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COUNTERTERROR INITIATIVES IN THE TERROR FINANCE PROGRAM

HEARINGS

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

FIRST AND SECOND SESSIONS

ON

COUNTERTERROR INITIATIVES IN THE TERROR FINANCE PROGRAM, FOCUSING ON THE ROLE OF THE ANTI-MONEY LAUNDERING REGULATORY REGIME IN THE FINANCIAL WAR ON TERRORISM, BETTER UTILIZATION OF TECHNOLOGY, INCREASED INFORMATION SHARING, DEVELOPING SIMILAR INTERNATIONAL STANDARDS, AND THE FORMATION OF THE TERRORIST FINANCING OPERATIONS SECTION (TFOS)

SEPTEMBER 25, OCTOBER 22, 2003, APRIL 29, AND SEPTEMBER 29, 2004

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COUNTERTERROR INITIATIVES IN THE TERROR FINANCE PROGRAM

THURSDAY, SEPTEMBER 25, 2003

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 10:06 a.m., in room SD–538, Dirksen Senate Office Building, Senator Richard C. Shelby (Chairman of the Committee) presiding.

OPENING STATEMENT OF CHAIRMAN RICHARD C. SHELBY

Chairman SHELBY. Good morning. The hearing will come to order.

Today is the first in a series of hearings concerning the difficult issues surrounding the financing of terror. The unique and broad jurisdiction of this Committee will allow us to conduct a comprehensive review of the administration's campaign to "starve the terrorists of their funding." Indeed, President Bush recognized the need for this campaign, and within 2 weeks of September 11, 2001, stated, "Money is the lifeblood of terrorist operations today. We are asking the world to stop payment." Terror financing takes on an international dimension that seeks to use to its advantage the global economy and a financial industry that freely crosses borders under the cover of legitimate transactions and the ease and convenience of wire and computer technology.

If money is the "lifeblood" of the terrorist, it is also his poison. Money leaves a trail and a signature which can and must be used to identify, track, disrupt, and dismantle the terrorist organizations which support those who would target innocent people and our way of life. As important as a military campaign, the enforcement effort, and the intelligence collection, it is not possible to overstate the importance of following the money as an equal partner in our coordinated war against terror. Without the efforts of the United States and the world community to develop and to implement comprehensive programs which target all aspects of the use of terror funds and share each bit of information from the single wire transfer to the bulk cash smuggling operation, the other mandates may well fail.

The importance of the issue welcomes a bipartisan effort. The leadership of Senator Sarbanes, the former Chairman and now the ranking Democrat on this Committee, has exemplified the kind of cooperation this issue demands. This kind of unity allowed the Congress to pass the USA PATRIOT Act. The legislation was historic, not only for the speed with which it was designed and passed,

but also for its focus on the multiagency cooperation needed for effective and efficient implementation.

As these hearings progress, the Banking Committee will explore all aspects of the terror finance issue. It will be important to educate the American people about the complexity of addressing the demands of cutting funds off from the terrorist wherever he is located and whatever case he avows. Our witnesses today will speak about those demands since they are in the forefront of the Administration's fight.

Future witnesses will testify about how terror groups are organized. We will also hear about alternative methods terrorists resort to when our financial industry denies them clandestine use of its banks. The Committee will look at the charade of so-called charities which raise considerable monies for a scourge that is the antithesis of charitable giving. We will also address the effective use of the tools Congress created in the USA PATRIOT Act. All this will be with a view toward our oversight function here. Is the system being used to full advantage? However, as the American people have seen with other issues this Committee has addressed, like responsible corporate governance, we have an independent duty to see where improvements to the system can be made, and I believe we will not shirk that responsibility.

We have to assure the American people that every action, every technique, every fraud or ruse used by those who seek to harm us will be anticipated, met, and countered swiftly and effectively.

Today, we have some very distinguished witnesses here, and I would like to introduce them at this time. I will then call on some of my Members who are here.

David Aufhauser is the General Counsel for the Department of Treasury. Mr. Aufhauser is also the head of an informal group known as the Policy Coordination Committee, or FCC. Supervisory Special Agent John Pistole is the Assistant Director for the FBI's Counterterrorism Division. He has had a distinguished career in fighting organized crime and terrorists. Finally, we have Tony Wayne, Department of State's Assistant Secretary for Economic and Business Affairs. He served as the Director for Regional Affairs in the Counterterrorism Office of the State Department. His current position puts him in the middle of our diplomatic efforts in this arena.

I want to call on Senator Bunning for any remarks he may have.

STATEMENT OF SENATOR JIM BUNNING

Senator BUNNING. Thank you, Mr. Chairman. I thank you very much for holding this important hearing, and thanks to our witnesses today as well for appearing.

After September 11, we all know that the United States is not immune to terrorist attack. In order to prevent another horrific attack, not only must we track down those who performed these terrorist acts, but we must hit the terrorist organizations where it hurts them the most—in their pocketbooks. No matter how many terrorists we capture, as long as terrorism has a funding source, there will always be another one waiting to step in and take their place.

The United States needs to be able to investigate and prosecute terrorist financiers wherever they hide. To do this, we must have the cooperation and support of the international community. We have made some progress in finding and blocking some of these funds, but there is still a lot more that we can do. We must turn off the terrorism funding faucet and force these terrorists to dry up and wither away.

Once again, Mr. Chairman, thank you for holding this important hearing.

Chairman SHELBY. Thank you.

All of your written statements will be made part of the record in their entirety as we move along in this very important endeavor.

I first want to acknowledge that Senator Grassley, the Chairman of the Finance Committee, has a statement for the record, and without objection, it will be entered here.

Chairman SHELBY. Mr. Aufhauser, we will start with you. You proceed as you wish. Welcome to the Committee.

STATEMENT OF DAVID D. AUFHAUSER
GENERAL COUNSEL, U.S. DEPARTMENT OF THE TREASURY

Mr. AUFHAUSER. Thank you, Mr. Chairman. It is a distinct honor to appear before you. You and I actually have previously discussed Treasury enforcement and terrorist financing matters in closed hearings before the Senate Intelligence Committee when you served on that Committee. And I am actually very grateful for the chance to debate these issues in the daylight because I think we can all profit from an informed debate on something that is central, I think, to the lives of the country.

Senator Sarbanes, whom you commended for also being a major participant in this hearing, I am grateful for the attention he has paid to it, particularly through my good friend, Steve Kroll, on his staff. I live in the District of Columbia, so Senator Sarbanes is the closest I have ever come to a Senator. And I am particularly grateful that he has people like Steve working for him.

Chairman SHELBY. We are also grateful to Senator Sarbanes, as I said, the former Chairman of the Committee, now the ranking Democrat, for his interest in this because we are approaching this in a bipartisan fashion, not only with our Committee members and the leaders of the Committee but with our staffs, too.

Mr. AUFHAUSER. Well, on the staffs, I would be remiss if I did not mention the good industry of Steve Harris and Kathy Casey.

Chairman SHELBY. Absolutely.

Mr. AUFHAUSER. And particularly John Smith. I think we are all safer because of it.

Mr. Chairman, terror traffics in three forms of currency: hate, counterfeit religion, and money. The first two are born out of a deficit of hope, particularly in the Middle East, the most naked symbol of which, I think, is the failure to resolve the question of Palestine. But the malevolence preys on a dynamic that extends far beyond those borders, the corners of the world where you find the Islamic Diaspora: hunger, torn by civil war, living in near-permanent refugee camps, looking for remedy where reason seems to beggar that notion. There, hopelessness is forged into hate by merchants of the false cure called terror.

These are problems writ large that must be addressed if we hope to bring our children up in a world no longer haunted by killers with political agenda. But it will take years to win hearts and minds, and the challenge may be beyond my personal ken.

I have a more immediate and, if you will, pedestrian calling, which is to deal with the third leg of terror, which is its funding. The task came to me with some irony. I joined the Treasury Department in March of 2001, challenged by Paul O'Neill to help him put good money to good account, particularly in development aid. We wanted real-world consequence, and our model was water wells in 1,000 villages rather than the narcotic of grand master plans.

After September 11, 2001, I was asked to deal with the distorted mirror image of that ambition, no longer responsible for money intended to enrich people but to destroy them. It is something that we have never done before in this country, at least in a systemic way, and a legitimate subject perhaps for examination and research.

I say that because almost nothing is more important on the battlefield of the war on terror than diminishing the flow of money, and there is additional irony that it took the destruction of a temple of commerce to teach us that lesson.

Why is it important?

First, it is doable and it is within our reach. Al Qaeda's cashflow has been Balkanized and cut by two-thirds since we started this campaign.

Second, it provides infinite leverage to prevent calamity. You cannot limit the imagination or design of a terrorist cell that is rich with money in its pockets. But all their invention is forfeit if the funds never materialize.

Third, in this uncommon shadow war of terror, virtually every source of information we have is suspect. It is the product of treachery or deceit or bribery or interrogation. But financial records do not lie, and they bring integrity to the process of threat assessment and the prevention of mayhem.

Fourth, a man who straps a bomb to his chest is an implacable foe. He is beyond redemption and certainly beyond deterrence because of any threat of economic or physical sanction. But his banker is a coward and can be made wary and apprehensive and a bankrupt source of future funding.

Fifth, intelligence on future terror acts is a compound of genius, sweat equity, and serendipity. I do not like the serendipity part. The prospect of collecting and successfully analyzing intelligence on 100 events at the end of the pipeline of the terrorist enterprise would be nothing short of miraculous. Stopping the capital formation of that enterprise before all such invention, while a daunting challenge, is our more promising strategic choice and goal.

There will be no surrender on a Battleship Missouri in this particular war. There is no flag to capture, no uniformed army to corral, no clod of earth that our enemies will wish to preserve in the event of defeat. Rather, we will count our victories one at a time, measured in single captures or killings. We will defeat them, however, in a systemic way only by denying them the lifeline of their mobility and stealth, which is their financing.

It cannot be done alone, as you said. Virtually all of our concerns, save for John Pistole's good industry on domestic threat here in America, are abroad. We, therefore, mark our successes by building new laws, new capacities, and political will globally to stem the flow of terrorist financing, whether it is Syrian and Iranian support for Hezbollah, whether it is money flowing out of Europe for Hamas, or whether it is money flowing out of the Gulf States for Al Qaeda. There has been a sea change because of our efforts. Let me close this opening statement with an example.

Over the past 1,700 years, any member of the Islamic faith could walk into one of tens of thousands of mosques that populate Saudi Arabia and reaffirm a covenant with God, at least in some small part, by depositing coin or currency in a collection box known as "sikhada." It is an intensely private act, Senator, what you might call a very good secret—nothing vainglorious, just a simple act of faith and charity. In a world of peace, it would not be the business of governments. Indeed, to regulate it could be called sacrilege.

We do not, however, live in a world of peace, and some of these collection boxes have been found in the hands of Al Qaeda. And today, thanks in part to our dialogue with Saudi Arabia, the keeper of Mecca, cash collection in sikhada is banned.

That kind of change in even the most fundamental acts of a society or a faith has taken enormous resources and the kind of industry that would make this Committee proud of a government and an interagency process that works as one. For a while there, we were spinning gold out of straw. It was all new, and, we can still make substantial improvements. But with colleagues like Tony and John here, the campaign against terrorist financing will bring more peace, in my judgment, to our citizens than an army of soldiers in the war against terror. Maybe if I get the privilege to return to public service, I can work on those village wells that Paul and I spoke about 3 years ago when the world was a very different place.

Thank you.

Chairman SHELBY. Thank you.

Mr. Pistole.

STATEMENT OF JOHN S. PISTOLE
ASSISTANT DIRECTOR, COUNTERTERRORISM DIVISION
FEDERAL BUREAU OF INVESTIGATION

Mr. PISTOLE. Chairman Shelby, Senator Bunning, thank you for the opportunity to be here this morning representing the FBI. My name is John Pistole, Assistant Director of the Counterterrorism Division.

Director Mueller is changing the focus of the FBI, as you are well aware. As Assistant Director of Counterterrorism, I have the privilege and the responsibility for ensuring that our 56 field offices, our 84 Joint Terrorism Task Forces, and our 45 legal attaché offices overseas, all of whom are working toward countering terrorist activity, are aware of the mandate that we focus on intelligence primarily, with law enforcement sanctions as an ancillary avenue of disruption to terrorist organizations. With that in mind, we have changed the focus of the FBI to ensure that we do everything we can to collect, analyze, exploit, and then disseminate on a timely basis all information that we have collected.

One of the things that has changed in the FBI since September 11 is our focus on terrorism financing. Prior to the events of September 11, we simply did not have a comprehensive, centralized, focused, or proactive approach to terrorism finance matters.

The events of September 11 identified a critical need for this comprehensive, centralized approach. In response to that, we created what is known as the Terrorism Financing Operations Section, TFOS, headed by Dennis Lormel, who is here with me today. The mission of TFOS has since evolved into a broader strategy to identify, investigate, prosecute, disrupt, and dismantle incrementally all terrorist-related financial and fundraising activities.

In forming this TFOS, we built upon the traditional expertise the FBI has in conducting complex criminal financial investigations and long-established relationships with the financial services communities in the United States and abroad. Integrating these skills and resources with the Counterterrorism Division allows the FBI to bring its full assets to bear in the financial war on terrorism.

In terms of context, the September 11 hijackers utilized slightly over $300,000 through formal banking channels to facilitate their time in the United States. We assessed that they used another $200,000 to $300,000 in cash to pay for living expenses, which brings us to the challenge of how we identify terrorist funding in all venues.

We have conducted significant liaison and outreach since September 11, both within our domestic partners as represented, of course, with Treasury and State here, through the JTTF's, but also significantly with our international law enforcement and foreign intelligence partners.

We have done much, but there is still much to be done. We have initiated several proactive projects through the Terrorism Financing Section, where we are focusing on more sophisticated and effective processes and mechanisms to address and target terrorism financing as it develops and evolves. These proactive approaches are predicated on this cooperation we have with other agencies, and especially with our partners in private financial services. To that end, we have engaged in significant information sharing of FBI information, obviously on an as-needed basis, with those in the intelligence community and also with our law enforcement partners and private partners.

Under the tutelage of Mr. Aufhauser, through the National Security Council's Policy Coordinating Council, we have been able to allocate resources in an organized and focused approach where we are prioritizing the matters as best assessed.

I want to spend just a moment, if I could, Chairman Shelby, on the issue of Saudi Arabia and the war on terrorism. The Kingdom of Saudi Arabia has taken a number of steps, both demonstrable and measurable, since September 11 but, most significantly, since the three bombings in Riyadh on May 12 of this year. I have been to the Kingdom twice since May 12 to assess the possibilities of greater interaction and cooperation between the FBI and the Mabahith, the Saudi equivalent of the FBI. Saudi Arabia has put new laws and regulations in place in terms of trying to strengthen existing laws and regulations regarding, for example, money laun-

dering. They have also assisted in trying to block funds and gathered evidence and arrested terrorism suspects.

One of the individuals I wanted to highlight this morning is an individual who the Saudis have been looking for for some time in connection with his probable participation in the May 12 bombings in Riyadh, which killed 34 individuals, including some Americans, and the 9 individuals who were the suicide bombers. This individual, Zubayr al-Rimi, we have been looking for also. We did not believe he was in the United States, but on September 5 of this year, we put out what we call a BOLO, be on the lookout for this individual. And 2 days ago, the Saudis, through intelligence, cooperative intelligence activity, were able to locate him near the border with Yemen in southern Saudi Arabia, and in a fierce gun battle eventually led to Mr. al-Rimi's death, where a Mabahith officer was also killed and two critically wounded. That brings the number of Mabahith officers and security forces in the Kingdom to over a dozen now who have been killed in trying to pursue and locate Al Qaeda members in the Kingdom.

In those terms, there has been a lot of rhetoric. People have referred to the rhetoric. They are now also spilling their blood in terms of trying to locate and capture Al Qaeda.

Also in the last several days, there has been a sensitive operation which resulted in a number of very positive law enforcement intelligence collection and disruption of individuals in the Kingdom, which I would be glad to provide in a classified format.

We have engaged significantly in training of Mabahith officers. In fact, we have FBI agents, Treasury agents on the ground right now in Riyadh who are training 20 Mabahith officers in terrorism financing, specific issues there.

We had also initiated joint investigative efforts with Mabahith in Riyadh where we, again, have Treasury agents and FBI agents who are actually working hand in hand with Mabahith to identify and disrupt terrorist financing in the Kingdom. So there are a number of positive steps that we see and assess in dealing with the Kingdom of Saudi Arabia.

We had a number of successes with our partners represented at the table here and others not represented in terms of disrupting terrorism financing here in the United States. There have been a number of indictments, a number of cases still pending. Certain individuals have pled guilty and received fairly lengthy prison sentences in regard to their fundraising on behalf of terrorist organizations here in the United States.

We have also been able to disrupt overseas four planned terrorist attacks because of our relationship with a particular foreign intelligence service and with certain financial services entities in the United States that were able to provide almost real-time information that led to the specific identification of individuals picking up money overseas that was going to be used in terrorist attacks. So we are seeing a number of successes in that regard.

I want to publicly thank the financial institutions here in the United States who have done an incredible amount of work with us in the law enforcement and intelligence communities to ensure that we are doing everything humanly possible to disrupt and prevent the next terrorist act.

One issue I would like to raise Chairman, is one thing that we would like to see improved upon, and that is the production of documents, financial documents, in electronic format. And I can go into more detail on that. Historically, of course, we have subpoenaed documents from a bank, and several weeks later, we get a banker box of paper documents. And then we have to sift through those and try to analyze those by hand.

We are seeking—and some financial services companies have provided those documents in electronic format, but we are seeking to have a uniform approach to that where we could have all documents provided in an electronic format to allow us to analyze, exploit, and disseminate as appropriate, as we can.

In the war on terrorism financing, in conclusion, I would say that it is a long, difficult road, as David Aufhauser said. Will we ever be able to disrupt and prevent every dollar going to terrorists? I do not believe so. Every dollar that we are able to prevent, that is one less dollar that is going to buy bullets or bombs for terrorists.

Thank you, Mr. Chairman.

Chairman SHELBY. Mr. Wayne.

STATEMENT OF E. ANTHONY WAYNE
ASSISTANT SECRETARY FOR ECONOMIC AND BUSINESS AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. WAYNE. Thank you, Mr. Chairman, Senator Bunning. It is a great pleasure to be here and have this opportunity to talk about this important front in this war against terrorism.

I would like to begin by recognizing how far the U.S. Government has come in interagency coordination when it comes to deal with terrorist financing. We have made enormous steps forward in the degree to which we can bring all the equities of the various U.S. agencies together to coordinate our efforts and to go after this very complex set of factors, of aspects, as we try to cut off the flow of funds to terrorists.

I would also like to express my appreciation for the leadership David Aufhauser has brought to the Policy Coordinating Committee, which has helped bring us all together. As he said, at first we were getting a lot of straw and seeing what gold we could spin, but we have actually started spinning gold out of this process, and that is becoming more and more fruitful as we go forward.

Our task has been to identify, track and pursue the financing targets and to work with the international community to get them to take measures along with us to thwart the ability of terrorists to raise and channel funds to carry out their heinous acts. A key weapon in this process has been the Executive Order which the President signed shortly after September 11, Executive Order 13224. Under that order we have frozen the assets of 321 individuals and entities. The agencies working together on this are daily in contact, evaluating new names, looking at targets for a possible asset freeze, but we are also looking at other forms of action, not just the public action of asset freeze. We have used these actions, as Mr. Pistole was saying, very effectively.

Often we will start off by a diplomatic initiative to get other governments to start conducting the audits that need to be taken, to undertake the investigations themselves, to start exchanging infor-

mation with us, the kind of financial records that Mr. Aufhauser cited, to get better cooperation between law enforcement and intelligence agencies, and to put new laws and regulations in place. It is surprising how many countries in the world did not have the legal authority to really act in these areas.

In every approach that we have adopted in the PCC regarding a specific target, there has been very extensive, very careful, painstaking work that has taken place. We want to make sure we have very credible evidence that links that target to terrorism. We want to weigh all the various options for going after a target. We need to identify the most effective way. A number of times we will shift gears as we go forward in pursuing a certain target. We want to be right. We want to be legal, and we want to be effective as we move ahead. In some cases that means we support public action, but in other cases we have chosen other methods, including law enforcement, intelligence, or getting another government to undertake the action that is needed.

Internationally, let me just note that the United Nations has been very important in this effort. It helped give the international impetus and legitimacy to asset freezes that are needed for us to help persuade others to come together. This is important because, one, most of the assets, of course, that terrorists use are not flowing through the United States. They are flowing through other countries. Second, when it comes to Al Qaeda in particular, it means that when an individual or an entity is listed on the UN sanctions list, all 191 members of the UN are obligated to implement those sanctions including asset freezes of those individuals and entities. So far on that list at the UN there are 217 names.

Another important organization to mention in this effort is the Financial Action Task Force, which we call FATF in our love for acronyms. There are 33 members in this group, and what they initially were devoted to doing was combating money laundering. But after September 11 they expanded their focus and came up with additional recommendations on fighting terrorist finance. It is in large part because of the action of this group, for example, that Indonesia has just recently passed a very strong set of anti-money laundering and antiterrorist financing laws, that the Philippines recently also very much strengthened their regulation and legal structure for being able to act against terrorist financing. Right now, there is a FATF team that is working with the Saudi Government to review its recently drafted regulations and pending legislation as well.

Saudi Arabia has been a particular focus of our counterterrorist finance efforts. On October 12, 2001, we and the UN designated for asset-freezing the assets of a Saudi millionaire, Yasin al Kadi, because of his links to Al Qaeda. Subsequently, we and the Government of Saudi Arabia submitted to the United Nations the names of the Somali and Bosnian branches of a Saudi-based charity, Al-Haramain, and that was listed for, those branches were listed in the UN for worldwide asset freezing. We and the Saudis have also submitted the name of Wael Julaidan, a prominent Saudi Al Qaeda financier to the UN in September 2002. These are a few examples of the public activity that has taken place.

In January, we launched a reinvigorated senior-level dialogue designed to improve communications and concrete cooperation with Saudi Arabia. The United States told the Saudi Government forthrightly that they would be judged by their actions. As a result of the May 12, 2003 bombings in Saudi Arabia that left 34 dead, including 8 Americans, that dialogue has intensified.

Our strategy with Saudi Arabia has three parts: interaction between key U.S. Government and Saudi officials; presenting packages of useful and usable information to the Saudis to help them take action against individuals and organizations involved in the funding and support of terrorism; and applying diplomatic pressure to ensure effective and timely Saudi action based on the information. All of this requires follow up in the building of relationships of trust and confidence.

But it is important to recognize that Saudi Arabia has made fundamental and necessary changes in its banking and its charity systems to help strangle the funds that are keeping and have been keeping Al Qaeda in business. Saudi Arabia is working with us very closely, as Mr. Pistole mentioned, in a number of ongoing efforts. The new banking regulations place strict controls on accounts held by charities. Charities cannot deposit or withdraw cash from their bank accounts, nor can they make wire transfers abroad via their bank accounts. As David Aufhauser mentioned, they have now banned in Saudi Arabia the collection of donations at mosques and instructed retail establishments to remove charity collection boxes from their premises. This is something that is undoubtedly very challenging for the government of Saudi Arabia to do.

I want to stress, however, this is a work in progress. We have reason to believe that our new cooperative work with the Saudis on terrorist financing will be effective, but we need to see results. We believe the Saudi Government is implementing its new charity regulations, but there too we need to see results.

Let me stress one point here. The Saudis have been and are still limited by their own lack of expertise, and this is a situation, as Mr. Pistole mentioned, that we are working to address. They are now receptive to our assistance and our efforts to help them boost their capacity. The Saudis are not yet where they need to be. They have much work to do. However, we believe they are headed in the right direction and are committed to countering the threat of terrorist financing, and are giving us very strong cooperation at this time in the war on terrorism.

Let me just mention one other key focus of our terrorist finance efforts: Hamas. Recently, on August 22, President Bush announced the designation for asset freezing of five Hamas fund raisers and six top Hamas leaders. Earlier in the year, the United States had also designated for asset freezing another Hamas charity operating in various parts of Europe, the al Aqsa Foundation.

Hamas' recent suicide bombings demonstrate the organization's commitment to undermining any real efforts to move toward permanent peace between Israel and the Palestinians. Shutting off the flow of funds to Hamas is crucial to reducing Hamas' ability to carry out its activities and to thwart the progress toward peace. In light of this, the United States welcomed the European Union's recent decision to designate Hamas in its entirety as a terrorist orga-

nization. We have also urged governments throughout the region of the Middle East to take steps to shut down both Hamas, its operations, and its offices and to do everything possible to disrupt the flow of funds to Hamas and the other Palestinian organizations that have engaged in terror.

I think it is worth briefly noting that there has been a lot of other activity going on in the Middle East region. A number of governments, the UAE, Bahrain, Egypt and Qatar have passed new money laundering legislation. The Gulf Cooperation Council has been an active member of the FATF group. They have taken fresh looks at their banking systems. All of these countries are taking new looks at how they have regulated charities. They are also looking at the informal money exchange systems in the Middle East called hawalas because these pose a specific and special challenge to the flow of money between regions, between countries in the world. We have been working with them and others in this effort.

I want to note just for a moment that arrests, that asset freezes get the headlines because they are public, but we do do a number of things that we put under the rubric of diplomatic activity, and I just want to stress that diplomatic activity is not about just going in and having tea with an official from another government. We are talking about getting other governments to cooperate concretely. We are talking about including law enforcement actions, intelligence actions, getting them to speak out publicly, getting them to prosecute terrorists, getting them to extradite terrorists, getting them to put new laws in place that they did not have before, prohibiting funds that are flowing to charities illicitly or for wrong purposes, making sure that their companies are not allowing funds to flow through them to terrorists. We are also working hard in what we call diplomatic activities to make it much easier for our colleagues in the law enforcement and the intelligence agencies to work with their colleagues.

The results of all of this action together and all of the agencies working together is vital for our long-term success. Now, we are going to keep working hard at this in all the regions of the world, and I am very happy, Mr. Chairman, that you are having an ongoing series of hearings and examinations of this problem, because it is complex, it is going to take a long time, and it touches many different regions and many different aspects of financial flows.

One of the key things that we try and do in this process is identify the vulnerabilities, not only in our own system but in other countries' systems, and in that context I just want to point out the vital importance of the capacity building and technical assistance that we can offer others. It is surprising when you actually go to other countries and talk to them, how much help they need even if they want to do the right thing.

Thank you very, very much, Mr. Chairman, Members of the Committee. We have a long way to go. We are started in the right direction and we very much appreciate all of your support as we move down this road. Thank you.

Chairman SHELBY. Thank you, Mr. Secretary.

Senators Schumer, Corzine, and Sarbanes have joined us.

Senator Schumer, do you have an opening statement you would like to make?

STATEMENT OF SENATOR CHARLES E. SCHUMER

Senator SCHUMER. Thank you, Mr. Chairman. I appreciate that because I have another place I have to go. I am going to try to come back and ask some questions as well because I appreciate your doing this and all of the hearings. This is much needed because this is a very serious issue, one, as you know, that I care a whole lot about. We all know that money is the lifeblood of terrorism. We have said that so many times it seems like old hat. But you cut off the funds that allow terrorists to carry out their deeds and you go a long way to shutting down their operations and that is why it is so appropriate to start with Saudi Arabia.

I believe that Saudi Arabia has done more to fund terrorism and more to fund, to empower and enable terrorism than any other country. In fact, I would argue that if you want to trace how much damage countries do to us, probably Saudi Arabia does at least as much damage as many countries on the terrorist watch list, even though they profess to be much greater allies.

I do not have a long time to go into a whole lot of things, but it is my basic view—I am going to focus on two—that the Saudi royal family struck a deal with the devil a long time ago, offering to sponsor the teachings of the country's hard-line clerics and propagate them around the world, wahabiism, militancy, a hijacking of a peaceful religion, Islam. It is a remarkably peaceful religion, and the vast majority of Muslims in this country are patriotic citizens who came here because they loved our values, and you cannot state that enough. But the Saudi royal family, who probably does not even represent the Saudi people, struck a deal with the devil, and said: Leave us alone here, and we will help you propagate this in Pakistan and in Indonesia and everywhere else. Of course, all of that changed at September 11. It has changed a little more after the bombings in Riyadh, but it sure has not changed enough.

The two places I want to focus right now—and I hope the witnesses will address it—one is the Saudi interior minister, the man in charge of antiterrorism in Saudi Arabia, the man you are supposed to cooperate with—Mr. Wayne, I do not agree with you. This is not a question of their not having the tools but wanting to help. They want to do as little as possible to assuage the West, and they keep doing the same things. The Minister, the Interior Minister, repeatedly continues to block American investigations. He singlehandedly blocked the trial of the 13 Saudis indicted in the American courts for killing 19 Americans when they bombed Khobar Towers.

After September 11—this is not a rabble-rouser on the streets. This is the Interior Minister. I believe he is the brother of Abdullah. He insisted that Zionists were responsible for September 11 and insisted that Saudi citizens could not have been involved, even after the Saudi Government admitted that 15 of the 19 hijackers were Saudi. That is not a lack of technical ability, in all due respect, Mr. Wayne.

Even as I speak, Nayef appears up to his old tricks, because they for months denied American agents access to a Saudi with knowledge of extensive plans to release poison gas into New York City subways. So that is point one. How the heck can this Government cooperate in cutting off finances in stopping terrorism when their

Interior Minister seems to have no desire, and in fact professes things that you would think would only come from extremists and terrorists themselves.

Then the second issue is the enabling, the empowerment, the schools that are funded around the world. Why is it that in places as far away as Indonesia and Pakistan there are so many young people who seem to feel that it is their mission in life to create a religious war against the infidel, who are not only all non-Muslims but members of other Muslim sects that are not as extreme? We know why. Because the Saudi royal leadership, aided and abetted by the Saudi Government has funded these schools. Are they stopping the flow of funding to the madrassas? No. If any one has evidence that they are, I would like to know it. I believe that if there were no madrassas you can make an argument that September 11 might not have happened, that Al Qaeda would not be either in existence or as strong as it is today. That funding comes from the leadership of Saudi Arabia. We all know that Al Qaeda is funded by Saudi citizens.

Let me read you something from the Council on Foreign Relations Report. This is a year after September 11, chaired by Hank Greenberg, head of AIG, hardly a rabble-frouser or anything like that. The report said:

> It is worth stating clearly and unambiguously what official U.S. Government spokespersons have not. For years individuals and charities based in Saudi Arabia have been the most important source of funds for Al Qaeda, and for years Saudi officials have turned a blind eye to the problem.

If the Saudis want to show that they are part of the family of Nations and are not being two-faced, telling the West they hate terrorism and allowing the funding, I would suggest that they cut off the funding of these madrassas immediately, which teach hatred and take poor starving kids who know nothing better, feed them, and then teach them that their mission in life is to kill other people who do not believe what they believe, inimical to the freedom and plurality that we hold, and again I hasten to add, the vast majority of Muslim-Americans hold dear.

Thank you for allowing me to make this statement and I hope I can return to ask questions about Nayef and about these madrassas and if there has been any progress made.

Chairman SHELBY. Thank you, Senator Schumer.

Senator Corzine.

COMMENTS OF SENATOR JON S. CORZINE

Senator CORZINE. Thank you, Mr. Chairman.

I appreciate you holding this hearing on a most complex subject. We obviously hear the intersection of diplomacy and the need for detailed effort in the area of our financial system.

I have a formal statement that I will put in the record.

Chairman SHELBY. It will be made part of the record in its entirety.

Senator CORZINE. But one of the points that I make in that, which is reinforced with the opening statements, which I think is so important in the greater war on terrorism, is the emphasis on coordinated multilateral action. The simple fact is interruption of funds flows that these funds and the efforts that are being made

would not occur without a multilateral approach to how we are dealing with it.

I will now quote from the General Counsel of Treasury's view: "Acting unilaterally is often an empty gesture, an action without effect." I think that is an approach that needs to be taken in the war on terrorism.

Chairman SHELBY. Senator Sarbanes.

COMMENT OF SENATOR PAUL S. SARBANES

Senator SARBANES. Thank you very much, Mr. Chairman.

I am sorry I was not able to be here right at the outset of the hearing, but I had a conflicting responsibility.

First, I want to commend you, Chairman Shelby, for calling for an in-depth review of the financing of terrorism. I think this is an extremely important subject, and I am pleased to join with you in this shared effort. In fact, your chairmanship first of the Intelligence Committee and now of this Committee I think gives you a unique perspective to come at this issue, and I fully support your plans to make this a high priority for our Committee.

I strongly share your commitment to focusing on ways to improve the detection and prevention of terrorist financing. I think it is generally acknowledged that following the money can be the key to the most difficult of investigations. That is why this Committee moved to report a Money Laundering and Anti-Terrorist Financing bill on October 4, 2001, less than a month after the September 11 tragedy, and held two oversight hearings last year on the implementation of the resulting legislation.

We need to look at how money is used to pay directly or indirectly for the work of terrorists around the world, where the money comes from, how it passes through the global payment system, how it is disguised. That knowledge, of course, is necessary if we are to examine how the U.S. Government deals with the terrorist money flow, whether our agencies are organized effectively to do so and whether our international arrangements are adequate to the task.

Breaking up the infrastructure through which terrorists are recruited, trained, and sustained is essential to reducing the threat of terrorism. Cutting down—or, hopefully, cutting off—the money on which terrorists rely to construct and maintain that infrastructure is one of the best ways to do so.

But economic sanctions, seizure of funds and other means will work to deprive terrorists of financing only when those efforts reflect the sophisticated knowledge of terrorism's financial backers, the regions from which they come, and the methods they rely on.

The Chairman has indicated that the Committee is now undertaking a comprehensive review of all aspects of terror financing. Subjects will include implementation of Title III of the USA PATRIOT Act, methods and means of terror financing, the relationship and cooperation of the various executive departments and agencies in countering terrorist financing, and the cooperation of the international community, and privacy and civil liberties issues.

This is a comprehensive and ambitious agenda, but it is my own view that it can make a very significant and substantial contribution to the fight against terrorism.

A lot of people think it is somewhat off to the side or not right in the middle, but the fact of the matter is that if we can succeed in this fight, if we can dry up the financial resources, this may well be the most effective way to get at this problem.

Mr. Chairman, I strongly share your commitment to this series of hearings, and we look forward to carrying through with it, and I want to welcome our three witnesses today.

Chairman SHELBY. Thank you, Senator Sarbanes.

Mr. Aufhauser, you have recently traveled—probably many times—to Saudi Arabia with a multiagency group to coordinate closer cooperation with the Kingdom of Saudi Arabia, among other things. What has Saudi Arabia accomplished regarding terrorist financing, in a frank and candid way, if you can say so here, and would you assess for us the cooperation of Saudi Arabia with our efforts, real time, in the past and in the future?

Go ahead.

Mr. AUFHAUSER. Let me begin if I can by rehearsing some of the strides that have been made as a result of the dialogue with Saudi Arabia.

Chairman SHELBY. Sure.

Mr. AUFHAUSER. And it is a litany of specifics. There have been, one, arrests of six to eight prominent fundraisers that have been identified to us by detainees.

Two, there has been, as Mr. Wayne has noted, significant designations of prominent merchants, particularly out of Jeda. This has profound deterrent effect, as I stated in my opening.

Three, they agreed to shutter the offices in Bosnia, in Kosovo, of two significant Al-Haramain charity outposts which are financing terror as opposed to underwriting eleemosynary purposes.

Four, they have agreed indeed to restructure that of their largest charities, Al-Haramain, to conduct a criminal investigation of its head, and have agreed further to cut off all support, all financial support, of Al-Haramain and eight additional offices around the world where we again demonstrated to them that those offices were perverting the purposes of charity to do violence to communities.

They have also adopted an ambitious charities regime, which Mr. Wayne testified to, which basically exercises more control over the remittance of cash or money across borders. In fact, it indeed needs to be vetted now by Saudi authorities, effectively.

They have also adopted extensive anti-money laundering legislation and regulations which are now under scrutiny by international auditors in the form of FATF, again as alluded to by Mr. Wayne.

And as I have stated, they have taken the profound step of prohibiting cash collections in their own mosques, something which is at war with 1,700 years of their heritage.

I will also say that they tell us that they have begun the vetting of clerics for extremism and indeed have told us that as many as 1,200 domestically have essentially been canned because of such vetting.

And they have also begun to police money remittance outfits and closed more than 100 of them which were previously unregulated and responsible for cross-border changing.

The most important thing that they have agreed to do is this joint task force, which gives us a window of transparency and a

tester on their true resolve to use the evidence that we give them, to use their compulsory process to get at things.

Now, that is extraordinary stuff from where we were before September 11, but it is far from enough in my judgment. I would characterize—and I am a little bit more Spartan on this than most—I would characterize the cooperation as halting, lacking all initiative, responsive, sometimes insincere. Let me give you an example of the insincerity. The adoption of the charities regime was widely announced here in Washington last fall or winter, but it was not implemented until Ambassador Black and I went to Riyadh and urged them to follow through and put their money where their mouths were.

Similarly, on the designations of Julaidan, which was referred to by Mr. Wayne, to be sure, they designated him, they conducted interrogations, but they failed to share material information about those interrogations with us.

I also think there has been a too convenient reliance on systemic change there. It is both laudable and troubling, because it gives them the opportunity to say "We are changing our system," but it also gives them the opportunity to avoid the hard issue of who is personally accountable for what has been going on.

Chairman SHELBY. What do you think could be accomplished if the Saudis are serious and want to sustain this effort to cooperate fully in the war against the terrorists, as referenced in the financing of terrorism? In other words, what do they need to do? I am not saying they will do it, but what would they need to do?

Mr. AUFHAUSER. Well, let me first say I effectively agree with Senator Schumer in saying that if we can get full cooperation out of the Saudi Government in policing what are undoubtedly significant money flows to Hamas and others out of Saudi Arabia that we would significantly deplete the financial resources of terrorists, particularly in Al Qaeda and Hamas but indeed in other parts of the world, other terrorist organizations.

What is most needed is to start taking personal accountability and holding people personally accountable and to police their charity system in a meaningful way. There was a reference to Prince Nayef. He actually sits as a fiduciary if you look at the structure of Al-Haramain yet, in a very un-Sarbanes-Oxley-type way, apparently failed to note what was happening in his own shop.

Chairman SHELBY. But they cannot have it both ways; they have had it both ways for a while—but not in the future, can they?

Mr. AUFHAUSER. I do not want to sound too harsh. I want to be clear. What they have done, particularly post May 11, is nothing short of a new era for our dialogue with them. The Joint Task Force on Terrorist Financing is the tester. And we have a reciprocal obligation, by the way, in connection with that. We have to share our information with them. But we now for the first time have the opportunity to use their compulsive process to follow leads and investigate what we now suspect.

Chairman SHELBY. Given your experience as Chair of the Policy Coordinating Committee and for the American people who will be looking at this now, tell us what the PCC is.

Mr. AUFHAUSER. It is an interagency group that gathers almost weekly to examine what the world of law enforcement and intel-

ligence is learning about the sources and uses of terrorist financing; and most importantly, it is a group that decides what is the best way to go about exploiting the information that we know so that we prevent another calamity.

We are not governed by any prejudice of prosecution or designation or diplomacy. We do it on a case-by-case basis to decide based on as real world effect rather than political theatrics. And most importantly, most importantly, it represents an integrated government on a battlefield. It is also the recommender of strategic direction to the National Security Council—what parts of the world should we focus on, what networks should we focus on, and the principled way we should focus on those networks. It also makes strong recommendations about how to allocate our intelligence collection resources.

Chairman SHELBY. Should we keep it as it is? Should we improve it? Are there ways to improve the PCC?

Mr. AUFHAUSER. It effectively probably needs more of an executive secretariatship than it has had in the past, and I think Secretary Snow is intent on doing that as long as the Treasury Department continues to chair the committee, which in my judgment is an absolute necessity.

Let me make one point on that. The President made Treasury the chair of the PCC because he had the intuitive wisdom to know that in fighting a war, the tactical sometimes trumps the strategic. And he gave it to Treasury because we are like terriers with a bone on one issue—we focus on the sponsors, the donors, the wellspring of money, not on the use of financial information so much to stop episodic, everyday, anticipated events. I leave that to the FBI and the CIA, but we give it strategic direction.

Chairman SHELBY. It sounds like it should stay in Treasury.

Mr. AUFHAUSER. Yes, sir.

Chairman SHELBY. Why will additional assets within the intelligence community make a difference, a real difference, in the kind and quality of information that you and Treasury assets receive when you should have this information in the first place?

Mr. AUFHAUSER. Well, the most significant disability in the war on terrorist financing is actionable intelligence, and by "actionable intelligence," I mean not information but information that we can share with our allies and friends abroad.

Chairman SHELBY. And do something with.

Mr. AUFHAUSER. And do something with. But mostly that it is sharable, that it gets declassified in a manner that we can convince allies that we have enough to move on, because as Mr. Wayne said, this is a feckless act if we do it alone.

Second, in terms of increased assets, it is worth noting both the CIA and the FBI have stood up these new terrorist financing units basically from ground zero to well over 200 full-time employees, and those assets are well-employed and well-exploited by the PCC.

Chairman SHELBY. Senator Sarbanes.

Senator SARBANES. Thank you very much, Mr. Chairman.

Mr. Aufhauser, I want to explore—it is not directly on the subject of this hearing—but Treasury's traditional enforcement arms, except for the Criminal Investigation Division of the Internal Revenue Service, were transferred out of the Treasury Department in

March when the Department of Homeland Security was created. In fact, at present, the position of Undersecretary for Enforcement as I understand it is unfilled, and you supervise as General Counsel both the Financial Crimes Enforcement Network and the Office of Foreign Assets Control.

I understand there is an internal study going on at Treasury about the issues raised by the loss of enforcement capability at Treasury. Without revisiting the Homeland Department issue—and I had considerable concern at the time about this loss of enforcement capability at Treasury—how can we address this question? I mean, you still have important responsibilities, but my perception is that a lot of the enforcement capability that Treasury previously had has been shifted somewhere else. It seems to me that that leaves you with a problem on your hands.

Mr. AUFHAUSER. Let me characterize it as an opportunity.

Senator SARBANES. All right.

Mr. AUFHAUSER. You are correct. We have—the Treasury Department has—a profound responsibility to try to promote and sustain the integrity of the domestic and indeed international financial system particularly from forces of corruption, or people who would like to turn it into a weapon of violence against us.

We also have substantial statutory authority to do so. But we have been limited in the resources that we can apply to do both, particularly in the area of national security interest. If you rehearse for a minute our five main areas of interest in national security—economic sanctions, anti-money laundering, terrorist financing, guaranteeing that critical financial infrastructures are secure, and guaranteeing the integrity of our currency, that is, counterfeiting, which is a tool of choice of the sponsors of terror—we have significant responsibilities, and we have done very well in my judgment during the last 2 years largely because of the talent of the people who work with me and largely because of their sweat equity and largely because they are the creators of good ideas, and good ideas have force.

But their opportunities to continue to put those ideas into action would profit, I think, in my judgment, from more resources committed to Treasury enforcement. We are somewhat handicapped in what we have been doing and what I think we need to do. Let me give you some examples because examples speak much better than my thoughts.

We do not have auditors to ensure compliance with the USA PATRIOT Act. We do not have investigators to pursue the priorities of the National Money Laundering Strategy. We do not have an intelligence office that is fully integrated into the national intelligence community. And as a consequence, sometimes priorities and programs championed by Treasury can become easily subordinate to the daily travails of other agencies.

Secretary Snow and I have been talking. I have made some recommendations. There are some quite explicit recommendations that I would make, including an undersecretary for enforcement, including an assistant secretary for intelligence so our ad hoc participation in the intelligence community is made formal, and then a host of other recommendations which I think are quite doable

and quite affordable which would help us guarantee the financial integrity of the system.

Senator SARBANES. Well, I for one would welcome Treasury sending to the Congress proposals in this arena in order to reconstitute or enhance its enforcement capabilities.

One of the arguments that was made for not shifting everything over was that Treasury has a particular role in dealing with financial markets and has established contacts all over the world with significant actors in other countries, and that if Treasury were not in the middle of this, we would really lose a great deal if the whole thing went over to Homeland Security.

On the other hand, to leave that with you for very good reason, I think, since you have these other responsibilities that clearly belong to Treasury and interact with finance ministries in other countries, but not give you the tools down below in order to carry out the job it seems to me is pretty short-sighted. So whatever the study comes through with, we would certainly welcome it.

Mr. AUFHAUSER. Can I emphasize, that the job is being done; what we are talking about is now to enhance what we are doing. So it is not completely forfeit. I do not want to leave you with that impression. But there are many specifics that I think would enhance our ability to perform what the President and Congress have asked us to do, particularly in the area of the USA PATRIOT Act.

Senator SARBANES. Let me just ask one more question, and then I will stop. One important effect of Title III of the USA PATRIOT Act was to extend the basic anti-money laundering control regulations to many types of financial institutions that had previously not been subject to the rules.

Mr. AUFHAUSER. Right.

Senator SARBANES. For example, insurance companies and hedge funds in addition to the money service businesses and casinos already subject. Who is responsible for auditing all of these institutions for compliance?

Mr. AUFHAUSER. Well, it is precisely my point. In the past, the Bank Secrecy Act requirements, of course, have applied to financial institutions that are the subject of various Federal financial regulators. And we have delegated the responsibility and the authority and the power to conduct compliance audits to those regulators, like the Federal Reserve and the OCC.

They do well, although my intuition on the matter is that the BSA part of the bank audit might be stepchild to the rest of the audit, whereas if we had our own people performing those audits out of the Treasury Department, they would have a matter of priority and primacy.

Now that we have extended, under the USA PATRIOT Act, the responsibilities to comply with the Bank Secrecy Act through a myriad of industries which are not subject to Federal financial regulators, we now have to depend on them honoring the law, but we have no power or resource or people to audit them.

Senator SARBANES. Well, that is not a very happy situation, is it?

Mr. AUFHAUSER. No, sir.

Senator SARBANES. Thank you, Mr. Chairman.

Chairman SHELBY. Senator Bunning.

Senator BUNNING. Thank you, Mr. Chairman.

Mr. Aufhauser, you recently testified that Saudi Arabia was "the epicenter of terrorist financing." That is a quote—"epicenter." Do you actually think any kind of an agreement with the Saudis will actually succeed, or will it be just more rhetoric?

Mr. AUFHAUSER. No. I think it will succeed, but we have to be religious about policing the agreements and the plans and going forward.

Senator BUNNING. Does the new agreement with the Saudis allow the United States of America to actively pursue suspected terrorists in Saudi Arabia, or are we still in limbo like we have been, with our hands tied behind us, until the Saudi Government makes the first move?

Mr. AUFHAUSER. I would actually like to defer to Mr. Pistole, but I will give you two sentences on it. Number one, we have never not investigated any Saudi individual's complicity in terrorist financing. What we are talking about is whether or not we can now marry up our own independent efforts with the compulsory process and police powers of Saudi Arabia. And the Joint Terrorism Task Force that they have agreed to do does precisely that.

Senator BUNNING. It allows the United States to act without—or, it must use Saudi Arabia and the United States?

Mr. AUFHAUSER. John is actually orchestrating this, so if I can, I will defer to John.

Senator BUNNING. All right. John, I will be more than happy to listen.

Mr. PISTOLE. Senator, yes, sir. Actually, there are two initiatives that the FBI is working with the Saudi Government through the Mabahith, and Treasury is part of that, the CIA is also a part in one aspect, and that is what we basically call a "fusion cell," which is an operational arm of intelligence from both the United States and Saudi intelligence and law enforcement communities to actually try to locate and identify Al Qaeda and other terrorists who may be in the Kingdom, such as the individual I referenced before, Zubayr Al Rimi.

The second aspect, which David mentioned, is the Joint Terrorism Financing Task Force, which was recently stood up in Riyadh. It is led by Mabahith, but it is comprised of FBI and Treasury agents who are working with Mabahith on specific, actionable intelligence to identify and follow the trail of money.

It is not being done unilaterally, obviously. We need the cooperation of the Saudis to pursue both through Mabahith and through the Saudi Monetary Agency, SAMA, to trace the funds through Saudi accounts to wherever they may go in the world. So it is a collaborative effort.

Senator BUNNING. Thank you.

All of you most likely know that a University of Southern Florida professor was arrested and charged with raising money for the Palestinian Islamic Jihad. What is the Government doing to prevent this type of reverse money laundering, money apparently raised legally and going to existing terrorist operations—anybody?

Mr. PISTOLE. I will be glad to start. Yes, he was arrested earlier this year and of course has not been convicted of anything yet, but the charges in that investigation and others similarly situated around the country focus on two aspects. One is the legitimate,

from the perspective of fundraising for supposedly legitimate causes, or humanitarian relief and associated aspects of that. The other aspect is the illegal activity that is being conducted here in the United States, the proceeds of which then are sent overseas in furtherance of terrorist activity.

In that case and in a number of other cases around the country, we have investigations which we believe have enough evidence to demonstrate that these individuals are operating illegally either through the acquisition of funds which are sent to terrorist organizations, perhaps by contributors who are witting or unwitting in the eventual end-use of those funds.

The other aspect again is that underlying criminal activity, whether it is drug trafficking, credit card fraud, infant formula fraud, cigarette tax fraud—any illegal activity you can think of, we have investigated or have current investigations on where we believe those funds are then being sent overseas for terrorist activity.

The key is trying to determine, once they go overseas, how they are being used, and again, that goes back to my analogy—if they say all this money——

Senator BUNNING. I want to get one more question in before you have talked me out of my time.

Mr. PISTOLE. Yes, Senator.

Chairman SHELBY. We will give you the time, Senator.

Senator BUNNING. Thank you. I appreciate it.

Mr. PISTOLE. My point is trying to determine, once the money goes overseas, how is that money being used. And again, if $100 goes overseas and $99 goes to humanitarian relief, that is fine, but if that extra dollar goes to buy the bullets or bombs, that is where we have a problem, because that is supporting terrorist activity.

So we will investigate, and through the Department of Justice, we will attempt to charge those individuals who are supporting funds in that way.

Senator BUNNING. Okay. This is more personal because it affected a bunch of people in the 101st Division that is stationed in Fort Campbell, Kentucky. There have been allegations that Saudi-financed organizations, specifically mosques, here in the United States actually trained Army Sergeant Asan Akbar, a Muslim engineer with the 101st Airborne Division who killed two of his peers and injured 15 others in Kuwait.

What are we doing about those kinds of things? If we are going to stop terrorism at its roots, how do we get hold of these supposed charitable mosque organizations that are collecting illegally and training people to do illegal acts?

Mr. PISTOLE. If I could respond to the initial part of that, one of the things that we are doing through our Joint Terrorism Task Force is trying to identify those mosques where that type of hatred, that violence, is being espoused. In certain situations, we have been able to conduct convert investigations, including having either cooperating witnesses or undercover agents go into those mosques to personally assess what is being espoused.

In terms of the financing aspect, we have worked with the Saudi Embassy here in Washington to obtain a list of all the individuals that the Saudi Government supports through monthly stipends

who may be imams, clerics, other individuals and community centers who may be espousing that violence or hatred.

We have identified certain of those individuals from our investigations to the Embassy and requested that the Saudi Government curtail any additional funding, which they have done in certain situations.

There was one individual similar to this individual—his name is Adnan El Shukrajumah—who was in South Florida. His father was an imam of a radical mosque. El Shukrajumah was one of the individuals identified by senior Al Qaeda detainees as being the next individual to conduct a terrorist attack in the United States because of his fluency in English, his pilot skills. He was not a Saudi citizen but was identified as such. His father was receiving money through the Saudi Government. We identified that, and they curtailed the funding to him.

They have also provided us a list of every student in the United States whom the Saudi Government has supported, and some of those individuals we have under investigation for their support of radical Islam.

There are a number of initiatives which I could go into in more detail in a classified hearing.

Senator BUNNING. It seems to me we have just started to push the envelope down the field, and we have a long way to go.

Thank you.

Mr. PISTOLE. Agreed.

Senator SARBANES. When you say "curtail," do you mean eliminate or limit it?

Mr. PISTOLE. Stop; stop the funding.

Senator SARBANES. Stop it.

Mr. PISTOLE. Yes.

Senator SARBANES. Thank you.

Chairman SHELBY. Thank you.

Senator Corzine.

Senator CORZINE. Thank you, Mr. Chairman.

I would like to get a general sense of the international cooperation we are having with respect to the kinds of activities that we are now pursuing under the USA PATRIOT Act and with respect to our own financial institutions.

When we were originally debating and discussing the money laundering issue, for instance, Swiss bank secrecy was a major issue that we were attending to, and there have been some changes in the law. How effectively has our pursuit of this terrorist trail been able to be implemented with our allies and participants internationally in the official chains of financial institutions?

Mr. WAYNE. Senator, generally, we have had very, very good cooperation, particularly in the case of Al Qaeda, and that is certainly the case—you mentioned Switzerland, and a number of my colleagues from the Treasury Department have traveled to Switzerland and had detailed discussions with their authorities. Their authorities have been very cooperative in this effort. That is similarly true in other parts of Europe as we are going after Al Qaeda.

It has generally been practically everywhere in the world that we have gone to talk, people have been cooperative. A number of places, we have run into limits because of the legal and regulatory

framework that other countries have as to what they can do in their specific cooperation with us, and that has varied country to country.

There, we have focused on encouraging them to get their regulation and laws in place that allows them to go further. But the spirit of wanting to cooperate has been quite pervasive certainly post-September 11 on Al Qaeda.

I do not know if David has some more specifics, particularly in the financial area.

Mr. AUFHAUSER. First, I want to affirm what Tony has said. On official channels, there has been perfect cooperation. The one major hurdle has been differences of administrative law, issues of evidence, that permit a freezing of assets on less than "beyond a reasonable doubt." Here, as you know, Senator, we have a lesser standard for proceeding under IEPA and under the powers given to OFAC, which basically is an "arbitrary and capricious" standard. That is a standard that is alien in many parts of the world.

For that reason, you frequently have to try to share and develop more evidence than otherwise you think is required. A lot of the dialogue officially is to convince them that this is enough for them to act.

In terms of private channels, we have been in near-weekly if not daily contact with private banking associations and, where we have specific evidence and where appropriate with specific banks on private matters, and achieved remarkable degrees of cooperation.

I think everybody knows that one of the great ironies of what happened on September 11 is that our enemies used the very tools of commerce, particularly the increasingly borderless financial world, to strike at the heart of it. And they are angry about it, and they are committed to join us in fighting it.

Senator CORZINE. So you are having no roadblocks in your ability to reverse-engineer the maps and flows across international boundaries.

Mr. AUFHAUSER. My biggest disability is actionable intelligence, enough to share people to push the envelope in their own jurisdictions.

Senator CORZINE. The corresponding banking issue that was so much a centerpiece of much of what we discussed when we were writing Title III has been open to your ability to pursue and to understand the flows of funds, whether it is to charitable organizations or through business——

Mr. AUFHAUSER. Yes. Where necessary, we have a pretty deep understanding of what happens in the documented banking world today.

Senator CORZINE. Usually, when there is pressure in one area, other elements of transaction flow develop. Are we identifying, and is it becoming clear, or are there channels that are developing that have nontraditional, if one would say, that we are onto—we all heard about the hawala issue when we were debating—but are there other channels that are becoming more apparent—people used couriers as an example in one of the testimonies. Are we seeing new avenues of transfer without trying to—and I am not asking you for a revelation of classified material.

Mr. AUFHAUSER. You are right to state that there has been a return to couriers, but couriers are not new; they are the most ancient form of value transfer, of course. That is actually good news, because that is less mobility, that is less transit, and they have to carry volumes of cash, and that is actually a handicap for them.

And we have hundreds of years, all of us, as police officers and enforcement officers, of trying to police borders against couriers.

In terms of turning to other forms of value transfer, hawala has probably always been the most significant challenge because it is an undocumented way, as you know, for transferring money, and a traditional way in much of the developing world and transitional world for transferring money at very little transaction cost.

There are only two really good ways to deal with hawala. One is to regulate them, which is a modest advance, and the second is to penetrate them.

Senator CORZINE. Thank you.

Chairman SHELBY. Secretary Wayne, I will start with you on this question, which is kind of a follow-up question to Senator Bunning and Senator Corzine regarding charitable giving.

On Monday, I understand that the UK unfroze the assets of Interpal, a so-called charity which the United States believes is aligned with terrorists. The UK Charity Commission said, "The American authorities were unable to provide evidence to support their allegations."

How does this happen, Secretary Wayne? Is it timely and usable information? Is it being shared? Is this a result of intelligence which cannot be used, or just not enough information? Sometimes you just do not have enough. Is there some more authority that you need?

I will start with you, but I would like to hear from David and John.

Mr. WAYNE. Sure. Let me say a few things, and of course, we can be more explicit in closed session.

Chairman SHELBY. Sure, I understand that.

Mr. WAYNE. One of the challenges here was that Interpal, the UK Charity Commission, in response to our actions put a temporary freeze on the funds of Interpal that they had under their authority, and they asked for unclassified information, again, that would show that these funds were going to fund terrorism.

There are two challenges there. One is to show the link to terrorism, and two is to make it in an unclassified format. We did share information with them about Interpal and Hamas and Hamas charities. The challenge to make that link was in a unclassified format.

They have told us that they appreciate what we gave them; it was not enough for them to make that decision in their system, which all has to be public and unclassified, but they would be open to us providing more information to them in the future. But it does go to the challenge that David Aufhauser——

Chairman SHELBY. The expression of future problems, then.

Mr. WAYNE. —that David Aufhauser pointed to, which is actionable information and then information—there are two levels of that—first, information that you can share confidentially with another government, and there is information that because of their

system, they ask to be public, and that is a challenge, and it was a challenge in this case.

Chairman SHELBY. Mr. Aufhauser, do you have any comment on this?

Mr. AUFHAUSER. My reaction actually was almost visceral. They do not get it. Once the EU finally came around to our view that it was complete sophistry to say that Hamas' left arm is not its right arm in terms of distinguishing between the military end——

Chairman SHELBY. It was the same body, wasn't it?

Mr. AUFHAUSER. —yes—between the military and the political end, once that decision was made, there should be no evidentiary burden in demonstrating that Interpal knew that the money was going for violent purpose. It is enough to demonstrate that the money went to Hamas, period. So I do not get it.

Chairman SHELBY. Mr. Pistole.

Mr. PISTOLE. This is one of the benefits of the USA PATRIOT Act is the use of classified information in criminal proceedings or proceedings such as this, which is to our benefit in the United States. Unfortunately, with the UK system, they are basically, as has been described, wanting classified information that could be declassified. We are in the process of doing that, but it is not there yet.

Mr. WAYNE. If I could just add a little bit about the debate that is going on in Europe in regard to this——

Chairman SHELBY. Yes, go ahead.

Mr. WAYNE. As Mr. Aufhauser mentioned and as I mentioned in my statement, the EU finally recently agreed to designate all of Hamas as a terrorist organization. Previously, they had designated what they called the military wing of Hamas, but refused to designate the political or the charitable or the other wing of Hamas.

Chairman SHELBY. Are they deceiving themselves here?

Mr. WAYNE. Well, there are a couple of things, as I was just going to add. They have just done that. What they did not agree to do was then automatically designate all the charities that we believe are Hamas charities. Indeed, they are still debating that. I will be very honest. Some countries in Europe think they should do that, others have questions. There are a number of different questions. Some are still raising the issue of the evidence. Part of our challenge and our need will be indeed to convince them that if the whole organization is a terrorist organization, then the whole is a terrorist organization.

They also do face in their legal systems, however, some different challenges. The Germans had earlier this year, for example, frozen the funds of the al Aqsa Foundation. That decision is now being challenged in their courts, with people arguing in the court that you have to show real links to terrorism to do that.

So part of it is persuading people that this is all part of the whole, and part of it is that they do have different standards and legal systems which they have to adjust and work with.

Chairman SHELBY. But it cripples the effort.

Mr. WAYNE. It does, and that is why we are going to continue vigorously to work with our friends and close allies to show them what we very much believe is the right way to be fighting terrorism in this case.

Chairman SHELBY. Senator Sarbanes.

Senator SARBANES. I was just going to make the point—Mr. Aufhauser talked about "actionable intelligence." I am not quite sure how you are using the word "actionable." We may have good intelligence, but we do not get the response that it deserves or warrants or justifies, because the people we are dealing with abroad come at it with a different mindset or a different standard or a different attitude. How much is that a part of your problem? I mean, this instance would seem to rather dramatically illustrate that, but how extensive is this?

Mr. AUFHAUSER. Two answers, both responsive. When I use the term "actionable intelligence," I mean what I can share with people to convince them to act, because if I cannot get somebody abroad to act, what we are doing is political theater. I have got to be able to share it.

Second, what happened with Interpal in Britain is really quite chilling. These are the best of our friends. If we cannot convince them to join us against one of the primary funders of Hamas, in the millions of dollars, within weeks after the designation by the EU of Hamas as a foreign terrorist organization, it gives you some taste of how difficult it is to get other, less friendly Nations to join us in the Gulf or elsewhere.

The short answer to your question is that it is a question of political will, but political will is frequently reinforced and overcome with actionable, shared, significant intelligence.

Chairman SHELBY. I will start again with you, Secretary Wayne. I believe it is given that the terrorist finance issue is as much diplomatic in a sense as it is enforcement. I think that has been made clear here. There are material differences in many countries' views of "support for terrorism." In fact, the President's Executive Order states that those individuals and groups "otherwise associated with terrorists will be subject to sanctions." This is almost—we have some good lawyers around here—a strict liability standard, using the legal phrase.

In addition, it appears that much of our effort has been to focus on the Muslim world. And as you look around the world, can we convince our allies, whom you have alluded to, that the present standard, that our standard, is, one, appropriate? Have we helped or hurt our long-term efforts for a short-term benefit, and how have we been able to do this? And what are the biggest challenges that we face in this war?

I will start with you, Secretary Wayne.

Mr. WAYNE. Thank you, Mr. Chairman.

Well, indeed, a lot of what we do in what we call "diplomatic activity" is take the information that we have and persuade people what the linkages are and why they need to act. And the further you get down that chain from terrorism to supporting terrorism, the harder it is to convince people, no question about that.

Chairman SHELBY. They have to want to be convinced.

Mr. WAYNE. They have to want to be convinced, yes.

Chairman SHELBY. If they start with a premise that maybe they do not want to be convinced, you have a difficult task.

Mr. WAYNE. Right. There is no question that the easiest of a difficult task is when we are talking about Al Qaeda, because with Al Qaeda, there was a broad-based and still is a broad-based inter-

national consensus embodied in UN Security Council resolution after resolution, with a committee establish at the UN with a list there of Al Qaeda supporters that countries must act against with asset freezing and travel banning; and once this committee has approved a name, countries are obligated to enforce sanctions.

Early on, we were worried in that case, for example, that we were the only one putting names forward. But other countries have now been joining us. Just the other day, Germany put forward a list of a number of names which we joined, just a couple of days ago, that came into effect. That makes it much easier in those cases to go into countries and say "You need to act against this."

And although there has still been a lot of persuading to do, we have been able to rally governments to do things publicly and privately.

When we get to other terrorist groups, it is harder, but we did pass a UN Security Council Resolution 1373 with others support that makes it a broader effort, an obligation for all countries to put laws in place to fight terrorism. We need to be building that consensus, and it is harder in some cases than others to do so.

Chairman SHELBY. Is it insurmountable?

Mr. WAYNE. No, it is not, but it is a long-term effort, and in a number of countries, with a number of regimes, it is more of a challenge than in other places. It is like every international effort we face—sometimes it is harder——

Chairman SHELBY. It takes sometimes a wake-up call—all of you alluded to the Saudi situation in May, where they were attacked on their own soil and sustained deaths, and so did we. Does it take that sometimes to change mindsets?

Mr. WAYNE. Sometimes it does. As with all of us as individuals, sometimes—I remember my parents telling me something I should not do because it would have bad consequences. Well, until I did it and felt those bad consequences, sometimes I did not really learn it. It is sometimes that way.

Chairman SHELBY. The hard way.

Mr. WAYNE. The hard way. That is right.

Chairman SHELBY. Mr. Aufhauser.

Mr. AUFHAUSER. Surely the immediacy of the threat emboldens people to raise their standards of care in their banking systems, particularly as it goes to terrorist financing. That was the wisdom that informed us to write that Executive Order the way we did.

You asked whether I think it was wise to do it. Yes, I do think it is wise to do it. I also think it is unwise to use that power except in the most judicious and prudent circumstances. It is a situation where the threat is probably more potent than the execution.

Also, it has been, in my judgment and talking with international bankers over the last 3 years, very useful in raising the standards of due diligence of fiduciaries, and that is significant, because we need gatekeepers, because as good as my colleagues at the CIA are, or John Pistole is at the FBI, we cannot capture every piece of misconduct occurring in the digital electronic system.

Senator, you asked the largest challenge. I think we need to demonstrate when we ask people to act that we have credibility in the asking. It goes back to—and you are tired of this mantra from

me this morning, I am sure—it goes back to that we have evidence, that we have intelligence to act upon. And equally——

Chairman SHELBY. And evidence that you can share with them, perhaps.

Mr. AUFHAUSER. —evidence we can share with them—but equally important is that the action will have real world impact and will not be derided as political theater.

Mr. PISTOLE. One of the items, Mr. Chairman, that is not in my written statement—I talk about some of the indictments and convictions here in the United States, again, some of the fundraisers, some of those who have engaged in material support for terrorism by going to overseas training, jihadist camps, and so on—those are all good successes. One of the frustrations of this job is that we are not able to herald some of the untold successes that we have, and in that arena, since September 11, we have been able to engage with, for example, the central banks of certain countries in a proactive way to help us identify possible accounts and funds that are being used.

We have been able to exploit documents and pocket litter, if you will, from high-value detainees from Al Qaeda from around the world in a way that those ongoing, sensitive methods and techniques or sources that we use will never be on the front page of *The Washington Post* or on CNN—hopefully not, anyway——

Chairman SHELBY. They should not be.

Mr. PISTOLE. —to allow us to continue those successes so we have those—and you are very aware of those from your tenure on the Intelligence Committee. But it is those types of activities.

We do have a number of building blocks that we put in place that we are now building on. The foundation is there with that cooperative agreement with some of these bankers around the world, with the Saudis especially. With so much focus on what has come out of Saudi, whether the 15 of the 19 hijackers or the funding, the new era that we see there is giving us cautious optimism that we are moving in the right direction.

Chairman SHELBY. But without cooperation—and now I use the term "diplomatic" which represents the State Department—but without diplomatic recognition of how important cooperation is, it is going to be hard to meet this challenge, is it not, Mr. Aufhauser?

Mr. AUFHAUSER. Yes, and to his great credit, the President has made it a presidential priority and agenda, and he makes it plain everywhere.

By way of example, we bring that message to every gathering and forum of the World Bank and the IMF, particularly Secretary Snow. It was part of his agenda and part of the calendar and part of the talking points that I wrote for every meeting that he had—dozens and dozens and dozens of bilateral meetings.

It is a priority of the United States because it is recognized as the only systematic way that we can go about reducing the threat of terror on our soil again.

Chairman SHELBY. To find the money, right?

Mr. AUFHAUSER. Yes.

Chairman SHELBY. To find the money.

We would contemplate as we go down the road on these hearings to get into some closed hearings where we could share a lot of the

things at the proper time you are doing that we do not need to relay here.

Mr. AUFHAUSER. Right. We look forward to that, Senator.

Chairman SHELBY. I want to thank all of you for being here. As you know, this is the first of a lot of hearings on this subject. We on the Committee believe that this is very important, as you do, and we will continue to work with you.

Gentlemen, thank you for your patience, and thank you for your participation.

Mr. AUFHAUSER. Thank you, Mr. Chairman.

Mr. PISTOLE. Thank you.

Mr. WAYNE. Thank you, Mr. Chairman.

Chairman SHELBY. The hearing is adjourned.

[Whereupon, at 11:45 a.m., the hearing was adjourned.]

[Prepared statements supplied for the record follow:]

PREPARED STATEMENT OF SENATOR CHUCK GRASSLEY

A U.S. SENATOR FROM THE STATE OF IOWA

SEPTEMBER 25, 2003

Thank you, Mr. Chairman and Members of the Banking Committee, for inviting me to submit a statement during your hearing on our counterterrorism efforts and terrorist financing programs. As you know, I have been very supportive of the Banking Committee's continued efforts to halt money laundering and terrorist financing in order to ensure the stability of our financial system. This is an issue of profound importance to our national security and the stability of our financial institutions. It is also one of great concern to me and I appreciate your giving me the opportunity to speak to you today.

Money laundering is a significant threat to our country because it undermines our national security, promotes corruption, and funds terrorism. Money laundering operations as a whole include such mechanisms as structured transactions, wire fraud, over and underinvoicing, and other activities designed to defraud and hide profits from illegal activities. All of these transactions undermine legitimate financial institutions by promoting corruption, funding criminal operations, and by providing a method of profiting from illegal transactions such as drug trafficking and weapons sales. At the same time, they provide no economic benefits to our national economy.

I agree with the Administration's sentiment that identifying and halting the mechanisms that fund terrorist activities is just as important as eliminating the terrorists themselves. The financing of terrorist organizations is one aspect of a larger challenge—that of halting all money laundering. The effort to halt terrorist financing is an important aspect our comprehensive and coordinated approach to combating all forms of money laundering and those criminal organizations that benefit from these systems.

Money laundering is the functional equivalent of a war industry for terrorist groups. Terrorist groups will use whatever means available to obtain funding for their cause. Our attention is focused on identifying and halting those mechanisms used specifically by terrorist organizations such as charitable organizations, money service businesses, and alternative remittance systems which are often referred to as hawalas. The tools used to launder and disguise funds for terrorist organizations are similar, and quite often identical to, those used by many drug traffickers and criminal organizations to clean their own dirty money.

For example, a cigarette smuggler based in North Carolina was recently sentenced to 155 years in prison for using his illicit earning to send thousands of dollars to Hezbollah, an organization that has been designated by the State Department as a Foreign Terrorist Organization. In addition, we know that the proceeds from the sale of illegal narcotics on the streets of the United States is funneled right back into the pockets of terrorist organizations in Colombia—namely the FARC, ELN, and the AUC—which have also been designated as Foreign Terrorist Organizations by the State Department. These Colombian terrorist organizations rely heavily on the Black Market Peso Exchange, as well as on the purchase and sale of commercial goods on the black market.

The best response to the money laundering threat is a comprehensive and coordinated response which must be laid out in an effective strategy. The strategy must identify the risks and threats that we, as a Nation, face from this insidious problem. Without the identification of specific risks and threats, we cannot begin to implement laws and regulations that will effectively combat the sources and shut down the system as a whole.

An effective strategy must also clearly define the leadership and support roles that should be played by each department and agency with jurisdiction over money laundering regulations and investigations. In some respects, the level of cooperation demonstrated by terrorist financing task forces is unprecedented. At the same time, there are signs of bureaucratic infighting, one-upmanship, and duplication of efforts still exist and continue to plague law enforcement. We cannot afford to have each department and agency pursue its own agenda without regard to the operations of others. The surest way to resolve this problem is by defining it in the strategy.

Right now, we have the goals and objectives for addressing the threat, and we have numerous tools at our disposal to meet those goals, such as the Bank Secrecy Act and the USA PATRIOT Act. What we do not have right now is the effective coordination among our agencies that will provide effective implementation of these tools. We need coordination not only between Federal law enforcement agencies but also between regulators, industry experts, and policymakers as well. Only when we have a systematic approach to money laundering will we be able to avoid the duplication and inconsistencies that currently plague our efforts.

I encourage the members of the panel today, including officials from Treasury Department, State Department, and the FBI to focus on coordination. We must formulate a comprehensive approach to money laundering.

PREPARED STATEMENT OF DAVID D. AUFHAUSER

GENERAL COUNSEL, U.S. DEPARTMENT OF THE TREASURY

SEPTEMBER 25, 2003

Chairman Shelby, Senator Sarbanes, and distinguished Members of this Committee, thank you for inviting me to testify today about the U.S. Government's efforts generally, and the efforts of the Department of the Treasury in particular, to address the financing of terror.

Shortly after the September 11 attacks, President Bush gave those of us who work on these issues very clear orders. He told us to starve the terrorists of funding. Since that mandate over 2 years ago, the United States has waged a "war" against global terrorism. We at Treasury are principally involved in the financial front of that "war." But this "war" is profoundly uncommon. There is no known sovereign; no uniformed army; no hill to take; no target that is seemingly out of bounds. Indeed, terrorists obscenely place a premium upon the death of innocents. It is shadow warfare, and a key source of the stealth and mobility necessary to wage the war is money.

Money is the fuel for the enterprise of terror. It may also be its Achilles' heel. It can leave a signature, an audit trail, which, once discovered, might well prove the best single means of identification and capture of terrorists and pinpointing their donors. Financial records are literally the diaries of terror. Stopping the flow of money to terrorists may be one of the very best ways we have of stopping terror altogether. That is a dramatic statement, but it is not possible to overstate the importance of the campaign against terrorist financing. If you follow and stop the money, you have gone a long way to diminish the killing and destruction.

That being said, it is unwise to understate the difficulty of this endeavor. Our economy is deliberately open and porous. The ways to game restrictions on the flow of capital within the banking system are nearly infinite, and the endeavor becomes more difficult when money is moved outside the banking system. Moreover, the challenge is worldwide in scope. The overwhelming bulk of the assets we seek to freeze; the cashflow that we hope to strangle; and the records that we aspire to exploit are beyond the oceans that surround us. To act alone would justly invite critique.

In the United States, the program to wage the financial front of the war includes:

- an Executive Order using the powers granted by the Congress through the International Emergency Economic Powers Act that raises the standards of conduct and due diligence of financial intermediaries, and explicitly targets underwriters of terror for the freezing of their assets;
- UN Security Council resolutions and conventions that internationalize asset freezes and mandate the criminalization of terrorist financing;
- more scrutiny at the gateway to U.S. financial markets that has been provided under the USA PATRIOT Act;
- law enforcement criminal investigations and foreign intelligence operations aimed at terrorist supporters and terrorist financiers;
- extensive diplomatic efforts, including the engagement of central bankers and finance ministries, to champion the need and wisdom for international vigilance against terrorist financing and the taking of appropriate action to address it;
- outreach to the private sector for assistance in the identification, location, and apprehension of terrorists and their bankers; and
- bilateral and multilateral efforts to build laws and systems that will help prevent terrorists from corrupting the financial system in developing countries around the globe, followed by training missions dispatched to those countries to help their officials administer those laws.

Perhaps the most visible weapon on the financial front of the war has been the public designation of terrorists and their support network coupled with the freezing of their assets. Publicly designating terrorists, terrorist supporters and facilitators, and blocking their abilities to receive and move funds through the world's financial system have been, and continue to be, a crucial component in the fight against terrorism. The Executive Order imposing economic sanctions under the International Emergency Economic Powers Act permits the public designation of not only terrorists and terrorist organizations, but also supporters, facilitators, and underwriters

of terror as well. Once designated, this order freezes the assets of the designee held by U.S. persons. Action under this order is not "criminal" and does not require proof beyond a reasonable doubt. Currently, we have publicly designated 321 individuals and entities as terrorists or terrorist supporters and over $136.8 million dollars have been frozen around the world.

This is not, however, a "box score" game. Only a small measure of success in the campaign is counted in the dollars of frozen accounts. The larger balance is found in the wariness, caution, and apprehension of donors; in the renunciation of any immunity for fiduciaries and financial intermediaries who seek refuge in notions of benign neglect and discretion, rather than vigilance; in financial pipelines that have gone dry; in the flight to old ways of value transfer, such as the use of cash couriers, in the ability to focus our resources on those avenues of last resort; and in the gnawing awareness on the part of those who bank terror that the symmetry of borderless war means that there is no place to hide the capital that underwrites terror.

Notwithstanding the power of this tool, it is important to remember that it is only potent when we can pull the rest of the world with us, through coordinated multilateral action, in identifying and freezing the assets of identified terrorists and their supporters. The simple fact is that most of the funds we are attempting to freeze are beyond the reach of the United States. Acting unilaterally is often an empty gesture; an action without effect. Therefore, we need our allies to join with us and act in concert and in a coordinated way. This is no easy task. And this is a task that occupies much of our time on the financial front of the war against terrorism. The most critical aspect of this task is the ability to develop and provide our allies in the war with sufficient actionable information—information that is often thin and also derived from extremely sensitive sources. The predicate for everything we do is actionable information about a target.

Organization of the Effort

Shortly after the attacks of September 11, in furtherance of developing and implementing a coordinated attack on terrorist financing, the National Security Council established a Policy Coordinating Committee on Terrorist Financing. The purpose of the Committee is to (i) recommend strategic policy direction to the National Security Council on issues relating to terrorist financing; (ii) vet and approve proposed public action against targeted terrorists and terrorist financiers; and (iii) coordinate the United States' efforts on issues relating to terrorist financing. I have chaired that Committee since October 2001.

The Committee has sufficient structure to ensure we are working toward achieving the goals of the Committee; however, we have purposefully kept the process flexible, informal, collaborative, and iterative. It is a process that has worked well to vet and coordinate proposed action by the United States on the financial front of the war on terrorism.

Challenges Ahead

The Kingdom of Saudi Arabia

I have testified before that Saudi Arabia has been an "epicenter" of terrorist financing. Financing emanating from Saudi Arabia and a balance of Gulf States has been a central focus of our efforts at collection and prevention. The Saudi Government has taken action and implemented systemic changes—both before and after the May 12 bombings in Riyadh—that are promising and constructive. More initiative, follow-through on systemic change, and personal accountability are required.

The May 12 bombings in Riyadh appear to have given life to such a sea change. A sense of urgency now informs Saudi efforts. The promising change on the financial front of the war is the agreement to create a Joint Task Force with the United States to investigate terrorist financing and follow financial leads. The dialogue and dynamic in this task force will be "cop to cop"—taking place on the ground rather than between diplomats at 30,000 feet. The task force will share financial leads on a real time basis and begin meaningful—and hopefully productive—investigations to track down the "banking of terror." This will be an important proving ground to determine Saudi commitment on the financial front of the war. We must watch diligently as the task force is established and moves forward.

Hamas, etc.

We must continue to focus our resources on Hamas and similar terrorist organizations. We must work as hard as we can to convince the rest of the world that it cannot stand by and do nothing against groups that are sending suicide bombers onto buses or into plazas to kill innocent children. Unlike Al Qaeda, we do not enjoy a UN Sanctions program mandating the freezing of these organizations' and their operatives' and supporters' assets. What is required is unrelenting, consistent, well-

informed diplomatic outreach using well developed facts—actionable intelligence—to bring a principled discipline to countries that now stand on the sideline refusing to act because the purpose of acts of terror are believed to be politically laudable, not withstanding the moral obscenity of the means of reaching any such goal.

Global Systemic Change

We must continue to work bilaterally and multilaterally to build financial safeguards throughout the globe to do all we can to ensure terrorists cannot game the financial system. Charities and informal money transfer operations, or hawalas, are of particular concern. We have done much in this area, but we need to continue to do more.

Address Root Causes

In the long-run, the war on terror will be like Sisyphus toiling to push the stone up the hill if the community of nations does not do something to address the despair and economic misery that permits false prophets to preach hate and killing and terror as remedy.

Those are some of the more significant challenges we see as we move forward on the financial front of the war. We have come a long way, but we have a long way to go. The President has said on many occasions that this will be a long battle. I can validate that statement. But you should know I see tremendous commitment to this battle every day.

Because of this Committee's jurisdiction, we think it is important to spend some time discussing what we have done with the tools Congress provided to us nearly 2 years ago in the USA PATRIOT Act.

The Role of the Anti-Money Laundering Regulatory Regime in the Financial War on Terrorism

After the attacks of September 11, it seemed as if we were looking at the world through the wrong end of a telescope. Worldwide efforts to combat money laundering were focused, rightly so, on identifying large scale criminal enterprises that were injecting millions of dollars into the financial system. In the world of the financing of terrorism, however, we were reminded that the deadliest of operations can be financed with relatively paltry sums of money that would give even the best of financial institutions not the slightest hint of their illicit purpose. An integral part of the financial war on terrorism over the past 2 years has focused on enhancing the ability of financial institutions to better identify and guard against the financing of terrorism. The first step, however, is recognizing our limitations. We are still discovering the many different ways in which our enemies use the recorded financial system to fund their operations. While we have developed considerable information on their methods, we still have much to learn.

This we do know—even the most unsophisticated of terrorism financing operations will likely intersect the regulated financial system at some point. Title III of the USA PATRIOT Act mandates many substantial changes to the U.S. anti-money laundering regulatory regime. We wish to thank this Committee for its work in developing and securing passage of these provisions. Title III, in our view, reflects the realities of today's global financial marketplace and the new threats to our financial system. As you know, for the past 2 years we have been engaged in the most extensive revision of the anti-money laundering regulatory regime in recent memory.

Once complete, if properly enforced, these changes will go far to prevent not only the laundering of illicit proceeds, but also aid the financial system in preventing the use of clean money to finance terror. The Act's principal focus on financial intermediaries, the international gateways to the U.S. financial system, the expansion of due diligence and monitoring requirements, enhanced reporting obligations, and renewed commitment to information sharing comprise the elements of a comprehensive antiterrorist financing regime. While the end goal of devising systems capable of proactively identifying potential terrorist financing activities remains elusive, we are creating the necessary infrastructure within financial institutions that will 1 day support such systems. For example, several sections of the Act focus on the correspondent account, the international gateway to the U.S. financial system. These provisions require financial institutions to conduct greater due diligence both before opening such accounts and while they are open. The scrutiny given to these accounts not only augments the audit trail, but also serves to deny certain foreign financial institutions access to the U.S. financial system in the first place. Uniform customer identification regulations recently issued will require all financial institutions to take important steps to verify the identity of their customers. Additionally, we have created a system pursuant to Section 314(a) of the Act to enable law enforcement to locate quickly the accounts and transactions of those suspected of money laundering or the financing of terrorism. While we are still working closely

with law enforcement and the financial community on the operation of the system, since its creation, the system has been used to send the names of 256 persons suspected of terrorism financing to financial institutions. This has resulted in 1,739 matches that were passed on to law enforcement.

A particularly important provision is Section 311 of the Act, which provides the Secretary with the necessary ability to protect the U.S. financial system against specific terrorist financing threats posed by foreign financial institutions, accounts, transactions, or even entire jurisdictions. The Secretary can require U.S. financial institutions to take appropriate countermeasures against such threats, countermeasures which include requiring the termination of any correspondent accounts involving the threat. We have utilized this authority in the money laundering context, and we are presently considering its use in connection with the financing of terrorism.

I thought it would be helpful to bring you up-to-date on where we are in the process of implementing Title III of the Act. Since its passage, Treasury, the Financial Crimes Enforcement Network (FinCEN), the financial regulators, and the Department of Justice have worked together to draft and issue extensive regulations that implement the Act's provisions. Among other things, we have published regulations that:

- Permit and facilitate the sharing of critical information between law enforcement and the financial community, as well as among financial institutions themselves;
- Close off our financial borders to foreign shell banks, require additional due diligence for correspondent accounts maintained for foreign financial institutions, and require foreign banks with correspondent accounts in the United States to supply the name of a U.S. agent for service of process as well as the identities of their owners;
- Require U.S. financial institutions to establish customer identification and verification procedures for all new accountholders;
- Expand the universe of financial institutions reporting potentially suspicious activities to FinCEN; and
- Expand our basic anti-money laundering regime to include a wide range of financial service providers, such as the securities and futures industry and money services businesses.

Our work is not yet finished. We are working to complete several regulatory packages. First on the list is the issuance of a final regulation that will delineate the scope of the obligation of U.S. financial institutions to conduct due diligence and enhanced due diligence on correspondent accounts maintained for foreign financial institutions and private banking accounts for high net worth foreign individuals. Although the banking, securities, and futures industries have been operating under an interim rule since last year, important questions regarding the application of this statutory provision remain.

We will also complete final regulations requiring other categories of financial institutions, such as those in the insurance and hedge fund industries, to establish anti-money laundering programs. This is an integral component of our anti-money laundering and antiterrorist financing efforts—to ensure that all available avenues for financial crime are blocked by this basic protection. Similarly, now that we have issued final regulations requiring the banking, securities, futures, and mutual fund industries to establish customer identification programs, we will be drafting regulations applicable to financial institutions in other industries that offer their customers accounts. Finally, we are continuing to explore the appropriate expansion of the suspicious activity reporting regulations to additional categories of financial institutions. We have already proposed to require mutual funds, futures commission merchants, and insurance companies to file such reports.

Let me provide you with some sense of how we are using the USA PATRIOT Act and the implementing regulations to combat terrorist financing. While it is still relatively premature to evaluate their impact, we do have some indication of their effectiveness. For example, as I noted above, the Section 314(a) system has been used in many cases and has resulted in a substantial number of leads. The additional reporting and recordkeeping authorities have enhanced the database FinCEN uses for its research and analysis in supporting terrorism investigations—since September 11, FinCEN has supported 2,692 terrorism investigations. The Terror Hotline established by FinCEN has resulted in 789 tips passed on to law enforcement. Since the World Trade Center Attacks, FinCEN has made 519 proactive case referrals to law enforcement based upon an analysis of information in the Bank Secrecy Act database. With the expansion of the suspicious activity reporting regime, financial institutions have filed 2,655 suspicious activity reports (SAR's) reporting possible terrorist financing. In addition to passing these reports on to law enforcement,

FinCEN has and will continue to analyze the SAR's to report on systemic patterns in the financing of terrorism.

Finally, I cannot neglect mentioning our partnership with the financial community. Since passage of the Act, the willingness of the financial community to work with us in this fight has been remarkable. Cooperation comes in the form of formal and informal feedback on new regulations, one-on-one assistance with specific investigations, and the proactive identification of potential instances of the movement of funds to finance terrorism. While we expect the financial community to join us in this fight—and they have done so—we also recognize and appreciate these efforts, from the largest of financial institutions to the smallest of the community banks.

While it is appropriate on this occasion to reflect on what we have accomplished, it is essential that we map out a strategy for proceeding. The plan is straightforward—do a better job of leveraging the regulatory regime to maximize the protections against the financing of terrorism. We will do so in the following manner:

Better Utilization of Technology

Technology holds one of the keys to our success in the financial war on terrorism. This involves the ability to marshal and synthesize all available information to proactively identify possible instances of the movement of illicit funds. Now more than ever we require our financial institutions to produce data and information. Several initiatives are already under way within Treasury and FinCEN. For example, FinCEN will be receiving assistance from the Business Executives for National Security and the Wharton School of the University of Pennsylvania in developing technology that will allow financial institutions to report suspicious transactions more easily and quickly. As part of an overall plan to enhance our technological platform, FinCEN is also developing a new system to manage the Bank Secrecy Act (BSA) database. "BSA Direct" will involve a significant upgrade to the platform on which the BSA database is maintained, and will provide users with web-based, secure access that allows for faster and easier searching. Finally, we will continue to work to assist financial institutions in developing proactive software to better identify potential terrorist financing activities.

Increased Information Sharing

A central theme of the USA PATRIOT Act is to enhanced information sharing. While we have taken substantial steps toward this goal, our challenge remains to find better ways of providing information and feedback. This is not simple. Often the information we develop is highly protected intelligence information that cannot be disclosed, and we are always wary of providing our enemies with a roadmap or a "how-to" guide to manipulating our defenses. That said, we understand the importance of, and are searching for, better ways to share information with the private sector.

Developing Similar International Standards

For our regulatory efforts to be effective, standards should be internationalized as much as possible. Thus, we will continue to devote ourselves to encouraging the development of international money laundering and terrorism financing standards that reflect the principles of our domestic regime. We have already done this in several areas. In conjunction with the Financial Action Task Force, in addition to securing the promulgation of the Eight Special Recommendations on Terrorist Financing, the FATF recently completed the revision of the 40 Recommendations on Money Laundering. The changes reflect many of the concepts of the USA PATRIOT Act. For example, key changes to the 40 Recommendations include: (1) enhanced due diligence with respect to correspondent banking accounts; (2) increased scrutiny for politically exposed persons; and (3) prohibition on the use of shell banks.

Ensuring Compliance with International Standards

Assessing jurisdictions against these standards and cultivating their compliance with them are important components of our work. Without vigorous and consistent implementation of these standards throughout the globe, terrorists and criminals will enter the international financial system at the point of least resistance, and preventive national efforts will be rendered considerably less effective. Ensuring global compliance with international standards is accomplished through a three-prong strategy that includes: (i) objectively assessing every country's standards against the international standards; (ii) providing capacity-building assistance for key countries in need; and (iii) ensuring appropriate consequences for countries and institutions that fail to take reasonable steps to implement standards to prevent terrorist financing and money laundering.

Treasury is participating in a variety of global assessments sponsored by the IMF and the World Bank, the FATF, and FATF-Style Regional Bodies. We are also seek-

ing to build the capacity of jurisdictions to combat money laundering and the financing of terrorism through a robust regulatory regime. This is done through bilateral and multilateral outreach and training. Finally, recalcitrant jurisdictions face potential sanctions pursuant to Section 311 of the USA PATRIOT Act.

Evaluating the U.S. Regulatory Regime

As we complete regulations implementing the USA PATRIOT Act, our next and perhaps most important task is to take a critical look at what we have done and ask the difficult questions of whether they are effective and what additional regulations may be necessary. We will work through both formal and informal means to conduct this evaluation, and look forward to working with this Committee during the process.

We are, in our judgment, on the right path. We have much work left to do. We appreciate the support we have received from the Congress—particularly this Committee—on these important issues. I believe what I have said time and again, stopping the flow of money is one of the very best ways to stop the terror.

PREPARED STATEMENT OF JOHN S. PISTOLE

ASSISTANT DIRECTOR, COUNTERTERRORISM DIVISION
FEDERAL BUREAU OF INVESTIGATION

SEPTEMBER 25, 2003

Good Morning Chairman Shelby, Senator Sarbanes, and other distinguished Members of the Committee. On behalf of the FBI, I would like to thank you for this opportunity to address the FBI's role in ensuring greater integrity of our country's financial institutions with respect to terrorist financing. I will discuss the FBI's efforts in identifying, tracking, and dismantling the financial structure supporting terrorist groups to include forward thinking proactive and predictive capabilities. I will speak about our evolving liaison, sharing and outreach relationships with the financial community as well as with foreign governments and their respective financial and regulatory institutions (to include Saudi Arabia). I will conclude with some recent terrorist financing successes and the challenges we as well as private industry still face in following the money and obtaining and analyzing financial records, especially in emerging threat situations.

FBI Change in Focus

As Director Mueller stated during his June 18, 2003 testimony before the House of Representatives Committee on Appropriations it is critical that the FBI transform it is "intelligence effort from tactical to strategic . . . if the FBI is to be successful in preventing terrorism and more proactive in countering foreign intelligence adversaries and disrupting and dismantling significant criminal activity."

Following the events of September 11, 2001 (September 11), the FBI changed it is focus making counterterrorism it is highest priority and redirecting resources accordingly. The emphasis was placed on intelligence with prevention as our primary goal. Counterterrorism investigations have become intelligence driven. Criminal investigation into these matters is considered a tool to achieve disruption, dismantlement, and prevention.

Formation of TFOS

Prior to the events of September 11, the FBI had no mechanism to provide a comprehensive, centralized, focused, and proactive approach to terrorist financial matters. While the FBI examined financial records at the time of previous terrorist attacks, as part of the investigation into each of the attacks, the events of September 11 identified a critical need for a more comprehensive, centralized approach to financial matters. The Terrorist Financing Operations Section (TFOS) of the FBI's Counterterrorism Division was formed, immediately after September 11, in response to this critical need. The mission of the TFOS has since evolved into a broader strategy to identify, investigate, prosecute, disrupt, and dismantle incrementally, all terrorist related financial and fundraising activities.

Identifying, tracking, and dismantling the financial structure supporting terrorist groups is critical to successfully dismantling the organizations and preventing future terrorist attacks. As is the case in most investigations, locating and "following the money" plays a critical role in identifying those involved in the criminal activity, establishing links among them, and developing evidence of their involvement in the activity.

Terrorists, their networks and support structures, require funding in some form to exist and operate. Whether the funding and financial support is minimal or substantial, it usually leaves a financial trail that can be traced, tracked, and exploited for proactive and reactive purposes. Being able to identify and track financial transactions and links after a terrorist act has occurred or terrorist activity has been identified, represents only a small portion of the mission; the key lies in exploiting financial information in efforts to identify previously unknown terrorist cells, recognize potential terrorist activity/planning, and predict and prevent potential terrorist acts.

In forming the TFOS, the FBI built upon its traditional expertise in conducting complex criminal financial investigations and long established relationships with the financial services communities in the United States and abroad. Integrating these skills and resources with the Counterterrorism Division, allows the FBI to bring its full assets to bear in the financial war on terrorism.

The TFOS is both an operational and coordinating entity with proactive and reactive responsibilities. As a coordinating entity, the TFOS is responsible for ensuring that a unified approach is pursued in investigating terrorist financing networks. The TFOS achieves this directive by: (1) coordinating the financial aspects of FBI Field Office and Legat terrorism investigations; (2) establishing overall initiatives, policy and guidance on terrorist financing matters; (3) participating in the National Security Council's Policy Coordinating Committee (PCC) on Terrorist Financing; (4) coordinating national liaison with the financial services sector; (5) cooperating in and coordinating criminal terrorist financing investigations with the Department of Justice; and (6) providing support and training to Field Offices to include the designated Terrorism Financing Coordinator (TFC) .

It is critical that the financial aspects of terrorism investigations be adequately addressed and that a concerted, coordinated effort is made to investigate terrorist finance issues by experienced financial investigators. Rarely will a terrorist financing investigation be confined to the territory of one field office, rather they normally span not only multiple field office jurisdictions, but also the globe; for example, these types of investigations will frequently be linked to investigations and/or issues in other jurisdictions and other countries. It is imperative these investigative efforts be effectively coordinated, placed into perspective with other counterterrorism efforts, prioritized in accordance with national and global strategies, and addressed in concert rather than in a disjointed, inefficient manner. Prior to the establishment of the TFOS, there did not exist within the FBI a mechanism to ensure appropriate focus on terrorist finance issues and provide the necessary expertise and overall coordination to comprehensively address these matters.

So how far have we come in the war on terrorist financing since September 11? There currently exists a much better understanding of terrorist financing methods. More sophisticated and effective processes and mechanisms to address and target terrorist financing continue to develop and evolve. Proactive approaches are increasingly being utilized. The awareness around the world on the part of law enforcement, government agencies, regulators, and policymakers, and the private sector of terrorist financing methods, suspicious financial activity and vulnerabilities is much higher since September 11. International cooperation has reached unparalleled levels. Outreach with, and cooperation from, the private sector has been outstanding and continues to develop, particularly the level of two-way interaction between law enforcement and the private sector. The ability to access and obtain this type of information in a timely fashion has significantly enhanced the FBI's ability to identify, investigate, and resolve immediate threat situations involving potential terrorist activity. However, we still face significant challenges in obtaining and analyzing financially related records in a timely fashion, especially in emerging threat situations, which I will discuss later in my testimony. The ability to conduct near real-time monitoring of specifically identified financial activity has been invaluable to not only investigations ongoing in the United States, but also to foreign law enforcement and intelligence agencies in related investigations. This illustrates another example of not only more proactive measures but also of increased cooperation and coordination with the international community.

Liaison and Outreach

Extensive training and support of international investigations by the TFOS has led to agent visits/exchanges and training programs involving a variety of countries from Europe, Asia, the Middle East, South America, and Africa. In support of specific high profile joint terrorist financial investigative matters, a number of countries and agencies, including the United Kingdom, Switzerland, Canada, Germany, and Europol, have detailed investigators to the TFOS on a TDY basis. The TFOS has engaged in extensive coordination with authorities of numerous foreign governments

in terrorist financing matters, leading to joint investigative efforts throughout the world. These joint investigations have successfully targeted the financing of several overseas Al Qaeda cells, including cells located in Indonesia, Malaysia, Singapore, Spain, and Italy. We have also disrupted Al Qaeda financing in the UAE, Pakistan, Afghanistan, and Indonesia with the assistance of relationships established with authorities in those and other countries.

The TFOS has developed a specific terrorist financing/money laundering crimes curriculum for international training which includes topics such as: Acquiring and handling evidence in document intensive financial investigations, major case management techniques, forensic examination tools, and methods of terrorist financing. At the request of the U.S. Department of State, the TFOS has led an interagency team to provide this curriculum to a number of countries (and is scheduled to provide to approximately 38 countries) identified as needing law enforcement training on conducting terrorist financing investigations.

Through these training and outreach initiatives the TFOS has been able to build relationships with foreign counterparts that improves the FBI's ability to obtain access to financial records held by foreign financial institutions.

The TFOS has cultivated and maintains a contact database of private industry and government sources/persons who can provide financial data, including near real-time monitoring of financial transactions. Many of these contacts can be reached or accessed on 24 hour/7 days a week emergency basis allowing the TFOS to respond rapidly to critical incidents. In all cases, TFOS follows applicable legal procedures in obtaining access to financial data.

Through these contacts and with legal process the TFOS has access to data and information from a variety of entities including: Banking, Credit/Debit Card Sector, Money Services Businesses, Securities/Brokerages Sector, Insurance, Travel, Internet Service Providers, Telecommunications Industry, Law Enforcement, State/Federal Regulatory Agencies, Public and Open Source Data Providers, the Intelligence Community, and International Law Enforcement and Intelligence Contacts. The timeliness and accessibility of the data is contingent on a variety of factors including whether the acquisition of the information requires legal process, the search capabilities of the data provider, and the size and depth of the data request. The ability to access and obtain this type of information in a time sensitive and urgent manner has significantly enhanced the FBI's ability to identify, investigate, and resolve immediate threat situations involving potential terrorist activity. For example, the ability to conduct near real-time monitoring of specifically identified financial activity has been invaluable to not only investigations ongoing in the United States, but also to foreign law enforcement and intelligence agencies in related investigations.

Being able to identify and track financial transactions and links after a terrorist act has occurred or terrorist activity has been identified represents only a small portion of the mission. The key lies in exploiting financial information in efforts to identify previously unknown terrorist cells, recognize potential terrorist activity/planning, and predict and prevent potential terrorist acts. Prior to September 11, there was not enough emphasis placed on addressing the mechanisms and systems associated with terrorist financing and disrupting them before they could be utilized to further terrorist activities.

Proactive TFOS Projects

The TFOS has a responsibility to be not only *reactive* but also *proactive* as well, to think strategically about potential threats and future case development. As a result, the TFOS, together with the Counterterrorism Section (CTS), Criminal Division of the Department of Justice (DOJ), have begun a number of proactive initiatives to identify potential terrorists and terrorist related financing activities.

The overriding goal of these projects is to identify potential terrorists and terrorist related individuals/entities, mechanisms or schemes through the digital exploitation of data. To accomplish this, the TFOS seeks to (1) identify potential data sources; (2) create pathways and protocols to legally acquire and analyze the data; and (3) provide both reactive and proactive operational, predictive and educational support to investigators and prosecutors.

It is important to understand that these projects and similar initiatives by the TFOS seek only to more fully exploit information *already obtained* by the FBI in the course of it is investigations or through the acquisition of new data through the appropriate channels and legal process. The FBI does not seek access to personal or financial information outside these constraints.

Information Sharing

Information sharing is critical to all of our efforts. The intelligence community, including the FBI, produces and obtains tremendous amounts of classified intel-

ligence information. While much of the information can be of significant value in terrorist finance investigations, the value will not be realized nor maximized absent the ability to filter the information, analyze it, and disseminate it in an appropriate manner to those who can make the best use of the information. Toward this end, the TFOS participates in joint endeavors involving the CIA, FBI, Treasury Department, Department of Justice, and the Department of Homeland Security involving potential terrorist related financial transactions, in addition to other joint participation between the TFOS and the intelligence agencies. The TFOS has personnel detailed to the CIA/CTC and personnel from there work directly with the TFOS on financial intelligence matters.

A Policy Coordinating Committee (PCC) on Terrorist Financing was formalized at the end of 2001. The PCC generally meets at least once a month to coordinate the U.S. Government's campaign against terrorist financing. The meeting generally focus on ensuring that all relevant components of the Federal Government are acting in a coordinated and effective manner to combat terrorist financing.

Saudi Arabia and the War on Terrorism

Following the September 11 attacks, it became apparent that the role of nongovernmental organizations (NGO's) and charitable organizations, as a potential source of funding for terrorist groups, needed closer scrutiny. This included any role that may have involved Saudi Arabia or its citizens in the support of terrorism, both directly and indirectly, through the financial support of these charitable organizations.

