

WRITTEN STATEMENT OF
NANCY JARDINI
CHIEF, CRIMINAL INVESTIGATION
INTERNAL REVENUE SERVICE
BEFORE THE
COMMITTEE ON FINANCIAL SERVICES
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Good Morning Madam Chairman, and distinguished members of the subcommittee, I appreciate the opportunity to be here today to discuss the Internal Revenue Service Criminal Investigation Division's (CI) work and the IRS' efforts involving the Bank Secrecy Act. I would also like to thank your subcommittee staff members who assisted us during the preparation of this hearing.

CI Mission

Criminal Investigation is the IRS law enforcement component charged with enforcing the criminal provisions of the Internal Revenue Code and related financial crimes. When CI 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.

The fundamental mission of CI is to serve the American public by detecting and investigating criminal violations of the Internal Revenue Code and related financial crimes. Many of the "badges of fraud" in tax investigations are identical to those in money laundering investigations. These include the extensive use of nominees, currency, multiple bank accounts, layering of financial transactions through multiple entities, and the movement of funds offshore. Therefore, the same financial investigative skills required to conduct complex tax cases can be readily adapted to money laundering investigations. This is especially true in intricate financial investigations involving the movement of untaxed funds offshore to tax haven jurisdictions. Tax evaders conceal their activities through the use of offshore bank accounts, layering of financial transactions, foreign corporations, and trusts. CI's statutory authority for money laundering, coupled with the financial expertise of its special agents, has made it possible to disrupt and dismantle criminal organizations employing complex financial transactions to launder illegal proceeds. Today CI is assisting in the war on terrorism by utilizing similar techniques to uncover terrorist financing.

Strategic Priorities

The Criminal Investigation strategic plan is comprised of three interdependent programs: Legal Source Tax Crimes; Illegal Source Financial Crimes; and Narcotics Related Financial Crimes. Within these three programs, special agents utilize all statutes within CI's jurisdiction, the grand jury process, and various enforcement techniques to combat tax, money laundering and currency crime violations. Direct investigative time for these programs is as follows:

Fiscal Year 2003

Legal Source Tax Crimes: 42%
Illegal Source Financial Crimes: 41%
Narcotics related financial Crimes: 15%
*Counterterrorism: 4%

Current fiscal year statistics, through April 2004 are:

Legal Source Tax Crimes 44%
Illegal Source Financial Crimes 39%
Narcotics related Financial Crimes 15%
*Counterterrorism 4%

Note: Percentages do not equal 100%; the remaining time is spent on reviewing information items or other non-case-related work such as protective details.

*Counterterrorism is a subset of the three programs but most time falls under illegal source income.

The Face of CI

CI is comprised of nearly 4,200 employees located throughout the United States and in seven foreign posts of duty. The workforce consists of 2,750 special agents and the remaining employees are tax fraud investigative aides, investigative analysts, compliance support assistants and various other administrative support personnel.

If the President's fiscal year 2005 budget proposal for the IRS is adopted, CI will hire 408 additional special agents and over 200 support personnel. This would be the largest hiring effort in CI history.

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. In addition, CI investigates anti-tax militants and international terrorists.

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 trafficker, 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 at the Federal Law Enforcement Training Center (FLETC), in Glynco, Georgia, that includes general criminal investigation techniques, as well as intensive training in forensic accounting and financial investigations. In addition, CI special agents routinely benefit from specialized anti-terrorist financing training designed and provided by the Department of Justice's Counterterrorism prosecutors. Their unique training and skills enable CI agents to analyze complex, often unusual, financial transactions, and easily equip them to investigate corporate fraud, organized crime and terrorism financing.

Of the 2,750 special agents, 100 are computer investigative specialists. Computer Investigative Specialists (CIS) use specialized equipment and techniques to preserve digital evidence and to recover financial data, including data that may have been encrypted, password protected or hidden by other electronic means.

As the incidence of computers found during enforcement actions has risen from 5% to 95%, the reliance on CIS agents to secure and analyze digital data has grown as well. In the past, agents might find a single personal computer; now they encounter multiple computers, often linked together in a network, each having the capacity to hold several truckloads of documents. For example, during fiscal year 2003, CIS agents seized more than 85 terabytes of digital information through warrants. To put that into context, the entire contents of the Library of Congress can be contained within 16 terabytes.

