

Daniel Miller

Committee Hearing: "Justice Forsaken: How the Federal Government Fails American Victims Iranian and Palestinian Terrorism"

November 4th 2015

Written Statement

Chairman of the Committee and Committee Members, thank you for inviting me to testify today. My name is Daniel Miller and I am an American victim of Iranian terror. My story begins on September 4, 1997. I was 18 years old and had just graduated from high school in Miami. Like many of my friends in my community, I had decided that before I began college in the United States, I would enroll for a year of college abroad in Jerusalem, Israel. I cannot tell you how excited we were to travel to Israel and embark on this exotic adventure we had been anticipating for so much time. We truly believed this was going to be one of the best years of our lives – an entire year of living and studying abroad, and then, suddenly and without warning, our lives changed forever.

The day we arrived, two friends and I decided to go out for lunch at a café in downtown Jerusalem and begin to explore the city. We decided upon a café located in the very center of Ben Yehuda Street, the large central Jerusalem pedestrian mall. We ordered our drinks and when they arrived we decided to toast the new year we would be experiencing together. We raised our glasses, but, tragically, we never had a chance to finish the toast.

You see, three other individuals had also decided to go to Ben Yehuda that day, but with very different intentions. The trio had filled the briefcases they carried with rusty shrapnel soaked in arsenic, strapped themselves with powerful explosives, disguised themselves as two Israeli businessmen and one businesswoman. They strategically placed themselves in the middle of the crowded mall, only a few feet away from where we were about to enjoy our lunch.

The first Hamas suicide bomber detonated his explosives just a few feet to our right. The force of the blast turned me in my chair from facing forward to facing to the left. Dazed and confused I looked down at my bloody hand and at first had no idea what had actually just occurred. I initially thought that perhaps we had brought the glasses together too hard for the toast and this had caused my glass to shatter. Embarrassed I turned back to my friends to apologize. To my shock the table we were sitting at was a mangled piece of metal, my friend Abe Mendelsohn, who had been sitting across from me a second earlier, had been thrown several feet in the air and my friend Avi Elishis was nowhere to be seen. At that very moment as I tried to locate my missing friend, I locked eyes with a man who I heard uttering the Arabic cry "Allah hu Akbar", G-d is Great, and then detonated himself right in front of my eyes. In a flash he no longer existed. The image of him exploding just a short distance away is an image I will never forget.

It now became clear to me what was happening. All of the terror attacks carried out by Palestinians that I had watched on the television news over and over again in my home in America - I was now in the middle of just such an attack. My thoughts immediately went to my family and the hope that I would see them again. I was in shock. I looked down at my pants which were once khaki but were now red, stained with my own blood. I had a large rusty nail lodged in my right calf muscle and both my ankles felt like they were broken. I knew I had to get away from this area. Adrenaline kicked in and I was able to stand and run into the café. The glass doors of the café were shattered and the waitress who had just brought our drinks was panicked and was screaming hysterically. Before I could even leave the restaurant, the ground shook underneath us as a third bomb exploded up the street at another crowded café, the popular Jerusalem landmark called Atara. I realized that there had been three bombs already and I was terrified that there would be more.

The adrenaline wore off and terrible pain settled in. I was no longer able to stand. I fell back into a chair inside the café. The nail in my right leg had caused a hematoma forcing my leg into an awkward

and painful locked position. My ankles were severely damaged from shrapnel lodged in them. My right arm felt dead at my side from a rusty bolt that was embedded in it and my left eye was shut from a shard of glass. I was in severe pain and, to my horror, thought that I was paralyzed. But that wasn't the worst of it. I vividly remember thinking that I was bleeding to death. Then a medic found me and carried me outside. Emergency personnel quickly cut off all of my clothes, bandaged my wounds, and rushed me by ambulance to the hospital.

I was one of the lucky ones that day. Five other innocent people were killed including three fourteen-year-old girls and there were over 184 injured, including an 8-month old baby. But when you are sandwiched between three suicide bombers intent on killing you, luck takes on a whole new meaning. I had surgery that night to remove the shrapnel from my arms and legs. The shrapnel caused permanent nerve damage that affects my routine physical activity. It took six months of grueling physical therapy to properly heal the hematoma and it bothers me until today. I had surgery to remove the glass from my eye and have a higher chance of contracting glaucoma because of it. I must tell you, however, that as hard as it was to overcome the physical injuries the bombing inflicted upon me, the hardest challenge to overcome was the psychological damage I endured.

