

**NOMINATION OF JANICE B. GARDNER TO BE
ASSISTANT SECRETARY OF THE TREASURY FOR
INTELLIGENCE AND ANALYSIS**

HEARING
BEFORE THE
SELECT COMMITTEE ON INTELLIGENCE
UNITED STATES SENATE
ONE HUNDRED NINTH CONGRESS
FIRST SESSION

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CONTENTS

Hearing held in Washington, DC:	
June 16, 2005	1
Statement of:	
Roberts, Hon. Pat, Chairman, a U.S. Senator from the State of Kansas	1
Rockefeller, Hon. John D. IV, Vice Chairman, a U.S. Senator from the State of West Virginia	2
Bond, Hon. Christopher S., a U.S. Senator from the State of Missouri, prepared statement	3
Testimony of:	
Gardner, Janice B., Nominee to be Assistant Secretary for Intelligence and Analysis, U.S. Department of the Treasury	4
Prepared statement	3
Supplemental Materials:	
Questionnaire for Completion by Presidential Nominees	17
Additional Pre-hearing Questions for Janice B. Gardner	37
Letter to the Honorable Pat Roberts, Chairman, Senate Select Committee on Intelligence, from Kenneth R. Schmalzbach, Assistant General Counsel (General Law & Ethics) and Designated Agency Ethics Offi- cial	44
Letter to Marilyn L. Glynn, Acting Director, U.S. Office of Government Ethics, from Kenneth R. Schmalzbach, Assistant General Counsel (Gen- eral Law & Ethics) and Designated Agency Ethics Official	45
Letter to the Honorable Pat Roberts, Chairman, Select Committee on Intelligence, from Marilyn L. Glynn, Acting Director, U.S. Office of Government Ethics	46
Public Financial Disclosure	47
Letter to Kenneth R. Schmalzbach, Assistant General Counsel (General Law & Ethics) and Designated Agency Ethics Official, from Janice B. Gardner	53

**NOMINATION OF JANICE B. GARDNER TO BE
ASSISTANT SECRETARY OF THE TREASURY
FOR INTELLIGENCE AND ANALYSIS**

THURSDAY, JUNE 16, 2005

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC.

The Select Committee met, pursuant to notice, at 3:22 p.m., in room SDG-50, Dirksen Senate Office Building, the Honorable Pat Roberts (Chairman of the Committee) presiding.

Present: Senators Roberts and Rockefeller.

OPENING STATEMENT OF SENATOR PAT ROBERTS, CHAIRMAN

Chairman ROBERTS. The Committee will come to order.

The Committee meets today to consider the nomination of Janice Bradley Gardner to serve as Assistant Secretary of the Treasury for Intelligence and Analysis. Ms. Gardner, the Committee welcomes you here today and we thank you for your commitment and for your contributions up to this point on behalf of our country.

If confirmed, Ms. Gardner will be the first person to serve in this position since it was created by Congress in the Intelligence Authorization Act for Fiscal Year 2004. That legislation also established the new Office of Intelligence and Analysis—OIA—to replace the Treasury Department's Office of Intelligence Support—OIS. So, I guess you're leading off with the alphabet instead of down toward the end.

In creating this new office and position, the House and Senate conferees sought to ensure full, appropriate and timely sharing of information and analysis with regard to financial networks associated with international terrorism. Thus, the OIA is intended to streamline and to centralize the U.S. Government's capabilities to track terrorist financing networks all across the globe.

In fulfilling this goal, the Office of Intelligence and Analysis has two primary functions—first, the creation and maintenance of a robust analytical capability to provide the OIA with in-depth analysis to target and attack the financial infrastructure of terrorist groups; and, second, to provide an enhanced intelligence liaison for Treasury's senior leadership with respect to the full range of international economic and political issues.

Now, given these functions, we fully expect the OIA to be treated as a full partner—a full partner—in the intelligence community, receiving all intelligence, law enforcement and other information nec-

essary for it to fulfill its mission. The Vice Chairman and I call that information access.

While the funding and personnel levels of the Office of Intelligence and Analysis are classified, the fiscal year 2006 budget request for OIA reflects, I think, the significant expansion of Treasury's role within the intelligence community. If confirmed, Ms. Gardner will be responsible for managing these resources in such a way as to ensure the fulfillment of the intent of Congress in creating the OIA. I hope that she will work closely with us as we exercise oversight of the OIA and its work as part of the intelligence community.

Ms. Gardner comes to this task with an impressive background of public service in the intelligence community. She is an analyst by training. She has served in a variety of positions within the community, including the Office of the Director of Central Intelligence, the National Security Council, the Office of the Vice President and, most recently, the Treasury Department.

Ms. Gardner, the Committee looks forward to hearing your views about the issues, tasks and challenges that will confront the OIA as well as your plans to address them.

Before hearing from the nominee, I'm happy to recognize the distinguished Vice Chairman for any remarks that he might wish to make.

Senator Rockefeller.