The Kingdom of Saudi Arabia has taken important steps to deter global terrorism, and has redoubled its efforts following the deadly car bombings in the Kingdom on May 12, 2003. Prior to the May 12 bombings, Saudi Arabia put new laws and regulations in place for all charitable organizations, ensuring that they are audited to prevent the flow of funds to entities other than charity. Saudi Arabia has also strengthened its laws and regulations regarding money laundering. These efforts include new rules concerning the verification of customers' identities as well as restrictions on nonresidents' ability to open accounts in the country. These measures are being reviewed this week by an international team of experts from the Financial Action Task Force.

In March 2002, Saudi Arabia and the U.S. Government jointly blocked the accounts of Bosnia and Somalia branches of Al-Haramain Islamic Foundation, and of Wa'el Hamza Julaidan, an associate of Osama bin Laden who provided financial and logistical support to Al Qaeda.

Since the May 12, 2003 bombings of the three western compounds in Riyadh, Saudi Arabia, cooperation with the Kingdom of Saudi Arabia has significantly improved. The FBI sent an investigative team to the Kingdom and worked with the law enforcement and intelligence services to conduct the appropriate post incident investigation and evidence collection. Cooperation with the Saudi Arabian Government continues on this and other terrorism investigations. Saudi Arabia has contributed to the break up of a number of Al Qaeda cells, the arrests of key Al Qaeda leaders, and the capture of Al Qaeda members in Saudi Arabia.

The Saudi and U.S. Governments have recently agreed to focus increased investigative attention on identifying and eliminating sources of terrorist funding within the Kingdom and around the world. The FBI and our counterparts in the Saudi Ministry of Interior have established a joint terrorism financing task force.

The USA PATRIOT ACT and Other Legislation

Our efforts to combat terrorism have been greatly aided by the provisions of the USA PATRIOT Act. The success in preventing another catastrophic attack on the U.S. homeland would have been much more difficult, if not impossible, without the Act. It has already proved extraordinarily beneficial in the war on terrorism, and our opportunities to use it will only increase. Most importantly, the USA PATRIOT Act has produced greater collection and sharing of information within the law enforcement and intelligence communities.

Title III of the Act, also known as the International Money Laundering Anti-Terrorist Financing Act of 2001, has armed us with a number of new weapons in our efforts to identify and track the financial structure supporting terrorist groups. Past terrorist financing methods have included the use of informal systems for transferring value in a manner that is difficult to detect and trace. The effectiveness of such methods should be significantly eroded by the Act, which establishes stricter rules for correspondent bank accounts, requires securities brokers and dealers to file SAR's, and certain money services to register with FinCEN and file SAR's for a wider range of financial transactions.

There are other provisions of the Act that have considerably aided our efforts to address the terrorist threat including: Strengthening the Government's position in defending suits brought by those who provide material support; and the power to seize money subject to forfeiture in a foreign bank account by authorizing the seizure of a foreign bank's funds held in a U.S. correspondent account.

The FBI has utilized the legislative tools provided in the USA PATRIOT Act to further its terrorist financing investigations. Some examples of how the TFOS has used the provisions in the USA PATRIOT Act to obtain foreign bank account information by issuing subpoenas on those foreign bank's U.S. correspondent bank and to corroborate financial data obtained through criminal investigative techniques with intelligence sources. All of these techniques have significantly assisted ongoing terrorism investigations and would not have been possible, but for the enactment of the USA PATRIOT Act.

It is important for the Committee and the American people to know that the FBI is using the USA PATRIOT Act authorities in a responsible manner. We are making every effort to effectively balance our obligation to protect civil liberties with our obligation to protect Americans from terrorism.

Terrorist Financing Successes

The FBI has achieved several recent and notable successes. These are the direct results of our ongoing efforts to cultivate more meaningful and more productive international relationships, and increase emphasis on sharing relevant financial information domestically between law enforcement, government agencies, and private financial institutions. In concert with other U.S. Government agencies, the FBI has deployed advisers and trainers on numerous missions around the world to assist countries in the crafting of legislation to combat terrorist financing, further strengthen financial oversight controls, and encourage closer scrutiny of suspicious financial transactions.

On four separate occasions, the FBI has received financial information from a foreign government directly related to the funding of a pending terrorist attack. On these occasions the FBI was able to provide near real-time tracking of the funds and provide the foreign government with specific and identifiable information regarding the parties involved in the financial transactions more explicitly the exact location and time the transactions occurred. Based on this critical information, the foreign government was able to locate members of terrorist cells and prevent them from executing their intended terrorist attacks.

In January 2003, German law enforcement authorities that had been working closely with the FBI arrested Mohammed Al Hassan Al-Moayad, a Yemeni national, on charges of conspiring to provide material support to Al Qaeda and Hamas. Al-Moayad was a significant financial contributor to Al Qaeda and Hamas and boasted that he provided over $20 million dollars to Osama bin Laden. Al-Moayad had participated in several fund-raising events at the Al-Farouq Mosque in Brooklyn, New York. Al-Moayad has been arrested and is awaiting extradition to New York from Germany.

In December 2002, a Federal grand jury in Dallas returned an indictment against a senior Hamas leader, Mousa Abu Marzouk, for conspiring to violate U.S. laws that prohibit dealing in terrorist funds. Also arrested and charged by the FBI were Ghassan Elashi, chairman of the Holy Land Foundation for Relief and Development (HLF). Elashi and four of his brothers, all of whom are employees of the Richardson, Texas, based InfoCom Corporation, were charged with selling computers and computer parts to Libya and Syria, both designated state sponsors of terrorism. The indictment alleged that the Elashi brothers disguised capital investment from Marzouk, a specially designated terrorist for his admitted leadership role with Hamas. The indictment and subsequent arrests have disrupted a U.S.-based business, which was conducting activities with a known Hamas leader, and international state sponsors of terrorism.

In support of other FBI field office cases, the TFOS provided intelligence and criminal financial investigative assistance through various mechanisms such as: (a) financial analytical support; (b) financial link analysis; (c) field deployment of financial experts; and (d) major case management support. This support aided investigators in a variety of cases such as:

- The FBI Joint Terrorism Task Force (JTTF) in Charlotte, NC, utilized racketeering and terrorist financing statutes to disrupt, and then dismantle a Hizballah procurement and fund-raising network relying on interstate cigarette smuggling.
- The FBI, supported the Treasury's Office of Foreign Asset Control (OFAC), in blocking assets of U.S. offices for Holy Land Foundation for Relief and Development (HLF). This resulted in the closure of Hamas' largest fund-raising entity in

the United States (The HLF has been linked to the funding of Hamas terrorist activities, and raised $13 million dollars of support in 2000).

- Joint FBI-OFAC cooperation shut down U.S.-based offices of Benevolence International Foundation (BIF). Assets and records were blocked after it was determined that the charity was funneling money to Al Qaeda. In February 2003, Enaam Arnaout, the head of BIF, pled guilty to racketeering conspiracy and fraud charges.
- The FBI, with cooperation from the U.S. Intelligence Community and a foreign government, apprehended a principle money launderer of Osama bin Laden's, responsible for funneling approximately tens of millions of dollars through international accounts to Al Qaeda and the Taliban.
- In February 2003, the FBI arrested Sami Al Arian, the alleged leader of U.S.-based Palestinian Islamic Jihad (PIJ), and three other members of his organization. They also closed several front companies suspected of providing material support to PIJ members in operations against Israel.

Participation of Financial Institutions

Since the events of September 11, private industry and particularly the financial services industry have made great efforts to assist law enforcement in the investigation of terrorism and terrorist financing related matters. Their corporate patriotism and desire to work more closely with Government in protecting America is recognized and appreciated. They are literally on the "front lines" in the financial war on terrorism. Because it takes money to travel, communicate, and carry out terrorist acts it is the bank teller, manager, or broker that is more likely to interact with the next terrorist or terrorist financier, maybe even before law enforcement or the intelligence community does. For this reason, it is critical that the financial services industry receive the necessary training and awareness of the "Things to Look For" as it relates to terrorism and that they have a vehicle or mechanism to report their suspicions to the Government in a timely and efficient manner. This is accomplished through the use and electronic filing of SAR's. Conversely, the Government needs to have a way to communicate these "Things to Look For" with the private sector as well as a mechanism to publish names of individuals, entities and/or organizations reasonably suspected of engaging in terrorist activity. Outreach and training combined with the utilization of USA PATRIOT ACT Section 314(a) facilitates the timely sharing of information between law enforcement and financial institutions. As mentioned earlier, the TFOS has sponsored and participated in a series of conferences and training forums with representatives from the financial services industry and regulators to educate them of the "Things To Look For" but more coordination and law enforcement outreach is needed.

Production of Financial Records in Electronic Format

One of the biggest challenges facing law enforcement when it comes to financial records analysis is the unavailability of financial records in electronic format. In the past, it was common for investigators to request and financial institutions to provide copies of financial records such as statements, copies of checks, or deposit slips in hard-copy (that is, paper) form. The delays inherent to their production and forwarding to law enforcement was complicated by the fact that the records were not readily accessible by the financial institution and because they are often in paper form they are not readily searchable or retrievable. This is especially true when time is of the essence during emerging threat situations where access to and analysis of the records is critical. Some financial institutions have made great strides in converting and storing their transactional and customer records in electronic format. The credit card industry is a good example of this. Many banks and institutions even allow their customers to view and download their account transactional data via the Internet into financial management programs. However, others because of the nature of their business or the costs involved do not digitally store or are not capable of producing records electronically.

Future law enforcement investigations would be significantly enhanced if financial institutions were to develop and adopt standards of best practices for the storage and production of financial records in electronic format. Countless hours and resources on the part of private industry and the Government could be saved if these records were stored and produced in a format that eliminated the need for investigators to re-input or type the information back into financial analysis programs.

Currently when records are not available in a digital format, we utilize high-speed scanners to scan and copy the records. Text is thereby converted to optical character recognition (OCR) searchable text. By "digitizing" the documents into scanned, searchable images they become immediately available to all with a need or interest in the records. Digitizing the records not only facilitates rapid dissemination of the

documents but also provides for enhanced searching and analysis. Storage, retrieval, and discovery production costs are also thereby reduced. Once the records are digital, then advanced searching tools may be applied against them to identify key information, patterns, or trends.

However, as long as relevant records remain in paper form whether held by the financial institution or the Government, investigators are impeded in their timely dissemination and analysis. This can have an impact on our preventative efforts.

In summary, the increased promotion of antiterrorist financing training both domestically and internationally would go a long way toward furthering cooperation and raising awareness of patterns in terrorist financing. Efforts to interdict illegal money remitters which undermine our financial institutions and provide a potential avenue for illicit funds to be transferred should be pursued. Finally, the production of financial records in electronic format would facilitate not only sharing and analysis, but also increase our ability to tactically respond to emerging threats.

Conclusion

Terrorism is a global problem. The solution is grounded in what we have experienced since September 11—unprecedented international cooperation and coordination. The threat terrorism poses must always be considered imminent. In addition to considerable financial investigative expertise, addressing terrorism and the finances that support and propagate it requires the ability to both implement proactive and preventive approaches to disrupt and dismantle as well as the ability to conduct highly reactive immediate response financial investigations to address potential imminent threats. As stated herein and in conjunction with more and more of the international community and other aspects of the U.S. Government, the FBI has made considerable progress toward achieving and implementing these abilities.

Again, I offer my gratitude and appreciation to you, Chairman Shelby, Senator Sarbanes, and the distinguished Members of the Committee, for dedicating your time and effort to this issue and I would be happy to respond to any questions you may have.

PREPARED STATEMENT OF E. ANTHONY WAYNE

ASSISTANT SECRETARY FOR ECONOMIC AND BUSINESS AFFAIRS
U.S. DEPARTMENT OF STATE

SEPTEMBER 25, 2003

U.S. Interagency Efforts to Combat Terrorist Financing

Mr. Chairman and distinguished Members of the Committee, thank you for the opportunity to testify on U.S. efforts to combat terrorist financing.

The United States remains engaged in a long-term war against terrorism. I thank you for your support and for providing the necessary tools for waging this war. This fight requires actions on several fronts. A critical front is the effort to defeat, disrupt, and destroy the financial networks that sustain terrorists and finance their operations.

I would like to begin by recognizing how far we have come in terms of U.S. Government interagency coordination when it comes to dealing with terrorist financing. We have made enormous strides in improving the degree to which all U.S. agencies with equities related to the pursuit of terrorist financing cooperate and coordinate their efforts. This strong interagency teamwork involves the intelligence and law enforcement communities, as well as State, Treasury, Homeland Security, and Justice collectively pursuing an understanding of the system of financial backers, facilitators, and intermediaries that play a role in this shadowy financial world. It involves the Treasury Department, coordinating the policy process by which we examine actions to disrupt these financial networks. It involves the Department of Justice leading the investigation and prosecution in a seamless, coordinated campaign against terrorist sources of financing. And, it involves the State Department leading the interagency process through which we develop and sustain the bilateral and multilateral relationships, strategies and activities, including, in coordination with Justice, Treasury, and Homeland Security, the provision of training and technical assistance, to win vital international support for and cooperation with our efforts.

A Policy Coordination Committee established under the framework of the National Security Council and chaired by the Department of the Treasury ensures that our activities are well-coordinated. The Department of State, the Department of the

Treasury, the Department of Justice, the Department of Homeland Security, intelligence agencies, and law enforcement agencies all work very closely together in this effort. The Department of Homeland Security is a recent addition to the framework and we look forward to involving them in the disruption of networks bearing also on homeland security. Our task has been to identify, track, and pursue terrorist financing targets and to work with the international community to take measures to thwart the ability of terrorists to raise and channel the funds they need to survive and carry out their heinous acts.

A key weapon in this effort has been the President's Executive Order 13224, which was signed on September 23, 2001, just 12 days after the terrorist attacks of September 11. That Order provided the basic structure and authorities for an effort, unprecedented in history, to identify and freeze the assets of individuals and entities associated with terrorism across the board. Under that Executive Order, the Administration has frozen the assets of 321 individuals and entities. The agencies cooperating in this effort are in daily contact, looking at and evaluating new names and targets for possible asset freeze. However, our scope is not limited to freezing assets. We have very successfully used other actions as well, including developing diplomatic initiatives with other governments to conduct audits and investigations, exchanging information on records, cooperating in law enforcement and intelligence efforts, and in shaping new regulatory initiatives. We recognize, however, that designating names is—along with arrests—the action that is most publicly visible. But, designations are, in no way, the only action underway. Allow me to stress this point, particularly because some questions have been raised by commentators in this regard: Every approach the PCC has adopted regarding a specific target has involved extensive, careful work. We need to make sure we have credible information that provides a reasonable basis linking the individual or entity to terrorism; we need to weigh the options available to us for addressing the target; we need to identify the most effective approach, realizing that we may shift gears and adopt a different strategy later on. We want to be right, legal, and effective. In some cases we support public action, such as designations, in other cases we choose other methods, including law enforcement, intelligence, or getting another country to undertake law enforcement or intelligence action. At the end of the day, all our actions combined, and the efforts of countries around the world, have succeeded in making it more difficult for terrorists to move and collect funds around the world, in particular through regular banking channels.

Internationally, the UN's role in responding to the challenge of terrorist financing has been crucial: The UN helped to give international impetus and legitimacy to asset freezes and to underscore the global commitment against terrorist financing. This is extremely important, because: (1) most of the assets making their way to terrorists are not under U.S. control; and (2) when it comes to Al Qaeda in particular, it means that when an individual or entity is included on the UN's sanctions list, all 191 UN member states are obligated to implement the sanctions, including asset freezes against these individuals and entities. It has added a total of some 217 names to its consolidated list since September 11.

Another very important actor in international efforts to combat terrorist financing has been the Financial Action Task Force (FATF), a multilateral organization of 33 members individually and collectively devoted to combating money laundering that has adopted 40 recommendations on the elimination of money laundering and an additional, complementary eight special recommendations on combating terrorist finance. FATF is monitoring compliance with its recommendations in coordination with regional bodies, the UN Counter-Terrorism Committee, and the G–8-initiated Counterterrorism Action Group. FATF is planning assessments of country-needs for technical assistance to improve local ability to combat terrorist financing. It is in large part due to FATF's focus and efforts on terrorist financing, for instance, that the Indonesian Parliament passed important amendments to its anti-money laundering law on September 16, amendments that will improve the country's ability to take actions against terrorist financing. Similarly, it was FATF's efforts that led the Philippines to pass legislation in March that will significantly increase that country's ability to carry out meaningful antiterrorist financing measures. A FATF team is working closely with the Saudi Government to review recently drafted regulations as well as pending legislation. FATF will advise on whether such regulations and legislation meet international standards of effective instruments to combat money-laundering and terrorist financing.

Saudi Arabia has been a particular focus of our counterterrorist finance efforts. On October 12, 2001, we and the UN froze the assets of Saudi millionaire Yasin al Kadi because of his links to Al Qaeda. Subsequently, we and the Saudi Government submitted on March 11, 2002, the names of the Somali and Bosnian branches of the charity Al Haramain to the UN for worldwide asset-freezing. We and the

Saudis also submitted the name of Wael Julaidan, a prominent Saudi Al Qaeda financier, to the UN for freezing on September 6, 2002. These are a few examples of actions that have been publicly visible.

Launched in January, our senior-level dialogue designed to improve communications beginning in January, the United States has told the Saudi Government forthrightly that they would be judged by their actions. As a result of the May 12, 2003 bombings in Saudi Arabia that left 34 dead, including 8 Americans, the dialogue has intensified. Our strategy with the Saudis has three parts:

- interaction between key U.S. Government officials with Saudi officials;
- presenting packages of usable information to the Saudis to help them take action against individuals and organizations involved in the funding and support of terrorism; and
- applying diplomatic pressure to ensure effective and timely Saudi action based on the information. This requires follow-up and the building of relationships of trust and confidence.

Saudi Arabia has made fundamental and necessary changes to its banking and charity systems to help strangle the funds that keep Al Qaeda in business. It is important to note that many of the changes implemented by Saudi Arabia go beyond what we would have legal authority to do. As I mentioned earlier, the FATF is in the process of reviewing the effectiveness of these new laws and regulations. Saudi Arabia is working with us closely in the context of the new task force on terrorist financing, led on the U.S. side by the FBI. Experts from the FBI and IRS have just completed the first part of a training model designed to strengthen the financial investigative capabilities of the Saudi security forces. In the UN, as mentioned above, Saudi Arabia submitted, jointly with the United States, the names of two branches of a major Saudi NGO, as well as that of a major Saudi financier, for worldwide asset-freezing because of their links to Al Qaeda. Saudi Arabia's new banking regulations place strict controls on accounts held by charities. Charities cannot deposit or withdraw cash from their bank account, nor can they make wire transfers abroad via their bank account. And Saudi Arabia has banned the collection of donations at mosques and instructed retail establishments to remove charity collection boxes from their premises, something that is undoubtedly extremely challenging for Saudi Arabia, but that the Saudi Government has undertaken because it understands that terrorists are more likely to use such funds than those channeled through regular banking channels. Having said all this, I want to stress that this is a work in progress. We have reason to believe that the new task force on terrorist financing will be effective but we will need to see results. We believe the Saudi Government is implementing its new charity regulations, but there too, we will need to see results.

Again, please allow me to stress a point, because sincere and concerned questions have been raised in this regard: The Saudis have been and still are limited by their own lack of expertise, a situation we are working to address. They are receptive to our assistance and efforts to help them boost capacity to combat terrorist finance. The Saudis are not where they need to be, and they have much work to do. However, we believe they are headed in the right direction, are committed to countering the threat of terrorist financing, and are giving us very strong cooperation in the war on terrorism.

Another key focus of terrorist finance effort has been Hamas. I would like to highlight the recent U.S. designations related to Hamas. On August 22, the President announced the designation for asset-freezing of the following five Hamas fundraisers: CBSP (*Comite de Bienfaisance et de Secours aux Palestiniens*), ASP (*Association de Secours Palestinien*), *Interpal,* Palestinian Association in Austria (*PVOE*) and Sanabil Association for Relief and Development. He also announced the designation of six top Hamas leaders (*Sheikh Yassin, Imad al Alami, Usama Hamdan, Khalid Mishaal, Musa Abu Marzouk and Abdel Aziz Rantisi*). Earlier this year, the United States also designated for asset-freezing another Hamas charity operating in various parts of Europe, the al Aqsa Foundation.

Hamas' recent suicide bombings demonstrate the organization's commitment to undermining any real efforts to move toward a permanent peace between Israel and the Palestinians. Hamas and other Palestinian rejectionist groups must not be permitted to undermine the aspirations of the Palestinian people for a viable, secure state living side-by-side with Israel in peace and security. While the Palestinian Authority and Arab states have endorsed the road map devised by the Quartet, Hamas continues to reject constructive efforts toward a peaceful solution to the Middle East conflict.

Shutting off the flow of funds to Hamas is crucial to reducing Hamas' ability to carry out its activities and to thwart progress toward peace. Hamas is also clearly

a threat to Palestinian reform, including Palestinians committed to a negotiated peace. Hamas has used its charities to strengthen its own standing among Palestinians at the expense of the Palestinian Authority.

In light of this, the United States welcomed the EU's recent decision to designate Hamas in its entirety as a terrorist organization. Previously, the EU had only designated Izzadin al Kassem, Hamas' "military wing" as a terrorist entity.

We have also urged governments throughout the region to take steps to shut down both Hamas operations and offices, and to do everything possible to disrupt the flow of funding to Hamas, and other Palestinian organizations that have engaged in terror to disrupt peace efforts. Some of these financial flows may be used to support charitable activities, but some of this money frees up funds used to support Hamas' rejectionist and terrorist activities. We will continue to engage with regional governments to prevent all funding of Hamas and other groups that have engaged in terror.

In all our discussions with EU Governments on this matter, EU states have raised serious concerns about addressing the basic humanitarian needs of the Palestinian population. Even as we try to shut off the flow of funds to Hamas, it is important to remember that a significant portion of this money has gone to provide some basic services to the Palestinian population—services the Palestinian Authority has not yet successfully provided. This is a concern that the U.S. shares and is working with our Quartet partners and others to address. However, as long as Hamas continues to rely on terrorism to achieve its political ends, we should not draw a distinction between its military and humanitarian arms, since funds provided to one can be used to support the other.

Also worth noting are actions taken elsewhere in the Middle East. The United Arab Emirates, Bahrain, Egypt, and Qatar have also passed anti-money laundering legislation and all Gulf Cooperation Council member states have increased oversight of their banking systems. Kuwait, Saudi Arabia, Bahrain, Qatar, and Oman are devising ways to prevent the misuse and abuse of charities for terrorist purposes.

Hawalas, or informal money remittance systems, have posed special challenges in the Middle East and South Asia. Similar systems operate around the world, often beyond the purview of bank regulators. They have existed for thousands of years and are not necessarily illegal undertakings, but are susceptible to misuse. We have made a special effort to engage countries on Hawalas and other informal networks, encouraging innovative solutions, including via technical assistance and regulatory oversight. In April 2002, the United Arab Emirates hosted a major international conference to make countries aware of how Hawalas operate and steps that might be taken to ensure they are not used to support terrorism. Follow-up continues wherever Hawalas are common by United States and internationally sponsored technical assistance and training teams.

Asset-freezes and arrests get the headlines, but "diplomatic action" also makes a difference in the world of terrorist finance. Let me just briefly characterize for you the forceful types of actions that we refer to under the rubric "diplomatic action," a phrase that we well know is not always assumed to be a synonym for "armed and dangerous." But we would consider ourselves second to no agency in the forcefulness and persuasive potential of the tools at our disposal, as validated by the fact that, often, there is interagency consensus on a recommendation to wield diplomacy as a weapon against terrorists. When we talk about diplomatic approaches for dealing with targets, we are talking about getting other governments to cooperate in the war against terrorist financing by taking concrete actions of their own, including law enforcement and intelligence actions, as well as getting them to speak out publicly against terrorist groups. It has involved encouraging foreign governments to prosecute key terrorists and terrorist financiers; to extradite a terrorist financier; to pass strong antiterrorist financing legislation; to prohibit funds from being sent to a charity; and to make sure companies funneling funds to terrorists are shut down. Diplomatic action also means improving conditions for our colleagues in other agencies to work more effectively with their foreign counterparts in the fight against terrorist financing. The results obtained through such diplomatic strategies are crucial to our long-term success.

As we move forward with refined strategies, we will continue to work actively with other governments in different regions of the world to make further progress in our fight against terrorist financing. In Saudi Arabia, we will continue our cooperation to achieve actions such as the joint submission to the UN for asset freezing of the Bosnian and Somali branches of the Saudi charity Al Haramain, and the similar designation of Wael Julaydan, a prominent Saudi Al Qaeda financier. These actions as well as other important initiatives such as cooperation in building a joint task force on terrorist financing, we believe are, and will continue to be, productive and in the interest of protecting and saving American lives. In Asia, we will con-

tinue to work with governments to confront Jemaah Islamiyah (JI), including its sources of funding. In the last few weeks, the UN has listed 20 new names of individuals associated with JI whose assets UN member states are obligated to freeze. In this hemisphere, the OAS/CICAD Money Laundering Experts Group is drafting model laws and regulations that nations may adapt, enact, and implement to fulfill their FATF commitment to combat terrorist financing. We continue to identify vulnerabilities around the world and to work with other countries to address them effectively. Our capacity-building and technical assistance is vital in this effort. We have made it more difficult for terrorists to move and collect funds, but we still have a long way to go given the dimensions of this challenge.

Mr. Chairman, thank you for the opportunity to address this important issue.

COUNTERTERROR INITIATIVES IN THE TERROR FINANCE PROGRAM

WEDNESDAY, OCTOBER 22, 2003

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 10:07 a.m., in room SD–538, Dirksen Senate Office Building, Senator Richard C. Shelby (Chairman of the Committee) presiding.

OPENING STATEMENT OF CHAIRMAN RICHARD C. SHELBY

Chairman SHELBY. The hearing will come to order.

Today is the second in a series of hearings concerning the difficult issues surrounding the financing of terror. This Committee's comprehensive review of the United States' campaign to "starve the terrorists of their funding" began with a look at the Administration's current organization for this task. Our first hearing began to develop the theme that diplomacy is the equal partner of enforcement and that intelligence used in the analysis for prevention of terror acts is every bit as important as evidence garnered for criminal prosecution. The testimony from the first hearing also will allow the Committee to review the effective organization of the many agencies of our Government which address terror finance issues.

Today, the Committee will hear from experts in terror organizations and their allies. For many years, the United States focused on state sponsors of terrorism. Later, faced with the threat of organizations beyond mere political boundaries, we began to look at the international actors who would threaten our citizens worldwide. With terrorism on our shores, we see that terror organizations, using both simple and sophisticated schemes to infiltrate the United States, must make alliances, even with entities not sharing their ideology. Our witnesses today will assist us in understanding the underpinning of these relationships. It will be important to explore the "soft underbelly" of terrorist support so that we may "dismember and gut" this scourge.

We are privileged today, very privileged, to have as our first panel Richard A. Clarke. Mr. Clarke has spent a career relentlessly pursuing terrorists, while suffering the day-to-day frustrations of this complex pursuit. He has spent an unprecedented 11 years service in the White House for three different Presidents. His positions included Special Assistant for Global Affairs, Special Adviser for Cyber Security, and National Coordinator for Security and Counterterrorism. His remarkable tenure was distinguished by

hard work, dedication, and frank yet sophisticated advice. Mr. Clarke, we welcome you and thank you for your important service to our country over the years.

Our second panel will look at the shifting alliances within the terror world and, in some instances, with professional criminal elements. They will address the relationships with legitimate businesses and other entities that terror groups, of necessity, must employ. Our witnesses will also explore the practical complexity of "following the money" as it makes its way to and from the hands of those who would do us and our way of life harm.

I believe we must assure the American people that every action, every technique, every fraud or ruse used by those who seek to harm us will be anticipated, met, and countered swiftly.

Senator Sarbanes.

STATEMENT OF SENATOR PAUL S. SARBANES

Senator SARBANES. Thank you very much, Mr. Chairman. I am pleased to join you today as the Committee continues its review of the financing of terrorism.

In our hearing last month, the General Counsel of the Department of the Treasury, David Aufhauser, and officials from the FBI and the State Department underscored the importance of identifying the methods by which terrorists are financed and of tracking and seizing terrorist funds. Finding the channels through which these monies move can illuminate the relationships among terrorist cells and planners. If we can significantly restrict the flow of funds used to recruit, train, and sustain terrorists, the threat they pose can be diminished accordingly.

To reach these goals, relevant information must be collected, analyzed, and shared, and decisions must be made about how to use that information to the greatest effect. Focusing on how well the Government is organized to perform, and is actually performing, these tasks requires a broad focus. There are many kinds of terrorist groups, and these groups operate in different cultures and circumstances.

We now know that Osama bin Laden used first the Sudan and then Afghanistan to build the Al Qaeda infrastructure during the mid-1990's, when only a few officials were focused on the potential risk from those activities. One of those officials was Dick Clarke, and we are very pleased to have him as our first witness this morning. Terrorism today affects many nations across the world, in Africa, South America, the Middle East, Asia, as well as the United States and Europe. Its funding involves a growing alliance between terrorism and traditional criminal activity, such as narcotics trafficking, as well as many kinds of undocumented economic activity, for example, the trade in raw gems, to which terrorists have turned. Understanding the diversity of this problem can help us to manage our vulnerability to future terrorist threats.

Our witnesses today will survey the terrain on which United States and international efforts to identify and restrict terrorist financing must operate. We are looking forward to their recommendations to the Committee.

Mr. Chairman, I again want to thank and commend you for making this subject a priority for the Committee.

Chairman SHELBY. Thank you.
Senator Bunning.

STATEMENT OF SENATOR JIM BUNNING

Senator BUNNING. Thank you, Mr. Chairman, for holding this very important hearing. I would also like to thank all of our witnesses for testifying today.

Everyone on this Committee is very concerned with what is the best way to cut off terrorist funding. I think we have a set of witnesses in front of us today that will help us delve into these problems. Hopefully they will not just tell us what we are doing right and what we need to do in the future, but what we can and are doing wrong and how we can better use our resources.

Obviously, there are no easy answers, and I applaud you, Mr. Chairman, for holding this series of hearings so we can really dig into this problem. I look forward to hearing from all our witnesses. Thank you again.

Chairman SHELBY. Thank you.

Mr. Clarke, your written testimony will be made part of the record in its entirety. You proceed as you wish. Welcome to the Committee. We thank you very much.

STATEMENT OF RICHARD A. CLARKE
FORMER NATIONAL COUNTERTERRORISM COORDINATOR
NATIONAL SECURITY COUNCIL

Mr. CLARKE. Thank you, Mr. Chairman. I will summarize the written testimony, but first I would like to thank you for this opportunity to appear before this Committee. It is a privilege and it is a pleasure to come back before you. You, as Chairman of the Intelligence Committee, pursued this issue and pursued the overall issue of terrorism long before September 11. I want to thank you for your efforts over the years, and they are continuing, obviously.

We have come a long way since the beginning of the Government's focus on terrorist financing. When I first asked the CIA in 1995, in that era, to look into terrorist financing, they said, Well, after all, you have to understand, it does not take a lot of money to do a terrorist act. What they failed to understand was it took a lot of money to be a terrorist organization.

The questions we asked then of the CIA were never answered, and we asked them for 6 years. How much money does it cost to be Al Qaeda? What is their annual operating budget? Where do they get their money? Where do they stash their money? Where do they move their money? How?

Those questions, asked from the White House at high levels for 5 or 6 years, were never answered because, according to the intelligence community, it was too hard. We have come a long way since then.

Mr. Chairman, let me make five quick points and then entertain your questions.

The first point, I think, is one that you all understand, but I think we need to make the public and other governments, the media, and the banking industry understand, and that is, Al Qaeda has not gone away. We all have our scorecard of Al Qaeda leaders that we mark off as they are arrested or killed, and we get the im-

pression perhaps that we are eliminating the organization. Well, it is certainly on the ropes, but it is not eliminated by any means, and it will not be for many years. So it remains a threat, and its financing remains an issue.

The second point is that we now know, much more clearly than ever before, that Al Qaeda is just a small piece of a network of organizations, of concentric circles of terrorist organizations, those that Al Qaeda spun off or adopted, the regional affiliates of Al Qaeda that have been carrying out the attacks in Indonesia and elsewhere. But now I think we can also see that there are other terrorist groups, traditional terrorist groups like Palestinian Islamic Jihad, Hamas, and Hezbollah, that are engaged in a mutual support network. And the funding mechanisms for PIJ and Hamas appear also to have been funding Al Qaeda.

The third point is that although we have made significant progress in the Federal Government, there are still significant organizational problems created by the reorganization with the Department of Homeland Security. For years, we tried to get a single entity to be in charge of all of the terrorist financing issues and to give that entity all the capabilities it needed—forensic accounting, investigation, and whatnot. We do not have that today. We have, unfortunately, an MOU signed by the Department of Homeland Security and the FBI saying the FBI is in charge. That MOU was signed by the Department of Homeland Security without ever telling the key components of the Department that were working on terrorist financing, like Secret Service and the Customs intelligence units.

And so we have today the FBI, the TTIC, FinCEN, OFAC, the Secret Service, the Customs Service, the banking examiners, the State Department, all coordinated by the White House now but, nonetheless, all doing their own thing in their own space. Once again let me say that I believe there should be a single fusion center where all of those agencies move personnel on a permanent basis to work together.

There is also an organizational problem in the Treasury because so much of the Treasury enforcement arm was ripped out and sent to the Department of Homeland Security. The Office of the Under Secretary for Enforcement was eliminated, and so we now have two key aspects to the war on terrorism financing problem—the Office of Foreign Asset Control and FinCEN, the Financial Crimes Enforcement Network—reporting to a Deputy Assistant Secretary. This may sound like trivia, but trust me, in the executive branch it is not. Those two organizations have great professional staff. They need to be integral to this struggle, and they need to have an Assistant Secretary of the Treasury for Enforcement to whom they report. They also need their forensic accounting and bank examination staffs expanded.

The fourth point regards the USA PATRIOT Act which, in Section 314, calls for a three-way flow of information within the United States: from the U.S. Government to the financial institutions, from the financial institutions to the U.S. Government, and, third, between and among the financial institutions. Only one of those three paths is now being utilized. Financial institutions are providing information to the Government. They are getting almost

no information back from the Government to help them know where to look or what to look for. And they have yet to establish a sharing mechanism to allow them to share the information among each other effectively. Although there has been much talk about it, there has been no progress yet in giving the bank officials security clearances so that they can have access to the intelligence lead information that they would need to go look for this money.

The financial institutions all want to do a good job. They have not been given the tools nor the assistance by the Federal Government to do a good job. I would like to suggest that one thing this Committee may want to think about in the future is an oversight hearing on Section 314 of the USA PATRIOT Act.

Fifth, and finally, many governments around the world are now doing a much better job of cooperating with us post-September 11 or, in the case of Saudi Arabia, post the attack in Riyadh. But there are still holdouts. While I was in the White House, I always wanted to ask the Congress to take the model of the drug certification process and use it for financing of terrorism. It is at least as important an issue. What is that model? That model is that the President would annually report to the Congress on what every nation is doing to assist us in finding and seizing terrorist funds. If the President found that any nation was grossly not cooperating, he would have to impose sanctions.

I know that in any one of these things the President also has to have a waiver for national interest. But the process of preparing that report, the process of going to other countries and saying: We have a report to the Congress that the President has to certify. What would you like us to say about it, about your cooperation? Mr. Chairman, that was extraordinarily helpful in dealing with the counternarcotics problem. It would be extraordinarily helpful in dealing with this problem as well.

There are sanctions that the President could impose. He could prevent financial institutions in a non-cooperating country, after due notice, from clearing dollar accounts with the United States or with correspondent banks. That effectively kills a financial institution. It is the nuclear bomb of the international finance industry. I trust it would never have to be used. But if it were used once, it would send an important message to other states.

While we are getting cooperation, I do not think we should rest on our laurels. I think we should, in fact, step up the pressure because this problem is not going away. Financing is the necessary fuel for terrorist organizations, and if we are to win what will probably be a generation-long struggle against the terrorist threat that faces us today, it is a necessary precondition that we dry up the money.

Thank you, Mr. Chairman.

Chairman SHELBY. Thank you, Mr. Clarke.

You mentioned or alluded to the National Security Council Policy Coordination Commitment, the PCC. Currently, Mr. Aufhauser chairs the group. He testified before this Committee very recently—a very able man.

What are your basic thoughts on PCC? You know, when you create an ad hoc group, it remains that way sometimes, as opposed to defining something that is more permanent in nature, I guess.

Mr. CLARKE. Mr. Chairman, perhaps I am prejudiced from my personal experience, but I think the only way departments and agencies pay attention to important national goals is if there is someone at the White House who is a pain in the rear end and that perhaps has the power and trust of the President.

I think the new arrangement is that the Deputy National Security Adviser, Mrs. Townsend, has taken on the role of coordinating the interagency process with regard to this issue. Now, I think that is important and I think that is a good thing, and she is certainly well experienced and well equipped to make it work, and she has the trust of the President.

But I think what is missing, the second element for success, in addition to having a nudge in the White House, is having an interagency center that is activist and that has all the capabilities and skills it needs to carry out what the PCC and the President want. We do not have that. We do not have this one place where all the assets of the banking examiners in the eight regulatory organizations—and there are eight at the Federal level—where people from the Office of Foreign Asset Control, FinCEN, Secret Service, and Customs intelligence are all working together with the FBI.

I cannot stress enough how valuable these skills are at the Secret Service. People think of them as bodyguards. They are much more than that. They do one of the best jobs in the Government on financial crime and have for years. We need them to be integral to this effort.

The progress that we made, such as it was, prior to September 11 on terrorist financing was done almost exclusively by the Customs intelligence branch, and we need them integral to this effort.

So, I would say the two key elements are a strong Chair in the White House and a strong interagency fusion center. You cannot just rely on the FBI.

Chairman SHELBY. Mr. Clarke, you mentioned the flow of information from the financial institutions to the Government, but no backflow in a sense. If there is no feedback on what they are getting, it seems like it is a one-way street and it seems like it is inadequate. Do you want to elaborate on that a little more? How do we change that?

Mr. CLARKE. I think it is very frustrating for compliance officers and security officers at U.S. banks and financial houses who want to do the right thing but do not know what to look for. And when they do find a suspicious activity and they file a suspicious activity report as required by law, nothing happens as far as they know.

Now, do they continue sending in that information? Maybe they should be told, no, that was not helpful, look somewhere else. Or they should be told that was exactly right and we need to have more of that. They are not given any of this information, and the reason they are not is they are told either it is grand jury information, potentially, covered by the Federal Rules of Criminal Procedure, or it is classified information and you do not have a security clearance.

Those objections can be overcome. We can provide clearance to these personnel. We can provide them with secure phones. We can provide them with access to information so that they can do their job better.

Chairman SHELBY. Mr. Clarke, you referenced the drug certification program. It sounds good, you know, if we could do this with countries and say, gosh, we will investigate who is really cooperating with us on fighting terrorism through the financial institutions in their country and who is not. I have been told that there are only two countries currently on the drug list, Haiti and Burma, so many waivers are involved.

If we were to come forth with something like this, how do we tighten it up to where we take the political elements out of it?

Mr. CLARKE. That is always going to be difficult, but while there are only two countries now on the decertified list, there have been other countries in the past. And the fact that they have moved off the list means that we have made progress with them.

There is always going to be political interference and the State Department saying that we do not want to say this country is doing things improperly. But I think if you have a criteria list in the law, then there is less wiggle room for that type of political interference.

Chairman SHELBY. Senator Sarbanes.

Senator SARBANES. Thank you, Mr. Chairman.

Let me first just follow along with the Chairman's last question. Administrations have brought tremendous pressure to bear on the Congress and actually repealed the drug certifications. And as the Chairman pointed out, they often render it useless because they give these waivers out all the time. In fact, some argue that it weakens the perception of our fight against drugs rather than strengthens it because we come right up to it and then they say, oh, well, for other reasons, you know, we are going to give a waiver here, we give a waiver there and so forth. And the attitude finally—I mean, you know, we have Haiti and Burma on this list. End of list. We would have to think about whether the same thing would happen on the money trafficking. But it is an interesting suggestion.

Some of us have the perception that the creation of the Department of Homeland Security may well have set us back with respect to addressing this issue of the financing of terrorist organizations rather than move this forward. How do you see that?

Mr. CLARKE. I think there is no doubt that it did. Reorganizing the Federal Government in the middle of a war on terrorism was perhaps not the brightest thing we could have done. And as someone who spent 30 years as a Federal bureaucrat, I know that bureaucrats' tendency is to worry first about their desk, their office, their boss, their building, and their parking space. And when you start changing all of that, it takes them off the substantive work they should be doing.

The organizational changes with the Customs Service, with the Secret Service, with the ripping out of the enforcement arm from the Treasury Department, I think all of that discombobulated many of the key agencies in the fight to identify terrorist fundraising. It is unfortunate. We lost time. We still have not put Humpty Dumpty back together again because we still have not got the Treasury Department with someone really in charge of the residual enforcement elements, OFAC and FinCEN.

Senator SARBANES. Plus they have lost a lot of their tough-minded investigators, have they not, at Treasury?

Mr. CLARKE. They have lost almost all of them to the Customs reorganization, and within Customs. Customs intelligence, which was so key, has been broken up into two different pieces.

So, yes, I think it is absolutely right that the reorganization did not help and probably set us back.

Senator SARBANES. Where would you put the fusion center? Where would it be located if you had something like that?

Mr. CLARKE. I think organizationally it should probably be in the Treasury Department, but it does not matter a great deal, as long as all of the key elements are represented and they are really reporting to someone in the White House who chairs an interagency committee.

Senator SARBANES. Would you say that is the single most important thing we could do in terms of organizing the U.S. Government to address this problem?

Mr. CLARKE. I think it is absolutely the most important thing that we could do. Having the current structure where the FBI is in charge and tells everybody else what to do is a recipe, I think, for failure. We need an integrated organization.

Senator SARBANES. Why do you think that?

Mr. CLARKE. Well, because the FBI, by tradition, does not cooperate well with other Federal agencies and does not share information and treats other Federal agencies as second-class participants in the overall effort.

I think if we create a neutral center with the FBI, obviously there and playing a key role, but the other elements of the Government that have the legal authorities and the skills necessary, and also gives us a second opinion, which we desperately need on all of these questions.

Senator SARBANES. How would you assess the effectiveness of the major banking centers outside the United States in enforcing economic sanctions and antiterrorist financing rules?

Mr. CLARKE. I think they are much better now, obviously, than they were prior to September 11, and the Saudis have gotten better since the Riyadh bombing. But it is difficult for me, outside the Government, to know the extent of that progress in the last year.

Senator SARBANES. Mr. Chairman, my time has expired.

Chairman SHELBY. Senator Bunning.

Senator BUNNING. Thank you, Mr. Chairman.

Let me do a little follow-up on what my Chairman and Ranking Member have talked about as far as the Department of Homeland Security and the ability to gather the information necessary.

One of the main reasons we created the Department of Homeland Security was to centralize the ability to gather all intelligence and localize it in one Department. We fought the ability of a Deputy Secretary in the Department of Homeland Security to be in charge of the intelligence gathering and were successful in defeating that. My gut feeling is that if all of the people that are involved in this type of intelligence you are talking about as far as financing and raising money and all the things that are involved in the financing of terrorist activity could report directly to the Secretary of Homeland Security, Tom Ridge, who obviously has the right con-

nections at the White House and the Department of the Treasury, we would not have this maze of people, including the FBI, CIA, or Secret Service and/or all that you are talking about.

Do you think that that might, even if it were directly to the Secretary of the Treasury—I am trying to get out from under somebody being a bureaucrat first and responsible for the overall aspects of collection of this information.

Mr. CLARKE. Well, Senator, I know that many in the Congress thought that by creating a Department of Homeland Security and having an intelligence division or an information analysis division with an Under Secretary in charge, that coordination and centralization would occur. It has not occurred. There are many hundreds of unfilled jobs in the Department of Homeland Security. The intelligence analysis capability has not yet been created.

I am not sure it matters a great deal what department this fusion center is in, but I think it is important that there be a fusion center, a large center with good people, not just the kind of people you want to get out of your organization and so you assign somewhere else, but good people in a center with all of the skills necessary, all of the agencies that can bring something to the table, represent it, and that there be a senior Federal official who does nothing but run that center, and then a White House-led committee that does oversight and policy direction. And I think those two elements are key—someone senior at the White House, not somebody who has 27 other jobs at the White House but a senior-level person at the White House with experience, and I think Fran Townsend is absolutely the right person. The President has appointed the right person to do that job, and she is the Deputy National Security Adviser, and she has got great experience in this issue going back 12 years.

What she lacks is the center, and whether it is in Treasury or Homeland Security I do not think, frankly, makes much difference.

Senator BUNNING. Okay. To go back to the Chairman's question about banks and other financial institutions, back and forth, a lot of going to but nothing coming from, we have some privacy problems that we have to solve, and you well know that there are privacy problems that this Committee deals with on a daily basis. How do we overcome them?

Mr. CLARKE. Part of the privacy problem is part of the classification, the secrecy problem in general. We have in the past given secret-level clearance to corporate officials. The head of security for every major airline has a secret if not a top-secret clearance. There are people throughout the defense industry in the private sector, Northrop Grumman, Lockheed, and Raytheon, all have top-secret clearance. I do not know why we cannot take the chief compliance officer or the chief security officer of a major bank or financial institution and give them a top-secret clearance. They are all former Secret Service and FBI agents. They have all had top-secret clearance before, anyway. They are people who we know we can trust because they have spent 25 years with clearances in the past.

Senator BUNNING. Where were you suggesting that we add that to? The Department of the Treasury or the Department of Homeland Security?

Mr. CLARKE. Who gives them the clearance I think is less important than the fact that they get it.

Senator BUNNING. That they get it.

Mr. CLARKE. Now, it costs money to give someone a security clearance. These days a full-field investigation costs $100,000. So someone is going to have to get an appropriation if we are going to clear 50 people. That is going to be some money. But it will bring us back great benefits because then they will know what to look for.

Senator BUNNING. A last question. You mentioned Section 314 of the USA PATRIOT Act. Tell me why we should re-examine that Section or examine it to start with, and what progress can we make if we do it?

Mr. CLARKE. I am not suggesting it be modified. I am just suggesting that you have an oversight hearing to see how it is being implemented.

Senator BUNNING. Thank you very much, Mr. Chairman.

Chairman SHELBY. Senator Allard.

COMMENTS OF SENATOR WAYNE ALLARD

Senator ALLARD. Thank you, Mr. Chairman. I would like to follow up on Senator Bunning's questioning about Section 314. You suggested we hold a hearing. There are many parts of the USA PATRIOT Act you have suggested need no hearing. What is going on in Section 314 that drives you to think that we should take a look at it?

Mr. CLARKE. This hearing today has as its subject terrorist financing, and that is what Section 314 is about. It does seem to me that if you want to have a series of hearings on terrorist financing that one of them should at least in part focus on how well this part of the law is being implemented. What I suggested was I think it is being well implemented by the banks in that they are providing the Government information. It is not being well implemented by the Government in that the Government is not providing them information.

Senator ALLARD. So we need to take a hard look at the Government's side of Section 314 and how it is being managed.

Mr. CLARKE. And I think you also need to ask the banks if there are things that they could do to exchange information among each other, as they are authorized to do by Section 314. Section 314 is well written. It authorizes the banks to exchange information amongst each other without any fear of monopoly, antitrust, or privacy problems.

Senator ALLARD. And you think Section 314 is essential?

Mr. CLARKE. I think it is very essential, very well written, and I think we need to make it work. I am not sure it is working.

Senator ALLARD. You state in your testimony that the United States should sanction governments that do not cooperate in the search for terrorism financing. Has the cooperation of our current partners been effective in your view?

Mr. CLARKE. I suspect they are always going to be hold outs, there are always going to be these offshore banking centers that are scofflaws. Senator Sarbanes said there were problems with narcotics certification. There absolutely were problems with narcotics

certification. If you were to do a certification process for terrorist financing I think it would be written differently. But the process of going to a government and saying, "We have to send the U.S. Congress a document every year that says how you are doing, you, the Isle of Mann, or you, Kiribati," there is going to be a document go before the U.S. Senate saying how you are doing. The very fact that you have that capability as a U.S. diplomat to say that to another country brings progress.

Even if the threat of sanctions is remote, even if there is only one country on the list, the threat that you could be put on the list helps enormously. It has helped enormously in the drug area. The measure of merit here is not how many countries are on the list. The measure of merit is how many countries are not on the list because we scared them into progress and cooperation.

I know what it is like for a U.S. diplomat to go into one of these countries and try to get their attention and try to get their cooperation. It is hard. And if you have no stick, it is very hard. I think we need to give our diplomats that stick, and hopefully they will never have to use it.

Senator ALLARD. Do you believe that the existing antiterror conventions and treaties are effective?

Mr. CLARKE. There are, I think, 13 of them. Most of them are very effective, but I think in the area of terrorist financing there has not always been a willingness to share information, a willingness to open up accounts. One of the problems, frankly, is if we are going to ask other countries to open up their banks for international inspection, we have to do that too.

There has to be, as there is, a system for doing this that is already in place, where three countries get together and inspect another country, audit another country, and file a report. That is a good process. Structurally that is a good process, but it needs to go down to an additional level of detail which it has not in the past.

Senator ALLARD. It sounds to me like if we would do that, we might grant privileges to a foreign power that we do not even grant to our own agencies here in the United States about the sharing of banking information.

Mr. CLARKE. No. It would be limited, and it is now, limited to the banking examination authorities that the Federal Government already has.

Senator ALLARD. I see my time has expired, Mr. Chairman.

Chairman SHELBY. Thank you.

Mr. Clarke, in your written testimony you outline numerous examples of terrorists and their agents leveraging or abusing our First Amendment protections of the free exercise of religion in pursuit of their fundraising efforts. Where do you see the balance of the Government's intrusion into suspected abuse, a front, organizations, or false religious organizations?

Mr. CLARKE. It is not coincidence that the terrorists have chosen to wrap themselves in religion, particularly in this country, because they know how difficult it is for law enforcement to go after them if they have wrapped themselves in a religious cloak. Under the former Attorney General guidelines that General Ashcroft changed after September 11, but under the guidelines that date back to the

Watergate era, FBI agents were not allowed to go into mosques or church.

Chairman SHELBY. This is previous restrictions?

Mr. CLARKE. Previously. There were a whole series of restrictions like that. Many of them have been modified now. But I think we have to walk a fine line here of obviously continuing to respect the rights of religious institutions, but knowing that the enemy has decided to hide himself in the camouflage of religious institutions. If we know that, and we do, then we have to examine them.

Chairman SHELBY. We have to it and do it well. I understand that. Can we fashion, and how do we fashion an investigative guidance to balance the constitutional interests with our investigative pursuit of financing? Knowing this, which, you know you have people hiding behind the religious organization to raise money for terrorist activities.

Mr. CLARKE. I always believe that the Government has greater credibility, the Executive Branch has greater credibility when it has people who are not in the Executive Branch doing some advice and oversight. In other words, an outside advisory board. It would seem to me that in general the Justice Department would be well advised to have a body of people who are well-respected in the academic community for their interest in civil rights, civil liberties, and religious protection giving advice on an ongoing basis, and having access to what it is that the Justice Department and other agencies are doing.

Chairman SHELBY. Mr. Clarke, in your view, and based on all your experience, which is vast, what is the greatest challenge in creating a terror finance program with some teeth in it, where information is shared? You mentioned the lack of a real fusion center before, lack of feedback to institutions, but what is our greatest challenge?

Mr. CLARKE. I think the greatest challenge, place where we have failed the most and the place where had we succeeded we would have gotten the greatest reward is in the area of developing human intelligence. If the intelligence agencies were able to tell us where to look for this money, it would be a lot easier, because what we are doing now is we are going through the haystack looking for the needle. And if you do it that way it is terribly expensive, terribly time-consuming, and frequently not productive. But if you have an intelligence tip as to what bank account, what bank, then you do not have to go rummaging through everybody's privacy.

Unfortunately, the U.S. intelligence community has not done a good job of placing agents, particularly in human intelligence, in these terrorist organizations that are able to answer the simple questions, where is the money?

Chairman SHELBY. Mr. Clarke, how do we, the United States, address, I guess we would call it the informal value transfer systems, for example real estate transactions—that is just one you have mentioned, the illegal diamond exchanges, is it hawalas?

Mr. CLARKE. Hawalas.

Chairman SHELBY. Explain how the hawalas works, if you will.

Mr. CLARKE. Hawalas are fascinating. They are a system of ledgers. A network of people around the world who trust each other and keep ledgers, and the ledger may just be this, it may just be

a notebook they keep in their pocket. You walk into a hawala in Brooklyn and you say, "I want $10,000 to go to my brother in Rawalpindi," and you pay a 3 or 4 percent carrying fee, and you are given a code word. You give that code word then to your brother in Rawalpindi. He shows up at the designated hawala there.

It does not say hawala on the door. It says rugs or coffee beans.

Chairman SHELBY. Or money shop.

Mr. CLARKE. Money shop, exactly. The brother goes in and he gives the code word and he gets the $10,000. And money has not moved. That is why we cannot find it moving because it has not moved. The hawala in Rawalpindi is using its own resources.

Chairman SHELBY. You have a debit and a credit though.

Mr. CLARKE. It is a ledger system and they clear the ledger at the end of the quarter or the end of the year with each other. And then money may physically move. The way it moves is, as you suggested, goods are bought and sold, and so a rug shipment moves and they pay $1 million for a rug shipment that is worth $10,000, very, very hard to find.

When we first asked the FBI to find the hawalas in the United States, of course the first question was, "What is a hawala?" The second was a statement that there were not any. So we went online and Googled hawalas in Brooklyn and Googled hawala Queens, and we found lots of hawalas. They are still here. They are more under cover than they were before, but it was not even clear in most States that they were illegal at that time. They are now.

Chairman SHELBY. Are they real prevalent in the Gulf States?

Mr. CLARKE. Throughout the Arab and Islamic world.

Chairman SHELBY. Is that the way they move money back and forth to their families and so on?

Mr. CLARKE. That is exactly how they do remittances. There is a separate system in the Chinese ethnic community that is very similar to the hawala system in the Islamic community. They are very difficult to find. They are now illegal in the United States, but there is not any international standard by which they are illegal.

Chairman SHELBY. How much money is moved, in your judgment, through the hawalas? Is it hundreds of millions?

Mr. CLARKE. That is very difficult. It is clearly hundreds of millions, but putting it even parametrically saying how much money it is, we really do not know.

Chairman SHELBY. Senator Sarbanes.

Senator SARBANES. Senator Schumer has not had a chance.

Chairman SHELBY. I was going through the names. If you want to yield, we will do it. We will have a second round. It is up to you.

Senator SARBANES. He has not had a round yet.

Senator SCHUMER. I have questions, but I will wait.

Chairman SHELBY. Go ahead Senator Schumer.

STATEMENT OF SENATOR CHARLES E. SCHUMER

Senator SCHUMER. Thank you. I thank both of my colleagues.

I want to thank Mr. Clarke, whose service to his country is just stellar and we thank you for being a voice on this long before just about anybody else was, and I wish you were back in Government, but I am glad you are still speaking out and being involved.

First question is it seems that this is not new in terms of the American Government having tried to crack down on Saudi participation in terrorist financing. As I understand it, there was a report in the July 2003 *New York Times* that said that Vice President Al Gore arranged to meet with Saudi officials in 1999 and 2000, threatening Saudi Arabia with severe sanctions if they did not stop participating in funding terrorism. Were you aware of the meetings? How did the Saudis respond to the threat? Did they make any moves to stop terrorist financing at that point?

Mr. CLARKE. That report is essentially true. What the Saudis did prior to September 11 and even after September 11, up until the Riyadh bombings, was to say that they took this seriously and promised cooperation. They then asked us for lead information. "Fine. Mr. American, if you believe there is money in our banks, tell us what bank account. Tell us the name of the individual." When on rare occasions we were able to do that, they said they would look into it and for the most part nothing happened.

That has changed since the Riyadh bombings.

Senator SCHUMER. It did not change in the period between September 11 and the Riyadh bombings much?

Mr. CLARKE. My impression is that the wake-up call was not September 11.

Senator SCHUMER. How much has it changed?

Mr. CLARKE. I am told by my former colleagues in the White House and elsewhere that it has changed quite a bit.

Senator SCHUMER. Did they react? Did they do anything after Vice President Gore went to them and said, change things around a little bit?

Mr. CLARKE. They certainly agreed to a number of meetings where Treasury Department officials and CIA and FBI officials gave them lead information and gave them ideas about how you do bank auditing and how you set up a suspicious activity reporting system. They said they were going to look into all of those and perhaps adopt them. I am not sure whether they actually did anything.

Senator SCHUMER. Next question is somewhat related. We have seen reports everywhere that this is not just some little small group of rogue Saudis funding this, but rather that there are officials at the highest levels of Saudi society, including royal family, including present or former ministers in financing terror. Some of these officials are the same ones, as I understand it, who have some say in helping us with our investigations of terror with Saudi Arabia.

First question is, have leading Saudi officials, either in public or private capacity, funded terrorism and if so, do they continue to do so today?

Mr. CLARKE. I do not know the answer to that, Senator, but I think this is a general answer.

Senator SCHUMER. Could you give us some context to this? How could so many high up people be involved in this kind of thing?

Mr. CLARKE. Again, I do not know that high up people were knowingly involved in terrorist financing, but I think the context is this. There were some Saudis and people from other countries who knowingly provided money to terrorist fronts. There were oth-

ers who knowingly provided money to Islamic charities. The Saudi Government, as a matter of policy, was providing money to Islamic charities around the world and to the creation of mosques, not just the building of them but the staffing of them and the running of them. The Saudi Government was in effect an evangelical organization pushing its religion around the world.

Many of those mosques and many of those religiously affiliated charities that were receiving government money were used by Al Qaeda as fronts, as sanctuaries, as places to raise money, hold meetings, recruit personnel, employ people who were really terrorists, and give them cover. The unknown question, at least unknown to me, is the extent to which that knowledge of the abuse was held at high levels of the Saudi Government. I have to believe that if high levels of the Saudi Government knew that that abuse was going on, they would want to stop it, because after all, Al Qaeda's goal is to have them all hang from telephone poles. There is no reason why the Saudi Government wants to help Al Qaeda because the first thing Al Qaeda will do is kill them all.

I think we have to distinguish between the evangelical nature of the Saudi Government's support for Islam around the world, on the one hand, and the abuse of the system the Saudis created. Clearly, there were people who knew that the abuse was going on, but I do not know who they were or how numerous they were or how high level they were.

Senator SCHUMER. Does our intelligence have better information now on who they would be? It would seem to be an important thing to know.

Mr. CLARKE. I think our intelligence has gotten much better with it on that issue.

Senator SCHUMER. May I ask one more question, Mr. Chairman?

Chairman SHELBY. Go ahead, Senator.

Senator SCHUMER. And this is one that Mr. Clarke and I had talked about a little bit in Judiciary. He has been before Judiciary because of his great knowledge on these things.

Again, we had talked about this. I am not sure if we did it publicly or privately. But one thing I am really troubled about is the planeload of Saudi citizens that was allowed to leave the country right after September 11. They might have been people either involved in terrorism or people who knew something about terrorism. As I understand it, most of the people who were on that plane now cannot be questioned by our own authorities because the Saudis are very reluctant to allow our authorities to question freely Saudi citizens who might be involved in terrorism. Do you know how it all happened? Why it was allowed, when we were not allowing anything else, and how much damage did it do us and are we able to recoup some of that now with this new change post Riyadh in being able to question some of these people, albeit a couple of years later?

Mr. CLARKE. Senator, I think this is really a tempest in a teapot. What happened was that shortly after September 11 when it became clear that most of the terrorists of September 11 were Saudis, the Saudi Government feared that there would be retribution and vigilantism in the United States against Saudis. That seemed to be a reasonable fear. The Saudi Government therefore did what we do all the time in these kinds of circumstances. It organized an evacu-

ation flight for Saudi citizens who wanted to be evacuated. I have done this several dozen times, where we have arranged evacuation flights to evacuate Americans under similar circumstances.

The list of personnel that were being evacuated was provided to the FBI. We asked the FBI to see if there was anyone on the evacuation list that they wanted to detain and question, and the FBI told us there was no one on the list that they wanted to detain.

Since this has become a matter for speculation I understand that there are people in the FBI who say they did not really have a chance. They had a chance.

I think the real test of whether or not this is a serious issue is, is there anybody who was evacuated on that flight that the FBI has subsequently tried to question, subsequently found any value in questioning? As far as I know—I would be pleased to hear otherwise—but as far as I know there was no one on that flight that the FBI wanted to investigate or interrogate then or wanted to investigate or interrogate subsequently.

Part of the brouhaha is that there were members of the bin Laden family on that flight, and there is a guilt by association implication here. The bin Laden family is enormous, number one. Number two, the members of the bin Laden family who were living in the United States we were aware of. Without going into more, in open testimony, let me just say we were aware there were members of the bin Laden family living in the United States, and had they been doing anything wrong we would have known about it. Let me stop there.

Senator SCHUMER. Thank you, Mr. Chairman.

Chairman SHELBY. Senator Bunning.

Senator BUNNING. I am going to try get a handle on the expansiveness of Al Qaeda and other terrorist organizations. In your opinion is the widespread diversion of terrorist organizations, Jihad, Hamas, and other organizations, is it a coordinated unit, or is somebody coordinating as best as they can? What happens with the funding and with the direction of these terrorists?

Mr. CLARKE. Senator, I think there was a great deal of coordination among the two inner circles. Let me describe my model of three circles here. The most central circle was Al Qaeda itself. The circle around it was organizations that they created or expanded and funded and trained, regional affiliates. The third circle is groups that really have nothing to do organizationally with Al Qaeda and predated it in many ways, Hamas, Hizbollah, PIJ, and the others. Prior to our dismantling efforts at Al Qaeda in 2001 and 2002 the inner two circles did get direction from the leadership of Al Qaeda. In other words, a regional affiliate in Algeria, Italy, or Indonesia did take orders from the leadership of Al Qaeda.

The leadership of Al Qaeda cannot communicate, so the regional affiliates are much more on their own. I think there is a still informal, non-centralized, non-leader directed relationship among all of these components. We have gone from having something that was hierarchical to having something that is more dispersed.

The American Right Wing Militia in this country talked often about the concept of the leaderless revolution, and the beauty of that to them was that you could arrest people you thought were leaders and it would not affect the movement. The same model is

now working in the fundamentalist Islamic terrorist circles, that it is more of a leaderless organization, and you can pick off individual leaders in individual cells. The other ones are still out there, and sometimes communicate and cooperate with each other.

Senator BUNNING. Would you say that as far as unit within this country, with the United States, there is no specific one person leading except the fact that they are individual cells that are operating on their own?

Mr. CLARKE. I suspect there are cells in the United States. I do not know that for certain, but I think there are, and many of them are operating on their own or are operating with regard to regional terrorist organizations back in their home countries. I do not think there is much of a hierarchical system here.

Senator BUNNING. The funding that Senator Schumer and others have talked about, these cells, whether they be in the United States or otherwise, are somehow funded, and whether it be the Saudis or whoever, but through a series of charitable foundations or other types similar to that?

Mr. CLARKE. I think there are two things going on with charitable foundations and apparent nongovernmental organizations. One, there are some NGO's and charitable organizations that were created by Arab governments, and sometimes their local chapters have been taken over or abused by terrorists as fronts, without the Arab governments knowing it. There is another kind of charitable front that is created by the terrorist group and does not have a governmental affiliation, and we have seen both of those.

Sometimes the money does not flow to the cells in the United States. Sometimes the money flows from the cells in the United States.

Senator BUNNING. If we kill the money do we kill the cells?

Mr. CLARKE. No. But I think it makes it much more difficult for these organizations to do recruiting and training if they do not have the money.

Senator BUNNING. In other words, it is central to our success long term?

Mr. CLARKE. It is a necessary precondition.

Senator BUNNING. Thank you very much, Mr. Chairman.

Chairman SHELBY. Senator Sarbanes.

Senator SARBANES. Thank you, Mr. Chairman. I know we have another panel and I will be very brief.

Mr. Clarke, first of all, let me again repeat my comments and those of my colleagues in thanking you for coming and for your efforts in this field.

When we did the title for the money laundering, we did that in this Committee and had it included in the USA PATRIOT Act, we put in a Section 311, special measures for jurisdictions, financial institutions, or international transactions of prime money laundering concerns. This was an effort to examine what was happening elsewhere, declare it, and thereby bring a focus to bear, and there were certain penalties that went with such a designation.

Many of us feel that the Executive Branch has not—it is the power in the Treasury—really utilized that power to the extent that we thought it would be and to the extent that circumstance would seem to warrant. What is your view on this question?

Mr. CLARKE. I think your assumption is correct, that the Section 311 powers have not been used, and that is why I come back to this notion of an annual report to the Congress where every nation gets a page or more describing what they have done. It is harder for the Executive Branch to cover up a lack of cooperation from another country if it has to give you a written report on that country.

Senator SARBANES. My final question is: How much success have we had in drying up funding sources for terrorism?

Mr. CLARKE. It is very hard to know the extent as a percentage or to describe our success overall when we do not know what the whole was to begin with. We can point to what we have done, but we do not know what the overall size of the problem was to begin with. So have we eliminated 10 percent of it or 90 percent of it? We do not know.

Senator SARBANES. Do you see any evidence that we have impacted sufficiently, that we have markedly affected their ability to function?

Mr. CLARKE. I think their ability to move funds has been markedly affected. I think their ability to communicate has been markedly affected. I think it is much more difficult for them to do it. That does not mean it is impossible.

Let me give you an example. In the past they might have picked up the telephone and called each other from one country to another, or they may have gotten on an e-mail and sent an e-mail from one country to another. They probably are very reluctant to do that today, and they probably have to use couriers to communicate, and those couriers have to be clean, people without any record in any of our databases. You can still communicate that way, but it is much more difficult and much slower.

I think probably by analogy the same kind of thing is happening with fund raising and fund moving. You can still stash hundred dollar bills in boxes and ship them from country to country, but that is riskier, it is slower, it is more cumbersome. You can still do it.

Senator SARBANES. Thank you very much, Mr. Chairman.

Chairman SHELBY. Mr. Clarke, I am going to pick up on something that Senator Schumer was into, and that is the evacuation of a lot of the Saudis following September 11. Has there ever been a published list of who all these people were? Is that classified?

Mr. CLARKE. I do not know whether it is classified, Senator, but I have never seen a published list.

Chairman SHELBY. I never have either. Do you know if there was a manifest listing.

Mr. CLARKE. Yes, sir.

Chairman SHELBY. There was a manifest.

Mr. CLARKE. Yes, sir, there was.

Chairman SHELBY. And it is not classified that you know about? If it is classified, I would want to know why it was classified.

Mr. CLARKE. I do not think it was then. I cannot imagine any reason why it would be classified now.

Chairman SHELBY. Do you know how many planes were involved in spiriting out or evacuating these people from the United States in the wake of September 11?

Mr. CLARKE. No.

Chairman SHELBY. Could it be more than one or you just do not know?

Mr. CLARKE. I do not recall. I do recall that we had a manifest. That manifest was passed to the FBI and the FBI was asked to do name checks on everyone on the manifests.

Chairman SHELBY. But the FBI never interviewed any of these people?

Mr. CLARKE. The FBI said it didn't want to and didn't need to.

Chairman SHELBY. Who made that decision? Was that made at the Director's level at that time?

Mr. CLARKE. It was at least at the number two level.

Chairman SHELBY. Do you know what dates this evacuation occurred?

Mr. CLARKE. I think it occurred within the first week following September 11.

Chairman SHELBY. Were these the only planes flying around for a few days in the United States?

Mr. CLARKE. Oh, no. I mean we were granting exceptions to a number of people.

Chairman SHELBY. What other exceptions, do you know?

Mr. CLARKE. There were exceptions granted to a number of government organizations.

Chairman SHELBY. Our Government or other governments?

Mr. CLARKE. Our Government.

Chairman SHELBY. Okay.

Mr. CLARKE. The Saudis were the only country that requested an evacuation.

Chairman SHELBY. That has been troubling to a lot of people in the country, who left, why they left, and especially because in view of the fact that there were thousands and still are thousands of Saudi citizens going to school, doing business, that remain in this country. Yet somebody made the decision to let these people out even before they were vetted in any way.

Was this done at the request of the Ambassador, Prince Bandar?

Mr. CLARKE. That is my recollection, but it is not entirely true that they were let out before they were vetted in any way.

Chairman SHELBY. But they were never interviewed?

Mr. CLARKE. There was no need to interview them. According to the FBI, they were not people they wanted to interview.

I understand how this becomes a very sexy issue, but I think the real test of whether or not it is a real issue is whether or not the FBI, in retrospect, looks at that list and sees anybody they would want to interview today.

Chairman SHELBY. Do you know if they have looked at the list and tried to interview them?

Mr. CLARKE. My understanding is, and again you would have to ask them to get a better answer, but my understanding is there is no one on that list they wanted to interview then, and there is no one on that list they want to interview now.

Chairman SHELBY. I know the bin Laden families—and there are a lot of people involved in the bin Laden family—and I am sure most of them are not terrorists anyway. But was there one member of the bin Laden family that actually was a brother or a cousin that worked at the Saudi embassy here? Can you testify to that?

Mr. CLARKE. I do not recall precisely how many members of the family were here or what they were doing. I do know that they were subjects of interest to the U.S. Government long before September 11.

Chairman SHELBY. The people that were evacuated, was it limited to diplomats and their families, or was it an ad hoc group put together by the Saudi ambassador?

Mr. CLARKE. It was a group put together by the Saudi embassy.

Chairman SHELBY. Senator Sarbanes, do you have any other questions?

Senator SARBANES. Yes, I have one more. When we evacuate our people overseas and bring them out, is that generally any American who shows up and wants to come out when we do that kind of emergency operation?

Mr. CLARKE. There are two kinds of emergency evacuations that we use. One is an official evacuation, and one is anyone who is an American citizen. Depending upon the threat, it is one or the other.

Chairman SHELBY. Mr. Clarke, we appreciate your testimony here today. We appreciate, as all of us have said, your service to this country.

Mr. CLARKE. Thank you, Senator.

Chairman SHELBY. Thank you very much.

We are going to call up our second panel. Dr. Louise Richardson, Executive Dean, Radcliffe Institute for Advanced Studies, Harvard University; Dr. Jean-Charles Brisard, CEO, JCB Consulting; and Mr. Matthew Levitt, Senior Fellow, Washington Institute for Near East Policy.

I just want to say a few words about Dr. Richardson and others. Dr. Richardson is the Executive Dean of the Radcliffe Institute for Advanced Studies at Harvard. She has studied and written extensively on the alignment of terror groups throughout the world. We look forward to her views on the shifting alliances among, in some instances, what we call "strange bedfellows."

Dr. Jean-Charles Brisard is the CEO of JCB Consulting. In that position, he is also the lead investigator for the law firm of Ronald Motley, representing many of the families of the victims of the attack on September 11. He has written and studied extensively, not only regarding the attack, but also generally concerning the movement of funds necessary to support terror organizations.

Finally, we will hear from Mr. Matthew Levitt. Mr. Levitt is a Senior Fellow for the Washington Institute for Near East Policy. He has a unique perspective concerning these issues built in no small part by his work as a Special Agent at the FBI for many years. Mr. Levitt was in the International Terrorism Section of the FBI and he has expanded that work into his present position. He will assist us today in looking at the transition from the conceptual analysis to the practical complexity of identifying, tracking, and disrupting terror organizations, using the trail that money leaves.

Dr. Richardson, Mr. Brisard, Mr. Levitt, your written testimony will be made part of the hearing record in its entirety. You may proceed as you wish.

Dr. Richardson.

STATEMENT OF LOUISE RICHARDSON
EXECUTIVE DEAN, RADCLIFFE INSTITUTE
FOR ADVANCED STUDY, HARVARD UNIVERSITY

Ms. RICHARDSON. Good morning, Chairman Shelby, Senator Sarbanes, and other distinguished Members of the Committee. I am honored to have this opportunity to speak to you about my understanding of the nature of terrorism and how lessons can be derived from that understanding for the disruption of their operations. As will readily become apparent, I am not an expert on terrorist financing; rather, I am someone who has thought about and taught about terrorist movements for many years.

I think the first point to be made in any discussion of terrorism is to be clear about what it is precisely that we are discussing, so in my written testimony I have suggested what I take to be the seven crucial characteristics of the term "terrorism". I believe that, until we can forge some agreement on what precisely it is we are talking about, international cooperation against terrorism will remain disappointing.

My argument is that it is the means that are employed, not the ends that are pursued, not the political context in which they operate, that determines whether or not a group is a terrorist group.

The next point I think to be made about terrorist groups is that there are very real differences between them. I believe that if we want to fashion an effective counterterrorism strategy, we must understand these differences. I believe that terrorist groups can broadly be defined as belonging to one of several types, and in my work I define them in accordance with what I take to be their primary political motivation.

There are ethno-nationalist movements, there are social revolutionary movements, there are Maoist movements, and there are radical religious movements. A few words on the latter, which are the groups which concern us most today.

I think that while the mixture of religious and political motives has been a growing trend over the past 30 years, I think that if one takes a longer perspective, it looks very different. Prior to the French Revolution, indeed, religious and political motives were invariably intertwined in terrorist ideology. There have always been two characteristics which have marked religiously motivated terrorist groups. First, they have exercised less restraint than other terrorist groups. If the audience is God, there really is no need to be constrained by the desire to avoid alienating one's supporters. Second, they have always been more transnational, because as we know, religions transcend political boundaries, so these groups tend to have broader bases of support and broader bases of operation. Consequently, it requires effective collaboration between governments to counter them.

Again, not all religious groups are the same. I think religion plays at least one of three roles in different terrorist groups. Sometimes it is simple a badge of ethnic identity, as in the Northern Irish case. Sometimes it is a mask for political motives, as in a number of Palestinian cases—and I believe Mr. Clarke's comments this morning suggested that he believed most of the groups we currently face are in this category. And third, it sometimes serves as the defining ideology and guide to action, as in religious sects.

Now, these types of terrorist movements I believe differ in significant respects from one another. They differ in their primary political motives and how they organize themselves to achieve them. I believe that one can sensibly generalize within the different types of movements, but only in very limited respects across them. I was asked specifically to address the issue of alliances or networks among terrorist groups. I believe that it should come as no surprise to us to see collaboration among different movements which share similar primary motivations. The IRA in Northern Ireland, for example, and the Basque ETA, are known to have had close links, and I expect it was those links which led to the more recent revealed connection between the IRA and the FARC in Colombia.

It would come as a surprise to me to learn of significant alliances across these types of organizations. When cross-type alliances have occurred, historically, to my knowledge, they have been exclusively between social revolutionary and nationalist movements. Islamic organizations could not countenance the social views of social revolutionary or nationalist groups. Members of nationalist groups tend to see themselves as utterly different from what they would consider the more depraved groups, which try to kill as many people as possible. By and large, nationalist groups have wanted, in the memorable words of Brian Jenkins, "lots of people watching, not lots of people dead."

In trying to anticipate alliances among terrorist groups, I think that a knowledge of the ideology of the group would help anticipate the nature of the alliances they are likely to make.

Many of these groups with very different ideologies do share some secondary motivations. These are the more immediate or mundane motives and they are shared across types of groups. By far the most common motive of any terrorist group and any individual terrorist is the desire for revenge. The second most common is publicity. They also, of course, seek funding. In these organizational ways, one finds terrorist groups I think operating much like other, more conventional organizations, concerned for their own survival and their own expansion.

In none of these cases do the memberships seek personal enrichment. For this reason, there are, in fact, limits to the usefulness of the tools we have developed for anticipating and countering criminal elements. The members of terrorist groups believe in their cause. They are often, far from seeking self-enrichment, are, in fact, willing to sacrifice everything they have for the cause in which they believe.

Just as I believe it is important to draw distinctions between different types of terrorist groups, It is also important to draw distinctions between different types of relationships between terrorist groups and their state sponsors. These relationships range from relationships in which the state exercises considerable control over the movements it sponsors to relationships in which the state and the movement simply share an enemy.

In every case, the terrorist movement is rendered more effective and more lethal by the support provided by the sponsoring state, but in every instance, the state is capitalizing on a pre-existing movement rather than creating one. The terrorist movements do not rely on the state for their survival. Rather, state sponsorship

is one of several means of generating financial support for the movement. Other forms of support we have heard about this morning. They include raising money from the Diaspora as Islamic and nationalist groups the world over have done successfully. Another popular fundraising mechanism is the operation of legitimate front businesses to generate money for the cause. I believe the Tamil Tigers in Sri Lanka have perfected this technique.

In other cases, terrorists raise money through extortion from the members of the societies they claim to represent, a Maoist specialty, and in still other cases they raise funds through criminal activity. Bank robberies and kidnapping were once traditional favorites; today, credit card fraud and in some cases drug dealing has become more popular. But raising money through criminal activity is a high-risk strategy for terrorist groups. It exposes their membership to corruption and to capture. It fudges the distinction they seek to draw between themselves and criminals, and it undermines the basis of their popular support.

The crucial point, of course, to bear in mind about terrorism is that it is cheap. This is part of its appeal. The attack on September 11 is probably the most expensive terrorist operation in history. It is estimated to have cost a half-a-million dollars. It takes a great deal less to buy some fertilizer, rent a truck, and use them to bring down a building. If a group has a generous sponsor, as say Hamas does in Iran, they can afford to run charities and thereby secure popular support. Such a group can also afford to support the families of imprisoned or killed members. But it is not necessary at all to have this level of support in order to conduct terrorist operations. Terrorism is, above all, a tactic, and its appeal as a tactic is precisely that one can get so much "bang" for one's "buck".

Again, sophisticated weaponry, such as weapons of mass destruction, is, of course, expensive. Aum Shinrikyo demonstrated this fact. One way for terrorists to secure these weapons is to be handed them by a state sponsor. My own view is that this fear is very much overblown. The act of ceding to a terrorist group one did not completely control, weapons of mass destruction would be an act of such folly as to appear incomprehensible to me.

My own prediction is that we will see far more Bali type attacks than we will see September 11 type attacks. I worry sometimes that our concern to prevent the less likely and more expensive type of actions may deflect our attention from the need to prevent the more likely, less expensive, and more conventional attack.

I believe that the first priority in undermining terrorist organizations is to understand how they see themselves, not how we see them. To achieve this, we must be inside their cells and inside the societies that produce them. We must read all their communications and their propaganda in order to anticipate their actions, but also to understand their appeal.

I think we can learn from terrorists, as they have learned from us. We can learn to have patience and to wait for results. The brilliance of the September 11 attack was its use of our own strength against us. They turned our civilian airlines into weapons for use against us. I think we must do the same. We must understand their ideology and their tactics and use them against them.

Terrorist organizations operate under conditions of considerable uncertainty, and are constantly fearful both of external attack and internal betrayal. We should exploit this by keeping them under constant pressure and exploiting their fissiparous tendencies. Their need to raise funds through criminal activity, of course, increases their exposure and gives us another avenue to pursue them.

If we undermine their support of charities, this won't prevent terrorism, *per se.* Many donors to the charities genuinely want to support the poor, and many of these charities do a great deal of good for the beneficiaries. However, over the longer-term, these charities serve to win and to sustain support for those providing the charity. I believe, for example, that the support for Hamas has to be seen in this light.

I think that we should ensure that it is our friends who are meeting the social needs of the potential recruits of the terrorists. This is a long-term strategy, but terrorism as a tactic has been around for a very long time and is likely to remain. What is new is the existence of organizations willing to kill as many civilians as they can, and the increasing availability of the technical means to do so. Strangling their financial assets will make it increasingly difficult for terrorists to function, but I do not believe it will ever eliminate terrorism.

Thank you.

Chairman SHELBY. Mr. Brisard.

STATEMENT OF JEAN-CHARLES BRISARD
CEO, JCB CONSULTING INTERNATIONAL

Mr. BRISARD. Chairman Shelby, Senator Sarbanes, and distinguished Members of this Committee, thank you for inviting me today to testify about the global war on terrorism.

Since June 2002, I have been leading an international investigation for the September 11 Families United to Bankrupt Terrorism in the course of an action brought by 5,600 family members before the U.S. District Court of Washington, DC against several entities and individuals that provided financial support to the Al Qaeda network.

In that respect, our investigation is today active in various regions of the world and has been able to recover a considerable amount of information on Al Qaeda's support networks through procedures of judicial or political cooperation established with more than 30 states.

I would like today to share some of our findings with you. This network, Al Qaeda, receives as its foundation massive financial support of about $500 million from businesses, banks, charities, or wealthy sponsors. This money primarily originates from donors in the Middle East.

One single example can demonstrate the reach of this support. In the course of our investigation, and as part of a judicial cooperation process with Bosnia-Herzegovina, we uncovered an internal document, known as the Golden Chain, that lists the top 20 Saudi financial sponsors of the group, including 6 bankers, 12 businessmen, and 2 former ministers, whose assets were valued at $85 billion. They include leading Saudi bankers and businessmen who represent the backbone of the Saudi economy.

The institutional confusion existing in Saudi Arabia between religious aims and financial instruments has created over the years a window of opportunity for fundamentalist organizations to consolidate and expand their reach. Most of the financial revenue of Al Qaeda was raised through a religious tax instrument and duty, known as Zakat, initially conceived to cope with poverty and charity among Muslims that have been abused by terrorists and their support, with the implicit consent of a state unwilling to regulate the use of religious money.

Al Qaeda operates behind a traditional economic and financial network and mostly uses well-established channels to transfer money. Documents made available to the September 11 families clearly established that major Saudi banks have helped transfer funds to Al Qaeda by direct donations or by providing the infrastructure and the means to do so.

This scheme is a perfect example of the way Al Qaeda penetrates the business sector to operate. Beginning in 1996, several business associates of Al Qaeda developed a money laundering scheme in Spain involving Saudi and Spanish companies to finance Al Qaeda operational cells or affiliates. Several front companies, described as covers for Al Qaeda by a Spanish Judge Baltasar Garzon, received more than $1 million in Zakat from Saudi companies or individuals. This scheme, financed in part, the Hamburg cell hijackers and the preparatory filming of the World Trade Center.

Since September 11, Saudi Arabia has repeatedly stated that its charities were legitimate organizations. Prince Sultan Bin Abdulaziz, Saudi Minister of Defense, and an important donor to several of these charities, recently stated that they were "legitimate and well-established Muslim charities."

Such statements are overturned by an array of facts and evidence made available by several countries for the investigation of the September 11 families, suggesting that most of these so-called charities were, at best, fronts of terrorist organizations, if not terrorism backbone, but in any case, and for most of them, fictitious charities.

We recovered thousands of documents from Saudi charities which are archives of Al Qaeda, showing their involvement in every stage of terrorism, acting as an umbrella, safe houses, and even military bases for Al Qaeda operatives, to the point of creating a symbolic relationship with the terrorist organization through its resources, management, members or facilities.

Charities have, for example, provided military training for Al Qaeda terrorists. From intelligence sources, the investigation of the September 11 families established that 10 terrorist training camps in Afghanistan have been funded by Saudi charities. The International Islamic Relief Organization funded at least six terrorist training camps, including the Darunta camp, a facility used for chemical and biological weapons testing. Others, such as the Muslim World League and the Saudi Red Crescent, were part of an Al Qaeda financial committee.

Saudi Arabia has become a major concern in the war against terrorism financing. The kingdom is still harboring essential and constitutional elements of Al Qaeda: The ideology, the human vector, and the financial tools.

In June 2001, the late FBI Chief of Antiterrorism, John O'Neill, told me that all the answers, all the keys enabling us to dismantle bin Laden's network, are in Saudi Arabia. Today, all of our leads and much of the evidence collected for the September 11 families put Saudi Arabia on the central axis of terror, and shows that this government was aware of the situation, was able to change the path of its organizations, whether banks, businesses, or charities, but voluntarily failed to do so. Rather, the Saudi Government facilitated the reach and involvement of the charities and incited its citizens to support the terror fronts when the highest ranking members of the royal family are pouring tens of millions of dollars each year to Islamic charities known for diverting money to Al Qaeda.

Saudi Arabia also has been fully informed and warned by its United States and European counterparts since at least 1994, that several major charities sponsored by the Kingdom were supporting terrorism.

In 1994, French Interior Minister Charles Pasqua visited Saudi Arabia and met with the highest ranking Saudi officials to express his deep concern on the role of charities in funding terrorist organizations in the Middle East. In 1996, a CIA report indicated that one-third of the Islamic charities were linked to terrorism. In 1997, a joint security committee to share information on terrorism was established with the United States, involving the CIA, the FBI, and the NSA. In 1999 and 2000, several United States officials finally traveled to Saudi Arabia to raise the same concern.

Despite clear warnings, Saudi Arabia's support to charities has been continuous and extensive over time, even after September 11. To date, most of the financial infrastructure is still in place from banks to charities, including front companies and wealthy donors.

While United States Treasury Department officials claim Saudi Arabia is the epicenter of terrorism financing, the Kingdom has only frozen a ridiculous amount of terrorist funds: 41 bank accounts belonging to 7 individuals, representing 4 percent of the total amount of terrorist-related funds frozen around the world.

The major issue regarding Saudi Arabia concerns its unwillingness until a recent period to face Islamic terrorism as a threat. "We have never worried about the effect of these organizations on our country". These were the words of Prince Bandar Bin Sultan in September 2001.

This stand, indeed, had nothing to do with misconception on the part of Saudi Arabia. We believe it was part of a clear, calculated, and determined policy.

The same Saudi official acknowledged that the Kingdom might have paid the price of its own protection. This is a major revelation of our investigation, substantiated by several testimonies and documents emanating from members of the Saudi governmental apparatus or foreign intelligence. Since 1994, Saudi Arabia has funneled money to bin Laden to preserve the political power of the Al-Saud family in the Kingdom. Prince Bandar refuses to call it "protection money," and prefers the notion of "paying some people to switch from being revolutionaries to be nice citizens," which is leading to the very same consequence for us.

This trend also reverses a major argument of Saudi Arabia when it claims to be the first target of Al Qaeda. The Kingdom never faced Al Qaeda terrorist threats since May 12 of this year. Osama bin Laden has targeted western interests in the Kingdom, while surprisingly avoiding to hurt any symbol of the monarchy. On the contrary, we believe Al Qaeda served for years the very religious interests of its godfather in disseminating the wahabi ideology in various regions of the world.

The truth is, since the beginning of the war against terrorism financing, Saudi Arabia has been misleading the world, and we are still awaiting the Saudis to apply for themselves the very strong message of their ruler, Crown Prince Abdallah, who in August 2003 made it clear that whoever harbors a terrorist is a terrorist like him; whoever sympathizes with a terrorist is a terrorist like him; and those who harbor and sympathize with terrorism will receive their just and deterrent punishment.

Saudi Arabia still maintains freely on its soil thousands of individuals or entities who provide financial support to terrorism, and the September 11 families are still waiting for them to be investigated, sought, and prosecuted with the same determination as the one applied to those who were carrying the guns and bombs that they have paid for.

The point has been reached where the only alternative is for the Kingdom to show clear evidence of its willingness to terrorize the terrorists—in other words, to dismantle the financial backbone of Al Qaeda, or to face liability for its negligence. This liability could pass through several measures, including designating Saudi Arabia as a state sponsor of terrorism, if this country still maintains and provides roots of terrorism, including the religious substrates with wahabism, a radical doctrine that calls for intolerance and violence, charities, with organizations offering full service to terrorist organizations, and financed with banks, companies, and businessmen still able to fund extremists.

Until now, the war against terrorism financing has been mainly focused on the end-users entities and individuals, primarily to prevent further terrorist attacks. While this objective has been successful in many areas, I doubt it could stand as a long time pattern to win this war.

At the operational level, Al Qaeda and its affiliates have been more active since September 11 than in all their history, with more than 40 bombings, causing 1,000 deaths. Al Qaeda has been able to consolidate and spread its forces through other organizations.

I see several major obstacles in the war against terrorism financing, mostly related to its national nature, creating international legal and cultural differences. Another obstacle is based on political and diplomatic reluctances to address the issue of the sources of funding.

The time has come to raise the final question of the finality of the war against terrorism financing. This war will only succeed if there is a clear intention from all the parties involved to disrupt the entire chain of financing, including above all, its sources. We can dismantle all the fronts, all the intermediaries, and all the channels of terrorism funding, but it will not be enough to disrupt

its financing if we do not cut the roots of it and prosecute the shareholders of Al Qaeda.

Several cases demonstrate that this war, until now, has been selective, if not discriminating and avoiding to address its roots. For example, I question the interest of designating Yasin Al-Qadi as Chairman of the Muwafaq Foundation, an Al Qaeda front, according to the U.S. Government, if its principal founder and donor, Saudi banker Khalid Bin Manfouz, is still at large.

The same applies to the Al Aqsa Islamic Bank, described as the "financial branch of Hamas," while its main shareholder, Saudi businessman Saleh Abdallah Kamel, is not affected by any measurable amount.

To extend the reach of current investigations, several measures could be taken at the national and international level, including the implementation of preventive designation and freezing of assets of suspects to provide time for investigations, while preserving the banking institutions.

The most important task of the U.S. Government is to promote international cooperation, mutual understanding, and common tools to fight this form of transnational terrorism. The implementation of an international information-sharing body is necessary to boost the worldwide investigations. The independent and legitimate effort of September 11 families provides a basis for cooperation, and I can announce today that we will create in the upcoming months a global information sharing body, in coordination with several governments and international organizations.

Finally, I will leave my last words to Matthew Sellitto, who lost his son on September 11. He, more than I can, synthesized our common goal against terrorism financing: "I will see my son again some day, and I truly believe he will ask, 'Dad, when they murdered me, what did you do to find out who murdered me?' Well, I can tell him, look him right in the eye and say, I did everything I can . . . to find out who murdered my son, why they murdered my son, and who gave them the money to murder my son."

Thank you.

Chairman SHELBY. Mr. Levitt.

STATEMENT OF MATTHEW A. LEVITT
SENIOR FELLOW IN TERRORISM STUDIES
THE WASHINGTON INSTITUTE FOR NEAR EAST POLICY

Mr. LEVITT. Thank you very much, Mr. Chairman, Senator Sarbanes, distinguished Members of the Committee. Let me thank you for inviting me to appear before you today and commend you on holding this series of very important hearings.

I would like to give you, in brief, a conceptualization of the issue of the crossover between terrorist groups, really a very brief summary of my more detailed written testimony, so as to leave you as much time as possible for questions. I would be happy to answer any questions afterwards.

It is a painful reality that no counterterrorism technique or effort, as you have heard already today, however extensive, international or comprehensive, will uproot terrorism. That is the bottom line. There will always be people and groups with entrenched causes, an overwhelming sense of frustration, a self-justifying

world view, and frankly, a healthy dose of evil, who will resort to violence as a means of expression.

The goal of counterterrorism, therefore, should be to constrict the operating environment, to make it increasingly difficult for terrorists to carry out their plots of destruction and death, more difficult to travel, more difficult to recruit, to train, to procure weapons, to have day jobs, safe houses, et cetera.

Constricting the operating environment includes cracking down not only on the operational cells, but also on their logistical and financial support networks as well, not only on the "trigger pullers," the people who detonate the bombs and crash the airplanes, but also on the people who make it possible for them to do so.

Networks and relationships best describe the current state of international terrorism. This matrix of relationships between terrorists who belong to one or another group is what makes the threat of international terrorism so dangerous today. For example, while there are no known headquarters-to-headquarters links between Al Qaeda and Hezbollah, U.S. officials recently revealed that Al Qaeda operational commander Abu Musab al-Zarqawi not only has ties to Hezbollah, but also that plans were in place for his deputies to meet with the Lebanese group Asbat al Ansar, with Hezbollah, and "any other group that would enable them to smuggle mujaheddin into Palestine," in an effort to smuggle operatives into Israel to conduct operations. In fact, Zarqawi received more than $35,000 in mid-2001 just for work in Palestine, which included, according to the Treasury Department, "finding a mechanism that would enable more suicide martyrs to enter Israel" as well as "to provide training on explosives, poisons, and remote controlled devices."

Clearly, inattention to any one part of the web of militant Islamist terror undermines the effectiveness of measures taken against other parts of that web. In fact, the ethno-nationalist Jihadists and other breakdowns that you heard Dr. Richardson so eloquently describe have been blurred. For example, Palestinian terrorists plotted to target the Azrielli Israeli Towers in Tel Aviv, Israel's equivalent to the Twin Towers, in an attack that, contrary to what Brian Jenkins used to say, did intend to have many dead.

We need to debunk the myth that there are distinct wings to terrorist groups—good wings that may be engaged in charitable or political activity, and bad wings that do terrorist attacks. In fact, the very wings of Hamas, Hezbollah and other groups, that some are reluctant to recognize as terrorists, are the very ones engaged in terrorist financing. Hamas trigger pullers are not criss-crossing Europe with their hands out for funds. It is the members of the Hamas dawa, the social service network, that are doing it.

The case in Northern Virginia right now, of the myriad of companies, charities, and other suspected terrorist front organizations now under investigation there, highlights the fact that there is a critical need to break away from the tendency to adhere to a strict compartmentalization of terrorist groups and investigating terrorism cases. We can no longer look at terrorist groups as being in perfect little square boxes that do not bleed into one another, that do not cross over into one another, because they do.

Investigating the family of organizations in Northern Virginia, including the Safa Group, the SAAR Foundation, Success Foundation and many, many more, investigating them strictly as Hamas or as Palestinian Islamic Jihad or Al Qaeda cases clearly did not work. Indeed, the tentacles of this entrenched network are suspected of providing tremendous logistical and financial support to a variety of international terrorist groups and likely not limited to these three.

Tracing these financial trails proved immensely difficult, given the various groups' proactive efforts to layer their transactions and obfuscate terrorist intentions of their myriad financial dealings. More than anything, the links between the various personalities involved with these organizations on the one hand, and the laundry list of terrorist groups, fronts, and operatives with which they were involved on the other, keyed investigators into the network's terror financing and support activities.

Progress on this complex web of front organizations appears to have developed only with the passage of the USA PATRIOT Act, which facilitated the sharing of intelligence with prosecutors and, critically, cross referencing of information across previously compartmentalized terrorism investigations.

To be sure, money is not an issue, not for Al Qaeda, not for Palestinian terrorist groups, not for the Jihadists, and Baathists working together fighting coalition forces in Iraq. And this will continue to be the case until we do something about it.

The fact is that while any given terrorist attack is inexpensive, running a terrorist group is extremely expensive. In the context of the war on terror, the road map to Mideast peace, the liberation and liberalization of Iraq and many other national security initiatives, failure to effectively combat the financing of terrorist groups will translate into nothing less than the failure of our best efforts to combat terror, and secure peace and stability in the Middle East.

The principal terrorist threat today stems from the web of shadowy relationships between loosely affiliated groups. The sponsors of such groups further complicate that web, be they states or substate actors. Indeed, there is no precise organizational or command structure to the assemblage of groups that fall under Al Qaeda's umbrella or that cooperate with the organization.

In conclusion, given the multifarious links between international terrorist groups, including Al Qaeda, Hamas, Hezbollah, and others, and their relationships to state sponsors of terrorism, such as Iran and Syria and more, the war on terror must have a strategic focus on the full matrix of international terrorism, not a tactical focus on Al Qaeda. The next phase of the war on terror demands greater attention to the web of logistical and operational interaction among these various groups and state sponsors.

Thank you very much.

Chairman SHELBY. Mr. Levitt, thank you.

This is a question for Dr. Richardson. You talked about the concept of terrorists as transnational actors. We have seen examples of this around the world. We know that members of the Provisional Irish Republican Army have been tracked in the area controlled by FARC in Colombia. We have also seen Hamas and Hezbollah

operatives in the tri-border area of Brazil, Paraguay, and Argentina. And I am sure, Dr. Richardson, you could cite many others.

In your opinion, where is the future of these so-called alliances going? In other words, can you, or anyone, predict where the terrorists will turn next? Is there an effective model that would assist our analysts?

Ms. RICHARDSON. Well, Mr. Chairman, the one that concerns me most is actually one that I take from a reading of the cold war when communist groups very successfully exploited nationalist movements and made them much more difficult for us to counter. I worry that the radical Islamic movements, particularly in the areas of the former Soviet Union, might exploit nationalist movements there and radicalize them and infuse them with training and money and make them altogether more dangerous.

Chairman SHELBY. Is that all of Central Asia, not just Chechnya?

Ms. RICHARDSON. Right, it has already happened in Chechnya. But that is the area that I would be most concerned with.

Chairman SHELBY. Dr. Brisard, you have written and testified about Al Qaeda's annual income. The estimates range from $16 million to $50 million. You later say that this is evidence of "massive support from other means." You discount credit card fraud and other petty money laundering schemes. How much income, Doctor, do you believe is attributable to misdirection of charitable giving, which Mr. Clarke talked about, petty criminal frauds, direct donations, and other methods?

Mr. BRISARD. First, there is a recent estimate by a U.S. Treasury Department official; Mr. Aufhauser has stated that the annual income of Al Qaeda before September 11 was around $35 million a year. So the figure of $500 million I gave you for the entire period since 1998 is quite substantiating what Mr. Aufhauser said.

Al Qaeda itself distinguishes between organizational funds, the funds they need for their infrastructure, protection, training camps, communication, to move people, to pay also protection to some governments, and to entertain the broad network of affiliates and other organizations. It distinguished organizational funds from the operational funds, and several estimates around the world, intelligence estimates, believe that operational funds only account for 10 percent of the global Al Qaeda budget because, in fact—and in that regard, I can join Ms. Richardson on the fact that simple devices do not cost a lot of money. The problem is that Al Qaeda is totally different. It has created what no other organization has created before, a separate structure, an infrastructure for its training purposes, for its movement of money purposes, and also for communication, and it has needed to resettle in several states, including Sudan and then later Afghanistan. They needed a lot of money.

Chairman SHELBY. Do you see Al Qaeda forming so-called alliances outside of its ideology with other terror groups, perhaps organized crime?

Mr. BRISARD. No. They have tried in the past, in fact, to extend the reach of the supports, even with some organizations, as pointed out by Mr. Levitt, the Hezbollah, for instance, in various regions of the world, but also other political movements and dissident movements in Saudi Arabia, for instance, yes.

Chairman SHELBY. Mr. Levitt, you have a lot of experience as a special agent in the FBI. Please tell us about what I call the tyranny of the case file. If you know, has the organization of the FBI's terrorism sections changed to account for what we have heard today is a series of so-called shifting alliances among terror groups and criminal elements? In other words, has the Government become nimble and agile in its ability to identify and track terrorists? And if not, are they greatly challenged still?

Mr. LEVITT. I do not think there is any part of the U.S. Government we could call nimble.

Chairman SHELBY. Or agile.

Mr. LEVITT. Correct.

Chairman SHELBY. Okay.

Mr. LEVITT. First, let me just correct that when I was at the FBI, I was a counterterrorism intelligence analyst. That is a big difference from an agent, and that was a decision that I made. And I would also point out that I have now been out of the Bureau for almost 2 years.

Chairman SHELBY. Okay.

Mr. LEVITT. I worked September 11. I worked one of the teams on one of the four flights, and it was painful but an honor to do so. But then I left. And so I can share my impressions with you, but I do not want to mislead you into thinking that this is my experience from there.

Chairman SHELBY. We appreciate you doing that for the record.

Mr. LEVITT. I believe that the FBI and other parts of the U.S. intelligence community have begun a laudable process of change. There is tremendous ways yet to go. The FBI is made up of a group of people who are unbelievably committed and dedicated, and I applaud them.

Having said that, they are not, I believe, properly structured to be able to cope with this theme that I am trying to lay out, which is the overall strategic nature of international terrorism, the fact that these groups interact together. It seems to me that if information is kept specifically organized by case, which you have very aptly termed "the tyranny of the case file," then others who are working similar and related cases may not, even within the Bureau, have access to that information, let alone the whole issue of whether or not the Bureau——

Chairman SHELBY. There is no fusion there, is there?

Mr. LEVITT. There is a significant lack of fusion. Let alone whether or not the Bureau has changed enough to now be sharing sufficient information with the rest of the community, which is also something that needs to happen. The Bureau needs to function more as part of the national security infrastructure, feeding information to people on the National Security Council and elsewhere.

