

Testimony of
The Honorable Paul McNulty

October 21, 2003

STATEMENT OF
PAUL J. McNULTY
UNITED STATES ATTORNEY
EASTERN DISTRICT OF VIRGINIA

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

PRESENTED ON

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Mr. Chairman and Members of the Committee: As the United States Attorney for the Eastern District of Virginia, I am privileged to serve the public and to lead a talented staff in a district on the front lines of the domestic war against terrorism. It is also my privilege to appear before you today to discuss the important anti-terrorism initiatives my office has undertaken. This is obviously an extremely important topic, and I commend you, Mr. Chairman, for holding this hearing.

I. Introduction

Attorney General Ashcroft has directed every U.S. Attorney to be pro-active and comprehensive in this effort. In EDVA, we have developed a detailed strategic plan for carrying out our anti-terrorism responsibilities.

Shortly after I became U.S. Attorney, we established six strategic objectives and dozens of specific cases, projects and initiatives for accomplishing our objectives. The six objectives are:

1. Identifying terrorist threats through the use of available federal law enforcement tools;
2. Discovering and eliminating material support to terrorists, particularly financial support;
3. Restoring the integrity of our identification, financial, and immigration systems by prosecuting identity document fraud, immigration fraud, and financial crimes;
4. Protecting the critical infrastructure in EDVA. (Ensuring the security of airports, ports, power plants, electronic communications and data.)
5. Prosecuting those suspected of supporting, planning, or executing terrorist acts, such as Zacarias Moussaoui.
6. Protecting our national security information and sensitive technology.

To assist in the pursuit of these objectives, I established a Terrorism and National Security Unit in EDVA with more than a dozen AUSAs. These experienced prosecutors are bringing strategic prosecutions designed, not only to bring wrongdoers to justice, but also to disrupt and hinder the ability of terrorists to gain a foothold here in the United States. The focus of the new Terrorism

and National Security Unit is on making it more difficult for terrorists to operate in the United States, thereby preventing any future attacks.

II. Prosecuting Terrorists and Those Who Support Terrorists

The Senate voted to confirm my nomination as U.S. Attorney on September 14, 2001 - just 3 days after the September 11 attacks against our country. Needless to say, I joined the office at a time when everyone was in high gear. Along with our colleagues in the Southern District of New York and the Criminal Division, we began sorting through the evidence and putting together what had happened. Eventually, we brought charges against Zacarias Moussaoui in connection with the al-Qaeda attack on the United States. The Moussaoui case is on-going, and, if we prevail on the current appeal, we are confident that Moussaoui will be convicted of all of the charges against him.

In addition to the Moussaoui prosecution, EDVA has handled several other cases involving terrorism or support of terrorism. For example, John Walker Lindh, the so-called "American Taliban" was prosecuted for providing material support to a designated terrorist organization. The Lindh case was successfully completed with a guilty plea, a 20-year sentence of imprisonment and important cooperation. In May of this year, truck driver Iyman Faris pleaded guilty in our district to conspiracy to providing material support to al-Qaeda. He admitted to providing information to al-Qaeda regarding a major bridge in New York City, which was a potential target of attack, as well as other potential targets.

We have learned a great deal from these cases. We have developed excellent working relationships between attorneys in EDVA, other U.S. Attorney offices, and Main Justice. The Department now has a cadre of experienced prosecutors ready to serve if and when the need arises.

This morning, I would like to go into more detail on our objectives of identifying terrorists and disrupting their activities in the United States.

III. Identifying Terrorists and Disrupting their Activities in the United States

As the Attorney General has said, "The protection of life and liberty is the cause of our time."

Without any doubt, the number one priority of federal law enforcement is the identification and disruption of terrorist networks in the United States. This is the critical challenge we face: finding and stopping those terrorists who live among us before they can carry out attacks.

In this effort, we are making substantial progress not only in disrupting the activities of potential terrorists and their supporters but closing off whole avenues that terrorists have used to sustain themselves in the United States. In my district alone, we have clamped down on illegal money remitters, gone after credit-card bust-out schemes, and made it harder for people to pretend they are who they are not - or to pretend that they are legally in this country.

