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U.S. POLICY IN THE AFTERMATH OF THE BOMBING OF PAN AM 103

Y 4. F 76/1: P 75/22

U.S. Policy in the Aftermath of the... **ARING**

BEFORE THE

SUBCOMMITTEE ON
INTERNATIONAL SECURITY, INTERNATIONAL
ORGANIZATIONS AND HUMAN RIGHTS

OF THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

—————
JULY 28, 1994
—————

Printed for the use of the Committee on Foreign Affairs



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U.S. POLICY IN THE AFTERMATH OF THE BOMBING OF PAN AM 103

THURSDAY, JULY 28, 1994

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
SUBCOMMITTEE ON INTERNATIONAL SECURITY,
INTERNATIONAL ORGANIZATIONS AND HUMAN RIGHTS,
Washington, DC.

The subcommittee met, pursuant to call, at 2 p.m. in room 2172, Rayburn House Office Building, Hon. Tom Lantos (chairman of the subcommittee) presiding.

Mr. LANTOS. The Subcommittee on International Security, International Organizations and Human Rights will be in order.

The recent wave of bombings in Argentina, Panama, and London serve as a potent reminder of the consequences of failure to act swiftly and decisively against terrorism. It should also remind us that terrorists do not operate in a vacuum, but rather rely on certain nations where they know they will find safe haven after carrying out their murderous acts. They must have at least tacit government approval of planned operations and millions with which to continue to buy the tools of death and destruction.

Pan Am flight 103 was destroyed on December 21, 1988 after terrorists succeeded in having a bomb placed aboard the aircraft. That bomb blew the aircraft apart at 31,000 feet over Lockerbie, Scotland, killing 259 persons on the airplane and 11 on the ground. Thirty-five Syracuse University students were among the 189 Americans killed on that flight.

The criminal investigation has indicated that the bomb was placed in a Toshiba radio cassette player and packed in a suitcase loaded into the plane's baggage hold. Authorities believe that the bomb was made of a very small quantity of Semtex, a plastic explosive that cannot be reliably identified by x-ray. It was placed aboard at Frankfurt, West Germany where the flight began.

Two and one-half years after the November 14, 1991 indictments of two Libyan intelligence agents, Abdul Basset al-Megrahi and Al-Amin Khalifal Fhimah for their role in the bombing, the prosecution of the case is stalled. The Libyans have refused to extradite the two suspects and the U.N.'s minimal sanctions have done nothing to alter Libya's behavior. The only way to get Qadhafi's attention is to hit him where it hurts, at Libya's petroleum economic lifeline.

Serious questions remain about the possible involvement of Syria and Iran in the Pan Am bombing. Although both the Bush and Clinton administrations maintain that a lack of hard evidence pre-

cludes taking action against Syria or Iran, Ambassador Paul Bremer, the State Department's former chief for counterterrorism, offers this context: "The fact that Libya is guilty does not prove Syria's innocence. It seems to me it is quite possible that all three of the governments, Iran, Syria, and Libya, have in some ways their hands involved in Pan Am 103."

If the civilized world learns nothing else from the mass murder of Pan Am 103 it must be this: Unless those nations which provide safe haven and support to the terrorists are made to pay a price, and I mean a heavy price, the murderers will strike again and again. So-called economic sanctions which allow a terrorist nation to continue to receive billions of dollars from oil production inspire only contempt. Permitting these nations to remain in good standing in the community of nations makes a mockery of the murder of innocents.

In the 5½ years since the Pan Am 103 bombing, the surviving family members have experienced immense anguish and frustration in their search for truth and justice. It is my hope that today's hearing will serve as a spur to constructive action on the part of this administration.

Those of us who through our own life experiences have been confronted with brutal and bloody mayhem will have no difficulty understanding why the Pan Am families are so persistent. If you see your daughter or son or wife blown up through a mindless act of terrorism by international criminals, that nightmare stays with you for the rest of your life. It becomes the pivotal event of your life, and all other things fade.

The most recent bombing incidents in the last few weeks graphically illustrate that the world continues to be a highly volatile and extremely dangerous place. We are dealing with terrorists from the darkest recesses of the Mideast who mistake patience and an attitude of compromise for weakness. At long last we must apply strongest efforts against rogue regimes that view terrorism as just another tool of their foreign policy. The victims of Lockerbie, Buenos Aires, Panama, and London demand nothing less.

I would like to call on the gentleman who has been indefatigable in pursuant of this case, the distinguished ranking Republican of the full Foreign Affairs Committee, Congressman Gilman of New York.

Mr. GILMAN. Thank you, Chairman Lantos. I want to thank you and our ranking Republican member, Mr. Bereuter, and Chairman Hamilton for making these important Pan Am 103 hearings possible here today.

After meeting earlier this year in my district with some of the family members of the Victims of Pan Am 103 at their request, I wrote our committee chairman, Lee Hamilton, asking for these current hearings. Along with many of our families, I am especially grateful, Mr. Chairman, that under your leadership these hearings are now taking place and are a clear sign that we as a nation have not forgotten this tragedy or have not ignored or forgotten the pain endured by the victims of this terrible plot, the family members, for only the families truly know and can attest to the real cost of this cowardly and dastardly act of international terrorism.

Today we look forward to hearing just what has been done by the administration and what further needs to be done, not only to bring justice to those responsible for this cowardly act, but to further the worldwide fight against the evil of international terrorism, an evil which today we once again see rearing its ugly head around the globe. Just within the last week we had another example of how outrageous terrorism can be as close to 100 people perished in Argentina at the hands of terrorists.

More than 5 years ago, the 259 innocent people aboard Pan Am 103 along with 11 others on the ground, were killed by the abominable terrorist plot. Regrettably, no one has yet regrettably been brought to justice for this terrible cowardly act, an act against every norm of international law and civilized society and human decency which cannot and must not ever be forgotten; nor should the need to seek this justice, as the President himself has said, for those ultimately responsible for this terrible cowardly act of international terrorism ever be forgotten.

While some hope this tragic incident will fade from the world's consciousness, the courageous Pan Am 103 victims' families—and we think those who are here today with us—will make certain that will not be the case. These families cannot and will not ever forget the memories of their loved ones.

Former President Richard Nixon wrote a few years ago to a Pan Am 103 family, in it providing valuable advice worth contemplating here today. Mr. Nixon wrote, "I have no single answer to the problem of terrorism. But from experience, I know that our Government's policy must be one of relentless investigation of such incidents and punishment which will fit the crimes of those responsible, including governments who subsidize and encourage terrorism for whatever reason."

Former President Nixon's advice was sound then, based on experience from a man who knew the dangers of terrorism in the world as well as how we as a nation must be able to respond to this deadly threat. This is still sound advice today.

Mr. Chairman, along with my colleagues, I look forward to today's testimony. I want to thank all those involved in these hearings for their leadership and courage in helping to keep the Pan Am 103 tragedy before America's consciousness, before the world's consciousness.

I especially welcome the families who traveled here today. I ask consent at this time to insert in the record, Mr. Chairman, submissions from some family members who could not be with us here this afternoon and who had submitted some statements that they wanted to be made part of the record.

Mr. LANTOS. Without objection.

Mr. GILMAN. Thank you, Mr. Chairman.

Mr. LANTOS. Thank you Congressman Gilman. I am pleased to call on my good friend from New Jersey, Congressman Smith, who has had constituents involved in this tragedy and has been pursuing this relentlessly.

Mr. SMITH. Thank you very much, Mr. Chairman. I appreciate your convening this hearing and the part Mr. Gilman played in responding so affirmatively to his own constituents who unfortunately also have suffered as a result of this terrorist act.

Mr. Chairman, the tragic and senseless deaths of 259 passengers of Pan Am 103 and the 11 victims on the ground is one of the most disturbing events in recent history. Now over 5 years after this terrorist act, many questions still remain unanswered and it would seem we are no closer to bringing the terrorists to justice today than on the day of the bombing.

Today we will hear from witnesses including Barbara Bodine from the administration and some experts on terrorism. The most compelling reason for us to be here today is to listen to the witnesses who have suffered and been most affected by this tragic loss.

Although we may search for answers to this tragedy and may find them, these answers will be of little comfort to those who have lost loved ones. Even if the terrorists are brought to justice, what is that justice compared to the suffering which these families have experienced each and every day since the bombing.

Still, the terrorists must be brought to justice. Mr. Chairman, two Libyan officials, as you pointed out, have been indicted by the United States. The U.N. Security Council imposed sanctions against Libya to pressure the government into handing over these officials for trial.

Yet today, nearly 3 years after the indictment, these officials remain in Libya under the protection of Colonel Qadhafi. Mr. Chairman, while these officials and others who may have been involved in this bombing enjoy freedom and the protection of Libya, the families of the victims await the truth.

The families await justice. By diligently pursuing justice, I believe the families have honored the memories of their loved ones. As they honor the memories of their family members, they are asking the administration and Congress to honor its promise to bring to justice those responsible for this tragedy.

Of the 159 people, Mr. Chairman, who needlessly died in this tragedy, 38 were residents of my own State of New Jersey. I know, as you can see from the panel, some of the relatives of those victims will be here to make presentations today.

Mr. Chairman, this is a very important hearing. Hopefully it will act as a prod to the administration. We all can always do more. We are asking that more be done. Hopefully, we can spell that out—outline some specifics that might be done to accelerate the bringing to justice of these terrorists.

I thank you and yield back the balance of my time.

Mr. LANTOS. Thank you very much. Before calling on our first witness, let me thank the members of the staff that prepared this hearing, Andrea Nelson, Jon Peterson, and Jo Weber; from the minority side, Mike Ennis.

Let me also mention this hearing had been scheduled for quite some time, when the spate of recent terrorist attacks in Buenos Aires, Panama, and London took place which compelled me to call another hearing for next Monday at 10 on the most recent terrorist episodes.

I am one of the last practitioners of the art of bipartisan foreign policy in this body. Therefore, I am particularly pleased to announce that on Monday, the incoming Republican leader, Mr. Gingrich, and I, will introduce a resolution in the Congress not only

condemning these acts, but calling on the President of the United States to convene at the summit level at the earliest possible time an international conference on terrorism. It is long overdue that the civilized nations of this world put this issue high on the agenda. I have no doubt we will have overwhelming, perhaps unanimous, bipartisan support for our resolution and we expect President Clinton to act on it.

Earlier today in this room the Secretary of State testified and in response to my question indicated support in principal for the convening of this conference. I welcome that response.

The first witness is the distinguished Coordinator for Counterterrorism at the Department of State who has an outstanding record in working effectively and diligently in this field, Ms. Barbara Bodine. I am delighted to have you. Your prepared statement will be entered in the record in its entirety. You may proceed any way you choose.

STATEMENT OF BARBARA K. BODINE, ACTING COORDINATOR FOR COUNTERTERRORISM, DEPARTMENT OF STATE

Ms. BODINE. Thank you for the kind words. I appreciate that. I would like to read through the statement in order to leave the maximum time for questions. We have tried to draft a rather brief statement. I want to thank you again—

Mr. LANTOS. Could you pull the mike just a little closer?

Ms. BODINE. How is that?

Mr. LANTOS. Better.

Ms. BODINE. I want to thank you for providing the Department of State this opportunity to testify before your committee regarding the continuing issue of Pan Am 103.

Pan Am 103 remains the focus of intensive high-level attention and action at the Department of State. I would like to take this opportunity to summarize what we have done in the last year and our expectations for the coming months.

DEVELOPMENTS IN SANCTIONS AGAINST LIBYA

The major development in terms of U.S. efforts to secure justice for all of the Victims of Pan Am 103 and their families, many of whom are well represented here today, was the adoption of U.N. Security Council Resolution 883. This resolution reinforced the existing sanctions imposed on Libya in 1992 and broadened those sanctions so that they covered preexisting financial assets, oil production, and transport equipment.

These sanctions have now been in effect for 8 months and I believe are having an effect on the Libyan leadership. The recent spate of efforts by Libya to find a compromise in terms of the venue for the trial of the Pan Am 103 suspects reflects the success of our efforts. We believe that the increasing difficulties experienced by Libya as a result of the sanctions are causing the government to propose alternatives, unacceptable though they may be, to a trial in the United States or in Scotland.

The administration shares your frustration that Libya continues to defy the Security Council and refuses to allow the suspects to be brought to justice. However Libyan half measures such as those proposing that the trial be held in the Hague or through the U.N.

Security Council are simply unacceptable. The United States and the United Kingdom have looked very carefully at these propositions, but we have decided that they present insurmountable legal and practical difficulties. We have publicly rejected these proposals in the past and we do so again today.

We believe that a trial for the accused must take place either in the United States or in Scotland. Any other formulation fails to meet the requirements of the Security Council. They are intended in fact to evade these requirements. Libya's proposals do not do justice to the victims of this terrible act of mass murder. They are instead in our view a miscarriage of justice.

COMPLIANCE WITH SANCTIONS

Libya's refusal to abide by the terms of the Security Council resolutions means that the international community, led by the United States, must enforce as strictly as possible all sanctions currently imposed on Libya. Quite frankly, we are not satisfied with sanction enforcement efforts by some nations. We believe that some nations are still allowing Libya to engage—

Mr. LANTOS. Ms. Bodine, one of the most effective devices in fighting international terrorism is adverse international publicity. You are referring to some nations. Could you name those nations?

Ms. BODINE. There are a number of nations we have been having trouble with. As an example, we are about to take a Maltese company to the sanction committee for its repeated violation of sanctions. When we get the judgment from the sanctions review committee we expect, it will be then incumbent upon the Maltese Government to take action against this company. That would be one example.

Mr. LANTOS. Well, I am pleased to hear this. Let me tell you, as you well know, that earlier in this session of Congress there was overwhelming action on my resolution condemning the Government of Malta for its allowing to go free a brutal terrorist.

Ms. BODINE. Right.

Mr. LANTOS. I think Malta certainly is part of this group of nations. I don't think I will be satisfied with an example. I would like you to name as comprehensively as your memory allows and submit for the record all of the nations which in the judgment of our State Department do not vigorously pursue the policy of sanctions.

Ms. BODINE. OK. We will provide that for you. Absolutely.

[The information follows:]

The United States is firmly committed to aggressive and comprehensive enforcement of all sanctions imposed by the international community on Libya. Tight enforcement of existing sanctions is a critical element if the international community is to secure total Libyan compliance with the requirements—including the turnover of the suspects in the Pan Am 103 bombing—endorsed by the United Nations Security Council.

Consistent with the requirements of the U.N. Charter, no nation has explicitly refused to enforce existing United Nations Security Council sanctions against Libya. At the same time, the United States would like to see tighter enforcement in a number of countries, most of which agree in principle but have domestic juridical problems in implementing the UNSC sanctions in the strict manner the United States has proposed. To help strengthen enforcement of the existing sanctions, a joint State Department and Treasury Department team visited Western Europe last month to discuss these issues with several of our allies. The team visited the U.K., France, Germany, Italy, Spain and the Netherlands. I believe that the team succeeded in

heightening attention among these governments to the need for effective enforcement of existing sanctions.

The United States is also seeking more vigorous enforcement by Malta and Egypt. Towards this end, we have recently referred the case of Medavia, a company jointly owned by Libya and Malta, to the U.N. Sanctions Committee for adjudication of a series of actions which the United States believes violates the existing sanctions regime. We have also raised our concerns over sanctions enforcement in Egypt at the appropriate senior levels of that government.

To our knowledge, failure to adopt the sanctions against Libya into national law is a problem in only one country: the Netherlands Antilles. We have approached the Government of the Netherlands Antilles to urge action, as Libya has a major oil distribution company incorporated in Curacao. We have also encouraged the Government of the Netherlands to use its influence in getting the Netherlands Antilles to act.

Whenever we receive information that suggests violations of the sanctions are occurring, we make demarches to the appropriate host government. We have made dozens of such approaches since the first package of UNSC sanctions were imposed on Libya, and more than 40 such demarches just since the financial sanctions against Libya went into effect last December. In many cases our approaches—which are often made in close coordination with the British Government—have secured action which upholds both the letter and the spirit of the Libyan sanctions program.

Mr. LANTOS. I would like you to provide the ones that you can now.

Ms. BODINE. Let me put it this way: What we have right now is an interagency team made up of State and Treasury officials who are visiting a number of our allied capitals, London, Paris, Bonn, Madrid, Rome, and the Hague to talk about the need to enforce these sanctions much more vigorously.

We are not going to all the capitals where we believe the sanctions need to be tightened, but we do believe by going to these key G-7 NATO allies and impressing upon them the need to energize and strictly enforce these sanctions, and to call upon their help with other nations, that this will accomplish what we are looking for.

Mr. LANTOS. Ms. Bodine, let me communicate to you the outrage I feel at the failure of the previous administrations and this administration to bring about any visible results.

This tragedy occurred almost 6 years ago. Nothing of substance has happened under the previous administrations and under this administration. We have had high sounding rhetoric from the previous administration; we have had strong promises from this administration, with no follow-through of any substance. None.

The credibility of the previous administration on this matter sunk to zero; and if we will continue to have no action, not even a willingness to name countries at a public hearing 6 years after almost 200 Americans lost their lives, the credibility of this administration on the question of fighting terrorism will also plummet. I do not think that the Department of State is aware of the degree of outrage that permeates Congress, at least those of us who are seized of this issue by the failure of the one remaining superpower to take action in concert with others, if possible, and alone, if necessary.

Ms. BODINE. I would say in terms of enforcing these sanctions, there is a great deal of concerted effort, multilateral and bilateral. We have a number of people in the State Department and other agencies whose only job is to monitor sanctions enforcement and violations.

What we do when we have information that indicates that a company is breaking the sanctions, one of the first things we do is go to that government saying: we have information that this company is undertaking this action; we want you to go after that company and shut it down.

We have had very good success. In those areas such as asset freezes, we have a number of unilateral mechanisms at our disposal; the Treasury Department declaring banks, companies, and other financial institutions as specially designated nationals and freezing the assets of those companies.

We have gone to a number of major financial institutions that were controlled by the Libyans. We have had the Libyan element taken out, the Libyan management fired, the company in a sense cleansed of its Libyan participation and its Libyan control. We have already frozen \$21 million worth of assets around the world and we are not finished.

It is a constant process that involves at least three or four different agencies of the U.S. Government to continue to ferret these out and to have them shut down, frozen, or the Libyan participation taken out.

Mr. LANTOS. Please go ahead.

Ms. BODINE. I would say on this: It is a continuing effort and it is one that we have seen a great deal of success on, we believe. We also notice that when we went vigorously after one banking corporation, in Bahrain to be precise, declared it a specially designated national, and had the Libyan management fired, it was sort of a wakeup call to a number of other institutions who perhaps weren't quite sure how serious we were.

They, on their own, in order to avoid the designation got rid of their Libyan participation and their Libyan management. What we are doing now is going out after yet more. As I said, it is a continuing process. The United States does take a very vigorous lead on this. We are the ones who track it. We are the ones who pursue it. We have not had any resistance from governments.

What we have sometimes is not as much access to information as we may have which is why we will go to governments for the information that is necessary and have them take care of their companies; but this is something that is very vigorous continuous policy, activity within the State Department.

Mr. LANTOS. This is the end of your prepared statement?

Ms. BODINE. No. That was an answer to some questions on enforcement.

POSSIBILITY OF OIL EMBARGO

I would also like to bring up that we know full well that you and many of the families present here today wanted the United Nations to impose an oil embargo on Libya. We will use the opportunity of the sanctions review to remind the council of the need to enforce aggressively all elements of the sanction regime and to stress that further action by the council will be necessary unless Libya complies fully with the existing resolutions.

As you know, this administration is on public record in favor of seeking an oil embargo should Libya continue to refuse to comply and we have already reiterated that recently to our key allies. That

is another purpose of this team that is traveling in Europe. The State Department deeply appreciates the support we have received—

Mr. LANTOS. If I may interrupt you again?

Ms. BODINE. You certainly may.

Mr. LANTOS. You know as well as I do our allies will not agree to the oil embargo.

Ms. BODINE. They will not agree to the oil embargo certainly at this stage.

POSSIBILITY OF A BLOCKADE

Mr. LANTOS. All right. Let me ask the next logical question. Has the State Department and the National Security Council or the President considered the next logical step which would be a block aimed at Libyan ports? We certainly have the capability unilaterally to proceed.

Ms. BODINE. That is something I would want to check with the National Security Council. We have been looking at instruments affecting the behavior of Libya using various sanctions in the United Nations, not looking at a blockade. So I will have to get back to you on that.

Mr. LANTOS. Well, let me just say that I am unimpressed with the answer because calling for an embargo which we know full well will not receive the cooperation of our key allies time and time again, is not a sign of strength, it is a sign of weakness. It is a sign of impotence.

When it is clear that a measure which could be very effective on a multilateral basis is not going to be implemented, the 189 American lives compel us to act on a unilateral basis and the blockade is not a revolutionary concept.

Clearly, the Libyans cannot sell oil if their ports are blockaded; and I would be grateful if you would get back in writing to this committee setting out what the administration position is on that issue within a week.

Ms. BODINE. We will certainly respond to you in a week. Absolutely.

Mr. LANTOS. Thank you very much.

[The information follows:]

The idea of a blockade has been raised previously, however, the U.S. Government's actions against Libya are being taken within the parameters of the United Nations Security Council Sanctions regime. The U.S. Government's policy since the bombings of Pan Am 103 and the UTA 722 has been to work very closely with the United Kingdom and France, which also were affected by these terrorist attacks, rather than to operate unilaterally as if the terrorism affected only American citizens. Attempting to impose a blockade—at this stage—would adversely affect the multilateral consensus we have so painstakingly forged to impose sanctions against Libya and to maintain vigorous enforcement of that sanctions regime.

U.S. COMMITMENT TO SANCTIONS REGIME

Ms. BODINE. The one point I would like to make, however, is that we have a commitment to a sanctions regime for which we did lead the implementation and establishment. As I said, on enforcement and other issues, we are the government that most aggressively pursues companies, demarches governments to have the sanction

regime in force fully. We have led the charge on all three resolutions.

I think that we need to consider very carefully before we take unilateral action which would in a sense void the sanction regime that we in fact put up. We run the risk of an extremely dangerous precedent in the broader world of the U.N. and U.N. sanctions. We know this is an instrument that is particularly important in a number of other places, not just Libya.

Once the step is taken that a state can unilaterally void a sanction regime, you open up the possibility that other states will make their own decisions for their own reasons and we will not have international sanctions anymore. For sanction regimes to have any effect at all, they must be universal. I think that given the fact that we are the ones who led to the creation of the sanction regime, we have to think very carefully before we unilaterally void it.

I will also say in terms of the oil embargo, although we do know that regrettably too many of our friends and allies are not prepared to support us on an embargo at this time, I would stress again the words "at this time." I would stress one of the reasons that we are using—we are discussing the embargo is we want to make sure that in the meantime we want the current sanctions vigorously enforced, and we are looking at a number of steps between the current sanctions, which we do not feel are sufficient, and a full embargo.

We are trying to find some creative ways in between, that would sufficiently recognize the very real concerns of some of our allies and at the same time increase significantly the pressure on Libya. It is a very difficult line to try to find, but we are looking at that and would be examining that with our allies as well. We have not given up the prospect of an embargo. We have not declared defeat on an embargo. We have just said it is not possible now. And we have said that also to our allies.

Mr. LANTOS. You have concluded your statement?

Ms. BODINE. I can conclude it if you wish, but I was going to make one comment. You mentioned in your opening statement the very real problem that we have from Pan Am 103 of the undetectability of plastic explosives.

One very concrete measure that has come out of the tragedy of Pan Am 103 was the research and development on a target for plastic explosives. I will say that the R&D program that did come up with this target was managed out of the Coordinator's office.

I think it is one of the things we are most proud of. It is now a convention. It has been signed. It has gotten Senate ratification. The President has signed it. However the implementing legislation is still sitting on the Hill; and it is actually part of—it is Title II of H.R. 4828, and it would be a material step forward to have this implementing legislation passed so we can put it into effect in this country and our ability to go to other countries to get them to ratify and implement would be that much stronger. This is a concrete step forward that we have.

[The prepared statement of Barbara Bodine appears in the appendix.]

Mr. LANTOS. I fully agree with you. I think it is incumbent upon us to move on this immediately.

The subcommittee will be in recess for a few moments while we cast our votes.

[Recess.]

Mr. LANTOS. The subcommittee will resume.

We will begin the questions with Mr. Gilman.

Mr. GILMAN. Thank you, Mr. Chairman.

Ms. Bodine, thank you for being here with us. We understand your time with the Department is limited and you will soon be leaving. We hope you will leave some good recommendations behind.

Ms. Bodine, is there any evidence of American companies or firms still doing business with Libya, especially in the oil business?

Ms. BODINE. I am not aware of any American oil company still doing business with Libya. As you know, we have our own sanction regime against Libya tied to the fact it is our state sponsors' list which is broader and tighter than the U.N.'s.

So in that sense, we do not have those kinds of—our companies are not allowed to have those kinds of dealings.

Mr. GILMAN. During the 1992 Presidential campaign, the then candidate, Mr. Clinton, said on the status of the two Pan Am 103 defendants, "The United States should make it clear that if they are not turned over, we will press the U.N. to broaden the sanctions to include an oil embargo."

Can you tell us what the status of that pledge is?

Ms. BODINE. That is still the administration's policy and that is a policy that we have made clear to both the other two members of the P-3, the driving force of the sanction regime and the other members of the Security Council.

What we are doing is a series of sanctions to bring increasing pressure on Libya. As I said, we have made it very clear and will make it very clear on the rollover next month if we continue to have noncompliance, we will be coming back for increased sanctions.

That is the policy. We reiterated it to our allies. It remains the policy. We will go forward with it.

ACTION AGAINST VIOLATORS OF SANCTIONS

Mr. GILMAN. Are we getting cooperation from other nations in the sanctions against Libya?

Ms. BODINE. Yes, we are.

Mr. GILMAN. Are there any violators?

Ms. BODINE. There are not governments that are violating. There are companies that are violating. The question is getting the information so that action can be taken against these companies.

Mr. GILMAN. Are any of them U.S. companies?

Ms. BODINE. U.S. companies, I am not aware, off the top of my head, of U.S. companies violating the sanctions.

Mr. GILMAN. Can you tell us what other nationals are involved?

Ms. BODINE. One of the main targets of this sanctions regime are various financial assets. This is what are called specially designated nationals, entities where a particular percentage of it is owned by Libya and/or the management is Libyan. These are banking institutions around the world. Libyans are very active.

What we have been doing is identifying these, which takes some research to find out exactly what the holdings are, who the board of directors are, what their nationalities are. When we have made a sufficient determination, when we are sure we have our facts straight, we then go to the government where that entity is registered and have them shut it down or insist the Libyan element be pulled out.

One example of this, we did very early on, was to go against the Arab Banking Corporation in Bahrain. We declared it a SDN and froze all its assets. I will tell you ABC was the holder of one of the major credit cards in the Middle East. It wreaked havoc for a while. It got their attention. They did freeze all the Libyan assets. They got rid of the Libyan management. We were then able to re-open the bank; but it was a wakeup call and several other banking institutions, financial institutions, cleared themselves of the Libyan control.

That is one of the main things we have been doing. It takes a lot of research to make sure you have everything you need. These things don't necessarily sit up-front.

Mr. GILMAN. Are there some pending now? Some proposed shut-downs?

Ms. BODINE. There are some we are in the last stages of investigating. As I said, our information is that the Libyans have a fairly extensive banking network, or at least did; and what we are doing is investigating those links.

As I said, when we have the information, we go to where the bank is registered. I don't want to talk about it in open testimony, but we have a couple of others we have gone to the governments with a notification to SDN.

Mr. GILMAN. Has there been good cooperation?

Ms. BODINE. Very good cooperation.

EFFECTIVENESS OF SANCTIONS

Mr. GILMAN. What do you say about waiting for Libya to produce these international outlaws?

Ms. BODINE. I don't think there is a set time. We do know, we know this from all of the spinning around with the attempts at compromises, the ever stranger ideas the Libyans are coming up with, that the sanctions are hurting; that the exclusion is something that they chafe at badly; that they want out from underneath this regime.

The longer that they go through this, the more we are convinced the path we are on will ultimately be the right path. You don't go through that much trouble to try to find a way around the sanction regime if it is not affecting you.

LIBYAN PUBLIC RELATIONS CAMPAIGN

Mr. GILMAN. Can you tell us how can our Government, all of us, avoid falling victim to the aggressive Libyan public relations and obvious disinformation campaigns which were intended to divert the world's eyes from our own doorstep?

You may recall a few months ago Libya was peddling its client relationship to attorneys in Washington and apparently while they had some initial takers, they backed away. I don't know where that

stands now. They were offering tremendous amounts to establish some PR here in Washington.

Ms. BODINE. Right.

Mr. GILMAN. How can we avoid falling victim to all of that?

Ms. BODINE. Again, I would say that Libya's attempt to find some interlocutor within the Washington power elite is another sign that they are hurting by these sanctions.

Mr. LANTOS. Is it true some former Members of Congress have been hired as lobbyists for Libya?

Ms. BODINE. I don't know precisely. I do know they have approached an awful lot of former members of the administration, former administrations, former Members of Congress. They are terribly aggressive in contacting people. I am not sure again, off the top of my head, whether or not—there may be a Senator. I don't know.

What we can do and what we do in terms of the Libyan PR campaign, which is terribly aggressive, is to fight back publicly as well, to make it perfectly clear, for example, why these ideas such as going to a Scottish judge in the Hague, U.N. Security Council tribunal, why all of these ideas are not serious. They are impractical. They do not include in any of those statements any guarantee they will actually turn the suspects over. So what we do is to publicly denounce their various attempts to wiggle out; we also talk very candidly and frankly with some of the governments who seem to sometimes get taken in.

It is an ongoing discussion that we have. We fortunately have very good facts on our side, and I think we have been very successful.

POSSIBLE CONGRESSIONAL ACTION

Mr. GILMAN. Just one last question. I have taken more than my share of time. Would you recommend anything more the Congress should do or could do to try to bring this to a head?

Ms. BODINE. It is very important, the kind of support that we have continually gotten from the Hill on what we have been trying to do with Libya. I think that hearings such as this, where the families are able to speak and experts are able to speak, make it very clear that this remains a top priority for all elements of the government and for the American people, that this is not something that is a small group pursuing, it is extremely important.

The Libyans need to know this is an American priority and things such as this hearing are a very important part of that.

Mr. GILMAN. Well, by now they should have gotten the message of the importance of this issue and its high priority amongst all of us.

Thank you Ms. Bodine. Thank you, Mr. Chairman.

EDUCATION ON INTERNATIONAL TERRORISM

Mr. LANTOS. Ms. Bodine, I have just a couple of questions. Has the administration requested from Moscow and from the other capitals of the former Soviet bloc names, addresses, sponsors, and methods of operations of the various terrorist groups that were trained in the Soviet Union and in the former satellites of the Soviet Union?

Ms. BODINE. Mr. Chairman, I believe that is a question that would be best addressed to another element of the executive branch.

Mr. LANTOS. The International Civil Aviation Organization is a U.N. body?

Ms. BODINE. Yes.

Mr. LANTOS. It recommends standards and practices for aviation security.

Ms. BODINE. Yes.

Mr. LANTOS. It also includes in its membership some of the very countries that are perpetrating terrorist acts or are sponsoring terrorist acts.

The International Civil Aviation Organization prepares a manual which is a security manual which teaches governments how to protect their airlines from international terrorism; and these terrorist countries receive this manual, since they are members of the organization.

What has your office done to prevent this from happening?

Ms. BODINE. We are actively involved with ICAO, including on its security subcommittee. There are two elements that have to be taken into account. One is the broader sense of protecting the flying public, wherever it may be. The other one, of course, is, as you said, protecting security devices, security procedures that we may have.

Not every element of security procedures and not every kind of security device is equally available to all ICAO members. There is sort of a fundamental manual which, as I said, ICAO believes is important for the protection of the flying public in general. But that does not mean all members have access to all information and all procedures and all equipment.

FEASIBILITY OF OIL EMBARGO

Mr. LANTOS. What is the present oil income of Libya?

Ms. BODINE. I don't know. I will find out.

Mr. LANTOS. It is my understanding it is in the neighborhood of \$8 billion. Until that is brought to a halt, these superficial sanctions will not do the job in the judgment of some of us here on the Hill.

How long is the administration prepared to wait before considering the option of unilateral action?

Ms. BODINE. The administration at this point is still committed to working within the sanctions framework. What we are looking at actively, and what we have told our allies, is that in December when the current sanction regime is a year old and has had a chance to prove itself or not, we do wish to rerule and will be proposing additional items if we feel it is inadequate.

You make the absolutely right point; we are very distressed by the fact the oil still continues to flow. We have highly circumscribed what they can do with the money, but it is still there. As I said, without giving away some of our deliberations since they are not quite complete, we are looking at some mechanisms that would protect the economic needs of our allies and still do something to staunch the flow of money that goes in.

It is a very delicate balance to strike, but it is something we are deeply concerned about and we are looking for ways to do that. We have made it very clear, as I said, that at the 1-year anniversary of these sanctions, we will want to take a very hard look at what they have accomplished and what they have not, and to see what the next step should be.

Mr. LANTOS. Is it your preliminary judgment that additional steps are needed?

Ms. BODINE. I think we will be looking at additional steps, yes.

Mr. LANTOS. Ms. Bodine, this is probably one of the last times we will have the pleasure of your appearing before our subcommittee.

Ms. BODINE. Monday.

Mr. LANTOS. We want to thank you for your testimony and for your very significant public service within the Department.

Ms. BODINE. I would like to thank you, too, for the support of this committee, for everything that this committee has done to support the Office of Counterterrorism, the administration's efforts across-the-board to wipe out this disease that seems to permeate every corner of the world. We could not accomplish anything if we did not have the support of Congress. This committee in particular has been consistently supportive.

We do appreciate that very much.

Mr. LANTOS. We thank you very much for appearing.

The chair has changed the order of witnesses for a number of reasons, particularly to give the families an opportunity to hear some of our finest experts in the field of counterterrorism; so our next panel will be comprised of Mr. Robert Kupperman, Mr. Henry Schuler, and we will begin their testimony as soon as the votes have been cast. We will stand in recess for a few minutes.

[Recess.]

Mr. LANTOS. The subcommittee will resume. Before calling on our two distinguished witnesses, my colleague Congressman Andrews has a statement.

Mr. ANDREWS. Thank you, Mr. Chairman. I apologize for being unavailable for the first panel, but I look forward to the next two.

I thank you for calling this hearing which I think will mark for us a milestone on issues of compassion, justice, and foresight, certainly for the group of families that have been shown at times ignorance, at times negligence, at times disrespect, it is long since overdue.

You have taken the initiative to show some compassion and respect for people who suffered so much. I am pleased so many of the families could join us today, including two families from my part of New Jersey, the Minetti family and the Mizlaski family.

On issues of justice, the record I think is indisputable. Justice has been deferred and thus denied thus far in this case. Libya has been the victim of sanctions in a rhetorical sense only. As one of our later witnesses I believe will tell us, the only meaningful sanction against the Libyans is one on their source of income and that pertains to oil and the dismal failure of existing sanctions to even approach the question of cutting off oil revenues renders those sanctions virtually meaningless.

No matter how many meetings, no matter how many memos, no matter how many pronouncements, until we strike at the heart of Qadhafi's existence, these will mean nothing to Libya and the prospect of extradition and fair trial remains dim. I believe there has been an insufficient attempt made to deal with the issue of justice with the respect to the role of Syria in this matter.

We have heard time and time again there is no hard evidence of Syrian involvement, but I have to ask the question as you have in these hearings today, what is hard evidence? When one examines a pattern of financial interlocking, when one examines a pattern of diplomatic and political interlocking, at the very least, at the very least at this crucial time in the history of the Middle East at which Syria is now being recognized somehow as an equal partner at the bargaining table, certainly the minimum price for that equality at the bargaining table must be active cooperation in the extradition of these suspects and others with respect to Pan Am 103, not simply rhetoric, active cooperation in pressuring the Libyans to achieve the extradition we have talked about earlier today.

Finally, just as a matter of foresight, I had the occasion in 1991 to receive from the families of Pan Am 103 the commemorative book that was put together about the lives of the young men and young women lost on that airplane. One cannot help but be moved when one reads that book, as I know you have, Mr. Chairman, and think that that could be my son, my daughter, my wife, my parents.

If we do not choose this opportune time in global history to send a strong and powerful message that the United States will aggressively seek out those who commit murder, aggressively prosecute them and bring every resource, every piece of leverage at our disposal to bear, as we have for our economic interests often in the past, then the risk is a lot higher than it will be to my wife, my daughter, or my parents on the next plane that is blown up.

This hearing is not simply about compassion and justice for those directly involved in Pan Am 103. It is also about national preparation to reduce the incidents of international terrorism and send a strong message around the world that we will not tolerate this one day longer or one more episode.

I commend you and you alone for having the foresight to bring us here today. I look forward to the balance of the hearing.

Mr. LANTOS. Thank you very much, Congressman Andrews. I am very pleased to have two internationally recognized experts on antiterrorism testifying before our committee today. I would first like to call, by agreement I understand, on Dr. Kupperman, from the Center for Strategic and International Studies.

STATEMENT OF ROBERT H. KUPPERMAN, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES

Mr. KUPPERMAN. Thank you very much, Congressman. I plan to speak for about 3 minutes—I was given 5—and answer questions. I think that is probably more appropriate.

Terrorism as we have seen it today is nothing as compared to what will happen, in my view. In the next 2 or 3 years we have the potential for chemical, biological, and radiological attacks. We have the World Trade Center as only a minor example of the thou-

sands of people that can be killed. We have situations in which the Governments of Iran, Syria, the terrorist organization Hezbollah is printing virtually perfect U.S. 100 dollar bills. This means billions of dollars that potentially that can be used by these governments to buy atomic bombs from Russia or the Ukraine.

I don't think I can kid—that this is frivolous. I believe we need to bring to bear not only the legal and diplomatic instruments of—that have been discussed at some length earlier, we really need an intelligence apparatus that works. We need a Federal Emergency Management Agency that is able to deal with real disasters.

In short, we are in trouble, and I will be darned if I am going to be quiet about it. That is all I have for the moment.

Mr. LANTOS. Thank you very much.

[The prepared statement of Mr. Kupperman appears in the appendix.]

Mr. LANTOS. Mr. Schuler.

STATEMENT OF G. HENRY M. SCHULER, DIRECTOR, ENERGY PROGRAM, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES

Mr. SCHULER. Mr. Chairman, let me quickly recite some of the considerations that underlies the situation where we are today.

CERTAINTY OF LIBYAN CULPABILITY

First of all, there is no doubt that this—that the bomb was planted by two operatives of Libya's so-called external security organization, an official government organization. Qadhafi had the motive, the financing, the means and the opportunity to have the bomb planted.

If there were others involved—and frankly I don't know whether there were—but as you cited earlier, there were officials in this administration and the previous administration who claimed there was no evidence of it. If there was involvement by Syrians, Iranians, the PFLP-GC, I think it is fair to say they were accessories rather than principals. More importantly, we will never know with finality if they were involved until we get to the Libyan intelligence organization's files which we will never get to as long as Qadhafi is in power.

Secondly, I think the conclusion is inescapable that this act was carried out in furtherance of Libyan state policy. It was sanctioned by Qadhafi himself. There is plenty of evidence of that. My long involvement with Libya leads me to no other conclusion than that he would personally have to have been involved.

Given this situation, President Clinton was entirely correct in saying that it was an attack on America; not just an attack on the plane and victims, an attack on America. I would suggest that this is not simply state-supported terrorism; this is state-executed aggression. So the United States has an unassailable right to hold the Libyan regime accountable and to pursue that accountability as it deems appropriate.

President Bush chose to pursue that accountability through the courts, which I think was a terrible mistake. It was done simply to defer the issue at the time he was building the coalition against Saddam Hussein; but the result of pursuing it through the courts

is that because of the CIA's reluctance to compromise sources and methods, there is no indictment of the people we know to have ordered the attack. That is part of the problem of pursuing it legally.

Moreover, in the absence of an extradition treaty and any principle of international law that requires the surrender of these people it was dependent upon the "goodwill" of Qadhafi to turn these people over.

It is my considered opinion that Qadhafi will never turn them over, even if there were a U.N. oil boycott that was designed to get him to turn them over. He could not afford to turn them over because they will quickly implicate him in a trial in the United States where there is plea bargaining and the death penalty and intelligence interrogation.

In addition, he cannot afford to do it because Abdul Basset al-Megrahi belongs to the tribe that is the backbone of his internal security forces, and he cannot afford to alienate them at this time. Worse than all of that, the decision to pursue it through the courts led to the U.N. If we couldn't force them—if we couldn't get them to extradite them, then you have to play it out through the U.N. as the Bush administration chose to do.

NECESSITY FOR OIL EMBARGO

As you pointed out, there has been a failure to touch what is at the heart of Qadhafi's strength—because the oil production and his oil revenues—and the U.N. sanctions expressly exempt oil production equipment, expressly exempt oil revenues, as a result, all they do is send a signal to Qadhafi, his friends, his opponents, his neighbors, to the world that we are not really serious about this situation.

And I don't believe for a minute that this situation is going to change within the U.N. Russia and China have both made it clear that they will veto any effort for an oil embargo. Third World countries on the Security Council have been won over by Qadhafi's constant throwing up of smoke, and the European countries, our allies in Europe, frankly see it as futile to pursue these two operatives when, first of all, they know, as we know, that they cannot be turned over without compromising Qadhafi so they will never be turned over; and secondly, they know that even if they were surrendered, it wouldn't satisfy justice because the people who ordered the crime have to be held accountable.

So the Europeans are not interested in pursuing a pointless issue through the U.N.; and they will never, for these reasons, pressure the U.N. to do anything more forceful.

So I conclude that we have no choice but to reexamine the situation and redirect our quest for justice, deterrence, and punishment by focusing on the regime that ordered the bombing as well as the operatives who carried out those orders.

I will not go into it at great length at this point, but be assured it is those oil revenues that have allowed Qadhafi to maintain control of Libya for what will be 25 years on the first of September of this year. Therefore, we must stop the flow of those oil revenues as you have made so clear.

The United States has stopped American companies from purchasing Libyan oil and its companies from assisting in the produc-

tion of Libyan oil, but we need to get the support of our European allies in this. As I said, they will not go along with something that is meaningless within the United Nations; but I cannot believe that if the United States goes to our allies in Europe and says there was an attack on America and this is what we expect you to do in support of—in furtherance of—our policy and here is our policy, here is our strategy, I think that they have no choice but to comply, and they are the purchasers of 95 percent of Qadhafi's oil exports.

NECESSARY U.S. ACTIONS

Now, the items that I think are needed are spelled out in my written submission, but let me quickly go through them.

First, this kind of congressional hearing is so important in reemphasizing the issue and we need to go further and bring out the evidence again of Libyan perpetration.

Second, the United States needs to make clear that the U.N. charter, Article 51, endorses an inherent right of self-defense when a country has been attacked. Clearly we were attacked. The President said so. We have the right of self-defense. That right of self-defense lasts until the U.N. Security Council takes meaningful measures and clearly they have not taken meaningful measures; so the legal case is there.

Third, we need to make the case that if we cannot hold accountable somebody who was caught red-handed, there is no way we are going to deter other adventurers around the world and other terrorists. So clearly there is a need that goes beyond Libya to create deterrence.

Fourth, in order to enlist European support, we must establish a meaningful objective; and I would suggest that the only meaningful objective can be to hold accountable all of those involved in the attack up to and including Muammar Qadhafi himself.

Then we need to realistically lay out the options for exercising that accountability. We could invade and occupy, but frankly, that would take 100,000 men and it is not realistic.

As to a Special Forces operation, I am afraid I would have to conclude after the failure to seize Mohammad Aided in Mogadishu that I don't think that that is a realistic operation.

We can support the Libyan opposition. Believe me there are many, many patriotic Libyans long opposed to Qadhafi, but they have no place to operate from because Qadhafi has suborned the surrounding regimes in Egypt, Tunisia, and Chad. We succeeded in supporting the Mujahadeen in Afghanistan because neighboring Pakistan cooperated with us and in supporting the Contras in Nicaragua because El Salvador and Guatemala cooperated. There is no refuge next door to Libya, so Qadhafi opponents cannot do anything. We could bomb the oil infrastructure or we could blockade the oil terminals very easily with the ships and planes already on station; but that would be simply an American operation. I think it is important that we send a signal that Europe supports our view that we must see the end of the Qadhafi regime. So I think we need to get the European Community's support.

I have developed what I think is a coherent strategy that would sap Qadhafi's support. This is the important thing. The objective is not to goad the people to rise up against Qadhafi but rather to

remove the support that he gets from a small cadre of people around him and from the surrounding governments and from the European governments.

So I would call for a total boycott of Libyan oil exports, voluntarily supported by the European countries, with a U.S. Naval blockade, if necessary.

Then we should identify exactly who we hold accountable for the bombing of Pan Am 103—not all the bad guys are in Libya, just the ones we hold accountable for the bombing—and list them publicly so that everybody else who is not on that list says well, I better desert that crowd; I don't want to go down with that sinking ship.

I would suggest we rescind the ban on air travel. It does nothing to influence the cadres around Qadhafi. It only inconveniences or damages the elderly Libyan, the sick Libyan who wants to travel abroad for medical treatment. It is not really accomplishing anything. I feel we could identify with the Libyan people by going along with the rescission of that ban.

I would recommend renouncing the use of force in the absence of further provocation by Qadhafi. To be sure if he does something, more military force might be required. My purpose in this is simply to avoid giving him a rallying cry that the enemy is about to attack us and, more importantly, to make clear to the Libyan people that we are not going to come in and solve their problem for them. We are going to impose an oil boycott, but they have to solve the problem by removing Qadhafi.

Another—I recognize controversial—element of this strategy which is designed to sap Qadhafi's support is to suggest that we would be willing to accept a Libyan trial of the two bombers, and parenthetically let me say I don't believe those two bombers will be alive after the fall of the Qadhafi regime. If by chance they survive, we would accept a Libyan trial on two conditions: one, that all the intelligence files of the external security organization are made available to U.S. investigators so we can see who else may have been involved, Syria, whoever; and two, that the independence of the Libyan courts is assured by free elections held under international supervision. This course is designed to appeal to Libyan democrats and Libyan nationalists.

Finally, I think we also must make clear to the allies that we recognize the need for an equitable sharing of the oil burdens, the costs of this boycott. Frankly, Mr. Chairman, the United States has borne the entire cost of any effort to discipline Qadhafi. American companies at, responding to sanctions imposed by the U.S. Government in 1981 and 1986, gave up over 1 million barrels a day of production and a preeminent position in Libya; so quite frankly, we are in a position of being able to say to the allies we are asking a lot less of you than we were willing to do ourselves. That is five times as much production as European companies now have in Libya. We gave it up, the U.S. Government compelled the American companies to give it up.

A number of European companies have gone into Libya including TOTAL, the French company owned at least 5 percent by the French Government. They have gone in to sign \$1 billion deal to

develop Libya's oil. They did it after we had made it clear that we wanted an oil boycott. So they cannot say they are not on warning.

I would also point out—and I would suggest that Congress may want to look at this—that those European companies that are operating in Libya also have very extensive interests in the United States. Fina, the Belgian company, and TOTAL the French company, each has almost 200,000 barrels a day of refining capacity in this country and operates close to 2,500 filling stations, marketing that product. Each of the American subsidiaries of these two European companies operating in Libya has revenues in excess of \$2 billion last year, and ranked in the top 200 industrial corporations in this country. I think it is reasonable to ask them if their interests in Lybia are more important than their interests in the United States.

Finally, I would also suggest that it is necessary to recognize that about a third of Libya's 1.2 million barrels per day of oil exports to Europe is refined in Libyan-owned refineries in Italy and Germany. Therefore, we would not be taking it away from a European corporation. If it impacts adversely on a Lybian-owned refinery all the better.

In conclusion, let me comment on Mrs. Bodine's suggestion that this is not the right time to enlist European support for a boycott, I have to say that time is not on our side. As every day passes, the memories of this bloody outrage fade. The failure of the United States to act is interpreted as lack of confidence in the evidence. If we believed it, why aren't we doing something about it is the argument made around the world. Every day that passes allows Qadhafi to buy more political influence in Europe, to hire more middlemen. By the same token, European companies are making further investments in Libya which makes it even harder every day that goes by. So it seems to me that we have to move and we have to move expeditiously.

My final point is that while I have suggested several things that I know are controversial, like a Libyan trial and rescinding the ban on air travel, these are designed to produce the true accomplishment of justice and deterrence through the holding of Qadhafi himself accountable. In that regard, I would say that I subscribe to what somebody once said which is that we must not allow the perfect solution to become the enemy of the best solution; I am convinced the best solution is to seek the removal of Qadhafi.

[The prepared statement of G. Henry M. Schuler appears in the appendix.]

Mr. LANTOS. Thank you very much.
Congressman Gilman.

TREATING TERRORISM AS A NATIONAL SECURITY THREAT

Mr. GILMAN. Thank you, Mr. Chairman. I would like to address both of our panelists. We welcome our experts here. A report of the Presidential Commission on Aviation Security and Terrorism recommended that our Nation not be bound by a criminal standard of proof before we respond to terrorist acts; and the report states, "The United States must be ready to view some terrorist attacks as a matter of national security and indeed in some cases should

be prepared to treat the act as what it is, an act of aggression against the United States.”

How do you feel about that?

Mr. KUPPERMAN. I think that that is the minimum I would do. I don't want to see these people get away with a thing. We use the 16-inch guns on the Battleship New Jersey and fired at the mountains in Lebanon. I don't know how many hundreds of people we killed. By contrast we are loathe to use one individual with a 22-caliber pistol and a silencer. We have got to understand we are dealing with a pernicious, deadly form of warfare that affects us as a national security problem, which possibly may offend our more delicate instincts.

Mr. SCHULER. I fully concur in the statement that you read. I think that it is preposterous to try to apply a legal standard to an international terrorist situation where by definition the states are making every effort to hide any evidence of wrongdoing.

Mr. KUPPERMAN. It is a war. If you think of it in any other way, you are crazy. Which I don't mean it in a pejorative sense. This is warfare. We can't rely upon the niceties of a formal dichotomy of battle.