The CIS agents secure the data, filter it by eliminating programs and other files of non-evidentiary value, and then return the critical information to the investigating agent. The agent can then electronically review evidence, which is much faster than the manual paper procedures used in the past. This technique, together with the scanning of paper documents, puts the entire investigation in a digital format that allows the investigation team and prosecutors to locate items of interest, move files among themselves and digitally present evidence in today's electronic courtrooms.

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 anti-terrorism laws under Titles 31 and 18 of the United States Code.

Additionally, IRC, Section 6050 I, requires anyone involved in a trade or business, except financial institutions, to report currency received for goods or services in excess of \$10,000 on a Form 8300.

The combination of tax, money laundering and bank secrecy act statutes enables IRS to identify and investigate tax evasion cases involving legal and illegal income sources. Ultimately, this versatility leverages IRS' ability to be a major contributor to many important national law enforcement priorities.

IRS and the Bank Secrecy Act (BSA)

The Currency Transaction Report (CTR) came into existence with the passage of the Currency and Foreign Transactions Reporting Act, better known as the Bank Secrecy Act (BSA), in 1970. By 1975 only 3,418 CTRs had been filed in the United States.

When the first version of the CTR was introduced the only way a suspicious transaction of less than \$10,000 was reported to the government was if a bank teller called an agent and provided the information. This was due, primarily, to the concern by financial institutions about the Right to Financial Privacy. On October 26, 1986, with the passage of the Money Laundering Control Act, the Right to Financial Privacy was no longer an issue. As part of the Act, Congress had stated that a financial institution could not be held liable for releasing suspicious transaction information to law enforcement. As a result, the next version of the CTR had a suspicious transaction check box at the top. This was in effect until April 1996 when the Suspicious Activity Report (SAR) was introduced.

Currency reporting has changed since its introduction in 1970. There are now several different requirements for several different types of financial institutions as well as non-financial institutions. During calendar year 2003, nearly 14,000,000 currency forms were filed within the Currency Banking and Retrieval System (CBRS) at the IRS Detroit Computing Center.

The Department of 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 anti-terrorist financing infrastructure possible. Included in these overarching responsibilities is the need to ensure effective BSA compliance and enforcement.

In December 1992, the Department of Treasury delegated responsibility to the IRS for ensuring non-banking and financial institutions, not monitored by another federal agency, are in compliance with the BSA. These institutions include Money Service Businesses (MSBs), casinos, and non-federally insured credit unions. Under the delegation, IRS is responsible for the identification of MSBs and educational outreach on the requirements under the BSA. The IRS is also responsible for the examination of these institutions suspected of noncompliance. The IRS performs these compliance

functions along with its criminal enforcement role.

The processing and warehousing of BSA documents into the Currency Banking and Retrieval System (CBRS), including FBARs¹, CTRs², 8300s³ and SAR⁴s, 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.

To meet our obligations under 31 CFR 103.57(b) and Treasury Delegation Order 15-41 we ensure that certain financial institutions (FIs) are in compliance with their recordkeeping and reporting requirements under the Bank Secrecy Act.

This is accomplished by a balanced civil and criminal program that includes:

- Identifying financial institutions (FIs) under IRS jurisdiction,
- Identifying those FIs that are actively involved in or facilitate money laundering and seek ways to end this activity,
- Conducting BSA compliance examinations to identify or uncover potential areas of noncompliance, money laundering trends, patterns, schemes, and forwarding the information for use in enhancing the National Anti-Money Laundering Strategy developed by the Departments of Treasury and Justice,
- Undertaking an aggressive effort to assist FIs for which IRS has jurisdiction in understanding their role in combating money laundering and to voluntarily meet their obligations under the BSA,
- Actively participating in coordinated multi-agency anti-money laundering initiatives such as GTOs, HIDTAs, HIFCAs, and SAR Review Teams designed to disrupt and dismantle money laundering organizations,
- Securing information on currency transactions which should have been reported or recorded and make available to law enforcement and other interested parties, and
- Utilizing and evaluating various currency transaction reports as authorized for tax compliance activities.

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.

IRS' civil and criminal outreach efforts include State, and national associations affiliated with financial services industries. We provide keynote speakers, conduct seminars and provide educational programs relating to check cashers, bankers, tax practitioners, fraud examiners, corporate security personnel and bank security officers. This outreach and our efforts to contact money service businesses is a significant part of our program to identify and educate MSBs regarding their requirements to register their business with both the state and federal government.

