

most impacted by controversies. I wonder if these people think a Wyoming federal judge should have the power to decide a federal challenge to marriage licenses issued to gay couples in San Francisco? I doubt it.

Senator Thomas is seeking to close the venue loopholes that currently allow district judges in Washington, D.C. to decide issues that should be heard and decided where they arose. In doing so, he is a populist—bringing the opportunity for access and justice closer to people. That some are uncomfortable with this idea is disturbing. But for some litigants, the ends always justify the means. In this case, the anti-snowmachining lobby will continue to try to have their case heard as far from Wyoming as possible in front of the most sympathetic judge they can find, even if their tactics are unfair to the people who live and work in the West.

Two thousand miles is a long way for voices to carry—particularly for people who are too busy earning a living and raising a family to file or defend litigation in Washington, D.C. Federal venue loopholes should be closed in the interest of fairness. Don't be confused by those who are more interested in their desired political outcome than the fairness and integrity of the judicial process.

Mr. THOMAS. Mr. President, I hope we can take a look at the idea of directing these various court activities to the circuit court in which it arises. It seems a reasonable approach. I have introduced a bill to do that, and I look forward to pursuing it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent to proceed in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### FINGERPRINT COMPATIBILITY

Mr. GREGG. Mr. President, I rise today to address an issue which I have been working on for many years, regrettably, about how we control our borders. The issue is how we deal with terrorists or people with criminal intent or who have a history of criminal activity who threaten our Nation by coming into our country. Either way, these are individuals who really should not be coming into our country.

Back in the nineties, as chairman and ranking member of the Commerce-Justice-State Appropriations Subcommittee, we began funding a major effort by the Federal Bureau of Investigation to organize its fingerprint database, called IAFIS. At the same time, the Immigration and Naturalization Service, now part of the Department of Homeland Security, was beginning to set up a fingerprint database for people coming into the country, called IDENT.

The problem has arisen that these two fingerprint databases do not communicate with each other. This, of course, was a function of history. In the nineties when the FBI was setting up IAFIS, which has now grown to 44 million identifying fingerprint records, their purpose was to create a national repository of criminal fingerprint records to identify a person who com-

mitted a crime by their fingerprint match with the system and to assist local law enforcement efforts to do the same. It was a law enforcement tool.

The INS, when it began its system in the nineties, was basically trying to find people who were illegally coming into the country or who had been deported and had criminal backgrounds. The purpose was also for law enforcement but a different type of law enforcement. They were not looking for people who actually committed a crime. They were looking for people coming into the country who should not be coming into the country because of their background.

These two protocols were set up independent of each other. We noticed this in our committee in the late nineties and directed the two organizations to integrate their fingerprint identification systems. This was done by the Commerce-Justice-State Subcommittee, which I and Senator HOLLINGS chaired off and on during that period. We exchanged chairmanships, depending on the control of the Senate, but our policies were exactly the same.

We directed in the late nineties that these two agencies begin to integrate their fingerprint databases. It was pretty obvious to me and Senator HOLLINGS at that time that this was important not from a law enforcement standpoint, but from an antiterrorism standpoint, and that is what drew us in this direction.

Regrettably, that was not accomplished. Today we are in a situation which is extraordinarily inappropriate and, to some degree, ironic if it were not so sad and unfortunate. And that is that the FBI is sitting over here with 44 million fingerprints of people we know have a background that required them to be fingerprinted and, therefore, maybe we have some issues with them. We know within that 44-million-person database there are at least 12,000 individuals who are identified as terrorists. We know the FBI has this IAFIS database which we have spent \$1.1 billion—billion dollars—to put in place. Our committee has funded this over the years.

It had some fits and starts. It took the FBI a while to get it going right but now they have it set up. Then we know Homeland Security, which has now taken over INS, has the IDENT Program, which is the baseline for something called the US VISIT Program, which is a fingerprint program, the purpose of which is to fingerprint people coming into the United States for identification and have a database of those people.

