

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 Oversight Of The Department Of Justice
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Attorney General Holder appears before the Committee today for the fifth time in this Congress. I want to thank him for his continued responsiveness to oversight requests from the Committee; it has been a marked improvement from the previous administration. I also congratulate the Attorney General on his successful trip last week to Spain, an ally that has also suffered devastating terrorist attacks, where he finalized an extensive security agreement of cooperation against terrorists and organized crime

Because we need a strong and effective national security policy, I hope that Attorney General Holder will honor my request to implement the increased oversight and accountability provisions of the USA PATRIOT Act Sunset Extension Act, which was reported by this Committee with bipartisan support. I am enthusiastic about working with the Attorney General to improve the implementation of the Freedom of Information Act (FOIA) to make our Government more transparent and accountable to the American people. I look forward to hearing from him this morning about the Department's efforts to increase antitrust enforcement, combat financial fraud and health care fraud, and renew our enforcement of core civil rights laws.

I commend his resolve to use every tool in our arsenal to combat terrorism around the world and keep America safe. Our system of justice is part of that arsenal. It reflects our strength, our values, and it helps keep us safe. The Obama administration's counterterrorism approach has led to many national security victories on the battlefield and in the courtroom. The professionals in our military, our intelligence agencies, and in law enforcement are doing their jobs and are essential partners in this effort.

In February, American forces captured the Taliban's second-in-command in Afghanistan. Messages intercepted from al Qaeda lieutenants show them in disarray, pleading with Osama bin Laden for help. In March, David Coleman Headley pleaded guilty in a Federal criminal court to helping plan the devastating November 2008 terror attacks in Mumbai, India, which claimed 160 lives, as well as another planned attack in Denmark. He is now cooperating and providing valuable intelligence to prevent other terror attacks.

The Headley guilty plea is no outlier -- more than 400 terrorists have been convicted in Federal courts since September 11, 2001, according to Justice Department statistics. Last year, Najibullah

Zazi was arrested and charged in Federal court for planning to detonate a bomb in New York City. With his arrest, the administration prevented what could have been the most serious terrorism act since September 11. Zazi pleaded guilty to terrorism charges in Federal court, faces life in prison, and is also providing intelligence.

The list of successes in Federal court goes on. Jose Padilla was transferred from military custody to the criminal justice system by the Bush administration, was convicted and is now one of the hundreds of terrorists serving time in Federal prison. Richard Reid, the attempted shoe bomber, who was read the Miranda warning multiple times before being prosecuted by the Bush Justice Department in Federal court and Zacarias Moussaoui, the purported 20th September 11 hijacker, are likewise convicted and in prison.

In February, Aafia Siddiqui, a Pakistani woman, described by FBI Director Robert Mueller as an "al Qaeda operative," was convicted for the attempted murder of U.S. service members. Last year, lengthy sentences were given to five individuals convicted of plotting to kill U.S. soldiers at Fort Dix and to Daniel Patrick Boyd for plotting an attack on U.S. military personnel. And as we learned in February, Umar Abdulmutallab, who attempted the Christmas Day bombing, is likewise cooperating, not because of brutal interrogations at Guantanamo but because expert FBI interrogators were able to get his family to talk to him and encourage him to do so as part of our justice system. Senator Feinstein discussed the effectiveness of the federal courts in a Wall Street Journal piece on March 31. I recommend that each member of the committee carefully read her excellent op-ed.

I am disappointed by the unfounded criticism from many partisans of the interrogation and charging decisions surrounding the Christmas Day bomber. Critics relentlessly restate the myth that the decision to read him Miranda rights caused him to stop talking. That is simply not true. He was interrogated by two highly experienced FBI agents. He provided valuable information. As Attorney General Holder and FBI Director Mueller have repeatedly stated, he is continuing to provide significant intelligence to the FBI. He will be prosecuted, and will face life in prison if convicted. Would the critics have denied him medical treatment for his wounds? It was that treatment that interrupted his interrogation and after which he stopped cooperating, not the reading of the Miranda warning.

In fact, Miranda warnings are nothing new for terrorism suspects. Critics did not attack the Bush administration when it gave multiple Miranda warnings to Richard Reid and convicted him and others in our Federal courts. Former Vice President Dick Cheney endorsed trying Zacharias Moussaoui in a Federal criminal court, not in a military tribunal. He said the trial could be conducted "without compromising sources or methods of intelligence." Critics have reflexively opposed virtually every national security decision made by this administration but ignore these successes. These critics have not explained their about-face.

In contrast to the 400 terrorists convicted since September 11, during the last eight years only three detainees have been convicted in military commissions. Two were sentenced to an additional five months or nine months in custody and are now back in their home countries having been released while President Bush was still in office--including the Yemeni who worked as a driver for Osama bin Laden named Salim Hamdan. And Yaser Hamdi, the other famous long-time Guantanamo detainee who won his case before the Supreme Court is now free and in

Saudi Arabia. The military commission system has more than once been rejected by the Supreme Court.

After the September 11 attacks, Democrats joined with Republicans to make sure our President had the tools he needed to protect this country. We did not play a blame game about who ignored intelligence or failed to prevent the attacks. We came together to ensure the President, law enforcement, and the intelligence communities had the authorities necessary to hunt down those responsible. It has been disheartening not to see that same spirit of unity and national purpose since the election of President Obama. Both parties should work together, rather than play politics with national security.

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