

WILLIAM R. KEATING

9TH DISTRICT, MASSACHUSETTS

COMMITTEE ON FOREIGN AFFAIRS

SUBCOMMITTEES

RANKING MEMBER

EUROPE, EURASIA, AND EMERGING THREATS
ASIA AND THE PACIFIC

COMMITTEE ON HOMELAND SECURITY

SUBCOMMITTEES

COUNTERTERRORISM AND INTELLIGENCE
CYBERSECURITY, INFRASTRUCTURE
PROTECTION, AND
SECURITY TECHNOLOGIES



Congress of the United States
House of Representatives
Washington, DC 20515
July 31, 2013

WASHINGTON DC OFFICE
315 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3111

CAPE AND ISLANDS OFFICE
297 NORTH STREET, SUITE 312
HYANNIS, MA 02601
(508) 771-0666

NEW BEDFORD OFFICE
558 PLEASANT STREET, SUITE 309
NEW BEDFORD, MA 02740
(508) 999-6462

PLYMOUTH OFFICE
2 COURT STREET
PLYMOUTH, MA 02360
(508) 746-9000

Mr. James Comey
Director, Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535

Dear Director Comey:

As a former District Attorney for twelve years, I share a great appreciation for the integrity of our judicial processes and understand the challenges faced by the Federal Bureau of Investigations (FBI). For this reason, I would like to start out by of course, congratulating you on your recent confirmation and thanking the men and women of the FBI for their exceptional work and commitment to protecting our country. I have been particularly engaged on the developments surrounding the Boston Marathon bombings in my home state and look forward to working with you on this matter further.

The dedication of the FBI's agents was made apparent in meetings I had in Boston (June 21, 2013) and Moscow (May 29, 2013). These official meetings were designed to investigate procedural and resource-related shortcomings leading up to and during the Boston Marathon bombings. The obvious intent of which is to help prevent future tragedies. Unfortunately, nearly all of these inquiries have gone unanswered. Further, the continued reluctance of the FBI to address Members of Congress on the Committee on Homeland Security (most recently on July 10, 2013) impairs Congress' responsibility to conduct proper oversight. It is not, as the FBI has described, an issue of who can provide testimony jurisdictionally, rather whether an agency that investigates homeland security issues is willing to share information critical to improving the security of our Nation. For example, we have no "jurisdictional" authority over the City of Boston, yet Boston's Police Commissioner has testified before Congress on improvements that can be made in our current homeland security processes and procedures.

Open questions remain, particularly in regard to inadequate information-sharing, restrictive investigative guidelines/protocols, and an inability to follow up on suspicious activities/travel of individuals residing in the US. Finally, I would like to note that while in Moscow on May 30, 2013, I was able to obtain a readout of the March 4, 2011 and April 22, 2013 communications from the Federal Security Service of Russia (FSB) to the FBI and Central Intelligence Agency (CIA). Despite numerous requests to obtain a copy of and discuss this information, I have not heard anything back from the FBI.

For these reasons, I am detailing some of my unanswered inquiries in this letter in order to illustrate that I am not in fact asking for any "materials related to active, ongoing law enforcement investigations," but am rather seeking information that will help Congress better address the homeland security concerns of my constituents, particularly following the Boston bombings.

Perhaps, when viewed on paper, the procedural nature of these questions will become apparent, and the FBI will agree to assist in closing loopholes that may hinder the future identification or capture of dangerous individuals before lives are lost.

- 1) As mentioned earlier, I was relayed the information contained in both warnings about Tamerlan Tsarnaev while I was in Moscow. The March 4, 2011 message, in particular, was quite detailed. The FBI has admitted to receiving communications from the Russians and has reportedly tried to follow up on the March warning twice. (According to former Director Mueller's recent testimony before the Senate, the FBI followed up in August and October of 2012.) When I asked the FSB why they didn't respond to the FBI's follow-up inquiries, the senior, deputy-level FSB officials in the room vehemently denied that any follow-up from the FBI occurred and asked me to provide them with concrete dates and names associated with such requests. I would ask that the FBI provide the exact dates of any follow-up communications stemming from the US and detail where they were sent. This information can aid in illustrating a lapse within the Russians' own internal communications and provide the opportunity to correct this in the future.
- 2) Your predecessor testified before the Senate Judiciary Committee on May 16, 2013 and stated that information in regard to Tsarnaev's travel to Russia was not adequately shared within the Joint Terrorism Task Force in Boston. He followed this statement by saying that the FBI has been doing better and improving its procedures since then. Please clarify what information in particular was not shared and how the system has been improved since the Boston Marathon bombings.
- 3) Further, Tamerlan Tsarnaev was flagged after his return from Russia and again when he applied for US citizenship. USCIS officials in Boston confirmed on June 21, 2013 that his name was flagged, but when they contacted the FBI they were told that his case was closed and that they could move forward with his naturalization process. Tamerlan Tsarnaev was subsequently granted a citizenship interview. Is the FBI required to conduct a second background check on a previously investigated individual if this individual is applying for citizenship?
- 4) The March 2011 communication from the Russians also contained information pertaining to aliases that Tsarnaev may have used and indicated the possibility of him altering his name. Is there a mechanism that can override the algorithms in place that proved inadequate in flagging Tsarnaev's travel to Russia in January 2012? Is there any way to incorporate outside tips on name changes into the consolidated terror watch lists?
- 5) Two Homeland Security Committee witnesses, namely former Mayor Rudolph Giuliani and former Senator Joe Lieberman, cited existing "laws" and "guidelines" that constrained the Tsarnaev investigation early on. Even Russian security officials stated that the FBI had told them that "legislation" had obstructed their ability to investigate. Are there such constraints to FBI investigations? If so, how can Congress assist in easing them?
- 6) Police Commissioner Ed Davis of Boston has testified to the fact that information about Tamerlan Tsarnaev was not adequately shared with local officers until the aftermath of the tragedy in Boston. While the FBI has indicated that information about Tamerlan Tsarnaev was in a database that local members of the Joint Terrorism Task Force (JTTF) had access

to, these local officials could not search the database for something that they did not know existed. Further, police chiefs throughout the country have expressed concern over the fact that officers assigned to JTTFs cannot share critical information with other officials, including their superiors within the police department. Would you please explain why information about the Boston Marathon bombing suspects was not shared with the local police department in Boston? Further, would you detail current protocol in regard to information-sharing between officers on the JTTF and their Department Heads?

- 7) The second communication from the Russian FSB on April 22, 2013, detailed Ibragim Todashev under "matters of significance." Did this communication initiate the FBI's investigation into Todashev? Since his name appeared in a mode of communication considered to be foreign intelligence, was it permitted to be shared with local authorities?

If need be, I would gladly discuss the sensitive nature of these requests in a secure environment. I thank you for your time and look forward to the FBI's response. Further, I look forward to working with you in your new position. My office remains open to your agency, and I hope that we can work together to facilitate greater communication between the FBI and Congress as we work together on matters of security and foreign emerging threats that affect homeland defense.

Sincerely,



WILLIAM R. KEATING
Member of Congress