What we also know is these two major fingerprint databases do not talk to each other. So if someone is coming into our country who is a terrorist with fingerprint records in the FBI's IAFIS database, and they are fingerprinted as they would be required to be to get a visa to come into this country, that fingerprint they had for the visa would not show up in the FBI

database as a terrorist because the systems cannot communicate. The databases of IDENT and US VISIT, which is being set up, are not structured to communicate with the FBI database.

In the late 1990s, as I mentioned, our committee directed these two databases start to be integrated and figure out some way to communicate. There was minor progress made in this effort, and a lot of money put into it, over \$41 million. Yet the reorganization of the Homeland Security Department, which took INS out of the Justice Department, created an atmosphere which was not maybe so convivial to the two groups communicating with each other. Also, the INS has a different goal, which is to move people quickly through the fingerprinting process. Therefore, they only use as their fingerprinting system the fingerprints of two flat digital fingerprints of the index fingers. By using the 2-fingerprint system, they can move people through their identification process very quickly, and that is important at a border entry from the standpoint of making the border entries tolerable to individuals to go through. The INS therefore was not willing to go to a roll process of all 10 fingerprints, which would require a great deal more time. The FBI, however, because it is interested in a more intensive capacity to review the fingerprints, has something called rolled fingerprints of all 10 fingerprints.

So today we still have 44 million fingerprints which have no relevance, for all intents and purposes, to who is coming in and who is leaving our country because DHS is only fingerprinting individuals in a manner which is not compatible with the 10-fingerprint procedure of the 44-million-person database.

Now some folks in the administration appear to be aware of this problem and are talking about it. There are a number of things that have been done, and I want to acknowledge them for having done some things. Every 2 weeks they are extracting certain fingerprint records from IAFIS to IDENT, including certain wanted individuals and potential terrorists. Those 12,000 terrorists I mentioned in IAFIS is now supposedly in the IDENT system and accessible to the US VISIT Program. There is an attempt to get NIST, which is the organization which has the capacity to technologically address this issue, to take a look at this issue to see if there is not some way to cross-reference these records. Even under the most optimistic game plan, however, it is now the position of the administration it will not be until 2008 that they are able to integrate IDENT and IAFIS, assuming they are able to integrate them at all. To make them compatible, most likely it will mean DHS will have to go from a 2-fingerprint system to an 8-fingerprint system, digital flat fingerprints.

We need to focus on this as a government. This is one of those situations

where one learns about it and understands it and says, why is this happening?

We understand the history of it. As I mentioned, the history is INS and FBI had different purposes for their fingerprint systems when they set up these two major databases. Those two purposes have been totally overshadowed and left in the wake as a result of September 11. The FBI no longer has as its primary function catching people after they commit a crime. The FBI's primary function now, although maybe they do not totally appreciate this, is they are supposed to catch people before they commit a terrorist act. They are supposed to be an intelligence agency. That is their primary purpose, to find out who is going to harm us and get to them before they get to us. They have this huge resource of 44 million fingerprints of people who are potential problems, and it should be a resource, but is instead just sitting there. If someone commits a bank robbery or a Federal crime, it is still a very functional database, but for the primary purpose of the FBI, which is intelligence in anticipation of terrorist threat, it is not very functional at all.

Then there is the INS which set up the IDENT system under the theory that people were repeatedly entering the country illegally and in some cases after they had been deported and they wanted to get them out of the country or they wanted to know who they were. They did not see them as terrorists back in the 1990s. They set up a system to address that. Now they have such a system and they are adding to it the U.S. VISIT system. That system is set up in a manner which, yes, expedites people through our borders, which I appreciate is important, but, no, it does not tell anybody at DHS whether that person who just got through the border, having been fingerprinted with the two index fingers, is in the FBI database as a terrorist or a criminal, unless that name happens to have been moved over to IDENT as a result of basically a manual decision.

