

Working with law enforcement has long been, and will continue to be, one of the strong and silent attributes of the financial services sector. When law enforcement achieves investigative success in myriad types of cases, it is often due in large part to the support of the banking community.



Working with Law Enforcement

BY DENNIS M. LORMEL

SPENT 31 YEARS IN GOVERNMENT SERVICE, three with the Internal Revenue Service and 28 with the Federal Bureau of Investigation (FBI). Throughout my law enforcement career, I had extensive experience working with the financial sector and witnessed firsthand how the contributions of dedicated banking professionals provided the evidence necessary to sustain prosecutions or positively influence other law enforcement actions and outcomes.

Personnel in various facets of banking, ranging from executive suites to back offices to frontline staff, work with law enforcement on a daily basis. They do so either directly by providing firsthand assistance, or indirectly through Bank Secrecy Act (BSA) reporting. Unfortunately, more often than not, these banking professionals do not realize the significance of their contributions to law enforcement and therefore to our economic and national security.

It is important to understand that the perspectives of law enforcement and the banking industry are vastly different in many respects. What is in the best investigative interests of law enforcement could well conflict with the best interests of a financial institution. In such cases, it is imperative that law enforcement and banks establish and maintain a meaningful dialogue to find an acceptable middle ground from which to work.

A series of brief case studies demonstrates how various financial institutions contributed to investigative successes. These cases illustrate the overall spirit of cooperation law enforcement enjoys with the financial industry today.

Stopping Securities Theft

In the early 1980s, the theft of securities, especially bearer bonds, was a significant crime problem. In one case, the FBI was working jointly with the New York Police Department (NYPD). Investigators traced stolen bearer bonds back to a prominent New York brokerage house as a point of theft. Law enforcement developed an undercover buy-bust scenario wherein an undercover agent (UCA) would purchase stolen bearer bonds. The FBI approached the chief executive officer (CEO), head of security, and general counsel of the prominent brokerage house about letting the scheme continue, which meant allowing additional securities to be stolen from the vault. Although this benefited the

investigation, the brokerage house would have been liable for any additional losses. The CEO, fully understanding his potential exposure to risk, consented to allow additional thefts to take place. In return, the FBI agreed to determine how the bearer bonds were being smuggled out and to provide that information to the brokerage house. As planned, the insider and intermediary attempted to sell the stolen securities to the UCA. After all the stolen securities were identified, the thieves were arrested in a buy-bust operation.

Over \$12 million in stolen bearer bonds were recovered as a direct result of the CEO's willingness to work with law enforcement.

Interrupting Theft of Bearer Bonds

In a mid-1980s case involving stolen bearer bonds, the head of security at a New York City bank facilitated the undercover purchase of \$23 million in stolen paper. In this instance, the FBI worked jointly with the NYPD and U.S. Secret Service. The buy-bust scenario required the use of a bank safe deposit box to show the suspects

\$1 million. The head of security identified a vacant banking floor on the lower level of a midtown branch that the undercover operatives could use. Working with senior bank management, the security director identified and addressed all issues of concern in a matter of hours. Investigators assured the bank the facility would be used only for show purposes and that no arrest would take place on the bank premises. When the suspects saw the show money in the safe deposit box, they left the bank to pick up the stolen securities. They were followed by investigators and arrested when they retrieved the stolen paper. This was a fast-paced case that succeeded primarily because of the decisive actions taken by the head of security, working in concert with law enforcement.





Uncovering Fraud

In the early 1990s, a branch manager at a bank in northern Virginia grew concerned about the activity of a relatively new business account holder. The branch manager conducted due diligence checks on the account holder and determined that the account activity was not consistent with the stated business purpose. After consulting with senior management, the branch manager filed a bank referral form and followed it up with a call to the FBI. Investigators responded and determined the business account holder was an advance-fee con artist running a Ponzi scheme. Because of the branch manager's immediate notification of the FBI and her continued cooperation with investigators, the con artist was arrested before he had a chance to flee and abscond with the proceeds of his fraud. Most victims' losses were recovered.

Commercial Loan Fraud

In the early 1990s at a community bank in northern Virginia, a bank vice president responsible for business development became concerned about loans the bank made to a construction company. He reported his concerns to an investigator in the bank, and a bank referral form was filled out and filed. The bank investigator contacted the FBI and agents met with the bank vice president and investigator. The business loans and fraud schemes were extremely complex and difficult to understand, so the bank vice president worked with agents to prepare detailed work papers setting forth the fraud schemes in an understandable chronology. The work papers were later used for evidentiary purposes in successfully prosecuting this case.

