



Audit Report



OIG-08-022

COMBATING TERRORISM: Treasury Provides Terrorism Information for Consolidated Watchlist Purposes Through Its Specially Designated Nationals List

December 14, 2007

Office of
Inspector General

Department of the Treasury

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Abbreviations

EO	Executive Order
FinCEN	Financial Crimes Enforcement Network
HSPD-6	Homeland Security Presidential Directive-6
NCTC	National Counterterrorism Center
OFAC	Office of Foreign Assets Control
OIG	Office of Inspector General
SDN	Specially Designated Nationals
TIDE	Terrorist Identities Datamart Environment
TSC	Terrorist Screening Center

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The Department of the Treasury
Office of Inspector General

December 14, 2007

Stuart A. Levey
Under Secretary for Terrorism and Financial Intelligence

This report presents the results of our audit on the Department of the Treasury's participation as it relates to providing information to the National Counterterrorism Center (NCTC). We undertook this review as part of a joint evaluation by the Intelligence Community Offices of Inspector General (OIGs) on the process for nominating individuals to the federal government's consolidated terrorist watchlist maintained by the Terrorist Screening Center (TSC). By analyzing information fed to it by a number of agencies through the NCTC, TSC generates the terrorist watchlist.

In brief, under the authorities granted to Treasury's Office of Foreign Assets Control (OFAC), Treasury provides terrorism information by placing individuals and entities on the Specially Designated Nationals (SDN) list.¹ NCTC is then able to electronically access this information to check the names against the Terrorist Identities Datamart Environment (TIDE). The SDN list identifies individuals and entities for the purpose of blocking their property and prohibiting transactions or dealings with them. This is the only mechanism that Treasury currently has to "nominate" individuals to the federal government's consolidated terrorist watchlist. We also found no indications suggesting a need for additional processes at this time. However, as the federal government's efforts to combat terrorism evolve, Treasury should regularly reassess whether additional processes or measures, apart

¹ OFAC administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction. OFAC acts under Presidential wartime and national emergency powers, as well as authority granted by specific legislation, to impose controls on transactions and freeze foreign assets under U.S. jurisdiction.

from SDN designations, are necessary to provide terrorism information to NCTC.

The objectives of the Intelligence Community OIGs' joint review and our scope and methodology are described in more detail in appendix 1.

We provided a draft of this report to the Under Secretary for Terrorism and Financial Intelligence. The Under Secretary stated in his response that his office had no further comments. The response is provided as attachment 2.

Background

Following the terrorist events of September 11, 2001, various efforts were undertaken to collect information on terrorists. One such effort, announced by the President in January 2003, was the Terrorist Threat Integration Center, created as part of the federal government's counterterrorism strategy. A key component of the Center was to ensure that the agencies and departments involved in the war on terrorism would work closely together and share threat information and analyses that could be used to prevent terrorist attacks.

Another effort, in September 2003, was Homeland Security Presidential Directive 6, *Integration and Use of Screening Information* (HSPD-6), to further strengthen the abilities of the federal government to protect its citizens against terrorism. Among other things, HSPD-6 required the Attorney General to establish an organization to consolidate the government's approach to terrorist screening and provide for the appropriate and lawful use of terrorist information in screening processes. That organization, TSC, became operational by December 2003 and is administered by the Federal Bureau of Investigation. HSPD-6 also required executive departments and agencies to provide to the Terrorist Threat Integration Center on an ongoing basis, all appropriate terrorist

information² in their possession, custody, or control as permitted by law.

Executive Order (EO) 13354, issued in August 2004, established NCTC under the direction of the Director of Central Intelligence. NCTC assumed the tasks of the Terrorist Threat Integration Center. In December 2004, Congress codified NCTC in the Intelligence Reform and Terrorism Prevention Act of 2004 and placed NCTC within the Office of the Director of National Intelligence.³ NCTC serves as the primary organization in the federal government for analyzing and integrating all intelligence possessed or acquired by the federal government pertaining to terrorism and counterterrorism, excepting intelligence pertaining exclusively to domestic terrorists and domestic counterterrorism.