We cannot afford that historic anomaly to continue. We cannot continue to have these two systems which do not communicate. It is my hope the administration, again working with the various technical experts who are out there—and I suspect they have to be independent of these two agencies because these two agencies have vested interests which cause them to dig in their heels on occasion—that somebody will sit down and say merge these databases and do it before 2008. I hope they will come up with some system which allows us to do that.

As an appropriator, I know this is going to cost a lot of money. I suspect Senator HOLLINGS would agree with me on this, and I know Senator BYRD would because it is a big issue for him and Senator STEVENS too, who are the chairman and ranking member of the committee, I am willing to put in whatever money is necessary in order

to accomplish this integration on a faster timeframe than 2008 because we need it done. I hope the administration will pursue this effort.

Fingerprint compatibility is an issue that affects all Americans. It relates to counterterrorism and protecting our borders; ensuring that taxpayer resources are not squandered; and ensuring that Federal agencies actually work as a unified Government rather than a set of fiefdoms. The issue is fingerprints how they are taken, processed, and accessed.

The Department of Homeland Security, DHS, has started a new initiative, US VISIT, to better control who is coming into the country and tracking them once they have arrived. The plan calls for the collection of personal data, photos, and fingerprints by the Department of State at U.S. consular offices abroad and by the Department of Homeland Security at our ports of entry. The fingerprints taken will be 2 "flat" fingerprints, a simple, one-touch of the index finger of each hand.

Those 2 flat fingerprints, however, cannot be searched against the 44 million contained in the FBI's national repository of fingerprints of terrorists, wanted individuals, and of convicted criminals. That is because the repository, known as IAFIS, contains 10 "rolled" fingerprints, a more complete capture of each finger.

If the purpose of US VISIT is to better determine who should enter the country, what is more important than knowing if they are terrorists or criminals?

This is not a new problem. For nearly 15 years, the Immigration and Naturalization Service, INS—now the Department of Homeland Security—and the Federal Bureau of Investigation, FBI, have been developing and operating separate and incompatible fingerprint-based identification systems. INS has IDENT, which takes 2 flat prints and was created to identify repeat immigration offenders and deported aliens who should be detained and prosecuted. FBI has IAFIS, which takes 10 rolled prints and was created to automate the FBI's paper-based fingerprint identification system of criminal records. Without integration if you check IDENT, you do not have access to the prints of all criminals. If you check IAFIS, you do not have access to immigration law violators.

We raised this issue as early as 1999. In the fiscal year 2000 CJS appropriations conference report, we directed the Department of Justice, DOJ, to develop a plan to integrate the INS and FBI systems. Five years later, the effort "remains years away" according to a March 2004 report by the DOJ Inspector General.

Each year, millions of aliens are apprehended trying to illegally enter the United States. Many are voluntarily returned to their country of origin without further action. Some, however, are detained for prosecution if suspected of: multiple illegal entries, a

prior deportation, a current arrest warrant, an aggravated criminal record, or alien smuggling.

Before IDENT, INS had difficulty verifying identities of the apprehended aliens. False names and spelling errors were common making it difficult to check for immigration or criminal histories. An automated fingerprint identification system was the obvious solution. It provided a faster, unique biological measurement for individuals. Funding was first provided to develop IDENT in fiscal year 1989.

At about the same time, in 1990, the FBI began to overhaul its paper-based fingerprint card system. The FBI had maintained a central repository of tenprints of criminal offenders' fingerprints since the 1920's. The FBI wanted a system that would allow for electronic searches for fingerprint matches against criminal histories, wanted individuals, as well as stolen articles, vehicles, guns, and license plates. Over \$1.1 billion has been spent on building and maintaining IAFIS to date. IAFIS now contains over 44 million criminal records, including 12,000 terrorist records.