In the aftermath of that terrifying day, the most difficult emotional challenge for me and for many other victims of terrorist attacks was how to overcome the feeling of extreme helplessness. How could I somehow contribute to fighting the terrorism that had devastated so many lives including my own? What can I do today so that others don't have to mourn tomorrow? Needless to say, I don't strap myself with explosives and I don't stab innocent people on the street. So, what could I do? Those are not options for civilized human beings. What other lawful path was there for me to satisfy this passionate need to take action against those who carried out the attack, and also against those who paid for and sent them? I grappled with this difficult challenge and could not leave it alone. How in the wake of this inhuman assault against innocent people could the victims become empowered and

somehow fight back? How could we who survived possibly utilize this brutal and life changing experience and secure some measure of good from it?

Fortunately, in 2003, that question was finally answered. I, along with eight other American victims of the same attack, went after the party we deemed chiefly responsible in court. Represented by the Shurat HaDin Law Center in Israel and American attorney David Strachman, we filed a lawsuit against the Islamic Republic of Iran.

Hamas took credit for the attack that day, but make no mistake - they could not have carried out this vicious, sophisticated triple bombing attack without the financial and military support of Iran. Iran funneled its support thru its Defense Ministry called the Ministry of Information and Security or MOIS. MOIS employs almost 30,000 Iranian officials and spends up to 100,000,000 dollars a year supporting terrorist organizations such as Hamas, Hezbollah and Islamic Jihad. These organizations are dedicated to one common goal – to kill as many Americans, Israelis and Europeans as possible. An expert witness who testified at our trial stated that MOIS funneled over \$50,000,000 annually to Hamas alone. In addition, the Iranian Revolutionary Guards, the notorious military wing of MOIS, provided military and terrorist training to Hamas operatives responsible for executing terrorist attacks, including Mahmoud Abu Hanoud, who organized, planned and executed a large number of deadly attacks including this bombing. MOIS, it should be noted, was also behind the bombing of the United States Marines barracks in Lebanon that left 241 American servicemen dead. Finally, it was irrefutable that Iran's support of terror is an official state policy and without the approval of the Ayatollah, MOIS would never have been able to provide financial support and resources to Hamas.

Iran has never denied its involvement in the attack on Ben Yehuda Street but it did not respond to our lawsuit prompting the court to enter a default judgment against it. Despite Iran's willful default, the court had to conduct an evidentiary hearing before it could enter a judgment by default. The hearing

was held from January 6th through January 9th 2003 in the federal court house here in Washington, DC. Each victim testified to the extent of their injuries, compelling us to relive all of our horrific memories. On September 10th 2003 Judge Ricardo Urbina issued his ruling. He awarded the group over 70 million dollars in compensatory damages and over 250 million dollars in punitive damages. We were thrilled with the outcome; little did we know, however, that the legal battle was only beginning.

We had availed ourselves of laws the Congress had legislated and had achieved what we believed was a measure of justice against Iran. We sincerely believed we would now force Iran to pay the judgments and finally feel a small sense of closure. However, as with all of the judgments terror victims have won against Iran in United States courts, we faced an uphill battle trying to execute against Iranian assets. It is illegal for Iran to do business in the United States thus making it very difficult to find attachable assets so many years after the Iranian revolution. This did not mean we were prepared to give up and allow our court judgment to remain a purely symbolic victory.

Over the years my legal team has researched deeply and found assets to pursue. We have been thwarted in some of these attempts and some are open cases we are still struggling to win. One involving Iranian bank accounts is going to be argued in front of the Supreme Court this term. Unfortunately, it has been a largely fruitless battle for the last 12 years, since we won the judgment. The only satisfaction I have personally received over these 12 years is a small award of \$25,000 from a sale of a house in Texas we were able to seize that belonged to the Iranian government. I expected a battle from Iran. I expected Iran to contest every dollar and to resist ever paying any money to the citizens of a country it calls "the Great Satan." What I didn't expect was the battle that we faced coming from my own government. Perhaps this is the one area where the United States and Iran can actually be seen to be cooperating together – actively obstructing terror victims from collecting on their court judgments.

