



# Department of Justice

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**STATEMENT**

**OF**

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ASSISTANT ATTORNEY GENERAL  
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**BEFORE THE**

**SUBCOMMITTEE ON CRIME AND TERRORISM  
COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE**

**AT A HEARING ENTITLED**

**“COUNTERING TERRORIST FINANCING: PROGRESS AND PRIORITIES”**

**PRESENTED**

**SEPTEMBER 21, 2011**

**Statement of Lisa O. Monaco  
Assistant Attorney General  
National Security Division  
U.S. Department of Justice**

**Subcommittee on Crime and Terrorism  
Committee on the Judiciary  
United States Senate**

**“Countering Terrorist Financing: Progress and Priorities”  
September 21, 2011**

Chairman Whitehouse, Ranking Member Kyl, and members of the Subcommittee, thank you for inviting me to testify today regarding the Department of Justice’s role in combating terrorist financing. The Department of Justice’s efforts to combat terrorism are closely coordinated with those of our interagency partners, some of whom are testifying with me here today. Our common objective is to deploy the counter terrorist financing tools available to the United States in a coordinated, integrated fashion to effectively disrupt the flow of funds and other material support to terrorist organizations.

The Department of Justice’s efforts in this regard fall generally into three categories, each of which I’ll address briefly today: our capacity building and technical assistance efforts with foreign governments; our participation in and defense of terrorist financing laws, regulations, and processes; and our investigation and prosecution of the individuals and networks involved in financing and supporting terrorism.

**Capacity Building and Technical Assistance**

Like our interagency colleagues, we at DOJ recognize that to be truly effective our counter terrorist finance efforts must be reinforced by other countries around the world. We have worked hard to help foreign governments develop their laws and capability to implement these laws for investigating and prosecuting terrorist financing to ensure that no jurisdiction provides a safehaven for the financial networks that support terrorist organizations. DOJ currently has State Department funded Resident Legal Advisers in Bangladesh, Kenya, Turkey, and the United Arab Emirates who are focused primarily on terrorist financing. In addition, DOJ’s network of 55 RLAs in countries around the world regularly provide technical assistance to the host government on terrorist financing laws and prosecutions.

In addition, DOJ has provided bilateral technical assistance to a number of foreign countries drafting or updating their counter terrorist finance laws, including Indonesia, Turkey, and Nigeria. We have also supported or assisted in scores of terrorist financing trainings around the world, including in Indonesia, Saudi Arabia, Yemen, Jordan, Azerbaijan, Turkey, and many other countries. The networks that finance and support terrorist organizations are international,

and our efforts effectively to disrupt those networks and bring their members to justice therefore rely critically on cooperation with capable foreign partners.

## **Review and Defense of Terrorist Finance Designations**

The Department of Justice also participates in the designation of Foreign Terrorist Organizations (FTO); Specially Designated Terrorists (SDT); and Specially Designated Global Terrorists (SDGT) and defends in litigation the laws and regulations that permit designation and outlaw the provision of financing and other forms of material support to terrorist organizations.

The terrorism-related designations process in the United States plays a critical role in our fight against terrorist financing and is an effective means of curtailing support for terrorist activities based on listing entities and individuals the government has identified as terrorists, terrorist organizations, or supporters of terrorism or terrorist organizations. There are three principal mechanisms through which the executive branch designates individuals, entities, or organizations as involved in terrorism: under the Antiterrorism and Effective Death Penalty Act (AEDPA) of 1996; under Executive Order 12947, Prohibiting Transactions With Terrorists Who Threaten To Disrupt the Middle East Peace Process (Executive Order 12947), and under Executive Order 13224, Blocking Property And Prohibiting Transactions With Persons Who Commit, Threaten To Commit, Or Support Terrorism (Executive Order 13224). Executive Orders 12947 and 13224 were issued pursuant to the International Economic Emergency Powers Act (IEEPA).

AEDPA and Executive Orders 12947 and 13224 each prescribe procedures whereby executive officials may make terrorism-related designations. AEDPA gives the Secretary of State the authority to designate FTOs. Executive Orders 12947 and 13224 give the Secretaries of State and of the Treasury the authority to designate SDTs and SDGTs, respectively. Under both, the lead agency (either the State Department or the Department of the Treasury) compiles a record of classified and unclassified information supporting the designation. Moreover, both AEDPA and the Executive Orders require the lead agencies to consult with DOJ on the basis of this record in making the designation.

Specifically, Department of Justice attorneys closely review the administrative record compiled for purposes of designating an entity as an FTO, or an individual or entity as an SDT or SDGT, to ensure that the record adequately supports the factual findings required by the applicable authority and to assess litigation risk in the event that a designation is subsequently challenged by the designated individual or entity.

Designation under the AEDPA or the Executive Orders introduces the possibility of a range of criminal and civil penalties as well as actions blocking and, potentially, confiscating the assets of the designee. Once an organization has been designated as an FTO under the AEDPA, knowingly providing material support or resources to that organization triggers criminal liability. It is also a criminal offense knowingly to receive military-type training from or on behalf of any organization designated as an FTO at the time the training takes place. FTO designation also has immigration consequences and financial repercussions, including blocking orders, forfeiture actions, and civil fines.

