

Testimony of

The Honorable Sheila Jackson Lee

March 4, 2003

Good morning. Chairman Hatch, Senator Leahy, members of the Committee, thank you for inviting me to appear before you today to discuss the Department of Justice's efforts to protect America from terrorist attack. I also want to thank each of you for your support, guidance, and leadership in this mission. The Congress wisely provided many of the tools we have used in our successes, and I share the gratitude felt by our nation for your efforts.

Since September 11, 2001, the Department of Justice's overriding priority has been to lead the federal government's fight against terrorism here in America. This fight has required us to transform the Department, updating our tools and shifting our focus from the investigation and prosecution of already completed criminal acts to the prevention of further acts of terrorism. Together with the intelligence community, we have remade ourselves into our nation's "first preventers," if you will, committed to detecting, disrupting, and dismantling terrorist networks before they strike. God willing, our prevention efforts will save us the horrible burden of ever having to respond again to the kind of carnage we witnessed on September 11.

I want to assure the Committee that, as was the case with the Congress and the USA-Patriot Act, we have carefully crafted our post-September 11 policies to foster prevention while protecting the privacy and civil liberties of Americans. As I have often said, we at the Department must think outside the box, but inside the Constitution. I take seriously the concerns of civil libertarians, for I, too, believe that protecting America does not require the sacrifice of those very freedoms that make us Americans. Yet, we must remember that our nation is an experiment in what Edmund Burke termed "ordered liberty." Ordered liberty means neither license nor Big Brother. Rather, the concept embraces liberty and security as complementary, mutually reinforcing values. Without security, there is no liberty; without liberty, no security. Put another way, the concept of ordered liberty acknowledges that for liberty to thrive in America, America must be secure.

Almost without exception the courts have endorsed the Justice Department's view of ordered liberty. For instance, appellate courts have upheld the Executive Branch's authority to detain enemy combatants, close sensitive immigration hearings, and coordinate our law enforcement and intelligence activities. We have been careful in our approach, ever mindful of constitutional liberties, and we are confident that we are striking the appropriate balance.

Mr. Chairman, the Justice Department's efforts have paid enormous dividends over the past seventeen months. The September 11 investigation, the largest criminal investigation in U.S. history, moves ceaselessly forward. I assure the Committee that we will not rest until we track down and bring justice to every person involved in the September 11 attacks. Thousands of FBI Agents have participated in the investigation. They have covered more than 337,400 leads, and

produced more than 165,000 FBI 302 reports of investigation. Nearly 300 Agents and 85 Support employees have been detailed to more than 30 Legal Attache offices overseas to assist in pursuing leads and coordinating the investigation with our international colleagues. The FBI Laboratory has received more than 585 submissions of evidence from the crash sites and related searches, representing approximately 6,332 items of potential evidence. In addition to the pending Zacarias Moussaoui prosecution, to date the 9/11 investigation has resulted in criminal charges against 211 individuals, 108 convictions, and the deportation of 478 individuals.

In addition to the PENTTBOM investigation, our prosecutors and agents have used every tool at our disposal, including those provided in the USA-Patriot Act, to pursue other terrorism-related activity. Our efforts have resulted in numerous arrests, indictments, and convictions. For example, John Walker Lindh, the "American Taliban," pled guilty to providing services to the Taliban and to carrying an explosive while engaged in the commission of a felony. Lindh was sentenced to 20 years' imprisonment. And Richard Reid, the al-Qaeda "shoe bomber" who attempted to destroy American Airlines Flight 63, pled guilty to all pending charges and was sentenced to life imprisonment on January 30, 2003.

We have also disrupted [alleged] terrorist cells throughout the country.

- Six men were charged in Buffalo, New York, for providing material support to al-Qaeda. In the early summer of 2001, these men [allegedly] had participated in weapons training at a terrorist training camp in Afghanistan known to be used by al-Qaeda. While they were at the camp, Osama Bin Laden visited and delivered a speech to the trainees about anti-American and anti-Israeli sentiment and general al-Qaeda doctrine. One of the defendants has pleaded guilty and is now cooperating in the investigation.

- Four individuals indicted in Detroit, Michigan, were charged with conspiracy to engage in fraud, misuse of visas and identification documents, and providing material support to terrorists. The indictment alleges that these individuals sought to obtain false identifying information to help terrorists enter the United States, attempted to find security breaches at Detroit Metropolitan Airport, and tried to obtain firearms for terrorists to use. Their trial is scheduled to begin on March 18, 2003.

- Six individuals in Portland, Oregon, were charged with engaging in a conspiracy to join al-Qaeda and Taliban forces fighting against United States and allied soldiers in Afghanistan. Five of these individuals left the United States to travel to Afghanistan in October 2001 - after the 9/11 attacks - to join the Taliban and al-Qaeda forces battling American soldiers.

