

**Statement Of Senator Patrick Leahy (D-Vt.)
Chairman, Senate Judiciary Committee
On the Nomination of James B. Comey, Jr. To Be
Director of the Federal Bureau of Investigation
July 9, 2013**

Today the Judiciary Committee considers the nomination of James Comey, Jr., to be the seventh Director of the Federal Bureau of Investigation. The current Director, Robert Mueller, started just a week before the terrorist attacks of September 11th. Since then, our world has changed dramatically, and we have often debated how best to ensure our national security while protecting the freedom, liberty, and privacy rights that define us as a great Nation. That debate is alive today and this confirmation hearing provides us another opportunity to evaluate existing policy and to correct our course. Few positions have as much impact on our liberty and national security as the Director of the FBI. As the body that considers the President's nominee, the Senate has an important role in this debate, and that process begins here in the Judiciary Committee.

I welcome Mr. Comey and his family here today. He has had an outstanding career in law enforcement, serving as Deputy Attorney General and as the U.S. Attorney for the Southern District of New York under President George W. Bush. Mr. Comey has also worked in the private sector with Lockheed Martin, Bridgewater Associates, and at the law firm of McGuireWoods.

When Mr. Comey appeared before this Committee in 2007, he described a dramatic hospital bedside confrontation with senior White House officials who were trying to get an ailing John Ashcroft to reauthorize an NSA surveillance program – a program that the Justice Department had concluded was illegal. As Deputy Attorney General, Mr. Comey showed courage and independence by standing firm against this attempt to circumvent the rule of law. I hope he will continue to demonstrate the same strength of character if he is confirmed as Director.

Since the terrorist attacks of September 11th, the FBI has dramatically increased its national security and counterterrorism efforts; a transition that has not been without problems. From National Security Letters to the latest revelations about the use of PATRIOT Act surveillance authorities, I remain concerned that we have not yet struck the right balance between the intelligence-gathering needs of the FBI, and the privacy rights of Americans. We all agree that the FBI must have the tools necessary to help keep us safe from terrorism, but we must also agree that this should not come at the expense of our constitutional rights.

In recent weeks, Americans have become aware of the expansive scope of surveillance authorities granted to the FBI by the PATRIOT Act and other laws. We have heard administration officials defend these programs by saying that they are critical to identifying and connecting the so-called “dots.” But there will always be more “dots” to collect, analyze, and try to connect, and when the Government is collecting data on millions of innocent Americans on a daily basis, when is enough, enough? Just because we have the ability to collect huge amounts of data doesn't mean that we *should* be doing so.

Last month, I introduced the FISA Accountability and Privacy Protection Act to ensure that there are proper limits on the Government's surveillance activities, along with strong privacy protections and oversight. As the head of our premier law enforcement agency, the FBI Director bears a special responsibility for ensuring that domestic government surveillance does not unduly infringe upon our freedoms. I have long said that protecting our national security and protecting Americans' fundamental rights are not mutually exclusive. We can and must do both and I look forward to Mr. Comey's testimony about how best to achieve both goals.

I also have concerns about the Justice Department's treatment of journalists. As the son of Vermont printers, the First Amendment is in my blood. The burden falls to the Federal Government to ensure that freedom of speech and of the press is being protected. I am very concerned by allegations regarding the broad collection of the Associated Press's phone records. If confirmed, Mr. Comey will also be tasked with balancing the Government's law enforcement interests with First Amendment rights.

I am concerned that during Mr. Comey's tenure as Deputy Attorney General, he approved a legal memo that authorized the use of waterboarding and other techniques long recognized as torture under both domestic and international law. I have conducted oversight on this issue for years out of my belief that these memos led to the treatment of detainees that was contrary to our laws and our values, and this frankly made us less safe. It is critical that whoever takes over as Director of the FBI has a keen sense of history and an understanding that we must never repeat those mistakes. They have left a permanent stain on this great Nation.

If we learned nothing else from those years following the September 11th attacks, we learned that it matters who leads our Nation – at all levels of Government. We need strong, ethical leaders who will steadfastly adhere to the rule of law.

The next Director must face the challenge of how to sustain the FBI's increased focus on counterterrorism while upholding the FBI's commitment to its historic law enforcement functions. I look forward to hearing from Mr. Comey on what he believes are the most important priorities for the FBI over the next decade. As Director Mueller noted on the 100th anniversary of the FBI, the rule of law, civil liberties, and civil rights are not burdens for the FBI; they are what have made the FBI better for more than a century. I look forward to hearing from Mr. Comey as to how hopes to lead the FBI in these challenging times.

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