**OPENING STATEMENT OF
SENATOR JOHN D. ROCKEFELLER IV, VICE CHAIRMAN**

Vice Chairman ROCKEFELLER. Thank you, Mr. Chairman.

We meet today to consider the nomination of you, Ms. Janice Gardner, to serve as the first Assistant Secretary of the Treasury for Intelligence and Analysis, and it is a historic occasion. I rarely come to this room. This is only the second hearing I've ever been to in this room. It's the first time that an intelligence official from the Treasury Department has come before this Committee for a confirmation hearing. And, interestingly, it's also the hearing room that accommodated the Church Committee, which I did not know, and then in turn became the original committee space for the Intelligence Committee before our current offices were constructed in the Hart Building.

I am pleased that the new Treasury Department Office of Intelligence and Analysis, to be headed by the Assistant Secretary, will not only expand Treasury's role in the intelligence community, but will play an important role in enhancing the intelligence community's ability to address terrorist finance issues, which our former Chairman, Bob Graham, keeps calling me about and wondering why we're not making more progress.

In the post-9/11 security environment, there are few more important intelligence priorities than being able to successfully collect against and analyze how terrorist organizations such as al-Qa'ida fund their operations. The intelligence community must be able to gain a thorough understanding of terrorist financing from the banking and mainstream financial sector. In addition, we must be able to understand and monitor alternative terrorist financing

mechanisms—for example, the trade in commodities such as gold or diamonds.

The Treasury Department's expertise in this area should significantly improve the intelligence community's ability to understand and ultimately disrupt the financial lifeline that supports terrorist groups around the world.

The nominee seems well qualified for this important position. Ms. Gardner, I join the Chairman in welcoming you to the Committee today and am anxious to listen to what you have to say.

Thank you, Mr. Chairman.

[The prepared statement of Senator Bond follows:]

PREPARED STATEMENT OF HON. CHRISTOPHER S. BOND, U.S. SENATOR
FROM MISSOURI

Ms. Gardner, it was a pleasure meeting you last week and having the opportunity to hear about the several successful programs that Treasury is pursuing in support of the Global War on Terrorism. As we discussed, it is imperative that the Intelligence Community and the Treasury Department, as our lead organization in this part of the fight, continue to stay hot on the trails of money used by those who would do us harm by striking the homeland and attacking U.S. soldiers, citizens and our interests abroad. I commend both you and your colleagues at Treasury for the work you've done, and that you do, every day.

I intend to support fully your confirmation as Assistant Secretary for Intelligence and Analysis at Treasury. You are impressively qualified for this position. Your experience as a manager and analyst at the Central Intelligence Agency, a forward-deployed analyst with the State Department, as well as service at the National Security Council and in the Vice-President's Office make you an ideal nominee. While you understand the craft of intelligence, because you've practiced it, *and in the field*, you also have a very solid policy background which an Assistant Secretary for Intelligence and Analysis will undoubtedly need.

Further, you have a proven track record at Treasury. As the Deputy Assistant Secretary for Intelligence and Analysis, you have been a key player in standing up the Office of Intelligence and Analysis (OIA). You drafted OIA's strategic plan, created new intelligence products and most importantly, have helped translate that intelligence into action by the Treasury Department. Treasury will face challenges, as do all members of the Intelligence Community, in fighting and working against existing enemies whose tactics invariably change and new ones looming over the horizon. Meeting these challenges and defeating our enemies requires solid leadership and vision along with a commitment to action—qualities you have demonstrated to possess.

And so, I look forward to your continued efforts to enhance Treasury's intelligence capabilities and to produce more and more authoritative intelligence products in support of the Department's and United States government's counter-terrorism and law enforcement efforts. Thank you for your continued service to our country. I wish you success during the confirmation process.

Chairman ROBERTS. I thank the Vice Chairman for his comments.

Ms. Gardner, you may begin. Welcome to the Committee.

[The prepared statement of Ms. Gardner follows:]

PREPARED STATEMENT OF JANICE B. GARDNER, NOMINEE TO BE ASSISTANT
SECRETARY FOR INTELLIGENCE AND ANALYSIS, U.S. DEPARTMENT OF THE TREASURY

Chairman Roberts, Ranking Member Rockefeller and distinguished Members of this committee, it is an honor for me to appear before you today. It is a privilege to have been nominated by President Bush to be the first Assistant Secretary of the Treasury for Intelligence and Analysis. I thank him, Secretary John Snow and DNI Negroponte for their confidence in recommending me for this important position. If confirmed, I look forward to working closely with this Committee, the U.S. Senate and your colleagues in the House of Representatives to disrupt financing for terrorism and other national security threats.

I'd also like to thank my friends and colleagues who are here with me today. This work is truly a team effort, and I greatly appreciate their support. Although my par-

ents are not here today, I'd also like to thank them for all their encouragement and support over the years.

I am a career intelligence professional with over 20 years of experience. I first came to the Department of the Treasury in November 2002 as the Secretary's intelligence briefer and senior liaison officer. When the Office of Terrorism and Financial Intelligence (TFI) was created last year, I became the Deputy Assistant Secretary for the new Office of Intelligence and Analysis (OIA). Over the past year, I have helped Under Secretary Levey lead the effort to set up the new office.