Mr. GILMAN. What do you recommend if despite all our sanctions and attempts to get these two terrorists out of Libya that they still refuse, what further steps would you recommend?

Mr. KUPPERMAN. The only other steps are covert opportunities. Indelicately, it is special operations.

Mr. GILMAN. Mr. Schuler.

Mr. SCHULER. I have no quarrel whatsoever with special operations. I would suggest that they should be directed not just against the two operatives who planted the bombs, but those who ordered the bombs; but my concern is, number one, there is, to the best of my knowledge, still an Executive order in effect that says assassination of foreign leaders is not permissible. Whether or not that is a good idea, I leave to others, but that is my understanding that that is the current law.

As to a “snatch and grab” operation, I am concerned that if we could not seize Mohammad Farrah Aideed in the small city of Mogadishu when we were operating on the ground, I don't know how the Delta Force and Rangers are going to seize Qadhafi when they have to helicopter in from the sea. He has bought the regime in Egypt, Tunisia, and Chad, so we cannot operate from land. We will have to operate from sea. I just do not think that that is a realistic possibility in this case; so that is why I think we have to go to the allies and insist that they support a boycott of Libyan oil.

Mr. GILMAN. What about the high tech explosive detection devices that are so crucial to enhance the aviation security being developed and approved? According to the Federal Aviation Administration's Aviation Research and Development Advisory Panel, it will take the FAA some 2 to 5 years to approve those kind of devices.

Until these kind of devices are developed and proven to be effective, are there any commercially developed explosive detection devices you know about that can be used in the meantime to effectively detect plastic explosives in airline baggage?

Mr. KUPPERMAN. The answer is yes, in part. Plastic explosives have been—especially if they have been handled—and if the explosives are of large enough quantity, the possibility of detecting them, using so-called electronic sniffers, bomb sniffing dogs or trained gerbils is well within reason.

The better and more accurate devices which suffer from just being too sensitive are not yet available.

Mr. GILMAN. Mr. Schuler.

Mr. SCHULER. I have nothing to add.

Mr. GILMAN. What about the use of such devices that use conventional x-rays? Such devices they tell me are capable of revealing materials with low atomic number and high density such as plastic explosives. These extra machines are currently located at airports in Israel, Sweden, Finland, Pakistan, Japan, and the United States.

Do these devices prove effective during the time it takes the FAA to approve new explosive detection devices? Do you recommend them?

Mr. KUPPERMAN. My impression is, and I have had technical discussions with individuals involved with them, that they are not as effective as thermal neutron capture devices, but these are the best available.

Mr. SCHULER. I don't know.

Mr. GILMAN. A major problem with the plastic explosives already in the hands of potential terrorists, the Czech President, Vaclav Havel, reported its predecessor, Czechoslovakia delivered over 1,000 tons of plastic explosives to Libya. It is estimated that fewer than 400 grams destroyed Pan Am 103. There are other measures which you would propose to help quell the flow of undetectable plastics into the hands of terrorists?

Mr. KUPPERMAN. I wish I knew, short of HUMINT, short of intelligence, that clandestine means of obtaining it. I just don't have an answer to that question.

Mr. GILMAN. Mr. Schuler.

Mr. SCHULER. To me it all comes back to the need to deter. If somebody is determined to do it, and doesn't fear the consequences, they are going to try. Sometimes they will be caught. Sometimes they will not. But the answer in my judgment lies in deterrence and in denying the oil revenues that enable them to buy 1,000 tons of Semtex explosives.

Mr. GILMAN. Thank you. Thank you, Mr. Chairman.

Mr. LANTOS. Congressman Andrews.

Mr. ANDREWS. Gentlemen, thank you for your testimony.

SYRIAN INVOLVEMENT IN TERRORISM

As experts very clearly in the field of terrorism, I wonder if I could ask you to evaluate the accuracy of the following statement which I am about to read you, which is taken from the document called Patterns of Global Terrorism 1993 produced by the U.S. Department of State. This is in reference to Syria.

"There is no evidence that Syrian officials have been directly involved in planning or executing terrorist attacks since 1986. But Syria continues to provide support to and safe haven for several groups that engage in international terrorism. Syria has taken

steps to restrain the international activities of some of these groups. In July 1993, Damascus played an important part in cooling hostilities in southern Lebanon by inducing Hezbollah to halt its rocket attacks on northern Israel.

“Since the signing of the Gaza-Jericho accord in September, Syria has counseled Palestinian rejectionists to refrain from violence outside the region, although it has not acted to stop rejectionist violence in southern Lebanon or halted Iranian resupply of Hezbollah via Syria.”

Could you critique that evaluation of Syria’s present activities for me?

Mr. KUPPERMAN. Syria is heavily involved in terrorism. It is still on the terrorism list. It is involved in counterfeiting virtually perfect U.S. 100 dollar bills. It has befriended and protected terrorists, such as Abu Nidel and Ahmad Jibril. Syria is also a major factor in the narcotics business—distributing heroin.

As to whether or not they were involved directly in Pan Am 103 is a source of debate at this point.

Mr. ANDREWS. Thank you. Mr. Schuler.

Mr. SCHULER. I would have nothing to add specifically on Syria except it seems entirely clear to me that, to the extent that they harbor Ahmad Jibril and PFLP-GC, they indeed were planning to bomb American aircraft in 1988; so I don’t see how the State Department can say since 1986 there has been no Syrian involvement in terrorism.

Mr. ANDREWS. It certainly stretches credibility to assume that the events in Germany in October of 1988 were unrelated to events in Lockerbie in December of 1988, given the exact—

Mr. KUPPERMAN. It was a handoff. It was likely to have been a handoff at the time.

Mr. ANDREWS. Yes.

Mr. KUPPERMAN. Autumn Leaves scared the hell out of the PFLP-GC. They turned the mission over or sold the mission to the Libyans.

Mr. SCHULER. Let me say, I talked to a lot of people in the U.S. Government who have no doubt of Syria’s support for terrorism, but who insist to me that there is no evidence of their involvement in this particular bombing of Pan Am 103.

My—I would again reiterate that Libya had certainly the financial means to do it, far more than Iran, for example, because they have 3 million people versus 50 million people in Iran to spread the oil wealth around. Libya had the motive; retaliation for the bombing of Tripoli and Benghazi in 1986. So their vengeance was there. They had the means and had the opportunity to insert the bomb.

So I remain convinced that Libya perpetrated the bombing; it may very well be that the Syrians or Ahmad Jibril knew about it going on; but I think it was a Libyan operation; I don’t think intelligence organizations share the operational details with anybody in pursuing a terrorist act.

So I think that if Syria knew about it, the only way we are ever going to get valid information is out of Libyan sources, Libyan intelligence files, Libyan operatives.

Mr. ANDREWS. I understand that. The reason I raise this question at this time is that we are seemingly on an inexorable path

of momentum toward an Assad-Rabin handshake sometime in the next couple of months, perhaps.

Mr. KUPPERMAN. Wash your hands.

Mr. ANDREWS. I hear you. Touche.

If the person asking you this question were President Clinton or Secretary of State Christopher and the question you were asked was what position should we take in our discussions with Syria to maximize the possibility that Syria would use whatever leverage it has to encourage the extradition of these two defendants, what answer would you give me?

Mr. KUPPERMAN. Kill him.

Mr. SCHULER. I don't myself think Syria has any influence in this case. I think it is a Qadhafi—he is not going to respond to anything to turn these guys over. Nothing.

Mr. ANDREWS. Do you think that there is any mechanism in these negotiations to which Syria could be encouraged to become involved the way it has done before?

Mr. KUPPERMAN. Look, they are in the narcotics business as well. Rafat Sahd is well known for his activities in that area. They sponsor the cutting of the narcotics, the distribution of it. They are now in the counterfeiting business, as I mentioned earlier. We are not dealing with choir boys.

Mr. ANDREWS. I assume you would take something of a dim view of further negotiations with the Syrians?

Mr. KUPPERMAN. Well, let them do something that demonstrates some act of good faith. Let them turn over Ahmad Jibril to us or to the French.

Mr. ANDREWS. Would you make that specific demand if you were engaged in those negotiations?

Mr. KUPPERMAN. Yes. I realize the negotiations would fail, but I wouldn't mind making the demand anyway.

Mr. ANDREWS. That might be a result we would mutually desire. In your opinion, would the United States be within its rights as a matter of international law to insist on that extradition before negotiations went forward?

Mr. KUPPERMAN. I am not an international attorney. I am not an attorney.

Mr. ANDREWS. You have too much sense to be an attorney.

Mr. KUPPERMAN. I think it is morally within our rights, and I think that we have suffered enough at the hands of a lot of nations, and I think we better be very, very careful because as tragic as Pan Am 103 is, we are going to see much more in my view. It is going to be in the United States.

Mr. ANDREWS. Mr. Schuler, do you have an answer to that question?

Mr. SCHULER. I would certainly concur in what Bob Kupperman said that there will be an increase in terrorism if we fail to establish deterrence. If somebody who has been caught as red-handed, with as strong evidence as there is in the Pan Am 103 case is not punished, I am sure we will see more terrorism.

Mr. ANDREWS. Do you believe we would be within our rights to demand such an extradition?

Mr. SCHULER. The extradition of the two Libyans?

Mr. ANDREWS. No. The gentleman in Syria.

Mr. SCHULER. Ahmad Jibril. If we can prove we were the object of an attack by Ahmad Jibril or even have strong evidence—

Mr. ANDREWS. Or that he was part of a conspiracy?

Mr. SCHULER. If he was part of a conspiracy, we could certainly make that a condition of our relationships with Syria.

Mr. ANDREWS. Thank you very much.

Mr. LANTOS. Thank you very much. Congressman Smith.

Mr. SMITH. Thank you very much, Mr. Chairman. I have about a half a dozen questions that I will put in writing to you out of deference to the families that have been waiting very long to testify today.

You make a number of very keen observations. I read both the testimonies now during the course of this give and take. Your observation, Mr. Kupperman, that FEMA is not capable of rapid and effective response to infrastructure attacks is something and other thoughts contained in these reports or testimony are very, very well taken.

Mr. KUPPERMAN. Thank you. I ran the agency for 3 months and God help us.

Mr. SMITH. Thank you very much.

Mr. LANTOS. Well, in deference to the families, I will submit my questions in writing. I want to thank both of you very much for appearing.

Our final panel consists of members of families of victims of Pan Am 103: Rosemary Wolfe of Virginia, Kathleen Flynn of New Jersey, Babette Hollister of New York, Susan Cohen of New Jersey, Stephanie Bernstein of Maryland, Aphrodite Tsairis of New Jersey.

Please take your seats.

If you wish to include official statements, you may do so. We are very grateful for your appearance. To the extent possible, we share your anguish and we are determined to try to be of assistance to you to the fullest extent of our capabilities.

STATEMENT OF ROSEMARY WOLFE, VIRGINIA

Ms. WOLFE. I am Rosemary Wolfe. My 20-year old stepdaughter, Miriam, who was a student at Syracuse was murdered on Pan Am 103 6 years ago at the hands of terrorists, most of them unnamed and all of them at large.

Since that tragic day, my husband and I joined with other families to fight for truth and justice about the bombing and for policies that would prevent another Pan Am 103. I am President of the Families of Pan Am 103 Lockerbie, one of the two American family groups. I am here today to provide observations and suggestions from my experiences.

I want to thank you for calling this hearing—I hope it marks a serious commitment by your subcommittee and others in the Congress to breaking the stalemate in this and the prior administration's investigation of action against all of the terrorists and their State sponsors involved in the bombing of Pan Am 103. This hearing must be the first of many that must lead to a strong, consistent, and unrelenting U.S. foreign policy against terrorism. An uncompromising foreign policy is the only deterrent to another Pan Am 103 and the only way we can get truth and justice about the bombing.

U.S. INACTION ON TERRORISM

I appreciate the opportunity to testify. Let me begin by saying that this hearing and action by the Congress is long overdue. Two administrations have lacked the political will to take the steps to see that the two low level Libyans indicted in the Pan Am 103 bombing almost 3 years ago are taken into custody and prosecuted. And, in the name of political expediency, two administrations have failed to deal not only with the role of Iran and Syria in the bombing, but the role of Qadhafi and the Libyan Government itself.

In the matter of Libya, we have relegated to the international community our ability to take custody of and prosecute the two Libyan agents, Fhimah and Megrahi—the only persons to date who have been indicted or named in the bombing of Pan Am 103. The sanctions imposed on Libya and the U.N. Security Council for its refusal to turn over Fhimah and Megrahi never went far enough, and it is unlikely that this administration will take up the banner for a worldwide oil embargo against Libya anytime soon. We have, in fact, relegated any retribution against Libya to the international community. The blame for the bombing of Pan Am 103 is being entirely linked to Libya and there is no effective action being taken against Qadhafi.

The U.S. Government has also failed to deal squarely with the role of other terrorists and their state sponsors in the bombing. Our failure to further the investigation of the Pan Am 103 bombing is enmeshed in conciliatory policies with Iran and Syria.

In the past, the United States, for example, did not retaliate in the bombings of the American Embassy in Beirut or against the Marine barracks in 1983 when 241 Marines were murdered. Now, despite the fact that Iran and Syria have been on the State Department's list of terrorist states for years, we continue to do business with them when it is in our interest. Now, we are courting Syria more than ever before because Assad is a key player in the Mideast peace process. And, we are not about to upset this balance. However, we cannot sacrifice our national interests to those of Israel. A handshake between Syria and Israel will not stop terrorism. Our perspectives are the reason why we do not have a clearly defined policy on terrorism today—and a large part of the reason why we have not moved forward with continued investigation and action on Iran and Syria's role in the bombing of Pan Am 103.

I believe that another reason why the U.S. Government has not moved ahead with the investigation is that we would have to confront the intelligence failure that led to the bombing after repeated warnings. There were intelligence reports implicating Iran and Syrian terrorists in planning retaliation against an American airlines for the downing of the Iranian Airbus by the Vincennes as well as FAA advisories, and warnings from the Mossad and others over a 5-month period of time. These warnings began 2 days after the downing of the Iranian Airbus on July 3, 1988 until the bombing of Pan Am 103 on December 21, 1988.

CALL FOR CONGRESSIONAL ACTION

It is for these reasons that the Congress must act now because the administration has not. First, I want to document the families'

repeated and unsatisfied appeals to this administration on the stalemated investigation. In September 1992, candidate Clinton told us—in a letter to Dan and Susan Cohen, who are here with us today—that he would see that the answers to our questions on Iran and Syria's role in the bombing were addressed. In March 1993, National Security Advisor, Tony Lake, at the invitation of the President, asked representatives of the families to attend a meeting at the White House to voice our concerns.

Two days after the meeting with Mr. Lake, a few members from our family group met with the Attorney General. The Attorney General asked us to submit specific questions and background material on Iran and Syria's role in the bombing stating that she would personally review the materials. We submitted materials after more than a month of painstaking effort preparing time. We received a curt response 2 months later from two of the Attorney General's assistants with no answers or hope for continuing pursuit of the investigation.

In October 1993, a few of us met with FBI Director Freeh asking for a revitalization of the investigation. He acknowledged that there was no new evidence to work on. He said that if the FBI got a lead, he wouldn't hesitate to put 50 men on it. We learned that key top agency officials who dealt with the investigation had all left or would soon be leaving Washington. Despite his assurances that the investigation was still open, when we asked Director Fresh, who was in charge of the investigation, he said he was.

Over the next year, we continued pressing for a revitalized investigation and for a meeting with the President. We got our meeting—on the fifth anniversary of the bombing, just prior to the groundbreaking ceremony at Arlington for the memorial to the Pan Am 103 victims. President Clinton met with five of us in the Oval Office—I asked him to appoint a special prosecutor or task force to revitalize the investigation. In his comments to us, he did not discount the role of Iran and Syria in the bombing. He told us that the government was more clear about Libya's role but less clear about the role of Iran and Syria. The President listened but made no commitment to my request.

We know from administration staff that the President did bring up the Pan Am 103 bombing with Syrian leader Assad when he met with him 2 months later. Assad asked for evidence. We don't know the follow-up.

The administration has heard us but has not taken action to reopen the investigation on Iran and Syria's role. This is why the Congress must act. Today we turn to you and other members for action. You might be asking yourselves why many of us have continued to push for taking this investigation beyond Libya when we already have indictments of two Libyan agents for the bombing of Pan Am 103. Let me tell you why.

High level officials in the FBI, the Department of Justice, the State Department, and the National Security Council never denied now or over the past few years that Iran and Syria shared the responsibility for the bombing, only that there is no "prosecutable" evidence to take to court. At the time the indictments were issued, the head of the Department of Justice Criminal Division, Robert Mueller, told us privately and publicly that this was so.

To this day, Vincent Cannistraro, former CIA Chief of counterterrorism operations at the CIA, Paul Bremer, former Ambassador-at-Large for counterterrorism at the Department of State, and William Webster, former CIA Director—all in office on December 21, 1988 will tell you they believe Iran and Syria may have been implicated. Even Robert Mueller has not ruled out Iran and Syria's role.

Mr. LANTOS. May I ask you to wrap up your statement? Your prepared statement is submitted for the record in its entirety. In deference to others, we need to restrict the oral testimony time.

Ms. WOLFE. What I would like to say is that this issue of prosecutable evidence is really significant because it does not discount the wide body of intelligence evidence that has been reported worldwide.

Starting with the day of the bombing of the Airbus and 2 days later reports from the Military Air Command indicating that Iran was planning to have attacks on American targets, taken all the way up to the Helsinki warning and the bombing of 103.

So if you look at that evidence, there is no way that you could come to the conclusion that Libya—you would have to come to the conclusion that Libya after Autumn Leaves decided to undertake a major operation on its own, which is what I think the administration would have us believe, that these are two separate operations.

What I think is more likely is that Libya was either part of it from the beginning and their role was expanded after Autumn Leaves or that it was handed over after Autumn Leaves. There are intelligence intercepts on wire transfers of money between Iran and Jibril; there are some reports which indicate that Syria was also involved in this financial operation.

So that what we did when we got the forensic evidence regarding Libya was to drop the rest of it, and what we want is to have this picked up and continued and also from a foreign policy point of view, to acknowledge Iran and Syria's role, what we know about it and to carry out foreign policies that will deal with that role, sanctioning Iran and Syria, acknowledging it, curtailing all business and trade relations, pass legislation like the Cuba Democracy Act which would prevent trade; stop current administration efforts to make it easier to get states off the terrorism list and drug list as happened just in the last 2 months, and reject any further attempts like the attempts to get Syria off the drug list.

Regarding Libya, we have no aggressive U.S. policy. The next sanctions review will be coming up, but there is a wait and see attitude. Barbara Bodine spoke with us at our meeting in November and told us that it would take at least a year for Libya to feel the impact. She called them long-haul sanctions and said that, you know, we just had to evaluate what was happening before further action was taken. This is a wait and see attitude with no apparent plans for immediate action.

This is what we need to deal with. We have not made worldwide oil embargo a number one priority in this administration. If our allies, if the rest of the world knew that we would settle for nothing less and we must do that with our negotiations and our behind the scenes dealing with them, I believe that it is possible that we could get it.

We have spent—some of us have spent a lot of time at embassies here in Washington and missions at the U.N. and this has not been presented as an alternative we have been told. Countries like Italy, which depend very heavily upon Libya's type of crude, have told us that they have been doing studies on alternatives.

What it tells us is that there are alternatives and that the oil market now we are told would be favorable to an embargo of this kind; so I think we have to take the opportunity and seize it. If our allies after our talks with them refuse to go along with it, I think we have to take it unilaterally before the U.N., force a vote, make nations go on record as saying no, we do not want to do anything about this brutal country, leader.

Then after that, if that is rejected, then I think the United States must unilaterally take steps. It would have meant that a non-military action didn't work, then other alternatives must be looked at like a blockade or others.

I for one have indicated to both Mr. Lake and to Director Freeh and Attorney General Reno I would have no problem with us going in and seizing Fhimah or Megrahi. Let's do it. We have special forces. Why not do it? The Supreme Court has upheld that policy of rendition. I think we can do it.

In the end, I think at this point we need the help of Congress to pressure the administration. Terrorism isn't going to go away. The events in Argentina, the events in London in the last couple of days tell us that—the bombing of the Panamanian plane.

We are very glad you are going to be holding hearings on this. We need your help, and we need to force an aggressive U.S. policy. I want to thank you for allowing me to testify.

Mr. LANTOS. I want to thank you, Ms. Wolf, for a very comprehensive and thoughtful and eloquent and incisive testimony.

[The prepared statement of Ms. Wolfe appears in the appendix.]

Mr. LANTOS. Ms. Flynn.

STATEMENT OF KATHLEEN R. FLYNN, NEW JERSEY

Mrs. FLYNN. Thank you. Good afternoon.

Congressman Lantos and the Committee on Foreign Affairs, Subcommittee on International Security, International Organizations and Human Rights, I welcome the opportunity to address this subcommittee and share with you the horror and the heartbreak that this international crime committed against our families and, indeed, all of humanity has bestowed upon us for the last 5½ years.

It is my understanding that this hearing is the first in a series that will finally expose the incredibly inadequate and immoral foreign policy or, better yet, lack of policy with regard to this act of war against America and ultimately construct a foreign policy based on intrinsic moral values, not political expediency.

I am Kathleen Flynn, mother of John Patrick Flynn, murdered on Pan Am Flight 103 over Lockerbie, Scotland, on December 21, 1988. J.P., the oldest of our four children, was a junior at Colgate University returning home for Christmas after studying for a semester in London.

The devastation to the Flynn family is indescribable, but multiply that pain and suffering 270 times for all the other families whose loved ones perished that winter solstice eve, and know why

I come before you. I do it for my son and all our dear departed family members.

I guess this would be the perfect time to ask for a reverential moment of silence for our loved ones, but somehow that gesture seems too inappropriate in front of our Government because that has essentially been the response of our Government—silence. Deafening silence. Make it go away silence. Appeasing silence. The silence of shame.

FAILURES IN U.S. FOREIGN POLICY

Rather than pretend to be a foreign policy expert, allow me to present what I consider must be the building block of any foreign policy and that is the undisputed commitment to what is right and just and in the best interests of the people that are the inhabitants of that country. Somehow, as a nation, we have gone astray. Apathy and inaction, particularly with regard to terrorist acts, seem to be the watchwords of American foreign policy.

Recall with me the 1983 bombing of the Marine barracks in Lebanon. What was the government's response? We invaded Grenada a few days later to distract public sentiment from the mass murder of our Marines.

The Gander air crash—always a touchy subject. People watched the plane explode in the sky, and our Government insisted it was icing on the wings. Middle East terrorists took credit for the bombing and warned Ollie North not to ship the wrong arms next time.

When one journeys farther back in history, ironically we come up on the shores of Tripoli. It was in this geographic location that Thomas Jefferson ordered U.S. military action when a small group of American sailors had been attacked by a group of pirates. Swift and decisive!

And with the largest single terrorist act against Americans, what has been the government's response? It has almost been 6 years and not one person, group, state, corporation or government has paid for the bombing of Pan Am 103. As you and I both know, major world wars were started for far less.

Terrorism is much more than the murder of innocent people by rogue civilians. The bombing of Pan Am 103 is, in fact, a systematic act of war against the United States. It is performed by and supported by a certain collection of nations. The American solution to this crime has been to demand the extradition of two hit men and impose weak, ineffectual sanctions on their country. This action is akin to using Kleenex to cure pneumonia.

I think it is important to emphasize the big picture with regard to Pan Am 103. In the 5½ years we have lived with this tragedy, there have been mega flip-flops back and forth on who is actually responsible for the bombing. There are indictments on two low-life Libyans. There are U.N. sanctions against Libya to turn over these indicted, renounce terrorism, pay compensation, et cetera, et cetera.

But what has been shared by officials from the FBI, the State Department, the NSC, the Congress, the administration—with the exception of George Bush—is that there is no prosecutable evidence to link Syria and Iran. Because Mrs. Wolfe already addressed it, that there is no prosecutable evidence.

That does not mean that there is not a very strong and viable connection. It does not mean that they were uninvolved. It simply means that, to date, there is no prosecutable evidence. And if we believe the FBI it is an ongoing investigation. And well it should be. But this is a very important point in our discussion on foreign policy issues with regard to Pan Am 103. That is the key issue, prosecutable evidence.

Logic defies one to believe there were two separate terrorist plans to blow up an American plane, one masterminded by Jibril, the other Qadhafi. Logic demands that we recognize that good old boys terrorist network whose main concern was revenge for the downing of the Iranian Airbus by the Vincennes. Logic makes us scoff at Meghari and Fhimah sitting around a cafe in Malta and deciding to blow up an American plane without the full backing of the key players. Evidence points to a terrorist summit meeting held in November 1988, in Tripoli with the big boys such as Jibril and Abu Nidal in attendance. This was the hand-off to Qadhafi, and he was more than happy to be included.

Again, I will not take the time to read the attached article from the *Times of London* who talks about Jibril, how he will fight with Qadhafi because America imposed sanctions and Syria will do the same. You may read that at your leisure.

COMBATING TERRORISM

What does all this to-do about prosecutable evidence have to do with our foreign policy in the aftermath of Pan Am 103? The obvious comments are: It has been almost 6 years. Give it up. The people in my district don't care. Americans are worried about health care and the economy. We need a consensus from our allies to act. Or, better yet, our new foreign policy will be based on multilateralism.

For starters, I have a lot of trouble sharing the euphoria of the Secretary of State Warren Christopher over the Middle East Peace Accord. The issue of Middle East state-sponsored terrorism has not been fully addressed nor resolved. The bumper sticker that reads, "Want peace? Work for Justice" seems so apropos. This unresolved issue of complicity in the Pan Am 103 bombing will come back to haunt the peace process.

To fight terrorism, you must deal with and punish those nations responsible. Terrorist groups are tools of the sponsoring nations, essentially powerless without their funding and support. The United States has the power but, apparently, not the will to squash terrorism.

Again, I refer to attachment 2 which Congressman Gilman has quoted from, the Presidential Commission on Aviation, Security and Terrorism, and the first words out of their mouth after 6 months study on Pan Am 103 was, "National will and the moral courage to exercise it are the ultimate means for defeating terrorism."

Real specific sanctions are the first step, to be followed with tangible military actions, not empty threats. I am certainly not nor ever have been a warmonger, but look at the facts. The U.S. military has been employed to fight crime and injustice in the name of many other people other than Americans—Panama, Grenada,

Kuwait, Somalia, Nicaragua, Haiti—and the list goes on. When it comes to our own people and the violation of their sovereignty, the response is nonexistent as per Pan Am 103.

The new option is the new buzzword in foreign affairs, ritualistic multilateralism, where difficult problems are dished off to the United Nations so that governments can appear to be taking action as they turn their attention elsewhere. Does this sound familiar with the Pan Am 103 bombing?

The perennial whine from the State Department is that we can't get any stiffer sanctions on Libya. We can't get the support of our allies and the other member nations.

My cry is, take your ball and go home. This was an attack against America. Let us resolve it ourselves in an honorable and forthright manner.

My call to action on foreign policy in the aftermath of Pan Am 103 is to open the doors to the truth about the nations involved in this crime and hold them accountable for their actions. As a government, let us stop talking out of both sides of our mouth. When we impose sanctions, enforce them across the board, without all the loopholes. Take the tough path when the time comes where use of force is no longer an option but a necessity. Unfortunately, I believe the time has come.

I leave you with one closing thought. General Schwarzkopf was asked during an interview recently on the Holocaust—the question was, how did a civilized world allow this to happen? His answer was simple and direct, and I quote, "All that it takes for evil to triumph is for good people to do nothing."

I applaud this committee and particularly Congressman Lantos for your efforts on behalf of the families and on behalf of the fight for terrorism.

I would just in closing point out I guess I would like to take a survey on how many State Department employees or counterterrorism people are in this room listening to this testimony. I think this is what it is all about. I think we really—you have given them a mandate, and I hope to God they take up the mantle. I thank you.

Mr. LANTOS. Well, I want to thank you, Mrs. Flynn. I hate to be repetitious, but your statement was most powerful and eloquent and incisive, and there isn't a sentence with which I wouldn't fully concur.

[The prepared statement of Mrs. Flynn appears in the appendix.]

Mr. LANTOS. We will next hear from Ms. Babette Hollister of New York. We are pleased to have you.

STATEMENT OF BABETTE S. HOLLISTER, NEW YORK

Mrs. HOLLISTER. Mr. Chairman, this is just a summary statement. My full statement has been submitted.

Mr. LANTOS. It will be part of the record.

Mrs. HOLLISTER. I am the mother of Katherine Hollister, a 20-year-old University of Rochester junior returning aboard Pan Am 103 from a semester studying in York, England.

Kate was a true trekkie. Left on the wall of her room is a sign, "Reality is the crutch for those persons unable to handle science fiction."

In the 67 months and 1 week since the bombing of Pan Am 103, I have come to believe the original bumper sticker saying had it right: "Science fiction is the crutch for those persons unable to handle reality."

I think Kate would agree with me. For it is certainly out of the bounds of reality that in this span of time the U.S. Government has done virtually nothing to bring to justice the perpetrators of this heinous crime which, in addition to murdering 270 victims, forever changed the lives of the victims' families.

The only policy, good or bad, that I can find is that the United States pressed for the Security Council sanctions. Before talking about the success of the sanctions, I want to point out that the government never explained clearly why it is that we are in our present situation today needing sanctions or something to get Libya to release the two suspects.

On November 14, 1991, a U.S. grand jury indicted them. Unless the government planned to kidnap them, how did it expect to prosecute them? We have no jurisdiction over Libyans. Furthermore, since it is assumed these individuals were working for Qadhafi, why would the government have expected Libya to release them?

Since the suspects have not been extradited, both the original sanctions of April 1992, and the so-called strengthened ones of November 1993, which went into effect on December 1, have not been successful.

The State Department did not admit this. Rather, they referred to the sanctions' expected ratcheting effect. If there was one, the direction of movement was not observable.

NECESSITY OF OIL EMBARGO

To estimate the effects of the sanctions, it would be useful to see if there are any changes in either economic or noneconomic indicators of well-being. The usual statistical sources for this information published virtually no data for Libya for this period, but World Bank statistics showed Libya had an annual negative growth rate of 3 percent for 1969 through 1989, way before sanctions were imposed—in fact, prior to the imposition of U.S. unilateral sanctions.

The toughened sanctions took so long to go into effect that Libya was able to move about \$6.5 billion into Third World banks to avoid them. Furthermore, the existence of foreign subsidiaries and affiliates makes it possible for U.S. companies to get around sanctions.

This hearing is also concerned with what future U.S. policy should be. Since most of Libya's revenues come from oil, the best chance for success would be to place an oil embargo on Libya which would necessitate the use of a naval blockade to ensure enforcement of the embargo. This is not a novel idea. It has been talked about so much that one wonders why no action has been taken. Let me cite two instances.

On July 1, 1993, Senator Moynihan said: they (the sanctions) have not worked. More is needed . . . An oil embargo should be established at once. And I would cite the President's dictum. We will act multilaterally where we can but unilaterally where we must . . . "Secondly, Senate resolution 165, introduced by Senator Kennedy, was passed unanimously.

In spite of these statements and many more like them an oil embargo was not passed. One argument advanced against an oil embargo is that it would hurt our allies in Europe since they are dependent upon Libyan oil, and this also explains why it is not possible to get backing in the Security Council.

The counterargument is that oil prices are now at their lowest levels in over 5 years. What better time for an embargo than when our allies have alternative cheap sources?

This is another fact to consider. Some countries, including those who import Libyan oil, have large investments in Libyan oil production and would be doubly adversely affected by an embargo.

There is no sound argument against an embargo. First, the countries have had warnings that their investments may not be safe. Libya has been in economic trouble since 1969. Furthermore, some investments were made after the bombing when there were thoughts the United States would retaliate.

Second, if an embargo is successful, the adverse effects will be of short-run duration, and there is the possibility that Libyan fortunes will be reversed as oil exports rise.

In addition to an oil embargo, future U.S. policy should be consistent. How does the world perceive an attempted attack on ex-President Bush provoked a missile strike against Iraq while a successful attack—that is, one that murdered 270 people, 189 of them American—provoked some weak sanctions against Libya?

Prior to the attempted assassination of Mr. Bush, various members of government told victims' families that unilateral action was out of the question. At a State Department briefing on June 28, 1993, Mr. McCurry, responding to a question concerning the lack of response to Pan Am 103 compared to the attempted attack on Mr. Bush stated, "But this was a different situation. It was an attack directed against the office of the Presidency, and it required a response by the United States."

All I got from that comment was that Americans are not equal in the eyes of the government.

Contrast that statement to what President Clinton said at Arlington Cemetery on December 21. "For the attack on Pan Am 103 was . . . at root an attack on America."

I do not favor the use of military force except when all other means fail. I am not in 100 percent agreement with the strike against Iraq, but what I do know is that an attack on America desperately requires some action stronger than ineffectual Security Council sanctions.

Given the ineffective sanctions, the many calls for an oil embargo—unilaterally, if necessary—and the President's belief that the bombing was an attack on America, this hearing must consider the basis for the government's pitiful attempts to secure the extradition of the two Libyans if it is to consider what appropriate future policies should be.

Let's assume the United States is successful in getting the Libyan suspects to the United States for trial, and they are found guilty. Surely they will have incentive to try to reduce their sentences by revealing who else played a role in the bombing. They might implicate Syria and/or Iran.

Would the United States benefit from this revelation? For several years, the United States has been trying to get Syria to the bargaining table in the Mideast peace talks. Implicating them might have an effect on Syria's willingness to participate.

There was an interesting item in the *New York Times* on this past June 8 stating, in part: ". . . in November, 1991, the United States and Iran reached an agreement under which the United States returned \$278 million of military claims by Iran and the Bush administration issued a statement clearing Iran of involvement in the bombing of a jetliner over Scotland in 1988 . . ."

I don't think the government would like it known to an even greater extent of its dealings with terrorist nations.

I fervently hope I am wrong, but I believe the United States has not tried to get the extradition of the accused, fearing unwelcome revelations about Syria and Iran. I have been in doubt about the government's veracity since shortly after the bombing. No one adequately answered my very simple question, how come there were vacant seats on flight 103, and 5 months earlier Kate had not been able to get a reservation?

I again questioned the government's veracity after the indictments were handed down. I was able to accept that two Libyans were responsible for planting the bomb but didn't accept they were solely responsible, nor the fact that a terrorist would leave a diary where it could be found. And, furthermore, the diary was written in English.

I did not accept the answers given to me at the State Department meeting, that not all terrorists are bright and that there had been, historically, a strong English influence on Malta.

Since U.S. policies have not been designed to make the greatest effort to extradite the two, it seems the United States is not interested in having a trial that might reveal the real truth behind the bombing. Remember, the United States is not squeaky clean about its involvement. Safety precautions were not properly monitored, and there will always be questions concerning the lack of notification about possible terrorist activities.

Therefore, my view on future U.S. policy is simple: Do something that is meaningful, starting with an oil embargo, unilaterally if necessary. Kate and all the other victims and their families deserve some real policies, not just a bunch of words. If not now, when?

Mr. LANTOS. Well, let me just say, Ms. Hollister, I wish every single one of my colleagues in the Congress could be here to hear you and hear your colleagues on the panel. This is one of the finest series of testimonies that I have had the privilege of hearing.

[The prepared statement of Mrs. Hollister appears in the appendix.]

Mr. LANTOS. We next hear from Ms. Cohen.

STATEMENT OF SUSAN COHEN, NEW JERSEY

Mrs. COHEN. I will cut short a lot of what I have here because I just want to state that much of what I feel to be true about Iran and Syria has already been said so eloquently by the other people and many of the things on Libya. So I will just read a small portion.

My name is Susan Cohen. My daughter, Theodora, was killed in the terrorist attack on Pan Am 103. She was a drama and voice student at Syracuse University, returning home for the holidays after spending a semester studying in London. She was 20 years old at the time of her death. Theo was attractive, clever, talented, the absolute joy of my life, which is shattered. And she was something else. She was an American citizen, though it often seems to me nobody in the government cares about that.

As I say, I am going to skip a lot of this and get to a couple points.

On the oil embargo, my feeling is that the United States could, of course, make a determined effort to have a worldwide embargo on Libyan oil through the Security Council. But even if the United States had a strong desire to make such a move—and there is no evidence, as you hear from Mrs. Bodine's testimony, that such desire exists—it will probably fail. It took a great deal of effort just to get an ineffectual set of sanctions passed. It is unrealistic to assume there would be enough votes for an embargo.

It has been suggested that we take the matter out of the U.N. and with our European allies impose an embargo. Well, that would be fine with me. The matter should never have been brought before the U.N. in the first place.

But could we really get our European allies to go along with an oil embargo? Even Britain and France, both of whom have been the targets of Libyan terrorism, have resisted meaningful sanctions in the U.N. And countries like Italy, Germany, Austria and Spain, which buy a lot of Libyan oil and have a host of ties with the Qadhafi regime, are sure to object.

Does the United States have the clout or will to overcome such objections? Frankly, I doubt it.

We could go it alone and establish a naval blockade of Libya. Libya's oil wealth, the primary source of profit, flows through five Mediterranean oil terminals. The Sixth Fleet undoubtedly possesses the capability to establish an effective blockade. If that was to become U.S. policy I would certainly support it enthusiastically.

But a blockade is a complicated and long-term military operation. It is slow to develop, expensive to maintain, and there is also the possibility of some sort of unexpected international incident. We just have to think back to July 1988, and the Vincennes to see the sort of thing that might happen.

And then there is bombing, which nobody has talked about. U.S. air strikes could put the five Libyan oil terminals out of business for a long time. I do not pretend that this would be a surgical strike with no civilian casualties, but it would not have to be a surprise attack. The Libyans could be warned if they do not turn the suspects over by a given deadline bombing would begin at once.

The strikes would be quick and highly effective. The U.S. public is very partial to policies that are quick and effective.

We have been told that threats of military action will never make Qadhafi yield. The harsh fact is that an autocratic regime like Libya will not yield except under the realistic threat of serious military action. As Dr. Johnson once said about the prospect of hanging, it concentrates the mind wonderfully. Faced with the prospect of economic ruin, the Libyans might yield.

Perhaps if our European allies really believed we were serious they would be willing to back the more modest policy of an oil embargo. Perhaps we would have to really carry out the threat and bomb Libya. And there would be costs, of course. But the current policy of capitulation to terrorism is not without cost. The whole world sees that the United States allows its citizens to be murdered by agents of a country that barely qualifies as third rate and does nothing about it. How does that look in Haiti, North Korea, Bosnia or any one of a half dozen other trouble spots in the world? Do they respect our restraint or smirk at our cowardice?

It has been nearly 6 years since my daughter and the others aboard Pan Am 103 perished. Not one single person has been brought to justice for this massacre at any level, not one. All we have ever been offered is soothing words and excuses, lots and lots of those.

I know Congress does not make foreign policy, but the Congress can bring its influence to bear on those who do. Just politely listening to our complaints is far from enough. You can bring the policy-makers before this committee, put them under oath and then ask them the tough questions and get the truth out of them. Then demand action. If you can't do that, then this hearing is just an empty gesture, and nothing will change.

Thank you.

Mr. LANTOS. Thank you very much.

Mrs. COHEN. Thank you.

Mr. LANTOS. Thank you for your outstanding testimony.

[The prepared statement of Mrs. Cohen appears in the appendix.]

Mr. LANTOS. Next, we will hear from Ms. Stephanie Bernstein. We are pleased to have you.

STATEMENT OF STEPHANIE L. BERNSTEIN, MARYLAND

Mrs. BERNSTEIN. Thank you.

Mr. Chairman and members of the committee, thank you for the opportunity to testify today about U.S. foreign policy in the aftermath of the Lockerbie bombing in which my husband, Michael S. Bernstein, was murdered.

Mike was Assistant Deputy Director of the Office of Special Investigations at the Department of Justice and at the time of his murder was returning from Vienna where he had been representing the Justice Department in negotiations with the Austrian Government on deporting Nazi war criminals from the United States to Austria. It is ironic that my husband, whose job was to find, denaturalize and deport those who carried out state-sponsored terrorism during World War II, should lose his life at the hands of modern day terrorists.

U.S. GOVERNMENT LACKING LEADERSHIP

What I have learned over the last 5½ years is that moving the foreign policy establishment and the White House toward policies which would help discover the truth about the Lockerbie bombing and punish those responsible is a Herculean task. I have discovered that other concerns, such as business interests and the Middle East peace process, have taken precedence over justice for the victims of one of the worst terrorist acts ever committed against a ci-

vilian target. These problems and concerns transcend administration and will prevent us from obtaining any measure of justice unless Congress intervenes. The intransigence of the United States and our allies gives comfort to terrorists, who have learned since Lockerbie that when it comes to pursuing and punishing those who target innocent civilians we are not serious.

An example of how business interests, specifically those of major oil companies, have interfered in our efforts to obtain justice is the issue of whether subsidiaries of U.S. companies should be permitted to do business in Libya. It is currently permissible under U.S. law and the U.N. sanctions imposed on Libya for those companies to do business with Libya. Companies are able to engage in oil refining activities in European countries and can skirt the sanctions by shipping the oil to countries other than the United States.

The message this sends to Col. Qadhafi's regime is that obtaining justice for the Lockerbie victims will not interfere with business as usual. Although this could be changed with an Executive order, this administration has refused to do so.

In a letter to me dated June 13, 1994, Timothy Wirth, Under Secretary of State of Global Affairs, stated that such an Executive order could undermine the international consensus on U.N. sanctions against Libya. Mr. Wirth suggested, instead, that the Department of State write a letter to U.S. parent companies with subsidiaries operating in Libya to ask that these companies stop doing business with Libya. We hope, he wrote, that this renewed appeal will bring about favorable results.

It strains credulity to think that a letter from the U.S. Department of State could bring results when it is not backed by the resolve of this administration to pursue the suspects on all fronts, not only legal and diplomatic ones. Our inability to take action in this, an area outside the confines of the United Nations, only strengthens the resolve of Col. Qadhafi not to turn over the suspects. Our lack of resolve, coupled with the proven failure of the U.N. sanctions to achieve the desired results, have encouraged other countries to violate the spirit, if not the letter of the sanctions, and to reinforce Col. Qadhafi's belief that Libya's oil, his Teflon shield, will continue to protect his regime.

President Mubarak of Egypt, for example, on a recent visit to Libya, emphasized his hopes for future commercial ventures between the two countries, including a railroad to be built across Libya to Egypt and a pipeline to carry Libyan oil to Egypt. President Mubarak's chief spokesman referred to the unjust measures to which Libya has been subjected as a result of the so-called Lockerbie crisis.

During his visit, President Mubarak gave support as well to a disturbing proposal to turn the suspects over to Egypt, where they would be held until arrangements could be made for their trial in a country other than the United States or the UK, a clear violation of the U.N. sanctions.

It is time to take this issue out of the United Nations, to admit that this course has failed and to seek other alternatives. It is time for the United States, which lost 189 of its citizens in the Lockerbie bombing, to act as if it had a national interest to pursue. We must provide for leadership which will make it possible for our allies to

join us, rather than throwing up our hands while we wait for consensus to emerge. We must have the guts to stand up to business interests in the United States and throughout the world and say that commerce with countries which have been state sponsors of terrorism is not good business. If countries such as Libya, Iran and Syria are made to pay a stiff price for their murderous activities, then the message we will send is that murder will not mean business as usual.

Our relationship with Syria in regard to the Lockerbie bombing has been another foreign policy failure. Family members have been told repeatedly that there is no evidence of Syrian involvement in the bombing and that, in the infamous words of former President Bush, Syria received a bum rap in the Lockerbie case.

Despite voluminous information to the contrary which I have detailed here, our Government has turned a deaf ear to our plea to pursue the trail of the bombers wherever it will lead. The interests of justice have taken a back seat for the last 5½ years to the Gulf war and the Middle East peace process. A steady stream of U.S. officials has curried President Assad's favor, while providing no meaningful incentive for him to cooperate in the Lockerbie investigation.

Each year, family members of the Lockerbie victims have had to work hard to see that Syria is not removed from the list of countries which are state sponsors of terrorism.

Earlier this year, we narrowly defeated an attempt to remove Syria from the list of countries which support narcotics trafficking, even though Syria bears responsibility for what a 1992 congressional subcommittee staff report called a considerable amount of the heroin on our streets. The profits from the sale of heroin are used to support terrorist groups based not only in the Middle East but in Latin America.

What drives the efforts and concern of family members of Lockerbie victims? Wanting some measure of justice for our loved ones, we want to make it more difficult for countries which sponsor terrorist groups to participate in the political and commercial affairs of peace-loving nations. State sponsors of terrorism contribute to destabilization throughout the world. As the World Trade Center bombing, the UTA bombing and recent terrorist acts in Argentina and Panama have demonstrated, state-sponsored terrorism is alive and well. It is our challenge to provide a less hospitable environment for it to flourish.

The importance of justice for the victims of terrorism cannot be overstated. It is intimately bound to peace. Rabban Simeon ben Gamaliel, in a fifth century biblical commentary, wrote: Do not make a mockery of justice, for it is one of the three pillars of the world. Why? Because our sages taught on three things the world stands: on justice, on truth, and on peace. Know then, that if you pervert justice, you shake the world, for justice is one of its pillars.

Please join us in working for justice for our loved ones and for all victims of terrorism.

Thank you.

Mr. LANTOS. Thank you very much, Mrs. Bernstein. I am repetitive, but I again want to thank you for a superb job of testifying before this subcommittee.

[The prepared statement of Mrs. Bernstein appears in the appendix.]

Mr. LANTOS. The chair has a suggestion. We have a live vote going on, and members will need to cast their votes. I have also been asked to arrange a picture with the six of you which will, we hope, stimulate more interest among our colleagues and the media and others to rekindle this issue. And when we return, as I hope all of my colleagues will, we will hear from Ms. Tsairis.

I also want to welcome Chairman Oberstar to the hearing. He was a very critical member of the Presidential Commission on Aviation, Security and Terrorism.

We are very pleased to have in the audience Judy Grodine, president of the University of Pennsylvania.

So we will be in recess for a few minutes. If the six of you will join us in the adjacent room for a quick picture we would appreciate it, then we will resume with you, Ms. Tsairis.

[Recess.]

Mr. LANTOS. The subcommittee will resume.

We want to apologize for these frequent interruptions, but that is the nature of business around here.

We are delighted to hear from our last witness today, Ms. Aphrodite Tsairis.

STATEMENT OF APHRODITE TSAIRIS, THE VICTIMS OF PAN AM FLIGHT 103, NEW JERSEY

Mrs. TSAIRIS. Thank you, Chairman Lantos. You are the only one who pronounces my name the way it should be pronounced. I appreciate that.

Before I begin, I would like to share a little bit of what happened to me this morning on the way down here, simply because I find it to be terribly ironic.

As I was leaving my home this morning, the paperboy had not delivered the newspaper, the *New York Times*, so I grabbed yesterday's paper so I could have the crossword puzzle to do on the way down on the train.

One down was Libyan strong man, which I knew. However, you probably all know there must be at least 15 ways to spell Qadhafi. So it was very difficult to find out how to do this crossword puzzle unless you picked the right spelling for Qadhafi. That really bothered me because, as muddled as I was to find the right letters to fit into the slots, I think our Government's policy on this issue is very similar.

But more disturbing was as I was standing in the train station I overheard conversations and I noticed on the way to the train station that there was an increased amount of police activity all around the New York City area. There were barricades up where they were not up yesterday. It appears from the radio that we were up alerted to level 4 or something in terms of perhaps some terrorist attacks as a result of the peace process that is going on.

And I overheard people saying, we are in a very big place. There are a lot of people here. Do you think it is safe?

And a chill went down my spine because I knew that I had had that experience, and I looked out among them and I wondered, these people can be in my position as well.

So we come here to you today so that we, hopefully, can prevent these people having to suffer the same injustice that I have.

I will be summarizing my remarks today.

As you listen to my words I ask that you keep one thought uppermost in your minds. You will hear only my voice, a single voice, but that voice echoes and reverberates with the personal anguish, dashed expectations and frustrating concerns of the 300 family members in our organization entitled, the Victims of Pan Am Flight 103.

Our family group operates very much like this austere body, by ascribing to the democratic spirit of consensus. My testimony here today is my very best effort to bring to you a collective sense of many victims' families. I ask only that as I speak you envision the many families who were not permitted to speak here today and have entrusted in me the task for speaking for them.

I do not take this task and responsibility lightly. And, therefore, I ask that you give my testimony the import and weight that it deserves.

In the 5½ years since the murder of my 20-year-old daughter, Alexia, along with 188 other Americans, many whose families are here today, and 81 citizens from other countries, I never thought I would be able to say that something fortuitous came from that awful bombing.

Because of poor planning or bad luck on the part of the terrorists or because of quirks in the weather on that stormy night, the nefarious plan to bring down an American air carrier became a reality that left a vast body of physical evidence scattered over the hills of Lockerbie and its pastoral environs for 800 square miles. This fact and this fact alone launched the largest international criminal investigation ever conducted. Had the bomb exploded 10 minutes later the Maid of the Seas would be destroyed over the ocean taking with it any hope of remains or evidence.

This painstaking investigation took 2 years, culminated in indictments from two nations against two named Libyan operatives along with several unnamed others who remain today protected in Libya by their leader and coconspirator, Colonel Muammar Qadhafi.

We are here today almost 6 years later to examine why our Government's policy on this issue has failed so miserably in effecting their release.

We are here to ask where is the national will to stop terrorism.

We are here today not just for our lost loved ones but for the preservation of our Nation's freedoms. If state-sponsored terrorism in any form is not effectively deterred, the toll will not only be in American human life but will affect the economy of this Nation and this Nation's freedom.

We are here today to urge you, our Representatives, to pressure the Clinton administration into taking immediate and definitive unilateral action to defend the sovereignty of this Nation.

We are here today to ask that we change course in response to the Libyan stalemate.

We are here today to ask you to help us to do that.

Most importantly, we are not here today to open a Pandora's box of conjectures and supposition theories desperately trying to implicate other nations.