NCTC's Terrorist Identities Group maintains the federal government's central repository of international terrorist identities information in support of the government's terrorist screening system and the intelligence community's counterterrorism mission. The Terrorist Identities Group obtains watchlist nominations from various sources and creates or enhances records in its terrorist identities database, TIDE. In turn, the Terrorist Identities Group exports terrorist identifiers (a subset of the data in TIDE) to TSC daily. TSC maintains this information in the federal government's consolidated terrorist watchlist, known as the Terrorist Screening Database.⁴

TSC supports law enforcement agencies and some foreign governments that conduct terrorist screening by making the Terrorist Screening Database information available to them for screening purposes. TSC's 24-hour call center also supports agencies' terrorist screening processes by determining whether the person being screened is an identity match to the Terrorist Screening Database. TSC supports terrorism screening at such agencies as the State Department (passport and visa applications),

² HSPD-6 defines terrorist information as information about individuals known or appropriately suspected to be or have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism.

³ P.L. No. 108-458.

⁴ The Federal Bureau of Investigation provides purely domestic counterterrorism information directly to the consolidated terrorism watchlist.

the Bureau of Customs and Border Protection (border crossings and international flights), the Bureau of Citizenship and Immigration Services (immigration and citizenship applications), and the Transportation Security Administration (domestic flights). TSC has also made terrorist identities information accessible through the National Crime Information Center system to law enforcement officers, including state and local officers, nationwide.

OFAC Sanction Programs

OFAC acts under presidential and national emergency powers, as well as authority granted by specific legislation, to impose controls on transactions and freeze foreign assets under the jurisdiction of the United States. Many of the sanctions are based on United Nations and other international mandates, are multilateral in scope, and involve close cooperation with allied governments.

Under the International Emergency Economic Powers Act,⁵ the principal statutory authority for OFAC's terrorism sanctions programs, the President, upon determining that there is an unusual or extraordinary threat, which has its source in whole or in substantial part outside of the United States, to the national security, foreign policy, or economy of the United States, may issue an EO declaring a national emergency with respect to the threat and specifying measures to be taken in response.

Such an EO will often include provisions blocking the assets of, and prohibiting U.S. persons from dealing with, designated individuals and entities that have been determined to be contributing to the threat addressed by the EO. The EO typically delegates authority to Treasury and the State Department to designate persons subject to the EO's prohibitions based on criteria set forth in the order. These designated persons are then included on the SDN list. Potential targets can be identified for designation pursuant to an EO and inclusion on the SDN list by one of the following methods: (1) internal investigations by OFAC or the Office of Intelligence and Analysis (OIA), (2) interagency processes where potential targets are forwarded to OFAC for possible

⁵ 50 U.S.C. §§1701-1706

inclusion on the list, or (3) requests from other countries or from international organizations such as the United Nations.

When a potential target is identified, OFAC or OIA analysts perform any necessary research to determine if there is sufficient evidence to support a finding that the target meets the criteria for designation under the applicable EO. An administrative record is prepared and includes descriptions of the information as well as the underlying evidence showing that the target meets the EO criteria. The record then goes through a series of reviews to ensure that it is a legal sufficient basis for the target's designation and that the designation is otherwise appropriate. If these requirements are met, the designation will be approved and a notice will be published on the OFAC Web site and in the Federal Register adding the designated person to the SDN list.

There are three specific EOs targeting terrorists and their supporters, and persons designated pursuant to those EOs are referred to as Specially Designated Terrorists or Specially Designated Global Terrorists. Names included in these groups are subsets of and are included in the SDN list. The SDN list also includes persons designated by the Secretary of State as Foreign Terrorist Organizations.

OFAC-Administered Terrorism Sanction Programs

OFAC administers terrorism sanctions programs under the following authorities:

- EO 13224 On September 23, 2001, President Bush declared a national emergency pursuant to the International Emergency Economic Powers Act and other authorities in EO 13224, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism." EO 13224 imposes economic sanctions on persons who have been determined to have committed or pose a significant risk of committing acts of terrorism, as well as on persons determined to be owned or controlled by such persons or to provide support to such persons or acts of terrorism. It prohibits any transaction with, or dealing in property or interests in property of, any person (i.e., an individual or entity) designated under its

authority, including the donation of funds, goods, or services, and it blocks all property in the United States or within the possession or control of a U.S. person in which there is an interest of any designated person.