Terrorist Financing

As President George W. Bush said shortly after September 11th, "Money is the life blood of terrorist operations. Today, we're asking the world to stop payment." Money is indeed the life blood of terrorist operations. It is not just the deadly operations that require funding, but, like other large organizations, terrorists have overhead. In fact, their overhead likely dwarfs the cost of their operations. In order to provide command and control, a terrorist organization needs an infrastructure. This infrastructure needs to exist continuously - even during those sometimes long periods between actual terrorist operations. In other words, sleeper cells cost money. Moreover, the infrastructure has to have enough redundancy and flexibility to maintain continuity even after

the capture or death of individual terrorists, or the destruction of its buildings and vehicles.

In order to dry up potential sources of terrorist financing, we now investigate and prosecute cases that may help us to develop informants and cooperators who will provide information regarding terrorist financing. Individuals we catch selling smuggled cigarettes or bogus baby formula may now provide important information about terrorist financiers. Further, we prosecute the cases because the money from the scam may be heading back to terrorists.

Similarly, we now examine those Suspicious Activity Reports (SAR) from financial institutions that too often went unread for lack of resources; we seize money from and prosecute unlicensed money remitters and money couriers at the international airports; and we scan the bankruptcy reports to detect credit card fraud among individuals claiming that they ran up hundreds of thousands of dollars in credit card debt but cannot pay it back, when, in reality, they transferred it overseas to support future terrorist activities.

With the assistance of the FBI, the Department of Homeland Security's Immigration and Customs Enforcement, and the Internal Revenue Service, we have engaged in a wide-ranging investigation of terrorist financing, focusing on money sent from America to support terrorism overseas. A portion of an affidavit used in support of numerous search warrants obtained in the course of this investigation is now unsealed, so I can tell you that the investigation encompasses among other items, tens of thousands of dollars that were sent from organizations and individuals in Northern Virginia to Sami Al-Arian, who presently awaits trial in Tampa, Florida, on terrorism charges involving the Palestinian Islamic Jihad. Moreover, in furtherance of this investigation, we recently arrested Abdirahman Alamoudi, a founder of various American Muslim organizations, for violation of the rules against engaging in financial dealing with Libya. In the course of his detention hearing, we presented evidence that in August of this year, Alamoudi was found by British authorities to be smuggling \$340,000 in cash on his way to Syria which, as you may know, is the home of various terrorists that Alamoudi has vocally supported in the past, as well as a jumping off point for foreigners seeking to enter Iraq to fight jihad against our soldiers. In addition, we recently obtained our first conviction in this wide-ranging financial support investigation. Soliman Biheiri, the founder of a company known as BMI, was charged with and convicted of immigration fraud. In the course of a related investigation, a BMI accountant contacted an FBI agent and stated that "funds the accountant was transferring overseas on behalf of the company may have been used to finance the embassy bombings in Africa." That we convicted Biheiri of an immigration offense (and charged Alamoudi with violation of the Libyan sanctions) rather than of material support to terrorism illustrates the challenges we still face in making successful terrorist financing cases even where there are financial trails between defendants and designated terrorists.

Identification document fraud

Not only do we disrupt the terrorist network by attacking its funding, but we also seek to unmask the terrorists. In America, it is too easy to hide behind someone else's or a fictitious identity. If a person is willing to pay the price, he or she can obtain fraudulent identification for any purpose, no questions asked. We have prosecuted many, many identification fraud cases since September 2001, including two conspiracies involving Virginia DMV employees. These cases reveal that identification document fraud is big business. A pair of defendants dealing in fraudulent immigration documents made no less than \$6,300,000 in the space of eighteen months, including \$1,000,000 in cash seized from a suitcase under one of the defendant's beds. Similarly, both of the DMV rings I mentioned were collecting hundreds of thousands of dollars of illegal profits. Identification document fraud directly undermines our homeland security. It creates huge holes in

our immigration and naturalization controls; it aids terrorists to enter and remain in our country; and it facilitates crime - crime such as credit card fraud, mortgage fraud, and bank fraud. These crimes can provide terrorists with the capital they need to support sleeper cells or plan and carry out large-scale terrorist attacks.

