



## **U.S. TREASURY DEPARTMENT OFFICE OF PUBLIC AFFAIRS**

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### **Testimony of Stuart Levey, Under Secretary Terrorism and Financial Intelligence U.S. Department of the Treasury**

#### **Before the House Financial Services Subcommittee on Oversight and Investigations**

Chairwoman Kelly, Ranking Member Gutierrez, and distinguished Committee members. This is my fifth time appearing before your Committee in the past two years in what has been an ongoing and fruitful discussion of our government's efforts to track and combat terrorist financing. These sessions have advanced our shared mission to undermine terrorist networks and disrupt their vicious objectives. It is always a privilege to be here.

As this Committee knows well, tracking and combating terrorist financing are critical facets of our overall efforts to protect our citizens and other innocents around the world from terrorist attacks. This is true for two main reasons. First, when we block the assets of a terrorist front company, arrest a donor, or shut down a corrupt charity, we deter other donors, restrict the flow of funds to terrorist groups and shift their focus from planning attacks to worrying about their own needs. While any single terrorist attack may be relatively inexpensive to carry out, terrorist groups continue to need real money. They depend on a regular cash flow to pay operatives and their families, arrange for travel, train new members, forge documents, pay bribes, acquire weapons, and stage attacks. Disrupting money flows stresses terrorist networks and undermines their operations. In recent months, we have seen at least one instance of what we look for most – a terrorist organization indicating that it cannot pursue sophisticated attacks because it lacks adequate funding.

Second, “following the money” is one of the most valuable sources of information that we have to identify and locate the networks of terrorists and their supporters. If a terrorist associate whom we are watching sends or receives money from another person, we know that there's a link between the two individuals. And, while terrorist supporters may use code names on the

phone, when they send or receive money through the banking system, they often provide information that yields the kind of concrete leads that can advance an investigation. For these reasons, counter-terrorism officials place a heavy premium on financial intelligence. As the 9/11 Commission staff pointed out – and as Chairman Hamilton testified before this Committee – “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.” The Terrorist Finance Tracking Program was just such an invisible tool. Its exposure represents a grave loss to our overall efforts to combat al Qaeda and other terrorist groups.

We are facing a clever and adaptive enemy that takes extensive precautions to cover its tracks. If we are to exploit the vulnerability that financial transactions represent, we need to marshal all of our resources and ingenuity. We need to cooperate seamlessly within our government, drawing on our different strengths and talents and appropriately sharing our information without hesitation. We need to work closely with the private sector, which is sometimes best positioned to detect suspicious behavior. And we need to proceed hand-in-hand with our foreign partners, both in sharing information and taking action to identify terrorist financiers, disrupt their operations, and hold them accountable.

My colleagues in the Treasury Department and across the U.S. government have been working with dedication and ingenuity to meet this demanding challenge. Our theater of engagement literally spans the world, from the money changing tables of Kabul to the jungles of South America’s Tri-Border Area, from finance ministries to the compliance offices of the world’s most sophisticated banks. Thanks to their tireless efforts, we have achieved real successes. The 9/11 Commission’s Public Discourse Project awarded its highest grade, an A-, to the U.S. Government’s efforts to combat terrorist financing. I would be happy to discuss these efforts in greater detail in a subsequent hearing, and reference some recent highlights in the margin.<sup>1</sup>

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<sup>1</sup> A few selected examples of our interagency work on terrorist financing follow:

- We have made dramatic progress in combating terrorist abuse of charities through a combination of law enforcement and regulatory actions against corrupt NGOs, both at home and abroad. In tandem with these enforcement efforts, active engagement with the legitimate charitable sector has succeeded in raising transparency and accountability across the board.
- Thanks to our work in cooperation with the private sector to enhance anti-money laundering/counter-terrorist financing procedures in the financial system, many terrorists have been forced to resort to alternative means of moving money – such as cash couriers – that are more cumbersome or risky. Couriers offer concealment, but some get caught and some get greedy, and a terrorist is likely to think twice before entrusting a large sum to any one courier. We are working bilaterally and through international organizations like the Financial Action Task Force to ensure that countries around the world both pass and implement laws to regulate the movement of cash across their borders. Our law enforcement colleagues, notably those in DHS’s Immigration and Customs Enforcement, are training border agents around the world to make sure these programs work.
- We have encouraged countries around the world to make increased use of the U.N. Security Council to seek the designation of terrorist supporters. This global designation program, overseen by the U.N.’s 1267 Committee, might be the most powerful tool for global action against supporters of al Qaeda. It envisions 192 U.N. Member States acting as one to isolate al Qaeda’s supporters, both physically and financially. Increasingly, countries have begun to look to this committee, and administrative measures in general, as an effective complement to law enforcement action. In 2005, 18 Member States submitted names for the Committee’s consideration, many for the first time.

The Terrorist Finance Tracking Program has been a key part of these overall efforts. I had no hand in initiating this program, so I can say without any conceit that Secretary Snow was right in saying that the Terrorist Finance Tracking Program exemplifies government at its best. The Society for Worldwide Interbank Financial Telecommunication (SWIFT) is the premier messaging service used by banks around the world to issue international transfers, which makes its data exceptionally valuable. I would note that SWIFT is predominantly used for overseas transfers. It does not contain information on most ordinary domestic transactions made by individuals in the United States, such as deposits, withdrawals, ATM use, checks, or electronic bill payments. The SWIFT data consists of records of completed financial transactions; it does not provide access to individual bank account information. This program is consistent with privacy laws as well as Treasury's longstanding commitment to protect sensitive financial data.