IRS has approximately 358 civil examiners assigned to the anti-money laundering program. These examiners are currently conducting 5,576 examinations. In addition to the examination of non-banking financial institutions (NBFI), civil examiners also conduct reviews for compliance with the currency reporting requirements of Section 6050I of the Internal Revenue Code. As of March 31, 2004, the IRS NBFI database reflected over 88,000 potential NBFIs. From September 30, 2000 through May 2004, IRS has closed 13,288 examinations and conducted 5,940 registration examinations.

Usefulness of Bank Secrecy Act Data

The combined currency information in the Currency Banking and Retrieval System is extremely important for tax administration and law enforcement. The information provides a paper trail or roadmap for investigations of financial crimes and illegal activities, including tax evasion, embezzlement, and money laundering. IRS Criminal Investigation special agents and Assistant U.S. Attorneys can cite case after case where the in-depth review of information contained in one or more of these currency reports have led to a significant guilty plea, conviction, or asset forfeiture action.

IRS civil examiners access BSA documents to assist in on-going examinations. The CBRS database is also used to assist in providing information on most cases prior to examination and BSA information is included in all IRP documents. In addition, the CBRS database is used to identify cases for potential examination. For example, in many of our offshore trust schemes a search of CTRs can produce a literal 'wealth' of information.

Federal and state law enforcement agencies also find the CBRS data useful as evidenced by their participation in each of the 41 IRS hosted Suspicious Activity Report Review Teams (SAR-RT) located throughout the country in our 35 field offices. Nationwide approximately 300-345 law enforcement personnel are assigned, either full or part-time, to the SAR-RTs. These teams evaluate and analyze the SARs for case development and field office support. Each month, these SAR-review teams throughout the country review approximately 12,000-15,000 SARs.

Following are some examples of cases that either originated from BSA data or where BSA data served as a roadmap to confirming the crime:

CTRS Identify Employment Tax Fraud

A few Suspicious Activity Reports (SARS) can lead investigators to ambitious tax evasion schemes. In one such case a president of a construction company engaged in a sophisticated scheme to impair and impede the IRS in the ascertainment and collection of income taxes and employment taxes, file false personal and corporate tax returns and commit currency transaction violations.

During a three-year period the construction company was paid over \$41.8 million for work performed on major construction projects. The president of the company subsequently wrote checks made payable to an associate's firm for over \$16 million dollars of work ostensibly performed on the same projects. However, over \$8 million dollars of the checks were deposited in the president's personal accounts. Later, the president and others conspired to withdrawal \$7.6 million in cash with the specific intent to prevent the filing of Currency Transaction Reports (CTRs). Court records documented that over \$2.8 million was withdrawn from the account on 299 non-consecutive business days.

The cash withdrawn from the accounts was subsequently used to pay workers in cash, thereby evading employment taxes. This investigation also led to the uncovering of a \$6.5 million kickback scheme involving two executives of an auto part supply business.

Dealership Files False Form 8300

A former employee of a now-defunct used automobile dealership pleaded guilty to taking part in a complex money-laundering scheme intended to exchange drug sale proceeds for luxury vehicles. The employee pled to conspiracy to commit money laundering, obstruction of justice and two counts of money laundering. The charges carry a combined maximum penalty of 65 years in prison and a \$1 million fine.

One of the subjects admitted to helping create false invoices, financing and other documents to disguise customer identities and the true nature of financial transactions. The dealership was suspected of selling vehicles to known narcotics dealers and filing false Form 8300's in order to disguise the true purchaser of the vehicles.

Structuring Transactions

A pair was sentenced for financial crimes relating to money lending and check cashing business. The pair was sentenced after pleading guilty to conspiracy to violate federal law and structuring financial transactions to avoid federal currency reporting requirements. They were charged in an indictment, which included among other charges, a violation of 18 U.S.C. 1960, Operating An Illegal Wire Transmitter Business. The pair operated a money lending and check cashing business in which they extended loans and cashed checks at specified interest rates and fees. They deposited the receipts from their business into several bank accounts, which were held in the names of other individuals. They made over \$3 million in cash withdrawals from the accounts, which they split up into multiple transactions conducted at several different banks and branch offices.