Fraud involving state driver's licenses is of a particular concern. State driver's licenses are a mainstay of daily life in this country. With a driver's license, you may drive, board an airplane, and purchase a handgun. You may open bank accounts, buy alcohol, and obtain credit cards. Although a driver's license is not evidence of lawful residence in the United States, it may be perceived as such. Furthermore, a driver's license is often used by citizens and aliens as means of identification, along with an unrestricted social security card or other evidence of employment authorization, in the employment eligibility verification process (Form I-9). In short, the integrity of state driver's licenses is critical to our commerce and our national security.

The concern that identification document fraud may facilitate terrorism is no abstract point. Seven of the September 11th hijackers obtained genuine Virginia driver's licenses by submitting false proof of Virginia residency to the DMV. One of the seven was involved in the failed attempt to fly Flight 93 into a target here in the Washington, D.C., area; two were aboard the airplanes that crashed into the World Trade Center; and four were aboard Flight 77 when it was flown into the Pentagon. Notably, none of the seven lived in Virginia. Rather, they made a special trip to Virginia because they knew they could get a genuine driver's license in one day for approximately \$100 in cash with no questions asked. And although we will never know for sure, we strongly suspect that these seven hijackers intentionally used their Virginia driver's licenses to board the flights they hijacked to avoid the scrutiny a foreign passport would bring. We are committed to never having to ask such questions again.

IV. The USA PATRIOT Act

After September 11, 2001, the Senate and the House passed the USA PATRIOT Act ("Patriot Act") by overwhelming margins. The USA PATRIOT Act is an integral part of our efforts to identify terrorists and disrupt their activities in the United States. It provides law enforcement with important tools to enhance our nation's domestic security and to prevent future acts of terrorism.

The Patriot Act does three things: First, it significantly enhances our ability to investigate terrorists. Second, it brings certain surveillance laws up to date with new technologies. Third, it breaks down artificial barriers and allows various agencies to share information and fight terrorism together.

There are numerous aspects of the Patriot Act that improve our ability to investigate terrorists, many of which simply extend powers already available in narcotics investigations to investigations of suspected terrorists. For example, investigators and prosecutors in my district used a Patriot Act provision to obtain a court-ordered search warrant from a single United States District Court in a complex multi-state financial investigation of terrorists' financial networks. This provision greatly expedited the investigation and saved precious time obtaining separate warrants in other districts.

By bringing the law up to speed with new technologies, the Patriot Act made some common-sense changes that were long overdue. In an age when criminals are using pre-paid, almost disposable cellular telephones, we must constantly adapt to new technologies and the uses to

which criminals put them. Under the Patriot Act, for example, prosecutors may now use a "roving wiretap" to track a terrorist's communications even when he uses different phones to avoid detection. These roving wiretaps have been used to track suspected drug dealers for nearly twenty years. We can now use them to fight the war on terror as we have for years in the war on drugs.

Court-authorized delayed notification warrants have been used for years. These warrants permit federal judges, in certain narrow circumstances, to authorize investigators to give delayed notice that a search warrant has been executed. The Patriot Act merely established a uniform statutory standard applicable throughout the United States. My office has used this authority in terrorism investigations. For example, the court authorized a delayed notice search of a business in Virginia. Surreptitious entry permitted law enforcement agents to copy numerous records (without removing them) related to the offenses under investigation. Pursuant to the Court Order, a copy of the warrant was not left on the premises of the business at the conclusion of the search. Had the court not permitted a delay of the notice, the investigation, as well as the safety of cooperating witnesses, would have been seriously jeopardized. As a result, purchases of illegal drugs had been made from targets, and a cooperating source working with law enforcement had delivered money used for the purchase of drugs to the owner of the business for subsequent transfer to targets of the investigation overseas. The cooperating source subsequently met with overseas sources to discuss future drug transactions, which could provide funding for terrorist organizations. The attorney for the operator of the business was subsequently notified of the search.

V. Conclusion

In short, the word from the front lines of the domestic war on terrorism is good. We are making progress in prosecuting terrorists and disrupting the criminal activity that supports them. The Patriot Act has played a significant part in the successes we have enjoyed to date, but more is possible with your help.

Thank you. I would be pleased to attempt to answer any questions that you may have at this time.