

# LORETTA LYNCH: NOT ENOUGH EVIDENCE TO CHARGE HSBC BANKSTERS

As part of her Questions for the Record, Attorney General nominee Loretta Lynch was asked about her role in the HSBC handslap in 2012. (See Q 38, h/t Katherine Hawkins)

38. As United States Attorney for the Eastern District of New York, you helped secure nearly \$2 billion from HSBC over its failure to establish proper procedures to prevent money laundering by drug cartels and terrorists. You were quoted in a DOJ press release saying, "HSBC's blatant failure to implement proper anti-money laundering controls facilitated the laundering of at least \$881 million in drug proceeds through the U.S. financial system."

You stated that the bank's "willful flouting of U.S. sanctions laws and regulations resulted in the processing of hundreds of millions of dollars in [Office of Foreign Assets Control]-prohibited transactions." Still, no criminal penalties have been assessed for any executive who may have been involved.

a. Did you make any decision or recommendation on charging any individual with a crime?

i. If so, please describe any and all decisions or recommendations you made.

ii. Please explain why such decisions or recommendations were made.

b. If you did not make any decision or recommendation on charging any individual with a crime, who made the

decision not to prosecute?

RESPONSE: On December 11, 2012, the Department filed an information charging HSBC Bank USA with violations of the Bank Secrecy Act and HSBC Holdings with violating U.S. economic sanctions (the two entities are collectively referred to as "HSBC"). Pursuant to a deferred prosecution agreement ("DPA"), HSBC admitted its wrongdoing, agreed to forfeit \$1.256 billion, and agreed to implement significant remedial measures, including, among other things, to follow the highest global anti-money laundering standards in all jurisdictions in which it operates. As the United States District Judge who approved the deferred prosecution found, "the DPA imposes upon HSBC significant, and in some respect extraordinary, measures" and the "decision to approve the DPA is easy, for it accomplishes a great deal."

*Although grand jury secrecy rules prevent me from discussing the facts involving any individual or entity against whom we decided not to bring criminal charges, as I do in all cases in which I am involved, I and the dedicated career prosecutors handling the investigation carefully considered whether there was sufficient admissible evidence to prosecute an individual and whether such a prosecution otherwise would have been consistent with the principles of federal prosecution contained in the United States Attorney's Manual.*

I want to reiterate, particularly in the context of recent media reports regarding the release of HSBC files pertaining to its tax clients, that the Deferred Prosecution Agreement reached with HSBC addresses only the charges filed in the criminal violations of the Bank Secrecy Act for failures to

maintain an adequate anti-money laundering program and for sanctions violations. The DPA explicitly does not provide any protection against prosecution for conduct beyond what was described in the Statement of Facts. Furthermore, I should note the DPA explicitly mentions that the agreement does not bind the Department's Tax Division, nor the Fraud Section of the Criminal Division. information, which are limited to violations of the Bank Secrecy Act for failures to maintain an adequate anti-money laundering program and for sanctions violations. The DPA explicitly does not provide any protection against prosecution for conduct beyond what was described in the Statement of Facts. Furthermore, I should note the DPA explicitly mentions that the agreement does not bind the Department's Tax Division, nor the Fraud Section of the Criminal Division. [my emphasis]

Lynch seems to want to have her cake and eat it too.

Sure, she and her prosecutors were unable to find the evidence in Carl Levin's gift-wrapped case. But trust her, she seems to be saying, she might one day see fit to charge some warm bodies with fraud if she's confirmed.

And note she makes no mention of material support for terrorism????

Because if you're a bank, such things are legal, apparently.