- EOs 12947 and 13099 Prior to September 11, 2001, sanctions targeted terrorists threatening the Middle East peace process, who are referred to as Specially Designated Terrorists. In January 1995, President Clinton declared a national emergency pursuant to the International Emergency Economic Powers Act and other authorities in EO 12947, "Prohibiting Transactions With Terrorists Who Threaten to Disrupt the Middle East Peace Process." EO 12947 prohibits dealing in property or interests in property of any organization or individual designated under its authority and it blocks all property in the United States or within the possession or control of a U.S. person in which there is an interest of any designated person. Twelve terrorist organizations were named in the Annex to EO 12947. In August 1998, President Clinton issued EO 13099, which amended EO 12947 by adding three individuals including Osama bin Ladin and one organization, Al-Qaida, to the Annex of EO 12947.
- Antiterrorism Act The Antiterrorism and Effective Death Penalty Act of 1996 authorizes the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, to designate organizations meeting criteria as Foreign Terrorist Organizations.⁶ The act also makes it a crime for persons within the U.S. or subject to U.S. jurisdiction to knowingly provide material support or resources to a designated foreign terrorist organization. Additionally, except as authorized by Treasury, U.S. financial institutions in possession or control of funds in which a foreign terrorist organization or its agent has an interest are required to block such funds and report on the funds to Treasury.

According to OFAC, as of December 31, 2006, a total of 466 individuals and entities had been identified or designated and remain listed as Specially Designated Global Terrorists for having met one or more of the criteria for designation in EO 13224. Included in this total are 41 organizations or groups designated as

⁶ P.L. No. 104-132

foreign terrorist organizations by the Department of State under the Antiterrorism Act.⁷

Terrorists, terrorist groups, and terrorist support networks that are designated as a foreign terrorist organization, Specially Designated Terrorist, or a Specially Designated Global Terrorist are placed on OFAC's public list and generically referred to as SDNs. U.S. persons are prohibited from conducting unauthorized transactions or having other dealings with or providing services to the designated individuals or entities. Any property or property interest of a designated person that comes within the control of a U.S. person is blocked and must be reported to OFAC.

Treasury's Participation in the Terrorism Watchlist Nomination Process

We determined that Treasury does not have a specific process to nominate individuals to the consolidated terrorist watchlist. However, under sanctions programs administered by OFAC, when individuals are added to the SDN list, this information is communicated by electronic alert to NCTC to be checked against TIDE.

According to NCTC personnel, NCTC's Terrorist Identities Group did an initial processing of the SDN list during the last quarter of 2004 and then established a mechanism to receive periodic SDN list updates via e-mail directly from Treasury. Once notified of an addition to the SDN list, NCTC checks to see if the individual is

⁷ Source: OFAC report entitled *TERRORIST ASSETS REPORT Calendar Year 2006: Fifteenth Annual Report to Congress on Assets in the United States of Terrorist Countries and International Terrorism Program*.

already included in TIDE.⁸ If the individual is not included in TIDE, NCTC analysts determine whether the individual should be added. NCTC then exports the identifier information to TSC for use in the consolidated watchlist.⁹ When OFAC deletes an SDN, NCTC deletes the OFAC source from the TIDE record.

As part of our audit, we sought to determine whether Treasury should have a process other than the SDN list to provide terrorist information to NCTC for watch list purposes. We interviewed the Treasury Under Secretary for Terrorism and Financial Intelligence, the Assistant Secretary for Intelligence and Analysis, the Director of OFAC, the Director of the Financial Crimes Enforcement Network (FinCEN),¹⁰ and attorneys with the Office of General Counsel about their perspective on this subject. All the officials stated that Treasury did not need a separate nomination process. Furthermore, we did not find any indicators to suggest otherwise.

That being said, as the federal government's efforts to combat terrorism evolve, we believe that it would be prudent for Treasury to regularly reassess whether additional processes or measures are necessary to provide terrorism information to NCTC apart from SDN designations for purposes of the consolidated terrorist watchlist.

* * * * *

I would like to extend my appreciation for the cooperation and courtesies extended to my staff during the review. If you have any

⁸ According to NCTC, the specific categories of SDNs that are processed are: Specially Designated Terrorist, Specially Designated Global Terrorist, and Specially Designated Narcotics Trafficking Kingpin. Also processed are SDNs designated pursuant to EO 13315, "Blocking Property of the Former Iraqi Regime," issued in August 2003.

⁹ According to NCTC, when the SDN is a new name, the Terrorist Identities Group only selects options to export the identifier for purposes of screening visas and at ports of entry when exporting the data to TSC. As additional information about the individuals is received from other agencies, the TIDE record is updated and additional screening systems are selected and exported to TSC as appropriate.

