

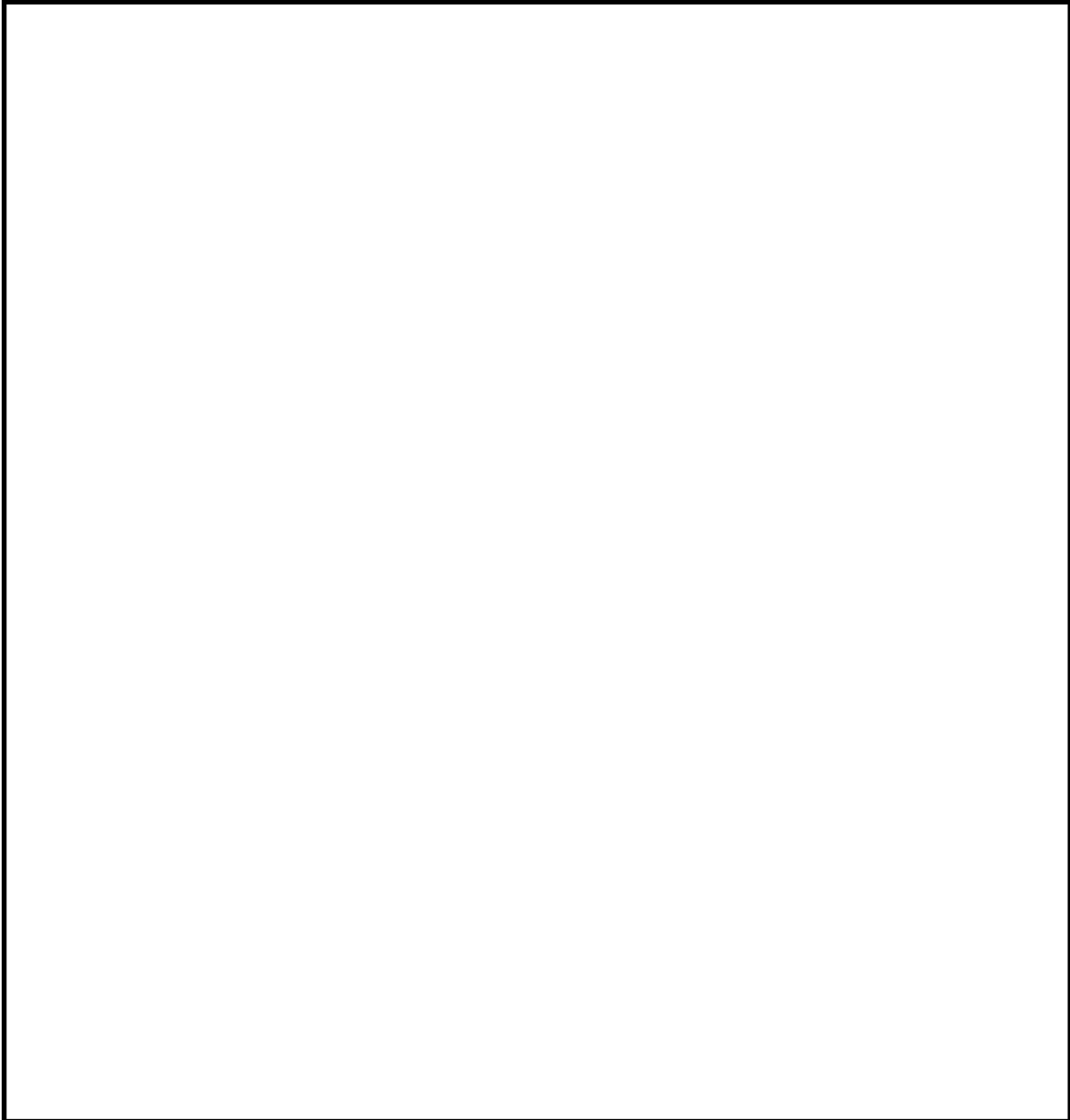
HEARING OF THE SENATE JUDICIARY COMMITTEE

- **SUBJECT: OVERSIGHT OF THE FBI**
- **WITNESS: FBI DIRECTOR ROBERT MUELLER**
- **CHAIR BY: SENATOR PATRICK LEAHY (D-VT)**

