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Banking on Terror

The United States recently backed down from solving a major national security issue. In August, a federal district judge approved a deal allowing Barclays, the British bank, to pay a \$298 million fine for conducting secret transactions with Iran, Libya, Sudan, and Myanmar. Barclays systematically stripped information from hundreds of millions in wire transfers for more than a decade, flouting U.S. sanctions. Not one bank employee was prosecuted.

This deal shouldn't come as a shock, though, since the sins of Wachovia, Riggs Bank, Bank Atlantic, American Express Bank International, Union Bank of California, Lloyds, UBS, Credit Suisse, and ABN Ambro Holding all have also been wiped clean by the Department of Justice in exchange for measly fines.

In September, FinCEN director James Freis Jr. proposed a new regulation that would "greatly assist" tracking dirty money by requiring banks to report all electronic money transfers in and out of the country. The proposal will succeed only in producing mountains of meaningless data that will collect dust next to the already unmanageable oceans of data banks are required to produce for our government.

Drug trafficking, the primary means of funding terrorist organizations, is increasing at epic proportions. Most global drug trafficking revenue is generated in U.S. dollars and flows through U.S. accounts. Our government seizes less than \$1 billion in drug proceeds each year -- less than 1% of traffickers' annual global receipts. The underworld's bulging coffers are influencing political, law enforcement, and judicial systems in many countries, including our own. Colombian-based drug and terrorist organizations profit immensely from shipping hundreds of tons of cocaine to Mexico each year. Violent Mexican gangs distribute those and other drugs into the U.S., and their tactics have included the assassination of nearly 30,000 people in the past four years. That's almost one person each hour.

Bankers are escaping prosecution for their part in this complex criminal cycle because law enforcement is failing to identify and target proactively the international businessmen who market dirty money. Law enforcement agencies must bring prosecutors solid, infallible proof of what the bankers knew and said at the time they knowingly handled ill-gotten money. This is not difficult, but it is time consuming.

In the 1980s and 1990s, while I was a federal agent targeting Colombian drug cartels, I spent a year and a half building a sophisticated undercover identity as a money launderer. Over

the course of two years, I infiltrated the highest levels of one cartel and began dealing with their banking contacts. I recorded hundreds of conversations behind boardroom doors. They readily gave me access to all the tools of their trade, starting with lawyers who knew how to create offshore shell corporations in places like Panama, Hong Kong, the British Virgin Islands, and Gibraltar. They provided secret safe deposit boxes abroad and arranged for currency to be shipped in safes to Dubai and Abu Dhabi, where large cash deposits are not recorded. They repatriated the dirty money back to the United States disguised as offshore loans. Account details were whispered in secret meetings so that paper never crossed borders. Any records sought by any government were immediately destroyed.

The evidence I gathered led to the demise of the Bank of Credit and Commerce International (BCCI), the seventh largest privately held bank in the world, and Capcom, a multinational commodities trading company. It put a slew of bankers behind bars where they wagged their tongues so hard that we learned where Manuel Noriega had hidden his fortune in payoffs from Colombian cartel leaders.

Revenues from global drug trafficking -- estimated at more than \$400 billion a year -- are just one small component of the money, known as flight capital, that criminals hide from governments. Flight capital also includes tax evasion, the evasion of customs duties, trade with countries under sanctions, arms dealing, terrorist financing, and even the secret transfers of intelligence agencies. It's big business. Wanting a cut of this business has led many international banks to develop sophisticated skills to avoid scrutiny from authorities.

We can only win this battle with a small but elite multi-agency taskforce, including representatives of the intelligence community, military, and law enforcement agencies from other nations who can identify institutions and businesses that handle dirty money flowing around the globe. A taskforce numbering 100 people or fewer could compile an actionable database containing detailed information. Some of this data is already sitting ignored in law enforcement files, but investigators can also debrief the hundreds of high-level criminals now in prison to obtain detailed information about their allies in the banking and business community. The taskforce easily could trace the money used to buy every asset seized from terrorist and drug organizations. I know because I did that in my cases.

The taskforce would need access to records of the Federal Reserve and the central banks of cooperating nations to determine which financial institutions are repatriating large amounts of American dollars. It would also need information held by the Society for Worldwide Interbank Financial Telecommunication to identify and track the accounts for which banks convert cash into wire transfers. Fed and SWIFT information can be obtained with grand jury subpoenas. To make use of the taskforce's collection of actionable information, undercover agents from around the world

Banking on Terror

continued from previous page

can be trained and equipped to infiltrate corrupt sectors of the banking community. These covert operations would focus on specific targets and inflict a devastating blow to the fortunes of the underworld.