In response to a subpoena, SWIFT makes available to us a subset of its records that it maintains in the United States in the normal course of its business. The legal basis for this subpoena is the International Emergency Economic Powers Act (IEEPA), a statute passed in 1977, which allows the government to compel the production of information pursuant to Presidential declarations of national emergency. We issue such administrative subpoenas regularly, and our authority to do so is clear. In this case, our subpoena is issued pursuant to President Bush's declaration of an emergency with respect to terrorism after September 11<sup>th</sup> in Executive Order 13224. That declaration has been renewed yearly in light of the continuing threat posed by al Qaida and other deadly terrorist groups.

The SWIFT subpoena is powerful but narrow. We cannot simply browse through the records that SWIFT turns over – we are only able to see that information which is responsive to targeted searches in the context of a specific terrorism investigation. The data cannot be searched unless the analyst first articulates the specific link between the target of the search and a terrorism investigation. I want to emphasize that we cannot search this data for evidence of non-terrorist-related crime, such as tax evasion, economic espionage, money laundering, or other criminal activity. As a result, we have accessed only a minute fraction of the data that SWIFT has provided.

The program contains multiple, overlapping layers of governmental and independent controls to assure that the data is only searched for terrorism purposes and that all data is properly handled. Pursuant to an agreement that we reached with the company, SWIFT representatives are able to monitor these searches in real time and stop any one of them if they have any concerns about the link to terrorism. In addition, a record is kept of every search that is done. These records are reviewed both by SWIFT's representatives and an outside independent auditor.

Members of the Congressional intelligence committees were briefed about this program, and our colleagues in the central banks of the G-10 countries were likewise informed.

The benefits of the Terrorist Finance Tracking Program have been incalculable. This program provides a unique and powerful tool that has enhanced our efforts to track terrorist networks and disrupt them. That is the opinion of experts familiar with this program, both in and out of the government, irrespective of political orientation. It is also the view of those closest to the data, who are in the best position to know. I have on my staff a group of intelligence analysts who

spend their days in a secure room poring over information to unmask the key funders and facilitators of terrorist groups. If you spoke with them, they would point to this program as one of the most important and powerful tools they have to follow the money.

They value this program because it leads to results. The details remain classified, but the program has been instrumental in identifying and capturing terrorists and financiers and in rolling up a terrorist-supporting charity. The program played an important role in the investigation that eventually culminated in the capture of Hambali, Jemaah Islamiyya's Operations Chief, who masterminded the 2002 Bali bombings. The program supplied a key piece of evidence that confirmed the identity of a major Iraqi terrorist facilitator and financier. Because we were able to make this data available to an ally, this facilitator remains in custody. But the program has also proven its worth in many less dramatic, but equally significant ways. Anyone who has tried to piece together a complex terrorism investigation over months or years of sweat and dead-ends knows how important it can be to uncover a previously unknown link or fact. This program generates just such connections and leads nearly every day, which are then disseminated to counter-terrorism experts in intelligence and law enforcement agencies.

In short, the Terrorist Finance Tracking Program has been powerful and successful, grounded in law and bounded by safeguards. It represents exactly what I believe our citizens expect and hope we are doing to prosecute the war on terror.

Much has been said and written about the newspapers' decision to publish information about this program. As a government official, I must first point out that the newspapers almost certainly would not have known about this program if someone had not violated his or her duty to protect this secret.

At the same time, I do very much regret the newspapers' decision to publish what they knew. Secretary Snow and I, as well as others both inside and outside the government, made repeated, painstaking efforts to convince them otherwise. We urged that the story be held for one reason only: revealing it would undermine one of our most valuable tools for tracking terrorists' money trails. We were authorized to set these arguments out for the relevant reporters and editors in an effort to convince them not to publish. In a series of sober and detailed meetings over several weeks, we carefully explained the program's importance as well as its legal basis and controls. We strongly urged them not to reveal the source of our information and explained that disclosure would unavoidably compromise this vital program.

These were not attempts to keep an embarrassing secret from emerging. As should be clear from my testimony above, I am extremely proud of this program. I am proud of the officials and lawyers in our government whose labors ensured that the program was constructed and maintained in the most careful way possible. And I am proud of the intelligence analysts across our government who have used this information responsibly to advance investigations of terrorist groups and to make our country safer. I asked the press to withhold the story because I believed – and continue to believe – that the public interest would have been best served had this program remained secret and therefore effective.

Some observers have argued that the disclosure of the program did little damage because terrorist facilitators are smart and already knew to avoid the banking system. They correctly point out that there has been an overall trend among terrorists towards cash couriers and other informal mechanisms of money transfer – a trend that I have testified about. They also hold up as public warnings the repeated assertions by government officials that we are actively following the terrorists' money.

What we had not spoken about publicly, however, is this particular source. And, unfortunately, this revelation *is* very damaging. Since being asked to oversee this program by then-Secretary Snow and then-Deputy Secretary Bodman almost two years ago, I have received the written output from this program as part of my daily intelligence briefing. For two years, I have been reviewing that output every morning. I cannot remember a day when that briefing did not include at least one terrorism lead from this program. Despite attempts at secrecy, terrorist facilitators have continued to use the international banking system to send money to one another, even after September 11<sup>th</sup>. This disclosure compromised one of our most valuable programs and will only make our efforts to track terrorist financing – and to prevent terrorist attacks – harder. Tracking terrorist money trails is difficult enough without having our sources and methods reported on the front page of newspapers.

I can assure you, however, that our efforts will not wane. With our interagency colleagues and our partners abroad, we will continue to draw on every resource at our disposal to uncover and disrupt these terrorist networks.

Thank you.