

**Testimony of Mary Lee Warren
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**Before the Subcommittee on Oversight and Investigations
Committee on Financial Services
United States House of Representatives**

Chairman Kelly, Ranking Minority Member Gutierrez, members of the Subcommittee, I am honored to appear before the Subcommittee on Oversight and Investigations of the House Financial Services Committee to address our progress on the financial front of the ongoing war on terrorism. As a Deputy Assistant Attorney General of the Criminal Division, I appreciate the opportunity to provide you with a summary of the Department of Justice's efforts in this endeavor, including information developed by the FINANCIAL REVIEW GROUP or FRG, an interagency task force supporting the Federal Bureau of Investigation's Counterterrorism Division, as well as the Department's actions to implement the authorities set forth in Title III of the USA PATRIOT Act, also known as the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001.

Initially, I would like to thank the members of this Subcommittee and Congress for their prompt response to the terrorist threat posed to the United States and all civilized countries. The USA PATRIOT Act provided those of us whose mission it is to protect the people of the United States with a wide array of new measures that will serve to enhance our ability to carry out this work. We welcome the new authority granted by the USA PATRIOT Act and are committed to using our new powers in a vigorous but responsible manner.

As the members of this Committee are well aware, our country faces an extraordinary and grave threat to its national security and the safety of our citizens. As a result of the horrific

acts of September 11, 2001, in which over 3,000 innocent civilians were murdered by terrorists in New York City, in Pennsylvania and at the Pentagon, the United States is actively pursuing a world-wide anti-terrorism campaign today. Osama bin Laden has told the world that “the battle has moved inside America.” Let there be no doubt: He and the forces of al Qaeda and other terrorist groups intend to continue their heinous acts of terrorism.

Accordingly, preventing future terrorist attacks and bringing terrorists to justice are now the top priorities of the Department of Justice. Law enforcement is currently engaged in a cooperative effort to identify, disrupt and dismantle terrorist networks. Terrorism requires financing and terrorists rely on the flow of funds across international borders. To conceal their identities and their unlawful purpose, terrorists exploit weaknesses in domestic and international financial systems. As the members of this Subcommittee can appreciate, curtailing terrorism requires a systemic approach to investigating the financial links to the terrorist organizations.

On September 24, 2001, less than two weeks after the terrorist attacks, Attorney General John Ashcroft appeared before the House Judiciary Committee, and then on September 25th, before the Senate Judiciary Committee to testify about the Administration’s proposed anti-terrorism and money laundering legislation. In particular, the Department of Justice encouraged the prompt adoption of the Administration’s bill because it was necessary to update our money laundering laws.

Due in great part to important work done by the House of Representatives and the Committee on Financial Services, Congress responded expeditiously, enacting a major part of the Administration’s proposal. On October 26, 2001, the USA PATRIOT Act was enacted, which included as Title III, the International Money Laundering Abatement and Financial Anti-

Terrorism Act of 2001. Title III of the USA PATRIOT Act has provided law enforcement with important new authority to investigate and prosecute the financing of crime, including terrorism.

Among the many new provisions of the USA PATRIOT Act is the authority to seize and forfeit terrorist assets, both foreign and domestic, if the property (or its owner) is involved in, related to, or used in support of acts of domestic or international terrorism. The new law also furthered our ability to fight transnational crime by making the smuggling of bulk cash across our border unlawful, adding terrorism and other offenses to the list of racketeering offenses, and providing prosecutors with the authority to seize money subject to forfeiture in a foreign bank account by authorizing the seizure of such a foreign bank's funds held in a U.S. correspondent account. Other important provisions expanded our ability to prosecute unlicensed money transmitters, provided authority for the service of administrative subpoenas on foreign banks concerning records for foreign transactions, and allowed law enforcement more immediate access to reports of currency transactions in excess of \$10,000 by a trade or business. These provisions will prove to be powerful new weapons in our fight against international terrorism as well as other kinds of international criminal activity.

