



Testimony of Attorney General John Ashcroft

Senate Committee on the Judiciary
(NOTE: THE ATTORNEY GENERAL OFTEN DEVIATES FROM PREPARED REMARKS)
December 6, 2001

Mr. Chairman, Senator Hatch, members of the Judiciary Committee, thank you for this opportunity to testify today. It is a pleasure to be back in the United States Senate.

On the morning of September 11, as the United States came under attack, I was in an airplane with several members of the Justice Department en route to Milwaukee, in the skies over the Great Lakes. By the time we could return to Washington, thousands of people had been murdered at the World Trade Center. 189 were dead at the Pentagon. Forty-four had crashed to the ground in Pennsylvania. From that moment, at the command of the President of the United States, I began to mobilize the resources of the Department of Justice toward one single, over-arching and over-riding objective: to save innocent lives from further acts of terrorism.

America's campaign to save innocent lives from terrorists is now 87 days old. It has brought me back to this committee to report to you in accordance with Congress's oversight role. I welcome this opportunity to clarify for you and the American people how the Justice Department is working to protect American lives while preserving American liberties.

Since those first terrible hours of September 11, America has faced a choice that is as stark as the images that linger of that morning. One option is to call September 11 a fluke, to believe it could never happen again, and to live in a dream world that requires us to do nothing differently. The other option is to fight back, to summon all our strength and all our resources and devote ourselves to better ways to identify, disrupt and dismantle terrorist networks.

Under the leadership of President Bush, America has made the choice to fight terrorism -- not just for ourselves but for all civilized people. Since September 11, through dozens of warnings to law enforcement, a deliberate campaign of terrorist disruption, tighter security around potential targets, and a preventative campaign of arrest and detention of lawbreakers, America has grown stronger -- and safer -- in the face of terrorism.

Thanks to the vigilance of law enforcement and the patience of the American people, we have not suffered another major terrorist attack. Still, we cannot -- we must not -- allow ourselves to grow complacent. The reasons are apparent to me each morning. My day begins with a review of the threats to Americans and American interests that were received in the previous 24 hours. If ever there were proof of the existence of evil in the world, it is in the pages of these reports. They are a chilling daily chronicle of hatred of America by fanatics who seek to extinguish freedom, enslave women, corrupt education and to kill Americans wherever and whenever they can.

The terrorist enemy that threatens civilization today is unlike any we have ever known. It slaughters thousands of innocents -- a crime of war and a crime against humanity. It seeks weapons of mass destruction and threatens their use against America. No one should doubt the intent, nor the depth, of its consuming, destructive hatred.

Terrorist operatives infiltrate our communities -- plotting, planning and waiting to kill again. They enjoy the benefits of our free society even as they commit themselves to our destruction. They exploit our openness -- not randomly or haphazardly -- but by deliberate, premeditated design.

This is a seized al Qaeda training manual -- a "how-to" guide for terrorists -- that instructs enemy operatives in the art of killing in a free society. Prosecutors first made this manual public in the trial of the al Qaeda terrorists who bombed U.S. embassies in Africa. We are posting several al Qaeda lessons from this manual on our website today so Americans can know our enemy.

In this manual, al Qaeda terrorists are told how to use America's freedom as a weapon against us. They are instructed to use the benefits of a free press -- newspapers, magazines and broadcasts -- to stalk and kill their victims. They are instructed to exploit our judicial process for the success of their operations. Captured terrorists are taught to anticipate a series of questions from authorities and, in each response, to lie -- to lie about who they are, to lie about what they are doing and to lie about who they know in order for the operation to achieve its objective. Imprisoned terrorists are instructed to concoct stories of torture and mistreatment at the hands of our officials. They are directed to take advantage of any contact with the outside world to, quote, "communicate with brothers outside prison and exchange information that may be helpful to them in their work. The importance of mastering the art of hiding messages is self-evident here."

Mr. Chairman and members of the committee, we are at war with an enemy who abuses individual rights as it abuses jet airliners: as weapons with which to kill Americans. We have responded by redefining the mission of the Department of Justice. Defending our nation and its citizens against terrorist attacks is now our first and overriding priority.

We have launched the largest, most comprehensive criminal investigation in world history to identify the killers of September 11 and to prevent further terrorist attacks. Four thousand FBI agents are engaged with their international counterparts in an unprecedented worldwide effort to detect, disrupt and dismantle terrorist organizations.

We have created a national task force at the FBI to centralize control and information sharing in our investigation. This task force has investigated hundreds of thousands of leads, conducted over 500 searches, interviewed thousands of witnesses and obtained numerous court-authorized surveillance orders. Our prosecutors and agents have collected information and evidence from countries throughout Europe and the Middle East.

Immediately following the September 11 attacks, the Bureau of Prisons acted swiftly to intensify security precautions in connection with all al Qaeda and other terrorist inmates, increasing perimeter security at a number of key facilities.

We have sought and received additional tools from Congress. Already, we have begun to utilize many of these tools. Within hours of passage of the USA PATRIOT Act, we made use of its provisions to begin enhanced information sharing between the law-enforcement and intelligence communities. We have used the provisions allowing nationwide search warrants for e-mail and subpoenas for payment information. And we have used the Act to place those who access the Internet through cable companies on the same footing as everyone else.

Just yesterday, at my request, the State Department designated 39 entities as terrorist organizations pursuant to the USA PATRIOT Act.

We have waged a deliberate campaign of arrest and detention to remove suspected terrorists who violate the law from our streets. Currently, we have brought criminal charges against 110 individuals, of whom 60 are in federal custody. The INS has detained 563 individuals on immigration violations.

We have investigated more than 250 incidents of retaliatory violence and threats against Arab Americans, Muslim Americans, Sikh Americans and South Asian Americans.

