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**Memorandum for the Record**

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Prepared by: Doug Greenburg  
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Present, non-Commission: Reynolds, Faith Burton  
Participants-Commission: Doug Greenburg and Serena Wille

This memorandum provides a summary of the most important points covered in the above-entitled interview, but is not a verbatim account. The memorandum is organized by subject and does not necessarily follow the order of the interview. The witness provided all of the information in this memorandum during the interview, except where noted by square brackets.

**Background**

Reynolds is the former chief of DOJ's Terrorism and Violent Crime Section (TVCS). This interview was conducted as a follow-on to the Staff's previous interview with Reynolds, which Team 4 could not attend due to a scheduling problem. The witness graciously agreed to make himself available for an additional session to address our issues.

**Pre 9/11 DOJ Efforts to Combat Terrorist Financing**

Reynolds said that his Section first started working on terrorist financial and logistical support networks in fall 1994. Previously, he had been focused on getting extraterritorial jurisdiction to prosecute terrorists who attack Americans overseas, which was accomplished by fall 1994. His section put together a package of legislation, which included a proposal directed at terrorist financing. Eventually, 18 of the 20 pieces of legislation in this package were enacted as part of the Anti-Terrorism and Effective Death Penalty Act. These 18 included what became 18 USC 2339B, which was substantially revised during the legislative process (favorably, in Reynolds' view), as well as amendments to make 2339A more useful.

TVCS had 12 attorneys plus two rotating Honor Program attorneys when it was working on this legislation. By the time it passed in April 1996, it had more resources, but not much more. Reynolds pushed for staffing and was partially successful. The Section hired a number of people with criminal prosecution backgrounds in 1996 and 1997, including Roger Weiner and Jeff Breinholt. Dick Shine came over from the Fraud

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Section. Weiner, Breinholt, and Shine became a team of three thinking about the material support issue, among other things.

The statute charged the Secretary of State with doing the FTO designations. State's first effort, however, revealed that the Department "didn't have a clue" about how to do it. Statute sent over designation packages that were wholly inadequate to support the designations. DOJ then took the lead in developing the designation packages. Dick Shine coordinated teams to develop the packages, drawing on TVCS personnel, as well as others at Justice. They coordinated with the Civil Division, which would have to defend the designations. The process was work intensive and a morale buster for newly hired TVCS personnel, who thought they would be prosecuting terrorism, rather than developing administrative packages. Ultimately, however, they did it, and the first round of designations was made in October 1997.

TVCS then turned to researching some key legal issues under the new statute, including the proper definition of "knowingly provide." At the same time, TVCS advised the U.S. Attorneys that they had to coordinate any prosecutions under the new statute with TVCS and began thinking about how to go about putting together a systematic program for prosecuting terrorist financing cases. The initial focus was on Hamas, which was thought to be the primary FTO raising money in the U.S., and TVCS met with Israeli officials on the issue.

The wall was a major problem in prosecuting terrorist financing before 9/11. According to Reynolds, the key to bringing terrorist fundraising cases was getting access to the relevant information in the FBI's intelligence files. The "lore" of the FBI indicated that there was substantial information about fundraising in the U.S. in the intelligence files. This lore was corroborated by glimpses of information DOJ saw through "otherwise illegal activity" requests and efforts related to the Alien Terrorist Removal Court. But, the FBI did not pass information of potential criminal activity over the wall, as it was required under the AG's 1995 Guidelines.

Reynolds said that after the FTO designations he expected a flood of information from the FBI about potential activity related to terrorist fundraising. The Guidelines were broad, and required the FBI to pass any information giving a reasonable indication that a federal crime has been, is being, or may be committed, regardless to whether it had sufficient evidence to prove a criminal case, or any admissible evidence at all. This did not happen. Instead, the FBI sent virtually no information about fundraising over the wall. Reynolds said, the problem as it related to terrorist financing was a part of the general problems with the wall and the 1995 guidelines, as addressed in the Bellows report.

Reynolds said he does not believe the FBI was mean-spirited or malevolent. Instead, the FBI was committed to doing intelligence investigations and feared that giving criminal prosecutors information would jeopardize their abilities to get and maintain FISAs and gather intelligence. In addition, he said it FBI agents were focused on potential violent

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threats and likely did not think the uncertain prospect of bringing a fundraising case justified the risk of losing a FISA investigation that might locate terrorist operatives

Because of the lack of access to intelligence information, TVCS could not develop a systematic approach to terrorist financing cases. Roger Weiner proposed the creation of a multi-agency task force to address terrorist financing, but Reynolds did not like this approach for two reasons. First, leading it was resource intensive, and TVCS resources were already stretched thin. Terrorist financing was one of many priorities for the Section. Its primary role was to indict and prosecute cases of terrorism. It brought many such indictments, usually not concerning al Qaeda, but rather cases concerning kidnappings or violence against Americans abroad, including Ecuador and the Philippines. Second, the key to success was getting the FBI to share intelligence information, and Reynolds believed that involving other agencies, such as Treasury, made the FBI far less likely to share the key information.