Foreign Bank Account Records (FBAR)

IRS executed a seizure warrant to seize \$6,976,934.65 from a foreign bank's correspondent bank in New York, NY. This money represented the illicit proceeds of an offshore internet gambling operation owned and operated from the country of Antigua. The owner maintained the funds in an account with the foreign bank. The money was seized from the New York correspondent bank pursuant to Title 18, USC Section 981(k) that was enacted as part of the USA PATRIOT Act.

Analysis of BSA Filings Leads to Tax Fraud Conviction of Convenience Store Owner

The owner of several convenience stores, specializing in the sale of cigarettes and other tobacco products, was sentenced to serve 12 months in prison, 12 months probation and pay a fine of \$15,000. The sentence was a result of a guilty plea to one felony count of filing a false tax return. The target pled guilty to willfully filing a false Federal Income Tax Return for the year 1995, which materially under reported the income that the defendant had earned from his business. The defendant had been operating these businesses with his spouse as a partnership since 1995. The investigation documented that the target failed to report partnership income totaling approximately \$452,839 for a three-year period. The defendant used these funds to purchase a home for cash and to purchase stock worth approximately \$200,000. During the course of this investigation, SARs and CTRs filed on the target and his business were reviewed which described either large or structured currency deposits. These BSA filings provided leads of additional income for the target. This case was initiated as an offshoot of another investigation that began after the review of numerous CTRs that were deemed suspicious by the financial institution.

Suspicious CTR Filings Lead to Import Company Owner's Tax Evasion & Money Laundering Convictions

A business owner who operated a business that distributed various types of cooking oils to restaurants and retail stores was sentenced to 24 months in prison, 36 months of probation and fined \$5,000. This sentence resulted from a conviction on four counts of tax evasion, four counts of filing a false tax return and five counts of unlawfully structuring currency transactions. The target was convicted for structuring a series of transactions at two financial institutions by making cash deposits in amounts of less than \$10,000, which represented a portion of his customers' cash payments of \$20,000 or more.

This investigation was initiated when a financial institution directly contacted IRS special agents and provided six CTRs with the 'suspicious' block checked, detailing six currency transactions conducted at the bank by the business operator. Evidence developed from the BSA filings led the agents to execute search warrants at the subject's personal address and business location.

According to court documents, in 1996, the target deposited over \$1.3 million in cash deposits of under \$10,000. During that year, the subject made 134 cash deposits of \$9,800, one cash deposit of \$9,600 and one cash deposit of \$9,000. In 1997, he deposited over \$1 million in cash deposits of under \$10,000, consisting of 113 deposits of \$9,800, two deposits of \$9,006, seven deposits of \$9,005, three deposits of \$9,000, one deposit of \$8,600, and two deposits of \$8,000. The target failed to report business gross receipts of \$124,000 in 1994, \$166,000 in 1995, \$220,000 in 1996, and \$112,000 in 1997, which resulted in a tax loss to the government of over \$250,000. The tax charges were related to the target's 1994, 1995, 1996 and 1997 federal individual income tax returns.

SAR Leads to Former Bank Official's Sentencing on Fraud Charges

A former bank vice president and commercial loan officer, who defrauded a financial institution, was sentenced to 30 months in prison, five years supervised probation and ordered to make restitution of approximately \$415,000. This case was initiated from SARs filed by the institution that detailed the bank officer's activities. The sentence resulted from a guilty plea by the subject to one felony count each of money laundering and the misapplication of bank funds. According to court papers filed the target misused her position to process fraudulent loans at the bank and then converted the proceeds of the loans for her own and other family members' use. The subject prepared loan documents in 12 separate loans, falsely stating the name of the borrower and/or the purpose of the loan, and then approved the loan in her capacity as a vice president of the bank. The gross amount of the loans was nearly \$1 million and the net loss to the bank exceeded \$495,000. Agencies participating in this investigation include the IRS-CI and the FBI.

SARs Identify Money Laundering of Proceeds from the Sale of Marijuana

Four individuals involved in the distribution and sale of marijuana were sentenced to prison terms ranging from 12 to 21 months followed by up to 36 months probation. This investigation was initiated from the analysis of two SARs filed by two separate financial institutions, regarding the deposits of cash to the target's bank accounts. Many of the deposits were for amounts under \$10,000 and structured to avoid the currency reporting requirements. The structured transactions were conducted by depositing cash on consecutive days, making several deposits on the same day, and spreading the deposits among bank accounts at different institutions.

