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Opinion

COMMENTARY

Banking on Terror

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The United States recently backed down from solving a major national security problem.

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, because the sins of Wachovia, Riggs Bank, Bank Atlantic, American Express Bank International, Union Bank of California, Lloyds, UBS, Credit Suisse and ABN Ambro Holding have also been wiped clean by the Department of Justice in exchange for measly fines.

In September, James Freis Jr., director of the U.S. Treasury's Financial Crime Enforcement Network, 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. But the proposal will succeed only in producing mountains of meaningless data that will collect dust next to the unmanageable oceans of data that 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 percent 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 United States, 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.



THINKSTOCK

As a federal agent targeting Colombian drug cartels in the 1980s and '90s, 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 such as 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, 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.

Revenue from global drug trafficking — estimated at more than \$400 billion a year — are 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 is 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 multiagency task force, including representatives of the intelligence community, military and law enforcement agencies from other nations who

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can identify institutions and businesses that handle dirty money flowing around the globe. A task force numbering 100 people or fewer could compile a database containing detailed information.

Some of this data is sitting ignored in law enforcement files, but investigators also can debrief the hundreds of high-level criminals now in prison to obtain detailed information about their allies in the banking and business community. The task force 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 task force 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 task force's collection of information, undercover agents from around the world 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 task force, protesting that industry leaders set high standards for money laundering and counterterrorist financing policies. Indeed, they often point to the Wolfsberg Group, an association of 11 of the world's largest banks, as proof of their commitment to set industry standards annually 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. 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 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 byproduct 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 task force. Just as then-Attorney General Robert Kennedy created elite strike force offices across the country to combat organized crime by utilizing 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.

This task force 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, the American Bar Association and the American Bankers Association will claim this is a fishing expedition that violates the privacy of law-abiding citizens.

The task force will need new tools, too, one of the most important of which is a whistleblower statute, such as the one that exists for health care fraud. Whistleblowers with quality information about money launderers should qualify for a reward equal to a maximum of 30 percent of the financial recovery gained by governments in these cases.

The reward process established in most law enforcement agencies 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.

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 of Tampa, a former federal agent, is the author of "The Infiltrator," a memoir about his life undercover as a money launderer.