

STATEMENT OF  
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BEFORE THE

SUBCOMMITTEE ON CRIME, TERRORISM  
AND HOMELAND SECURITY

COMMITTEE ON THE JUDICIARY  
U.S. HOUSE OF REPRESENTATIVES

H.R.3179 - THE ANTI-TERRORISM INTELLIGENCE TOOLS  
IMPROVEMENT ACT OF 2003

MAY 18, 2004

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Good morning Mr. Chairman and members of the Subcommittee. Thank you for the opportunity to appear before you this morning to discuss House Bill 3179, the Anti-Terrorism Intelligence Tools Improvement Act of 2003.

As Mr. Bryant has aptly explained, the recent successes of the Federal Bureau of Investigation, and the Department of Justice as a whole, would not have been possible without the support of this subcommittee and the passage of the USA PATRIOT Act (USPA) which provided a number of important tools to enhance our ability to gather information to assist us in detecting, disrupting and preventing terrorist attacks.

Since 9/11, the main mission of the FBI has been focused on the prevention of future terrorist attacks on the homeland. The FBI has spent the past two and a half years transforming and realigning its resources to meet the threats of the post-September 11th environment. Director Mueller has re-balanced our resources among the

counterterrorism, intelligence, counterintelligence, cyber and criminal programs. This transformation has been significantly enhanced by the enactment of the USA PATRIOT Act, which has facilitated increased information sharing between the intelligence and law enforcement communities, both internationally and domestically. H.R. 3179, the bill which has brought us here today, contains several significant reforms that will assist the FBI in our efforts to collect the necessary intelligence and information to identify and disrupt future terrorist plots.

Specifically, H.R. 3179 includes two important provisions related to the use of National Security Letters, or NSLs. NSLs are administrative subpoenas that can be used to obtain several types of records related to **electronic communications** (telephone subscriber information, local and long distance toll billing records, and electronic communication transactional records); **financial records** (from banks and other financial institutions) and **consumer reporting records** (such as consumer identifying information and the identity of financial institutions from credit bureaus). National Security Letters generally prohibit the recipient of an NSL from disclosing the fact that they have received a request for information. Section 2 of H.R. 3179 provides for a penalty for persons who knowingly disclose the fact that they received an NSL.

This penalty provision is important to the FBI as critical terrorism investigations can be compromised through, for example, destruction of crucial evidence, flight of the suspected terrorist out of the country, and frustrate efforts to identify additional associates or cell members of the suspected terrorist, when a request for information is disclosed.

H.R. 3179 also provides for a procedure for judicial enforcement if a recipient of a National Security Letter does not comply with the mandatory request for information. The judicial enforcement provision in

Section 3 of the bill is similar to those already existing for Administrative Subpoenas and would assist the FBI in obtaining information critical to terrorism investigations. An example of where this provision would have been helpful is a case where during an investigation into international terrorist activities, analysis revealed that several subjects were using a third party internet service as a potential means of communication. NSLs served on the third party service revealed that an associate of the subjects registered for the service using a free, web-based email service. NSLs were served on the web-based email service in order to obtain electronic transactional records. The web-based email service has not yet provided the records associated with the request. A judicial enforcement provision, such as the one included in H.R. 3179, would assist by providing a forum to quickly resolve this issue and allow the investigation to move forward more expeditiously.

Thank you again for allowing me to appear before you this morning to discuss the Anti-Terrorism Intelligence Tools Improvement Act of 2003. It contains advantageous reforms which the FBI believes are necessary to assist us in gathering the intelligence that will prevent future terrorist attacks. I would be happy to answer any questions you may have at this time.