These sentences resulted from guilty pleas by the targets on one count each of money laundering for the manner in which they handled between \$350,000 and \$600,000 in funds traceable to marijuana trafficking. According to court papers filed, two of the defendants structured cash derived from the sale of marijuana into various accounts and then transferred the funds by check, wire transfer, or cash to the other two targets, operators of a concert promotion and nightclub business. These individuals subsequently used this business as a way to launder the money from the marijuana distribution business, disguising the money as legitimate business receipts and mixing it with proceeds from promotions and concerts. Agencies participating in this investigation include the IRS-Criminal Investigation, the FBI and a local police department.

As these examples reflect, the CBRS data is often the key piece of information that leads to the conviction of the criminal and stops an on-going crime. Many of these crimes would have gone undetected had it not been for the currency transaction report or the suspicious transaction report and the call from an alert banker.

Working with the Financial Institution Industry through Improved Technology

As financial investigators and income tax auditors, the agents of the IRS regularly seek access to bank records pertaining to taxpayers' financial transactions. Revenue agents conducting civil audits require bank records to verify transactions and reconcile financial records to bank account records. Criminal Investigation's special agents seek access to bank records in most of its investigations in order to "follow the money" as they track targets' financial transactions. The Internal Revenue Code permits both revenue agents and special agents to issue administrative summonses to banks and other financial institutions to obtain records, and prosecutors and special agents conducting grand jury investigations may issue grand jury subpoenas requiring banks to produce account holder transactional information. Today, most institutions provide paper copies of checks and other items in response to subpoenas and summonses.

Responding to subpoenas and summonses require financial institutions to maintain compliance offices within their home offices and branches. The statutory rate set to reimburse banks for complying with compulsory process does not cover the cost of maintaining those offices and searching for, copying, and producing requested records.

Criminal Investigation is currently working with several banks and banking industry organizations to develop a process by which both CI and the banks can centralize summons and subpoena requests and compliance. Implementation of those procedures will provide CI with faster response time and reduce the banks' production costs. These procedures may well serve as a model for all law enforcement agencies that would substantially reduce the costs banks incur each year to comply with government requests for transactional information.

IRS Bank Secrecy Act Partners at FinCEN

Currently IRS assigns both civil and criminal investigation senior analysts to act as the Liaisons to the Financial Crimes Enforcement Network (FinCEN). These individuals deal with issues ranging from the case support supplied by FinCEN to strategic implementation and interpretation issues pertaining to the Bank Secrecy and USA PATRIOT Act. Some activities include:

- During FY 2003, IRS-CI submitted a total of 373 requests to our FinCEN representative for research pertaining to 1,307 subjects for ongoing tax and money laundering investigations. Information requested included the search of commercial databases and law enforcement systems.
- IRS and FinCen jointly establish the priorities for types of nonbank financial institutions to be examined.
- In addition, CI maintains a database at FinCEN which houses information

pertaining to CI's Title 18 and 31 non-grand jury cases, which is used as a law enforcement database resource by the FinCEN analysts. Any positive hits from this database are disseminated to CI field office agents. The FinCEN database houses all requests for research received by FinCEN from Federal, State, Local and International sources. This database is only available at FinCEN.

FinCEN also generates proactive reports from their research of information derived from the Bank Secrecy Act. During FY 2003, FinCEN provided sixty-four proactive reports, which were forwarded to the appropriate CI Field Office.⁵ Also during FY 2003, FinCEN provided an additional eleven proactive reports relating to terrorism⁶, which were forwarded to our headquarters office for further review⁷.

During the fiscal year (2004), CI's pilot project Garden City Counterterrorism Lead Development Center has received 101 potential terrorism investigative leads from FinCEN.

FinCEN also coordinates with the eighty-four Financial Intelligence Units (Meeting the Egmont Definition), in scores of countries around the world. To assist ongoing investigations, FinCEN has set up procedures with these Financial Intelligence Units to obtain public, law enforcement and financial information from these respective entities. During the fiscal year 2003, IRS-CI submitted twenty-three requests and during the current fiscal year CI has submitted thirty Egmont requests. CI has also received during the fiscal year 2003, eighty-three significant foreign case information referrals generated from requests submitted to FinCEN by foreign Financial Intelligence Units⁸. These referrals were forwarded to the appropriate CI field office.