Investigating the 9/11 Attacks

Perhaps the defining moment for banks working with law enforcement came on 9/11. Initially, financial institutions were inundated with subpoenas and requests for information. Anyone providing financial records and responding to requests for information during that trying period played a more important role in law enforcement efforts than they could have possibly imagined. The 9/11 terrorists left behind a financial footprint that banks helped law enforcement find. Within days of the attacks, those responsible were identified and their financial records obtained. This monumental task was accomplished because of the responsiveness of the financial services sector.

Once the initial rounds of subpoenas were served and information obtained, the FBI was able to establish more focused investigative methodologies. Financial information was collected and assessed for strategic, tactical, and historic applications. At each juncture in this process, financial institutions played a critical role in working with law enforcement.

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Starting from the historical or traditional investigative perspective, law enforcement collected financial records and based on those records, set up spreadsheets analyzing transactional information linking the 19 hijackers to each other and to their facilitators. As the investigation evolved, proactive mechanisms were developed and put in place to track terrorists through their financial transactions, requiring direct and specific interaction with financial services providers. This cooperation became a powerful investigative tool that was used to help another country prevent six potential terrorist attacks. From a strategic perspective, financial intelligence was developed and used to identify patterns of activity and identify emerging trends, and BSA information was an important component of this process.

Throughout the financial services industry, and at all institutional levels, bankers contacted law enforcement to offer any and all assistance. A number of working groups were established at the national level to discuss how to best share information and resolve impediments and issues.

Because of the urgency of potential terrorist threats, the FBI established a 24-7 contact list of financial institutions. Between 9/11 and 2003, approximately 400 financial institutions joined the contact list. As select threats developed during that time frame, the designated bankers were contacted concerning specific leads of concern requiring more immediate responses. All information was provided to the FBI through lawful

means in accordance with bank privacy regulations.

The responsiveness of the financial sector was overwhelming. It clearly played a significant role in the FBI's ability to develop and implement proactive financial investigative methodologies.

Combating Mortgage Fraud

In view of the ongoing mortgage crisis, mortgage fraud has become a significant law enforcement priority. In April 2008, the FBI issued its 2007 Mortgage Fraud Report. The introduction contained the very telling sentence, "Combating mortgage fraud effectively requires the cooperation of law enforcement and industry entities." Looking at the totality of criminal and terrorist threats confronting us, that statement should read, "Combating criminal and terrorist financing effectively requires the cooperation of law enforcement and the financial services industry."

On June 19, 2008, the FBI and Department of Justice announced the results of "Operation Malicious Mortgage," a massive multi-agency takedown of mortgage fraud schemes involving more than 400 defendants nationwide. This type of operation is geared to maximize attention to a serious crime problem, in this case mortgage fraud, to

leverage media visibility and gain deterrence. This is a prime example of how the financial sector strongly and silently works, both directly and indirectly, with law enforcement to guarantee a successful result through a variety of means. Undoubtedly, many of the cases highlighted in this operation were predicated on suspicious activity reports (SARs) and supported by assistance received from bankers around the country in identifying, collecting, and developing evidence.

BSA Reporting

Without question, BSA reporting is an area in which financial institutions have worked successfully with law enforcement. Law enforcement is the primary beneficiary of BSA reports such as SARs and currency transaction reports (CTRs). Bankers do not often receive feedback concerning the importance of SARs and CTRs, but make no mistake about it: these reports are extremely important investigative tools. According to a February 2008 Government Accountability Office report on CTRs, approximately 40 percent of FBI terrorism subjects appeared on CTRs filed between January 1, 2000, and June 30, 2006. In a February 29, 2008 report on terrorist financing, the Financial Action Task Force stated, "Financial information—including that gathered from suspicious transaction reporting—has a central role in identifying terrorist financing and the movement of terrorist funds through the financial system."

SARs are the most frequent mechanism by which financial institutions work with law enforcement. The importance of SARs cannot be overstated. Issue 13 (May 2008) of the SAR Activity Review, a FinCEN publication, illustrates the importance of communication, coordination, and cooperation between financial institutions, regulators, and law enforcement. One hundred thirty-one law enforcement cases have been highlighted in the 13 SAR Activity Reviews.