- And Earnest James Ujaama was charged in Seattle, Washington, with conspiracy to provide material support to terrorists. Mr. Ujaama allegedly designed web sites advocating violence against American interests and sought to establish a terrorist training camp at a farm in Bly, Oregon.

The Justice Department makes no distinction between those who carry out terrorist attacks and those who knowingly finance organizations. We continue to pursue financiers of terrorist barbarism as aggressively as those that actually perpetrate such horrible crimes. To date:

- The United States has designated 263 groups and individuals as terrorists or terrorist supporters.
- With our allies worldwide, we have frozen over \$124 million in assets and over 600 accounts from around the world.
- We are pursuing more than 70 terrorist financing investigations, with 23 convictions to date.
- In Detroit, we recently obtained an indictment charging 11 people with racketeering and cigarette tax evasion charges, including allegations that a portion of the illegal proceeds was intended for Hizbollah, a designated foreign terrorist organization.
- In North Carolina, a jury convicted brothers Mohamad Hammoud and Chawki Hammoud of, among other charges, providing material support to a foreign terrorist organization. The Hammouds smuggled millions of dollars worth of cigarettes from North Carolina to Michigan and funneled proceeds from such sales to the Middle East to help finance Hezbollah's terrorism.
- A federal jury in Boston convicted Mohammed Hussein on charges of running an unlicensed foreign money transmittal business - Barakaat North America, Inc. - in violation of section 373 of the Patriot Act. The al-Barakaat network was affiliated with and received financial backing from al-Qaeda.
- And recently in Chicago, Enaam Arnaout, the head of Benevolence International Foundation, pleaded guilty and admitted that he fraudulently obtained charitable donations and funneled the money to individuals engaged in violence and terrorism.

Mr. Chairman, we have also built upon close working relationships with international allies to leverage our antiterrorism efforts throughout the world. For example, in Germany recently, Mounir el Motassadeq was convicted for helping a key al-Qaeda cell behind the September 11 terrorist attacks against our nation. In response to Germany's request for assistance, the Justice Department provided information, including documents, a witness, and access to an individual in U.S. custody convicted of terrorism offenses.

Mr. Chairman, perhaps the most effective provisions of the USA Patriot Act are those that altered outdated statutory restrictions so that intelligence and law enforcement agencies have greater freedom to coordinate their efforts and to share information gathered about terrorists. One important development, with which the Act's provisions amending the Foreign Intelligence Surveillance Act (FISA) were consistent, was dismantlement of the false "wall" that had been built between intelligence and law enforcement. That wall was finally cleared away on November 18, 2002, when the Foreign Intelligence Surveillance Court of Review issued a decision endorsing the Justice Department's March 6, 2002 Intelligence Sharing Procedures. These procedures had been devised to give full effect to the USA Patriot Act.

As the Committee is aware, the Justice Department uses its FISA tools to collect intelligence information to protect our country from foreign threats, including terrorism. Of course, specific details regarding our use of FISA are appropriately classified, and I am limited in what I can say

in public about these matters. I do not want to disclose to our foreign adversaries what it is that we do to detect and thwart their activities.

We strive to use FISA as efficiently and effectively as possible, and endeavor to present applications to the Court -- each one of which the Attorney General, Deputy Attorney General, or Acting Attorney General must sign -- in a highly professional manner. We only present applications to the court that we conclude are fully vetted and are justified by the facts and the law with due regard to our obligation to protect the privacy of Americans from unwarranted intrusions.

Since 9/11, we have used FISA aggressively to obtain the information we need to protect the national security, but we have done so in accordance with the law and our ethical obligations. For example, in calendar year 2002, we presented more than 1,000 applications to the FISA court targeting terrorists, spies and foreign powers who threaten our security. In addition, we have made full use of statutory provisions that allow the Attorney General to approve FISA surveillances and searches on an emergency basis. Since 9/11, more than 170 Attorney General emergency FISAs have been authorized. By way of comparison, in the preceding twenty years, only 47 Attorney General emergency FISAs were authorized. The Act requires us to present applications to the court soon after an emergency approval, and the number of emergency FISAs increased so substantially after 9/11 that we had to seek an amendment from the Congress to give us more time to prepare the required pleadings. Even so, the substantial increase in the number of emergency and other FISAs has required the dedicated professionals who work in this area to put in long hours to ensure compliance with the law.

