

Statement Of Senator Patrick Leahy,  
Chairman, Senate Judiciary Committee  
Hearing On Oversight of the Federal Bureau of  
Investigation  
September 17, 2008

We gather this morning on Constitution Day, the 221<sup>st</sup> anniversary of our nation's founding charter. It is fitting that we continue our oversight of the Department of Justice. Today we examine the effectiveness of the Federal Bureau of Investigation (FBI) in carrying out its critical role and responsibilities in keeping us secure while upholding the rule of law. We welcome back the FBI Director and thank the hard-working men and women of the FBI for upholding their motto: Fidelity, Bravery, and Integrity.

I thank Director Mueller for joining me in Vermont last month where together we visited the Joint Terrorism Task Force and the Internet Crimes Against Children Task Force based in Burlington. We talked with members of the Federal, state, and local law enforcement organizations who work cooperatively on these task forces. They are working everyday to keep us safe from terrorists and to keep our children safe from those who would do them harm and we appreciate it.

In commemorating the 100<sup>th</sup> anniversary of the FBI earlier this 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. That is why we are here, to conduct the oversight needed to be sure that the FBI carries out its responsibilities while maintaining the freedoms and values that make us Americans.

We learned last month that the Attorney General was planning to revise the guidelines for the FBI’s investigative activities. Allowing the FBI authority to use a vast array of intrusive investigative techniques with little or no predicate facts or evidence raises concerns and may potentially lead to the kinds of abuses we have seen with national security letters and with other vast grants of authority with minimal checks in the past.

Senator Specter and I requested a delay in the approval and implementation of the Attorney General’s new guidelines. The Department of Justice only agreed to a limited delay and pointed to today’s oversight hearing as a key opportunity to explore questions or concerns. However, the Attorney General has refused to provide us with copies of the proposed guidelines. Senator Specter and I sent another letter to Attorney General Mukasey last week, requesting that the Committee be provided copies of the proposed guidelines in advance of today’s hearing in order to allow for a meaningful exchange with Director Mueller on this issue. The Department again said no, indicating that they could not share guidelines that have not been finalized. The Attorney General’s response is straight out of Joseph Heller’s novel *Catch-22*. The Attorney General is saying he cannot give us copies of the proposed guidelines until they are finalized, but once they are finalized they are no longer proposed and subject to change.

Also impairing our ability to make progress today is this administration’s refusal to cooperate in oversight. As of yesterday morning, we still had not received the answers to our questions from our last oversight hearing with the FBI Director last March—those questions have been pending more than six months.

Even as we try to get a handle on the Administration's latest expansion in the FBI's investigative authority, we are reminded of the problems that followed other recent expansions of the FBI's investigative powers. Last month, Director Mueller apologized for the misuse of "exigent letters," in violation of the law, to obtain phone records from reporters. 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.

I am glad finally to be hearing of progress in getting through the backlog in the FBI's name checks for citizenship. I hope the FBI will do its part to ensure that applications for citizenships are processed in time for new citizens to participate in this year's election.

We also have to work together to ensure that adequate resources are being dedicated to investigating public corruption and corporate fraud – types of crime that the FBI is uniquely suited to investigate and that must be comprehensively prosecuted to restore the public's faith in our government and our economy.

I am also concerned that the FBI's Cold Case Initiative has apparently not yet led to a single prosecution for Civil Rights Era crimes and look forward to the Director's explanation of that effort.

In the area of violent crime, despite modest progress last year following several years of increases in crime, crime rates have remained essentially stagnant in this decade after years of consistent and substantial declines in crime in the 1990s. I hope the Director will join me, Senator Biden and others in supporting state and local law enforcement and collaborative efforts directly involving our communities to combat violent crime.

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. That distinguishes

him and his agency from much of the Department of Justice and this administration.

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