Now, I believe that that change is going to be slow in coming, not because of any poor intentions on the part of people at the Bureau but because the Bureau is a dinosaur of an organization that is slow to change and is set in its ways.

I like to joke that there are really three FBI's: there is FBI headquarters; there are the FBI field offices, which are pretty much fiefdoms unto themselves; and then there is FBI New York, which is an entity unto itself.

Getting all these and other components of the FBI to work together to get the changes that need to be done is going to be a long process.

Chairman SHELBY. Plus the mission of the FBI has changed a little bit, has it not?

Mr. LEVITT. I do not know if the mission has necessarily changed so much. I worked purely in the counterterrorism intelligence side of the house long before September 11, but that was a very small side of the house. At one point the entire FBI headquarters unit focused on international terrorism was 30-something analysts for all the terrorist groups.

Chairman SHELBY. As opposed to how many other agents focusing on everything else?

Mr. LEVITT. It is not a comparable number to compare to agents because you will have agents in headquarters and agents in the field. You will have very few analysts in the field. But if you compare it, say, to the CIA, which would have, you know, many times that number of analysts working the same number of groups, it gives a sense of the scope of the problem.

Chairman SHELBY. What culture change do you believe is necessary to effectively collect and analyze information concerning financial transactions?

Mr. LEVITT. The first thing I think is that there needs to be a greater appreciation of the need for analysis of information, timely analysis of information, sharing that information with everybody and anybody who has a role in that analysis. That means both in the case of the FBI, within the FBI, where it was not uncommon for the analysts who were supposed to be analyzing specific types of information not to have timely access to that information, and throughout the intelligence community, and I am not now pointing just at the FBI but elsewhere as well.

We know that there was a tremendous amount of information that was collected throughout the community prior to September 11 that was not analyzed in a timely manner, and it is not just the intelligence community. We know that there were suspicious financial transactions that produced suspicious activity reports, SAR's reports, that languished in the system and did not actually arrive on anybody's desk until after the tragedy of September 11. That is mind-boggling.

Chairman SHELBY. It is.

Senator Sarbanes, thanks for your indulgence.

Senator SARBANES. Thank you, Mr. Chairman.

I want to try to see if you can help me to focus in my own mind on what we should do moving ahead. I would like to ask each of you to give me the three concrete things that you think need to be done and could be done to move against terrorism financing.

Ms. RICHARDSON. As they say in real estate, it is location, location, location. I think in counterterrorism it is intelligence, intelligence, intelligence. To me, by far and away the most important thing for us to do is to get inside these organizations, understand what they want, how they organize themselves, and how they win supporters.

Even though I have said "intelligence" three times—let me say the fourth, then, would be to engage in a campaign of public diplo-

macy. We are never going to change the minds of the members of Al Qaeda, but we can appeal to their potential recruits, and I think we should. I believe that we should wage a campaign of public diplomacy with the same skill and the same relentlessness and, indeed, the same resources as we devote to our military campaign, because I think we are losing the argument on the ground. And over the longer-term, the only way we will defeat these groups is to keep them small, to keep them isolated, and to prevent them appealing to larger numbers.

We have a very strong case we could be making, and I do not think we are making it. So intelligence and public diplomacy I think far outweigh everything else.

Senator SARBANES. Before I move on, I just want to ask a follow-up question to Dr. Richardson. I am not clear. Is it your view that drying up the money, while helpful, would not really—that these groups, these terrorist groups, would function in any event even if they were very short of resources just by the nature of the groups?

Ms. RICHARDSON. Yes, Senator, I do. I think we can certainly undermine them, we can weaken them, but they will continue to survive. They have done throughout history. Terrorism is a tactic, and I think by just dealing with the finances, worthwhile as it is, we are dealing with a symptom. We have to address this problem by going much deeper and dealing with the root causes, in my view.

Senator SARBANES. And is there a new dimension in terms of the kind of organization and structure that Al Qaeda developed? It seems to me it brought a whole new dimension into this terrorism situation, did it not?

For that, do not they really need resources? I mean, they have these failed states. They used Sudan, then they used Afghanistan. When you have those factors on the scene, aren't you dealing with something of an entirely different dimension?

Ms. RICHARDSON. I think, Senator, we have seen them practice in an entirely different dimension because they have had these resources. But their most important resource is that they have an ideology that is able to win them recruits. They have an argument that they are making successfully by depicting us as their enemy, and we are letting them make that argument. That is their most important resource, the fact that they have got an argument that people find attractive and that they can use to win recruits.

They can function without vast amounts of money. I realize I am disagreeing with several of the other testimonies this morning in which others have said that one needs money to run an organization. That is undoubtedly the case. But one does not need a sophisticated organization to run a terrorist movement. They can survive on very little. The world is full of a myriad of cases of deadly terrorist groups which have survived on very little money.

This is not to say that I do not think it eminently worthwhile to try and minimize their financial resources, but I simply do not think that is the solution to the problem.

Senator SARBANES. Mr. Brisard.

Mr. BRISARD. I think the first thing to do is essentially to take preventive actions on suspected entities or individuals. There are hundreds of investigations around the world carried out by governments or by public or private entities, and all those investigations

have uncovered a lot of documents of evidence against several Al Qaeda sponsors. And, still, there is nothing public, no action publicly taken against those entities and individuals. And I think in this field secrecy increases risks, especially the risk of other new terrorist attacks being carried out.

For instance, in the Spanish investigation and prosecution, several people have been linked with Jamiyah Islamiyah, an organization in Indonesia. And it is only a year and a half after they are mentioned in this prosecution that the United States has designated several of these individuals that were clearly linked to terrorists, Al Qaeda terrorists, in Spain and other parts of the world.

The second thing is, I think, preventive freezing of assets to prevent money to be moved to safe places by several entities, known or under current investigations.

The third and most important measure I would take is on the cooperation field. We cross every day and we speak every day with governments around the world that are uninformed or not knowledgeable enough to go after these entities and these individuals, even on designated entities. And some question the U.S. Treasury Department designated that individual or that entity, and they do not know why they were designated. So it is important to share information on a regular basis, to take information where it is. And information is everywhere on those networks. Our own effort, again, is able to recover a lot of documents from sources themselves that could help governments around the world, are actually helping governments around the world that sometimes turn to us to have indications on specific entities and individuals.

Senator SARBANES. Mr. Levitt.

Mr. LEVITT. First, before I give you my list of three, I think it is important to say that the reason, I think, the financing is so key is because traditionally in the intelligence community, the way we define "threat" is intent plus capability. The intent, the ideological drive is there, no question, and the need to deal with this ideology, which I concur with Dr. Richardson is their most valuable asset, is very much an underrated issue. But the funding goes directly to their capability to—fill in the blank—recruit, train, get on airplanes, have day jobs, safe houses, et cetera.

When I talk about constricting the operating environment, I want to point out that you can successfully do so to the point that you actually suffocate an organization. Terrorism will always be here. I state this very clearly in my written testimony. But the Abu Nidal organization in its day was the greatest threat we faced from international terrorism, and today it is not. We successfully suffocated that organization, and I submit that someday we will have done the same to Al Qaeda, and yet we will still be facing an international terrorist threat, perhaps one even as great as the one we face today, but from a group with a perhaps similar but different name.

Having said that, if I had to list, standing on one foot—which I now am, but sitting—three issues, I would point out first this conceptual issue, this need to understand that there are these overlapping relationships bleeding between one group and another. This has led to very tangible failures so far in the war on terrorism. I go into some of them in the written testimony. We sent a senior

United States delegation to Europe at one point asking them to assist us in freezing the funds of approximately a dozen terrorist financiers, mostly but not solely from Saudi Arabia. Because of the nature of the sources and methods involved in the information we had about their financing of Al Qaeda, we did not provide the Europeans with much of that information. And because in the Middle East in particular there is nothing to be ashamed of if you are financing groups like Hamas, there was an abundance of information about their financing of that and other similar terrorist organizations. And what we were told by the Europeans, as I understand it from United States officials, is that if all we, the United States, could show is that these individuals were financing Hamas, we would have to do better than that. That led to a concrete failure where the funds of people who were also financing Al Qaeda were allowed to remain unfrozen.

The second thing I would point to is both international and domestic restructuring and some thought about our laws. Domestically, I think you heard from Mr. Clarke some ideas that he can articulate better than I can. Clearly, we need to focus our ability specifically when it comes to terrorist financing to bring all the necessary parties, especially the analysts, to one table, as it were, and have access to the information to be able to deal—we have competing investigations, as I understand it, even now and certainly before Operation Green Quest was disbanded.

Internationally, we have a long laundry list of international organizations from the UN on down—a Financial Action Task Force on Money Laundering, the Egmont Group, and others—who all have some hand in stirring this pot, but there is insufficient coordination. And I think that the Council on Foreign Relations Task Force on Terrorist Financing, of which I am a member, its recommendation to have one large organization dedicated just to this one issue is a very useful idea that needs to be pursued.

Domestically, I think—and, frankly, an international organization could help coordinate this—many countries, our own included, need to think about passing some laws. For example, in this country we have multiple and not necessarily complementary terrorism lists. There is a whole laundry list of groups that appear on Treasury's list, but not on States' lists. There are other lists. Our lists do not match necessarily with Europe's list. In Europe, there are individual Hezbollah members who are on the list, but Hezbollah is not—there needs to be some coordination there. I think, for example, we also need to encourage countries to pass laws criminalizing things like money laundering which are already illegal, but criminalizing them when they are specifically done in the support of terror and having higher penalties.

And, finally, the third, I think, is you cannot have a list like this without, as Dr. Richardson noted, mentioning intelligence, human in particular.

Senator SARBANES. Thank you, Mr. Chairman.

Chairman SHELBY. Mr. Levitt, first of all, I appreciate the panel staying. We know it is past noon. At our first hearing, we heard testimony that diplomacy is an equal partner with enforcement in the efforts to "follow the money." I know you have addressed this issue abroad, most recently at a conference, I believe, in Garmisch,

Germany. You were involved in that. I have about three things to ask you here.

One, do you see a change in the international cooperation that we receive concerning terrorist financing?

Two, how would you implement your suggestion that there be a specialized international organization which would combat terrorist financing?

And, three, Mr. Clarke testified earlier today that he would recommend that the U.S. sanction non-cooperating countries. Do you see this as a possible effective tool? And how would you implement or expand the idea, if you would? That is three questions in one.

Mr. LEVITT. Sir, I have to wonder how sorry you are that we are late, because you asked three questions that are going to take us a long time.

Chairman SHELBY. That is all right.

Mr. LEVITT. So, very briefly, if I may, I think there has been a marked improvement in international cooperation overall. I disagree with Mr. Clarke and others. I think on the specific issue of Saudi Arabia in particular, there have been individual instances of marked improvement. The fact that there are FBI and IRS agents on the ground now is tremendous and unheard of. There are a long list of issues the Saudis have promised to do that they have not done. There are a long list of organizations about which we have given them very specific information that they have not acted on.

David Aufhauser I know has testified before this Committee and elsewhere about the fact that the Account 98 accounts that we know not only fund Palestinian humanitarian efforts but also serve, in Mr. Aufhauser's terminology, as sources of blood money for Hamas. And based on what I told you earlier in terms of the overlapping relationships and links between these organizations, that means the money is going elsewhere, too. There is a lot more that has to be done.

In terms of implementing this concept of a larger international group, this has to be, I think, the focus or one of the foci of this diplomatic effort. The diplomatic effort has to be involved in getting people to participate in law enforcement intelligence efforts with us, and it cuts both ways. We need to be providing more detail to our European partners, I believe. There has to be a way to do that.

The details of that are something that I do not think we have time for now, and it is something that the Council on Foreign Relations Task Force I believe is going to be taking up in its next report, which is going to be coming up soon.

In terms of the issue of sanctions, I think it is a good idea, and I would point out as another example the fact that there is a money laundering blacklist. I believe—I may be wrong, but I think it was the Financial Action Task Force on Money Laundering that drew up the blacklist, and that has proven to be extremely effective in shaming nations into cooperation—nations that are our friends and nations that are not, nations that were intentionally and proactively allowing money laundering to go on for whatever reason and others that were not—but shaming them into action that they would not otherwise take. That is an important factor here. No one wants to have to use sanctions. No one wants to force the Executive Branch's hand and get involved, have Congress get in-

volved in their ability to conduct foreign policy. I think this is a tool that the Executive could use to its benefit.

Chairman SHELBY. Thank you.

Dr. Brisard, you have testified about the misuse and abuse of the Islamic banking system. You said that attempts to detect and control money laundering have been largely ineffective.

One, explain the shortfalls in the Islamic banking system as you have seen them. Also explain how these banks are regulated, if they are, by governments or the banking industry.

And, two, is this a matter of negligence or indifference on the part of government regulators, or is it a complicity with the terror organizations, or some of both? And what can we do about this?

Mr. BRISARD. As far as the banks are involved, the Islamic banking system is involved, we have seen a lot of money originating from banks through the Zakat system. That means through the nations, and a lot of banks, including the most important banks in Saudi Arabia and elsewhere, have donated money to several organizations. We have clearly identified transfers of money originating from those banks or transferred through those banks.

Inside those banks, every bank had a Zakat committee able to receive the money and then to transfer the money to a list of charities they agreed on. Most of these charities were for years on the suspect watch list or have been knowingly involved in terrorism.

As far as regulation is involved, you know, with Saudi Arabia it is always the same. You have a lot of announcements from that country. You were previously referring to questions regarding the 1999 and 2000 trips in Saudi Arabia. We have affidavits from people that were involved in those trips, and what they clearly say is, well, we had a lot of promise from the Saudis. And they were saying to us, well, we did what we had to do, we made it necessary to regulate the charities, but, in fact, 1 year later nothing has changed. This country has turned to a PR company. Every day you have a new announcement, something new coming out. Sometimes it is even contradictory with previous statements. But in terms of regulating the banks, they have—the very important problem with the Islamic banking system is that the banks are regulated under totally different rules than in most of the Western countries. And it is very difficult to, for instance, ask for auditing a bank and access records of the banks, and plus you have the various types of religious or Islamic tools, including the Zakat system, which is very difficult to regulate for Saudi Arabia.

Was it negligence? To some point we may say, yes, it was negligence. But when we see that the Saudi Government has been informed several times repeatedly by Western countries, especially the United States, on the involvement of those banks, of those businessmen and charities in funding terrorism, I think we can speak, you know, of something else, the unwillingness of this country to fully go after terrorism financing, and complicity in some way.

Chairman SHELBY. Thank you.

Dr. Richardson, you have testified that our first priority in attacking terror organizations is to understand how they see themselves and also how we see them. In light of what we have heard from our witnesses today, yourself included, concerning the use of organized crime connections and in some instances shifting ideol-

ogies, tell us how you see your first priority assisting our policymakers in preventing the next terror attack.

Ms. RICHARDSON. Again, I would go back to the question of intelligence. That is how we are going to anticipate what we are going to face next.

Chairman SHELBY. Human intelligence?

Ms. RICHARDSON. Human intelligence, absolutely. We have to have friends in every cell. We have to have friends in every village in which these cells recruit, or at least we have to have contacts who are willing to talk to us. That is the only way we are going to know what they are going to do next. And it seems to me——

Chairman SHELBY. That is a tall order, is it not?

Ms. RICHARDSON. Absolutely, an enormously tall order.

On the other hand, if we want to solve this problem, as I think we can, and other countries have successfully solved in the past, even when it looked, as in cases like Peru or Italy, as if the government was about to be brought down. They did succeed by being smart as well as by being strong, they did manage through a multifaceted strategy to defeat terrorism. But they did it. The Peruvian case I think is a very illustrative example, if I could mention it. Year after year, wave after wave of the military was dispatched into the countryside to try to defeat the Sendero Luminoso. It was only when a 70-man intelligence unit was created inside the police force that they were ultimately able to bring down Abimael Guzman. This unit studied the group, went out to the villages, understood their appeal, and understood how they organized themselves. They discovered that the Achilles heel of this movement was that it was based on the intellect and prowess of one man. They realized that they had to capture him, and decapitate the movement and they did.

So this 70-man unit did what thousands upon thousands of the military were not able to do, and I think that is a lesson for us. I think many other countries around the world provide many other similar lessons to us.

Chairman SHELBY. The British spent years trying to infiltrate the IRA, and I am not sure that they were ever really successful.

Ms. RICHARDSON. The Irish case is a case dear to my heart. In recent years, in fact, British intelligence claims, I think with reason, that for every IRA operation that was pulled off, four were deflected through intelligence. The British did successfully infiltrate the IRA. Now, it took them years to get to that point. It took them 25 years, in a much more geographically constrained area, so in many ways an easier position than the one we are facing.

But, ultimately, it was, by virtue of the intelligence that they understood the factions within the IRA. They were able to play off those factions against one another. They were able to make concessions to strengthen the more moderate factions and ultimately bring about the situation we are in today, which is, again, another sanguine example, in my view.

Chairman SHELBY. Dr. Richardson, your writings and your testimony draw conclusions that, "The most effective counterterrorist strategy will be directed to the source of terrorism." Explain what you mean. And how do you see your explanation as affecting law enforcement and national security implications?

Ms. RICHARDSON. Again, unfortunately, I do not have a simple answer, but what I am driving at here is the fact, as I mentioned earlier, that these movements' greatest strength is the fact that they have an ideology that a great many people in the region, if we are just talking about the radical Islamic groups now, find appealing. So, again, I would reiterate the point that if you have a complicit society, as there are in many parts of this region, you do not need money. People will provide safe houses, people will provide day jobs. They will not have to be paid for it because they ultimately believe in the cause.

In a great many cases, they will not believe in the means that are being used to pursue the cause, but they will believe in the ultimate cause, and, therefore, they will be complicit and will not turn in the perpetrators of the violence.

We have to be out there in the field combating the arguments that are being made. If I had any say in the matter, we would have our own al-Jazeera. We would be on the airwaves in the region making our case in a subtle, sustained, and sophisticated way——

Chairman SHELBY. But it is being made against us, basically.

Ms. RICHARDSON. Absolutely. We are losing this battle, at the moment. But I think terrorism ultimately is a game of psychological warfare. We are infinitely stronger physically than these people ever will be, so we have to, I believe, demonstrate that we can fight it and win it on those psychological terms.

Chairman SHELBY. Mr. Levitt, do you have any comments?

Mr. LEVITT. The idea of having our own al-Jazeera is very important. We are about to. Radio Sawa is about to go to television. It remains to be seen how sophisticated it will be. I know some of the people involved there, and they are extremely impressive.

But I do think that there are fewer disagreements on this panel than it may appear because there are two types of counterterrorism. Both are critical and they both need to be done simultaneously: Tactical and strategic efforts. We have someone pointing a gun at our head right now. We need to be figuring out why that gun is pointed at us, why others are supporting it, what we can do to stop it. But we are fools if at the same time we do not try and get that gun pointed down.

So we need to stop the flow of funds. We need to eliminate terrorist training camps, which continue to operate in Iran, Syria, and Lebanon. There are so many tactical things that have to be done, and at the same time we are just as foolish if we are so blinded by our need to deal with this immediate issue that we continue to push off and push off these strategic issues that Dr. Richardson has been pointing out that are no less important.

Chairman SHELBY. It is not going to be easy, is it?

Mr. LEVITT. No, sir.

Chairman SHELBY. I appreciate all of you and your patience but, more than that, your contribution.

The hearing is adjourned.

[Whereupon, at 12:30 p.m., the hearing was adjourned.]

[Prepared statements and additional material supplied for the record follow:]

PREPARED STATEMENT OF SENATOR WAYNE ALLARD

I want to thank Chairman Shelby for holding this hearing to review various aspects of terror financing and the methods and instruments our enemies use in order to finance their operatives around the world, and in our country. This important area of jurisdiction for the Banking Committee is rather obscure, yet has become of the utmost importance in recent years with the increased occurrence of terrorist attacks and the awareness of terrorist cells operating in our own communities. This Committee has a unique opportunity and important responsibility to further probe into this issue and shed light on the way terrorist organizations operate.

In all reality, terrorist organizations will continue to exist and plan their attacks whether or not they are easily or well financed. When dealing with terrorist organizations, we are dealing with groups motivated more by ideological, rather than political principles. Therefore, our enemies will continue to devise their plan regardless of their ability to easily access money. On September 11, we witnessed their willingness to execute their plan at our expense by using our own resources against us. Because terrorists may strike with even the slightest resources available to them, this makes it all the more important that we not just prune their financing agents for good appearance, but rather pull the entire operatives out by the roots.

I would like to thank Mr. Clarke, Dr. Richardson, Mr. Levitt, and Mr. Brisard for agreeing to come and share their expertise on terrorist financing and look forward to hearing your opinions and strategies on how we should progress with this critical issue.

PREPARED STATEMENT OF RICHARD A. CLARKE

FORMER NATIONAL COUNTERTERRORISM COORDINATOR, NATIONAL SECURITY COUNCIL

OCTOBER 22, 2003

Mr. Chairman, It is an honor to be asked to appear here today to offer some thoughts about the continuing problem of terrorist financing. Before I begin, I want to recall that you, Mr. Chairman, were a leader in the Congress in counterterrorism long before September 11 and I had the privilege of working with you on the threat from Al Qaeda when you chaired the Senate Intelligence Committee. Those of us who knew of your work then are greatly encouraged to have you leading the Senate's examination of terrorist financing.

Mr. Chairman, I am a private citizen and what I say here today are my personal views. They do not draw on access to current intelligence information, but do benefit from reviewing media reports, court documents, and discussions with those in Government and in the banking and finance sector.

Despite the fact that CIA used to tell us that terrorist groups like Al Qaeda do not need much money, we know now they do. Money is the mother's milk of terrorism. There are five specific points on which I would like to focus.

First, Al Qaeda is an on-going significant threat despite early reports of its demise. The chief of Britain's MI5 recently warned the threat posed by Al Qaeda to security may remain for many years. Director-General Eliza Manningham-Buller said there was no prospect of a significant reduction in the threat from Islamist terrorism over the next 5 years. Ms. Manningham-Buller said she feared the danger would not diminish within 5 years and then it will remain for a "considerable number of years thereafter." She admitted that it was a "bleak assessment" and that she was "personally concerned." Ms Manningham-Buller described Al Qaeda as "sophisticated and particularly resilient" and its members were able to blend into society by living normal, routine lives until called upon for specific tasks.

Second, what we know as Al Qaeda is a small part of the overall challenge we face from radical terrorist groups which associate themselves with Islam. Autonomous cells, regional affiliate groups, radical Palestinian organizations, and groups sponsored by Iran's Revolutionary Guards are engaged in mutual support arrangements, including funding.

Third, although significant progress has been made in dealing with the terrorism financing problem since September 11, there remain organizational problems in the United States. Because of the transfers of agencies to create the Department of Homeland Security, there have been dislocations within the Executive Branch agencies which have the skills to address terrorist financing. A MOU developed without the participation of the concerned components of the new Department yielded the exclusive lead in terrorism financing investigation to the FBI. On an issue as important as this, we need a second opinion. We should not sideline or subjugate the considerable expertise in financial crimes of the U.S. Secret Service and the intelligence

and enforcement personnel of the former U.S. Customs Service. A report on terrorist financing activities by the new Department was due to the White House last month, but did not appear.

The reorganization also eliminated the senior position in the Treasury for enforcement, despite the fact that two organizations crucial to fighting terrorist financing remain in Treasury: the Office of Foreign Assets Control (OFAC) and the Financial Crimes Enforcement Network (FinCEN). These two organizations need to be strengthened by giving them as a coordinator a new Assistant Secretary for Enforcement. They should also be strengthened by the addition of forensic accountants and bank examiners.

Fourth, although the USA PATRIOT Act requires U.S. financial institutions and the Federal Government to cooperate among each other in exchanging information on possible terrorist financing, there has thus far been little information from the Government to the institutions and little flow of information among the institutions. This Committee may wish to turn its oversight attention to Section 314 of the USA PATRIOT Act.

Fifth, while many governments are now better cooperating in the search for terrorism financing, we need to sanction those who do not. The President should be required annually to report to the Congress in a detailed, classified document what each nation is doing in the international effort against terrorist financing, including their laws, their cooperation, and the degree of vigor with which they are looking for terrorist fronts and funds. Nations which are not adequately cooperating should be subject to sanctions, such as having all of their financial institutions made ineligible for clearing dollar accounts. The President should have the ability to defer these sanctions, but only by notifying the Congress why he wants them deferred and what he proposes to do to get the nation cooperating.

Mr. Chairman, many governments, including are own, have been manipulated by terrorist fronts seeking funds. Dating back to the 1980's, Islamist terrorist networks have developed a sophisticated and diversified financial infrastructure in the United States. In the post-September 11 environment, it is now widely known that every major Islamist terrorist organization, from Hamas to Islamic Jihad to Al Qaeda, has leveraged the financial resources and institutions of the United States to build their capabilities. We face a highly developed enemy in our mission to stop terrorist financing. While the overseas operations of Islamist terrorist organizations are generally segregated and distinct, the opposite holds in the United States. The issue of terrorist financing in the United States is a fundamental example of the shared infrastructure levered by Hamas, Islamic Jihad, and Al Qaeda, all of which enjoy a significant degree of cooperation and coordination within our borders. The common link here is the extremist Muslim Brotherhood—all of these organizations are descendants of the membership and ideology of the Muslim Brothers.

With a number of critical Government seizures, indictments, deportations, and enforcement actions since September 11, greater light has been shed on the means and methods of terrorist financing in the homeland. Without question, the law enforcement powers and tools created by the USA PATRIOT Act have contributed to the mounting successes in the financial war on terrorism. For example, the ability to utilize information gathered during intelligence investigations in criminal prosecutions has enabled several critical arrests, including Sami al Arian (the alleged North American leader of the Palestinian Islamic Jihad) and the Portland Seven (who allegedly attempted to wage war against American troops in Afghanistan). Additionally, under to the USA PATRIOT Act, Rule 41 of the Federal Rules of Criminal Procedure now authorizes warrants to be issued by a Federal magistrate judge in any district in which activities related to terrorism may have occurred, for property outside the district. This provision has meaningfully aided several financial terrorism investigations, including the "Safa Group" located in Northern Virginia, suspected of financing Hamas, Islamic Jihad, and Al Qaeda.

However, as Al Qaeda and the like continue to target the United States and our allies, we are in no position to rest on our laurels. Careful review reveals that continued vigilance and determination is required to shutter the money stores of our terrorist enemies. From magazines to mosques and charities, the agents of terrorism are well rooted in the United States, exploiting the strengths and weaknesses of our financial backbone. The network of terrorist leaders and operatives in the United States has built a highly diversified arsenal of funding sources, including unwitting governments.

To demonstrate what I mean, Mr. Chairman, allow me to summarize some of the recent developments reported in the media and in court filings. While I am not in a position to vouch for the veracity of all of these reports, I believe the pattern they indicate is extremely disturbing and means we must do more. Some specifics:

- From his home and office in Tampa Florida, Sami al-Arian, the indicted North American leader of the Palestinian Islamic Jihad, allegedly coordinated the movement of fund from the Government of Iran to suicide bombers in West Bank and Gaza.
- Abdurahman Alamoudi, allegedly senior figure in the Muslim Brotherhood in the United States and professed supporter of Hamas and Hizbollah, was recently indicted for taking $340,000 from Muammar Qaddafi and the Libyan Government, a designated state sponsor of terrorism. According to Federal prosecutors, Alamoudi's organization American Muslim Foundation funneled money to members of the Portland Seven cell.
- In a recent Federal affidavit, Senior Special Agent David Kane confirmed, "I know that terrorists who have attacked or tried to attack the United States around the world have been associated with . . . IIRO." The U.S. offices of IIRO were raided in 1997 and again in 2002, in connection with Federal fraud and terrorism investigations. IIRO has reportedly received funding from the Saudi Government.
- Human Concern International (HCI) reportedly received at least $250,000 in funding from the Canadian Government. The Pakistan office of HCI was headed by Egyptian Islamic Jihad leader and Al Qaeda founder Ahmed Said Khadr. Khadr has been described by Canadian intelligence services as a close associate of Osama bin Laden and senior Al Qaeda money man.

  Khadr and HCI convinced Canadian Government funding agencies to sponsor "charitable project" for "Afghan refugees" when in fact the funds were used to provide financial and operational support to Jihad forces. The Pakistani Government also alleged that Khadr siphoned moneys that contributed the 1995 bombing of the Egyptian Embassy in Pakistan.
- The Kuwaiti Government allegedly provides substantial funding to charities controlled by the Kuwait Muslim Brotherhood, such as Lajnat al-Dawa. The U.S. Department of the Treasury and the United Nations Security Council designated Lajnat al-Dawa on January 9, 2003 as a supporter of Al Qaeda. Lajnat al-Dawa and its affiliates had offices in the United States in Michigan, Colorado, and Northern Virginia.
- When United States and Bosnia authorities raided the offices of Benevolence International Foundation (BIF) in 2002, a cache of internal Al Qaeda records were reportedly recovered. Among those documents was allegedly the "Golden Chain," a list of bin Laden's top Jihad financiers drafted in 1989. BIF's international headquarters were located in Chicago, Illinois, until its assets were frozen by the Treasury Department and its leader indicted by the Department of Justice.
- While reportedly in charge of finances for the Palestinian Islamic Jihad, Sami al Arian allegedly sent a letter to Ismail Shatti requesting funds for additional suicide bombings targeting Israel. Ismail Shatti is reported to be a leading figure in the Kuwaiti Muslim Brotherhood.
- Yasin al Qadi is allegedly the financier behind several U.S. organizations which have been tied to terrorist support. Qadi has been identified in court papers as the banker behind a convoluted real estate transaction in Illinois where proceeds where siphoned off to Hamas operatives. Qadi has also been reported to be a lead investor in BMI, a New Jersey-based Islamic investment bank catering to ranking members of the Muslim Brotherhood, including Hamas and al Qaeda backers.

  In October 2001, the Treasury Department listed Yasin al Qadi as a designated terrorist for his financial support of al Qaeda. Qadi was the head of Muwafaq, a Saudi "relief organization" that reportedly transferred at least $3 million, on behalf of Khalid bin Mahfouz, to Osama bin Laden and assisted al Qaeda fighters in Bosnia.
- Following the events of September 11, 2001, the Treasury Department designated several U.S.-based and international NGO's as supporters of terrorism. Typically, such organizations offered "relief" services in conflict areas as cover for providing financial and operational support to terrorist operations. One of these organizations, the Holy Land Foundation for Relief and Development, was reportedly approved to receive supplemental funding by the United States Agency for International Development. Another of these groups, Global Relief Foundation, was reportedly registered with USAID as a private nonprofit organization providing "relief, education and religious" services in Kosovo, Chechnya, Afghanistan, and Kashmir.
- Terrorist leaders have also allegedly established private schools in the United States, and used these schools to pay the salaries of their operatives. In Tampa, Florida, Sami al Arian established the Islamic Academy of Florida. The February 2003 indictment against al Arian says the school was used as a base of support for the Palestinian Islamic Jihad "in order to assist its engagement in, and promotion of, violent attacks designed to thwart the Middle East Peace Process."

The Islamic Academy of Florida reportedly received at least $350,000 from the State of Florida through a program that diverts State money to pay private school tuition.

- Terrorist fronts operating under the false cover of charities and relief organizations have raised millions of dollars from the American public, some of whom perhaps knew the intended purpose of their contributions and some of whom do not. Designated terrorist entities such as Holy Land Foundation, Benevolence International Foundation, and Global Relief Foundation have employed a number of means to solicit tax-deductible donations. Methods of soliciting donations include targeted newsletters, advertisements in Islamic magazines and journals, and fundraising sessions at mosques and conferences. Often, local representatives will organize smaller fundraising dinners or events. Donors are encouraged to seek matching gifts from their employers or associations.

Terrorist groups use a variety of means to move funds, including charities, private companies, offshore accounts, U.S. accounts, real estate transactions, blank checks, and bulk cash couriers. Often, a combination of these channels are employed to accomplish several goals:

- Obfuscate the sources of funds. By way of example, Saudi citizens who are suspected of supporting terrorism are closely monitored by the Saudi Arabian authorities. As a result, these individuals are prohibited from sending money to terrorists via direct bank transfers from Saudi Arabian accounts. Alternate methods and routes of supplying funds are required. This often involves utilizing overseas entities to support extremist causes. Traveling electronically through the world, these money flows are often very complex and involve significant "layering."

  In the United States, this pattern was allegedly practiced by the International Islamic Relief Organization (IIRO). IIRO's Virginia branch would reportedly draw funds on Saudi Arabian accounts. These funds were allegedly channeled through front companies operating as chemical manufacturers, real estate developers, book publishers, and social groups. In the form of investment proceeds, funds would reportedly return to IIRO, which would in turn send money back to Saudi Arabia.
- Hide the ultimate use of the funds. Interviews with senior Al Qaeda operatives have reportedly revealed the methods by which terrorist front organizations conceal the destination of their funds. Monies are transferred from Gulf, United States, or European accounts to bank account in conflict zones, such as Chechnya, Bosnia, Kashmir, or Israel. In most cases, funds are transferred through several accounts in several different countries, making them difficult to trace. Terrorist operatives then withdraw large sums of money in cash and provide phony receipts for medical supplies, food, or disaster relief. The cash and its ultimate use becomes virtually untraceable.
- Move funds into otherwise inaccessible territories. Whether by their host governments or by the Israeli Government, individuals and organizations throughout the Islamic world often are barred from sending money to individuals and organizations in Israel and/or the West Bank and Gaza. One way that supporters of terrorism in Israel deliver money to terrorists in Israel and/or the West Bank and Gaza is by first transporting the money to the United States and only later sending it to Israel and/or the West Bank and Gaza from the United States. Accordingly, while terrorist financing money collected in the United States is simply transported abroad, terrorist financing money collected abroad may enter the United States either to enable its later transport to terrorist organizations abroad or simply to fund terrorist activity in the United States.

On October 9, 2003, Soliman Biheiri was convicted on Federal immigration charges in the Eastern District of Virginia. Biheiri is the first person convicted in connection with an alleged financial terrorism investigation centered on a group of Islamic businesses, charities, and missionary groups in Northern Virginia.

Biheiri was the President and founder of BMI, Inc., an investment bank specializing in Islamically permissible investments. In the 1980's and 1990's, BMI offered a series of financial services to Muslims in America.

BMI solicited funds for real estate investments and offered leasing services for wealthy Muslim business owners. By 1992, BMI boasted over $1 million in medical equipment and automobile leases under management, and advertised housing developments in Maryland and Indiana with projected revenues in excess of $25 million.

While BMI held itself out publicly as a financial services provider for Muslims in the United States, its investor list suggests the possibility this facade was just a cover to conceal terrorist support. BMI's investor list reads like a who's who of designated terrorists and Islamic extremists.

- BMI investors reportedly include designated Hamas leader Musa abu Marzook and designated Al Qaeda financier Yasin al-Qadi.
- BMI allegedly engaged in financial transactions with Bank al-Taqwa and it founders Yousef Nada and Ghaleb Himmat. Bank al-Taqwa and its founder Youssef Nada were designated SDGT's pursuant to Executive Order 13224, on November 7, 2001. Al-Taqwa and its members have been described by the Federal Government as the financial advisers to Al Qaeda.
- BMI allegedly received a $500,000 investment from Baraka Group. Baraka Group, headed by Saleh Kamel, is reportedly a founder of a Sudanese Islamic bank which housed several accounts for senior Al Qaeda operatives.
- Biheiri was a personal friend of Youssef Al Qaradawi, allegedly a high-ranking member of the extremist Muslim Brotherhood who has been barred entry into the United States. Qaradawi is reportedly a shareholder of al-Taqwa and a member of its Sharia board.
- Biheiri's computer reportedly contained contact information for Sami al Arian, the indicted North American leader of the Palestinian Islamic Jihad.
- The Kuwait Finance House was allegedly an investor in BMI. The Kuwait Finance House is reported to be the financial arm of the Muslim Brotherhood in Kuwait. Several Al Qaeda operatives have allegedly been associated with the Kuwaiti Muslim Brotherhood, including Khalid Sheikh Mohammed, Suliman abu Ghaith, Wadih el Hage, and Ramsi Yousef.

  On January 9, 2003, the Treasury Department designated the Kuwaiti Lajnat al-Dawa as a terrorist entity. Lajnat al-Dawa reportedly spawned out of and is controlled by the Kuwaiti Muslim Brotherhood.
- Tareq Suwaidan, a leading member of the Kuwaiti Muslim Brotherhood, reportedly engaged in financial transactions with BMI.

While one might expect BMI to operate out of Qatar, the Cayman Islands or Liechtenstein, it was actually based out of Secaucus, New Jersey, organized as a New Jersey corporation in March 1986. Although BMI ceased operating in October 1999, investigators continue to probe its financial dealings.

Thus, Mr. Chairman, we face an on going problem that is here in the United States as well as abroad. It is a problem that we have just begun to dent, one which needs continued Congressional oversight and pressure. If we are to win the war on terrorism, there are many things that we must do. Drying up the money going to terrorists is one of the most important parts of winning that war.

PREPARED STATEMENT OF LOUISE RICHARDSON

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OCTOBER 22, 2003

Good morning Chairman Shelby, Senator Sarbanes, and other distinguished Members of the Committee. I am honored to have this opportunity to speak to you about my understanding of the nature of terrorism and about how lessons can be derived from that understanding for the disruption of their operations. As will soon be obvious, I am not an expert on terrorist finances, rather I am someone who has thought about and taught about terrorist movements for many years.

The first point to be made in any discussion of terrorism is to be clear about what it is we are discussing. The term terrorism is being used so loosely that it has come to lose much meaning. The only universally accepted attribute of the term is that it is pejorative. I would like simply to posit what I take to be the seven crucial characteristics of the term "terrorism."

1. Political. To constitute terrorism the act must be politically inspired. If it is not, then it is simply criminal activity.

2. Violent. If the act does not involve violence or the threat of violence then it is not terrorism.

3. Communication. The point of terrorism is to communicate a message. It is not violence for the sake of it or even violence in the expectation of defeating the enemy, but rather violence to convey a political message.

4. Symbolic. The act and the victim usually have symbolic significance. The shock value of the act is enhanced by the power of the symbol of the target. The whole point is for the psychological impact to be greater than the actual physical act. Terrorist movements are generally out-manned and out-gunned by their oppo-

nents so they employ these tactics to gain more attention than an objective assessment of their capabilities would warrant.

5. **Non-state actor.** Terrorism as we understand it is conducted by clandestine groups, not states. This is not to argue that states cannot use terrorism as an instrument of their foreign and domestic policy; they can and they do. Nor is it to argue that states cannot take actions which are the moral equivalent of terrorism; they can and they do. It is simply to argue that if we want to have any analytic clarity in understanding the behavior of these groups we must understand them as clandestine sub-state actors rather than as states. Moreover, in our dealing with states we have the whole panoply of international law to assist us in interpreting and responding to their actions.
6. **The victim and the audience are not the same.** The point of terrorism is to use the victim as a means of altering the behavior of the larger audience, usually a government. Victims are often chosen at random or as representative of a larger group; particular victims are usually interchangeable. The more random the victim, the more widespread the fear, and the more effective the action.
7. **Deliberate targeting of noncombatants.** This is what sets terrorism apart from other forms of political violence, even the most proximate form, guerrilla warfare. Terrorists have elevated to the level of deliberate strategy, practices which are generally perceived as being the unintended side-effects of warfare, killing noncombatants.

My argument, then, is that it is the means employed and not the ends pursued nor the political context in which they operate that determines whether or not a group is a terrorist group.

The next point to be made about terrorist groups is that there are very real differences between them and if we want to fashion an effective counterterrorism strategy we must understand these differences. I believe that terrorist groups can broadly be defined as belonging to one of several types. I am defining them here in accordance which what I take to be their primary motivation.

1. **Ethno-Nationalist movements.** These types of movements are among the most powerful, the most popular, and the most persistent of terrorist movements. They occur all over the world in rich and poor states, from Ireland to India. They range in size from a handful of Corsican Nationalists to thousands of armed Tamils. The primary political goal of these types of terrorist movements is to attain a national territory consistent with their concept of their national or ethnic identity.

   These groups are utterly different in motivation, organization, and appeal from the type of terrorism represented by Al Qaeda. That said, these groups often enjoy significant, albeit often passive, popular support. Looking ahead, I see one real cause for concern. Just as the communist ideology on occasion fused with nationalist movements in the course of the cold war, so too nationalist movements, in regions with a significant Islamist presence, are vulnerable to the exploitation of the conflict for the purposes of a broader ideology.
2. **Social Revolutionary Movements.** These groups reached their heyday in the advanced industrialized countries in the 1970's and 1980's. Their overriding objective was the violent destruction of the existing capitalist political-industrial-military complex and its replacement with a better social system based on the emancipation of the proletariat and the introduction of a just and classless society. In adopting this goal, violence was exonerated on the grounds that it was both a necessary component of this destruction as well as a virtuous and wholesome way of achieving it.

   These groups proved most dangerous when they forged alliances with other opponents of the government, as the Italian Red Brigades did in uniting, for a time, the student and worker protest movements.

   The apocalyptic nature of their aspirations is something they share with the contemporary radical Islamic groups which also seek complete destruction of the social and political order they inhabit.
3. **Maoist Movements.** Maoist movements tend to germinate in rural areas of poor countries as they have done in Peru, Nepal, and the Philippines. The ideology calls for the liberation of the impoverished rural masses through revolutionary violence and then the defeat of the social order in the urban areas before eventual victory in conventional conflict. Maoism provides a template for revolutionary action for any group that purports to base its legitimacy on communion with the masses.

   Maoist groups share with social revolutionary groups and radical Islamic groups a fanatical sectarianism, a millenarian approach, and a belief in the liberating qualities of violence. Like the social revolutionary groups, and unlike the radical Islamic groups, the ideology is entirely secular.

For those interested in combating Maoist terrorist groups, the trajectory of their violence and the nature of their appeal should come as no surprise since it follows a coherent and elaborated revolutionary technique.

4. **Radical Religious Movements.** While the mixture of religious and political motives has been a growing trend over the past 30 years, if one takes a longer perspective the story looks quite different. Prior to the French Revolution, religious and political motives were invariably intertwined in terrorist ideology. There have always been two characteristics of religiously motivated terrorist groups. First, they exercise less restraint. If the audience is God there is no need to be constrained by the desire to avoid alienating one's supporters. Second, they have always been more transnational. Religions often transcend political boundaries, so these groups tend to have broader bases of support and broader bases of operation. Consequently, it requires effective collaboration between governments to counter them.

   Religion plays different roles in different terrorist groups. Sometimes it serves purely as a badge of ethnic identity, as in Northern Ireland. Sometimes it is a mask for political motives, as in a number of Palestinian groups. Sometimes it is the defining ideology and guide to action, as in religious sects.

   Three political events were crucial to the radicalization of the Muslim groups we face today. These were the Iranian Revolution, and the subsequent effort of Iran to export its revolution overseas. Then there was the war in Lebanon, and the United States withdrawal. Finally, and perhaps most importantly, the war in Afghanistan, which not only demonstrated that a superpower could be defeated by organized Mujahadeen, but also provided legions of armed and trained Islamic warriors, imbued with their own success, which swelled the ranks of radical movements throughout the Middle East and, as we now know, provided the base for Al Qaeda. These political events, when fused with the philosophical justifications for political violence against both nonbelievers and compromising Muslims (read secular Muslim leaders) derived from particularist interpretations of both Sunni and Shiite texts, have proven to be an explosive mix.

The four types of terrorist movement differ in significant respects from one another. They differ in their primary political motivations and how they organize themselves to achieve them. I believe that one can sensibly generalize within the different types of movements but only in very limited respects across them. I was asked specifically to address the issue of alliances or networks among terrorist groups. I believe that it should come as no surprise to us to see collaboration among different movements which share similar primary motivations. The IRA in Northern Ireland and the Basque ETA, for example, are known to have close links. It is probably those links that helped to forge connections between the IRA and the FARC in Columbia that were recently revealed. Similarly the social revolutionary groups had quite extensive connections with one another, believing themselves all to be factions in the broadly-based communist revolutionary march to overthrow capitalism. It would come as no surprise to me to learn of links between different Maoist groups either, though perhaps given the nature of the terrain in which they operate this might be difficult. The links between the radical Islamic groups are the most extensive and well known. Al Qaeda had been forged on the basis of the multinational mujahadeen who arrived in Afghanistan to fight the Soviets. We, of course, know of the merger of several Islamic movements in the famous and rather grandly called "World Islamic Front" in 1998 calling on Muslim groups all over the world to unite. The organization self consciously tries to serve both as a base for other groups as well as operating on its own.

It would, however, come as a surprise to me to learn of significant alliances across these types of organizations. When cross-type alliances have occurred, they have been exclusively between social revolutionary and nationalist movements. Islamic organizations could not countenance the social views of social revolutionary or nationalist groups. Members of nationalist groups see themselves as utterly different from what they would consider as being the depraved Islamic groups. Nationalist groups have not taken the opportunities available to them to kill large numbers of people, preferring, in the words of Brian Jenkins, "lots of people watching, not lots of people dead." They perceive themselves as traditional freedom fighters and hence occupying a different moral universe than the architects of September 11.

Latin American groups have had a tradition of collaborating among themselves. They see themselves as fighting for similar causes against similar enemies. The Monteneros, for example, shared the $60 million in ransom they got for the kidnapping of the Born brothers in 1974 with other Latin American insurgency groups. In the early 1990's, the discovery of a terrorist treasure trove under a car repair shop in Managua demonstrated that the tradition of collaboration continues.

In trying to anticipate alliances among terrorist groups I would suggest, therefore, that a knowledge of the ideology of the group would help anticipate the nature of the alliances they are likely to make.

While the differences in primary political motivation undermine the degree to which one can generalize across types of groups, many groups with very different ideologies do share secondary motivations. These are the more immediate or secondary motives shared across types of groups: By far the most common motive of the terrorist is revenge and the second most common is publicity. They also seek funding. In these organizational ways one finds terrorist groups operating much like other, more conventional, organizations concerned for their own survival.

In none of these cases do the membership seek personal enrichment. For this reason the tools we have developed for anticipating and countering criminal elements are of limited utility against them. The members believe in their cause and they are often willing to sacrifice everything they have in order to further that cause.

It is important to bear in mind, for example, that the reason 10 IRA prisoners starved themselves to death in Northern Ireland in 1981 was not to free Ireland from British oppression, but rather to secure political prisoner status for themselves and their comrades. Their sense of themselves as different and indeed morally superior to ordinary criminals was such that they were willing to starve themselves to make the point.

State Sponsorship

Just as it is important to draw distinctions between different types of terrorist groups, I believe that it is also important to draw distinctions between different types of relationship between terrorist groups and their state sponsors. These relationships range from relationships in which the state exercises considerable control over the movements it sponsors to relationships in which the state and the movement it supports simply share an enemy. The relationship between Al Qaeda and the Taliban, when the terrorists appeared to be sponsoring the state as much as the other way round, represents one extreme. Other relationships vary along a spectrum of state control. Occasionally, terrorists are simply the covert arm of the state, as in the murder of dissidents overseas or intelligence operatives carrying out actions at the behest of the state. While called terrorism, these cases, such as the bombing of Pan Am 103 over Lockerbie, actually represent the covert actions of a state. In a very few cases the state closely directs the terrorist movement (as in the relationship between Syria and the PLFP–GC) but a far more common relationship is one in which the state supports the action of the terrorist group with financial and logistical support, training facilities, and safe havens, but the state does not actually direct the action of the terrorist movement. Iranian support of Hamas and Hizballah would fit this category. At the other end of the spectrum is a case like the Libyan support of the IRA in the late 1980's. In this instance Libya and the IRA simply shared an enemy, Britain. Libyan support was simply a means of punishing Britain for its participation in the bombing of Tripoli in 1986.

In every case, the terrorist movement is rendered more effective and more lethal by the support provided by the sponsoring state, but in every instance the state is capitalizing on a pre-existing movement rather than creating one. The terrorist movements do not rely on the state for their survival. Rather, state sponsorship is one of several means of generating financial support for the movement. Other forms of support include raising money from the Diaspora as Islamic and nationalist groups the world over have done successfully. Another popular fundraising mechanism is the operation of a legitimate front business to generate money for the cause. The Tamil Tigers in Sri Lanka have perfected this technique. In other cases, terrorists raise money through extortion from the members of the society they claim to represent, as Maoist groups often do. In still other cases, they raise funds through criminal activity. Bank robberies and kidnapping were traditional favorites; today credit card fraud and in some cases drug dealing, have become popular. Raising money through criminal activity, however, is a high risk strategy for terrorist groups, exposing the membership to corruption and to capture, fudging the distinction they seek to draw between themselves and criminals, and undermining the basis of their popular support.

The crucial point to bear in mind about terrorism, of course, is that it is cheap. This is part of its appeal. The attack on September 11 is probably the most expensive terrorist operation in history and it is estimated to have cost half a million dollars. It takes a great deal less to buy some fertilizer, rent a truck, and use them to bring down a building. If a group has a generous sponsor, as Hamas does in Iran, they can afford to run charities and thereby secure popular support. Such a group can also afford to support the families of imprisoned or killed members. But it is not necessary at all to have this level of support in order to conduct terrorist oper-

ations. Terrorism is above all a tactic and its appeal as a tactic is precisely that one can get so much bang for one's buck. It is cheap and easy and lends itself to dramatic impact.

Sophisticated weaponry such as WMD is of course expensive. Aum Shinrikyo demonstrated this fact. I believe we have all learned from this experience and it is hard for me to imagine a situation anywhere in the world today in which a clandestine group could develop facilities of such sophistication, and recruits of such a technical caliber, without the state noticing. Another way for terrorists to secure these weapons is to be handed them by a state sponsor. My own view is that this fear is overblown. The act of ceding to a terrorist group one did not completely control weapons of mass destruction would be an act of such folly as to be incomprehensible. A state willing to risk annihilation might use the weapons itself but there are good reasons why none has done so. The reasons why they would not cede the means to a third party are even stronger.

My own prediction, therefore, is that we will see far more Bali type attacks than we will see September 11 type attacks. I worry sometimes that our concern to prevent the less likely and more expensive type of actions may deflect our attention from the need to prevent the more likely, less expensive, and more conventional attack.

I believe that the first priority in undermining terrorist organizations is to understand how they see themselves, not how we see them. To achieve this we must be inside their cells, and the societies that produce them. We must read all their communications and their propaganda in an effort to anticipate their actions but also to understand their appeal

I think we can learn from the terrorists as they have learned from us. We can learn to have patience and to wait for results. The brilliance of the September 11 attack was its use of our own strength against us. They turned our civilian airlines into weapons against us. I think we must do the same. We must understand their ideology and their tactics and use them against them. Terrorist organizations operate under conditions of considerable uncertainty and are constantly fearful of both external attack and internal betrayal. We should exploit this by keeping them under constant pressure and exploiting their fissiparous tendencies. Their need to raise funds through criminal activity increases their exposure and gives us another avenue to pursue them.

If we undermine their support of charities this won't prevent terrorism per se. Many donors to the charities genuinely want to support the poor and many of these charities do a great deal of good for the beneficiaries. However, over the longer-term, these charities serve to win and to sustain support for those providing the charity. I think, for example, that the support for Hamas has to be seen in this light. I believe that we should ensure that it is our friends who are meeting the social needs of the potential recruits of the terrorists. This is a long-term strategy but terrorism as a tactic has been around a very long time and it is likely to remain. What is new is the existence of organizations willing to kill as many civilians as they can, and the increasing availability of the technical means to do so. Strangling their financial assets will make it increasingly difficult for terrorists to function, but it will not eliminate terrorism.

PREPARED STATEMENT OF JEAN-CHARLES BRISARD

CEO, JCB CONSULTING INTERNATIONAL

OCTOBER 22, 2003

Chairman Shelby, Senator Sarbanes, and distinguished Members of this Committee, thank you for inviting me to testify today about the global war on terrorism financing.

I started investigating terrorism financing networks in 1997 for the French Government, since then, I have provided expertise to various governments and to the United Nations. Since June 2002, I have been leading an international investigation for the September 11 Families United to Bankrupt Terrorism in the course of an action brought by 5,600 family members before the U.S. District Court of Washington, DC, against several entities, banks, companies, charities, and individuals that provided financial or logistical support to the Al Qaeda network.

In that respect, our investigation is today active in various regions of the world and has been able to recover a considerable amount of information on Al Qaeda support networks through procedures of judicial or political cooperation established with more than 30 countries.

To date, our effort is probably a unique example of non-state cooperation and investigation on terrorism.

This process, through cooperation and interviews with hundreds of law enforcement officials, provides us with an independent, although global, perspective on assessing intergovernmental efforts on terrorism financing.

Above all, the current process has been able to uncover major documents and items related to the funding of the Al Qaeda organization, and I would like to share some of our findings with you today. These findings help understand both the global context of terrorism funding and the ways and means used by Al Qaeda on a regular basis to raise and move funds for operational purposes.

Since September 11, 2001, the world, and especially the United States, is facing the most innovative form of terrorism. Al Qaeda is not only a militant-based or a combatant organization, it is also a financial network combining the most modern tools of finance with the oldest transactional instruments.

For 30 years, Western countries mostly dealt with simple terrorist organizations, mainly disorganized local entities in Europe, Middle-East, and Asia, or state-sponsored entities such as Hezbollah.

Al Qaeda has reshuffled our knowledge and assessment of terrorist organizations by creating a complex confederation of militant bases and aggregating financial support networks.

To support its criminal objectives, this organization has been able to build a complex and intricate web of political, religious, business, and financial instruments or supports.

Al Qaeda Financials

U.S. Treasury Department General Counsel David Aufhauser recently estimated that Al Qaeda had an annual budget of upwards of $35 million before September 11. This figure, he believes, is today between $5 million to $10 million.

This statement is important, as it is the first public estimate made available by a U.S. official.

In December 2002, in my report to the UN Security Council, I valued Al Qaeda annual income at $50 million and global assets within a 10-year period between $300 million and $500 million. The UN Al Qaeda Monitoring Group had previously estimated Al Qaeda annual income at $16 million in August 2002. An intelligence report also indicated in 2002 that Saudi Arabia alone was accounting for $1 million to $2 million a month through mosques and other fundraising methods.

These figures are a clear indication of a massive financial support to Al Qaeda prior to September 11 derived from other means that the commonly referred credit card frauds, tax frauds, or other "petty" money laundering crimes.

Until now, intelligence and law enforcement agencies have based their assumption on the fact that simple criminal devices do not need a lot of money. This trend has proven to be correct when dealing with simply structured organizations of the Palestinian type in the 1970's and Algerian type in the 1980's.

The idea also proved correct regarding Al Qaeda at the operational level, where local and national cells, mostly dormant cells, happened to live in modest conditions.

But to apply that idea to the entire Al Qaeda network is not only irrelevant but also simply turns to an end the war against terrorism financing.

Al Qaeda clearly distinguishes in its training manual and in other documents, its organizational funds and its "operational funds." The operational funds have two main objectives, the first is to invest in projects that offer financial return to entertain local cells, and the second is to carry out terrorist operations.

Apart from the operational level, one must not confuse the requirements of Al Qaeda in terms of daily logistics and the super-structure level, which is the real innovation introduced by Osama bin Laden. The first purpose of money for Al Qaeda at this level is to entertain the broad network of organizations, to fund them to stabilize and leverage their support and to develop their reach. Over the years, Al Qaeda financially supported several entities, from Libya to the Philippines, from Indonesia to Somalia. Figures here range in millions of dollars.

The second purpose of money at the super-structure level has been to pay for protection and asylum. Since 1991, Al Qaeda and Osama bin Laden had to resettle in various countries after the opposition movement was banned from Saudi Arabia. It was the case in Sudan and later in Afghanistan.

According to various intelligence estimates, less than 10 percent of the annual income of the organization went to operational planning and execution, while 90 percent was used for the network infrastructure, mainly facilities, organization, communication, and protection.

This money primarily originates from wealthy donors in the Middle-East. In the course of our investigation for the September 11 families, and as part of a judicial

cooperation process with the state of Bosnia-Herzegovina, we uncovered major evidence proving this factor.

The Golden Chain list of wealthy Saudi sponsors is an internal Al Qaeda document seized by the Bosnian police during searches in the offices of Benevolence International Foundation in Sarajevo in March 2002. Our team was granted access to this document, among others, following an order of the Supreme Court of Bosnia-Herzegovina ordering the U.S. Government to release this material.

The Golden Chain lists the top 20 Saudi financial sponsors of Al Qaeda. It includes 6 bankers and 12 businessmen, among which there are 2 former ministers.

According to our estimates, their cumulative corporate net worth totals more than $85 billion dollars, or 42 percent of the Saudi annual GNP and equivalent to the annual GNP of Venezuela.

They include former leading Saudi banker Khalid Bin Mahfouz, businessman Saleh Abdullah Kamel, the bin Laden family, and several bankers representing the three largest Saudi banks (National Commercial Bank, Riyadh Bank, and Al Rajhi Bank).

Most of them are or were involved, apart from their legitimate businesses, in charity organizations as founders or board members.

Fundraising Methods

At the very beginning of Al Qaeda financing is an institutional confusion between religion and finance that plays both as a common and traditional religious justification and still poses real and unanswered questions regarding the use or abuse of legitimate money by such organizations.

The fundamental question refers to the way eminent religious tools created to cope with poverty and charity among Muslims were diverted and abused to serve terror aims around the world. The related issue is how to manage and control religious tools and principles, and forbid any abuse, while for instance several prominent scholars interpret the rule of God as permitting such abuses.

The main financial vehicle to fund Islam was set up under the Islamic rule of Zakat, a legal almsgiving required as one of the five pillars of Islam on current assets and other items of income. Zakat has been described as the "cornerstone of the financial structure in an Islamic State."

According to the Koran, Zakat is a way of purification. Possessions are purified by setting aside a proportion for those in need, and, like the pruning of plants, this cutting back balances and encourages new growth. This principle is an obligation for every Muslim.

According to the Koran, only the poor and needy deserve Zakat.

Basically, Zakat takes three forms, depending on its recipients, Feesabeelillah (in the way of Allah), Lil-Fuqara (for the poor), and Lil-Masakeen (for the needy).

Only the first form of Zakat has raised questions and various interpretations among Muslim scholars, mostly those influenced by Wahabbism doctrine of Islam.

Feesabeelillah is used to describe money spent in fighting for the cause of Allah (Jihad).

Jihad refers to striving for excellence on one of several levels. The first involves individual efforts, spiritual and intellectual, to become a better Muslim. The second addresses efforts to improve society. The third and last level, or "holy war," involves self-defense or fighting against oppression.

The personal jihad states that the most excellent jihad is that of the soul. This jihad, called the Jihadun-Nafs, is the intimate struggle to purify the soul of satanic influence—both subtle and overt. It is the struggle to cleanse one's spirit of sin. This is the most important level of jihad.

The verbal jihad is based of Prophet words that, "The most excellent jihad is the speaking of truth in the face of a tyrant." He encouraged raising one's voice in the name of Allah on behalf of justice.

Finally, physical jihad is combat waged in defense of Muslims against oppression and transgression by the enemies of Allah, Islam, and Muslims. We are commanded by Allah to lead peaceful lives and not transgress against anyone, but also to defend ourselves against oppression by "fighting against those who fight against us." This "jihad with the hand" is the aspect of jihad that has been so profoundly misunderstood in today's world.

According to Al Azhar's Islamic Research Academy, the concept of jihad refers to the "defense of the nation against occupation and the plunder of its resources." But it does not cover the killing of innocent people, the elderly, women, and children, which is forbidden by Islam. The teachings of Islam also forbid the destruction of buildings and establishments not connected with a specific battle. The statement drew a distinction between violence perpetrated by oppressors who have no respect

for what is sacred and violence as a legitimate defense launched by the weak to win their rights.

There is a clear distinction between the Koran's concept of a defensive jihad and the usurped form of offensive jihad developed by several scholars, including Omar Abu Omar (aka Abu Kutada), Al Qaeda principal in the United Kingdom, who influenced a trend to support those "fighting in the Cause of Allah" (the Mujahideen), thus justifying Zakat for un-legitimate violence against peaceful nations.

In January 2002, for example a conference of Islam's Ulema religious scholars in Beirut, Lebanon, clearly stated in its final statement that :

> "Hezbollah in Lebanon, Hamas, Islamic Jihad and all resistance forces vividly express the will of the nation. They constitute the first line in the defense of peoples and states and their rights, causes, and sanctities. Through their jihad and mujahidin, they represent the honor, pride, and dignity of Muslims everywhere and reflect the human ambitions of all oppressed peoples in the world. If the masters and protectors of the Zionist entity in the U.S. Administration are targeting the resistance because it poses a real threat to this entity, we view this resistance as the noblest and most sacred phenomenon in our contemporary history."

Over time, this legal religious duty has been usurped and abused by terrorists and their supports.

The Al Qaeda network extensively utilized the weakness of legal rules to rely on funds diverted from the Zakat and other direct donations through Islamic banks and since 1998, Osama bin Laden made regular calls for Muslims to donate through the Zakat system to his organization.

In December 1998, during an interview with *ABC News,* Osama bin Laden stated that:

> "Muslims and Muslim merchants, in particular, should give their Zakat and their money in support of this state [Taliban regime] which is reminiscent of the state of Medina (Al-Munawwarah), where the followers of Islam embraced the Prophet of God."

Osama bin Laden addressed the same issue in a seized video tape filmed during a wedding party in January 2001:

> "Deserve credit those traders and businessmen who give Zakat so that they can help arm that ill-equipped Lashkar."

In September 2001, in an interview with Pakistani newspaper Ummat, he declared that:

> "Al Qaeda was set up to wage a jihad against infidelity, particularly to counter the onslaught of the infidel countries against the Islamic states. Jihad is the sixth undeclared pillar of Islam. [The first five being the basic holy words of Islam (There is no god but God and Muhammad is the messenger of God), prayers, fasting (in Ramadan), pilgrimage to Mecca, and giving alms (zakat).]."

Other Al Qaeda leaders made similar references, for example Mahfouz Walad Al-Walid, aka Abu Hafs, during an interview with al-Jazeera on November 30, 2001:

> "We think that the cause in which there is a possibility for all Muslims to participate in supporting by means of money, men, or any kind of help, is the cause of Afghanistan."

The Koran only gives general principles and guidelines regarding the collection of Zakat, and most of the tax regulations are recent. Zakat is levied pursuant to Royal Decree No. 17–2–28–2077 of 1380 A.H. (1960) on Saudi nationals, both corporate (wholly Saudi-owned companies) and individuals, and on the Saudi share of profits of companies owned jointly with foreigners. Citizens and companies of the Gulf Cooperation Countries (GCC) who are resident in Saudi Arabia and do business in Saudi Arabia are treated as Saudis.

Zakat is calculated on capital and earnings from and on all proceeds, profits, and gains from business, industry, or personal work, and on property or monetary acquisitions of whatever type or description. These include commercial and financial transactions and dividends, livestock, and crops.

Based on recent figures, Zakat funds are estimated annually around $10 billion in Saudi Arabia alone.

Monitoring of charitable donations through Zakat happened to be baseless, while most of Gulf countries lack effective legal systems that impose strict rules of transparency, accounting, and auditing requirements, thus turning a legal religious duty into an illegal money-laundering instrument.

The Zakat funds are controlled by the Department of Zakat and Income taxes (Directorate General of Zakat & Income Tax (DZIT) of the Saudi Ministry of Finance and National Economy. Authority of the Department is based on the Royal Decree No. 3321, dated 21/01/1370HD and the Ministerial Resolution No. 393, dated 06/08/1370H, which include instructions for organizing, auditing, and collecting "Zakat" from all Saudis obligated to pay it.

The Department duties include examining, assessing, and taking necessary action to ensure payment of Zakat.

Zakat payment is individual or may be organized at each business level by a special committee that determines the recipients and channels donations to these entities.

John B. Taylor, Under Secretary of Treasury for International affairs, stated in April 2002, that to prevent terrorists from "abusing" these institutions was a main goal in the war against terrorism financing.

The Saudi Kingdom in its report to the Security Council pursuant to paragraph 6 of SC resolution 1373 (2001) concerning counterterrorism, stated that, "It is a basic principle of the Islamic Shariah that whatever leads to the forbidden is itself forbidden." That principle will remain baseless as far as there is no legal instrument to enforce it.

Moreover, legal measures taken by the Kingdom, especially the 1976 Fundraising for Charitable Purposes Regulation, did not prevent misuse of Zakat funds, as acknowledged by the Governor of the Saudi Arabian Monetary Agency who recognized that "some of them take their dollars and they transfer them to accounts in Europe and use it for God knows what."

In 1999, the Kingdom approved amendments to existing money laundering laws intended to bring them into compliance with international regulations, but these amendments have not been implemented.

In November 2002, Prince Salman bin Abdul Aziz said the country was not responsible if "some change the work of charity into work of evil." He stated that he had personally taken part in the activities of those organizations, "and I know the assistance goes to doing good. But if there are those who change some work of charity into evil activities, then it is not the Kingdom's responsibility, nor it people, which helps its Arab and Muslim brothers around the world." The Prince, King Fahd's brother, added that if beneficiaries had used assistance "for evil acts, that is not our responsibility at all."

Also in November 2002, Adel Al Jubeir, spokesman for the Saudi Kingdom acknowledged that situation by saying that, "People have now taken advantage of our charity, of our generosity, of our naivety, if you want to call it that, of our innocence," and calling for a global audit of every charity in the Kingdom.

He also acknowledged the lack of real financial control. "A number of our charities, especially those operating outside Saudi Arabia did not have sufficient financial control mechanisms to ensure that the funds that were raised and that were spent actually went to where they were supposed to go" citing "a massive fraud in the name of religion."

The Kingdom of Saudi Arabia repeatedly tried to establish legal rules to govern Zakat and charities donations.

In 1994, the Saudi Kingdom issued a royal decree banning the collection of money in the Kingdom for charitable causes without official permission. King Fahd set up a Supreme Council of Islamic Affairs (al-Majlis al-A'la lil-Shu'un al-Islamiyya), headed by his brother Prince Sultan to centralize, supervise, and review aid requests from Islamic groups. This council was established to control the charity financing and look into ways of distributing donations to eligible Muslim groups.

Coordination efforts have also been carried out by the Kingdom to deal with specific goals and several bodies were created over time to centralize donations for specific countries and regions.

Efforts to coordinate the recipients of money have been largely undermined by the composition and management of these bodies. For example, the Saudi Joint Relief Committee for Kosovo and Chechnya (SJRC) included the International Islamic Relief Organization (IIRO), the Saudi Red Crescent Society, the Muslim World League, the World Assembly of Muslim Youth (WAMY), Al-Haramain Islamic Foundation, Islamic Endowments, and Makka Establishment, some of which have already been designated as terrorist supports.

Between 1998 and 2000, more than $74 million was diverted to local bureaus of the SJRC that happened to be controlled by or to harbor terrorists, while the Committee was supposed to be supervised by the Minister of Interior, Prince Naif bin Abdul Aziz.

In June 1998, the CIA and Albanian authorities raided several houses and offices of members of an associate of the SJRC in Tirana. In July 1998, its Director

Muhamed Hasan Mahmud, an Egyptian national, was arrested on charges of making false documents and arms possession. He was connected to a 1992 terrorist attack against the Egyptian Parliament. Several of its members and directors were later arrested in connection with the U.S. Embassy bombing in Kenya and Tanzania of August 1998.

Similarly, the United Nations Mission in Kosovo (UNMIK) raided a house rented by the SJRC in Pristina in April 2000, stating the organization was acting as a cover for several Osama bin Laden operatives, including SJRC former directors Adel Muhammad Sadi Bin Kazem and Wael Hamza Julaidan (Secretary General of the Rabita Trust in Pakistan and co-founder of Al Qaeda), designated as terrorist by the United States Government in 2002.

Furthermore, in documents obtained from the Financial Police of the Federation of Bosnia-Herzegovina Ministry of Finance, offices of the Saudi High Commission in Bosnia-Herzegovina, the coordinating body for charities in the country, clearly appear to be a front for radical and terrorism-related activities, noting that documentation was found in 2001 "for which it can be claimed with certainty that it does not belong in the scope of work of a humanitarian organization (various photographs of the World Trade Center, sketches of military bases, certain photographs of military ships, civil airplanes, certain specially protected facilities, and other)."

Through these various unsuccessful attempts to regulate or control the recipients of Zakat or donations, one must question the real ability and willingness of the Kingdom to exercise any control over the use of religious money in and outside the country.

The result of that weak policy toward donations made for so-called charitable purposes and the unwillingness of the Saudi Government to consider its responsibility in that regard is a major setback in the war against terrorism financing.

Saudi Arabia has repeatedly claimed to have taken steps to counter terrorism financing since September 11, 2001, as if the Kingdom discovered at that date that several of its prominent citizens were funding a terrorist organization. The Saudi cooperation in the war against terrorism financing is largely insufficient, if not inconsistent.

We do not believe in the "innocence" of the Kingdom in that respect. Saudi Arabia has been mostly negligent, and to some extent, irresponsible in letting suspected organizations receive funds and continue their operations while being fully aware of their links to terrorists.

For example, according to documents seized by the Israeli authorities in the Palestinian territories, the Saudi Arabian Committee for Support of the Intifada al Quds was fully informed by the Palestinian officials that it was sending funds to Hamas, a terrorist organization.

In a letter written in 2000 to the Chairman of the Saudi committee, a representative of Palestine stated that, "The Saudi committee responsible for transferring the contributions to beneficiaries is sending large sums to radical committees and associations including the Islamic Association which belongs to Hamas, the Al-Atzlach Association [most likely the Al-Salah Association, a known agency of the Hamas in Gaza], and brothers belonging to the Jihad in all areas," adding that, "This has a bad effect on the domestic situation and also strengthens these brothers and thus has a bad impact on everybody."

Similar warnings were raised in Bosnia in 2000 by a Bosnian association called "Mothers of Srebrenica and Podrinje." In a letter to Prince Salman, it was clearly claimed that the High Committee for Bosnia-Herzegovina did not meet its goal in terms of financial help, namely accusing the director of the Sarajevo office of diverting $100 million collected after Srebrenica's fall in July 1995, for Srebrenica inhabitants.

Financial Conduits

Saudi Arabia is present at every stage of Al Qaeda financing, but primarily as the major source of funding. This is an indication that Osama bin Laden has been able to leverage his family position in the Kingdom to gain access to major sources of funding. It is also a sign that Saudi Arabia is offering several essential conducts for Al Qaeda funding.

Over the years, Al Qaeda used various conduits for moving money to its operational cells, mainly well established channels.

In that regard, international investigations have uncovered only a few, if none usage of offshore facilities in Al Qaeda financial instruments.

With the exception of a few banking institutions based and operated from offshore centers such as the Bahamas and Switzerland, namely al Taqwa Bank and Dar Al Maal Al Islami (DMI) no such examples can be found around the world.

The nature of the Al Qaeda network is that it uses business covers to finance its operations. One of the main characteristics of this network has been its ability to operate behind a traditional economic and financial network.

Furthermore, financial investigations determined that terrorists did not need offshore centers simply because they had the ability and the tools to deviate money from their recipient in order to finance their operations in their own countries.

In that respect, the Zakat religious tax system imposed on each transaction to finance charitable Muslim needs, raises in its practical consequences, the same nature of questions as does any offshore business by allowing to deviate under no control large sums of money to suspicious entities.

Zakat is the most important source of financial support for the Al Qaeda network, essentially because it is the most common and unregulated way to raise donations in Saudi Arabia. Until recently, it was also the most undocumented means to funnel money to these networks.

In several cases, money originating from Islamic banks and charities in the Gulf was laundered through Western and specifically United States, correspondents, whether banks or charities, before reaching their recipients.

In that respect, most of the financial revenue of Al Qaeda is raised through legal means.

The same applies to the Hawala alternative remittance system, at least before September 11.

This informal system to transfer money has been regarded as a primary tool for moving money and has been subsequently targeted by counterterrorism financial institutions. However, the system, mostly in use in Pakistan, India, the Gulf countries, and Southern Asia, is essentially an "end user" tool for terrorists on the ground, in remote areas, used to transfer money for operational purposes. It has never been a primary tool or instrument for moving money, although this instrument is believed to have regained importance after September 11, with an extensive use in, for example, tribal areas of Pakistan and Afghanistan.

Its importance in "end-user dealings" could be reduced by facilitating cheap, fast remittances across international boundaries, and by doing away with dual and parallel exchange markets, which are always an incentive to keep transactions underground.

Another post-September 11 trend has been the extensive use of couriers to funnel money.

Al Qaeda's main financial transactions are essentially organized through three principal channels: the Islamic Banking system, business transactions, and charities.

The Islamic Banking System

Beginning in the late 1970's, Saudi Arabia and other Gulf countries created a banking system aimed at promoting and propagation (Dawa) of Islam around the world.

In 1974, the OIC summit in Lahore voted to create the intergovernmental Islamic Development Bank (IDB). Based in Jeddah, it became the cornerstone of a new banking system inspired by religious principles. In 1975, the Dubai Islamic Bank—the first modern, nongovernmental Islamic bank—was opened. In 1979, Pakistan became the first country to embark on full Islamization of its banking sector.

The creation of the Bank of Credit and Commerce International (BCCI) in 1972, and its downfall in 1991, temporarily slowed the trend of Islamic banking. The bank's main fraud scheme was to allocate large loans without real guarantees, in return for investments in the bank's capital, a practice known as "loan back." This way, the main loan beneficiaries were the shareholders themselves.

Saudi Islamic support was channeled through a complex banking system that had at its center two entities created in the early 1980's: Dar-Al-Maal Al Islami (DMI), founded in 1981 and chaired by Mohammed Al-Faisal, and Dallah-Al-Baraka, founded in 1982.

Endowed with enormous funding ($1 billion in the case of DMI), these institutions were rooted in both the Saudi Kingdom's desire to spread its financial preeminence in the Arab world, and in its support for the radical Islamic cause. Add to that the desire, already perceptible during the inception of the BCCI, to create an international financial network capable of sustaining the economic vitality of the Arab countries in the eyes of large Western banks.

DMI, or "The House of Islamic Money," is located in Switzerland. It was created on July 29, 1981. Until October 1983, its president was Ibrahim Kamel. He was replaced on October 17, 1983, by Prince Mohammad Al Faisal Al Saud,. DMI is one of the central structures in Saudi Arabia's financing of international Islam. Its main subsidiaries are the Islamic Investment Company of the Gulf, the Faisal Islamic

Bank of Bahrain, and Faisal Finance. These high-level establishments enjoy enormous power in the countries where they are settled, principally in the Gulf and Sudan.

Functioning on an Islamic method, DMI adheres to the Zakat system. After the transaction is made, the funds earmarked as Zakat disappear and are off the books. Later, under no financial regulation, the money may be used to fund radical Islamic groups.

Islamic banking institutions operate by participating in investments, sharing profits on projects, and earning fees for services performed.

One of the duties of Islamic banking institutions is to contribute and manage Zakat funds.

Relying on Islamic banking, Osama bin Laden himself, in partnership with several Saudi and Gulf Islamic banks, founded a banking institution in Sudan, Al Shamal Islamic Bank, that provided funding for terrorist operations, as confessed by several Al Qaeda members in 2001 during the United States African Embassy Bombing trial.

Several banks helped transfer funds to Al Qaeda through the Zakat system, by direct donations or by knowingly providing means to raise or transfer funds to the terrorist organization. Some of them even controlled the Zakat funds beneficiaries, including charities that have provided financial and logistical support to Al Qaeda.

Islamic banking facilities, instruments and tools have provided an essential support to the Al Qaeda organization and operations.

The banking system, whether knowingly or not, have acted as an instrument of terror, to raise, facilitate, and transfer money to terrorist organizations.

Governed by Islamic Law (Sharia'a) that regulates commerce and finance in the Fiqh Al Mua'malat, (transactions amongst people), modern Islamic banks are overseen by a Shari'a Supervisory Board of Islamic Banks and Institutions (The Shari'a Committee).

At the state level, the Saudi Arabian Monetary Authority (SAMA), established in 1952, is the controlling body for the banking sector. For that purpose, it can ask a bank for any information it deems necessary and has the power to inspect accounts and records.

Since September 11, 2001, SAMA has addressed circulars to Saudi banks to investigate the extent to which they may have assets belonging to the individuals and entities that appear in the lists of those suspected of having links to terrorism, and it has asked banks to scrutinize accounts and audit all financial operations that affect them.

Furthermore, SAMA instructed commercial banks to establish a Self-Supervisory Committee to closely monitor and fight terrorism funding and to coordinate all efforts to freeze the assets of the identified individuals and entities. The Committee is composed of senior officers from banks responsible for Risk Control, Audit, Money-Laundering Units, Legal and Operations, and operates in the presence of SAMA officials.

The Saudi Government has also taken steps to combat money laundering. This includes the establishment of anti-money laundering units, with trained and dedicated specialized staff. These units work with SAMA and law enforcement agencies.

Another institutional initiative is the creation of a specialized Financial Intelligence Unit (FIU) in the Security and Drug Control Department of the Ministry of Interior. This unit is specially tasked with handling money-laundering cases.

Most of these bureaucratic measures, while creating the impression that the Saudi Government is taking appropriate actions to counter terrorist funding, have proved ineffective in countering networks that can easily evade the controls.

Indeed, targeting money laundering turned to be ineffective, as the practice refers to the cleaning of illegal gains from drug trafficking and other criminal activities. In contrast, the funding of terrorism involves using legitimate income to finance illegal activity, the reverse process.

Similar doubts can also be raised as to the extent of the SAMA willingness to effectively control these institutions, especially when illegal practices involve the use of Zakat funds.

For example, it was only in 1999, after several months of fierce international pressure, that SAMA directed an audit on the national Commercial Bank (NCB), chaired at the time by Osama bin Laden's brother-in-law, and one of his major financial supporters in the Kingdom. After the audit revealed several millions of dollars were diverted to terrorist organizations, its Chairman was finally replaced, but remained until last year, along with his family, a major shareholder of the bank with a controlling vote at its board of directors.

Furthermore, documents made available to the September 11 families clearly established that the NCB was still facilitating banking transactions for terrorists after

that date. The same applies to other major banks of the Kingdom including Al-Rajhi Bank, Al-Baraka Bank, Arab Bank, and the Saudi American Bank, which funneled money to or from the Spanish Al Qaeda cell from 1996 until 2001.

Other banks, including Swiss-based DMI, as recently revealed by the investigation of the families have funneled money to organizations founded or used by terrorists, such as Al-Haramain Islamic Foundation and Maktab ul Khedamat (Bureau of Services).

The confusion observed at the State level in Saudi Arabia between religious aims and financial instruments has created over the years a window of opportunities for fundamentalist organizations to consolidate and expand their reach.

Penetration of the Business Sector

Al Qaeda is probably the most successful example of a terrorist organization acting under the umbrella of business entities.

The organization succeeded in building a large array of banking and corporate covers for its illegal activities in several countries.

The ability of the terrorist network to penetrate the business sector has been a major factor for moving and receiving money through legal instruments.

Operational cells of Al Qaeda have been able established umbrella organizations, registered under local laws. Most of them are involved in the construction, the real estate, and public building sectors. In addition, many trade companies based in Saudi Arabia provided financial support to create and run the local companies.

The legal statute of the establishment in Saudi Arabia offers soft regulations, if any, in terms of accounting rules and legal publications.

Two examples of the abuse of legitimate businesses illustrate the ability of the terrorist organization: The first is given by the network formed between 1983 and 1996 in Sudan, that crystallized for several years the overall spectrum of facilities and tools at bin Laden's disposal to carry out its fundamentalist goals, through banks, companies, and charities. This network included the protection provided by the state itself, a permanent factor in Al Qaeda's history that explains its ability to remain an offensive organization.

When Osama bin Laden relocated to Sudan in 1991, he used its close relations with the then controlling power of Islamic leader Hasan al-Turabi, to set up several business ventures, to the extent of building symbiotic relationships with Sudanese leaders of the National Islamic Front (NIF).

In concert with NIF members, Osama bin Laden invested in several large companies and banks, and undertook civil infrastructure development projects.

The network of businesses controlled by Osama bin Laden included: Al Shamal Islamic Bank, funded and controlled by wealthy Saudi businessmen and bankers including Saleh Abdullah Kamel, Mohammed al-Faisal or Adel Abdul Jalil Batterjee; an import-export firm; several agricultural companies and a construction company settled in connection with his Saudi family conglomerate to build roads and airport facilities in Sudan.

These businesses enabled Osama bin Laden to offer safe haven and employment to Al Qaeda members, to provide bank accounts to several operatives, and to finance terrorist operations and facilities, mainly training camps and arms buying.

Most notably, this network was able to carry out legal financial transactions with Western banks and financial institutions, with the guarantee of his prominent Saudi associates.

Beginning in 1996, several business associates of Al Qaeda developed a money laundering scheme involving Saudi and Spanish companies, to finance several Al Qaeda operational cells or supports in Europe, Middle-East, and Asia, including preparatory operations for the September 11 attacks on the United States.

Through several front companies described by Spanish judge Baltasar Garzon as covers for Al Qaeda operations, Al Qaeda sponsors were able to funnel more than $1 million from companies and individuals based in Saudi Arabia to Germany and other Al Qaeda European cells between 1995 and 2001.

To date, this scheme represents the most direct uncovered link to the September 11 attacks, regarding the operation's financing.

These companies, mainly involved in construction and real estate, were convicted in arms trafficking, credit card fraud and false documents (Credit card fraud and car smuggling). Along with illegal activities, these entities provided financial assistance to Al Qaeda. They made false financial statements and laundered more than $2.5 million in 5 years. That amount has not been recovered yet by the investigators.

Several companies were used as umbrella organizations to facilitate Al Qaeda operations in Europe through false contracts signed by a Saudi company controlled by

Muhammad Galeb Kalaje Zouaydi, European chief financier for Al Qaeda, who created several corresponding companies in Spain with several Al Qaeda militants.

To date, the Saudi company, Mushayt for Trading Establishment, is still in activity and managed by several members of the Muslim Brotherhood.

The economic network maintained regular incomes for the cells in Europe or in the Middle East (Germany, Italy, Yemen, Syria, and Saudi Arabia). In addition, these firms employed Ex-Fighters of Islam in Chechnya or Bosnia and radical Muslims.

The network also maintained close relations with Al Qaeda members and leaders in Europe, including hijacker Mohammed Atta, Said Bahaji, and Ramzi Binalshibh, all related to Osama bin Laden.

Money was funneled to the Hamburg cell through the Saudi Al Rajhi Bank to businessmen Mahmoud Darkazanli and Abdul Fattah Zammar who provided the cell of hijackers with financial and logistical support. The network of companies also facilitated in 1997 the preliminary filming of the World Trade Center that was delivered to an Osama bin Laden courier in Europe.

Ghasoub Al Abrash Ghalyoun (aka Abu Musab), a Spanish cell member and business partner of Muhammad Zouaydi traveled to the United States in August 1997 to film future targets of Al Qaeda, including the World Trade Center.

In addition, Mushayt for Trading Establishment in Jeddah sheltered and supported economically other international Muslim radicals, including Nabil Nanakli Kosaibati Nabil, right-hand man of the Al Qaeda Spanish cell leader, convicted for terrorist activities in Yemen on behalf of Saudi intelligence services.

As Muhammad Zouaydi and most of the Al Qaeda Spanish members, Kosaibati is a Spanish national of Syrian origin. He acknowledged during his trial in 1997 that he was recruited and trained to use arms and explosives by the Saudi intelligence. During his trial confession he said that the Saudi intelligence "sent him to Yemen in 1996 as an active Saudi intelligence agent."

He also acknowledged he received $150,000 from the Saudi intelligence to kill the Yemeni Foreign Minister. Documents also revealed that Kosaibati received $14,000 from Muhammad Zouaydi in 1996 and 1997 while living in Sanaa, Yemen on a monthly basis at the request of a lieutenant of Osama bin Laden.

Moreover, Muhammad Zouaydi sustained Islamic charities known as Al Qaeda logistical bases. For example, he sent $227,000 to Nabil Sayadi in Belgium from his company Mushayt for Trading Establishment and through the Saudi National Commercial Bank. Nabil Sayadi is leading the Fondation Secours Mondial (Global Relief Foundation) in Belgium, designated on the UN terror list since October 22, 2002.

The Spanish network has also been able to entertain business relations at the highest level of the Saudi Kingdom.

In 1999, in his capacity of advisor-minister to King Fahd of Saudi Arabia, Abdullah al Turki entered in negotiations to become business partner of Muhammad Zouaydi, Al Qaeda financier for Europe, for a construction project in Madrid, Spain, worth $ 2.3 million. Both agreed to participate as business partners and a contract was written on October 1, 1999 by Muhammad Zouaydi acting as representative of the Spanish company Proyectos y Promociones ISO, stating that both parties will finance 50 percent of the project and split the incomes 70/30 between Abdullah al Turki and Muhammad Zouaydi. As a guaranty for the operation, Muhammad Zouaydi sent a check of $ 1.1 million on September 15, 1999 with Abdullah al Turki as beneficiary. Several documents established that both men had business relations on a regular basis until at least year 2000.

Abdullah al Turki is currently Secretary General of the Muslim World League.

In the Al Qaeda European economic networks, Muhammad Zouaydi (Aka Abu Talha) represents an illustration of the legal financial support. Indeed, Zouaydi is Syrian born and Spanish national. He's graduated in management, and passed years in Saudi Arabia as an accountant for the Royal Family. He is also the brother-in-law of Mohamed Baiahah (Aka Abu Khaled), known as a personal courier of Osama bin Laden in Europe. Finally, he founded a trading company in Saudi Arabia, where he used Waqf donations and false contracts to finance the activities of Al Qaeda cells in Europe.

The Spanish scheme illustrates terrorism financing using donations through a web of legally established companies transferring money through the Islamic Banking System, namely al-Rajhi Bank, National Commercial Bank, Faisal Islamic Bank, and Saudi American Bank.

Charities

Two hundred forty-one Saudi charity organizations are currently operating in Saudi Arabia and abroad.

These organizations receive annually between $3 billion to $4 billion, of which between 10 percent and 20 percent is sent abroad.

Resulting from confused usage of religious tools, several charities centered their efforts, not only on assisting needy around the world, but also in supporting and participating in the political goals of the few that viewed Islam as a way to combat Western influence.

Since September 11, Saudi Arabia has repeatedly stated that charities were legitimate organizations.

Prince Sultan Bin Abdulaziz, Saudi Minister of Defense and an important donor to several of these charities, recently stated that they were "legitimate and well-established Muslim charities."

Such statements are overturned by an array of facts and evidence made available by several countries for the investigation of the September 11 families suggesting that most of these so-called charities were at best fronts of terrorist organizations, if not terrorism backbone, but in any case fictitious charities.

As far as a charity, whatever its initial purpose and the help it is dedicating to the poor and needy, if it engages itself, willingly and knowingly, through its management, members or facilities, in providing substantial support to terrorism, this organization cannot be viewed anymore as legitimate. Otherwise, under which criteria should a donor be assured that the money raised by the organization won't ultimately benefit a terrorist group?

Saudi charities are present at every stage of terrorism.

Saudi charities have provided terrorist organizations with the essential ideological substrate. Most of these organizations have been founded or inspired by radical religious or political leaders. The Muslim World League was created in 1962 by former members of the Egyptian Muslim Brotherhood. His current Secretary General, Abdullah al Turki, is a former Minister of Religious Affairs of Saudi Arabia who was a fellow of Sheikh Abdullah Azzam, Osama bin Laden spiritual mentor who founded in the 1980's the Bait ul Ansar (Mujahideen Services Bureau) in Peshawar, financed by Osama bin Laden and embryo of the Al Qaeda terrorist organization. The International Islamic Relief Organization (IIRO) was founded by Osama bin Laden brother-in-law.

Saudi charities have provided protection and facilities to Al Qaeda members. This trend emerged years ago, since the very foundation of the Al Qaeda network. In documents seized in Bosnia and Herzegovina in 2002 during searches of Benevolence International Foundation offices, and obtained by the September 11 families, charities appear as part of Al Qaeda, fully integrated in its organizational structure to the point of creating a symbiotic relationship with it, acting as umbrellas, safe houses, and military bases for Al Qaeda operatives.

The Saudi Red Crescent maintained passports for Al Qaeda operatives to avoid searches and is referred to as an "umbrella" by Al Qaeda operatives.

An official letter with the heading of the Muslim World League and International Islamic Relief Organization suggest using the name of the "league" (the Muslim World League) as, "an umbrella which you can stay under."

Saudi charities have provided arms and logistics to the Al Qaeda network. A message on the letterhead of the Saudi Red Crescent bureau in Peshawar requests that "weapons" be inventoried. The letter contains a note from Osama bin Laden to its then director stating "we have an extreme need for weapons."

In a letter from Benevolence International Foundation directed to the World Assembly of Muslim Youth, BIF headquarters organizes the collaboration with the Benevolence Islamic Committee along with WAMY to provide military logistical support to Mujahideen efforts.

Saudi charities have provided military bases for Al Qaeda. In an other letter seized in Bosnia-Herzegovina, the Muslim World League asks for the opening of its bureaus "for the Pakistanis," so the "attacks" will be launched from "league" (Muslim World League) offices.

Saudi charities have provided military training for Al Qaeda terrorists. From several intelligence sources and documents collected around the world, the investigation of the September 11 families has been able to establish that several Saudi charities have funded at least 10 terrorist training camps in Afghanistan. The International Islamic Relief Organization (IIRO) funded at least 6 training camps referred as terrorist training camps by the U.S. Government, including the Darunta camp, a facility used for chemical and biological weapons testing.

Saudi charities have provided an essential financial support to Al Qaeda. Since the very beginning of Al Qaeda, Saudi charities have been associated with the financial structures and procedures of the organization. An internal document obtained by the September 11 families contains a list of goals for the organization, in which

are named organizations to be involved in securing money for Al Qaeda, including Rabita Trust and Muslim World League.

Another internal document from BIF, includes a list of orders from Osama bin Laden regarding the management of Islamic charities. At point 10 of this list, he urges the creation of a committee to receive donations and maintain an account and the spending for Al Qaeda, including: "the Crescent (Saudi Red Crescent), the Rabita (the Muslim World League) and the Relief agency."

In a letter signed by Abdullah Azzam, spiritual mentor of Osama bin Laden, it is mentioned that "at the forefront" of Islamic foundations that contributed to the Jihad "through financial support" is the Saudi Red Crescent.

Direct funding was revealed, for example, by former Al Qaeda representative in Southern Asia Omar al Faruq confessions to the U.S. authorities regarding Al Haramain Foundation. Al Faruq stated that "Al Haramain was the funding mechanism of all operations in Indonesia. Money was laundered through the foundation by donors from the Middle East." He also stated that the charity office was working under the control of a representative of Osama bin Laden.

The lack of a transparent financial practice of Saudi charities was notably established during controls of humanitarian organizations conducted by the Bosnian Government. Documents made available by the Bosnian Financial Police show that Al Haramain Islamic Foundation, Benevolence International Foundation, Human Appeal International, International Islamic Relief Organization Igasa, and the High Saudi Committee for Help to BiH, "mostly had cash without bank accounts and proper documentation. A significant amount of money was transferred through personal bank accounts of their employees, and there was no documentation about the way of spending of that money."

Al Haramain Al Masjid Al Aqsa, a sister organization of Al Haramain in Bosnia-Herzegovina still active in the country, had transferred money to Yassin Al Qadi, designated terrorist by the United States, and Wael Julaidan, a Saudi businessman also a designated terrorist, had a signature right over the account of the organization.

It is essentially the lack of internal regulation, along with the Kingdom's inability and unwillingness to control the Islamic charities, that enabled several of them to harbor, employ, or support fundamentalists abroad, using or abusing their statute.

The Saudi Question

Saudi Arabia has become a major concern in the war against terrorism financing, and more generally, in the war against terrorism, as far as the Kingdom is still harboring essential and constitutional elements of Al Qaeda: the ideological substrate, the human vector, and the financial tools.

In June 2001, the late FBI Chief of Antiterrorism, John O'Neill, told me that "All the answers, all the keys enabling us to dismantle bin Laden's network are in Saudi Arabia." Today, all of our leads and much of the evidence collected by the September 11 families put Saudi Arabia on the central axis of terror and shows that this government was aware of the situation, was able to change the path of its organizations, whether banks, businesses or charities, but voluntarily failed to do so. Rather, the Saudi Government repeatedly claimed since at least 1993 that the situation was under control while facilitating the reach and involvement of the charities and the financial institutions of the Kingdom, or inciting its citizens to support the terror fronts when the highest ranking members of the royal family are pouring tens of millions of dollars each year to Islamic charities known for diverting money to Al Qaeda.

We have been able to establish that Saudi Arabia has been repeatedly warned and informed on the extent of the support that the Kingdom's charities were providing to extremist or terrorist groups, but that it obviously failed to act upon this situation.

Saudi Arabia has been fully informed and warned by its United States and European counterparts since at least 1994 that several major charities sponsored by the Kingdom, if not most of its charities, have been involved at various degrees, in supporting terrorism.

- In November 1994, French Interior Minister Charles Pasqua visited Saudi Arabia and met with several officials, including the Saudi Minister of Interior Prince Naif, to express his deep concern on the use of charities for other purposes, including funding of terrorist organizations.
- In 1996, a CIA report indicated that one third of the Islamic charities were linked to terrorism.
- In 1997, a joint security committee to share information on terrorism was established with the United States involving the CIA, the FBI, and the NSA.

- In 1999 and 2000, several United States officials traveled to Saudi Arabia to raise the same concern.

Despite clear warnings, Saudi Arabia's support to charities has been continuous and extensive over the time, even after September 11.

Furthermore, most of the financial infrastructure is still in place, from banks to charities, including front companies and wealthy donors.

While officials of the United States Treasury Department claim Saudi Arabia is the "epicenter" of terrorism financing, the Kingdom has only frozen a ridiculous amount of terrorist funds.

According to the latest figures available, since September 11, 2001, Saudi Arabia has frozen 41 bank accounts belonging to 7 individuals for a total of $5,697,400, or 4 percent of the total amount of terrorist-related funds frozen around the world.

The major issue regarding Saudi Arabia concerns its unwillingness until a recent period, to face Islamic terrorism as a threat. "We have never worried about the effect of these organizations on our country," these are the words of Prince Bandar Bin Sultan in September 2001.

This stand, indeed, had nothing to do with a misconception on the part of Saudi Arabia, it was part of a clear, calculated, and determined policy, followed day-by-day by the highest level of the security apparatus, applied by the business architecture and supported by the rulers of the Kingdom.

The same Saudi official acknowledged that the Kingdom might have paid the price of its own protection. This is a major revelation of our investigation, substantiated by several testimonies, interviews, and documents emanating from Osama bin Laden himself, members of the Saudi governmental apparatus or foreign intelligence. It is believed that since 1994, Saudi Arabia has funneled money to bin Laden for the purpose of his jihad around the world to preserve the political power of the Al-Saud family in the Kingdom. Prince Bandar refuses to call it "protection money," and prefers the notion of, "paying some people to switch from being revolutionaries to be nice citizens," which is leading to the very same consequence.

This trend also reverses a major argument of Saudi Arabia when it claims to be the first target of Al Qaeda. Although bin Laden criticized the Saudi regime in several instances after the first Gulf war, the Kingdom never faced Al Qaeda terrorist threat before May 12 of this year. Osama bin Laden has targeted western interests in the Kingdom while surprisingly avoiding to hurt any symbol of the monarchy. On the contrary, Al Qaeda served for years the very religious interests of its godfather in disseminating the wahhabi ideology in various regions of the world.

The truth is since the beginning of the war against terrorism financing, Saudi Arabia has been misleading the world, and we are still awaiting the Saudis to apply for themselves the very strong message of their ruler, Crown Prince Abdallah, who, in August 2003 made it clear that "whoever harbors a terrorist is a terrorist like him, whoever sympathize with a terrorist is a terrorist like him and those who harbor and sympathize with terrorism will receive their just and deterrent punishment." Saudi Arabia still maintains freely on its soil thousands of individuals or entities who provide financial support to the bin Laden network, and the September 11 families are still waiting for them to be investigated, sought, and prosecuted with the same determination as the one applied to those who were carrying the guns and bombs they have paid for.

The point has been reached where the only alternative is for the Kingdom to show clear evidence of its willingness to terrorize the terrorists, in other words, to dismantle the financial backbone of Al Qaeda, or to face liability for its negligence in acting against the terrorists and their associates. In that regard, the United States Government or the U.S. Congress could take appropriate measures to prevent unlawful actions from established banks, businesses or individuals by considering designating Saudi Arabia as a state sponsor of terrorism, if this state refuses to reverse its policy in three major areas, which more and more appear as roots of terrorism: Wahhabism, with a radical religious doctrine that calls for intolerance and violence; charities, with organizations offering full-service to terrorist organizations, including recruitment of operatives; and finance, with banks, companies, and wealthy businessmen still able to fund radical extremists.

The War Against Terrorism Financing

Until now, the war against terrorism financing has been mainly focused on the end-users entities and individuals, primarily to prevent further use of money for terrorist planning and operations.

While this objective is important, and has been successful in many areas, I doubt it could stand as a longtime pattern to win the war against the Al Qaeda network.

At the operational level, Al Qaeda and its affiliated organizations have been more active since September 11 than in all the history of this terrorist group since its

creation in 1988, with more than 40 bombings claimed by this organization or attributed to its network causing more than 1,000 deaths. Al Qaeda has been able to consolidate and spread its forces through other organizations. On the financial area, the efforts have mainly failed to assess and combat the roots of Al Qaeda.

I see several major obstacles:

- *A legal obstacle,* in the sense that law enforcement agencies are confronted with an array of different criteria and regulations to fight terrorism financing, while state cooperation depends on political will.
- *A cultural obstacle.* International cooperation is undermined by the "national approach" culture of most law enforcement and prosecution bodies around the world. Most of these agencies are focusing their investigations and leads on national-based cells, while avoiding to share information of interest for their counterparts. In the course of our investigation and cooperation process, we experienced various situations where, for example a neighboring country was not aware of the involvement of an Al Qaeda cell on its own territory in Europe. Due to our action, Australia recently took actions against two Islamic leaders affiliated to the Spanish Al Qaeda cell uncovered 1 year and a half ago.
- *An enforcement obstacle,* as far as each state has its own sanction system, and that no international body is to date vested with a sanction mechanism to enforce decisions. During a recent conference, a director of the Financial Action Task Force on Money Laundering stated seriously that the highest sanction level in the organization was for other members to dismiss the uncooperative member-state.
- *Another obstacle* I see is based on political and diplomatic reasons to avoid addressing issues such as the sources of the funds, because they might involve state interests.

The war against those networks will only succeed if there is a clear intention from all the partners involved to disrupt the entire chain of financing, including above all its sources. We can dismantle all the fronts, all the intermediaries and all the channels of terrorism funding; it won't be enough to disrupt its financing as far as we do not cut the roots of it. Otherwise, they will find other ways and means as it is already the case through couriers or alternative systems, for the money to reach the terrorists.

I think time has come to raise these fundamental questions about the war against terrorism financing and its finality.

It is time to go after the shareholders of the Al Qaeda terrorist organization. Several examples are demonstrating that this war has been selective, if not discriminate in avoiding to address its roots.

The Muwafaq Ltd. was incorporated in the Isle of Man in 1991. The same year, Muwafaq Foundation (also known as Blessed Relief) settled in Sudan with Yasin Al-Qadi acting as chairperson. Abdulrahman Bin Mahfouz, son of Khalid Bin Mahfouz, became trustee of Muwafaq Foundation while serving as member of the board and Vice Chairman of the Executive Management Committee of the Saudi National Commercial Bank. Abdulrahman Bin Mahfouz later acknowledged in an interview that Muwafaq Foundation was the "brainchild" of his father, "who funded it with as much as $30 million." Yasin Al-Qadi has been designated as Specially Designated Global Terrorist by the United States on October 12, 2001 and a U.S. Treasury Department statement added that "Muwafaq is an Al Qaeda front that receives funding from wealthy Saudi businessmen" (. . .) "Saudi businessmen have been transferring millions of dollars to bin Laden through Blessed Relief." Khalid Bin Mahfouz acknowledged himself that he was "the principal donor" and founder of the foundation. Yet, he is still at large.

Another example is provided by the Al Aqsa Islamic Bank, based in Palestine. On December 4, 2001, within the framework of the fight against the financial networks of terrorism, the United States announced the freezing of assets of several charities in the United States and two Palestinian financial companies believed to be support structures for the Hamas terrorist movement. One among these, the banking institution Al Aqsa Islamic Bank, was described as the "financial branch of Hamas" by the American authorities.