The banking industry will no doubt oppose the establishment of this taskforce, protesting that industry leaders set high standards for anti-money laundering and counter-terrorist financing policies. Indeed, they often point to the Wolfsberg Group -- an association of eleven of the world's largest banks -- as proof of their commitment to set industry standards each year since 2000. But the wolves are guarding the sheep. Five of the eleven banks of this self-anointed group have either recently admitted to criminal offenses for handling illicit funds or are under investigation for the same.

Credit Suisse admitted to funneling hundreds of millions of dollars to sanctioned enemy nations. Barclays admitted to the same. Union Bank of Switzerland admitted to helping thousands of Americans evade hundreds of millions in income taxes by helping them establish secret accounts through a maze of front companies and phony loans. HSBC is under a grand jury investigation for marketing the acceptance of billions of dollars in bulk U.S. currency from account holders in Mexico. Law enforcement and bank compliance industry officials say HSBC officials shipped literally thousands of tons of U.S. currency from Mexico to the U.S. on behalf of criminals. The SEC and Congress have targeted Goldman Sachs for widespread criminal conduct.

There are well meaning employees within the compliance divisions of these and other international banks, but their good work often goes ignored, or, worse, account executives -- paid huge salaries to establish deposit relationships with clients -- deliberately undermine it. Pockets of separate law enforcement agencies, some meaningful, some superficial, have anti-money laundering initiatives, but there is no national effort to identify and prosecute major global laundering threats through criminal investigations.

Agencies share limited information with each other, excluding even basics such as identifying targets, trends, or methodologies. Criminal prosecutions of money launderers are most often a by-product of isolated facts delivered to a single agency by confidential sources, or offshoots of individual investigations of specific drug traffickers.

The U.S. attorney general should head this taskforce. Just as then-attorney general Robert Kennedy created elite Strike Force offices around the country to combat organized crime by collocating the diverse talents of agents from different agencies, the current attorney general should establish field offices that bring law enforcement agencies, intelligence agencies, military resources, and vetted foreign law enforcement together.

These field offices should maintain a presence in key locations inside and outside the U.S. In the United States taskforce offices should be established in New York, Florida, California, Texas, and Michigan to start. Trying to get governments, financial institutions, and businesses operating within China, Dubai, and Abu Dhabi to provide meaningful information isn't realistic. The key is knowing where efforts will be most successful.

And this taskforce would save taxpayers money. First, we could terminate the practice of outsourcing this work to the private sector. The government pays enormous sums to major private corporations to analyze the performance of law enforcement agencies and offer strategies to improve efficiency. Second, high level money laundering cases command rich asset forfeitures and steep fines on deep pockets. The investigation of BCCI, for example, accrued fines and forfeitures of nearly \$600 million.

It won't be easy, though. The international banking community, American Bar Association, and American Bankers Association will claim this is a fishing expedition that violates the privacy of law abiding citizens. Lobbyists and major corporations that now receive huge government contracts for doing the government's work will oppose the elimination of their piece of government spending.

And management within some law enforcement agencies will resist because they will perceive the autonomy of the taskforce as an assault on their authority and the information they sometimes hoard from other agencies.

This taskforce will need new tools, too, one of the most important of which is a whistleblower statute, like what exists for health care fraud. Whistleblowers with quality information about money launderers should qualify for a reward equal to a maximum of 30% of the financial recovery gained by governments in these cases. The reward process established in most law enforcement agencies now caps the total reward in a drug or money laundering case at \$250,000.

Why would an insider at a dirty bank offer information about the laundering of billions when they can reap a reward of only a quarter million? It will cost more than that just to defend themselves in civil lawsuits brought by corrupt institutions once they are called out.

We need to cut off the financial lifeline for criminal enterprises. Forcing the world's biggest banks to stop their criminal conduct is the first step in the right direction, but that will only happen when the clicking of handcuffs is heard in their boardrooms.

*Robert Mazur, a former federal agent, is the author of **The Infiltrator**, a memoir about his life undercover as a money launderer. He is court-certified as an expert in money laundering. His articles have appeared in many media outlets, including The New York Times, and he has served as a major contributor to programming aired by PBS, ABC, and other broadcasters.*