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TRANSCRIPT OF ATTORNEY GENERAL ALBERTO R. GONZALES AND HOMELAND SECURITY SECRETARY MICHAEL CHERTOFF PRESS BRIEFING ON NEED FOR SENATE TO REAUTHORIZE THE USA PATRIOT ACT

ATTORNEY GENERAL ALBERTO R. GONZALES: We're going to pause, reflect and give thanks for all the blessings that they have received this year. And like the people say in London and Amman, some Americans are going to give thanks that we haven't had another terrorist attack here in America. The people at the Department of Justice, the people of Homeland Security, I would like to thank Secretary Mike Chertoff for being here, have worked very hard, along with the other people in the Bush administration in doing what we can do to protect America from another attack here in this country. For the past four years, the tools of the Patriot Act have been extremely viable in allowing us to deter and prevent attacks, to prosecute terrorism, and to prosecute other kinds of crimes. In ten days 16 of the provisions of the Patriot Act are scheduled to expire. That would be bad for this country. It would have serious operational consequences for the Department of Justice, including the Federal Bureau of Investigation. Generally if we were to lose these tools, it would mean that certain authorities could no longer be used beginning January 1.

It would mean that authorities that we use to allow us to be more efficient in responding to threats would no longer be available. And finally, it would mean that we would not be able to communicate the way that we need to communicate. Certain types of information, for example, obtained from grand jury testimony or wiretaps could not be shared with the intelligence community. It would re-erect the wall. It would create uncertainty. Bob Mueller tells me that his agents would be hesitant in sharing of information, wanting first to consult with the U.S. Attorney or perhaps a federal judge when unsure whether the information could be properly shared. So it would severely hamper the operations of the Department of Justice.

There are critics, some critics of the Patriot Act who say this is about civil liberties. They present a false choice to the American people. This is not a choice between civil liberties and the Patriot Act. The Patriot Act includes many protections for liberties, and that's why the Department of Justice has been outstanding these past four

years. The conference bill includes 30 additional safeguards of civil liberties. If you look at what some people consider the most controversial provisions, section 215, business records provision, and national security letters, under the conference bill it is now clear that you can consult an attorney when you receive one of these orders, or letters. It is now clear that you can challenge these in court. It is now clear the Department of Justice has to make a public disclosure of the use of these authorities. It is now clear that the Inspector General of the Department of Justice is going to be auditing the way that these authorities are used. But this is not enough for some of the critics.

Their fear of abuse is so great that they want to impose additional burdens on these authorities. Burdens that are so great that it will in essence make them meaningless, useless, for the law enforcement community, even though these tools have been effective, and even though these tools have been used in a way that is protective of civil liberties. If the impasse continues, when Americans wake up on January 1, we will not be as safe. This may not be evident those first few weeks, or even the first few months, but we will not be as safe because we are facing an enemy, as the President reminded us this morning, that's very patient, and very diabolical. And so that is what is at stake in the reauthorization of the Patriot Act, and that is why the Senate needs to act to reauthorize the Patriot Act and vote on the conference bill. As the President said, the house has left town. We do not have the opportunity for an extension. The options are to either let the Patriot Act expire or to vote to allow the reauthorization of these provisions. Mike?

HOMELAND SECURITY SECRETARY MICHAEL CHERTOFF: I'm happy to come over and join the Attorney General in the part of our effort to make sure that the Patriot Act does in fact continue in force into the next year. I know that, as the Attorney General begins every morning, looking at what the threats are and what's going on in the world. And I know I spend time lying awake at night worrying about what might come next. The number one tool in defending this country is intelligence. Gathering it, investigating it, and sharing it. If we don't have the full ability to use the tools of gathering, sharing and using intelligence, we are putting very important weapons in the war on terror down on the ground and walking away from them. And I don't think that's anything we can afford to do. You know, we are lucky in this past year, we have been spared a terrorist attack. And a lot of that luck is luck that we made because we were very aggressive in using these tools appropriately, but wisely and effectively. Other parts of the world have not been so lucky. We've seen the damage that can be done in bombs in Jordan and London. And the take-away message from this is that the threat is still very much alive. Those who want to carry on the war against us are still committed to doing so. And they will continue to keep trying. Our line of defense is a line with intelligence and investigation. And the patriot act gives us the ability to do that in a way that respects the constitution, respects the civil liberties, but gets the job done. Let me make one other observation. I spent a lot of years as a line prosecutor at the Department of Justice, and as the head of the Criminal Division in this building. Many of the tools which we are talking about using in the patriot act against terrorists are tools that have been used for years in the decades against drug dealers, or people involved in white collar crime. And they've been used effectively and they've been used without there being a significant impact on civil liberties.