IRS and the USA PATRIOT ACT

Several sections of the USA PATRIOT ACT impact investigative activities of IRS. Some specific examples include:

- **Internet Service Provider**

Of specific benefit to IRS CI have been the provisions of the Act clarifying and modifying law enforcement's ability to obtain digital evidence from Internet service providers (ISPs). Investigations requiring information from ISPs often involve providers far removed from the site of the investigation or providers located in more than one jurisdiction. The sections providing for nationwide service of search warrants to ISPs (Sec. 220 of the Act), giving nationwide effect to orders authorizing pen registers and trap and trace devices (Sec. 216), expanding the categories of information obtainable via subpoena (Sec. 210), and allowing the use of search warrants to obtain stored voice mail messages (Sec. 209), have all eased the burden of obtaining and serving process in IRS cases.

⁵ In FY 04 through April 26, 2004, FinCEN has referred thirty-one proactive reports.

⁶ In FY 04 through April 26, 2004, FinCEN has referred seventy-one proactive reports relating to terrorism.

⁷ Tips from FinCEN Financial Institution Hotline have also been forwarded to HQ since August 2003. In FY 03, seventeen tips were referred and to date in FY 04 sixty tips were referred by FinCEN.

⁸ In FY 04 through April 26, 2004, FinCEN has referred thirty-seven foreign cases referrals.

- **Bulk Cash Smuggling**

Bulk cash smuggling became a criminal offense under Title 31 with the enactment of the USA PATRIOT Act, outlined in Section 371 of the Act. Codified in 31 U.S.C. §5332, this new statute prohibits any person, with the intent to evade a currency reporting requirement under 31 U.S.C. § 5316 (*i.e.*, Report of International Transportation of Currency or Monetary Instruments (CMIR)), to conceal more than \$10,000 in currency in any fashion, and to transport, or attempt to transport, such currency into or out of the United States.

Prosecution recommendations by IRS for violations of this statute may be considered but only within the confines of a money laundering investigation, where the source of the currency can be reasonably determined to be derived from “specified unlawful activity” (SUA).

IRS has had a substantial increase in case initiations and prosecution recommendations utilizing this statute, Title 18 USC §5332.

- **Prohibition of Unlicensed Money Transmitting Businesses**

Section 373 of the Act amends Title 18 USC 1960 (Prohibition of Unlicensed Money Transmitting Businesses). A person violates Title 18 USC §1960 if he or she knowingly conducts, controls, manages, supervises, directs or owns all or part of an unlicensed money transmitting business that effects interstate commerce by:

- a. Operating without a state license; or
- b. Failing to comply with MSB (Treasury’s) registration; or
- c. Transferring money knowing the funds transmitted were criminally derived or promote/support some unlawful activity.

CI’s jurisdiction over 18 USC §1960 is ancillary jurisdiction derived by extension through Treasury Directive 15-42 which gives CI jurisdiction over offenses having a tax nexus or Bank Secrecy Act nexus under 31 USC §5311 et seq.

IRS has had a significant increase its use of 18 USC §1960.

- **Sharing Information regarding transactions that may involve terrorist activity**

Section 314(a) of the 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 of April 1, 2003 through April 26, 2004, CI submitted

sixteen requests to FinCen pertaining to sixty-six individuals and seventeen businesses. These requests generated six hundred forty-six positive and fifty-one inconclusive matches with twelve hundred and seventy four financial institutions.

- **Summons or subpoena on a foreign bank that has a correspondent account in the US**

Utilizing section 319 (a) of the ACT CI has participated in two investigations wherein approximately \$3.5 million in funds was seized from accounts held at correspondent banks in the United States. Subsection (a) of Section 319, 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.

- **Financial institutions required to establish anti-money laundering programs**

Section 352 of the Act required all financial institutions, as defined by the Bank Secrecy Act, to establish an anti-money laundering program within six months of the passage of the USA PATRIOT Act.