The benefit of this new FISA regime cannot be overstated. Today, our intelligence and law enforcement communities can coordinate intelligence and law enforcement efforts to protect the country from terrorists and foreign spies. Such coordination is vital to keeping the country safe, and several significant law enforcement actions have resulted directly from the new FISA regime. For instance, I announced just recently the arrest of Professor Sami Al-Arian and other members of the Palestinian Islamic Jihad, a designated foreign terrorist organization, following the return of a 50-count indictment by a federal grand jury in Tampa, Florida. The indictment charges a total of eight defendants under RICO with operating a racketeering enterprise from 1984 until the present that engaged in a number of violent activities. In addition, the indictment charges conspiracy within the United States to kill and maim persons abroad, conspiracy to provide material support and resources to the Palestinian Islamic Jihad, conspiracy to violate emergency economic sanctions, engaging in various acts of interstate extortion, perjury, obstruction of justice and immigration fraud. If convicted, the defendants face up to life in prison. The eight individuals named in this indictment played a substantial role in international terrorism, providing material support to foreign terrorist organizations.

Mr. Chairman, in the wake of the September 11 terrorist attacks, the need for an increased protective presence on and beyond our nation's borders has also become clear. In recognition of this need, the Justice Department quickly implemented the Patriot Act's new immigration-related tools and developed new initiatives to secure our borders and keep track of those who would come to our nation bent on doing harm. Many of these tools have just been turned over to the

new Homeland Security Department that will be headed up by Secretary Ridge. Let me take a moment to summarize some of our efforts in this area.

- Prior to its incorporation on March 1, 2003, into the Department of Homeland Security, the INS had already begun implementing the National Security Entry-Exit Registration System that Congress authorized in 1996. NSEERS requires that foreign visitors who are identified as presenting elevated national security concerns be fingerprinted using state-of-the-art digital technology. Those fingerprints are run against a database of known terrorists, wanted criminals, and convicted felons. NSEERS registrants are also required to report to an immigration office after 30 days to verify they are doing what they said they would do and staying where they said they would stay. And finally, they are required to confirm their departure when they leave the country. As such, NSEERS is the crucial first step in fulfilling the Congressional mandate to develop a comprehensive entry-exit system 2005.

The NSEERS program has already yielded impressive success in the war against terrorism and in the enforcement of our immigration laws. Thus far, NSEERS has allowed immigration officials to track the entry, exit, location, and activities of more than 81,000 foreign visitors from 149 different countries. To date, NSEERS has led to the apprehension of 8 suspected terrorists and over 500 other aliens at the border who presented law enforcement threats. This includes aliens who have committed serious felonies in the United States in the past and are inadmissible, aliens with fraudulent documents, and individuals who had previously been deported.

- The FBI for a long time had been sharing information in its NCIC files with immigration officials and the State Department so that those agencies can determine whether a visa applicant has a criminal history record. Consistent with the Patriot Act, the FBI is now providing such information to the agencies in extract form, which immigration officials and the State Department can download into their databases. In addition, I have directed that all of the Department's investigative components include in the NCIC database the names, photographs, and other identifying data of all known or suspected terrorists.

- Pursuant to section 416 of the Patriot Act, we have implemented and expanded the foreign student visa monitoring program known as the Student and Exchange Visitor Information System. SEVIS enables schools to electronically transmit student data to immigration offices and the State Department so that immigration officials will be able to take appropriate action when a student visa holder falls out of active student status. SEVIS became fully operation in January of this year.

- Finally, immigration officials have given effect to the Patriot Act's mandate by quickly working to install the Integrated Intelligence Surveillance System at 55 northern border sites. When this computer-aided detection system is completed ISIS will provide 24-hour-a-day, 7-day-a-week, border coverage through ground-based sensors, fixed cameras, and other technology.

Recognizing that many terrorists use false immigration and identification documents, the Justice Department has cracked down on document fraud across the nation. In Maryland, for example, Rasmi Subhi Saleh Al Shannaq, former roommate of two of the September 11 hijackers, was arrested by INS and Joint Terrorism Task Force agents. This apprehension led to 45 arrests in a

visa fraud scheme. In Virginia, Luis Martinez-Flores and Herbert Villalobos pled guilty to fraud for helping hijackers obtain identification documents. And approximately 1200 airport workers have been charged with falsifying documents and violating immigration laws as the result of investigations conducted at more than 45 airports nationwide.

Mr. Chairman, as you can see, the Justice Department has taken every possible step, used every tool at its disposal, and employed every authority under the law to prevent acts of terrorism and to protect innocent American lives. I assure you that we will continue to fulfill our duty with enthusiasm, and with a profound respect for this country's tradition of civil rights and liberties.

Before closing, I want to thank FBI Director Mueller and the men and women of the FBI and the Department of Justice for their tireless work to defeat terrorism and defend freedom. I also want to thank Director Tenet and Secretary Ridge for their teamwork and dedication to the American people. And finally, Mr. Chairman, I want to thank you very much for your unwavering leadership on these important issues. I know I speak for my fellow panelists in saying that this hearing affords us a valuable opportunity to assure the American public that its public servants are doing everything in our power to protect our nation.

I would be pleased to respond to your questions.