226 DIRKSEN SENATE OFFICE BUILDING, WASHINGTON, D.C.
10:03 A.M. EDT, WEDNESDAY, SEPTEMBER 16, 2009

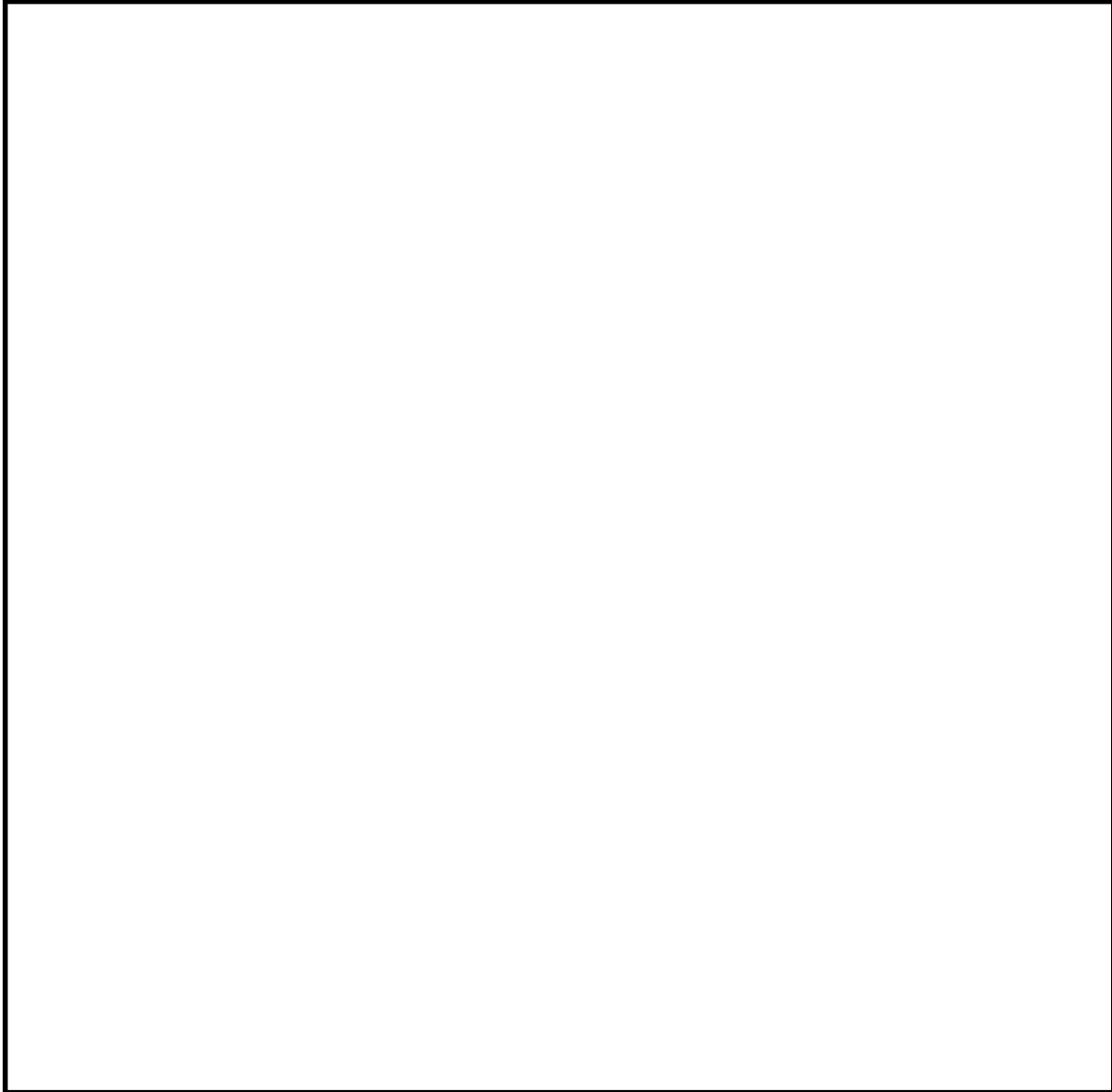
Outside the Scope

SEN. LEAHY: Good morning. I always hate to rush the photographers. If I do this wrong, I hear about it at family gatherings. And the photographers understand what I'm talking about.