JUSTICE AGAINST LIBYAN CRIMES

Mr. Chairman, this forum should have been singularly focused on the Libyan/American agenda. If you and this subcommittee do not believe in the indictments, then the Justice Department should have been invited before you to give testimony as to the validity and precedence of this criminal case.

Recently, at our request, Attorney General Janet Reno met privately with Chief Constable George Esson just before his retirement. We asked for that meeting for the express purpose of personally engaging this Attorney General to the merits and solidity of the evidence. The Attorney General assured us that there was no doubt in her mind.

My position and that of the family organization I represent is very clear. The Libyans have been indicted. Let us see this to its logical conclusion. When all the evidentiary material has been presented in the appropriate court of law, then and only then can an accurate judgment be made if others are implicated.

It serves no purpose to muddy the waters with conspiracy theories and conjecture against other nations or individuals. In fact, to continue to accuse Syria, Iran or any others without producing any factual information in support does a tremendous disservice to the rule of law and the search for justice.

We did not ask for this case to be put in the criminal arena. It was our contention that it was a political problem of state-sponsored terrorism from the onset. However, that decision has been made. Now the rule of law must stand. The trial against the Libyans must go forward unimpeded by any American who seeks justice.

A compelling case can be made that suggests that the Syrian-based terrorists, having failed, then decided to pass off the job to another terrorist group—in this case, Libya. Perhaps this is true. If the Lockerbie case is properly adjudicated the implication of Syria and others may ultimately be proven. But until there is full disclosure of all the compiled evidence, there is no documentable proof that will hold up in a court of law or to the public scrutiny of the world community of nations that implicates Syria or anyone other than Libya. Theories will result in no governmental action but rather serve only to diffuse the thrust and dilute the import of this case.

Meanwhile, the families wait, Americans are lulled into a false sense of security while our Government is content to subordinate this case by keeping it in a United Nations forum that has shown little conviction or resolve on this issue.

The Lockerbie investigation found hard, unequivocal evidence that the Toshiba radio cassette recorder found in the rubble of Pan Am 103 had a detonator triggered by a timer. The purchase of this detonator was firmly linked to Libya. The radio recorder bomb was deposited in a suitcase into the Pan Am system via Air Malta by two named and indicted Libyan operatives. The Toshiba radio cassette recorders confiscated from the Syrian group were distinctly

different in that they had barometric detonators. These are incontestable facts that prove part of the framework of the Libyan indictments.

CALL FOR UNILATERAL U.S. ACTION

Where are we today 2½ years since the indictments? The progress of the Lockerbie case began to falter right after indictments were handed down in November of 1991. The Bush administration decided for very specious reasons not to take fully warranted, justifiable, and supportable unilateral actions to protect its sovereignty.

We as a nation have every right to do so. However, Mr. Bush chose instead to put this case before the United Nations Security Council and there in the quagmire of the national self-interests of foes and allies alike, the Lockerbie case has been languishing for 2½ years, dragging with it the public image the United States has lost its stature as a strong and effective leader for democracy and the rule of law.

A long line of cases shows it is not merely of some importance, but it is of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done. A continuance of weak U.S. policy in actions against Libya only serves to enhance the terrorist network and their view the United States can be attacked with impunity.

So we are not winning the war against terrorism, but, rather, we are still reacting to each incident with perfunctory outrage and bluster but no teeth or credible and meaningful deterrence. With the advent of the Clinton administration, there was hope, a fresh look with renewed vigor would bring this case to its rightful conclusion.

Last December President Clinton called this an attack on America. It appears to have been just hollow rhetoric. We are not on President Clinton's short list of matters that matter to Americans today. His short list, if he has one, reads more like an encyclopedia of the hot spots of the world.

Our issue is constantly being replaced by new and what mistakenly appear to be more pressing issues. What is worrisome too is that Mr. Clinton's administration repeatedly failed to stand by his promises. How can anyone in government today look a family member in the eye and say we are doing all we can?

President Clinton came to office with a distinct domestic agenda; but the point can be made that of all the international issues confronting the White House today, Libya is the only legitimate domestic one. This is the only issue that involved the death of Americans. No Americans died in Haiti, Somalia, Kuwait, Rwanda, Panama, or Bosnia before we took action. Our Government's uppermost responsibility is the protection of its citizens, not political expediency and selective morality.

The Bush and now the Clinton administration feel that their slow and steady course in this matter is a correct one. They are eager to point out that all the efforts made by Colonel Qadhafi to get out from under the sanctions mean that their course is taking hold.

I would suggest that in their weak form the sanctions are no more than a nuisance to him. The sanctions are aimed at hurting the Libyan people, not the government. Moreover, Qadhafi sees the handwriting on the wall at the Security Council and knows full well that the United States has no power base with which to ratchet up the sanctions to multilateral oil embargo status.

Additionally he is assessing the weakened condition of the Clinton foreign policy machine; he is noting the fickle nature of our alliances and ultimately Colonel Qadhafi is gambling on the fact that President Clinton will do nothing unilaterally.

This week our organization, The victims of Pan Am 103, met with National Security Adviser Anthony Lake at the White House and with Under Secretary Timothy Wirth at the State Department. In both meetings, it was clear that the current policy of sanctions, even though unproductive to date, is to be the policy for the future. We know this policy is ineffective, our Government knows this policy has not been successful, most importantly. Libya knows this policy is nonthreatening.

The most practical, judicious and expedient way to bring this case to its rightful conclusion is to press President Clinton and his administration into action on the Libyan stalemate—unilaterally. A criminal case does not withstand the test of time.

Justice delayed is justice denied. We ask President Clinton to step up to the issue and order an oil embargo and a U.S. naval interdiction of Libyan oil. This is the only thing that will reach Qadhafi where he is most vulnerable. Certainly, we should ask and expect our sometime allies to join us; but if they choose not, we have the wherewithal to go it alone. And we must. This is an American issue.

Finally, Mr. Chairman, members of the committee, as I sat down to prepare testimony for this hearing, I recalled how many times I have done it before; how much time has passed and how little has been done to end this woeful and disgraceful chapter in American history.

With all due respect, I ask you, why is it that I have to reach down into the depths of my sorrow repeatedly in order to make my government do what it is supposed to do, defend its sovereignty and guarantee our freedoms?

[The prepared statement of Aphrodite Tsairis appears in the appendix.]

Mr. LANTOS. Thank you very much, Ms. Tsairis. Let me say on behalf of all of us, we are profoundly in your debt. I can only extend an apology on behalf of both the previous administration and this one and the Congress that not more was done and I trust that more will be done.

I am sure all my colleagues feel your pain. As the only survivor of the Holocaust ever elected to the Congress, I know I feel your pain. I share your pain for insane and unjust criminal acts that have been perpetrated against all of you.

The Chair will exercise his prerogative and relinquish his time to Chairman Oberstar who served as a distinguished member of the Presidential Commission on Aviation Security and Terrorism to begin the questioning or make whatever statement he chooses to make.

Mr. OBERSTAR. Thank you very much, Mr. Chairman. I compliment you not only on holding this hearing, but on the prompt action and sense of history and sense of mission exhibited in the words of your response to each of the witnesses.

I know you understand and that you will do everything in your power as chair of this subcommittee to bring about an appropriate response from our Government. I sympathize, I identify with, I lived with the witnesses at today's hearing for many, many months, years now as today's testimony has demonstrated so powerfully.

The tragedy of Pan Am 103 occurred on my oldest daughter's birthday. This hearing is being held on the third anniversary of my wife's death from breast cancer. You lived with me and walked with me during her long struggle. You cannot, Mr. Chairman, colleagues, walk the fields at Lockerbie and the row houses and through the trailers where the belongings of the Victims of Pan Am 103 are assembled without feeling this overwhelming, overpowering tragedy reach into your soul and cry out for justice.

When the Commission visited with the authorities of Lockerbie one of the constables told in great detail his meetings with family members, 2, 3, 4 hours at a time. One of our members asked why do you spend so much time and how can you bear to do this; his response was they didn't get to say good bye. We are the only ones to whom they can say good bye.

I recall my eulogy for my wife because over 8 years we did get to say good-bye; but you didn't. Our only memorial to your loved ones, to you, is action. You asked for a regime of government to make flying safer, more secure in the future for others.

You asked that the perpetrators of this crime be brought to justice. We now know through our intelligence efforts who they are and where they are and what we have. What has escaped our grasp is bringing them out of Libya, putting them on trial and bringing them to justice.

As Kathleen Flynn said and as our Commission report said, this was an attack against America. This was not a random act. Pan Am was our flag airline. It represented America worldwide. Those terrorists knew that in striking at this plane, they were striking at America, not just some random travelers. Every one of them represented America.

And as you, Mr. Chairman, said in your opening statement, the only way to get Qadhafi's attention and bring about action is to hit him where it hurts, with an oil embargo. His petroleum economic lifeline—you put it very appropriately.

Do we have the national will to do this? That was the essential question of the Commission report. This is all about national will. I must say that there wasn't an awful lot of national will after the Commission completed its report and gave it to the President. It sat there for 6 weeks and nothing happened.

I took that report, its recommendations, drafted them into legislative language, held a hearing, and passed it on the House floor. Senator Lautenberg did the same. My good friend, Mr. John Paul Hammerschmidt, who is no longer a member of this body, joined me in that effort. We had the bill passed.

There still is not enough national will. We have to close it. There is a gap. There has to be a single standard of safety, not a similar standard of safety, for European or non-American carriers.

Americans travel on foreign carriers as well. Europeans too long thought this was an American problem until UTA was blown up over Chad and our terrorist experts, having gone through the experience of 103, fingered the cause, traced it to suspects, and we know that it was Arab terrorists.

Now, the European countries are somewhat more responsive, but they still think America is the target. All of this I say argues for what our witnesses today have said. If we wait endlessly for multi-lateral action, it may never happen. The United States has to take that initiative.

The Commission posed that central question, do we have the political collective will in America to act? We have been pushing hard for that. The test is will this administration move decisively. I think we have to show them that Pan Am 103 is not a memory, but that it is a living memorial and that it is up to us to bring about justice.

I think between your committee and ours, which is continuing—we continue to work on the security issues and keep them at the forefront, we can bring about the justice they deserve and seek.

Mr. LANTOS. Thank you very much, Mr. Oberstar.

It will be a great pleasure to work with you on this.

Congressman Gilman.

Mr. GILMAN. Thank you, Mr. Chairman. I sorely regret we are getting one vote after another to interrupt our proceedings here. I hope our family members will bear with us. We will be running over to make another vote.

I regret I had to run down to another hearing in the midst of our testimony by some of our family members, but we have your testimony before us and I have had an opportunity to read over your testimony.

Let me ask the panelists, what do you feel is the one most important thing that Congress could and should be doing at this point? Let me start with Ms. Wolfe. Pick out the one most important thing you would like to see us do.

Ms. WOLFE. I think the most important thing that you—

Mr. GILMAN. Could you put the mike closer to you?

Ms. WOLFE. I think the most important thing you need to do is to through your own actions and through any legislation that is passed and see that we have a consistent foreign policy on terrorism. That includes getting some sort of task force that will revitalize, look into what happened with 103.

I think that that is essential because unless we can get at the bottom of what happened and unless this administration is forced to acknowledge the role of Iran and Syria, as they do know, that we will not ultimately be able to put terrorism behind us and have peace because this is outstanding. They will have known they got away with it and everything would be in place. The terrorism is still there. They are still being supported.

I think that Congress can take that action. You can either have a task force appointed that is made up of Congress or maybe Con-

gress—or at the behest of Congress. I would think that that is the most important thing that could be done.

Mr. GILMAN. You might be interested to know we do have a task force on terrorism in the Congress. Just this coming Monday, our good chairman, Chairman Lantos, will be conducting another overview of terrorism to make certain we are doing the right things.

Thank you.

Ms. Flynn.

Ms. FLYNN. Congressman Gilman, I think probably the most important thing is for the Congress to put all its resources together and say to each other what have we done, where are we going with this? Do we have the people in place in the State Department who are really going to—in this administration who are really going to react to what has happened with Pan Am 103 or are we just going to have this rhetoric for another 5 years.

We were at the State Department yesterday. You know, as I understand, you know, the testimony—what we heard yesterday was certainly in conflict to what Secretary of State Christopher said this morning. They were convincing us the sanctions are working; you know, we are doing our best, put people in charge, you know, have the administration put people in the State Department, particularly at the levels of, you know, discussion who know what they are talking about and let's form a consistent, as Rosemary said, a consistent foreign policy and go after the people responsible for this. I mean we cannot keep lingering on saying we are going to put it in the courts.

This is a foreign policy question; it is not just a criminal investigation. Somehow you have got to say, hey, did we have permission to go in and bomb Libya in 1986? Do you think that President Reagan went around and said I have to get evidence here and go in? No.

This is not foreign policy. Foreign policy is based on what Congressman Oberstar—national will, what is right, what is just, what is in the best interests of America. That is what we are talking about. That is what you people can do.

Thank you.

Mr. GILMAN. Thank you. Ms. Hollister.

Ms. HOLLISTER. I think the most important thing that can be done right now is for all of this talk to stop and for some positive action to be taken.

To me the most important positive thing that can be done right now is an oil embargo which tries an economic point of view, what is going to hurt Libya the most.

Secondly, I would certainly go along with a little bit of improvement in the way of consistency in our foreign policy and just on a humorous note, I would state we should make—have a ban against anybody in government using the word ratcheting. If I hear that word one more time, I will scream.

Mr. GILMAN. Incidentally, with regard to the oil embargo, you know, the most resistance we get is from the European Community who depend on the sweet oil out of Libya. I was looking over the roster. I just had my assistant take a look.

We had 259 passengers, 189 Americans, 70 are Europeans and from other nations. I would urge the families who have organized

as a group to reach out to some of those 70 non-Americans, to reach out to their countries, too, to convince them that we have to move forward with an oil embargo.

Mrs. Cohen.

Ms. COHEN. I am tired of foreign countries in this. I think it is time for the United States to send this to us and if we cannot get anybody to go along with us, too bad, it is time we deal with this unilaterally ourselves.

I would like to say I don't know what Congress can do, but I would like to say what I think this subcommittee can do. I think this subcommittee should open very soon really tough hearings, total hearings which will go into the Iranian-Syrian end of this as well as the side of Libya and the fact that nothing has been done and really go after people in government, hit them hard, subpoena witnesses; let's get the truth out completely, plus get moving toward tough action on Libya.

That is something this subcommittee and your fellow committee in the Senate, Foreign Relations, could also do. This would be, I think, the best place to start.

Mr. GILMAN. That is why we started today in this direction.

Ms. COHEN. I hope this isn't the only one.

Mr. GILMAN. Thank you.

Ms. BERNSTEIN. I think that there has to be an effort to see terrorism as part—an issue that is part and parcel of foreign policy. We have these discussions. They are very academic discussions.

It seems quite irrelevant to our conduct of foreign policy; and I think some very grave errors have been made as a result of that lack of understanding.

A couple of years ago in the fall, I don't recall whether it was the fall of 1990 or 1991, when Secretary of State Baker visited Assad and was asked to give evidence. Assad always asks where is the evidence. The evidence was turned over.

As reported in the *New York Times*, as I am sure you are aware, there were two intelligence agents who were murdered as a result of evidence that was shared with President Assad. This to me is naivete which is dangerous, and it is time to stop having academic discussions and hold the feet of whoever is in the administration to the fire; and to say we are going to send the Secretary of State here to answer questions.

Much as I like Ms. Bodine, I think the Secretary of State should have been here answering these questions today. I think that the fact he wasn't is a measure of the lack of importance to which this issue is considered, not just in this administration, but in the prior administration.

I think that the Congress can do that, can hold the feet of the administration to the fire and they need to be held to the fire or—it is tiring. It is tiring for us, speaking of fires, to be going around putting out fires all the time. We need help.

Mr. GILMAN. With regard to the Secretary of State, whether you liked it or not, Ms. Bodine was supposed to be the person in charge and responsible. That is why she was here today.

Ms. Tsairis.

Ms. TSAIRIS. I would suggest that foreign policy has historically emanated from the Office of the President of the United States.

It is my contention that unless we can engage President Clinton on this issue, there is nothing the Congress can do. We need some resolve from President Clinton to come out and say I am going to make the Lockerbie disaster, the Libyan indictments the number one priority for my administration.

What we are suffering from is the lack of immediacy and urgency as time goes by. Each new issue replaces us. Some of them are extremely valuable humanitarian ones. None of us at this table will take exception to them.

However unless it streams down from the top, and I have to tell you, Congressman, that we have heard this from inside the State Department that there's no directive from the top as to what is important, what are we going to accomplish? And I don't know if this subcommittee or this Senate and House as a whole has the will and the ability to engage this President into dealing with an issue that is of utmost importance to our basic freedoms.

Mr. GILMAN. I want to thank the panelists. I regret our time is running by.

Thank you, Mr. Chairman.

Mr. LANTOS. I want to thank all six of you again profoundly. It has been the single most moving hearing I have had the privilege of attending since I have been here. I think I can pledge on behalf of all of my colleagues that we will pursue this matter with the diligence that you expect of us.

This hearing is adjourned.

[Whereupon, at 5:50 p.m., the subcommittee was adjourned.]

APPENDIX

OPENING STATEMENT
HEARING ON U.S. POLICY
IN THE AFTERMATH OF THE BOMBING OF PAN AM 103
THE HONORABLE CHRISTOPHER H. SMITH
SUBCOMMITTEE ON INTERNATIONAL SECURITY,
INTERNATIONAL ORGANIZATIONS AND HUMAN RIGHTS
FUTURE OF UNITED STATES-CHINA POLICY
JULY 28, 1994

Mr. Chairman, I would like to thank you for your leadership in bringing this issue before the this subcommittee. The tragic and senseless deaths of the 259 passengers of Pan Am flight 103 and the 11 victims on the ground, remains one of most disturbing events in recent history. Over 5 years following this terrorist act, many questions still remain unanswered, and we are no closer to bringing the terrorists to justice than we were on the day of bombing.

Today we will hear from witnesses -- experts in terrorism and an Administration official -- but the most compelling reason for us to be here today is to listen to the witnesses who have been most affected by the tragic loss, members of families who have lost spouses, children, parents, brothers and sisters. Although we may search for answers for this tragedy -- and we may find them -- these answers will be of little comfort to those who have lost loved ones. Even if the terrorists are brought to justice, what is that justice compared to the suffering which these families have experienced each day since the bombing?

Two Libyan officials have been indicted by the U.S. The U.N. Security Council has imposed sanctions against Libya to pressure the government into handing over the officials for trial. Yet today, nearly three years after the indictment, these officials remain in Libya under the protection of Qadhafi.

Mr. Chairman, while these officials, and others who may have been involved in this bombing enjoy their freedom and protection in Libya, the families of the victims await the truth and for justice. Many of these families have asked only to be heard. They honor the memories of their family members by continuing to seek justice. And as they honor the memories of their family members, they are asking the Administration to honor its promise to bring to justice those responsible for this tragedy.

Of the 259 people who needlessly died on Pan Am 103, 38 were residents of New Jersey. One of them was Patricia Klein from Trenton in my district. Her parents, Frank and Marie have been tirelessly working along with other families to keep alive the memory of the victims so that the truth will be learned and those responsible for this bombing will be brought to justice.

Mr. Chairman, nothing that we do here can take away the pain that these family

members have borne and will continue to feel. Today they will share with us their tragedy and their lives. We owe it to them not only to listen but also to seek ways in which we can respond to their request for help. As the deadline for the review of the U.N.-imposed sanctions on Libya approaches, we must let these families know that we have not forgotten. Until those responsible for this bombing are brought to justice we cannot forget those 270 people -- many of them U.S. citizens -- who tragically died on December 21, 1988.

I welcome our witnesses here today -- especially the family members and those who represent them -- and I express to you my admiration for your strength and commitment. I also pledge to you my support for your work and my commitment to seeing that this committee and this House will do all within our ability to see that the U.S. lives up to its commitment to you and that those responsible are brought to justice.

Testimony
of
Ms. Barbara K. Bodine
Coordinator for Counterterrorism
before
the Subcommittee on
International Security, International Organizations
and Human Rights
of the
House Foreign Affairs Committee

July 28, 1994

Mr. Chairman and Members of the Committee:

Thank you for providing the Department of State this opportunity to testify before your Committee regarding the continuing issue of Pan Am 103.

The Pan Am 103 issue remains the focus of intensive high level attention and action at the Department. I would like to take this opportunity to summarize what we have done in the last year, and our expectations for the coming months.

The major development in terms of U.S. efforts to secure justice for all of the victims of the PA 103 bombing and their families--many of whom are represented here today--was the adoption by the United Nations Security Council of Resolution 883. This resolution reinforced the sanctions imposed on Libya in 1992, and broadened those sanctions so that they covered pre-existing financial assets and some oil production and transport equipment.

These sanctions have now been in effect for nearly 8 months and, I believe, are having an effect on the Libyan leadership. The recent spate of efforts by Libya to find a "compromise" in terms of the venue for the trial of the PA 103 suspects reflects the success of our efforts. We believe that the increasing difficulties experienced by Libya as a result of the sanctions are causing that government to propose alternatives, unacceptable though they are, to a trial in the U.S. or Scotland.

The Administration shares your frustration that Libya continues to defy the Security Council, and refuses to allow the suspects to be brought to justice. However, Libyan half-measures such as proposing that the trial be held in the Hague or that the UN Security Council establish a special tribunal to hear the case are simply unacceptable. The U.S. and the United Kingdom have looked carefully at these propositions, but we have decided that they present insurmountable legal and practical difficulties. We have publicly rejected such proposals in the past, and we do so again today.

We believe that a trial for the accused must take place either in the United States or Scotland. Any other formulation fails to meet the requirements of the Security Council, as expressed in UNSC resolution 731. They are intended in fact to evade those requirements. Libya's proposals, Mr. Chairman, will not do justice to the victims of this terrible act of mass murder; they would instead be a miscarriage of justice.

Libya's refusal to abide by the terms of the Security Council resolutions means that the international community, led by the United States, must enforce as strictly as possible all sanctions currently imposed on Libya. Quite frankly, the United States is not satisfied with sanctions enforcement efforts in some nations. We believe that some nations are still allowing Libya to engage in operations or financial transactions subject to the sanctions package.

We are determined to obtain Allied cooperation in tightening up the worldwide efforts to enforce these sanctions. And, we have been busy doing just that. The following are highlights of some of our most recent activities:

- An interagency team of senior State and Treasury officials is currently in major West European capitals (London, Paris, Bonn, Rome, Madrid, and The Hague) to seek tightened sanctions enforcement. We believe that this team will help re-energize those governments to apply the existing sanctions as rigorously as possible.
- Almost a billion in Libyan assets are frozen in the U.S.
- \$21 million has been frozen just in the last six months.
- Abdullah Saudi, the Chief Executive of Arab Banking Corporation in Bahrain, and a Specially Designated National of Libya, resigned the Chairmanship of ABC under pressure from the USG and at the behest of the Directors of the bank.

I also want to assure you that the U.S. does not miss an opportunity to raise with governments actions which we view as inconsistent with the Libyan sanctions program. In this regard, we are preparing--for the first time--to refer a case involving a pattern of violations to the UN Sanctions Committee.

Mr. Chairman, in addition to our bilateral and multilateral initiatives, there are also steps that the U.S. can take under Our own sanctions against Libya. The Department of the Treasury, for example, is preparing to take action against Libyan companies in Europe and against the individuals who run those companies on behalf of Libya.

The United Nations Security Council in August will review the existing sanctions package on Libya, as it does every 120 days. We are confident that the sanctions will remain in effect following that review.

Mr. Chairman, I know that you and many of the families present here today, want the United Nations to impose an oil embargo on Libya. We will use the opportunity of the sanctions review to remind the Council of the need to enforce aggressively all elements of the sanctions regime, and to stress that further action by the Council will be necessary unless Libya complies fully with the existing resolutions. And, as you know, this Administration is on public record in favor of seeking an oil embargo should Libya continue to refuse to comply and we have already reiterated this recently to our key allies.

Mr. Chairman, the State Department deeply appreciates the support we have received both from the families of the victims of the PA 103 tragedy and the Congress as we have sought and obtained approval from the international community for the sanctions already implemented against Libya. I would hope that we could call again upon your support and that of the families, should Libya's refusal to comply with existing sanctions lead us to seek further measures.

In this regard, I urge your support for the enactment of Title II of H.R. 4828 which implements the Convention on the Marking of Plastic Explosives for the Purpose of Detection. This legislation and the associated convention will help prevent future tragedies such as the Pan Am 103 bombing by requiring that plastic explosives contain chemical markers which facilitate detection. We need this legislation enacted before we can submit our instrument of ratification and implement the Convention.

Thank you for your continuing interest in this issue, and I would be pleased to answer your questions.

Terrorism in the Nineties

by

Robert H. Kupperman

Hearings before the

House Committee on Foreign Affairs

Subcommittee on International Security, International

Organization and Human Rights

July 28, 1994

TERRORISM IN THE NINETIES

Robert H. Kupperman

We tend to deal with complex security problems episodically, waiting for crisis conditions to force our hand. Terrorism is a case in point, an issue laden with subtle and not-so-subtle traps. More than the political embarrassment from incidents in which the "tail wags the dog," terrorism can turn truly ugly, overnight and the shock of another Pan Am 103 disaster can pale in comparison with nuclear, chemical, or biological acts of mass destruction. Such assaults, once the sole province of industrialized nations, are not achievable by subnational groups. The spread of weapons of mass destruction to future Saddam Hussein is among the most important security problems we face.

Battles of the near future are unlikely to be large-scale conventional ground warfare as we saw in the Persian Gulf. U.S. adversaries are now less likely to gamble on Western apathy. Most can't afford the cost. Terrorism offers them a high leverage, low-cost, low risk alternative to direct confrontation, one that has a proven track record of success. The problem is that the U.S. is ill-prepared to deal with this level of threat, and public concern fades quickly.

On February 26, 1993, a major barrier in deterring terrorism was crossed. Like the downing of Pan Am 103, big-time terrorism came to America—the problem could no longer be swept under the rug. International terrorism is among our most important law enforcement and national security problems.

The World Trade Center and Pan Am 103 bombing happened. They can't be undone. Public safety and thoughtful attempts at affordable counter-terrorism go hand-in-hand. Industry and the laboratories must take on a leadership role, but that role should include policy paradigms and the development of relevant technologies.

In storefront mosques in New Jersey and in Brooklyn, a blind Shaykh raised his voice against the government of Egypt and its supporter, the United States. He condemned the "demon" called America and said to his followers, "destroy their edifices" and apparently that's precisely what some of Shaykh Umar Abd'Al Rahman's disciples tried to do. The attempt to take down the World Trade Center in February 1993 was only partially successful. The "Gang That Could Not Shoot Straight" caused several hundred million dollars of damage, more than a thousand injured, six deaths, and the traumatization of a nation. All this was accomplished by relatively untrained amateurs bound by adherence to a fanatical view of Islam and a hatred for the role of the United States as a principal support to Israel.

The United States today is at risk from both new and old sources of terrorism. The willingness of Iran, Sudan and other countries to encourage terrorism by fanatic adherents of militant Islam has been extended from North Africa to North America. A new architecture of less formally directed terrorism has also developed, extending from South Asia to Europe, Central Asia and North America. The rise of religious inspired and ethnic based terrorism is now a major threat to democratic nations.

Until the World Trade Center bombing, the FBI and local law enforcement have been complacent about the possibility of international terrorism being conducted in the U.S. Foreign counterterrorism, the first line of defense against international terrorism, has been

weakened by budget cuts, loss of expertise and lack of focus. International cooperation, an effective and necessary method of deterring terrorism, has been downgraded as a political function in the Department of State. Local law enforcement units are not trained to detect and deter terrorism, and overreaction can lead to violation of human rights and the kind of alienation that contributes to political violence. The Immigration and Naturalization Service is overwhelmed, undertrained and unprepared to regulate legal immigration and track illegals who enter the U.S. through a virtual underground railroad. FEMA, which has the responsibility for dealing with consequences of domestic terrorism, is not capable of rapid and effective response to infrastructural attacks, including terrorism that destroys key portions of the power grid and other energy and logistical networks.

The danger is that State sponsors of terrorism, such as Iran, are now turning their access to sophisticated technology to terrorist uses. The Iranian Revolutionary Guard is already training the Sudanese militia along the Iranian model and supporting the training of foreign Islamic activists from communities scattered around the world. Some of the techniques being imparted include the uses of car bombs and assassinations, but there is a willingness to devise methodologies that will create more dramatic impact, particularly in urban Western societies. The Iranians and other terrorist nations may direct their considerable resources against more critical, vulnerable targets and highly dramatic urban targets in nations they consider antagonistic, such as the U.S. While counter-terrorist technical expertise in the U.S. has grown, so too has the professional terrorist's ability to analyze and assess opportunities for attack.

After airlines were forced to upgrade security in the wake of the destruction of Pan Am 103, new attacks on civilian aircraft, while still capable of creating hundreds of individual tragedies, are not quite the major risk of just a few years ago. But the latest mutation in international terrorism portends attacks on the lynch pins of a modern society; its technological infrastructure, including electric power, telecommunications and computer networks, oil and gas systems, transportation and drinking water. The traumatization of an urban populace following the bombing of the World Trade Center is an indication of what can be done to convey political terror into the heartland of America by determined terrorists.

The horrifying prospect of infrastructural attacks causes many officials simply to throw up their hands. The technological interconnections upon which we depend have become such an integral part of our lives as to be virtually invisible. Past accidents have left a trail of devastation—the chemical accident at Bhopal; the oil spill from the Exxon Valdez; radiological damage from Chernobyl. They make deliberate sabotage to key infrastructure grim. More deliberately targeted attacks could bring an industrialized society to a temporary, but lengthy, halt through cascading disruption of interlocking networks.

Unfortunately the potential for attacks on infrastructure targets is not a matter of speculation. Electric power facilities have been a magnet for terrorists for more than a decade in countries from France to the Philippines. Because they are a system upon which most other public services depend, they have become a terrorist target of choice. Damage control options become difficult once a complex, brittle electric grid has been taken off line. The problem extends beyond light and heat. In the most extreme case, a major and lengthy

power failure could pull the plug on Internet and other computer networks, food supply chains, sanitations and water systems, fuel, and transportation.

For nearly two decades, two questions have consistently arisen. At the risk of repetition they are:

- Will international terrorism migrate to the U.S.?
- Will terrorist go high-tech, employing weapons of mass destruction?

We know the answer to the first question, but we are uncertain about the mass destruction issue. By some recent estimates, there may be several thousand trained terrorist hidden by the openness of the U.S. In addition to the WTC bombing and subsequent arrests, the recent Kansi murders at the CIA make paranoia a sensible state of mind.

When the dust settles, both literally and figuratively, we will find that the WTC bombing and related events are sponsored by (plausibly deniable) agents of foreign governments. Iran and Iraq come to mind. Of these two, Iran is the best positioned geopolitically and logistically.

Iraq's interest is revenge. This, in addition to oil, is powerful enough reason to engage in terrorism. But religious zealotry—the spreading Islamic fundamentalism—propels the Iranian regime. Much to the chagrin of the administration, we may yet face Iran, a malignant force of far greater resilience than the threat posed by Saddam Hussein.

Some observations follow:

Terrorism will grow significantly over the next few years. Displaced Europeans, Central Asians and other national groups throughout the former Soviet Union will promote violence based on grievances and motivated by revenge. The United States has been a target for international terrorism and hostage taking throughout the 1980s, but the American mainland has not been directly threatened as Americans in the Middle East and symbols of the U.S. abroad were convenient and more accessible targets. Now, however, a psychological barrier has been breached with the World Trade Center bombing and the growing evidence of foreign involvement. Foreign elements and governments are attempting to manipulate and exploit co-religionists and co-nationals in our urban environments.

The emergence of a domestic group of black Muslim fundamentalists, A-Fuqra, is another indicator that terrorism is coming home to America. Including the existing pockets of culturally alienated and less affluent immigrants, the resource pool for terrorist operations has grown significantly. Violent Muslim fundamentalists have escaped the attention of federal law enforcement authorities until recently. Some of the Black Muslim members are associated with perpetrators of the World Trade Center bombing and may have provided support to the terrorist plot to sabotage the Hudson River tunnels in July 1993.

In the past groups, such as Hamas and the IRA, have used America strictly as an arena to raise money for their violent activities outside the U.S. Now, in the aftermath of the cold war and the emergence of multi polar centers of world power, the U.S. will become a terrorist target to the same extent that the United Kingdom is prey to IRA urban terrorism, Italy to the Mafia, Egypt to the Islamic Jihad, and Turkey to the Kurdish PKK.

The problems for a democratic society in dealing with terrorism are significant. The lessons from the past efforts at deterring political violence are not encouraging. Libyan and Iranian sponsored violence has resulted in the deaths of several hundred Americans in Beirut and on Pan Am 103. Iran/contra demonstrated that there can be profit for relentless terrorist sponsors. A coherent anti-terrorist strategy has not been articulated by the American government. Effective approaches and law enforcement infrastructure to combat domestic terrorism while preserving civil liberties have not been developed.

Despite the knowledge that terrorists tried to paralyze a major American city, our anti-terrorism community remains unprepared and complacent. To the degree the problem is given priority, it is treated as it were simply a law enforcement problem rather than a national security issue. It has to be understood that the elements that actually carry out terrorism are simply tools-interchangeable parts-manipulated and directed by others, usually nations that sponsor terrorist actions as an instrument of state policy. If the persons who attacked the World Trade Center had been innovative terrorists, the Twin Towers could conceivably have been rendered unusable with casualties in tens of thousands. The federal government has essentially ignored the issue of domestic terrorism for years. Indeed the risk to America and to Americans overseas posed by foreign terrorism was disregarded by the Reagan administration until the 1983 catastrophes in Beirut in which we lost our Embassy first and then 241 American Marines. There is reason to believe we are just as unprepared for what lies ahead as we were at Beirut and a decade later at the Twin Towers.

The types of terrorism we may face to beyond bombings, airplane hijacking or hostage-taking. State-sponsored terrorists possess far more sophisticated tools (radiological,

biological, and chemical weapons). They are able to resolve complex logistic and communications problems (e.g., the multi-phase fused explosive charges believed to have been used in the Pan Am 103 bombing, portable satellite links for secure communications and "terror television"), and have technical expertise for attacks on critical infrastructural nodes: computer networks, transportation and energy grids.

Critical questions for U.S. planners. What tools can be brought to bear in detection, prevention, response and crisis management?

- Restructure forces and intelligence assets to cope with warfare in the shadows.

There is no known way to detect and intercept every terrorist attack: no defense system is lead proof. At the same time, we must begin not only to shore up our defenses but to learn to manage the consequences of a successful attack and to take steps to deter future ones. Our track record in effective response is dismal. After the bombing of the marine corps barracks in 1983, the U.S. navy shelled Druse villages in Shouf mountains. The bombing of Libyan targets in 1986, in response to the LaBelle disco bombing in Berlin, killed or wounded a number of innocent civilians. Except to blame several Libyans, and engage an impotent UN, by acts of economic and political isolation, no effective response has been taken after the bombing of Pan Am 103. (There is an alternative view that Syria and Iran conspired to down Pan Am 103.)

- Policy Dilemmas. Don't make promises no U.S. president can keep. The rhetoric of the Reagan administration was patently false (e.g., "terrorists can run but they can't hide," no concessions to terrorists). To end the Lebanese hostage crisis, the U.S. made "faustian" deals with Syria and Iran, sleeping with vipers, states which had manipulated the hostage-takers from the outset. When concessions were finally made (as they often are), the U.S. may have paid a higher price—a brittle friendship of convenience with long standing enemies—than had it simply engaged in pragmatic maneuvering. We should have learned that virulent anti-terrorism rhetoric builds false expectations that Americans are somehow immune from the threat, enhancing the shock value when an attack occurs.
- Cooperation with the media. Terrorists use a free media as a springboard onto the world stage, but governments have been less adept in the public relations battle that underlies all terrorist attacks. Because the media will fill an information vacuum, it behooves the responding government to use the media to "spin" its response strategy, thereby thwarting the terrorist's real objective of making governments look weak and foolish.
- Covert responses. While often controversial, covert operations, which send private messages to terrorists and their sponsors, may be more effective than overt military responses. Arguably, it makes as much sense to retaliate for terrorist acts by selective covert means as it does to bomb civilian populations, which we have done deliberately (Lebanon) or by accident (Libya). The

bottom line is that there are few "clean" options in the counterterrorism business. The range of tools (overt and covert actions) in the arsenal need not be artificially reduced without considering both the need and the costs.

- International Cooperation. As shown in Desert Storm, international cooperation can be a key factor in the fight against terrorism. We should strengthen our extradition treaties with other countries to ensure that terrorists acting against U.S. interests are brought to the U.S. for trial. Many of these existing treaties have a political exception clause which can be used to protect terrorists from extradition.

Intelligence exchanges with our allies are vital, including information on false documents and "lookout" lists, and increased U.S. training for foreign countries, including advice on forensic techniques, airport security, and bomb detection and disposal.

Our immigration practices must be greatly tightened.

Tactical Tools: What crisis management or technology programs can be developed to limit the effectiveness of terrorist attacks?

- Need to link domestic emergency management apparatus into the foreign policy agenda. Our domestic crisis management apparatus much less a victored attack. Unpreparedness invites attack, the requisite shock value being guaranteed. We must prioritize our need for defenses—focusing on areas of

greatest vulnerability—and begin the task of presenting a prickly target to our enemies.

- Countering Greater Terrorist Sophistication. There is concern that terrorists are using more lethal devices. Terrorists, for example, used a small amount of a plastic explosive, SEMTEX, to destroy Pan Am 103. It is more powerful and harder to detect than traditional explosives. The Provisional Irish Republican Army, which has contacts with Libya, has become expert in building bombs with long-delay timing devices, which can be set to explode in weeks or months rather than hours. The IRA nearly killed British Prime Minister Thatcher with such a bomb in 1985. Terrorist groups may also turn to biological, chemical and radiological weapons. A number of states which support terrorism, including Libya, have chemical and biological weapons in their arsenal.

The U.S. must increase its investment in counter-terrorist technology. Progress in miniaturization could allow the development of more sensitive devices to detect explosives at airports and chemical weapons. Research into DNA technology could provide scientists and law enforcement officials with valuable evidence. Greater use of computers could furnish information on terrorists more quickly.

Travel documents should be made more secure. Technology can be used to fight growing sophistication by terrorists, but we must make the investment in research and development to succeed.

The president ought to expand the role of the national laboratories to encompass counterterrorism missions. Technology needs to be developed for detection and identification of terrorists and their weapons, for interception and counteracting attacks, for deterrence and damage limitation, and for response and recovery.

Conclusion

These are no satisfying remedies for the plague of terrorism. But, we must commit ourselves to an unrelenting fight against terrorism in the belief that Americans should have the right to travel freely abroad and continue to live at home free from fear of terrorist attacks. America's counterterrorism program must include fostering moral commitment, education of the public, technology, response planning (overt, covert, emergency management), and international cooperation. Above all we must be steadfast in our efforts at times of calm as well as at times of catastrophe.

Robert H. Kupperman

July 28, 1994

U.S. Policy Options in Response to
the Bombing of Pan Am 103

Hearings before the
House Committee on Foreign Affairs
Subcommittee on International Security, International
Organization and Human Rights

July 28, 1994

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I very much appreciate the opportunity to submit my views on the required policy response to the December 1988 bombing of Pan Am 103 by covert operatives of the Libyan Government, a government which has been totally responsive to the dictates of Col. Muammar Qadhafi for just one month short of 25 years. As described in Attachment 1, I have been deeply involved in the full-range of Libyan-American relations -- diplomatic, strategic, commercial and oil -- for 35 years, and have lived and travelled extensively in Libya before, during and after Qadhafi's September 1, 1969 coup d' etat, most recently in 1988. As early as 1970, that experience prompted me to urge the United States Government to adopt unequivocal and sustained measures to curb Qadhafi's rogue activities before they exacted a bloody toll, but the response was only sporadic and half-hearted until the deliberately targeted attack on Pan Am 103 proved that it was too late to modify his behavior.

Although I want to use most of my brief time to propose what seems to me the only realistic and effective U.S. policy response at this crucial juncture in U.S.-Libyan relations, that proposal rests upon a number of uncomfortable but well established premises. The basis for those premises is detailed in Attachment 2, an article published this month in the leading French quarterly on international affairs, but they may be summarized as follows:

1. The most thorough investigation in history has established *beyond a reasonable doubt that the bombing was executed by two members of Libya's so-called External Security Organization (ESO), Abdel Basset a-Megrahi and Lamem Khalifa Fhimah.* There can be no doubt that Qadhafi and his operatives had the motive (vengeance for the April 1986 bombing of Libya), the necessary financing (almost \$10 billion in oil revenues), the means (an experienced clandestine service which had acquired the timers and explosives) and the opportunity (access to an Air Malta flight which transferred an unaccompanied suitcase containing the bomb to Pan Am 103 in Frankfurt). If others -- Syrian, Iranian or members of the PFLP-GC -- were aware of the Libyan plot, they were accessories not principals, and their complicity can only be established through access to the files and personnel of Libya's External Security Organization...after the fall of the Qadhafi regime!

2. There is no basis whatsoever for rebutting the inescapable conclusion that the two government operatives were acting in furtherance of official state policy that had been *sanctioned* by the only real decision-maker in Libya, *Qadhafi himself.* This conclusion is supported by extremely close ties between Qadhafi and the head of the ESO (Maj. Abdullah Sanussi is Qadhafi's brother-in-law and closest confidant), by al-Megrahi's personal and tribal links (he is related to Sanussi and another key figure in the ESO) and by our intelligence community's long study of the ESO's organization and modus operandi.

3. Given this evidence, President Clinton was entirely correct in characterizing the bombing of Pan Am 103 as "an attack on America" during his remarks at Arlington National Cemetery last December. It was, in essence, an act of *state-executed aggression* as distinguished from an act of state-supported terrorism -- a distinction which removes whatever doubt there may be about *America's right to hold the Libyan government accountable and to pursue that accountability as it deems appropriate.*

4. When the evidence of Libyan responsibility became fully available in the fall of 1990, the Bush Administration made a tactical choice to pursue accountability quietly through the courts so as to avoid a public state-to-state confrontation that might complicate efforts to build an Arab coalition against Saddam Hussein. Although the need to coddle yet another Arab dictator was subsequently extinguished by the Gulf War, the return of grand jury indictments in November 1991 effectively compelled the Bush Administration to attempt to follow through with its excessively constrained and legalistic approach even though the most cursory reality check rendered it *inconceivable that Qadhafi would surrender, for real trial, two men who could implicate him under skilled interrogation and plea bargaining against the death penalty.*

5. To make matters worse, the Bush Administration's entrapment in narrow legalisms prompted it to turn America's pursuit of justice, deterrence and punishment over to the UN. Predictably, that multilateral forum has not come up with the leadership and courage to develop a forthright response to a covert act of aggression. Instead of going for Qadhafi's jugular vein, some \$8 or \$9 billion in current oil revenues, the most recent sanctions expressly permit the sale of vital oil production equipment (as distinct from oil refining and handling facilities which are not vital to Libya's exports) and the unfettered repatriation of Libya's ongoing oil revenues (as distinct from any prior bank accounts that Qadhafi had not been able to hide by last December).

6. There is, in my judgement, little prospect that the Security Council will remove these carefully contrived exemptions in the future. Russia and China have both stated their intention to veto any oil embargo. Several Third World countries on the Council have been seduced by Qadhafi's transparent posturing as "a reasonable man determined only to protect a little country's sovereign rights against great power bullies." Moreover, European members of the Council see no point in sacrificing their commercial interests in futile pursuit of two men whose surrender is not only inconceivable but would not in any even satisfy American demands that those *ultimately* responsible for the bombing of Pan Am 103 -- Qadhafi and his coterie -- be brought to justice.

Although I have painted a very bleak picture about the prospects for fulfilling the demands of justice and deterrence through the legally-focused, UN-enforced course chosen by the Bush Administration, I am confident that a refocused strategy can still achieve those objectives. *Time is, however, of the essence, for, with every passing month, the picture of bloody carnage fades, American failure to follow-through raises doubt about its certainty of the evidence, the smoke pumped from Tripoli envelopes another Third World country, the world's cushion of unutilized oil production capacity declines, Libyan acquisition of European refiners (and concomitant political clout) grows and foreign investment in Libyan oilfields increases.*

Based upon my long experience and broad perspectives on Libya, I am certain that *Qadhafi's sometimes precarious survival over the last 25 years is attributable solely to his still vast oil income. He has skillfully employed*

those vast oil revenues to purchase the loyalty of a small cadre of thugs; to suborn the governing cliques of neighboring countries; to acquire political influence in Europe; to hire all manner of lawyers and middlemen; and, perhaps most tellingly, to instill in the Libyan opposition a suspicion that Western countries support his continued rule in order to preserve their commercial interests. Washington has, albeit belatedly, stopped American contribution to Qadhafi's oil revenues, but *America's erstwhile allies in Europe purchase over 95 percent of Libya's oil exports*. (In 1993, Libya exported 1,300,000 barrels per day of oil, and European purchases totalled 1,266,000 BPD). If our allies in Europe would join the United States in boycotting Qadhafi's oil exports, his strength would immediately become his vulnerability.

Despite European reluctance to support tougher sanctions within the UN, a forum which permits evasion of responsibility under the cloud of collegiality and legalistic hair-splitting, I cannot imagine that our European allies would risk alienating the Administration -- not to mention Congress and the American people -- by flatly refusing an unambiguous request that they stop purchasing Qadhafi's oil. To effectively engage our allies, we must demonstrate the following elements: an indisputable grievance solidly backed by evidence; a legal case for unilateral action, having exhausted efforts through the UN; an explication of the broader consequences which will arise out of failing to take action; a meaningful objective which will fully resolve the dispute; a realistic assessment of the available options; a coherent and comprehensive strategy which avoids pointless posturing; an equitable sharing of the burden within the Atlantic Alliance; a demonstration of solid support by the American people and Congress; and last, but by no means least, the political will to assign priority to this defense of American citizens and to provide clear leadership of the Atlantic Alliance.

Those elements can, in my judgement, be established in the following manner:

1. The *indisputability of the evidence* of Libyan, viz. Qadhafi, responsibility was quite fully discussed when the indictments were handed down, but that was three years ago, so I urge Congress to hold hearings that will reestablish this through senior Administration officials, who should no longer hold back defector reports and other intelligence information in anticipation of a trial.

2. The legal case for American led action outside the UN must be articulated by pointing out that Article 51 of the UN Charter -- and international law -- recognizes an "*inherent right of self defense*" in response to act of aggression. That provision puts no time limit on exercise of the right, so long as the Security Council has failed to take "measures necessary to maintain international peace and security." The Administration needs to acknowledge the implications of President Clinton's correct characterization of the outrage as "an attack on America", to admit that three years of patient efforts through the UN have not achieved any results and to emphasize that ESO's kidnapping last December of Mansur Kikhia, a Libyan opposition figure with permanent residence in the United States, should serve as a warning that *Qadhafi is poised to resume his terrorist activities*.

3. The *broader context* for American leadership rests upon the daily increase of evidence that it is exceedingly difficult and costly to combat rogue adventurism once it has emerged, whether in Iraq, Bosnia, Haiti, North Korea or anywhere else. Therefore, such adventurism must be deterred by signals of American resolve, but an entirely contrary signal will be sent if we fail to punish adventurers who have been caught red-handed.

4. In *establish a meaningful objective*, we must recognize that it is both futile and meaningless to hold the two indicted operatives solely accountable for an officially authorized attack. Therefore, the United States must make it clear that it holds the entire chain-of-command in the overlapping Libyan security and revolutionary committee structures up to, and including, Col. Qadhafi and Maj. Jalloud, to be accountable. Since that accountability cannot be satisfied so long as they continue to control the Libyan government, *their removal becomes the unflinching objective of American policy*. As a matter of style, Europe may blanch at such American candor, but, as a matter of principle, it can hardly deny that justification occasionally exists for removing rogue regimes given the long history of European intervention in Africa for offenses far less serious than the deliberate bombing of Pan Am 103. Nor are European countries likely to cry over removal of this particular rogue who has assaulted the individual interests of virtually every one of them over the past 25 years as well as created friction within the European Union and Atlantic Alliance.

5. In *realistically critiquing the options*, we must recognize that although there is more than one scenario for removing Qadhafi and his co-conspirators, most are, in fact, unrealistic under existing circumstances:

o *Invasion and occupation of Libya* with the objective of forcing the regime's unconditional surrender. The Pentagon estimates that this option would require a minimum invasion force of 100,000 troops, not to mention their naval and aerial support which would not enjoy the enormous advantage of operating from bases in neighboring countries. Suffice it to say that Washington lacked the political will to force Saddam's unconditional surrender when it had already committed half a million troops, organized an unprecedented coalition, enjoyed UN backing and had Iraq surrounded with friendly bases.

o *A special forces operation*. Although American law bars participation in the assassination of foreign officials, it accepts "snatch and grab" operations with a view to trial. In the aftermath of the Somalia operation, when American special forces based in that country could not capture Mohammed Adid in the small city of Mogadishu, it is extremely unlikely that Washington would commit such forces, operating from ships at sea, for a similar effort in the vast country of Libya.

o *Support for Libyan opposition groups*. Many Libyans are prepared to risk their lives in pursuit of human rights, democracy and the end of adventurism, but they cannot succeed so long as Qadhafi continues to enjoy a sort of magic talisman provided by oil revenues. Those outside of Libya are denied the necessary access to neighboring countries, whose governments have been suborned by Qadhafi's still vast oil revenues. His opponents inside the

country have mutinied as recently as last October only to find that Qadhafi's paramilitary cadres -- the principal domestic beneficiaries of the oil revenues -- remain committed to keeping "the golden goose" in power.

If all of the options are unrealistic under existing circumstances, the Clinton Administration has only two choices: to abandon the quest for justice and deterrence or to *change the circumstances by removing Qadhafi's magic talisman*. Since the former is strategically and politically unthinkable, we must stop Libyan oil exports. While there can be little doubt that the Sixth Fleet possesses the capability to blockade Libya's five terminals (there are no pipelines to neighboring countries) or to bomb the petroleum infrastructure, it would be preferable to enlist voluntary allied support in order to send a signal that Europe shares Washington's resolve to remove the Qadhafi clique.