Designation pursuant to Executive Order 12947 or 13224 also blocks the property and interests in property of the SDTs or SDGTs, respectively, and prohibits U.S. persons from engaging in transactions with the designated individual or entity. Similarly, once an individual or entity has been designated an SDT or SDGT it is criminal to engage willfully in any transaction with such an individual or entity.

The Justice Department has defended a number of the components of this counter terrorist finance legal framework against constitutional and other challenges in litigation. Last year, in the Supreme Court case of *Holder v. Humanitarian Law Project*, the Department of Justice successfully defended provisions of the material support statute against claims that it was unconstitutional. Although the statutory provisions constituting “material support” challenged in that litigation included the provision of “personnel,” “training,” “service,” and “expert advice and assistance,” as I know the Subcommittee is aware, this material support law also prohibits the provision of any property, currency, monetary instruments, or financial securities. The Court, in an opinion authored by Chief Justice Roberts and joined by five other Justices, held that the material support statute was not unconstitutionally vague for purposes of the Due Process Clause and did not violate plaintiff’s constitutional rights of free expression and association.

The Department has also prevailed against challenges in litigation to the provision of AEDPA that grants the Secretary of State authority to designate organizations as FTOs.

We have also defended against constitutional challenges designations as SDGTs and other actions taken by the Department of the Treasury under IEEPA and Executive Orders 12947 and 13224. Persons and entities designated under those Executive orders can challenge their designations under the Administrative Procedure Act in district courts. We have successfully defended cases involving the Global Relief Foundation, the Holy Land Foundation, and the Islamic American Relief Association. (We are currently litigating cases involving the Al Haramain Foundation and Kindhearts.)

In sum, the Justice Department, in close coordination with our interagency partners, both participates in the designation processes and defends against challenges in litigation to the counterterrorist finance legal framework that supports the government’s authority to make such designations.

### **Investigation and Prosecution of Terrorist Financiers**

At its heart, the government’s counter terrorist finance efforts take aim at the monetary and material support terrorist groups need to sustain themselves and to plot and carry out attacks against innocent civilians. We must disrupt the networks that provide such support, often referred to as the lifeblood of international terrorist organizations, whether the support they provide comes in the form of currency, training, valuable equipment, or any of the other categories of material support proscribed by our criminal laws. As the Supreme Court noted in *Holder v. Humanitarian Law Project*, there is “persuasive evidence” that providing “material support to a designated foreign terrorist organization – even seemingly benign support – bolsters the terrorist activities of that organization.”

Acting Assistant Director Ralph Boelter mentioned in his testimony the 2011 guilty plea of Mohammad Younis, whose unlicensed money transmitting business was used to transfer money to Faisal Shahzad to fund his attempt to detonate a car bomb in Times Square, and of Abdul Tawala Ibn Ali Alishtari, who pled guilty to terrorist financing charges and was sentenced to 10 years for facilitating the transfer of more than \$150,000 to support terrorist training camps in Afghanistan and Pakistan. Let me mention a couple of other significant terrorist financing prosecutions.

- In October 2004, Abdurahman Alamoudi pled guilty and was sentenced to 23 years in prison for conduct that included facilitating the transfer of hundreds of thousands of dollars to a group plotting the assassination of Saudi Crown Prince Abdullah.
- In May 2009, five leaders of the Holy Land Foundation for Relief and Development were sentenced to terms ranging from 15 to 65 years for providing financial and other material support to HAMAS. These cases are currently on appeal.
- There are currently a number of cases charged and pending in the United States regarding the alleged transfer of funds to Al Shabaab terrorists in Somalia.

We have also brought a number of cases under Section 960A of Title 21, the narco-terrorism statute, to disrupt individuals and networks attempting to use narcotics proceeds to finance terrorist organizations such as the Revolutionary Armed Forces of Colombia (or FARC), the Taliban, and al Qaeda in the Islamic Maghreb. And we have prosecuted individuals for trying to conceal the financial interest that SDGTs maintained in their companies, Infocom and PTech, thus cutting off a potential source of funding and money laundering for such SDGTs.

As the result of a close working relationship between our prosecutors and our partners in the law enforcement and intelligence communities, we have been able to disrupt these and other attempts to finance terrorism, gain valuable information as a result of the cooperation of the defendants, and bring the defendants to justice, ensuring that they are safely behind bars in American prisons, not continuing to finance terrorist attacks against America and our foreign partners.

## **Conclusion**

As you have heard from all of my colleagues, United States Government efforts to counter terrorist financing have had some significant success over the past decade, but we have work yet to do. Terrorist organizations and their supporters continue to adapt and evolve their operations. To continue to be effective, we must continue to work with you to ensure that we have the authorities and capabilities necessary to effectively to counter terrorist financing. Thank you.