



# Congressional Record

PROCEEDINGS AND DEBATES OF THE 108<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 149

WASHINGTON, THURSDAY SEPTEMBER 11, 2003

No. 125

## Senate

### Statement of Senator Dianne Feinstein

*Reflecting on 9/11 -  
America Will Never Be The Same*

MRS. FEINSTEIN.. Mr. President, I come to the floor to add my words to those of my colleagues as we take time to remember those who died and who were injured 2 years ago, on this very day and at this very time.

America will never be the same again. The changes are visceral and they are real. So many innocents were killed by a vicious and evil act. We still can't really comprehend how people could do this kind of thing.

It has truly been a living nightmare for so many children, wives, mothers, fathers, and loved ones. There have been so many candles, so many shattered dreams. September 11, 2001 was a true day of infamy.

But the rebuilding has begun and the page is turned. I cannot imagine what the survivors and family members and friends of those killed have endured. My sorrow, my sympathy, and my condolences go to those who lost so very much. I hope they understand that they still have the love and respect of a sympathetic nation.

Here in the Capitol, in the wake of 9/11, we have come to see that many loopholes exist in the security of this great and free Nation. Some of these are the very result of what we have treasured as part of our freedom, our openness, our democratic way of

life. And while acknowledging this fact, we in the Senate have participated in plugging a number of these loopholes in ways we hope are designed to protect our country from another catastrophic terrorist attack.

First, we passed the USA PATRIOT Act – legislation that aims to make it easier for the FBI and other law enforcement agencies to monitor terror suspects and investigate their financial and personal records, to improve the sharing of information between law enforcement and intelligence-gathering agencies, and to bring Federal law up to date with recent advances in communication technology.

It is still amazing to me to realize that 19 terrorists were able to come into this country – most of them on legal visas – and launch an attack that killed thousands of our people. But we should also be very much aware that the 9/11 attacks were no anomaly. In fact, there are thousands of other terrorists, just like those 19 hijackers, who are poised to strike at the United States and our interests.

The CIA Counterterrorism Center estimates that 70,000 to 120,000 individuals trained in Afghanistan terrorist training camps between 1979 and 2001. Think of that. The

Center also says that between 15,000 and 20,000 are believed to have been trained by Osama bin Laden. These people are now spread all over the world and in many areas of this country.

The number of terrorist cells in this country is classified. I cannot share this on the floor of the Senate, but if I did, many people would be both shocked and surprised. So there is no question that the danger is real and, unless we find out who the enemy is and stop them before they try to kill us, only suffering and death can result.

The USA PATRIOT Act was aimed at helping solve some of the problems that led to missed opportunities before 9/11. This legislation was spurred by the fact that key agencies in our Government had bits of information that, when viewed together, may have revealed details about the hijackers and their plans and prevented 9/11.

Unfortunately, these bits of information were often held by different law enforcement and intelligence agencies and not widely shared – or, in some cases, not shared at all.

Given the urgency of the war on terror and the inevitability of future attacks against our country and our

interests, I believe there is a compelling need for our law enforcement and intelligence agencies to be able to gather intelligence to prevent attacks. But the challenge is: how can we do this without violating cherished civil rights and liberties?

The PATRIOT Act was passed with the knowledge that it had been drafted and negotiated quickly. Mr. President, you yourself serve on the same committee I do – Judiciary – and I think it was about 6 weeks from start to finish that we held hearings, debated the bill, and then finally enacted it.

Congress needs to exercise vigorous oversight to prevent abuse and to solve unintended problems with the legislation. That is one of the reasons why some sections in the PATRIOT Act are scheduled to sunset in 5 years.

The USA PATRIOT Act was also passed with the expectation that the executive branch would limit its new powers to the intended purpose of fighting terrorism. Indeed, the breadth and depth of these new powers in the Act demand careful application and close oversight. And the jury is still out as we evaluate the actions taken under this new law.

Secondly, after September 11, I learned at a hearing of the Judiciary's Technology and Terrorism Subcommittee that the security controls for anthrax, smallpox, ebola, and 33 other deadly pathogens were too lax. The FBI and the CDC could not tell us at that time how many people were working with these deadly agents, how much they possessed, where these agents were, or where they were being used or stored.

Moreover, labs conducted no background screening of workers who handled these dangerous agents. As a result, Senator Kyl and I introduced legislation to heighten security and restrict possession of these pathogens. Ultimately, Congress incorporated many of these

provisions into the comprehensive bioterrorism bill that was passed in June of last year.

Thirdly, Senator Kyl and I also coauthored the Enhanced Border Security and Visa Entry Reform Act of 2002, which seeks to plug loopholes in our border security. We have seen over the years that our borders are like swiss cheese. This legislation enhances border security by, among other things, putting more Federal officers on the border to try to stop possible terrorists from entering our country.

Last month, for example, two Pakistani nationals at Seattle-Tacoma International Airport paid cash for one-way tickets to John F. Kennedy International Airport. The customer agent at the desk checked a terrorism-related "no fly" list and found both men's names on it. Local police then detained the two men and handed them over to the FBI.

The new border security law requires the Federal Government to take concrete steps to restore integrity to the immigration and visa process. It requires that all visas, passports, and other travel documents to be fraud- and tamper-resistant and contain biometric data by October 26, 2004.

Word has reached me that the administration may be requesting a delay in this deadline. I hope they will not. I hope that, instead of taking the easy course and saying let's delay that deadline, they take the more constructive and important course and say let's find out what we can do to comply with the law. It is critical and important that they do this.

This law also requires all foreign nationals be fingerprinted and, when appropriate, to submit other biometric data to the State Department when applying for a visa.