6. The importance of establishing a *meaningful objective and a coherent strategy* is emphasized by reports that President Francois Mitterand told Ambassador Vernon Walters in April 1986 that American fighter bombers based in Britain could overfly France only if the raid was part of a viable plan to remove Qadhafi. Although Washington had no such plan in 1986, it would not be difficult to devise one to take advantage of Qadhafi's increasing internal problems. Some elements of that plan would include:

- o *Adoption of a total boycott of Libyan oil and gas -- backed up by a naval blockade if necessary -- to be lifted only when those accountable for the bombing of Pan Am 103 and (with French concurrence) of UTA 772 have been removed from office, thereby leaving Qadhafi's fate in the hands of his long suffering countrymen.*

- o *Public identification of those individuals whom the U.S. and France hold accountable, thereby giving the many government officials and military officers not on that list reason to split with the security and revolutionary committee networks headed by Qadhafi and Jalloud at the time of the bombing.*

- o *Recission of the UN ban on air travel and aircraft spare parts, thereby indicating concern for ordinary Libyans who bear the brunt of the existing UN ban, which only slightly inconveniences the ruling clique.*

- o *Renunciation of the use of force (in the absence of further attack by Qadhafi), thereby denying him an opportunity to rally Libya's professional military services and signaling to his opponents that they must solve the problem themselves.*

- o *Acceptance of Libyan trial of those accused of perpetrating the aircraft bombings (if they are still alive after the fall of Qadhafi), provided that the replacement regime has cooperated in opening the intelligence files to American investigators and that the independence of the courts has been assured by free elections under international supervision, a stipulation that will appeal to real Libyan nationalists and democrats.*

o *Guarantee of Libya's internationally recognized borders, thereby foreclosing opportunistic moves by long covetous neighbors and assuring Libyan patriots that their country -- which has no internal ethnic or sectarian schisms -- will survive intact through any upheaval.*

While there can be no guarantee how long it will take this strategy to achieve its objective, there can also be no doubt that it will remove his magic talisman, thereby disheartening Qadhafi's supporters, emboldening his many opponents and prompting his neighbors to reassess their policies of barring opposition activities. Critics of the so far unsuccessful effort to rid Iraq of Saddam Hussein through sanctions will recognize that these elements are designed, in part, to correct the deficiencies in that strategy by appealing to vast elements of the Libyan population who have been disaffected by Qadhafi's terrorism at home and abroad.

7. Any effort to establish an *equitable sharing of the burden* of an oil boycott must start with recognition of the facts:

o Having voluntarily sacrificed the commanding position enjoyed by American companies in the Libyan oil industry prior to the imposition of unilateral sanctions, *Washington need hardly be embarrassed in asking its allies to join in putting principle ahead of profit.*

o About one-fifth (213,000 barrels per day) of the Libyan crude oil refined in Europe is processed in refineries owned by the Libyan government -- *not by local interests* -- and Qadhafi has bragged that Libya will more than double this so called "captive market" by 1997.

o Although the four European companies with current ownership of Libyan oil production -- Italy's AGIP (c. 150,000 BPD), Germany's Veba (c. 40,000 BPD) and Wintershall (c.5,000 BPD), and Austria's OMV (c. 10,000 BPD) - - would, like their American counterparts which lost 5 times as much oil eight years ago, lose production until the ban is lifted, the removal of Qadhafi would *enhance their long term interests* by eliminating current UN barriers on certain trade, not to mention the risk that Washington may eventually resort to unilateral bombing if multilateral cooperation fails.

o More recent exploration commitments by France's Total, Belgium's Petrofina, Spain's Repsol, Canada's Husky Oil and Britain's LASMO were made after the United States formally accused the Qadhafi regime of bombing Pan Am 103 and announced its desire to stop the export of Libyan oil, so there is *little basis for complaining about lack of warning.*

o These European companies would be well-advised to recognize that *they also have important commercial interests in the U.S.* For example, both French Total and Belgian Petrofina refine almost 200,000 BPD in American refineries and market the products through over 2300 filling stations each. As a result, Fina earned \$3.4 billion in the United States last year, and Total earned \$2.3 billion, ranking both among the 200 largest American industrial corporations. AGIP and Veba also operate in the U.S., but segregated financial data are not available.

o Although world crude oil prices have risen from the five year low that they reached in the Spring of 1994, there remains a price-dampening overhang of unutilized production capacity even before the widely anticipated resumption of Iraqi exports in 1995.

o There are even ample supplies of light, low sulfur crude oil similar to the 1.3 million BPD currently exported by Libya; in fact, the increase in North Sea production of such high quality crude oil between 1992 and the end of 1994 (a gain of 1.4 million BPD) would by itself offset the loss of Libyan exports.

Despite this evidence that the United States is not asking its Atlantic Allies to bear unreasonable hardship, Washington could take further steps to minimize risk.

o President Clinton can urge Saudi King Fahd, who is incensed by Qadhafi's personal attacks on his stewardship of Mecca and Medina, to increase Saudi production so as to avoid speculative world price increases.

o In the unlikely event of a significant increase in prices for light, low sulfur crude oil, the U.S. could sell similar quality oil from its Strategic Petroleum Reserve.

o Washington, which is likely to enjoy greater influence in post-Qadhafi Libya than European capitals which continued business-as-usual for more than a decade after the U.S. stopped, could offer to use that influence to urge the new government to honor unusually generous oil contract terms agreed to by Qadhafi in his efforts to gain European political support.

8. *Solid support* from Congress and the American people for a policy responsive to an "attack on America" which took 270 lives, two thirds American, *is guaranteed* if the facts are revealed. Chairman Lantos and this committee are, therefore, to be congratulated for starting the process.

9. While *political will and prioritization* are difficult attitudes to influence, I would expect that the long-frustrated families of the victims will make every effort to put the need for an effective response on the agenda for the presidential campaign that begins next year -- if President Clinton refuses to heed their call to action, his opponents will be delighted to take up the cause!

In conclusion, Mr. Chairman, let me acknowledge that some elements of my proposed strategy for breaking the unacceptable stalemate are likely to spark controversy. While I too might wish for a greater wreaking of American vengeance on the Libyan culprits, it is my considered opinion that this plan represents the only viable option -- and that preoccupation with other, unacheivable, options will only allow Qadhafi to buy time and escape accountability all together. As someone once commented, "The perfect solution must not become the enemy of the best solution"!

G. Henry M. Schuler

Relevant Experience in Libyan Affairs

o a naval officer attached to the Sixth Fleet in the 1950s, with responsibility for following political developments in Arab countries bordering the Mediterranean, including, of course, then newly independent Libya;

o a diplomatic third secretary and vice consul assigned in the 1960s to the small American Embassy office in Benghazi where I did a little of everything from issuing visas and renewing passports to compiling a history of bedouin tribes of Cyrenaica;

o an oil company executive, based first in Tripoli and then, during the 1970s, in London, with responsibility for managing minority holdings in several Libyan oilfields including the largest field on the African Continent, the 500,000 barrel per day Sarir field operated by British Petroleum;

o the author of a comprehensive (but unpublished) history of the Libyan-American relationship that last took me to Tripoli in 1988 for a lengthy interview with Col. Qadhafi at Bab Aziziyah Barracks just 8 months before the bombing of Pan Am 103;

o an advisor to various American governmental entities regarding U.S. policy toward Libya, including testimony to the Senate Foreign Relations Committee (1973), the Special Judiciary Committee investigating Billy Carter (1980), the White House Chief of Staff (1981), the National Security Advisor (1982), the Secretary of Treasury (1986), the Deputy Secretary of State (1986), the U.S. Attorney's Office Atlanta, (1988), the U.S. Attorney's Office New York and Miami (1991 - present), the Defense Intelligence Agency (1988) and the Central Intelligence Agency (1981 - present).

o the author of articles on Libya and the attack on Pan Am 103 for the New York Times, the Washington Post, the Los Angeles Times, the Christian Science Monitor, the SAIS Review and Politique International. I have also appeared frequently on the McNeil-Lehrer News Hour and all of the network news broadcasts and public affairs talk shows.

**A Policy for Breaking the
Libyan - American Stalemate**

by

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On December 21, 1993 at ceremonies in Arlington National Cemetery marking the fifth anniversary of the destruction of Pan Am flight 103 over Lockerbie, Scotland, President Bill Clinton made an extraordinarily grave charge. "The attack on Pan Am 103 was an attack not only on the individuals from 21 nations who were aboard the aircraft", warned the President solemnly, "it was an attack on America".¹ The assembled families of the 270 victims, over two-thirds American, did not need to be reminded who had launched that vicious attack, for the United States Government had, two years earlier, formally accused the Government of Libya, long controlled by Col. Muammar Qadhafi, of conducting that operation.

With that unadorned, yet profound, statement, President Clinton has swept away layers of confusion over the true nature of the December 1988 bombing and laid the ground work for an entirely new approach to the quest for justice and deterrence. He has, in short, reaffirmed the crucial distinction between acts of aggression, which take place between states, and acts of terrorism, which take place between individuals, albeit sometimes with state support. When a state has been attacked, it is fully justified in holding the head of the attacking state accountable for the activities of his official intelligence organization unless he can demonstrate that it was a rogue operation. The international community does not, in sum, make a distinction between conventional and unconventional warfare.

Given this fundamental premise, President Clinton's statement last December raises several pertinent questions:

o Does the evidence support the President's unprecedentedly explicit characterization of the bombing?

o If so, why did the Bush Administration treat it as terrorist incident instead of an act of aggression?

o What possible combination of circumstances could make a plausible case for believing that a country of 3.5 million people would attack the sole remaining superpower.

o Does the incident -- and its resolution -- suggest any issues or patterns of broader significance to the community of nations?

o Finally, and most importantly, how should the United States respond to the attack, and what are the responsibilities of its European allies?

The Evidence

Those American and British officials with access to all of the forensic evidence, investigative reports and intelligence information, which was gathered in the most extensive investigation ever conducted, believe beyond a shadow of a doubt that the attack on Pan Am 103 was an officially sanctioned operation of the Libyan intelligence service's (JSO) Bureau for External Operations. A few non-governmental investigators still suspect that elements of the Iranian and Syrian intelligence services, as well as operatives of the Popular Front for the Liberation of Palestine - General Command, were sufficiently aware of the operation to qualify as "accessories before the fact", but even they acknowledge that Libyans were the perpetrators. The case against Libya is especially compelling in the usually murky world of international terrorism.²

Painstaking reconstruction of the plane's debris permitted forensic experts to establish that the bomb, consisting of Semtex explosive and a timer/detonator, had exploded in a Toshiba radio cassette player packed inside a brown Samsonite suitcase, along with a motley collection of unworn clothing bearing the label of a store in Malta. The suitcase and its contents were individually traced to named Libyan intelligence operatives, who were also shown to have had the opportunity and the support organization to evade security procedures in getting it aboard the aircraft.

A small piece of the timer's circuit board, which was found to match several complete timers that had been found in the possession of two Libyan agents arrested in Senegal in February 1988, was traced to a Swiss electronics firm, Meister et Bollier (MEBO), in Zurich. The Swiss firm acknowledged that

it had manufactured 20 of these prototype digital timers to specifications established by a Libyan named Said Rashid, who was provided with office space and took delivery of the entire batch in late 1985.³ Rashid's Zurich accommodation office was shared with his first cousin and deputy, Abdel Bassett al-Megrahi.

The clothing in the suitcase was traced to a Maltese store, Mary's House, whose proprietor remembered selling an odd assortment of apparel to a Libyan who resembled Megrahi several weeks before the bombing. Hotel records show that Megrahi, posing as a dispatcher for Libyan Arab Airlines, spent the night of December 7 a few blocks from the store and left for Tripoli the next day.

According to Abdel Majid Giaka,⁴ Manager of the Malta office of Libyan Arab Airlines, his predecessor in that job, Lamen Khalifa Fhimah and Megrahi, traveling with false papers, arrived from Tripoli on December 20, 1988, carrying a brown Samsonite suitcase.

The remaining contents of the suitcase, Semtex explosives, were also available to Libyan intelligence. In fact, the Czech government has acknowledged that Libya was the largest purchaser during the Communist era. Moreover, Giaka has testified that Fhimah brought a quantity of Semtex to his Malta office in the early fall of 1988.

The evidence of Libyan construction of the bomb was matched by equally compelling evidence that the same operatives planted it aboard Pan Am 103. The baggage handling records of Frankfurt Airport for December 21 indicated that a piece of unaccompanied luggage destined for New York was transferred from Air Malta Flight 180 (KM 180) to a London-bound Pan Am feeder flight designated 103A. The records of Luqa Airport in Malta indicate that luggage bound for Tripoli on Libyan Arab Airlines Flight 147 (LN 147) was being processed at the same Air Malta counter, at the same time, as luggage bound for Frankfurt on KM 180, an overlap that would afford someone with access to Air Malta luggage tags an opportunity to insert the suitcase into the merged luggage stream.

Maltese records show that Megrahi, still travelling on false papers, boarded LN 147 that morning. The defecting LAA employee, Giaka, has testified that Fhimah used his LAA connections to obtain Air Malta luggage tags illegally during the days preceding December 21. His testimony is supported by a purloined desk calendar on which Fhimah had made a December 15 notation: "Abdel Basset is coming from Zurich...take tags [sic] from Air Malta".

European and American intelligence have no doubt that the conspiracy to bomb Pan Am 103 is consistent with a Libyan pattern of using its national airlines to provide overseas cover for Libyan intelligence operations directed by a so-called "Airline Security Section". Intelligence dossiers on Megrahi, Fhimah and Rashid revealed long-standing roles in that Section, although they followed a typical pattern of also slipping in and out of other cover roles which facilitated specialized assignments. In fact, the most sensitive (viz. terroristic) Libyan intelligence networks were based more upon personal and tribal loyalties than upon boxes on an organization chart, especially after Qadhafi made a mid-1980s decision to risk the consequences of replacing Palestinians and other third country nationals of uncertain loyalty with Libyan nationals of demonstrated commitment.

Still, Qadhafi was reluctant to accentuate his personal role in terrorist operations by using his own fellow Qadhadfa tribesmen, whose limited numbers were, in any event, already committed to the key commands in the Mobile Strike Force designed to suppress military coups. Therefore, the JSO's Bureau of External Operations became the fiefdom of the Megahra Tribe, neighbors and traditional allies of the Qadhadfa.

At the time of the attack on Pan Am 103, the Bureau for External Operations was headed by Abdullah Sanussi, a member of the Megahra Tribe, who is also Qadhafi's brother-in-law and closet confidante. Over the last few years, he has, in fact, used his role as "keeper of the secrets" and "controller of access to The Brother Colonel" to eclipse his fellow Megahra tribesman and long time Qadhafi associate, Maj. Abdul Salam Jallud, as Libya's second most powerful figure. As fellow members of the Megahra Tribe, Sanussi could count on the loyalties of Rashid and his cousin Megrahi.

Based upon these linkages, as well as specific intelligence information and a general recognition that nothing significant happens in Libya without Qadhafi's personal approval, the U.S. intelligence community believes that the attack on Pan Am 103 -- and on the United States -- was authorized at the highest level as retaliation for the punishment inflicted upon Libya in April 1986 for bombing La Bella Disco in Berlin. Under injunction from the CIA not to compromise "intelligence sources and methods", the Department of Justice formally named only Megrahi and Fhimah, but the indictment (paragraph 38) also refers to "co-conspirators (who) as officers and operatives of the JSO, utilized the resources and facilities of the nation of Libya, including the JSO, to carry out their scheme..." Reflecting the views of the intelligence and policy communities, the Administration was even more explicit in a statement that accompanied the indictment. "I want", said the State Department's official spokesman, "to make some things clear from the outset:

The bombers were Libyan Government intelligence operatives.

This was a Libyan Government operation from start to finish.

We hold the Libyan Government responsible for the murder of 270 people over Lockerbie, Scotland on December 21, 1988.⁵

Lest anyone doubt how high that responsibility went, he went on to describe Sanussi as Megrahi's "immediate supervisor", a description that led straight to Qadhafi's office.

Given the grave implications of those charges, it is difficult, at first blush, to understand why the Bush Administration chose to respond through the courts. After all, it responded to Saddam Hussein's attack on Kuwait, which endangered no American citizens, with a massive military assault. But therein lies the answer to President Bush's uncharacteristic passivity.

The Bush Response

Although year-end 1988 was a period of renewed Libyan-U.S. tensions (threats to bomb the Rabta chemical plant and the downing of two Libyan fighters), the early discovery of the use of a radio cassette player to disguise the explosive and detonator initially pointed investigators toward Syria-based Ahmed Jibril and the PFLP-GC, which German counter-terrorism police had only recently found to be using the same camouflage technique -- albeit with altimeters rather than timers -- in an aircraft bombing plot. It was only after all the forensic evidence had been gathered (from an 845 square mile impact area!), reassembled and analyzed that the investigators began to zero-in on Libya some 18 months after the attack.

As the growing volume of evidence became available to a handful of specially cleared officials over the latter half of 1990, the Bush Administration faced an acute dilemma. If they released the information of Libyan guilt, they risked irresistible demands from the families for a forceful U.S. response at the worst of all possible times...just when President Bush was attempting to build and maintain a fragile Arab coalition against Saddam Hussein, who had invaded Kuwait on August 1. If, on the other hand, they sat on the information, they faced later condemnation for having engaged in a "cover-up", the worst of Washington crimes.

After closely held debate, the White House found a way around the dilemma, one which would permit the Bush Administration to avoid releasing or burying the information. Despite protests based upon principle (the deterrent requirement to hold aggressive regimes accountable for the activities of their official intelligence services) and upon practicality (the lack of jurisdiction over the perpetrators), the White House decided to treat the attack as a criminal matter, to be resolved through judicial action, rather than as a national security matter, to be resolved through executive

action. Accordingly, the United States launched a grand jury investigation which would take a year to sift through the complicated evidence, during which time the grand jurors would preserve secrecy under threat of citation for contempt of court.

When the jury returned an indictment on November 14, 1991, the Gulf War was long over -- and the need for handling other Arab aggressors with kid gloves less compelling -- but the Bush Administration found itself "hoist on its own petard". It had set in motion a judicial process which was pointless on several counts: firstly, refusal to compromise "intelligence sources and methods" in a criminal trial had allowed the truly responsible parties -- Qadhafi, Sanussi, Jalloud and Rashid -- to escape indictment; and, secondly, trial of even the indicted men depended upon their unconditional surrender by the Qadhafi regime, a step which was out of the question since that regime knew that skilled intelligence interrogation and plea bargaining against the death penalty would prompt them to implicate Qadhafi and the entire chain of command. Then entering an election campaign as champion of a risk-free "New World Order", President Bush's political advisors convinced him that he had no immediate option other than to wander ever farther down the path of pointless pursuit by placing the matter in the hands of the United Nations Security Council.

Predictably that multilateral forum has not come up with the leadership and direction to develop a forthright response to a covert act of aggression, especially one which seems implausible given the gross mismatch of the antagonists. Even a cursory examination of 25 years of relationship between Qadhafi and the United States -- indeed, with the entire Atlantic Alliance -- will, however, reveal that it is precisely the enormity of that mismatch in conventional power that lends credence to the otherwise preposterous notion that he would order a covert attack on America.

The Case for Plausibility

Despite his country's small population -- even because of it! -- Qadhafi learned during the first year after seizing power on September 1, 1969 that he could use Libya's vast reserves of high quality oil (low in sulfur, high in gasoline yield and close to European markets) -- and the financial wealth generated therefrom -- to keep the Atlantic Alliance divided and to avoid sustained attention from even one country. Libya was, in sum, strategically marginal enough to escape serious concern in the world's chancelleries and foreign ministries, but oil rich enough to be heard loudly in ministries of oil and foreign trade around the globe.

In fact, only 5 months after the coup, Qadhafi succeeded in driving a wedge in the Atlantic political alliance by using Libya's oil wealth to purchase more than 100 French Mirage fighters over the vigorous protest of the United States which feared disrupting the Arab-Israeli military balance.⁶ This was followed twelve months later by his equally unprecedented success in fragmenting the commercial alliance which had brought together 23 American and European companies in an effort to stop the world-wide explosion of oil prices that Qadhafi had launched on September 1, 1970.⁷ The point here is not to rehash old arguments over who was right or wrong, but rather to establish that

Qadhafi was seized early on with the notion that he was virtually invulnerable so long as he skillfully used Libyan oil to divide and distract his potential adversaries.

The instinctive bedouin trait that allowed a 28 year old soldier to manipulate his adversaries was reinforced by a lack of ideological sophistication that left others convinced that they were manipulating *him*. His highly idiosyncratic outlook placed him in none of the conventional world's tidy niches - neither capitalist nor communist, fundamentalist or secularist, pan-Arabist or nationalist, visionary or pragmatist -- so he *seemed* whatever his would-be handlers wanted him to be.

That combination of bedouin wile and ideological naivete has served him well for 25 years, but especially in the early years when the leader of such an unlikely coup should have been hard pressed to consolidate power. His most appealing attributes, as viewed from the ranks of geopoliticians in Washington and the capitals of Europe during the early 1970s, was his cultural (if unconventional) commitment to Islam, the scourge of atheistic communism, and his personal commitment to Egyptian President Nasser, who was not entirely happy with growing penetration by the Soviet Union. Accordingly, Kissingerian practitioners of old world real politik saw an opportunity for oil rich Tripoli, not on the front line of the Arab-Israeli conflict, to supplant Moscow as the source of Egyptian financial and arms assistance, thereby ending the deeply worrisome Soviet foot-hold at the crossroads of the Middle East and Africa.

In the end, that grand geopolitical design played out, albeit under Nasser's successor, but it was obtained at the cost of facilitating Qadhafi's consolidation of power in Libya. Qadhafi faced at least four significant challenges in the early years, but, in each instance, the effort was blocked by American or European intelligence services, with the sometimes sad spectacle of competition between the various capitals to curry favor with Qadhafi by being the first to warn him of danger.

To the best of this writer's knowledge, the era of active support (or at least its competitive phase) had ended by the mid-1970s, but it was replaced by an era of passive acceptance which many found to be a distinction without a difference. As if to demonstrate his contempt for the oil importing countries that had tried to win favor, Qadhafi openly provoked Washington and the capitals of Europe with aggressive actions unmatched by any of his far more powerful, and no less revolutionary, peers. During just one six month period in 1973, Libyan Mirages jumped an unarmed American reconnaissance plane over the Gulf of Sirte; Libyan mines sank a Greek fishing vessel; Libyan fighters strafed an Italian corvette coming to the rescue of 5 captured trawlers; Qadhafi publicly announced his support for the IRA and backed it up with 5 tons of arms; and Libyan troops occupied the Aouzou Strip of French protected Chad.

No one in Washington, Athens, Rome, London or Paris even suggested that these provocations should interrupt their business-as-usual relationship with Libya. Nor would European capitals be so moved in the following 10 years by a score of assassinations of Qadhafi's foes on their territory or even by the

seizure of their own citizens as hostages in Libya. Given this record, it is difficult to fault Qadhafi for assuming that Libya's oil resources provided a sort of "magic talisman" for warding off Western response. In fact, virtually all Libyans -- his foes as well as his friends -- believe to this day that he continues to enjoy a degree of unacknowledged support from members of the Atlantic Alliance.

That suspicion even extends to the United States because its intermittent bursts of anti-Qadhafi activity have never been part of a purposeful, coordinated and sustainable strategy. The closest Washington ever came to adopting a strategic initiative was during the first year of the Reagan Administration when its arch-Cold Warriors -- CIA Director William Casey, Secretary of State Alexander Haig and National Security Advisor Richard Allen -- focused on Qadhafi as a "Soviet Puppet", a premise that was as misplaced as that of their predecessors a decade earlier who chose to see him as an "anti-Soviet Puppet". As part of a so-called effort to "roll back communism", they began a disruption of American business-as-usual with Qadhafi by urging American citizens to leave Libya, subjecting the transfer of technology to licensing requirements and banning the importation of Libyan crude oil. But these measures were seen mostly as a "clearing of the decks for military action", which was expected to take the form of invasion by Egyptian ground forces with U.S. air and naval support.

If that objective was ever viable, it died with Anwar Sadat in October 1981. The Cold Warriors tried maintain the initiative for a few months, but even they lost interest when the Polish Government declared martial law in December, thereby giving them an even better opportunity to demonstrate their anti-communist resolve. Thereafter, Washington reverted to a policy of containment, which found the United States engaged in defensive actions around the world in the wake of Qadhafi's adventuring from Antigua to Zaire.

It was clear by 1985 that defensive containment was not effective, so, when Abu Nidal attacked the Rome and Vienna airports with Libyan support and encouragement, the White House embarked on another ill-conceived effort at corrective action. Washington might not know Abu Nidal's "address", but they knew just where to reply to Qadhafi once the necessary forces were in place. In January 1986, sanctions were tightened, most importantly by ordering American oil companies to cease operations in Libya,⁸ but, as in 1981, economic isolation was seen not as a stand-alone strategy but rather as a necessary precursor to military action, a way to satisfy the demands of international public opinion that use of force be a last resort.

After the U.S. military build-up and mission training had been completed in early 1986, a still brazen Qadhafi provided the necessary "fresh American blood" to trigger an aerial assault, by sponsoring a carefully targeted attack that killed two American soldiers at La Belle Disco in Berlin. While the author of this piece then publicly opposed the proposed "surgical strikes on terrorist infrastructure" as unfocused, unachievable and unwise -- in sum, counter-productive -- he has never seen evidence that the use of force was unjustified under the internationally recognized right of self defense. In fact, the original communications intercepts linking Libya to the attack on La Belle have been reinforced by subsequent access to the Stasi files in the

former DDR.⁹

Sadly, the April 1986 aerial assaults on Tripoli and Benghazi killed numerous non-combatants without ending the ever escalating cycle of violence, much less terminating Qadhafi's rule. American willingness to use its unrivalled conventional force probably surprised Qadhafi after years of bluff, but it did not deter him from pursuing his own adventurous agenda...it simply prompted him to tone down his bombastic rhetoric while sharpening his skills in unconventional warfare!

Although some will ridicule the notion of a Libyan security service skilled in unconventional attacks, it should be noted that the critical forensic evidence would have been buried deep in the Atlantic Ocean if Pan Am 103 had departed London on time. In any event, Qadhafi and his operatives have succeeded in obscuring the issue well enough to avoid punishment many years after the bombing of Pan Am 103 and UTA 772.¹⁰ Worse, it might be argued in the latter case that Qadhafi's clandestine skills have been sufficient to earn him a prized reward less than 18 months after arrest warrants were issued: a contract from Total (in which the French government owns over 5 percent of the shares) to invest as much as \$1 billion in development of new Libyan oil production.¹¹

It is no wonder that we have not seen the end of Qadhafi's adventurism. As recently as March 14, 1994, the official Libyan news agency, echoing Qadhafi's speech a day earlier, said,

It has become clear that you {the world powers} are incapable of protecting your citizens and tourists, who are falling everywhere, because the ones who are fighting you are ghosts...They are not a regular army or a state or a government...you will not be able to hit us with your aircraft and atomic bombs...¹²

Those who insist that actions speak louder than words need only look to Libya's December 10, 1993 kidnapping in Cairo of Mansur al-Kikhia, a former Libyan Foreign Minister and UN Ambassador, who had broken with Qadhafi over his adventurism. Perhaps, the Libyan news agency had Kikhia in mind when it mocked the world powers for failing to protect their nationals, for he had established permanent residency in Missouri and was only two months away from receiving American citizenship, a status already enjoyed by his wife and two children.

The Broader Significance

Although the Cold War era had its full share of clandestine operations, most were constrained by --as well as sponsored by -- the leaders of the competing power blocs. Ever fearful that unconstrained adventurism by their Third World military and financial clients would drag them into thermonuclear war, Washington and Moscow had both motive and means to exercise restraint; however, that felicitous leverage ended with the Cold War.

Unfortunately, numerous irresponsible despots emerged from the Cold War with their internal control techniques established; their clandestine international networks intact; their appetite for adventure unsatisfied; and with contempt for their erstwhile restrainers/sponsors and their Cold War rules. As a result, we have seen a dangerous outbreak of adventurism which threatens international order and stability under a variety of guises, including paramilitary support for ethnic revanchism, connivance in international drug dealing, acquisition of weapons of mass destruction, and, of course, cross-border terrorism.

This recitation of current threats is not intended to suggest that Slobodan Milosevic, Kim Il Sung, Manuel Noriega, Saddam Hussein and Muammar Qadhafi -- and the threats they represent -- can, or should be, combated the same way. To the contrary, it is designed to demonstrate that any adventurism must be deterred because it is not easily confronted once it has emerged.

The problem is that we cannot deter would-be adventurers if we prove unwilling or unable to punish those who have already been caught red-handed. We must, in sum, establish the principle that regimes -- leaders -- are accountable for their adventures no matter how well the evidence is hidden. That will not be accomplished in national criminal courts, which are designed to prosecute -- and protect -- private individuals, not state regimes. Nor are those regimes subject to prosecution by existing international tribunals, which are designed to mediate between -- and accommodate -- sovereign entities. That leaves only proposed ad hoc tribunals, like that which prosecuted war criminals at Nuremberg, but -- as the UN is learning to its dismay in the Balkans Conflict -- that is feasible only when the offending state has surrendered unconditionally, a condition that requires more military force than the world is generally willing to commit.

Breaking the Stalemate

As noted at the outset of this article, President Clinton has recently articulated a rationale for breaking the intolerable stalemate which has arisen out of an ill-focused effort to obtain justice and establish deterrence through the United Nations. In recognizing that the bombing of Pan Am 103 was "an attack on America", the man sworn to defend the nation against such attacks effectively warned Qadhafi that the United States reserved "the inherent right of self-defense" under Article 51 of the UN Charter. That provision puts no time limit on exercise of the right, so long as the Security Council has failed to take "measures necessary to maintain international peace and security".

After two and a half years of futile pursuit of the intelligence officers who executed the attack on orders from the Qadhafi regime, it is entirely clear that those measures will never be established through the United Nations. The most recent UN sanctions deliberately perpetuate Qadhafi's "magic talisman", oil export revenues, by expressly exempting both oil production equipment from the embargo and oil sales from the freeze on overseas bank accounts. Although Russia and China have reluctantly refrained from vetoing those weak measures, both have indicated that they would block any effort to impose an oil boycott.¹³ Nor, in fact, is there much enthusiasm

among other members of the Security Council for ratcheting up sanctions in pursuit of two mid-level operatives, whom they know Qadhafi cannot afford to release, and whose unlikely surrender would not, in any event, satisfy the demands for real accountability and justice.

While members of the UN not targeted by the attack may prefer stalemate to confrontation, the President of the United States has a Constitutional obligation -- not to mention a political imperative -- to exercise the country's sovereign right to respond. Moreover, it is difficult to imagine that other members of the Atlantic Alliance would fail to support a determined American response, *provided it reflected a meaningful objective, a realistic assessment of options, a coherent strategy and a reasonable commitment to minimize any adverse commercial impact.* After all, failure to rally around Washington in response to "an attack on America" would inevitably prompt the American public to question the value of the Atlantic Alliance in the post-Cold War era.

In developing a policy reflective of these requirements for allied cooperation, the Clinton Administration should pursue an orderly approach as follows:

1. Establish a meaningful objective. As discussed, it is both futile and meaningless to hold the two indicted operatives solely accountable for an officially authorized attack. Therefore, the United States must make it clear that it holds the entire chain-of-command in the overlapping Libyan security and revolutionary committee structures up to, and including, Col. Qadhafi and Maj. Jalloud, to be accountable. Since that accountability cannot be satisfied so long as they continue to control the Libyan government, *their removal becomes the unflinching objective of American policy.* As a matter of style, Europe may blanch at such American candor, but, as a matter of principle, it can hardly deny that justification occasionally exists for removing rogue regimes given the long history of European intervention in Africa for offenses far less serious than the deliberate bombing of Pan Am 103. Nor are European countries likely to cry over removal of this particular rogue who has assaulted the individual interests of virtually every one of them over the past 25 years as well as created friction within the European Union and Atlantic Alliance.

2. Realistically critique the options. There is more than one scenario for removing Qadhafi and his co-conspirators, but most, are, in fact, unrealistic under existing circumstances:

o *Invasion and occupation of Libya with the objective of forcing the regime's unconditional surrender.* The Pentagon estimates that this option would require a minimum invasion force of 100,000 troops, not to mention their naval and aerial support which would not enjoy the enormous advantage of operating from bases in neighboring countries. Suffice it to say that Washington lacked the political will to force Saddam's unconditional surrender when it had already committed half a million troops, organized an unprecedented coalition, enjoyed UN backing and had Iraq surrounded with friendly bases.

o *A special forces operation.* Although American law bars participation in the assassination of foreign officials, it accepts "snatch and grab" operations with a view to trial. In the aftermath of the Somalia operation, when American special forces, based in that country, could not capture Mohammed Adid in the small city of Mogadishu, it is extremely unlikely that Washington would commit such forces, operating from ships at sea, for a similar effort in the vast country of Libya.

o *Support for Libyan opposition groups.* Many Libyans are prepared to risk their lives in pursuit of human rights, democracy and the end of adventurism, but they cannot succeed so long as Qadhafi continues to enjoy his magic talisman. Those outside of Libya are denied the necessary access to neighboring countries, whose governments have been suborned by Qadhafi's still vast oil revenues. His opponents inside the country have mutinied as recently as last October only to find that Qadhafi's paramilitary cadres -- the principal domestic beneficiaries of the oil revenues -- remain committed to keeping "the golden goose" in power.

If all of the options are unrealistic under existing circumstances, the Clinton Administration has only two choices: to abandon the quest for justice and deterrence or to *change the circumstances by removing Qadhafi's magic talisman.* Since the former is strategically and politically unthinkable, it is only a matter of time before Washington decides to stop Libyan oil exports. While there can be little doubt that the Sixth Fleet possesses the capability to blockade Libya's five terminals (there are no pipelines to neighboring countries) or to bomb the petroleum infrastructure, it would be preferable to enlist voluntary allied support in order to send a signal that Europe shares Washington's resolve to remove the Qadhafi clique.

3. Develop a coherent strategy. The importance of establishing a meaningful objective and a coherent strategy is emphasized by reports that President Francois Mitterand told Ambassador Vernon Walters in April 1986 that American fighter bombers based in Britain could overfly France only if the raid was part of a viable plan to remove Qadhafi. Although Washington had no such plan in 1986, it would not be difficult to devise one to take advantage of Qadhafi's increasing internal problems. Some elements of that plan would include:

o *Adoption of a total boycott of Libyan oil and gas* -- backed up by a naval blockade if necessary -- to be lifted only when those accountable for the bombing of Pan Am 103 and (with French concurrence) of UTA 772 have been removed from office, thereby leaving Qadhafi's fate in the hands of his long suffering countrymen.

o *Public identification of those individuals whom the U.S. and France hold accountable*, thereby giving the many government officials and military officers not on that list reason to split with the security and revolutionary committee networks headed by Qadhafi and Jalloud at the time of the bombing.

o *Recission of the UN ban on air travel and aircraft spare parts*, thereby indicating concern for ordinary Libyans who bear the brunt of the

existing UN ban.

o *Renunciation of the use of force* (in the absence of further attack by Qadhafi), thereby denying him an opportunity to rally Libya's professional military services and signaling to his opponents that they must solve the problem themselves.

o *Acceptance of Libyan trial of those accused of perpetrating the aircraft bombings* (if they are still alive), provided the independence of the courts has been assured by free elections under international supervision, thereby identifying with Libyan nationalists and democrats.

o *Guarantee of Libya's internationally recognized borders*, thereby foreclosing opportunistic moves by long covetous neighbors and assuring Libyan patriots that their country -- which has no internal ethnic or sectarian schisms -- will survive intact through any upheaval.

While there can be no guarantee how long it will take this strategy to achieve its objective, there can also be no doubt that it will remove his magic talisman, thereby disheartening Qadhafi's supporters, emboldening his many opponents and prompting his neighbors to reassess their policies of barring opposition activities. Critics of the so far unsuccessful effort to rid Iraq of Saddam Hussein through sanctions will recognize that these elements are designed, in part, to correct the deficiencies in that strategy.

4. Minimize commercial impact. In approaching the commercial dimensions of this strategy, European governments must start by recognizing the practical and equitable elements of the situation:

o Having voluntarily sacrificed the commanding position enjoyed by American companies in the Libyan oil industry prior to the imposition of unilateral sanctions, *Washington need hardly be embarrassed* in asking its allies to join in putting principle ahead of profit.

o Over one-fifth (213,000 barrels per day) of the Libyan crude oil refined in Europe is processed in refineries owned by the Libyan government - - not by local interests -- and Qadhafi has bragged that Libya will more than double this so called "captive market" by 1997.¹⁴

o Although the four European companies with current ownership of Libyan oil production -- Italy's AGIP (c. 150,000 BPD), Germany's Veba (c. 40,000 BPD) and Wintershall (c. 5,000 BPD), and Austria's OMV (c. 10,000 BPD) - - would, like their American counterparts which lost 5 times as much oil eight years ago, lose production until the ban is lifted, the removal of Qadhafi would *enhance their long term interests* by eliminating current UN barriers on trade, not to mention the risk that Washington may eventually resort to unilateral bombing if multilateral cooperation fails.

o More recent exploration commitments by France's Total, Belgium's Petrofina, Spain's Repsol, Canada's Husky Oil and Britain's LASMO were made after the United States formally accused the Qadhafi regime of bombing Pan Am 103 and announced its desire to stop the export of Libyan oil, so there is

little basis for complaining about lack of warning.

o Although world crude oil prices have risen from the five year low that they reached in the Spring of 1994, there remains a price-dampening overhang of unutilized production capacity even before the widely anticipated resumption of Iraqi exports in 1995.¹⁵

o There are even ample supplies of light, low sulfur crude oil similar to the 1.1 million BPD currently exported by Libya; in fact, the increase in North Sea production between 1992 and the end of 1994 (a gain of 1.4 million BPD) would by itself offset the loss of Libyan exports.¹⁶

Despite this evidence that the United States is not asking its Atlantic Allies to bear unreasonable hardship, Washington could take further steps to minimize risk.

o President Clinton can urge Saudi King Fadh, who is incensed by Qadhafi's personal attacks on his stewardship of Mecca and Medina, to increase Saudi production so as to avoid speculative world price increases.

o In the unlikely event of a significant increase in prices for light, low sulfur crude oil, the U.S. could sell similar quality oil from its Strategic Petroleum Reserve.

o Washington, which is likely to enjoy greater influence in post-Qadhafi Libya than European capitals which continued business-as-usual for more than a decade after the U.S. stopped, could offer to use that influence to urge the new government to honor unusually generous oil contract terms agreed to by Qadhafi in his efforts to gain European political support.¹⁷

Conclusion

This article has established that the United States has the necessary legal, evidentiary, pragmatic and strategic basis for unilaterally blocking Libyan oil exports until those accountable for the bombing of Pan Am 103 have been removed from office. Beyond supporting the American quest for justice and deterrence -- and thereby demonstrating the continued value of the Atlantic Alliance in the post Cold War era -- the removal of Qadhafi would also serve the special strategic interests of Europe, including termination of the support which Algeria accuses Qadhafi of providing to armed Islamic militants;¹⁸ ending Qadhafi's quest for missiles capable of carrying weapons of mass destruction across the Mediterranean; and denying the revenues which he has used to suborn Africans, Arabs and even Europeans.

Finally, let it be clear that in following Washington's lead with respect to sanctions on Libya, Europe would not be setting a precedent which it may not choose to follow with respect to Iran, Iraq, North Korea, Haiti or other countries currently in dispute. Those situations involve threats to the entire community of nations, in which case the United States must have approval from the United Nations; whereas the bombing of Pan Am 103 was "an attack on America", in which case, the U.S. is entitled to assert its leadership outside the UN.

1. Transcript by the Federal News Service, released on December 21, 1993.
2. This summary of the evidence relies principally upon the following published U.S. Government documents: United States District Court for the District of Columbia, Criminal Indictment in the Case of the United States of America V. Abdel Basset Ali al-Megrahi and Laman Khalifa Fhimah; United States Department of State's Patterns of Global Terrorism 1991, especially Appendix D, "Libya: Responsibility for the bombing of Pan Am Flight 103" (April 1992).
3. Although reports surfaced in late 1992 that MEBO had subsequently sold similar timers to the old East German security service, this does not dispute the fact Libya's JSO possessed the original batch.
4. When he realized that Libyan intelligence had committed an awful massacre, Giaka defected to the United States where he is under the Federal Witness Protection Program. See, eg, Washington Post, September 18, 1992.
5. Statement of Richard Boucher, Deputy Spokesman, November 14, 1991.
6. See, eg, Henry Kissinger, White House Years, Little, Brown & Company, 1979, especially at p.565 where he describes the diplomatic incident created by pro-Israel demonstrations against President and Mrs. Pompidou in Chicago.
7. See, eg, the account of the Tripoli and Tehran Agreements by the author of this article who was a member of the industry's negotiating team: Schuler, "The International Oil Debacle", Special supplement, Petroleum Intelligence Weekly, April 22, 1974.
8. The actual termination did not come until June 30 of that year.
9. See, eg, New York Time, January 6, 1994, p.A11, which describes current German efforts to obtain extradition from Lebanon of the "chief perpetrator" of the bombing, a stateless Palestinian then employed and armed by the Libyan Mission in East Berlin.
10. The author has no reason to question the international arrest warrants issued by Judge Jean-Louis Bruguiere in October 1991, but lacks the space and first hand knowledge to discuss that further example of Qadhafi's employment of unconventional warfare against a great power that had thwarted his conventional invasion of Chad.
11. Petroleum Intelligence Weekly (PIW), February 15, 1993, p.1
12. Foreign Broadcast Intercept Service (FBIS), "Daily Report: Near East and South Asia", March 15, 1994, p.10.

13. See, eg, "Russia Threatens to Veto Any Sanctions West Seeks Against Libya", New York Times, October 21, 1993; and "China Against UN Sanctions on Libya", Reuters Executive News Service, March 29, 1994.
14. FBIS, "Daily Report: Near East and South Asia", March 12, 1993, p.18.
- 15.
16. "North Sea Output Set to Boom as Prices Go Bust", PIW, July 12, 1993.
17. See, eg, "Libya Upstream Deal (with Total) Challenges Others to Sweeten Terms", PIW, February 15, 1993 and "Italy's ENI-AGIP Enlarges Scope of Oil/Gas Development Plans in Libya in Return for Improved Terms", Middle East Economic Survey, August 23, 1993.
18. "HCE Denounces Libyan 'Interference'"; statement read on Algeria's ENTV Television Network, FBIS "Daily Report: Near East and South Asia", September 8, 1993, p.12.

G. Henry M. Schuler

Relevant Experience in Libyan Affairs

o a naval officer attached to the Sixth Fleet in the 1950s, with responsibility for following political developments in Arab countries bordering the Mediterranean, including, of course, then newly independent Libya;

o a diplomatic third secretary and vice consul assigned in the 1960s to the small American Embassy office in Benghazi where I did a little of everything from issuing visas and renewing passports to compiling a history of bedouin tribes of Cyrenaica;

o an oil company executive, based first in Tripoli and then, during the 1970s, in London, with responsibility for managing minority holdings in several Libyan oilfields including the largest field on the African Continent, the 500,000 barrel per day Sarir field operated by British Petroleum;

o the author of a comprehensive (but unpublished) history of the Libyan-American relationship that last took me to Tripoli in 1988 for a lengthy interview with Col. Qadhafi at Bab Aziziyah Barracks just 8 months before the bombing of Pan Am 103;

o an advisor to various American governmental entities regarding U.S. policy toward Libya, including testimony to the Senate Foreign Relations Committee (1973), the Special Judiciary Committee investigating Billy Carter (1980), the White House Chief of Staff (1981), the National Security Advisor (1982), the Secretary of Treasury (1986), the Deputy Secretary of State (1986), the U.S. Attorney's Office Atlanta, (1988), the U.S. Attorney's Office New York and Miami (1991 - present), the Defense Intelligence Agency (1988) and the Central Intelligence Agency (1981 - present).

o the author of articles on Libya and the attack on Pan Am 103 for the New York Times, the Washington Post, the Los Angeles Times, the Christian Science Monitor, the SAIS Review and Politique International. I have also appeared frequently on the McNeil-Lehrer News Hour and all of the network news broadcasts and public affairs talk shows.

TESTIMONY OF ROSEMARY WOLFE
PRESIDENT, FAMILIES OF PAN AM 103/LOCKERBIE
BEFORE THE SUBCOMMITTEE ON INTERNATIONAL SECURITY,
INTERNATIONAL ORGANIZATIONS AND HUMAN RIGHTS
HOUSE COMMITTEE ON FOREIGN AFFAIRS
JULY 28, 1994

Mr. Chairman and members. My name is Rosemary Wolfe. My 20 year-old stepdaughter, Miriam, who was a student at Syracuse, was murdered on Pan Am 103 almost six years ago at the hands of terrorists--most of them are unnamed, and all of them are at large. Since that tragic day, my husband and I joined with other families to fight for truth and justice about the bombing and for policies that would prevent another Pan Am 103. I am President of the Families of Pan Am 103/Lockerbie, one of the two American family groups. I am here today to provide observations and suggestions from my experiences.

I want to thank you for calling this hearing-- I hope it marks a serious commitment by your Subcommittee and others in the Congress to breaking the stalemate in this and the prior Administration's investigation of action against all of the terrorists and their state sponsors involved in the bombing of Pan Am 103. This hearing must be the first of many that must lead to a strong, consistent, and unrelenting U.S. foreign policy against terrorism. An uncompromising foreign policy is the only deterrent to another Pan Am 103 and the only way we can get truth and justice about the bombing.

I appreciate the opportunity to testify. Let me begin by saying that this hearing and action by the Congress is long overdue. Two Administrations have lacked the political will to take the steps to see that the two low level Libyans indicted in the Pan Am 103 bombing almost three years ago are taken into custody and prosecuted. And, in the name of political expediency, two Administration's have failed to deal not only with the role of Iran and Syria in the bombing but the role of Gadhafi and the Libyan government itself.

In the matter of Libya, we have relegated to the international community our ability to take custody of and prosecute the two Libyan agents, Fimah and Megrahi-- the only persons to date who have been indicted or named in the bombing of Pan Am 103. The sanctions imposed on Libya by the UN Security Council for its refusal to turn over Fimah and Megrahi never went far enough, and it is unlikely that this Administration will take up the banner for a worldwide oil embargo against Libya anytime soon. We have, in fact, relegated any retribution against Libya to the international community. The blame for the bombing of Pan Am 103 is being entirely linked to Libya and there is no effective action being taken against Gadhafi.

The U.S. government has also failed to deal squarely with the role of other terrorists and their state sponsors in the bombing. Our failure to further the investigation of the Pan Am 103 bombing is enmeshed in conciliatory policies with Iran and Syria.

In the past, the United States, for example, did not retaliate in the bombings of the American Embassy in Beirut or against the Marine barracks in 1983 when 241 Marines were murdered. Now, despite the fact that Iran and Syria have been on the State Department's list of terrorist states for years, we continue to do business with them when it is in our interest. Now, we are courting Syria more than ever before because Assad is a key player in the Mideast peace process. And, we are not about to upset this balance. However, we cannot sacrifice our national interests to those of Israel. A handshake between Syria and Israel will not stop terrorism. Our perspectives are the reason why do not have a clearly defined policy on terrorism today--and a large part of the reason why we have not moved forward with continued investigation and action on Iran and Syria's role in the bombing of Pan Am 103.

I believe that another reason why the U.S. government has not moved ahead with the investigation is that we would have to confront the intelligence failure that led to the bombing after repeated warnings. There were intelligence reports implicating Iran and Syrian terrorists in planning retaliation against an American airline for the downing of the Iranian Airbus by the Vincennes as well as FAA advisories, and warnings from the Mossad and others over a five month period of time. These warnings began two days after the downing of the Iranian Airbus on July 3, 1988 until the bombing of Pan Am 103 on December 21, 1988.

It is for these reasons that the Congress must act now because the Administration has not. First, I want to document the Families repeated and unsatisfied appeals to this Administration on the stalemated investigation. In September 1992, candidate Clinton told us-- in a letter to Dan and Susan Cohen, who are testifying here today-- that he would see that the answers to our questions on Iran and Syria's role in the bombing were addressed. In March 1993, National Security Advisor Tony Lake, at the invitation of the President, asked representatives of the families to attend a meeting at the White House to voice our concerns.

Two days after the meeting with Mr. Lake, a few members from our family group met with Attorney General Reno on Pan Am 103 issues. The Attorney General asked us to submit specific questions and background material on Iran and Syria's role in the bombing stating that she would personally review the materials. We submitted the materials after more than a month of painstaking effort preparing them. We received a curt response two months later from two of the Attorney General's assistants with no answers or hope for continuing pursuit of the investigation.

In October 1993, a few of us met with FBI Director Freeh asking for a revitalization of the investigation. He acknowledged that there was no evidence that Libya alone was solely responsible but there was no new evidence to work on. He said that if the FBI got a lead he wouldn't hesitate to put 50 men on it. We learned that key top Agency officials who dealt with the investigation had all left or would soon be leaving Washington. Despite his assurances that the investigation was still open, when we asked Director Freeh who was in charge of the investigation, he promptly said he was.

Over the next year, we continued pressing for a revitalized investigation and for a meeting with the President. We got our meeting-- on the fifth anniversary of the bombing, just prior to the groundbreaking ceremony at Arlington for the memorial to the Pan Am 103 victims. President Clinton met with five of us in the Oval Office--I asked him to appoint a special prosecutor or task force to revitalize the investigation. In his comments to us, he did not discount the the role of Iran and Syria in the bombing, He told us that the government was more clear about Libya's role but less clear about the role of Iran and Syria. The President listened but made no commitment to my request.

We know from Administration staff that the President did bring up the Pan Am 103 bombing with Syrian leader Assad when he met with him two months later. Assad asked for evidence. We don't know the follow up.

