

Statement of

# The Honorable Orrin Hatch.

United States Senator  
Utah  
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Statement of Chairman Orrin G. Hatch

Before the United States Senate Judiciary Committee

Hearing on

"Oversight Hearing: Aiding Terrorists -

An Examination of the Material Support Statute"

I think every American would agree that our government continues to face an unprecedented challenge. On September 11, 2001, we suffered a devastating attack on American soil that resulted in the unprovoked and tragic death of over 3000 of our fellow citizens. The Bush administration responded in a decisive and careful manner as we did here in Congress. One of the key actions this Committee took was to write, pass, and oversee the PATRIOT Act and other laws that provide the tools, information, and resources necessary to combat terrorist threats. As equally important, this Committee undertook the responsibility of overseeing the application of these laws.

This is part of our continuing bipartisan series of hearings examining the effectiveness of current laws aimed at protecting America from terrorism. One of this Committee's challenges is to ask whether additional tools and oversight are needed as we evaluate the adequacy of current laws, including the PATRIOT Act's impact on our security, privacy and civil liberties. I would like to thank my colleague, Senator Leahy, as well as the other Members of this Committee, for their cooperation in conducting these important hearings. I also want to express my appreciation for the men and women in the Justice Department who are leading this nation's vital efforts to prevent terrorism. I look forward to hearing the Department's views today.

Two of the Justice Department's most respected prosecutors recently represented the Department of Justice at a Judiciary Committee field hearing in my home state of Utah. Deputy Attorney General James Comey and Utah's U.S. Attorney Paul Warner provided thoughtful testimony on how the anti-terrorism statutes are being implemented.

Prior to enactment of the 2001 law, uncertainty existed as to whether the ban on giving material support to terrorists by U.S. citizens, including expert advice and assistance, applied to acts occurring outside the United States. We fixed that uncertainty with Section 805, which also strengthened the prior material support ban by (1) adding to the list of underlying terrorism crimes; (2) making it clear that material support includes all types of monetary instruments and activities, and (3) enhancing penalties for those convicted of providing material support to terrorists.

This law has enabled prosecutors to stop a number of terrorist plots. This law has facilitated the prosecution and conviction of several terrorist cells and many individuals throughout our country. In one of the first cases using this new provision, six U.S. citizens who lived near Buffalo, New York were convicted for providing support or resources to terrorists by participating in weapons training at an Al Qaeda terrorist training camp in Afghanistan. In March, Section 805 enabled the successful convictions of terrorists in Virginia who aided the Taliban. And currently, Section 805 is allowing the prosecution of a graduate student in Idaho charged with aiding terrorist groups devoted to waging jihad against Russia and Israel. I think this Committee can be justifiably proud of writing and passing Section 805.

Of course, I am aware that some people are concerned that, at some point in the future, one of the as-yet-unused material support provisions might be misused. I am as opposed to that as anyone.

I am also mindful that on two separate occasions, once in the Ninth Circuit and most recently in a California district court, this statute has been found to be vague. It is unfortunately the case, that courts in the Ninth Circuit are often not the best barometer of constitutionality. I look forward to learning more about this litigation today and was pleased to read that the Department is open to making any necessary refinements or additions to this particular section of the statute.

I hope this hearing will both bring to light the very real successes stemming from the PATRIOT Act's terror-fighting tools, as well as provide an opportunity to share constructive suggestions for clarifying the Act if necessary.

I know that everyone on this Committee shares the common goal of protecting our country from additional terrorist attacks. And I believe we are all committed to achieving that goal with complete respect for the fundamental freedoms of the American people. This Committee has a historical tradition of examining, debating, and resolving some of the most important legal and policy issues that have been presented to Congress. We are once again faced with an important task that will have a profound impact on our country's security and liberty. I know that we are up to the task.

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