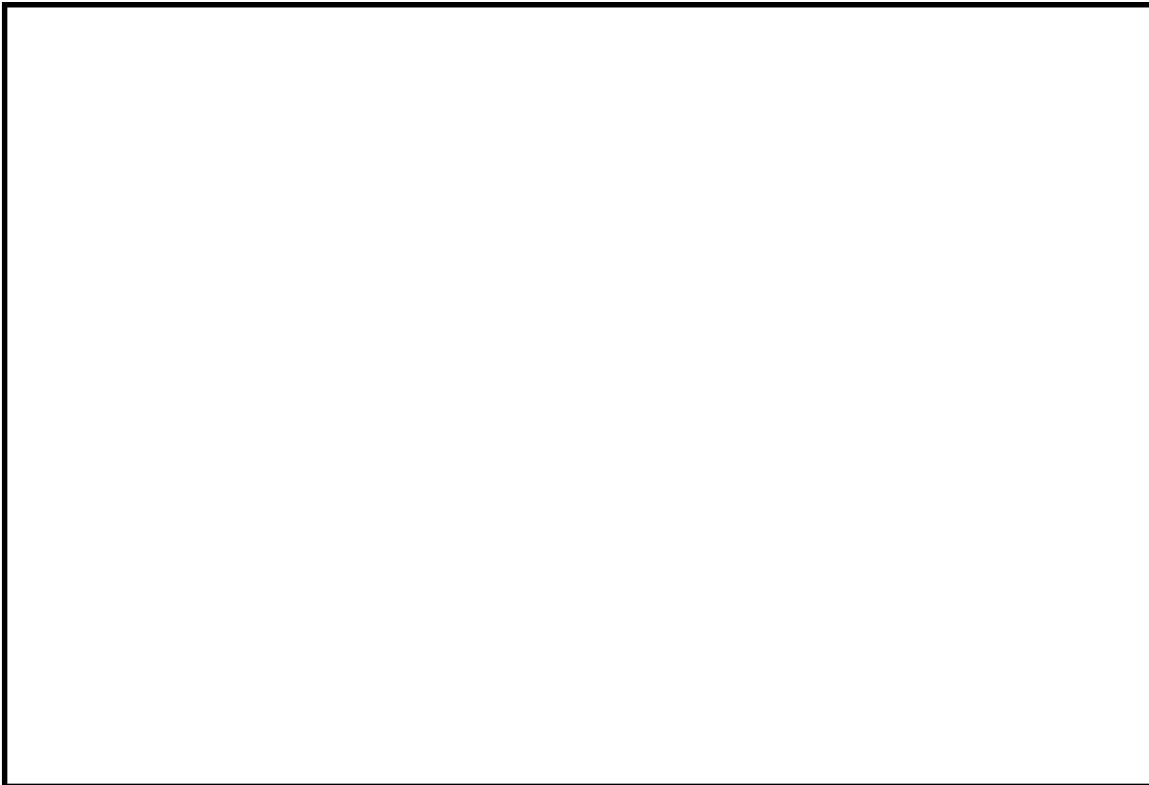


I've also closely tracked the use of Section 215 of the original Patriot Act, which authorized an order for business records. I've long believed that greater oversight of this section is required, including broader access to judicial review of the non-disclosure orders that are so often issued with Section 215 demands for records.



.....

SEN. LEAHY: When Congress included in the 2006 Patriot Act reauthorization, we had a requirement that the Justice Department's Office of Inspector General conduct audits and reviews of the use of national security **letters** authority in Section 215, Orders for Business Records.



PANEL I OF A HEARING OF THE SENATE JUDICIARY COMMITTEE

■SUBJECT: REAUTHORIZING THE PATRIOT ACT

■WITNESSES: DAVID KRIS, ASSISTANT ATTORNEY GENERAL, NATIONAL SECURITY DIVISION, DEPARTMENT OF JUSTICE; GLENN FINE, INSPECTOR GENERAL, DEPARTMENT OF JUSTICE

■CHAIRMAN BY: SENATOR PATRICK LEAHY (D-VT)

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10:00 A.M. EDT, WEDNESDAY, SEPTEMBER 23, 2009

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SEN. LEAHY: It's here.

Glenn Fine is well known, of course, to this committee. He served at the Department of Justice inspector general since 2000. He's been a number of the Office of Inspector General since 1995.