The Administration has heard us but has not taken action to reopen the investigation on Iran and Syria's role. This is why the Congress must act. Today we turn to you and other members for action. You might be asking yourselves why many of us have continued to push for taking this investigation beyond Libya when we already have indictments of two Libyan agents for the bombing of Pan Am 103. Let me tell you why.

High level officials in the FBI, the Department of Justice, the State Department, and the National Security Council never denied now or over the past few years that Iran and Syria shared in the responsibility for the bombing, only that there is no "prosecutable" evidence to take to court. At the time the indictments were issued, the head of the Department of Justice Criminal Division, Robert Mueller, told us privately and publicly that this was so.

To this day, Vincent Cannistraro, former CIA chief of counter-terrorism operations at CIA, Paul Bremer, former ambassador at-large for counter-terrorism at the Department of State, and William Webster, former CIA Director-- all in office on December 21, 1988 will tell you they believe Iran and Syria may have been implicated. Even Robert Mueller, has not ruled out Iran and

Syria's role. Their most recent comments were made on a BBC radio broadcast, "Silence over Lockerbie," on the fifth anniversary of the bombing last December. (I have attached their statements for the record.)

Addressing the role of Iran and Syria in the bombing of Pan Am 103 does not minimize the role the indicted Libyan agents, Fimah and Megrahi, played in the bombing. The U.S. and British indictments issued in November 1991 against Libyans were based on forensic evidence prosecutable in a court. The apparent lack of "prosecutable" evidence against Iran and Syria does not preclude the existence of any physical evidence, including intelligence and electronic intercepts widely reported throughout the world.

This absence of "prosecutable" evidence is being used as a basis for officially denying that Iran and Syria shared in the bombing. None of us will forget President Bush's "Syria got a bum rap" remark about the Pan Am 103 bombing following his alliance with Assad in the Gulf War. The denial of Iran and Syria's role in the bombing has shaped our policies toward these countries. It is also apparent that U.S. policy needs toward Iran and Syria have been shaping our denial.

The Pan Am 103 investigation was the largest international investigation in history. For the first two years, the body of intelligence evidence collected and reported from unofficial government sources and the media pointed to Iran and Syria as the culprits. News reports over the world talked about intelligence intercepts, telephone transmissions, records of bank accounts and travel, meetings, surveillance and warnings--all of which pointed to the commissioning of the bombing by Iran to Jibril and his PFLP-GC operatives in retaliation for the U.S. downing of the Iranian Airbus. In a meeting with FBI Agent Buck Revell, in those early years, a few of our family members were told at a meeting here in Washington that it looked like a subgroup of Dalkamoni's group was responsible.

Some of the intelligence and electronic intercepts reported in the press were very specific and could only lead one to the conclusion that Iran and Syria were involved in the bombing. I have highlighted some of this information in this statement and have attachments on the rest.

I want to share with you some highlights from that material.

-- The U.S. Military Aircraft Command (MAC) issued a message on July 5, 1988, two days after the shootdown of the Iranian Airbus stating they believed Iran may stage a large scale terrorist bombing against the United States. Aircraft and airports were named as possible targets. The warning appeared on a State Department computer bulletin board used to disseminate warnings about terrorist attacks to American businesses with overseas

operations.

--Western intelligence intercepts showed communications at Jibril's Syrian and Lebanese facilities were frantic the day the Airbus was shot down. Jibril wanted to arrange a meeting between himself, Dalkamoni, and Iranian representatives in the Bekaa Valley in Lebanon. A series of meetings between Jibril and representatives of Interior Minister Mohtashemi did take place in the Bekaa.

-- U.S. National Security Agency intelligence intercepts reported Jibril used a nonsecure telephone line from Lebanon to telephone Mohtashemi personally and outline a long list of possible American targets in Europe. The most important target Jibril promised was an American airliner--preferably a Boeing 747 jumbo jet filled with passengers.

--There were reports that agreement between Jibril and the Iranian Interior Minister resulted in a \$2 million advance being funneled to a PFLP-GC account in Damascus; the balance, believed to be another \$8 million was delivered following the bombing.

-- There were reports that following the discovery of bombs and arrests in October 1988 of Dalkamoni and other terrorists in the Autumn Leaves in Neuss, Germany, Jibril went to Gadhafi for help. A special meeting was held in Tripoli in mid-November 1988 at the headquarters of the Libyan Intelligence Service.

--According to several reports, the Israelis turned over "extremely sensitive" intelligence documents that it is believed conclusively linked Syria and the PFLP-GC to the destruction of Pan Am 103. Israel gave the information to CIA and DIA officials. On September 14, 1990, during a meeting in Damascus to secure Syrian participation in the anti-Iraq coalition, U.S. Secretary of State James Baker confronted Assad with the Israeli intelligence data. The American press reported that later that month, the PFLP-GC executed two or three undercover agents inside the organization believed to be working for the Mossad.

After learning of these highlights, to believe that Libya alone was solely responsible for the bombing of Pan Am 103, would be to deny the existence of this information and to believe, as the Administration would have us believe, that after the arrests of Dalkamoni and others in October 1988, Libya undertook a new plot to bomb an American airliner on its own. What many believe is more likely is that Jibril handed the operation over to Libya after Autumn Leaves arrests or that Libya may have had a role from the beginning, which was enhanced after the arrests.

It is not up to me or other families to make determinations about this information. But, given its existence, we believe that the investigation of the bombing of Pan Am 103 must move forward

and U.S. foreign policy decisions be reflected accordingly. Many of us believe that the investigation only went so far. When the Libyan connection was made, we ran with it--but in doing so left behind all the information and leads that had emerged regarding Iran and Syria.

We must continue to look for and reevaluate evidence so that new indictments can be brought. This could be done through a special investigative task force of the Congress or at the behest of the Congress. In the meantime, as a nation, U.S. foreign policy must reflect what we already know to be true about Iran and Syria's role in the bombing.

What are some of the policies we could and should be forging on Iran and Syria? We can:

--Acknowledge the role of Iran and Syria in the bombing and call for international sanction.

--Curtail all business and trade relations by Americans. The Congress passed the Cuba Democracy Act preventing business and trade relations with Cuba. Similiar legislation could be passed for Iran and Syria. Particularly, in the case of Syria, this would mean no concessions for Assad's cooperation with Israel until its role in Pan Am 103 is identified, economic and logistical support to terrorists stopped, and terrorists expelled.

--Stop current Administration efforts in the Congress to make it easier to remove a nation from the State Department's list of terrorist nations by reporting to the Congress that a nation has been removed from the list rather than by notifying Congress.

--Stop current Administration efforts to make it easier to allow certain sales to countries when "national interest" rather than when "national security" is at stake.

--Reject any future attempts--like the one this past March by the Administration to take Syria off the drug sanctions list in the interests of "national security." If a few of us had not learned that plans for taking Syria off the drug sanctions list were imminent, there may not have been time to prevent it. We went to the Congress and the media with information. The result was a statement by Secretary of State Warren Christopher giving assurances that this would not occur.

What could and should we be doing about Libya?

If he does not, let him face the consequences of an aggressive U.S. policy.

As you are well aware, the next sanctions review will coming up in August. At this late date there are no plans by the U.S.,

Britain or France to increase the sanctions--just renew them. Acting Director Barbara Bodine of the Counter-Terrorism at a meeting of our family group in November said the sanctions were "long-haul sanctions" and estimated that it would take at least one year for Libya to feel the impact of the newest sanctions on oil terminal and refinery equipment which went into effect against Libya in December.

This is a wait and see attitude with no apparent plans for immediate action. Coupled with this, the State Department has barely begun to put in place its assessment of the impact of the current sanctions on Libya.

While the newest sanctions placed on Libya in December were better than not increasing them at all, I do not believe that now, a year from now, or five years from now that they would have the impact of forcing Gadhafi to comply with the UN resolutions. Many families have always believed that a worldwide oil embargo is the only non military action that would even border on getting Gadhafi to comply. However, a worldwide oil embargo has only been an option-- not a number one priority that the United States has aggressively pursued.

This Administration first has to commit to a worldwide oil embargo and then take the steps to convince the Security Council that there is no other course of action. We must bring this to the United Nations for a vote, unilaterally, if need be. If the Security Council rejects an oil embargo, and I am not convinced that they will, we must then take the steps with Britain and France to pressure our allies to action--outside the framework of the United Nations. We must also take the steps to change the policies that allow foreign subsidiaries of American oil companies to do business with Libya, which has recently reported to be in the billions of dollars.

Over the last two years, our family members have spent many days lobbying the embassies here in Washington and the missions in New York before every sanctions review. We know how difficult it was to get the existing sanctions, but we also know that there was no major thrust to push for a worldwide oil embargo. The United States has to want it and fight for it.

It has been almost three years since the two Libyan agents were indicted and more than two years since the UN passed its first resolution asking Libya to comply. If economic action within the UN or with our allies does not occur the only other options are the military ones--such as a blockade.

EXCERPTS FROM THE BBC RADIO BROADCAST, "SILENCE OVER LOCKERBIE"

Paul "Gerry" Bremer (former U.S. Ambassador-at-Large for Counter-Terrorism--in office, December 21, 1988):

"It seems to me it's quite possible that all three of the governments-- Iran, Syria, and Libya have in some ways their hands involved in Pan Am 103 . . . Iran because it originally set up the idea of the revenge; Libya because it seems to have conducted the attack itself; and the Syrians because they know perfectly well everything that Ahmed Jibril does. He has his headquarters in Damascus. The Syrians must have known of Jibril's operations as they know of the operations of everybody in Damascus... There's very little that happens in Damascus that the Syrian government can't stop..."

"Jibril went to the Libyans and said I am in breach of a contract I have with the Iranians--can you Libyans help me. It seems to me that it was not in the end Ahmed Jibril who conducted the attack though he had a contract to do it--it was the Libyans who conducted the attack. And, we know from previous intelligence that Ahmed Jibril had very close relations with the Libyans. And, it is clear that his group had the kind of bombs, in radios that in the end brought down Pan Am 103."

Vincent Cannistraro (former CIA Chief of Counter-Terrorism Operations and Analysis--in office, December 21, 1988):

"We were able to establish that they (Jibril and PFLP-GC) had been planning at least five operations and perhaps six operations. Two or three of those planned operations had to do with the destruction of aircraft. We also had independently established that two members of this group had cased and surveilled the Pan American counter at the Frankfurt Airport so we knew that Frankfurt and Pan m itself were potential targets..."

"We knew, for example, that Jibril had offered to the Iranian Government his services to avenge what he perceived and the Iranians perceived as a blood debt incurred by the American shootdown of an Iranian Airbus in the Persian Gulf during the summer of 1988. Dalkamoni who was Jibril's Chief of Operations had been sent to the Bekaa Valley to discuss with the head of the ...Iranian Revolutionary Guard, Jibril's plans to carry out a number of terrorist operations against American targets... I think the intelligence was so persuasive and so exhaustive that there is no doubt..."

"We know that there was a very symbiotic relationship between the PFLP-GC and the Stasi. We also knew at the time that much of the infrastructure to Ahmed Jibril's operational cells was contained in East Germany and supported by the Stasi."

(Question by BBC--"So, in 1988, when Jibril group was planning operations in Germany, there was an active link between the PFLP-GC and the Stasi?)

(Answer--"There was a very clean link between the Stasi and the PFLP-GC")

(Question by BBC--"If it were the case that MEBO, the Zurich firm, had supplied these prototypes not exclusively to the Libyan Army but some to the Libyan Army and some to the Stasi, what would that mean?)

(Answer--"That would mean that the PFLP-GC of Ahmed Jibril would have had another source of supply for detonators."

Judge William Webster (former director of CIA and FBI):

"Certainly, if we had to pick our demons, we'd rather have Gadhafi than someone who might play a peacemaking role in the future..."

Robert Mueller (former Head of Criminal Division and Director of U.S. Criminal Investigation, Department of Justice--in office, December 21, 1988:

"It would be the fervent hope of any prosecutor to pursue every lead until every last person involved--whether that person was Libyan, Syrian, Iranian--was indicted, prosecuted, sentenced, and jailed for involvement in that crime."

Evidence and Indications of the Iranian/Syrian Connection to the Bombing of Pan Am 103 Raised By Samuel Katz in His New Book, "Israel vs. Jibril," (Paragon House, New York, 1993)

Prepared for FBI Director, Louis Freeh by Rosemary Wolfe, President of the Families of Pan Am 103/Lockerbie and Step-Mother of Miriam, a 20-year-old Syracuse University student and Pan Am 103 bombing victim

o Revenge for the Downing of the Iranian Air Bus by the Vincennes

--Mehdi Karroubi, a powerful and ruthless Iranian politician is reported to have promised an extremely lucrative premium to any perpetrator of revenge for the destruction of the Airbus.

--"According to Western intelligence intercepts, communications at Jibril's Syrian and Lebanese facilities was frantic that July day" (the day the Airbus was shot down). Jibril "desperately wanted to arrange a meeting between himself, his lieutenant, Hafaz Dalkamoni, and Iranian representatives in the ancient town of Ba'albek in the Bekaa Valley, a fortress-like home to Hizbollah and the Iranian presence in Lebanon; it was conveniently protected by thousands of Syrian soldiers. Apparently Jibril left no stone unturned in the pursuit of Iranian cash in exchange for the taking of American lives. Any official Iranian figure, from the charge d'affaires in Beirut, Hosein Nikam, to any Hizbollah commanding officer Jibril believed possessed a direct line to the bank vaults in the Iranian capital, was contacted. A series of meetings between Jibril and personal representatives of Interior Minister Mohtashemi did, indeed, transpire in the Bekaa. The exchange was simple, short, and terse: Revenge for the Airbus disaster in exchange for cash--a lot of it. According to U.S. National Security Agency (NSA) intelligence intercepts, Jibril is reported to have used a nonsecure telephone line from Lebanon to telephone Mohtashemi personally and outline a long list of possible American targets in Europe that could be hit for a fee. Understanding the Iranian's historic penchant for symmetry, the most important target Jibril promised was an American airliner--preferably a Boeing 747 jumbo jet filled with passengers."

--"It was reported that the handshake between Jibril and the Iranian minister of the interior resulted in a \$2 million advance being funneled to a PFLP-GC account in Damascus; the balance, believed to be another \$8 million was delivered following the successful execution of the mission." (There are some reports that Iran paid Syria the \$10 million to destroy an American airliner. Assad kept half of the contract sum, and paid Jibril the remainder to carry out the mission. To deflect blame from Syria and Iran, Assad's intelligence ordered Jibril to use a Libyan connection as a convenient scapegoat."

o Warnings by the Mossad

--"According to foreign reports, Israeli intelligence operatives (as well as separate American intelligence assets) had monitored Jibril's movements to Beirut, the Bekaa Valley, and Damascus while he wooed the Iranians, including Iranian diplomats, with his promises for 'paid-for'vengeance. Although the Mossad had warned the Americans that the Iranians, through possible Palestinian proxy, would attempt to avenge the destruction of Flight 655 by attacking an American airliner, Jibril's subsequent appearance in Teheran solidified these concerns into a pretext for outright worry."

--"In late November 1988, the Mossad warned the British foreign espionage service, M16, that it had information that there was a possibility that a Middle East terrorist group, probably one of the anti-Arafat pro-Syrian groups, would attempt to sabotage a civilian airliner flying out of Europe around the Christmas holiday season. The British dismissed the Israeli fears as rubbish. In truth, M16 ... was suspect about anything the Mossad supplied to it. Their once close knit liaison was badly damaged on June 17, 1988, when the British government ordered the expulsion of Arich Regev, the Mossad station chief in London, together with four other Israeli diplomats believed to be intelligence agents."

--"Over the course of the next month, warnings from Israel would continue to flow to many European capitols, as well as to Washington, D.C., and to CIA headquarters in Langley, Virginia. Experts in Israel realized the time was ripe for some sort of Palestinian action and that dramatic preventive measures needed to be taken." The Israelis were not fooled by the Autumn Leaves discovery. "Through their liaisons to CIA, DIA, and the State Department, the Mossad, and it is believed, A'man continued to supply intelligence data concerning the potential for a terrorist bombing of an American airliner."

--According to several reports, the Israelis turned over "extremely sensitive intelligence documents that, it is believed, conclusively linked Syria and the PFLP-GC to the destruction of Pan Am 103. The data, considered by Israeli intelligence to be state secrets of the highest order, were handed to Washington on the condition that it be seen by only a handful of trusted CIA and DIA officials. On September 14, 1990, during a meeting in Damascus meant to secure Syrian participation in the anti-Iraq coalition, U.S. Secretary of State James A. Baker III confronted Syria's President Assad with the Israeli intelligence data in hand about the alleged role of Syrian and Palestinian forces in the destruction of Pan Am 103.... President Assad would, indeed, use this information well. Later that month, the PFLP-GC executed two or three undercover agents inside the organization believed to be working for the Mossad."

o The Link Between Jibril and Libya in the Bombing of Pan Am 103

--"It is believed that Jibril recruited three Palestinian terrorists whose anonymity and allegiance would, in the end, secure the operation's success. The men were known in Israeli circles as the Kenya Three (Mohammad al-Makousi, Ibrahim Tawfik-Yousef, and Hassan Hadial-Ahari), three terrorists seized by Kenyan security agents on January 18, 1976, with a tip-off from the Mossad, in a failed attempt to blow an El Al jumbo jet out of the sky.... Kenya ... wanted nothing to do with the three terrorists, and they were secretly smuggled from a maximum-security facility in Nairobi to Israel. On May 21, 1985, they were included in the prisoner exchange between the PFLP-GC and Israel... There is no evidence of their operating in Europe or in the Mediterranean from the time of their release to the uncovering of the Dalkamoni cell in Germany; it is more likely that they were kept under wraps in one of the PFLP-GC's Syrian facilities, well out of the spotlight. Jibril is reported to have told them only to report to him personally, and never admit their allegiance to the PFLP-GC."

"The sixth bomb, destined to be planted on board Pan Am 103, was built in Damascus, probably by one of the Abu Ibrahim bombmakers who joined the organization in 1985 or 1986, and was shipped to Tripoli in December of 1988; the Kenya Three were responsible for transporting the device to Libya, although some reports even indicated that they constructed the bomb themselves in Tripoli; the device was handed to two senior Libyan intelligence operatives who, in the end, would be responsible for planting the bomb on board the Pan Am flight."

"Already paid a handsome fee by the Iranians to down an American airliner, Jibril, it is believed, began to play the part of a savvy businessman and turned to Libya's Colonel Qaddafi with an opportunity to obtain cheap revenge for Operation El Dorado Canyon" (the 1986 attack). The offer came in September 1988, during a major international terrorist conference in Tripoli, where plans were also discussed for revenge against the French for the overt military support of Chad in its war against Libya. It is not impossible to conceive that by subcontracting minor Libyan assistance Jibril received two payments for the destruction of Pan Am 103."

-- "According to the American (and British) version of events, Fhimah stole several Air Malta baggage tags from Luqa Airport on December 15 and handed them to Megrahi, who arrived from Zurich several days later (after, it is believed, a surveillance stop in Frankfurt). The two men traveled to Libya, where they received the bomb from "unknown" individuals, wrapped it in bundles of clothing that Megrahi had purchased in the Mary's House Boutique in Sliema, sealed shut the copper-colored Samsonite suitcase, and then adorned it with a destination tag belonging to Air Malta Flight KM 180 between Malta and Frankfurt. On December 20, after, it is believed, meeting with PFLP-GC liaisons in Tripoli, the two men returned to Malta. On the morning of December 21, both men checked in the Samsonite suitcase as unaccompanied baggage on Flight KM 180 to Frankfurt."

o Jibril and Iran--Post Pan Am 103

"The attack on Pan Am 103 solidified Jibril's standing with the Iranians and is certain to have promised him opportunities for greater financial rewards. In January 1989, following clandestine meetings between Jibril and Mohtashemi, the Iranians dispatched several hundred Revolutionary Guard Commandos to PFLP-GC installations in Lebanon to solidify the 'united Islamic front against Zionism' and help protect Jibril and his installations from attack."

Prepared by Rosemary Wolfe, Alexandria, Va., President of Families of Pan Am 103/
Lockerbie and Stepmother of Miriam Wolfe, a 20-year-old Syracuse University student and
Pan Am 103 bombing victim
April 20, 1993

Requests to Attorney General Janet Reno Regarding Department of Justice Action on Pan
Am 103 Investigation and Prosecution

Background on the Investigation

Since the United States and British issued indictments in November 1991 against the two Libyan agents for placement of the bomb that exploded Pan Am 103 over Lockerbie, the Families have been told by the FBI and Department of Justice that the investigation is ongoing. Robert Mueller, former head of DOJ's Criminal Division, at the time the indictments were issued, told us privately and publicly that the indictments against the Libyans did not mean that other Libyans and Syrians and Iranians were not involved but that we did not have prosecutable evidence to take to court.

In November 1992, a few of us meeting at DOJ with Mark Richards and Jim Reynolds were told that the Pan Am 103 investigation had become part of a "broader investigation" of patterns of terrorist activity. In our recent meeting with you and Jim Reynolds on March 26, 1993, we asked for clarification of this "broader investigation." In a private conversation afterwards, Mr. Reynolds said that Libya's role in other terrorists activities were being studied, along with the possible individuals indicted for the UTA bombing and the bombing of Pan Am 103. Regarding Syria and Iran, we were told there was no evidence against them.

In the four years since the bombing of Pan Am 103, both prior to and following the indictments of the Libyan agents, there have been numerous media reports (televised and written--including books and special news and feature reports) which point to electronic intercepts, telephone transmissions, records of bank accounts and travel, meetings, surveillance, and warnings which point to the commissioning of the bombing by Iran to Jibril and PFLP-GC operatives and the carrying out of the final stages by Libyan operatives.

During the past year, the Center for Security Policy, in a position paper issued on August 30, 1992, reported that an Administration source revealed that the FBI was told to direct their investigation efforts toward Libya. Midstream in the investigation, official sources started discounting the body of facts which had emerged pointing to an Iranian-Syrian connection.

By the time the indictments were issued, official sources were saying that the facts which pointed to Iranian and Syrian involvement indicated that there was a separate operation from the Pan Am 103 bombing which the Libyans

alone were responsible for. This discounted the body of facts which emerged before and since the indictments showing Iranian and Syrian linkages to the Pan Am 103 bombing. This also discounted the position which had been taken by the investigators and the FBI. FBI Agent Buck Revell, in a meeting with Families long before the indictments were issued, told us that it looked like a subgroup of Dalkamoni's group (which was tied in with Jibril and the PFLP-GC) was responsible.

Information supporting Libyan involvement started emerging just prior to the Gulf War, after Iraq had invaded Kuwait. It was politically viable (given our need for Syrian support and a balance with Iran) to direct focus in the investigation away from the Iranian and Syrian role. However, records in possession of Scottish investigators and the emergent body of facts supports Iranian, Syrian, and Libyan linkages in the Pan Am 103 bombing. It appears that once there was evidence implicating the Libyan agents, further investigation on all the prior suspects, for which a whole body of information had been developed, was dropped.

Action Requested on the Investigation

The Department of Justice should undertake a review and evaluation of the objectivity and course and status of the investigation of the Pan Am 103 bombing, including the ongoing investigation of the FBI. A thorough analysis of the role of Iran and Syria should be undertaken. This could be accomplished through the appointment of a special DOJ task force or a special prosecutor. Toward this end, existing Scottish and FBI investigation records should be reviewed, interviews conducted, information gaps satisfied, leads determined and the investigation picked up and expanded.

Facts and Issues About the Pan Am 103 Bombing Investigation

o The Role of Iran In Commissioning the Bombing in Retaliation for the Shooting Down of the Iranian Airbus by the Vincennes-- What Federal Agency intelligence and other records point to this issue? Tom Foster in his book, The Darkest Day, reports that the U.S. Military Aircraft Command (MAC) issued a message on July 5, 1988, two days after the shootdown of the Vincennes stating that "we believe Iran will strike back in a tit-for-tat fashion--mass casualties for mass casualties... Iran may stage a large-scale terrorist bombing against the United States. Targets could include aircraft, airports, USO, or restaurants. We believe Europe is a likely target for a retaliatory attack. This is due primarily to the large concentration of Americans and the established terrorist infrastructures in place throughout Europe." This warning appeared on a U.S. State Department computer bulletin board used to disseminate warnings about terrorist attacks to American businesses with overseas operations. How seriously was this taken? In one of the

Families' meetings with the State Department, organized by the Consular Affairs Office, we asked, "Didn't the United States think there would be retaliation for the downing of the Vincennes?" The reply, "We expected something, but didn't think it would be an airline." Why not? We had just shot down one of Iran's civilian airlines.

o There are numerous media reports about wire transfers of money for the bombing (\$10 million) being transferred from Iran to Jibril through European banks (Vienna mentioned in one report) with Libya as a broker.

o There was a shocking report in the British press about a cable from the Libyan station at the Saudi Arabian Embassy to Iran offering congratulations on the Pan Am 103 bombing. This press report surfaced after the Gulf War had begun, and I remembered thinking about the U.S. action with the Saudis and other mideastern allies.

o There are reports of electronic intercepts of the Iranian Embassy monitoring the purchase of CIA Agent Gannon and Special Forces Agent McGee's tickets through a Lebanese travel agency.

o On the Iranian-Syrian connection, David Leppard, Deputy Editor of the London Sunday Times, in his book On the Trail of Terror, talks about an interview he had with the Deputy Intelligence Director (at the time of the bombing) Vincent Cannistraro who said there was "a Tripoli meeting called after Jibril had gone to colonel Moammar Gaddafi..with a special plea. Jibril had turned to Gaddafi after learning that his PLFP-GC cell under Dalkamoni had been rounded up...during Operation Autumn Leaves." Leppard reports the meeting was held in November 1988. He goes on to quote Cannistraro as saying that "the Iranian government commissioned simultaneous attacks against no less than five Western aircraft as revenge... The original targets included a Pan Am airliner..." To this day, Cannistraro will tell you (as he has told me) that he believes Syria and Iran were involved in the Pan Am 103 bombing.

o Leppard and other authors report of intercepts between Dalkamoni and Jibril in the period prior to the bombing.

o Leppard reports in his book that "The Scots, Germans, and the Americans now believe that after 26 October 1988, with Dalkamoni in prison, another leading Jibril operative, called Abu Elias, may have played an important role in arranging the tie-up with Libyan agents and directing at least part of the Maltese end of the conspiracy." Leppard reports that Dalkamoni admitted in his prison interviews that he had met Elias at the PFLP-GC's military section in Damascus. Leppard further reports on a BKA surveillance report on Dalkamoni's prison meeting with his sister-in-law in July 1989. According to Leppard, "Dalkamoni's comments suggest that Elias played a role," said one Western intelligence official. But what the role is remains a mystery."

o In his book Leppard points to records of connections in Cyprus just prior to the bombing of Pan Am 103 of Dalkamoni and Abu Talb (who is serving a life sentence for terrorism in a Swedish prison and who John Orr, Deputy Chief of the Galloway Police, believed was a link in the Pan Am 103 bombing).

o Leppard reports in his book that the Scots discovered that Dalkamoni and Talb were both in Cyprus in October 1988 and that Talb flew into Malta from Cyprus following that. Prior to going to Malta, Talb talked with the managing director of the Miska Trading Company, which according to a Scottish report said, "given that the Miska company appears to be a base for something other than legitimate business it can be shown to have been used as a point of contact between persons suspected of involvement with the PFLP-GC organisation who fall into this category of "suspects" in regard to the ongoing PA 103 inquiry."

o Leppard reported a Scottish interview log indicating that the PFLP-GC have a bank account in Cyprus over which Dalkamoni has full control.

o Leppard reports that surveillance logs showed that on October 19, 1988 a telephone call was made from the bomb flat in Neuss where the Autumn Leaves operation took place to the Kings take-away restaurant in Cyprus, one of several conversations between Dalkamoni and the restaurant's owner, Habib al Dajani, a Syrian. Dajani told Dalkamoni he had obtained a visa to travel to Germany the following Monday.

o Leppard reports on two men, Jihad Chaaban and Samer Orfali, who stayed at the bomb flat in Neuss for a period of time in September and October 1988 and left just prior to the Autumn Leaves arrests. Certain BKA surveillance records of the flat reported that on October 13, 1988 they along with another Arab drove to see Dalkamoni and Abassi carrying parcels to and from the flat. Their stay at the flat intercepted with the arrival of Khreesat (the reported Jordanian double agent and bombmaker). From Neuss the two men went to Sweden where they applied for resident's permits. They were eventually expelled back to Syria (June 1990) by the Swedish government because they had been linked to "unspecified" terrorist activities.

Prior to their expulsion back to Syria, the press reported plans to expel them. At the time, Kathleen Flynn myself, could not understand why the Swedish government would let them go and why the the United States was not trying to hold them. We went to the Swedish embassy to hand deliver a letter to the Swedish prime minister urging that they not be released. In our interview with a Swedish official at the time we were told that, of course, they would not be released without U.S.knowledge (did this mean U.S. ok?). Soon after, they were released. We were told for passport violations. Leppard reports in his book that there was concern that somehow they may have smuggled the bomb or parts of it back to Sweden where it was passed on to Talb.

The circumstances under which they originally went to Germany were also revealing. Leppard states that Swedish police reports indicated that the two

told the Swedish that they had flown from Damascus after being driven there from Lebanon by an officer of the Syrian intelligence service. On arriving at Damascus airport, the "chauffeur" handed them over to a Syrian police official who escorted them through passport control and security checks. They said they met a man who Swedish intelligence told the Swedish paper, *i-Dag*, they believed was Dalkamoni.

o One of the most revealing things reported in Leppard's book is that by the beginning of December 1989 "there was enough evidence for Talb to be named in an Uppsalla court hearing as a suspect 'in the murders of 270 people.' His apartment in Sweden had been searched. Investigators discovered a calendar in Talb's kitchen with the date December 21, 1988 circled. The Scottish police also found 15 bags of clothes originating from Malta. Leppard reports, "a phone tap revealed that Waffa Tosha, the wife of Mohammed Moghrabi, had been told by an unidentified caller to "get rid of the clothes."

o Another piece of evidence against Talb concerned his flight from Cyprus on October 18, 1988 to Rome where he made several frantic telephone calls to Libya. He also tried to book a flight to Benghazi and reportedly borrowed \$20 from a man named Fawzi, a Libyan citizen who happened to be at the airport and whose address was later found in Talb's address book.

What was done with this body of information, once investigators were led to the Libyan agents who placed the bomb on Pan Am 103? Did all the investigation stemming from these leads cease?

o Other issues concern the warnings issued before the bombing of Pan Am 103. Why was the FBI so quick to decide that there was no merit to the Helsinki warning? A major investigation of this issue was conducted by the House Government Operations Subcommittee under the chairmanship of Cardiss Collins. There is a file cabinet full of revealing files on this and other issues connected with the warnings.

We were told by the State Department, in one of the meetings for families coordinated by the Office of Consular Affairs that for there to have been validity to the Helsinki warning there would have to have been a tie shown between Abu Nidal and Jibril (who were rival terrorist leaders.) The Helsinki warning was apparently made by an individual having association with Nidal, and it was generally believed that Jibril was linked to the bombing.

Why on face value could it not have been possible for the caller to give a warning even if his ties were to Nidal? Even though the two men were rivals, certainly an act as big as the bombing of Pan Am 103 would have been known and would have to have been coordinated among various elements in the terrorist world.

On this point, A Scottish newspaper, The Scotsman, recently ran an article by a journalist interviewing Nidal who said that Nidal told him about the planned attack at the end of November 1988. Reportedly, the journalist informed British intelligence at the beginning of December, but the threat was not regarded.

Curiously, this occurred around the time that the Helsinki warning was issued and posted at the U.S. Embassy in Moscow. How widespread was the FBI's intelligence gathering?

Another FBI intelligence issue, surrounds the Trevi Conference in Europe (a periodic super intelligence gathering of nations) held in response to the Autumn Leaves Operation. It is our understanding that the FBI attends the Trevi Conferences. (FBI Director Sessions confirmed this at the recent House Judiciary Subcommittee hearings on the World Trade Center on March 9.) Yet, at a meeting of the Families of Pan Am 103/Lockerbie in Alexandria top FBI representatives said they did not know if the FBI was at that Trevi meeting. Were we? What did the FBI do with the information on terrorist airline bombs and threats?

Regarding investigation intelligence gathering, Leppard in his book reports that "Vincent Cannistraro who retired from the CIA in September 1990 after nearly two years leading the American intelligence investigation into the Lockerbie bombing, revealed that CIA had actually been told about a Tripoli meeting between Libya and Jibril's people before the bombing by one of its undercover agents in Libya. Warnings had been passed to western intelligence agencies, but they were ignored. It was felt that the agent's information was incomplete and unreliable." What there any FBI follow up with this agent? This certainly points to an important link between Libya and Jibril.

Another issue of concern regards reports in the British and American press indicating that the FBI determined that more than 150 people knew of the planned terrorist action. (Nathan Adams in a Readers Digest article, after conducting two months of interviews in Iran, came to the same conclusion. He found many individuals who knew of the action.) This leads not only to intelligence concerns but certainly opens up the narrow world of Libya as the sole conspirator.

Request for Action on Prosecution

Since the indictments were issued against the two Libyan agents in November 1991, the United States and Britain have been unsuccessfully trying to secure the extradition of the two Libyans for trial. We have been relying on political pressures from the allies and international community to gain extradition. The families continue to press for strong policies that would force Libya to extradite the two. So far nothing has worked. Law enforcement cannot continue to rely on political solutions for prosecution. In the aftermath of the bombing of the World Trade Center, the international community and the terrorists are watching. There are many who believe that if we had been more aggressive in going after the indicted Libyans and others involved in the Pan Am 103 bombing (which was the largest single terrorist act committed against American civilians and produced one of the largest investigations in history) that bombing of the World Trade Center may not have occurred.

Since we have been at a political standstill for almost a year and a half, law enforcement, if it is not already doing so, must look to its own means of bringing the two indicted Libyan agents to justice. The Department of Justice policy on rendition has been upheld by the Supreme Court. Efforts to seize the two Libyan agents should be undertaken independently of political action.

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May 12th, 1.993

The Honorable Janet Reno
 Attorney General

Department of Justice of the U.S.A.
 Constitution Av. & 10th Street, N.W.
 Washington, D.C. 20503

Madam Attorney General:

I have vehemently hoped for a change in the U.S. administration that would give us, the relatives of the victims of the Pan Am 103 disaster, new hope for truth and justice and an opportunity to put forward the dark areas, doubts and questions that remain unanswered in this massacre that should have never happened.

I regret I was not able to attend the meeting you held in Washington with several members of the group Families of Pan Am 103/Lockerbie of which I am a member.

The group, as well as many other relatives in the U.S., U.K. and Germany, have made extraordinary efforts and worked very hard in many different areas and needs that arose from the PA 103.

For me, as for many other relatives, first and foremost there is the need to know the full truth and obtain criminal justice to the full extent of the law.

There is, however, one aspect of their public position and the general statement presented to you that I do not share and I must express openly, as I have done previously, my dissenting position and opinion.

It concerns two aspects of the same issue. The indictments and how to bring these two suspects to a criminal court.

The many doubts that surround the emergence of these two Libyans into the case almost two years after the disaster and in the process of an international political moment, the Gulf coalition, where pointing at the original suspects: Ahmed Jibril, the PFLP-GC and the governments of Syria and Iran was very inconvenient, makes me very cautious as to what methods to follow to address the fact that they should be brought to trial.

To call for military action is an outrage.

The oil embargo and other U.N. sanctions may be unfair if they are not proven guilty.

I believe there should be an international effort by several countries, possibly the victims' countries, including but not limited to the U.S., U.K. and Germany to create an international legal forum that would provide a fair criminal trial to these suspects.

FOREWORD

From the moment the Pan Am 103 happened and in the name of the most effective criminal investigation, we, the relatives, have been denied access to almost all direct information from the investigating team, except for some essentials such as the pathology reports, at a very late stage, and some general press releases.

Nevertheless, there is voluminous information, from many different sources: the international media, hearings from several U.S. committees The President's Commission on Aviation Security and Terrorism, The Fatal Accident Inquiry in Scotland, the on-going civil law-suit against Pan Am, books and other documentation from Germany and the United Kingdom.

* The media, fed largely by investigative sources, often unnamed, has kept us informed on a case, otherwise, heavily protected. Other journalists have taken up their own investigative work.

* A considerable amount of documents produced at the Presidential Investigation Commission and the civil action under Judge Platt in Brooklyn, have been sealed for many years or at perpetuity. Apparently with the intention to protect the myth of airline security.

As of April 5th, 1990, the FBI had identified 71,519 pages of documents Mr. Connors acknowledged they concern particularly the crucial issue of causation; that is who, when and where the bomb was placed on the airplane. At the time the FBI said that it was not possible for them to spare the manpower to review those documents. Up to 200,000 documents are mentioned Judge Platt speaks of 570,000. The CIA had identified, 5,000 pages. The State Department 400. These figures recognized almost three years ago, do not include documentation from the criminal investigation in Scotland U.K. and Germany, the FAI, PCAST, MDL lawsuit and others.

* Of the several committees that called for hearings on the PA 103 disaster, the work of investigator Sheila Hershov of the Government Activities and Transportation Subcommittee chaired by congresswoman Cardiss Collins deserves special mention. Her extraordinary probing, for the first months of 1989, was relentless, incisive and well directed and gave some hope to the relatives in what otherwise looked like a desire to sweep the disaster under the rug. Ms. Hershov found herself overnight locked out of her desk and files. They should be open and studied.

* The Fatal Accident Inquiry in Scotland. No FAI was ever intended or empowered for a case of this magnitude, nature and international political implications.

The relatives did not have a legal representation addressing and questioning the larger picture of the case and letting the chips fall where they may.

No independent experts were called, as witnesses, on the key subjects of explosives and airline security.

I attended and actively participated for the full length of the Inquiry. I persistently attempted to question the areas of intelligence and security services, the extension of knowledge, the preventive actions taken or omission of responsibility, the level of specificity and assessment of the threats, the selective process of dissemination as well as the aspect of Pan Am bookings and rebookings.

There was also the curious aspect of accepting on the Pan Am 103, at the last minute and out of schedule, an extra flight attendant, when the flight was carrying a passenger load of 2/3 of its maximum capacity. There were 169 empty seats 3 days before Christmas.

In view of the impossibility to properly address and question these areas which I had clearly put to the Sheriff Principal, I requested of him to grant us, the relatives, a Judicial Inquiry with more powers. It was denied.

See my attached final submission to the Sheriff Principal, 02/11/91.
 ° The U.K. relatives have requested numerous times an independent inquiry from their government. It has been persistently denied.

The relatives doubts and questions stem from contrasting information, inconsistencies and contradictions and a strong and permanent feeling that what we have been hearing so attentively and following so closely during these four and a half years does not quite add up.

A strong sense of cover-up has plagued the PA 103 case from the outset and before.

At the very heart of these suspicions lies the unprecedented wealth of intelligence gathered for an announced and expected retaliatory act. The absolute lack of preventive action in view of the existing information and the denial, a posteriori, of the full extent of knowledge that existed, who benefited from it and who did not.

The nature of terrorism is such that attempts of this nature will happen with none or minimal last minute warning.

After the destruction of the Iran Air flight 655 by the USS Vincennes on 07/03/88, the possibilities of a retaliatory act were serious and considerable. And they were discussed at the highest levels.

A wealth of information was gathered by the entire international intelligence community and counter terrorism experts until 12/21/88, some of it incredibly detailed.

WHY WAS THERE NO PREVENTIVE EFFORT, ATTEMPT OF PLAN DEVELOPED?.

On a meeting of the relatives with FBI members on 02/11/90, when confronted with our questions on this aspect of the case, John Kelso, assistant special agent in charge of the Washington, D.C. field office, told us "overseas our jurisdiction is limited to after the act". Yet the FBI actively participated in an international operation to prevent shipments to Iraq of parts of the supercannon. See attached "Questions for the FBI" of 11/10/90.

The actual perpetrators of this carnage must, unquestionably, be brought to trial and full justice but given the exceptional characteristics of this case, a three layer scenario of criminal and civil responsibilities cannot be ignored.

At the top there are the intelligence and security services, counter terrorism experts and their departments. At the second level the departments of transport and related agencies and at the lowest level, the airline. These three interacting levels concern three countries right at the outset: USA, UK and Germany. Possibly there will be other countries and parties at a later stage.

So far there seems to be a determined and vigorous effort to present this mammoth case narrowly focused on Pan Am, one unaccompanied bomb-suitcase and two Libyans detached from all previous theories and suspect

I fear the PA 103 is the closing chapter of a much larger scenario of international policy and politics that includes Iran-Contra, the Gander Crash, the hostages in Lebanon and the destruction of IA 655 by the USS Vincennes.

C.- 07/03/88. DESTRUCTION OF IRAN AIR FLIGHT 655
12/21/88. DESTRUCTION OF PAN AM FLIGHT 103

- C-1.- Destruction of IA 655.
- C-2.- Alleged efforts for revenge by the Iranian government.
- C-3.- Federal Aviation Administration.
- C-4.- Warnings and degree of awareness. 07/03 - 12/21/88.
Helsinki Threat Assessment.
- C-5.- Pan Am 103 flight bookings and rebookings.

C-1.- DESTRUCTION OF IRAN AIR FLIGHT 655.

The set of circumstances that led to this disaster, given at the time by the Executive and the Pentagon, were proven untrue four years later.

Immediately after, there were open calls for revenge by radical members of the Iranian Government and the majority of the population.

There was an acute awareness in the Western world, particularly in the U.S. and Israeli governments and intelligence, of possible retaliatory acts. This was followed by warnings of such possible actions.

In a meeting with PA 103 relatives, members of the State Department acknowledged they expected retaliatory acts against US interests. Despite the clear references to civil aviation by FAA and other warnings, they feared for the University or some other type of public building.

The Navy investigating its own blunders raises serious doubts as to the impartiality of the findings and the final outcome.

The destruction of IA 655 has not been properly explained.

C-2.- ALLEGED EFFORTS FOR REVENGE BY THE IRANIAN GOVERNMENT.

There have been numerous allegations by investigators, intelligence experts and media sources of meetings, intercepts, bank accounts and money transfers in which Iran was looking to contract a willing terrorist group to carry out an act of revenge for a high sum of money. I shall not repeat Mr. Leppard's information which Rosemary Wolfe has put forward in her request.

* DIA WASH. 07/07/88. Iran: Reprisals?. High level Hizbollah and Iranian leaders meeting. Reportedly with the intentions to attack Western interests after the shooting down of flight 655 by US warship. Terrorist groups, already in place and well financed would conduct the attacks, the order to the groups to proceed is to arrive in Europe by the evening of July 7,....

- * There were two secret meetings in Teheran. The first meeting was attended by Rafsanjani who was not supportive of the idea of revenge. The second meeting was chaired by Mehdi Karoubi. "The revenge for the airbus is a revolutionary Islamic task. The person who can carry it out will receive 50 million rials from me". The only condition: No Iranian was to take part in the revenge. All persons involved had to be terrorists who could move easily around Europe. No trace was to lead to Teheran.
- * On September 4th, Ahmed Jibril is reported to have met in Beirut, with the Iranian Ambassador to Lebanon, Ahmad Dasmalchiyan who is also believed to have received a call (intercepted) from the Interior Ministry in Teheran on 12/23/88 with congratulations for a "successful operation". In this meeting Jibril's intentions to bomb an aircraft were discussed. Dasmalchiyan approved the funding of this operation.
- * On September 7 and 14, further meetings in Baalbek and Teheran deciding on aspects of the plan and the members that would make the team.
- * September 27. Jibril sent special units of his men to several cities including Frankfurt, Helsinki, Oslo, Copenhagen and Larnaca.

C-3.- FEDERAL AVIATION ADMINISTRATION.

On November 1987, FAA's Ray Salazar, Director of Civil Aviation Security granted verbal approval to Pan Am to x-ray interline baggage as an alternative to possitive passanger-luggage reconciliation and no-show passangers.

Pan Am's executives have maintained, under oath, that such exception was granted.

Ray Salazar has maintained, under oath, that such verbal granting was never given.

One of these parties must have committed purjury. As of today we ignore which one. There seems to be a broad lack of desire to find out responsibilities beyond the airline.

The key aspects of where the bomb-suitcase originated and how it was introduced in the Pan Am system present, to date, major doubts that are expressed in point D-6.

Indifferent of where and how the IED found its way into PA 103, there are two issues that directly concern the Federal Aviation Administration as a regulatory agency and its responsibilities.

A) The verbal granting to x-ray interline luggage and the possibility to load, in the belly of the aircraft, a no-show passanger's buggage. A long recognized potential danger with the very costly security alternative of having to find and take out of the airplane's cargo the item in question.

B) The relaxed and ineffective pre-announced FAA inspections. The poor detection of violations, when any. The weak denunciation and the lack of correcting efforts and sanctions.

Pan Am's security was pathetic at, both, London and Frankfurt airports. The security personnel was scarcely and poorly trained and for the most part, ignorant of threats, in general, and of the Toshiba and Helsinki warnings, in particular, since the process of dissemination was, virtually, non-existent. In some instances security was ill-equipped, in others, it simply did not work. Some security agents were following wrong or misunderstood directions.

Why was this deplorable state of security allowed to continue without fines, corrective measures and forceful implementation?

The airline and the regulators maintained a chummy relationship of business-as-usual, let's all look the other way, that has been clearly exposed in these four and a half years of questioning. The final result is 270 precious lives lost.

There are criminal and civil responsibilities at the level of the airline but also at the higher level of the Department of Transport and the regulators.

Mr. & Mrs. Cohen requested an investigation into this area of the case to, then, Attorney General R. Thornburgh.

There is voluminous information and documentation addressing these aspects of the case, a good deal of it sealed.

There is one matter of airline security and baggage handling that has been ignored in the PA 103.

On a letter dated November 8th, 1988 sent by D. Sonesen, PA's System Director, Corporate Security to Frank Burns, Mgr., of Civil Aviation Security in charge of Europe states: "Our files have failed to show receipt of advice from FAA that Department of State has coordinated with the host government the requirement to screen baggage/cargo handlers actively engaged in loading, arranging, and stacking baggage and containers on our aircraft.

Why was the State Department involved in baggage handling and security procedures?

And if involved, given the extraordinary amount of alarming information that existed at the time, what preventive measures, if any, did they take?

C-4. - WARNINGS AND DEGREE OF AWARENESS. 07/03 - 12/21/88.

07/03. Destruction of IA 655 by the USS Vincennes.

07/05. U.S. MAC "We believe Iran will strike back in a tit-for-tat fashion. Mass casualties for mass casualties. Iran may stage large scale terrorist bombing against the United States. Targets could include aircraft, airports, USO or restaurants. We believe Europe is a likely target for a retaliatory attack. This is due primarily to the large concentration of Americans and the established terrorist infrastructures in place throughout Europe.

C-4. - WARNINGS AND DEGREE OF AWARENESS. 07/03 - 12/21/88.

- 07/03. Destruction of IA 655 by the USS Vincennes.
- 07/05. US MAC "We believe Iran will strike back in a tit-for-tat fashion. Mass casualties for mass casualties. Iran may stage large scale terrorist bombing against the United States. Targets could include aircraft, airports, USO or restaurants. We believe Europe is a likely target for a retaliatory attack. This is due primarily to the large concentration of Americans and the established terrorist infrastructures in place throughout Europe.
- 07/07. DIA WASH Iran: Reprisals?
High level Hizbollah and Iranian leaders meeting. Reportedly with the intentions to attack western interests after the shooting down of flight 655 by US warship. Terrorist groups, already in place and well financed would conduct the attacks. The order to the groups to proceed is to arrive in Europe by the evening of July 7,...
- FAA ACS-88-09. W/S. Government Threat Advisory - Anti-US actions by Iran.
- 08/11. HEATHROW "A warning letter has been received from allegedly a pro-Iranian group to the effect that action may be taken against aircraft of the United States, Egypt, Saudi Arabia, Kuwait and Great Britain over the ensuing months as reprisals for the loss of the Iranian aircraft.
AIRPORT LTD.
- FAA ACS-88-11. Suitcase bombs available for use against Western targets.
- FAA ACS-88-12. Recent incidents suggesting increased concern for security of U.S. Civil Aviation.
- September. Mossad alerts the U.S. Embassy in Bonn of suspicious activities and sighting of members of the PFLP-GC. Israeli counter-terrorism services inform the West German security agencies about the PFLP-GC and Dalkamoni in particular.
- 10/26. BKA. Operation Autumn Leaves.
West German police arrests 16 Palestinians. Among the arrested: Hafez K. Dalkamoni, Abdel-F. Ghandafar, Marwan Krheesat and Ramzi Diab.
They are found in possession of a Toshiba radio-cassette set up as a bomb and rigged with a barometric trigger to destroy an aircraft in-flight.
They have a small arsenal of weapons and 5 Kgs of Semtex.

- 10/30. STATE. Tags: Shultz, George P.
Bureau of Intelligence and research.
Update on Palestinian terrorist arrests.
Police raids on October 26 of several member of the PFLP-GC.
Other terrorist operations may also have been in the works under the direction of one of the suspects.
A PFLP-GC central committee member, who travelled under a false name on a Syrian official passport and took orders from the group's HQ in Damascus.
- FAA ACS-88-17. International Events Which Could Trigger Terrorist Attacks or Incidents.
- 11/08. BKA. Informed all police and border controls at a national level.
Informed Interpol HQ in Paris of findings with details and photographs.
- 11/08. INTERPOL Sends a 3 page memo on the bomb to all security services world wide.
- 11/08 DIA WASH Subj.: Terrorism Summary.
...PFLP-GC may launch terrorist operation.
Attacks against US interests by the Popular Front for the Liberation of Palestine - General Command headed by Ahmed Jibril.
- 11/09. BKA. Provided all ministerial authorities and airlines with precise details of their findings. As well as to all security services around the world with detailed information and photographs.
- 11/15. TREVI GROUP. The BKA made a presentation in Wiesbaden to 18 German and 25 foreign security experts concerning the construction and operational details as well as photographs and guidelines and advice on the difficult to detect said IED (improvised explosive device).
Roland Bachmeier from the Interior Ministry in Bonn declared: British as well as all other experts in international terrorism were fully informed with details and photographs in a special meeting of the Trevi Group.