Yet, the financial sources and shareholders of the bank were not designated. The bank was established with $20 million in capital by several prominent financial groups or institutions, notably the Jordan Islamic Bank and the Saudi Dallah al Baraka Group. The Jordan Islamic Bank is the property of the Dallah al Baraka Group, led by Saleh Abdallah Kamel, shareholder of the same bank Osama bin Laden funded in Sudan via local trustees and companies.

Jordan Islamic Bank, a Dallah al-Baraka subsidiary, owns 14 percent of Al-Aqsa, according to al-Aqsa's acting general manager. In a statement, Saleh Abdullah Kamel acknowledged that Dallah al-Baraka owns another 12 percent directly.

Up until now, no financial measure has been taken against the assets of this Saudi shareholder, reducing the reach of the war against terrorism financing, as far as the financial sources usually use complex and multiple channels of investment.

The war against terrorism financing implies multiple cooperation processes, whether public or private, and relies on a strong commitment to a same and single objective from multiple partners.

To achieve this goal and extend the reach of current investigations, several measures could be taken at the national and international level:

- *Implement preventive actions to preserve the financial institutions.* The war against terrorism financing has implied increased obligations for banking and financial institutions. Most of these institutions are determined to enforce these regulations. They strongly believe that facilitating terrorism-related transactions would have an impact on their reputation and could cost legal actions and financial risks for their own assets. Their most pressing obligation is to be able to identify and check their transactions. This could only be achieved if governments provide enough information, not only on designated entities, but also on suspected entities. In that regard, measures such as preventive freezing of assets of suspected entities or individuals could provide time to fully investigate and enforce sanction measures, while preserving the banking institutions. Secrecy in this field increases risks and uncertainty.
- *Ease designation criteria.* International investigations have identified several key institutions or individuals as cornerstones in terrorism financing, while no specific public action has been taken against them. Easing the designation criteria or implementing specific regulations to such cases could help secure future freezing of assets.
- *Promote international bodies.* Our experience in the field shows that the most important task of the U.S. Government is to promote international cooperation, mutual understanding and common tools to fight this form of transnational terrorism. Most countries in the world are uninformed or not knowledgeable enough to really fight these networks. The implementation of an international information-sharing body is a pressing demand of several important partners of the United States in the war against terrorism. The effort carried out for the September 11 families is also, on a day-to-day basis, to share information with states around the world, that turn to us for that purpose. Our independent and legitimate effort provides a basis for cooperation, whether with states or international organizations. I can announce today that as part of that effort, we will implement in the future months a global organization, in coordination with several states and international organizations, for the purpose of information-sharing in a secure basis. We strongly feel such an initiative is an imperative for the war against terrorism, the international security, the prosecution of those who funneled money to terrorists, and finally for the families who have a right to know and understand.

I will leave my last words to Matthew Sellitto, who lost his son on September 11, 2001. He, more than I can, synthesized our common goal against terrorism financing: "I will see my son again some day and I truly believe he'll ask, 'Dad, when they murdered me, what did you do to find out who murdered me?' Well, I can tell him, look him right in the eye and say I did everything I can . . . to find out who murdered my son, why they murdered my son, who gave them the money to murder my son."

UNTANGLING THE TERROR WEB:

The Need for a Strategic Understanding of the Crossover Between International Terrorist Groups to Successfully Prosecute the War on Terror

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I. Introduction: Networks and Relationships

Pundits and politicians alike tend to think of the war on terror against al-Qaeda as a completely disparate phenomenon from the battle against other terrorist groups. This is, in part, a logical supposition as groups like Hamas and Hezbollah do not belong to the more tight knit family of al-Qaeda-associated terrorist groups. Hezbollah and Palestinian terrorist groups do not conduct joint operational activity with al-Qaeda, and despite some ad hoc cooperation and personal relationships they have no official or institutional links. Nonetheless, these groups are no less benign for their independence from al-Qaeda. Indeed, failure to attack the phenomenon of international terrorism as one issue, as opposed to breaking it up into its component parts, group by group, undermines the overall strength and effectiveness of the war on terror.

Networks and relationships best describe the current state of international terrorism. This matrix of relationships between terrorists who belong to one or another group is what makes the threat of international terrorism so dangerous today. For example, while there are no known headquarters-to-headquarters links between al-Qaeda and Hezbollah, the two groups are known to have held senior level meetings over the past decade and to maintain ad hoc, person-to-person ties in the areas of training and logistical support activities.

Too often people insist on pigeonholing terrorists as members of one group or another, as if such operatives carry membership cards in their wallets. In reality, much of the "network of networks" that characterizes today's terrorist threat is informal and unstructured. Not every al-Qaeda operative has pledged an oath of allegiance (a *bayat*) to Osama bin Laden, while many terrorists maintain affiliations with members of other terrorist groups and facilitate one another's activities. This analysis applies to Palestinian terrorist groups as well. Groups like Hamas have even less concrete connections to the al-Qaeda "network of networks." However, in the area of terrorist financing and logistical support there is significant overlap and cooperation between these and other terrorist groups.

II. Between "Operatives" and "Supporters"

September 11 taught several painful lessons, not the least of which is that those who conduct such support activity are terrorists of the same caliber as those who carry out the attack. Indeed, the one key ingredient that enabled September 11 to happen was the fact that so many individuals and organizations and fronts were able to provide the kind of financial and logistical support for an operation of that magnitude. What enabled all those entities to conduct those support activities was the fact that all too often security, intelligence and law enforcement services – and certainly politicians and diplomats – made a sophomoric distinction between terrorist "operatives" and terrorist "supporters." Several of the September 11 plotters were defined until September 11 as merely terrorist "supporters," not "operatives." It is critical that intelligence agencies focus on the logistical and financial supporters of terrorism, not only because they facilitate acts of terror, but because distinguishing between "supporters" and "operatives" assures that the

plotters of the next terrorist attack – today's "supporters" – will only be identified after they conduct whatever attack they are now planning – and are thus transformed into "operatives." Those who fund or facilitate acts of terrorism are no less terrorists than those who carry out the operation by pulling the trigger, detonating the bomb, or crashing the airplane. September 11 should have taught us how central financial and logistical support networks are to the conduct of international terrorism. Any serious effort to crack down on terrorist financing, so critical to disrupt terrorist activity, demands paying special attention to these support networks.

III. Key Nodes in the Matrix of Terror Financing

A close examination of these networks reveals there are key nodes in this matrix that have become the preferred conduits used by terrorists from multiple terrorist groups to fund and facilitate attacks. Shutting down these organizations, front companies and charities will go a long way toward stemming the flow of funds to and among terrorist groups.

Many critics of the economic war on terrorism mistakenly suggest that because the amount of money that has been frozen internationally is in the low millions very little has actually been accomplished. The dollar amount frozen, however, is a poor litmus test. Terrorist groups will always find other sources of funding. The amount of money frozen and put into an escrow account is not the issue; the issue is shutting down the key nodes through which terrorists raise, launder and transfer funds.

Indeed, similarly unrealistic litmus tests are applied to the war on terrorism itself. Too often people talk about winning the war on terrorism, defeating al-Qaeda, or ending terrorism. Let me be the bearer of bad news: that will not happen. One cannot defeat terrorism. Terrorism, prostitution, drugs -- there are certain infamous business ventures that have always been around and will be around for quite some time. Counterterrorism, therefore, is not about defeating terrorism, it is about constricting the operating environment -- making it harder for terrorists to do what they want to do at every level, such as conducting operations, procuring and transferring false documents, ferrying fugitives from one place to another, and financing, raising, and laundering funds. We need to make it more difficult for terrorists to conduct their operational, logistical and financial activities. We need to deny then the freedom of movement to conduct these activities. In fact, one can so constrict a terrorist group's operating environment that it will eventually suffocate. In its day the Abu Nidal organization was the al-Qaeda of its time, and it no longer exists. A time will come when the primary international terrorist threat will no longer be posed by al-Qaeda, but by then there will be other groups.

If, therefore, we are serious about constricting terrorists' operating environment and cracking down on terrorist financing then we need to look at key nodes in the network of terrorists' logistical support groups. Many of these organizations are not particular to one terrorist group. Unfortunately, two years into the War on Terror, a variety of Middle Eastern terrorist groups and state sponsors of terrorism still receive inconsistent attention despite a sharp rise in their activity. In fact, militant Islamist groups from al-Qaeda to

Hamas interact and support one another in an international matrix of logistical, financial, and sometimes operational terrorist activity. Inattention to any one part of the web of militant Islamist terror undermines the effectiveness of measures taken against other parts of that web.

IV. Links between Terror Groups: The Network of Relationships

September 11 produced a political will, markedly absent after previous attacks, to take concrete action to counter and disrupt the terrorist threat to America and its allies. Yet, while efforts targeting Osama bin Laden and his associates are concerted and continuous, similar efforts are lacking when it comes to other terrorist groups of global reach and state sponsors of terrorism. In the months after September 2001, groups such as Hamas and Hezbollah were placed on new U.S. government terrorism lists, and the primary Hamas front organization in America was shut down. Since then, however, these groups have received only fleeting attention -- usually in the wake of increasingly heinous terrorist attacks. But the links between terrorist groups reveal a matrix of illicit activity on an international scale. Indeed, if authorities are serious about cracking down on terrorist financing, they must not only prevent the purportedly political or social-welfare wings of terrorist groups from flourishing, but must also take concrete steps to disrupt their activities. After all, it is there that the fundraising, laundering, and transferring take place.

Consider the following examples of the terror web:

* The International Islamic Relief Organization (IIRO) finances the activities of a diverse cross-section of international terrorist groups. From 1986 to 1994, bin Laden's brother-in-law Muhammad Jamal Khalifa headed the IIRO's Philippines office, through which he channeled funds to al-Qaeda affiliates, including Abu Sayyaf and the Moro Islamic Liberation Front.[1] In 1999, an IIRO employee in Canada was linked to the Egyptian Islamic Jihad.[2] More recently, official Palestinian documents seized by Israeli forces in April 2002 establish that the IIRO donated at least $280,000 to Palestinian charities and organizations that U.S. authorities have linked to Hamas.[3]

* The al-Taqwa banking system also financed the activities of multiple terrorist organizations, including Hamas. Al Taqwa was added to U.S. terrorism lists in November 2001 for "provid[ing] cash transfer mechanisms for Al Qaida."[4] Subsequent investigation has determined al-Taqwa was established in 1988 with financing from the

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[1] Jay Solomon, "Manila Suspends Talks with Rebels after Allegations of al-Qaeda Links," *Wall Street Journal,* March 12, 2002

[2] *Minister of Citizenship and Immigration v. Mahmoud Jaballah,* Federal Court of Canada, Docket: Des-6-99, November 2, 1999. See also Laurie P. Cohen et al., "Bush's Financial War on Terrorism Includes Strikes at Islamic Charities," *Wall Street Journal,* September 25, 2001

[3] Israel Defense Forces, "Documents Captured by the IDF: Large Sums of Money Transferred by Saudi Arabia to the Palestinians Are Used for Financing Terror Organizations (Particularly the Hamas) and Terrorist Activities (Including Suicide Attacks inside Israel)," May 3, 2002, www.idf.il/saudi_arabia/site/english/main_index.stm

[4] Statement of John B. Taylor, US Department of the Treasury, November 7, 2001, http://www.treas.gov/press/releases/po771.htm

Egyptian Muslim Brotherhood.[5] According to the U.S. Treasury Department, "$60 million collected annually for Hamas was moved to accounts with Bank al-Taqwa."[6] Al-Taqwa shareholders include known Hamas members and individuals linked to al-Qaeda.[7] A 1996 report by Italian intelligence further linked al-Taqwa to Hamas and other Palestinian groups, as well as to the Algerian Armed Islamic Group and the Egyptian al-Gama'a al-Islamiyya.[8]

* Several individual European countries recently joined the United States in freezing the assets of the al Aqsa International Foundation, a Hamas front organization funding "Palestinian fighters" while recording its disbursements as "contributions for charitable projects."[9] Significantly, al Aqsa's representative in Yemen, Mohammed Ali Hasan al-Moayad, was arrested not only for funding Hamas, but also for providing money, arms, communication gear and recruits to al-Qaeda.[10] According to an Israeli report on Hezbollah's global activity, the head of the al Aqsa International Foundation office in the Netherlands indicated the office raised funds for Hezbollah in coordination with the group's main office in Germany.[11]

* U.S. officials contend that, shortly after Palestinian violence erupted in September 2000, Iran assigned Imad Mughniyeh, Hezbollah's international operations commander, to help Palestinian militant groups, specifically Hamas and Palestinian Islamic Jihad (PIJ).[12] According to a former Clinton administration official, "Mugniyeh got orders from Tehran to work with Hamas."[13] In fact, in the March 27, 2002, "Passover massacre" suicide bombing, Hamas relied on the guidance of a Hezbollah expert to build an extra-potent bomb.[14] In June 2002, Iran gave PIJ a 70 percent increase in funds, and Tehran continues to train terrorists at camps in Lebanon's Beka'a Valley and in Iran proper.[15] Iran also provides safe haven to senior al-Qaeda fugitives who head the group's military

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[5] "The United States and Italy Designate Twenty-Five New Financiers of Terror," Department of the Treasury Office of Public Affairs, PO-3380, August 29, 2002, http://www.ustreas.gov/press/releases/po3380.htm

[6] Testimony of Juan C. Zarate, Deputy Assistant Secretary, Terrorism and Violent Crime, U.S. Department of the Treasury, House Financial Subcommittee Oversight and Investigations, February 12, 2002

[7] Lucy Komisar, "Shareholders in the Bank of Terror?" Salon.com, March 15, 2002; and Mark Hosenball, "Terror's Cash Flow," Newsweek, March 25, 2002

[8] Ibid

[9] "Treasury Designates Al-Aqsa International Foundation as Financier of Terror: Charity Linked to Funding of the Hamas Terrorist Organization," Department of the Treasury, Office of Public Affairs, http://www.treas.gov/press/releases/js439.htm

[10] USA vs. MOHAMMED ALI HASAN AL-MOAYAD, Affidavit in Support of Arrest Warrant, Eastern District of New York, January 5, 2003

[11] "Hezbollah: Profile of the Lebanese Shiite Terrorist Organization of Global Reach Sponsored by Iran and Supported by Syria," Intelligence and Terrorism Information Center, The Center for Special Studies, Special Information Paper, June 2003, http://www.intelligence.org.il/eng/bu/hizbullah/hezbollah.htm

[12] Douglas Frantz and James Risen, "A Secret Iran-Arafat Connection is Seen Fueling the Mideast Fire," *The New York Times*, March 24, 2002

[13] Ibid.

[14] Molly Moore and John Ward Anderson, "Suicide Bombers Change Mideast's Military Balance," *Washington Post*, August 17, 2002

[15] Ali Nouri Zadeh, "Islamic Jihad, Hamas, and the Palestinian Authority Meet in Iran," *al-Sharq al-Awsat* (London), June 8, 2002

committee, as well as to dozens of other al-Qaeda personnel.[16] According to an Arab intelligence officer, some al-Qaeda operatives were instructed to leave the country, but were told that "they may be called on at some point to assist Iran."[17]

IV-a. ***Networks of Relationships Case Study: Abu Musab al Zarqawi***

Following Secretary of State Colin Powell's February 6 address to the United Nations Security Council, some questioned his description of the "sinister nexus between Iraq and the al-Qaeda terrorist network."[18] In fact, the relationship between Baghdad and terrorism mirrors the way in which today's international terrorist groups function: not as tightly structured hierarchies, but rather as shadowy networks that, when necessary, strike ad hoc tactical alliances bridging religious and ideological schisms. Osama bin Laden's calls on Muslims to come to Iraq's defense, even as he derided the "infidel" regime in Baghdad, are a case in point.[19]

One of the more active terrorist networks in recent years has been that of Abu Musab al-Zarqawi. At least 116 terrorist operatives from Zarqawi's global network have been arrested, including members in France, Italy, Spain, Britain, Germany, Turkey, Jordan, and Saudi Arabia.[20] For example:

Turkey: Two Palestinians and a Jordanian who entered Turkey illegally from Iran on their way to conduct bombing attacks in Israel were intercepted and arrested by Turkish police on February 15, 2002. The three men were members of Beyyiat al-Imam (a group linked to al-Qaeda) who fought for the Taliban and received terrorist training in Afghanistan; Zarqawi dispatched them to Turkey while he was in Iran.[21]

Germany: Although the al-Tawhid terrorist cell apprehended in Germany in April 2002 has been tied to Abu Qatada in Britain, Zarqawi controlled its activities. Eight men were arrested, and raids yielded hundreds of forged passports from Iran, Iraq, Jordan, Denmark, and other countries. According to German prosecutors, the group facilitated the escape of terrorist fugitives from Afghanistan to Europe and planned to attack U.S. or Israeli interests in Germany.[22]

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[16] Peter Finn, "Al-Qaeda Deputies Harbored by Iran: Pair Are Plotting Attacks, Sources Say," *Washington Post*, August 27, 2002. See also "According to Reliable Arabic Security Sources, Arrested Members of al-Qaeda Uncovered, Iran Harboring Bin Laden's Aides," *al-Sharq al-Awsat* (London), August 29, 2002

[17] Ibid.

[18] Secretary of State Colin Powell, Remarks to the United Nations Security Council, February 5, 2003. Available online: www.state.gov/secretary/rm/2003/17300.htm

[19] Audio Message by Osama bin Laden, broadcast on al-Jazeera Television on February 11, 2003. See BBC transcript, http://news.bbc.co.uk/2/hi/middle_east/2751019.stm

[20] Secretary of State Colin Powell, Remarks to the United Nations Security Council, February 5, 2003. Available online: www.state.gov/secretary/rm/2003/17300.htm

[21] Douglas Frantz and James Risen, "A Secret Iran-Arafat Connection is Seen Fueling the Mideast Fire," *The New York Times,* March 24, 2002, and David Kaplan, "Run and Gun: Al Qaeda Arrests and Intelligence Hauls Bring New Energy to the War on Terrorism," *U.S. News and World Report*, September 30, 2002

[22] Philipp Jaklin and Hugh Williamson, "Terror Suspects Detained in Germany," *Financial Times,* April 24, 2002; Edmund L. Andrews, "German Officials Find More Terrorist Groups, and Some Disturbing

Jordan: While in Syria, Zarqawi planned and facilitated the October 2002 assassination of U.S. Agency for International Development official Lawrence Foley in Amman.[23] Jordanian prime minister Abu Ragheb Ali announced that the Libyan and Jordanian suspects arrested in December in connection with the attack received funding and instructions from Zarqawi and had intended to conduct further attacks against "foreign embassies, Jordanian officials, some diplomatic personnel, especially Americans and Israelis."[24] Moreover, during his UN address, Powell revealed that after the murder, an associate of the assassin "left Jordan to go to Iraq to obtain weapons and explosives for further operations."[25] In addition, a key Zarqawi deputy called Foley's assassins on a satellite phone to congratulate them while he was driving out of Iraq toward Turkey, a mistake that led to his capture and confirmation that an al-Qaeda cell was operating out of Iraq.[26]

Poison plots: Powell also disclosed that Abuwatia, a detainee who graduated from Zarqawi's terrorist camp in Afghanistan, admitted to dispatching at least nine North African extremists to Europe to conduct poison and explosive attacks.[27] European officials maintain Zarqawi is the al-Qaeda coordinator for attacks there, where chemical attacks were thwarted in Britain, France and Italy.[28] Similarly, Director of Central Intelligence George Tenet has stated that the Zarqawi network was behind poison plots in Europe this year.[29]

Although Zarqawi's active role in organizing terrorist operations suggests that he himself is a major terrorist leader, it is useful to clarify his links to other groups so as to better understand how international terrorism works. There is no precise organizational or command structure to the assemblage of groups that fall under al-Qaeda's umbrella or that cooperate with the organization. Hence, whether Zarqawi swore allegiance (*bayat*) to bin Laden makes little difference in whether the two would work together at promoting a common agenda.

The range of actors who have given Zarqawi safe haven and support clearly illustrate the current modus operandi of terrorist networks. Consider his movements since he first,

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Parallels," *The New York Times,* April 26, 2002

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[24] "Al-Qaeda man behind murder of US diplomat hiding in northern Iraq: Jordan," *Agence France Presse*, December 18, 2002

[25] Secretary of State Colin Powell, Remarks to the United Nations Security Council, February 5, 2003. Available online: www.state.gov/secretary/rm/2003/17300.htm

[26] Ibid.

[27] Ibid.

[28] Elaine Sciolino and Desmond Butler, "Europeans Fear That the Threat From Radical Islamists Is Increasing," *The New York Times,* December 8, 2002.

[29] *Worldwide Threat—Converging Dangers in a Post-9/11 World: Testimony of Director of Central Intelligence George J. Tenet before the Senate Select Committee on Intelligence,* February 6, 2002. Available online: http://www.cia.gov/cia/public_affairs/speeches/2002/dci_speech_02062002.html

surfaced as a terrorist suspect in 1999, when he led Jund al-Shams, an Islamic extremist group and al-Qaeda affiliate operating primarily in Syria and Jordan.[30]

Jordan: Zarqawi has been a fugitive since 1999 when Jordanian authorities first tied him to radical Islamic activity leading Jund al-Shams. In 2000, a Jordanian court sentenced him in absentia to 15 years of hard labor for his role in the millennial terror plot targeting Western interests in Jordan.[31]

Taliban-ruled Afghanistan: In 2000, Zarqawi traveled to Afghanistan, where he oversaw an al-Qaeda training camp and worked on chemical and biological weapons.[32] Such camps served as open universities, educating terrorists from a wide array of local and international groups. These students in turn established relationships and networks, like the anti-Soviet mujahedin before them. With every success in the war on terrorism, such networks become increasingly essential to al-Qaeda, providing a new cadre of terrorist operatives.

Iran and Iraq: In early 2002, Zarqawi was wounded in the leg while fighting against U.S.-led coalition forces in Afghanistan. He escaped to Iran, then traveled to Iraq in May 2002, where his wounded leg was amputated and replaced with a prosthetic device. According to Secretary Powell, Zarqawi then spent two months recovering in Baghdad, during which time "nearly two dozen extremists converged on Baghdad and established a base of operations there. These al-Qaeda affiliates, based in Baghdad, now coordinate the movement of people, money, and supplies into and throughout Iraq for his network, and they've now been operating freely in the capital for more than eight months."[33] Prior to the war in Iraq, Zarqawi had returned to the Ansar al-Islam camp in northern Iraq run by his Jund al-Shams lieutenants. There, he enjoyed safe haven and free passage into and out of Ansar-held areas.[34] Zarqwawi is now said to be back in Iran, where he continues to operate with the full knowledge of the regime in Tehran.[35]

Syria and Lebanon: From Baghdad, Zarqawi traveled to Syria and possibly Lebanon.[36] U.S. intelligence officials have definitively linked Zaraqawi to Hezbollah, magnifying their concerns about the ad hoc tactical relationship brewing between Iran's Shi'i proxy and the loosely affiliated al-Qaeda network.

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[30] "Treasury Designates Six Al-Qaeda Terrorists," US Department of the Treasury press release (JS-757), September 24, 2003. Available online: http://www.treasury.gov/press/releases/js757.htm

[31] "Al-Qaeda man behind murder of US diplomat hiding in northern Iraq: Jordan," *Agence France Presse*, December 18, 2002.

[32] Secretary of State Colin Powell, Remarks to the United Nations Security Council, February 5, 2003. Available online: www.state.gov/secretary/rm/2003/17300.htm

[33] Ibid.

[34] Ibid.

[35] *Al-Sharq al-Awsat*, June 1, 2003; A European intelligence official subsequently confirmed this report in an interview with the author, September 2003.

[36] David E. Kaplan, Angie Cannon, Mark Mazzetti, Douglas Pasternak, Kevin Whitelaw, Aamir Latif, "Run and Gun," *U.S. News and World Report*, September 30, 2002, p. 36.

Last month, when U.S. authorities designated Abu Musab al Zarqawi and several of his associates as "Specially Designated Global Terrorist" entities, they revealed that Zarqawi not only has "ties" to Hezbollah, but that plans were in place for his deputies to meet with Asbat al Ansar, Hezbollah "and any other group that would enable them to smuggle mujaheddin into Palestine" in an effort "to smuggle operatives into Israel to conduct operations."[37] Zarqawi received "more than $35,000" in mid 2001 "for work in Palestine," which included "finding a mechanism that would enable more suicide martyrs to enter Israel" as well as "to provide training on explosives, poisons, and remote controlled devices."[38]

At the same time, the Zarqawi network was planning attacks on Jewish or Israeli targets in Europe. According to the Treasury Department, Zarqawi met an associate named Mohamed Abu Dhess in Iran in early September 2001 "and instructed him to commit terrorist attacks against Jewish or Israeli facilities in Germany with 'his [Zarqawi's] people'."[39]

V. Targeting the Logistical and Financial Support Network

A key lesson learned so painfully on September 11 is that counterterrorism efforts must target logistical cells with the same vigor as operational cells. The September 11 attacks could never have been executed without the logistical assistance of a sophisticated and well-entrenched support network. The nineteen hijackers were funded and facilitated by dozens of individuals, cells, front organizations, and affiliates that provided essential logistical support. Long-term logistical planning also went into the bombing of the USS Cole and the embassies in East Africa.

Accordingly, an individual, group, or state that provides funds, travel documents, training, or other support for terrorist activity is no less important to a terrorist network than the operative who detonates the bomb, pulls the trigger, or crashes the airplane. Among the terrorists subsequently linked to the September 11 plot are a disturbing number of individuals in an alarming number of countries who, while previously known to authorities as Islamic extremists (and in some cases the subjects of surveillance), were not assigned the priority they deserved because they were merely "terrorist supporters," not actual "terrorist operatives." Similarly, low priority was assigned to eliminating the permissive operating environment provided by states that allow terrorists to maintain facilities on their territory, largely on the grounds that these states did not themselves directly plan and execute terrorist attacks.

Despite an impressive collection of statements from senior administration officials and from President George W. Bush himself (e.g., "there are no good terrorists" and "if you

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[37] "Treasury Designates Six Al-Qaeda Terrorists," US Department of the Treasury press release (JS-757), September 24, 2003. Available online: http://www.treasury.gov/press/releases/js757.htm
[38] Ibid.
[39] Ibid.

house a terrorist, you are a terrorist"),[40] such rhetoric has not been followed by a fully articulated policy or persistent action against the operational and logistical network of terror groups and sponsors outside of the al-Qaeda fold. Syria and Iran continue to sponsor terrorism at a frenetic pace; the Palestinian Authority, Saudi Arabia, Yemen, and Lebanon publicly support terrorist groups without sanction; groups like the Muslim Brotherhood in Egypt and the Islamic Action Front in Jordan vocally and actively support terrorist groups;[41] and Hezbollah, Hamas, PIJ, and other terrorist groups continue to raise funds, smuggle weapons, recruit operatives, and carry out gruesome attacks.

VI. The Matrix of International Terror in Context: the War on Terror, Israeli-Palestinian Conflict, and War in Iraq

Three critical and interrelated national security priorities currently dominate the U.S. foreign policy agenda. Indeed, each is made that much more difficult to navigate by the complicating factor of the dizzying matrix of relationships between various terrorist groups, fronts, and members that define international terrorism today.

Again, consider a few examples:

* *War on Terror: Working Through Organizational Crossover*

Hamas funding comes from sources closely tied to other groups, especially al-Qaeda. Take for example Muhammad Zouaydi, a senior al-Qaeda financier in Madrid whose home and offices were searched. Spanish investigators found a five-page fax dated October 24, 2001, revealing Zouaydi was not only financing the Hamburg cell responsible for the September 11 attacks, but also Hamas. In the fax, which Zouaydi kept for his records, the Hebron Muslim Youth Association solicited funds from the Islamic Association of Spain. According to Spanish prosecutors, "the Hebron Muslim Youth Association is an organization known to belong to the Palestinian terrorist organization Hamas which is financed by activists of said organization living abroad." Spanish police also say Zouaydi gave $6,600 to Sheikh Helal Jamal, a Palestinian religious figure in Madrid tied to Hamas.[42]

U.S. authorities detained Abdurahman Muhammad Alamoudi, head of the American Muslim Foundation, on charges he was engaging in financial transactions with Libya, a state sponsor of terror subject to U.S. sanctions. According to court documents, $340,000 in cash was seized from Alamoudi on August 16, 2003, as he attempted to board a plane in London bound for Damascus. An unidentified Libyan delivered the cash to Alamoudi in his hotel room the previous night. According to the Bureau of Immigration and Customs Enforcement (ICE), the money may have been "intended for delivery in

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[40] "President Shares Thanksgiving Meal with Troops," text of President George W. Bush's remarks to troops and families, Fort Campbell, Kentucky, November 21, 2001, www.whitehouse.gov/news/releases/2001/11/20011121-3.html

[41] See, for example, Matthew Levitt, "Diplomacy Run Amuck," *The Jerusalem Post*, October 8, 2002

[42] Central Trial Court No. 5, Spanish National High Court (*Audiencia Nacional*), CASE 35/2002 (ordinary procedure), Don Baltasar Garzon Real, Magistrado Juez del Juzgado Central de Instrucción July 19, 2002

Damascus to one or more of the terrorists or terrorist organizations in Syria." Alamoudi has publicly lauded Hezbollah and Hamas, expressed his preference for attacks that "hit a Zionist target in America or Europe or elsewhere but not like what happened at the Embassy in Kenya," and was an officer of charities in Northern Virginian tied to Hamas and al-Qaeda.[43] Alluding to Hamas, Assistant U.S. Attorney Steve Ward added that "in addition to dealing with Libya, [Alamoudi] has a more direct connection with terrorist organizations designated by the United States government."[44]

Such crossover between funding for Hamas and al-Qaeda was recently exposed in the case of Soliman Biheiri, the first person to be prosecuted in a massive investigation into terrorist financing in Northern Virginia. Biheiri, described by U.S. officials as "the U.S. banker for the Muslim Brotherhood," headed a since defunct investment company called BMI Inc in New Jersey.[45] The original investors in the company, suspected of financing Hamas, al-Qaeda and perhaps other designated terrorist groups, include Yassin al Qadi and Hamas leader Mousa Abu Marzook (both listed as Specially Designated Global Terrorists by the U.S. government), as well as Abdullah Awad bin Laden (Osama Bin Laden's nephew and the former head of WAMY in the U.S.).[46]

* *Iraq: Foreign Jihadists and Domestic Baathists Teaming Up to Attack Americans*

These seeds of a pluralistic society in Iraq are now being uprooted - even as coalition forces try to plant them - by swarms of radicals from across the Muslim world who enter Iraq primarily from Syria and Iran but also from Saudi Arabia, to take advantage of Iraq's newfound status as a failing state. Iraq has now become a magnet drawing Baathists, Sunni terrorists, Shia radicals and others opposed to the development of a peaceful, pluralistic society in Iraq, much like Afghanistan, Somalia, parts of Yemen, Georgia's Pankisi Gorge, Chechnya and other undergoverned territories.

These include individual radicals and terrorist groups, but also neighboring states, such as Syria and Iran, both of which allow terrorist elements to cross their borders into Iraq. U.S administrator Paul Bremer, also a noted authority on international terrorism, recently told CNN, "We've certainly seen foreign fighters who sort of fit the al-Qaeda profile - people traveling on documents from Syria, Yemen, Sudan, in some cases Saudi Arabia, some of the terrorist groups we've attacked in the west of the country."[47]

According to press reports, coalition Intelligence agencies intercepted conversations between radical Islamists from Saudi Arabia and Iraqi Baathists. Officials were

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[43] Declaration in Support of Detention, USA v. Abdurahman Muhammad Alamoudi, case No 03-1009M, Alexandria Division, Eastern District of Virginia, September 30, 2003.
[44] Douglas Farah, "US Says Activist Funded Terrorists; Leader of Muslim Groups Denied Bail," *The Washington Post*, October 1, 2003.
[45] Glenn R. Simpson, "The U.S. Provides Details of Terror-Financing Web Defunct Investment Firm In New Jersey Is the Hub; Suspect to Stay in Custody," *The Wall Street Journal*, September 15, 2003.
[46] Ibid.
[47] "Bremer says Hundreds of 'international terrorists in Iraq," *Agence France Presse*, August 24, 2003.

reportedly surprised by this, noting the conservative fundamentalist ideology of Saudi extremists, while Baathists are more often moderate if not secular Muslims.[48]

But such cooperation borne of opportunism and a narrow mutual interest in targeting coalition forces should be no surprise. Almost as soon as coalition forces crossed into Iraq, reports leaked out of thousands of Arab irregular forces - some volunteers, some members of terrorist groups like Palestinian Islamic Jihad, Hezbollah and Fatah splinter groups - crossing the Syrian border into Iraq to battle coalition forces. Coalition commanders commonly referred to these irregulars as "Syrians" because most of them were Syrian, and most who weren't carried Syrian travel documents, in some cases specifically marked "reason for entry: Jihad. Length of stay: Indefinite."[49] In one case, US military forces captured a large group of Syrians and confiscated seventy suicide jackets - each filled with twenty-two pounds of military grade C4 explosives, and mercury detonators.[50] In another case, soldiers found several hundred thousands dollars on a bus that came from Syria, together with "leaflets suggesting that Iraqis would be rewarded if they killed Americans."[51] Syrian Foreign Minister Farouq al-Shara explained his country's facilitating terrorists' travel to Iraq by asserting quite plainly, "Syria's interest is to see the invaders defeated in Iraq."[52] In case some planners were still unclear on the developing trend, Osama Bin Laden issued a tape-recorded message to the "mujahideen brothers in Iraq" in February stressing "the importance of the martyrdom operations against the enemy."[53] Most recently, Sunni clerics meeting in Stockholm in mid-July at a conference of the European Council for Fatwa and Research approved the use of suicide attacks in Iraq (and Palestine and Kashmir).[54]

* *Israeli-Palestinian Conflict: Likely Cross-group Cooperation in Gaza Bombing*

The recent bombing of a U.S. convoy in Gaza on October 15, 2003, which killed three American contract employees of the U.S. embassy in Tel Aviv and injured a fourth, was neither unprecedented nor unexpected. Indeed, U.S. embassy employees narrowly escaped injury in a similar attack last June, when unknown assailants detonated two bombs near their vehicle.[55] No group has claimed responsibility for the October 15 attack. But Palestinian security officials quickly arrested several members of the Popular Resistance Committee (PRC), a conglomeration of former and current members of Fatah, Islamic Jihad, Hamas and the various Palestinian security forces. Whether the PRC is responsible is unclear. But such a strike would certainly be in keeping with its methods:

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[48] Raymond Bonner, "The Struggle for Iraq: Weapons; Iraqi Arms Caches Cited in Attacks," *The New York Times*, October 13, 2003

[49] Luke Hunt, "Evidence of Iraq's 'terrorist ties' mounts, but bin Laden link elusive," *Agence France Presse*, April 16, 2003.

[50] Ibid.

[51] Bernard Weinraub, "Fighters from Syria Among Iraqi Prisoners in an American Camp," *The New York Times*, April 19, 2003.

[52] Agence France Presse, 31 March 2003.

[53] Audio Message by Osama bin Laden, broadcast on al-Jazeera Television on February 11, 2003. See BBC transcript, http://news.bbc.co.uk/2/hi/middle_east/2751019.stm

[54] Arnaud de Borchgrave, "Clerics OK suicide-bombers," *United Press International*, August 15, 2003.

[55] Margot Dudkevitch, "IDF thwarts two suicide bombings," *Jerusalem Post*, June 29, 2003

The group's most daring and successful attack was a February 14, 2002 roadside bombing that demolished an Israeli armored tank. Indeed, that attack was executed with the assistance of a Hezbollah agent who infiltrated Palestinian territory to provide the PRC with technical and operational advice.[56]

Although Hezbollah has not killed Americans recently, it does target them, as CIA Director George Tenet testified in February 2002.[57] Moreover, according to statements by captured operatives and other information made public by Israeli intelligence, Hezbollah and Lebanon-based operatives from Iran's Islamic Revolutionary Guard Corps have recruited a network of rogue Fatah cells to serve as Hezbollah's West Bank cadres.[58] Hezbollah is particularly well known for its skill at manufacturing and placing sophisticated roadside bombs, a skill the group has now transferred to the West Bank and Gaza. Aside from Hezbollah's role in the aforementioned 2002 tank bombing, Israeli authorities discovered a type of mine that had previously been used only by Hezbollah in Lebanon in Hebron in mid-2002. Israeli authorities conducting a search in Hebron during that same month arrested Fawzi Ayub, a Hezbollah operative who had entered the territories by sea using a Canadian passport.[59]

Recently released information indicates that the Mombassa attacks were no aberration, and that al-Qaeda is also intent on entering the Israeli-Palestinian arena. In August, Israel submitted a report to the UN stating that it had thwarted several attempts by al-Qaeda operatives carrying foreign passports to enter Israel in order to gather intelligence and conduct attacks.[60] Israel also noted that it had captured Palestinians recruited by al-Qaeda abroad to conduct attacks in Israel. Moreover, pamphlets signed by the "Bin Laden Brigades of Palestine" have been found in Palestinian areas encouraging Palestinians to continue "in the footsteps of Osama bin Laden."[61] Last month, such reports found support in the United States: The U.S. Treasury Department highlighted al-Qaeda plans and funding for attacks in Israel, including "training on explosives ... and remote-controlled devices" such as the one employed this week.[62]

Regardless of who conducted the October 15 Gaza bombing, it highlights the increasingly international nature of the Israeli-Palestinian conflict. Yet while Western nations have taken a unified stance against al-Qaeda, European nations especially have

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[56] James Bennet, "Israeli Killed As His Commandos Demolish West Bank House," *The New York Times*, February 16, 2002

[57] *Worldwide Threat—Converging Dangers in a Post-9/11 World: Testimony of Director of Central Intelligence George J. Tenet before the Senate Select Committee on Intelligence,* February 6, 2002. Available online: http://www.cia.gov/cia/public_affairs/speeches/2002/dci_speech_02062002.html

[58] Matthew Levitt, "Hezbollah's West Bank Foothold," *Peacewatch* #429 , The Washington Institute for Near East Policy, August 20, 2003. Available online: http://www.washingtoninstitute.org/watch/Peacewatch/peacewatch2003/429.htm

[59] "Hezbollah (part 1): Profile of the Lebanese Shiite Terrorist Organization of Global Reach Sponsored by Iran and Supported by Syria," Intelligence and Terrorism Information Center at the Center for Special Studies, Israel, June 2003; and author interview with intelligence sources, July 2003.

[60] Anna Driver, "Israel Says al Qaeda Active in Palestinian Areas," *Reuters*, August 5, 2003.

[61] Ibid.

[62] "Treasury Designates Six Al-Qaeda Terrorists," US Department of the Treasury press release (JS-757), September 24, 2003. Available online: http://www.treasury.gov/press/releases/js757.htm

been more muted in regard to Palestinian groups and their regional allies. In the wake of this attack, U.S. officials would do well to press European and Middle Eastern partners to join Washington in redoubling efforts to delegitimize terrorist groups who purport to fight in the name of Palestinian nationalism.

VI-a. ***Matrix of International Terror Case Study: Hamas and al-Qaeda***

A recent column penned by the Washington Post Ombudsman Michael Getler ["The Language of Terrorism," Sep 21, 2003] is a cogent and articulate example of how people still misunderstand the nature of international terrorism even two years into the war on terror.

Getler set out to explain the Post's policy of describing the perpetrators of Palestinian suicide and other attacks as "militants" or "gunmen" while those who execute attacks in the name of al-Qaeda are identified as "terrorists." But in his effort to justify the Post's editorial guidelines Getler adopted the popular and alluring though erroneous theory that one can differentiate not only between good and bad terrorists groups but also between groups' charitable and military "wings."

Getler describes Hamas as a "nationalist movement" engaged in "some social work" while maintaining that "as far as we know, al-Qaeda exists only as a terrorist network." Hamas politics or social work, however, cannot excuse the terror tactics it employs in blowing up innocent civilians on public buses. But Hamas is also much more than a local, nationalist group. In response to the war in Iraq, which he described as "a new crusade against the Muslim nation," Hamas leader Sheikh Ahmed Yassin called on Muslims worldwide to "strike Western interests…everywhere."[63] To be sure, Hamas is active internationally. According to a recently released 1996 CIA document, a Hamas operative in Croatia plotted terror attacks there in 1993 and used a local charity office and mosque to "promote ideas for terrorist acts." The same report notes that the local International Islamic Relief Organization (IIRO) office employed "the majority of Hamas members in the Philippines" and that Hamas meetings were led by a "high ranking" IIRO official.[64] The IIRO has since been identified as an al-Qaeda front organization with links to Hamas and other groups.

Not only is Hamas more global and inclined to al-Qaeda-style jihadism than Getler claims, but al-Qaeda is more heavily involved in Hamas-style social service activities than he suggests. Like Hamas, al-Qaeda front organizations like the IIRO, al Haramain Islamic Foundation, Muslim World League and others provide funds and services for needy Muslims while laundering funds for terror attacks, financing the radicalization and recruitment of Muslim youth, and providing operatives with day jobs, safe houses and meeting places. German officials have linked al-Haramain to terrorist activity in Berlin, where a Saudi diplomat confessed to doling out embassy funds through al Haramain

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[63] Eliane Shannon and Timothy J Burger, "New Targets for Hamas?" *Time*, March 16, 2003.
[64] Author's personal files; the document is referenced in Glenn Simpson, "Officials Had Information Many Years Before 9/11 Attacks, Report Indicates," *Wall Street Journal*, May 9, 2003.

according to the instructions of "close friends" of bin Laden.[65] Similarly, Omar al-Farouq, al-Qaeda's operational point man in Southeast Asia, confessed that al-Qaeda operations there were funded through al-Haramain. According to al-Farouq, "money was laundered through the foundation by donors from the Middle East."[66]

Logistical and financial support networks such as these commonly display significant overlap and cooperation even among groups like Hamas and al-Qaeda, which traditionally do not engage in cooperative operational activity. Many al-Qaeda fronts (like Bank al Taqwa and the IIRO) and cells (like the one broken up in Madrid) raised, laundered and transferred funds for Hamas. Indeed, Sheikh Mohammad Ali Hassan al Moayad, head of the Yemen office of a Hamas front organization, was arrested in Germany for providing money, arms, communication gear, and recruits to al-Qaeda.

Getler also attempts to distinguish between the social and military "wings" of Hamas. But experts like David Aufhauser, the outgoing general counsel to the Treasury Department and chair of the National Security Council's policy coordinating committee on terrorist financing, disagree. Aufhauser describes the logic of making distinctions between terrorist groups' charitable and military wings as "sophistry," adding, "the idea that there's a firewall between the two defies common sense."[67] Indeed, like Hamas, al-Qaeda proactively muddies the waters between charitable giving and terrorism precisely because charities provide a veneer of legitimacy and serve as ideal fronts for covert activity.

For example, Hamas social organizations play a direct role in facilitating terrorist attacks, including suicide bombings. Hamas is known to use hospitals it maintains as meeting places; to bury caches of arms and explosives under its own kindergarten playgrounds; to use social activists' cars and homes to ferry and hide fugitives; and to transfer and launder funds for terrorist activity through local charity committees. The people running these organizations are often closely tied to the group's terror cells. To cite just one example cited by the FBI, Ahmed Salim Ahmed Saltana, head of the Jenin Charity Committee, was involved in transferring bomb making materials for the preparation of explosives in 1992, participated in a car bombing in 1993, and recruited young men working for the charity committee into Hamas.[68]

The link between terror attacks and those who fund them is well documented. For example, FBI Assistant Director John Pistole recently testified to Congress that FBI

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[65] Michael Isikoff with Stephan Theil, "Saudi Government: Bin Laden Loyalists: How High Do They Go?" *Newsweek*, May 5, 2003.
[66] Romesh Ratnesar, "Confessions of an Al-Qaeda Terrorist," *Time*, September 15, 2002. Available online: www.time.com/time/magazine/printout/0,8816,351194,00.html
[67] "US berates Europe for ambiguous stand on Hamas," *Reuters*, November 27, 2002.
[68] "Holy Land Foundation for Relief and Development, International Emergency Economic Powers Acts, Action Memorandum," FBI Memorandum from Mr. Dale L Watson, Assistant Director for Counterterrorism, FBI, to Mr. R. Richard Newcomb, Director of the Office of Foreign Assets Control, Department of Treasury (November 15, 2001)

investigations into the financial activities of terrorist supporters in the United States helped prevent four different terror attacks abroad.[69]

Palestinians face dire social welfare needs unaddressed by the Palestinian Authority, creating an opportunity Hamas eagerly exploits. Tolerating this exploitation – and the concurrent radicalization of Palestinian society – hinders both Israeli-Palestinian peace and Palestinian humanitarian assistance. The charitable societies, schools, mosques and hospitals run by Hamas vocally glorify suicide attacks and preach hate in sermons, lessons, posters, songs and more. In a sign of Hamas' successful radicalization of Palestinian society, Palestinian charitable groups refuse to sign a U.S. drafted pledge certifying they have "not provided and will not provide material support or resources to any individual or entity" they know is sponsoring, planning, or engaging in terrorist activity.[70]

Getler's attempt to draw fictional distinctions between terrorists amounts to shallow and semantic sophistry. As Aufhauser recently testified, it is this flawed attitude which leads countries to "stand on the sidelines refusing to act because the purpose of acts of terror are believed to be politically laudable, not withstanding the moral obscenity of the means of reaching any such goal."[71]

To be sure, we cannot tolerate contrived excuses for Hamas or any other terrorist groups – they are indeed all morally obscene.

VII. The Terror Matrix as an Impediment to Fighting the War on Terror

Failure to understand the crossover and cooperation between international terrorist groups has already undermined efforts to prosecute the war on terror, both on the global battlefield and in the courtroom.

Once more, consider some examples:

* *Frustrating the War on Terror Financing*

A senior delegation of U.S. Treasury officials traveled to Europe in November 2002 to solicit European cooperation in a trans-Atlantic effort to block the international assets of about a dozen of the most egregious terror financiers. The effort failed, because European officials were unsatisfied that the majority of evidence the Americans presented to support their request focused on these financiers' support of groups like Hamas. Material pointing to their financing of al-Qaeda activities was limited out of fear of exposing sensitive sources and methods behind such intelligence, while evidence of

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[69] Testimony of John Pistole before Senate Committee on Banking, Housing and Urban Affairs, September 25, 2003.
[70] Charles A. Radin, "USAID Palestinian Funds Frozen, Groups Won't Sign Antiterrorism Pact," *The Boston Globe*, September 6, 2003.
[71] Testimony before the Senate Committee on Banking, Housing and Urban Affairs, September 25, 2003, available at http://www.treas.gov/press/releases/js760.htm

their funding Hamas was more readily available. The Americans were told they would have to produce evidence these financiers were funding more than just Hamas (i.e., al-Qaeda) if they expected European cooperation.[72]

Similarly, while several individual European countries have, the EU has yet to designate the al Aqsa International Foundation as a terrorist entity, despite its known ties to Hamas, al-Qaeda and possibly Hezbollah.

* *Undermining Criminal Prosecution of Terrorists*

As the myriad of companies, charities and other suspected terrorist front organizations now under investigation in Northern Virginia highlights, there is a critical need to break away from the tendency to adhere to a strict compartmentalization of terrorist groups in investigating terrorism cases. Investigating the family of organizations in Northern Virginia – including the Safa Group, SAAR Foundation, Success Foundation and many more – strictly as a Hamas, Palestinian Islamic Jihad (PIJ), or al-Qaeda case clearly did not work. Indeed, the tentacles of this entrenched network are suspected of providing tremendous logistical and financial support to a variety of international terrorist groups.

Tracing these financial trails, however, proved immensely difficult given the various groups' proactive efforts to layer their transactions and obfuscate the terrorist intentions of their myriad transactions. More than anything, the links between various personalities tied to these organizations on the one hand and to a laundry list of terrorist groups, fronts and operatives on the other keyed investigators into the network's terror financing and support activities.

Progress on this complex web of front organizations appears to have developed only with the passage of the USA Patriot Act, which facilitated the sharing of intelligence with prosecutors and cross-referencing of information across previously compartmentalized terrorism investigations.

VIII. Conclusion

To be sure, money is not an issue, not for al-Qaida, not for Palestinian terrorist groups, not for the Jihadists and Baathists fighting coalition forces in Iraq, and it will continue to be so until we do something about it. In the contexts of the war on terror, the roadmap to peace, and the liberation and liberalization of Iraq, failure to effectively combat the financing of terrorist groups will translate into nothing less than the failure of our best efforts to combat terror and secure peace and stability in the Middle East.

The principal terrorist threat today stems from the web of shadowy relationships between loosely affiliated groups. The sponsors of such groups further complicate the web, be

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[72] Testimony of Jimmy Gurulé, Under Secretary for Enforcement, U.S. Department of the Treasury, Before the U.S. Senate Judiciary Committee, November 20, 2002. Available online: http://www.ustreas.gov/press/releases/po3635.htm; and Douglas Farah, "U.S. Pinpoints Top Al Qaeda Financiers, Treasury Official Heads to Europe to Seek Help in Freezing Backers' Assets," *The Washington Post*, October 18, 2002.

they states or sub-state actors. Indeed, there is no precise organizational or command structure to the assemblage of groups that fall under al-Qaeda's umbrella or that cooperate with the organization.

Given the multifarious links between international terrorist groups (including al-Qaeda, Hamas, and Hezbollah) and their relationships to state sponsors of terrorism such as Iran and Syria, the war on terror must have a strategic focus on the full matrix of international terrorism, not a tactical focus on al-Qaeda. The next phase of the war on terror demands greater attention to the web of logistical and operational interaction among these various groups and state sponsors.

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October 30, 2003

BY HAND DELIVERY

Chairman Richard C. Shelby
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, D.C. 20510

Honorable Paul S. Sarbanes
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, D.C. 20510

Re: October 22, 2003 Hearing on Terrorism Financing

Dear Chairman Shelby and Ranking Minority Member Sarbanes:

I am writing as counsel to Mr. Khalid bin Mahfouz to correct dramatic misstatements concerning Mr. Mahfouz made by Mr. Jean-Charles Brisard in your Committee's October 22 hearing on "Counterterrorism Initiatives in the Terror Finance Program." As you know, Mr. Brisard is the "lead investigator" for certain plaintiffs' lawyers who have brought a lawsuit on behalf of the families of victims of the September 11 terrorist attacks against an array of defendants, including Saudi Arabian government officials and prominent Saudi citizens such as Mr. Mahfouz, who are alleged by these attorneys to have provided financial support to al-Qaeda. Mr. Mahfouz was vilified in Mr. Brisard's testimony as a financial supporter of Osama bin Laden who is "still at large."

In fact, Mr. Mahfouz, has absolutely no connection to Osama bin Laden or to al-Qaeda. Mr. Mahfouz and his family have publicly condemned terrorism in all of its forms and manifestations, especially the fiendish events of September 11, 2001. Neither Mr. Mahfouz nor any member of his family has ever been designated by the United States government or any other government as supporting or facilitating terrorism.

Notwithstanding the absence of any government support for Mr. Brisard's claims, Mr. Mahfouz has been a frequent target of his reckless allegations, which have required

Mr. Mahfouz to file defamation actions against Mr. Brisard in the United Kingdom and Belgium. Unfortunately, Mr. Brisard abused the privileged forum provided by the Committee to again malign Mr. Mahfouz and insert in the Congressional record factual claims that he knows are false, presumably for litigation advantage. This letter is submitted to correct the most significant of Mr. Brisard's misrepresentations concerning Mr. Mahfouz.

The "Golden Chain"

In both his written statement and in his oral testimony, Mr. Brisard relied primarily on the so-called "Golden Chain list." According to Mr. Brisard, the Golden Chain document is "major evidence proving" that al-Qaeda's funds originate primarily from "wealthy donors in the Middle East." Mr. Brisard asserted that the Golden Chain "lists the top 20 Saudi financial sponsors of Al Qaida," including Mr. Mahfouz, and was "seized by the Bosnian police" in March 2002, clearly implying that this document is of recent origin and provides evidence of the recent supporters of al-Qaeda.

Mr. Brisard knows -- but did not inform the Committee -- that the undated Golden Chain document is, in fact, believed to have been created about 1988 (and possibly earlier). Indeed, he acknowledged this in a Witness Statement submitted in a defamation action in the United Kingdom early this year.[1] According to a judicial filing by the United States, this document was found in a computerized file of documents and articles from the 1980's labeled "Osama's History" concerning the Afghan resistance to occupation by the Soviet Union.[2] The document was described by the United States as a list of "wealthy donors to *mujahideen* efforts" against the Soviet occupation of Afghanistan.[3] The Afghan mujahideen were, of course, supported by the United States and, at the request of the United States, by the government of Saudi Arabia. No evidence has ever been advanced in any forum that supports Mr. Brisard's claim that the document lists donors to al-Qaeda, past or present. In fact, a court in the United Kingdom recently rejected an attempt by the Wall Street Journal Europe to defend such a construction of the Golden Chain document in a defamation action, finding that it is not clear who created the document, when it was created, or "what the meaning of the document is -- whether, for example, it purports to be a list of donors or a list of those who might be approached for funding."[4]

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[1] Witness Statement of Jean-Charles Brisard (5/21/03) at ¶ 7, *Mahfouz v. Beaton*, Case No. HC03X00518 (High Court, Queen's Bench Division).

[2] Government's Evidentiary Proffer Supporting The Admissibility of Coconspirator Statements at 29-38 (Jan 6, 2003), *United States v. Arnaout*, No. 02 CR. 892 (N.D. Ill.)

[3] *Id.* at 30.

[4] *Al Rajhi Banking & Invest. Corp. v. Wall Street Journal Europe SPRL* [2003] All ER (D) 339 (July 21, 2003) at ¶ 23 (Approved Judgment).

Whatever the document actually represents, it plainly does not substantiate Mr. Brisard's allegation that it names supporters of terrorism. None of the parties named on the Golden Chain document, which includes some of Saudi Arabia's most prominent citizens, have ever been designated by the United States as supporters of terrorism.

The Muwafaq Foundation

Mr. Brisard suggested that Mr. Mahfouz should be considered a supporter of terrorism because of his contributions to the Muwafaq Foundation. The Muwafaq Foundation, also known as the Blessed Relief Foundation, was established in 1992 to fight disease, hunger and lack of education in the developing world. Though its activities were wound up by 1998, during its brief existence Muwafaq worked with many other reputable charities, including the World Health Organization, UNICEF, the United Nation's World Food Program and Save the Children. Mr. Mahfouz was a principal donor to the Muwafaq Foundation but was never involved in the management or operation of Muwafaq in any way.

On October 12, 2001, long after Muwafaq had ceased its operations, Mr. Yasin al-Qadi, who managed and directed the Muwafaq Foundation, was named to the U.S. list of specially designated global terrorists. The Treasury Department's designation did not, however, disclose the reasons for placing Mr. Qadi on this list. Mr. Brisard nevertheless stated in his written testimony that "a U.S. Treasury Department statement" said that "Muwafaq is an Al-Qaida front that receives funding from wealthy Saudi businessmen" and that "Saudi businessmen have been transferring millions of dollars to bin Laden through Blessed Relief." No such statement appears to have been made, however, in any of the Treasury Department's official releases, and the origins of the media stories on which Mr. Brisard relies for his claim are not clear. It is clear, however, that the Muwafaq Foundation has never been designated a terrorist organization, nor has any evidence ever been offered to substantiate Mr. Brisard's allegations that it is an al-Qaeda front.

Audit of National Commercial Bank

Mr. Brisard also testified that in 1999 the Saudi Arabian Monetary Authority (SAMA) conducted an audit of the National Commercial Bank (NCB) "after several months of fierce international pressure" that revealed the diversion of millions of dollars to terrorist organizations. Mr. Brisard stated that NCB was "chaired at the time by Osama bin Laden's brother in-law and one of his major financial supporters in the Kingdom." The Chairman of NCB was, in fact, Mr. Mahfouz.

Senior executives of NCB have repeatedly and vehemently denied that any such audit ever took place.[5] In a defamation action in the United Kingdom, Mr. Brisard submitted the purported audit document on which he relies for his claim.[6] Whether or not this is an authentic document, it provides absolutely no basis for Mr. Brisard's sensational claim that funds were diverted by NCB to terrorist organizations. Rather, this document states only that donations were made to a variety of Saudi charities -- none of which have been designated by the United States as supporters of terrorism -- outside of the purview of NCB's "Zakat Committee." In sum, this document does not suggest that these donations or any other transfers of money were intended or used to support terrorism, as Mr. Brisard contends.

Relationship to Osama bin Laden

As previously noted, Mr. Brisard stated that the chair of National Commercial Bank in 1999 -- Mr. Mahfouz -- was Osama bin Laden's brother-in-law, a claim repeatedly made in his book, *Forbidden Truth*. Mr. Mahfouz has, however, one wife and eight sisters (one deceased), none of whom is related to or was ever married to Osama bin Laden. Mr. Brisard is well aware that this mistaken allegation arose from Congressional testimony given by former director of CIA, James Woolsey, who stated that the sister of "Mr. Hafuz [sp.], the Chairman of the National Commercial Bank" was married to Osama bin Laden. After learning that Mr. Mahfouz, the Chairman of the National Commercial Bank, was not so related to Osama bin Laden, Mr. Woolsey attempted to excuse his misstatement while abandoning its apparent meaning by explaining to the press that his testimony referred only to a "Mr. Hafous," not Mahfouz: "I don't know what to say other than that there was some confusion, but I never meant to refer to Bin Mahfouz's sister."[7] Statements claiming that Mr. Mahfouz is related to Osama bin Laden have been retracted and corrected by several publications, including the Wall Street Journal and the Washington Post.[8] Mr. Brisard continues nevertheless to refer to Mr. Mahfouz as Osama bin Laden's brother-in-law, though he must know by now that it is not true.

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[5] "Saudi's Cash Funds Terrorism, U.S. Says; Ex-Chicagoan's Assets Are Frozen," Chicago Tribune (Oct. 28, 2001) at A1 ("National Commercial Bank senior officials vehemently denied the existence of a government audit showing that money had been diverted to the charity and transferred to bin Laden.").

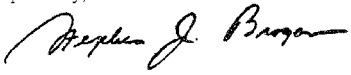
[6] Exhibit JCB 14, Witness Statement of Jean-Charles Brisard (5/21/03). *Mahfouz v. Beaton*, Case No. HC03X00518 (High Court, Queen's Bench Division).

[7] "Top Investigator in 9/11 Victims' Lawsuit Faces Libel Action, " Los Angeles Times (Feb. 26, 2003).

[8] Corrections, Wall Street Journal (May 5, 2002) (" A May 1 [2002] . . . story relied on Senate testimony in stating that a sister of Khalid bin Mahfouz . . .is married to Osama bin Laden. None of Khalid bin Mahfouz's sisters is or ever has been, married to Osama bin Laden."); Corrections, Washington Post (March 3, 2002) at A02 (" A Feb. 17 [2002] article about the use of gold in al Qaeda and Taliban financing reported incorrectly that a Saudi banker, Khalid bin Mahfouz, is a brother-in-law of Osama bin Laden.")

It is difficult to imagine a more serious and damaging charge than complicity with the terrorists who committed the heinous crimes of September 11, 2001. I would ask that this letter be included in the record of the Committee's hearing to provide some remedy for Mr. Brisard's misuse of your hearing to publicize allegations he knows to be false regarding Mr. Mahfouz. I would also ask that this letter be posted on the Committee's website along with other testimony from the hearing.

Respectfully,



Stephen J. Brogan

COUNTERTERROR INITIATIVES AND CONCERNS IN THE TERROR FINANCE PROGRAM

THURSDAY, APRIL 29, 2004

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 10:05 a.m., in room SD–538, Dirksen Senate Office Building, Senator Richard C. Shelby (Chairman of the Committee) presiding.

OPENING STATEMENT OF CHAIRMAN RICHARD C. SHELBY

Chairman SHELBY. Good morning. The hearing will come to order, and thank you for coming today.

This is the third in our continuing comprehensive review of the Nation's ability to identify and track financial transactions and other support which fuel terror organizations and their operations. Over the course of this review, the Banking Committee has heard from present and former officials of the Treasury, the National Security Council, the Department of State, and the Federal Bureau of Investigation. We have also heard from experts who have studied terror groups and their funding. This testimony serves as a foundation for the more difficult work ahead. Today's hearing, I believe, will exemplify what could be the best of what our Government offers the people of this country—the dedication and hard work of those charged with the responsibility to identify, track, disrupt, and dismantle terrorist organizations that threaten our way of life.

Make no mistake, the men and women represented by their leaders, our panelists today, are executing their duties with the skill and ingenuity we have come to expect. I am proud of the accomplishments of the men and women of the Financial Crimes Enforcement Network, FinCEN, the Office of Foreign Assets Control, OFAC, and the Internal Revenue Service Criminal Investigation Division, IRS–CID, as well as those in the Department of the Treasury. These dedicated civil servants remain focused on the important and complex task of finding, following, and fracturing financial flows of money and support that support terror.

Today's hearing is not about their work. Today's hearing is about leadership. It is about harnessing the considerable power of these dedicated men and women I have spoken of. It is about Treasury's leadership focusing the efforts of these men and women so that our citizens can trust that our financial systems will not be violated by

illicit funds. It is about charting the way ahead and organizing the Treasury's vast but not limitless resources to win that trust from the American people. The choices that Treasury leaders make, guided by a comprehensive vision and supporting goals, will make all the difference, I believe, in this effort.

The swift implementation of the USA PATRIOT Act demonstrated committed actions fueled by the passions aroused when this Nation seeks to protect the very foundation of its principles, life, liberty, and the pursuit of happiness.

In this post-September 11 world, though we might suffer the vulnerability of complacency, this Congress and this Committee I believe acted swiftly. Aware of shortcomings in the area of Treasury's ability to fully use its unique expertise by analyzing all relevant information, regardless of its classification, we provided Treasury with a new office and leader, an Assistant Secretary for Intelligence and Analysis, in November 2003.

That same month Senator Sarbanes and I provided a framework for the exercise of leadership in an agreement with Secretary Snow, formalized in an exchange of letters. We have with us today Deputy Secretary Bodman, at his Treasury post since 2004. Today, we want to hear about the future. We want to hear, in concrete terms, Mr. Secretary, how you will lead Treasury's dedicated human resources, in the difficult task of adapting to an ever-changing threat.

You have been a leader who has led the rise of large companies. You studied the rise and fall of many more, big and small. I am sure you agree with the wisdom of a past CEO of AT&T when he said: "When the pace of change outside an organization becomes greater than the pace of change inside the organization, the end is near."

Please tell us, if you could, with as much specificity as you can, how you will make Treasury's pace of change meet and exceed the deadly pace of terror organizations that have already demonstrated a resiliency and adaptability that exceeds any threat to our national security faced in the past.

Senator Sarbanes.

STATEMENT OF SENATOR PAUL S. SARBANES

Senator SARBANES. Thank you very much, Mr. Chairman.

I want to commend you for moving ahead with this series of hearings. I strongly share your commitment to monitoring the Government's efforts to deal with the financing of terrorism. I also want to join you in welcoming the Deputy Secretary, who comes before the Committee for the first time.

This Committee bears a significant oversight responsibility for the subject matter of today's hearing. We are responsible for both the Bank Secrecy Act and the Nation's economic sanctions legislation, as well as for the Nation's financial services laws more generally. This Committee reported a money laundering and antiterrorist financing bill, which then became a large part of Title III of the USA PATRIOT Act, less than a month after the September 11 tragedy.

The threat of terrorism remains very real. If anything, they are probably becoming more difficult to intercept. *The New York Times*

reported not too long ago that, "[t]he landscape of the terrorist threat has shifted, many intelligence officials around the world say, with more than a dozen regional groups, showing signs of growing strength and broader ambitions, even as the operational power of Al Qaeda appears diminished."

This makes the use of financial information potentially more difficult to put together, but potentially much more valuable if, in fact, we are successful in putting it together. Today, we begin the hard work of determining where various responsible agencies are in efforts to analyze, share, and use relevant information to the greatest effect. It is appropriate that we begin with the Department of the Treasury.

The Treasury Department was designated as a lead agency to deal with terrorist financing after September 11. At that time the Department of the Treasury possessed more than 30,000 enforcement personnel which are no longer at the Treasury. Part have gone off to the Department of Homeland Security, part to the Department of Justice. While Treasury continues to have responsibility for the economic sanctions programs and the Bank Secrecy Act, many are raising questions about whether it possesses, or is seeking, the resources necessary to manage and effectively carry out those programs. So we need a realistic assessment of Treasury's capabilities, its problems, and its future plans in this area.

Mr. Chairman, as you will recall, during the course of last week's hearings on the condition of the banking system, I expressed concern that the Nation's bank regulators were not giving a sufficient priority to enforcement of the rules designed to prevent money laundering and terror financing.

I am concerned why it has taken so long to expose some of the problems which have appeared now in the daily press and we are quite concerned about what other money laundering problems may be lurking in the system that our regulators have failed to detect.

Coming back to the issue of the importance of Treasury meeting its lead responsibilities in this area. My concern is that there is a mismatch now with the movement of this investigative and enforcement personnel out of Treasury and into the other departments, with respect to Treasury's capacity to carry out its responsibilities.

Thank you very much.

Chairman SHELBY. Senator Bennett.

COMMENTS OF SENATOR ROBERT F. BENNETT

Senator BENNETT. Thank you, Mr. Chairman.

The war on terror is primarily an intelligence war, and we traditionally think of the CIA, NSA, and other intelligence agencies as they look for the bad guys, trying to figure out where they are hiding and where we can apply military power or law enforcement in the form of arrests and so on. But the intelligence challenge to follow the money is equally as daunting as it is important. So, I commend you for this series of hearings on this issue and look forward to what Secretary Bodman might be able to tell us with respect to how we are doing in disrupting the money flow and what kind of intelligence network we have in place that can work on that.

Thank you very much.

Chairman SHELBY. Senator Dole.

COMMENTS OF SENATOR ELIZABETH DOLE

Senator DOLE. Mr. Chairman, I thank you for holding this hearing today on such a timely subject. I just want to welcome all of the witnesses today and thank them for coming. I am sure we will benefit from their knowledge.

Thank you.

Chairman SHELBY. Senator Allard.

COMMENTS OF SENATOR WAYNE ALLARD

Senator ALLARD. Thank you, Mr. Chairman, for holding the hearing, and look forward to hearing from the witnesses.

We have had a couple of hearings already on this. We had them last fall. Looking forward to hearing what the comments are today, and carefully reviewing how we are doing.

We had a new Deputy Secretary I think that was created for that position, and seeing how things are going with that position.

So, Mr. Chairman, I just look forward to the hearing. Thank you for holding it.

Chairman SHELBY. Secretary Bodman, welcome to the Committee. Your written testimony, which we have reviewed, will be made part of the record in its entirety. You proceed as you wish.

STATEMENT OF SAMUEL W. BODMAN
DEPUTY SECRETARY, U.S. DEPARTMENT OF THE TREASURY

Mr. BODMAN. Thank you very much, Chairman Shelby, Senator Sarbanes, and distinguished Senators.

I am very pleased to be here to testify on behalf of Treasury, and with particular note as to its role in the international war against terrorist financing and financial crimes.

Ever since September 11, 2001, all of us have been made acutely aware that dirty money, tainted financial flows, can corrupt our financial system, as the Chairman has already alluded to. It can also threaten lives and incite economic and political instability around the world.

President Bush has said that we are engaged in a global war against terrorism that must be fought simultaneously on a number of fronts and with unwavering determination.

I have been at the Treasury for about 2 months, having arrived in mid-February, and it is already in that short period of time clear to me that the people of this Department are well positioned to continue to make a significant and an important contribution to this challenge.

We have broad authorities. We have expertise in the financial area, and as importantly as these things, we have a cadre, as the Chairman has already mentioned, of very dedicated and diligent individuals, some of whom are here with me and will be on the subsequent panel, and I want you to know that I am very proud to be here representing them and their people for the fine work that they have done. They, along with countless others in the U.S. Government, are fighting the financial war on terror and are working to protect the integrity of our financial system.

I have submitted written testimony, as has been mentioned, and that written testimony focuses much attention on the very significant efforts of the Treasury Department and the work that these

people have done over the last year. As I understand it coming here today, however, the Members of this Committee are particularly interested in not so much the past but the future, and hearing about the establishment of the new Office of Terrorism and Financial Intelligence. So, I will focus my oral comments on that subject.

We have a very real and concrete set of successes in fighting this war, but as the recent bombings in Madrid and Riyadh have demonstrated, our work must continue at full force. Our enemies are resourceful, dedicated, and they continually adapt to a changing environment. We must do the same. We must change even more rapidly, as the Chairman has suggested, and we must use every tool at our disposal.

We also recognize, unfortunately, that we are in this fight for the long-term, and so the Department must be organized to reflect that reality. This is precisely why the Administration has cooperated with Congress to develop a new Treasury structure, and for us anyway, a very high-profile office led by an Under Secretary, one of only three in the Department. That is assuming this gentleman is confirmed by the Senate. He will be joined by two Assistant Secretaries. This office will bring together Treasury's intelligence, regulatory, law enforcement, sanctions, and policy components all in one place.

I want to note at the outset the important contributions made by the Chairman and the Ranking Member of this Committee which resulted in an exchange of letters with Secretary Snow that was alluded to at the end of last year, and I also want to thank Congress for establishing this new Assistant Secretary for Intelligence position. As you will hear momentarily, I believe this will be a very important part of this program.

On March 8, 2004, Treasury formally announced the creation of the Office of Terrorism and Financial Intelligence, so-called TFI. On March 10, the President announced that he would nominate Stuart Levey, who is currently the Principal Associate Deputy Assistant Attorney General, and Stuart has been nominated for the Under Secretary, for the leadership position of this Department. The President also nominated Juan Zarate, currently a Deputy Assistant Secretary at Treasury, for one of the two Assistant Secretary positions. Their nominations have been transmitted to the Senate.

I can tell you on a personal level, both Secretary Snow and I can express to you the utmost confidence in these individuals, in their ability, their dedication, and integrity. We believe that they will be the kind of people you will be proud to work with.

We are working diligently to identify the most qualified individual to serve as the Assistant Secretary for Intelligence. We have not yet found the right person, at least in a formal way. We are still conducting interviews at a regular level. In the meantime, however, we have appointed a very capable Deputy Assistant Secretary in order to get this office up and running.

The creation of TFI will augment Treasury's efforts in several ways. First, it will allow us to better develop and target our intelligence analysis and financial data to detect how terrorists are exploiting the financial system and to design methods to stop them. Second, it will allow us to better coordinate an aggressive enforce-

ment program, including the use of important new tools that the USA PATRIOT Act gave to Treasury. Third, it will help strengthen our international coalition and intensify outreach to our counterparts in other countries. Fourth, it will ensure accountability and help achieve results for this essential mission.

TFI will have two major components. One Assistant Secretary will lead the Office of Terrorist Financing. This office will build on the functions that have been under way over the past year. In essence, this will be policy and outreach apparatus for the Treasury Department on the issues of terrorist financing, money laundering, financial crime, and sanctions issues. This office will help lead and integrate the important functions which have been carried out very ably by both OFAC and FinCEN. If you will, this will be the operating part of this office.

The office will continue to assist in developing, organizing, and implementing U.S. Government strategies to combat these issues of concern, both internationally and domestically. It will require increased coordination with other elements of the U.S. Government including law enforcement and regulatory agencies. The office will continue to represent the United States at international bodies dedicated to fighting terrorist financing and financial crime such as the Financial Action Task Force, and will increase our multilateral and bilateral efforts in this field. They will this office to create global solutions to these evolving international problems. In this regard, we will have a more vigorous role in the implementation of measures that can affect the behavior of rogue actors abroad.

Domestically, this office will be charged with continuing to develop and implement money laundering strategies, as well as other policies and programs to fight financial crimes. It will continue to develop and help implement policies and regulations in support of the Bank Secrecy Act and the USA PATRIOT Act. We will further increase our interaction with Federal law enforcement and continue to work closely with criminal investigators at the IRS, including integration of their lead development centers. In doing so we will deal with emerging domestic and international financial crimes of concern. Finally, this office will serve as a primary outreach body to the private sector and other stakeholders to ensure that we are maximizing the effectiveness of our efforts.

A second Assistant Secretary will lead the Office of Intelligence and Analysis. In determining the structure of OIA, as we are now calling it, we first focused on meeting our urgent short-term needs. We have assembled a team of analysts to closely monitor and review current intelligence threat reporting. These analysts, who are sitting together in secure space in the main Treasury building, are ensuring that Treasury can track terrorist financial flows or other threats, and then see to it that appropriate action is taken to counter those threats.

In the near-term, the Department plans to further develop our analytical capability in untapped areas such as strategic targeting of terrorist financial networks. We also plan to analyze trends and patterns and nontraditional targets such a hawalas and couriers. In order to accomplish these goals, we plan to hire several new analysts as well as to draw on additional resources from OFAC and

FinCEN. In addition, enhancing our working relationships with other agencies will be a key job for the new Assistant Secretary.

Overall, it is critical that this new office focus on filling any gaps in intelligence targets and on adding value and expertise, not on duplicating the efforts of other Federal agencies. We should continue to, among other things, identify and attack the financial infrastructure of terrorist groups. We should identify and address vulnerabilities in domestic and international financial systems and promote stronger partnerships with the private sector and other governments by sharing more complete and timely information.

We are currently confronting the question of staffing and funding for TFI. As Secretary Snow wrote in an April 16 letter to the Members of Congress, President Bush has proposed significant spending increases in this area in his fiscal year 2005 budget. The Secretary also stated that the Department would use currently appropriated fiscal year 2004 resources to ensure that TFI has the necessary resources to staff the new offices and bolster existing functions.

Regarding 2004 specifically, we believe that through a combination of prudent and targeted use of resources, Treasury will spend up to an additional $2 million and bring on board up to 15 new personnel during the balance of this current fiscal year.

Looking forward to next year, we have not yet made firm decisions about the budget for the new office. We will evaluate our needs and we are prepared to make the hard decisions on how to allocate our limited resources from other parts of the Department as those are required in this very important task.

Fighting the war on terror is a top priority for this President and this Department, and we will spend whatever we need to carry out our duties in a responsible manner. Throughout this process we will continue to seek the input and advice from Congress and from this Committee.

I thank you, Mr. Chairman, for the opportunity to be here. I look forward to your comments and questions. I see this hearing as a continuation of an ongoing dialogue with this Committee, and I appreciate being here.

Thank you so very much.

Chairman SHELBY. Thank you, Mr. Secretary.

Mr. Secretary, as your statement points out, the Department of the Treasury has, by virtue of its history and its expertise, a central role in investigating terrorist finance issues. The establishment of the new positions of Under Secretary for Enforcement, Assistant Secretary for Intelligence and Analysis, and Assistant Secretary for Terrorist Financing and Financial Crimes, will presumably further bolster or cement that role.

However, there is a little confusion regarding the broader U.S. Government structure for identifying, tracking, and seizing funds destined for terrorist organizations. In May 2003, about a year ago, the Attorney General of the United States and the Secretary of Homeland Security concluded a memorandum of understanding that designated the FBI as the Nation's lead agency responsible for investigating terrorist financing. Obviously, absent from the signature blocks on that memorandum is a representative from the Department of the Treasury.

Could you tell the Committee how the Department of Treasury views the broader U.S. Government structure for investigating terrorist financing, and fully aware of the FBI-led Joint Terrorism Task Force, which ostensibly brings together all relevant Federal agencies, but I am not confident that a key player, the Department you represent, is well integrated into that broader structure as it should be, and I am far from comfortable with the memorandum of understanding purportedly designating a lead agency without the concurrence of your agency that above all possesses the skills and the personnel that is crucial to our overall effort.

Could you respond to that observation?

Mr. BODMAN. Yes, sir.

Chairman SHELBY. Where were you all on that memorandum of understanding?

Mr. BODMAN. I cannot speak to the memorandum of understanding, sir.

Chairman SHELBY. You were not there.

Mr. BODMAN. I was not there, but I can tell you that this Department and the people of the Department are quite comfortable with their relationship with the FBI.

Chairman SHELBY. There is a difference between being comfortable and being at the table, is there not?

Mr. BODMAN. Yes, sir. We are at the table, sir, in the following sense. We view the FBI as having the lead in the Government, we do not quibble with it, with respect to the enforcement of terrorist finance activities. We are comfortable with that. We work very closely with them. Particularly, you will hear from Ms. Jardini later on in the second panel, that the IRS has had for some years a memorandum of understanding of working with the FBI. We work with them in a series of task forces, terrorist task forces, joint terrorist task forces, one in each U.S. Attorney's Office throughout the United States. We have also had similar relationships of working with the FBI specifically in Saudi Arabia, on working with issues related to the Saudis' response to September 11 and to the terrorist crimes that are reflected therein.

This is an example, Mr. Chairman, of the approach that we have taken, which is to seek to leverage to put the requisite organization in place within Treasury to take advantage of the unique skills and knowledge of Treasury in the financial area. That is really what this Department is all about, finance and financial matters, and to leverage the relationship both within the Department, which is within the IRS and Criminal Investigation Unit as well as outside, whether it is with the intelligence community, with the CIA, with the FBI, and with others, we believe we will be successful in the future in addressing the very problems you described at the opening of this hearing.

Chairman SHELBY. Mr. Secretary, your statement that has been made part of the record, indicates, "Treasury has not made any final decisions regarding the staffing of the Intelligence Office." I have a number of little questions here.

Is the establishment and operational status of the new office a high priority at Treasury? Is this statement limited to the Office of Intelligence and Analysis only? And if not, what are the decisions regarding the other offices? There is no request in the fiscal

year 2005 budget. Why? Is an initiative really an initiative if there is no plan for allocation of resources and no request for resources? How can we view this as something other than a ruse?

It is troubling to me because on the Appropriations Committee I sit as Chairman of the Appropriations over Treasury.

Mr. BODMAN. I am aware of that, sir.

Chairman SHELBY. We have reviewed the 2005 and we see no request there.

Mr. BODMAN. First, I appreciate the directness of your question, and if I may, will be equally direct in my answer.

Chairman SHELBY. Yes, sir.

Mr. BODMAN. As you are aware, I arrived on the scene in February, and on my arrival the Secretary asked me to give attention, priority in my attention to two areas. First was the setting up and operation of this office, the Office of Terrorist Financing. Second is the IRS. And I have, over the last 2 months, devoted not all of my time, because I have responsibilities for the entire Department and all of the bureaus that are attached thereto, which are significant in number, but I have given priority time. So it is a matter that I consider front and center, and that is why I am the one here speaking to you today about this. This is a matter that I pay a lot of attention to. I do have some record of accomplishment prior to my arrival here, some record at the Commerce Department, which I believe is why I was asked to come over to the Treasury, which was lacking some leadership.

Chairman SHELBY. But, sir, is this a real priority is my real question, and if not, why not?

Mr. BODMAN. Sir, I am telling you that they were the two priorities that the Secretary asked me to do the first time I met him, and so that is comment one.

Comment two, it is in my statement that the funding for this office has not been determined yet. That is a true statement. There are tough decisions to make with respect to what we will need to do internally and what budgetary support we will need to ask this Committee for, as we are working on the 2006 budget, for example, and I would like to have the people who are going to be responsible for managing this make those decisions, and Mr. Levey, Mr. Zarate, both of whom have been nominated, I am hopeful will be here on deck I hope with the support of the Members of this Committee to be confirmed within the next month. I am hopeful that will be the case, and that I will have the advantage of having the operating personnel, who are knowledgeable and expert in this field, make recommendations as to what they will need.

I have made, and the Secretary, I must say, was the first to make the observation. I looked at it and I agreed with him, that the Department and the leadership of the Department is the recipient of a flow of information that comes from the intelligence community that describes to us various events, various things that are occurring in the world. We have observed that there was not a link that will develop a foolproof certainty that specific issues that flow from that information are followed up on, either inside the Department or outside the Department. So the first assignment of this Intelligence Office is to get on top of that flow of information and see to it that any specific issues is followed up on because of the ur-

gency that you have already described. So we have done that. That is the first step. That it seemed to me needed to be done irrespective of other issues.

The next issue that will be faced by the leadership of this organization, and I mean leaderships because there is more than one person involved in it, and I will certainly have a voice in, is to make judgments as to how do we properly integrate this intelligence activity, this new Intelligence Office with intelligence activities that are already under way, that are already a part of FinCEN, that are a part of OFAC, that are a part of the Executive Office of Terrorist Finance. Each of them have resources, have people who are very skilled. The idea is to find a way to integrate those.

Chairman SHELBY. Can you do that job? You should be able to do the job.

Mr. BODMAN. Yes, sir. I believe we can do that job, but rather than having the Deputy make the judgment as to how we are going to do the job, I want to hold those who will be in position so that I can hold them accountable. I would rather not create an organization, bring them in, put them in charge of it. My experience in these matters in the past is that one is better off, especially if I am going to have leadership here available in the next month or so. So that has been the attitude. That is why some of these judgments have not been made.

Chairman SHELBY. Mr. Secretary, I cannot assure you, but I can tell you there would be strong support, strong, strong support in the Appropriations Committee to fund the activities where we are dealing with terrorist financing because this is central to this fight.

Mr. BODMAN. Thank you, sir. I appreciate that.

Chairman SHELBY. Is it going to be one of your top priorities?

Mr. BODMAN. Yes, sir. I try to just express, sir, that it is.

Chairman SHELBY. Senator Sarbanes.

Senator SARBANES. Thank you, Mr. Chairman.

Mr. Secretary, I want to follow along a path the Chairman touched on right at the beginning. Last Tuesday, Secretary Snow told the Appropriations Subcommittee that Treasury clearly has the lead to deal with activities that involve penetrating the financial system by terror financing and financial crime. However, you have lost tens of thousands of enforcement personnel since you were originally designated as the lead agency in the fight against terror financing.

Secretary Ridge's website states that safeguarding the integrity of America's financial systems is a key part of Homeland Security. The Bureau of Immigration and Customs Enforcement, ICE, of the Department of Homeland Security, has undertaken an Operation Cornerstone, to prosecute and prevent money laundering. The FBI has been given control over investigations of terrorist financing in an agreement in which Treasury was not even mentioned. The Chairman referred to that. The FBI has created a special Terror Financing Operations Section, TFOS, which appears largely to duplicate the work of Treasury's FinCEN and OFAC offices. The CIA maintains its own Counterterrorist Asset Tracking Center.

I have difficulty in seeing how Treasury is maintaining its lead on these issues. Who is the accountable person for efforts to use fi-

nancial information to identify, disrupt the money flows of terrorist operations, and seize their funds? Is there an accountable person?

Mr. BODMAN. Yes, sir, I am.

Senator SARBANES. You are the accountable person.

Mr. BODMAN. Yes, sir.

Senator SARBANES. So that if there is another terrorist event and we discover there was financial information that might have provided clues ahead of time, that is to come on your doorstep?

Mr. BODMAN. Yes, sir.

Senator SARBANES. But you are not doing the investigating. I mean, as I understand it, you are sitting up here, and all the people below who would in effect be charged with doing these responsibilities are off somewhere else. Is that not correct?

Mr. BODMAN. No, that is not correct, sir. If I may try to respond?

Senator SARBANES. Yes.

Mr. BODMAN. You have identified other organizations, and let me just go back to the beginning. I see relatively little overlap with anything that is taking place at the Office of Homeland Security. I cannot speak to their website. I have not looked at that. I will attempt to look at that. I have alluded to our views vis-á-vis the FBI. I do not believe there is a problem with respect to our relationships with the FBI. I believe you will find that they have a high regard for the men and women who are undertaking the exact type of work that you describe. It has heretofore been undertaken by FinCEN, by OFAC, and, in the last year, by the Executive Office of Terrorist Financing, FinCEN having a responsibility for basically communication, assembling data, both publicly available data, as well as information coming from suspicious activity reports that are generated under the Bank Secrecy Act and the requirements thereof. That source of information is, in my view, unparalleled and it is not replicated elsewhere in the Government.

For its part, OFAC has primary responsibility for managing the various sanctions programs of this Government. They have a significant number of people working on terrorist financing activities. I have been there. I have visited with them. I have seen the results of their work, and this Committee will hear from Mr. Newcomb and his colleagues later on I presume this afternoon.

The Executive Office of Terrorist Finance focuses its efforts in relations with our international colleagues. They provided leadership for the Financial Action Task Force, which has—this is a group of 33 countries—through this task force and its staff, the goal of advising and ensuring that legislative and regulatory environments of other countries are at a level that they can detect and work toward the interdiction of financial flows of terrorist networks.

Senator SARBANES. Let me draw you back to focusing on the structure within our Government. There are those who, in a sense, said to our Committee or to some of us, that one of the greatest efficiencies in the antiterrorist financing effort is a failure to create a single financial information fusion center. We know from the September 11 Commission hearings and staff statements the need to break down barriers to joint analysis and sharing of information by working level experts, and between those experts and the policymakers. When I enumerated these various operations here, it seems to we are running the risk of recreating the stovepiping

problem that has hampered antiterrorism efforts in the past, and of course the fusion center would be an effort to try to overcome that. I am interested in your views of such a fusion center for financial information.

Let me just note that last September, Treasury General Counsel David Aufhauser told this Committee, "Shortly after the attacks of September 11, the National Security Council established a Policy Coordinating Committee on terrorist financing, the PCC, to examine what the world of law enforcement and intelligence is learning about the sources and uses of terrorist financing, and most importantly, to decide the best way to go about exploiting the information that we know so that we can prevent another calamity."

Now, Mr. Aufhauser, then Treasury General Counsel, chaired the Policy Coordinating Committee of the National Security Council from October 2001 until November 2003. He told this Committee that it was an absolute necessity that the Treasury Department continue to chair the Policy Coordinating Committee. But it is my understanding that Treasury no longer does so, which of course again brings me back to this question of how are we pulling all of this together, and specifically, why does Treasury no longer chair the Policy Coordinating Committee?

Mr. BODMAN. Senator, if I may, you have asked two questions related to——

Senator SARBANES. Maybe even more, if one really parses what I said, yes.

Mr. BODMAN. At least two. I will start with those two, and then if I do not cover what you are interested in, sir, I will try to respond to you in some other way.

First, as to the fusion center, that is really what this Office of Intelligence and Analysis is all about, is to have a centralized place within TFI that will serve as an integrating force, as a place wherein financial information can come and that can reach out within the intelligence community.

The Treasury, in the past, I think it is fair to say, has not been viewed from the intelligence community as they look at the various activities within the Government. Treasury has not been looked at as a bastion of great knowledge in financial intelligence activity per se. There are isolated components where there is excellence that I think are recognized, but that is why we are working very hard to identify that the Assistant Secretary for Intelligence and Analysis is the kind of person that will have standing and that can attract not only people, but also knowledge, and be a center that will be something that all of us, including this Committee, can be proud of. That is what we are trying to create. Stuart Levy has been very active in that regard.

Senator SARBANES. Does all of the FBI's terror financial intelligence come into this office?

Mr. BODMAN. No, sir. What I can tell you, sir, is that we believe that we have a unique capability of integrating financial information and that we work very closely with the FBI. And I do not believe we are replicating anything that the FBI is doing. We have very close relationships with them and work closely with them.

Senator SARBANES. And what about the PCC?

Mr. BODMAN. As to the chairmanship of the PCC, I know and respect David Aufhauser. He is a very fine man. I do not agree with him with respect to the necessity of Treasury chairing that Committee, the PCC on Terrorist Financing is now chaired by a deputy in the National Security Council. One of my colleagues, Juan Zarate, sits on that Committee, meets with it. Juan is the person that oversees both FinCEN and OFAC, as well as the Executive Office for Terrorist Financing within Treasury, which have been the primary actors in pursuing the various specific goals and objectives that I have already alluded to.

So he is involved with that, as well as with the so-called CSG, which is a counterterrorism group within the White House that is also chaired by the National Security Council, that meets by conference call every day and reviews activities from all parts of the Government related to terrorist financing, terrorism, generally, and with specific focus, on our part, on terrorist financing.

Senator SARBANES. Would that person not be the accountable person? When I asked the question earlier, who is the accountable person for efforts to use financial information, you said you were.

Mr. BODMAN. Yes, sir.

Senator SARBANES. But now I see that there is this National Security Council person, who is the Chair of the Policy Coordinating Committee on Terrorist Financing, and you have also just told us that everything comes in to them. Who is that person?

Mr. BODMAN. These are Committees that are chaired by the Deputy of the National Security Council that are responsible for managing terrorism generally, sir, and so that they deal with terrorism, generally. Our Treasury, for its part, focuses on and brings to the table, at the Committee meeting, the expertise in the financial aspects of terrorism.

Senator SARBANES. But I thought the Policy Coordinating Committee of the National Security Council was a Policy Coordinating Committee on Terrorist Financing not on terrorism, generally.

Mr. BODMAN. It is on terrorism, generally, sir. That is my understanding.

Senator SARBANES. I see I have exceeded my time.

Thank you, Mr. Chairman.

Chairman SHELBY. Senator Allard.

Senator ALLARD. Mr. Chairman, in my line of questioning, I would like to get down into the weeds even a little bit further. I would like to have a little clearer understanding of how these Suspicious Activity Reports are filed. And I wondered if you could just explain to me that process.

Mr. BODMAN. The Suspicious Activity Reports are reports that are issued subject to regulations that in turn have been issued by FinCEN in connection with that act. And each bank is required, when they observe transactions that have been delineated in the regulation—for example, very large cash transactions—that are either deposits or withdrawals that could be viewed as suspicious. And they are required to issue a Suspicious Activity Report, or SAR, to FinCEN under regulations that have been issued by them.

That information then goes into a central system that collects the data, and therefore is available to analysts within FinCEN, and then part of FinCEN's job is to assemble that information and then

to distribute it to appropriate, and make sure it is available for, appropriate agencies within the Government that have a use for it, whoever that may be. Largely law enforcement. So it would really be the FBI and other people that would have an interest in that.

Senator ALLARD. Do you think that that is an effective system that is working for us? Talk a little bit about whether you think——

Mr. BODMAN. I cannot tell you that, personally, sir. I have talked to the people who are responsible for it. You will hear this afternoon from Mr. Fox, who is responsible for FinCEN, and he can speak to you about that. We have every reason to believe that, where we have a regulated industry, we rely on the regulators that are already there and have educated them. In this case, if it is a bank, it is the Office of the Comptroller of the Currency, if it is a National bank, a Federal bank, a Federally chartered bank. And the OCC is charged with the responsibility of making certain that there are controls in place, operating procedures in place, that will cause the reports that are required under law to be made.

And based on my discussions with both the OCC people and the FinCEN people, this seems to be an obligation that they take quite seriously. They have trained their personnel, and that there are checks that they have put in place to make sure that that is ongoing. So, to that extent, I can certify that the people responsible for the organizations believe it and have implemented programs and policies that will see to it that we comply with the law.

Senator ALLARD. Here is my concern. There are some unfiled suspicious transactions that have been reported and, to me, this is very disturbing. Now, how does that happen in a system that you just described?

Mr. BODMAN. The ones that you allude to, the ones that are in the newspaper, I really cannot comment on because that is matter of a continuing investigation that is going on. I can tell you that this Department takes very seriously the responsibility to see to it that the words that I just used in answering your question are true and that we do take it seriously.

Senator ALLARD. You told me the regulators were doing their job.

Mr. BODMAN. And to the extent that they were not, we will find out. I will tell you that, sir. I do not have more that I can tell you on that until I know more.

Senator ALLARD. Does this raise any flags, in your mind? Do we need to carefully review the whole system or do you think this is just one or two individuals in a particular bank?

Mr. BODMAN. I do not have an answer to that question, sir. And until they finish their investigation and do whatever they are going to do, I do not want to interfere with that, and I do not think it is appropriate——

Senator ALLARD. I know you do not want to interfere with that particular investigation, and I understand that, but it seems to me that if I was in your shoes, I would want to know what is happening in the other banks, and if we have similar problems in other banks, and have you checked into that?

Mr. BODMAN. I have asked the question, sir.

Senator ALLARD. And when do you expect a report back, an answer to that question?

Mr. BODMAN. I would gauge within the next couple of weeks or a month or so that I would have an answer to that question.

Senator ALLARD. I think it would be helpful information for this Committee to have that.

Chairman SHELBY. Senator Allard, you are absolutely right.

Senator ALLARD. As soon as you get that, I hope you can share that with us.

Chairman SHELBY. Share it with the Committee.

Senator ALLARD. Share it with the Committee.

Mr. BODMAN. I would be happy to do that.

Senator ALLARD. I see my time has expired. Thank you.

Chairman SHELBY. There will be another round. Thank you, Senator Allard.

Mr. Secretary, the Banking Committee is very concerned, as you can tell from Senator Allard's questions, also Senator Sarbanes' questions leading up to this, the Riggs Bank situation. I am concerned that Riggs and other banks disregarded their responsibilities under the Bank Secrecy Act.

I am concerned that Treasury's enforcement offices, as Senator Allard alluded to, the Office of the Comptroller of the Currency—OCC—and FinCEN were unable, Mr. Secretary, to determine that Riggs failed to file numerous Suspicious Activity Reports. This, I believe, is evidence of a regulatory system that does not function effectively.

You are also aware that in the broader BSA—Bank Secrecy Act—enforcement context, FinCEN is responsible for many other financial services, entities, that have no other regulatory bodies looking at their operations. It is well-known that Western Union—yes, Western Union—was fined a total of $11 million for its failure to comply with the Bank Secrecy Act requirements.

Troubling is the fact—listen to this—that this failure was discovered not by Treasury, but by the New York State Attorney General's Office. The Mirage Casino case, in which it, too, was found to have seriously neglected its legal responsibilities with regard to the Bank Secrecy Act reporting requirements is further indication that something is seriously wrong.

In light of the testimony we have previously heard here in the Banking Committee concerning the lack of enforcement agents at Treasury, how have you addressed—and if you have not, how will you address—the ability of these entities to actually enforce the Bank Secrecy Act? Because if you do not enforce the Bank Secrecy Act, if you do not get in the weeds, as Senator Allard mentioned with the suspicious activity, how are you going to fight this terrorist financing? How will this new office enhance the regulatory enforcement? And is not this regulation and enforcement at the heart of your responsibility at Treasury—yours, Secretary Snow, and others? Is it not central to your job?

Mr. BODMAN. Let me start at the end.

Chairman SHELBY. You are the Treasury.

Mr. BODMAN. Let me start at the end, and the answer is, yes. The answer to the last question is, yes. I have, in my time here, and Secretary Snow in his time on the job, have evaluated, I have been out to FinCEN, I have visited with the people there. I have

looked at what they are doing, and I have been satisfied that the approaches that they are using are satisfactory.

Chairman SHELBY. What about the results? Now, the approach might be all right, but what about their performance?

Mr. BODMAN. The approach is very good. There are various ways to measure their performance, and there are large numbers of reports that come in from banks that comply. The question has got to be, when we have a failure, what is the cause of that failure? And as I have said, I am hopeful of getting an answer on two fronts; one, what happened with respect to that specific bank——

Chairman SHELBY. Absolutely.

Mr. BODMAN. —which we all deserve an answer on and, second, in general, as Senator Allard suggested, does this suggest that we have a weakness throughout the system that should be addressed? And it seems to me those are fair questions to ask.

Chairman SHELBY. Sir, let me ask you this question.

Mr. BODMAN. Yes, sir.

Chairman SHELBY. Was it the regulators, your regulators, the examiners, bank examiners, that got into the suspicious activity at Riggs and some other banks or was it the FBI that got them into it? Do you know the answer to that question?

Mr. BODMAN. Senator Shelby, I really cannot——

Chairman SHELBY. Can you answer that question?

Mr. BODMAN. No, sir, I cannot. I cannot comment on anything related to any specific bank while this investigation is going on.

Chairman SHELBY. The OCC will comment and tell us things.

I would like to discuss two recent Treasury Inspector General reports. A recent Treasury Inspector General report noted that the IRS, Internal Revenue Service-run Detroit Computing Center had, and these are their words, "adequately processed BSA, Bank Secrecy, BSA documents filed there."

I understand that all BSA, Bank Secrecy Act, documents are filed at the IRS Detroit facility and that FinCEN, which is under you, has complete access, but no control, over the facility. The Secretary has delegated the duties and responsibilities of the Bank Secrecy Act to FinCEN, yet FinCEN must rely on the IRS for the processing of the forms.

I am also aware, we have been told here at the Committee, that the IRS's control of this facility is historical. In fact, in 2004, the IRS budget for the BSA—Bank Secrecy Act—programs was about $130 million. This is double FinCEN's entire budget.

Another IG report has called for considerable improvements to be made in the Bank Secrecy Act compliance programs at the Internal Revenue Service. This IG report, sir, followed one 3 years earlier calling for many of the same improvements 3 years ago. I have been informed that there have been only two cases referred for violation of the Bank Secrecy Act, and those have not been deemed worthy of enforcement action.

If that is true, is it not time for the Department of the Treasury to look at BSA compliance as a priority? And, if not, why not?

Mr. BODMAN. First of all, I have been, as I mentioned earlier, I have been to FinCEN. I have heard their views vis-á-vis their control over the Detroit operations that assembles the data. I have

spoken to the IRS people about it—IRS, of course, being a part of Treasury as well.

It is not obvious to me that a highly clerical data entry operation is something that necessarily should fall into the bailiwick of FinCEN. FinCEN is a highly intellectual resource, where we get the very best minds in the areas of systems, in the areas of the law relating to international finance in one place, and it is a very different kind of activity.

I have not personally been to Detroit. It strikes me that there may well be a need for additional input, additional relationship in terms of how that system is carried out of having FinCEN personnel there——

Chairman SHELBY. But you do have a deep interest in how it is carried out, do you not?

Mr. BODMAN. I certainly do, sir. I had a deep interest before I walked in here this morning, and I now have a deeper interest.

[Laughter.]

So this is a matter, if you will, of management, of making certain that this function, this largely ministerial or clerical function, is carried out in a fashion that is satisfactory to the people who are using the data. That is the goal.

Chairman SHELBY. I understand, but it is Treasury. The IRS is under Treasury.

Mr. BODMAN. Yes, it is, sir.

Chairman SHELBY. FinCEN is part of Treasury.

Mr. BODMAN. Yes, sir.

Chairman SHELBY. So, I guess it begs the question why it has not, and if you have not considered it, you might want to consider——

Mr. BODMAN. Consider what, sir?

Chairman SHELBY. This. Why have you not thought about giving FinCEN complete control of the Bank Secrecy Act system, including the collection of the BSA, the Bank Secrecy data, thereby holding it accountable for the entire system, since it is all under the house of Treasury——

Mr. BODMAN. Yes, sir.

Chairman SHELBY. Just in different rooms.

Mr. BODMAN. Yes, sir.

Chairman SHELBY. Mr. Secretary, does it make sense to match FinCEN's responsibility given it by the Secretary of the Treasury with the authority to make it work properly and effectively. I mean, we are not talking about different agencies. We are talking about agencies within Treasury.

Mr. BODMAN. I understand, sir.

Chairman SHELBY. Or subagencies in Treasury.

Mr. BODMAN. My initial take of this—I have been here 2 months, Senator——

Chairman SHELBY. I know that, and I am not directing all of this on your record at Treasury——

Mr. BODMAN. No, I am happy to have it on my record, but the initial goal, I have talked to the FinCEN people. You will hear from Mr. Fox this afternoon. I am sure you will ask him the same question. The nature of the day-to-day work that goes on in Detroit in assembling that information is very different than that which goes

on at FinCEN. They also have, it is a very large data entry activity that happens to be located in Detroit. This activity was put there.

It is not clear to me that we would be wise to separate out that activity from everything else going on there, where I have a management structure and a group of people who are used to doing that. But what is clear to me is that there is, at a minimum, a lack of feeling on the part of FinCEN that they have adequate input, that they have adequate control in this area for which they are ultimately responsible. And either we can get that and leave the activity in Detroit——

Chairman SHELBY. But you can change that internally, fast.

Mr. BODMAN. No, sir.

Chairman SHELBY. Why couldn't you? Both are under Treasury.

Mr. BODMAN. But it is an integrated operation. This is just part of what takes place in Detroit, and therefore splitting out that activity from everything else that goes on in Detroit would not be easy. I am not saying it could not be done, but it would not be easy, and it would be costly. And I only want to do that if we cannot solve the problem by putting, if you will, the customer in charge of understanding and dealing with how the work is done there. That is my first approach to that. It is something that I have started working on, and I will continue to work on.

Chairman SHELBY. I hope you will look at it very closely.

Mr. BODMAN. I will, sir.