From 1990-1994, INS and FBI discussed integrating their systems, but they had conflicting priorities and interests. INS focused on the need to process apprehended aliens quickly and therefore only wanted to take 2 fingerprints. FBI wanted INS to take 10 fingerprints so they could match apprehended aliens against the ten fingerprint records in the law enforcement databases or latent fingerprints obtained at crime scenes.

There were also capacity concerns. FBI did not know if their system would have the capacity to meet INS's high volume of fingerprints in a quick response time. FBI did not believe their system would be able to search and match 2 fingerprints against 10 fingerprints in a timely manner.

By 1994, INS began proceeding with its separate system, IDENT. IDENT was developed to match 2 fingerprints of detained individuals against fingerprints in two IDENT databases: 1, apprehension database: includes each recorded apprehension of illegal border crossers; and 2, lookout database: contains information on deported and criminal aliens and therefore ten-print cards.

Problems with IDENT quickly emerged. A March 1998 Inspector General report found INS was enrolling less than two-thirds of the aliens apprehended into the IDENT system; INS was only entering 41 percent of all aliens deported into the IDENT lookout database; the data entered into the system was of poor quality because employees did not have sufficient training.

In 1999, the case of Rafael Resendez-Ramirez reemphasized the need for the integration of IDENT and IAFIS. Resendez-Ramirez was apprehended by INS for an immigration violation in June 1999 and was voluntarily returned

to Mexico because INS was unaware that he was wanted for murder. Shortly after his voluntary return, he returned to Oregon and committed four more murders. Had IDENT been linked to IAFIS, immigration officials would have known Resendez-Ramirez was wanted for murder, had an extensive criminal history and prior deportation, and could have detained him for prosecution.

That year, in the fiscal year 2000 conference report, the CJS Appropriations Subcommittee responded by directing DOJ to prepare a plan for the integration of IDENT and IAFIS databases and fingerprint systems.

DOJ submitted a plan for integration in March 2000. The plan focused on conducting several studies to determine the impact, scope, and technology needed to integrate the two systems.

Good news is the project has slowly moved forward.

Records are now extracted from IAFIS and added to IDENT every 2 weeks, including those of wanted persons likely to be picked up by immigration officials, birthplace outside of U.S. Over 140,000 wanted individuals have been downloaded into IDENT. There are, on average, 400 hits per month, meaning 400 apprehended aliens have active wants or warrants for their arrest. There are also over 12,000 fingerprint records of known or suspected terrorists extracted from IAFIS and put into IDENT.

A workstation has been developed and deployed to DHS field sites, border patrol stations and ports of entry, that has a ten print scanner that can capture ten rolled prints; and a computer that can simultaneously search IDENT and IAFIS and provide an integrated response from both systems.

The CJS appropriations subcommittee provided \$1 million in fiscal year 2003 for National Institute for Standards and Technology, NIST, the Federal agency charged with establishing fingerprint standards, to research fingerprint search compatibility. Preliminary results show 8 flat prints can be searched against 10 rolled prints with the same accuracy as 10 rolled prints, but the search takes 2-3 times longer. Compare that to 2 flat prints, in which case the search has an "unacceptable reduction in identification accuracy" and takes 35 times longer.

The bad news: 5 years have passed and \$41 million has been provided and the systems are still not integrated. Extracting a sampling of IAFIS information every 2 weeks is not enough.

Wanted individuals who are apprehended by DHS could be mistakenly returned to their country of origin if their warrants are submitted to IAFIS during the 2 week lag time. DOJ and DHS claim they will begin to extract information daily, but it is unclear when, how and whether that can happen. Even daily extracts cannot substitute real-time information or full interoperability.

The extracts do not include criminal histories. The need for criminal histories was made apparent in the 2002 case of Victor Manuel Batres. In that case, Batres was deported following a conviction for an aggravated felony. Batres reentered, but information about his deportation was not known because the systems are not integrated, and he was voluntarily returned to Mexico. He illegally entered the country again, at which time he raped two nuns, resulting in the death of one of them. Had IDENT and IAFIS been integrated, the immigration officials would have had immediate access to Batres' deportation and criminal history, and could have detained him for prosecution, thereby saving lives. Reentry after deportation alone can carry up to 20 years imprisonment.