The Trevi Group is composed by the country members of the European Community. Their respective Departments of Justice and Interior. Their meetings are also attended by other non-member countries. These third countries or listeners include the U.S.. Attendance of these meetings by former Attorney General Richard Thornburg and FBI director William Sessions are documented.
The purpose of the Trevi Group is security and crime prevention at all levels including terrorism.
- 11/17. U.K. GOV. The Home Office makes the BKA's findings available to the Department of Transport, withholding information and the photographs.

- 11/22. DOT-UK. Security Adviser from James Jack, Principal Aviation Security Advisor.
 ...improvised explosive device contained in a radio-cassette player.
 The department will distribute further details and hopefully a picture of the device.
 The BKA distributed a report with 8 photographs of the exterior, the interior and the bomb mechanisms.
 DOT-UK gives a wrong Toshiba model number.
- FAA ACS-88-19. Discovery of Improvised Explosive Device with Barometric Triggering.
- 11/22. BKA Prepared a package of information including a map and color photographs. It was sent to security authorities around the world.
- 11/23. HEATHROW AIRPORT, LTD. "Following the arrest in Germany of a number of Palestinians, a quantity of weapons and explosives were found including a number of improvised explosive devices.
 A complete bomb was discovered comprising of:
 1. A Toshiba "Bomb Beat" (wrong name, no model number) radio cassette player measuring 10" x 7" x 2".
 Details follow.
- 12/01 DIA WASH. Although there have been no recent publicized threats, Teheran's general intent to conduct terrorist attacks against the U.S. continues.
 Further comments follow on the capable infrastructures for bombings by selective elements of the PFLP-GC.
- 12/01-15 INTERPOL 3 different warnings are sent out on Arab terrorist threats against US targets.
- FAA ACS-88-20. Planned Bomb Attack Against Civil Airliner.
- 12/05. U.S., Embassy Helsinki.
 ...an unidentified individual telephoned a U.S. facility in Europe and stated that sometime within the next two weeks there would be a bombing attempt against a Pan American aircraft flying from Frankfurt to the United States.
 State's relief officer Kenneth Luzzi receives, handles and evaluates phone call.
 Dissemination of threat to other agencies.
 FBI Legal Attaché in London Darrel Mills and RSC London Robert O'Brien travel to Helsinki to assess the phone call.
 Other government officials (State?) from the US travel to Helsinki.
- FAA ACS-88-21 Possible testing of U.S. Carrier Security Procedures.
- FAA ACS-88-22. Alleged Bombing Threat - Europe.

- 12/09. PA LON James Berwick, Pan Am Security Manager London meets Kenneth Luzzi at Helsinki airport for 15' to discuss phone call. J. Berwick does not recall whether it was his interpretation or Luzzi said that it was a hoax based on his exchange of information with the Finnish police.
J. Berwick goes back to London and handles the threat as valid.
- 12/13. U.S. Embassy Moscow.
The Helsinki threat is made public to the benefit of 2,500 members.
William C. Kelly, the Administrative Counselor stated under oath, that after considerations at a meeting it was decided that the threat was specific enough for public dissemination.
- 12/19. DOT-UK Letter. Improvised Explosive Device.
...and barometric triggers in place.
The IED will be very difficult to discover.
The sophistication of the device... suggests it could have been intended for use against an aviation target (It could only be an aviation target!).
It is recommended that:
(c) Any item about which a searcher is unable to satisfy himself/herself must, if it is to be carried in the aircraft, be consigned to the aircraft hold (!
The reason given for this astonishing delay on information available worldwide by November 15th was, first, that the Home Office had retained information and all photographs, second, the DOT, once this provided engaged in obtaining the best quality photographs possible.
This letter arrived to Pan Am London on January 17th, 1989. The reason, the heavy Christmas mail.
The astonishing recommendation to put the potential bomb in the cargo of the aircraft, when not satisfied was signed by James Jack, Principal Aviation Security Advisor.
- 12/21. Destruction of the Pan Am 103.
The FAA warning was still valid.
No revoking documents have been produced to present.

Additionally:

* Warning informations are sent to embassies, military installations, foreign governments, Interpol, FBI, CIA, airports and airline security departments.

* A confidential document prepared for the EC Trevi Group of minister stated: "Recent events in the Gulf and the naval involvement of several Western powers including Britain, France and Italy, has increased the potential threat to Western targets from Iranian inspired terrorism..

- * The security services in charge of Israeli airports also issued a report on the Toshiba radio-cassette bomb.
- * The British Ministry of Defense is in charge of intelligence relating to aviation.
- * All threat information pertaining to PA 103 was transmitted by the State Department. The State Department provided travel advisory information to the top 300 financial firms in a selective and closed method of dissemination the Electronic Bulletin Board. Some top executives have acknowledged to being informed of the potential danger and threat to civil aviation. Some top firms were removing their senior executives and engineers from scheduled travelling for the month of December.
- * The FAA is not an intelligence gatherer, rather it is fed information from much more powerful agencies.
- * Terrorism expert professor Paul Wilkinson in his publication "The Lessons of Lockerbie", calls for the existence of one specific threat for the entire year of 1988. At the FAI, under oath, stated it is the Helsinki threat.

In view of all the above, two inevitable questions come to mind. How could this happen?

Why was there no preventive effort, attempt or plan developed?

The above wealth of intelligence expressed has come out little by little in a long and difficult process. Immediately after the destruction of PA 103 we the relatives and the public only knew of the Helsinki public warning in Moscow and the Autumn Leaves Operation. By the end of March 1989 we knew of the FAA and DOT-UK warnings. The rest has surfaced through different channels. In most instances has not been recognized by the intelligence sources.

This aspect, intelligence, lies at the heart of the PA 103.

Another dark area that poses many questions concerns the apprehension of 16 Palestinians with a bomb and a small arsenal. Yet 14 of them were released almost immediately. Among these Mar an Krheesat; the alleged bomb maker and Ramzi Diab.

The decision by Kurt Rebmann, the Federal Prosecutor leading the proceedings against the arrested Palestinians remaining in custody, Dalkamoni and Ghandafar, not to extend his investigations to the plane crash.

HELSINKI THREAT ASSESSMENT.

The process of evaluation and desqualification of the Helsinki Threat presents such major contradictions that deserves to be looked into separately.

All explanations and decisions to make it a hoax have been given a posteriori.

Others have called it a mere and terrible coincidence. This is very difficult to accept.

Not a single revoking document has been presented by any of these agencies with such a claim, to present.

FAA ACS-88-22 was valid and standing on December 21, 1988.

On December 9th, J. Berwick flew to Helsinki. See C-4.

In Mr. Berwick's recollection of events it is not clear whether the Helsinki threat as hoax was an interpretation or an actual notification Kenneth Luzzi's assessment was based on his discussions with various local law enforcement agencies.

Berwick's meeting with K. Luzzi was arranged from U.S. Embassy, London by RSC Robert O'Brien.

R. O'Brien and FBI Legal Attaché, London, Darrel Mills had previously flown to Helsinki for the same purpose, yet he did not mention it.

J. Berwick was surprised when he learnt of their trip at a much later stage. As per State and FBI assessment they could have saved him a trip.

J. Berwick returned to London and handle the threat as valid.

At the FAI in Scotland, I served papers to Kenneth Luzzi to appear as a witness. He did not.

A few days later J. Berwick attended a meeting at U.K. DOT, HQ. There were two representatives of the Ministry of Defense and James Jack. After briefly discussing the Helsinki warning, Berwick deduced that in their interpretation it was a hoax.

By December 10th the State Department and the FBI had desqualified the call as a hoax. This is according to an statement made by Frank Moss of State to the relatives on March 08, 1990.

December 13th. The U.S. Embassy in Moscow makes the warning public.

December 14th. Wire from PA Moscow. "...About 80% of holiday traffic of Embassy is rebooking to other airlines ex Fra. due to existing threat.

December 15th. PA wire from D. Sonesen, System Director, Corporate Security NY to Moscow. "Please provide specific details on lost revenue from U.S. Department of State officials".

December 15th. PA 103 passenger load: 21/44/346 - full load.

December 16. PA wire from Moscow to Sonesen PA, NY. "Travel via Pan Am is not required. Many with holiday travel plans are now trying to change to other airlines ex Fra. or different Pan Am routings to avoid Frankfurt since Embassy has made this a public issue".

December 22. Ministry of Foreign Affairs, Helsinki. Statement:

"...these investigations (Helsinki warning) are being continued vigorously".

February 6th, 89. Pan Am states: "On 12/09/88 State's Kenneth Luzzi told PA's James Berwick that Luzzi could not assess the veracity or the seriousness of the Helsinki warning but... it was being investigated by the Finnish authorities.

They were still investigating on 12/22/88.

February 23, 89. The FAA and U.S. State Department deny telling Britain that the Helsinki warning was a hoax before Lockerbie.

It appears that the State Department was in charge of assessing the Helsinki call and the transmission of all threat information pertaining to the 103.

What was the exact process of assessment?.

What parties were involved?.

What were the contents of the initial transmissions when it was considered valid?.

What was the process and parties involved in the change of assessment?.

Where are those revoking documents?.

What was the full text?.

What was the format and method of transmission?.

Were all transmissions made by the State Department?.

What were the departments, agencies and all other institutions informed in the U.S.A.? Full list.

What was the text transmitted?.

What foreign countries did State transmit information to, in reference to the Helsinki warning?.

What was the full text transmitted?.

What was the form of transmission used?.

What is the full list of countries?.

What government departments, agencies and all other institutions in these foreign countries? Complete list.

Independent of being a hoax or not, why was the Helsinki threat not made public? It was specific enough for other members of the State Department as well as terrorism experts.

If State and FBI had determined by the 10th of December that it was a hoax, should William C. Kelly and the Moscow Embassy, among others, have not received some sort of information of notification by the 13th? Was there any exchange of information on the matter in these three days between the State Department and the U.S. Embassies?.

When, prior to making the Helsinki threat public in Moscow, W. C. Kelly informed the FAA of his intentions, why did the agency not inform him that it had been determined a hoax?.

C-5.- PAN AM 103 FLIGHT BOOKINGS AND REBOOKINGS.

It has been the contention of many relatives that so much alarming information over a possible terrorist attempt was withheld from the general public, preventing them from making an informed decision on their travelling plans as others had. An unfair and selective process of dissemination with definite priorities allowed many, closed or with connections to this process, to make changes that, definitely, saved some lives. This is excellent. What cannot be accepted is that others would be deprived of this same opportunity.

The assessment of intelligence and threats was fatal. At the level of the airline and the regulators there was no security, or the pressure to procure it. We, the public, are asked to trust the judgement and efficiency of these agencies.

The relatives have been informed by a number of potential travellers of the impossibility to obtain a seat in any Pan Am flight from the 14th of December on. This unavailability was expressed since the end of November. Ticket agents repeatedly informed them that the flights were sold out. There is nothing extraordinary about it. Indeed, is the standard for the heaviest travelling season in the year. 169 empty seats, the amount at PA 103, is most unusual. The Pan Am 103 of thursday, 12/15/88, flew with 411 passangers. Full load.

People with direct access to this exclusive information, or the informed, scheduled to fly PA 103, 12/21/88, changed plans and airline tickets.

Others changed by chance.

Others, also informed, did not change.

High executives have acknowledged being informed of potential danger at that time.

Some major corporations changed the, already, scheduled travelling plans of their senior executives and engineers.

Marines at the NATO offices in London, and other cities in Europe, had seats for the PA 103 on the 21st. Suddenly, at the last minute, they were put in other airplanes.

Marines in Germany, England, Viena, Italy, knew about the potential danger and threats to aviation at that moment.

Pan Am has maintained that this flight was never sold out.

Nevertheless Pan Am produced a master list of all reservations made during 88 for the PA 103. The names of people who have acknowledged changing their tickets do not appear in this "Master List".

On March 31, 89, Alan Loflin a Pan Am spokesman in New York, after allegations of the airline selling half price tickets, made by one relative, declared: "It is not true that we were selling seats half price. The flight was fully booked".

There is also the fact that one extra flight attendant was admitted on to the flight at the last minute without being scheduled. I attempted to question this point at the FAI. The Crown opposed it and the Sheriff Principal supported it.

D.- 12/21/88 - 11/14/91. INDICTMENTS.

- D-1.- Guardians of the Islamic Revolution. Claims of Responsibility.
- D-2.- Downplay PA 103/Lockerbie?.
- D-3.- Scottish Police Reports.
- D-4.- DoT-UK. Transport Secretary Paul Channon.
- D-5.- Precedent Ignored?. Air India 182 Disaster.
- D-6.- Bomb in London, Frankfurt, Malta?.
- D-7.- Sweden - DoJ-US. June/July 1990. Investigation's turning point?.
- D-8.- Libyan suspects. Disappearance of Ahmed Jibril, PFLP-GC, Syria, Iran.
- D-9.- Bernt Carlsson - United Nations.
- D-10.- Interfor Report.

D-1.- GUARDIANS OF THE ISLAMIC REVOLUTION. CLAIMS OF RESPONSABILITY.

Shortly after the destruction of PA 103, two anonymous calls were made to the Associated Press and United Press International news agencies in London, informing that a group called Guardians of the Islamic Revolution were responsible for the disaster. It had been carried out in retaliation for the shooting down of an Iranian Airbus by the US warship Vincennes in July. The caller also threatened with more attacks if the U.S.A. did not expel the son of the late Shah of Iran.

The Guardians of the Islamic Revolution had a base in London. They are a creation of the Iranian government. In the past they have claimed responsibility for other attempts related to the Iranian revolution.

Commander George Churchill-Coleman, head of the Anti-Terrorist Squad at Scotland Yard, also involved in the PA 103 investigation, was in charge of verifying these calls as well as other related activities.

What was the process of evaluation?. In view of the wealth of alarming information that existed, all over the world, on a possible terrorist attack, what did Scotland Yard do before as far as surveillance?. How seriously did they take all the intelligence that was being shared?. Intelligence where, in some instances, the United Kingdom was specifically named?. Was he and Scotland Yard exclusively in charge of this task?. Were there other investigative bodies involved in this procedure?.

Immediately after the disaster, Heathrow Security claimed that it was very security conscious, but it has been clearly proven that this was a lie. Even more disturbing is the manifest indifference of these civil servants and departments that know they will be protected by their government if any blunders take place.

Despite those claims of security-consciousness, in 1986, Heathrow and British Airport Authorities had the Nezar Hindawi affair, only detected by El Al's security personnel.

Despite recognizing prevention as one of their responsibilities, the investigations and recommendations in the aftermath of the Air India

182 destruction were completely ignored until after the PA 103.
See D-5.

For incompetence beyond belief with criminal negligence see C-4,
11/22. DoT-UK and 12/19. DoT-UK.

When Secretary of Transport Paul Channon was questioned in the Commons,
about this disastrous handling of important information as well as the
29 day delivery time in the regular mail, Mr. Channon explained that
"it was information of no importance whatsoever".

Two years later at the FAI, under cross-examination, employees of the
DoT recognized that no major changes had been made in the airline
security.

D-2.- DOWNPLAY PA 103/LOCKERBIE?

There have been several reports claiming that according to intelligence
and highly placed sources in the White House, about mid-March 1989
Prime Minister Margaret Thatcher called President George Bush about
mid-night. By then, both the British and American intelligence services
had trailed the perpetrators to Ahmed Jibril, Syria and the Iranian
Government. Given the damage that Iran had inflicted on Presidents
Carter and Reagan and the impossibility to really do anything, they
agreed to make the investigation long and inconclusive downplaying any
findings. Orders followed to top officials conducting the Pan Am
investigations

D-3.- SCOTTISH POLICE REPORTS.

There appears to be, at least, two reports prepared by the Scottish
Police.

March 29, 1989. Report by the Dumfries and Galloway police. "Bombing
of Pan Am 103. Interview of Marwan Abdel Razzaa Mufit Khreesat as a
suspect". "...There can be little doubt that Khreesat is the bomb-
maker for the PFLP-GC (a Palestinian terrorist group) and there is a
possibility that he prepared the explosive device which destroyed PA
103. As such he should not be at liberty...."

November 6, 1989. In this report to be presented to Lord Fraser of
Carmyllie, the Scottish Lord Advocate, allegedly, seven members of the
PFLP-GC are named as part of the investigation into the PA 103.

Near the end of 1989 the media was reporting: "Police sources had
indicated that the investigation was virtually complete and they were
close to naming the suspects.

Investigative sources kept pointing at the original theories and
suspects.

D-4.- DOT-UK. TRANSPORT SECRETARY PAUL CHANNON.

The dismal laxity at the DoT-UK has been reflected in the manner information concerning a potential terrorist attack was handled and the total disregard for enacting or implementing security and preventive measures. The DoT was, and is, poisoned with indifference and apathy from the very top down.

11/18/88. DoT and Ministry of Defence receive copy of US-FAA bulletin. Also receives information and photographs from West Germany.

11/22/88. DoT Security Adviser (C-4).

12/07/88. DoT receives FAA ACS-88-21.

12/07/88. DoT receives FAA ACS-88-22. Helsinki warning.

12/19/88. DoT-UK Letter.

12/22/88. Paul Channon, transport secretary addresses the Commons on the disaster, never mentioning the security bulletins. On BBC Radio Four's World at One he says he had no information about earlier warnings.

12/23/88. On Radio Four's Today programme Paul Channon confirms a prior warning. He flies to the Mustique Island since "there is nothing he can do".

01/10/89. Paul Channon makes a second Commons statement, saying FAA's Pan Am warning was no more significant than 215 others in 1988.

01/17/88. Pan Am receives in the regular mail 12/19 DoT Letter.

02/23/89. FAA and US State Department deny telling Britain the Helsinki warning was a hoax before the disaster.

02/24/89. John Prescott, the Shadow Transport Secretary tells Channon he failed to tell the Commons that of those 215 warnings mentioned earlier, only 24 were from FAA and 16 of them related to Britain.

03/15/89. Paul Channon allegedly leaks to five top political journalists that the Lockerbie investigators have tracked down the bombers.

03/16/88. Lockerbie investigators deny the reports. Channon also denies ever knowing about these allegations.

03/17/88. One of the country's newspapers runs a front page editorial with the headline "You are a liar Mr. Channon".

It is revealed in the press the existence of a second warning (DoT 12/19) and it had been sent in the regular mail. Paul Channon facing major questions and an uproar from the opposition and outrage from the public, declared that this second warning had been handled in such a manner because "it was a matter of no importance whatsoever".

This outrageous handling of events would force Paul Channon out of office. But the attitude and modus operandi at the DoT has not changed. Most disturbing of all is the fact that this same Department of Transport, in team with the Air Accidents Investigation Branch (AAIB), a department directly reporting to the secretary of Transport, and the Royal Armaments Research and Defence Establishment (RARDE) have been in charge of the forensic investigation, reconstruction of the aircraft the handling of forensic evidence and the subsequent report.

It should be highlighted that the name RARDE does not exist anymore. On June 1992, several RARDE scientists were castigated for tampering with evidence in two different, and very famous trials, that kept in jail, for many years, innocent people. The new name is the Defence Research Agency.

D-5. - PRECEDENT IGNORED?. AIR INDIA 182 DISASTER.

On June 23rd, 1985, Air India flight 182, on its way from Montreal to London, disappeared from the radar at Shannon. It plunged into the Atlantic Ocean off the southwest coast of Ireland. A total of 307 passengers and 22 flight crew perished.

The government of India carried an international investigation. Justice B. N. Kirpal prepared the "Kanishka" report.

The British Department of Transport, the Air Accidents Investigation Branch (AAIB), the Royal Armament Research & Development Establishment (RARDE), the National Transportation Safety Board (NTSB) and the International Civil Aviation Organization (ICAO), among other agencies and departments, were involved in their respective areas of expertise.

The AI 182 is a blueprint for the PA 103.

* After ticket reservation manouvers and a lot of persistence, a certain M. Singh succeeded to convince a ticket agent to interline his luggage all the way to India, even if he would not make it to the connecting flight AI 182.

At the PA 103 a certain Mr. Basutta did not make it to the flight in London. The airplane left without him, with the knowledge of Pan Am security personnel and his luggage on board. The passenger's full name is Singh Basuta.

* The suitcase used for the IED is suspected to have been a Samsonite hardsided, dark brown color. So is the one used for the PA 103.

* They were, both, placed in the forward cargo compartment.

* Both airplanes disappeared from the radar without notice, warning or signs of disrapture.

* Both aircrafts had their electrical systems cut off immediately and d-astically and both suffered shock waves and overpresurization. The "Kanishka" report focused on the impossibility to operate for survival without electrical power. The AAIB favored the Match Stem Shock Wave Formation.

At the FAI in Scotland we were presented with witnesses from the AAIB and RARDE, who had directly supervised the report concerning PA 103. No independent explosives and forensic experts were called as witnesses. In cross examination, they acknowledged that the AI 182 investigation and report should be an example and a lesson for future prevention yet, the "Kanishka" report and its very important recommendations went ignored.

The "Kanishka" report made twenty two recommendations.

5.3 IATA should develop practical procedures for reconciliation of interlined passengers and their baggage at intermediate airports.

5.4 Interlining of checked-in baggage should not be done if a passenger does not have a confirmed reservation on the onward carrier flight.

5.5 The baggage of interlined passengers should be matched with passengers by the onward carriers before loading the baggage on the aircraft.

5.8 Passenger count should be done at boarding gate and in case of "no gate show" of a passenger, his baggage must be off-loaded.

Other well thought out recommendations address knowledge and dissemination of threats, aircraft improvements, a study to physically separate the avionics bay and emergency oxygen systems from the cargo area.

Specific regulation followed concerning passenger-luggage reconciliation. Why were the regulators so indifferent to implementing such specific and recognized danger?.

* The AAIB report made 5 technical recommendations. The aspect of prevention is not considered.

D-6.- BOMB IN LONDON, FRANKFURT, MALTA?

The key aspect of where the bomb originated and was introduced in the Pan Am system is unclear. There is contradictory information, denials and poorly explained situations.

No country wants to accept this possibility.

From very early moments in the investigation there seemed to be an unfounded determination in making it Frankfurt, perhaps because of the Helsinki warning.

The Plaintiffs lawyers only started questioning personnel in London a year after the disaster.

The German investigators withheld, for almost nine months and under diverse explanations, the luggage transfer manifest at Frankfurt. This document is sealed and yet of vital importance to verify, without a doubt, that there was an unaccompanied suit-case coming from Malta. It appears there are inconsistencies and errors in this document.

The bomb that destroyed Pan Am 103 is suspected to be rather small.

250 to 300 grs. of semtex. It is suspected that it was a two speaker. The possibility of not having a barometric trigger has been considered because no trace of one has been found.

German officials admitted that "The timing device we found in November was not identical to the one used in the Pan Am flight. If it had been, the explosion would have occurred between Frankfurt and London - not over Scotland".

The IED on PA 103 could have been exactly the same with a different time set up.

Why risk the chances of success with a 3 or 4 step operation: Malta, Frankfurt, London and on plus the Christmas traffic and the winter weather?.

The appalling lack of security and unawareness of danger at Heathrow airport was clearly exposed from the moment of the disaster.

In the following month after the PA 103, several youth gangs and journalists, for the fun of it and to expose Heathrow security, entered the, supposedly, tightly guarded airside and airplanes and left packa-

ges for employees to find.

Security and airline personnel in general and Pan Am, in particular, had not been informed of warnings or threats. As long as somebody was moving around with a uniform and/or a badge they would be at ease. Iran Air was located next to Pan Am.

Container AVE 4041 was left open and unguarded for nearly 20'. At the FAI it was impossible to determine the exact amount of pieces Interline London. Even less guarantees of accuracy offered the discrepancies and hazy memory of the luggage handlers or two pieces that had been placed while nobody was around the container and nobody would acknowledge placing. This concerns 6 to 8 pieces in London. To establish any order or possibilities on the luggage coming from Frankfurt was impossible.

The IED was located 25 cms from the outer skin and on a second layer. The floor of the container was less damaged because of the absorbing effect of the suitcase underneath.

Having attended the FAI continuously, the Sheriff Principal's determination (9) That the suitcase containing the said explosive device was among the said pieces of baggage transferred from Pan American Flight 103A and was unaccompanied both on the flight from Frankfurt to Heathrow and on the flight from Heathrow, is unfounded.

The passenger and luggage documentation presented by Pan Am was disastrous. It did not even keep an alphabetical order. There were repetitions and omissions. Their memories were also hazy.

Alledgely, there is an FBI teletype that was sent from Bonn in October, 1989 which indicates quite clearly that the FBI investigator in charge realized that there may not have been any bag from the Air Malta flight that made it to Pan Am.

Air Malta denied having an unaccompanied bag in his flight KM-180 to Frankfurt.

The Maltese Government conducted an investigation into these allegations. In a joint communiqué by the Prime Minister of the Republic of Malta and the Secretary of the General People's Committee of Libya, issued on 17 December 1991, the Maltese side affirmed that: "the findings of the investigations proved that no unaccompanied suitcase remained aboard Air Malta flight KM-180 to Frankfurt on 21 December 1988".

Reportedly, the Maltese Government had been told by the Scottish police at the end of 1989 that a full check had been done on every bag on the Air Malta flight, they had identified every bag and there had been no unaccompanied bag.

Other reports point at the possibility of substituting Matthew Gannon's suitcase for the IED in London.

D-7.- SWEDEN - SCOTLAND - DOJ-US. JUNE/JULY 1990.
TURNING POINT IN THE LOCKERBIE INVESTIGATION?

In Upsala, Sweden, the police is keeping in prison Mohammed Abu Talb, a Lockerbie suspect.

* June 7, 1990. Swedish police arrest 11 Palestinians in the city of Upsala. Some of the names had appeared in the surveillance records of the German police in operation Autumn Leaves. Among them Samir Urfali and Jihad Chaban. The first has been named as the top explosives expert at the PFLP-GC. Chaban is allegedly a former Syrian intelligence officer and brother of Marten Imandi who is in jail with Abu Talb. Reportedly, both, Chaban and Urfali left Syria for Germany with the help of Syrian intelligence.

* June 9, 1990. Investigators from Scotland fly to Sweden.

* June 11, 1990. U.S. Attorney General Richard Thornburg meets with the Lord Advocate Peter Fraser in Scotland.

* June 12, 1990. Attorney General Thornburg meets in Stockholm with Justice Minister Laila Freivalda and Public Administration Minister Bengt Johansson.

* End of June. Investigators representing the countries involved in the PA 103 investigation held a meeting outside Washington to compare notes. The Justice Department first denied there was such a meeting and later recognized there was a meeting of no relevance.

Shortly after this meeting one of the top investigators in Sweden, Ulf Forsberg, who was not sent to the meeting in Washington for lack of resources, resigned from the investigation.

Chief Inspector John Orr, in charge of the investigation in Scotland, also resigned. Inspector Orr seemed to be convinced of the participation of Syria.

The Swedish government recognizes it will not proceed in any manner without the prior knowledge of the U.S. government.

* July 1990. The 11 Palestinians are released and deported for a variety of reasons depending on who explains. Unrelated terrorist activities. Irregular documentation. Attorney General Thornburgh had not considered these 11 Palestinians crucial to the U.S. investigation.

What did really happen in this two months?. What were the major disagreements for these two top chief investigators to resign?. What does "crucial to the U.S. investigation" really mean?. What was discussed and decided at these two meetings of the Attorney General in Scotland and Sweden?.

On October 1st the Fatal Accident Inquiry started in Scotland.

The first news of the Libyan involvement appear.

The Gulf coalition was forming.

D-8.- CHANGE OF THEORIES AND SUSPECTS?

Until October 1990 voluminous information was put out on the theory and suspects of the PFLP-GC, Ahmed Jibril, Syria and Iran as prime suspects.

This information, as mentioned before, greatly provided by investigative and intelligence sources.

* American intelligence officials had solid proof that the Iranians had ordered a series of attacks on Americans late in 1988, including the bombing of a civilian jetliner.

* There is compelling evidence that Jibril did it, but not conclusive criminal evidence. The forensic people have narrowed it down to about five suspects. Comment by a former top counterterrorist expert in the State Department. End of 1989.

* Could the Scottish police, ever so meticulous and thorough, get it so wrong, being at the heart of the investigation?.

* The CIA is "confident" of its assessment that Iran, in effect, "hired" elements belonging to Ahmed Jibril' PFLP-GC to carry out the bombing. A State Department official.

* Officials said a Palestinian held on terrorism charges in Sweden, Mohammed Abu Talb, has provided testimony tying the radical faction, the PFLP-GC to the Pan Am bombing. The officials say Mr. Talb has told investigators that between October and December 1988, he retrieved and passed to another person a bomb that had been hidden in a building used by members of the faction in West Germany.

* We know a great deal about the crash itself, a great deal about the communications that were taking place, plans and offers of plans. The PFLP-GC carried out the bombing under contract from Iran's Revolutionary Guards. The Iranians wanted to retaliate for the downing of an Iranian commercial airliner by a U.S. warship in the Persian Gulf in July 1988. The director and officials of the CIA. 1990

* "The Fall of Pan Am 103" by Steven Emerson and Brian Duffy, a book largely fed by the FBI and Oliver B. Revell, in particular, elaborate on the PFLP-GC, Syria, Iran theory. 1990.

* Mid 1991. Proceedings by a grand jury in Washington against two Libyans involved in the PA 103. Their names Mohamed al-Nadi and Mansour Omran Saber, two agents of the Libyan special services.

* Brian Keenan, prior to being released, was told by the Syrian Intelligence that the British knew all along about Lockerbie. They said that the British knew it would happen before it happened. They said that the British had all sorts of advance information prior to the event for which they were now blaming Syria and other people.

D-9.- BERNT CARLSSON - UNITED NATIONS.

Bernt Carlsson, the United Nations Commissioner for Namibia and assistant secretary-general of the United Nations, was killed on Pan Am Flight 103 in the course of his work, while returning to New York for the signing, the following day, of the Tripartite Accords by the Republic of South Africa, Cuba and Angola.

Bernt Carlsson was the highest-ranking United Nations official to be killed in the line of duty since Dag Hammarskjöld. One avenue through which the Lockerbie investigation could have been pursued has been ignored: That is the U.N. Convention of Crimes Against Protected Persons (ICPP), which Bernt Carlsson was. See attached article by professor Sanya Popović "Pan Am 103 victim's fiancée assails U.S. 'posturing'".

D-10.- INTERFOR REPORT.

On November 1989 a report prepared by Interfor Inc. and commissioned by Pan Am attorneys was, either leaked out to a congressman or stolen from Interfor files depending on who relates the events.

The report describes an on-going drugs-for-hostages operation out of Frankfurt with the knowledge and participation of Pan Am and the Drug Enforcement Administration as well as an independent CIA group called CIA-1.

Very important names in drugs, arms and terrorism are mentioned, as well as remarkable details of bank accounts, places, times and meetings. Monzer Al-Kassar, Abu Nidal and Ahmed Jibril are among the players. Even more upsetting is the announcement of two specific threats concerning the PA 103. The first 36 hours prior, the second within hours. Nobody attempts to stop it.

This report has to be read very carefully but it also contains information that should be verified. Did this DEA drug-for-hostage operation exist? Was there certainty and specific warnings on the PA 103?

Congressman Robert E. Wise, Jr. of the Government Information, Justice and Agriculture Subcommittee of the Committee on Government Operations held a hearing on December 18, 1990.

I do not believe enough strength and forceful questioning was applied at this hearing. But the timing was very unfavorable to Congressman Wise and as far as I am aware there was no follow up.

The parties invited to testify, DEA and FBI did not seem to have their story well coordinated.

FBI director William Sessions was invited to testify since the Bureau was charged by the Attorney General with investigating these allegations. The FBI was totally uncooperative as expressed by Mr. Wise. Mr. Sessions did not appear.

The FBI claimed to have a separate investigation on the matter from that of the DEA. The DEA seemed to have two different investigations into the PA 103. The separated investigations by the FBI and DEA turned to be inextricable.

As Congressman Wise put it. When they requested again for DEA field agents to be made available, they were told by Mr. Rawls of the Department of Justice in a letter of November 15 that DEA agents could not be made available because they were part of an overall investigation. Yet at the same time, the FBI has concluded, and by press release, at least, that there was no DEA involvement.

If the DEA agents were not involved, why can't they be made available to this committee?

Many other important points are mentioned in this hearing but this possibility of a drug operation requires a much more forceful questioning.

INDICTMENTS

On November 14, 1991, the Crown Office in Scotland and the Department of Justice in the U.S.A. issued joint indictments against two Libyans, Abdelbaset Ali Mohamed Al Megrahi and Al Amin Khalifa Fhimah.

Different names from those mentioned at the grand jury.

In their statements it was made clear that the investigation was still on-going. Other sources, nevertheless, indicated that there was barely an skeleton of the investigating team.

Many questions and doubts arise from the sequence of events described in this request but the simultaneous overtures of the English government to Syria while President Bush eagerly excused Syria immediately after the indictments, gave some relatives a sinking feeling and the confirmation of our worst fears. For how much can these investigators do if the full truth is not desirable?.

It is possible a Libyan participation at some point. It is impossible to accept the total disappearance of all main theories and suspects for the first 21 months.

We are being asked to believe that two almost identical terrorist attacks were in the works, simultaneous, parallel, with same methods and goals, yet they were completely independent, unrelated and detached. One was prevented with operation Autumn Leaves, the other was not. But this outlandish possibility still does not explain why so much overwhelming, important intelligence sailed through all these experts desks and experience and nothing was done to prevent it.

The three main pieces of evidence against these two Libyans do not seem to be very strong.

Of all three, the notion that a Libyan agent could keep a diary and in English, no less, would be comic if it was not for the sadness, horror and grief at the heart of this issue.

Lately I have heard that the diary is not in English but Arabic except for the word "tag".

When the Home Office minister Douglas Hogg was asked, in a debate in the Commons about the shifting of blame on to the Libyans, he explained that after 18 months of suspecting Khreesat, the Palestinians and Syria "the facts of the investigation shifted as a result of forensic scientific evidence". What kind of shifting was that exactly?. Other parties claim that the forensic evidence available has been the same for many months.

Just exactly how did the forensic evidence shift?. Did this shift happen under RARDE or more accurately the Defence Research Agency?

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**Presentation to: Committee on Foreign Affairs
Subcommittee on International Security.
International Organizations and Human Rights
Thursday, July 28, 1994**

**Prepared Statement- Kathleen R. Flynn
Mother of John Patrick Flynn
Murdered on Pan Am 103
Lockerbie, Scotland
Dec. 21, 1988**

Good afternoon, Congressman Lantos and members of the Committee on Foreign Affairs, subcommittee on International Security, International Organizations and Human Rights. I welcome the opportunity to address this committee and share with you the horror and the heartbreak that this international crime committed against our families and indeed, all of humanity has bestowed upon us for the last 5 1/2 years. It is my understanding that this hearing is the first in a series that will finally expose the incredibly inadequate and immoral foreign policy, or better yet, lack of policy with regard to this act of war against America, and ultimately construct a foreign policy based on intrinsic moral values, not political expediency.

I am Kathleen Flynn, mother of John Patrick Flynn, murdered on Pan Am Flight 103 over Lockerbie, Scotland on Dec. 21, 1988. J.P., the oldest of our four children, was a junior at Colgate University returning home for Christmas after studying for a semester in London. The devastation to The Flynn Family is indescribable, but multiply that pain and suffering 270 times for all the other families whose loved ones perished that winter solstice eve. And know why I come before you I do it for my son and all our dear departed family members. I guess this would be the perfect time to ask for a reverential moment of silence for our loved ones; but somehow, that gesture seems so inappropriate in front of our government...because that has essentially been the response of our governmentSilence!! Deafening Silence, Make it go away silence!! Appeasing Silence!! The Silence of Shame!!

Rather than pretend to be a foreign policy expert, allow me to present what I consider must be the building bloc of any foreign policy and that is: the undisputed commitment to what is right and just and in the best interests of the people that are the inhabitants of that country. Somehow as a nation, we have gone astray. Apathy and Inaction, particularly with regard to terrorist acts, seem to be the watchwords of American foreign policy. Recall with me the 1983 bombing of the Marine Barracks in Lebanon.....What was the government's response? We invaded Grenada a few days later to distract public sentiment from the mass murder of our Marines. The Gander Air Crash.....always a touchy subject. People watched the plane explode in the sky and our government insisted it was icing on the wings. Middle East Terrorists took credit for the bombing and warned Ollie North not to ship the wrong arms next time. When one journeys farther back in History, ironically, we come upon the "shores of Tripoli". It was in this geographic location that Thomas Jefferson ordered U.S. military action when a small group of American sailors had been attacked by a group of pirates. Swift and decisive!!! And with the largest, single terrorist act against Americans, what has been the government's response? It has almost been six years and not one person, group, state, corporation or government has paid for the bombing of Pan Am 103. As you and I both know, major World Wars were started for far less !

Terrorism is much more than the murder of innocent people by rogue civilians. The bombing of Pan Am 103 is, in fact, a systematic act of war against the United States. It is performed by and supported by a certain collection of nations. The American solution to this crime has been to

demand the "extradition" of two hit men and impose weak, ineffectual sanctions on their country. This action is akin to using kleenex to cure pneumonia! I think it is important to emphasize the "Big Picture" with regard to Pan Am 103. In the 5 1/2 years we have lived with this tragedy, there have been mega "flip-flops" back and forth on who is actually responsible for the bombing. There are indictments on two low life Libyans. There are U.N. Sanctions against Libya to turn over these indicted, renounce terrorism, pay compensation etc. etc. But what has been shared by officials from the F.B.I., The State Department, the NSC, the Congress, the Administration, with the exception of George Bush, is that there is no prosecutable evidence to link Syria and Iran.....prosecutable evidence. This does not mean there is not a very strong and viable connection, it does not mean that they were uninvolved. It simply means that, to date, there is no prosecutable evidence and if we believe the F.B.I., it is an ongoing investigation. And well it should be... but this is a very important point in our discussion on foreign policy issues with regard to Pan Am 103.

Logic denies one to believe there were two separate terrorist plans to blow up an American Plane. One, masterminded by Jibril, the other Gaddafi. Logic demands that we recognize that "good old boys terrorist network" whose main concern was revenge for the downing of the Iranian Airbus by the Vincennes. Logic makes us scoff at Meghari and Fimah sitting around a cafe in Malta and deciding to blow up an American Plane without the full backing of the key players. Evidence points to a terrorist summit meeting held in November, 1988 in Tripoli with the Big Boys such as Jibril and Abu Nidal in attendance. This was the hand-off to Gaddafi and he was more than happy to be included. (Attachment 1- Times of London Article...quoted). I am not writing a third rate paper back novel. I am piecing together pieces of a puzzle which, at present, has only half the border finished. This is not fun and games; it is about the death of my son and who is responsible for his murder and the 269 other innocent people.

What does all this "todo" about prosecutable evidence have to do with our Foreign Policy in the Aftermath of Pan Am 103? The obvious comments are: It's been almost six years, give it up....the people in my district don't care. Americans are worried about health care and the economy. We need a consensus from our allies to act or better yet, our new foreign policy will be based on multilateralism. For starters, I have a lot of trouble sharing the euphoria of Secretary of State, Warren Christopher over the Middle East Peace Accord. The issue of Middle East State Sponsored terrorism has not been fully addressed nor resolved. The bumper sticker that reads, "Want peace, work for Justice" seems so apropos. This unresolved issue of complicity in the Pan Am 103 bombing will come back to haunt the peace process.

To fight terrorism, you must deal with and punish those nations responsible. Terrorists groups are tools of the sponsoring nations, essentially powerless without their funding and support. The U.S. has the power, but apparently, not the will to squash terrorism. (Attachment 2- Quote from the President's Commission on Aviation Security and Terrorism) Real specific sanctions are the first step to be followed with tangible military actions, not empty threats. I am certainly not, nor ever have been, a war monger, but look at the facts. The U.S. military has been employed to fight crime and injustice in the name of many other people, other than Americans...Panama, Grenada, Kuwait, Somalia, Nicaragua, Haiti, and the list goes on. When it comes to our own people and the violation of their sovereignty, the response is non-existent as per Pan Am 103. Or the other

option is the new buzz work in foreign affairs, "ritualistic multilateralism", where difficult problems are dished off to the United Nations so that governments can appear to be taking action as they turn their attention elsewhere. Does this sound familiar with the Pan Am 103 bombing? The perennial whine from the State Dept. is that we can't get any stiffer sanctions on Libya. We can't get the support of our allies and the other member nations. My cry is take your ball and go home. This was an attack against America...let us resolve it ourselves in an honorable and forthright manner.

My call to action on foreign policy in the aftermath of Pan Am 103 is to open the doors to the truth about the nations involved in the crime and hold them accountable for their actions. As a government, let us stop talking out of both sides of our mouth. When we impose sanctions, enforce them across the board, without all the loop holes. Take the tough path when the time comes where use of force is no longer an option, but a necessity. Unfortunately, I believe THE TIME HAS COME!!

I leave you with one closing thought. General Schwartzkoff was asked an interesting question on the Holocaust recently...How did a civilized world allow this to happen?. His answer was simple and direct and I quote: "All that it takes for evil to triumph is for good people to do nothing".

Thank you .

Attachment 3- State Dept. Wish List

Palestinian group offers to fight for Gaddafi

FROM CHRISTOPHER WALKER IN CAIRO

AS ARABS rallied to the side of Libya in its latest conflict with the West, Ahmad Jibril, leader of the Popular Front for the Liberation of Palestine-General Command and once widely accused of masterminding the Lockerbie bombing, told a protest rally in Syria that Palestinians were ready to fight alongside Colonel Muammar Gaddafi.

Mr Jibril told an angry gathering at the Yarmuk refugee camp that his commandos were waiting for the word from Colonel Gaddafi "to immediately champion the Libyan people".

The pledge carries an implicit threat of a new wave of anti-Western terrorism in response to the United Nations sanctions imposed against Libya. Extra security measures have been ordered at American, British and French installations in Middle East cities.

"We all know about the real Libyan story," claimed Mr Jibril, whose men were once trained by Libyan security men in camps near Tripoli. "It is not that of a Pan-African

can airliner, but it is Washington's desire to dominate the entire Arab Maghreb where big quantities of crude oil were struck."

Although nearly all Arab states halted Libyan flights yesterday, most took no action against Libyan diplomats, as required by the UN



Jibril: waiting for the word from Gaddafi

resolution. A number, including Syria and Sudan, gave official backing to the Libyans.

In a blow to the new alliances formed in the region by

James Baker, the American Secretary of State, Sana, the official Syrian news agency, announced that a leading figure in the ruling Baath party had gone to Tripoli to "express Syria's support and solidarity with Libya". Iran announced that it would not expel Libyan envoys.

Sudan, a member of the 21-strong Arab League, denounced the sanctions as "an international crime". Dr Shakir al-Sharaj, chairman of Sudan's foreign relations committee, urged Arab, Islamic and Third World states not to enforce the sanctions.

An immediate result of the sanctions was to elevate Colonel Gaddafi, once dismissed by the late President Sadat of Egypt as "100 per cent mad", as an unlikely champion of the Arab and Islamic cause. Diplomatic observers see little likelihood of Colonel Gaddafi, whose power is dependent on his intelligence services, agreeing to hand over the two Lockerbie suspects despite diplomatic pressure from a handful of moderate Arab states led by Egypt.

Times of
London
4/17/92

Executive Summary

•National will and the moral courage to exercise it are the ultimate means for defeating terrorism. The President's Commission on Aviation Security and Terrorism recommends a more vigorous U.S. policy that not only pursues and punishes terrorists but also makes state sponsors of terrorism pay a price for their actions.

With other nations of the free world, the United States must work to isolate politically, diplomatically and militarily the handful of outlaw nations sponsoring terrorism. These more vigorous policies should include planning and training for preemptive or retaliatory military strikes against known terrorist enclaves in nations that harbor them. Where such direct strikes are inappropriate, the Commission recommends a lesser option, including covert operations, to prevent, disrupt or respond to terrorist acts.

Rhetoric is no substitute for strong, effective action.

•The Commission's inquiry also finds that the U.S. civil aviation security system is seriously flawed and has failed to provide the proper level of protection for the traveling public. This system needs major reform.

The Commission found the Federal Aviation Administration to be a reactive agency—preoccupied with responses to events to the exclusion of adequate contingency planning in anticipation of future threats. The Commission recommends actions designed to change this focus at the FAA.

•Pan Am's apparent security lapses and FAA's failure to enforce its own regulations followed a pattern that existed for months prior

to Flight 103, during the days of the tragedy, and—notably—for nine months thereafter.

These are the major findings and conclusions of the Commission, which began its work in mid-November of 1989 and reports to the President on May 15, 1990.

The destruction of Pan American World Airways Flight 103 over Lockerbie, Scotland, on December 21, 1988, was the reference point for the mission of this Commission. Pursuit of the full story of Flight 103 led the Commission also to a series of conclusions on counterterrorism policy in general, as detailed in the section on National Will at the end of the main body of this Report.

The Commission also conducted a thorough examination of certain civil aviation security requirements, policies and procedures surrounding Flight 103. It is a disturbing story.

The destruction of Flight 103 may well have been preventable. Stricter baggage reconciliation procedures could have stopped any unaccompanied checked bags from boarding the flight at Frankfurt. Requiring that all baggage containers be fully secured would have prevented any tampering that may have occurred with baggage left in a partially filled, unguarded baggage container that was later loaded on the flight at Heathrow. Stricter application of passenger screening procedures would have increased the likelihood of intercepting any unknown "dupe" or saboteur from checking a bomb into the plane at either airport.

The international criminal investigation has not yet determined precisely how the device was loaded onto the plane. Until that occurs

State Department Wish List- Feb. 3, 1993

Because the bombing of Pan Am 103 was a terrorist "act of war" against America, because the State Dept. is the agency responsible for the development and implementation of foreign policy matters for the United States government, it is therefore the moral imperative for this agency to take the lead role in the full and just resolution of this international crime against Americans and the entire civilized world.

1. The State Dept. must demand that the criminals responsible for this crime be brought to justice from the lowest level terrorists who packed the bomb in the suitcase to the terrorist groups that supplied the bomb and the states that paid for and masterminded this plot.
2. The State Dept. must demand that other agencies of government, particularly, the Justice Dept., carry out its responsibilities with regard to investigations and indictments of the criminals responsible regardless of political implications.
3. The State Dept. must demand a full investigation into the roles of all terrorist nations, especially, Syria, Iran and Libya in the Pan Am 103 bombing and take the appropriate actions against these nations if implicated and without regard for political ramifications.
4. The State Dept. must demand full cooperation in this investigation from the international community and exercise the necessary pressure to obtain pertinent information to the investigation.
5. The State Dept. must demand that stronger sanctions be imposed on Libya including an oil embargo to force the arrest of the two indicted Libyans and their consequent trial. It must also demand that all nations comply with these sanctions including the U.S.
6. The State Dept. must demand that if UN sanctions are ineffectual against the responsible terrorists nations, then the U.S. with its allies will impose their own embargo and take whatever steps necessary, including the use of force to bring about justice.

7. The State Dept. must demand a full and thorough investigation on the Pan Am 103 bombing that crosses all agencies and areas of government. This must be done with an independent prosecutor with full subpoena power.
8. The State Dept. must demand that the flawed system within the U.S. gov't that allowed this tragedy to happen be subject to this investigation and the necessary steps taken to correct this injustice. (State Dept. warnings, FAA warnings and threats- and no warning to the American flying public) This must include the possibility of criminal charges against negligent agencies.
9. The State Dept. must demand full adherence to their own document- the list of State Sponsored Terrorists Nations- including all U.S. companies and their subsidiaries in foreign countries.
10. The State Dept. must demand from all other gov't agencies that the safety and security of the American traveling public is the top priority for all aviation regulations.
11. The State Dept. must demand of themselves, the development of a foreign policy, particularly in the Middle East, that is consistent with the ideals of our democracy and that is based on moral principles of justice and fair play and not one of political or economic expediency.
12. Finally, The State Dept. must demand of all nations that the era of terrorism end with the full and just resolution to the Pan Am 103 tragedy.

Submitted by: Kathleen R. Flynn
mother of John Flynn, murdered on Pan Am 103

Babette Solon Hollister

Mother of Katharine Augusta Hollister, passenger on Pan Am 103

July 28, 1994

I'm the mother of Katharine Augusta Hollister. Kate was a 20-year old University of Rochester junior, returning aboard Flight 103 from a semester studying in York, England. Kate was a true trekkie while I never had sufficient imagination to be one. Left on the wall of her room is a sign: "Reality is the crutch for those persons unable to handle science fiction." In the sixty-seven months and one week since the bombing of Pan Am 103, I have come to believe the original bumper-sticker saying had it right: "Science fiction is the crutch for those persons unable to handle reality." And I think Kate would agree with me. For it is certainly out of the bounds of reality that in this span of time, the U.S. government has done virtually nothing to bring to justice the perpetrators of this heinous crime which, in addition to murdering 270 innocent victims, forever changed the lives of the victims' families.

One purpose of this hearing is to examine what has been right and wrong about past U.S. policies designed to bring the perpetrators to justice. Based on my sources of information, which unfortunately are limited mainly to the press, the only policy of either kind that I can find is that the U.S. pressed for the passage of sanctions against Libya in the U.N. Security Council.

Before examining the sanctions, I want to point out that the government never explained clearly why it is that we are in our present situation today - needing sanctions (or something) to get Libya to release the accused. On November 14, 1991, a U.S. grand jury indicted the two individuals. Unless the government planned to kidnap them, how did it expect to prosecute them? We have no jurisdiction over Libyans; furthermore, since it is assumed these individuals were working for Qadhafi, why would the government have expected Libya to release them to the U.S.?

But given the fact that they must be surrendered by Libya if they are to be tried, how successful are the sanctions which the Security Council passed? The initial sanctions passed in April, 1992 provided for the severance of airline links to and from Libya, an embargo on the sale of armaments and other military equipment to Libya, and the down-grading of Libyan diplomatic status abroad. The sanctions were rolled over until November 11, 1993, when they were strengthened by freezing Libya's overseas assets, banning some sales of oil equipment, and tightening the restrictions on commercial air links. The new sanctions didn't go into effect until December 1.