- The IRS currently employs roughly 358 field examiners (including managers) in its Anti-Money Laundering (AML) program. The examiners are in dedicated AML groups, are supervised by AML trained managers and work full time in the AML program. Approximately 50 additional FTEs provide support to the examiners, including workload identification. Working in collaboration with FinCEN, community outreach is conducted to ensure Money Services Businesses are aware of their requirements under the BSA. The IRS is currently working with FinCEN to amplify their efforts to meet the challenges of extending BSA oversight to a number of industries under the BSA regulatory jurisdiction of the IRS.
- In anticipation of the additional examination requirements under Sec. 352 of the Patriot Act, the IRS SBSE Division requested an additional 100 FTEs in the FY04 budget. 70 of these positions have been funded by FinCEN and have been in place since FY03 examining Money Services Businesses (MSBs) for compliance with the new provisions as well as compliance with the SAR filing requirements. The remaining FTEs that were received in the request will be used to examine the compliance programs in the insurance industry and precious metals industry once the final regulations are effective. The precious metals industry has been one where the IRS has always maintained a presence under Sec. 6050 I of Title 26. Currently, we have a known population of roughly 4000 jewelry businesses, with a potential of another 25,000.
- The IRS is already working with FinCEN in formulating the examinations for the three operators of credit card companies that now have responsibilities for compliance program under Sec. 352.

- There are approximately 1600 insurance companies that will have a requirement under Sec. 352. In anticipation of the examination of these industries, as well as other industries that may be coming under Sec. 352, the IRS already is planning ahead to identify and address noncompliance in these areas. The IRS will be working with the industry and with FinCEN to identify risk in the insurance industry. Criteria for a risk based approach for the identification of MSBs, which includes the analysis of information in the Currency and Banking Retrieval System is already in place. In an effort to work with the Money Service Businesses, the IRS is moving to centralized examinations of these entities. The IRS, in collaboration with FinCEN, has also developed the framework that will give us the opportunity to work with the state regulators, thus, leveraging our resources.

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.

We are working in partnership with Treasury's Office of Terrorism and Financial Intelligence (TFI), 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.

Some specific current training conducted jointly with the Department of State and other law enforcement agencies such as the Bureau of Alcohol, Tobacco, Firearms, and Explosives (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.

Terrorist Financing Investigations and Iraqi Repatriation

Historically, our agents' financial investigative skills have enabled them to conduct complex investigations involving a wide range of crimes. Currently, our agents apply

these skills to investigations involving terrorist financing activities 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.

In addition, our work with OFAC has increased dramatically since the Department of Treasury's "trace and chase" activities began with the search for Iraqi assets. We are working closely with the Department of 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 anti-terrorist financing laws being drafted for Iraq.

Since 2003, 11 IRS special agents have been deployed to Iraq – in four separate rotations. However, total efforts regarding repatriation of Iraqi assets involved 33 different trips around the world – including Jordan, Syria, Switzerland, Saudi Arabia, Qatar and others – involving 20 different agents who are supported by two senior analysts in Washington.

IRS CI spends about four percent of our direct investigative time on counterterrorism investigations. (About 140 special agents and 20 support staff). Our Garden City Lead Development Center is dedicated to analysis of data pertaining to counterterrorism and is currently staffed with 12 analysts and one supervisor.

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 US 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 JTTFs 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. HIFCAs 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).

Technology and Terrorist Financing Investigations

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.

IRS' Terrorist Financing Lead Development Center

Experience gained during the last two 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 pro-actively 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 research 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.

Terrorism 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% involve tax violations;
- 97% involve participation with other agencies;
- 26% either were results of, or involve, Bank Secrecy Act data; and
- 18% involve purported charitable or religious organizations

IRS International Activities

- Aside from CI's association with domestic joint terrorism task forces, CI also participates in the international arena. Through efforts developed by the Department of 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. 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 is a permanent member of the US Delegation to the Financial Action Task Force (FATF) and its Caribbean equivalent (CFATF). We also helped draft 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 anti-terrorism 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 US national Central Bureau of INTERPOL has provided urgently needed identifying information to the OFAC in terrorist related actions.

Conclusion

Today we carry on our 85-year tradition of solving financial crimes in concert with our other partners in the Department of Treasury and the rest of law enforcement, and we do that by following the money. Just last month, IRS Commissioner Everson participated in a ribbon cutting ceremony in New York to mark the opening of a new joint agency strike force devoted to dismantling consolidated priority organizational targets (all types of organized criminal activity.)

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.

Madam Chairman, I thank you for this opportunity to appear before this distinguished subcommittee and I will be happy to answer any questions you and the other committee members may have.