Since September 11, the Customs Service and Border Patrol have been at their highest state of alert. All vehicles and persons entering the country are subjected to the highest level of scrutiny. Working with the State Department, we have imposed new screening requirements on certain applicants for non-immigrant visas. At the direction of the President, we have created a Foreign Terrorist Tracking Task Force to ensure that we do everything we can to prevent terrorists from entering the country, and to locate and remove those who already have.

We have prosecuted to the fullest extent of the law individuals who waste precious law enforcement resources through anthrax hoaxes.

We have offered non-citizens willing to come forward with valuable information a chance to live in this country and one day become citizens.

We have forged new cooperative agreements with Canada to protect our common borders and the economic prosperity they sustain.

We have embarked on a wartime reorganization of the Department of Justice. We are transferring resources and personnel to the field offices where citizens are served and protected. The INS is being restructured to better perform its service and border security responsibilities. Under Director Bob Mueller, the FBI is undergoing an historic reorganization to put the prevention of terrorism at the center of its law enforcement and national security efforts.

Outside Washington, we are forging new relationships of cooperation with state and local law enforcement.

We have created 93 Anti-Terrorism Task Forces - one in each U.S. Attorney's district - to integrate the communications and activities of local, state and federal law enforcement.

In all these ways and more, the Department of Justice has sought to prevent terrorism with reason, careful balance and excruciating attention to detail. Some of our critics, I regret to say, have shown less affection for detail. Their bold declarations of so-called fact have quickly dissolved, upon inspection, into vague conjecture. Charges of "kangaroo courts" and "shredding the Constitution" give new meaning to the term, "the fog of war."

Since lives and liberties depend upon clarity, not obfuscation, and reason, not hyperbole, let me take this opportunity today to be clear: Each action taken by the Department of Justice, as well as the war crimes commissions considered by the President and the Department of Defense, is carefully drawn to target a narrow class of individuals -- terrorists. Our legal powers are targeted at terrorists. Our investigation is focused on terrorists. Our prevention strategy targets the terrorist threat.

Since 1983, the United States government has defined terrorists as those who perpetrate premeditated, politically motivated violence against noncombatant targets. My message to America this morning, then, is this: If you fit this definition of a terrorist, fear the United States, for you will lose your liberty.

We need honest, reasoned debate; not fearmongering. To those who pit Americans against immigrants, and citizens against non-citizens; to those who scare peace-loving people with phantoms of lost liberty; my message is this: Your tactics only aid terrorists - for they erode our national unity and diminish our resolve. They give ammunition to America's enemies, and pause to America's friends. They encourage people of good will to remain silent in the face of evil.

Our efforts have been carefully crafted to avoid infringing on constitutional rights while saving American lives. We have engaged in a deliberate campaign of arrest and detention of law breakers. All persons being detained have the right to contact their lawyers and their families. Out of respect for their privacy, and concern for saving lives, we will not publicize the names of those detained.

We have the authority to monitor the conversations of 16 of the 158,000 federal inmates and their attorneys because we suspect that these communications are facilitating acts of terrorism. Each prisoner has been told in advance his conversations will be monitored. None of the information that is protected by attorney-client privilege may be used for prosecution. Information will only be used to stop impending terrorist acts and save American lives.

We have asked a very limited number of individuals - visitors to our country holding passports from countries with active Al Qaeda operations - to speak voluntarily to law enforcement. We are forcing them to do nothing. We are merely asking them to do the right thing: to willingly disclose information they may have of terrorist threats to the lives and safety of all people in the United States.

Throughout all our activities since September 11, we have kept Congress informed of our continuing efforts to protect the American people. Beginning with a classified briefing by Director Mueller and me on the very evening of September 11, the Justice Department has briefed members of the House, the Senate and their staffs on more than 100 occasions.

We have worked with Congress in the belief and recognition that no single branch of government alone can stop terrorism. We have consulted with members out of respect for the separation of powers that is the basis of our system of government. However, Congress' power of oversight is not without limits. The Constitution specifically delegates to the President the authority to "take care that the laws are faithfully executed." And perhaps most importantly, the Constitution vests the President with the extraordinary and sole authority as Commander-in-Chief to lead our nation in times of war.

Mr. Chairman and members of the committee, not long ago I had the privilege of sitting where you now sit. I have the greatest reverence and respect for the constitutional responsibilities you shoulder. I will continue to consult with Congress so that you may fulfill your constitutional responsibilities. In some areas, however, I cannot and will not consult you.

The advice I give to the President, whether in his role as Commander-in-Chief or in any other capacity, is privileged and confidential. I cannot and will not divulge the contents, the context, or even the existence of such advice to anyone - including Congress - unless the President instructs me to do so. I cannot and will not divulge information, nor do I believe that anyone here would wish me to divulge information, that will damage the national security of the United States, the safety of its citizens or our efforts to ensure the same in an ongoing investigation.

As Attorney General, it is my responsibility - at the direction of the President - to exercise those core executive powers the Constitution so designates. The law enforcement initiatives undertaken by the Department of Justice, those individuals we arrest, detain or seek to interview, fall under these core executive powers. In addition, the President's authority to establish war-crimes commissions arises out of his power as Commander in Chief. For centuries, Congress has recognized this authority and the Supreme Court has never held that any Congress may limit it.

In accordance with over two hundred years of historical and legal precedent, the executive branch is now exercising its core Constitutional powers in the interest of saving the lives of Americans. I trust that Congress will respect the proper limits of Executive Branch consultation that I am duty-bound to uphold. I trust, as well, that Congress will respect this President's authority to wage war on terrorism and defend our nation and its citizens with all the power vested in him by the Constitution and entrusted to him by the American people.

Thank you.

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