Since neither suspect has been released to the U.S., it would be fair to say that the sanctions have not been successful. During 1992 and 1993, the State Department did not admit this; rather, they referred to the expected ratcheting effect of the sanctions. If there was a ratcheting effect, the direction of movement was not observable. To estimate the effects of the sanctions, it would be useful to see if there were any noticeable changes in GNP or GDP after their imposition. The World Bank's

World Tables, a usually excellent source for these statistics, does not publish them for Libya for the period in question. Nor did Libya supply the usual non-monetary measures of economic well-being (e.g., literacy rate, infant mortality rate, etc.).

A letter to me from the State Department states: "There is solid evidence that sanctions have contributed to the economic difficulties associated with falling oil prices, and made some contribution to public discontent in Libya." I wish I had access to this "solid evidence." As I mentioned before, my knowledge comes mainly from the press and I have access to the various statistical volumes. World Bank statistics indicate that Libya had an annual negative growth rate of 3% for 1969 to 1989 - way before the U.N. sanctions were imposed; in fact, prior to the imposition of U.S. unilateral sanctions.

The "toughened" sanctions took so long to go into effect that Libya was able to move about \$6.5 billion into Third World banks so these assets couldn't be touched by the sanctions. Furthermore, the existence of foreign subsidiaries and affiliates makes it possible for U.S. companies to get around the sanctions, further lessening their effectiveness.³

Representative Lantos accurately summed up the effectiveness of present United States policy at the June 15, 1994 hearing of the House Committee On Foreign Affairs. In response to Assistant Secretary Pelletreau's statement: "Well, I can tell you ... that the administration is just as determined today as we were when that terrible disaster took place to see that justice...", Representative Lantos replied: "That's what I'm afraid of because that degree of determination has produced nothing in 5-1/2 years."

This hearing is also concerned with what future U.S. policies should be. Since most of Libya's revenues come from oil, it would seem that the best chance for success would be to place an oil embargo on Libya, which might necessitate the use of a naval blockade to ensure the enforcement of the embargo. This is certainly not a novel idea; it's been talked about so much that one wonders why no action has been taken. In December, 1992, Representative Hughes of New Jersey sent a letter to his colleagues asking that they sign on to a letter to President-elect Clinton requesting an oil embargo and a full inquiry into the roles of Syria and Iran in the bombing. On March 27, 1993 at a meeting of the Victims of Pan Am Flight 103, Senator Kennedy stated: "They (the sanctions) need to be strengthened, and strengthened substantially. The most effective way to do that is to impose an oil embargo against the Libyan regime." At a rally near the U.N. on March 22, 1993, Senator Lautenberg stated: "...Clearly the existing sanctions aren't enough of a penalty to force Libya to bring these men to justice. Short of military action, the best weapon we have is a unified oil embargo." At the same rally, Senator D'Amato vowed to work to push through an oil embargo; and Senator Moynihan sent a letter expressing support for such a move. On March 30, 1993, Secretary of State Christopher threatened Libya with a global oil embargo.

On April 8, 1993, the administration decided not to seek an oil embargo because it thought that such a move could not receive U.N. backing. On that day, Ambassador Albright issued a statement that the Security Council had decided to continue with the sanctions then in effect. She also stated: "Given Libya's intransigence, the United States is consulting with its partners on additional sanctions, should they be necessary to secure Libyan compliance. In particular, the United States will consider an oil embargo as one means of stiffening the present sanctions regime."

On May 21, 1993 a letter from thirteen Senators, (Lautenberg, Kennedy, Kerry, Mikulski, D'Amato, Grassley, Levin, Moynihan, Riegle, Liberman, and Dorgan) to President Clinton asked that Clinton accommodate the request of members of Pan Am Flight 103 to meet with him to discuss the sanctions. They wrote: "As you know, these families vigorously support an international oil embargo against Libya." A very clear statement in favor of an oil embargo was made by Senator Moynihan on July 1, 1993. As quoted in the Congressional Record: "They (sanctions) have not worked. More is needed. Much more. An oil embargo should be established at once. And I would cite, as Ambassador Albright did the President's dictum: we will act multilaterally where we can, but unilaterally where we must...." And on July 26, fifty-five Senators wrote to President Clinton: "We are writing to urge you to instruct our Mission to the United Nations to introduce a resolution imposing an international oil embargo against Libya when sanctions against that country are reviewed by the Security Council in August." Senate Resolution 165, sponsored by Senator Kennedy, was introduced on November 16; it states: "Resolved. That it is the sense of the Senate that the President should take all appropriate actions necessary to secure the compliance of the Government of Libya with United Nations Security Council Resolution 731, including, if necessary, the imposition of an embargo on oil produced in Libya." The resolution unanimously was passed.

A statement by the White House Press Secretary on December 3, 1993 includes the following: "The United States continues to believe that still stronger measures, including a world-wide oil embargo, should be enacted if Libya continues to defy the international community. We remain determined to ensure the perpetrators of these acts of terrorism are brought to justice. The families of the victims in the murderous Lockerbie bombing and other acts of Libyan terrorism deserve nothing less."

In spite of these statements (and many more in a similar vein), an oil embargo was not passed. Instead, we got the slightly strengthened sanctions of December 1 that I described before. I've mentioned previously that there is little hard economic evidence that the sanctions have seriously injured Libya; it has been in serious economic difficulties for many years. A more humorous statement of the inadequacy of the

sanctions was given in The Financial Times Business Reports on January 1, 1994: "Unless somebody tries to unload an entire second-hand refinery from, say, Houston, in large crates marked LIBYA - PERSONAL TO GADDAFI in red, it seems most unlikely that the sanctions business is going to have very much effect at all."

In a much less humorous vein, the article asks: "So why bother with it?...The questions of who really blew up flight 103 and why, have now been asked for five years. The assumption under which the UN sanctions have been imposed is that the British and the Americans know the answers to these questions. The problem is that they cannot reveal them until the two Libyans are brought to trial, because their evidence is obviously sub judice. All they can do is make ever increasingly determined pronouncements that it was Gaddafi's men that did it."

To add to the confusion of why sanctions are not bolstered by an oil embargo is the fact that oil prices are now at their lowest levels since more than five years ago. One argument heard against the oil embargo is that it would hurt our allies in Europe since Italy, Spain, France, Germany, and others are dependent on Libyan oil (and would explain why it is not possible to get Security Council backing). What better time to place an embargo on oil than when our allies have alternative cheap sources? Furthermore, North Sea oil is similar to the high-grade oil which Libya produces. There is an added dimension to the problem however. Some countries, including those who import Libyan oil, (e.g., Italy, Spain, Germany, France) have large investments in Libyan oil production and they would be adversely affected by an embargo, much as the United States was adversely affected when we stopped buying Libyan oil. There are two reasons why I feel that we should not consider this a legitimate argument against an oil embargo. First, these investor countries have had warnings of possible interference with their investments: some investments were made after the bombing when there was a feeling that the United States would retaliate in some way and investing in a country as volatile as Libya has been since 1969 does raise questions as to how protected foreign investments are. Secondly, if the oil embargo is successful, the adverse effects will be of a short-run duration; and there is the possibility that Libyan fortunes will be reversed as oil exports rise in the future. In the past, the United States could have exerted diplomatic pressure to ensure other countries cooperating with it, such as against Great Britain and France in the 1956 Suez Canal crisis. I doubt that we have that kind of leverage at this time.

In addition to placing an embargo on Libyan oil, I think future U.S. policy should become consistent. How does the world perceive that an attempted attack on ex-President Bush provoked a missile attack against Iraq, while a successful attack - i.e., one that murdered 270 people, 189 of them American - provoked some weak sanctions against Libya? Prior to the attempted assassination of Mr. Bush, various members of the government had

repeatedly told the families of the victims that unilateral action was out of the question; that we had to act through the Security Council. After the attack, I spoke with someone in the Public Affairs department of the State Department in an attempt to clarify the difference between the two situations. I learned that an attack against an ex-President is considered an attack against the U.S. government, while the bombing of Pan Am 103 was not considered an attack against the government. Not satisfied with this answer, I wrote the same question to a Senator and Secretary Christopher. There was no response from the Senator which was better than the response from the State Department. This letter provided one of the few laughs I have enjoyed since December 21, 1988. It consisted of two pages of beautifully written prose, not once referring to the distinction between the two situations.

At a State Department briefing held on June 28, 1993, Mr. McCurry, responding to a question concerning the lack of response to Pan Am 103 compared to the attempted attack on Mr. Bush stated: "But this was a different situation - an attack directed against the office of the presidency, and it required a response by the United States, a response that I think most of our partners in the world community readily understood." All I got out of that comment was that Americans are not equal in the eyes of the government.

Contrast the above statement to what President Clinton said at Arlington National Cemetery on December 21, 1993 when ground was broken for the cairn: "But I say to you today that our nation will never stop pursuing justice against those who caused it. For the attack on Pan Am 103 was an attack not only on the individuals from twenty-one different countries who were aboard that aircraft. It was, at root, an attack on America."¹⁰

I do not favor the use of military force, except when all other means of retaliation fail. I'm not 100% in agreement with the strike against Iraq. But what I do know is that an attack on America desperately requires some action stronger than ineffectual Security Council sanctions.

In light of the facts (1) the present Security Council sanctions are not effective, (2) there have been many calls for an oil embargo, if not under the auspices of the Security Council, then unilaterally by the United States, and (3) while some individuals have distinguished between Mr. Bush and the Flight 103 victims as being worthy of strong U.S. retaliation, President Clinton has stated that the bombing was an attack on America, this hearing must consider the basis for the governments' pitiful attempts to secure the release of the two Libyans to the United States, if it is to determine what are appropriate future policies.

Seven months prior to the indictments, an article in the Wall Street Journal stated: "The intelligence agencies' working theory is that Iran paid for the bombing, possibly to retaliate for the U.S. Navy's downing of an Iranian airline. They believe

the crime was masterminded on Iran's behalf by a Syrian-based Palestinian terror group close to President Hafez Assad. They further believe that the terror group, the Popular Front for the Liberation of Palestine-General Command, hired Libyan operatives to assemble and plant the bomb by concealing it in a suitcase on a connecting flight from Malta. Officials hint that the lowest-level thugs involved, the Libyans, are likely to be indicted."¹¹ On November 14, 1991, the Libyans were indicted. On the same day, Attorney General-designate William Barr stated: "This investigation is by no means over. It continues unabated. We will not rest until all those responsible are brought to justice, and we have no higher priority."¹¹

Let us assume that the government is successful in getting the Libyan suspects to the United States for trial. Furthermore assume that the Libyans are found guilty of having planted the bomb. Surely they will have the incentive to try to reduce their sentences by revealing the names of others who played some role in the bombing; they might implicate Syria and/or Iran. Will the United States benefit from this kind of revelation? For several years, the U.S. has been trying to get Syria to the bargaining table in the Mid-east peace talks. Naming Syria as an accomplice will certainly have an effect on Syria's willingness to participate in these talks. In addition, it has been suggested in the press that the U.S. and Great Britain purposely overlooked Iran and Syria to help obtain the 1991 release of a British hostage, Terry Waite, and an American, Thomas Sutherland, who had been held by pro-Iranian forces in Lebanon. Concerning this same point, there was an interesting article in The New York Times of June 8, 1994 which states: "President Hashemi Rafsanjani accused the United States today of renegeing on secret assurances that Iranian assets frozen by the United States would be freed in exchange for Iranian mediation to gain the release of American hostages in Lebanon.... In November, 1991, the United States and Iran reached an agreement under which the United States returned \$278 million for military claims by Iran, and the Bush Administration issued a statement clearing Iran of involvement in the bombing of a jetliner over Scotland in 1988, in which 270 people were killed...." I don't think the government would like it known to an even greater extent of its dealings with terrorist nations.

I fervently hope that I am wrong, but I believe the United States has not tried to get the extradition of the two accused Libyans, fearing unwelcome revelations about Syria and Iran. I have been in doubt about the government's veracity since shortly after the bombing; no one adequately answered my simple question - how come there were vacant seats on the flight and that five months earlier Kate had not been able to get a reservation on it. I again questioned the government's veracity after the indictments were handed down. I remember clearly the train ride from New York to the State Department meeting, reading the huge volume of material that had been sent to the families

explaining why Libya was the suspect, and I remember feeling like I had been hit over the head with a sledgehammer - as if the Government was saying YOU MUST BELIEVE IT WAS LIBYA. I had no objections to accepting the fact that two Libyans were responsible for placing the bomb on the plane, but I did have difficulty in accepting they were solely responsible.

I had difficulty accepting the fact that a terrorist would leave a diary where it could be found and that, furthermore, the diary was written in English. I had difficulty accepting the answers given to me at that meeting: not all terrorists are bright and there had been historically a strong English influence in Malta.

Since the policies of the government have not been designed to make the greatest effort to extradite the two, it seems that the government is not interested in having a trial that might reveal the real truth behind the bombing. Remember that the government is not squeaky clean about its involvement; safety precautions were not properly monitored and there will always be a question concerning the lack of notification about possible terrorist activities. Therefore, my view on future United States policy is simple: do something that is meaningful, starting with an oil embargo outside the auspices of the Security Council if necessary. The victims and their families deserve some real policies, not just a bunch of words. If not now, when?

1. The Wall Street Journal, April 23, 1992, "Gadhafi's Clipped Wings"
2. The Wall Street Journal, November 12, 1993
3. The New York Times, December 27, 1993, p A1
4. The Star Ledger, March 23, 1993, "Kin of Pan Am 103 victims asking Clinton for U.N. oil embargo on Libya"
5. The New York Times, March 31, 1993, "Christopher Signals a Tougher U.S. Line Toward Iran"
6. United States Mission to the United Nations, Press Release USUN 45-(93)
7. Congressional Record, November 16, 1993
8. U.S. Newswire, "Statement by White House Press Secretary on Libya Economic Sanctions"
9. The Financial Times Limited, Financial Times Business Reports, January 11, 1994
10. Victims of Pan Am Flight 103, Truth Quest, p. 1
11. The Wall Street Journal, April 29, 1991, Washington Insight
12. The New York Times, November 15, 1991, "U.S. Indicts 2 Libyans in Pan Am Blast"

STATEMENT TO THE PAN AM 103 HEARING
Subcommittee on International Security,
International Organizations
and Human Rights
July 28, 1994
by Susan Cohen

STATEMENT ON US POLICY ON PAN AM 103

My name is Susan Cohen. My daughter, Theodora was killed in the terrorist attack on Pan Am 103. She was a drama and music student at Syracuse University returning home for the holidays after spending a semester studying in London. She was twenty years old at the time of her death. She was attractive, talented and an American citizen. (1)

I would like to begin by talking about a subject that most people in Washington don't like to talk about, particularly now--the involvement of countries other than Libya in the Pan Am bombing. And by other countries I specifically mean Syria and Iran. For well over a year after the bombing we were told by absolutely everyone connected with the investigation that the prime suspect was the Syrian based and controlled terrorist group the Popular Front for the Liberation of Palestine the PFLP/GC.

This group, which has long been a favorite of Syria's dictator Hafez el Assad, was suspected for very good reasons. In October 1988, just two months before the Pan Am bombing members of the group were arrested in Germany. They had been plotting to blow up U.S. and Israeli airliners coming out of the Frankfurt airport using the plastic explosive Simtex packed inside of Toshiba radio cassette recorders. The PFLP/GC had bombed planes before. Pan Am 103 originated in Frankfurt and was blown up by a bomb made from Simtex packed inside a Toshiba radio cassette recorder. We were told that there was a great deal of intelligence information which indicated that the bombing had been commissioned by Iran in revenge for the accidental downing of an Iranian Airbus in July, 1988.

Even after evidence was discovered that indicated that it was Libyans who actually planted the bomb, and I must stress that I believe that the Libyans are guilty as charged, the theory was that Libya took over for Syria after the Syrians were arrested. That was the theory that held until the Persian Gulf crisis with Iraq. Then in George Bush's memorable words "The Syrians got a bum rap." The evidence against Syria didn't change. What had changed was U.S. policy toward Syria. Assad had become one of the good guys--a statesman rather than the terrorist and dictator that he had been just the day before.

Currently we are wooing Assad again, and questions about Syrian involvement in the bombing of Pan Am 103 are considered impolite in official Washington. If you ask them persistently, you don't get any answers; what you do get is the cold shoulder. Your phone calls aren't returned, your letters aren't answered and you don't get invited to State Department briefings.

What is going on here is an obvious and crude cover up. If Congress fails to ask the State Department the sort of questions that it should about Syrian involvement you have become part of the cover up. Perhaps there are those who believe that it is proper, even noble to sweep the truth about the murder of Americans under the rug in pursuit of other foreign policy goals, and a photo op on the White House lawn. If one of those murdered Americans is your only child you don't feel that way. And you hold all those who do in contempt.

As far as Libya is concerned it would be a mistake to regard U.S. policy as a failure. A more accurate word would be fraud. It is not a policy designed to seek justice for all those killed in the greatest terrorist attack against U.S. civilians in history. The policy is designed to allow government officials to claim that they are doing everything they can, when they are in fact doing absolutely nothing.

I have no way of knowing when the fraud began. It was certainly in operation by late 1990 when investigators had uncovered solid evidence

that the Libyans had actually placed the bomb. The response of the Bush Administration was to reduce the attack to an ordinary criminal matter, as if it were a drive by shooting. The case was referred to a grand jury. When the indictments finally emerged on November 14, 1991, the only suspects named were the two low level operatives.

After trivializing the atrocity the Bush Administration proceeded to internationalize it, by placing it in the hands of the U.N. Security Council--a black hole for international justice. Now the U.S. Government could distance itself even further from any responsibility by saying that we had to work within the framework of the U.N. Early in 1992 the Security Council passed some modest sanctions against Libya--no one thought that the sanctions would force the Gaddafi regime to surrender the two indicted suspects. Members of victims families were assured that these sanctions were only "the first step", and if the Libyans continued in their defiance more would be done. The Libyans continued in their defiance, and the Bush Administration left office without ever taking a second step.

The Clinton Administration arrived with a flurry of brave words. We were told, that the Administration would seek a total worldwide embargo on Libyan oil. At the ceremonies in Arlington National Cemetery last December 21, the fifth anniversary of the bombing, President Clinton said very clearly and unambiguously that the attack on Pan Am 103 was "an attack upon America."

In an earlier personal meeting with a few selected Pan Am 103 family members the President assured us of his deep and sincere commitment to bring justice to those who were murdered simply because they were Americans flying on an American plane.

The style of this Administration has been more humane than the often brutal callousness of the previous Administration. But in the end we have the walrus and the carpenter. The styles are different--the results are the same. The Clinton Administration has continued the same fraudulent Pan Am 103 policy.

After a great deal of huffing and puffing the U.S. managed to get a new sanctions resolution through the Security Council late last year. U.S. officials like to call the new sanctions "tough" and Ambassador Madeline Albright listed the new sanctions against Libya as one of her U.N. accomplishments for 1993. Calling that an accomplishment while keeping a straight face took real chutzpah. A description of how these extremely limited and difficult to enforce sanctions really operate can be found in the Financial Times. "Unless somebody tries to unload an entire second-hand refinery from say Houston, in large crates marked LIBYA-PERSONAL TO GADDAFI in red, it seems most unlikely that the sanctions business is going to have very much effect at all." And as we know these "tough" new sanctions have had absolutely no effect.

While the President, the Secretary of State and the head of the National Security Council have told us of the need to seek an embargo on Libyan oil those who are actually in charge of the operation tell a very different story.

Barbara Bodine who was, and perhaps still is, State Department coordinator for counterterrorism told Platt's Oilgram News, a respected oil industry publication "Because so many of our allies depend on Libyan crude we have to maintain some mechanism for [Libya] to sell it." In the same article she said, "We don't really see [Gaddafi] turning those people over any time soon." One gets the impression that the families are being fed comforting illusions by the President, while Ms. Bodine is quietly telling the oil industry, "just kidding".

When asked by a reporter at a State Department briefing what the "next step" against Libya would be Counsellor Tim Wirth said: "We just keep that pressure up, and then there'll be a review that comes around in about a year, we'll see where we've gotten on that front and, you know, what the nations of the--at the United Nations may want to do at that point." When we pressed his office on that statement we were told he didn't really mean what he said, but we were not told what he really did mean. In a personal meeting with Counsellor Wirth, just a few months ago he sounded more confused than ever.

Last month, in testimony before this subcommittee Assistant Secretary of State Robert Pelletreau could say only that "It may be required to examine the possibility of tightening the sanctions against Libya in the new review period. And we are beginning to examine that possibility. But what we are really looking for is compliance with the existing Security Council resolutions and a fair trial in the United States or the United Kingdom of those who have been accused of the Lockerbie disaster."

When pressed by Representative Lantos the best Mr. Pelletreau could do was say that the discussions "might include the possibility of a comprehensive oil embargo."

The Libyan sanctions come up in the Security Council next month. Does anyone in this room seriously think that a comprehensive oil embargo is on the table? Does anyone in this room believe that any significant tightening of the sanctions at all is on the table?

Despite assurances by Counsellor Wirth and others that Pan Am 103 is a major, "front burner" concern for the U.S., one does not have to deal with the State Department for long to realize that those who are supposed to be handling policy are, by and large, indifferent, ill informed and incompetent.

Let me give you two small examples. A few months ago The New York Times ran an editorial supporting a plan to try the Libyan suspects in the Hague, before a court of Scottish judges. This bizarre idea was dreamed up by a Scottish lawyer who is on the Libyan payroll. It will never be accepted, but the Libyans have been pushing it hard, and scoring points by posing as the reasonable party in the dispute.

Since one of the stated goals of U.S. policy is to try and develop an international consensus against Libya it would seem obvious that the U.S. would do everything possible to deny Libya a propaganda advantage. As soon as the Times editorial appeared I urged the State Department to issue a strong reply, perhaps a letter to the Times explaining why this sort of international trial was a bad idea. The people I talked to said, yes, a letter should be written. But they procrastinated, and finally I wrote a letter that was published in the Times. Weeks later the State Department did produce a reply to the Times, quite a good one. But it came so late, and was signed by such a low level official that it was never published. This is not the action of a government that is focused on a problem.

A little over a month ago a Palestinian terrorist on trial in Lebanon allegedly confessed to bombing Pan Am 103. The day that story broke I was getting calls from the media all over the world. I didn't know what to tell them. I called the State Department to find out what was going on. I was told that the confession may never have been made, that it was misinterpreted, that the fellow was lying, and that a U.S. official was going to try to interview him in Lebanon, if and when the Lebanese government approved. At last word the interview had not taken place. In the meantime

the lawyers for the two Libyans have been saying that this confession proves their clients are innocent. And a lot of people believe such claims. If you read the Scottish press--and Scotland is the most frequently mentioned site for the trial of the accused Libyans--you will find that most newspapers seem to think that Libya has been framed by the evil U.S. and British governments.

There is an international propaganda war going on. The U.S. is losing the war, and it doesn't seem to care, or even to know. As I said, indifferent, ill-informed and incompetent and I will add cruel.

So what can be done?

The U.S. could, of course, make determined effort to have a worldwide embargo on Libyan oil put through the Security Council. But even if the U.S. had a strong desire to make such a move, and there is no evidence such desire exists, it would probably fail. It took a great deal of effort just to get an ineffectual set of sanctions passed. It is unrealistic to assume that there would be enough votes for an embargo.

It has been suggested that we take the matter out of the U.N. and, with our European allies, impose an embargo. That would be fine with me. The matter should never have been brought before the U.N. in the first place. But could we really get our European allies to go along with an oil embargo? Even Britain and France, both of which have been the targets of Libyan terrorism, have resisted meaningful sanctions in the U.N. And countries like Italy, Germany, Austria and Spain which buy a lot of Libyan oil and have host of commercial ties with the Gaddafi regime, are sure to object. Does the U.S. have the clout, or the will to overcome such objections? I doubt it.

We could go it alone, and establish a naval blockade of Libya. Libya's oil wealth, the primary prop for the Gaddafi regime, flows through five Mediterranean oil terminals. The sixth Fleet undoubtedly possesses the capability to establish an effective blockade. If that was to become U.S. policy I would certainly support it enthusiastically.

But a blockade is a complicated and long-term military operation. It's slow to develop, expensive to maintain and there is always the possibility of some sort of unexpected international incident. We just have to think back to July 1988 when the U.S.S. Vincennes accidentally shot down an Iranian Airbus over the Persian Gulf, to see the sort of thing that might happen.

And then there is bombing. U.S. airstrikes could put the five Libyan oil terminals out of business for a long time. I do not pretend that this would be a "surgical" operation, with no civilian casualties. But it would not have to be a surprise attack. The Libyans could be warned that if they do not turn the suspects over by a certain date, bombing would commence. The strikes would be quick and highly effective. The U.S. public is very partial to policies that are quick and effective.

We have been told that threats of military action will never make Gaddafi yield, and that they would create sympathy for his regime among his own people, and other Arab countries. But now, Gaddafi is under no threat, and he has not yielded, he appears to be firmly in power, and he has been getting plenty of help from Egypt and neighboring Arab countries.

The harsh fact is that an outlaw regime like Libya will not yield except under the realistic threat of severe military action. As Doctor Johnson once said about the prospect of hanging, "it concentrates the mind wonderfully". Faced with the prospect of economic ruin, the Libyans might yield. Perhaps, if our European allies really believed we were serious, they would be willing to back the more modest policy of an oil embargo. And perhaps we would have to really carry out the threat.

There would be costs, of course. But the current policy of inaction is not without its own costs. The whole world sees that the U.S., the world's only remaining superpower, allows its citizens to be murdered by agents of a country that barely qualifies as third rate, and still does nothing about it. How does that look in Haiti, or North Korea or Bosnia or any one of half a dozen other trouble spots in the world? Do they respect our restraint or laugh at our cowardice?

It has been nearly six years now since my daughter and the others aboard Pan Am 103 were murdered. Not one single person has been brought to justice for the atrocity--not one. All we have ever been offered is soothing words, and excuses, lots of excuses. The real U.S. policy on Pan Am 103 has been, as I said at the start been a fraud. If the Congress does nothing, then you become participants in the fraud.

I know the Congress does not make foreign policy, but the Congress can bring plenty of influence to bear on those who do. Just politely listening to our complaints doesn't mean much. You can bring the policy makers before this committee, put them under oath and ask them the tough questions. And you all have enough experience to keep them from weaseling out. If you can't do that, then this hearing is an empty gesture.

TESTIMONY BY STEPHANIE L. BERNSTEIN
 to
 THE HOUSE FOREIGN AFFAIRS SUBCOMMITTEE ON INTERNATIONAL SECURITY,
 INTERNATIONAL ORGANIZATIONS and HUMAN RIGHTS
 JULY 28, 1994

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify today about U.S. foreign policy in the aftermath of the Lockerbie bombing, in which my husband, Michael S. Bernstein, was murdered. Mike was the Assistant Deputy Director of the Office of Special Investigations at the Department of Justice, and at the time of his murder was returning from Vienna, where he had been representing the Justice Department in negotiations with the Austrian government on deporting Nazi war criminals from the United States to Austria. It is ironic that my husband, whose job was to find, denaturalize, and deport those who carried out state-sponsored terrorism during World War II should lose his life at the hands of modern day terrorists.

What I have learned over the last five and a half years is that moving the foreign policy establishment and the White House toward policies which would help discover the truth about the Lockerbie bombing and punish those responsible is a Herculean task. I have discovered that other concerns, such as business interests and the Middle East peace process, have taken precedence over justice for the victims of one of the worst terrorist acts ever committed against a civilian target. These concerns transcend administrations, and will prevent us from obtaining any measure of justice unless Congress intervenes. The intransigence of the United States and our allies gives comfort to terrorists, who have learned since Lockerbie that when it comes to pursuing and punishing those who target innocent civilians we are not serious.

An example of how business interests, specifically those of major oil companies, have interfered in our efforts to obtain justice, is the issue of whether subsidiaries of U.S. companies should be permitted to do business with Libya. It is currently permissible under U.S. law, and the UN sanctions imposed on Libya, for these companies to do business with Libya. Companies are able to engage in oil refining activities in European countries, and can skirt the sanctions by shipping the oil to countries other than the U.S. The message this sends to Col. Gadhafi's regime is that obtaining justice for the Lockerbie victims will not interfere with business as usual. Although this could be changed with an Executive Order, the administration has refused to do so. In a letter to me dated June 13, 1994, Timothy Wirth, Under Secretary of State of Global Affairs, stated that such an Executive Order could "undermine the international consensus on UN sanctions against Libya." Mr. Wirth suggested, instead, that the Department of State write a letter to U.S. parent companies with subsidiaries operating in Libya, to ask that these companies stop doing business with Libya. "We hope," he wrote, "that this renewed appeal will bring about favorable results."

It strains credulity to think that a letter from the U.S. Department of State could bring results when it is not backed by the resolve of the administration to pursue the suspects on all fronts, not only legal and diplomatic ones. Our inability to take action in this, an area outside the confines of the United Nations, only strengthens the resolve of Col. Gadhafi not to turn over the suspects. Our lack of resolve, coupled with the proven failure of the UN sanctions to achieve the desired results, have encouraged other countries to violate the spirit, if not the letter of the sanctions, and to reinforce Col. Gadhafi's belief that Libya's oil, his Teflon shield, will continue to protect his regime. President Mubarak of Egypt, for example, on a recent visit to Libya, emphasized his hopes for future commercial ventures between the two countries, including a railroad to be built across Libya to Egypt, and a pipeline to carry Libyan oil to Egypt. President Mubarak's chief spokesman referred to the "unjust measures" to which Libya has been subjected as a result of the "so called Lockerbie crisis." During his visit, President Mubarak gave support as well to a disturbing proposal to turn the suspects over to Egypt, where they would be held until arrangements could be made for their trial in a country other than the U.S. or the UK, a clear violation of the UN sanctions.

It is time to take this issue out of the United Nations, to admit that this course has failed, and to seek other alternatives, with our allies, for forcing Col. Gadhafi to release the suspects. It is time for the United States, which lost 189 of its citizens in the Lockerbie bombing, to act as if it had a national interest to pursue. We must provide the leadership which will make it possible for our allies to join us, rather than throwing up our hands while we wait for

consensus to emerge. We must have the courage to stand up to business interests in the United States and throughout the world and say that commerce with countries which have been state sponsors of terrorism is not good business. If countries such as Libya, Iran, and Syria are made to pay a stiff price for their murderous activities, then the message we will send is that murder will not mean business as usual.

Our relationship with Syria in regard to the Lockerbie bombing has been another foreign policy failure. Family members have been told repeatedly that there is no "evidence" of Syrian involvement in the bombing, and that in the infamous words of former President Bush Syria received a "bum rap" in the Lockerbie case. Despite voluminous information to the contrary, some of which will be presented to this Committee today, our government has turned a deaf ear to our plea to pursue the trail of the bombers wherever it will lead. The interests of justice have taken a back seat for the last five and one half years to the Gulf War and the Middle East peace process. A steady stream of U.S. officials has turned President Assad's favor, while providing no meaningful incentive for him to cooperate in the Lockerbie investigation. Each year, family members of the Lockerbie victims have had to work hard to see that Syria is not removed from the list of countries which are state sponsors of terrorism. Earlier this year, we defeated an attempt to remove Syria from the list of countries which support narcotics trafficking, even though Syria bears responsibility for what a 1992 congressional subcommittee staff report called "a considerable amount of the heroin on our streets". Profits from narcotics trafficking are used by the Syrians to support terrorist groups based in the Middle East and Latin America.

What drives the efforts and concern of family members of Lockerbie victims? In addition to wanting some measure of justice for our loved ones, we want to make it more difficult for countries which sponsor terrorist groups to participate in the political and commercial affairs of peace loving nations. State sponsors of terrorism contribute to de-stabilization throughout the world. As the World Trade Center bombing, the UTA bombing, and recent terrorist acts in Argentina and Panama have demonstrated, state-sponsored terrorism is alive and well. It is our challenge to provide a less hospitable environment for it to flourish.

The importance of justice for the victims of terrorism cannot be overstated; it is intimately bound to peace. Rabban Simeon ben Gamaliel wrote, in Deuteronomy Rabbah (5th century Biblical commentary):

"Do not make a mockery of justice, for it is one of the three pillars of the world. Why? Because our sages taught: 'On three things the world stands: on justice, on truth, and on peace.' Know then, that if you pervert justice, you shake the world, for justice is one of its pillars."

Please join us in working for justice for our loved ones, and for all victims of terrorism.

Thank you

TESTIMONY

APHRODITE TSAIRIS

BOARD MEMBER & CHAIR, TERRORISM WATCH COMMITTEE

THE VICTIMS OF PAN AM FLIGHT 103

HOUSE COMMITTEE ON FOREIGN AFFAIRS

SUBCOMMITTEE ON INTERNATIONAL SECURITY, INTERNATIONAL ORGANIZATIONS

& HUMAN RIGHTS

JULY 28, 1994

Chairman Lantos, distinguished members of the subcommittee, and concerned members of the full Foreign Affairs Committee who took the time and effort to be here today.

I appreciate the opportunity to speak at this hearing. As you listen to my words, however, I ask that you keep one thought uppermost in your minds. You will hear only my voice, a single voice, but that voice echoes and reverberates with the personal anguish, vanished hopes, dashed expectations and frustrating concerns of the 300 family members in our organization entitled, *The Victims of Pan Am Flight 103*. Our family group operates very much like this austere body - by ascribing to the democratic spirit of consensus. My testimony here today is my very best effort to bring to you a collective sense of many victims' families. I ask only that, as I speak, you envision the many families who were not permitted to speak here today and have entrusted in me the task of speaking for them. I do not take this task and responsibility lightly. And therefore, I ask that you give my testimony the import and weight that it deserves.

With the bombing of Pan Am Flight 103, I became a victim of terrorism. I share this label with a legion of heroic innocent people who came before our event and, unfortunately, a growing number of innocent people world wide who continue to join our ranks. Just recently, we have had to include the families lost in the brutal bombing in Argentina and those on the Panamanian commuter plane. The list gets longer as the world continues to be a volatile and dangerous place. This ongoing violence masquerading as "foreign policy" is a direct threat to the stability of the world. It has been said that, "Injustice anywhere is a threat to justice everywhere."

In the 5 1/2 years since the murder of my 20 year old daughter, Alexia, along with 188 other Americans, many whose families are here today, and 81 citizens from other countries, I never thought I would be able to say that something fortuitous came from that awful bombing. Because of poor planning or bad luck on the part of the terrorists, or because of quirks in the weather on that stormy night, the nefarious plan to bring down an American air carrier became a reality that left a vast body of physical evidence scattered over the hills of Lockerbie and its pastoral environs for 800 square miles. This fact, and this fact alone, launched the largest international criminal investigation ever conducted. Had the bomb exploded 10 minutes later, the *Maid of the Seas* would have been destroyed over the ocean taking with it any hope of remains or evidence.

This painstaking investigation took 2 years. It culminated in indictments from two nations, The United States and Great Britain, against two named Libyan operatives along with several unnamed others who remain protected in Libya by their leader and co-conspirator, Col. Muammar Qaddafi.

-We are here today, almost 6 years later, to examine why our government's policy on this issue has failed so miserably in effecting their release.

-We are here to ask where is the national will to stop terrorism.

-We are here today not just for our lost loved ones but for the preservation of our nation's freedoms. If state-sponsored terrorism in any form is not effectively deterred the toll will not only be in American human life but will affect the economy of this nation as it conducts its global business.

-We are here today to urge you, our representatives, to pressure the Clinton administration into taking immediate and definitive unilateral action to defend the sovereignty of this nation.

-We are here today to ask that we change course in response to the Libyan stalemate.

-We are here today to ask you to help us to do that.

Most importantly, we are NOT here today to open a Pandora's box of conjectures and supposition theories desperately trying to implicate other nations. Mr. Chairman, this forum should have been singularly

focused on the Libyan/American agenda. If you and this committee do not believe in the indictments, then, the Justice Department should have been invited before you to give testimony as to the validity and precedence of this criminal case. Recently, at our request, Attorney General Reno met privately with Chief Constable George Esson just before his retirement. We asked for that meeting for the express purpose of personally engaging this Attorney General to the merits and solidity of the evidence. The Attorney General assured us that there was no doubt in her mind. It is unfortunate that you do not concur.

My position and that of the family organization I represent is very clear. The Libyans have been indicted. Let us see this to its logical conclusion. When all the evidentiary material has been presented in the appropriate court of law, then and only then can an accurate judgement be made if others are implicated. It serves no purpose to muddy the waters with conspiracy theories and conjecture against other nations or individuals. In fact, to continue to accuse Syria, Iran or any others without producing any factual information in support does a tremendous disservice to the rule of law and the search for justice. We did not ask for this case to be put in the criminal arena. It was our contention that it was a political problem of state-sponsored terrorism from the onset. However, that decision was made; now the rule of law must stand. The trial against the Libyans must go forward unimpeded by any American who seeks justice.

There is universal agreement that many terrorist organizations were intent on destroying civilian air carriers in the fall of 1988. Syrian-based terrorists were implicated in the first days following the Pan Am 103 bombing because they had been thwarted and exposed, just a few months earlier, by a German surveillance operation called "Autumn Leaves." A compelling case can be made that suggests that the Syrian-based terrorists, having failed, then decided to "pass off" the job to another terrorist group. In this case, Libya. Perhaps, this is true. If the Lockerbie case is properly adjudicated the implication of Syria and others may ultimately be proven. But, until there is a full disclosure of all the compiled evidence, there is no documentable proof that will hold up in a court of law or to the public scrutiny of the world community of nations that implicates Syria or anyone other than Libya. If there is proof, let it come forward today so that we can end this exercise in futility once and for all. It serves no purpose for anyone who seeks justice to confuse this issue with conspiracy theories that, to date, have no documentation. Theories will result in NO governmental action but rather serve only to diffuse the thrust, and dilute the import of this case. Suggestions and allegations but no proof of implicating Syria play right into Qaddafi's plan of turning public opinion in order to rid himself of this "troublesome" problem. He scores propaganda points with each review of the UN sanctions. Lack of focus and resolve just provide forums for this terrorist dictator and fodder for opportunistic legislators and the media. Meanwhile, the families wait, Americans are lulled into a false sense of security while our government is content to subordinate this case by keeping it in a United Nations forum that has shown little conviction or resolve on this issue.

The Lockerbie investigation found hard, unequivocal evidence that the Toshiba radio cassette recorder found in the rubble of Pan Am 103 had a detonator triggered by a timer. The purchase of this detonator was firmly linked to Libya. The radio recorder bomb was deposited in a suitcase into the Pan Am system via Air Malta by two named and indicted Libyan operatives. The Toshiba radio cassette recorders confiscated from the Syrian group were distinctly different in that they had barometric detonators. These are incontestable facts that provide part of the framework of the Libyan indictments.

Where are we today, 2 1/2 years since the indictments? The progress of the Lockerbie case began to falter right after indictments were handed down in November of 91. The Bush administration, now armed with the overwhelmingly damning evidence put forth in the indictments showing this to be a premeditated, blatant and brutal attack by Libya against innocent Americans on an American air carrier, decided, for very specious reasons, not to take fully-warranted, justifiable and supportable unilateral

action to protect its sovereignty. We, as a nation, have every right to do so. Nearly 3/4 of the victims were American on an American plane. There is a rule in the UN charter that provides for nations to defend and protect themselves from attack. However, Mr. Bush chose instead to put this case before the United Nations Security Council. What resulted were precedent-setting but little-used Chapter VII sanctions against the Libyan regime of Muammar Qaddafi until the two indicted Libyans are given up for trial in the United States or Scotland. And there, in the guagmire of the national self-interests of foes and allies alike, the Lockerbie case has been languishing for over 2 1/2 years. Dragging with it the public image that the United States has lost its stature as a strong and effective leader for democracy and the rule of law. It has been said that "the price of justice is eternal publicity." Our public persona in the international arena on this case has been lackluster, unfocused and severely compromised - not very good p.r. by any standards. A long line of cases shows that it is not merely of some importance, but is of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done. One of your illustrious colleagues once said, "extremism in the defense of liberty is no vice and moderation in the pursuit of justice is no virtue." We seemed to have lost that yankee resolve and conviction that have been the prided hallmarks of our American ethos.

A continuance of weak U.S. policy and actions against Libya only serve to enhance the terrorist network and their view that the United States can be attacked with impunity. This approach has and will result in further attacks against the US. The brazenly bold World Trade Center bombing, and the uncovering of an even more extensive bombing plot to destroy other NYC landmarks occurred after the Pan Am 103 disaster. Most recently, the mysterious disappearance of Libyan dissident, Mansour Kikhiya, has Libyan fingerprints all over it. So, we are not winning the war against terrorism but rather, we are still reacting to each incident with perfunctory outrage and bluster but no teeth or creditable and meaningful deterrents. One needs to ask what U.S. interests are being served by following the policy of limited United Nations multilateral sanctions against Libya which appear to have little chance of achieving success, that is, securing and punishing the perpetrators of this crime.

With the advent of the Clinton administration, there was hope that a fresh look, with renewed vigor, would bring this case to its rightful conclusion. Last December, at the site dedication for the Memorial Cairn in Arlington Cemetery, there was some hopeful exhilaration when President Clinton said, "our nation will never stop pursuing justice against those who caused it; for the attack on Pan Am 103 was an attack not only on the individuals from 21 different countries who were aboard the aircraft, it was an attack on America." It appears to have been just hollow rhetoric. We are not on President Clinton's short list of foreign policy issues that really matter to America today. His short list, if he has one, reads more like an encyclopedia of the hot spots of the world. Our issue is constantly being replaced by new and, what appear to be, more pressing matters. What is worrisome, too, is that Mr. Clinton's administration repeatedly fails to stand by its promises. How can anyone in government today look a family member in the eye and say we are doing all we can.

President Clinton came to office with a distinct domestic agenda. But the point can be made that of all the international issues confronting the White House today, Libya is the only legitimate domestic one. This is the only issue that involved the death of Americans. No Americans died in Haiti, Somalia, Kuwait, Rwanda, Panama, or Bosnia before we took action. Our government's uppermost responsibility is the protection of its citizens, not political expediency and selective morality.

The Bush and, now, the Clinton administrations feel that their slow and steady course in this matter is a correct one. They are eager to point out that all the efforts made by Col. Qaddafi to get out from under the sanctions mean that their course is taking hold. I would suggest that in their weak form the sanctions are no more than a nuisance to him. The sanctions are aimed at hurting the Libyan people not the government.

Moreover, Qaddafi sees the handwriting on the wall at the Security Council and knows full well that the United States has no power base with which to ratchet up the sanctions to multilateral oil embargo status. Additionally, he is assessing the weakened condition of the Clinton foreign policy machine, he is noting the fickle nature of our allied alliances and, ultimately, Col. Qaddafi is gambling on the fact that President Clinton will do nothing unilaterally. In the interim, Qaddafi will let time take its toll while capitalizing on the propaganda of choosing unrealistic neutral sites for a trial as a delaying tactic. In this war of rhetoric, Col Qaddafi can accurately claim to be winning the battle against the United States.

This week, our organization, **The Victims of Pan Am Flight 103**, met with national Security Advisor, Anthony Lake at The White House and with Under Secretary Timothy Wirth at the State Department. In both meetings, it was clear that the current policy of sanctions, even though unproductive to date, is to be the policy for the future. We, **The Victims of Pan Am Flight 103**, know this policy is ineffective, our government knows this policy has not been successful, most importantly, Libya knows this policy is non-threatening.

The most practical, judicious and expedient way to bring this case to its rightful conclusion is to press President Clinton and his administration into action on the Libyan stalemate - unilaterally. A criminal case does not withstand the test of time. A criminal body of evidence of this magnitude suffers greatly from the passage of time - witnesses die, they recant, they forget - it is extraordinarily difficult to maintain the optimum integrity of any investigation beyond a reasonable limit. "Justice delayed is justice denied." The weak UN sanctions have proven ineffective. We ask that President Clinton step up to the issue and order an oil embargo and US naval interdiction of Libyan oil. This is the only thing that will reach Qaddafi where he is most vulnerable. Certainly, we should ask and expect our sometime allies to join us but, if they choose not, we have the wherewithal to go it alone. And, we must. This is an American issue.

Finally, Mr. Chairman, and members of the committee, As I sat down to prepare testimony for this hearing, I recalled how many times I have done it before, how much time has passed and how little has been done to end this woeful and disgraceful chapter in American history. With all due respect, I ask you, why is it that I have to reach down into the depths of my sorrow repeatedly in order to make my government do what it is suppose to do. Defend its sovereignty and guarantee our freedoms.