Chairman SHELBY. We are aware of FinCEN's request to fund a new computer analysis tool——

Mr. BODMAN. Yes, sir.

Chairman SHELBY. Which it calls BSA Direct.

Mr. BODMAN. Yes, sir.

Chairman SHELBY. The Bank Secrecy Act Direct. It has been described as a mission-essential tool that will allow FinCEN to better analyze not only Suspicious Activity Reports, but also the relative frequency and quality of information.

It appears to be a tool designed to alert FinCEN of irregularities in filing Suspicious Activity Reports that could prevent, hopefully, another Riggs Bank situation or a like situation, for example, the Mirage Casino's failure to file hundreds of Suspicious Activity Reports, yet this forward-looking initiative has received, Mr. Secretary, only one-third of the necessary funding this year, despite the fact that the Treasury has the opportunity to fully fund it using the Treasury Forfeiture Fund. The 2005 funds have been earmarked, but once again only at a level of one-third of the funding necessary.

Why has this initiative not been rewarded or funded and encouraged? Is this a mission that is essential, that we need it? And, if so, why would you request it in the 2005 budget? If you do, I believe there is an excellent chance you will get your money.

Mr. BODMAN. First of all, the request, as you have suggested, was funded to the extent I think $6 million were requested, and we funded $2 million of it. My understanding is that that was satisfactory to the people at FinCEN to get this project going, up and going, this fiscal year and that we will then be looking at that as we look on a going-forward basis.

We agree that this is a very important system to be able to extract from the information or the data—it is not really information—the data that are collected in Detroit and to convert that data into information, and that is really what the goal is, and we agree that it is important.

Chairman SHELBY. Thank you.

Senator Sarbanes.

Senator SARBANES. Mr. Chairman, *The New York Times* reported at the end of March, "The Bush Administration has scuttled a plan to increase, by 50 percent, the number of criminal financial investigators working to disrupt the finances of Al Qaeda, HAMAS, and other terrorist organizations to save $12 million."

What about this story? As I understand it, the IRS wanted increases of criminal financial investigators looking into terrorist financing. Did the Department delete that request or did the OMB delete the request? How did this happen? We have made this a high priority and yet we find that we are not providing the investigators to carry through on that.

Mr. BODMAN. Sir, I believe that article is misleading and wrong.

Senator SARBANES. Why don't you set the record straight?

Mr. BODMAN. I will do so, sir.

Senator SARBANES. Here is your opportunity.

Mr. BODMAN. Thank you, sir. When you have Ms. Jardini here this afternoon, you will have an opportunity to talk to her.

Chairman SHELBY. We hope this morning.

Senator SARBANES. Yes.

Mr. BODMAN. And so do I, sir.

[Laughter.]

Senator SARBANES. You better watch those commitments, Mr. Secretary.

Mr. BODMAN. But you will have the opportunity to ask her what I asked her yesterday, and that is has there been any request from the Treasury and from those who are responsible for terrorist finance interdiction in the Treasury at the IRS that has been declined, and the answer was, no. You will find, I believe, when you talk with her, as I have done when I talked with her and with others in the IRS, that they have responded in every case when there has been a request for input and for knowledge.

What they were attempting to do, and clearly when they do that, and they have given that a high priority, it is about 3.5 percent of their workload. So it is not a matter that it is detracting in a meaningful way from everything that they do, that we have this rather what I consider to be awkward relationship of an advisory committee that, under the law, has access to certain budgetary information and requests that are made.

And it is true that there was a request made, and when the final budgets were determined, the IRS was given what I think would be viewed, relative to virtually any other part of the civilian Government, of the nonterrorism-type Government, enormously favorable treatment, sir. Therefore, this was something that they had, that they had identified that they had spent the previous year that they were soliciting funds for, but it does not suggest that the people responsible for this activity, sir, are not making the investigators available to pursue these matters.

Senator SARBANES. Let me get the facts from you, if I can, and then we will put on the interpretation. I know you just made a major effort to "put it in context," but was there a request or a plan on the part of the IRS to increase substantially the number of criminal financial investigators working on terrorism financing?

Mr. BODMAN. Senator, I have difficulty in dealing with anything that is not included in the President's budget, and what gets talked about and proposed I have difficulty in responding to.

I can tell you that there was a request from the IRS seeking significant increases in the number of agents. There are currently, I think, 2,700, 2,800 agents in the Criminal Investigation Unit, and they requested an increase in that. They were given an increase in that. The increase next year I think, in the 2005 budget I think that has been asked for, is something like 400 additional agents on top of the 2,700 that were there. So they have been granted that, at least by the discussion that went on between them, Treasury and OMB, so that that has been granted.

As to the specifics of how they will use those agents, all I can tell you, sir, is that heretofore they have not turned down any requests for making these agents available in dealing with terrorist financing matters.

To the best of my knowledge, sir, those are the facts.

Senator SARBANES. I still do not have an answer to my question. Let me read from this article. "The Internal Revenue Service had asked for 80 more criminal investigators, beginning in October, to join the 160 it has already assigned to penetrate the shadowy network that terrorist groups use to finance spots like the September 11 attacks and the recent train bombings in Madrid. The Bush Administration did not include them in the President's proposed budget for the 2005 fiscal year."

I take it that is correct factually, is it not?

Mr. BODMAN. No, sir, I do not believe it is correct. The IRS asked for a substantial increase in the number of criminal investigators that, and they identified areas in which they could be utilized. They were granted, in the budgetary discussions that went on between the Department and OMB, 400 new agents and 200 new analysts, 600 people on a total base—the total number in the CI Unit is something like 4,300 in total, of which 2,700 are agents, I believe, are described as agents. Therefore, this is a very significant increase. And I expect that on an ongoing basis, that to the extent that our terrorist-financing colleagues need assistance from the CI Unit, they will get it.

Therefore, it is my view this is a very high priority that this President has and that this Administration has and that the characterization of that article, in my judgment, sir, is wrong.

Senator SARBANES. You are just saying that they will get help from somewhere else, but you are not denying that their request for 80 additional investigators for the purpose of the terrorist financing was turned down.

Mr. BODMAN. Senator, I can only repeat what I know to be the facts, and I do believe that the implication of that article, which implies that this Administration has not been supportive of the need to interdict terrorist financing activities, is wrong, sir, in my opinion.

Senator SARBANES. Well, now, Zarate, the Deputy Assistant Treasury Secretary for Terrorist Financing said the following, "The IRS certainly had a clear vision of how they wanted to allocate the funds, but there is a clear balance that needs to happen in the IRS, where they have to balance terrorist financing investigations with other responsibilities like drug trafficking, and perhaps more important, enforcement of the tax laws." And he continued, "The Administration has to keep its hands on the pulse of that balance."

Mr. BODMAN. I cannot speak——

Senator SARBANES. Now, I understand that statement. That, in effect, says, Well, we turned them down, but we have to balance our responsibilities here, and we have other responsibilities, and so forth and so on. We have to deal with a budget.

Now, I may disagree with that. I may say, Well, no, no. You should have given the terrorism portfolio a greater priority.

But that statement seems to me to be pretty clear that this was turned down, and the justification is that, as he puts it, the Administration has the keep its hand on the pulse of that balance. Now, I may take the pulse and conclude that there should be a different balance, but I understand that argument.

You are not suggesting there was something different than what your Deputy Assistant Treasury Secretary for Terrorist Financing was saying, are you?

Mr. BODMAN. Yes, I am, sir.

Senator SARBANES. I see.

Mr. BODMAN. I am saying that I think you will find, when you talk to Ms. Jardini, that there has not been a request that has been made by those responsible for pursuing the terrorists through financial means that has been turned down. It represents about 3.5 percent of their workload, sir, and it is given a very high priority, and they do it when they are asked.

I have one more question.

Chairman SHELBY. Go ahead, sir.

Senator SARBANES. Last September, General Counsel Aufhauser told the Committee, "We do not have auditors to ensure compliance with the USA PATRIOT Act. We do not have investigators to pursue the priorities of the National Money Laundering Strategy."

Do you have the auditor investigators now to ensure compliance with the USA PATRIOT Act and to pursue the priorities of the National Money Laundering Strategy?

Mr. BODMAN. We do not have those individuals that are members of the Treasury Department.

Senator SARBANES. Is there a plan to rebuild that force within the Treasury?

Mr. BODMAN. No, sir, at least not at this point because we believe that by reaching out to other agencies within the Government, rather than replicating it, and for example creating an entire new organization to regulate the banks and to be certain that the banks are complying with the Bank Secrecy Act, that would be an example. Senator Allard had asked that question before.

You then get to the question do you put in a whole regulatory organization, thousands of people, presumably, that would be required to do that, or do you try to take advantage of people and

operations that already exist within the Government and to build within that the capability of dealing with this problem?

We have elected to pursue the latter.

Senator SARBANES. I guess the question that has been raised, and we are obviously not going to answer it here today, is whether, given that neither the auditors nor the investigators are under your umbrella, whether you should be the point person on terrorism finance and whether, when I put the question to you right at the beginning, we ought not to be exploring finding the accountable person somewhere else, where they are more closely related and directly responsible for the auditing and the investigating. That is the question.

Mr. BODMAN. I understand.

Senator SARBANES. It is all somewhere else, and of course others claim this responsibility and everything. It is all getting separated again. It is very clear in the September 11 Commission hearings that you had nowhere where all of this was being brought together in one place and no responsible, accountable person.

And of course a lot of the responsibilities have been shifted away from Treasury Department in the Department of Homeland Security reorganization, and the question then is whether the ultimate accountability should shift as well.

Mr. BODMAN. Senator Sarbanes, I can only say again, sir, what I said before, and that is I believe that the primary responsibility for pursuing financial terrorism or the financial support for terrorism throughout the world resides within the Treasury because we have unique knowledge in the financial area, sir.

And the question is, it strikes me that, to me, a more fair question, if I could say so, sir, is how effective is the system working of relying on regulatory—we have regulatory capability now because within FinCEN, for example, we issue regulations, but how effective is the enforcement aspect of relying on the FBI and relying on others that are outside the traditional, that are outside Treasury?

I believe, sir, based on my 2 and a half months of looking at this, that there is reason to believe that this is working.

Senator Allard asked a very legitimate question, well, what about these one or two data points that we come up, are they reflective of a broader and more general problem? And that is something, it seems to me, we need to explore, which I have not done yet, and we will endeavor to do that in order to respond to you.

But I do not believe there is any meaningful overlap in the financial area between Treasury, notwithstanding what a website says, sir, but in terms of what is going on, on the ground, and a very strong and capable group of men and women who work in FinCEN, who work in OFAC, who work in the executive office of the department related to terrorist financing.

We have 600 people working who are very good, who have had a record of significant achievements——

Senator SARBANES. I am not casting any aspersions on the quality of your people.

Mr. Chairman, let me just close this out with this observation. I am not so worried about the overlap. I am worried about the "underlap." And earlier, in response to a question, you told me that

Treasury did not get all of the FBI's terror financial intelligence. I perceive that to be an underlap, that the FBI is getting terror financial intelligence and all of it is not being passed on to what I am told is the accountable person or to the operation under the accountable person, and that gives me concern about underlap.

Mr. BODMAN. If I may, sir, I perhaps misunderstood the question. I thought you were asking did the FBI intelligence activity report to and were they a part of, intended to be part of this new intelligence office, and I said, no.

As to whether there is available the output, the intelligence that comes from whatever the work that the FBI does, I do not know the answer to that, sir. It well could be—there is a very good relationship—and it well could be that the information flows, and I would be happy to get back to you with information on that.

But when you asked me the question before——

Senator SARBANES. You, by your own statement here today, are the accountable person.

Mr. BODMAN. Yes, sir.

Senator SARBANES. That is what you told me.

Mr. BODMAN. That is right, sir.

Senator SARBANES. And then I asked you, I thought, a pretty simple question, whether you get all of the FBI's terror financial intelligence, and now you are telling me you do not know.

Mr. BODMAN. I misunderstood your question, sir.

Senator SARBANES. No, no, no. You now put it in terms that you do not know whether you get it or not.

Mr. BODMAN. That is, in fact, correct, sir.

Chairman SHELBY. Senator Allard, thanks for your patience. I know you want to get back into this.

Senator ALLARD. Getting back to where I was pursuing the Suspicious Activity Reports, how is that we are sure that the banks are following along? What procedures are in place to assure that they are following along as it applies to these Suspicious Activity Reports?

Mr. BODMAN. I have forgotten the frequency, Senator, but it is something like every year or every 15 months, depending on the bank. The Office of the Comptroller of the Currency visits and does an internal audit of the bank as a part of their normal cycle. They have been doing this for some time.

And what we have done is to work with the OCC to incorporate into their audit program an audit of compliance with the Bank Secrecy Act. And so that the internal auditors, for example, of the bank would double check on that as a part of the normal day-to-day activity that goes on inside the bank.

So that is what I was alluding to before. Rather than trying to create a whole other regulatory body that would just deal with the Bank Secrecy—with one law—we have attempted to use those investigators that are already there or those auditors that are already there and at work.

Senator ALLARD. I would hope you do that. That makes sense.

Mr. BODMAN. We are trying to, sir.

Senator ALLARD. But the question—I want to understand. So you have the internal auditors in the bank, and they are constantly doing their work at the bank.

Mr. BODMAN. Yes, they are intern—if I could correct, just to make sure I am clear—we have auditors that work for the Office of the Comptroller of the Currency. They work for the Government, and they visit on a periodic basis——

Senator ALLARD. A year or——

Mr. BODMAN. A year or 18 months I think depending on the size of the bank. Sometimes I think they actually are there and officed within the bank, depending on the circumstances. In addition to that, I think all large organizations have internal audit staffs that between times make sure that various internal controls of all sorts are being pursued, and that whatever the standards are that the board of directors or others set are being adhered to.

Senator ALLARD. And so when the OCC auditor shows up in a year or 2 months, they are prepared to explain to them that they have done the procedures, I mean, if I understand this correctly.

Mr. BODMAN. That, in the hopes of now those who run these institutions, is how it should work. But clearly it has not always worked effectively based on some of the examples that have been given.

Senator ALLARD. The internal auditors then are employees of the banks?

Mr. BODMAN. Yes, sir.

Senator ALLARD. And since this is a new program, the question I have is: Do you think that perhaps maybe we need to have a more frequent review of what is happening as far as this particular program that is being put in place? Then once you get it established, maybe you will get back to us?

Mr. BODMAN. Yes. Any number of things could be. I think it is fair to say we have a weakness, or at least a potential weakness in the system that needs to be investigated. And that is what I have committed to this Committee to do, and I will endeavor to report back to you once I have done that.

Senator ALLARD. You do not think the problem is lack of enforcement power of the bank regulators, is it?

Mr. BODMAN. No, sir.

Senator ALLARD. We do not need more laws to enforce that or anything. It is just a matter of just following through.

Mr. BODMAN. For example, on the banks, I mean, I can assure you that the bank that you referred to before has had a regular visit from its regulatory body. It is not just OCC. It is the Office of Thrift Supervision and other regulators that we have worked with to train up their professional staffs to be able to undertake these audits.

Senator ALLARD. I understand your efficiency. The question is, you know, terrorists account—there are a lot of things that can happen in a year. In a year and a half, a lot of things can happen. And considering the priority of that, we need to make sure, at least initially, with the times that we have just gone through that we do not wait a year or maybe a year and a half before that is discovered. I think in many cases that has to be picked up much quicker than that, most cases that I think of, at least. And I just think that that needs a little bit of review, and I hope that you do that.

My final question is: Suppose we find a Government auditor or something who did not do the job. Then what happens to that individual, a Government employee, what happens to that individual?

Mr. BODMAN. There are procedures for dealing with Government employees who fail that I am sure you are probably more familiar with than I. They are disciplined as a first level, and to the extent that there is then a follow-up as to whether or not they have responded to discipline, after which they are presumably relieved of their duties.

Senator ALLARD. My experience has been that lots of times, because they are so protected, when you have somebody that doesn't do their job, it is difficult to discipline them and dismiss them in some cases. You cannot do it. And, you know, if you run into a situation where you are—this is important enforcement. It has to be done. We have to make sure people are doing it and doing it properly. If you run into this problem, I would like to know about that, because, you know, in the past I have run across instances where we have Federal employees in the civil service system that have not done their jobs, and they do not get dismissed from the jobs. In some cases, they get a promotion.

If that is there, I hope that this Committee can learn that and respond appropriately if you need some power in that regard, too. You know, we are not always talking about regulating of the bank. There is also a responsibility on the Government employee to make sure they do their job, and I just want to make sure we have a proper balance here.

Mr. BODMAN. Thank you, sir. I appreciate knowing that I will have that kind of support, and I can assure you I will take advantage of it, if the need arises.

Chairman SHELBY. Mr. Secretary, I know you will probably see Secretary Snow before we do, and we have him before one of our Committees from time to time. But, again, it is troubling to some of us up here about that May 2003 Memorandum of Understanding between Homeland Security and the FBI. And Treasury was not party to that, yet Treasury is the logical agency to deal with terrorist financing, because I do not know how Homeland Security is going to deal with it without Treasury. I do not know how the FBI is going to deal with it without Treasury.

So, I hope that the Secretary would revisit that issue, because I do not believe that Homeland Security and the FBI, without Treasury playing the central role, can win that war.

Mr. BODMAN. Yes, sir. First of all, you may be sure that the Secretary will hear that, among other things that have been raised this morning. So you can be certain of that.

I would observe, as I did before, that at least it is my understanding—and I will double-check this—that that Memorandum of Understanding focuses on enforcement and not the issue of intelligence and of the issuing of regulations.

Chairman SHELBY. I think you need to revisit it in some way, but make sure that we understand that you are not left out of something that is central to Treasury and central to this fight against terrorism.

Mr. BODMAN. You have made that very clear. Thank you.

Chairman SHELBY. Mr. Secretary, we appreciate you coming here today. We are going to have a second panel, and as you alluded to earlier, we might be here in the afternoon. Thank you very much.

Mr. BODMAN. All right. I did not mean to push that on you, sir.

Chairman SHELBY. You pushed it. Thank you a lot. We appreciate your appearance.

Chairman SHELBY. Our second panel will be Mr. William J. Fox, Director, Financial Crimes Enforcement Network, Department of the Treasury; Mr. Richard Newcomb, Director, Office of Foreign Assets Control, Department of the Treasury; and Ms. Nancy Jardini, Chief of Criminal Investigation, Internal Revenue Service. These are all very important positions, and we appreciate their patience in waiting here all morning to testify before the Committee.

As I said earlier, the written testimony of all three of you will be made part of the record in its entirety, and we will go from there. I do want to say a few things about the panel, if I could.

Mr. Fox became the fourth Director of FinCEN in December 1, 2003. Prior to his appointment as FinCEN's Director, Mr. Fox served as Treasury's Associate Deputy General Counsel and Acting Deputy General Counsel since September 11, 2001. He also served as a Principal Assistant and Senior Adviser to Treasury's General Counsel on issues relating to terrorist financing and financial crimes. You bring a lot of experience here. Mr. Fox has served at the Bureau of Alcohol, Tobacco, and Firearms, first as an attorney in the ATF's Tobacco and Firearms—first as an attorney in the Chicago office, then as a Senior Counsel for Alcohol and Tobacco, and finally ATF's Deputy Chief Counsel.

Ms. Nancy Jardini brings a great deal of experience here, too. She has been the Chief of Criminal Investigations at the Internal Revenue Service since January 9, 2004. Before that, she was the Deputy Chief of Criminal Investigations, a lot of experience.

Ms. Jardini, I want to note this: You are the first woman to hold both these posts. That is a milestone.

She came to the IRS from the Criminal Division of the Justice Department. She has been a lifelong Federal prosecutor and defense attorney.

Mr. Rick Newcomb is Director of the Office of Foreign Assets Control, and we welcome all three of you here today.

As I said, again, your written testimony will be made part of the record. I do want to say just a little more about Mr. Newcomb.

He has held this position since 1989. We are familiar with him. As such, he has been at the forefront of the Nation's effort in combating financial crime, enforcing sanctions on foreign persons, states, and other entities for many years. Prior to assuming his current position, he served the Department in other capacities, including trade and customs. Before joining Treasury, he served as Special Assistant to the Administrator of the Law Enforcement Assistance Administration in the Department of Justice.

You all bring distinguished backgrounds to this Committee. Thank you a lot for your jobs.

Mr. Fox, you may proceed as you wish. As I said, your statements will be made part of the Banking Committee hearing record.

STATEMENT OF WILLIAM J. FOX
DIRECTOR, FINANCIAL CRIMES ENFORCEMENT NETWORK
U.S. DEPARTMENT OF THE TREASURY

Mr. FOX. Thank you very much, Mr. Chairman.

Chairman Shelby, Senator Sarbanes, and distinguished Members of this Committee, I would like to thank you for the opportunity to appear before you to discuss our vision for the Financial Crimes Enforcement Network. This is my first opportunity to testify before the Congress, and I consider it a great honor to be here, sir.

I have an extended statement which we submitted for the record, and thank you. I will keep these remarks very brief.

I wish to thank the Committee for the leadership that it has provided to the country on issues related to terrorist financing and financial crime throughout the past years. I would particularly like to acknowledge the work of your staff, which has really been outstanding for us, and we appreciate it very much. It is a terrific staff to deal with.

I also wish to acknowledge you colleagues on this panel. I am honored to appear with Rick and Nancy. I have worked very, very closely with Rick particularly over the last 3 years on issues related to terrorist financing, and I applaud the substantial contribution that OFAC has made on these issues under his leadership.

I do not know Nancy as well as I know Rick, but I am keenly aware of the good work of her agents. In an earlier part of my career, when I was working very closely with U.S. Attorney's Offices around the country, there was always one uniform rule from district to district—no matter which agency brought the case—if it was financial and its complex, you called IRS–CID. Based on what I know of Nancy, I am absolutely certain that will continue.

As you mentioned, Mr. Chairman, I was appointed to be FinCEN's fourth Director in December 2003. Before coming to FinCEN, I was a principal assistant to David Aufhauser at Treasury while he led the Treasury Department and, frankly, the Government on issues relating to the financing of terror. Working with David, I quickly gained a very keen appreciation for the importance of what has been referred to as the financial front of the war against terrorism. I think that importance can be stated quite simply: Money does not lie.

A good part of the time, financial intelligence "is" actionable intelligence. It can be extremely useful for identifying, locating, and capturing terrorists and defining their networks. And perhaps just as important, financial intelligence can lead to effective, strategic action that stops or disrupts the flow of money to terrorists and their networks, which in turn serves to halt or impede terrorist operations.

Let me submit to you, Mr. Chairman, that the Financial Crimes Enforcement Network is right in the middle of these two aspects of exploiting financial information. We have been learning about, understanding, and exploiting financial information for 14 years. My job is clear: To lead FinCEN in a direction that ensures that we are the gold standard when it comes to understanding, analyzing, and employing financial information to combat terrorism and financial crime.

Let me tell you what I have found in my first 150 days on the job. I have found an agency populated with highly motivated employees with diverse, and in many ways, specialized talents and skills who are very dedicated to FinCEN and its mission. I have found an agency that is a responsive service provider to law enforcement, an agency that is doing a great deal of very good work, work that makes a difference in financial investigations around the country. This is all very good news. But I have also found an agency that is facing many significant challenges. Whether FinCEN can rise to meet these challenges will determine whether it can be the gold standard that it needs to be. To meet these challenges, we are going to need the help of the Treasury Department, the Administration, and the Congress.

Let me highlight a few specifics. The most important and fundamental challenge facing FinCEN, in my view, relates to the security and dissemination of the data that we have been charged to safeguard, the data collected under the Bank Secrecy Act. If FinCEN does nothing else, it must ensure that this data is properly collected, is kept secure, and is appropriately, efficiently, and securely disseminated. This is FinCEN's core responsibility. We believe our BSA Direct project, which you have alluded to earlier and which is discussed at length in my statement, will help address these issues.

Nearly as important is that FinCEN must enhance its analytic capabilities. What we have found is that the analytic work at FinCEN has been focused a little too much on data retrieval and reporting at the expense of sophisticated analysis that, in my view, should be done given the unique window FinCEN has on information flowing through its regulatory, law enforcement, intelligence, and international platforms. I hold myself accountable for reengineering FinCEN's analytic talent to ensure that its analytic products are, in fact, at a level of sophistication that contributes better to the broader goals of the Government in combating terrorist financing and money laundering.

We must also ensure a more effective administration of the regulatory regime promulgated under the Bank Secrecy Act, which is critical to safeguarding our financial system from abuse from terrorists and criminals. We need to work more closely with the financial institutions that we regulate. We need to work closer and better with our partners, the bank regulators and the IRS, to design efficient and effective programs that will ensure compliance, programs that are focused on bad actors and not programs that demand compliance for compliance's sake.

Our goals in this arena are simple: To collect more relevant and useful data and to enhance the anti-money laundering programs established by the regulated community.

Last, but not least, FinCEN needs to take greater advantage of the international network that it helped create nearly 10 years ago. We must move toward a more robust relationship with the members of the Egmont Group to collaborate together to proactively contribute in more creative ways to the international conversation on the financing of terrorist and money laundering.

These, Mr. Chairman, are some of the more important challenges facing FinCEN today. I think you should hold me accountable for

meeting these challenges and for making FinCEN the gold standard for financial intelligence. I am very excited about the new leadership at the Treasury Department. Already Deputy Secretary Bodman has engaged in these issues in a real way and is dedicated to helping us meet these challenges. With the help of the Treasury and the Congress, I am confident that we can meet the challenges and truly make FinCEN what it should be.

Mr. Chairman, I appreciate the opportunity you have given me to discuss these issues with you here today, and I look forward to working closely with you and your staff as we rise to meet these challenges.

I will be happy to answer any questions that you may have.

Chairman SHELBY. Mr. Newcomb.

STATEMENT OF R. RICHARD NEWCOMB
DIRECTOR, OFFICE OF FOREIGN ASSETS CONTROL
U.S. DEPARTMENT OF THE TREASURY

Mr. NEWCOMB. Thank you, Mr. Chairman. I deeply appreciate the opportunity to testify. The work of the Office of Foreign Assets Control and our efforts to combat terrorist support networks form an important part of the Treasury and our Government's national security mission. It is indeed a pleasure to be here with you today and with my distinguished colleagues on the panel, with whom we have worked very closely on a day-to-day basis, and to discuss the new office and the role in these areas.

I also want to take a moment to compliment your staff and the good working relationship that we have developed in this hearing and other long-term endeavors that we have had ongoing. I want to discuss briefly our core mission and then talk specifically about terrorist financing.

At OFAC, we administer and enforce economic sanctions and embargo programs against targeted foreign governments, groups, and individuals, including terrorists and terrorist organizations and narcotics traffickers, which pose a threat to the national security, foreign policy, and economy of the United States. We act under the general Presidential wartime and national emergency powers, as well as specific legislation, to prohibit, that is, block or freeze transactions and freeze assets subject to U.S. jurisdiction. Economic sanctions are intended to deprive the target of the use of its assets and deny the target access to the U.S. financial system and the benefits of trade, transactions, and services involving U.S. markets. These same authorities have been used also to protect assets within U.S. jurisdiction of countries subject to foreign occupation and to further important U.S. nonproliferation goals.

We currently administer and enforce some 27 economic sanctions programs pursuant to these Presidential and Congressional mandates. They are a crucial element in preserving and advancing the foreign policy and national security objectives of the United States and are usually taken in conjunction with diplomatic, law enforcement, and occasionally military action.

Our historical mission has been the administration of sanctions against target governments that engage in policies inimical to U.S. foreign policy and national security interests, including regional de-

stabilization, severe human rights abuses, and repression of democracy. For example, recent programs in the Western Balkans, Zimbabwe, Sudan, and other regions reflect that focus. But since 1995, the executive branch has increasingly used its statutory blocking powers to target international terrorist groups and narcotics traffickers.

Many country-based sanctions programs are part of the U.S. Government's response to the threat posed by international terrorism. The Secretary of State has designated 7 countries—Iran, Iraq, Libya, Cuba, North Korea, Syria, and Sudan—as supporting international terrorism. Three of these countries are subject to comprehensive economic sanctions—Cuba, Iran, and Sudan. they have been imposed against Libya, Iraq, and North Korea as well. They are in current stages of being lifted. Syria is not currently subject to comprehensive sanctions; however, certain financial transactions are regulated.

We administer also a growing number of list-based programs, targeting members of government regimes and other individuals and groups whose activities are inimical to national security.

We have grown over the last 18 years since I have been Director, beginning actually in 1987, from an office of a handful of employees to now an operation of some 144 individuals administering the 27 programs I have mentioned. A large percentage of our staff have had prior professional experience in various areas of the law, financing, banking, law enforcement, and intelligence. To accomplish our mission, we rely on good, cooperative working relationships with other Treasury components, Federal agencies, particularly State and Commerce, law enforcement agencies, the intelligence community, domestic and international financial institutions, the business community, foreign governments, and especially our colleagues here.

We are an organization that blends regulatory, national security, law enforcement, and intelligence into a single entity with many mandates but a single focus: Effectively implementing economic sanctions programs against foreign adversaries when imposed by the President or the Congress. In order to carry out our mission, we have 10 divisions. They are divided into primarily devoted to narcotics and terrorism programs, while others are licensing, compliance, and civil penalties division that are geared toward interaction with the public. In these latter divisions, where primarily we serve as liaison with the public, we are seeking to promote greater transparency. I have a very high OFAC priority at this time outlined in my prepared statement.

Finally, we have a Law Enforcement Division that cooperates with the law enforcement community so that we enhance our law enforcement mission.

We rely heavily on designation programs, authorities derived from the Executive Orders we operate under to develop specially designated terrorists, specially designated narcotics traffickers, specially designated Nationals, and SDGT's, which was formulated out of Executive Order 13224, ordered by the President following the attacks of September 11 on September 23. This is an extraordinarily important element of the war on terrorism.

Under this program, OFAC acting under this authority has designated 361 individuals as the so-called SDGT's pursuant to this Executive Order. More than 260 of these entities are associated with either Al Qaeda or the Taliban, which provides the basis for notifying then the United Nations, who would then act on Executive Order—under UN Security Council resolutions to take similar coordinated action. This similar coordinate action is a key component of our antiterrorism efforts worldwide.

One other important point I wish to make is that the U.S. Government took a very important additional significant step in November 2001 when the Secretary of State, in consultation with the Secretary of the Treasury, designated some 22 foreign terrorist organizations as specially designated global terrorists. This action expanded the war on terrorism beyond al Qaeda and the Taliban to other worldwide actors, such as Hamas, Hizbollah, the FARC, the Real IRA, and others, and this did truly create this global war on terrorism and terrorist financing and demonstrated the U.S. Government's commitment to continue and expand the efforts against all terrorist groups posing a threat to the United States. Currently, there are some 37 terrorist organizations that are under this Executive Order.

I will conclude my oral remarks at this point. I just want to make two or three key points.

It is critical in our efforts going forward that we continue to have the ability to focus on the key nodes of the terrorist support structure. These key notes are the target sets that by focusing on worldwide, working with the interagency community, we are able to understand what truly makes them function and develop a strategy where working with our other counterparts in the United States and the UN we can bring down an entire network. We have had great success working with our interagency partners. I am particularly pleased about the steps we have made with the U.S. military in staffing the six Combatant Commands with OFAC individuals so that we are able to work with them to share information and share tools that might not otherwise be available to all of us in this war.

Thank you, Mr. Chairman. Again, it is my pleasure to be here.

Chairman SHELBY. Thank you.

Ms. Jardini.

STATEMENT OF NANCY JARDINI
CHIEF, CRIMINAL INVESTIGATION
INTERNAL REVENUE SERVICE

Ms. JARDINI. Good morning, Mr. Chairman. I had hoped that in 3 more minutes and I can say "good afternoon," Mr. Chairman.

Chairman SHELBY. You take your time.

Ms. JARDINI. Thank you very much for the opportunity to be here today to highlight how the unique and specialized skills of the Internal Revenue Service Criminal Investigation Division are deployed to track terror financing. I am honored to be here today on this panel with my partners from Treasury law enforcement, with whom I work very closely. I would also like to thank you for the fine work of your staffs that have been very helpful in preparation for this hearing and have been very cooperative with us in our efforts to develop appropriate information.

The fundamental mission of CID, the Criminal Investigation Division, is to serve the American public by detecting and investigating criminal violations of the Internal Revenue Code and related financial crimes. To that end, we recruit only individuals who have an educational background in accounting and business and, through rigorous training, shape them into law enforcement professionals who are experts in forensic accounting, financial investigations, and computer forensics. These highly skilled special agents are devoted to following the money in tax and related investigations that involve sophisticated schemes and complex transactions that span the globe.

The unique sophistication of our 2,750 criminal investigators are in demand throughout law enforcement because we add value to any financial investigation. These are precisely the same skills that make such a valuable contribution to unraveling global terrorist financing networks.

In addition to bringing significant technical expertise to these investigations, there is often a nexus between tax and terror. For example, one significant investigation of an international charitable foundation revealed ties to international terrorist organizations. In that case, the crimes that formed the basis for the search warrant related to the filing of the foundation's tax return as well as Bank Secrecy Act data. In another investigation, the Executive Director of the Benevolence International Foundation, a purported charitable organization, was sentenced to over 11 years in Federal prison for fraudulently obtaining charitable donations that were ultimately used to support violent activities overseas.

Just as terrorists employ various methods to move money, we are using various means to detect it. One of those is to exploit the Bank Secrecy Act data. CID leads 41 suspicious activity report review teams nationwide. These teams are comprised of Federal, State, and local law enforcement officials who evaluate over 12,000 SAR's each month.

An example of the usefulness of the SAR review teams is illustrated in a case involving a fast-food employee who was convicted for operating an unlicensed money services business. This case was initiated after a SAR review team evaluated numerous SAR's filed by several banks alleging the subject was making cash deposits inconsistent with his occupation. It was ultimately proven that the subject made numerous cash and check deposits to several accounts and wired over $3 million out of the country to locations in Asia, Europe, South America, and the Middle East.

Another unique contribution of CID is the counterterrorism project we are piloting in Garden City, New York, which, when fully operational, will use advanced analytical technology and data modeling of tax and other information to support ongoing joint investigations and proactively identify potential patterns. The center analyzes information not available to and not captured by any other law enforcement organization. So far, the Lead Development Center has helped identify individuals, entities, and relationships amongst them previously unknown to law enforcement.

As an example, the Lead Development Center began compiling and analyzing financial data that culminated in the linking of several individuals and businesses, some of whom are under criminal

investigation and one with ties to Al Qaeda. With no identifiers other than listed names, the center established significant connections to individuals and businesses potentially involved in illegal activities, including heroin smuggling and Iraqi artifact smuggling. The scope of this criminal enterprise was previously unknown.

In conclusion, the men and women of IRS–CID are some of the most skilled financial investigators in all of law enforcement, and they are proud of the role they play in achieving these successes. For all of us, it is one of the great rewards of public service.

I thank you for this opportunity to appear before you today, and I welcome your questions.

Chairman SHELBY. Thank you.

I will start with Mr. Fox. First of all, I want to say again we appreciate the jobs that all of you are doing and the people that you work with. All of you alluded to the fact that our staff here on the Banking Committee has worked hand in glove with you on a lot of things, because I think our goal is similar.

Mr. Fox, some of us are concerned that you do not have adequate resources to accomplish the many and important missions you have. I am aware that it is difficult to develop analysts; it is tough and it takes time. But the question is: Do we have that time in our fight against terrorists?

What initiatives are ongoing at FinCEN to bolster your analytic capability? You alluded to this earlier, because it doesn't matter what the data is if you do not analyze it properly and disseminate it, in other words, act upon it. It is useless, in a sense.

Are your analysts—well, go ahead and answer that. What initiatives are going on to bolster your analytical capability? You know, our other intelligence agencies are challenged, too, but they always have been.

Mr. FOX. Thank you, Mr. Chairman. This is a very good question. The good news is, I think, that what I have found, is that FinCEN has some very good financial analytic talent. In fact, it is some of the best I have seen, and I have had the opportunity to view quite a bit of it because of my past life, particularly on the financial end.

Chairman SHELBY. Sure.

Mr. FOX. In my view, sir, the analytic talent at FinCEN, however, has not been focused, I guess, on the right work. I think we need to refocus those efforts to really get those analysts back into sophisticated, strategic, or tactical analytic work, if you will. They need to be working from all sources of information, not just the BSA. BSA is incredibly important and a wonderful source of information in this world, but there are other sources of information that are just as relevant.

Chairman SHELBY. And there is a lot of synergy dealing with the IRS on this. You know, you are all part of Treasury.

Mr. FOX. Absolutely, sir. That is precisely correct.

I think we are changing that at FinCEN. In fact, we are going to change it at FinCEN. If we don't, you can call me and tell me I should go somewhere else because I think it is that important.

Chairman SHELBY. We do not want you to go anywhere else. We want to help you——

Mr. FOX. I know, sir, and I appreciate that.

I have to tell you one thing before I get into exactly what we are doing. The very heartening thing for me is that this change is very welcome at FinCEN. I have line analysts coming up to me in the hallways saying, "We thank you, we are really anxious to do this work." So you have a lot of people there that are really ready to break loose.

I think one thing we need to do is to reorganize ourselves a little bit, sir. We have a reorganization plan that we briefed your staffs on, and we also are working with the Treasury Department to implement it right now. What we are going to do is to really focus our analytic talent on analysis. In other words, take responsibilities that do not relate to analysis away from them and move them into another line of responsibilities. Those responsibilities are very important, but they are really not analytic work.

I believe that we have to meld our intelligence analysts, if you will, if you want to use that term—the people who are exploiting national security information—into our greater analytic pool, take down the walls that exists currently at FinCEN between those two.

And then, finally, sir, I think we need training, and I think we need to really leverage the training that is available out there. There is a plethora of it in Federal analytic agencies, and we are going to take advantage of it. When it comes to recruiting, sir, we are going to try to recruit the absolute very best.

Chairman SHELBY. When you analyze information, do you ensure that is correct? Or you do the analysis first, and then is it all in the same category?

Mr. FOX. Well, what is happening——

Chairman SHELBY. You have to analyze some information, and then you have got to make sure it is correct, to the best of your——

Mr. FOX. What is happening at FinCEN—not completely, but by and large, in my view, is that FinCEN is focused on data retrieval. We get a lot of requests from law enforcement and other parties for information that relates from the Bank Secrecy Act. We go and we search that data pool, data set, and then spit that back out. And, sir, I actually do not think that is real analysis. We are employing a lot of our analytic talent toward that end.

Chairman SHELBY. You have to analyze this information to make sure it is correct.

Mr. FOX. Yes, sir, absolutely, and so it is a cart before the horse, if you will. So we are going to refocus our efforts to do that, sir, and try to create those products that really are useful to our customers and to the Government.

Chairman SHELBY. How does the Bank Secrecy Act, or the BSA Direct, we might say, how would that improve your analytical products? Give your more information?

Mr. FOX. Sure. We think that the tools that will be available, many of which we have available to us at FinCEN right now, will be very helpful. But, sir, where BSA Direct will really help is to free up our analysts and give our customers the capability to search or mine the BSA data so that we do not have to do it for them. We can then focus our expertise and our resources on creating products that are better and more valuable and add better to the conversation.

Chairman SHELBY. Mr. Newcomb, OFAC and the military, we are intrigued by your agency's interaction with the combatant and regional commands. The Pacific and European Commands, as well as others, are conversant with what you are doing and what you can provide in the effort of defeating terrorists in foreign countries, and I think that is a welcome development, and I encourage you here. I believe this is an example of innovative thinking and maximizing your limited resources. I think this is on the right track, and I want to commend you here.

Could you expand on the nature of the relationship for us here? Is this a two-way flow of information which is intelligence? Or is it primarily one-way? And are there any legal, bureaucratic, or cultural impediments that you have discovered to sharing information with the CINC's that we could help you with?

Mr. NEWCOMB. Thank you, Mr. Chairman. I am delighted you asked me that question this morning. I am particularly excited about this relationship because before September 11 we did not have it, and now we do. And it was mutually seeking each other. We needed to find new tools and force multipliers and ways we could work together and utilize our existing resources to complement one another.

I believe as one individual, the commander of the Office of Naval Intelligence, once said, we have things we can do. There are kinetic solutions. We can watch a target, a ship, we can sink a ship or we can board a ship. Or we can put that shipping company out of business and deploy that activity worldwide so the entire UN takes steps under the UN Security Council resolutions.

We have followed this strategy working with the Combatant Commands through their Joint Interagency Counterterrorism Groups. We currently have people assigned now to UCOM. I have someone soon to be deployed to SOCOM as well as the four other Combatant Commands. And as I said, I am particularly excited about it.

I went to a conference in 2002 at PAYCOM and sat down for an afternoon and really learned a great deal about what was known on the ground by special ops officers in the various countries we were working on, brought that back and was able to use that as a key component of——

Chairman SHELBY. That is a heck of a resource, is it not?

Mr. NEWCOMB. It is a tremendous resource, and I am just delighted that JCS has offered to fund six positions so that we can get individuals deployed to these areas. And we soon will be doing that as soon as I can get them properly trained.

Finally, let me say it is truly win-win, and I hear things back consistently. Just yesterday, people from PAYCOM came to see us about a conference that they were having a regional maritime security conference. It is where all groups working together in that region at the local level, working with people with hands-on experience can develop areas where we can work jointly together and then bring it back to Washington and integrate this into the PCC process in our Key Nodes Effects-Based Targeting Initiative.

So, I am delighted to be a part of it, and I look forward to working with the JCS and the Combatant Commands to pursue this program.

Chairman SHELBY. Have you some indications that regional governments, such as Indonesia, Malaysia, and perhaps others, could be more cooperative?

Mr. NEWCOMB. I think the issue of cooperation is something we face worldwide, and through our Office of Technical Assistance, direct technical assistance and working through the diplomatic community, this is always—wherever we are talking about is a process——

Chairman SHELBY. Could you help a lot of places and different regions better police their banks, financial institutions, and other organizations that are laundering money?

Mr. NEWCOMB. Well, we do not do the money laundering area. I would need to defer to my colleagues here at the table. But what we do is work as far as enhancing credibility and capability and the joint designation process. And we have had great success worldwide. I have personally led delegations to a dozen of 14 countries, and as we continue, this will be all part of how we proceed.

Chairman SHELBY. Thank you.

Ms. Jardini, I am hoping you can address some of the concerns expressed in the recent article by Senator Sarbanes I have read regarding the gap between the Criminal Investigation Division's manpower levels and its workload, especially as the issue of terrorist financing grows in importance—and I believe it will—to national security.

Ms. JARDINI. Thank you, Mr. Chairman. That is an extremely important point. The Criminal Investigation Division's current manpower level is the lowest level in over 12 years. Manpower, special agent resources, is amongst the most critical aspects of our progress going forward, continuing to deploy the expert financial investigative work that we do.

That said, the President's 2005 budget as written allows for the single largest expansion year in special agent hiring in Criminal Investigation ever. If passed as written, Criminal Investigation will acquire over 400 new special agents and almost 200 analysts to assist those special agents and also to deploy special skills in the analytical areas that are so critical for supporting our criminal investigation mission.

So we look forward to 2005. It will go a long way if we get those resources to bringing on the full strength that we will use to deploy our mission effectively.

Chairman SHELBY. That is the only way you are going to win the terrorist financing war, is it not? You are going to have to have the resources.

Ms. JARDINI. We are going to have to have the resources to win the war; that is for sure.

Chairman SHELBY. We have a vote on the floor. You have been very patient all day. We just kept you a few minutes into the p.m., but we appreciate your work. We will continue to work with you, and we will have you back up here.

[Whereupon, at 12:15 p.m., the hearing was adjourned.]

[Prepared statements, response to written questions, and additional material supplied for the record follow:]

PREPARED STATEMENT OF SENATOR WAYNE ALLARD

I would like to thank Chairman Shelby for holding this oversight hearing to hear about the Department of the Treasury's progress on their recent reorganization to counter the financing of terrorism. This Committee held two hearings last fall which provided us with an understanding of the difficulties that exist in tracing the origin and use of terrorist funds. Last November, Congress approved the position of Assistant Secretary for Intelligence and Analysis in the Department of the Treasury, to allow access to, and analysis of, financial information that is in the possession of the Government. I am hopeful today's discussion will provide a positive update for the Committee on steps that have been taken to implement this new office.

The Bank Secrecy Act and terror financing are important areas of jurisdiction for the Banking Committee. The creation of the Department of Homeland Security has greatly shifted the responsibilities of departments and agencies, and it is vital that Congress maintain strict oversight to ensure that the responsibilities—both old and new—of our counterterrorism agencies, are being fulfilled.

I would like to thank our witnesses for coming to testify and look forward to hearing what your office is doing to integrate and implement counterterrorism systems.

PREPARED STATEMENT OF SAMUEL W. BODMAN

DEPUTY SECRETARY, U.S. DEPARTMENT OF THE TREASURY

APRIL 29, 2004

Introduction

Chairman Shelby, Ranking Member Sarbanes, and Members of the Committee, thank you for inviting me to testify today about the Treasury Department's central role in the international war against terrorist financing and financial crime. I welcome this opportunity to discuss this subject with you, and to outline our vision for moving forward in this vitally important fight.

Though I have only been at the Treasury Department for a short period, it is clear to me that this Department is well placed to shape policy and practice in areas of financial and economic interest that affect our national security. Through its broad authorities and expertise, the Treasury Department is charged with preserving the integrity of the financial system and does so every day by charting our counterterrorist financing campaign; setting and implementing anti-money laundering and counterterrorist financing polices, regulations, and standards at home and abroad; gathering and sharing financial information with law enforcement and foreign counterparts regarding financial crime; implementing our Nation's economic sanctions; and enforcing relevant regulations and laws related to these missions. Of course, this is done in close coordination with our partners at the Departments of Justice, State, Homeland Security, and all other relevant Federal departments and agencies.

Immediately after September 11, the President directed the Treasury Department to guide the Federal Government's efforts in the global war against the financing of terrorism. Since that time, we have continued to devote our resources and extensive expertise to ensure that financial intermediaries and facilitators who infuse terrorist organizations with money, material, and support are held accountable along with those who perpetrate terrorist acts. The war on terrorist financing is a vital responsibility of the Department. Terrorists—like any other organized criminals—rely on financial networks to fund and support their activities. Disrupting and dismantling those networks can make it more difficult for terrorists to carry out their deadly activities. Our success, therefore, can save the lives of Americans and of our friends and allies.

We know the U.S. Government has had an effect on the ability of Al Qaeda and other terrorists to raise and move money around the world. The designations and other actions we have taken have made it riskier and costlier for them to try to use the formal financial system—which previously provided an open gateway for their funds to be sent instantly around the world. Our domestic and international efforts have tightened the net in the international financial system—through greater oversight, transparency, diligence, and capacity. Because of these efforts, terrorists have had to change the way they do business and are relying more on home-grown methods of raising money and slower methods of moving money. These are signals of our success.

As the recent bombings in Madrid and Riyadh demonstrate, however, we still have much work to do. Commitment to defeat terrorism is not enough. We must en-

sure that our commitment to disrupt and dismantle terrorist financing networks is matched by tangible results. I believe that we have achieved important and considerable results, but that we can and must do more, building not only upon our successes against terrorist financing, but also upon our experience and expertise in combating financial crime generally.

What is clear is that the rest of world has now begun to view the world as Treasury and others in the U.S. Government have always seen it. Dirty money and tainted financial flows not only corrupt the financial system but also threaten the lives of innocents and the economic and political stability of the world. Whether it is financing raised and moved to fuel terrorism or financial networks created to facilitate the proliferation of weapons of mass destruction, the global mission is clear: To disrupt and deter criminal activity that threatens our national security. In this endeavor, we must leverage all of our power to dismantle the financial infrastructure of such networks and of rogue regimes. This is now the axiom of the international community, and it is so because the U.S. Government has helped reshape the way the international community thinks about these issues.

In my testimony today, I will first explain how Treasury has helped to lead our Nation's efforts in the campaign against terrorist financing and financial crime more generally. I will then describe how we have marshaled our resources over the past year to achieve significant and meaningful results against terrorist financing and other criminal networks. I will conclude by laying out some of our new initiatives, the most important of which is the establishment of the Office of Terrorism and Financial Intelligence.

During the past year, our people have worked extremely hard and achieved many significant results. At the same time, we all recognize that our enemies are sophisticated and determined, and so we must continue to adapt and revitalize ourselves so that we can continue to achieve results. This new office—which will bring together under one roof: Intelligence, regulatory, law enforcement, sanctions, and policy offices—will build upon our achievements over the past year, and allow Treasury to be more effective in the war on terrorist financing and in preserving the international financial system.

Treasury's Role in Combating Financial Crime

The Treasury Department has traditionally had the responsibility of safeguarding the integrity of the United States and international financial systems from all threats. This has resulted in the Treasury Department's developing expertise in the wide range of disciplines necessary to meet that responsibility. Today, Treasury has expertise in disciplines that stretch across the entire counterterrorist financing spectrum. These include:

- application and implementation of sanctions and administrative powers;
- direct law enforcement action and law enforcement support,
- international initiatives;
- private sector outreach and engagement; and
- financial regulation and supervision.

As reflected in Congress' decision 5 years ago to charge Treasury with the leading role in the development of the *National Money Laundering Strategy,* Treasury's wide range of authorities, skills, and relationships makes it well-positioned to devise, coordinate, and help to implement Government-wide strategies to target, attack, and dismantle the financial networks that support terrorism and other criminal activity. We take a targeted as well as a systemic approach to these complex issues, using all possible regulatory, economic, diplomatic, and strategic tools and policies to ensure our systems are not abused by money launderers, terrorists, and other criminals.

In an effort to consolidate these tools and policies against all elements of financial crime, one year ago the Secretary of the Treasury established the Executive Office for Terrorist Financing and Financial Crime (Executive Office). This Office is responsible for developing policies relating to the Department's anti-money laundering, terrorist financing and financial crimes mission. It also oversees the offices and Bureaus responsible for implementing and administering these policies, for example, the Office of Foreign Assets Control (OFAC), the Financial Crimes Enforcement Network (FinCEN), and the Treasury Executive Office for Asset Forfeiture (TEOAF). It also works closely with the Internal Revenue Service's Criminal Investigation Division (IRS–CI) which possesses unparalleled financial investigation experience.

Treasury's authorities and expertise relating to combating financial crimes may also be leveraged to accomplish financial missions of critical importance to our national security interests. This is perhaps best seen in the hunt for Iraqi assets. I

would like to briefly explain our efforts in the campaign to identify and repatriate Iraqi assets as one example of how Treasury has leveraged its resources and coordinated those of the interagency community to advance a mission critical to our national security interests.

On March 20, 2003, President Bush directed the Treasury Department to a worldwide hunt for Saddam Hussein's assets and directed Treasury's newly-formed Executive Office to lead the U.S. Government's efforts to find, freeze, and repatriate Iraq's money for use in the reconstruction of Iraq. Consequently, the Treasury Department established and chairs the Iraqi Assets Working Group (IAWG), comprised of all the relevant elements of this U.S. Government effort, including the National Security Council, the Departments of State, Justice, Homeland Security, Defense, and the law enforcement and intelligence communities. In this context, the Treasury Department has coordinated the intelligence and law enforcement efforts of this hunt—relying on IRS–CI investigators and OFAC and intelligence analysts to unearth Saddam's hidden accounts and front companies around the world—and our diplomatic actions—leveraging the contacts and influence of the State Department and the Treasury abroad to gain international cooperation.

Since Secretary Snow's announcement of the campaign to identify, freeze, and repatriate stolen Iraqi assets on March 20 of last year, the Treasury, working closely with other parts of the U.S. Government, has achieved important results in returning assets to the Iraqi people and in uncovering the schemes and networks used by the regime to steal from Iraq:

- Almost $2 billion of Iraqi assets has been newly identified and frozen outside the United States and Iraq.
- More than three-quarters of a billion dollars have been transferred by foreign sources to the Development Fund for Iraq (DFI). In total, the United States, foreign countries, and the Bank for International Settlements have transferred back to Iraq over $2.6 billion in frozen Iraqi funds.
- Approximately $1.3 billion in cash and valuables has been recovered in Iraq.
- We continue to identify key individuals and entities whose assets should be frozen. In the past few weeks, the Department of the Treasury has undertaken the following important actions: (i) designated 16 immediate family members of senior officials of the former Iraqi regime pursuant to Executive Order 13315; (ii) listed 191 Iraqi parastatal (quasi-governmental) entities; (iii) designated five front companies of the former Iraqi regime and four associated individuals; (iv) redesignated three other front companies and one individual previously designated by the Treasury Department; and (v) through the U.S. Mission to the UN, submitted the names of all of these entities and individuals to the United Nations, requesting that they be listed by the UN 1518 Committee under UNSCR 1483.
- In Iraq, our financial investigators from IRS–CID have conducted over 80 interviews of key individuals who have information relating to Iraqi assets, ranging from the top ministers of the State Oil Marketing Organization (SOMO), to the laborers who buried Saddam's U.S. currency. These investigators are finding and interrogating key financial facilitators like accountants and bankers, who have knowledge about the movement of Iraqi assets. Under IRS–CI questioning, these witnesses have identified assets that can be recovered for the DFI, and which we are aggressively pursuing.
- While searching for Iraqi assets abroad, IRS–CI agents determined that the former Iraqi Ambassador to Russia had stolen $4 million in Iraqi assets that had been entrusted to him. As a result, that amount has been frozen in Russia, and we are working to have it repatriated.
- Working closely with the governments of Liechtenstein, Switzerland, and Jordan, we are attempting to recover one of Saddam's Falcon 50 corporate jets and to uncover a financial network that had been used by the Iraqis to move money and people in the heart of Europe.
- The financial investigation teams have also uncovered important leads for other IRS–CI financial investigators to follow up on in jurisdictions outside of Iraq. We have identified bank accounts and other assets held in over 20 countries, including Switzerland, France, Germany, Liechtenstein, Russia, Spain, Egypt, Thailand, Indonesia, Lebanon, Belarus, Iran, South Korea, Malaysia, Japan, Morocco, Saudi Arabia, UAE, British Virgin Islands, Jordan, Syria, and Yemen.
- As a result of interagency cooperation and investigative and other efforts in Baghdad and at headquarters, the Departments of Treasury and State have provided identifying information on over 570 identified Iraqi bank accounts to 41 countries for review and follow-up. Those accounts were identified as belonging to the Central Bank of Iraq, Rafidain Bank, and Rasheed Bank.

The identification and recovery of stolen Iraqi assets is just one area in which we have helped to drive key efforts and initiatives. This—and other Treasury initiatives—demonstrate our ability to help to coordinate government efforts and achieve positive results.

I would like to review briefly some of our successes under the U.S. Government's strategy for combating financial crime.

Treasury's Recent Accomplishments in Combating Financial Crime

BACKGROUND AND STRATEGY

Treasury's success in combating terrorist financing and financial crime reflects a strategic approach of developing and implementing policies that utilize our administrative powers, law enforcement resources, international relationships, engagement with the private sector and regulatory authorities to attack financial crime on a targeted and systemic basis. We have focused our efforts on identifying and interdicting key financial networks that support terrorist and other criminal activity, and on protecting financial systems from terrorist and criminal infiltration. Our systemic efforts are improving the transparency and accountability of financial systems around the world, making it easier to identify, disrupt, and dismantle those terrorists and criminal networks that continue to abuse such systems. As we succeed in these goals, we have expanded our efforts to address alternative and informal financial systems that are vulnerable to terrorist and criminal abuse, including charities, alternative remittance systems, and cash couriers.

Targeting money flows is among the best means of tracking, exposing, and capturing terrorists and their facilitators, narco-trafficking cartels and their supporting infrastructure, organized crime networks, and deposed kleptocratic regimes and their ill-gotten assets worldwide. Money flows leave a signature, an audit trail, and provide a road map of terrorist and other criminal activity. Financial investigations lead upstream to those who are generating the underlying financial crimes, as well as downstream to provide a roadmap to those financial professionals who facilitate the terrorist or criminal activity itself. As we and our international partners work together to follow and stop terrorist or illicit funds, we strengthen the integrity of our financial systems and erode the infrastructure that supports terrorists and other criminals.

ECONOMIC SANCTIONS AND ADMINISTRATIVE POWERS

Treasury wields a broad range of powerful economic sanctions and administrative powers to attack various forms of financial crime. We have continued to use these authorities in the campaign against terrorist financing, drug trafficking, money laundering, and other criminal financial activity.

In combating terrorist financing, our primary, and most public, tool is the ability to designate terrorists and those who support terrorists, and to implement orders that freeze the assets of terrorists through Executive Order 13224. These designation actions not only prevent terrorist activity by freezing terrorist-related assets and bankrupting terrorist operations, but they also:

- identify existing terrorist activity through financial trails evident in the accounts and transactions of designated parties;
- shut down sources of and pipelines for terrorist financing;
- force terrorists to expend resources developing alternative and higher risk means of raising and moving money;
- alienate terrorist supporters from the global economy by shutting them off from the U.S. financial system and prohibiting any U.S. person from engaging in any future financial or other related services with such designated parties; and
- deter those who might otherwise be inclined to support, financially or otherwise, terrorist activities or organizations.

Through our designation actions, we have made it more difficult for terrorist groups, like Al Qaeda, to raise and move money around the world. Under EO 13224, we have designated a total of 361 individuals and entities, as well as frozen or seized approximately $200 million of terrorist-related funds worldwide. Designations under EO 13224 in the past year include the following:

- Ten Al Qaeda loyalists related to the Armed Islamic Group (GIA) on March 18;
- Shaykh Abd Al-Zindani (Al Qaeda-related) on February 24, 2004;
- Four branches of the Al Haramain Islamic Foundation (Al Qaeda-related) on January 22, 2004;
- Abu Ghaith (Al Qaeda-related) on January 16, 2004;
- Dawood Ibrahim (Al Qaeda-related) on October 17, 2003;
- Al Akhtar Trust International (Al Qaeda-related) on October 14, 2003;
- Abu Musa'ab Al-Zarqawi (Al Qaeda-related) on September 24, 2003;

- Yassin Sywal, Mukhlis Yunos, Imam Samudra, Huda bin Abdul Haq, Parlindungan Siregar, Julkipli Salamuddin, Aris Munandar, Fathur Rohman A1-Ghozi, Agus Dwikarna, and Abdul Hakim Murad (members of Jemaah Islamiyah) on September 5, 2003;
- Sheik Ahmed Yassin (Gaza), Imad Khalil Al-Alami (Syria), Usama Hamdan (Lebanon), Khalid Mishaal (Syria), Musa Abu Marzouk (Syna), and Abdel Aziz Rantisi (Gaza) (Hamas political leaders) on August 22, 2003;
- Comité de Bienfaisance et de Secours aux Palestiniens (France), Association de Secours Palestinien (Switzerland), Interpal (UK), Palestinian Association in Austria, and the Sanibil Association for Relief and Development (Lebanon) (all Hamas-related charities) on August 22, 2003;
- The National Council of Resistance of Iran (including its U.S. representative office and all other offices worldwide) and the People's Mujahedin Organization of Iran (including its U.S. press office and all other offices worldwide) on August 15, 2003;
- Shamil Basayev (Al Qaeda-related) on August 8, 2003; and
- The Al-Aqsa International Foundation (Hamas-related) on May 29, 2003.

Together with the State and Justice Departments and other agencies, we are using our diplomatic resources and regional and multilateral engagements to ensure international cooperation, collaboration and capability in designating these and other terrorist-related parties through the United Nations and around the world.

In combating drug trafficking, Treasury continues to apply its authorities under the Foreign Narcotics Kingpin Designation Act to administer and enforce the provisions of law relating to the identification and sanctioning of major foreign narcotics traffickers. The Kingpin Act, enacted in December 1999, operates on a global scale and authorizes the President to deny significant foreign narcotics traffickers, and their related businesses and operatives, access to the U.S. financial system and all trade and transactions involving U.S. companies and individuals. During 2003, the President named seven new kingpins, including two U.S.-designated foreign terrorist organizations—Revolutionary Armed Forces of Colombia and United Self-Defense Forces of Columbia—and a Burmese narco-trafficking ethnic guerilla army, bringing the total number designated to 38.

Since the inception of the Kingpin Act and after multiagency consultations, Treasury has named 14 foreign businesses and 37 foreign individuals in Mexico, Colombia, and the Caribbean as derivative (Tier II) designations. These derivative designations are flexible, and permit Treasury to attack the financial infrastructure of these kingpins as their infrastructure changes. A total of 104 organizations, individuals, and businesses in 12 countries are now designated under the Kingpin Act. On February 19, 2004, Treasury designated 40 key individuals and companies associated with the Colombian narco-terrorist organizations, the FARC and the AUC. These two organizations were previously named by the President on May 29, 2003 as drug kingpins. We are currently working with the interagency community to develop a list of new designations to be issued by the President later this spring.

Another weapon that our Government uses aggressively against narco-traffickers and money launderers is that of seizure and confiscation. In fiscal year 2003, Treasury's Executive Office for Asset Forfeiture (TEOAF) received over $234 million in annual forfeiture revenue from the combined efforts of the former Bureau of Alcohol, Tobacco, and Firearms, the U.S. Secret Service (USSS), the Internal Revenue Service (IRS), and the former U.S. Customs Service (USCS). This represents a significant increase over fiscal year 2002, in which TEOAF received over $152 million of forfeiture revenue. Such an increase is particularly impressive when considering the transition undertaken by three of these law enforcement bureaus in the Government reorganization last year.

In combating money laundering and financial crime generally, Treasury continues to direct its resources and coordinate efforts to administer and enforce the Bank Secrecy Act. Working through FinCEN, IRS, the Office of the Comptroller of the Currency, the Office of Thrift Supervision and other outside agencies, Treasury administers and enforces BSA provisions relating to monetary transaction and transportation reporting and recordkeeping requirements, suspicious activity, anti-money laundering programs and other obligations as set forth in the Act.

In addition, Treasury, after appropriate interagency consultations, has applied its new authority under Section 311 of the USA PATRIOT Act (Patriot Act) to designate jurisdictions and institutions of primary money laundering concern. Most recently, we designated the jurisdiction of Burma, consistent with the Financial Action Task Force's (FATF) demand for countries to impose additional counter-measures against that country. At the same time, Treasury designated the Myanmar Mayflower Bank and Asia Wealth Bank, two Burmese banks that are linked to the United Wa State Army, a notorious drug trafficking organization in Southeast Asia.

It is important to note that this is Treasury's first application of Section 311 against financial institutions. We are focused on identifying additional foreign banks that either facilitate money laundering or are otherwise involved in financial crime as potential Section 311 targets.

These accomplishments and responsibilities are just a few examples that demonstrate the wide range of economic sanctions and administrative powers that the Treasury continually applies and implements in our ongoing mission to combat financial crime.

LAW ENFORCEMENT

In addition to these economic sanction and other administrative authorities, Treasury combats various forms of financial crime through the direct law enforcement actions of IRS–CI and the law enforcement support provided by FinCEN and Treasury's regulatory authorities.

Whether working with DEA on the money laundering component of significant drug investigations, the FBI on terrorist financing cases, or investigating offshore tax shelters and other tax-related matters, IRS–CI brings an unparalleled financial investigative expertise to the table. The financial forensic expertise of our IRS criminal investigators around the country and the world is critical in the U.S. law enforcement community's attack on sources and schemes of terrorist financing.

A good example of our direct law enforcement action through IRS–CI is evident in our efforts to attack terrorist financing emanating from abroad. Since September 2003, IRS–CI agents have been actively participating in a joint United States/Saudi counterterrorism task force located in Riyadh. The Task Force both provides and receives investigative lead information on various terrorist financing matters. Additionally, the investigators seek assistance from Saudi counterparts in following terrorist financing, and using that information to identify and attack terrorist cells and operations. Information received by U.S. agents is passed through FBI's Terrorist Financing Operations Section in Washington to the interagency JTTF's nationwide. As a part of this initiative and under the auspices of the State Department chaired Terrorist Financing Working Group, IRS–CI participated in two, week-long classes of financial investigation training to Saudi Arabian criminal investigators. The courses delivered by IRS–CI included the following specialized topics: Charitable entities, money laundering, net worth method of proof, expenditures method, documenting financial crimes, and computer sources of financial information. A third class will be presented this spring.

We complement such direct law enforcement action with law enforcement support. Through FinCEN, Treasury serves as a repository and analytical hub for Bank Secrecy Act information, which aids investigators across the interagency community in finding financial links to criminal enterprises and terrorist networks. Since February 2003. we have also used Section 314(a) of the Patriot Act to enable law enforcement, through FinCEN "Blastfaxes" to more than 31,800 financial institutions as of April 27, 2004, to locate quickly the accounts and transactions of those suspected of money laundering or the financing of terrorism. Since Section 314(a)'s creation, the system has been used to send the names of 1,712 persons suspected of terrorism financing or money laundering to financial institutions, and has resulted in 12,280 matches that were passed on to law enforcement. We understand the sensitivity of the use of this system, and will continue to ensure through vigorous review that this system is used only in cases where terrorist financing is suspected, or in the most egregious money laundering cases.

As a result of these efforts, FinCEN has made 342 proactive case referrals to law enforcement potentially involving terrorism based upon analysis of information in the Bank Secrecy Act database. The Terror Hotline established by FinCEN has resulted in 853 tips passed on to law enforcement since September 11. FinCEN is also implementing an Electronic Reports program that will further enhance law enforcement's ability to utilize this information. Additionally, with the expansion of the Suspicious Activity Report (SAR) regime, as of April 28, 2004, financial institutions Nationwide have filed 4,294 SAR's reporting possible terrorist financing directly to FinCEN, including 1,866 SAR's in which terrorist financing represented a primary suspicion. This has further enhanced our efforts to identify and vigorously investigate terrorist financing webs and dismantle them.

INTERNATIONAL INITIATIVES

The success of our efforts to combat financial crime and particularly terrorist financing, depends in large part on the support of our allies and the international community. Treasury—working through the Executive Office for Terrorist Financing and Financial Crime and the Office of International Affairs—has worked with other elements of the U.S. Government to engage the international community to develop

and strengthen counterterrorist financing initiatives and regimes, and enhance the transparency and accountability of global financial systems generally. Internationally, we have received support from over 200 countries and jurisdictions, including blocking orders to freeze assets from 170 countries and jurisdictions, and other direct actions around the globe to deal with the common scourge of terrorism. We are working constantly with other governments on a bilateral, regional, and multilateral basis to focus their attention on this issue and deal with identified risks.

We have developed and implemented a multipronged strategy to globalize the campaign against terrorist financing and strengthen our efforts to combat financial crime, using all of our authorities, expertise, resources, and relationships with various international bodies and other governments. Our strategy includes: (i) improving global capabilities to identify and freeze terrorist-related assets; (ii) establishing or improving international standards to address identified vulnerabilities; (iii) ensuring global compliance with these standards; (iv) addressing financing mechanisms of particular concern, and (v) facilitating the sharing of information to defeat these threats.

Improving Global Asset-Freezing Regimes

A focal point of our international efforts to combat financial crime over the past year has been to improve the effectiveness of global asset-freezing regimes in the campaign against terrorist financing. After many months of negotiation and discussion at the FATF, we successfully developed interpretive guidance to clarify and specify international obligations and best practices in identifying and freezing terrorist-related assets. In October 2003, the FATF issued an Interpretive Note and Best Practices Paper to FATF Special Recommendation III, describing these obligations and standards. This accomplishment will provide a basis for countries to develop or reform their existing asset-freezing regimes to improve their effectiveness. We are currently using these obligations and standards to encourage necessary reforms to asset-freezing regimes in countries around the world, including our European allies. Pursuant to these efforts, the European Union is now considering adjustments to the EU Clearinghouse process used to identify and freeze terrorist-related assets across the EU. We are working with the Europeans, both bilaterally and collectively, to assist in this process.

In addition to these international public sector efforts, we are working with leading global financial institutions to develop a technical assistance initiative within the private sector to enhance capabilities in identifying and freezing terrorist-related assets. This initiative seeks to leverage existing banking expertise through bank-to-bank training, awareness and outreach.

Setting International Standards

Internationally, we have worked not only through the United Nations on blocking efforts, but also through multilateral organizations and on a bilateral basis to promote international standards and protocols for combating terrorist financing and financial crime generally. Such standards and protocols are essential to developing the financial transparency and accountability required to identify and attack elements of financial crime, including terrorist financing networks.

We have primarily focused our efforts to establish international standards against terrorist financing and financial crime through the FATF. The FATF is the premier international body in the international effort against money laundering and terrorist financing. Created by the G–7 in 1989, the FATF has since grown to 33 members, along with numerous observers, including the United Nations, IMF, and World Bank. The FATF's primary mission is to articulate international standards in the areas of money laundering and terrorist financing, and to work toward worldwide implementation. Treasury's Executive Office for Terrorist Financing and Financial Crime heads the U.S. delegation to the FATF and co-chairs the FATF's Working Group on Terrorist Financing.

We have worked with our counterparts in the FATF to revise the 40 Recommendations, thereby enhancing international standards of transparency and accountability required to effectively combat money laundering and other financial crimes. In June 2003, the FATF issued the revised 40 Recommendations by adding shell banks, politically exposed persons, correspondent banking, bearer shares, the regulation of trusts, the regulation of trust and company service providers, and the regulation of lawyers and accountants. These newly revised Recommendations were endorsed by the G–7 Finance Ministers in a public statement issued the same day the revised Recommendations were adopted by FATF.

We have also capitalized on the FATF's expertise on money laundering to specifically attack terrorist financing, largely through the Eight Special Recommendations on Terrorist Financing developed and adopted by the FATF in October 2001. As co-

chair to the FATF's Working Group on Terrorist Financing, the Treasury has worked closely with FATF members to issue interpretive guidance on the Eight Special Recommendations, particularly with respect to: Freezing terrorist-related assets; regulating and monitoring alternative remittance systems such as hawala; ensuring accurate and meaningful originator information on cross-border wire transfers, and protecting nonprofit organizations from terrorist abuse. We are currently directing the FATF's Working Group on Terrorist Financing to further attack the problem of terrorist financing through charities and cash couriers.

Through our efforts in the FATF, many countries have taken important steps to improve their legal regimes and strengthen the oversight of their financial sectors, acknowledging the need for strong anti-money laundering requirements to fight terrorist financing. Countries like Egypt, Guatemala, Indonesia, Israel, Lebanon, and the Philippines have taken important strides to develop and implement effective and comprehensive anti-money laundering regimes, strengthening their institutions and their enforcement of anti-money laundering and counter-terrorist financing laws and regulations. Treasury has played an important role in the development of anti-money laundering and counterterrorist financing regimes in each of these countries.

Moreover, we have engaged the IMF and World Bank to gain their recognition of the FATF 40+8 Recommendations as one of the 12 Key International Standards and Codes. In March of this year, owing largely to the leadership of the G–7, the IMF/World Bank made their AML/CFT assessment program permanent and comprehensive, thereby ensuring that all countries throughout the world are assessed against FATF standards. Additionally, Treasury, along with the State and Justice Departments, has furthered our efforts to globalize the FATF standards through our work with various FATF-style regional bodies (FSRB's). We are currently engaged in the development of two new FSRB's to cover the regions of the Middle East/North Africa and Central Asia.

Promoting Worldwide Implementation of International Standards

Establishing international standards is only the first step toward identifying and destroying terrorist and criminal networks and denying these groups access to the international financial system. If these standards are not implemented worldwide, terrorists and other criminals will enter the international financial system at the point of least resistance, and preventive national efforts will be rendered considerably less effective.

The United States is working together with the international community to ensure global compliance with improved international standards through a three-prong approach that includes: (i) objectively assessing all countries against the international standards; (ii) providing capacity-building assistance for key countries in need, and (iii) isolating and punishing those countries and institutions that facilitate terrorist financing.

Our Federal Government has identified 24 countries as priorities for receiving counterterrorist financing technical assistance and training, and Treasury is a key supporter of the State Department-led efforts of the interagency community to work bilaterally to deliver such assistance to these priority countries.

Together with other Federal Government agencies and departments, we are also working with our allies in the G–8 Counter-Terrorism Action Group (CTAG) the IMF, World Bank, and the FATF to coordinate bilateral and international technical assistance efforts to additional priority countries in the campaign against terrorist financing. As part of these coordinated international efforts, the FATF Working Group on Terrorist Financing has completed terrorist financing technical needs assessment reports in several priority countries. These reports will be used by the CTAG to match appropriate donor states with identified needs in each of these priority countries.

Moreover, we will continue to utilize domestic tools—including those made available through the USA PATRIOT Act—to focus on jurisdictions that are not taking adequate steps to address terrorist financing, money laundering, and other financial crimes concerns. As discussed above, Treasury is has used Section 311 of the USA PATRIOT Act to address primary money laundering concerns on a jurisdictional and institutional basis. Working in cooperation with the law enforcement and intelligence communities, we have designated three foreign jurisdictions and two financial institutions under Section 311. In addition to the Burmese designations described above, Treasury has also designated the jurisdictions of Ukraine and Nauru under Section 311. Ukraine responded to this designation almost immediately by enacting significant anti-money laundering legislation. This quick response demonstrates the power of Section 311 in promoting positive reform and addressing vulnerabilities in the international financial system. Moreover, even the possibility of a Section 311 designation can result in other nations making impor-

tant changes to their legal and regulatory regimes that enhance the global anti-money laundering and antiterrorist financing infrastructure. We will continue to seek out appropriate opportunities to utilize these new powers to protect the U.S. financial system.

Addressing Financing Mechanisms of Particular Concern

In addition to developing and implementing broad initiatives and systemic reforms to increase the transparency and accountability of international financial systems, we have targeted specific financing mechanisms that are particularly vulnerable or attractive to terrorist financiers. These mechanisms include the abusive use of charities and NGO's, hawala, and other alternative remittance or value transfer systems, wire transfers, and cash couriers, as well as trade-based money laundering and cyber-terrorist financing.

Our strategy for attacking terrorist financing and financial crime perpetrated through these mechanisms is consistent with our global strategy for combating financial crime in the formal international financial system: We will continue working domestically and with the international community to develop the transparency and accountability required to identify, disrupt, and destroy terrorist financing and other criminal networks embedded in these sectors. We will also continue allocating resources to focus on high-risk elements of these sectors and concentrate our efforts on high-value targets.

To effectively counter the threat of terrorist financing through charities, we have engaged countries through the FATF to examine and analyze existing oversight mechanisms and vulnerabilities in their domestic charitable sectors. These efforts capitalize on the FATF's expertise in promoting transparency and accountability in formal financial sectors, as well as the experience gained in developing international best practices to protect charities from terrorist abuse in accordance with the FATF's Special Recommendation VIII.

We have also engaged the international community bilaterally and multilaterally to combat the threat of terrorist financing and financial crime through alternative remittance systems, such as hawala. Over the past 2 years, we have achieved significant progress on this issue, as reflected in the Abu Dhabi Declaration made at the conclusion of the first International Conference on Hawala in May 2002, and the adoption of interpretive guidance to FATF Special Recommendation VI in February and June 2003. Earlier this month, Treasury led a delegation to the United Arab Emirates to continue advancing these issues in the second International Conference on Hawala.

We are also working with the international community to attack the illicit use of cash couriers by money launderers and terrorist financing networks. Treasury leads the United States delegation to the Asia-Pacific Group and is working through that regional body to examine various information sharing, criminalization, and reporting mechanisms to identify and interdict the illicit use of cash couriers.

Facilitating International Information Sharing

Information sharing is critical to fighting terrorism and financial crime. Domestically, we have taken advantage of important information-sharing provisions of the USA PATRIOT Act to assimilate information from the financial, intelligence, and law enforcement communities in identifying and attacking terrorist financing networks. To improve the global flow of financial information related to terrorist financing, we have also worked to establish and expand formal and informal, international information-sharing channels, both bilaterally and multilaterally. Through FinCEN, the U.S. Financial Intelligence Unit (FIU), we have persuaded the Egmont Group, which represents 84 FIU's from various countries around the world, to leverage its information collection, analysis, and sharing capabilities to support the global war on terrorism. These ongoing efforts have greatly improved our ability to identify and unravel terrorist financing networks by tracking and tracing terrorist money trails through multiple jurisdictions.

Our efforts to combat terrorist financing and financial crime also depend upon promoting a greater understanding of the financial threats we face. To facilitate such an understanding internationally, we have worked bilaterally, regionally, and globally with other governments and international bodies to develop and share case studies and typologies of financial crime, including terrorist financing.

PRIVATE SECTOR OUTREACH

The private sector serves as the front-line in the campaign against terrorist financing, money laundering, and other financial crime. To date, cooperation with the private sector, including banks and trade associations, has been essential to increasing our vigilance against the abuse of our financial system by terrorists and criminal groups. With the expansion of our anti-money laundering provisions to new seg-

ments of the financial community pursuant to the USA PATRIOT Act, we will continue and expand such cooperation by working with our domestic financial community, including banks, credit card issuers and redeemers, and Internet service providers,[1] as well as the charitable sector, to enhance their abilities to detect and report possible terrorist financing and money laundering activities.

Our ongoing outreach initiatives with the private sector promote a greater understanding of terrorist financing, money laundering and other criminal financial activity and assist us in designing effective regulations and practices to defeat these threats. We will continue to improve the effectiveness of our partnership with the private sector by: (1) increasing the amount of information the U.S. Government provides with respect to its ongoing efforts; (2) providing feedback on the usefulness of the private sector's efforts; (3) educating the private sector to recognize terrorist financing-related typologies and "red flags;" (4) reinvigorating the law enforcement-industry partnership to develop "best practices" for corporations to follow to avoid trade-based money-laundering transactions, and (5) enhancing ongoing due diligence efforts, while balancing the demands on institutions.

These goals will enhance the ability of both the public and private sectors to insulate the financial system and charitable sector from abuse, while ensuring the free flow of capital and commerce and the continued practice of charitable giving. We will advance these goals through existing mechanisms, such as the Bank Secrecy Act Advisory Group (BSAAG), and publications, such as the SAR Activity Review issued by FinCEN. In addition, Treasury officials are constantly engaged with the private financial sector on money laundering and terrorist financing issues through various conferences and meetings with trade associations and industry professionals, both domestically and internationally. We will continue to take advantage of these opportunities whenever and wherever possible to advance our partnership with the private sector in combating financial crime.

Treasury is also engaged in sustained outreach with the charitable sector. In November 2002, the Treasury Department issued Anti-Terrorist Financing Guidelines: Voluntary Best Practices for U.S.-Based Charities to enhance donor awareness of the kinds of practices that charities may adopt to reduce the risk of terrorist financing. Since then, Treasury officials have participated in several conferences within the charitable sector to explain these Guidelines and new developments in the campaign against terrorist financing. Earlier this week, the Treasury Department hosted an outreach event with representatives from approximately 30 charitable organizations to further explain and discuss the Guidelines and developments related to terrorist abuse of the charitable sector. We anticipate conducting similar outreach meetings with the charitable sector to continue advancing our collective interests in facilitating charitable giving by protecting charitable funds from terrorist abuse.

REGULATION AND SUPERVISION

We have taken many steps to investigate and regulate sectors that offer opportunities for terrorists and other criminals to raise and move funds. Through outreach efforts such as those described above, we have built relationships with the private sector to enlist their support in broadening and deepening the regulatory structure and reporting requirements in the domestic financial system. We are creating a level-playing field and attacked money laundering and terrorist financing through non-banking financial systems under the USA PATRIOT Act, subjecting new sectors of the economy (the securities and futures industries) to anti-money laundering controls like recordkeeping and reporting requirements previously imposed primarily on banks.

In addition to the successful implementation and applications of Sections 314(a) and 311 as discussed above, a recent example of our implementation of the USA PATRIOT Act is Section 326. This provision mandates basic, uniform customer identification and verification procedures for individuals and businesses that open accounts with banks (including thrifts and credit unions), securities brokers, mutual funds, and future commission merchants.

The Future of Treasury's Efforts in the Battle Against Terrorist Financing and Financial Crimes

The efforts and accomplishments of the past year have shown two things. First, the Treasury Department plays and must continue to play a critical role in driving national policies related to terrorist financing, money laundering, financial crimes, and economic sanctions. The is well placed—given its authorities, expertise, and

[1] The list also includes insurance companies, security and brokerage dealers, money order and traveler's check issuers and redeemers, check cashers, wire remitters, currency exchangers, and a myriad of other non-bank financial institutions.

contacts—to deal with issues that cut across several disciplines and require concerted attention to identify and interdict tainted financial flows. Second, these efforts have to be improved, amplified, and supported because of their growing importance at home and abroad.

We have had real success in fighting this war, but as the recent bombings in Madrid and Riyadh demonstrate, there is no end to our work. Our enemies are numerous, resourceful, and dedicated, and they continually adapt to the changing environment. We must do the same. We can and must do more—using every tool that we have. We must also recognize that—unfortunately—we are in this fight for the long-term—and so the Department needs to be organized to reflect that reality.

This is precisely why the Administration has collaborated with Congress and this Committee to develop a new Treasury structure—a high profile office led by an Under Secretary—one of only three in the Department—and two Assistant Secretaries. It is an office that will bring together Treasury's intelligence, regulatory, law enforcement, sanctions, and policy components.

I want to specifically note the very important contributions made by the Chairman and the Ranking Member of this Committee, which resulted in an exchange of letters with Secretary Snow at the end of last year. I also want to thank Congress for establishing the new Assistant Secretary for Intelligence position. Since that time, the Administration has worked very hard to implement the concepts described in those letters.

On March 8, 2004, Treasury formally announced the creation of this office, entitled the Office of Terrorism and Financial Intelligence (TFI) in the Department of the Treasury. On March 10, the President announced that he would nominate Stuart Levey, currently the Principal Associate Deputy Assistant Attorney General, for the Under Secretary position, and Juan Zarate, currently the Deputy Assistant Secretary in charge of terrorist financing at Treasury, for one of the two Assistant Secretary positions. Both of those nominations have since been transmitted to the Senate. We are working diligently to identify the most qualified individual to serve as the Assistant Secretary for Intelligence. In the meantime, we have appointed a very capable Deputy Assistant Secretary to get this office up and running.

The creation of TFI will redouble Treasury's efforts in at least four specific ways. First, it will allow us to better develop and target our intelligence analysis and financial data to detect how terrorists are exploiting the financial system and to design methods to stop them. TFI will be responsible for producing tailored products to support the Treasury Department's contributions to the war against terrorist financing. Second, it will allow us to better coordinate an aggressive enforcement program, including the use of important new tools that the USA PATRIOT Act gave to Treasury. Third, it will help us continue to develop the strong international coalition to combat terrorist financing. A unified structure will promote a robust international engagement and allow us to intensify outreach to our counterparts in other countries. Fourth, it will ensure accountability and help achieve results for this essential mission.

TFI will have two major components. An Assistant Secretary will lead the Office of Terrorist Financing. The Office of Terrorist Financing will build on the functions that have been underway at Treasury over the past year. In essence, this will be the policy and outreach apparatus for the Treasury Department on the issues of terrorist financing, money laundering, financial crime, and sanctions issues. The office will help to lead and integrate the important functions of OFAC and FinCEN.

This office will continue to assist in developing, organizing, and implementing U.S. Government strategies to combat these issues of concern, both internationally and domestically. This will mean increased coordination with other elements of the U.S. Government, including law enforcement and regulatory agencies. This office will continue to represent the United States at international bodies dedicated to fighting terrorist financing and financial crime such as the Financial Action Task Force and will increase our multilateral and bilateral efforts in this field. We will use this office to create global solutions to these evolving international problems. In this regard, we will also have a more vigorous role in the implementation of measures that can affect the behavior of rogue actors abroad.

Domestically, this office will be charged with continuing to develop and implement the money laundering strategies as well as other policies and programs to fight financial crimes. It will continue to develop and help implement our policies and regulations in support of the Bank Secrecy Act and the USA PATRIOT Act. We will further increase our interaction with Federal law enforcement and continue to work closely with the Criminal Investigators at the IRS—including integration of their Lead Development Centers, such as the one in Garden City, New York—to deal with emerging domestic and international financial crimes of concern. Finally, this office

will serve as a primary outreach body—to the private sector and other stakeholders—to ensure that we are maximizing the effectiveness of our efforts.

A second Assistant Secretary will lead the Office of Intelligence and Analysis. In determining the structure of OIA, we have first focused on meeting our urgent short-term needs. We have assembled a team of analysts to closely monitor and review current intelligence threat reporting. These analysts, who are sitting together in secure space in the Main Treasury building, are ensuring that Treasury can track, analyze any financial angles, and then take any appropriate action to counter these threats. Treasury will make sure to coordinate with all relevant agencies, including the Terrorist Threat Integration Center (TTIC).

In the near-term, the Department plans to further develop our analytical capability in untapped areas, such as strategic targeting of terrorist financial networks and their key nodes. We also plan to analyze trends and patterns and nontraditional targets such as hawalas and couriers. In order to accomplish these goals, we plan to hire several new analysts as well as to draw on additional resources from OFAC and FinCEN. The precise number of analysts has yet to be determined—as we are still ensuring that we have the proper leadership in place and that we do not disrupt our important ongoing efforts. Certain specifics, such as the physical location of the analysts, will be determined by a number of factors, including expertise, skills mix, and lessons learned as we go.

This Assistant Secretary will focus on enhancing the Department's relations with the intelligence community—making sure that we are not duplicating the efforts of other agencies, but instead, are filling any gaps in intelligence targets. Ultimately, we envision that all of Treasury's intelligence analysis will be coordinated through the Office of Intelligence and Analysis. This will include intelligence support for Treasury's senior leadership on the full range of political and economic issues

We are currently confronting the question of staffing and funding for TFI. As Secretary Snow wrote in an April 16 letter to Members of Congress, President Bush has proposed significant spending increases in his fiscal year 2005 Budget to continue the fight against terror financing and financial crimes. The Secretary also stated that the Department would use currently appropriated fiscal year 2004 resources to ensure that TFI has the necessary resources to staff the new offices, as well as to bolster capabilities of existing functions.

I am able to provide some more detail today about those issues. We believe that through a combination of prudent and targeted use of resources, Treasury will be able to spend up to an additional $2 million on staffing and other start-up needs of TFI during the rest of the current fiscal year. We anticipate that we will be able to bring on board up to 15 new personnel during the remainder of the fiscal year.

Looking forward to the next fiscal year, we have not made firm decisions about how much money we will devote to the new office. We will evaluate our needs, and we are prepared to make the hard decisions about how to allocate our limited resources. Fighting the war on terror is a priority of the President and of this Department—and we will spend whatever we need to carry out our duties in a responsible manner. Of course, we will work with the Congress in making those decisions.

As can be seen from the description above, TFI will enhance the Treasury Department's ability to meet our mission and to work cooperatively with our partners in the law enforcement and intelligence communities. We are confident TFI will compliment and not duplicate the important work being done by the Department of Justice and Department of Homeland Security, and by the various intelligence agencies, and will be fully integrated into already established task forces and processes.

President Bush and this entire Administration are firmly committed to waging a relentless war on terrorists and those who offer them support. Our fight is guided by 5 goals.

- To leverage all of the Government's assets to identify and attack the financial infrastructure of terrorist groups;
- To focus Treasury's powers on identifying and addressing vulnerabilities in domestic and international financial systems, including informal financial systems;
- To direct our Government's efforts on financial missions of critical importance to our national security interests, such as proliferation finance and identifying and recovering stolen Iraqi assets;
- To promote a stronger partnership with the private financial sector by sharing more complete and timely information;
- To improve domestic and international coordination and collaboration by combating financial crime by increasing the frequency and value of financial information shared across our Government and with other governments.

These goals are critical to protecting and promoting our national security interests. The new office of TFI will improve our ability to advance these goals by further

consolidating Treasury's unique assets in the campaign against financial crime, and integrating and coordinating these assets with those of the interagency community.

I look forward to continuing to work with the Congress and this Committee in the creation of TFI and in advancing our mission in the war on terrorism and financial crime.

PREPARED STATEMENT OF WILLIAM J. FOX

DIRECTOR, FINANCIAL CRIMES ENFORCEMENT NETWORK
U.S. DEPARTMENT OF THE TREASURY

APRIL 29, 2004

Chairman Shelby, Senator Sarbanes, and Members of the Committee, thank you for this opportunity to appear before you today to discuss the mission of the Financial Crimes Enforcement Network (FinCEN) and the important role it plays in the U.S. Government's efforts to understand, detect, and prevent terrorist financing. This Committee's leadership on issues relating to terrorist financing and money laundering has been essential. The guidance and support you have provided to FinCEN through the years have been invaluable, and we hope we can continue to draw upon them at this critical juncture in the development of improved coordination within our Government of anti-money laundering and counterterrorism efforts.

I became FinCEN's fourth director on December 1, 2003. Before I came to FinCEN, I was working as the Principal Assistant to the General Counsel of the Treasury Department on issues relating to terrorist financing, which were issues that occupied a great deal of my time. Coming from the Department, I understood, to a large extent, the nature of FinCEN's responsibilities and what it was doing to carry out the obligations imposed by these responsibilities. In these 5 months, I have done a great deal of listening and learning from inside and outside of FinCEN. I have met extensively with the law enforcement and intelligence communities that we serve and the financial industry that we help regulate. I have met with and listened to the staffs of interested committees in the Congress—including this Committee. I have met with some of my counterparts in foreign governments and communicated with many more; and, of course, I have had a continuous dialogue and received tremendous support from those at Treasury—including Secretary Snow, Deputy Secretary Bodman, and Deputy Assistant Secretary Zarate.

Let me tell you some of what I have found. I have found an organization populated with employees with diverse and highly specialized talents, who are extremely dedicated to the Agency and its mission. I have found an agency that is a good steward of the human and capital resources that have been provided by the Congress. However, I have also found an agency facing many important challenges—challenges relating to the effective and efficient management of the extremely sensitive data collected under the Bank Secrecy Act; challenges relating to its analytic staff and the analytic product they produce; challenges relating to the administration of its regulatory programs under the Bank Secrecy Act; challenges relating to refocusing its important partnerships with financial intelligence units around the world—the Egmont Group; and, challenges relating to the Agency's present organizational structure. Since each of these challenges relates to the specific topic of this hearing today, I will address each of them in this statement.

FinCEN's mission is to help safeguard the financial system of the United States from being abused by criminals and terrorists. FinCEN works to accomplish its mission through: (1) administration of the Bank Secrecy Act—a regulatory regime that provides for the reporting of highly sensitive financial data that are critical to investigations of financial crime; (2) dissemination of the data reported under the Bank Secrecy Act to law enforcement and, under appropriate circumstances, the intelligence community; (3) analysis of information related to illicit finance—both strategic and tactical analysis; and, (4) the education and outreach provided to law enforcement and the financial industry on issues relating to illicit finance. FinCEN has many attributes that are key to understanding the Agency and how it works to achieve its mission:

- *FinCEN is a regulatory agency.* FinCEN has an obligation to administer the Bank Secrecy Act, the principal regulatory statute aimed at addressing the problems of money laundering and other forms of illicit finance, including terrorist financing. It is responsible for shaping and implementing this regulatory regime and, in concert with the functional bank regulators and the Internal Revenue Service, for ensuring compliance with that regime. The Agency is also charged with protecting

the integrity and confidentiality of the information collected under the Bank Secrecy Act.

- *FinCEN is a financial intelligence agency.* While not a member of the intelligence community, FinCEN, with the help of the Internal Revenue Service, collects, houses, analyzes, and disseminates financial information critical to investigations of illicit finance.
- *FinCEN is a law enforcement support agency.* While FinCEN has no criminal investigative or arrest authority, much of our effort supports the investigation and successful prosecution of financial crime.
- *FinCEN is a network.* We are not directed to support one agency or a select group of agencies. We make our information, products and services available to all agencies that have a role in investigating illicit finance. In fact, we network these agencies. Our technology tells us when different agencies are searching the same data and we put those agencies together—avoiding investigative overlap and permitting the agencies to leverage resources and information.

FinCEN fits perfectly in the Department of the Treasury; possibly even more so after the Homeland Security reorganization rather than before that reorganization. The creation of the Office of Terrorism and Financial Intelligence within Treasury only enhances that fit. FinCEN will be able to help "operationalize" Treasury's policy priorities on these important issues and our operational analytic work will complement the analysis that will eventually be done in the newly created Office of Financial Intelligence. I believe this coordinated effort will lead to a greater emphasis and understanding of money laundering, terrorist financing, and other forms of illicit finance not only at Treasury, but also within the United States, and that will make us all safer. FinCEN will also benefit from the Department-wide, policy-coordinating role this office will provide.

FinCEN's Counterterrorism Strategy

The single, most important operational priority for FinCEN is counterterrorism support to law enforcement and the intelligence community. To emphasize the importance of this work we have improved and are now implementing a comprehensive counterterrorism strategy that draws from our analytic support to law enforcement, our regulatory tools and expertise, and our international networking capabilities. We believe the implementation of this strategy will strengthen our focus and ensure that FinCEN is more active and aggressive rather than reactive on issues relating to terrorism. The strategy has five basic components.

Analysis of Terrorist Financing Suspicious Activity Reports

FinCEN analyzes suspicious activity reports for both tactical and strategic value. At the tactical level, we are implementing a program in which every report that indicates a connection to terrorism is immediately reviewed and validated and then analyzed with other available information. This information will be packaged and referred to the Terrorist Threat Integration Center (TTIC), and to the JTTF's, FBI–TFOS, and other relevant law enforcement. Moreover, this information will be stored in a manner that facilitates its access and availability for analysis. Just last week, this process resulted in important information being passed along to an appropriate law enforcement agency. On April 21, 2004, a bank in North Carolina contacted FinCEN's Financial Institutions Hotline regarding the suspicious financial activity of one of its customers. This person who had been a customer of the bank opened an account in 1999, and maintained an average balance of $1,200 to $1,500 until April 14, 2004, when he deposited a total of $84,000 in less than a week. Through analysis of all available information, we learned that this person was a foreign national wanted by U.S. law enforcement authorities as a "deportable felon." This matter was turned around in approximately a day.

At the strategic level, we are also devoting analysts to study Bank Secrecy Act data and all other available information to gain an increased understanding of methodologies, typologies, geographic patterns of activity and systemic vulnerabilities relating to terrorist financing. These analysts will focus on regional and systemic "hot spots" for terrorist financing, studying and analyzing all sources of information. Such focus, which produced the study mandated by the Congress on Informal Value Transfer Systems, can significantly add to the knowledge base of law enforcement. For example, we have begun a process to comprehensively study illicit trade in diamonds and other precious stones and metals and the links to terrorist finance. Although this initiative is currently underway, in order to fully implement it, we will need to upgrade analysts' security clearances and obtain equipment appropriate for the handling of national security information.

USA PATRIOT Act Sections 311 and 314 Implementation

Some of the new tools afforded us through the USA PATRIOT Act are proving to be invaluable in the war against terrorist financing, particularly Section 314 of the Act. FinCEN also has initiated a program to provide the analytic, regulatory, and legal resources needed to support effective implementation of Section 311 by the Treasury Department. While this program captures targets involved in money laundering and other illicit finance, I have directed my staff to give priority to the proactive targeting of those financial institutions and jurisdictions that are involved, wittingly or unwittingly, in the financing of terror. This prophylactic measure goes to the very heart of FinCEN's mission—to safeguard the financial system of the United States from money launderers and the financiers of terror.

Building on a successful pilot program that we began with the Bureau of Immigration and Customs on a Section 314(a) money-laundering request, FinCEN is now dedicating several analysts to apply this program to all Section 314(a) terrorism requests. Specifically, the analysts will run all Section 314(a) terrorism-related requests against Bank Secrecy Act data concurrent with these requests being sent to financial institutions. Based on this initial data review, the law enforcement requester will then be able to request a more in-depth analysis if desired.

International Cooperation and Information Sharing

FinCEN will increase the exchange of terrorist financing investigative and analytical information with other foreign financial intelligence units around the world. We are implementing a program where FinCEN will automatically request information from relevant financial-intelligence-unit counterparts as part of any terrorism related analysis project. As part of this program, we are also upgrading our response to incoming requests for information from financial intelligence units by providing appropriate information and analysis from all sources of information.

Terrorism Regulatory Outreach

We will continue our work in improving our ability to provide information to the regulated community to better identify potential terrorist financing activity. One area of particular focus will be money services businesses. Money services businesses continue to require more attention and resources, and FinCEN will undertake an initiative to educate segments of the industry most vulnerable to terrorist abuse. These segments include small businesses that typically offer money remittance services, check cashing, money orders, stored value products, and other informal value transfer systems. As we learned from the attacks of September 11, funds used to finance terrorist operations can be and have been moved in small amounts using, for example, wire transfer, traveler's check, and automated teller machine services. I have directed FinCEN's Office of Regulatory Programs and Office of Strategic Analysis to enhance our outreach program that will include training on how terrorists have used and continue to use money services businesses; the reason for and importance of the registration requirement for money services businesses; and the importance of complying with reporting requirements of the Bank Secrecy Act, especially suspicious activity reporting. We are planning to streamline suspicious activity reporting for small money services businesses with a simplified form.

Analytic Skill Development

I have directed that FinCEN make training of personnel the highest human resource management priority. The top priority of this new program will be analytic skill development relating to terrorist financing. We plan to begin by seeking reciprocal opportunities for terrorist finance analytic skill development within law enforcement, the Egmont Group, the intelligence community, and the financial industry. This initiative is intended to build a foundation for continuous improvement of our analytic assets through cross training and diversification; production of joint terrorist financing threat assessments and other reports; understanding of intelligence processes; the international context of terrorist financing; and the financial industry perspective. In addition, we will need to support training focused on financial forensics, language skills, and geographically targeted studies that focus on culture, infrastructure, and other unique aspects of a particular region.

I believe the full implementation of this strategy will materially assist the Department of the Treasury and the United States in addressing the financing of terror. Approaching this problem in a systemic way with dedicated resources is, in our view, the best way to make this strategy a success.

FinCEN's Near-Term Challenges

As I mentioned before, FinCEN is facing a number of significant challenges. Because each of these challenges affects FinCEN's effectiveness in contributing to the

important issues addressed at this hearing today, I would like to raise these challenges with the Committee.

Security and Dissemination of Bank Secrecy Act Information

As the administrator of the Bank Secrecy Act, there is no duty I view as critical as the effective collection, management, and dissemination of the highly sensitive and confidential information collected under that Act. If FinCEN does nothing else, it must ensure that data are properly collected, are secure and are appropriately and efficiently disseminated. This is FinCEN's core responsibility.

Regarding security of information, recent press reports have reported the unauthorized disclosure of suspicious activity reports. Such disclosures simply cannot be tolerated, as they undermine the entire reporting program. Those who report this information will become increasingly reticent to file what amounts to a confidential tip to law enforcement if they believe their report will end up on the front page of *The Washington Post* or *The Wall Street Journal*. The release of this information by those to whom it was entrusted threatens everything that we all have worked so hard to build. I know I do not have to convince this Committee of the importance of this reporting system. It has yielded, and will continue to yield, information that is critical to the investigation of money laundering and illicit finance. I also wish to assure this Committee and the American people that FinCEN is acutely aware of the privacy interests implicated in this reporting and the need to guard against inappropriate disclosure of such information. Unauthorized disclosure of information will be immediately referred to law enforcement for investigation and dealt with as severely as the law permits. Our international partners who inappropriately disclose information we have entrusted to them will jeopardize our agreements to share information with them.

However, this issue goes deeper than unauthorized disclosures. In my view, FinCEN must change the way it houses and provides access to information collected under the Bank Secrecy Act. Currently, our data are accessed by most of our customers through an outmoded data retrieval system. This system does not have the robust data mining capabilities or analytical tools we employ at FinCEN. This has led many of our customers to ask for wholesale copies of the data, or direct access to the data in a way that will not permit us to perform our responsibilities relating to the administration and management of the data. Accordingly, we must create a system that provides robust data mining and analytical tools to our customers in law enforcement and that preserves our ability to: (1) effectively administer and secure the information; (2) network those persons who are querying the data to prevent overlapping investigations and encourage efficient use of law enforcement resources; and, (3) develop and provide adequate feedback to the financial industries we regulate, which will ensure better reporting. That system is called "BSA Direct."

When fully implemented, BSA Direct will make available robust, state of the art, data mining capabilities and other analytic tools directly to law enforcement. We plan to provide all access to these data through BSA Direct, working with our law enforcement customers to ensure their systems extract the maximum value from the Bank Secrecy Act reporting. We will be exploring ways to enable these agencies to integrate the Bank Secrecy Act reporting with their other systems while maintaining, and even improving our ability to audit and network the use of the data and obtain feedback concerning their value. This system will provide us the capability to discharge our responsibilities relating to the administration of these sensitive data: Security and access control, networking, and feedback. This system will also significantly enhance our coordination and information sharing abilities, as well as our ability to safeguard the privacy of the information. We have already started work on this system. Based on preliminary studies, we estimate that this system will cost approximately $6 million to build. We are in the process of developing BSA Direct with resources in the fiscal year 2005 request and the forfeiture fund.

