



UNITED STATES SENATE
**REPUBLICAN
POLICY COMMITTEE**

Larry E. Craig, Chairman
Jade West, Staff Director

December 7, 2001

Attorney General Ashcroft's Statement to Judiciary Committee

Fighting Terrorists While Protecting the Constitution

Yesterday, December 6, 2001, the Senate Judiciary Committee held a hearing at which Attorney General John Ashcroft was the chief witness. In his opening statement to the Committee, the Attorney General answered many of the Administration's critics. Excerpts from his important written statement appear below; they have been edited lightly. The complete statement may be found on the website of the Department of Justice.

"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. 44 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.

"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.

"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.

“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 FBI 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. . . .”