The Victims of Pan Am Flight 103

Airline Staff

Cockpit Crew

Captain: MacQuarrie, James Bruce, 55, Kensington, New Hampshire. American

First Officer: Wagner, Raymond Ronald, 52, Pennington, New Jersey. American

First Engineer: Avritt, Jerry Don, 46, Westminster, California. American

Pursers

Murphy, Mary Geraldine, 51, Twickenham, England. British

Velimirovich, Milutin, 35, Hounslow, England. American

Flight Attendants

Avoyne, Elisabeth Nichole, 44, Croissy-sur-Seine, France. French

Berti, Noelle Lydie, 41, Paris, France. American

Engstom, Siv Ulla, 51, Windsor, England. Swedish

Franklin, Stacie Denise, 20, San Diego, California. American

Garrett, Paul Issac, 41, Napa, California. American

Kuhne, Elke Ehta, 43, Hanover, West Germany. West German

Larracochea, Maria Nieves, 39, Madrid, Spain. Spanish

Macalooloy, Lilibeth Tobila, 27, Kelsterbach, West Germany. American

Reina, Jocelyn, 26, Isleworth, England. American

Royal, Myra Josephine, 30, Hanwell, London, England. American

Skabo, Irja Synove, 38, Oslo, Norway. Finnish

Passengers

Ahern, John Michael Gerard, 26, Rockville Center, New York. American

Aicher, Sarah Margaret, 29, London, England. American

Akerstrom, John David, 34, Medina, Ohio. American

Alexander, Ronald Ely, 46, New York, New York. Swiss

Ammerman, Thomas Joseph, 36, Old Tappan, New Jersey. American

Apfelbaum, Martin Lewis, 59, Philadelphia, Pennsylvania. American

Asrelesky, Rachel Marie, 21, New York, New York. American

Atkinson, William Garreston, 33, London, England. American

Bacciochi, Clare Louise, 19, Tamworth, England. British

Bainbridge, Harry Michael, 34, Montrose, New York. American

Barclay, Stuart Murray, 29, Farm Barnard, Vermont. Canadian

- Bell, Jean Mary, 44, Windsor, England. British
- Benello, Julian MacBain, 25, Brookline, Massachusetts. American
- Bennett, Lawrence Rav, 41, Chelsea, Michigan. American
- Bergstrom, Philip, 22, Forest Lake, Minnesota. American
- Berkley, Alistair, 29, London, England. British
- Bernstein, Judith Ellen, 37, London, England. American
- Bernstein, Michael Stuart, 36, Bethesda, Maryland. American
- Berrell, Steven Russell, 20, Fargo, North Dakota. American
- Bhatia, Surinder Mohan, 51, Los Angeles, California. American
- Bissett, Keneth John, 21, Hartsdale, New York. American
- Boatmon-Fuller, Diane, 35, London, England. American
- Boland, Stephen John, 20, Nashua, New Hampshire. American
- Bouckley, Glenn, 27, Liverpool, New York. British
- Bouckley, Paula, 29, Liverpool, New York. American
- Boulanger, Nicole Elise, 21, Shrewsbury, Massachusetts. American
- Boyer, Francis, 43, Toulosane, France. French
- Bright, Nicholas, 32, Brookline, Massachusetts. American
- Browner (Bier), Daniel Solomon, 23, Parod, Israel. Israeli
- Brunner, Colleen Renee, 20, Hamburg, New York. American
- Burman, Timothy Guy, 24, London, England. British
- Buser, Michael Warren, 34, Ridgefield Park, New Jersey. American
- Buser, Warren Max, 62, Glen Rock, New Jersey. American
- Butler, Steven Lee, 35, Denver, Colorado. American
- Cadman, William Martin, 32, London, England. British
- Caffarone, Fabiana, 28, London, England. British
- Caffarone, Hernan, 28, London, England. Argentinian
- Canady, Valerie, 25, Morgantown, West Virginia. American
- Capasso, Gregory, 21, Brooklyn, New York. American
- Cardwell, Timothy Michael, 21, Cresco, Pennsylvania. American
- Carlsson, Brent Wilson, 50, New York, New York. Swedish
- Cawley, Richard Anthony, 43, New York, New York. American
- Ciulla, Frank, 45, Park Ridge, New Jersey. American
- Cohen, Theodora Eugenia, 20, Port Jervis, New York. American
- Coker, Eric Michael, 20, Mendham, New Jersey. American
- Coker, Jason Michael, 20, Mendham, New Jersey. American
- Colasanti, Gary Leonard, 20, Melrose, Massachusetts. American
- Concannon, Bridget, 53, Banbury, England. Irish
- Concannon, Sean, 16, Banbury, England. Irish
- Concannon, Thomas, 51, Banbury, England. Irish
- Corner, Tracey Jane, 17, Millhouses, England. British
- Cory, Scott, 20, Old Lyme Court, Connecticut. American
- Coursey, Willis Larry, 40, San Antonio, Texas. American
- Coyle, Patricia Mary, 20, Wallingford, Connecticut. American
- Cummock, John Binning, 38, Coral Gables, Florida. American

- Curry, Joseph Patrick, 31, Fort Devens, Massachusetts. American
- Daniels, William Allen, 40, Bell Mead, New Jersey. American
- Dater, Gretchen Joyce, 20, Ramsey, New Jersey. American
- Davis, Shannon, 19, Shelton, Connecticut. American
- Della Ripa, Gabriel, 46, Floral Park, New York. Italian
- Di Mauro, Joyce Christine, 32, New York, New York. American
- Di Nardo, Gianfranca, 26, London, England. Italian
- Dix, Peter Thomas Stanley, 35, London, England. Irish
- Dixit, Om, 54, Fairborn, Ohio. Indian
- Dixit, Shanti, 54, Fairborn, Ohio. American
- Dornstein, David Scott, 25, Philadelphia, Pennsylvania. American
- Doyle, Michael Joseph, 30, Voorhees, New Jersey. American
- Eggleston, Edgar Howard III, 24, Glens Falls, New York. American
- Ergin, Turhan, 22, West Hartford, Connecticut. American
- Fisher, Charles Thomas IV, 34, London, England. American
- Flick, Clayton Lee, 25, Coventry, England. British
- Flynn, John Patrick, 21, Montville, New Jersey. American
- Fondiler, Arthur, 33, West Armonk, New York. American
- Fortune, Robert Gerard, 40, Jackson Heights, New York. American
- Freeman, Paul Matthew Stephen, 25, London, England. Canadian
- Fuller, James Ralph, 50, Bloomfield Hills, Michigan. American
- Gabor, Ibolya Robertine, 79, Budapest, Hungary. Hungarian
- Gallagher, Amy Beth, 22, Quebec, Canada. American
- Gannon, Matthew Kevin, 34, Los Angeles, California. American
- Garczynski, Kenneth Raymond, 37, North Brunswick, New Jersey. American
- Gibson, Kenneth James, 20, Romulus, Michigan. American
- Giebler, William David, 29, London, England. American
- Gordon, Olive Leonora, 25, London, England. British
- Gordon-Gorgacz, Linda Susan, 39, London, England. American
- Gorgacz, Anne Madelene, 76, Newcastle, Pennsylvania. American
- Gorgacz, Loretta Anne, 47, Newcastle, Pennsylvania. American
- Gould, David, 45, Pittsburgh, Pennsylvania. American
- Guevorguian, André Nikolai, 32, Sea Cliff, New York. American
- Hall, Nicola Jane, 23, Sandton, South Africa. Australian
- Halsch, Lorraine Frances, 31, Fairport, New York. American
- Hartunian, Lynne Carol, 21, Schenectady, New York. American
- Hawkins, Anthony Lacey, 57, Brooklyn, New York. British
- Herbert, Pamela Elaine, 19, Battle Creek, Michigan. American
- Hilbert, Rodney Peter, 40, Newton, Pennsylvania. American
- Hill, Alfred, 29, Sonthofen, West Germany. West German
- Hollister, Katherine Augusta, 20, Rego Park, New York. American
- Hudson, Josephine, 22, London, England. British
- Hudson, Melina, 16, Albany, New York. American
- Hudson, Sophie Ailette Miriam, 26, Paris, France. French
- Hunt, Karen Lee, 20, Webster, New York. American

- Hurst, Roger Elwood, 38, Ringwood, New Jersey. American
- Ivell, Elizabeth Sophie, 19, Robertsbridge, England. British
- Jaafar, Khalid Nazir, 20, Dearborn, Michigan. Lebanese/American
- Jeck, Robert van Houten, 57, Mountain Lakes, New Jersey. American
- Jeffreys, Paul Avron, 36, Kingston-upon-Thames, England. British
- Jeffreys, Rachel, 23, Kingston-upon-Thames, England. British
- Jermyn, Kathleen Mary, 20, Staten Island, New York. American
- Johnson, Beth Ann, 21, Greensburg, Pennsylvania. American
- Johnson, Mary Alice Lincoln, 25, Wayland, Massachusetts. American
- Johnson, Timothy Baron, 21, Neptune, New Jersey. American
- Jones, Christopher Andrew, 20, Claverack, New York. American
- Kelly, Julianne Frances, 20, Dedham, Massachusetts. American
- Kingham, Jay Joseph, 44, Potomac, Maryland. American
- Klein, Patricia Ann, 35, Trenton, New Jersey. American
- Kosmowski, Gregory, 40, Milford, Michigan. American
- Kulukundis, Minas Christopher, 38, London, England. British
- Lariviere, Ronald Albert, 33, Alexandria, Virginia. American
- Leckburg, Robert Milton, 30, Piscataway, New Jersey. American
- Leyrer, William Chase, 46, Bay Shore, New York. American
- Lichtenstein, Joan Sherree, 46, New York, New York. American
- Lincoln, Wendy Anne, 23, North Adams, Massachusetts. American
- Lowenstein, Alexander Silas, 21, Morristown, New Jersey. American
- Ludlow, Lloyd David, 41, Macksville, Kansas. American
- Lurbke, Maria Theresia, 25, Balve Beckum, West Germany. West German
- McAllister, William John, 26, Sunbury-on-Thames, England. British
- McCarthy, Daniel Emmet, 31, Brooklyn, New York. American
- McCollum, Robert Eugene, 61, Wayne, Pennsylvania. American
- McKee, Charles Dennis, 40, Arlington, Virginia. American
- McLaughlin, Bernard Joseph, 30, Bristol, England. American
- Mack, William Edward, 30, New York, New York. American
- Malicote, Douglas Eugene, 22, Lebanon, Ohio. American
- Malicote, Wendy Gay, 21, Lebanon, Ohio. American
- Marek, Elizabeth Lillian, 30, New York, New York. American
- Marengo, Louis Anthony, 33, Rochester, Michigan. American
- Martin, Noel George, 27, Clapton, England. Jamaican
- Maslowski, Diane Marie, 30, New York, New York. American
- Melber, Jane Susan, 27, Middlesex, England. American
- Merrill, John, 35, Hertfordshire, England. British
- Miazga, Susanne Marie, 22, Marcy, New York. American
- Miller, Joseph Kenneth, 53, Woodmere, New York. American
- Mitchell, Jewel Courtney, 32, Brooklyn, New York. American
- Monetti, Richard Paul, 20, Cherry Hill, New Jersey. American
- Morgan, Jane Ann, 37, London, England. American
- Morson, Eva Ingeborg, 48, New York, New York. American

- Mosev, Helga Rachael, 19, Warley, England. British
- Mulroy, Ingrid Elizabeth, 25, Lund, Sweden. Swedish
- Mulroy, John, 59, East Northport, New York. American
- Mulroy, Sean Kevin, 25, Lund, Sweden. American
- Noonan, Karen Elizabeth, 20, Potomac, Maryland. American
- O'Connor, Daniel Emmett, 31, Boston, Massachusetts. American
- O'Neil, Mary Denice, 21, Bronx, New York. American
- Otenasek, Anne Lindsey, 21, Baltimore, Maryland. American
- Owen, Bryony Elise, 1, Bristol, England. British
- Owen, Gwyneth Yvonne Margaret, 29, Bristol, England. British
- Owens, Laura Abigail, 8, Cherry Hill, New Jersey. American
- Owens, Martha, 44, Cherry Hill, New Jersey. American
- Owens, Robert Plack, 45, Cherry Hill, New Jersey. American
- Owens, Sarah Rebecca, 14, Cherry Hill, New Jersey. American
- Pagnucco, Robert Italo, 51, South Salem, New York. American
- Papadopoulos, Christos Michael, 45, Lawrence, New York. Greek/American
- Peirce, Peter Raymond, 40, Perrysburg, Ohio. American
- Pescatore, Michael, 33, Solon, Ohio. American
- Philipps, Sarah Susannah Buchanan, 20, Newtonville, Massachusetts. American
- Phillips, Frederick Sandford, 27, Little Rock, Arkansas. American
- Pitt, James Andrew Campbell, 24, South Hadley, Massachusetts. American
- Platt, David, 33, Staten Island, New York. American
- Porter, Walter Leonard, 35, Brooklyn, New York. American
- Posen, Pamela Lynn, 20, Harrison, New York. American
- Pugh, William, 56, Margate, New Jersey. American
- Quiguyan, Estrella Crisostomo, 43, London, England. Filipino
- Ramses, Rajesh Tarsis Priskel, 35, Leicester, England. Indian
- Rattan, Anmol, 2, Warren, Michigan. American
- Rattan, Garima, 29, Warren, Michigan. American
- Rattan, Suruchi, 3, Warren, Michigan. American
- Reeves, Anita Lynn, 24, Laurel, Maryland. American
- Rein, Mark Alan, 44, New York, New York. American
- Rencevicz, Diane Marie, 21, Burlington, New Jersey. American
- Rogers, Louise Ann, 20, Olney, Maryland. American
- Roller, Edina, 5, Hungary. Hungarian
- Roller, Janos Gabor, 29, Hungary. Hungarian
- Roller, Zsuzsana, 27, Hungary. Hungarian
- Root, Hanne Maria, 26, Toronto, Canada. Canadian
- Rosen, Saul Mark, 35, Morris Plains, New Jersey. American
- Rosenthal, Andrea Victoria, 20, New York, New York. American
- Rosenthal, Daniel Peter, 20, Staten Island, New York. American
- Rubin, Arnaud David, 28, Waterloo, Belgium. Belgian
- Saraceni, Elyse Jeanne, 20, East London, England. American
- Saunders, Scott Christopher, 21, Macungie, Pennsylvania. American
- Saunders, Theresa Elizabeth, 28, Sunbury-on-Thames, England. British

- Schauble, Johannes Otto, 41, Kappellenweg, West Germany. West German
- Schlageter, Robert Thomas, 20, Warwick, Rhode Island. American
- Schultz, Thomas Britton, 20, Ridgefield, Connecticut. American
- Scott, Sally Elizabeth, 20, Huntington, New York. British
- Shapiro, Amy Elizabeth, 21, Stamford, Connecticut. American
- Shastri, Mridula, 24, Oxford, England. Indian
- Sigal, Irving Stanley, 35, Pennington, New Jersey. American
- Simpson, Martin Bernard Carruthers, 52, Brooklyn, New York. American
- Smith, Cynthia Joan, 21, Milton, Massachusetts. American
- Smith, Ingrid Anita, 31, Berkshire, England. British
- Smith, James Alvin, 55, New York, New York. American
- Smith, Mary Edna, 34, Kalamazoo, Michigan. American
- Stevenson, Geraldine Anne, 37, Esher, England. British
- Stevenson, Hannah Louise, 10, Esher, England. British
- Stevenson, John Charles, 38, Esher, England. British
- Stevenson, Rachael, 8, Esher, England. British
- Stinnett, Charlotte Ann, 36, New York, New York. American
- Stinnett, Michael Gary, 26, Duncanville, Texas. American
- Stinnett, Stacey Leeanne, 9, Duncanville, Texas. American
- Stow, James Ralph, 49, New York, New York. American
- Stratis, Elia G., 43, Montvale, New Jersey. American
- Swan, Anthony Selwyn, 29, Brooklyn, New York. Trinidadian
- Swire, Flora Margaret, 24, London, England. British
- Tager, Marc Alex, 22, London, England. British
- Tanaka, Hidekazu, 26, London, England. Japanese
- Teran, Andrew Alexander, 20, New Haven, Connecticut. British/Peruvian
- Thomas, Arva Anthony, 17, Detroit, Michigan. American
- Thomas, Jonathan Ryan, 2 months, Southfield, Michigan. American
- Thomas, Lawanda, 21, Southfield, Michigan. American
- Tobin, Mark Lawrence, 21, North Hempstead, New York. American
- Trimmer-Smith, David William, 51, New York, New York. American
- Tsairis, Alexia Kathryn, 20, Franklin Lakes, New Jersey. American
- Valentino, Barry Joseph, 28, San Francisco, California. American
- van Tienhoven, Thomas Floro, 45, Buenos Aires, Argentina. Argentinian
- Vejdany, Asaad Eidi, 46, Great Neck, New York. American
- Vrenios, Nicholas Andreas, 20, Washington, D.C. American
- Vulcu, Peter, 21, Alliance, Ohio. American
- Waido, Janina Jozefa, 61, Chicago, Illinois. American
- Walker, Thomas Edwin, 47, Quincy, Massachusetts. American
- Weedon, Keshia, 20, Bronx, New York. American
- Weston, Jerome Lee, 45, Baldwin, New York. American
- White, Jonathan, 33, North Hollywood, California. American
- Williams, Bonnie Leigh, 21, Crown Point, New York. American
- Williams, Brittany Leigh, 2 months, Crown Point, New York. American
- Williams, Eric Jon, 24, Crown Point, New York. American

Williams, George Waterson, 24, Joppa, Maryland. American

Williams, Stephanie Leigh, 1, Crown Point, New York. American

Wolfe, Miriam Luby, 20, Severna Park, Maryland. American

Woods, Chelsea Marie, 10 months, Willingboro, New Jersey. American

Woods, Dederá Lynn, 27, Willingboro, New Jersey. American

Woods, Joe Nathan, 28, Willingboro, New Jersey. American

Woods, Joe Nathan, Jr., 2, Willingboro, New Jersey. American

Wright, Andrew Christopher Gillies, 24, Surrey, England. British

Zwynenburg, Mark James, 29, West Nyack, New York. American

Residents of Lockerbie

Flannigan, Joanne, 10.

Flannigan, Kathleen Mary, 41.

Flannigan, Thomas Brown, 44.

Henry, Dora Henrietta, 56.

Henry, Maurice Peter, 63.

Lancaster, Mary, 81.

Murray, Jean Aitken, 82.

Somerville, John, 40.

Somerville, Lyndsey Ann, 10.

Somerville, Paul, 13.

Somerville, Rosaleen Later, 40.

STATEMENT OF BRUCE SMITH
HUSBAND OF INGRID SMITH (DECEASED)
VICTIM OF PAN AM FLIGHT 103

PREPARED FOR THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON FOREIGN AFFAIRS
SUBCOMMITTEE ON INTERNATIONAL SECURITY, INTERNATIONAL
ORGANIZATIONS & HUMAN RIGHTS

THURSDAY, JULY 28, 1994

Congressman Lantos, respected Members of this Subcommittee, I first want to extend my appreciation for the opportunity to submit this testimony for the written record. However, I do wish to note my sincere disappointment in not being allowed to personally testify before this honorable Subcommittee despite my repeated requests and, especially, in light of the fact that I am the first family member of the Pan Am Flight 103 tragedy to file a civil action against the government of Libya for its responsibility for the bombing.

Nevertheless, this hearing is long overdue and those of us who lost loved ones on that dreadful day of December 21, 1988 are pleased to see that Members of Congress have not lost interest.

I do not need to remind you that by December 21st of this year we will have been waiting for six years for justice to be done. Fortunately, not many people are ever required to experience what we went through that Christmas season of 1988. Any one who has will understand our implacable pursuit of justice. But in this case, justice translates to punishment of Libya - the government, not the people. And how do we go about punishing a government? We can't put a government in jail. It is

obvious that only military force or financial penalties (reparations) can be used to punish a sovereign government. Clearly the time when military force could have been used to punish Libya is long past. Libya obviously does not fear a repetition of the Tripoli raid.

Nor is a total oil embargo the answer. The antipathy of our European "allies" is enough to doom that approach. And it is wrong in the absolute sense that such an embargo would make the people of Libya suffer far worse than it would punish their government. Since our friends in Europe buy most of Libya's oil such a policy would require their cooperation. There is no sign of any willingness to cooperate in this approach by the European governments. Not even Great Britain would support it. As a practical matter, the best we can hope for is to be able to attach part of Libya's oil revenues, not stop them altogether.

Compensation, for ALL the losses suffered at Lockerbie, is not only part of the justice we seek, but seems to be the only way open to punish Libya for this atrocity.

Recently, the Libyan leader, Colonel Gadhafi, blustered that he was closing the file on Pan Am 103. Gadhafi is right, in a way. It is time to close the file on Pan Am 103. But the way to close the file is to punish the government of Libya for the crime, not only the two low level agents who have been indicted for the 270 murders at Lockerbie. Two years ago it seemed reasonable to press for strong action on the part of the United Nations Security Council. That approach is bogged down by the

reluctance of our European "allies" to take effective (read "painful") measures against Libya.

Libya is using the prospect of extradition of their two agents the way a matador uses his red cape to distract the bull; they talk endlessly of extradition and hope to get us to ignore the path of retribution and justice against Libya itself. Seasoned observers of the international arena agree that there is no chance of Al-Megrahi and Fhimah surrendering to the United States or United Kingdom. Concentrating solely on these efforts benefits Libya by delaying any actions to punish that government for ordering their operatives to bomb airliners in the first place. After all, if they were to face the death penalty, they would surely try to reduce their own punishment by implicating others. The inevitable result would be more indictments of persons higher in the Libyan government. Sending the two accused to America won't solve Libya's problems over Lockerbie; it would make them worse. No, Libya will not surrender the two accused to the United States or United Kingdom to stand trial. In any case executing the two "security" agents doesn't seem like much punishment for the government that sent them to do mass murder.

You may recall that the United Nations sanctions were intended to pressure Libya into cooperating with the investigation and not to punish them *per se*. Our "allies" justify their foot dragging over Libya by pointing out that there has been no trial, no judicial finding of guilt that justifies outright punishment of that rogue government. It should be

obvious by now that the indicted Libyans are not going to appear for trial. A fair trial with meticulous presentation of the evidence is precisely what the government of Libya does not want. That would unequivocally demonstrate to the world that we - the United States and United Kingdom - have a case against Libya, and that we can prove our allegations are true.

There is a way to do just that, and do it without the cooperation of Libya or requiring the extradition of the two thugs accused of mass murder. Since our criminal justice system has no provision for putting a "thing" such as a government - as opposed to a "real person" - on trial, our civil justice system will have to serve. A CIVIL CASE against Libya? Would that provide justice for 270 murders? The answer is an emphatic yes! And really, what other choice do we have? Civil cases against Libya, in the United States or in the United Kingdom, would serve the cause of justice - Justice with a capital J. First and foremost, we can demonstrate to the world that Libya IS guilty of this atrocity, and deserves to be punished for it. The court can then move to punish Libya in one of the few ways available to punish a sovereign nation - by extracting substantial compensation and damages from them.

Libya has attempted to evade the compensation issue by saying it depends on whether or not the two accused in the Lockerbie bombing are ever tried in a court to their liking. But the compensation issue should not be tied to the fate of two Libyan agents. Much of the indictment is against the government

of Libya itself - for it's direct involvement in the destruction of the airliner, as well as it's policy of supporting terrorism by others. And financial penalties should be used, not only to compensate the bereaved relatives left in the wake of its most well known atrocities, but to deter Libya (and others) from continuing to use state-sponsored terrorism as an instrument of national policy.

The life blood of any government is money, and Libya's dependence on oil presents us with our best opportunity to punish them for the crime at Lockerbie. Only the loss of very substantial sums will impress Libya and provide a deterrent against more terrorism. Libya has been caught redhanded in a terrorist act and we can prove it. We have to make the point that while blowing up airplanes may be their idea of fun, they can't afford it. It really doesn't matter if the Libyan government moves all their cash out of Europe. So long as they export oil to the West, there will be plenty of Libyan money subject to attachment to pay compensation and damages. But to accomplish that we need to have unambiguous civil judgements against Libya.

Compensation can and should be punitive, so as to teach a sharp lesson to states that sponsor terrorism. There is a significant misconception that Libya cannot be sued for its crimes because of the doctrine of Foreign Sovereign Immunity. They can be, and I am suing them.

On this basis three lawsuits totaling over \$365 million have recently been filed against Libya in Scotland. Only one, for a modest amount, was filed by a relative - me. Unfortunately, Scottish law severely restricts damage awards and is, therefore, not an attractive course for most relatives. However, in addition to the suit filed in Scotland, I, through my Washington, D.C. attorneys, Dr. Allan Gerson and Mark Zaid, have filed a lawsuit against the government of Libya here in Washington. Smith v. Libya et al., C.A. No. 93-2568 (D.D.C.). A second family member has done the same. My action was recently amended to serve as a potential class action to represent the best interests of all family members.

I submit that this is the most realistic way open to us to punish Libya. There are obstacles to such a suit; Libya is sure to contest the suit on the grounds of Foreign Sovereign Immunity. In this case they will use ambiguities in our own law against us; therefore, our laws should be amended to clearly exclude acts of state-sponsored terrorism from the protection of Foreign Sovereign Immunity.

Our own State Department and the Justice Department may actually assist Libya in their defense on those grounds. Amending our laws so as to clearly give any American aircraft or vessel (and all on board) the protection of our laws would make large lawsuits (with the possibility of punitive damages) a certainty after a terrorist attack and hopefully act as a deterrent to state-sponsored terrorism.

The United States government can chose to help our endeavor by providing us incriminating evidence against Libya or they can aid Libya by withholding that evidence and thereby force us to rely on the evidence we are presently accumulating. Very shortly this Administration will need to make a choice.

I call on the Congress, this honorable Subcommittee and on other Pan Am 103 relatives to quit concentrating solely on the sterile pursuit of the two indicted individuals but to also turn their attention on the government that sent its agents to commit mass murder. Furthermore, they should realize that the policy of pressing for a total oil embargo will not succeed and merely misdirects their efforts to punish somebody for Lockerbie. It is no secret that the lawyers in charge of the families' lawsuits against Pan Am advised their clients to avoid making claims against anyone other than Pan American World Airways, the only offender who they believed could be held accountable in a U.S. court of law. Apparently they are concerned that the prospect of compensation from any other source would reduce the size of their contingency fees from jury awards against Pan American Airways. Now that they appear on the threshold of having won their lawsuit against Pan American, is it not time to proceed against the real perpetrator of our grief?

While there is much argument among the relatives about who to blame for bombing Flight 103 and how to go about punishing them, I am sure that I speak for all of us when I say that nothing can repay us for the loved ones we lost at Lockerbie.

But some compensation is due us, and, assuming we prove the case in court, it should come from Libya. The way to punish this crime, and to discourage other practitioners of terrorism, is to force the terrorists to pay the full cost of Lockerbie. By moving resolutely to extract the billions of dollars our society lost at Lockerbie because of this barbarous attack, the United States can make the loss of Pan Am 103 a turning point in the fight against international terrorism.

The quick and easy solution that certain lawyers have persuaded most relatives to adopt -- to sue Pan American Airways exclusively -- only serves to obscure the issue of who should be responsible for combating terrorism. OUR TRUE ENEMIES ARE THE MEN WHO PUT THE BOMB ON THE AIRPLANE AND THOSE WHO ORDERED THEM TO DO SO, NOT THOSE WHO FAILED TO PREVENT IT. In spite of the well-publicized large court awards against Pan American, the relatives of the many young people who were killed on the flight are not likely to receive much more than the Warsaw Convention minimums because the formulas used by the courts depend heavily on the victim's earning power; students don't earn much. Shouldn't just compensation be related to the enormity of the crime, and not the earning power of the victim?

There is some evidence that Libya has actually reduced its support for non-Libyan terrorist groups. They are telling the British a great deal about their past support for the IRA. Not enough, unfortunately, to enable her Majesty's Government to halt the IRA bomb campaign in London. But enough, perhaps, to cause

the British to lower the pressure on Libya in other areas. Although the United States forbids most contacts between its citizens and Libya, the United Kingdom still allows Libya to maintain a general employment office in London which is charged with hiring skilled workers needed by any Libyan state-owned enterprise. In fact, over 5000 Britons continue to work in Libya, and are allowed tax free salaries by the British government. They enjoy this perk in spite of the fact that most of them spend their time off each month at home in Great Britain. The official explanation is that the British government cannot tell a British citizen where he can work. However, that same government examines every individual's passport before granting him permission to leave the country. It certainly seems to me that a great deal of room exists for the United Kingdom to increase additional pressures on Libya.

Without a doubt, this case has been at an impasse for too long. The time has come for a new initiative to settle the Pan Am Flight 103 controversy. A civil action against Libya is an important start, and calls for your support.

In closing, although the choice of whether to proceed in a civil suit against Libya is one for the families to make, I would like to point out two avenues that Congress should consider that would be of benefit to the families of Pan Am Flight 103. First, Congress can amend the Foreign Sovereign Immunities Act of 1976, 28 U.S.C. §§ 1602-1611, (hereinafter "FSIA") to allow civil actions against terrorist states to predominate over sovereign

immunity claims by the alleged perpetrators of such acts. I understand that two bills, S.825 and H.R.934, are currently pending before the Congress to effect such a change, and I believe these efforts merit your support.

Second, Congress can initiate steps to facilitate the sharing of evidence between the United States government and civil litigants suing terrorist states. Although we are confident that sufficient evidence already exists in the public domain incriminating Libya, additional information would be welcomed. Recently, at the urging of Senator Frank Murkowski (R-Ak), a Sense of the Senate resolution was adopted urging the Administration to pursue this course. I have attached a copy of this document for the record. My lawyers, Dr. Gerson and Mr. Zaid, have submitted a letter to be included in the written record of this Subcommittee hearing which provides a detailed analysis of these two potential legislative initiatives.

Thank you again for this opportunity and your interest in seeing that justice be done for the family members of the victims of Pan Am Flight 103.

Amendment offered by MR. MURKOWSKI for Senator Helms and Senator Murkowski:

Amendment to H.R. 4428

Foreign Operations, Export Financing and Related Programs

Purpose: Sense of the Senate urging United States government agencies to provide information to victims of international terrorism.

Viz:

1 At the end of the first Committee amendment, insert the following new section:

2 **POLICY REGARDING PROVIDING INFORMATION TO VICTIMS OF**
3 **INTERNATIONAL TERRORISM.**

4 **POLICY.**--It is the Sense of the Senate that:

5 (1) in order to assist the families of U.S. citizens who have been the victims of
6 terrorist acts, U.S. government agencies should provide ~~to the party of~~ facilitate the
7 acquisition of evidence relevant to the actions brought by American citizens against
8 States that support terrorist acts or against individuals accused of committing
9 terrorist acts.

10 (2) the U.S. government should cooperate with U.S. citizens to the extent that
11 such cooperation does not significantly prejudice a pending criminal investigation or
12 prosecution, or threaten national security interests of the U.S.

13 **REPORT ON STATUS OF EFFORTS OF U.S. AGENCIES TO ASSIST AND**
14 **PROVIDE INFORMATION TO VICTIMS OF INTERNATIONAL**
15 **TERRORISM.**

16 Provided further:

17 (1) The Secretary of State, in consultation with the Attorney General, should
18 provide a report to the appropriate committees of Congress within 30 days on U.S.
19 agencies' efforts to provide information and assistance to the families of the victims
20 of Pan Am Flight 103.

21 (2) The report should include a description of efforts to criminally prosecute
22 those responsible for the bombing of Pan Am Flight 103 and efforts to provide
23 information in civil actions against States that support terrorism or individuals who
24 commit terrorist acts.

TO: The House Foreign Affairs Subcommittee, The Honorable Tom Lantos, Gary Ackerman, Howard Berman, Matthew Martinez, Frank McCloskey, Thomas Sawyer, Douglas Bercuter, Olympia Snowe, Christopher Smith, and Daniel Burton.

For the record of your proceedings on July 28, 1994

From: Elizabeth Philipps, mother of Sarah Philipps, a 20 year old college student.

I am a member of The Victims of Pan Am Flight 103

Honorable Representatives:

You meet today in order to hear from families and friends of American passengers on a civilian airliner destroyed by a terrorist bomb in December 1988. Here we are, a dreary and sad five and a half years later, discussing how to deal with the perpetrators of this enormous crime against America. Thank you for this important opportunity to be heard.

Why is it taking so long for America to come to bring the indicted terrorists to trial? The answer is simple but the reasons behind the answer are complex, and are, I believe, the reasons that elevate America above many nations in the world, including the nation of Libya which harbors and protects the indicted terrorists. America is a nation that believes in the rule of law. Thus we take the path of law to respond to crime. To do otherwise is to behave like terrorists. To do otherwise is to nourish the cycle of violence and reprisal that very likely is the source of the harrowing and violent deaths of my daughter and 188 other innocent Americans, along with citizens of 21 other nations.

Few who think clearly about the destruction of Pan Am Flight 103 can escape the knowledge that many of its roots lie in the bombing of Tripoli in 1986, and the destruction of the Iranian Airbus in July of 1988. These events occurred for different reasons, and one of them may have been a clumsy and avoidable accident, but both came out of a belligerent stance of knee jerk reflexive military action that I hope and pray is part of America's past rather than its present.

You have convened to learn our opinions about what is right and what is wrong with America's policy vis a vis Libya. Please listen carefully. I am not alone in believing that one thing that is right about our policy is America's restraint. We have NOT again bombed Tripoli. We have NOT attacked Colonel Qaddafi personally with bombs or missiles. We have that capability. We have long since set the precedent for such action, but we have NOT done it in reprisal for the destruction of Sarah Philipps and everyone else on Pan Am Flight 103. I hope and pray that we will continue to refuse to commit such military acts, despite our frustration at the stalemate in the case.

Others here today will suggest to you that we must destroy Qaddafi and his government in order to bring the indicted terrorists out of Libya to trial in the UK or in the United States. Please understand that there are many opinions about how to achieve that goal, and many of us reject the idea that we victims of terrorism should advocate the destruction of governments and the downfall of tyrants. Yes, the indicted terrorists are agents of the nation of Libya, yes, they are brother tribesmen of the leader of Libya. But, if we believe in the rule of law, we should not aim at one man in order to get at others, nor should we destroy another nation's government for our own purposes.

America has ventured into such lawless acts in the past. For many of us our hope is that this great nation has ceased to behave thus. Many of us cannot bear to dishonor the memory of our beloved lost ones by killing the innocent members of others' families. I plead with you on behalf of my family and others who wish to be as unlike the Libyans and other terrorists as possible. In concert with the ground swell of the yearning search for peace that at last brought President Rabin and King Hussein into the White House and into a historic Joint Session of Congress, I beg you to hear them and me, as we battle for peace, as we battle slow the whirling cycle of violence that is terrorism. I fear we will not be able to stop it entirely. Too many peoples of the world are committed to terrorism as a form of political discourse, but let us try to slow it. We Americans can bravely, and even boldly, forebear to bloody our hands in the same fashion. In the name of my beloved daughter and all the other lost innocents, let there be peace.

What else has gone right in our policy vis a vis Libya?

We have operated within the conventions of world law. We have maintained our own economic sanctions established in 1986 and we have worked with the United Nations to levy sanctions by the world community.

What more can be done?

Let us increase the weight of UN sanctions to include making Libya's oil trade much more difficult, if not in fact impossible. If we cannot persuade the UN Security Council to vote for such sanctions let us take trilateral action with our allies Great Britain and France. One of the most powerful levers to pry the indicted terrorists out of Libya is world economic action.

Another lever is in the hands of our allies and new collaborators in the Arab world. Let us bring to bear a steady weight of pressure on President Mubarak, on Palestine's Arafat, on King Hussein, on Syria's Assad, all of whom owe enormous moral and economic debts to our nation. Let us make sure we gain their SINCERE and REAL efforts in our behalf. Let these Arab leaders bring pressure to bear on Libya and her leadership.

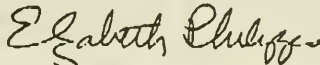
Yes I am tired and frustrated after more than five years. I miss my daughter and feel profound sadness that I will never again hear her laugh or see her loving face as she smiles at her father. I still wake in the night from dreams of the tender grandchildren that will never now sit in my lap and put their small arms around my neck.

Today you have heard also from mothers whose only children were killed by the Libyan terrorists. I weep for them and with them while I am consoled by my remaining sons and their wives and children. For those dear ones, for you and your children and grandchildren, and for all living and vulnerable travelers, I plead with you, please do not pursue a policy of death and destruction against a people in the name of Sarah Philipps. Rather, please do augment and vigorously pursue an ACTIVE American policy about Libya that will bring the indicted terrorists to trial and thus generate justice for the murderous attack on America and Pan Am Flight 103.

As Martin Luther taught centuries ago:

"Peace is more important than all justice; and peace was not made for the sake of justice, but justice for the sake of peace."

Thank you



Elizabeth Philipps, 217 Milner Avenue, Albany, NY 12208 518-437-9794

Testimony of Paul S. Hudson
Hearing on Pan Am 103 Bombing
Before the House Subcommittee on International Security,
Foreign Affairs Committee
Washington, D.C.
July 28, 1994

Good morning. Chairman Lantos, Honorable Members of House Foreign Affairs Committee, Subcommittee on International Security, my name is Paul Hudson. I am submitting testimony here today as the father of and on behalf of Melina Hudson, my 16 year old daughter, who was killed on December 21, 1988, aboard Pan Am Flight 103 over Lockerbie, Scotland. As you know, this was the worst terrorist attack in history directed against American civilians, the mass killing 270 including 189 Americans.

Background and Preliminary Statement

Since 1989, when I was chair of the group known as Victims of Pan Am Flight 103, and then from September, 1989, to October, 1992, when I was president of the group known as Families of Pan Am 103/Lockerbie until the present time, I have carefully monitored the investigation and engaged in many efforts to secure justice in this case. I have met personally with most of the government officials involved in the Pan Am 103 case, including President Bush, Attorney Generals William Barr and Janet Reno, Lord Advocate Fraser of Scotland, National Security Advisors Brent Scowcroft and Anthony Lake, Transportation Secretary Sam Skinner, as well as the relevant officials in the U.S. State Department, the British Foreign Ministry, the Lockerbie area police, the Department of Justice, FBI, FAA, White House, Department of Transportation, and the United Nations.

Professionally, my background is as an attorney whose practice has concentrated on legal issues relating to crime victims since 1977. I have authored law review articles on crime victims rights, and a member of the American Bar Association's Victims Committee since 1983. In 1982, I was selected as one of three American lawyers to prepare monographs and act as consultants to the National Institute of Justice and the American Bar Association on the proper role of crime victims in the criminal justice system. Since 1989, I have attended and testified before a dozen hearings held by Congressional committees and the President's Commission on Aviation Security and Terrorism.

As I understand that the subcommittee was regretfully unable to accommodate me due to time and space constraints on one of your panel this morning, I am not available in person this morning. As Subcommittee Staff has assured me that this testimony will be made part of the record and distributed to all Members, I am not physically present but would certainly respond to any written questions that the subcommittee may have. Furthermore, as I am attending an FAA Advisory Committee Meeting this morning in Washington, I would be available this afternoon, should the committee or its members so request my presence.

Overview and Goals of International Security

I would like to begin by commending you for holding this hearing on the Pan Am 103 bombing today. We victim family members who have been involved in national and international affairs regarding Pan Am 103 know the great debt we and the American people owe to the Congress. You have assisted when others in our government would not act: Through hearings, legislation, resolutions, appropriations and investigations, you have facilitated and in many ways become the leading force in our Government. You have uncovered the terrible secret truth that the U.S. aviation security was and still is unable to protect the public against aviation bombs, you swiftly legislated comprehensive remedial legislation known as the Aviation Security Improvement Act of 1990, and you encouraged with timely resolutions the U.S. Government to indict the perpetrators and seek UN sanctions against Libya. Particularly noteworthy contributions have been made by Senate Majority Leader George Mitchell, Senate Republican Leader Bob Dole, Sen. Al D'Amato, Sen. Frank Lautenberg, Sen. Murkowsky, Congressman Jim Oberstar and former Congressman Dante Fascell.

It is my sincere belief that this subcommittee can also make a singular contribution not only to obtain justice in the Pan Am 103 case, but to ensure that other Americans do not have to endure and suffer the horror and grief of a Pan Am 103 experience.

Thousands of victims and victim families and friends have been affected by terrorism. Over 100,000 mourners attended the funerals of loved ones and friends in the early weeks of 1989 after the Pan Am 103 bombing. The 170 UTA victim families (another jumbo jet bombed by Libya in 1989) included seven Americans. The Beirut hostages, and scores of other terrorists victim families have suffered greatly over the past twenty-five years, during which time killing of American civilians has become a major part of the foreign policy of several nations and numerous international organizations.

Isn't it time for the U.S., the only super power, to get its act together to defeat the scourge of state sponsored terrorism? I particularly hope that you Mr. Chairman will be strongly engaged and lead the way to improve the effectiveness of our foreign policy and international security. The task of the Congress, if the lessons of Lockerbie are not be lost and doomed to be repeated, is to ensure

(1) that U.S. and international aviation security is thoroughly reformed to provide a credible defense against aviation bombs hidden in airline baggage,

(2) to ensure that passengers receive all information on bomb threats or warnings particularly until a credible bomb detection security system is in place,

(3) to vigorously pursue a zero tolerance anti-terrorist policy through all lawful means, even those involving force where appropriate against terrorists and their sponsors.

With the end of the Cold War and the collapse of the Soviet Union, terrorist groups and nations now represent the only direct national security threat to the U.S. This is particularly so for the two million American civilians, who are at any given time traveling or living abroad, where they are frequently and easily targeted. My office in Manhattan is two blocks from the World Trade Center and I can now testify from personal experience that those who work in landmark national buildings are also in a high risk category. Unless such atrocities are forcefully deterred or prevented in the future, the U.S. faces the prospect of aviation, truck or car bombs that can kill hundreds. Other weapons of mass destruction that could kill thousands and contaminate whole cities may soon be in the hands of terrorists groups and nations.

Summary of Criminal Justice and International Organization Activity.

Since the indictment of two Libyan intelligence agents in November, 1991, by the United States and Scotland, there has been no significant official public announcements, no superseding indictments, no arrests, no trials, and no rendition of fugitives. These fugitives are protected by the Libyan Government. The unindicted conspirator named in the indictments plus the Government of Libya, the Libyan External Security agency, and the Libyan national airline, who were also found to be culpable by the indictment as well as in the 1991 State Department issued white paper and in UN sanctions resolutions remained unindicted, with many statutes of limitation running or already expired. The U.S., France and the United Kingdom jointly in 1991 and 1992 called for the suspects to be handed over to the U.S. or United Kingdom, as has the United Nations Security Council in three separate resolutions backed up with mandatory aviation and financial sanctions under Article 6 of the U. N. charter. Efforts by the U.S. Government to obtain stronger financial sanctions or an oil embargo against Libya have thus far been unsuccessful. The World Court has also forcefully rejected Libya's petition claiming that the Security Council lacked the jurisdiction and power to override normal extradition procedures.

Summary of Civil Proceedings and Actions

The U.S. Government continues to hold or has frozen over

\$1 billion in Libyan assets since the mid-1980's. The U.N. sanctions committee also has reportedly frozen several hundred million dollars of Libyan assets outside Libya. U.S. law as interpreted by the Foreign Assets Control Office is that no assets can be forfeited or attached or disbursed without authorization of the President of the United States, or by legislative enactment. The U.S. State Department has received numerous notices of claims from victim family members but has not acted on them.

U.S. citizens are the number one nationality of victims of international terrorism and represent about 30% of the world total. These are principally Americans killed or injured abroad, where they are targeted by terrorist nations or groups as surrogates for the U.S. Government, usually in retaliation for U.S. Government foreign policies or actions. Iranian President Rafsanjani expressed the practical ratio rationale bluntly in a published speech several years ago to Palestinian militants urging them to kill 5 to 10 Americans for every Palestinian killed in the West Bank uprising: "Israelis are hard to kill, but Americans are everywhere and they are easy to kill." (emphasis added)

Most victim family members filed civil wrongful death suits against Pan Am and its security subsidiary in 1989. By international treaty known as the Warsaw Convention, victims of foreign air disasters cannot sue airlines and are limited to \$80,000 in compensation unless they prove that the airline engage in "willful misconduct" and this conduct caused the crash. There is no such restriction for domestic air crashes. Amendments to the Warsaw Convention that would permit at least \$300,000 in compensation on a no-fault basis have been strongly opposed by the U.S. aviation bar and the American Trial Lawyers Assn. and have never been ratified by the Senate. The U.S. Supreme Court held in 1990 that family members could not sue for punitive damages under the Warsaw Convention, even if willful misconduct was proven.

In 1992, the passenger victim family plaintiffs won a verdict of willful misconduct against Pan Am in U.S. District Court in Brooklyn. The Second Circuit U.S. Court of Appeals affirmed in a 2-1 decision issued in 1993. The case is now pending a Pan Am request for an en banc review by the Second Circuit. Pan Am lawyers have said they intend to appeal any unfavorable decision to the Supreme Court. Only three plaintiffs have received a trial on damages, the rest of the over 200 cases have been stayed pending the outcome of the Pan Am appeals of the liability verdict. Pan Am has also appealed the three damage awards. No settlements have been made or offered in the passenger cases beyond an original \$100,000 offer by the Pan Am insurance carriers. Pan Am plaintiff lawyers and family members have spent over \$3 million in out-of-pocket costs, exclusive of attorneys fees, to try the case thus far and have received no compensation or

recoveries after nearly six years.

The crew victim family cases are still awaiting trial in the U.S. District Court in Washington, DC. No trial date is expected until the current passenger appeals are completed.

The ground victim family cases (11 victims were Lockerbie residents killed by falling plane fragments and fire) were brought in Florida and have all been settled. There is no Warsaw Convention damage limitations or technical defenses which apply to such cases. The recoveries are believed to have been \$2 to \$4 million each.

Most domestic air crash victim families involving fatalities, where the Warsaw Convention does not apply, receive settlements with the airlines ranging from \$300,000 to several million dollars within three years of the crash.

The only other major Warsaw Convention case involving airline willful misconduct and many U.S. citizens in recent years is the 1983 Korean Airlines shoot-down over the Soviet Union. The American victims are still awaiting compensation after 12 years of litigation.

In 1993, Pan Am sued Libya for \$380 million in the United Kingdom for lost revenues and profits and for hull damage in its aircraft. Libya has entered a general denial.

Also in 1993, two family members filed wrongful death actions in U.S. District Court in Washington, DC and one victim family member sued Libya in the United Kingdom. U. S. law provides a terrorist nation defendant with several technical defenses to terrorist victim suits, not available in Britain. However, U.S. damage law is generally more favorable to victim plaintiffs.

U.S. statutes of limitations are a patchwork of obstacles for most terrorist victim plaintiffs and badly in need overhaul. In Britain, the statute of limitations for filing wrongful death cases against Libya is three years, and is expected to run on the third anniversary of the indictments in November, 1994.

Recommendations

(1) The Congress should immediately amend the U.S. Sovereign Immunity statute to make it clear that terrorist nations that bomb U.S. flagged air carriers or ships anywhere in the world are not immune from suit in U.S. courts. The current law is ambiguous and could potentially be interpreted to require that the terrorist act occur within U.S. borders rather than within U.S. jurisdiction to subject such nations

to U.S. civil justice. The law has already been interpreted to prohibit suits by U.S. citizens injured or killed in U.S. embassies abroad by foreign states. Such procedural amendments can be made retroactive to cover past cases such as Pan Am 103 and UTA 772 as well as future terrorist cases.

The U.S. extended the full protection of U.S. flag jurisdiction to Kuwait oil tankers during the Iran-Iraq War. It is incomprehensible that U.S. citizens traveling on U.S. flagged air carriers should not even have U.S. civil anti-terrorist law protections.

(2) The statute of limitations for international terrorist victim suits should be uniformly set at least five years from the date of discovery of the perpetrators and should be tolled during the pending of any criminal proceedings and for unavailability of the defendant for purpose of service, as well as revived for a period of at least three years from the date of termination of criminal proceedings. As with criminal statutes, there should be no civil statute of limitations in cases of intentional murder. Terrorist cases often take many years to solve, much less to apprehend, try and convict the perpetrators. Prosecutors generally resist cooperation with civil cases until the criminal cases are resolved. In terrorist cases national security concern of the CIA, location of attachable assets, and diplomatic concerns of the State Department are often additional factors that delay or interfere with civil justice.

Terrorist victim civil suits are not only appropriate but essential if victims are to receive compensation and wealthy terrorist states and groups with attachable assets are to be deterred. The unfortunate record of the U.S. Government is clear, if you as an American citizen are victimized by a terrorist nation overseas, the U.S. will not usually assist you to obtain just compensation, and may even oppose you in court.

A federal statute of limitations for international terrorist victim suits should supersede state statutes to provide uniformity and clarity.

Ineffectiveness of Current U.S. Policies and Laws

Under current U.S. law and policies, a wealthy terrorist state or group has little to fear. You can be certain that this message is not lost on terrorist state and group leaders:

Killing Americans not only "easy", it is a cheap and low risk endeavor. The conviction and incarceration rate is under 5%. The U.S. death penalty for terrorists has never been applied and the statute is probably unconstitutional according to prosecutors because it was enacted prior to

current Supreme Court death penalty guidelines. The U.S. has never actively sought reparations for terrorist victims against any terrorist nation on the State Department terrorist list, except partially for Iraq. Military retaliation is remote and has not been used since the 1986 bombing of Tripoli, which some credit as a motivating factor for the Pan Am 103 bombing by Libya in 1988. The rendition of suspects policy at Justice has apparently fallen into disfavor in the Clinton administration. And as to the U.S. Delta Force the U.S. has never used its famed anti-terrorist units since the failed attempt to rescue U.S. Iranian hostages in 1980. The U.S. State Department is fixated on commercial claims to the exclusion of meaningful compensation, much less punitive damages, which could act as a real deterrent and punishment, for terrorist states or groups who kill, torture or kidnap real American terrorist victims.

Summary of Recent Investigation/Prosecution Developments

In the past year there has been no known improvement in the prosecution case, and several reports that indicate an erosion.

The Swiss bomb timer maker who had earlier stated that he sold the Pan Am 103 bomb-type timer only to Libya is reported to have changed his story, and now says that he also sold them to the East German secret police who in turn are believed to have distributed them to other terrorist groups.

Earlier this year, an AP report out of Beirut stated that a Abu Nidal terrorist on trial for the assassination of a Jordanian official had confessed in open court to committing the Pan Am 103 bombing. Another published report out of Israel stated that this individual, who is incarcerated in Lebanon and facing the death penalty if extradited to Jordan, was the European "security chief" of the Abu Nidal terrorist organization in Europe at the time of the Pan Am 103 bombing. Originally, in early 1989, the Abu Nidal group was one of four or five lead suspects in the FBI investigation. While I was assured by Justice Dept. officials that this lead would be thoroughly checked out, to date the U.S. has apparently not interviewed or attempted to interview this individual.

The British press has heavily reported in 1993 that an unofficial group in Britain, allegedly encouraged by the British Foreign Ministry, UN officials and the Libyan Government had attempted to negotiate a neutral site at the Hague for a criminal trial to be held. It was reported in the press that a member of the White House staff dismissed this proposal during President Clinton's first trip to Europe

last year, and that the Libyan People's assembly then overwhelmingly rejected any turnover of the indicted suspects, even to a neutral site or jurisdiction.

Under current law, Britain, the U.S., or Germany would have clear criminal jurisdiction to try the indicted Libyans. There is also a UN protocol which gives the UN itself jurisdiction to receive fugitives who have killed a high UN official (Bernt Carlsson, one of the top four UN officials at the time, was killed on Pan Am 103).

On March 26, 1993, I met with Attorney General Janet Reno along with several other victim family members representing the group Families of Pan Am 103/Lockerbie with over 100 U.S. victim family members. At the conclusion of that meeting, Attorney General Reno asked that we submit our concerns and requests in writing. This was done on May 15, 1993. A copy of that submission is appended to this testimony.

To my knowledge not one of the recommended measures in this submission (or other more detailed submissions by several group members) has been acted on by Justice. I believe all these recommended measures still remain valid notwithstanding that over a year has past.

. Government Compensation

U.S. Federal law provides no right to government compensation for victims killed or injured by international terrorists.

The Victims of Crime Act of 1982 provided, however, that the U.S. Government has the option to provide direct compensation to federal crime victims, however, it has never exercised that option and instead relies totally on grants to the states for crime victim compensation. With a few exceptions, New Jersey and Ohio, being the most notable, state crime victim compensation programs do not cover residents injured or killed outside of their borders. Typically state crime victim compensation programs provide small amounts for funeral expenses, medical expenses, counseling expenses and lost earnings or support. None provide compensation for pain and suffering, bereavement, emotional losses, loss of companionship or society, necessary travel expenses for retrieval of bodily remains and personal property, property losses, or lost income of survivors.

In November, 1990, the Congress and the President recognized this serious deficiency, inequity, and its implicit moral obligation to provide financial assistance to the American victims of terrorism who are killed and injured as surrogates for the U. S. Government foreign policies and

actions despised by terrorists. In enacting the Aviation Security Improvement Act of 1990, it provided in relevant part in Section 211 as follows:

"Compensation- The President shall submit to the Congress, not later than one year after the date of enactment of this Act, recommendations on whether or not legislation should be enacted to authorize the United States to provide monetary and tax relief as compensation to United States citizens who are the victims of terrorism."

Neither President Bush or President Clinton has submitted these mandated recommendations to the Congress. And Congress has taken no action to enforce its enactment, nor to enact compensation legislation. After submitting testimony to an interagency task force in 1991 and 1992 headed by the Department of Transportation, I was advised that the interagency report and recommendations had been put on indefinite hold by OMB. It is not only reprehensible that the simple act and requirement of making a terrorist victim compensation recommendation has been ignored by two Presidents and the Congress for 32 months past the legal deadline, but it is also breach of faith with all victim family members, including myself, who naively believed that surely our Government would keep its word if it was enacted into law.

Mr. Chairman I urge you to see that this legislative requirement is not overlooked another day by the Congress and that the President be forcefully reminded of his long overdue obligation under Section 211 to the victims of terrorism.

The British Criminal Injuries Compensation Board has recently started paying small amounts to some Pan Am 103 victim family members who filed by the deadline of March, 1992. Typical award amounts for loss of society have been 2,500 pounds for loss of a child, 5,000 to 7,000 pounds for loss of a spouse, and nothing for loss of a sibling, grandchild, or grandparent. Funeral expenses have been compensated at up to 2,000 pounds. Lost of support awards would appear to be coming in at far less than one year's earnings of the lost breadwinner.

Financial hardship, particularly for the orphans and widows of the Lockerbie bombing grows worse year by year. It has caused numerous bankruptcies, several early deaths, children to drop out of college, general impoverishment, loss of family homes, and an enormous avoidable burden of stress, frustration and ultimately bitterness against the U.S. Government on top of the grief of losing one or more loved ones. Similar stories are told by former hostages as well as from American Pan Am 103 and UTA 772 victim families (French

citizens have received compensation and are treated as national martyrs and receive compensation similar to military active duty deaths.)

Conclusion

Melina Hudson was an American high school exchange student returning home for Christmas. She, like the 270 other innocent people murdered in the terrorist bombing that day never had a chance. She was not warned and had we known the state of security, she would never have been on that plane.

We their survivors now have the duty to seek justice in their names. And you acting collectively have the power to defeat the evil, known as terrorism, that infects the new world disorder. If the terms national security and international security are to have real meaning for the American people, they must include strong, practical measures to protect the lives of U.S. citizens, who are all too often the main target of international terrorism.



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