The question I ask myself when I hear people criticize roving wiretaps, for example, is, why is this something that we use successfully and prudently in the area of dealing with marijuana importers, but yet a tool that people want to deny us in the war against people who want to import chemical weapons or explosives. That makes no sense to me. Why is it, for example, that delayed notification search warrants, which again, we use in all kinds of garden variety criminal cases, with the supervision of a judge, why should that tool be denied to our investigators when they're seeking to go into a house with a search warrant to see if there are explosives there, or other kinds of weapons that can be used against Americans.

Common sense the tools that have been used without any significant impact on civil liberties in a wide variety of cases over the last 10 or 20 years, ought to continue to be available here against perhaps the greatest threat we face in this country, which is the threat of terror. So I'm here to join the Attorney General in urging the members of the Senate to finish the job that was accomplished by the house, that was accomplished by the conference.

We've been working towards this for four years. We've known this was coming. It's not a surprise. There's been a lot of debate. There have been, I think, two dozen hearings on this. There have been dozens of witness whose have testified. There's really nothing more to be done but to complete the work that's been in process really for the last several years. If we don't get that work done, I agree with the Attorney General, we're going to wake up on January 1, and we will have left some of the most important weapons against terror in the cupboard, unavailable to be used by our front line defenders.

ATTORNEY GENERAL: Okay. We'll take a few questions.

REPORTER: I wondered why, you had said that, you were told it was difficult, if not impossible to get Congress to reauthorize the FISA, the warrant for eavesdropping. How is it that you and the administration can enforce the resolution, granted the authorization that is impossible to get in another...

[Inaudible]

ATTORNEY GENERAL: I'm here to talk about the Patriot Act. But I will answer the one question, because I read the quote. Someone showed me the quote in *The Washington Post*. What I said, or what I surely intended to say, if I didn't say is that we consulted with leaders in the congress about the feasibility of legislation to allow this type of surveillance. We were advised that it would be virtually impossible to obtain legislation of this type without compromising the program. And I want to emphasize the addition of, without compromising the program. That was the concern. [Inaudible]

This is the last question I'll answer with respect to the matter relating to the NSA. I have no reason -- I don't know the reason. I'm not going to speculate why a judge would step down from the FISA court. If you're asking about the legality of the program. I came out on Monday and explained the administration's position, the legal rationale for the legality of the program. We believe the President has both the statutory authority and constitutional authority to engage in the intelligence during a time of war with our enemy. Any questions regarding the Patriot Act?

REPORTER: A combination question. There are reports that there were some domestic call-to-call tapping into by the new NSA provisions. What assurances can you give that that didn't happen, and is that part -- becoming part of the debate about the Patriot Act?

ATTORNEY GENERAL: Well, I don't know if it's going to be part of the debate about the Patriot Act. I'm not going to answer the first part, because I said I wouldn't answer any more questions about the NSA. But in my remarks, the way the Department of Justice and other government agencies have administered or use the authorities of the Patriot Act, during the past four years, they have been analyzed and scrubbed and reanalyzed and rescrubbed. And the record is an exceptional one. We take very seriously what our responsibilities are in exercising these tools.

REPORTER: As the Secretary Chertoff said, these are not extraordinary tools. They have been used for -- many of these tools have been used for decades dealing with a wide variety of crimes. Nonetheless, we understand that there are extraordinary responsibilities upon those of us in government in exercising these tools in a way to ensure that we exercise them consistent with the authorization, and consistent with the protection of civil liberties. The people on the hill, they're patriots as well. Why are they so adamant about fighting the provision?