¹⁰ Established in 1990 as an office and later designated as a Treasury bureau by the USA PATRIOT Act of 2001, FinCEN's mission is to support law enforcement efforts and foster interagency and global cooperation against domestic and international financial crimes, and to provide U.S. policymakers with strategic analyses of domestic and worldwide trends and patterns. FinCEN is the administrator of the Bank Secrecy Act. Among other things, this act requires financial institutions to file reports with FinCEN on currency transactions exceeding prescribed thresholds and on suspicious financial activities.

questions, please contact me at (202) 927-5400, or Robert A. Taylor, Deputy Assistant Inspector General for Performance Audit, at (202) 927-5792. The major contributors to this report are Thomas Byrnes, Audit Director (retired); Cynthia Milanez, Acting Audit Director; and Leslye Burgess, Audit Manager.

Marla A. Freedman
Assistant Inspector General for Audit

In December 2006, the Intelligence Community Inspectors General Forum agreed to coordinate a review of the processes for nominating individuals to the consolidated terrorism watchlist that is maintained by the Terrorist Screening Center pursuant to Homeland Security Presidential Directive-6.¹¹ The objectives of the review are to ascertain, both within agencies and across the intelligence community, whether:

1. processes and standards for nominating individuals to the consolidated watchlist are consistent (both within agencies and across the intelligence community), articulated in policy or other guidance, and understood by nominators;
2. quality control processes are in place to help ensure nominations are accurate, understandable, updated with new information, and include all individuals who should be placed on the watchlist based on information available to the agencies;
3. responsibility for watchlist nominations is clear, effective, and understood;
4. nominators receive adequate training, guidance, or information on the nomination process;
5. agencies maintain records of their nominations to the National Counterterrorism Center (and to the Terrorist Screening Center, in the case of the Federal Bureau of investigation), including the source of the nomination and what information was provided; and
6. organizations with terrorism, counterterrorism, and domestic counterterrorism information in their possession, custody, or control appropriately participate in the nomination process.

To accomplish these objectives as they applied to the Department of the Treasury, we reviewed applicable laws, regulations, and Executive Orders and obtained an understanding of the government wide process for placement of individuals and entities on the Terrorist Screening Database maintained by the Terrorist Screening Center. We also obtained an understanding of Treasury's (Office of Foreign Assets Control) process for adding individuals to the

¹¹ Participating in the review were the Offices of Inspector General (OIG) of the Office of the Director of National Intelligence, Central Intelligence Agency, Department of Justice, Defense Intelligence Agency, National Security Agency, Department of Homeland Security, Department of State, National Geospatial-Intelligence Agency, Department of the Treasury, and Department of Energy. The Office of the Director of National Intelligence OIG coordinated the review.

Specially Designated Nationals list for purposes of blocking their property and prohibiting transactions or dealings with the designated individuals. We interviewed Treasury officials and staff including the Under Secretary for Terrorism and Financial Intelligence, Assistant Secretary for Intelligence and Analysis, Director of the Office of Foreign Assets Control, and Director of the Financial Crimes Enforcement Network. We also interviewed staff with the National Counterterrorism Center. We did not, as part of work, test controls over the addition of individuals to the Specially Designated Nationals list or the provision of terrorism information by Treasury to the National Counterterrorism Center.

We performed our fieldwork from March through August 2007. Our audit was conducted in accordance with generally accepted government auditing standards.

Appendix 2
Management Response



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

December 7, 2007

Marla A. Freedman
Assistant Inspector General for Audit
Office of Inspector General
740 15th Street, NW
Suite 600
Washington, DC 20220

Dear Ms. Freedman:

Thank you for the opportunity to review the Treasury Office of Inspector General's draft audit report entitled, *Treasury Provides Terrorism Information for Consolidated Watchlist Purposes Through Its Specially Designated Nationals List*.

After reviewing the draft report, the Office of Terrorism and Financial Intelligence (TFI) has no further comments at this time.

Thank you for your efforts and should you have any additional questions please do not hesitate to contact me or my staff.

Sincerely,



Stuart A. Levey

Department of the Treasury

Under Secretary for Terrorism and Financial Intelligence
Assistant Secretary for Intelligence and Analysis
Director, Office of Foreign Assets Control
Director, Financial Crimes Enforcement Network
Office of Accounting and Internal Control
Office of Strategic Planning and Performance Management

Office of the Director of National Intelligence

Inspector General

Office of Management and Budget

OIG Budget Examiner