My legal team has taken some unusual approaches over the years to attempt to attach Iranian assets. One such attempt brought us to the University of Chicago. The University maintains a field school and has a collection of ancient Persian artifacts. At one point, the field school announced that it was going to be returning these artifacts which Iran had been claiming were their national property. As soon as we discovered that the field school was surrendering to Iranian pressure and planning to return them to the Islamic regime in Tehran, we attempted to seize them. Our attorneys placed a lien on the artifacts and demanded that they be turned over to the terror victims to satisfy our judgments. It was legally very simple – Iran had been claiming for years that the artifacts belonged to them; we had a massive court judgment against Iran and the field school should have been required to turn the property over to us. These sorts of third party enforcements happen every day all across America. Imagine my surprise then, when the United States Justice Department decided to get involved in our case and filed an amicus brief on behalf of Iran. They had never lent a hand to us; they had never offered us any assistance or even any encouragement. Instead the DOJ, the chief law enforcement agency of the United States, the one charged by Congress to be the advocate for the victims of overseas terrorism, decided that rather than intervene in the case on our side, they were going to bolster Hamas' paymasters, the ones who paid for the murder of those five people, including three 14-year-old girls, on Ben Yehuda Street.

How the DOJ can be both our advocate and act against us is very unclear to me. There seems to be a genuine conflict of interest here. You cannot both stand with the victims of terrorism and also stand with the perpetrators. You are either the advocate for us or the advocates for Tehran. The DOJ cited the foreign policy concerns of the State Department. However, the case did not end there. In spite of the DOJ, the judge ruled in our favor and Iran appealed. Imagine my shock that when it came time for arguments, on one side was my legal team representing victims of terror and on the other side was the United States and its new found ally, the Islamic Republic of Iran, the terrorists. Iranian-

American interests had converged. The United States argued on behalf of Iran. I was and continue to be appalled and deeply hurt. It was as if I had been attacked all over again, but this time by my own country aiding and abetting Iran.

Allow me to ask this Committee a question at this point. When the U.S. government sides with the country that sent terrorists out to kill you, who is looking after the interests of the U.S. citizen? Who is our advocate in this drama? Who is standing up for the victims of overseas terrorism? Certainly not the DOJ.

The Senate legislated the exceptions to the Foreign Sovereign Immunities Act which allows American terrorist victims injured overseas to bring lawsuits in the US district courts against those foreign states providing material support for terrorism. The idea is to punish these state sponsors. This exception to the FSIA was a clear decision by our elected officials to provide terror victims a remedy to seek justice and compensation against those rogue regimes that have devastated their lives forever. The FSIA was designed to empower the victims and families of victims in the wake of their tragedy. It was intended to make the guilty party pay and understand there is a price for murdering and maiming innocent people. Most importantly, the exception to the FSIA was intended to act as a deterrent! To safeguard U.S. citizens when they travel abroad. To announce to Iran and other outlaw regimes that one day they will be called to justice. When the U.S. government itself obstructs the abilities of terror victims to execute their judgments, they completely undermine this long fought effort. They render the court judgment null and void. How are US citizens any safer today when the State Department and the DOJ act to obstruct our efforts to enforce our judgments against Iran? What message does that send to MOIS and its proxy terrorist organizations about America's determination to eradicate terror?

I must confess, however, that the most disturbing and terrible betrayal of all for me, as a victim of Iranian terrorism, was the recent Iran nuclear deal. I was profoundly shaken when I found out that our government was returning 150 billion dollars to the leading state sponsor of terrorism without a

single dollar going to the thousands of victims of Iran's terror. There are over 45 billion dollars in judgments outstanding against Iran in similar terrorist attacks around the world such as the Khobar Towers bombing that killed 19 US servicemen. Where is the justice for them?! How can it be that the United States sat at the negotiating table with Iran and did not demand that these lawsuits be repaid before any deal was struck? How can you simply allow Iran to thumb its nose at our justice system, at the Senate and at American terror victims?

The administration has said that this deal had nothing to do with terrorism. The deal was about preventing Iran from acquiring nuclear weapons. Regardless of what the deal was intended to do or not, you cannot look me in the face and ask me to separate Iran and terrorism. The administration has never denied that Iran is the leading state sponsor of terrorism around the world. The administration has not debated that some of the 150 billion dollars will be funneled back to terrorist organizations including Hamas and Hezbollah.

On behalf of my fellow American victims of Iranian financed terror, I am here to testify that it is tragic that the government, my government, has turned its back once again on American victims of terror. I cannot stand by as billions of dollars return to the hands of the ones responsible for changing my life forever. I cannot stand by as the country I love cares more about protecting Iranian assets than protecting its own citizens. Terror victims need justice. As our representatives in Washington, we turn to you to plead that you too will not turn your backs on us. We need you now to help see that real justice is served.