The financial aspects of U.S. anti-terrorism initiatives

I would like to offer you a brief summary of the Department's work to date using our present money laundering laws against terrorism. I am not, of course, at liberty to disclose information that might compromise or undermine ongoing criminal investigations; however, I will be able to offer a list of areas in which the Department of Justice, in conjunction with other departments and agencies, is making headway to expose terrorist financing and to promote robust cooperation with our international partners in the global war on terrorism.

Through financial analysis, we continue our work to reconstruct the web of planning and finance that supported the September 11 terror attacks, and we continue to work to detect other threats to our national security, whether by persons affiliated with al Qaeda or by other state or non-state actors who target the U.S. or its interests anywhere in the world. Moreover, we have found that, as in many other criminal cases, following the money trail not only leads to other co-conspirators, but also provides strong proof of the conspiracy, its membership, and its criminal actions.

As you know, the Attorney General has the responsibility for investigating all Federal crimes of terrorism under Title 18, U.S. Code, Sections 2332b(f) and 2339B(e)(1). The investigation and destruction of terrorist financing is a critical part of our anti-terrorism strategy, but it is just that – one aspect of our overall efforts to seek out and eliminate those terrorist organizations that are attempting to destroy us. Realizing the importance of investigating terrorist financing, within days of September 11th, under the Attorney General's authority to investigate terrorism and support thereof, the Department established the FRG, which consists of over 100 agents and analysts from the federal law enforcement community, including the Department of the Treasury and analysts from the National Drug Intelligence Center. The FRG, under the leadership of the FBI's Financial Crimes Section, is a component of the FBI's Counterterrorism Division and includes Department of Justice Criminal Division attorneys from the Terrorism and Violent Crimes Section, the Asset Forfeiture and Money Laundering Section, and the Office of International Affairs. Over the past several months, the FRG has compiled and analyzed financial information gathered by federal agents and U.S. Attorneys' Offices around the country in the course of the ongoing terrorism investigation. By collecting this information

in one location, we have created a central depository for relevant evidence – bank records, travel records, credit card and retail receipts – for financial and forensic analysis. This evidence can then be interpreted and integrated with the fuller body of terrorist evidence collected by law enforcement and others. The work of the FRG is, of course, international in scope as we continue to work with the Department of State to encourage our counterterrorism partners in other countries to follow the money trail. I fully expect the FRG will play a continuing critical role in all terrorist financing investigations.

At the same time we established the FRG, the Department created a task force of prosecutors to work with the FRG and other law enforcement entities in developing terrorist financing cases, with an emphasis on non-governmental organizations and charities that may be providing cover for terrorist activity. This Terrorist Financing Task Force, located in the Terrorism and Violent Crime Section of the Criminal Division, also includes representatives from the Criminal Division's Fraud, Asset Forfeiture and Money Laundering, and Appellate Sections, the Tax Division's Criminal Enforcement Sections, and Assistant U.S. Attorneys from Virginia, New York, and Colorado.

The Terrorist Financing Task Force and the FRG are working directly with the Anti-Terrorism Task Forces, or ATTFs, which the Attorney General created in each judicial district. The ATTFs are comprised of federal prosecutors from the U.S. Attorney's Office, members of the federal law enforcement agencies, as well as the primary state and local law enforcement officials in each district. They coordinate closely with many of the existing FBI Joint Terrorism Task Forces. The ATTFs form a national network, which is the foundation of

our effort to coordinate the collection, analysis and dissemination of information and to develop the investigative and prosecutorial anti-terrorism strategy for the country.

The efforts of the FRG, the Terrorist Financing Task Force and the ATTFs, along with the work of the Treasury Department's Operation Green Quest, have resulted in targeted law enforcement actions that are at the heart of the Administration's assault on terrorism. On November 7, 2001, the Attorney General announced a nationwide enforcement action against the al Barakaat network, including coordinated arrests and the execution of search warrants in Massachusetts, Virginia and Ohio. These actions were coordinated with the Treasury's execution of blocking actions against al Barakaat-related entities in Georgia, Minnesota and Washington State, pursuant to Executive Order 13224. More recently, on December 4, 2001, the President, along with the Attorney General and the Secretary of the Treasury, announced the designation and blocking action against the Texas-based charity known as the Holy Land Foundation for Relief and Development, alleged to be a North American "front" for the terrorist organization Hamas. These actions demonstrate that our fight against terrorist financing is a broad-based effort extending well beyond the al Qaeda network.

