

**Prepared Statement of former  
Vice Chair Lee H. Hamilton and Commissioner Slade Gorton  
National Commission on Terrorist Attacks Upon the United States  
before the Committee on Banking, Housing and Urban Affairs  
United States Senate  
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Chairman Shelby, Ranking Member Sarbanes, 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 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-9/11 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 9/11 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 Usama Bin Ladin obtained money from a variety of sources. Contrary to common belief, Bin Ladin 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 9/11 attacks**

Before 9/11, 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 Ladin’s personal fortune.

The CIA’s inability to grasp the true source of Bin Ladin’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 9/11. The Office of Foreign Assets Control (OFAC), the Treasury organization charged by law with searching out, designating, and freezing Bin Ladin assets, did not have access to much actionable intelligence.

Before 9/11, 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 antiregulatory 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 9/11, 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 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:

- 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 cash flows 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 9/11 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 of 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 cash flow 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 9/11 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.