Reynolds said he had a number of conversations with Dale Watson and other FBI officials before 9/11 concerning the lack of terrorist fundraising information coming over the wall. The general response was that there was no relevant information to pass. He raised the issue internally at DOJ, and AG Reno was very familiar with his view. The wall issue as it related to terrorist financing became subsumed in the larger issue of dealing with the FBI concerning the wall and the 1995 Guidelines. Efforts were made, including a package Dick Shine put together documenting examples of information the FBI should have passed over the wall but did not. The problem, nevertheless, persisted until 9/11. Reynolds reiterated his view that Watson and the other FBI agents were dedicated hard working and not malicious or mean-spirited. Still, in his view, the FBI never complied with the 1995 Guidelines before 9/11.

TVCS tried to do some investigations without the FBI information, including an effort to compare Tinfoff data with FinCEN data and a project focused on Hamas, based on [redacted]. The first effort generated no useful leads. As to the Hamas project, [redacted] provided information purportedly indicating U.S. funding for families of suicide bombers, but, after laborious translation, TVCS found the evidence not compelling. This effort reinforced Reynolds' view that terrorist financing investigations were labor intensive and could not be done without investigating agents.

We reviewed with Reynolds the May 1, 2000 memorandum to him from Jeff Breinholt, entitled "Legal Analysis of Issues Relating to Investigation and Prosecution of Terrorist Financing." [This unclassified document was made available for Staff review at DOJ, but was not produced]. He said he did not recall it, although he recalls discussing all the issue contained in the memo with Breinholt in that time frame. He said the only new thing Breinholt was proposing at the time was the use of the domestic security or terrorism part of the AG investigative guidelines to go after terrorist fundraising.

Reynolds said he did not recall the origin of the Breinholt memo. It could have been that Breinholt was inspired to write it by his idea about using the security/terrorism guidelines. Reynolds said that another possibility was that Breinholt wrote the memo

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after Reynolds told him that Richard Clarke had raised the issue of terrorist financing in the U.S. at a CSG meeting. According to Reynolds, Clarke came in one day with some "stark stuff" he found on the internet indicating militant groups were soliciting support in the U.S. He asked Reynolds what he was doing about it. Reynolds said Clarke's interest may have led to the memo.

Generally, Reynolds said that Clarke was interested in terrorist fundraising in the U.S. Roger Weiner attended the small group meetings that Clarke set up to address this issue. Clarke wanted to know why DOJ was not prosecuting 2339B cases. Reynolds said he told Clarke it was a long way from printing something off the web to bringing a criminal case. He said he does not know if he raised the wall problem with Clarke, although he said Clarke was aware of the wall issues. He does not recall talking about the lack of access to the FBI's intelligence files in the context of explaining the lack of terrorist fundraising prosecutions.

In summary, Reynolds said the two main issues limiting TVCS efforts to combat terrorist fundraising before 9/11 were (1) lack of access to the FBI intelligence files; and (2) resource limitations. He said these issues were one and two in a June 2001 memo he wrote to Criminal Division head Michael Chertoff, when Chertoff requested a "wish list" of each sections realistic desires. Reynolds described TVCS as a small section with broad responsibilities. Without access to FBI files and greater resources, TVCS could do little to prosecute terrorist financing before 9/11.

Reynolds said his section played a leading role in developing an international convention on terrorist financing. TVCS made a presentation on anti-terrorist financing laws in December 1997 at the G-8 meeting. Then, only the UK had a terrorist fundraising law. After the meeting, the French proposed an international convention. TVCS assigned a French-speaking attorney to work with the French, and, working closely together, they did develop an international convention, which became the primary UN resolution against terrorist financing after 9/11. TVCS also worked on a project to prevent USAID from going to groups that supported terrorism.

**Post 9/11**

Reynolds said that after 9/11, he was involved in many issues and had only limited involvement in terrorist financing. Jeff Breinholt is the best source on what happened. Generally, Reynolds agrees the two key pre 9/11 problems were solved. The wall came down, and more resources were made available (by borrowing from other places).

Reynolds said he is not an expert on complex international fraud cases. His background is in prosecuting violent crime. That said, he expressed the view that terrorist financing cases were as hard as complex international fraud cases, but not harder.