In addition to the coordinated shut-down of al Barakaat's operation on November 7th, the United States Attorney for the District of Massachusetts is prosecuting the principals of al Barakaat's Boston branch for operating an unlicensed money transmitting business. Between January and September 2001, while operating without a license under Massachusetts law, Barakaat North America knowingly caused the transfer of over \$3,000,000 to banks in the United Arab Emirates. On November 14, 2001, a federal grand jury in Boston returned an indictment charging Liban Hussein, the president of al Barakaat, and his brother, Mohamed

Hussein, with a violation of 18 U.S.C. § 1960 (prohibition of illegal money transmitting businesses). Mohamed Hussein has been detained pending trial, and we are seeking to extradite Liban Hussein through a request made to Canada.

There is another aspect of our terrorist financing efforts that is particularly promising. We are using computers to analyze information obtained in the course of criminal investigations, to uncover patterns of behavior that, before the advent of such efficient technology, would have eluded us. Through what has come to be called “data mining” and predictive technology, we seek to identify other potential terrorists and terrorism financing networks. In our search for terrorists and terrorist cells, we are employing technology that was previously used primarily by the business community.

We have reason to believe that terrorists have long utilized identity theft and social security number fraud to enable them to obtain employment and access to secure locations, such as airports. In addition, they have used these and similar means to obtain driver’s licenses, hazardous material licenses, and bank and credit accounts through which terrorism financing dollars are transferred. The Utah ATTF, under the leadership of U.S. Attorney Paul Warner, recently undertook a computerized data verification operation that uncovered fraud committed by some 60 persons employed in sensitive locations throughout the Salt Lake City International Airport. These efforts are part the Attorney General’s stated goal of aggressively using existing law enforcement tools and government-maintained data to bolster our national security.

As you know, in addition to United States v. Liban Hussein, et al., in Boston a number of other criminal prosecutions related to terrorism are underway. For example, in December of last year, a federal grand jury in Alexandria, Virginia, returned an indictment charging Zacarias

Moussaoui of France with six criminal conspiracy charges, each of which carries a maximum penalty of death. As the indictment alleges, Moussaoui is linked to the al Qaeda organization in part through financial connections. And, last month, a federal grand jury in Boston indicted another al Qaeda-trained operative for his attempt to destroy an American Airlines jet in December over the Atlantic, in part for a new offense created by the USA PATRIOT Act (18 U.S.C. § 1993(a) (attempted destruction of mass transportation vehicle)). One week ago today, a grand jury of the Eastern District of Virginia in Alexandria returned a 10-count indictment against John Walker Lindh. Among other counts, the indictment charges Lindh with conspiracy to murder U.S. nationals, in violation of 18 U.S.C. § 2332(b), and with providing material support to foreign terrorist organizations, in violation of 18 U.S.C. § 2339B. We will bring all available financial evidence and analytic techniques to bear in these prosecutions, as well.

The Department of Justice is also using the civil forfeiture laws to combat the financing of terrorism. While few details are publicly available at this point in time, bank accounts used by, or related to, the September 11th terrorists have been seized by the United States Attorneys in the District of New Jersey and the Southern District of New York.

We continue to work with other government departments and agencies, including the Department of the Treasury's "Operation Green Quest," in connection with the investigation and freezing of bank accounts and assets related to various organizations claiming to be charitable entities, but which have channeled funds to al Qaeda or other terrorist organizations.