Conclusion

The aforementioned cases demonstrate how law enforcement benefits from working directly with bankers. The cases also show how different components or functions within an institution can provide assistance. In addition, law enforcement has benefited greatly from other contributions from the financial community.

On a regular basis, working groups throughout the country bring together financial institutions and local, state, and federal law enforcement to share information and discuss issues of mutual interest and concern. Many of these working groups meet on a monthly or periodic basis. These informal groups foster strong liaison relationships that can result in case-specific cooperation. Law enforcement and bankers not participating in such local groups should seek to identify and join them.

In preparing for testimony before the House Committee on Finan-

The image shows a magnifying glass held over a form. The form has several sections with checkboxes and text. The magnifying glass is positioned over the 'Bank References' section, which includes fields for 'Phone Number' and 'Contact:'. Other visible sections include 'Corporation', 'Partnership', 'Sole proprietor', 'Government', 'Non-Profit', 'Years in business:', 'Tax Exempt? Yes', and 'Fax Number'. The magnifying glass is a black handle with a silver rim and a red button on the side.

In all respects, the financial institutions have gone to considerable efforts to provide subpoenaed information as expeditiously as possible, and have done everything possible within the legal framework to provide any cooperation requested.

cial Services, on October 3, 2001, I was asked to address obstacles the FBI was encountering in its efforts to obtain the cooperation of U.S. financial institutions. My testimony stated the following:

"The FBI has encountered no obstacles from U.S. financial institutions in our efforts to obtain their cooperation. The level of cooperation by U.S. financial institutions has been outstanding and nothing short of extraordinary. In all respects, the financial institutions have gone to considerable efforts to provide subpoenaed information as expeditiously as possible, and have done everything possible within the legal framework to provide any cooperation requested. The response we have received from the financial services sector as well as other private sector entities has exemplified the patriotism and sense of duty America was built upon. From a law enforcement perspective as well as from the perspective of an ordinary citizen, it has been heartening to witness the unwavering support law enforcement has received from American companies and citizens."

That statement is as true today as it was on October 3, 2001. In today's world, working with law enforcement has never been more important or challenging for financial institutions. Whether working directly with law enforcement in supporting specific investigations, or indirectly, through submission of SARs and CTRs, one fact is clear: Combating criminal and terrorist financing effectively requires the cooperation of law enforcement and the financial services industry. **BC**

ABOUT THE AUTHOR

Dennis M. Lormel, senior vice president of AML/terrorist financing for Corporate Risk International in Fairfax, Va., retired from the FBI in December 2003, following more than 30 years of government service—almost 28 years as a special agent. During his distinguished career, Lormel amassed extensive major case

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experience as a street agent, supervisor, and senior executive, particularly in complex, document- and labor-intensive financial investigative matters.

In December 2000, Lormel was promoted to chief, Financial Crimes Section, Criminal Investigative Division, FBI Headquarters, where he assumed program management responsibility for the FBI's White Collar Crime Program. In that capacity, Lormel implemented a series of noteworthy national investigative initiatives.

Immediately following the terrorist attacks of September 2001, Lormel formulated, established, and directed the FBI's comprehensive terrorist financing initiative. He developed and implemented a variety of proactive and progressive investigative methodologies. These efforts evolved into the formation of a formal section within the Counterterrorism Division of the FBI, known as The Terrorist Financing Operations Section. This multi-agency, multi-disciplined entity has attained international recognition as one of the world's elite operations for tracking, investigating, and disrupting terrorist-related financial activity. For his visionary contributions, Lormel received

numerous commendations and awards to include the Department of Justice, Criminal Division's, Assistant Attorney General Award for Investigative Initiative and the Central Intelligence Agency's George H. W. Bush Award for Excellence in Counterterrorism.

Since his retirement from the FBI, Lormel served as director of forensic audits with the AES Corporation, a leading multi-billion dollar global power company. Based on his recognized expertise, he accepted a position as senior vice president, anti-money laundering, with the full-service corporate security consulting firm Corporate Risk International. Lormel provides consulting services and training related to terrorist financing, money laundering, fraud, and financial crimes. He has shared his insight on terrorist financing and money laundering through speaking engagements at hundreds of domestic and international conferences. In addition, he is an adviser to the Congressional Anti-Terrorist Financing Task Force, chaired by Representative Sue Kelly. He also serves as a contributing expert to The Counterterrorism Blog. Reach him by telephone at (703) 359-3901 or via e-mail at dennis.lormel@corprisk.com.



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