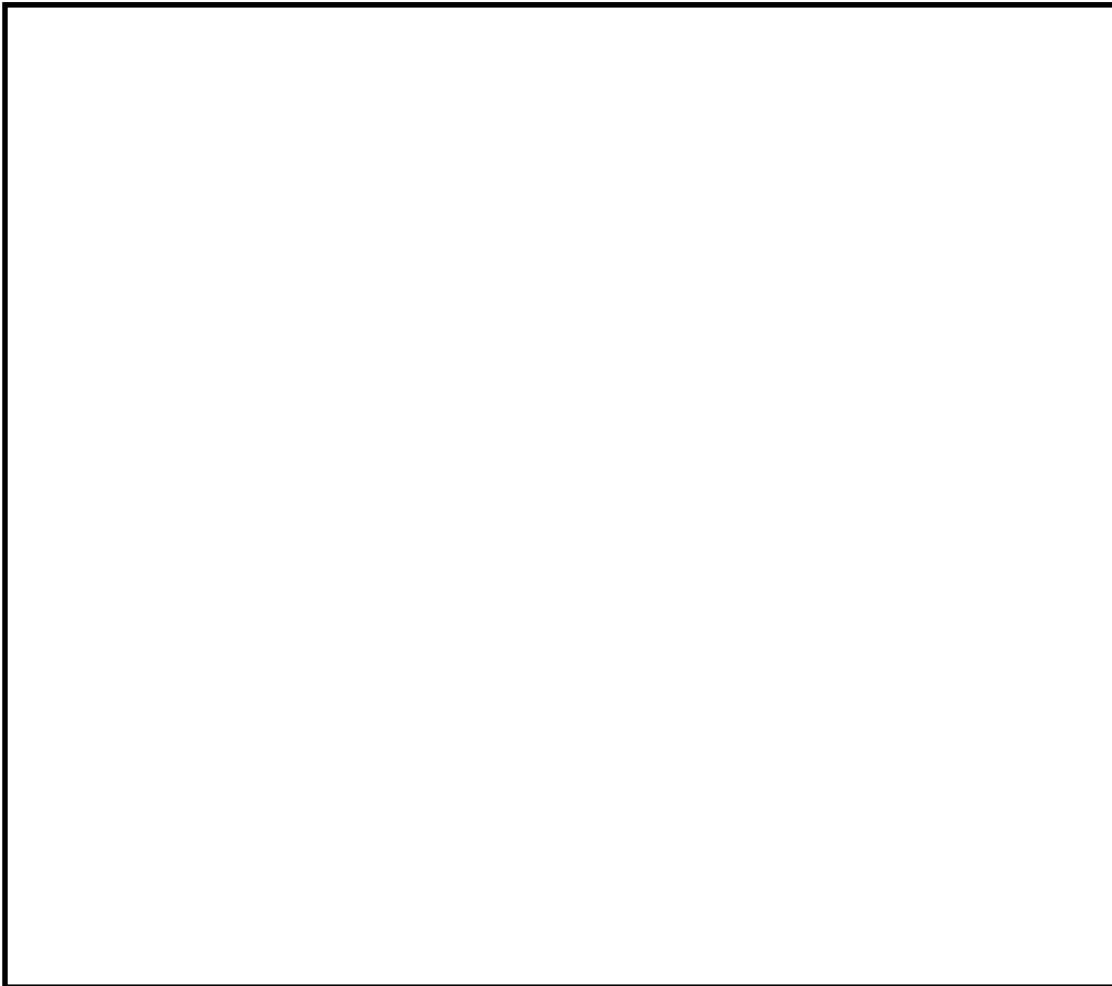
His office conducted comprehensive audits of Section 215 of the Patriot Act, for the use of national security **letters**. These audits, which are combined in a number of other reports issued by his office, represent really the largest portion of the public reporting on the use of surveillance authorities.

ACLU Sect. 215-695

Mr. Fine, glad to have you here. Go ahead, please.

MR. FINE: Mr. Chairman, Ranking Member Sessions, members of the committee, thank you for inviting me to testify about the Office of the Inspector General's work related to the Patriot Act.

Our most significant reviews have focused on the FBI's use of national security **letters** and Section 215 orders. Pursuant to the Patriot Reauthorization Act, in March 2007 and March 2008, we issued reports examining the FBI's use of these two authorities, and I will focus my testimony on our findings from those reviews.



With regard to the use of Section 215 orders, the OIG examined and issued two reports on the FBI's use of these orders to obtain business records. While used much less frequently than NSLs, the FBI believes that the Section 215 authority is essential to national security investigations because it is the only compulsory process for certain kinds of records.

Our reviews did not identify any illegal use of Section 215 orders. However, our second report does discuss a case in which the FISA Court twice refused to authorize a Section 215 order based on concerns that the investigation was premised on protected First Amendment activity. The FBI subsequently issued NSLs to obtain information about the same subject based on the same factual predicate, even though the NSL statute contains the same First Amendment caveat as the Section 215 statute.

FEDERAL BUREAU OF INVESTIGATION
FOIPA
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