In conjunction with our international partners, we have made substantial progress in the global war against terrorism. Even before September 11th, the Criminal Division was involved in efforts to attack terrorist financing on a global scale. Beginning in 1997, we played a key role

in negotiations that led to the development of the International Convention for the Suppression of the Financing of Terrorism. This Convention obligates State parties to create criminal offenses specific to terrorist financing, and to extradite or submit for prosecution persons engaged in such offenses. The Senate is to be commended for its swift action to grant advice and consent to ratification of that Convention. We look forward to working with the Congress to resolve any outstanding issues regarding the Convention's implementing legislation.

The Departments of Justice, State and the Treasury continue to play leading roles in the Financial Action Task Force against Money Laundering (FATF). Prior to September 11, the FATF adopted its 40 Recommendations on Money Laundering, which have become the global standard for an effective anti-money laundering regime, and fostered an initiative on "Non-Cooperative Countries and Territories" (NCCT), which endeavors to identify publicly the locations of the most prevalent money laundering activities in the world and the jurisdictions with the weakest anti-money laundering legal and regulatory framework. Following September 11th, FATF convened an emergency session in Washington on terrorist financing and agreed to focus its efforts and expertise on the global effort to combat terrorist financing. Attorney General Ashcroft addressed the group of international anti-money laundering experts on October 30th. At the conclusion of this extraordinary session, the FATF issued new Special Recommendations on Terrorist Financing, which, among other things, call upon all countries to criminalize the financing of terrorism and terrorist organizations, freeze and confiscate terrorist assets, report suspicious transactions linked to terrorism and impose anti-money laundering controls on non-traditional banking systems, such as hawalas. The FATF set forth a timetable for action, which requires the development of additional guidance for financial institutions on the

techniques and mechanisms used in the financing of terrorism. In connection with that timetable, on February 1, 2002, the FATF Plenary completed a global Forum in Hong Kong, attended by delegations from approximately 60 countries as well as FATF-style regional organizations and banking supervisors. Among other things, the FATF Forum called on all countries to adopt and implement the Eight Special Recommendations agreed upon at the October 30, 2001, meeting in Washington, D.C.

As you know, the Criminal Division also works extensively to provide assistance to countries that seek to improve their money laundering and asset forfeiture laws and enhance their enforcement programs. Prior to September 11th, the Criminal Division designed and presented a training course to share with foreign governments and practitioners our knowledge and expertise in rooting out terrorist financing. Since September 11th, we have placed increased emphasis on providing training and assistance to other countries to aid them in developing mechanisms to detect and disrupt financial crime. At present, we have attorneys from the Asset Forfeiture and Money Laundering Section participating as members of State Department-led interagency training and technical assistance assessment teams overseas. These teams will evaluate the various countries' mechanisms to identify money laundering and to freeze or seize terrorist assets. The assessment reports will be used to develop specific action plans for each of these countries as we provide training and technical assistance in the future.

Similarly, we have already held several training sessions on the new USA PATRIOT Act provisions for our own prosecutors and law enforcement agents. These efforts include a conference for prosecutors in December at our National Advocacy Center in South Carolina and a joint national Justice/Treasury conference last month in New York as part of the National

Money Laundering Strategy. We have additional training sessions scheduled throughout February.

Terrorist Financing

The FRG has made substantial progress in tracing financing related to the September 11th attacks as well as the financial underpinnings of Osama bin Laden's al Qaeda organization. The FRG has identified certain trends and patterns associated with the financing of terrorism, some of which I am able to share with the Subcommittee today.

To date, over 1000 search warrants have been executed and numerous subpoenas have been served seeking information on over 10,500 persons or accounts. Over 321,000 documents have been processed and over 2,450 accounts have been examined, including more than 90 foreign bank accounts. In addition, analysts have reviewed over 940 credit card accounts and scrutinized more than 13,000 domestic and foreign wire transfers. While the analysis continues, through financial information, we have established how the hijackers received their money, how and where they were trained to fly, where they lived and – perhaps most significantly – the names and whereabouts of persons with whom they worked and came into contact.