Enhancing FinCEN's Analytical Capabilities

Another challenge FinCEN is facing relates to its analytic capabilities. In my view, FinCEN must move away from its current emphasis on data checks and data retrieval, and move its analytic resources toward more robust and sophisticated analysis. FinCEN had moved to data checks and data retrieval in response to criticisms about turn around on often simple requests for information. Now, as our systems improve, our customers will be able to retrieve data themselves, which will give FinCEN more time and resources for analysis.

I believe that FinCEN can and must provide value through the application of our focused financial analytic expertise to mining information and providing link analyses that follow the money of criminals and terrorists, or identify systemic or geographic weaknesses to uncover its source or the existence of terrorist networks. For

example, in addition to providing geographic threat analysis for law enforcement, FinCEN has been studying systemic trends in money laundering and terrorist financing. We were instrumental in bringing the Black Market Peso Exchange system to the forefront of policy decisions, and we are focusing on other trends and patterns that we now see emerging in the global market. I recently made a trip to Dubai to participate in the growing dialogue on the potential use of diamonds and other commodities for illicit purposes, including money laundering and terrorist financing. This is part of our focus on and study of what may be another iteration of money laundering and terrorist financing—commodity-based systems.

In my view, while FinCEN still has some of the best financial analytic talent in the U.S. Government, the challenges we face will require us to further develop that talent to enable the full exploitation and integration of all categories of financial information—well beyond Bank Secrecy Act information. I have directed FinCEN's managers to concentrate on training, as well as the hiring of new, diverse financial analytic expertise.

Enhancing FinCEN's Technology

As I have mentioned, information sharing is critical to our collective efforts to detect and thwart criminal activity and that is why I believe enhancing our technological capabilities is extremely important. Section 314(a) of the USA PATRIOT Act allows law enforcement to query U.S. financial institutions about suspects, businesses, and accounts in money laundering and counterterrorism investigations. FinCEN facilitates this interaction between the financial industry and law enforcement by electronically sending law enforcement requests to various banks who in turn check their records and relay the information back to FinCEN to then provide to the requestor. This saves law enforcement time and resources. We are currently enhancing the Section 314(a) electronic capabilities to allow for the originating request to be made to FinCEN via a secure website. This system is an example of how critical technology is to our law enforcement counterparts.

We must continue to work to enhance the development of the USA PATRIOT Act Communications System, a system that permits the electronic filing of reports required under the Bank Secrecy Act. This system was developed and brought online under a very tight legislative deadline. FinCEN received the E–Gov award for its work on this system. Filing these forms online is not only more efficient, but it also will help eliminate some of the data errors and omissions.

As of April 19, 2004, 1.2 million Bank Secrecy Act forms had been electronically filed through this system. We now support nearly 1,100 users, which include 15 of the top 25 filers of Bank Secrecy Act information. These top 25 filers accounted for approximately 50 percent of all Bank Secrecy Act forms filed in fiscal year 2003. While this is all good news, the bad news is that the current number of forms filed electronically remains quite small on a percentage basis. The 1.2 million forms filed represents only approximately 5 percent of the universe of all Bank Secrecy Act reports filed. I have directed our USA PATRIOT Act Communications System team to reach out to the financial industry and determine what needs to be done to convince them to file electronically. As we learn about what is holding institutions back from filing, I have directed our team to work closely with system developers to build the system stability and tools necessary to improve the overall percentage of filing.

FinCEN presently lacks the capacity to detect Bank Secrecy Act form filing anomalies on a proactive, micro level. BSA Direct, which will integrate Bank Secrecy Act data (including currency transactions reports, currency transaction reports by casinos, and currency transaction reports by casinos—Nevada) into a modern data warehouse environment, will include tools to flag Bank Secrecy Act form filing anomalies for action by FinCEN and/or referral to appropriate authorities. In the meantime, FinCEN is developing a request to the Detroit Computing Center to provide periodic exception reports on financial institutions whose Bank Secrecy Act form filing-volume varies beyond prescribed parameters during prescribed time frames. While we will not be able to conduct the sophisticated monitoring that will be available with BSA Direct, this interim step should produce an alert in the event of a catastrophic failure to file forms, as was experienced in the Mirage case in which the Mirage Casino in Las Vegas failed to file over 14,000 currency transaction reports in an 18-month period.

Enhancing FinCEN's Regulatory Programs

The administration of the regulatory regime under the Bank Secrecy Act is a core responsibility for FinCEN. Given the nature of our regulatory regime—a risk-based regime—our partnership with the diverse businesses in the financial services industry is the key to our success. I must tell you that it is my perspective that the financial industry is generally a model of good corporate citizenship on these issues. The

industry's diligence and commitment to the recordkeeping and reporting requirements of the Bank Secrecy Act is by and large outstanding. The industry's cooperation with FinCEN in implementing many of the provisions of the USA PATRIOT Act has strengthened the foundation of our efforts to safeguard the financial system from criminal abuse and terrorist financing. I have met with many of our industry partners in the last several months, both old and new, and I have been struck with how concerned they are that the information they provide is helpful and that it is being reviewed and used. In turn, FinCEN is committed to enhancing the guidance they need as they strive to meet the requirements and objectives of new regulations.

The challenge before FinCEN on this issue is simple: We must ensure the remaining regulatory packages required by the USA PATRIOT Act are completed and implemented. Moreover, as we work with our regulatory partners to implement this regulatory regime, we must provide constant feedback and guidance. We have asked the industry to create anti-money laundering programs that are risk-based—custom tailored to each institution based upon the business in which that institution engages and the customers that institution has. We must find ways to help the industry define that risk. Development of secure web-based systems that will foster the communication discussed above is a step in the right direction. But we must continue to find new and better ways to reach out to the industry. They understand the threat money laundering and illicit finance poses to our financial system and they are willing to help.

Perhaps the most significant challenge lies in ensuring that financial institutions are appropriately examined for compliance. As you know, we have issued and will continue to issue anti-money laundering program regulations that will bring new categories of businesses under this form of Bank Secrecy Act regulation for the first time. This reflects the judgment of this Committee embodied in the USA PATRIOT Act, as well as ours, that to effectively guard against money laundering and the financing of terrorism, we must ensure that industries with potential vulnerabilities are taking reasonable steps to protect themselves.

But the expansion of the anti-money laundering regime comes with the additional responsibility and challenges of examining thousands of businesses for compliance. We have relied on the Internal Revenue Service to examine those non-bank institutions. The addition of the insurance industry and dealers in precious stones, metals, and jewels, two categories of financial institutions for which we will shortly issue final anti-money laundering program regulations, will themselves stretch the resources of agencies responsible for examination. We must find ways to ensure that these regulatory programs are implemented in a fair and consistent manner that is focused on achieving the goals of the Bank Secrecy Act. Although difficult, this is an issue that must be resolved.

Enhancing FinCEN's International Programs

FinCEN's international initiatives and programs are driven by a stark reality: Finance knows no borders. Next year will mark the tenth anniversary of the founding of the Egmont Group. The Egmont Group is an international collection of "financial intelligence units"—entities, which, like FinCEN, are charged with the collection and analysis of financial information to help prevent money laundering and other illicit finance. The Egmont Group has achieved remarkable growth since its inception in 1995. Membership has risen from 6 charter members to 84.

The Egmont Group serves as an international network, fostering improved communication and interaction among financial intelligence units (FIU's) in such areas as information sharing and training coordination. The goal of the Group is to provide a forum for FIU's around the world to improve support to their respective governments in the fight against financial crimes. This support includes expanding and systematizing the exchange of financial intelligence information, improving expertise and capabilities of personnel employed by such organizations, and fostering better, more secure communication among FIU's through application of technology.

Egmont's secure web system permits members of the group to communicate with one another via secure e-mail, posting and assessing information regarding trends, analytical tools, and technological developments. FinCEN, on behalf of the Egmont Group, maintains the Egmont Secure Web. Currently, 76 of the 84 members (90 percent) are connected to the secure website. I am very pleased to announce that FinCEN will launch a new and more efficient secure website for Egmont in June. We expect this new site will generate more robust usage, which will enhance international cooperation between members.

FinCEN has played a significant role in the growth and health of the Egmont Group and it maintains bilateral information sharing agreements with financial intelligence units around the world. However, in my view, this program has not received the priority it should have in recent times. Merely because of the simple

statement I made earlier—that finance knows no borders—we must step up our international engagement with our counterparts around the world. Our plan is to do three principal things:

- Lead the Egmont Group to begin focusing on actual member collaboration. Egmont members should be collaborating in a more systemic way together to address issues relating to terrorist financing, money laundering, and other illicit finance at both a tactical and strategic level.
- Enhance the FinCEN analytical product we provide to our global counterparts when asked for information. Today, we are principally providing the results of a data check. We think we owe our colleagues more. As noted before, we will also be making more requests for information and analysis from our partners—particularly when the issue involves terrorist financing or money laundering.
- Foster exchanges of personnel with financial intelligence units around the world. We have already begun discussions with certain counterparts about such an exchange and we are hopeful we can begin this program soon. The benefits of this type of exchange are obvious. It is the best way we can learn together how to address a truly global problem.

FinCEN will also enhance its support for Treasury policy officials' work in the Financial Action Task Force (FATF) and FATF regional bodies. We will continue our work with the State Department in the drafting and editing of the "International Narcotics Control Strategy Report." Finally, we will continue our important efforts on financial intelligence unit outreach and training. Presently, we are working with the United Arab Emirates on a South Asia FIU Conference for Afghanistan, Bangladesh, India, Maldives, Pakistan, and Sri Lanka.

Additionally, FinCEN has given its support and participation to the "3 + 1" Working Group on terrorist financing in the tri-border area. The issues of information sharing and the bolstering of FIU's in the participating states of Argentina, Brazil, and Paraguay are critical issues for the U.S. delegation to the "3 + 1" Working Group led by the Department of State's Office of Counterterrorism.

FinCEN's Organizational Structure

We presently are working closely with Treasury on our efforts to more effectively marshal our resources at FinCEN. I have proposed a realignment of FinCEN that reflects my priorities to enhance FinCEN's analytical component and improve its focus and services devoted to outreach, education, and technology to both its clients and the community related under the Bank Secrecy Act. We have briefed your staff on our proposals and received valuable feedback, which we have incorporated.

Essentially, we are proposing to pull out the nonanalytical functions presently entangled in FinCEN's analytical units so that those managers and analysts can focus exclusively on analysis. We are proposing to combine all client services and systems under a single manager in order to ensure that our technology is coordinated and better focused on serving its users. Similarly, I want FinCEN's organizational structure to highlight the importance of education and training of our law enforcement clients and the regulated community. Only by working closely and cooperatively with these groups can FinCEN truly understand what services it must provide and what requirements it must meet to assist in the detection, prevention, and dismantling of terrorist financing.

Conclusion

Mr. Chairman, we look to this Committee for your continued support as we endeavor to enhance our contributions to the war on financial crime and terrorist financing. This concludes my remarks and I will be happy to answer your questions.

PREPARED STATEMENT OF R. RICHARD NEWCOMB

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APRIL 29, 2004

Introduction

Mr. Chairman, Members of the Committee, thank you for the opportunity to testify on the Office of Foreign Assets Control's efforts to combat terrorist support networks forms an important part of the Treasury Department and our Government's national security mission. It is a pleasure to be here, as we discuss Treasury's new office and its role in these areas. Please allow me to begin with an overview of our

overall mission and conclude with our strategies for addressing the threat of international terrorism.

OFAC'S Core Mission

The primary mission of the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury is to administer and enforce economic sanctions against targeted foreign countries, and groups and individuals, including terrorists and terrorist organizations and narcotic traffickers, which pose a threat to the national security, foreign policy, or economy of the United States. OFAC acts under general Presidential wartime and national emergency powers, as well as specific legislation, to prohibit transactions and freeze (or "block") assets subject to U.S. jurisdiction. Economic sanctions are intended to deprive the target of the use of its assets and deny the target access to the U.S. financial system and the benefits of trade, transactions, and services involving U.S. markets. These same authorities have also been used to protect assets within U.S. jurisdiction of countries subject to foreign occupation and to further important U.S. nonproliferation goals.

OFAC currently administers and enforces 27 economic sanctions programs pursuant to Presidential and Congressional mandates. These programs are a crucial element in preserving and advancing the foreign policy and national security objectives of the Untied States, and are usually taken in conjunction with diplomatic, law enforcement, and occasionally military action.

OFAC's historical mission has been the administration of sanctions against target governments that engage in policies inimical to U.S. foreign policy and security interests, including regional destabilization, severe human rights abuses, and repression of democracy. Recent programs in the Western Balkans, Zimbabwe, Sudan, and other regions reflect that focus. Since 1995, the Executive Branch has increasingly used its statutory blocking powers to target international terrorist groups and narcotics traffickers.

Many "country-based" sanctions programs are part of the U.S. Government's response to the threat posed by international terrorism. The Secretary of State has designated seven countries—Cuba, North Korea, Iran, Libya, Iraq, Sudan, and Syria—as supporting international terrorism. Three of these countries are subject to comprehensive economic sanctions: Cuba, Iran, and Sudan (1997). Comprehensive sanctions have been imposed in the past against Libya, Iraq, and North Korea. Syria is not currently subject to comprehensive sanctions; however, certain financial transactions involving Syria are regulated.

OFAC also administers a growing number of "list-based" programs, targeting members of government regimes and other individuals and groups whose activities are inimical to U.S. national security and foreign policy interests. In addition to OFAC's terrorism and narcotics trafficking programs, these include sanctions against persons destabilizing the Western Balkans and against the regimes in Burma and Zimbabwe. OFAC also administers programs pertaining to nonproliferation, including the protection of assets relating to the disposition of Russian uranium, and to trade in rough diamonds.

Administration and Transparency

ORGANIZATION

OFAC has grown over the past 18 years from an office with 10 employees administering a handful of programs to a major operation of 144 employees administering 27 programs. A large percentage of OFAC's professional staff have had prior professional experience in various areas of the law, finance, banking, law enforcement, and intelligence. To accomplish its objectives, OFAC relies on good cooperative working relationships with other Treasury components, Federal agencies, particularly State and Commerce, law enforcement agencies, the intelligence community, domestic and international financial institutions, the business community, and foreign governments.

OFAC is an organization which blends regulatory, national security, law enforcement, and intelligence into a single entity with many mandates but a single focus: Effectively implementing economic sanctions programs against foreign adversaries when imposed by the President or the Congress. In order to carry out OFAC's mission, the organization is divided into 10 divisions, with offices in Miami, Mexico City, and Bogatá. OFAC's operations are also supported by attorneys in the Office of Chief Counsel (Foreign Assets Control). Two divisions are primarily devoted to the narcotics and terrorism programs, while others, primarily the Licensing, Compliance and Civil Penalties Divisions, are geared toward interaction with the public. It is these latter divisions that primarily serve as OFAC's liaison with the public and figure prominently in promoting the transparency of OFAC's operations. Fi-

nally, OFAC's Enforcement Division provides crucial liaison with the law enforcement community.

Licensing Division

OFAC's licensing authority serves to "fine tune" or carve out exceptions to the broad prohibitions imposed under sanctions programs, ensuring those transactions consistent with U.S. policy are permitted, either by general or specific license. For example, working closely with the Department of State, the Licensing Division played a critical role in issuing specific licenses to facilitate humanitarian relief activity by U.S. nongovernmental organizations in the wake of the Bam earthquake in Iran. The primary focus of OFAC Licensing involves the country-based programs, primarily Cuba and Iran. Major areas of activity include issuing advisory opinions interpreting the regulations; processing license applications for exports of agricultural products, medicine, and medical devices to Iran and Sudan pursuant to the Trade Sanctions Reform and Export Enhancement Act of 2000; license applications pertaining to travel and activities involving Cuba; applications to unblock funds transfers blocked by U.S. financial institutions; and the preparation of numerous legal notices continuing statutory authority for OFAC's programs and semiannual reports to the Congress on their administration. Licensing activity involving the list-based programs centers primarily on the authorization of payment for legal services provided to blocked persons. OFAC's Miami Office, which coordinates Cuba travel licensing, compliance, and enforcement matters, also reports primarily to the Licensing Division.

The Licensing Division reviews, analyzes, and responds to over 25,000 requests per year for specific licenses covering a broad range of trade, financial, and travel-related transactions, including those related to the exportation and importation of goods and services and the provision of humanitarian and banking and financial services. It also provides written and oral guidance to the public and private sectors on the application of OFAC's regulatory programs to specific facts and circumstances. Redacted versions of interpretive rulings prepared by the Licensing Division are published on OFAC's website. During fiscal year 2003, the Licensing Division made substantial progress in reducing the overall response time to incoming correspondence, primarily through a net increase of staff of 11 FTE's and conversion to an Oracle database and the use of that database for effective case management. The Licensing Division is also currently implementing a new integrated voice response system to more efficiently handle the large volume of calls it receives from the public.

Compliance Division

OFAC Compliance adds a unique dimension to the war against terrorists and against other sanctions targets. Working with the regulatory community and with industry groups, it expeditiously publicizes OFAC's activities to assure that assets are blocked and the ability to carry out transactions through U.S. parties is terminated. OFAC's Compliance provides a valuable service through its toll-free telephone "hotline" giving real-time guidance on in-process transactions. As a result of its efforts, every major bank, broker-dealer, and many industry professionals use software to scan and interdict transactions involving sanctions targets. OFAC's hotline averages 1,000 calls per week with at least $1 million and sometimes as much as $35 million interdicted items each week. Just last Wednesday, for example, OFAC worked with a U.S. bank to block a wire transfer for close to $100,000 originating from a suspect and destined to an organization associated with a Specially Designated Global Terrorist.

OFAC uses multiple formats and multiple platforms to get information out on its targets and its programs—including on our website which now has over 1,000 documents, over a million hits per month, and over 15,000 email subscribers—so that banks, broker-dealers, and others can stop transactions in mid-stream. OFAC's Compliance also runs more than 100 training sessions per year around the country and follows up with cases based on regulatory audits and blocked and rejected items which have resulted in 4,250 administrative subpoenas, 3,500 warning letters, and hundreds and hundreds of referrals for Enforcement or Civil Penalties action over the past 5 years. Its positioning within the Treasury Department provides OFAC's Compliance with an invaluable capability to dialogue with and oversee industry groups as diverse as banking and securities, exporters and importers, travel service providers, insurers, and even credit bureaus and retailers.

Civil Penalties Division

OFAC's Civil Penalties Division acts as the civil enforcement arm of OFAC by imposing civil penalties for violations of OFAC programs. Penalties range from $11,000

to $1.075 million. Since 1993, the Division has collected nearly $30 million in civil penalties for sanctions violations and has processed more than 8,000 matters.

The Division reviews evidence and determines the appropriate final OFAC penalty action—either a settlement, a penalty imposition, or the decision not to impose a penalty. It also grants requests for an agency hearing before an administrative law judge (ALJ) in case under the Trading With the Enemy Act (TWEA). Three ALJ's have contracted with OFAC to hear such cases. In addition to ALJ hearings and the administrative civil penalty process, OFAC's Civil Penalties Division resolves civil enforcement cases in conjunction with criminal prosecutions by the Justice Department. OFAC also enters into global settlements of violations in forfeiture actions brought by the U.S. Customs and Border Protection (CBP) and works closely with CBP's Office of Regulations and Rulings and the Fines, Penalties, and Forfeitures Offices nationwide.

The Civil Penalties Division publishes information on completed settlements and penalty impositions on OFAC's Penalties Disclosure Website. Providing additional transparency, as recommended by the Judicial Review Commission, OFAC has published in the *Federal Register* its Enforcement Guidelines with Penalty Mitigation Guidelines.

Enforcement Division

OFAC/Enforcement concentrates on providing advice and assistance concerning criminal and investigates civil violations of OFAC's regulations and statutes.

- **Criminal Investigations.** OFAC Enforcement officers provide expert advice and assistance to Assistant United States Attorneys and criminal investigators from the FBI, Bureau of Immigration and Customs Enforcement (ICE) and the Department of Commerce's Office of Export Enforcement (OEE) in the investigation of suspected criminal violations of OFAC programs. The FBI has primary investigative authority for terrorism cases, while ICE conducts most investigations dealing with trade-related transactions. OFAC's long-standing and close relationship with ICE has continued after its transfer to the Department of Homeland Security (DHS). This relationship works very well. ICE has field offices Nationwide, covering all ports of entry, and agents assigned as attaches for overseas investigative coverage. ICE agents, along with inspectors from the Bureau of Customs and Border Protection (CBP) at DHS, have seizure authority at U.S. ports and they are the front-line of OFAC's efforts to interdict unlicensed goods being exported to, or imported from, OFAC sanctions countries or persons. Since 1995, there have been approximately 68 cases that resulted in criminal enforcement action for TWEA and the International Emergency Economic Powers Act (IEEPA) violations.
- **Civil Investigations.** The Enforcement Division conducts civil investigations as a result of voluntary disclosures, informant information, internal research by OFAC staff, and referrals from ICE and other agencies. The Division currently has over 2600 civil cases opened. These cases range from complex export, re-export and other trade transactions, to violations of OFAC Cuba travel restrictions. Most such cases result in an internal referral to the Civil Penalties Division for the possible imposition of civil penalties.
- **Domestic Blocking Actions.** OFAC officers serve blocking notices and work to ensure the blocking of assets of entities in the United States that are designated under the Foreign Terrorist, Narcotics and country programs. These actions are accomplished with assistance of special agents from the FBI and ICE as needed.
- **Law Enforcement Outreach Training.** OFAC provides sanctions enforcement training to ICE agents and CBP inspectors on a monthly basis through in-service training courses at the Federal Law Enforcement Training Center and at field offices and ports Nationwide. We have also provided training presentations to agents and analysts at FBI Headquarters and the FBI Academy at Quantico, VA.

TRANSPARENCY AND OUTREACH

In January 2001, the Judicial Review Commission on Foreign Asset Control submitted its final report to Congress, making several recommendations with respect to OFAC. While some were specific to the Foreign Narcotics Kingpin Designation Act and OFAC's designation authority generally, others pertained to the "transparency" of OFAC's operations and decisionmaking standards in order to facilitate greater understanding of, and compliance with, the sanctions laws [OFAC] administers." In response to the Commission's report, OFAC and the three divisions described above have taken several measures to enhance the transparency of OFAC's operations. Central to this initiative is the use of OFAC's website, administered by the Compliance Division, which currently contains more than 1,000 documents, including 96 program brochures, guidelines, and general licenses, 12 industry brochures, and over 200 legal documents. Website usage statistics indicate in excess of

1.3 million hits on per month. OFAC also publishes reports, speeches, and Congressional testimony on its website. Included among the reports are quarterly reports to the Congress on the administration of the licensing regime pertaining to the exportation of agricultural products, medicine, and medical devices to Iran, Sudan, and, until recently, Libya. OFAC's Terrorist Assets Reports for 2001 through 2003 are also available.

Interpretive rulings in redacted format prepared by the Licensing Division are published on the website, extending the benefit of what had previously been private guidance. OFAC has also published 95 questions of general applicability frequently asked by the public about OFAC and its programs.

Publication of various OFAC guidelines is also an important component of the transparency initiative. Along with the Enforcement Guidelines, OFAC has issued comprehensive application guidelines pertaining to the authorization of travel transactions involving Cuba. These guidelines were instrumental in reducing a backlog of license applications in this category from over 400 cases to fewer than 100, with a current average processing time per application of fewer than 9 days. OFAC also issues a circular setting forth the regulatory program governing travel, carrier, and funds forwarding services provided in the context of the Cuba embargo.

Responding to one of the Judicial Review Commission's recommendations, OFAC, wherever possible, has issued its regulations in the *Federal Register* as interim final rules allowing for public comments.

Finally, there are listings on the website for more than 100 sanctions workshops in the near future. These workshops provide a significant outreach to the financial and other communities OFAC regulates, further promoting transparency of agency operations.

OFAC'S Designation Programs

Designations constitute the identification of foreign adversaries and the networks of companies, other entities, and individuals that are associated with them; as a result of a person's designation pursuant to an Executive orders (EO) or statute, U.S. persons are prohibited from conducting transactions, providing services, and having other dealings with them. Generically, those who are placed on OFAC's public list are referred to as "Specially Designated Nationals" or "SDN's." Typically, SDN's are the instrumentalities and representatives that help sustain a sanctioned foreign government or adversary and commonly include the financial and commercial enterprises, front companies, leaders, agents, and middlemen of the sanctions target. In the terrorism programs, they are known as SDGT's, SDT's, and FTO's; in the narcotics programs they are SDNT's for the Colombian cartels and Tier I and Tier II SDNTK's under the Kingpin Act. In the country programs, they are SDN's.

OFAC's International Programs Division and Foreign Terrorist Programs Division are the offices which research and identify and these targets for designation.

LEGAL AUTHORITIES

International Emergency Economic Powers Act

In January 1995, the President first used his IEEPA to deal explicitly with the threat to U.S. foreign policy and national security posed by terrorism, declaring a national emergency with respect to terrorists who threaten to disrupt the Middle East Peace Process. This action, implemented through Executive Order 12947, expanded the use of economic sanctions as a tool of U.S. foreign policy to target groups and individuals, as well as foreign governments. During the late 1990's, IEEPA authorities were used to issue additional Executive orders imposing sanctions on Al Qaeda and Osama bin Laden and entities or individuals that are owned or controlled by, act for or on behalf of, or that provide material or financial support to Al Qaeda or Osama bin Laden.

Following this model, in October 1995, the President announced the concept of using EO 12947 as a model for targeting significant foreign narcotics traffickers centered in Colombia, for example, the Colombian drug trafficking cartels. That IEEPA program, implemented in EO 12978 with the identification by the President of four Cali Cartel drug kingpins, has expanded into a key tool in the fight against the Colombian cartels. As of today, 14 Colombian drug kingpins, 381 entities, and 561 other individuals associated with the Cali, North Valle, and North Coast drug cartels have been designated as Specially Designated Narcotics Traffickers (SDNT's) under EO 12978.

Authorities in Response to September 11

The President harnessed the IEEPA powers and authorities in response to the terrorist attacks of September 11. On September 23, 2001, President Bush issued Executive Order 13224, "Blocking Property and Prohibiting Transactions with Per-

sons Who Commit, Threaten to Commit, or Support Terrorism" declaring that the grave acts of terrorism and the threats of terrorism committed by foreign terrorists posed an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. EO 13224, as amended, authorizes the Secretaries of the Treasury and State, in consultation with the Department of Justice and the Department of Homeland Security, to implement the President's authority to systemically and strategically combating terrorists, terrorist organizations, and terrorist support networks.

This order prohibits U.S. persons from transacting or dealing with individuals and entities owned or controlled by, acting for or on behalf of, assisting or supporting, or otherwise associated with, persons listed in the Executive order. Those designated and listed under the Executive order are known as "Specially Designated Global Terrorists" (SDGT's). Violations of the EO with respect to SDGT's are subject to civil penalties; and if the violation is willful, persons may be criminally charged. The Executive order also blocks "all property and interests in property of [designated persons] that are in the United States or that hereafter come within the United States, or that hereafter come within the possession or control of United States persons[.]"

To date, the United States has designated 361 individuals and entities as SDGT's pursuant to EO 13224. More than 260 of these entities are associated with either Al Qaeda or the Taliban which provides the basis to notify these names to the UN for listing pursuant to United Nations Security Resolutions (UNSCR's) 1267, 1373, and 1526. The United States has worked diligently with the UN Security Council to adopt international resolutions reflecting the goals of our domestic Executive orders and providing the mechanisms for UN member states to freeze terrorist-related assets.

Rolling FTO's into SDGT's Makes War on Terrorist Infrastructure Global

On November 2, 2001, the United States took an additional significant step when the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, utilized the new authorities in EO 13224 to designate 22 Foreign Terrorist Organizations (FTO's) as Specially Designated Global Terrorists (SDGT's). This action expanded the War on Terrorism beyond Al Qaeda and the Taliban and associated individuals and entities to include Hamas, Hizballah, the FARC, the Real IRA, and others. This action created a truly global war on terrorism and terrorist financing and demonstrated the USG's commitment to continue and expand our efforts against all terrorist groups posing a threat to the United States, its citizens, its interests, and its allies. Currently, there are 37 FTO's which are also designated as SDGT's.

Foreign Narcotics Kingpin Designation Act

Building on the successes of the Colombian narcotics traffickers program, in December 1999, Congress enacted the Foreign Narcotics Kingpin Designation Act (Kingpin Act), originally introduced by Senator Coverdell and Senator Feinstein and modeled on IEEPA and OFAC's Columbia SDNT program. It provides a statutory framework for the imposition of sanctions against foreign drug kingpins and their organizations on a worldwide scale. Like its terrorism and narcotics Executive order-based predecessors, the Kingpin Act is directed against individuals or entities and their support infrastructure, not against the countries in which they are imbedded. Since the first list of kingpins was issued, 38 foreign drug kingpins (these are in addition to the 14 Colombian drug kingpins designated under EO 12978), 14 derivative companies, and 52 derivative individuals have been designated.

Antiterrorism and Effective Death Penalty Act

In 1996, the Congress passed the Antiterrorism and Effective Death Penalty Act (AEDPA). AEDPA makes it a criminal offense to: (1) engage in a financial transaction with the government of a country designated as supporting international terrorism; or (2) provide material support or resources to a designated Foreign Terrorist Organization (FTO).

Thirty-seven FTO's are currently subject to OFAC-administered sanctions. These FTO's have been designated by the Secretary of State in consultation with the Secretary of the Treasury and the Attorney General. Under the AEDPA and OFAC's implementing regulations, U.S. financial institutions must maintain control over all funds in which an FTO has an interest and report the existence of such funds to OFAC. OFAC works with State and Justice on FTO designations, and with the financial community, the FBI, State, and other Federal agencies in implementing the prohibitions of the AEDPA.

Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001

The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), passed in October 2001, amends IEEPA to provide critical means and authority to OFAC to counter terrorist financing. The Act has enhanced OFAC's ability to implement sanctions and to coordinate with other agencies by clarifying OFAC's authorities to block assets of suspect entities prior to a formal designation in "aid of an investigation." This critical authority helps prevent the flight of assets and prevents the target from engaging in potential damaging behavior or transactions. In addition, the USA PATRIOT Act explicitly authorizes submission of classified information to a court, in camera and *ex parte,* upon a legal challenge to a designation. This new USA PATRIOT Act authority has greatly enhanced our ability to make and defend designations by making it absolutely clear that OFAC may use classified information in making designations without turning the material over to an entity or individual that challenges its designation.

OFAC'S COUNTER NARCOTICS PROGRAM

OFAC's Mission Against Foreign Drug Cartels

One of the primary missions of OFAC/IPD officers is to investigate, through both "all-source" research and extensive field work with U.S. law enforcement agents and Assistant U.S. Attorneys, and compile the administrative record that serves as the OFAC case to designate significant foreign narcotics traffickers and their networks of front companies and individuals pursuant to the Specially Designated Narcotics Traffickers (SDNT) program pursuant to EO 12978 and the Foreign Narcotics Kingpin Designation Act (Kingpin Act).

Interagency Coordination

In its capacity to administer and enforce economic sanctions against foreign narcotics traffickers, both traditional drug cartel and narco-terrorist targets, OFAC's International Programs Division (OFAC/IPD) works extensively with other U.S. agencies in the law enforcement and intelligence communities, as well as the President's Office of National Drug Control Policy. OFAC/IPD officers regularly are requested to train DEA's financial investigators on OFAC's authorities to designate and block foreign drug cartel's financial networks under EO 12978 and the Kingpin Act. In addition, OFAC/IPD officers have also provided presentations for various ICE, FBI, U.S. Attorney's offices, the Department of Justice, and the Department of Defense on OFAC narcotics and other sanctions programs and how they can work jointly with a U.S. criminal investigation. OFAC continues to expand its relationships with U.S. law enforcement, including ICE, DEA, FBI, IRS Criminal Investigation, U.S. Attorney's Offices, and with other agencies including the Department of State, Department of Defense, and Central Intelligence Agency. While some formal interagency coordination is established by Executive order or legislation (the Kingpin Act), in the day-to-day execution of these programs, interagency cooperation is the result of experienced OFAC/IPD officers working closely with other U.S. criminal investigators. These working relationships have led to several successful sanctions designation actions over the past few years.

OFAC's Enforcement Division and its International Programs Division have distinct but complimentary relationships with the Federal law enforcement community. OFAC/IPD is focused on investigations and on research leading to designations, whether worked independently or jointly with Federal law enforcement agencies and task forces, U.S. Attorneys offices, or other U.S. Government agencies. In the programs that OFAC enforces against foreign narcotics trafficking cartels and drug kingpins, OFAC/IPD has been working with the Department of Justice and DEA since 1995, with a significant contingent of OFAC/IPD personnel cleared to work at DEA headquarters. Over the years those working relationships have substantially broadened, bringing OFAC to the point where OFAC/IPD officers, both in the field and at headquarters, including OFAC's Attaché Offices in Bogotá and Mexico City, regularly work with OCDETF task forces, multiple U.S. Attorneys' offices, DEA, ICE, IRS–CI, and the FBI, on cases and broader operations of mutual interest. This integrated operating method not only provides OFAC/IPD with better background information and evidence for its targets, but also makes OFAC's expertise in the business and financial structuring by the cartels available as a resource to law enforcement and intelligence agencies. This appropriate close working relationship with law enforcement provides a successful conduit for the sharing of information between law enforcement agencies and OFAC/IPD.

Since September 11, 2001, OFAC has played an integral role in the terrorism-related investigations being conducted throughout the law enforcement community. To

coordinate efforts and actions, OFAC has detailed a full-time liaison to the FBI's Terrorist Financing Operations Section (TFOS) and a weekly liaison to the Terrorist Screening Center (TSC) and participates on their interagency enforcement teams. Information obtained through close interagency coordination has been crucial in "making the case" to designate particular targets domestically and internationally. Information developed by OFAC has also proven useful for investigations being conducted by TFOS, TSC, and other U.S. law enforcement agencies.

The Kingpin Act

Pursuant to Section 804(a) of the Kingpin Act, the Secretaries of Treasury, State, and Defense, the Attorney General, and the Director of Central Intelligence must consult and provide the appropriate and necessary information to enable the President to submit a report to Congress no later than June 1 each year designating additional Kingpin Tier I targets. OFAC/IPD is responsible for coordinating the interagency process for the Kingpin Act.

On May 29, 2003, President Bush announced the names of 7 foreign persons that he determined were significant foreign narcotics traffickers, or kingpins, under the Kingpin Act. These new drug kingpins included 4 individuals involved in the Mexican and Brazilian drug cartels and 3 foreign groups—a Colombian narco-terrorist guerrilla army (the Revolutionary Armed Forces of Colombia or FARC), a Colombian narco-terrorist paramilitary force (the United Self-Defense Forces or AUC), and a Burmese drug trafficking ethnic guerrilla army (United Wa State Army or UWSA). These were the first designations of narco-terrorist groups under the Kingpin Act. The FARC and the AUC had previously been named as Foreign Terrorist Organizations by the State Department and designated as Specially Designated Global Terrorists by OFAC pursuant to EO 13224.

A total of 38 Tier-I Kingpins designations have been made since June 2000. Currently, development of the evidentiary basis for new Kingpin Tier I targets for Presidential designation by June 1, 2004 is underway. The previous designations of 38 drug kingpins remain; the President does not have to redesignate them.

OFAC prepares and designates "Tier II" narco-terrorist leaders under the Kingpin Act. On February 19, 2004, OFAC/IPD took action against leaders and key figures of two narco-terrorist organizations in Colombia, the FARC, and the AUC. Nineteen leaders of the FARC and eighteen key figures of the AUC plus three AUC front companies were added to OFAC's list of "Tier II" individuals and entities designated under the Kingpin Act. These Kingpin Tier II designations reinforce the reality that the FARC and the AUC are not simply terrorist/guerrilla organizations fighting to achieve political agendas within Colombia. They are part and parcel of the narcotics production and export threat to the United States, as well as Europe and other countries of Latin America.

Specially Designated Narcotics Traffickers

Since the inception of the Colombia program in 1995 under Executive Order 12978, OFAC/IPD officers have identified 956 businesses and individuals as Specially Designated Narcotics Traffickers (SDNT's) consisting of fourteen leaders of Colombia's Cali, North Valle, and North Coast drug cartels.

- **North Valle Cartel links to the AUC.** In October 2002, OFAC coordinated the designation of a Colombian cartel kingpin with the FBI. A joint investigation by OFAC/IPD and the FBI Miami field office led to the SDNT action against Colombia's North Valle cartel leader, Diego Leon Montoya Sanchez and a network of front companies and individuals in Colombia in conjunction with an FBI criminal asset forfeiture action in South Florida. Diego Leon Montoya Sanchez is closely associated with the AUC, a Colombian narco-terrorist organization.
- **Continued Actions against the Cali Cartel.** Since 2002, OFAC/IPD has worked jointly with the U.S. Attorney's Office for Middle District of Florida and Operation PANAMA EXPRESS, a multiagency drug task force based out of Tampa, Florida. A 2-year investigation by OFAC/IPD officers in conjunction with the PANAMA EXPRESS task force led to the March 2003 SDNT action against two new Cali Cartel leaders, Joaquin Mario Valencia Trujillo and Guillermo Valencia Trujillo, and their financial network of 56 front companies and individuals. Joaquin Mario Valencia Trujillo is indicted in the Middle District of Florida and was recently extradited to the United States from Colombia.

  In 2003, OFAC/IPD investigations have focused on Cali cartel leaders, Miguel and Gilberto Rodriguez Orejuela. In February 2003, OFAC/IPD designated 137 companies and individuals comprising a complex financial network in Colombia and Spain controlled by Miguel and Gilberto Rodriguez Orejuela. This action exposed and isolated a parallel network of Cali cartel front companies established to evade OFAC sanctions. In March 2003, OFAC/IPD officers targeted a Colom-

bian money exchange business and a prominent Colombian stock brokerage firm which facilitated the Cali cartel network's financial transactions. In October 2003, OFAC/IPD designated 134 new front companies and individuals including a network of pharmaceutical companies extending from Colombia to Costa Rica, Ecuador, Panama, Peru, and Venezuela with ties to financial companies in the Bahamas, the British Virgin Islands, and Spain. These SDNT actions were the result of a 3-year investigation by OFAC/IPD officers and the OFAC Attaché—Bogota.

These actions under the SDNT and Kingpin Act programs reflect the increasing cooperation, coordination, and integration among the U.S. counter-narcotics agencies in the battle against international narcotics trafficking and narco-terrorism. On March 3, 2004, the U.S. Attorney for the Southern District of New York issued a joint statement with the DEA New York field office and the OFAC Director announcing the indictment of two of Colombia's most important drug kingpins, Gilberto Rodriguez Orejuela and Miguel Angel Rodriguez Orejuela, leaders of the notorious Cali Cartel, under Operation DYNASTY, a joint investigation involving the U.S. Attorney's Office for the Southern District of New York, DEA, OFAC, and Colombian authorities. Both Cali cartel leaders were designated under EO 12978 as Colombian cartel leaders in October 1995. The indictment charges the Rodriguez Orejuela brothers with money laundering conspiracy based largely upon the predicate offense of violating the IEEPA as a result of the drug kingpins' efforts to defeat OFAC's designations of many of their companies as SDNT's.

OFAC'S COUNTERTERRORISM PROGRAM

Foundations of Terrorist Financing and Support

The threat of terrorist support networks and financing is real, and it has been OFAC's mission to help identify and disrupt those networks. Though the vast majority of the world's Muslims are peaceful, a committed, vocal, and well-organized minority is competing to mobilize a new generation in the tools and trade of Jihad.

There is much we know about how such radical Islamic terrorist networks were established and still thrive. OFAC's research has disclosed the overall framework of the support structures that underpin the most prominent Islamic extremist movements throughout the world. "Deep pocket" donors in the Middle East provide money either to terrorist groups directly, or indirectly through trusted intermediaries and nongovernmental organizations (NGO's), including charities. These NGO's can, in turn, use the money to provide funding and logistical services directly to terrorist groups, including transportation, cover employment, and travel documentation. They also provide support indirectly by using the funds for public works projects—wells, social centers, and clinics—to reach disaffected populations susceptible to radicalizing influences. These projects also often include religious schools, which serve as fertile recruiting grounds for new members of terrorist groups.

The terrorist networks are well-entrenched and self-sustaining, though vulnerable to United States, allied, and international efforts. Looking forward, please allow me to explain how we have arrived at this view and present the strategy, being implemented in coordination with other components of the Treasury Department and other Federal agencies including the Departments of Defense, State, Justice, Homeland Security, the FBI, IRS Criminal Investigation, the intelligence community, and other agencies, to choke off the key nodes in the transnational terrorist support infrastructure.

Research and Evidentiary Preparation

The primary mission of officers within OFAC's Foreign Terrorist Programs Division is to compile the administrative record or "evidentiary" material that serves as the factual basis underlying a decision by OFAC to designate a specific person pursuant to EO 13224 or other counterterrorism sanctions authorities and to block its assets. OFAC officers conduct "all-source" research that exploits a variety of classified and unclassified information sources in order to determine how the activities or relationships of a specific target meet the criteria of the EO. As the implementing and administrating agency for EO 13224 and other related programs, OFAC coordinates and works with other U.S. agencies to identify, investigate and develop potential targets for designation or other appropriate U.S. Government actions. Officers use their considerable expertise to evaluate available information in the critical process of constructing a legally sufficient evidentiary record.

More broadly, OFAC officers compile research on multiple targets to build a comprehensive schematic of the structure of particular terrorist network. They then employ a "key nodes" methodology to identify these high value targets within them that serve critical functions. OFAC believes that by eliminating these key nodes or high value targets the network would be disabled because without them the net-

work would not receive sustaining services such as recruitment; training; logistical, material, financial, or technological support; and leadership. OFAC selects specific targets to recommend for designation based on the potential to cripple or otherwise dramatically impair the operations of the overall network by economically isolating these nodes. Economic sanctions are most effective against key nodes such as donors; financiers (fundraisers, financial institutions, and other commercial enterprises); leaders; charities; and facilitators such as logisticians. OFAC already has targeted key nodes in terrorist networks in several areas of the world including groups in Southeast Asia and various parts of Africa. OFAC is currently engaged in new research on groups in the Middle East, including Iraq, and the Caucasus.

A completed OFAC evidentiary record on a particular target is submitted first for legal review, then to the Executive Office of Terrorist Finance and Financial Crimes, where OFAC officers work with that office to prepare the package for the Policy Coordinating Committee (PCC). The PCC determines whether the U.S. Government should designate a particular entity or should pursue alternative legal or diplomatic strategies in order to achieve U.S. interests. As part of the PCC process, OFAC's designation proposal will usually be vetted by the consultative parties specified by the EO.

In addition to the evidentiary package, OFAC and other Treasury officers work with the interagency community to draft an unclassified Statement of the Case (SOC) which serves as the factual basis for the public announcement of a designation. The State Department uses it to preconsult with countries which are directly impacted by a proposed U.S. action. Upon a U.S. Government determination to designate, the SOC is used to notify host countries and the UN of an impending U.S. action. The UN is notified only if the designation is related to Al Qaeda or the Taliban.

UN and Bilaterally Proposed Designations

Whenever an individual or entity is proposed by another country through the UN or is proposed to the U.S. Government bilaterally, OFAC is responsible for preparing the administrative record. In order to designate a target proposed to the UN by a Member State or by another government bilaterally to the U.S. Government, OFAC must develop an administrative record that satisfies the U.S. domestic laws described above. Quite often, due to a difference in legal authorities and the type of or lack of information provided by a designating country, this process may require several discussions with the initiating party and often requires further coordination with the UN and other countries in order to obtain sufficient information to meet domestic legal criteria.

Other Counterterrorism Activities

OFAC's role in the counterterrorism arena is not limited to preparing designations, although this often serves as a key component of its other activities. The transnational nature of terrorism support networks requires engagement with allies and routine information sharing. OFAC's direct engagement with allies on terrorism support infrastructure began with officials from Saudi Arabia, Kuwait, and the UAE in June 1999. Information and understandings developed from this and other OFAC trips to the region significantly contributed to formulating some of the strategies employed today.

Direct Treasury and OFAC engagement with foreign allies' counterparts provides an opportunity for OFAC to gather information, apply pressure, request support, or offer assistance. In some cases, Treasury may seek joint action with an ally in an effort to disrupt or dismantle an organization. In other instances, OFAC may use the threat of designation to gain cooperation, forcing key nodes of financial support to choose between public exposure of their support for terrorist activity or their good reputation.

Of course, OFAC also collaborates extensively with other elements within the Treasury Department. In particular, I want to mention our excellent relationship with IRS Criminal Investigation. This relationship has been especially important and productive in carrying out the Treasury Department's authority under Executive Order 13315, which blocks the assets of Saddam Hussein and other senior officials of the former Iraqi regime. For many months now, OFAC has been coordinating almost daily with Washington-based IRS–CI agents to guide the efforts of IRS–CI agents on the ground in Iraq to identify the ill-gotten assets of Saddam and his cronies. OFAC's partnership with IRS–CI on this issue has developed important investigational leads that would have been impossible if our organizations had not been so closely synchronized.

Significant OFAC Designations Pursuant to EO 13224

The result of OFAC's research and coordination efforts over the past 3 years has been several significant designations of charities, terrorist financiers, and financial support networks.

OFAC Actions against Terrorist-Supporting Charities:

- **Holy Land Foundation (HLF).** OFAC/IPD worked closely with the FBI prior to September 11 to designate this charity located in Richardson, Texas. HLF was a financial supporter of HAMAS, a terrorist group originally designated in January 1995 pursuant to Executive Order 12947. The FBI Dallas field office specifically sought OFAC's involvement in its investigation and an OFAC/IPD officer became part of the North Dallas Terrorism Task Force. As a result of this close coordination, on December 4, 2001, OFAC designated the Holy Land Foundation pursuant to EO 13224 and EO 12947. This designation was upheld in U.S. Federal district court, affirmed on appeal, and on March 1, 2004, the Supreme Court denied HLF's petition for *certiorari* in HLF's challenge to its designation. As a result of the OFAC designation, IRS suspended the tax-exempt status of HLF.
- **Benevolence International Foundation (BIF) & Global Relief Foundation (GRF) Blocking in Aid of Investigation.** On December 14, 2001, the Treasury blocked pending investigation (BPI) the property of both BIF and GRF, two Islamic charities in Chicago, Illinois and the first such action under EO 13224. After the December 2001 BPI action, OFAC/IPD continued to work with other components of the Treasury and the FBI, SFOR in the Balkans, the Department of Justice, and the intelligence community to obtain additional information which led to the designation of GRF on October 17, 2002 and BIF on November 18, 2002 pursuant to EO 13224. On February 25, 2003 the civil lawsuit filed by BIF against the United States was voluntarily dismissed with prejudice and without costs. On November 12, 2003, the Supreme Court denied *certiorari* in GRF's appeal of the denial of its motion for preliminary injunction. As a result of the OFAC designation, IRS suspended the tax-exempt status of both BIF and GRF.
- **Al Haramain Foundation.** Treasury has worked closely with other U.S. Government agencies and Government of Saudi Arabia in order to coordinate the bilateral designation of six branches of this prominent Saudi charitable organization. The Bosnian and Somali branches were designated on March 11, 2002, while the Pakistani, Indonesian, Kenyan, and Tanzanian branches were designated on January 22, 2004.

OFAC Actions against Terrorist Financial Networks:

- **Al-Barakaat network.** OFAC/IPD identified the Al-Barakaat network as a major financial network providing material, financial, and logistical support to Osama Bin Laden, Al Qaeda, and other terrorist groups. On November 7, 2001, the President announced the designation of the Al-Barakaat network pursuant to EO 13224. As a result of that action, Barakaat's cashflow was severely disrupted and the Emiratis closed down Barakaat's offices in their territory, froze its accounts, and placed several individuals under an informal house arrest.
- **Nada-Nasreddin/al Taqwa network.** OFAC/IPD coordinated with U.S. law enforcement and intelligence community, and worked closely with its foreign partners in the Caribbean and Europe to target Al Qaeda supporters, Yousef Nada and Ahmed Idris Nasreddin. OFAC designated them and related companies in November 2001 and August 2002 pursuant to EO 13224, significantly disrupting another network.
- **Wa'el Hamza Julaidan.** OFAC identified Julaidan as a senior figure in the Saudi charitable community, who provided financial and other support, to several terrorist groups affiliated with Al Qaeda operating primarily in the Balkans. OFAC worked with other U.S. Government agencies and the Government of Saudi Arabia to coordinate a bilateral designation of Julaidan on September 6, 2002.

OFAC's Key Node Strategy

Over the past year and a half, OFAC has should take a more systematic approach to evaluating the activities of major terrorist organizations in various regions. This approach has focused on identifying "key nodes" discussed above, which when targeted and economically isolated can cripple a terrorist network's ability to function.

To implement this approach, OFAC staff has established collaborative relationships with several Department of Defense agencies and combatant commands in order to gain wider access to information critical to developing evidentiary records in support of designations. Working with DoD Commands and other DoD agencies provides OFAC and its DoD partners a force multiplier that brings together a variety of counterterrorism tools and resources. This will be an important model of interagency coordination as well as strategic vision for the Treasury Department as

a whole, as we move toward greater integration and amplification of our intelligence and analysis functions in the Office of Intelligence and Analysis.

- **Jemmah Islamiyah (JI)/Southeast Asia.** In October 2002, OFAC began a joint project with the U.S. Pacific Command (USPACOM) and other DoD elements that identified terrorist support networks in Southeast Asia and selected key nodes, or priority targets, in these networks. The project's geographic scope included Indonesia, the Philippines, Malaysia, and Singapore, and eight terrorist or Islamic extremist groups. The project focused special attention on the Al Qaeda-affiliated JI, the Abu Sayyaf Group (ASG), and the Moro Islamic Liberation Front (MILF), because of their relative importance in the region and threat to U.S. interests. The project identified the key leaders, fundraisers, businessmen, recruiters, companies, charities, mosques, and schools that were part of the JI support network. OFAC has sought to expand on this model through collaboration with other DoD agencies including the combatant commands. These efforts have included:
- **The Horn of Africa.** OFAC analysts have worked with DoD agencies, including analysts from the Office of Naval Intelligence (ONI), to fully identify the terrorism support infrastructure in the Horn of Africa. In this region, shipping and related drug smuggling activities appear to be strengthening the terrorism infrastructure. We were able to, in coordination with our interagency partners; identify some of the key leaders, charities, and businesses that appear to be critical to the overall functioning of the network. In January 2003, we took joint action with the Government of Saudi Arabia against two of these key targets—the Kenya and Tanzania offices of the Saudi-based Al-Haramain Islamic Foundation.
- **North Africa.** In August 2003, I visited the U.S. European Command headquarters (USEUCOM) and met with the Chief of Staff, to begin a joint project including USEUCOM, OFAC Officers, and other DoD elements to identify terrorist support networks in the North Africa region and key nodes within this network. The geographic scope of this project includes Morocco, Algeria, Tunisia, Libya, Mauritania, and Mali, and nine terrorist or Islamic extremist groups and their support networks. At the inception of this project, the Director of USEUCOM's Intelligence Directorate indicated that this region posed the most serious threat in USEUCOM's area of responsibility and asked OFAC to devote available resources to the project. The recent Madrid bombings and the suspicion that North African terrorists may have been involved illustrates the reality of the threat these groups pose not only to the stability of the region but also the interests of the United States and our allies.
- **Caucasus.** In January 2004, the USEUCOM Chief of Staff visited OFAC and was briefed on an OFAC initiative to identify terrorist groups and their support networks in another region of USEUCOM's area of responsibility. The Chief of Staff invited an OFAC analyst to USEUCOM's Joint Analysis Center in Molesworth, England, to work with a regional analyst there to further develop information on terrorist activity in the region. The outcome of the week-long visit was that it confirmed our preliminary analytical conclusions of terrorist activity and support. We are now in discussion with a DoD element, USEUCOM, and an U.S. Government agency to pursue a collaborative effort to refine our understanding and determine if the initiative justifies the commitment of limited resources for the ultimate exercise of OFAC sanctions or other appropriate U.S. Government authorities against priority targets we may identify.
- **Additional Initiatives.** In March of this year, OFAC was invited to brief the Headquarters North American Aerospace Defense Command (NORAD) and U.S. North Command (USNORTHCOM) Interagency Coordination Group (JIACG) on the subject of OFAC authorities under Executive Order 13224 and OFAC efforts against terrorism. In addition, the U.S. Southern Command (USSOUTHCOM) has also contacted my office and expressed an interest in an OFAC analyst detailed to the USSOUTHCOM JIACG. OFAC continues to explore collaborative opportunities with both of these commands.

These efforts have been so successful that, in December 2003, the Office of the Secretary of Defense requested the detail of six OFAC employees to the headquarters of six DoD combatant commands. As a result, we hope to detail OFAC analysts with the U.S. Central Command (USCENTCOM) and U.S. Special Operations Command (SOCOM) in the near future.

OFAC ATTACHÉ OFFICES AND FOREIGN COUNTERPARTS

OFAC's ability to successfully pursue counternarcotics and counterterrorism missions has been greatly enhanced by assigning OFAC officers to attaché and liaison positions abroad with several U.S. embassies and military commands.

- **OFAC Bogotá office** coordinates OFAC sanctions programs in Colombia and conducts research on Colombian drug cartels and narco-terrorists. The OFAC Attaché and Assistant Attaché in Bogotá serve as the liaison with U.S. Embassy elements and Colombian Government agencies and have established solid relationships with the Colombian banking and private sectors. OFAC/IPD officers travel regularly to Colombia and have extensive knowledge of Colombian drug cartel finances.
- **OFAC Mexico City office** coordinates OFAC sanctions programs in Mexico. The OFAC Attaché in Mexico serves as the liaison with U.S. Embassy elements and Mexican Government agencies.

In addition, OFAC's Attachés have established good working relationships with foreign counterparts in Colombia and Mexico which has supported U.S. interests in choking off drug cartel and narco-terrorist finances through both joint investigations and actions. For example, Colombian companies designated by OFAC/IPD to the SDNT list are many times the targets of subsequent Colombian criminal asset forfeiture investigations.

- **OFAC's Liaison Officer at the U.S. European Command** (USEUCOM) serves as OFAC's representative to the USEUCOM Joint Interagency Coordination Group, as well as to targeting groups established by USEUCOM. The liaison also coordinates joint projects underway between USEUCOM and OFAC elements and travels regionally to provide support to other OFAC programs, particularly the effort to block the assets of Persons Indicted for War Crimes in the former Yugoslavia.
- **OFAC's Manama office** is nearing completion of its physical construction and is slated to have an attaché assigned to it this summer. The attaché Bahrain will be responsible for establishing relations with local government bodies engaged in counterterrorism efforts and of investigating a variety of terrorist support issues throughout the Arabian Gulf.

OFAC'S Vision for the Future

In order to meet the increasing demands placed on OFAC as it fulfills its multiple missions against governmental and organizational targets, particularly its recent critical role in countering international terrorism and narcotics trafficking, OFAC is addressing specific challenges facing its component divisions described above.

COMPLIANCE DIVISION

- OFAC Compliance is in the process of building new customer interaction capabilities, with a state of the art automated telephone system, enhanced hotline capabilities, and improved web forms to allow the public to transmit detailed live transaction data for our real time analysis and response. We expect that the new automated reporting systems we are developing will allow financial institutions and others to provide OFAC more quickly with comprehensive information on interdicted transactions.
- Compliance is building a new Specially Designated Nationals database that will allow enterprise-wide access to declassified target information and permit analysts to directly link from a name on the SDN list to the underlying declassified evidentiary material for easy access.
- Compliance intends, in the near future, to make a new DataMart feature available on the OFAC website that will allow users of OFAC's Specially Designated Nationals list to more easily "shop" for information that is tailored to their specific compliance needs.

LICENSING DIVISION

- OFAC's Licensing Division plans to further increase the efficiency with which license applications and requests for interpretive rulings are processed, with a goal of no longer than a two-week turnaround for submissions which do not require review and clearance outside the Division.
- Licensing intends to develop enhanced capabilities for scanning and e-mail connectivity to facilitate review and clearance of licensing submissions requiring interagency consultation, with the ultimate goal of developing a web-based system with interagency access to avoid the need to transmit material altogether.
- The Division also plans to develop and publish on OFAC's website "treatises" on the various categories of commercial and financial transactions subject to OFAC's jurisdiction. These treatises will discuss OFAC's licensing practices with regard to the application of OFAC's regulations to those transactions. Redacted versions of the Division's interpretive rulings will be appended to the relevant treatise, providing comprehensive guidance and promoting consistency and transparency

with respect to subjects ranging from trade issues and financial instruments and services to ownership and control and acquisition and divestiture.
- Licensing will continue supporting OFAC's regulatory implementation function by participating in the preparation of draft regulations and promoting their timely clearance and publication.

ENFORCEMENT DIVISION

- Enforcement will build on and improve upon OFAC's existing relationships with Federal law enforcement agencies, principally the FBI, ICE, Customs and Border Protection, Commerce Office of Export Enforcement, and Offices of the United States Attorney, to enhance the criminal enforcement of OFAC sanctions programs.

INTERNATIONAL PROGRAMS (COUNTERNARCOTICS) DIVISION

- OFAC's continuing counternarcotics designation program objectives are to identify, expose, isolate, and incapacitate the business and financial infrastructures and penetrations into the legitimate economy of foreign narcotics kingpins and drug cartels, as well as their agents and functionaries. OFAC will continue to develop its working relationships with Federal law enforcement agencies, U.S. Attorneys' offices, intelligence community elements, military commands, and select foreign enforcement and counternarcotics units on a global basis.
- OFAC will continue to develop operational relationships in the field and at headquarters with Federal law enforcement agencies, U.S. Attorneys' offices, Intelligence Community elements, and military commands. This includes more personnel to work with OCDETF's and other operational task forces and more training of the other government components in OFAC narcotics designation programs.
- OFAC also plans to increase its participation in narcotics fusion and targeting centers and related interagency programs.

FOREIGN TERRORISM DIVISION

- OFAC plans to continue to expand its efforts to impede the activities of terrorist organizations utilizing the key nodes methodology. This will be done in concert with the new Office of Intelligence Analysis (OIA), as the Treasury Department works to integrate its analytical work product with all components of Treasury and the intelligence community. The new OIA will work with OFAC to develop analysis about the structure of terrorist groups and their support networks and identify and isolate key nodes within them that serve critical functions, building upon the work with the military commands. This work product will be used to help OFAC's mission of administering the terrorist sanctions program.
- OFAC will seek to detail OFAC officers to six DoD combatant commands for periods of 2 years to exploit the unique DoD resources and abilities to identify terrorists, terrorist groups, and their support networks, including DoD analytic resources, data collection, and most importantly local knowledge.

IT CHALLENGES

Improving OFAC's Information Technology capabilities remains one of the greatest challenges to enhancing OFAC's ability to pursue its mission. OFAC could enhance current analytical capabilities by utilizing more advanced and available information technologies and advance communications capabilities. Communication and cooperation with participating unified military combatant commanders and civil agencies; has shown great promise in sharing information resources to identify terrorist targets, nonstate enemy that functions within worldwide terrorist networks, demands closer coordination by U.S. Government agencies and military in the diplomatic, economic, intelligence, and law enforcement domains. To enhance its capabilities, OFAC is pursuing the following communication systems and technologies that would enable the coordination and integration that is critical for agencies, military forces, and coalition nations to effectively fight in this new war:

- **Database Application.** OFAC could improve its ability to share and store information with the development of an internal database application. This application would reside on the "classified" networks and allow OFAC analysts to store and analyze information. This information could be shared, as appropriate, through classified communication networks and provide participating partners (Intelligence Community, Military Commands, and Law Enforcement Agencies) with substantive targeting information.
- **Enhanced Electronic Communication.** This includes the establishment of a multimedia infrastructure using the Defense Messaging System cable communications servers, web servers, secure e-mail, and data servers using Public Key Infrastructure (PKI) and FORTEZZA national security information assurance for both

the Joint Worldwide Intelligence Communication System (JWICS) and the Secret IP Router Network (SIPRNET) enclaves. Establishing connectivity to the DoD interoperability of secure voice and data during periods of heightened protection requiring rapid analytical reporting between military and civil agencies.

- Establishment of a robust e-mail system and database infrastructure for the exchange of Sensitive But Unclassified (SBU) information with the United States and international partner law enforcement community. This infrastructure would take advantage of emerging technologies with respect to repudiation with digital signature, authentication, and PKI information assurance protections. The access of law enforcement databases (NLETS, TECS, etc) for the cross-analytical work required between intelligence and law enforcement sensitive data. This enhanced communications will allow OFAC to exploit "open to government" information sources.
- Developing Secure Video Teleconferencing (SVTC) capabilities on both the JWICS for intelligence and SIPRNET for sanitized information of a law enforcement nature. Completion of construction on OFAC's Secure Video Teleconferencing facility will allow officers in Washington to communicate and work more effectively on joint projects involving civil agencies and U.S. military and coalition forces. Ensuring the collaborative strategic planning of a host of entities in the conduct of counterterrorism and counternarcotic missions.
- **Better Communication Utilizing SIPRNET and ADNET Enclaves.** Both the International Programs Division (counternarcotics) and the Foreign Terrorist Programs Division (counterterrorism) will seek to improve their electronic communication with the law enforcement community by utilizing systems as SIPRNET and the Anti Drug Network (ADNET).

INCREASED OFAC COOPERATION WITH FOREIGN COUNTERPARTS

- OFAC's trips to target areas and its discussions with its counterparts in other countries have afforded OFAC the opportunity to work with these partners and provide guidance on the sanction strategies it currently employs. In all these, and future efforts, Treasury will take advantage of OFAC contacts and work abroad to increase cooperative efforts and expand Treasury's its interaction with other Government counterparts in order to deal with common threats against the United States and our allies.

Mr. Chairman, I would like to thank you and the Committee for the opportunity to speak on these issues. This concludes my remarks today. I will be happy to answer your questions.

PREPARED STATEMENT OF NANCY JARDINI

CHIEF, CRIMINAL INVESTIGATION, INTERNAL REVENUE SERVICE

APRIL 29, 2004

Good Morning, Mr. Chairman and distinguished Members of the Committee. I appreciate the opportunity to be here today to discuss the Internal Revenue Service Criminal Investigation Division's (CI) capabilities to combat money laundering and terrorist financing, a grave threat to the Nation at home and abroad.

CI Mission

CI is the IRS law enforcement component charged with enforcing the criminal provisions of the Internal Revenue Code and related financial crimes. When the Criminal Investigation Division was formed in 1919, IRS Special Agents were only responsible for investigating criminal violations of the Internal Revenue Code. Over the years, our financial investigative expertise has been recognized and increasingly sought by prosecutors and other investigative agencies and, as a result, our investigative jurisdiction has expanded to include money laundering and Bank Secrecy Act criminal violations.

In 2000, IRS modernized its entire organizational structure, including CI. A number of important changes significantly improved our ability to carry out our mission effectively. For example, CI became a line organization, reporting directly to the Chief of CI in Washington. Previously, CI field offices reported to civil IRS managers. This restructuring enabled us to more effectively manage the workload balance in each of our 35 offices. Also, IRS Chief Counsel, Criminal Tax, became more involved in our casework at the onset rather than at the end of an investigation. This has helped reduce elapsed time on investigations and has supported our continually high prosecution acceptance rate at the Department of Justice. However, the

most important change was a reshifting of our focus back to tax administration work. Over the years, as Judge Williams Webster said in his review of CI, "CI had a mission drift, working on narcotics and money laundering investigations that were not focused on tax administration." Judge Webster further said, "Over the last 20 years, Congress and the Department of Treasury have expanded CI's jurisdiction to cover offenses not only under the Internal Revenue Code but also under the money laundering and currency reporting statutes. The apparent rationale for this expansion essentially has been that effective investigation of these crimes requires the sophisticated financial expertise that CI agents uniquely possess."

As a result of the IRS modernization effort and Judge Webster's report, CI began the process of moving its focus back to tax. Since 2000, CI's tax investigations have increased by 37 percent and narcotics work is now focused only on the most critical counter drug cases, amounting to about 15 percent of all investigations. CI is reimbursed for its narcotics work by the Department of Justice.

Today, we continue to fine-tune our reorganization and our focus on tax administration. The financial investigative skills used by our special agents to investigate complex, convoluted tax schemes are the same skills we use to assist our partners in Federal law enforcement in the fight against terrorism.

Investigative Jurisdiction

In addition to our primary jurisdiction, which is set forth in Title 26 of the United States Code (Internal Revenue Code), CI also has investigative jurisdiction involving other financial-related statutes. Beginning in 1970, Congress enacted a number of laws that led to greater participation by CI in the financial investigative environment. The Currency and Foreign Transactions Reporting Act of 1970 (Bank Secrecy Act); The Comprehensive Crime Control Act of 1984; The Anti-Drug Abuse Acts of 1986 and 1988; Crime Control Act of 1990; The Annunzio-Wylie Anti-Money Laundering Act of 1992; The Money Laundering Suppression Act of 1994; The Antiterrorism and Effective Death Penalty Act of 1996; The Health Insurance Portability and Accountability Act of 1996; and the USA PATRIOT Act of 2001 all developed and refined the existing anti-money laundering and antiterrorism laws under Titles 31 and 18 of the United States Code.

This expanded jurisdiction, in money laundering and Bank Secrecy Act (BSA) violations, has permitted CI to effectively and efficiently follow the money. For more than 85 years, CI has solved complex tax and other financial crimes from Al Capone to John Gotti, Heidi Fleiss to Leona Helmsley, from corporate fraudsters to fraud promoters. CI Special Agents have developed, through specialized training and investigative experience, the keen ability to identify, trace, and document sophisticated and complex illicit transactions.

The IRS Special Agent's combination of accounting and law enforcement skills are essential to investigating sophisticated tax, money laundering, and financial crimes. By collecting and analyzing financial records and tracing offshore transactions designed to hide assets, we document the source and ownership of funds whether they are controlled by a tax evader, a drug kingpin, corrupt corporate executive, or a terrorist. This rigorous investigative process provides the experience that makes the IRS Special Agent unique and a formidable opponent to the financial criminal.

Our special agents are uniquely trained and skilled, possessing particularly strong accounting, financial and computer skills. CI is the only Federal law enforcement agency that has a minimum accounting and business educational requirement for all prospective special agents. Once hired, they endure a rigorous 26-week training course that includes general criminal investigation techniques, as well as intensive training in forensic accounting and financial investigations. At the Federal Law Enforcement Training Center (FLETC), CI agents routinely benefit from specialized antiterrorist financing training designed ad provided by the Department of Justice's Counterterrorism Section prosecutors. Their unique training and skills enable CI agents to analyze complex, often unusual, financial transactions, and easily equip them to investigate terrorism-financing involving:

- The leadership and members of extremist groups who have committed tax, money laundering, or currency violations;
- Persons engaged in fundraising activities to support terrorism, especially if tax exempt organizations are being utilized; and
- Terrorism investigations involving complex, extensive, or convoluted financial transactions.

Intersection of CI Mission with War on Terrorism

Prior to the terrorist events of September 11, 2001, CI's role in counterterrorism primarily involved the investigation of domestic terrorists. Many domestic extremist groups have espoused antigovernment and anti-taxation philosophies. Criminal In-

vestigation is often involved in investigations of individuals affiliated with these groups because of their violations of Federal tax, money laundering, and currency statutes.

The 1983 shoot-out between U.S. Marshals and Gordon Kahl, a fugitive wanted on tax charges and a member of the Posse Commitatus (Power of the Country), resulted in the death of two U.S. Marshals. The Marshals were attempting to serve Kahl with warrants for violating the terms of his probation from a 1977 conviction for failing to file income tax returns. In the 1990's IRS offices were the targets of 61 bomb threats and three actual bombings. During the Oklahoma City Bombing investigation, our agents were assigned to develop leads to identify those responsible. Our agents obtained receipts documenting the purchase of the fertilizer and dynamite used to manufacture the bomb and the truck rental receipt. Using this evidence our agents were able to construct a time line of the conspirators' whereabouts. Gordon Kahl, Timothy McVeigh, the Montana Freeman, members of the anti-tax movement, and other such groups derive their core beliefs from an anti-tax, antigovernment movement and CI has been actively involved in the investigation of these persons and organizations for many years.

Prior to September 11, CI participated on a selected basis in the Federal Bureau of Investigation's (FBI) Joint Terrorism Task Forces (JTTF's) in accordance with the Attorney General's 5-year Counterterrorism and Technology Crime plan. However, the events of September 11 significantly increased CI's counterterrorism commitment. Financial investigations are a critical part of the total war on terrorism and CI's expertise continues to be in high demand.

It is important to emphasize the nexus between our core mission and terrorist financing. After September 11, CI developed plans to use the unique information collected by the IRS to include BSA data to develop and support terrorist financing investigations. In addition, we instructed our field offices to work directly with the Joint Terrorism Task Forces, the Department of Justice's Anti-Terrorism Task Forces, and the FBI's Strategic Information Operations Center in response to the Government's efforts to mobilize the resources of Federal law enforcement agencies to combat terrorism. Statistics show that the work we perform within our counterterrorism program is often related to our tax administration mission. Of our current 150 active terrorism investigations, 56 percent involve income tax violations, and over 18 percent involve purported charitable and tax-exempt organizations.

What CI is Doing in Counterterrorism Today

The disruption of terrorist financing mechanisms is critically important. The detailed financial investigations aimed at terrorist funding are capable of identifying the flow of money and the entities and individuals who conspire to harm the United States. The link between where the money comes from, who gets it, when it is received, and where it is stored or deposited, are vital pieces of information. By focusing on financial details, terrorism cells can be identified and neutralized. To effectively conduct terrorism investigations, strong cooperative relationships must exist between the Federal law enforcement agencies to leverage the skills and contributions of each.

The Department of the Treasury is aware of the need to ensure appropriate coordination among its regulatory and enforcement components to ensure the most effective anti-money laundering and antiterrorist financing infrastructure possible. Included in these overarching responsibilities is the need to ensure effective BSA compliance and enforcement.

Responsibility for ensuring compliance with the BSA of all non-banking and financial institutions not otherwise subject to examination by another Federal functional regulator (for example, Money Service Businesses (MSB's), casinos, and credit unions) was delegated to the IRS by the Department of Treasury in December 1992. Under the delegation, IRS is responsible for three elements of compliance—the identification of MSB's, educational outreach to all three types of organizations, and the examination of these entities suspected of noncompliance. The IRS performs these compliance functions along with its criminal enforcement role.

The processing and warehousing of all BSA documents into the Currency Banking and Retrieval System (CBRS), including FBAR's,[1] CTR's,[2] 8300's,[3] and SAR's,[4] are also the responsibility of the IRS. All documents entered into the CBRS (approximately 14 million annually) are made available to other law enforcement and regulatory agencies in addition to IRS. However, the IRS is the largest user of the CBRS. The total projected IRS costs for BSA for fiscal year 2004 is $132 million for both compliance and enforcement.

Each of the IRS–CI's 35 field offices has a functioning Suspicious Activity Report Review Team (SAR-RT) that works jointly with Federal/State law enforcement representatives. Nationwide approximately 300–345 employees are assigned, either full or part-time, to the SAR–RT's. These duties include proactive evaluation and analysis of the SAR's for case development and field office support. Each month, the field office SAR–RT's throughout the country review approximately 12,000–15,000 SAR's.

CI has fully utilized the tools now available under Title III of the USA PATRIOT Act. For example, Section 314(a) of the USA PATRIOT Act authorizes Federal law enforcement agencies to utilize the existing communication resources of FinCEN to establish a link between their respective agencies and over 26,000 financial institutions for the purpose of sharing information concerning accounts and transactions that may involve terrorist activity or money laundering. During the time period from April 2003 through March 2004, CI submitted 15 requests pertaining to 63 individuals and 17 businesses. One thousand eighty-two financial institutions had positive responses, resulting in the identification of 635 positive account matches.

Section 319(a) of the USA PATRIOT Act provides that when a criminal deposits funds in a foreign bank account and that bank maintains a correspondent account in the United States, the Government may seize and forfeit the same amount of money in the correspondent account. Utilizing Section 319(a), CI has participated in two investigations that together resulted in the seizure of approximately $3.5 million in funds from accounts held at correspondent banks in the United States.

Sharing our Knowledge with Others

In addition to our financial investigative work, CI is also working with many foreign governments to train their investigators in the area of money laundering, financial investigative techniques, and terrorist financing. We are an active member of the Department of State led Terrorist Finance Working Group and we work in conjunction with the Department of State and other governmental and law enforcement agencies to provide a broad array of financial investigative training to foreign governments related to money laundering and financial crimes. In addition, CI also provides training jointly with the Department of Justice.

Some specific current training conducted jointly with the Department of State and other law enforcement agencies such as Alcohol, Tobacco, and Firearms (ATF), FBI, Drug Enforcement Agency (DEA), and Immigration and Customs Enforcement (ICE) includes:

- Financial Investigative Techniques course at the International Law Enforcement Academies in Bangkok, Budapest, and Gaborone;
- Joint Terrorism Finance Training conducted by FBI and CI in the United Arab Emirates, Pakistan, Malaysia, Colombia, Turkey, Qatar, Jordan, and Indonesia; and
- Department of State, International Narcotic and Law Enforcement Affairs training is scheduled to be conducted in Egypt, Paraguay, and Brazil later this year.

Internally, CI has delivered international, antiterrorism finance training to our Special Agents who are assigned to the Joint Terrorism Task Forces around the country. The goal of this training is to bring the agents assigned to the task forces together to learn, discuss, and share experiences.

We are working in partnership with Treasury's Executive Office for Terrorist Financing and Financial Crimes, the Office of Foreign Assets Control (OFAC), and the Financial Crimes Enforcement Network (FinCEN) to leverage all of the tools and skills of the Department of Treasury most effectively.

CI's long-standing relationship with FinCEN continues to be a source of referrals that have resulted in significant financial investigations. During the fiscal year, CI's

[1] Foreign Bank & Financial Account Report (FBAR).

[2] Currency Transaction Report—(CTR) FinCEN Form 104 and FinCEN Form 103 (filed by casinos).

[3] Report of Cash Payments Over $10,000 Received in a Trade or Business (IRS and FinCEN form 8300).

[4] Suspicious Transaction Reports—filed by financial institutions when there is suspicious activity, as determined by the financial institution.

Garden City Counterterrorism Lead Development Center has received 101 potential terrorism investigative leads from FinCEN. Both CI and the SB/SE have permanent staff assigned at FinCEN to facilitate a continual flow of information.

Our work with OFAC has increased dramatically since the Department of the Treasury's "trace and chase" activities began with the search for Iraqi assets. We are working closely with the Department of the Treasury and OFAC in their efforts to recover Iraqi assets so that they can be used for the reconstruction of Iraq. CI is also working with the Terrorist Financing Working Group comprised of numerous intelligence, law enforcement, and regulatory agencies to review the proposed anti-money laundering and antiterrorist financing laws being drafted for Iraq.

Some other CI efforts and partnerships focused on the investigation of terrorism financing include:

- Treasury Working Group on Terrorist Financing and Charities—Both CI and IRS Civil Division Tax Exempt/Government Entities.
- SAR Review Teams—designed to analyze and evaluate all suspicious activity reports filed through CBRS.
- Interpol—The CI Liaison to the U.S. National Central Bureau of INTERPOL assists CI field offices and other Federal, State, and local law enforcement officers in obtaining leads, information, and evidence from foreign countries.
- Defense Intelligence Agency Center (DIAC) (known as the Fusion Center).
- High Intensity Drug Trafficking Area (HIDTA).
- Anti-Terrorism Advisory Council established by the Attorney General.
- Joint Terrorism Task Forces (JTTF)—On a national level CI is embedded with FBI on both the JTTF's and Attorney General's Anti-Terrorism Advisory Council, concentrating on the financial infrastructure and fundraising activities of domestic and international terrorist groups.
- The High Intensity Money Laundering and Related Financial Crime Area (HIFCA) Task Forces. HIFCA's analyze Bank Secrecy Act and other financial data and analyze potential criminal activity, including terrorist financing. Twenty-six percent of our 150 open terrorism-financing investigations are the result of, or involve, Bank Secrecy Act data.
- Representation in FBI's Terrorist Financing Operations Section (TFOS).

In addition to our participation on these groups, we also make a unique contribution to counterterrorism efforts through the use of our computer investigative expertise. IRS has a unique software tool used by international, domestic, Federal, State, and local intelligence agencies. This software tool has the capability of analyzing multi-terabytes of data in multiple languages, including Farsi. We have used this tool successfully in numerous investigations—from computers seized in abusive tax schemes to those found in caves in Afghanistan.

Investigative Statistics

Since October 1, 2000, IRS CI has conducted 372 terrorism investigations in partnership with other law enforcement agencies. Over 100 investigations have resulted in indictments. Of the 270 open investigations, 120 have already been referred to the Department of Justice for prosecution. Of the remaining 150 terrorism investigations currently being worked by IRS CI Special Agents:

- 56 percent involve tax violations;
- 97 percent involve participation with other agencies;
- 26 percent either were results of, or involve, Bank Secrecy Act data; and
- 18 percent involve purported charitable or religious organizations.

What We are Doing Within IRS

Experience gained during the last 2 years has identified areas where CI can have a greater impact addressing terrorism related financial issues without duplicating the efforts of other law enforcement agencies. CI is piloting a counterterrorism project in Garden City, New York, which, when fully operational, will use advanced analytical technology and leverage valuable income tax data to support ongoing investigations and proactively identify potential patterns and perpetrators.

The Garden City LDC was established in July 2000 to assist field offices in ongoing income tax and money laundering investigations. Due to the unique application of the skills and technology deployed to develop investigations at Garden City, it has been converted to focus exclusively on counterterrorism issues. When fully implemented, CI's efforts at the Counterterrorism LDC will be dedicated to providing nationwide research and project support to CI and JTTF terrorist financing investigations. Relying on modern technology, the Center is staffed by CI Special Agents and Investigative Analysts, in conjunction with experts from the IRS' Tax Exempt/Government Entities (TE/GE) Operating Division. Together these professionals re-

search leads and field office inquiries. Using data from tax-exempt organizations and other tax-related information that is protected by strict disclosure laws, the Center analyzes information not available to, or captured by, any other law enforcement agency. Thus, a complete analysis of all financial data is performed by the Center and disseminated for further investigation.

This initiative supports the continuation of CI's response to domestic and international terrorism, and ensures efficient and effective use of resources through advanced analytical technology by subject matter experts. Analytical queries and proactive data modeling assist in identifying previously unknown individuals who help fund terrorist organizations and activities, with particular focus on the use of purported charitable organizations, hawalas, wire remitters, and other terrorist funding mechanisms. Pending before Congress is legislation that would extend the manner by which confidential tax return information can be disclosed in terrorism-related matters. Changes to the Federal tax disclosure laws dealing with terrorism issues were made in the "Victims of Terrorism Act of 2001." Those changes, however, expired on December 31, 2003.

Following are examples of two terrorist investigations in which CI was involved:

A Federal search warrant was executed FBI, DHS/ICE, and IRS–CI on February 18, 2004, against the property purchased on behalf of an Islamic Foundation in Oregon. The warrants were executed pursuant to a criminal investigation into possible violations of the Internal Revenue Code, the Money Laundering Control Act, and the Bank Security Act. The U.S. Treasury and the Kingdom of Saudi Arabia had jointly designated the Bosnian and Somalia Branches of this organization as supporters of terrorism. An associate established a tax-exempt charitable organization in the United States, and knowingly filed a materially false information tax return in violation of Internal Revenue Code Section 7206.

Benevolence Director Sentenced After Pleading Guilty To Racketeering Conspiracy. On August 18, 2003, in Chicago, IL, Enaam M. Arnaout, the Executive Director of Benevolence International Foundation, Inc. (BIF), a purported charitable organization based in south suburban Chicago, was sentenced to 136 months in prison after pleading guilty in February 2003 to racketeering conspiracy, admitting that he fraudulently obtained charitable donations in order to provide financial assistance to persons engaged in violent activities overseas. Arnaout was also ordered to pay restitution in the amount of $315,000 to the Office of the United Nation High Commissioner for Refugees. Arnaout admitted that, for approximately a decade, the BIF was defrauding donors by leading them to believe that all donations were strictly being used for peaceful, humanitarian purposes while a material amount of the funds were diverted to fighters overseas. Arnaout specifically admitted providing items to fighters in Chechnya and Bosnia.

International Arena

Aside from CI's association with domestic task forces, CI also participates in the international arena. Through efforts developed by the Department of the Treasury, CI participates in the newly created Joint Terrorist Financing Task Force in Riyadh, Saudi Arabia along with local Saudi investigators. Through this task force, agents from FBI and Criminal Investigation have gained unprecedented access to Saudi accounts, witnesses, and other information. The Task Force agents both provide and receive investigative lead information on various terrorist-financing matters. Investigations involving the use of tax-exempt organizations to finance terrorist activities are a high investigative priority for Criminal Investigation. This initiative supports the continuation of CI's ability to identify and investigate those who use U.S. organizations and financial institutions to fund terrorist activities.

CI has seven law enforcement attachés assigned to American Embassies or U.S. Consulates in Mexico City, Bogotá, London, Frankfurt, Bridgetown, Ottawa, and Hong Kong. Their primary mission is to coordinate and support all field office requests for international assistance.

CI is a permanent member of the U.S. Delegation to the Financial Action Task Force (FATF) and its Caribbean equivalent (CFATF). CI is involved in the drafting of the recently revised 40 recommendations that set the standards for best practices to be adopted by countries to combat money laundering.

CI has participated in the assessments of numerous Middle Eastern, South American, and European countries anti-money laundering laws, policies, and procedures. As a result, during fiscal year 2004, CI will participate in follow up antiterrorism and anti-money laundering training with the FBI in countries such as Saudi Arabia, Thailand, Egypt, Pakistan, United Arab Emirates, Oman, Qatar, Bahrain, and others. Our liaison to the U.S. National Central Bureau of INTERPOL has provided urgently needed identifying information to the OFAC in terrorist-related actions.

Among the myriad of tax evasion schemes facing law enforcement today, those perpetrated through offshore transactions are some of the most successful and difficult to detect and prosecute. The IRS has investigated numerous schemes where individuals and businesses have committed tax evasion involving both domestic and foreign source income. Investigation has revealed that purported charitable international organizations that support terrorism sometimes avail themselves of these arrangements and hide their transactions through similar sophisticated offshore arrangements.

Conclusion

Today we carry on our 85-year tradition of solving financial crimes in concert with our other partners in the Department of the Treasury and the rest of law enforcement, and we do that by following the money.

CI's achievements are the result of a collective effort and are a tribute to what can be achieved when Government works together. I am proud of the role that the Internal Revenue Service and CI, in particular, have played in achieving those successes. It is one of the great rewards of public service.

Mr. Chairman, I thank you for this opportunity to appear before this distinguished Committee and I will be happy to answer any questions you and the other Committee Members may have.

THE SEPTEMBER 11 COMMISSION AND EFFORTS TO IDENTIFY AND COMBAT TERRORIST FINANCING

WEDNESDAY, SEPTEMBER 29, 2004

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 10:06 a.m., in room SD–538, Dirksen Senate Office Building, Senator Richard C. Shelby (Chairman of the Committee) presiding.

OPENING STATEMENT OF CHAIRMAN RICHARD C. SHELBY

Chairman SHELBY. The hearing will come to order.

Yesterday, the Committee looked at the role money service businesses and casinos play in the effort to combat money laundering and abuse of financial institutions by criminals and terrorist organizations. Today, we will focus specifically on the analysis and findings of two reports—the final report of the National Commission on Terrorist Attacks Upon the United States, or as it is also known, the September 11 Commission, and the Council on Foreign Relations' Update on the Global Campaign Against Terrorist Financing. While the September 11 Commission's report itself offers little by way of findings and recommendations specific to terrorist financing, the history of events leading up to the terrorist attacks of September 11, 2001, the report is replete with vital information on the methods the hijackers and their logistical supporters used to finance the operation. Of considerable value, though, is the separate monograph on terrorist financing produced by the Commission and released last month.

The monograph on terrorist financing constitutes an indictment of a Government dangerously ill-prepared for the tragedies that befell this country on that terrible day a little more than 3 years ago. That remedial measures and substantive fixes, for example, the FBI's establishment of its Terrorism Finance Operation Section and the Treasury Department's new emphasis on terrorist financing have since been implemented, does not detract from the importance of the lessons drawn from the fine work done by the September 11 Commission.

The Council on Foreign Relations' Update on the Global Campaign Against Terrorism Financing provides useful insights into the status of this country's efforts to forge a more effective multinational effort against terrorist organizations and their financial supporters. Following the devastating terrorist attacks in Riyadh in

May and November 2003, the Government of Saudi Arabia finally got serious about adopting new policies and statutes with respect to official and unofficial charitable activities and other means of providing support to terrorist organizations. These policies and laws are highly commendable. As the Council's report indicates, however, the record on implementation remains questionable.

The Council's report provides equally useful analysis of the status of efforts by various multinational organizations to build a consensus with regard to measures to prevent money laundering and terrorist financing. The Financial Action Task Force and the IMF and World Bank systems for assessing countries on their performance in passing and implementing laws and regulations to combat money laundering remains, the Council points out, an important tool in waging a battle against terrorist financing.

Taken together, these two efforts offer valuable insight into the state of play on an essential component of the war on terrorism. We are pleased to have here this morning to discuss their report Lee Hamilton, Vice Chairman of the September 11 Commission and my former colleague, and others, in U.S. House of Representatives, and our former colleague, Senator Slade Gorton. Gentlemen, welcome. We look forward to your testimony.

On the second panel, we will hear from Mallory Factor and Lee Wolosky, a Vice Chair and Project Director, respectively, of the Council on Foreign Relations' report. Mr. Factor is currently President of Mallory Factor, Incorporated, an independent merchant bank and financial relations consultancy. Mr. Wolosky, in addition to practicing corporate and international law with the firm of Boies, Schiller, and Flexner, is an Adjunct Professor of International Affairs at Columbia University and an Adjunct Fellow at the Center for Strategic and International Studies.

Finally, our third panel is comprised of Stuart Levey, Under Secretary for Enforcement and Director of the Office of Terrorism and Financial Intelligence at the Department of the Treasury; Michael Garcia, Assistant Secretary for Immigration and Customs Enforcement, Department of Homeland Security; and John E. Lewis, Deputy Assistant Director, Counterterrorism Division, Federal Bureau of Investigation.

This is a lot of testimony for one hearing, but I am confident it will prove beneficial to the Committee and to the public. And I want to thank all of our witnesses for being here today and for their forbearance as we proceed through the panels.

Senator Reed.

COMMENTS OF SENATOR JACK REED

Senator REED. Mr. Chairman, I simply want to commend Lee Hamilton, Slade Gorton, and their colleagues for their extraordinary contribution to our country in the Commission's deliberations, and I look forward to your testimony. I thank you very much, gentlemen.

Chairman SHELBY. Senator Enzi.

STATEMENT OF SENATOR MICHAEL B. ENZI

Senator ENZI. Thank you, Mr. Chairman. I appreciate your holding this latest in an ongoing series of hearings on money laun-

dering and terrorist financing. Today, we are privileged to hear from Lee Hamilton, the Vice Chairman, and Senator Slade Gorton, a Commissioner on the September 11 Commission. The Commission's recently released report gave us great insight into how the terrorist events of September 11 were carried out and, more importantly, for this Committee how the activities were financed. I have been recommending to people all over Wyoming that they get a copy of that and read it. It is the best Government report that I have ever seen. It reads more like a novel, but most importantly it takes us back in time to September 10, 2001 and puts us in the frame of mind that we were there at that time and brings us forward so that we can understand the changes that have occurred since that time. The Commission and staff should be commended for preparing the lengthy and detailed report in such a relatively short time frame.

In addition, I would also like to recognize Mallory Factor, the Vice Chair, and Lee Wolosky, the Co-Director, on their efforts as part of the Council on Foreign Relations. Mallory is an outstanding resource for information on anything on the international banking community and provides a lot of information that gives us insights into things that can be done and, more importantly, things that should be done. The findings in the Council's second report appears to complement the findings of the September 11 Commission. One recommendation that clearly stands out in both reports is the need for greater international cooperation and engagement. Immediately following the September 11 attacks, I had the privilege of working with Sir Jeremy Greenstock, the British Ambassador to the United Nations. Ambassador Greenstock was instrumental in the establishment and leadership of the United Nations Security Council Counterterrorism Committee or CTC.

Under his effective leadership, the CTC was able to gather reports from over 170 individual nations. The reports were just the first step in demonstrating the potential benefits the international cooperation could obtain in his grouping of countries so that peer pressure could be exacted against each other, for each other, for the cooperation on sharing information I think provides a great model. It is clear, though, that there is a lot more work to be done.

While the Department of the Treasury has worked with various international groups, including the Financial Action Task Force, the United States' attention on bringing the international partners to the table is critical in order to stop terrorist financing at its source. Recently, the new head of the Financial Action Task Force indicated that one of his primary goals was to bring China and India into the group before the end of next year. As these countries are fast becoming major financial centers, we too must engage them in our shared goal of ending terrorism financing.

The international standards developed by the Department of the Treasury, the CTC, and the Financial Action Task Force are essential to focus everyone's attention on the formal and informal channels of money laundering and terrorist financing.

For us, the USA PATRIOT Act helped to provide our financial regulators with the tools they needed to assist our financial institutions from knowingly or inadvertently promoting illegal financial activities.

At our hearing today, I anticipate that the witnesses will be able to provide us clear guidance on how the United States should work to coordinate and engage the international community on these very important issues.

Thank you.

Chairman SHELBY. Senator Stabenow.

COMMENTS OF SENATOR DEBBIE STABENOW

Senator STABENOW. Good morning, and thank you, Mr. Chairman. I think this hearing is very timely, given the intelligence reform bill that is on the floor of the Senate right now, and I want to welcome both of our colleagues and guests, Lee Hamilton and Slade Gorton. Lee, it was a pleasure to have served with you in the House, and I know that you and your colleagues have lived up to every one of our expectations in terms of your thoughtfulness and bipartisan way that you have conducted a very thorough investigation report. And so thank you to both of you and to all of your colleagues on the Commission.

We know that we need to act thoughtfully, but quickly, and in a bipartisan manner on the recommendations of the Commission, and I am certainly anxious to do that.

Mr. Chairman, one of the things that I think often gets overlooked as we discuss flaws in the USA PATRIOT Act is that this Committee's work on money laundering and tracking terrorist financing I think was one of the important and powerful parts of that Act. And I was pleased to sponsor some of the successful amendments on money laundering. My colleagues worked in a bipartisan way on this, but it is clear that tracking and being able to disrupt the movement of money to finance terrorist acts is an important part of the whole picture.

And so I am pleased to be a part of a Committee that I think did excellent work at the time, and I appreciate the opportunity to hear from you this morning.

Chairman SHELBY. Thank you, Debbie.

Senator Crapo.

COMMENTS OF SENATOR MIKE CRAPO

Senator CRAPO. Thank you, Mr. Chairman. I have no opening statement. I look forward to the interesting testimony we expect to receive today.

Chairman SHELBY. Senator Bunning.

STATEMENT OF SENATOR JIM BUNNING

Senator BUNNING. Thank you, Mr. Chairman. I would like to welcome all of our witnesses here today. I would especially like to thank the two September 11 Commissioners who are former colleagues of mine for all their hard work and service to our Nation.

I applaud Chairman Shelby for holding these two very, very important hearings on terrorist financing and the money laundering problems. Obviously, these are very important issues in fighting the war on terror, and I think yesterday's hearing was a very good lead-in for today.

The Commission has done us a great service, both their recommendations and their tracing of the monies used to pull off the

September 11 attacks. I think they cleared up a lot of the misconceptions, particularly for me, how relatively little money was used to pull off the attacks. For as long as the terrorists lived here, how many there were, living expenses, flight training, and travel, the fact that the operation only cost between $400,000 and $500,000 is very surprising. The fact that the U.S. Embassy bombings in Africa cost about $10,000 is also very disconcerting. It shows how daunting the problem that our money laundering and terrorist financing people have before them.

Mr. Chairman, I have a long statement, so I would ask that the rest of it be entered into the record.

Chairman SHELBY. It will be included as part of the record in its entirety without objection.

Senator BUNNING. And I really welcome Mallory Factor, also here, who is an old friend of mine and all of the good work that he has done. I thank you for being here, and I intend to be here for the second panel.

Chairman SHELBY. Thank you. Your written statements will be made part of the record in their entirety.

We will start with you Chairman Hamilton.

STATEMENT OF LEE H. HAMILTON
VICE CHAIR, THE NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES
A FORMER U.S. REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Representative HAMILTON. Thank you very much, Chairman Shelby, and the other distinguished Senators who are Members of the Committee on Banking, Housing, and Urban Affairs.

Chairman Kean would liked to have been with us this morning. I think you all know he is President of Drew University. He has commitments there and was unable to be here.

I am very, very pleased to be joined by Senator Gorton, who was one of our most distinguished Commissioners, contributed time and time again to the successful work of the Commission, and I am pleased to be with Slade this morning before you. He and I will share the presentation of the opening statement. I will just say it is an honor to appear here. I know that this Committee has been deeply involved in financial aspects of the country's war on terrorism. I know you have a lot of real expertise, and we are grateful to you for the prompt consideration of our recommendations.

After September 11 attacks, the highest-level U.S. Government officials publicly declared that the fight against Al Qaeda financing was as critical as the fight against Al Qaeda itself. It was presented as one of the keys to success in the fight against terrorism. If we choke off the terrorists' money, if we drain the swamp as it were, we limit their ability to conduct mass casualty attacks.

In reality, stopping the flow of funds to Al Qaeda and affiliated terrorist groups has proved to be essentially impossible. Meanwhile, tracking Al Qaeda financing is an effective way to locate terrorist operatives and supporters and to disrupt terrorist plots.

Our Government strategy on terrorist financing has changed significantly from the early post-September 11 days. Choking off the money, of course, remains the most visible aspect of our approach—

it is still very important—but it is not our only, probably not our most important goal. Making it harder for terrorists to get money is a necessary, but it is not a sufficient component of our overall strategy. Following the money to identify terrorist operatives and sympathizers provides a very powerful tool in the fight against terrorist groups. Use of that tool almost always remains invisible to the general public, but it is a critical part of the overall campaign against Al Qaeda.

Today, the U.S. Government recognizes, quite appropriately in our view, that terrorist financing measures are simply one of many tools in the fight against Al Qaeda.

Senator Gorton.

STATEMENT OF SLADE GORTON
COMMISSIONER, THE NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES
A FORMER U.S SENATOR FROM THE STATE OF WASHINGTON

Senator GORTON. The September 11 hijackers used United States and foreign financial institutions to hold, move, and retrieve their money. The hijackers deposited money into U.S. accounts primarily by wire transfers and deposits of cash or travelers checks brought from overseas. Additionally, several of them kept funds in foreign accounts, which they accessed in the United States through ATM and credit card transactions.

The hijackers received funds from facilitators in Germany and the United Arab Emirates or directly from Khalid Sheikh Mohammed as they transited Pakistan before coming to the United States. The plot cost Al Qaeda somewhere in the range of $400,000 to $500,000, of which approximately $300,000 passed through the hijackers' bank accounts in the United States.

While in the United States, the hijackers spent money primarily for flight training, travel, and living expenses such as housing, food, cars, and auto insurance. Extensive investigation has revealed no substantial source of domestic financial support. Neither the hijackers nor their financial facilitators were experts in the use of the international financial system. They created a paper trail linking them to each other and to their facilitators. Still, they were adept enough to blend into the vast financial international financial system easily without doing anything to reveal themselves as criminals, let alone terrorists bent on mass murder.

The money laundering controls in place at the time were largely focused on drug trafficking and large-scale financial fraud. They could not have detected the hijackers' transactions. The controls were never intended to, and could not, detect or disrupt the routine transactions in which the hijackers engaged.

There is no evidence that any person with advance knowledge of the impending terrorist attacks used that information to profit by trading securities. Although there has been consistent speculation that massive Al Qaeda-related insider trading preceded the attacks, exhaustive investigation by Federal law enforcement and the securities industry has determined that unusual spikes in the trading of certain securities were based on factors unrelated to terrorism.

Al Qaeda and Osama bin Laden obtained money from a variety of sources. Contrary to common belief, bin Laden did not have access to any significant amounts of personal wealth, particularly after his move from Sudan to Afghanistan. He did not personally fund Al Qaeda either through an inheritance or businesses he was said to have owned in Sudan. Al Qaeda's funds, approximately $30 million a year, came from the diversion of money from Islamic charities. Al Qaeda relied on well-placed financial facilitators who gathered money from both witting and unwitting donors primarily in the Gulf Region.

No persuasive evidence exists that Al Qaeda relied on the drug trade as an important source of revenue, had any substantial involvement with conflict diamonds or was financially sponsored by any Federal Government. The United States is not and has not been a substantial source of Al Qaeda funding, although some funds raised in the United States may have made their way to Al Qaeda and its affiliated groups.

Since September 11, terrorist financing was not a priority for either domestic or foreign intelligence collection. Intelligence reporting on this issue was episodic, insufficient, and often inaccurate. Although the National Security Council considered terrorist financing important in its campaign to disrupt Al Qaeda, other agencies failed to participate to the NSC's satisfaction. There was little interagency strategic planning or coordination. Without an effective interagency mechanism, responsibility for the problem was dispersed among a myriad of agencies working independently.

The FBI gathered intelligence on a significant number of organizations in the United States suspected of raising funds for Al Qaeda or other terrorist groups. The FBI, however, did not develop an end game for its work. Agents continued to gather intelligence with little hope that they would be able to make a criminal case or otherwise disrupt the operations of these organizations.

The FBI could not turn these investigations into criminal cases because of, one, insufficient international cooperation; two, a perceived inability to mingle criminal intelligence investigations due to the wall between intelligence and law enforcement matters; three, sensitivities to overt investigations of Islamic charities and organizations; and, four, the sheer difficulty of prosecuting most terrorist financing cases.

Nonetheless, FBI street agents had gathered significant intelligence on specific groups. On a national level, the FBI did not systematically gather and analyze the information its agents developed. It lacked a headquarters unit focusing on terrorist financing. Its overworked counterterrorism personnel lacked time and resources to focus specifically on financing.

The FBI, as an organization, therefore, failed to understand the nature and extent of the Jihadist fundraising problem within the United States or to develop a coherent strategy for confronting the problem. The FBI did not, and could not, fulfill its role to provide intelligence on domestic terrorist financing to Government policymakers. The FBI did not contribute to national policy coordination.

The Department of Justice could not develop an effective program for prosecuting terrorist-financed cases. Its prosecutors had no systematic way to learn what evidence of prosecutable crimes

could be found in the FBI's intelligence files to which it did not have access. The U.S. intelligence community largely failed to comprehend Al Qaeda's methods of raising, moving, and storing money. It devoted relatively few resources to collecting the financial intelligence that policymakers were requesting or that would have informed the larger counterterrorism strategy.

The CIA took far too long to grasp basic financial information that was readily available, such as the knowledge that Al Qaeda relied on fundraising, not bin Laden's personal fortune. The CIA's inability to grasp the true source of bin Laden's funds frustrated policymakers.

The U.S. Government was unable to integrate potential covert action or overt economic disruption into the counterterrorism effort. The lack of specific intelligence about Al Qaeda financing and intelligence deficiencies persisted through September 11. The Office of Foreign Assets Control, the Treasury organization charged by law with searching out, designating, and freezing bin Laden assets, did not have access to much actionable intelligence.

Before September 11, a number of significant legislative and regulatory initiatives designed to close vulnerabilities in the U.S. financial system failed to gain traction. They did not gain the attention of policymakers. Some of these, such as a move to control foreign banks with accounts in the United States, died as a result of banking industry pressure. Others, such as a move to regulate money remitters, were mired in bureaucratic inertia and a general anti-regulatory environment.

Since September 11, 2001, it is common to say that the world has changed. This conclusion is particularly apt in describing U.S. counterterrorist efforts regarding financing. The U.S. Government has focused, for the first time, on terrorist financing and devoted considerable energy and resources to the problem. As a result, we now have a far better understanding of the methods by which terrorists raise, move, and use money. We have employed this knowledge to our advantage.