ATTORNEY GENERAL: That is a good question. Secretary Chertoff is right, we -- we've known this day for four years, December 31. We knew this day was coming. There have been 23 hearings just this year. Over 60 witnesses. I, myself, testified three times. There's been a great deal of debate and discussion. There is a process in our congress about how legislation is passed. The house passes a bill, the senate passes a bill. They each did that. It then goes in a conference to work out the differences. There is a conference bill that is produced. That

occurred here. And now the house and the senate should be voting on the conference bill. If one body decides they don't like what's in the conference bill, if they decide to filibuster every time because they don't like what comes out of the conference bill, we would have very few laws passed here in Washington. We've had ample time and opportunity to review the authorities of the patriot act, how those authorities have been exercised. There's no guarantee in three months or six months or nine months that we will be able to reach a compromise, or that the compromise reached would be one that would be -- that would ensure the protection of Americans in this country. And therefore, we strongly believe the time to act is now.

SECRETARY CHERTOFF: Let me just add one thing. Because I've got to confess, this makes me scratch my head sometimes. I was involved as the attorney general, both in different capacities, in the original framing of the Patriot Act. There's been a lot of time to identify potential flaws. Some of the potential flaws -- I think all of the potential flaws were actually acknowledged in the run up to this reauthorization. The Attorney General endorsed some changes. So I look to see what's left. And it, frankly, puzzles me. I see people expressing concern, for example, about roving wiretaps. I say, well, why has that never been a concern with respect to all the years we used it against drug dealers or marijuana importers? Or for that matter, in the four years since we had the Patriot Act. I've heard concern about, you know, the standard for obtaining information with respect to business records. That standard is higher under the Patriot Act than it is in garden variety fraud cases. So you kind of present the American people with a little bit of a schizophrenic situation here. On the one hand, in all kinds of garden variety crimes, we have tools that we routinely use, always upheld by the courts, day in and day out, and they continue on. And when we do a terrorist, which I think certainly are at the top of anybody's list of things we have to be concerned about, not only have we raised the protections higher, but now we're hearing complaints that they're not high enough. I don't question anybody's pa terrorism, but I do think you've got to stand back and use common sense and recognize what we're asking for here is, adapting proven tools that have been used responsibly for decades in perhaps the struggle that is the most significant struggle we face in this country.

REPORTER: Attorney General Gonzales, if the Senate does not reauthorization the provisions of the Patriot Act, does the President have the ability to give the go ahead for these procedures on his own?

ATTORNEY GENERAL: What I will say is, we continue to have hope that these provisions will be reauthorized. If they're not reauthorized, we will look at the department of Homeland Security and other agencies throughout the government to see what authorities will exist and we will do what we can do under existing authorities to continue to protect America.

REPORTER: Attorney General, members of the hill have posed this open question indicating that now that the President has -- or has used this authority, to use this NSA program, why is the Patriot Act needed at this point? And what gaps does the patriot act fill when there is this program that you have already in existence that very few people know about?

ATTORNEY GENERAL: Well, again, I'm not going to talk about the NSA program. These authorities have been effective. We can give you example after example where these authorities have been effective. The authorities have not been abused. The law enforcement community has been very adamant about the need, the continued need for this program. And for these -- for this reason this program -- the patriot act should be reauthorized, the tools under the patriot act should be reauthorized.

REPORTER: The President on numerous occasions has cited the example of the Farris case is why we need to renew the Patriot Act. Yet in arguing with *The New York Times*, they also cited the same, case. The Iman Farris n case. Which was it that allowed that case to take place?

ATTORNEY GENERAL: I don't know how to answer -- I don't know the answer to that question. I haven't record *The New York Times* story, so I don't know the answer to that question. Mike, do you know?

REPORTER: Is that an example of the reason we need the Patriot Act?

ATTORNEY GENERAL: I don't recall doing that, no. But we can certainly give you an answer. We can go back and look at that and give you an answer. Thank you very much.

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