I have two charts available today. The first describes the terrorists' use of international wire transfers, an example of a formal funding mechanism. The chart depicts a series of four wire transfers from the United Arab Emirates, wired to the terrorists' Florida bank accounts, via a bank in New York, during July, August and September 2000. The four wires were in amounts that would not normally raise suspicions. The funds, totaling approximately \$110,000, were deposited in the Suntrust Bank accounts of Marwan Al-Shehhi, one of the terrorists who

hijacked American Airlines Flight 175, and Mohamed Atta, one of the hijackers of American Airlines Flight 11.

The next chart shows the terrorists' use of money service businesses to transfer unused funds back to the United Arab Emirates immediately prior to September 11th. For example, on September 8th, Mohamed Atta wired \$2,860 and \$5,000 to a co-conspirator in the United Arab Emirates; on September 9th, Waleed al-Shehri wired \$5,000 to a co-conspirator in the UAE; and on September 10th, Marwan Al-Shehhi wired \$5,400 to a co-conspirator in the UAE. As with the inbound money transfers, these are not amounts that would normally raise concerns or suspicions.

These charts describe only a few of the financial transactions associated with the September 11th terrorists. However, the scope of the FRG's mandate extends beyond September 11th. Under the Attorney General's authority to investigate terrorism and in support of the FBI's Counterterrorism Division, the FRG is analyzing records associated with terrorist financing on a global nature. At a later time, it may be appropriate to provide the Subcommittee with additional information regarding the broader aspect of the FRG's mission.

Implementation and Use of the New USA PATRIOT Act Authorities

We are working in close coordination with other departments and agencies within the Executive branch to ensure the new authorities of the USA PATRIOT Act are used appropriately and implemented consistent with congressional intent. The provisions of Title III to the USA PATRIOT Act provide important new authority to investigate financial crimes and attack those crimes on a system-wide basis, yet we remain ever mindful of our obligation to implement those authorities in a manner that protects the rights of U.S. citizens. Accordingly, shortly after enactment of the USA PATRIOT Act, the Department issued interim guidance to the United States Attorneys regarding the provisions of the new legislation, including Title III.

The Department is also working closely with other departments and agencies, particularly the Departments of State and Treasury and FinCEN, to implement the various sections of the USA PATRIOT Act. On a daily basis, there are interagency meetings chaired by the Department of the Treasury involving the drafting of implementing regulations and other guidance to ensure that the new authorities are used effectively and in a manner consistent with congressional intent.

Some of the new provisions in the Act have already been deployed with successful results. For example, the Department of Justice relied on the new civil forfeiture authority provided in the USA PATRIOT Act to seize six bank accounts in New Jersey and three in Florida related to the September 11th terrorists. On November 8, 2001, the United States Attorney's Office for the District of New Jersey obtained nine seizure warrants for bank accounts used by the terrorists based on the newly enacted USA PATRIOT Act authority codified at 18 U.S.C. 981(a)(1)(G), which provides for the seizure of all assets owned, acquired or used by any individual or organization engaged in domestic or international terrorism. Notice of the

proposed forfeiture of these accounts has been made and, not surprisingly, no one has claimed an interest in the accounts.

In addition, we recently used Section 319 of the USA PATRIOT Act to good effect. Section 319(a) provided us with a new tool to seize and forfeit criminal assets deposited into a foreign bank account through the foreign bank's correspondent bank account in the United States. This section provides that assets which are subject to forfeiture in the United States, but which are deposited abroad in a foreign bank, may be deemed to be held in the foreign bank's correspondent account in the United States. Thus, where a criminal deposits funds in a bank account in a foreign country and that bank maintains a correspondent account in the United States, the government may seize and forfeit an equivalent sum of money in the correspondent account, irrespective of whether the money in the correspondent account is traceable to the proceeds deposited in an account held by the foreign bank.

I am pleased to report that recently the use of section 319 led to the recovery of almost \$1.7 million in funds, which will be used to compensate the victims of a fraud scheme. On January 18, 2002, a grand jury in the Southern District of Illinois indicted James R. Gibson for various offenses, including conspiracy to commit money laundering, mail and wire fraud. Gibson is charged with having defrauded clients of millions of dollars by fraudulently structuring settlement agreements for numerous tort victims. Gibson and his wife, who was indicted later, fled to Belize, depositing some of the proceeds of their fraud scheme in two Belizean banks.