With a new sense of urgency post-September 11, the intelligence community, including the FBI, created new entities to focus on and bring experts to the question of terrorist fundraising and the clandestine movement of money. The intelligence community uses money flows to identify and locate otherwise unknown associates of known terrorists and has integrated terrorist-financing issues into the larger counterterrorism effort.

Equally important, many of the obstacles hampering investigations have been stripped away. The current intelligence community approach appropriately focuses on using financial transactions in close coordination with other types of intelligence to identify and track terrorist groups rather than to starve them of funding.

Still, understanding Al Qaeda's money flows and providing actionable intelligence to policymakers present ongoing challenges because of, first, the speed, diversity, and complexity of the means and methods for raising and moving money; second, the commingling of terrorist money with legitimate funds; third, the many layers and transfers between donors and the ultimate recipients of the money; fourth, the existence of unwitting participants, including donors who give to generalized Jihadist struggles rather than spe-

cifically to Al Qaeda; and, fifth, the U.S. Government's reliance on foreign government reporting for intelligence.

Bringing Jihadist fundraising prosecutions remains difficult in many cases. The inability to get records from other countries, the complexity of directly linking cashflows to terrorist operations and to groups, and the difficulty of showing what domestic persons knew about illicit foreign acts or actors all combine to thwart investigations and prosecutions.

Domestic financial communities and some international financial institutions have generally provided law enforcement and intelligence agencies with extraordinary cooperation. This cooperation includes providing information to support quickly developing investigations such as the search for terrorist suspects at times of emergency. Much of this cooperation is voluntary and based on personal relationships.

It remains to be seen whether such cooperation will continue as the memory of September 11 fades. Efforts to create financial profiles of terrorist cells and terrorist fundraisers have proved unsuccessful, and the ability of financial institutions to detect terrorist financing remains limited.

Since the September 11 attacks and the defeat of the Taliban, Al Qaeda's budget has decreased significantly. Although the trend line is clear, the U.S. Government still has not determined, with any precision, how much Al Qaeda raises, from whom, or how it spends its money. It appears that the Al Qaeda attacks within Saudi Arabia in May and November of last year have reduced, some say drastically, Al Qaeda's ability to raise funds from Saudi sources.

There has been both an increase in Saudi enforcement and a more negative perception of Al Qaeda by potential donors in the Gulf. However, as Al Qaeda's cashflow has decreased, so too have its expenses, generally, owing to the defeat of the Taliban and the dispersal of Al Qaeda. Despite our efforts, it appears that Al Qaeda can still find money to fund terrorist operations. Al Qaeda now relies to an even greater degree on the physical movement of money and other informal methods of value transfer which can pose significant challenges for those attempting to detect and disrupt money flows.

Representative HAMILTON. Technical recommendations are beyond the scope of our remarks today, but let me stress four themes in relationship to the work of this Committee.

One, continued enforcement of the Bank Secrecy Act rules for financial institutions, especially in the area of Suspicious Activity Reporting, is very necessary. The Suspicious Activity Reporting provisions currently in place provide our first defense in deterring and investigating the financing of terrorist entities and operations. Financial institutions are in the best position to understand and identify problematic transactions or accounts.

Although the transactions of the September 11 hijackers were small and innocuous and could probably not be detected even today, vigilance in this area is important. It forces terrorists and their sympathizers to raise and move money clandestinely, thereby raising the costs and the risks involved. The deterrent value in such activity is significant, and while it cannot be measured in any meaningful way, it ought not to be discounted.

The USA PATRIOT Act expanded the list of financial institutions subject to the Bank Secrecy Act regulation. We believe that this was a necessary step to ensure that other forms of moving and storing money, particularly less-regulated areas such as wire remitters, are not abused by terrorist financiers and money launderers.

Second, investigators need the right tools to identify customers and trace financial transactions in fast-moving investigations. The USA PATRIOT Act gave investigators a number of significant tools to assist in fast-moving terrorism investigations. Section 314(a) allows investigators to find accounts or transactions across the country. It has proved successful in tracking financial transactions and could prove invaluable in tracking down the financial component of terrorist cells.

Section 326 requires specific customer identification requirements for those opening accounts at financial institutions. We believe both of these provisions are extremely useful and properly balance customer privacy and the administrative burden, on the one hand, against investigative utility on the other.

Third, continuous examination of the financial system for vulnerabilities is necessary. We spent significant resources in examining the ways Al Qaeda raised and moved money. We are under no illusions that the next attack will use similar methods. As the Government has moved to close financial vulnerabilities and loopholes, Al Qaeda adapts. We must continually examine our system for loopholes that Al Qaeda can exploit and close them as they are uncovered. This will require constant efforts on the part of this Committee working with the financial industry, their regulators and the law enforcement and intelligence communities.

Finally, we need to be mindful of civil liberties in our efforts to shut down terrorist networks. In light of the difficulties in prosecuting some terrorist fundraising cases, the Government has used administrative blocking and freezing orders under the International Emergency Economic Powers Act, or IEEPA, against U.S. persons, individuals, or entities suspected of supporting foreign terrorist organizations. It may well be effective and perhaps necessary to disrupt fundraising operations through an administrative blocking order when no other good options exist.

The use of IEEPA authorities against domestic organizations run by United States citizens, however, raises significant civil liberty concerns. IEEPA authorities allow the Government to shut down an organization on the basis of classified evidence, subject only to a deferential, after-the-fact judicial review.

The provision of the IEEPA that allows the blocking of assets during the pendency of an investigation also raises particular concern in that it can shut down a U.S. entity indefinitely without the more fully developed administrative record necessary for a permanent designation.

Vigorous efforts to track terrorist financing must remain front and center in the U.S. counterterrorism efforts. The Government has recognized that information about terrorist money helps us to understand their networks, search them out, and disrupt their operations. These intelligence and law enforcement efforts have worked. The death or capture of several important facilitators has decreased the amount of money available to Al Qaeda, increased its

costs and difficulties in moving money. Captures have produced a windfall of intelligence.

Raising the costs and risks of gathering and moving money are necessary to limit Al Qaeda's ability to plan and mount significant mass casualty attacks. We should understand that success in these efforts will not, of itself, immunize us from future attacks.

Thank you very much. We are pleased to respond to any questions you may have.

Chairman SHELBY. Thank you, both.

The Commission seems to think that the reason the bits of information that might have come together to foretell September 11 never came together is that no one person was in charge, but is that really the reason or is it more accurate to think of the reasons as being, the volume of information, especially with regard to counterterrorism financing efforts, is so voluminous that even with continued rapid advances in data processing, it simply cannot be collected, stored, retrieved, and analyzed either in a single database or in sufficient time to make a difference or, legitimate security concerns limit the degree to which confidential information can safely be shared either among Government entities or with the financial industry?

Mr. Gorton.

Senator GORTON. We listed 10 or a dozen missed opportunities pre-September 11. I do not believe—I can be corrected by my staff—that any of them were financial in nature. They were intelligence mishaps. We have said in our opening statement here that the transactions in which these terrorists engaged were routine transactions that we probably would not even be able to trace today.

Chairman SHELBY. Under the screen.

Senator GORTON. Yes. But the missed opportunities were due, at least in part, to the absence of a central point that could collect all intelligence information on a particular subject. The FBI, of course, did not even talk to itself between law enforcement and intelligence much less to the CIA and to other agencies. The head of the FBI never met with the President. We had a frustratingly broken system, but the head that we are talking about in this National Intelligence Directorate was aimed more at that missed opportunity than it was at financial transactions.

Chairman SHELBY. Do you agree with that?

Representative HAMILTON. Mr. Chairman, you identify of course what we—I guess our principal finding in many ways was that there was not sufficient sharing of information——

Chairman SHELBY. That is right.

Representative HAMILTON. —as you indicate in your question and the fact that you highlight the voluminous data that the U.S. Government deals with. We produce billions of bytes of data every day, billions of bytes, and getting it collected and analyzed is a horrendous task.

We had these two hijackers, Mindhar and Alhazmi, in San Diego. They used the banking system, and if we had just been able to pick up that information better and if we had had someone in charge, that is the key here, and that is what we found really lacking in our intelligence. You collect information over here, you collect it

over here. You have human intelligence. You have signals intelligence. You have intercepts. It comes in horrendous volumes, all of these people doing very good work. They are highly capable.

They are patriotic people, but not only was there insufficient sharing, but there was also an insufficient management. No one really stepped forward and said, "Okay, I have my eye on these two guys out here in San Diego. They are suspicious characters. We have bits and pieces of information about them," but nobody really managed the case. So you have to have somebody managing all that data.

Chairman SHELBY. No one in charge.

Representative HAMILTON. Nobody in charge. Nobody really trying to put it all together.

Chairman SHELBY. Thank you.

The Commission's report also suggests that currently available enforcement powers are not being used to their fullest extent to shut down suspected terrorist financing networks and have failed to create an efficient bureaucratic structure to combat the problem. Could you expand on the weak use of enforcement powers and what you think needs to be done to improve efficiency in this area of financial networks.

Representative HAMILTON. Well, I think our general impression, Mr. Chairman, may be counter to that. We think we have come a long way since September 11 in improving our enforcement powers. You can always get better, of course, in anything that you do, but there is not any doubt that the law enforcement agencies, the FBI and others, are much, much better prepared today than they were prior to September 11 to apply these enforcement powers.

In your area of financial transactions, it always seems to me that the important thing is to try to get information quickly that really comes in through the banking system and to get that information as quickly as possible, to identify it, of course, and to get it to the investigator as quickly as possible. That is really the key so that they can enforce. I think there has been improvement there, and the powers given in the USA PATRIOT Act here that I identified in my statement are helpful, but that is the best way I believe to improve the quality of enforcement.

Senator GORTON. Mr. Chairman, I think that sometimes our expectations are awfully high. Last night, I got back to the hotel in time to watch one of my favorite one-hour television shows, NCIS. And the subject was a kidnapping and an attempt to transfer $2 million. And, of course, just in time for 9 o'clock to come around, the $2 million seemed to have been transferred to about eight different places all the way around the world, and the heroes were there to catch the villain, you know, just as the money came back to the United States.

Chairman SHELBY. It has improved a lot, has it not, on TV.

Senator GORTON. Yes, a very impressive television program, but I am thinking that is really not quite the way it is in the real world. These transactions are very, very difficult to trace. And as we point out, and in a sense this is counterintuitive, our people, our law enforcement agencies now, are using these transactions more to catch the terrorists than they are to intercept the money.

It is a very important part of it because you are looking for the individual, and we are doing a better job in that connection.

Chairman SHELBY. But you want to do both, do you not—intercept the money and catch the terrorists?

Senator GORTON. Of course, we want to do both, but even these law enforcement agencies have to set priorities.

Representative HAMILTON. We do think the FBI needs to improve the gathering and the analyzing of the information that is developed because what you said in your opening question, there is such a voluminous amount of data, and they have to create an analytical career track to enhance their analytical capabilities.

Chairman SHELBY. That is tough to do, is it not?

Representative HAMILTON. Very, very tough to do. I think the problems have been identified. We have commended Director Mueller for trying to improve this greatly. It is a huge task, so we cannot expect miracles, even in a matter of a couple of years, but we think they are moving in the right direction.

Chairman SHELBY. Thank you.

Senator Stabenow.

Senator STABENOW. Thank you, Mr. Chairman.

Just to follow up on the Chairman's questions, we know that terrorist financing alone, in terms of the oversight, is in many different departments. You have discussed all of the different departments and agencies within departments where just this one piece is tracked and enforced and so on.

We know there is a recommendation for a National Intelligence Director to oversee everything, but do we need to more specifically be looking at a more centralized way just for terrorist financing? Is it enough to have someone bringing together all of the pieces from financing to other kinds of intelligence or did you find in your efforts that we should more specifically bring together those agencies specifically around terrorist financing?

Representative HAMILTON. Go ahead, Slade.

Senator GORTON. Some people have suggested something of a financing czar. We have not made that recommendation, Senator, because we do not think that there is a distinction between financing and other aspects of terrorism. One of the two elements that are central to your considerations right now on the bill on the floor is a National Counterterrorism Center, and we think that this financing information and the people working in that should be integrated into that rather than dealt with separately.

Representative HAMILTON. It is a very good question.

You have a lot of agencies involved. You have Treasury, you have the Justice Department, you have the FBI, Homeland Security, you have the National Security Council, and so you do have to be alert to the questions you are raising about turf consciousness and lack of coordination and all of the rest of it, and we looked at that.

But we think that the way it is coordinated today, which is in the National Security Council and under their Policy Coordinating Committee, it works reasonably well. And one of the fundamental views we had is that counterterrorism, in order to have an effective counterterrorism policy, you really have to emphasize integration. And by integration I mean counterterrorism policy that has military aspects, covert action aspects, diplomacy aspects, financing as-

pects, public diplomacy, law enforcement, all in all, and the key to good counterterrorism policy is integration, and that means cooperation, and it has to be institutionalized.

In the area of financing, it is important that we recognize, as Slade has said, that that is only a part of your counterterrorism effort. And you do not want somebody up here, a czar of financing, who is not integrated into the entire structure, and so we rejected it and thought that to have a stand-alone czar on terrorist financing would not be a good way to do it.

Senator STABENOW. Thank you, Mr. Chairman.

Chairman SHELBY. Senator Enzi.

Senator ENZI. Thank you, Mr. Chairman.

I think we have gone around the edge of this a little bit, but the Department of the Treasury, in an effort to focus on terrorism financing, established the Office of Terrorism and Financial Intelligence. What are your thoughts on how this office is operating and are there any special areas of focus that that office should be targeting? And how do you see Treasury and FinCEN's role under a new intelligence structure? Should it be expanded or limited?

Representative HAMILTON. One of the things that impressed me, you raised it in your opening statement, Senator, and this is a matter of international cooperation in dealing with terrorist financing, you cannot cut off terrorist financing without international cooperation. It just cannot be done. And you are not here talking about 50 countries. You are talking really about a handful of countries that we need to develop much better cooperation and get their cooperation. And some of these countries, Pakistan, for example, have what I am sure you gentlemen would call very, very limited financial regulation, very limited financial institutions. So this is a tough problem in getting the cooperation of these countries that have a rudimentary financial structure.

But I do think that it is an enormously important effort to try to get international cooperation. And you see the difference between the Saudis before the attacks in Saudi Arabia. One was at 2003, I think, and the attacks afterwards, when we began to get the cooperation. Chairman Shelby mentioned that in his opening statement. And once you begin to get that cooperation, things really begin to improve in terms of tracing terrorist financing, and I think that is a very important matter.

Slade, did you want to add to that?

Senator GORTON. No.

Senator ENZI. I appreciate your comments, too, on the difference between freezing assets and following the assets. In hearings before this Committee shortly after the September 11 attacks, we found that U.S.-based Islamic charities contributed to the funding of Al Qaeda and other terror organizations. In your report, you concluded that U.S. sensitivities to open investigations of these charities have prevented our law enforcement agencies from effectively preventing such practices and that something needs to be done.

Have you seen increased cooperation by these groups since September 11, and what is your opinion of the strengthened hand of law enforcement officials in investigating those types of organizations under the USA PATRIOT Act?

Senator GORTON. Well, all attitudes have changed since then. And the overwhelming sensitivity that, for all practical purposes barred that kind of work pre-September 11, does not exist now. The sensitivities, however, are still there, and you know perfectly well every time one of these freeze orders hits the news, there is almost always a denial on the part of those whose assets were frozen that, in fact, they were engaged in any such activities.

And I think we are properly sensitive to an interference with any type of freedom of religion, but we also have to be extremely conscious of the fact that this is one of the ways in which terrorism is financed, and we can go beyond Al Qaeda in this case, to a Hamas, a Hezbollah, and a number of those other areas.

So, I guess, our summary is we are doing a better job now. We are getting some cooperation from some of these other organizations. We still have very real sympathies, and this is very likely a weak point in our armor.

Representative HAMILTON. Senator, may I say the question of freezing is one we did address, and I think all of us can appreciate it is a very powerful weapon in the arsenal against terrorism. You can also overuse it. I think that a tendency usually would be to say, let us go in there and freeze those assets and cut this off during this swamp right away, and that is obviously a temptation.

What we concluded was that you really have to look at this on a case-by-case basis. Sometimes it is better not to freeze the assets and then to try to follow the money trail. It will lead you to something bigger, to something more important. So, I do not think you want a general rule here and say, okay, let us always freeze the assets. I think you have to leave discretion to the enforcement people on that question, and they have to decide, on a case-by-case basis, whether to freeze or not to freeze, and sometimes not to freeze may be the better tool for you.

Senator ENZI. Banker cooperation probably——

Representative HAMILTON. Yes, indeed.

Senator ENZI. —is more likely to happen if they are not the one blamed for stopping the asset, but providing the information.

Representative HAMILTON. Absolutely.

Senator ENZI. I see my time has expired. Thank you, Mr. Chairman.

Chairman SHELBY. Senator Sarbanes.

STATEMENT OF SENATOR PAUL S. SARBANES

Senator SARBANES. Thank you very much, Mr. Chairman.

First of all, I want to, Mr. Chairman, again thank you for holding this hearing and others. This Committee, as you know, has been pursuing a very active oversight agenda on the issue of the financing of terrorism and its various aspects. We have been pushing the regulators very hard to take seriously and implement fully the Bank Secrecy Act. And we have also been looking at whether the Government is properly organized to analyze and use the information in order to identify terrorist funding or laundered money.

In fact, we had a hearing yesterday addressing the question of money services businesses and casinos, and we are waiting for a reply, but I think it is probably going to come back and tell us that the Secretary of the Treasury and the Commissioner of Internal

Revenue and the Treasury is delegated to the Internal Revenue its authorities with respect to the money service businesses and the casinos have probably not met at that high level in order to focus their attention on this problem and to coordinate their efforts.

So, I think the point that is being made about coordination is extremely important and hopefully these oversight hearings will help to induce a certain amount of that. We have had some success in that the Treasury Secretary has now met and apparently it is now scheduled to be done on a periodic basis with the bank regulators with respect to the Bank Secrecy Act. That had not been taking place before in an effort to coordinate and focus the attention.

Mr. Chairman, before I ask any questions, I do want to take a moment to thank Congressman Hamilton and Senator Gorton for their service on the September 11 Commission. I think the Commission has rendered a great service to the Nation. I am impressed by the depth and breadth of their efforts, their analysis, and by the report they have issued. Obviously, we are hopeful that we will be able to implement changes paralleling many of their findings. I think, in the Senate, we actually are moving to implement a very substantial number of your recommendations in order to bring about needed change in this area.

I served with both of these gentlemen, and I want to thank them for that contribution. I know it took a great deal of effort, focus, and concentration. We hope we can achieve the legislative changes or at least most of them, which you have deemed necessary.

Let me pursue this point that Senator Enzi was pursuing. I take it, from your report, that you feel that on occasions our officials have been too quick to freeze the assets rather than to continue a tracking process in order to discern and develop the network through which the funds are moving; is that correct?

Representative HAMILTON. I do not think we made that judgment, Senator Sarbanes. The judgment we made is not to have a general rule and take each case by itself. We did not try to examine 10 or 15 cases where assets were frozen or not frozen, but we just saw the importance of using it for intelligence.

Senator GORTON. I think my own reflection on that is this Committee stands in an almost unique position with its ability to do just that. You have spoken of the Chairman's large number of hearings on this subject. This was one aspect, an important, but just one aspect, of the work that you have had us do. It is something on which you concentrate. And to make judgments of that nature is a very important part of oversight because, clearly, there are times when freezing assets is going to disrupt an operation or disrupt a whole training system, and there are other times when a judgment not to do so, as Lee Hamilton has said, may lead us to something bigger, and there is no way in the world to have a general rule in advance. You are going to have to have people of excellent judgment and real experience.

Senator SARBANES. Which I can see it is a very tough call because if you do not freeze the assets and then the assets are used, then you are subject to very intense criticism for not having moved against the assets. On the other hand, if it is not necessary to do so, and you do, you may lose very important intelligence which

serve a much broader purpose. I mean, I think it is a very tough call. I recognize that.

Mr. Chairman, I was in and out, and I may have missed this, but I wanted to ask our two former colleagues did you address what the relationship should be between the Counterterrorism Center and the components of the Department of the Treasury that administer the Bank Secrecy Act? Did the Commission look into that at all?

Representative HAMILTON. We think that Treasury has to be a part of the Counterterrorism Center, and they have to have a seat at the table, so to speak, because it is an important part of counterterrorism. So we did address it.

Senator GORTON. Judgments as to where intelligence went pre-September 11, and even, to a certain extent today, were largely the judgments of the unit or the agency that developed the intelligence in the first place. They could share or not share. And as you know, there is often a tendency not to share, to hold information close. And NCTC, as a part of our recommendations, will have the ability to demand the kind of sharing that is necessary. That is something that is not there in the law today, and Treasury, as well as many other agencies, have to be a part of that system.

Senator SARBANES. The information the Treasury is turning up would, amongst other things, be rooted into the National Counterterrorism Center; is that correct?

Senator GORTON. Precisely, yes.

Representative HAMILTON. Let me pick up on your comments about oversight for a moment. It is interesting, if you look at the Commission report, that we do not make any legislative recommendations with regard to terrorist financing. We point out some of the things you all have already commented on, but we do not think the problem here really is new legislation, we think the problem is oversight, and your Committee, as you said correctly, has been aggressive, robust oversight.

I just think that is terribly important to emphasize here because one of the things we found out about the Al Qaeda operatives is they are pretty doggone sophisticated, and they are very entrepreneurial, and they know how to work between the cracks of the system. They knew that they could get on that airplane with a 4-inch blade, but not an 8-inch blade knife, and they know how to exploit the gaps and the loopholes.

And so, in many ways, this is an activity that is not subject to legislation. You just have to keep your eye on the loopholes in the system, and we will move to close those loopholes. You have to identify them. You have the expertise on this Committee, and you have to call it to the attention of the Executive Branch people and then they have to move to close the loopholes. As soon as you close that loophole, you can bet your life that they will be looking for another opportunity. And so it is an ongoing process and oversight is just critical.

Senator SARBANES. Mr. Chairman, I see my time is up, but let me say I actually take Congressman Hamilton's comments in a way to be a compliment to this Committee because, first, we are pursuing an active oversight agenda and, second, the title in the USA PATRIOT Act dealing with terrorist financing and money

laundering came from this Committee not from the other Committees and was folded into the Act. You have made reference, when you have discussed where do we need to go to existing provisions of that title, which in effect address problems that you saw.

And now you are telling us you think the legislative agenda at the moment, at least, has been accomplished. Actually, we brought that title out of this Committee with unanimous support.

Chairman SHELBY. Absolutely.

Senator SARBANES. Thank you very much.

Chairman SHELBY. Senator Crapo.

Senator CRAPO. Thank you very much, Mr. Chairman.

Senator Sarbanes just went directly into the issue that I wanted to raise, and so this will be a little bit repetitive. But as I read the September 11 Commission report—and by the way I want to commend you on an outstanding report. I have encouraged everybody on my staff to read it, and frankly I think everybody in America should read the report so that they can better understand what happened and what the issues that we need to face in the future are. So, again, thank you for an outstanding job.

As I read it, in the context of the issue we have before the Committee today, in fact, as you have said, Congressman Hamilton, the Commission did not make any substantive recommendations in terms of legislative action that was needed with regard to terrorism financing. As Senator Sarbanes has indicated, we put a lot of work into developing the financing section of the USA PATRIOT Act. So, I just want to ask again very specifically is it your testimony that, at this point in time, you do not believe there is any need to revisit the legislative side of the issue with regard to the authorities that we must put in place for our Government to be able to effectively combat terrorism in this arena?

Senator GORTON. In this financial arena.

Senator CRAPO. Financial arena.

Senator GORTON. Our answer to that question would be, yes.

Representative HAMILTON. Yes, that is correct.

Chairman SHELBY. In that context, let me just go a little bit further. One area where I think that we may need to look and where we may need to achieve some further legislative authorities is in the international context of the way in which the United States deals with other nations on financial issues.

Now, this may end up being in trade negotiations or in some other context, but it does seem to me that although we currently seem to have the authorities, at a domestic level, in place for us to do the necessary tracking and make the determination as to whether we engage in seizing assets or in tracking assets, that one of the biggest problems we face is the fact that so much of the financing occurs, at least in significant part, outside the borders of our Nation.

Congressman Hamilton, you indicated that there is a small number of nations we need to deal with, but it seems to me that, as we deal with that small number of nations, others will simply become players if we do not have a significant system of identifying and encouraging or developing banking relations and financial transaction systems that, as a global community, we adopt. I think

that is a major undertaking, but I think it is one that we cannot avoid, and I just would appreciate your comments on that.

Representative HAMILTON. I think you are right on the mark. I really do. I think that we have to make terrorist financing an important part of American diplomacy, and that means in all kinds of fora. It means bilateral relations particularly with some of these countries that we know are high on the list, but as you point out, it could be another country the next year. What that means is you have got to work with the Group of 8, you have to work with the Financial Action Task Force, you have to work with the IMF, you have to work with the World Bank.

Now, a lot of work has been done here, and they have set up a number of—there is a strong international consensus, I believe. They have set up a number of standards to deal with a lot of these financial transactions.

That is a first step. What really now needs to be done is the implementation of those standards, and that is a long-term project.

But I do not think you are going to succeed in terrorist financing efforts unless you engage the international community in a very major way. I think it is an important point that you make.

Senator GORTON. A lot of it still subjective, what happens in a particular country. You know, cooperation from Saudi Arabia increased far more dramatically after terrorism stopped being an export only, you know, when terrorist attacks began in Saudi Arabia, and they did after September 11. Cooperation with Pakistan, which certainly improved dramatically after September 11, increased even more when the terrorists started going after the president there. But many of the countries that we are dealing with have still, at least by our standards, relatively primitive financial institutions and controls themselves, even when they would like to be cooperative, and that just adds another layer to the challenge.

Representative HAMILTON. We were talking about freezing assets a moment ago. This also has a very large international component. When you move in and start freezing assets, you can create some big-time foreign policy problems along the way. So you have to look at the question of freezing assets in a lot of different contexts.

Mr. Chairman, I want to pick up on a point. I do not think I answered Senator Sarbanes very well. I notice he has left the room, but I want to make clear that the Treasury Department has, we think, an enormously important role to play in counterterrorism policy, and particularly on financing. And we think it should have a seat—and this responds, I think, to his question, it should have a seat in the National Counterterrorism Center. But we do not change in any way the current Treasury Department intelligence. That is maintained, and it is maintained in part to keep maximum competitive analysis and intelligence. And so we would not change that at all today.

Chairman SHELBY. Senator Carper.

STATEMENT OF SENATOR THOMAS R. CARPER

Senator CARPER. Thanks, Mr. Chairman.

To my old—I started to say "old colleague Lee Hamilton." To my esteemed colleague, former colleague Lee Hamilton, to Senator Gorton, welcome to both of you.

Congressman Hamilton was good, along with Governor Kean, to testify before our Governmental Affairs Committee, Senator Gorton, actually almost 2 months ago now, right after the September 11 Commission Report was released. I asked a question of them, and I want to ask it today. It is not directly germane to the issue before us, the financing of terrorism, but I want to get your thoughts on this as well.

We are debating, as you know, the September 11 Commission legislation on the floor today, which I think follows fairly faithfully your recommendations as a Commission. One of the questions I asked of Congressman Hamilton and Governor Kean was how could this Commission, five Democrats, five Republicans, take up an issue as difficult, contentious, and complex as you did to work through a political year with elections bearing down upon us, and to come up with a set of recommendations that all of you could agree upon? And we are faced here at the end of the legislative session trying to agree, and we have agreed pretty much in Committee, the Senate Governmental Affairs Committee, on what the policy should be. We are now going to have some real tough debates and votes on the floor. But how did you reach that consensus, and as one who served here, what advice would you have for us as we try to find consensus in the Senate this week and next?

Senator GORTON. Well, I am going to answer that question because Lee Hamilton bore such a great responsibility for the fact that we did come out that way. He and Tom Kean, as the leaders of the Commission, decided very early on that they were going to do their best to be unified themselves. They wanted no votes in the Commission that ever split on party lines. They were not only successful in that, but they were also successful in keeping us from voting more than three or four times on any subject.

And so from the very beginning, the attitude of the leadership of the Commission was that we should do our very best to do an objective job. And, of course, we had two jobs. We are concentrating here today on the recommendations that are before Congress, but we had to write a history that in a sense was for the ages, that will be the basis of our history, the way people look at this for a long, long time to come. And we did that through a magnificent staff, some of whom are still with us here today, and by stating facts and not opinions, by trying to write as objectively as we could a history of what happened and allowing you and you and everyone in America to make up their minds, if they wanted to cast blame one way or another or hold opinions one way or another.

I think the work in doing that just folded over into the recommendations. We got to know one another well. We got to respect one another well. There were no slackers among the 10 members. They worked very, very hard on it. As I said, we had an absolutely magnificent staff, but I can tell you that 2 weeks before we finished, I was almost certain that while I was going to sign the report, I would have some additional views, and I suspect, I think that was probably true with six or seven of us at that time. And just simply the personal dynamics, the give and take caused one after another of us to say, no, the most important thing to do is to be unified on a task that is so important for the United States.

Now, Lee and I were together yesterday at a news conference with Senators Collins and Lieberman, and I think the Senate has followed our example. I think the bipartisan nature of what went on in hearings during August with the two of them and many other committees, the way that bill came out of Governmental Affairs unanimously and the way you are dealing with it on the floor, are a real tribute to all of you. And now I think the House is following your example. I am optimistic that by the end of next week we are going to have something on the President's desk that a majority of both parties in both Houses will have supported.

Senator CARPER. Well, that may be the triumph of man's hope over experience. Or that might be just a good prediction. I sure hope it is.

Representative HAMILTON. I thank Slade for his compliments, but the Chairman deserves most of the credit, and, of course, all of the Commissioners cooperated.

Two points, Senator Carper, in response. One is we had something you do not have, and that is the luxury of time. We could sit down and talk about this at some length, and I know your schedules and I know how many issues press upon you. And it is very, very difficult to reach consensus when you do not have a lot of time, and we did have time to talk things out. We were able to deliberate.

And the other thing I would just like to mention—and this does apply to you, it applies to all of us, and that is—I think all the Commissioners were very impressed with the gravity of the task that we had. And I think we were impressed with the fact that the American people were going to depend on us. And we felt you were going to depend on us. And we took that responsibility seriously, and we tried our very best to come up with recommendations which would have broad support. But we all recognized that September 11 was one of the most traumatic events in the history of the country, and public officials and Commissioners have a very, very special responsibility in dealing with it.

Senator CARPER. Our thanks to both of you.

Mr. Chairman, I think my time has expired. Is there going to be a second round or is this the only——

Chairman SHELBY. There will be if you want one.

Senator CARPER. Thank you.

Chairman SHELBY. Senator Bunning.

Senator BUNNING. Thank you, Mr. Chairman.

Lee, you brought up the fact—or maybe it was Slade, I cannot remember—about the Saudis and their alertness after the attacks in 2003. My question is: Has the cooperation between the Saudis and the intelligence-gathering information here in the United States gotten even better, or has it fallen off from those attacks?

Representative HAMILTON. My impression, Senator Bunning, is that it is much better after the attacks in Saudi Arabia.

Senator BUNNING. Continuing?

Representative HAMILTON. And that it continues. That is my impression. Now, I do not pretend to be the expert on this, and maybe Slade wants to comment on it. That is my impression.

Senator GORTON. I would have the same answer, but I have to caution you that under our charge, we had total and complete ac-

cess to everything that took place up until about September 21, 2001. We did not have full authority after that and have had none after our July 22 report. Nonetheless, our general impression that it has continued at a relatively even keel since those incidents of last year that threatened the Saudi regime itself. And I think we can be pretty confident as long as they feel threatened and feel that we can help them, that cooperation will continue.

Senator BUNNING. Okay. Both, either/or, do you believe there is enough communication between our terrorist finance regulators and the institutions that they are now regulating?

Representative HAMILTON. I think we ran into this several times, and I think it is much improved. I think the communication is quite good, but it is not institutionalized, I think, at this point. And so it needs more work, I guess is the way I would put it.

Senator BUNNING. In other words, it is not what you would like it to be, but it has made some progress?

Representative HAMILTON. I think that is correct. We got complaints—it is the feedback problem. And we got some complaints about insufficient feedback, I guess from the Government back to the private financial community. And there has been a good bit of effort and a lot of people who have spent a lot of time working on that. But I do not think it is where we want it to be even yet, and my general impression is it is not very well institutionalized.

Senator GORTON. In our written statement, we caution against a relaxation of these standards as more and more time elapses after September 11 itself. And I think one can generalize beyond financial institutions in that connection. It is a paradox, at least to me, that the more successful we are, the longer we are successful in preventing a terrorist attack in the United States, the greater the problem of complacency is going to become, and the more people will relax and the more at least voluntary efforts will receive a lower priority. So success itself will cause a price to be paid.

Representative HAMILTON. I just want to emphasize the importance of this because I think we said in our statement the first line of defense here with regard to terrorism financing is in the local banking institution. And it is a heavy responsibility on the banking institutions to know their customers. And if they have any suspicions, then they have to be able to convey that very quickly.

So, I guess we would like to see a higher priority on the Government side in terms of improving this system of information flow between the private sector and the Government regulator. I think it is much improved. I am still a little uncomfortable with the complaints we had in this area.

Senator BUNNING. We had testimony yesterday here in this Committee from other than banks, and we had testimony from nonbank banks, and we had testimony from private enterprise people that were able to transfer money, you know, like Western Union and like other people, like a problem at casinos where there is a great deal of money transferred every day or every moment in the casino. And the fact is they both—both entities—said it is darn near impossible to track the monies that are less than those that must be reported. In other words, if it is not $10,000 or more, they have difficulty tracing.

Do you have any suggestions we have missed that might help us?

Senator GORTON. Well, if you couple that with, as you pointed out in your statement, as we did, too, the relatively low investment not only in the September 11 attacks but also in a number of other terrorist operations, with the conclusion that we have right here in our written testimony, that the kind of transactions in which these terrorists engaged in the United States pre-September 11 still would probably not be traceable.

Senator BUNNING. It would be under the radar.

Senator GORTON. Yes, they were just ordinary credit card and bank transactions that take place by the tens of millions every day. So the point is that what you are looking at, what you oversee here in this Committee, is very important. But it is only one element in the struggle to prevent terrorism in the United States, and the human intelligence—you know, we emphasize very strongly in our report that international terrorists are most vulnerable when they travel. Getting across international borders, travel documentation, the documentation of who you are is overwhelmingly important because it is when they are the most vulnerable and most likely to be caught. So you always have to keep that in mind. This is important, but it is one element in a pattern that we have got to integrate together.

Senator BUNNING. I want to thank you both for your work on the Commission and for what a good report you have put out. And I want you to know that I think this Banking Committee here is going to be ever alert to the things that are going on.

Thank you.

Chairman SHELBY. Thank you, Senator Bunning.

I have one last question. I know we have a couple more panels, and you gentlemen have been very patient. When reading the monograph on terrorist financing, one of the findings that most interested me pertained to Osama bin Laden's financial situation and the degree to which Al Qaeda operations were funded completely through fundraising activities and not personal wealth, which the report notes was essentially nonexistent after 1994. Why was it only with the release of the Commission's report that the public and its elected Representatives in Congress were given a clear picture or a clearer picture of Al Qaeda's funding situation? The Commission's sources we know were quite recent. If its findings are accurate—and I believe that they are—what does that tell us about the challenge confronting us if a terrorist organization with global reach is overwhelmingly funded through individual donations? What does this tell us about our ability to impede the flow of funding not just to Al Qaeda, but to Hamas, Hezbollah, and other terrorist organizations? I see a great challenge there.

Senator GORTON. Well, you have answered your own question, Mr. Chairman.

Chairman SHELBY. I would rather you answer it.

Senator GORTON. The more decentralized funding is in this fashion from a myriad of different charitable organizations, the more difficult it is to follow and to control. These were not government actions. They were private actions. Some of them were unconscious. Some people almost certainly made good-faith contributions to what they considered to be a charity, which turned out not to be the case. Heck, we have that here. What was yesterday's story in

the paper about allegations here that someone has been collecting money and spending 1 percent of it on its stated goals?

It does mean that this financing problem, to the extent it is voluntary, is very deep, very serious, and very difficult to deal with.

Chairman SHELBY. It is also central to the whole fight against terrorism, is it not?

Senator GORTON. Sure. They have to have at least some resources in order to engage in their activities.

Representative HAMILTON. You have to get your facts straight, Mr. Chairman. I mean, there was a myth around this town. The myth was that Osama bin Laden was financing all this because he was a very wealthy guy.

Chairman SHELBY. That is what I alluded to.

Representative HAMILTON. I believed it, all of us believed for a long time. One of the things we said to our staff over and over again is: What are the facts? What are the facts? We must have asked that question 20 times every session, and it helped to try to build a consensus, as Slade mentioned a moment ago.

But there are a lot of myths that get embedded in this town, and that was a big one, and we just found it was wrong.

Chairman SHELBY. You did great.

Representative HAMILTON. And so you have to keep digging for the facts.

Chairman SHELBY. Thank you.

Senator Carper, I believe you said you had another question.

Senator CARPER. Mr. Chairman, you pretty much got to the question I was going to ask. Can I just ask maybe a variation of it?

Chairman SHELBY. Absolutely.

Senator CARPER. The amount of money that is involved in terrorist activities—I do not know that anyone has tried to quantify what it cost to finance the attacks on September 11. I think that has been quantified. The amount of money that was needed to stage the earlier attack on one of the World Trade Center buildings, the amount of funds that are necessary to bomb our embassies, I believe, in Africa, the cost of attacking the U.S.S. Cole. What does it cost to actually blow up trains just outside of Madrid? Car bombings, kidnappings, assassinations, how expensive is it to run those operations? And my guess is compared to the cost of maintaining our presence in Iraq, the cost of all of those other activities is very small by comparison. And the question that I was going to ask is actually quite similar to what the Chairman just asked.

First of all, is my characterization of the relative cost of those activities as being modest, is that a correct characterization?

Senator GORTON. Certainly.

Senator CARPER. Is that what you found during the course of your investigations?

Senator GORTON. Yes.

Senator CARPER. If the funds, the modest funds that are needed for these purposes are being raised, as the Chairman suggests, in fundraising operations outside of this country, and we are unable to impede the flow of those funds because of the nature of that fundraising, where should we focus our time and attention if the effort is to disrupt the financial flow and the dollars, the few dollars that are needed?

Senator GORTON. I guess we would have to go back to the nature of our recommendations overall and our definition of the nature of the enemy. But remember, we put this struggle or our defenses against this struggle on three levels. First essentially was preemption. A second level was trying to dry up support in these Islamic societies themselves by presenting our American ideas and ideals far more effectively than we have in the past. Lee was central in that effort. And then third were the defenses here in the United States itself, the things we have to go through when we get on an airplane, and our intelligence in trying to determine who the people are, which is separate from determining where their money comes from, and to stop them before they can engage in these activities. No one level of response has any promise of overall success. They all must be integrated together.

Senator CARPER. Congressman Hamilton.

Representative HAMILTON. I hope we do not leave the impression that choking off money is not a good thing to do. It is a very good thing to do. It is just very, very hard to do it. And we ought not to have exaggerated expectations about draining the swamp and about being able to cut it off.

We do not want to suggest that we should relax our efforts to try to do it. We certainly have to do that. And we did emphasize in the statement, and have repeatedly, that it is not just a question of choking them off money; it is also a question of developing intelligence, which becomes highly important. But both aspects of terrorist financing are very critical.

Senator CARPER. Again, our thanks to each of you for your stewardship and service and for your presence today. Thank you.

Chairman SHELBY. Senator Enzi, do you or Senator Bunning have any other comments?

Senator ENZI. I am anxious to get on to the next panel. I do have some that I will submit to this panel.

Chairman SHELBY. Thank you.

Gentlemen, we thank you both. Thank you for your work.

Representative HAMILTON. Thank you very much.

Senator GORTON. Thank you.

Chairman SHELBY. Our second panel will be Mr. Mallory Factor. As I have said before, he is Vice Chair, Council on Foreign Relations. Mr. Lee Wolosky, also on the Council on Foreign Relations.

Let's have order in the room.

Audience Member. You know they have lied.

Chairman SHELBY. We will have order in the room.

Audience Member. You know they have lied. Their book is covered in child pornography and dirt from the hot network and AT&T and you all know it. It is disgusting.

Chairman SHELBY. If the second panel will come up——

Audience Member. You are being used, and this President sends children to war for a game. Absolutely disgusting.

You want the technology? Go to Bill Gates. You want the answers? Go to Donald Trump. You want the frequent flyer? See Leo Mullin. You know exactly what I am talking about. Go to American Express.

Chairman SHELBY. Sorry about the disruption. Things like that happen.

Mr. Factor, we welcome both of you to the Committee. Your written testimony will be made part of the record. It is already 11:30. If you would sum up briefly your testimony, we appreciate your input into this and what you have to say. You may proceed as you wish, Mr. Factor.

STATEMENT OF MALLORY FACTOR
CHAIRMAN, MALLORY FACTOR, INC.

Mr. FACTOR. Thank you. Chairman Shelby, Senator Sarbanes, and distinguished Members of this Committee, thank you for inviting me to testify today about my views on the critical issue of curbing terror financing.

Chairman Shelby, I would like to commend you in particular for your unwavering commitment to addressing the financing of terror. The work that this Committee is undertaking is extremely important to the United States and the entire world. Thank you for your leadership.

I start with the premise, as I am sure that Members of this Committee do, that no cause, however legitimate, justifies the use of terror. All jurisdictions must explicitly reject the notion that acts of terror may be legitimized by charitable activities or political motivations of the perpetrator.

My recommendations are contained in a report of the Independent Task Force on Terrorist Financing, sponsored by the Council on Foreign Relations, on which I served as Vice Chair. The task force addressed financing emanating from within the Kingdom of Saudi Arabia because of the enormous resources that flow to terrorist groups from within that state. Clearly, numerous other states allow terror financing to continue and that should be examined also.

Saudi Arabia has enacted new anti-money laundering laws designed to impede the flow from Saudi Arabia to terrorist groups. However, significant enforcement by Saudi Arabia of several of these new laws appears to be lacking.

Furthermore, even if these laws were fully implemented, they contain a number of exceptions and flaws which weaken their effectiveness in curbing terror financing. Quite simply, Saudi Arabia continues to allow many key financiers of global terror to operate, remain free, and go unpunished within Saudi borders.

The Bush Administration has made significant progress in its approach to terror financing since September 11. The Administration's efforts, combined with those of its international partners, have significantly diminished Al Qaeda's current and prospective ability to raise and move funds. There is still much work to be done. My written testimony explains each of the task force's nine recommendations for improving U.S. efforts against terrorist financing. In the interest of brevity, I will discuss only three but welcome your questions on any of these recommendations.

First, Congress should enact a Treasury-led certification regime specifically on terrorist financing. Many governments are working on shutting down terror financing from within their borders, but many are not. Congress should adopt a certification regime under which the Treasury Department provides a written certification on an annual basis, classified if necessary, of the efforts of foreign na-

tions to combat terror financing. Jurisdictions that do not receive certification would be subject to sanctions provided by Section 311 of the USA PATRIOT Act.

These sanctions include special measures such as denial of foreign assistance money and limitation on access to the U.S. financial system. Presidential national security waivers can be used to exempt a particular jurisdiction from sanctions.

The Administration has used these powers granted it by Section 311 of the USA PATRIOT Act in the terror financing context, but only once. A certification regime for terror financing would ensure that Treasury officials evaluate on a scheduled basis whether rogue jurisdictions exist which require sanctioning. A similar sanction imposed in the money laundering context resulted in the targeted jurisdiction promulgating desired legislative and regulatory changes.

I commend Congresswoman Sue Kelly and others who have introduced legislation in the House as H.R. 5124 that would require a terror financing, Treasury-led certification regime.

Second, the U.S. Government should increase sharing of information with the financial services sector as permitted by Section 314(a) of the USA PATRIOT Act so that this sector can cooperate more effectively with the U.S. Government in identifying financiers of terror. Helping private sector financial institutions become effective partners in identifying the financiers of terror should be a top priority. The procedures set forth in Section 314(a) of the USA PATRIOT Act, which promote information sharing between the U.S. Government and financial institutions to increase detection of terror financing, are not working as well as they should.

The U.S. Government is still not providing adequate information to enable institutions to detect terror financing and identify unknown perpetrators. The U.S. Government is still using financial institutions primarily to assist in investigating known or suspected terror financiers, not in identifying unknown ones. I recognize that the information that would enable financial institutions to become effective partners with the U.S. Government in identifying terror financing may be highly protected intelligence information. In other industries such as defense and transportation, however, persons can be designated by the U.S. Government to receive access to certain high value information as necessary. A similar approach could be used to facilitate information sharing and cooperation between U.S. Government and private financial institutions.

Third, the National Security Council, NSC, and the White House Office of Management and Budget, OMB, should conduct a cross-cutting analysis of the budgets of all U.S. Government agencies as they relate to terrorist financing. The NSC and OMB cross-cut would allow policymakers to gain clarity about who is doing what, how well and with what resources. With this information in hand, the Administration and Congress can assess the efficiency of existing efforts and the adequacy of appropriations relative to this great threat.

I welcome your questions. Thank you.

Chairman SHELBY. Mr. Wolosky.

STATEMENT OF LEE S. WOLOSKY
OF COUNSEL, BOIES, SCHILLER & FLEXNER, LLP

Mr. WOLOSKY. Thank you very much, Mr. Chairman, Senator Sarbanes and distinguished Members of the Committee. Thank you for affording me the opportunity to testify before you today on an issue of fundamental importance to the Nation, terrorist financing, and thank you for your continued dedication and work on this issue.

I am testifying today in my personal capacity, although I note that my testimony is heavily informed by the work of the Independent Task Force on Terrorist Financing sponsored by the Council on Foreign Relations, of which I have served as Co–Director for the past several years.

I note at the outset that the issue of terrorist financing is foremost a foreign policy issue because as was discussed on the first panel this morning, most of the money funding Al Qaeda and other Islamist groups originates and is disbursed overseas. As described in the final report of the September 11 Commission, funds associated with the maintenance of cells and other operational activities pass through the United States, but these amounts are relatively small, making them difficult for regulators and compliance officers to identify and to distinguish.

As both the Council on Foreign Relations report and the September 11 Commission concluded, individuals and organizations based in the Gulf region have historically been the single most important source of funds for Al Qaeda, as well as for other terrorist organizations such as Hamas. Has the Saudi Government itself funded terrorism? The September 11 concluded that there was no evidence of this, but it went on to note, "This conclusion does not exclude the likelihood that charities with significant Saudi Government sponsorship diverted funds to Al Qaeda."

Widespread interest in searching for evidence of official Saudi complicity in funding Al Qaeda tends to obscure glaring sins of omission. Global Saudi-based charities controlling and disbursing billions of dollars are a good example. For years, there has been little or nothing done to reign them in even though they have benefited in some cases from the sponsorship or governance participation of the Saudi Government or its officials.

The September 11 Commission Staff Monograph generally concluded that, "A lack of awareness of the problem and a failure to conduct oversight over institutions created an environment in which such activity has flourished." These institutions have in some instances propagated Islamic extremism, posing a grave strategic threat to the national security of the United States. As the September 11 Commission report noted, "Saudi Arabia has been a problematic ally in combating Islamic extremism." Although much has been done, particularly since the bombings in Saudi Arabia in May 2003, much more remains unfinished or even unstarted.

Before the September 11 attacks, even up through the May 2003 attacks in Riyadh, Saudi Arabia resisted any real cooperation with the United States on terrorist financing. In response to the May 2003 terrorist attacks, Saudi Arabia has taken important actions to disable Al Qaeda cells and has increased its tactical law enforcement intelligence cooperation with the United States. Saudi Arabia

has also largely improved its legal and regulatory regime, announcing the enactment or promulgation of a plethora of new laws and regulations and the creation of new institutional arrangements to combat money laundering, regulate charities, and control terrorist financing.

As both the Council on Foreign Relations sponsored task force and the September 11 Commission Staff Monograph concluded, however, Saudi Arabia has not yet fully implemented its new laws, regulations, or institutional mechanisms. These actions must be taken on an urgent basis and require the sustained vigilance of the Congress. Additionally, Saudi enforcement actions directed against Al Qaeda have largely avoided prominent financiers. There is no evidence, for example, that since September 11, 2001, Saudi Arabia has taken public punitive actions against any individual for financing terror.

By largely remaining silent on these subjects, in my view, the Bush Administration has resisted a core recommendation of the September 11 Commission, which mirrored a core conclusion of the 2002 task force report of the Council on Foreign Relations Task Force. "The problems in the United States-Saudi relationship must be confronted openly."

In the interest of time I will defer my comments on the domestic regulatory structure—which Mallory largely addressed in his remarks—to the question and answer period, and would be happy to entertain your questions.

Chairman SHELBY. Thank you very much. Banks that are seeking to attract business from both the legal and illegal alien communities have done so through the provision of services historically left to companies in the wire transfer and other non-bank money service businesses. With more and more banks seeking to enter the realm of financial services that extend beyond traditional banking activities, I think it would be instructive to hear from the witnesses their views on whether this trend has any implications, good or bad, on the Government's ability to regulate the financial transactions that are at issue in today's hearing.

For example, what are the implications of increased global use of ATM's for money laundering and for the movement of terrorist funds? Have you all got into that? Mallory?

Mr. FACTOR. Well, we did not look into it, the task force did not address that. But we did look at things like CTR's and SAR's, Currency Transaction Reports and Suspicious Activity Reports. Something very interesting came to mind when we looked at these. There was 12 million plus in 2003—Currency Transaction Reports, well over 12 million. It has been estimated it takes about a half an hour for each one to be filled out. It took 6 million man hours to build the largest floating vessel in the world, the Queen Mary II. After asking Treasury on a couple of occasions could they show us how a CTR led to any specific arrest and conviction, they could not. Not that there has not been, but they could not tell us. That is like taking 6 million man hours and sinking a Queen Mary II each year.

I am concerned that the amount of information we are asking for cannot be properly utilized, and we would be better off honing the information that we ask for. It is a long way around your question

to say that I am not sure we have the ability to control that unless we narrow what we are asking for.

Chairman SHELBY. Let me ask you about certification. You have touched on that, certification and sanctions. Would this cooperation be institutionalized? In other words, would FinCEN, in its role as the primary enforcer of the BSA be the one who issues the certification?

Mr. FACTOR. I think it could be, but I think it should be Treasury led, and I think who specific at Treasury—I am not sure at this point, but it should be Treasury led. It could be through FinCEN.

What I do think is important is that we bring into the open these people, these criminal and rogue states that are not helping us with stopping the mother's milk of terrorism, terrorist financing.

Chairman SHELBY. Under a certification regime that you might envision, would a citizen of a sanctioned country be permitted to open a bank account in a U.S. financial institution?

Mr. FACTOR. We did not deal with that specifically, but the answer would be yes, from my personal point of view.

Chairman SHELBY. Would certification be renewed or be subject to renewal each year?

Mr. FACTOR. Absolutely.

Chairman SHELBY. Who would do the investigation to determine whether a country merits certification under your thoughts of——

Mr. FACTOR. It would be through Treasury, it would be led by Treasury, and Treasury has the resources, we believe, to handle that. It would be some additional. I will tell you that since—if I may, sir——

Chairman SHELBY. Go ahead.

Mr. FACTOR. It is very interesting. I read in *U.S. News & World Report.* It is just two or three sentences. When Sue Kelly, Congresswoman Kelly introduced her bill, they put on it USNews.com: Washington is big on pointing the finger. Their official black list for countries that support terrorism, violate human rights and fail to crack down on narcotics. This week Republicans Sue Kelly and Ed Royce are introducing legislation to blacklist countries that failed to crack down on terrorist financing. The State Department appears unenthused because it could end up citing allies.

I think that is a reason that we want to do it.

Chairman SHELBY. Sure. Mr. Factor, another recommendation of the task force update is that the NSC and the White House OMB should do a cross-cut analysis of the budgets of U.S. Government agencies as they relate to terrorist financing to determine whether resource allocation is optimal or functions are duplicative. Where did the task force find, if you did, that in the U.S. fight against terrorist financing that agencies' resources are or may be duplicative?

Mr. FACTOR. We found a number of agencies that were involved in the area of looking at terrorist financing, and without having classified information, it is my belief there are many duplicative efforts, and that a cross-cut would point those out very strongly.

Chairman SHELBY. I will ask a question of you. In the months leading up to September 2001, Al Qaeda operated like a multinational corporation by centrally funding specific activities. They moved money through charities and other networks and were able to exploit the western banking system by using wires, credit and

debit cards, and use of ATM's, as we all know. As the organization has evolved into a more diffuse, decentralized entity after September 11, 2001, with a more overt means of raising funds under more scrutiny than ever before, have we reached the point where terrorist financing is becoming more difficult to track?

Mr. WOLOSKY. I think that that is probably true, Senator. With the disbursal and decentralization and the reduction of a command and control mechanism within Al Qaeda, I think we have seen a corresponding set of circumstances existing with respect to the financial structure of the organization, so that, for instance, there is evidence in respect to the Madrid bombings, that that cell that perpetrated those bombings relied primarily on criminal activity and other activity which was specific to the cell and not external.

Chairman SHELBY. But on our best days we are still deeply challenged by problems with monitoring the Islamic charities as a possible vehicle, or probable vehicle of terrorist financing, are we not?

Mr. WOLOSKY. Yes, sir. The findings of our task force, along with the findings of the September 11 Commission really related—in this respect I would point you to the mechanisms that are or are not being put in place to try to tighten the control of regulatory oversight of those charities. We have concluded, and I personally believe, that this is a fundamental issue for the national security of our Nation, the regulatory steps that are being taken or avoided in Saudi Arabia, how closely and how tightly those charities and those measures are in fact being implemented.

Mr. FACTOR. If I may add on to that?

Chairman SHELBY. Sure.

Mr. FACTOR. In April 2003, the Saudi Government adopted rules governing opening of bank accounts in Saudi Arabia and general operational guidelines. The interesting part was—first of all, I am not sure about the implementation. We could not find very good implementation. Even if there was full implementation, within their own rules in a little paragraph, buried deep in at 300–1–6–5 they exempt the Muslim World League, the International Islamic Relief Organization, IIRO, and the World Assembly of Muslim Youth as multilateral organizations. They exempt them, three of the largest charities.

Chairman SHELBY. Thank you.

Senator Sarbanes.

Senator SARBANES. Thank you very much, Mr. Chairman.

What lessons do you draw with respect to your discussion of the certification regime from the experiences with the drug certification regime?

Mr. FACTOR. I believe that is has been helpful, but I want to emphasize that the drug and terror financing issues are different and the political will is much more behind the war on terror financing and I believe as long as the President has the power to waive the sanctions——

Senator SARBANES. Well, now, let me ask you that question. We had the drug certification regime. Country after country, the sanctions would be waived by the President. The message that seemed to be drawn from that was really the drug issue was not that important because it clearly was outweighed by other considerations, and demonstrated by the invocation of the waiver by the Executive

Branch of the Government. So instead of sending a message that we were really tough on the drug issue, we were sending a message that we were not so tough on the drug issue. So, I raise this issue here in the context of you making this recommendation. I mean what do we do if you have a certification regime and the President starts giving these waivers to country after country? If we had such a regime, should Saudi Arabia not be certified in your view?

Mr. FACTOR. In my personal view I am not sure that Saudi Arabia could be certified.

Senator SARBANES. You do not think it——

Mr. FACTOR. I do not believe Saudi Arabia could be certified as cooperating with us on fighting terror financing.

Senator SARBANES. As cooperating?

Mr. FACTOR. Correct. We are agreeing.

Senator SARBANES. How does that square with everything else you say here in your statement about Saudi Arabia and the role they are playing?

Mr. FACTOR. I think it is consistent, sir. What we are saying is that they have not been implementing to the extent—we could not find evidence of implementation.

Senator SARBANES. Oh, I see. I am missing——

Mr. FACTOR. We are agreeing. I am saying they could not be certified as——

Senator SARBANES. Do you think the President would give them a waiver?

Mr. FACTOR. I would never guess what the President would do.

Senator SARBANES. They just agreed the other day to jump their oil production. With oil at $50 a barrel, they came in and agreed the other day they were going to take it up. I forget the figure. It was a large percentage of their current production.

Mr. FACTOR. You raise a good——

Senator SARBANES. All right.

Mr. FACTOR. If I may address that, you made a very important point. Historically, we have had a relationship with Saudi Arabia, and it is not this Administration, it goes back many Administrations, where we provide for security, they provide help with oil, and we do not get involved with their domestic issues. I think the relationship with Saudi Arabia has to change. It has to be similar to the relationship we had with the U.S.S.R., that we have now with Russia and that we have with China, where nothing is off the table any longer, and that all issues, even domestic issues, are now on the table and all have to see the light of day.

I believe a certification regime would help us move in that direction with Saudi Arabia and other countries as well. I believe it would be very important in moving in that direction.

Senator SARBANES. I am anxious to come down hard on this, but I think we have to think it through very carefully because in the drug certification area, it has not worked very well.

Let me ask you, what about emphasizing the role of the Financial Action Task Force? They, of course, had a non-cooperative countries project. It was a prominent feature of their policy in the 1990's, and that seemed to have some salutary impact in that countries made changes in order to get off the non-cooperative list, and that is of course an international thing. What is your view of that?

Mr. FACTOR. I happen to have with me a copy of Financial Action Task Force, called FATF commonly, their review of the Kingdom of Saudi Arabia. And it is very consistent with what we have said. We have said that Saudi Arabia has promulgated rules, regulations, and laws. What we have also said is we could not find implementation of them. FATF does not check thoroughly for implementation. Also, FATF does not look at the individual countries and their specific needs in terms of their antiterrorism actions, financing terrorism. As an example, charitable institutions were not looked at as heavily as they should have been, in my opinion with regard to Saudi Arabia. The bottom line is they did not look at implementation. They did look at rules and regulations.

Senator SARBANES. So is your view that we should consider them irrelevant or that there is a role to play if they can be appropriately activated?

Mr. FACTOR. There is a role to play. Absolutely, there is a role to play if appropriately activated.

I am sorry, please.

Mr. WOLOSKY. If I may chime in on the non-cooperative jurisdiction process, the NCCT process of the FATF. This was an effective naming and shaming mechanism by which the United States strongly urged, and the international community more broadly strongly urged, under threat of sanction, countries that did not comply with international best practices regarding money laundering, to take effective action to do so promptly.

Senator SARBANES. That judgment was not just a U.S. judgment. It was an international judgment, correct?

Mr. WOLOSKY. Absolutely, and that made it even stronger. Remarkably in my view the Bush Administration, after September 11, or even prior to September 11, but certainly continuing in the post-September 11 period just dropped this entirely, dropped support for the FATF name and shame process. It is inexplicable. The first year that we did this in the Clinton Administration, the FATF process designated 15 countries. The next year, 8 of them stepped up and had in place adequate anti-money laundering regimes to get off the list. It was a very effective mechanism, and it has been dropped without comment or explanation by the current Administration.

Senator SARBANES. Mr. Chairman, my time is up. Thank you.

Chairman SHELBY. Senator Enzi.

Senator ENZI. Thank you, Mr. Chairman. I want to thank this panel for presenting us with a lot of useful information in a very useful form. I want to particularly thank Mr. Factor for the conciseness of his 9 recommendations and the explanation that goes with them.

The second report on terrorism financing should be a very useful document for us. In that report there is a lot discussed about international cooperation, and while we have achieved quite a bit in that area, there is still a long way to go. And international cooperation and engagement, can it be done with a carrot or does it just have to be done with a stick? Are there any carrot alternatives or persuasive alternatives that the Council considered that did not make it into the report?

Mr. WOLOSKY. Well, the carrot, in my view—and I do not think the report addresses this explicitly—is technical assistance. Technical assistance to enable states that do not have the ability on their own to put in step measures to implement, for instance, UN sanctions, to do so. That is the carrot.

The stick is the threat of being named and shamed, so the process should be, in my personal judgment, put in place the laws and regulations that are necessary and implement them appropriately. We will give you the help if you cannot do it yourself. And if you do not comply, you are going to be on the blacklist. But that mechanism, as I spoke to a moment ago, through the FATF, has been removed. That last punitive component to it has been removed.

Senator ENZI. Thank you. In a recent news article, the Financial Action Task Force stressed the importance of getting India and China to become members of the International Antiterror Finance Group. How important is it for us to get these economies involved in the fight to stop terrorism financing activities? Should the primary focus of our attention be on countries with large financial centers, or should we equally engage the countries with smaller economies who have informal capital markets?

Mr. FACTOR. I think they are both vital. I think when you are talking about terrorist financing—and again I mentioned this—it is really the mother's milk of terrorism, and it is vital that we get the growing economies as part of the cooperative effort, but it is also very, very vital that we name and shame those people that do not cooperate.

The best example that I find is in the money laundering area, when we actually used Section 311 of the USA PATRIOT Act against the Ukraine, they immediately worked to comply. We have just not used those mechanisms enough, and I am not sure why, but we just have not done it, and I think it is vital that this Committee, in its oversight, look at that.

Senator ENZI. Thank you. The Council recommended that the National Security Council and the White House Office of Management and Budget conduct a cross-cutting analysis of all the various U.S. Government agencies' terrorism financing budgets. What aspect of the various budgets should we be looking at to increase or decrease? Should future budgets be focused more on intelligence gathering or on enforcement of money laundering laws?

Mr. WOLOSKY. I believe Mallory spoke to this issue broadly, but generally in my view, no one has done it to date, so we do not know what is being spent. We have a very poor sense of overall U.S. Government commitment to the issue on a cross-cut basis. So the point of doing the cross-cut, in my own view, is not to go into it with any assumptions, Senator, but to take the first look ever of what is being done on an agency by agency basis, so that we can make judgments as to what is being overfunded, what is being underfunded, what is duplicative, what is not being done at all, and to proceed from that basis.

Mr. FACTOR. I would agree. I think there is a number of areas that you have to look at as part of this cross-cut: Intelligence collection analysis and operation, law enforcement operations, regulatory activities including policy development, enforcement, international standard setting and implementation, analysis of sanctions, who

has been using diplomatic activity of which there are many, and contributions made by the Defense Department. I think you will find numerous pockets engaged in this, and I think that with this cross-cut it will give us a better idea of how to begin to assess the efficiency of our existing efforts and the adequacy of the appropriations relative to this very, very grave threat.

Senator ENZI. Thank you. My time has expired, but I do want to particularly thank both of you for again the conciseness, and comprehensiveness of your answers. We usually do not get it quite that concise, and normally cannot even do that many questions. So thank you very much.

Chairman SHELBY. Senator Bunning.

Senator BUNNING. Thank you, Mr. Chairman.

Mr. Factor, what more can the U.S. Government do internationally under the USA PATRIOT Act to combat terrorist financing?

Mr. FACTOR. I believe that Section 314(a), which is the information sharing is not being utilized, to say the least, to its fullest. You cannot just have the information flowing in one direction. The information has to flow in both directions. We have to learn the lesson from the transportation industry, from the defense industry, where we have to share sometimes high-value information with a person or multiple people within a major organization. We are not being able to find terrorist activity in the financial area as well as we could. What we are doing is we are only able to utilize the information that we know already, and I think sharing some of this high-value information would let us, as Section 314(a) of the Act tells us to do, would allow us to find many, many more people that are financing terror.

Senator BUNNING. Are you suggesting that the information flow is United States to or from the other side to the United States?

Mr. FACTOR. From the other side to the United States without——

Senator BUNNING. That is where we are lacking?

Mr. FACTOR. We are lacking in not bringing it back down.

Senator BUNNING. That is correct, okay. I just wanted to get a handle on it.

Mr. FACTOR. I am sorry. I should have been clearer.

Senator BUNNING. That is okay. What can the Government do to improve cooperation between law enforcement and financial institutions? Do you believe also that the testimony we had yesterday, that casinos have any cooperation at all with what we are trying to accomplish here?

Mr. FACTOR. I did not see the——

Senator BUNNING. Well, we were there. If you have any information, we would like to pull it out of you.

Mr. FACTOR. Again, I think that casinos, for all intents and purposes, they are financial institutions, and I think we should possibly look at them as we look at some of the other non-bank banks, and use the power set forth in the USA PATRIOT Act, particularly the information sharing which we are grossly underutilizing. I think we need the mechanisms in place to do it.

Senator BUNNING. Mr. Wolosky, in your testimony you talked about an Al Qaeda cell in Spain being self-sufficient, and using—you did not say this, but I have information that they used drug

trafficking money to help fund their attack there. Is this a pattern that you might think that is being repeated around the world by other cells?

Mr. WOLOSKY. The staff of the September 11 Commission, I believe, came to a conclusion that in their judgment that that probably was not the case, in other words, that there was not substantial evidence of drug trafficking activity being used to fund Al Qaeda on a systematic basis. I think the broader point that I would highlight is that in many respects we do not know how local sales are being financed, certainly in the context in which Al Qaeda is increasingly disbursed, and lacks a coherent, I believe, command and control mechanism. In many respects cells that are part of Al Qaeda, that are part of affiliated groups are out freelancing, essentially, financing themselves and in many cases planning their own attack. And in that context it makes the job of tracking terrorist financing all the more difficult because we are forced to look at a variety of different methods including common criminal activity as a means by which operational activities in cells might be maintained and financed.

Senator BUNNING. I asked this question earlier of Congressman Hamilton and Senator Gordon, and I am going to ask both of you to comment. After the spring of the 2003 attacks by Al Qaeda in Saudi Arabia, and I asked if they thought the cooperation was either greater or less than, immediately after the attacks? Does your report, or do you have any personal knowledge that Saudi Arabia is cooperating better or not as good as they did immediately after the attacks?

Mr. FACTOR. I believe the Saudi Arabian Government is cooperating better, and I see some evidence of that, but I also see some of the same problems going on. As you know, as I am sure you know, that they have blamed many of the attacks on the Zionists and said they are 95 percent sure that it was Zionists that did it. This is the Saudi Government speaking. The Saudi's are having a civil war there between fundamentalist extremists and the Government, and the Saudi Government believes that if they can stop the war on their own—this is my belief—that if they can stop it within their own country, that everything will be fine. But the fight has to go beyond their country. It has to include the wahabism that the Saudi's are exporting. It has to go to the charities that they are funding, that also can fund terrorists. I think that the Saudi Government is looking at it more within their country.

Senator BUNNING. Internally only.

Mr. FACTOR. But they are cooperating more globally with us.

Senator BUNNING. Mr. Wolosky.

Mr. WOLOSKY. I would agree with that. By all accounts there is much improved and substantial cooperation on law enforcement intelligence to counterterrorism issues. I do think though that on the financing I would point you toward two problems in my estimation. First is the failure, as I indicated in my prepared remarks, to provide a public punitive penalty or sanction for those who have supported Al Qaeda, even if it is in the past. In my judgment those people need to be punished. They should go to jail. They should have whatever public punitive action is necessary in order to create a broad deterrent effect, so as to deter the type of conduct that has

historically funded Al Qaeda and other extremist organizations and activities.

The second thing I would point you to is looking at the technical minutiae of the laws and regulations in the institutions and how they are or are not being implemented. Mallory correctly pointed out a problem in a bank law, which on its face exempts three of the major global charities from its purview with respect to disbursements of receipts. This is truly a case of the exception eating up the rule.

The other problem is in respective institutions, that the Saudi Government has said will be created to address the charities problem. There is an institution that was announced in February 2004 called the Saudi National Entity for Charitable Work Abroad. It was re-announced in Washington in June 2004. The intention, so far as we could tell from the public statements was to fold all external to Saudi Arabia charitable activities into this entity. But as of this date, I am aware of the fact that several of the charities that Mallory indicated are still operational. Since that day to the present day they continue to maintain websites and disburse many millions of dollars overseas. So it is a question of when and how these steps are actually going to be implemented beyond announcements that new institutional mechanisms are going to be created to address them.

Senator BUNNING. Thank you very much.

Chairman SHELBY. Gentlemen, thank you both. We appreciate your input here today and your patience.

Mr. WOLOSKY. Thank you.

Mr. FACTOR. Thank you for the great work you are doing for our country.

Chairman SHELBY. Thank you.

On our third panel will be Stuart Levey, Under Secretary of the Office of Terrorism and Financial Intelligence and Under Secretary of the Enforcement, U.S. Department of the Treasury; Michael Garcia, Assistant Secretary, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security; John E. Lewis, Deputy Assistant Director, Counterterrorism Division, the FBI.

Gentlemen, we welcome all three of you for our third panel today. Your statements will be made part of the record in its entirety, and we will start with Mr. Levey.

Welcome back to the Committee, Mr. Levey.

STATEMENT OF STUART A. LEVEY
UNDER SECRETARY, TERRORISM AND FINANCIAL INTELLIGENCE
UNDER SECRETARY FOR ENFORCEMENT
U.S. DEPARTMENT OF THE TREASURY

Mr. LEVEY. Thank you, Mr. Chairman. It is good to be back in a slightly different role than last time, more pleasant.

Mr. Chairman, Members of the Committee, thank you for inviting me to testify before you today about our efforts to combat terrorist financing and the September 11 Commission's report.

There is little need to underscore the importance of our campaign against terrorist financing before this audience. As Senator Sarbanes and others discussed this morning, both in the USA PA-

TRIOT Act and in many other ways, this Committee has already demonstrated its commitment to fighting the financial war against terror, and I think this Committee would agree, as I do, with the September 11 Commission's central recommendation that vigorous efforts to track terrorist financing must remain front and center in the U.S. counterterrorism effort.

Those of us who work on this issue are indebted to the Commission and to the excellent staff for the work that they have done. It is also an honor for me to testify alongside Assistant Secretary Garcia and Deputy Assistant Director Lewis today. As you know, I just left the Justice Department a few weeks ago, where I had the privilege of working directly with Mr. Lewis and his team at the FBI. They are very dedicated public servants. I am also a longtime admirer of Michael Garcia, whom I first met when the Attorney General asked him to take over at the helm of the Immigration and Naturalization Service. In addition to the excellent financial investigative work done by his current organization, ICE, he also has the daunting responsibility of enforcing our Nation's immigration laws and had made fantastic strides in attempting to restore the rule of law to our immigration system.

I have submitted a written statement. I would just like to highlight a couple of issues for you. First, I think it is important to underscore one point that the Commission made, which is that the terrorism financing campaign is one part of an overall mission to combat terrorism. Put another way, the goal is not so much to stop the money as it is to stop the terrorists who use the money to murder innocents.

That seems obvious when you say it, but it has real implications for the tactics we choose in a particular situation. As people have alluded to today, in some cases the best strategy for the overall counterterrorism mission may be just to observe the financier covertly to identify the next link in the chain, rather than to freeze the money or cut it off.

Our goal must always be to choose the action as a government that will do the most to cripple a terrorist organization, and in pursuing that goal we need to draw on the full range of weapons in our arsenal without concern for turf or reputation of a particular agency.

As the Commission recognized, the teamwork among the interagency group that focuses on terrorist financing is excellent, and I believe that all involved are committed to the same guiding principle. But to act in accordance with that principle requires an active understanding of each of the tools at our disposal.

I would like to highlight just briefly the value of public designations which are sometimes misunderstood. Designating and freezing of assets are a powerful tool. We must use them judiciously, but when fully implemented, a designation excommunicates the supporter of terrorism from the formal financial system, either incapacitating them or driving them to more expensive, riskier, or more cumbersome channels.

The benefits of designations cannot be measured simply by totaling the amount of frozen assets. Terrorist related accounts are not pools of water awaiting our discovery, as much as they are rivers with funds constantly flowing in and out. By freezing accounts we

dam that river, not only capturing whatever monies happen to be present at that moment, but also more importantly, ensuring that the individual organization can never in the future act as a conduit of funds to terrorists. In addition, designations deter others who might otherwise be willing to fund terrorist activity.

In short, the flexibility of designations makes them a very useful tool in our efforts to combat terrorist financing. We should also remember that designations are not used, or need not be used to the exclusion of other tools. Indeed they work best when they are used in conjunction with other tools such as law enforcement action, as evidenced by our joint actions both in the Holy Land Foundation case and in the Al Haramain Foundation case.

It is also important to distinguish between terrorist financing and money laundering. While they are related, they are not exactly the same, and what works for money laundering may not work for terrorist financing. I think we have had some discussion of that already today. In the money laundering arena investigators are trying to detect the movement of large amounts of cash through our financial system. Compliance officers and financial institutions are often well positioned to detect such activity. Terrorist financing transactions, by contrast, may bear no inherently suspicious trademarks since such transactions often involve the clandestine movement of relatively small amounts of ostensibly clean money that is intended for an evil purpose.

This difference has important policy implications. At Treasury we have begun to study where we can devise tools or systems aimed more particularly at terrorist financing. We need to work closely with the private sector on this task.

As the Commission pointed out, the financial industry is eager to cooperate, but we need to help them help us by building on the information sharing relationships that FinCEN has developed under Section 314 of the USA PATRIOT Act. In that sense I find myself intrigued and in agreement with the gist of the comments made by the gentlemen from the Council on Foreign Relations, both in their report and today, and I noticed their comment in the report that we need to explore ways to share classified information with the private sector in this context.

This is precisely the issue that we intend to take up in the Bank Secrecy Act Advisory Group, chaired by Bill Fox, the Director of FinCEN. Director Fox has made information sharing a top priority, and I am confident that our coordination with the private sector will broaden and deepen under his expert command.

I look forward to working with the Committee on this important issue and to answering any questions that you may have.

Chairman SHELBY. Thank you.

Mr. Garcia.

STATEMENT OF MICHAEL J. GARCIA
ASSISTANT SECRETARY, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. GARCIA. Thank you, Mr. Chairman, Senator. It is a privilege to appear before you today with Under Secretary Levey, with Mr. Lewis, to discuss terrorist financing issues arising out of the Sep-

tember 11 Commission report, and to specifically address how U.S. Immigration and Customs Enforcement, or ICE, is using its border and interior enforcement authorities in the war on terror.

ICE is a new agency. It is the largest investigative agency in the Department of Homeland Security, and it is comprised of some of our Nation's oldest and most recognizable law enforcement agencies. ICE is responsible for enforcing customs and immigration laws among other authorities, and is charged with using these authorities in new ways to protect the homeland.

With respect to money laundering, the U.S. Customs special agents who conducted financial investigations under the Department of the Treasury are now within ICE. I am pleased to join my colleagues from the Department of the Treasury and the FBI to talk about how our agencies work closely together and routinely exchange information in the course of our investigations. ICE and the FBI have established a joint vetting unit staffed by senior personnel from each agency to identify financial investigations that may have a nexus to terrorism. As a result, the agencies here today have worked together cooperatively on a number of cases that we believe have stemmed the flow of funds into the hands of terrorists.

Case examples include a JTTF case against AZZAM.com, and affiliated websites that promoted Jihad against the United States, provided instructions on evading U.S. currency reporting requirements and instructions for sending funds to Jihadists in Chechnya and Afghanistan through Pakistan. This case was developed from leads from the ICE Cyber Crime Center.

Another example is the arrest of Abdurahman Alamoudi, who in July of this year pleaded guilty to conducting prohibited financial transactions with Libya, making false statements in his application for U.S. citizenship, and violating U.S. tax laws. The case was the result of a long-term investigation by the FBI, ICE, and the IRS. ICE, the FBI, and Treasury also worked together to indict the Holy Land Foundation for Relief and Development, or HLF, a foundation that was, as charged in the indictment, providing financial and material support to the Hamas group.

These cases are examples of how the U.S. Government has pursued terrorist financing in the immediate aftermath of September 11, but as the September 11 Commission report and other studies have found, we must continually adapt our countermeasures and use our enforcement tools and authorities to full effect. For ICE that means addressing vulnerabilities that could be exploited by terrorists to raise money.

As an Assistant United States Attorney, I prosecuted the case against the terrorists who bombed the World Trade Center in 1993. From that experience and from my experience at DHS, I can tell you two thing that I have learned about terrorist financing. The first is that terrorism comes relatively cheap. The September 11 Commission report estimates that the hijackers spent approximately $400,000 to $500,000 over 2 years preparing for the attacks. I roughly estimate the cost of the 1993 World Trade Center bombing at about $50,000. These are relatively small amounts of money compared to the high cost to the United States in terms not only of loss of loved ones and damage to property, but also the psychological damage inflicted on our Nation.

The second lesson is that terrorist funds are hard to trace, particularly when we are trying retroactively to piece together where the money was raised or how it was moved around the world. No one has been able to successfully explain exactly where the money came from in either the 1993 World Trade Center bombing or the September 11 attacks. Moreover, past practice is not always indicative of future operations. What methods are terrorists using today, what methods will they use in the future to earn or move money? We have ideas and we can make assumptions based on past practices, but above all we must assume that terrorists are creative and adaptable, as they have already shown themselves to be. That is why our enforcement approach must employ the same flexibility.

Several of the September 11 Commission's recommendations suggest steps that are already being taken by ICE to enhance the Nation's counterterrorism initiatives, restore integrity to the U.S. Immigration system, enforce laws that protect U.S. financial systems from exploitation, and strengthen the Nation's border in the effort to prevent future terrorist attacks. These recommendations track with the findings of a recent Government Accountability Office Investigation, which found that, "Terrorists earn assets through illicit trade in myriad commodities, such as drugs, weapons, cigarettes, and systems such as charities, owing to their profitability. Like other criminals, terrorists can trade any commodity in an illegal fashion, as evidenced by their reported involvement in trading a variety of counterfeit goods." Many of the examples cited in the GAO report fall within the traditional law enforcement jurisdiction of ICE.

ICE is targeting each of these areas of vulnerability as part of Cornerstone, an initiative that targets the alternative financing mechanisms that terrorist and other criminal organizations could use to earn, move, and store funds. Let me give you some examples of how we are doing this.

First, we target methods that terrorist and other criminal organizations could use to earn funds through investigations of intellectual property rights violations, counterfeit pharmaceuticals, human smuggling, commercial fraud, export violations, and cyber crime. A recent ICE IPR investigation identified a large scale smuggling network of counterfeit trademark merchandise from China that was brokered through a middle man in Lebanon. ICE agents arrested 14 subjects, seized containers valued at approximately $24 million, and seized nearly $100,000.

ICE targets the movement of funds derived from criminal activity into and out of the United States by identifying financial and trade systems that are vulnerable to exploitation by criminal organizations. That could include bulk currency smuggling, trade-based money laundering, courier hubs, and money service businesses.

We are aggressively targeting bulk cash smuggling by using provisions of the USA PATRIOT Act. Since July 2003, ICE and our sister agency, Customs and Border Protection, have collectively seized $40.5 million before it could be illegally exported.

Finally, we target commodities that are imported and exported from the United States that can be used to store the proceeds of illegal activity. In one operation called Meltdown, ICE and the IRS

uncovered a scheme in which the proceeds of drug sales were converted into the equivalent value of gold.

These Cornerstone cases and our work in the JTTF's with our partners, illustrate the approach that ICE is taking to homeland security and specifically to terrorist financing.

I would like to thank you, Mr. Chairman, and the other distinguished Members of this Committee for the opportunity to testify before you today, and I will of course be happy to answer any questions you might have.

Chairman SHELBY. Thank you.

Mr. Lewis.

STATEMENT OF JOHN E. LEWIS
DEPUTY ASSISTANT DIRECTOR
COUNTERTERRORISM DIVISION
FEDERAL BUREAU OF INVESTIGATION

Mr. LEWIS. Good afternoon, Chairman Shelby. Thank you for inviting me the to speak today regarding the September 11 Commission's recommendations regarding terrorist financing. As you know, the FBI has worked closely with the Commission and its staff, and we commend it for the extraordinary effort.

Among the successes achieved thus far in the war on terrorism, the FBI has made significant progress against both the operational and support arms of terror networks. With respect to the support arms, an essential component of the global strategy against terrorism has been to counter the manner in which terror networks recruit, train, plan, and effect operations, each of which requires a measure of financial support. Inherent requisites of this financial support are the raising, movement, and expenditure of resources. Those requisites leave traceable and identifiable trails through our global financial systems. The FBI follows those trails backward to identify and dismantle existing funding sources and facilitators.

The FBI is also endeavoring to extrapolate and project those trails forward in extensive proactive efforts to prevent future terrorist attacks by identifying perpetrators, facilitators, and systemic vulnerabilities in the financial system at large.

The September 11 hijackers used both domestic and foreign financial institutions to maintain, transfer, and retrieve money. Al Qaeda funded the hijackers in the United States by primarily three unremarkable means: Wire transfers from overseas to here, physical transport of cash or traveler's checks into the United States, and the accessing of funds held in foreign financial institutions by debit or credit cards. Neither the hijackers nor the facilitators overseas were experts in the use of the international financial system or sophisticated money laundering techniques.

They caused a paper trail to be created which linked them to each other and to their facilitators. Still, they were able to avoid the scrutiny of law enforcement, government regulators, private sector compliance authorities by conducting transactions in a fairly routine manner that failed to raise any flags in the international financial system. The hijackers and their facilitators used the anonymity provided by the vast international and domestic financial system to both move and store their money.

Before September 11, Al Qaeda moved money through both formal and informal banking systems. In those instances where the banking system was not dependable or where the transactions were susceptible to scrutiny from international law enforcement, money was moved through the informal or hawala system. Al Qaeda also used couriers to move money because they provided a more secure way to move the funds.

Prior to the events of September 11, the FBI had no mechanism to provide a comprehensive centralized or proactive approach to terrorism finance matters. While the FBI routinely examined financial records at the time of the previous attacks, the events of September 11 identified a critical need for us and that was a need for a more comprehensive approach to financial matters.

The Terrorist Financing Operations Section or what we call TFOS, which resides in our Counterterrorism Division was formed in response to that need. The mission of TFOS has evolved into a broad strategy, to identify, investigate, disrupt, and dismantle all terrorist related financing and fund raising activities. The TFOS mission specifically includes: Conducting full financial analysis of terrorist suspects and their financial support structures in the United States as well as abroad; coordinating joint participation liaison and outreach efforts to exploit financial resources of private, government, as well as foreign entities; utilizing the FBI and our Legal Attaché expertise around the world in relationship to fully development financial information from foreign law enforcement and private agencies; working jointly with our colleagues in the intelligence community to fully exploit intelligence information to further our investigations; working jointly with prosecutors and law enforcement as well as regulatory communities; developing predictive models and conducting data analysis to facilitate the identification of previously unknown or what have been referred to as sleeper cells; and finally, providing the financial component to classified counterterrorism investigations in support of our counterterrorism responsibilities.

Intelligence gathering and information sharing is critical to these efforts. The intelligence community, including the Bureau, produces and obtains tremendous amounts of classified intelligence information. While much of this information can be of significant value in terrorism financing investigations, the value will not be realized or maximized absent the ability to filter this information, analyze it, and then disseminate in an appropriate manner to those who can make the best use of that information.

Toward this end, TFOS participates in joint endeavors with Treasury, DOJ, Department of State, NSA, DHS, and others, involving potential terrorist-related financial transactions, and we have personnel detailed to the CIA's Counterterrorism Center who work directly with our TFOS on financial intelligence matters. Each JTTF throughout the United States also has a designated Terrorism Financing Coordinator to facilitate the financial component of investigations being conducted there.

Currently the FBI possesses a greater understanding of terrorism finance methods than we did prior to September 11. More sophisticated and effective processes and mechanisms to address and target terrorist financing have been developed and continue to

evolve. Proactive approaches are increasingly utilized. Global awareness on the part of law enforcement, Government agencies, regulators, policymakers, and the private sector of terrorism finance methods, suspicious financial activity and vulnerabilities has greatly increased since September 11.

International cooperation has reached unparalleled levels. Outreach with, and cooperation from, the private sector has been outstanding and it continues to strengthen, particularly in the form of bilateral interaction between law enforcement and our financial institutions. The ability to access and obtain this financial information quickly has significantly enhanced our ability to identify, investigate, and resolve immediate threat situations.

Success in the war on terrorism cannot be measured merely in the form of assets seized or funds blocked, but in the ability of law enforcement to prevent future acts of terrorism, whether through prosecution, disruption, the blocking or freezing of funds, or allowing a funding mechanism to actually remain in place in order to further an investigation, prevention remains the prevailing focus.

Since different circumstances demand different approaches, the best strategy in any given circumstances can only be determined from an overall assessment of the situation at hand in conjunction with careful coordination, with the cooperation of all law enforcement and intelligence agencies.

I wish to thank you for the opportunity to be here today to testify and to highlight our efforts and the role of the FBI in combating terrorism finance, and look forward to any questions that you might have, sir.

Chairman SHELBY. Thank you, Mr. Lewis.

Secretary Levey, if the report of the September 11 Commission has, among other things, one overarching theme, it revolves around the state of the Nation's intelligence structure and the absolute need for fundamental reform even before the report's completion almost a year earlier. In fact, legislation was signed into law creating within the Department of the Treasury, an Office of Intelligence and Analysis to be led by a new Assistant Secretary. Here we are more than 9 months later, and that position is still vacant. In fact, there has not even been a nomination announced for the position, and we realize in the closing days of this Congress there is probably not going to be one.

A vital position in the effort to combat terrorist financing is inexplicably vacant. You are over there now in a new job, and I think you are well qualified for the position. I appreciate that the intelligence community has its plate full these days, but this situation existed long before the current drive to restructure the intelligence community.

When can the Banking Committee anticipate a nomination for the position of Assistant Secretary for Intelligence and Analysis?

Mr. LEVEY. Mr. Chairman, I think you know that that decision is one that is well above my pay grade as a——

Chairman SHELBY. I understand you do not make the nomination, but you, in your position, will have some influence in that regard, and should have.

Mr. LEVEY. Thank you for saying that, sir. What we are doing, of course, is standing up the office to the best of our ability. We

have a highly qualified Deputy Assistant Secretary, who is helping us to put the foundations in place for that office pending a nomination. Of course, we are anxious to have a nominee and to have the vacancy filled. All I can say is that that will occur in due course, and we are encouraging that.

Chairman SHELBY. Is that an important position?

Mr. LEVEY. It is a vital position.

Chairman SHELBY. Is that a position that would help you immensely?

Mr. LEVEY. It absolutely would. What needs to be done, and which we are trying to start to do is to pull together—as we have heard today, there is an enormous volume of information coming into the Treasury Department. It is all of the classified information from the intelligence community. It is all of this information that Mr. Factor was describing that is filed by the financial institutions in the United States. We need to pull it together. We need to integrate it to make sure that we are not—to make sure that we are using appropriately, and provide the feedback that I think we owe the private sector with respect to that information.

I think it is a critical position and look forward to having——

Chairman SHELBY. I know you and I know you are professional and I am glad you are where you are. I have said this before.

Mr. Secretary, *The Wall Street Journal* this morning—and I am sure you saw it—finally provided some details on the ABN AMRO case that heretofore had not been made available. I would like to take a moment to address this.

This case involves one of the world's largest banks, and also involves foreign financial institutions previously associated with the Bank of New York, the target of a major money laundering investigation during the 1990's. Apparently, once having been compelled to shift their activities away from the Bank of New York, Russian and East European banks with questionable records simply relocated their illicit activities to another bank's New York branch.

The issue of money laundering through correspondent accounts has been a concern of this Committee for many years, and I am sure a concern for Treasury. Given the apparent trend that has emerged involving the First Bank of New York, and now ABN AMRO, what is the Treasury Department, particularly in coordination with the Federal Reserve Bank, doing to ensure that a potentially systemic problem like this is under control?

Also, are the Baltics replacing Switzerland as the go-to destination for organizations and tax evaders seeking to conduct financial transactions without adequate oversight or lax oversight? Do you want to address that?

Mr. LEVEY. Sure, Mr. Chairman.

Chairman SHELBY. That is an arm full.

Mr. LEVEY. I will give it a shot.

Chairman SHELBY. I am sure you will do it.

Mr. LEVEY. Let me know if I do not satisfy you.

As I said when I was up here last time as a nominee, when we had the Riggs case recently come to light, what we need to know is whether we have a few isolated bad actors out there or whether we have a systemic problem, as the Chairman words it.

In order for us to make that determination, we need to get the information from the banking regulators. What are they finding when they go out and do bank examinations? We are working very diligently with the banking regulators to put that formalized relationship in place, and I believe we are on the verge of doing that.

That is really the first step because without that information, we do not know whether we are overacting to something that might be isolated or——

Chairman SHELBY. Are you going to get that information?

Mr. LEVEY. Pardon me?

Chairman SHELBY. Are you going to get that information?

Mr. LEVEY. We will.

Chairman SHELBY. I believe that.

Mr. LEVEY. We will.

Chairman SHELBY. What is the second problem there, if you get the information?

Mr. LEVEY. I am sorry, sir?

Chairman SHELBY. If you get the information, the second thing is what do you do with it, right?

Mr. LEVEY. Well, in part, that goes back to our prior discussion about having the right structure in place in the Treasury Department. But we are committed to working very diligently to enforce the Bank Secrecy Act. I do not think that we can concentrate on terrorist financing without having the structure in place, the anti-money laundering system in place.

You cannot really fight terrorist financing unless you have in place a viable, rigorous anti-money laundering enforcement mechanism, which the Bank Secrecy Act, and as this Committee added to it in the USA PATRIOT Act, gives us. We need to enforce it.

Chairman SHELBY. Mr. Lewis, the Commission states that the Saudis still need considerable technical assistance and that they must be more vigilant in taking the initiative, without United States prompting, in combating terrorist financing.

What is the state of the joint United States-Saudi Task Force? Are there impediments to the provision of technical assistance that can be addressed or need to be addressed? We know that after May 2003, and we had testimony here earlier today from the Commission members, that the Saudis have taken major steps in the right direction since becoming the target of Al Qaeda-directed or inspired attacks, especially with regard to regulating charities. What is the status of their actually implementing these steps, if you can talk about it in this setting?

Mr. LEWIS. As you know, we do have a task force over there, made up of a couple of ours and a couple of different agencies there that contribute manpower to this. That, in and of itself, is a large step forward, at least in my judgment, for that part of the world. Enabling two different cultures, two different types of investigative entities to actually get to know one another, share the same space and work cases—that is inevitably going to lead to better things as we go forward everyday.

Chairman SHELBY. Is it evolving in the right direction?

Mr. LEWIS. I think it is. As I sit here listening and thinking about this question, I am aware of absolutely nothing in the last

4 or 5 months that has come across my desk that suggests our terrorism finance representatives over there have any problems.

Chairman SHELBY. Was May 2003 a wake-up call for the Saudis?

Mr. LEWIS. There is no doubt about it, no doubt about it. I still think there is a lot of room for their cooperation to grow. There is a whole set of different issues over there, as you are well aware, than we have here.

Chairman SHELBY. Thank you.

Secretary Garcia, the Commission's report determined that since September 11, Al Qaeda relies to an even greater extent than before on the physical movement of money and other informal methods of value transfer, which falls right into your area.

As the head of the agency directly responsible for guarding the Nation's ports of entry, can you tell the Committee the challenge this pattern poses for ICE? Can you accomplish your mission with the manpower and resources currently available to your agency? Is ICE so intent on spending resources on activities like Operation Cornerstone, when we have the Treasury Department and the FBI to investigate, regulate, inform, and advise financial institutions on money laundering and terror finance issues? Do you want to just comment on that?

Mr. GARCIA. Yes, thank you, Mr. Chairman. Again, a lot in that question and I will try to hit all the points.

We do have jurisdiction of the USA PATRIOT Act and other statutes on unlicensed money service businesses. We have a very robust financial crimes program. Cornerstone, as I tried to describe in my opening remarks, is really an umbrella program that looks to bring those traditional customs authorities together in an approach to terrorist financing that tracks the recommendation made by the GAO in their November 2003 report on terrorist financing; that is, we have to look at ways that these terrorist organizations could earn, move, and store funding.

If you look at the types of criminal activity the GAO discusses, most of those line up with traditional customs authorities. So if you look at some of our unlicensed money broker cases—and there is one I like to use as an example, a case up in Newark where $100 million was going through unlicensed money brokers into Pakistan. Where it went in Pakistan——

Chairman SHELBY. One hundred million dollars?

Mr. GARCIA. One hundred million dollars. Where it went in Pakistan is very difficult to say. As you know, Mr. Chairman, and the FBI is well aware that the most difficult part of those terrorist financing cases is tracking that money overseas. But in an area where Al Qaeda has been active, it causes us great concern.

What we were able to do after vetting that case with the Bureau was take down the money brokers under this new authority in the USA PATRIOT Act, seize money in that case, bring felony charges, and disrupt a potential source for funding. That, I think, in a nutshell, is the approach of Cornerstone, using traditional authorities where it lines up with FBI cases or there is a possible terrorism nexus, coordinating that through our joint vetting unit and our JTTF participation.

But where it doesn't, where there is no established nexus, certainly very aggressively looking to shut down those mechanisms, as you point out, that could be used to get money overseas.

Chairman SHELBY. How well are you working with Treasury and the FBI in regard to this over in Immigration? That is so important to work together.

Mr. GARCIA. Absolutely, Mr. Chairman, and I will give a few examples. I gave some case examples which I think are the ultimate test, but we have an MOA with the FBI that was signed in 2003. And quoting from a more recent GAO report describing that MOA, it says "It represents a partnering commitment by two of the Nation's premier law enforcement agencies, the FBI and ICE."

I think that is exactly right. It is a partnering commitment by our agencies. We have established a joint vetting unit which vets all leads in these cases. We have exchanged high-level managers in TFOS and in our financial program. In fact, I think the deputy of the FBI's TFOS group is an ICE manager right now, and they have a very high-level person in our financial crime shop with full access across both ways into all systems. Again, the recent GAO report looking at how that implementation was going gave it very high marks, and I fully agree with that assessment.

Treasury, obviously a newer entity stood up under——

Chairman SHELBY. Do you happen to have a Memorandum of Understanding with Treasury?

Mr. GARCIA. No, we do not.

Chairman SHELBY. Are you working on one?

Mr. GARCIA. We are working very closely with Treasury and with my colleague, Under Secretary Levey.

Chairman SHELBY. Do you need a Memorandum of Understanding, or do you just have a good relationship?

Mr. GARCIA. I think a Memorandum of Understanding can be very helpful, as it is in the case of the Bureau. I do not think it should be looked at as the silver bullet for all issues. I think you look at what are the factors, how are we working together, is there a need. And we will continuously do that.

I have tremendous respect for Under Secretary Levey. I have dealt with him, and he had a great hand in some of those measures that restored integrity to the immigration enforcement system when he was at the Department of Justice. So, I look forward to working with him in this new role.

Everybody agrees on what the end game is here in getting at terrorist financing. As Under Secretary Levey defines his shop and moves forward, we will be working together on a number of issues. I know there is a meeting scheduled in the near future on some of those that Mr. Levey has called and I look forward to participating in that.

I think, obviously, with the FBI, there is a longstanding MOA now in relative terms, going back to 2003. And with Treasury, it is a very positive relationship that is developing.

Chairman SHELBY. Good.

Mr. Lewis, let's discuss the FBI's analytical ability, if I can get into that. How long will it be before TFOS and the Bureau as a whole will improve their ability to systematically gather and ana-

lyze the information developed in their investigations and create high-quality analytic products and finished intelligence?

For example, the September 11 Commission found, among other things, that as late as the spring of 2004, a few months ago, the Bureau still had generated very little quality, finished intelligence with respect to Al Qaeda financing; that TFOS must establish its own formal system for tracking and evaluating the extent of terrorist fundraising by various groups in the United States.

Can you comment on that?

Mr. LEWIS. Sure. Let me throw out a couple of things. The absence of reporting on Al Qaeda, in particular, I do not think has direct correlation to how far along we might be with respect to what our analysts do today. I will tell you, having been around this effort now for 27 years, there has been a remarkable change in the last couple of years particularly on the analytical front.

Chairman SHELBY. You had to make a change, hadn't you?

Mr. LEWIS. Absolutely, there is no question about it, and I see this everyday. The amount of information that is being generated in the division and pushed out not only to other divisions and the field, but also beyond that into law enforcement here in the country and beyond is just an incredible shift over the last few years.

Now, with respect to TFOS, in particular, please bear in mind that this is a component of overall investigation. I would rather see the need for intelligence products that deal with just more than a financial aspect of a case than not. The vast majority of intelligence products that move out of the Bureau deal on that level; with a larger case, who the individuals are and multiple facets about what this investigation is. Does that answer your question, sir?

Chairman SHELBY. Yes, sir.

Secretary Levey, I asked this question earlier of the other panel. With more and more banks seeking to enter the realm of financial services that extend beyond what we know as traditional banking activities, we would like to hear your views on whether or not this trend has any implications on the Government's ability, your ability, to regulate the financial transactions that are at issue in today's hearing. For example, what are the implications of increased global use of ATM's for money laundering and for the movement of terrorist funds?

Mr. LEVEY. Mr. Chairman, I think the issues like the one you raised are huge challenges for us. There is no question about it. In fact, I think of the USA PATRIOT Act, in general, as being very forward-looking in terms of recognizing that there are an enormous number of ways that people can move money, and calling upon us to bring them into our regulatory umbrella. That is a long-term challenge that we have before us.

Chairman SHELBY. Moving it from somebody's pocket just going through immigration is a major problem, isn't it?

Mr. LEVEY. Absolutely, and law enforcement agencies, and particularly the great work ICE does, is critical in creating the deterrent here in the United States. In terms of the global use of these types of mechanisms, we have to continue to think ahead and realize that as we continue to improve our systems of enforcement here that terrorists and other criminals will continue to adapt. It is a

never-ending measure/countermeasure battle that we are in and we are going to have to brace ourselves for the long-term.

Chairman SHELBY. Mr. Levey, should wire transfer companies, casinos, banks, securities dealers, and other financial institutions have access to terrorist watchlists? If they did, would it help them? What would be some of the problems with doing that?

Mr. LEVEY. I think that there is probably good potential there for better information-sharing on our side. There are issues that that presents in terms of privacy, and so forth, and the types of false positives that I think we have all heard about in the news. I think the issue you raise, though, is one that we do need to grapple with and determine if there is something more we can do. I do not have a pat yes or no answer to that. I am sorry.

Chairman SHELBY. Secretary Levey, high policymakers express frustration at not being able to get, on a consistent basis, solid information to block assets. The CIA contends it has excellent terrorist financing information, and in the CIA's view it is Treasury that is unhappy because the CIA's information is extremely sensitive so it cannot be released to support public designation.

Is current USA PATRIOT Act legislation sufficient to overcome this problem now? Is this a problem?

Mr. LEVEY. I think that in some ways the situation that you allude to is somewhat more of a problem that occurred prior to the USA PATRIOT Act. But now that we can use classified information, we do not have the same problem. There is still the need to make some information public when we make a designation and do an asset-blocking and that sometimes does present issues. It is a Government-wide problem that we have to grapple with: What can we make public in a particular situation.

Chairman SHELBY. Do you need any other legislation in this area or can you just work with what you have?

Mr. LEVEY. I do not believe that there is a legislative fix that would be helpful.

Chairman SHELBY. Secretary Levey—and I am not picking on you. You have been here a lot.

Mr. LEVEY. That is why I am here.

Chairman SHELBY. I know that.

With respect to OFAC evidence, what is needed by way of evidence to convince the courts, here and abroad, that individuals or entities are tied to terrorist activity? I know it is a burden of proof. Proof problems often arise when policymakers base decisions to freeze or block funds on limited evidence based on intelligence information only, for example, when evidence is simply "linking the funds to terrorist organizations."

In other words, are intelligence agents being forced more into a law enforcement role in supporting their assessments now, or are policymakers holding off prosecuting a matter until more reliable information is unearthed? Is it a wise thing to thrust the intelligence collector into a role of law enforcement? All of it is based on information and you have got to use the information to take a big step forward, do you not, in this regard?

Mr. LEVEY. Absolutely, Mr. Chairman. I recognize those concerns as echoing some of the sentiments expressed in the Monograph.

Chairman SHELBY. These are big challenges for you, aren't they?

Mr. LEVEY. These are challenges. I think that one thing I would like to point out is that while there have been some suggestions that we are designating on too thin of evidence, there have been challenges in the courts and we have won in every single case. All these arguments have been raised saying that it violates due process to do it the way we have been doing it; that we should not be able to use classified evidence, and so forth.

All those challenges have been aired in the courts. We have won every single case. They have been affirmed by the courts of appeals. There hasn't been a single dissent. And if there is one area where I would say I would disagree with some of the concerns of the monograph written by the staff of the September 11 Commission, which is otherwise an excellent piece of work, I would say this is an area where I do find myself in disagreement with some of their concerns. They did not give, in my view, enough credit to the fact that the courts have sided with us in every single case.