These provisions should help

eliminate fraud, as well as identify potential threats to the country before foreign nationals gain access to the United States. That is why that October 26, 2004, deadline is so important.

Now, when we put deadlines into the border security bill, we actually considered the need to come -up with the new technology and the time it might take. We believed that the 2004 date was one that could be met. I, for one, think we should meet it.

Finally, this law tightened up two programs that were highly unregulated and ripe for abuse and have been abused by terrorists: the Visa Waiver Program and the Foreign Student Visa Program.

Much other work remains to be done. We know all of our ports, all 361 one of them, are the soft underbelly of homeland security. To emphasize this point, "ABC News Primetime" tonight will run a segment announcing the results of an investigation that shows just how porous our borders are.

As a test, they shipped a suitcase with 15 pounds of depleted uranium from Jakarta to Singapore to Hong Kong to mainland China, and finally to the port of Los Angeles – all without being detected. The suitcase was in a 20-foot container filled with teak furniture.

This investigation demonstrates how easily a terrorist could put a dirty bomb on a container, ship that container to a port in the United States, then place the container on a train unopened, and move it out anywhere into the heartland of our country.

To help solve this sort of problem, earlier this year, Senator Kyl and I introduced the Antiterrorism and Port Security Act of 2003. This bill is still pending. Our distinguished colleague, Senator Schumer, is a cosponsor, and we are grateful for his support.

This legislation would close loopholes in our criminal laws that would allow terrorists who strike against our ports to escape appropriate punishment. Many criminal laws don't deal appropriately with port security and were never even contemplated as deterring and punishing a terrorist attack on a port, so there are enormous loopholes in them.

The bill would also help safeguard ports by strengthening security standards and requirements and ensuring greater coordination, and it would better focus our limited cargo inspection resources by improving the existing shipment profiling system and substantially bolstering container security.

The "ABC News" show airing tonight will show that our container risk profiling and inspection system is inadequate. Today, the administration is putting a handful of Customs agents in other countries, to try to push the borders out, and using a risk profiling system that includes much less information and intelligence that it could. Moreover, fewer than 2 or 3 percent of the containers that come into our country are searched.

I would add that over 40 percent of all imported containers in the U.S. come through two big ports in my State. I would hate to see a dirty bomb come in through the port of Los Angeles, the port of Long Beach, or the port of Oakland and be detonated somewhere in the United States. That is all too easy to do still today.

Rather than criticize ABC for this show, we should be grateful to them because, once again, their investigative efforts have shown dramatically a loophole in the homeland security of this great, free society.

I have also come to truly believe that we need to look deeply at our entire intelligence structure in this country. I have been privileged to serve on the Select Committee on Intelligence

now for a couple of years, and I have seen many indicators that our intelligence structure needs dramatic improvement.

Some recommendations for improvement are in the report by the joint inquiry into intelligence community activities before and after the attacks of September 11. One of the most important of these recommendations is the creation of a statutory Director of National Intelligence who shall be the President's principal adviser on intelligence and have the full range of management, budgetary, and personnel responsibilities necessary to run the entire United States intelligence community.

Our intelligence community is so big – more than a dozen separate departments – and yet the individual who heads the CIA is also supposed to be the head of this entire community. Yet he does not have budgetary and statutory authority over all of the departments. Consequently, he cannot transfer positions, and he cannot set strategies among the more than one dozen departments.

I believe this is a shortcoming. And I have been joined by others in this belief. I am pleased that the joint inquiry report included the creation of a Director of National Intelligence as one of its recommendations. I am also pleased that Senator Graham of Florida has made this one of the provisions in his bill implementing the report's major recommendations.

The current structure of our intelligence community was designed for post-cold-war intelligence-gathering agencies in a symmetrical world where two powers – the Soviet Union and the United States – dominated. That structured world is no more. We are now in an asymmetrical world where intelligence-gathering agencies have to move to entirely new and different dimensions. Our current intelligence structure is not

set up to allow that to happen.

One of the things that has concerned me greatly is that many people have shied away from considering real reform in this area. If I ask questions about restructuring our intelligence community, I am told: Well, now is really not the time.

I proposed the Director of National Intelligence bill in June 2002 and have introduced it again in this Congress. Yet we still have not had a hearing on that bill. It still has not moved. When I make inquiries, I am told: Now is really not the time.

When is it going to be the time?

The Intelligence Committees of both the House and Senate are charged with oversight of the intelligence structure. But I do not believe we are doing our job with respect to the organization of our intelligence community.

One of the things that I have also learned is that man is capable of unspeakable violence, and in the case of 9/11, violence was the product of learned hatred – hatred that was conscientiously taught, that was drummed into tens of thousands, maybe millions, of people. Such hatred sows a field of violence and now this violence is all over our world.

As *The New York Times* points out today, in the 2 years since 9/11, the view of the United States as a victim of terrorism deserving the world's sympathy has changed. Remember the *Le Monde* headline from France right after 9/11? It read: "We are all Americans today."

That view has given way to a widespread vision of America as an imperial power that has defied world opinion through unjustified and unilateral use of force. We must take heed of this and move to remedy it.

We must listen more; we must build alliances; we must move multilaterally; and we must recognize that we need the help of others. Yes, we need the help of the United Nations.

In a world of asymmetrical warfare and terror, unilateralism is a flawed and unworkable doctrine. I believe the last 2 years have demonstrated that point. I hope we take heed, I hope we listen.

And I hope that, as we commemorate this very solemn day, we will dedicate ourselves to that listening, to working with alliances, to building partnerships, to encouraging the United Nations to work with us, and to dispelling arrogance and becoming the humble nation that we said we were going to be.