Our efforts to recover the proceeds at first were unsuccessful. Although the government of Belize initially agreed to restrain the assets, a Belizean court ordered the freeze lifted because

local law prohibited legal assistance to the United States because the treaty providing for legal assistance between the two countries has not entered into force. The court also prohibited the government from assisting the United States law enforcement agencies further, including providing information regarding Gibson's money laundering activities. Efforts to break the impasse failed and all the while the Gibsons were systematically looting their accounts in Belize.

Following the passage of the USA PATRIOT Act and interagency consultation, the Criminal Division authorized the use of the Section 319(a) authority. A seizure warrant was served on the correspondent bank and the remaining funds were recovered. In our judgment, this case presents a compelling example of the need for, and appropriate use of, the new authority under Section 319(a).

Although this instance involved fraud, the facts of this case demonstrate the utility of this particular tool, particularly in the area of terrorist financing. Section 319(a) is, of course, an important enhancement to the law enforcement's ability to pursue assets overseas. It is also a very powerful tool and one that can affect our international relationships. Accordingly, the Criminal Division is developing a policy to provide prosecutorial oversight regarding the use of this new provision.

Similarly, Section 319(b) of the Act provides new summons and subpoena authority with respect to foreign banks that have correspondent accounts in the United States. This section authorizes the Attorney General and the Secretary of the Treasury to issue subpoenas and summonses to foreign banks that maintain correspondent accounts with banks in the United States in order to obtain records related to the U.S. correspondent accounts. We also anticipate delegating authority to use Section 319(b) to a level below the Attorney General, but because of

the international sensitivities involved, we anticipate that the use of such authority will remain subject to departmental review and approval and interagency consultation. We are currently reviewing a proposal regarding the best way to implement this important new authority.

Earlier I mentioned that the Department is working to implement the new USA PATRIOT Act authorities with a view to balancing law enforcement effectiveness and valid privacy interests. Section 358 of the USA PATRIOT Act highlights the Department's efforts in that regard. Among the important changes made by Section 358 is an amendment to the Right to Financial Privacy Act of 1978. As you know, the RFPA places restrictions on the government's ability to obtain records from financial institutions. The USA PATRIOT Act did not change the general statutory authority or process for obtaining financial information through subpoenas or summons, but the USA PATRIOT Act recognized that, given the vital importance of prompt collection of information in fighting terrorism, RFPA procedures should not restrict letter requests by a government authority authorized to conduct investigations or intelligence analysis for purposes related to international terrorism. At this time, we are continuing to conduct financial investigations using subpoenas and summonses, but we continue to work toward implementation of this new USA PATRIOT Act authority as an effective instrument in fighting terrorism.

As described in detail earlier, Section 319 is of critical importance. This provision enhances our ability to seize and forfeit criminal assets previously beyond our reach and it provides a mechanism to obtain foreign bank records through administrative subpoenas. At present, we are implementing it in consultation with the Treasury Department and the State Department. We have plans for other provisions as well. Although still subject to the very

restrictive one-year limitation of 18 U.S.C. § 984(c), the new authority to forfeit terrorist assets, codified at 18 U.S.C. § 981(a)(1)(G), has been used effectively already, and we believe it will be of enormous importance to prosecutors. We are also confident that other USA PATRIOT Act tools, such as the enhanced ability to prosecute unlicensed money transmitters acting in violation of the amended 18 U.S.C. § 1960, and to seek forfeiture based on conspiracies to evade the reporting requirements in Title 31, will be of substantial future use in the fight against terrorism.

Conclusion

I would like to conclude by expressing the appreciation of the Department of Justice for the continuing support that this Subcommittee and the Committee on Financial Services have demonstrated for the Administration's anti-money laundering enforcement efforts.

Chairman Kelly and members of this Subcommittee, thank you for this opportunity to appear before you today. I look forward to working with you as we continue the war against terrorist financing. I would welcome any questions you may have at this time.