Workstations are only a one way solution. Workstations give DHS access to IAFIS, but they do not give law enforcement access to immigration records. FBI and State and local law enforcement believe there are situations that require access to immigration records, such as: Fingerprints captured at a crime scene cannot be checked against immigration violators; and an individual can apply to a sensitive position, security at a nuclear power plant, and there is no way to verify his or her country of birth or immigration history.

Workstations are only partially deployed. Two hundred and ninety-three workstations have been deployed to only 115 DHS field sites, which means less than one-third of DHS' field sites have workstations. It is unclear whether there is a plan to deploy workstations at the remaining field sites.

The administration has no timeline to move to capturing 8 flat prints. Eight flat prints would significantly improve the chances of interoperability.

The bad news also is that any plans for integration have been delayed at least 2 years, with final deployment now not expected until August 2008 due to fear that the Government could not absorb the impact of integration, the increases in detention, prosecution and imprisonment of aliens. There is no agreement between DOJ and DHS on how to collectively proceed with IDENT/IAFIS integration. Personnel and resources were diverted from IDENT/IAFIS integration to build US VISIT.

Now, DHS is creating its new system, US VISIT, with the same traps as IDENT and then some. Problems are already apparent. US VISIT has not been fully defined. No policy has been identified for Mexico and Canada or the "exit" aspect of the program, for example, will U.S. citizens be checked every time they leave the country. US VISIT was built on IDENT because that was the only way DHS could meet its December 2003 deadline to deploy the program. That means US VISIT continues to capture only 2 flat prints and is not

interoperable with IAFIS. There has been no mention of whether and how IAFIS would access the US VISIT fingerprint records. It is unclear whether IDENT alone is robust enough to handle the additional workload that comes with US VISIT.

The State Department, whose job it is to take the photos and fingerprints of visa applicants, appears to be on track to meet the October 26, 2004 deadline to enroll 2 flat prints of all visa applicants between the ages of 14 and 79 at all 211 posts. However, there has been some question regarding the quality of the fingerprint images the State Department is enrolling, which we are looking into.

In summary, knowing the background of individuals entering the United States is our first line of defense against terrorism. We have spent hundreds of millions of dollars to build a criminal database, IAFIS, and should take full advantage of the information it contains. The administration should make the integration of IDENT and US VISIT with IAFIS a number one priority. These agencies must work together to determine what is needed to integrate these systems. The administration should submit a statement of policy and a plan, agreed to by FBI, DHS, and State, which provides the technology and funding requirements as well as a time line for integration.

The PRESIDING OFFICER. The Senator for North Carolina.

#### THE ADMINISTRATION IS SUCCEEDING IN IRAQ

Mrs. DOLE. Mr. President, I want to address the repeated attacks towards the Bush administration's role in Iraq. Yesterday, one critic claimed that our unilateral policy in Iraq has steadily drifted from tragedy to tragedy and made America less safe. The very mention of Iraq and the current situation there incites what I have begun to call the "liberal naysayers" to launch into steady streams of empty rhetoric against our plans in Iraq. Just this week these critics said that our troops are paying the price for flawed policy. These brazenly political claims have no basis, in fact, and serve no purpose other than to undermine the administration in a time of war.

In liberating Iraq, we have rid the nation and the rest of the world from the danger of Saddam Hussein. 46 of the 55 of his most wanted regime members have been captured or killed. In removing this tyrant from power and undermining his regime, we have brought about increased security in a nation that at one time barely comprehended the term. Today, over 150,000 Iraqis, including 75,000 new police personnel, are protecting the Iraqi people. Recently the Iraqi Governing Council signed the Transitional Administrative Law. This unprecedented framework promises long overdue civil rights for all Iraqis. It ensures freedom of religion and worship, the right to free expression, the