anti-Terrorism Tools And Inter-Agency Communication"
January 20, 2009

I want to begin by thanking President Obama, Secretary Clinton, USAID Administrator Shah, General Fraser of the U.S. Southern Command, and all the hard working people here and on the ground in Haiti for their efforts to save lives in the aftermath of the devastating earthquake. Recovering from this disaster is a daunting challenge for the people of Haiti, but Vermonters and all Americans have opened their hearts and are sharing generously, and we will continue to do so.

Now to the subject of this important hearing. A terrorist intent on detonating an explosive was able to board a plane with hundreds of passengers headed for Detroit, Michigan, on Christmas Day. After Congress passed major legislation in 2004 to implement the 9/11 Commission's recommendations, and after the country invested significant resources to upgrade security systems and reorganize our intelligence agencies, the near tragedy on Christmas Day compels us to ask what went wrong and what additional reforms are needed.

The administration responded quickly, and has already conducted a preliminary review. The President has candidly identified problems. He spoke directly to the American people about the incident, the threat, and the actions that are necessary to prevent future attempted attacks. This administration did not offer excuses but is, instead, taking responsible action to provide additional security measures.

I expect hard questions to be asked at this hearing. We will want to know how and why we failed to successfully detect and prevent this attempted attack. How did someone who paid for an airline ticket with cash, who boarded without luggage for a winter trip to Detroit, and whose father had come to U.S. officials weeks before to warn that his son had become radicalized, board a flight for the United States with a valid visa? Just as the horrific, deadly attacks on 9/11 could have been prevented, the recent White House review found that the Government "had sufficient information to have uncovered and potentially disrupted the December 25 attack." Our intelligence agencies did not adequately integrate and analyze information that could have prevented the Christmas Day attempt. The President called it a "systemic failure," and he is right that this is unacceptable.

While I expect hard questions to be asked, I hope that all Senators will proceed with the shared purpose of making America safer. No one has been angrier or more determined than the President. He did not respond with denial and obfuscation, but instead came forward to identify failures and correct them.

Let this not be a setting in which anyone seeks partisan advantage. We are all Americans, and we are all in this together. "Passions and politics" should not obscure or distract us. We should all do our part. As the President said recently in announcing the immediate actions he had ordered: "Instead of giving into cynicism and division, let's move forward with the confidence and optimism and unity that define us as a people. For now is not a time for partisanship, it's a time for citizenship - a time to come together and work together with the seriousness of purpose that our national security demands." That is what we did after 9/11; that is what we need to do today.

Our witnesses today are public officials, not our adversaries. They each share with us a common purpose, as the President said, "to prevail in this fight . . . to protect our country and pass it - safer and stronger - to the next generation."

Director Mueller assumed his duties just days before 9/11 and has led the FBI through a transition to expand its intelligence and counterterrorism role in protecting our country. His perspective on how prior reforms have worked and what changes still need to be made can be extremely helpful.

Today we have the opportunity to consider with Director Mueller and high-ranking representatives from the State Department and Department of Homeland Security (DHS) how we can strengthen and extend our security by better use of visa processes, airline screening and other means. We need to ensure that our border security officials are equipped with the tools and information necessary to identify threats before a terrorist with explosives is already on board an aircraft headed to the United States. Together we can understand how we all can do a better job of protecting the United States.

One of the challenges faced by those analyzing intelligence is the sheer volume of information coming into our intelligence agencies every day. How do we make sure that information is not only available in a terrorism database, but that it is also promptly and successfully analyzed? How can we prioritize the information that needs to be acted upon from the information that does not? And how do we ensure that intelligence agencies are held accountable for taking the necessary action when important intelligence comes in?

We also need to understand how we can best upgrade our airline screening systems. The administration has announced that it will deploy enhanced screening technology nationwide. Just this year, however, the Government Accountability Office (GAO) issued a report finding that DHS and the Transportation Security Agency (TSA) have in past years spent almost \$800 million in technology to screen airline passengers, but have still not completed key risk assessments to ensure that the technologies address priority security needs. The report also found that TSA has developed 10 different passenger screening technologies, but has not deployed any of them nationwide.

In the aftermath of the Christmas Day plot, as well as the Fort Hood tragedy, it can be tempting to forget that it is always easier to connect the dots in hindsight. It was not our intelligence agencies who first raised the alarm about the suspect who tried to blow up the Northwest Airlines flight. It was the suspect's own father, a Nigerian, who turned him in.

Our response to this incident must be swift, but also thoughtful. I am concerned that simply adding a handful of countries to heightened security lists does not prevent terrorists from coming into this country and may alienate those we need as allies. After all, Richard Reid was a British national and did not fit a general profile until he became known as the attempted shoe bomber. No single individual has caused more deaths by terrorist action in the United States than Timothy McVeigh, and he fit no ethnic or religious profile.

It may be tempting to take reflexive actions, but to do so will only result in the unnecessary denial of visas to legitimate travelers and the flooding of our watchlists such that they become ineffective tools in identifying those who would do us harm. Such actions will not solve these issues, they will only isolate us further from the allies we need. A "one size fits all" mentality will only ensure that we will miss different threats in the future. As the President properly noted, we cannot "hunker down and hide behind walls of fear and mistrust." We should not let our response to this incident provide another recruiting tool for terrorists. We have to be smarter than that.

Finally, this morning, the Inspector General released a report detailing the misuse of so-called "exigent letters" by the FBI to obtain information about U.S. persons. The report describes how the FBI used these exigent letters without proper authorization to collect thousands of phone records, including in instances where no exigent conditions existed. The report also details how the FBI then compounded the misconduct by trying to issue National Security Letters after the fact. This was not a matter of technical violations. This was authorized at high levels within the FBI, and continued for years. I understand, Director Mueller, that the FBI has worked to correct these abuses, but this report is a sobering reminder of the significant abuse of this broad authority. There must be accountability.

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