Chairman SHELBY. So we need to give you the tools first, and then you do the job and you will get the credit. I think so.

Mr. LEVEY. We have the tools, and now we have defended the tools and the courts have upheld our use of the tools.

Chairman SHELBY. I know you are challenged, but all of you are doing a good job. We appreciate your patience today. It is one o'clock. These hearings are important, as is our oversight and we will continue to work with all of you. Thank you very much.

The hearing is adjourned.

[Whereupon, at 12:56 p.m., the hearing was adjourned.]

[Prepared statements and response to a written question supplied for the record follow:]

PREPARED STATEMENT OF SENATOR JIM BUNNING

I would like to welcome all of our witnesses here today. I would especially like to thank the two September 11 Commissioners, who are both former. Colleagues, for all of their hard work and service to our nation. I applaud chairman Shelby for holding these very important hearings on terrorist financing and money laundering. Obviously, these are very important issues in fighting the war on terror.

And I think yesterday's hearing was a good lead in for today.

The Commission has done us a great service, both their recommendations and their tracing of the monies used to pull off the September 11 attacks. I think they cleared up a lot of misconceptions. Particularly for me, how relatively little money was used to pull off the attacks.

For as long as the terrorists lived here, how many there were, living expenses, flight training and travel, the fact that the operation only cost between $400,000 to $500,000 is very surprising. The fact the us embassy bombings in Africa cost around $10,000 is also very disconcerting. It shows how daunting the problem that our money laundering and terrorist finance people have before them is.

I think our law enforcement officials are coming together. I think cooperation and coordination has improved. International cooperation has improved, obviously it can get better. Since the spring of 2003, when they were attacked internally by Al Qaeda, cooperation with the Government of Saudi Arabia has improved. But we still have problems. The Commission has listed a number of their recommendations that we will obviously take a very close look at. Though things have improved, we can do better.

And we need to do better. There have been problems. The financial institutions need to do a better job in complying with the regulations. But the regulatory bodies also have to do a better job. We must implement the rules governing financial institutions.

We also must aid the financial institutions, especially those who have never been subjected to this type, of regulation before in implementing the new rules.

I also think it's very important for the regulators to work with the institutions they are regulating. I think most of the financial institutions want to be a partner. I would guess that most want to do their part in combating terrorism.

I think this is especially true of the smaller institutions. Many of the money service businesses or MSB's know their customers well. And they have a tradition of working with local law enforcement.

For me, one of the most sobering conclusions in the terror financing portion of the Commission Report is that Al Qaeda knew our system and didn't do anything to raise red flags as they were funding their attacks.

It is also very worrisome that some of these cells have now become self-sufficient.

We face a daunting task in combating terrorism. We need to make sure we do this right. I think these hearing will go a long way in determining the correct way to go.

This Committee has a great tradition of bipartisanship, especially on these types of matters; I know we will all work together to find the best solution for the problems facing us in terror financing.

Once again, thank you Mr. Chairman and I welcome all of our witnesses today.

JOINT PREPARED STATEMENT OF:

LEE H. HAMILTON, VICE CHAIRMAN[1] AND SLADE GORTON, COMMISSIONER[2]

NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

SEPTEMBER 29, 2004

Chairman Shelby, Ranking Member Sarbanes, and distinguished Members of the Committee on Banking, Housing, and Urban Affairs, it is an honor to appear before you this morning. This Committee has been deeply involved in the financial aspect of our country's war on terror, and we are grateful to you for the prompt consideration of our recommendations.

After the September 11 attacks, the highest-level U.S. Government officials publicly declared that the fight against Al Qaeda financing was as critical as the fight

[1] A former Representative in Congress from the State of Indiana.
[2] A former U.S. Senator from the State of Washington.

against Al Qaeda itself. It was presented as one of the keys to success in the fight against terrorism: If we choke off the terrorists' money, we limit their ability to conduct mass casualty attacks.

In reality, stopping the flow of funds to Al Qaeda and affiliated terrorist groups has proved to be essentially impossible. At the same time, tracking Al Qaeda financing is an effective way to locate terrorist operatives and supporters and to disrupt terrorist plots.

Our Government's strategy on terrorist financing has changed significantly from the early post-September 11 days. Choking off the money remains the most visible aspect of our approach, but it is not our only, or even most important, goal. Making it harder for terrorists to get money is a necessary, but not sufficient, component of our overall strategy.

Following the money to identify terrorist operatives and sympathizers provides a particularly powerful tool in the fight against terrorist groups. Use of this tool almost always remains invisible to the general public, but it is a critical part of the overall campaign against Al Qaeda. Today, the U.S. Government recognizes—appropriately, in our view—that terrorist-financing measures are simply one of many tools in the fight against Al Qaeda.

Financing of the September 11 Attack

The September 11 hijackers used U.S. and foreign financial institutions to hold, move, and retrieve their money. The hijackers deposited money into U.S. accounts, primarily by wire transfers and deposits of cash or travelers checks brought from overseas. Additionally, several of them kept funds in foreign accounts, which they accessed in the United States through ATM and credit card transactions.

The hijackers received funds from facilitators in Germany and the United Arab Emirates or directly from Khalid Sheikh Mohamed (KSM) as they transited Pakistan before coming to the United States. The plot cost Al Qaeda somewhere in the range of $400,000–500,000, of which approximately $300,000 passed through the hijackers' bank accounts in the United States.

While in the United States, the hijackers spent money primarily for flight training, travel, and living expenses (such as housing, food, cars, and auto insurance). Extensive investigation has revealed no substantial source of domestic financial support.

Neither the hijackers nor their financial facilitators were experts in the use of the international financial system. They created a paper trail linking them to each other and their facilitators. Still, they were adept enough to blend into the vast international financial system easily without doing anything to reveal themselves as criminals, let alone terrorists bent on mass murder.

The money-laundering controls in place at the time were largely focused on drug trafficking and large-scale financial fraud. They could not have detected the hijackers' transactions. The controls were never intended to, and could not, detect or disrupt the routine transactions in which the hijackers engaged.

There is no evidence that any person with advance knowledge of the impending terrorist attacks used that information to profit by trading securities. Although there has been consistent speculation that massive Al Qaeda-related "insider trading" preceded the attacks, exhaustive investigation by Federal law enforcement and the securities industry has determined that unusual spikes in the trading of certain securities were based on factors unrelated to terrorism.

Al Qaeda Fund-Raising

Al Qaeda and Osama Bin Laden obtained money from a variety of sources. Contrary to common belief, Bin Laden did not have access to any significant amounts of personal wealth, particularly after his move from Sudan to Afghanistan. He did not personally fund Al Qaeda, either through an inheritance or businesses he was said to have owned in Sudan.

Al Qaeda's funds, approximately $30 million per year, came from the diversion of money from Islamic charities. Al Qaeda relied on well-placed financial facilitators who gathered money from both witting and unwitting donors, primarily in the Gulf region.

No persuasive evidence exists that Al Qaeda relied on the drug trade as an important source of revenue, had any substantial involvement with conflict diamonds, or was financially sponsored by any foreign government. The United States is not, and has not been, a substantial source of Al Qaeda funding, although some funds raised in the United States may have made their way to Al Qaeda and its affiliated groups.

U.S. Government Efforts Before the September 11 Attacks

Before September 11, terrorist financing was not a priority for either domestic or foreign intelligence collection. Intelligence reporting on this issue was episodic, insufficient, and often inaccurate.

Although the National Security Council considered terrorist financing important in its campaign to disrupt Al Qaeda, other agencies failed to participate to the NSC's satisfaction. There was little interagency strategic planning or coordination. Without an effective interagency mechanism, responsibility for the problem was dispersed among a myriad of agencies, each working independently.

The FBI gathered intelligence on a significant number of organizations in the United States suspected of raising funds for Al Qaeda or other terrorist groups. The FBI, however, did not develop an endgame for its work. Agents continued to gather intelligence, with little hope that they would be able to make a criminal case or otherwise disrupt the operations of these organizations. The FBI could not turn these investigations into criminal cases because of:

- insufficient international cooperation;
- a perceived inability to mingle criminal and intelligence investigations due to the "wall" between intelligence and law enforcement matters;
- sensitivities to overt investigations of Islamic charities and organizations; and
- the sheer difficulty of prosecuting most terrorist-financing cases.

Nonetheless, FBI street agents had gathered significant intelligence on specific groups.

On a national level, the FBI did not systematically gather and analyze the information its agents developed. It lacked a headquarters unit focusing on terrorist financing. Its overworked counterterrorism personnel lacked time and resources to focus specifically on financing.

The FBI as an organization therefore failed to understand the nature and extent of the Jihadist fund-raising problem within the United States or to develop a coherent strategy for confronting the problem. The FBI did not, and could not, fulfill its role to provide intelligence on domestic terrorist financing to government policymakers. The FBI did not contribute to national policy coordination.

The Department of Justice could not develop an effective program for prosecuting terrorist finance cases. Its prosecutors had no systematic way to learn what evidence of prosecutable crimes could be found in the FBI's intelligence files, to which it did not have access.

The U.S. intelligence community largely failed to comprehend Al Qaeda's methods of raising, moving, and storing money. It devoted relatively few resources to collecting the financial intelligence that policymakers were requesting, or that would have informed the larger counterterrorism strategy.

The CIA took far too long to grasp basic financial information that was readily available—such as the knowledge that Al Qaeda relied on fund-raising, not Bin Laden's personal fortune.

The CIA's inability to grasp the true source of Bin Laden's funds frustrated policymakers. The U.S. Government was unable to integrate potential covert action or overt economic disruption into the counterterrorism effort. The lack of specific intelligence about Al Qaeda financing, and intelligence deficiencies, persisted through September 11. The Office of Foreign Assets Control (OFAC), the Treasury organization charged by law with searching out, designating, and freezing Bin Laden assets, did not have access to much actionable intelligence.

Before September 11, a number of significant legislative and regulatory initiatives designed to close vulnerabilities in the U.S. financial system failed to gain traction. They did not gain the attention of policymakers. Some of these, such as a move to control foreign banks with accounts in the United States, died as a result of banking industry pressure. Others, such as a move to regulate money remitters, were mired in bureaucratic inertia and a general anti-regulatory environment.

Where Are We Now?

It is common to say the world has changed since September 11, 2001. This conclusion is particularly apt in describing U.S. counterterrorist efforts regarding financing. The U.S. Government focused, for the first time, on terrorist financing and devoted considerable energy and resources to the problem. As a result, we now have a far better understanding of the methods by which terrorists raise, move, and use money. We have employed this knowledge to our advantage.

With a new sense of urgency post September 11, the intelligence community (including the FBI) created new entities to focus on, and bring expertise to, the question of terrorist fund-raising and the clandestine movement of money. The intelligence community uses money flows to identify and locate otherwise unknown asso-

ciates of known terrorists, and has integrated terrorist-financing issues into the larger counterterrorism effort.

Equally important, many of the obstacles hampering investigations have been stripped away. The current intelligence community approach appropriately focuses on using financial transactions, in close coordination with other types of intelligence, to identify and track terrorist groups rather than to starve them of funding.

Still, understanding Al Qaeda's money flows and providing actionable intelligence to policymakers present ongoing challenges because of:

- the speed, diversity, and complexity of the means and methods for raising and moving money;
- the commingling of terrorist money with legitimate funds;
- the many layers and transfers between donors and the ultimate recipients of the money;
- the existence of unwitting participants (including donors who give to generalized Jihadist struggles rather than specifically to Al Qaeda); and
- the U.S. Government's reliance on foreign government reporting for intelligence.

Bringing Jihadist fund-raising prosecutions remains difficult in many cases. The inability to get records from other countries, the complexity of directly linking cashflows to terrorist operations or groups, and the difficulty of showing what domestic persons knew about illicit foreign acts or actors all combine to thwart investigations and prosecutions.

The domestic financial community and some international financial institutions have generally provided law enforcement and intelligence agencies with extraordinary cooperation. This cooperation includes providing information to support quickly developing investigations, such as the search for terrorist suspects at times of emergency. Much of this cooperation is voluntary and based on personal relationships.

It remains to be seen whether such cooperation will continue as the memory of September 11 fades. Efforts to create financial profiles of terrorist cells and terrorist fund-raisers have proved unsuccessful, and the ability of financial institutions to detect terrorist financing remains limited.

Since the September 11 attacks and the defeat of the Taliban, Al Qaeda's budget has decreased significantly. Although the trend line is clear, the U.S Government still has not determined with any precision how much Al Qaeda raises or from whom, or how it spends its money. It appears that the Al Qaeda attacks within Saudi Arabia in May and November 2003 have reduced—some say drastically—Al Qaeda's ability to raise funds from Saudi sources. There has been both an increase in Saudi enforcement and a more negative perception of Al Qaeda by potential donors in the Gulf.

However, as Al Qaeda's cashflow has decreased, so too have its expenses, generally owing to the defeat of the Taliban and the dispersal of Al Qaeda. Despite our efforts, it appears that Al Qaeda can still find money to fund terrorist operations. Al Qaeda now relies to an even greater extent on the physical movement of money and other informal methods of value transfer, which can pose significant challenges for those attempting to detect and disrupt money flows.

Where Do We Need To Go?

While specific, technical recommendations are beyond the scope of my remarks today, I would like to stress four themes in relation to this Committee's work:

First, continued enforcement of the Bank Secrecy Act rules for financial institutions, particularly in the area of Suspicious Activity Reporting, is necessary.

The Suspicious Activity Reporting provisions currently in place provide our first defense in deterring and investigating the financing of terrorist entities and operations. Financial institutions are in the best position to understand and identify problematic transactions or accounts.

Although the transactions of the September 11 hijackers were small and innocuous, and could probably not be detected today, vigilance in this area is important. Vigilance assists in preventing open and notorious fundraising. It forces terrorists and their sympathizers to raise and move money clandestinely, thereby raising the costs and risks involved. The deterrent value in such activity is significant and, while it cannot be measured in any meaningful way, ought not to be discounted.

The USA PATRIOT Act expanded the list of financial institutions subject to Bank Secrecy Act regulation. We believe that this was a necessary step to ensure that other forms of moving and storing money, particularly less regulated areas such as wire remitters, are not abused by terrorist financiers and money launderers.

Second, investigators need the right tools to identify customers and trace financial transactions in fast-moving investigations.

The USA PATRIOT Act gave investigators a number of significant tools to assist in fast-moving terrorism investigations. Section 314(a) allows investigators to find accounts or transactions across the country. It has proved successful in tracking financial transactions and could prove invaluable in tracking down the financial component of terrorist cells. Section 326 requires specific customer identification requirements for those opening accounts at financial institutions. We believe both of these provisions are extremely useful and properly balance customer privacy and the administrative burden, on the one hand, against investigative utility on the other.

Third, continuous examination of the financial system for vulnerabilities is necessary.

While we have spent significant resources examining the ways Al Qaeda raised and moved money, we are under no illusions that the next attack will use similar methods. As the Government has moved to close financial vulnerabilities and loopholes, Al Qaeda adapts. We must continually examine our system for loopholes that Al Qaeda can exploit, and close them as they are uncovered. This will require constant efforts on the part of this Committee, working with the financial industry, their regulators, and the law enforcement and intelligence community.

Finally, we need to be mindful of civil liberties in our efforts to shut down terrorist networks.

In light of the difficulties in prosecuting some terrorist fund-raising cases, the Government has used administrative blocking and freezing orders under the International Emergency Economic Powers Act (IEEPA) against U.S. persons (individuals or entities) suspected of supporting foreign terrorist organizations. It may well be effective, and perhaps necessary, to disrupt fund-raising operations through an administrative blocking order when no other good options exist.

The use of IEEPA authorities against domestic organizations run by U.S. citizens, however, raises significant civil liberty concerns. IEEPA authorities allow the Government to shut down an organization on the basis of classified evidence, subject only to a deferential after-the-fact judicial review. The provision of the IEEPA that allows the blocking of assets "during the pendency of an investigation" also raises particular concern in that it can shut down a U.S. entity indefinitely without the more fully developed administrative record necessary for a permanent IEEPA designation.

Conclusions

Vigorous efforts to track terrorist financing must remain front and center in U.S. counterterrorism efforts. The Government has recognized that information about terrorist money helps us to understand their networks, search them out, and disrupt their operations.

These intelligence and law enforcement efforts have worked. The death or capture of several important facilitators has decreased the amount of money available to Al Qaeda, and increased its costs and difficulties in moving money. Captures have produced a windfall of intelligence.

Raising the costs and risks of gathering and moving money are necessary to limit Al Qaeda's ability to plan and mount significant mass casualty attacks. We should understand, however, that success in these efforts will not of itself immunize us from future terrorist attacks.

We would be pleased to respond to your questions.

PREPARED STATEMENT OF MALLORY FACTOR

VICE CHAIR, COUNCIL ON FOREIGN RELATIONS'
SECOND REPORT OF THE INDEPENDENT TASK FORCE ON TERRORIST FINANCING
CHAIRMAN, MALLORY FACTOR, INC.

SEPTEMBER 29, 2004

Chairman Shelby, Senator Sarbanes, and distinguished Members of this Committee, thank you for inviting me to testify today about my views on the critical issue of curbing terror financing.

Chairman Shelby, I would like to commend you in particular for your unwavering commitment to addressing the financing of terror. The work that this Committee is undertaking is extremely important to the United States and the world. Thank you for your leadership.

My testimony will focus on terror financing emanating from within the Kingdom of Saudi Arabia. Clearly, there are numerous other states that allow terror financ-

ing to continue and that should be examined also. I have chosen to focus on Saudi Arabia because of the enormous resources that are funneled from within Saudi Arabia to terrorist groups around the world.

My recommendations are contained in a report of an Independent Task Force on Terrorist Financing, sponsored by the Council on Foreign Relations, on which I served as Vice-Chair. Since the report, along with its various appendices, is almost 300 pages in length, I will only be able to highlight core points and ask that the full report and its appendices be placed into the record.

I would like to thank the Task Force Chairman, Maurice R. Greenberg, who has been a leader in bringing this issue to the Nation's attention. I would also like to thank Council President Richard Haass for his commitment to this topic and to the Task Force's mission. I am testifying in my personal capacity, as is customary, and not on behalf of the Task Force or the Council on Foreign Relations.

Among the core findings of the first Terrorist Financing Task Force report, released in October 2002, was that, "For years, individuals and charities based in Saudi Arabia have been the most important source of funds for Al Qaeda; and for years, Saudi officials have turned a blind eye to this problem."

It should be noted that the Task Force found no evidence that the Saudi Government—as an institution—participated in the financing of terror directly. However, the Saudi Government has clearly allowed individual and institutional *financiers of terror* to operate and prosper within Saudi borders.

The Bush Administration has accomplished a great deal since September 11. Some of the Administration's achievements in this area have been integrating terrorist financing into the U.S. Government's overall counterterrorism effort, securing unprecedented international support for UN sanctions against Al Qaeda, strengthening international standards for financial supervision through the Financial Action Task Force (FATF), issuing significant and meaningful regulations under the USA PATRIOT Act and implementing a wide-ranging strategy to engage Saudi Arabia on the subject of financial and ideological support of extremists. Still, there is much work to be done.

I would like to set forth the following framework of constructive, forward looking recommendations for improving U.S. efforts against terrorism financing.

First, U.S. policymakers must build a new framework for United States-Saudi relations. The terror financing issue is situated in the complex and important bilateral relationship between the United States and Saudi Arabia. For decades, United States-Saudi Arabia relations have been built upon a consistent framework understood by both sides: Saudi Arabia would be a constructive actor with regard to the world's oil markets and regional security issues, and the United States would help provide for the defense of Saudi Arabia, work to address the Israeli-Palestinian conflict, and not raise any significant questions about Saudi Arabian domestic issues, either publicly or privately.

More recently however, this framework has come under strain because Al Qaeda, a terrorist organization rooted in issues central to Saudi Arabian domestic affairs, has murdered thousands of Americans. Al Qaeda and similar organizations continue to conspire to kill even more Americans and to threaten our way of life.

Changed circumstances require a new policy framework for United States-Saudi relations. When domestic Saudi issues threaten Americans at home and abroad, the United States must pay attention to those Saudi "domestic" issues that impact United States security such as terrorist financing and the global export of Islamic extremism. These issues can no longer be "off the table;" they must be front and center in our bilateral relationship.

This transition is already well underway, as evidenced by turbulence in the bilateral relationship since September 11. Some Bush Administration officials have privately characterized the current state of affairs in Saudi Arabia as a "civil war" and suggested that the appropriate objective for United States policy in this context is to help the current regime prevail. I agree, but believe the domestic Saudi problem will not be solved by dispersing Al Qaeda cells and members in Saudi Arabia alone. Rather, the "civil war" will be won only when the regime confronts directly and unequivocally addresses the ideological, religious, social, and cultural realities that fuel Al Qaeda, its imitators, and its financiers all over the world.

Second, Saudi Arabia must fully implement its new laws and regulations and take additional steps to further improve its efforts to combat terrorist financing. In addition to implementing its recently enacted laws and regulations in this area, Saudi Arabia should also deter the financing of terrorism by publicly punishing those Saudi individuals and organizations that have funded terrorist organizations. Although a recent report by FATF noted several prosecutions in Saudi Arabia under the terror financing laws, arrests and punitive steps against financiers of terror have only taken place in the "shadows." I am not aware of any publicly

announced arrests, trials, or incarcerations in Saudi Arabia relating to the financing of terrorism. Saudi Arabia must also increase the financial transparency and programmatic verification of its global charities and publicly release audit reports of those charities. Saudi Arabia should ratify and implement treaties that create binding international legal obligations relating to combating money laundering and terrorist financing.

Third, multilateral initiatives need to be better coordinated, appropriately funded, and invested with clear punitive authorities. The need for a new international organization specializing in terrorist financing issues, as recommended by the Task Force's initial report, has diminished as a result of significant efforts being undertaken by a variety of international actors. The need for proper coordination and clearer mandates has increased for the same reason. It is now time to minimize duplicative efforts and reallocate resources to the most effective and appropriate lead organization.

Fourth, the executive branch should formalize its efforts to centralize the coordination of U.S. measures to combat terrorist financing. My understanding is that, in practice, responsibilities for the coordination of terrorist financing issues have shifted from the Treasury Department to the White House. I commend the Bush Administration for this action. However, setting up a formal allocation of responsibilities is crucial to maintain continuity and focus as the specific individuals involved in these efforts turn over. Therefore, allocation of responsibility to the White House needs to be formalized through a National Security Presidential Directive (NSPD) or otherwise.

Fifth, Congress should enact a Treasury-led certification regime specifically on terrorist financing. Many governments are working on shutting down terror financing from within their borders, but many are not. Congress should adopt a certification regime under which the Treasury Department provides a written certification on an annual basis (classified if necessary) detailing the steps that foreign nations have taken to cooperate in U.S. and international efforts to combat terror financing. In the absence of a Presidential national security waiver, jurisdictions that do not receive this certification would be subject to sanctions provided by Section 311 of the USA PATRIOT Act—including denial of U.S. foreign assistance monies and limitations on access to the U.S. financial system.

The Administration has used the powers granted to it by Section 311 of the USA PATRIOT Act—but only once in the terror financing context. Section 311 allows Treasury to require domestic financial institutions and agencies to take "special measures" against certain parties, including both institutions and jurisdictions, believed by the Treasury to be engaged in money laundering/terror financing. These special measures can include placing prohibitions or conditions on "correspondent" or "payable through" accounts involving the parties engaged in the money laundering/terror financing.

Of course, foreign financial institutions and jurisdictions that do not have significant financial relations with the United States would not be meaningfully impacted by Section 311 sanctions imposed by the United States. However, a similar sanction imposed in the money laundering context resulted in the targeted jurisdiction promulgating desired legislative and regulatory changes.

A certification regime for terror financing would ensure these special measures are used appropriately and thoughtfully against "rogue" jurisdictions. A separate certification regime for terror financing—distinct from any other reporting requirements on the promulgation of terror itself or money laundering—ensures that stringent requirements are maintained specifically with respect to each jurisdiction's practices on terror financing without consideration of other issues.

I commend Congresswoman Sue Kelly and others who have introduced legislation in the House, as H.R. 5124, that would require a terror financing certification regime.

Sixth, the UN Security Council should broaden the scope of the UN's Al Qaeda and Taliban Sanctions Committee. The UN Security Council should specifically impose international sanctions on other groups and individuals that have been designated as terrorists, as Hamas has been by the United States and E.U. I understand that these UN committees continue to discuss various actions but have not taken any affirmative action as yet. Furthermore, the UN should require, as a matter of international law, that member states take enforcement action against groups, persons, and entities designated by the Sanctions Committee. The enabling resolution for these expanded authorities should explicitly reject the notion that acts of terror may be legitimized by the charitable activities or political motivations of the perpetrator. The UN should make it clear that no cause, however legitimate, justifies the use of terror.

Seventh, the U.S. Government should increase sharing of information with the financial services sector as permitted by Section 314(a) of the USA PATRIOT ACT so that this sector can cooperate more effectively with the U.S. Government in identifying financiers of terror. Helping private sector financial institutions become effective partners in identifying financiers of terror should be a top priority. The procedures set forth in Section 314(a) of the USA PATRIOT Act, which promote information sharing between the U.S. Government and financial institutions to increase detection of terror financing, are not working as well as they should. The U.S. Government is still not providing financial institutions with adequate information to enable the institutions to detect terror financing and identify unknown perpetrators. The Government is still using financial institutions primarily to assist in investigating known or suspected terror financiers, not in identifying unknown ones. In addition, our Government does not currently have the appropriate resources to process and make full use of information that is flowing to it from financial institutions.

I recognize that the information that would enable financial institutions to become effective partners with the U.S. Government in identifying terror financing may be highly protected intelligence information. In other industries such as defense and transportation, however, persons can be designated by the U.S. Government to receive access to certain high value information as necessary. A similar approach could be used to facilitate information sharing and cooperation between the U.S. Government and private financial institutions.

Eighth, the National Security Council (NSC) and the White House Office of Management and Budget (OMB) should conduct a cross-cutting analysis of the budgets of all U.S. Government agencies as they relate to terrorist financing. Monitoring the financial and human resources that are actually devoted to the various tasks involved in combating terrorist financing will facilitate fully informed, strategic decisions about whether resource allocations are optimal or functions are duplicative. For this reason, the NSC and OMB should conduct a cross-cutting analysis of all agencies' budgets in this area, to gain clarity about who is doing what, how well, and with what resources. With such a cross-cut in hand, the Administration and Congress can begin to assess the efficiency of existing efforts and the adequacy of appropriations relative to the threat.

Ninth, the U.S. Government and private foundations, universities, and think tanks should increase efforts to understand the strategic threat posed to the United States by radical Islamic militancy, including specifically the methods and modalities of its financing and global propagation. At the dawn of the cold war, the U.S. Government and U.S. nongovernmental organizations committed substantial public and philanthropic resources to endow Soviet studies programs across the United States. The purpose of these efforts was to increase the level of understanding in this country of the profound strategic threat posed to the United States by Soviet Communism. A similar undertaking is now needed to understand adequately the threat posed to the United States by radical Islamic militancy, along with its causes, which we believe constitutes the greatest strategic threat to the United States at the dawn of this new century. To be commensurate with the threat, much more will need to be done by private U.S. foundations, universities, and think tanks in a sustained, deliberate, and well-financed manner.

I look forward to your questions.

PREPARED STATEMENT OF LEE S. WOLOSKY

OF COUNSEL, BOIES, SCHILLER & FLEXNER LLP

SEPTEMBER 29, 2004

Mr. Chairman, Senator Sarbanes, and distinguished Members of the Committee, thank you for affording me the opportunity to testify before you today on an issue of paramount importance to our Nation—curtailing the flow of funds to terrorist organizations—and for your continued dedication and leadership on this matter. The Committee's continued efforts are necessary to ensure the safety of our Nation.

I am testifying before you today in my personal capacity, although I note that my testimony is heavily informed by the work of the Independent Task Force on Terrorist Financing sponsored by the Council on Foreign Relations, which I have directed along with William F. Wechsler. That task force has published two reports—the first in October 2002 and the second in June 2004. Today, however, I

would note that I am not testifying on behalf of the Council on Foreign Relations, the Task Force, its Chairman, or any of its members.

I note at the outset that the issue of terrorist financing is, foremost, a foreign policy issue and not a domestic regulatory issue. That is because most of the money funding Al Qaeda and other Islamist groups originates and is disbursed outside the United States. Funds associated with the maintenance of cells and other operational activities pass through the United States, but these amounts are relatively small, making them very difficult to identify and distinguish. That said, I will offer at the conclusion of my remarks brief views regarding certain regulatory matters.

Theory of the Case

Especially in the post-September 11 environment, the financial network that supports Al Qaeda is multifaceted and ever-changing, taking advantage of diverse opportunities to raise, hold, and move funds. Yet there exists a central "theory of the case" that characterizes the U.S. understanding of the Al Qaeda financial network and that guides U.S. actions to disrupt it and track it back to specific terrorist cells and leaders.

The September 11 Commission concluded that before the 2001 attacks, Al Qaeda received about $30 million per year. Contrary to once-popular myths, this sizable fund was not simply the wallet of just one man, Osama Bin Laden. If that were the case, it would be a much easier problem to address.

Instead, Al Qaeda obtained money, continuously, from a variety of sources. Money was—and is—raised through Islamic charities and notable financial facilitators and also through legitimate businesses and criminal enterprises. Money is moved through formal banking channels, less formal alternative remittance systems, such as the centuries-old *hawala* network, and the very oldest method, bulk cash couriers and other smugglers. And more recently, Al Qaeda and its affiliates appear to be relying more on other methods to support their operations. Funding for the cell responsible for the Madrid bombings earlier this year, for example, appears to have depended on common criminal activity and drug trafficking.

The best publicly available descriptions of the Al Qaeda financial network can be found in two publications of the September 11 Commission: its Report and its subsequent "Monograph on Terrorist Financing." The 2002 and 2004 reports of the Council on Foreign Relations Independent Task Force on Terrorist Financing contain similar analyses.

For years, U.S. policymakers were poorly served by weaknesses in our intelligence on Al Qaeda's finances. As the September 11 Commission's Monograph accurately described, "even after the September 11 attacks, the intelligence community could not estimate the total income or the relative importance of any source of Bin Laden's revenue stream." Even to this day "the U.S. Government still has not determined with any precision how much Al Qaeda raises or from whom, or how it spends its money."

Prior to September 11, the intelligence community had an "incomplete understanding of Al Qaeda's methods to raise, move, and store money," which "hampered the effectiveness of the overall counterterrorism strategy." Moreover, "the CIA also arrived belatedly at an understanding of some basic operational facts that were readily available—such as the knowledge that Al Qaeda relied on fund raising, not Bin Laden's personal fortune."

For its part, the FBI "did not systematically gather and analyze the information its agents developed" and "as an organization failed to understand the nature and extent of the problem [and] to develop a coherent strategy for confronting it."

As a result, according to recently declassified intelligence reporting, Bin Laden's finances on the eve of the September 11 attacks were "steady and secure."

The Particular Problem of Saudi Arabia

Still what we knew then—and know now—about this financial network showed that, not withstanding its global reach, individuals and organizations based in the Gulf region have historically been the single most important source of funds for Al Qaeda, as well as other terrorist groups such as Hamas.

As the September 11 Commission concluded in its final report: "Al-Qaeda appears to have relied on a core group of financial facilitators who raised money from a variety of donors and other fund-raisers, primarily in the Gulf countries and particularly in Saudi Arabia." And back in 2002 the Council on Foreign Relations-sponsored task force concluded that "for years, individuals and charities based in Saudi Arabia have been the most important source of funds for Al Qaeda; and for years, Saudi officials have turned a blind eye to this problem."

Has the Saudi Arabian Government itself funded terrorism? The September 11 Commission concluded: "Saudi Arabia has long been considered the primary source

of Al Qaeda funding, but we have found no evidence that the Saudi Government as an institution or senior Saudi officials individually funded the organization. (This conclusion does not exclude the likelihood that charities with significant Saudi Government sponsorship diverted funds to Al Qaeda)."

Widespread interest in searching for evidence of official Saudi complicity in funding Al Qaeda tends to obscure the Saudis' glaring "sins of omission." Saudi-based charities controlling billions of dollars are a good example; for many years there has been little or nothing done to reign them in even though they have benefited in some cases from the sponsorship of the Saudi Government.

As the September 11 Commission Monograph wrote in 2004, "the Saudi Government turned a blind eye to the financing of Al Qaeda by prominent religious and business leaders and organizations, at least before September 11." The Monograph further concluded that "a lack of awareness of the problem and a failure to conduct oversight over institutions created an environment in which such activity has flourished."

Before the September 11 attacks, Saudi Arabia resisted any real cooperation with the United States on terrorist financing. And even later, as the September 11 Commission Monograph aptly described, "from the September 11 attacks through spring 2003, most U.S. officials viewed Saudi cooperation on terrorist financing as ambivalent and selective." Only after Al Qaeda bombed targets within the Kingdom in May and November 2003 did the Saudis finally focus on the problem and improve their cooperation with the United States, an evolution that is described both in the Second Report of the Council on Foreign Relations-sponsored Task Force and in the Monograph. As the Monograph stated, however, "We cannot underplay . . . the reluctance of the Saudi Government to make the necessary changes between September 11 and late spring 2003."

At its core, successful efforts to combat terrorist fundraising also require fighting a "war of ideas" to denounce and discredit—and financially diminish—the ideology that attracts foot soldiers, supporters, and potential donors to extremism. Here too Saudi Arabia is a central front, as the government and Saudi-based organizations spend huge amounts of money around the world spreading an intolerant and anti-Western version of Islam.

The bottom line, as the September 11 Commission Report noted, is that "Saudi Arabia has been a problematic ally in combating Islamic extremism." And although much has been done—particularly since May 2003—much more remains unfinished or even unstarted.

What Has Been Done

Immediately after September 11, the United States took a number of actions to combat terrorist financing, including a prominent series of "blocking actions" against suspected terrorist assets. These tend to capture a small amount of actual funds, but are very useful in "encouraging" other countries to take their own actions against suspected terrorist financing elements. The issue became much more prominent in U.S. diplomacy, international law enforcement, and intelligence activities. The United States also worked through multilateral organizations like the Financial Action Task Force to build a global consensus on the oversight of charities, among other issues. And at home, despite unsuccessful prior attempts, the Congress finally added vastly expanded anti-money laundering provisions to the USA PATRIOT Act.

Momentum slowed notably only months later, however, as the Bush Administration appeared to put this issue on the proverbial "back burner." The Treasury Department coordinated day-to-day interagency efforts, and a "second phase" in the effort was announced that would be characterized by *fewer* public designations of terrorist financiers. As preparations for the war on Iraq took center stage in the Administration, the heat was turned down on Saudi Arabia. The United States continued to impose "blocking actions" against Saudi persons and institutions, but only in the context of "joint" designations with Saudi Arabia.

As the September 11 Commission Monograph put it, during this period the interagency process was "often driven by force of personality rather than by any structural mechanism." The Policy Coordination Committee (PCC) on Terrorist Financing, although an improvement from what came before it, "often was not fully integrated into the United States' broader counterterrorism policy and Saudi relations." The Monograph concluded: "U.S. efforts to overcome Saudi recalcitrance suffered from our failure to develop a strategy to counter Saudi terrorist financing, present our requests through a single high-level interlocutor, and obtain and release to the Saudis actionable intelligence."

However, in response to the May 2003 terrorist attacks, Saudi officials started to address the mindset that enables and condones acts of terrorism. These measures have included steps toward educational reform and limited measures intended to

discipline (or "re-educate") certain extremist Islamic clerics—at least those operating in Saudi Arabia. There has been less decisive or verifiable action taken to curb the billions of dollars funding extremism abroad.

Saudi Arabia has taken important actions to disable domestic Al Qaeda cells and has increased its tactical law enforcement and intelligence cooperation with the United States. Interior Ministry and other Saudi law enforcement and intelligence officials are now regularly killing Al Qaeda members and sympathizers in violent confrontations.

Saudi Arabia has also largely improved its legal and regulatory regime. Since September 11—and particularly since the May 2003 Riyadh bombings—Saudi Arabia has announced the enactment or promulgation of a plethora of new laws and regulations and the creation of new institutional arrangements to combat money laundering and terrorist financing.

As the Council on Foreign Relations-sponsored Task Force and September 11 Commission staff concluded, Saudi Arabia has not yet fully implemented its new laws, regulations, and institutional mechanisms. The first step toward the creation of an effective AML/CTF regime is the passage of laws and regulations, and the establishment of new institutions—but that is just the first step. Just as important—and more important over the longer-term—is effective implementation and execution of these laws. Some aspects of such implementation, such as comprehensive compliance with recordkeeping provisions, may take time. But other aspects of implementation, such as standing up and funding new organizations and oversight bodies, can be accomplished more readily.

According to the Monograph, "Saudi Arabia has worked hard to institute an improved legal and regulatory regime. It remains to be seen if the new laws and regulations will be fully implemented and enforced, and if further necessary legal and regulatory changes will be made. The Saudis still have not established the National Commission as they promised in February 2004 and have not demonstrated that they are willing and able to serve as the conduit for all external Saudi donations in lieu of Saudi charities."

Additionally, Saudi enforcement actions directed against Al Qaeda have largely avoided prominent financiers. There is no evidence that, since September 11, Saudi Arabia has taken public punitive actions against any individual for financing terror. Saudi Arabia says that it has taken nonpublic actions against financiers. But actions taken in the shadows may have little consistent or systemic impact on ingrained social or cultural practices that directly or indirectly threaten the security of the United States.

And the Bush Administration remains unusually and unconstructively reluctant to criticize Saudi Arabia on this subject. President Bush even remained silent earlier this year when the Saudi Crown Prince and other senior Saudi officials repeatedly suggested that Israel and Zionists were behind Al Qaeda and the bombings in their country.

The Way Forward

U.S. Government Organization

The U.S. Government is still not organized properly to combat terrorist financing at home or abroad.

For several years after September 11, the General Counsel of the Treasury Department led the Bush Administration's efforts in this regard. In my view, even the most competent Treasury General Counsel—and the Nation was fortunate to have an extraordinarily competent one at the time—is poorly equipped from an institutional standpoint for leading such work. This is a job for the White House. As the Monograph noted, "the NSC is better able than any individual agency to integrate terrorist financing into counterterrorism through its leadership of the Counterterrorism Security Group; the NSC is better able to see how the different terrorist-financing tools fit together; the NSC is better able to task agencies and force agencies to reallocate resources; NSC leadership is more efficient because it has the authority to resolve more issues rather than forcing them up to the DC level; the NSC has the best access to information, especially regarding covert action; and the NSC is not operational and is therefore more neutral."

From good organization comes good policy. The President—or the next President—should immediately designate a senior National Security Council official with the specific mandate to lead U.S. efforts on terrorist financing issues. Such an official would direct, coordinate, and reaffirm the domestic and international policies of the United States on a day-to-day basis, with the personal authority of the President of the United States. He or she would report to the President through the National Security Advisor.

In practice, responsibilities for this coordination have recently shifted back from the Treasury Department to the White House. However, there has been no formal designation of the NSC's lead role. That should happen forthwith, so leadership on this important issue becomes a matter of institutional permanence rather than a function of individual personalities and relationships. Moreover, such a designation will go a long way toward putting issues regarding terrorist financing front and center in every bilateral diplomatic discussion with every "frontline" state in the fight against terrorism—at every level of the bilateral relationship, including, on a consistent basis, the highest. As the Monograph concluded, "it was not until the appointment of a senior White House official that the U.S. engagement of the Saudi Government on terrorist financing yielded its most concrete results. A PCC participant said the Saudis did not take terrorist financing seriously until [Frances] Townsend was appointed. She has been able to apply consistent pressure, over a period of time, with the full backing of the White House."

Earlier this year, Ms. Townsend became the President's Homeland Security Advisor. Presumably, the effective role she previously played in this regard has shifted to other officials.

United States-Saudi Relations

U.S. policymakers should seek to build a new framework for United States-Saudi relations. The September 11 Commission, mirroring the core recommendation of the Council on Foreign Relations-sponsored Task Force, concluded: "The problems in the United States-Saudi relationship must be confronted, openly. The United States and Saudi Arabia must determine if they can build a relationship that political leaders on both sides are prepared to publicly defend—a relationship about more than oil . . . It should include a shared interest in greater tolerance and cultural respect, translating into a commitment to fight the violent extremists who foment hatred."

For decades, the United States-Saudi relationship was predicated upon a consistent framework understood by both sides: Saudi Arabia would be a constructive actor with regard to the world's oil markets and regional security issues, and the United States would help provide for the defense of Saudi Arabia, work to address the Israeli-Palestinian conflict, and not raise any significant questions about Saudi Arabian domestic issues—publicly or privately. This tacit framework, riddled with tensions, held for decades and served both the United States and Saudi Governments well.

However, time has passed and in that time, Al Qaeda, a terrorist organization rooted in issues central to Saudi Arabian domestic affairs—about which the United States previously remained silent—has murdered thousands of Americans and aspires to kill more. As a result, the historical framework of United States-Saudi relations is obsolete and must change. When domestic Saudi problems—such as financial support for terrorism—threaten Americans at home and abroad, then focused and unabated U.S. attention on domestic Saudi issues that were previously "off-the-table" must become a governing principle of this bilateral relationship.

United States-Saudi relations can and should come to resemble more closely the U.S. bilateral relations with other large, important regional powers where the bilateral agenda is indeed complex, but difficult issues are discussed openly and with candor. China and Russia have been forced to confront domestic issues they would otherwise have chosen to ignore due to pressures derived from open and frank discussions in the context of their bilateral relations with the United States. Just as the United States has placed demands on these states for increased human rights or enhanced political or economic freedom, the United States must also place demands on Saudi Arabia regarding "domestic" issues like terrorist financing and the propagation of extremism.

Saudi Propagation of Extremism

The September 11 Commission Report notes that "Saudi Arabia has been a problematic ally in combating Islamic extremism." As a core tenet of its foreign policy, Saudi Arabia funds the global propagation of Wahabism, a brand of Islam that, in some instances, supports militancy by encouraging divisiveness and violent acts against Muslims and non-Muslims alike. In my view, this massive spending is helping to create the next generation of terrorists and therefore constitutes a paramount strategic threat to the United States. Through support for *madrassas,* mosques, cultural centers, hospitals, and other institutions, and the training and export of radical clerics to populate these outposts, Saudi Arabia has spent what could amount to hundreds of millions of dollars around the world financing extremism.

Although the United States is not and should not be at war with any religion or any religious sect, in my judgment U.S. policy should affirmatively seek to drain the ideological breeding grounds of Islamic extremism, financially and otherwise. To do

so, we will need more demonstrable cooperation from Saudi Arabia, which so far has not been sufficiently forthcoming.

We must continue to demand such cooperation, notwithstanding broader imperatives of our counterterrorism cooperation with the Saudis. As the Monograph correctly points out: "the highest levels of the U.S. Government must continue to send an unequivocal message to Saudi Arabia that the Saudis must do everything within their power to substantially eliminate Al Qaeda financing by Saudi sources." The Monograph also correctly advises that "the U.S. strategy to combat terrorist financing must be to monitor, encourage, and nurture Saudi cooperation while simultaneously recognizing that terrorist financing is only one of a number of crucial issues that the United States and Saudi Governments must address together. Managing this nuanced and complicated relationship will play a critical part in determining the success of U.S. counterterrorism policy for the foreseeable future."

Role of Financial Institutions

International financial institutions subject to U.S. jurisdiction are among our best sources of raw financial intelligence—if they know what to look for. As the Monograph noted, "[f]inancial institutions have the information and expertise to detect money laundering, but they lack the information and expertise to detect terrorist financing." This is a function, in part, of the fact that the government is not telling them where to look.

Section 314(a) of the USA PATRIOT ACT was intended to address this problem. It requires the Treasury Department to encourage further cooperation among financial institutions and regulatory authorities and to share information about suspected terrorists and their financial activities. Though nice in theory, these procedures are not working as well as they might and very little information flows back from the government to financial institutions that spend considerable resources on compliance programs they wish to be effective.

As some have suggested, one way to address this problem might be to provide security clearances to a broad spectrum of bank compliance personnel. At a minimum, these issues are worthy of the further sustained attention of this Committee. I would repeat a suggestion made to you at similar hearings last October, that this Committee may consider holding an oversight hearing on Section 314 of the USA PATRIOT Act.

Thank you very much for your time and consideration. I would now be honored to take any questions that you might have.

PREPARED STATEMENT OF STUART A. LEVEY

UNDER SECRETARY, TERRORISM AND FINANCIAL INTELLIGENCE
UNDER SECRETARY FOR ENFORCEMENT
U.S. DEPARTMENT OF THE TREASURY

SEPTEMBER 29, 2004

Chairman Shelby, Senator Sarbanes, and Members of the Committee, thank you for inviting me to testify before you today about the September 11 Commission Report and our efforts to identify and combat terrorist financing.

The members of the September 11 Commission and staff deserve our gratitude for their thoughtful report as well as for the monograph that their staff prepared on terrorism financing. These studies are extremely valuable both for the perspective they bring to these issues and for the opportunity that they present to reflect on our progress and our priorities. In my remarks today, I would like to give a brief overview of the Administration's collaborative efforts to combat terrorist financing and how they augment and intersect with the broader war on terror. I will highlight the role played by the new Office of Terrorism and Financial Intelligence at the Treasury Department. Finally, I will describe our perspective as we look ahead, detailing some of the challenges that lie before us. In the course of my testimony, I will address what I believe are the central issues raised by the September 11 Commission regarding our efforts to combat terrorist financing. Let me say at the outset that I agree with most of the Commission's report as it relates to terrorist financing, and I again commend the Commission and its staff for a job well done.

Terrorist Financing: A Key Front in a Global War on Terror

There is little need to underscore the importance of our campaign against terrorist financing before this audience. This Committee has demonstrated its deep commitment to the financial campaign in the war on terror and I think would agree, as

I do, with the September 11 Commission's recommendation that "vigorous efforts to track terrorist financing must remain front and center in U.S. counterterrorism efforts."

As this statement reflects, the September 11 Commission recognized that the U.S. Government's campaign against terrorist financing must be viewed as but one of many fronts in the global war on terror, rather than an as an end in itself. Our ultimate target is not the money, but the terrorists who use it to murder and intimidate. That said, our counterterrorism financing efforts are a vital part of the overall war. Terrorists require money to train, travel, communicate, indoctrinate, procure weapons, carry out attacks, and conceal themselves. Starving them of money debilitates every aspect of their operations and, ultimately, their ability to survive.

Some have questioned the effectiveness of attacking terrorist financing networks. They note that terrorist attacks themselves cost relatively little to carry out and argue that because such sums are easily procurable, our efforts to combat terrorists by attacking their resources are futile. This is a dangerously flawed argument for two main reasons, and it is a view that the September 11 Commission wisely rejected. In the first place, the terrorists' budgets are not measured by the cost of a primitive destructive act. The real operating costs of terrorists inhere in maintaining and perpetuating their networks, and these costs are considerable. As we choke off the terrorists' money flow, we degrade their capabilities and render them less dangerous. Second, tracking the financing of terrorists is quite often the best way to identify and actually locate terrorists and their facilitators. Every time terrorists raise, move, and store money, they potentially expose themselves to surveillance and attack. It is imperative that we continue to exploit these vulnerabilities.

The Interagency Character of Our Campaign Against Terrorist Financing

The U.S. Government campaign against terrorist financing involves a broad array of weapons, from intelligence collection and operations to diplomatic pressure, from regulatory actions and administrative sanctions to criminal investigations and prosecutions. If we are to achieve success, we must bring all of these powers to bear in a coordinated and target-appropriate manner. If the most effective strategy with respect to a known facilitator is to observe him covertly so as to trace the money flow upstream to the original donor or downstream to the ultimate terrorist end-users, then we must do so. If the most effective strategy is instead to designate a facilitator in order to freeze terrorist-related assets and shut down a conduit of terrorist financing, then we will do so. We have an interagency process in place to perform just this type of evaluation, assessing which action or set of actions will inflict the maximum damage to a terrorist network's capabilities. Our goal is not to boost the number of times that we exercise the tools of a particular agency, but to think and act as a single government with a shared set of goals.

The interagency team that has applied itself to this issue since September 11 is truly extraordinary. The Department of Justice, my former home, and the FBI have done heroic work, transforming themselves over the past 3 years to best tackle the terrorist financing problem. The FBI's financial investigators, coordinated out of the Terrorism Financing Operations Section (TFOS), have shown dedication and resourcefulness, marshaling the shared resources of law enforcement through Joint Terrorism Task Forces (JTTF's) across the country, integrating intelligence through unprecedented cooperation with the CIA, and building successful cases that would not have been thought viable a mere 4 years ago. Bringing these cases to court are a corps of talented Assistant U.S. Attorneys across the country, working under the guidance of a group of experienced prosecutors at DOJ's Counter-Terrorism Section (CTS). Over the past months, the public has received dramatic reminders of this group's effectiveness, with the indictments of the Holy Land Foundation's leadership echelon and the convictions of Abdulrahman Alamoudi and the Elashi brothers. The powerful, public effect of successful prosecutions is simply unrivaled.

Other law enforcement agencies play vital roles in these cases alongside the FBI. The premier financial investigators in IRS Criminal Investigation (IRS–CI) have demonstrated their ability to unravel intricate money laundering and tax evasion schemes that feature in terrorist financing investigations, and work closely with the FBI under the auspices of JTTF's. U.S. Immigration and Customs Enforcement (ICE) at the Department of Homeland Security also participates in JTTF's, and plays a crucial role in investigating bulk cash smuggling, unlicensed money remitters, and money laundering through insurance and other nontraditional financial mechanisms. Also, the Secret Service has done a fantastic job investigating counterfeiting as well as high-tech cyber-crimes, credit card fraud, and identity theft that can under gird a money laundering or terrorist financing ring.

The Civil Division of the Department of Justice plays a key but often unnoticed part in our Government's overall effort. A team of skilled legal experts in the Civil

Division has successfully defended every challenge to the Government's law enforcement and administrative authorities in the terrorism financing arena. In light of the September 11 Commission staff monograph's discussion of potential due process concerns in the designation of entities as Specially Designated Global Terrorists (SDGT's), it is useful to highlight two of these cases in more detail. After September 11, the Treasury Department designated the Holy Land Foundation and the Global Relief Foundation—two large U.S.-based charities—as SDGT's. The charities filed lawsuits against the Government, raising a litany of claims, including allegations that the Government had deprived them of due process. These cases were heard by Federal judges who examined the evidentiary records underlying the designations in detail. All of the charities' constitutional claims were soundly rejected, and—to the extent that the courts have ruled on the challenges to the evidence underlying the designations—those challenges have been rejected as well. The charities both appealed, with the same result. Notably, every judge to consider the charities' claims, including the appellate judges of the District of Columbia and the Seventh Circuits, have upheld the legality of Treasury's actions, without a single dissent. *See Holy Land Foundation for Relief & Development* v. *Ashcroft,* 333 F.3d 156 (D.C. Cir. 2003); *Global Relief Foundation, Inc.* v. *O'Neill,* 315 F.3d 748 (7th Cir. 2002).

Diplomatic action is another of our primary tools in combating the financing of terrorism, and the State Department naturally stands at the forefront of these efforts. The money flows we are tracking largely emanate from and flow through countries overseas. Since September 11, the State Department has built a worldwide coalition against terrorist financing—a monumental achievement—and endeavors every day to strengthen it. I will discuss their crucial role in one aspect of this process in more detail below.

Of course, none of these actions would be possible without the intelligence products that are the starting point and the guideposts for everything we do. As the September 11 monograph correctly notes, the individuals leading the counterterrorist financing efforts at the CIA possess extensive expertise in the clandestine movement of money. Since September 11, the CIA and the broader intelligence community have reconstituted themselves to address the threat of terrorist financing in a collaborative and unified manner, and they currently wield an exceptional depth of knowledge and experience.

I can report that the coordination across the Government in the terrorist financing arena is excellent. Our greatest achievements to date have been shared, and we are increasingly finding new and better ways to combine our resources and authorities to pursue a single mission.

The Office of Terrorism and Financial Intelligence—Enhancing Treasury's Contribution

The Congress and the President have given the Treasury Department the responsibility to safeguard the integrity of the U.S. and international financial systems from abuse by terrorists, rogue states, money launderers, and criminals. Domestically, Treasury's role as guardian of the financial sector is manifest—Treasury regulates, oversees, and interacts with the banking and finance sectors on a daily basis, and has served in this role for over a century. Internationally, as the United States' finance ministry, Treasury has cultivated close relationships with finance ministries, central banks, financial intelligence units, and international financial institutions, as well as with the international private sector.

To safeguard financial systems both at home and abroad, Treasury draws upon a range of capabilities that cut across various categories:

- Sanctions and Administrative Powers: Treasury wields a broad range of powerful economic sanctions and administrative powers to attack various forms of illicit finance, including E.O. 13224 issued under the International Emergency Economic Powers Act (IEEPA), which allows for swift action to freeze terrorist assets. Treasury's Office of Foreign Assets Control (OFAC) administers and enforces the various economic sanctions and restrictions imposed under the Secretary's IEEPA authority.
- Financial Regulation and Supervision: Treasury, through its Financial Crimes Enforcement Network (FinCEN), administers the Bank Secrecy Act (BSA) and issues and enforces anti-money laundering/counterterrorist financing regulations. Treasury also maintains close contact with the Federal financial regulators to ensure that these regulations are being implemented consistently throughout the financial sectors.
- International Initiatives: Treasury is part of, and has access to, an extensive international network of finance ministries and multilateral bodies such as the Financial Action Task Force (FATF) and various FATF-Style Regional Bodies, the International Monetary Fund (IMF), the World Bank, the G–7, and various re-

gional multilateral development banks. In addition, FinCEN is the facilitator for international relationships among financial intelligence units organized through the Egmont Group.

- Private Sector Outreach: Through the BSA Advisory Group (BSAAG) and other regulatory and educational seminars and programs, Treasury maintains a close relationship with U.S. financial institutions to ensure a smooth exchange of information related to money laundering and terrorist financing. Further, FinCEN administers Section 314 of the USA PATRIOT Act (Patriot Act), which mandates enhanced information sharing among government, law enforcement, and the financial sector.
- Law Enforcement and Law Enforcement Support: Treasury combats various forms of financial crime through the direct law enforcement actions of IRS–CI and the analytical support provided by FinCEN.

These assets position the Treasury Department as a leader in the Government's efforts to combat terrorist financing. And, since the September 11 attacks, Treasury has diligently applied these assets as part of a comprehensive campaign against terrorist financing.

At the time that the Commission was preparing its final report, the Treasury Department was preparing a new office structure to improve its ability to combat terrorist financing. The creation of the Office of Terrorism and Financial Intelligence (TFI) at the Treasury Department will enable the Department to bring all of its assets to bear more effectively than it ever has before and to play the leadership role that it should play in combating terrorist financing. This fight will be a long and difficult one, and TFI is structured to direct Treasury's resources, authorities, and expertise against supporters of terrorism in a sustained and coordinated manner.

One key function of TFI is to assemble and analyze intelligence. The war on terror remains a war of information and TFI's Office of Intelligence and Analysis (OIA) is helping us meet this challenge. OIA will integrate, for the first time, all of the Department's information and intelligence streams, including BSA data at FinCEN, OFAC sanctions enforcement data, and all of the intelligence flowing into the Department from the intelligence community. Frankly, this is an area in which significant improvement is needed because, prior to the creation of OIA, these data were generally kept in separate "stovepiped" channels. OIA will ensure that these data streams are reviewed, synthesized, and presented to policymakers for appropriate action, and that appropriate security and privacy protections are in place to safeguard sensitive data.

TFI also includes the Office of Terrorist Financing and Financial Crimes (OTF), which is the policy and enforcement arm for the Department on terrorist financing, money laundering, financial crime, and sanctions issues. Building on earlier Treasury efforts, OTF integrates the important functions of OFAC and FinCEN with other components of the Department. OTF represents the United States at international bodies dedicated to fighting terrorist financing and financial crime, such as the FATF, and will increase our other international efforts in this field. Domestically, OTF will continue to develop and implement strategies against money laundering and other financial crimes. For example, OTF is working closely with FinCEN, which has the responsibility to enforce the BSA and related provisions of the USA PATRIOT Act, to enhance public-private cooperation against money laundering and terrorist financing. OTF is also working with Federal law enforcement, including the criminal investigators at IRS–CI, on emerging trends in domestic and international financial crime, through such projects as the Garden City Lead Development project.

Both the intelligence and operational functions are under my direction, and it is my responsibility to ensure that they support and inform each other's missions. If I do my job well, TFI will become more than the sum of its parts and significantly enhance Treasury's contribution to our Government's campaign against terrorist financing.

The Value of Judiciously Applied Designations

I made clear earlier that those of us engaged in the financial war against terrorism should, in every instance, utilize the best-suited tool to advance the overall mission to disable terrorist groups. Acting in accordance with that principle, however, requires an accurate understanding of each of the relevant tools. In that regard, I would like to highlight the value of the public actions the Treasury Department can take—particularly public designations. The September 11 Commission states that "public designation of terrorist financiers and organizations is still part of the fight, but it is not the primary weapon. Designations are instead a form of diplomacy, as governments join together to identify named individuals and groups as terrorists. They also prevent open fundraising." While I agree with the first

quoted sentence, I think that the September 11 Commission does not give enough credit in this passage to the true power of public designations. In addition to being a form of diplomacy and stopping open fundraising, designations—if wielded properly—achieve the following ends:

- shutting down the pipeline through which designated parties raise and move money;
- informing third parties, who may be unwittingly financing terrorist activity, of their association with supporters of terrorism;
- deterring non-designated parties, who might otherwise be willing to finance terrorist activity; and
- forcing terrorists to use potentially more costly, less efficient and/or less reliable means of financing.

The benefits of designation cannot be measured simply by totaling an amount of frozen assets. Terrorist-related accounts are not pools of water awaiting discovery as much as they are rivers with funds constantly flowing in and out. By freezing accounts, we dam that river, not only capturing whatever monies happen to be present at that moment but also, more importantly, ensuring that this individual or organization can never in the future act as a conduit of funds to terrorists. If fully implemented, a designation excommunicates supporters of terrorism from the formal financial system, incapacitating them or driving them to more expensive, more cumbersome, and riskier channels.

I say "if fully implemented" because, as the September 11 Commission recognized, implementation is vital in this context but not at all assured. The great majority of terrorist financiers and facilitators operate and store their money overseas. For designations to have their maximum impact, we must persuade other nations to take action alongside us. This is not a simple task. In some cases there is a failure of will, and in others there are insufficient means for foreign countries to take administrative action. In either case, we must continue to persuade, cajole, or provide needed technical assistance to make sure that our designations are more than just words on paper in the international sphere. Over the past 3 years, the State Department has labored tirelessly in this cause, and its persistent work has yielded results: Dozens of countries have joined us in submitting over 285 Al Qaeda-linked targets for designation at the United Nations; 87 countries in every region of the world have either adopted new laws and regulations to fight terrorist financing or are in the process of doing so; and 20 different U.S. Government offices and agencies have provided technical assistance and training to help high-priority states develop counterterrorist financing and anti-money laundering regimes. But, as a UN Monitoring team recently found, there is much more to be done, and as the terrorists adapt so must we.

In assessing the potential value of designations, it is also important to recognize that designations are not necessarily applied at the expense of other actions. A recent and powerful illustration is the integrated U.S. Government approach taken with respect to the U.S. branch office of Al Haramain, in Oregon. In February, Federal agents executed a search warrant on Al Haramain, pursuant to a joint investigation by IRS–CI, the FBI, and DHS/ICE. Immediately thereafter, Treasury's OFAC blocked the accounts of the organization pending investigation. This locked the organization's assets in place, ensuring that no money would flow from this group to illicit purposes during Treasury's investigation. Earlier this month, Treasury formally designated the U.S. Al Haramain office as a supporter of terrorism, adding it to a list of other designated Al Haramain branches around the world. In the meantime, the joint law enforcement investigation continues. This combination of administrative and law enforcement actions provides the U.S. Government with the utmost flexibility to address the threat of terrorist financing, using complementary tools in such a way as to concentrate their impact.

Behind all OFAC designations, such as the recent Al Haramain designation, are a team of tremendously capable foreign terrorist programs officers at OFAC. These individuals search out and synthesize wide-ranging streams of intelligence to map out terrorist groups and their support networks. They also draft the evidentiary packages that provide the legal bases for designations. Their dedication and expertise are, by now, widely known to those within the Government who work on terrorist financing issues, but these individuals are rarely acknowledged in public. They merit special mention alongside those others working in the trenches of the terrorist financing campaign, be they analysts, agents, prosecutors, or Foreign Service officers.

The Need for International Cooperation and Engagement

As I mentioned, the capital fueling terrorist activity principally emanates from and flows abroad, and our counterterrorist financing campaign depends upon the coordinated action of many countries. Over the past 3 years, the U.S. Government has successfully moved the campaign against terrorist financing to the top of the world's priority list.

Treasury has worked with the State Department and others in the interagency community in numerous international fora—including the United Nations, G–7, G–8, G–20, the Financial Action Task Force on Money Laundering (FATF), and the Egmont Group—to promote balanced regulatory regimes that provide for financial transparency. Thanks to these efforts, scores of countries are now held to FATF's Recommendations, which call upon member jurisdictions to regulate informal banking systems like *hawalas;* include originator information on cross-border wire transfers; freeze and seize terrorist-related funds; overtly criminalize terrorist financing; and increase vigilance over the nonprofit sector. Treasury has also pressed the FATF to address the risk of cash couriers, and anticipates the issuance of a new Special Recommendation calling upon jurisdictions to implement measures to detect and confiscate cash traveling across borders that may be related to terrorist financing.

These principles and practices are being further promulgated by the International Monetary Fund and the World Bank, which recently adopted the FATF Recommendations as part of their anti-money laundering principles used in assessing jurisdictions. In addition, the forthcoming creation of FATF-style regional bodies in Central Asia and the Middle East/North Africa will hold a range of new countries to the standards of the international community. These advances are extremely encouraging.

In addition to the important work being done at the FATF, FinCEN's leadership in the Egmont Group has helped spur a rapid expansion of financial intelligence units (FIU's) around the world, with 94 such FIU's now operating internationally. This network plays a pivotal role in international arena, as it supplies a forum for the rapid, global exchange of information and training. This network will only grow in importance as the FIU's continue to develop projects and conduits to detect and prevent terrorist financing and financial crimes.

Congress gave the Treasury a powerful tool to encourage international compliance with anti-money laundering and counterterrorist financing standards in Section 311 of the USA PATRIOT Act. This provision provides us the authority to prevent jurisdictions and foreign financial institutions found to be of "primary money laundering concern" from doing business with U.S. financial institutions, thus protecting our financial systems from entities that subvert or ignore international money laundering standards. This past May, the Treasury Department designated the Commercial Bank of Syria as a "primary money laundering concern," based on a lack of financial transparency and other concerns about that institution, including terrorist financing. Pursuant to this designation, we have issued a proposed rule that, when adopted in final form, will oblige U.S. financial institutions to sever all correspondent relations with this bank. The Commercial Bank of Syria will either take effective steps to address our concerns or we will cut it off from our financial system. In late August, we designated two more foreign financial institutions: Infobank, of Belarus, which had been used to subvert the United Nation's Oil-for-Food program, and First Merchant Bank of the "Turkish Republic of Northern Cyprus," which participated in fraudulent activity on an international scale. These institutions will face the same choice as the Commercial Bank of Syria.

Actions of this type spur jurisdictions and institutions to introduce reforms and create greater financial transparency. They also protect the integrity of our financial system. We will continue to apply Section 311 aggressively against rogue jurisdictions and institutions when we have reason to believe that our financial system is being threatened by terrorist financing or other criminal networks.

These efforts have yielded considerable results, but more can and should be done. Treasury will continue to press the international community to implement robust counterterrorist financing regulations and standards. Treasury will also continue to provide technical assistance and training abroad, in conjunction with the State Department and our interagency colleagues, to ensure that our partners have the requisite capacity to regulate vulnerable industries, enforce laws, and share financial information.

Current Challenges

Congress was forward-looking in enacting the USA PATRIOT Act, mandating not just better oversight of regulated sectors but also an expansion in regulatory scope, to encompass whole sectors that had not previously been subject to Federal anti-

money laundering or counterterrorist financing regulation. Implementing Congress' vision will take sustained effort, to which we are committed. Our challenges in this arena fall into two broad categories. First, in crafting new regulations, we must ensure that they will provide for transparency, accountability, and enhanced flow of information between the private sector and the Government. They must also be practicable. This requires great care, as the particular sectors covered by the USA PATRIOT Act span a wide range—from credit unions to casinos—each with its own character, organization, and practices. This challenge becomes more acute when regulating businesses, such as pawn shops or jewelers, which do not behave like traditional financial institutions.

Once regulations are in place, we face a second-order challenge: Our regulations are only valuable to the extent that we can ensure they are being followed. In several compliance areas, we are faced with unknowns. How do we assess the extent to which relevant regulations are being observed? With limited resources and a vast community of regulated entities, how do we most effectively encourage and monitor compliance? One area of particular challenge here is money service businesses (MSB's). The universe of large, established MSB's, such as Western Union or Moneygram, is familiar to us and its vulnerabilities are largely known. But informal money or value transfer systems and alternative remittance systems, such as *hawalas,* may consist of a single individual with a telephone and a ledger. Over 19,000 MSB's have complied with the law requiring them to register with the Treasury Department; we know that this is but a small fraction of the total number of MSB's in this country. It would be excessively difficult and a poor use of resources to locate every one of these unregistered MSB's, the overwhelming majority of which are not facilitating any illicit ends. At the same time, we cannot allow ourselves to become resigned to the risks of this situation. Our best approach is risk-based, doing smart outreach and targeted enforcement—wielding education and deterrence where they will do the most good. This effort is informed by FinCEN, which develops targets for examination and outreach, and by a strategic partnership between IRS and DHS/ICE. IRS civil examiners conduct BSA compliance examinations, cataloging money laundering schemes and tracking developing patterns. They also refer appropriate cases for criminal investigation. On the criminal side, IRS–CI and DHS/ICE bring their respective areas of money laundering expertise to the investigation of illegal MSB's, and participate in 42 multiagency Suspicious Activity Report Review Teams nationwide. Section 373 of the USA PATRIOT Act, which makes it a crime to operate an unlicensed money service business, is a critical tool in this fight. All of these efforts hold promise. Still, the number of entities, in this and in other regulated industries, is staggering. We hope to work with Congress on this difficult and important task.

Another challenge we face is adapting to a shift in the focus of financial regulation. The current financial regulatory regime was forged out of nearly 20 years of experience in detecting and preventing money laundering. Money laundering and terrorist financing, however, differ in significant ways. In the money laundering field, investigators look through a telescope trying to detect the movement of large amounts of dirty cash. When investigating terrorist financing, investigators use a microscope in order to track the movement of relatively small amounts of often "clean" money, intended to support a nefarious purpose. Financial experts in the private sector have developed a set of typologies to detect money laundering activity; terrorist financing transactions, by contrast, may bear no inherent identifying trademarks whatsoever.

We have commenced a study of whether we can devise tools or systems that are tailored to terrorist financing. It is already clear, though, that one of the most useful avenues we can pursue will be to expand our coordination with the private sector. The financial industry has been tremendously helpful in combating terrorist financing and is eager and willing to do more. But banks and other financial institutions cannot help if they are working blindly. To the extent possible, the Government must provide more detailed information to the private sector so that financial entities know specifically what and whom to look out for. This will not be an easy task. Much of the information in this arena is classified. Law enforcement is properly reticent about sharing information that could compromise an investigation. And we also need to be sensitive to the significant privacy and reputational interests of our citizens and ensure that appropriate controls are in place to safeguard information.

Mediating this public/private relationship is the BSA Advisory Group, chaired by FinCEN. This group is comprised of high-level representatives from financial institutions, Federal law enforcement agencies, regulatory authorities, and others from the private and public sectors, and acts both as an intermediary and as a think tank focused on ways to improve the flow of information to both sectors. FinCEN's Director, William Fox, has adopted information sharing as a top priority and I am con-

fident that our coordination with the private sector will broaden and deepen under his expert command.

Congress also facilitated aspects of public-private coordination through Section 314 of the USA PATRIOT Act. This provision mandates the sharing of information with and among the financial sector, both vertically (among regulatory agencies, law enforcement, and industry) and horizontally (providing a safe harbor that allows industry members to share with each other). In implementing this section, Treasury created a "pointer" system for law enforcement. This system allows law enforcement, in appropriate cases, to transmit names of persons of interest to the financial sector through FinCEN and determine whether those institutions have any relevant transaction or account information. The industry reports back only when it has information and, if it does, law enforcement may follow up with appropriate process. The system has been quite successful to date and law enforcement agencies attest to its value. But we will continue to explore new ways of increasing information flow to and among the private sector, and I look forward to working with this Committee in this endeavor.

One final concern that I would like to draw attention to has been the lack of movement against Hamas fundraisers in Europe. So often in this field, our challenge is to simply find those who are moving money to terrorists. In the case of Hamas, though, many of the culpable parties are known. In 2003, the United States identified and designated a collection of European NGO's that are demonstrably funding Hamas. These include Interpal in the United Kingdom, the Al Aqsa Foundation with offices across northern and western Europe, Comite' de Bienfaisance et de Secours aux Palestiniens (CBSP) of France, and the Palestinian Association (PVOE) of Austria. Despite our designations, though, and the hard work of the State Department, these offices continue to operate in their home countries. I find this extremely troubling and I intend to continue to press this issue in the strongest terms with our allies in Europe.

Conclusion

In preparing for my new position, I have repeatedly confronted questions about our effectiveness in the campaign against terrorist financing. Put simply, are we making progress? How can we know? How do we measure success?

These are important questions, and difficult ones. Al Qaeda does not release financial statements, and we will never know precisely how much money is flowing to a terrorist group in a given year or how much money intended for terrorists never reached their hands due to our efforts. We therefore often find ourselves discussing proxies for these ultimate questions: How many donors and facilitators are captured or behind bars; how much money has been frozen or seized; how many countries are joining us in freezing assets or upgrading their laws to make it harder to move money illegally. Each of these benchmarks points to only one aspect of the problem, though, and imperfectly at that.

Far more revealing, to my mind, is intelligence, even if anecdotal, about the condition of terrorists' financial networks. The news there is encouraging: It has become costlier, riskier, and more difficult for Al Qaeda and like-minded terrorist groups to raise and move money around the world. Intelligence reports suggest that many terrorist financial networks are hurting for cash, as financiers and facilitators are killed, caught, or cut off from the financial system, and as the conduits of the international financial system become more transparent and less hospitable to those who seek to stay hidden. Also playing a major role is the deterrent effect of public actions like prosecutions and designations, and prospective donors now think twice about contributing to disreputable or shady organizations.

Our successes breed new challenges, though, as the terrorists continue to adapt to our efforts and devise new and more sophisticated ways to move money. We must not become reliant on familiar methods or comfortable ways of thinking. On the whole, I believe we are headed in the right direction. I look forward to working with you to enable us to become stronger, more perceptive, and more nimble in countering the evolving threats to the financial sector and our Nation.

PREPARED STATEMENT OF MICHAEL J. GARCIA

ASSISTANT SECRETARY, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
U.S. DEPARTMENT OF HOMELAND SECURITY

SEPTEMBER 29, 2004

Good morning, Chairman Shelby, Senator Sarbanes, and distinguished Members of the Committee. It is a privilege to appear before you to discuss terrorist financing issues arising out of the September 11 Commission Report. I am pleased to join my colleagues from the Federal Bureau of Investigation (FBI) and the Department of the Treasury to discuss the recommendations of the Commission, and specifically, to address how U.S. Immigration and Customs Enforcement (ICE) is using its border and interior enforcement authorities in the war on terror.

The September 11 Report details how 19 terrorists exploited a number of vulnerabilities in order to bring their plot to fruition: Traveling between countries to train and recruit; engaging in document fraud to cover their tracks and move freely from place to place; earning and transferring money in support of the plot; exploiting the U.S. immigration system; and defeating security measures in the transportation system.

The Department of Homeland Security (DHS) was created after the attacks of September 11 to address these vulnerabilities. ICE is the largest investigative agency of DHS and is comprised of some of our Nation's oldest and most recognizable law enforcement agencies. Under the Homeland Security Act of 2002, ICE is responsible for enforcing customs and immigration laws (among other authorities), and is charged with using these authorities in new ways to protect the homeland.

Terrorist Financing: Interagency Cooperation

I am pleased to join my colleagues at this hearing today to talk about how our agencies are working together to ensure that we have the needed flexibility and creativity in our enforcement strategy to shut down vulnerabilities in our financial systems and disrupt terrorist attacks.

We work closely with and routinely exchange information among the Federal agencies that investigate financial crime. Pursuant to a Memorandum of Agreement between the Department of Justice and the Department of Homeland Security, ICE vets all potential terrorist financing leads through the FBI. ICE and the FBI have established a Joint Vetted Unit staffed by senior personnel from each agency to identify financial investigations that may have a nexus to terrorism. ICE also has assigned a senior manager as the Deputy of the FBI Terrorist Financing Section (TFOS) to provide better coordination in terrorist financing investigations. The Deputy of TFOS has a fully integrated role in the evaluation and determination of ICE financial leads that are vetted through TFOS.

As a result, the agencies here today have worked together, cooperatively, on a number of cases that we believe have stemmed the flow of funds into the hands of terrorists. I would like to briefly mention three cases that illustrate the success of our cooperation.

The first case was developed out of leads from the ICE Cyber Crime Center, one of our key investigative tools that look at risks associated with the cyber border. Based on the information developed, ICE, through the Joint Terrorism Task Force (JTTF), developed a case against AZZAM.com and affiliated websites that promoted "Jihad" against the United States and provided instructions on how to evade U.S. currency reporting requirements and deliver funds to "Jihadists" in Chechnya and Afghanistan through Pakistan. The investigation resulted in the recent arrest in the United Kingdom of Babar Ahmad. Ahmad's websites provided explicit instructions on how to raise and illegally move funds to the Taliban through hawalas and other methods, and also instructed individuals on how to obtain visas to travel to Afghanistan to fight for the Taliban.

The second case involved Abdurahman Alamoudi, who in July of this year pleaded guilty in the Eastern District of Virginia to conducting prohibited financial transactions with Libya, making false statements in his application for U.S. citizenship, and violating U.S. tax laws by concealing his foreign bank accounts, concealing his transactions with Libya, and omitting information from tax returns filed by his charities. The arrest and subsequent indictment of Alamoudi were the result of a long-term investigation by ICE, the FBI, and the Internal Revenue Service (IRS).

The final example is a case in which ICE, the FBI, and IRS worked to indict the Holy Land Foundation for Relief and Development (HLF), of Dallas, Texas. This foundation was created to provide financial and material support to the Hamas movement. It is estimated that since 1995, HLF and its members have illegally sent $12.4 million to support Hamas.

Lessons of September 11

These cases are examples of how the U.S. Government has pursued terrorist financing in the immediate aftermath of September 11. But as the September 11 Commission Report and other studies have found, going forward we must continually adapt our countermeasures and use all of our enforcement tools and authorities to full effect. For ICE, that means addressing vulnerabilities that could be exploited by terrorists to raise money.

As an Assistant United States Attorney, I prosecuted the case against the terrorists who bombed the World Trade Center in 1993. From that experience and from my experience at DHS, I can tell you two things about terrorist financing. The first is that terrorism comes relatively cheap. The September 11 Commission Report details the amount of money—approximately $400,000 to 500,000—that the hijackers spent over the 2 years they were preparing for the attacks. I would estimate the cost for the 1993 World Trade Center bombing at only about $50,000. These are relatively small amounts of money compared to the high cost to the United States in terms of not only the loss of loved ones and damage to property, but also the psychological damage inflicted on our Nation.

The second is that terrorist funds are hard to trace, particularly when we are trying retroactively to piece together where the money was raised or how it was moved around the world. We tried to trace back the money in the 1993 World Trade Center bombing, and we were not particularly successful in that instance. The September 11 Report states that the origin of the funds remains unknown, but the best estimate is that prior to September 11 Al Qaeda raised its roughly $30 million operating budget through donations.[1]

Moreover, past practice is not always indicative of future operations. What methods are terrorists using today, and what methods will they use in the future to earn or move money? We have ideas, and we can make assumptions based on these past practices, but above all we must assume that terrorists are creative and adaptable, as they have already shown themselves to be. That is why our enforcement approach must employ the same flexibility.

Several of the September 11 Commission's recommendations suggest steps that are already being taken by ICE to enhance the Nation's counterterrorism initiatives, restore integrity to the U.S. immigration system, enforce laws that protect U.S. financial systems from exploitation, and strengthen the Nation's border security in the effort to prevent future terrorist attacks. These recommendations track with the findings of a recent Government Accountability Office (GAO) investigation which found that: "Terrorists earn assets through illicit trade in myriad commodities, such as drugs, weapons, cigarettes, and systems, such as charities, owing to their profitability. Like other criminals, terrorists can trade any commodity in an illegal fashion, as evidenced by their reported involvement in trading a variety of counterfeit goods." Many of the examples cited in the GAO report fall within the traditional law enforcement jurisdiction of ICE.

Cornerstone

ICE is targeting each of these areas of vulnerability as part of Cornerstone, an initiative that targets the alternative financing mechanisms that terrorist and other criminal organizations use to earn, move, and store funds. Our goal is to disrupt or dismantle these alternative funding mechanisms before these organizations can exploit them for their own purposes.

Through Cornerstone, ICE has made tremendous progress in the fight against financial crime and money laundering. In just over 1 year, ICE has seized nearly $300 million in suspect currency and effected more than 1,800 arrests. Let me give you some examples of how we are doing this.

ICE targets the methods through which terrorist and criminal organizations *earn* their illicit funds through investigations of intellectual property rights (IPR) violations, counterfeit pharmaceuticals, human smuggling and trafficking; narcotics, commercial fraud, export violations, and cyber crime. A recent IPR investigation conducted by ICE New York, "Operation Executive," identified individuals and organizations that were responsible for the large-scale smuggling of counterfeit trademark merchandise into the United States from the People's Republic of China. The deals were brokered through middlemen in Lebanon. This organization is suspected of being responsible for the importation of 100 containers of counterfeit goods with a retail price of $400 million. ICE agents arrested 14 subjects, seized containers valued at approximately $24 million, and seized nearly $100,000 in currency.

[1] The September 11 Commission Report, p. 169–170.

Tobacco smuggling also provides a lucrative source of potential funding for terrorists. In January of this year, ICE dismantled the largest nationwide tobacco smuggling organization to date and arrested 15 defendants. The 92-count indictment charged the defendants with tobacco smuggling and money laundering, among other offenses. The organization was responsible for the movement of more than 10,000 cases of counterfeit and contraband cigarettes and over 100 cases of liquor worth approximately $20 million. As in Operation Executive, no link to terrorism was uncovered in this case, but the potential for reaping large profits by exploiting an area where there is a perception of lax enforcement and weak penalties must be addressed.

ICE targets the *movement* of funds derived from criminal activity into and out of the United States by identifying financial and trade systems that are vulnerable to exploitation by criminal organizations and terrorist financiers. These systems include bulk currency smuggling, trade-based money laundering, courier hubs, money service businesses, alternate remittance systems, and charities. Earlier this year in New York, ICE and the IRS investigated an unlicensed money remitter and discovered the illegal transfer of $105 million to Pakistan, and millions more to Europe and South Asia. While we could not prove a direct link to terrorism in this case, we do know that the money was going to a region of Pakistan where Al Qaeda and others are active and that this is the type of alternative funding mechanism terrorist networks have turned to in order to avoid detection by law enforcement. Using our unique authorities, including new powers under the USA PATRIOT Act related to unlicensed money brokers, ICE shut down the brokers, made arrests, and seized money.

Another USA PATRIOT Act provision, in this instance a provision that criminalizes bulk cash smuggling, has given ICE an effective tool to combat this vulnerability. Since July 2003, ICE and CBP have collectively seized $40.5 million before it could be illegally exported and ICE has arrested more than 133 individuals for bulk cash smuggling violations as a result of follow-up investigations to these seizures. The majority of these cases were narcotics related, but some had elements of alien smuggling as well.

ICE targets commodities that are imported and exported from the United States and that can be used to *store* the proceeds of illegal activity. For example, criminal organizations have used commodities such as gold and precious metals to disguise their ill-gotten gains. In Operation Meltdown, ICE agents worked with the IRS to uncover a scheme in which jewelers were converting the proceeds of drug sales into the equivalent value in gold. They then melted the gold and fashioned it into items such as nuts, bolts and wrenches, and then shipped the items to Colombia where it was melted down and converted back to cash. Our investigation of this case resulted in 23 arrests.

Cornerstone and our work in the JTTF's with our partners illustrate the approach that ICE is taking to homeland security, and specifically to terrorist financing.

Terrorist Travel and the Border

Finally, let me briefly address an issue raised in the invitation letter for this hearing, namely, how prepared the U.S. immigration system is to meet the challenges of terrorist travel as well as comments on controlling the cross-border movement of people. Maintaining the integrity of the border—both in terms of cross-border movement of people and goods as well as interior enforcement of immigration laws—underpins our homeland security mission. Smuggling is a direct threat to our border security. In partnership with U.S. Customs and Border Protection (CBP), ICE focuses on the identification, disruption, and dismantling of smuggling organizations because organizations that exploit our borders to bring in illegal aliens or drugs could, for the right amount of money, employ those same routes and networks to smuggle terrorists or weapons of mass destruction.

ICE's combined customs and immigration authorities allow us to match the smuggling organizations step-by-step as they move from one criminal enterprise to another. One example of how we are using our combined border and immigration authorities to shut down these smuggling organizations is Operation ICE Storm in Phoenix, Arizona. In ICE Storm, we are helping to stop the surge in violent crime in Phoenix through the identification and dismantling of organizations that are smuggling humans, drugs, currency, and weapons; the prosecution of smugglers and the seizure of assets. Phoenix police are crediting ICE Storm with a dramatic decrease in violent crime as a result of this operation. In its first year of operation, ICE has arrested 256 people and seized $5.3 million in connection with these smuggling operations—a dollar amount that is unprecedented for seizures in cases of alien smuggling.

ICE's enforcement of immigration laws goes beyond the border and investigations of smuggling. As a September 11 Commission Staff monograph on terrorist travel notes, at least 3 of the 19 hijackers violated the terms of their visa. If these 3 terrorists had somehow landed in the custody of U.S. law enforcement before September 11, it is likely that the only charges that could have been brought against them at the time would have been immigration charges. One of the ways that we are addressing this vulnerability is through compliance enforcement of the US–VISIT program and the Student and Exchange Visitor Information System (SEVIS). Enforcement action against SEVIS violators gives us an important law enforcement tool to detect and deter those who seek to abuse the system. Such exploitation has led to serious harm to our national security in the past: Hani Hanjour, one of the September 11 hijackers, as well as the driver of the van who blew up the World Trade Center in 1993 both exploited their student visa status to remain in the United States.

Conclusion

The September 11 Commission Report contains a number of recommendations aimed at preventing the next terrorist attack that focus on shutting down terrorist financing. The Report also notes that targeting travel is at least as important as targeting the money. Our mandate under the Homeland Security Act of 2002 is to address vulnerabilities—vulnerabilities that expose our borders to infiltration and our financial systems to exploitation—through strong enforcement of customs and immigration laws. Through Cornerstone and our other homeland security enforcement programs we are doing just that.

I would like to thank Chairman Shelby and the other distinguished Members of this Committee for the opportunity to testify before you today. I would be happy to answer any questions you may have at this time.

PREPARED STATEMENT OF JOHN E. LEWIS

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FEDERAL BUREAU OF INVESTIGATION

SEPTEMBER 29, 2004

Good afternoon Chairman Shelby, Ranking Member Sarbanes, and Members of the Committee. Thank you for inviting me to speak to you today regarding the September 11 Commission's Recommendations regarding terrorist financing, specifically the FBI's findings concerning terrorist financing mechanisms used in the September 11 plot and those in use today. As you know, the FBI has worked closely with the September 11 Commission and its staff and we commend it for an extraordinary effort. Throughout this process, we have approached the Commission's inquiry as an opportunity to gain further input from outside experts. We took its critiques seriously, adapted our ongoing reform efforts, and have already taken substantial steps to address its remaining concerns. We are gratified and encouraged that the Commission has embraced our vision for change and recognized the progress that the men and women of the FBI have made to implement that vision. We agree with the Commission that much work remains to be done, and will consider its findings and recommendations as we refine our continuing transformation efforts.

Introduction

Among the successes achieved thus far in the war on terrorism, the FBI has made significant progress against both the operational and support arms of terror networks. With respect to the support arms, an essential component of the global strategy against terrorism has been to counter the manner in which terror networks recruit, train, plan, and effect operations, each of which requires a measure of financial support. Inherent requisites to this financial support are the raising, movement, and expenditure of resources. Those requisites leave trails, albeit complex, but nonetheless traceable and identifiable, through the global financial systems. The FBI follows those trails backward to identify and dismantle existing funding sources and facilitators. The FBI is also endeavoring to extrapolate and project those trails forward in extensive proactive efforts to prevent future terrorist acts by identifying perpetrators, facilitators, and systemic vulnerabilities in the financial system at large.

Discussion of the FBI's proactive efforts in terrorist financing investigations would be incomplete without referencing the financing mechanisms employed by the September 11 conspirators and contextualizing the FBI's subsequent actions.

Financing the September 11 Conspiracy

The September 11 hijackers used both domestic and foreign financial institutions to maintain, transfer, and retrieve money. The hijackers deposited money into United States bank accounts, primarily by wire transfers and deposits of cash or travelers checks purchased overseas. Additionally, several hijackers maintained funds in foreign accounts, which they accessed in the United States through ATM and credit card transactions. The hijackers received funds from facilitators in Germany and the United Arab Emirates or directly from Khalid Sheikh Mohamed (KSM) as they transited Pakistan before coming to the United States. The plot cost the Al Qaeda network approximately $400,000–$500,000, of which approximately $300,000 passed through the hijackers' established bank accounts in the United States.

Al Qaeda funded the hijackers in the United States primarily by three unremarkable means: Wire transfers from overseas to the United States; the physical transport of cash or traveler's checks into the United States; and the accessing of funds held in foreign financial institutions by debit or credit cards.

Once in the United States, all of the hijackers used the formal banking system to store funds and facilitate transactions. The hijackers spent money primarily for flight training, travel and day-to-day living expenses, such as food, lodging and transportation. Extensive investigation has identified no significant source of domestic self-sustenance.

Neither the hijackers themselves nor the financial facilitators overseas were experts in the use of the international financial system or sophisticated money laundering techniques. They caused a paper trail to be created, which linked them to each other and to their facilitators. Still, they were able to avoid the scrutiny of law enforcement, government regulators and private sector compliance authorities by conducting transactions in a routine manner that failed to raise any red flags in the international financial system. The hijackers and their financial facilitators used the anonymity provided by the vast international and domestic financial system to move and store their money. The money-laundering controls in place at the time were largely focused on drug trafficking and large-scale financial fraud and did not detect the routine transactions in which the hijackers engaged.

Nothing the hijackers did alerted any bank personnel to the terrorist plot. Their wire transfers, in amounts from $5,000 to $70,000, remained anonymous in the billions of dollars moving through the international financial system on a daily basis. Their bank transactions, typically large deposits followed by many small ATM or credit card withdrawals, appeared routine, especially for purported foreign students living in the United States. Not one financial institution filed a suspicious activity report (SAR) pursuant to any transaction made by or on behalf of the hijackers.

The focus of the September 11 financial investigation centered upon the genesis of the hijackers' funding. Contrary to conventional thought, Osama Bin Laden did not access significant amounts of personal wealth and did not personally fund the Al Qaeda plot from family inheritance. Understanding the full extent of Al Qaeda's resources and providing actionable intelligence did, and still does, present challenges because of the fast and myriad means and methods for raising and moving relatively small amounts of money. Additional concerns to the FBI in the investigation and gathering of intelligence are instances of commingling of terrorist money with legitimate funds; the many layers and transfers between donors and the ultimate recipients of the money; the existence of unwitting participants; and the United States' Government's reliance on foreign government reporting for evidence and intelligence.

The FBI and other domestic law enforcement and regulatory agencies have expended considerable effort on the extent to which charities fund terrorist networks. Islamic charitable giving, known as zakat, is one of the five pillars of Islamic faith and results in billions of dollars raised annually. In some instances, investigation and intelligence revealed that Al Qaeda facilitators corrupted specific foreign branch offices of large, internationally recognized charities. In many cases, lax oversight and the charities' own ineffective financial controls, particularly over transactions in remote regions of the world, often made it easy for Al Qaeda facilitators to divert money from charitable uses.

Before September 11, Al Qaeda moved money through both formal and informal banking systems. In those instances where the banking system was not dependable or where the transactions were susceptible to scrutiny from international law enforcement, money was moved through the informal, or hawala system. Al Qaeda also used couriers to move money because they provided a secure way to move funds. The use of couriers is advantageous because no outsiders, such as bank officials, are aware of transactions.

The hijackers, using several means, returned the remainder of their allowances, approximately $26,000, to the financial support network in the UAE in the days just prior to the attack. The hijackers' efforts during their final days to consolidate and return funds to Al Qaeda demonstrates their understanding of the importance of money, in any sum, to the organization and demonstrates the existence of a centralized support network that existed at that time.

Terrorist Financing Operations Section

Prior to the events of September 11, the FBI had no mechanism to provide a comprehensive, centralized, and proactive approach to terrorist financing matters. While the FBI routinely examined financial records at the time of previous terrorist attacks, the events of September 11 identified a critical need for a more comprehensive approach to financial matters. The Terrorist Financing Operations Section (TFOS) of the FBI's Counterterrorism Division was formed in response to this critical need. TFOS combines the FBI's traditional expertise in conducting complex criminal financial investigations with advanced technologies and the critical legislative tools provided through the USA PATRIOT Act. TFOS has built upon these established mechanisms by developing cooperation and coordination among law enforcement, regulatory and intelligence agencies, both domestic and foreign, to an internationally effective terrorist financing investigative operation.

The mission of TFOS has evolved into a broad strategy to identify, investigate, disrupt, and dismantle all terrorist related financing and fund-raising activities. The TFOS mission specifically includes: Conducting full financial analysis of terrorist suspects and their financial support structures in the United States and abroad; coordinating joint participation, liaison and outreach efforts to exploit financial resources of private, government and foreign entities; utilizing FBI and Legal Attaché expertise and relationships to fully develop financial information from foreign law enforcement and private agencies; working jointly with the intelligence community to fully exploit intelligence information to further terrorist investigations; working jointly with prosecutors and with the law enforcement and regulatory communities; developing predictive models and conducting data analysis to facilitate the identification of previously unknown or "sleeper" terrorist suspects; and providing the financial component to classified counterterrorism investigations in support of the FBI's counterterrorism responsibilities.

Intelligence gathering and information sharing is critical to these efforts. The intelligence community, including the FBI, produces and obtains tremendous amounts of classified intelligence information. While much of the information can be of significant value in terrorist financing investigations, the value will not be realized or maximized absent the ability to filter the information, analyze it, and disseminate it in an appropriate manner to those who can make the best use of the information. Toward this end, TFOS participates in joint endeavors with the Treasury Department, the Department of Justice, The Department of State, and the Department of Homeland Security involving potential terrorist related financial transactions. TFOS also has personnel detailed to the CIA's Counter Terrorist Center, who work directly with TFOS on financial intelligence matters. Immigration and Customs Enforcement (ICE) executive managers are also assigned directly to TFOS to coordinate investigations. In addition, each Joint Terrorism Task Force has designated a Terrorism Financing Coordinator to facilitate the financial component of terrorism investigations.

TFOS has access to data and information from established contacts at a variety of entities including: Banking Institutions, the Credit/Debit Card Sector, Money Services Businesses, the Securities/Brokerages Sector, Insurance Companies, Travel Agencies, Internet Service Providers, the Telecommunications Industry, Law Enforcement, State/Federal Regulatory Agencies, Public and Open Source Data Providers, the Intelligence Community and International Law Enforcement and Intelligence Contacts. Access to this type of information is governed by the Right to Financial Privacy Act, Fair Credit Reporting Act, and other applicable statutes.

TFOS faces unique challenges in achieving the mission of identifying terrorist support networks and transactions. The inability to obtain records from other countries in a timely manner, the complexity of directly linking cashflows to terrorist operations or groups, and the difficulty of showing what domestic persons actually know about overseas foreign acts or actors all combine to heighten the difficulty of conducting investigations and prosecutions.

Post-September 11 Financing Mechanisms

Currently, the FBI possesses a greater understanding of terrorist financing methods than prior to September 11. More sophisticated and effective processes and mechanisms to address and target terrorist financing have been developed and con-

tinue to evolve. Proactive approaches are increasingly utilized. The global awareness on the part of law enforcement, government agencies, regulators, policymakers, and the private sector of terrorist financing methods, suspicious financial activity and vulnerabilities has greatly increased since September 11. International cooperation has reached unparalleled levels. Outreach with and cooperation from the private sector has been outstanding and continues to strengthen, particularly in the form of bi-lateral interaction between law enforcement and the financial institutions. The ability to access and obtain this financial information quickly has significantly enhanced the FBI's ability to identify, investigate, and resolve immediate threat situations involving potential terrorist activity.

Past terrorist financing methods have included the use of informal systems for transferring value in a manner that is difficult to detect and trace. The intense international scrutiny on transactions focused on suspect accounts has led to the increased use of the informal banking system by terror networks. Efforts to counter the use of the informal banking system include: increased regulations for correspondent bank accounts; requiring securities brokers and dealers to file SARS; and requiring money transmitting businesses, which include any person who engages as a business in the transmission of money, to register with the Financial Crimes Enforcement Network (FinCEN).

As a result of intense domestic and international efforts, the Al Qaeda financing network has been disrupted. Some terrorist operations may no longer rely on outside sources of money and individual cells may now be self-sufficient. Terrorist groups only remotely affiliated with Al Qaeda, and dependent on Al Qaeda as a source of inspiration rather than operational funding, continue to pose a significant threat. Given the relatively small amounts required for the commission of a terrorist act, serial transactions still make the formal banking system a viable option. TFOS is also committed to proactively identifying potential vulnerabilities in the financial infrastructure that terrorist groups could exploit.

Strategy—International Cooperation

The FBI recognizes the value of the experience and knowledge of our law enforcement colleagues around the world. Even before the tragic events of September 11, the FBI worked closely with our international counterparts in law enforcement through our Legal Attachés (LEGAT's) and international partners whose liaison offices in the United States. The FBI has long understood the need for greater international cooperation in the war against terror, and a large part of the mission of the FBI has been to establish better relations and closer ties with law enforcement agencies in other countries. Only through greater international cooperation can the FBI achieve its primary mission of preventing terrorism. The U.S. Government recognizes the value of enlisting the international community in efforts to stop the flow of money to Al Qaeda entities. To this end, TFOS has engaged in extensive coordination with authorities of numerous foreign governments in terrorist financing investigations.

Extensive training and support of international investigations by TFOS has led to Agent visits/exchanges and training programs involving a variety of countries from Europe, Southeast Asia, the Middle East, and South America. In support of specific high profile joint terrorist financial investigative matters, a number of countries and agencies, including the United Kingdom, Switzerland, Canada, and Europol, have detailed investigators to TFOS on a temporary basis. TFOS has engaged in extensive coordination with authorities of numerous foreign governments in terrorist financing matters, leading to joint investigative efforts throughout the world. These joint investigations have successfully targeted the financing of several overseas Al Qaeda cells, including those located in Indonesia, Malaysia, Singapore, Spain, and Italy. Furthermore, with the assistance of relationships established with the central banks of several strategic countries, successful disruptions of Al Qaeda financing have been accomplished in countries such as the UAE, Pakistan, Afghanistan, and Indonesia.

TFOS has developed a specific terrorist financing/money laundering crimes curriculum for international training which includes topics such as: Acquiring and handling evidence in document intensive financial investigations; major case management techniques; forensic examination tools; and methods of terrorist financing. At the request of the U.S. Department of State, TFOS has led an interagency team to provide this curriculum to a number of countries identified as needing law enforcement training on conducting terrorist financing investigations.

The FBI, in coordination with the Treasury Department and the Department of Homeland Security, pursues an aggressive agenda on the international level to promote the enactment, implementation and enforcement of comprehensive and global anti-money laundering and asset forfeiture laws as well as regulatory measures.

The Department of Justice is involved, with the Treasury Department and the Department of Homeland Security, in the Financial Action Task Force's (FATF) mutual evaluation process, which has been adopted by other FATF-like regional bodies. This has proven to be effective for motivating nations to improve their anti-money laundering laws and enforcement. More than 100 nations drafted and passed laws addressing terrorist financing and money laundering. Moreover, the FBI has assisted in a broad diplomatic and educational effort to increase awareness in other countries of some of the basic methods of raising and moving money in support of terrorist activities.

Unfortunately, various nations have critical deficiencies in their anti-money laundering regimes. They have not enacted laws that prohibit money laundering, nor do they aggressively enforce existing anti-money laundering legislation. Furthermore they fail to cooperate internationally with the investigation and prosecution of money launderers and terrorism financing organizations. It cannot be overstated that noncompliant countries have the potential to put the entire international financial system at risk.

Conclusion

Success in the war on terrorism cannot be measured merely in the form of assets seized or funds blocked, but in the ability to prevent future acts of terrorism. Whether through prosecution, disruption, the blocking and freezing of funds or allowing a funding mechanism to remain in place in order to further an investigation, prevention remains the prevailing focus. Since different circumstances demand different approaches, the best strategy in any given circumstances can only be determined from an overall assessment of the situation at hand, in conjunction with careful coordination with and the cooperation of all agencies involved.

The war on terrorism will likely consist of many battles. It will not be won overnight nor will it be won without the highest levels of cooperation among law enforcement and intelligence agencies around the globe. Terrorism knows no borders or boundaries. This threat is not limited to any one region of the world. Therefore it is essential for all law enforcement and intelligence agencies throughout the world to ally their tremendous resources and expertise against the common enemy of terrorism.

Thank you for the opportunity to testify before you today and to highlight the FBI's investigative efforts and the role of the FBI in combating terrorist financing. It would be my pleasure to answer any questions you may have.

RESPONSE TO A WRITTEN QUESTION OF SENATOR ENZI FROM STUART A. LEVEY

Q.1. Immediately after September 11, SAR filings related to terror financing jumped from around 100–200 every 3 months to over 985 in the fourth quarter 2001. Since then, that number has shrunk back down to around 100 to 200. This has raised questions over the consistency of these fillings and how they are treated by financial institutions.

According to the *November 2003 SAR Activity Review,* the number of suspicious activity reports filed by financial institutions jumped considerably after September 11. Since then, however, the volume has continued to creep back down toward its pre-September 11 numbers. What do you believe is the cause of the spike and then retreat of the number of filings? In addition, what is being done to make sure these reports are accurate, thorough, and taken seriously by our financial institutions?

A.1. There are a number of factors that contributed to the initial post-September 11 spike and subsequent decrease in the number of suspicious activity reports referencing terrorism. In the wake of the attack, financial institutions were erring on the side of caution in filing such reports. This resulted from the well-intentioned thinking that it was better to file a suspicious activity report on even marginal activity rather than risk not providing the Government with some shred of information that might make a difference in a financial investigation related to terrorism. A second cause of overfiling was confusion and initial lack of guidance on how to handle the multiple "watch" lists of names issued. by various governmental entities, some of which contained multiple entries on the same individuals, each with different spellings. This led many financial institutions to file large numbers of unnecessary or duplicative suspicious activity reports.

While the number of suspicious activity reports has declined—particularly in 2002—from the number filed shortly after September 11, we believe the decline is the result of more and better guidance from the Government on when to file a suspicious activity report and increasingly sophisticated transaction monitoring methods within financial institutions, particularly large banks.

FinCEN reviews every suspicious activity report filed that references terrorist activity. Based on what we know, we believe that most financial institutions take seriously their responsibilities to identify and report suspicious transactions that may be linked to terrorism. Likewise, we believe that the reduction in the number of such suspicious activity reports filed results from an appropriate increase in the sophistication of SAR filers, informed, at least in part by improved Government guidance and industry initiatives to improve terrorism-related risk assessment and transaction monitoring systems by the filers of the largest numbers of suspicious activity reports, which in turn leads to improvements in separating out reportable suspicious activity.