I've been fortunate to have a variety of challenging analytical and managerial assignments throughout my career. I started as an intelligence analyst working on East Asia, primarily Japan and Korea. I served on a rotation to the State Department as an economic officer in the U.S. Embassy in Tokyo. My first management assignment came in 1993 as chief of the Persian Gulf Branch in the Office of Near East and South Asian Analysis. I have also served in some key staff positions, including the executive assistant in the Office of the Director of Central Intelligence, the DCI representative to the National Security Council and staff officer in the Vice President's office. Prior to being assigned to the Treasury Department, I served as Deputy Director of the Foreign Broadcast Information Service, where I oversaw roughly 1,000 U.S. and foreign national staff and independent contractors.

Mr. Chairman, if confirmed, I would focus on five key strategic areas:

- For the first time, the Department's intelligence office is *producing all-source intelligence analysis* on terrorist financing and other national security threats. Prior to the creation of OIA, the intelligence office served primarily as a liaison office for senior policymakers in the Department. The new office is now working to provide insightful intelligence analysis that is focused on supporting the full range of Treasury's authorities to cutoff illicit financing. While the office has already developed a current intelligence process, if confirmed, I would build a capability to produce strategic intelligence analysis that supports long-term policy development directed at national security threats to the financial system.

- The Office is also working to *enhance intelligence support to the Department on the full range of political and economic issues*. As a member of the National Security Council, Treasury needs timely intelligence on fast-breaking events, as well as in-depth analysis from experts from the intelligence community. Thus, if confirmed, I would work to better integrate intelligence into the policy process and improve support to all aspects of the Department's mission.

- As a member of the Intelligence Community, the Department needs to *reinvigorate its relationship with the rest of the community*. The Secretary has already met with the new Director of National Intelligence, and, if confirmed, I plan to devote much of my focus and energy to re-engage Treasury in IC forums. As you know, our office is the smallest component in the IC, but I believe that it can make a significant contribution to the community on both collection and production issues.

- Under the Treasury Order that created the Office of Terrorism and Financial Intelligence, the Office of Intelligence and Analysis was designated to *coordinate and oversee all intelligence analysis within the Department*. The Department houses the bulk of the financial information in the U.S. Government, as well as expertise on the global financial system. OIA will serve as the focal point that fuses financial data from the Office of Foreign Assets Control (OFAC) and Financial Crimes Enforcement Network (FinCEN), as well as the Intelligence Community.

- As a new office, OIA must make a *significant investment in its future*, particularly in its human resources and information technology infrastructure. I've been spending a large portion of my time as the Deputy Assistant Secretary trying to ensure that we have the capability to produce the kind of sophisticated analytical products that OIA is uniquely positioned to provide. If confirmed, I will work closely with Under Secretary Levey, the Assistant Secretary for Management and the Chief Information Officer to ensure that the office has the tools necessary to get the job done.

Mr. Chairman, Senator Rockefeller, I am grateful for this opportunity to appear before you today. I would be pleased to answer any questions you and the other Members of the Committee may have.

STATEMENT OF JANICE B. GARDNER, ASSISTANT SECRETARY OF THE TREASURY FOR INTELLIGENCE AND ANALYSIS-DESIGNATE

Ms. GARDNER. Thank you very much. Chairman Roberts, Ranking Member Rockefeller, it is really an honor for me to appear before you today. It's a privilege to be nominated by President Bush

to be the first, as you mentioned, Assistant Secretary of the Treasury for Intelligence and Analysis. And I also thank Secretary Snow for his confidence in recommending me to this important position. I met with Ambassador Negroponte and General Hayden yesterday, and I also greatly appreciate their support for me in this position.

If confirmed, I look forward to working closely with this Committee, the Senate, as well as your colleagues in the House of Representatives to disrupt financing for terrorism and other national security threats.

As you noted, I'm a career intelligence professional with over 20 years of experience. I first came to Treasury as the Secretary's intelligence briefer in 2002 and the senior liaison officer. When the Office of Terrorism and Financial Intelligence was created last year, I became the Deputy Assistant Secretary for the new Office of Intelligence and Analysis, and over the past year I've been helping Under Secretary Levey stand up this new office.

I've been fortunate to have a variety of challenging analytical and managerial positions throughout my career. I started as an intelligence analyst working on East Asia, primarily Japan and the Koreans. I've served in some key staff positions, as you noted, including executive assistant in the Office of the DCI, served as the DCI rep at the National Security Council, and also worked in the Vice President's office. So I've been very lucky to have these good opportunities.

Mr. Chairman, if I'm confirmed, I would focus on five strategic areas. First, as you noted, for the first time the Department's intelligence office will be producing all-source intelligence. Before this office was created, we were primarily a liaison shop, which was passing both raw and finished intelligence to the senior policymakers in the building. While the office has already developed some processes for the current intelligence process, if confirmed I would build a capacity to produce strategic intelligence analysis that supports long-term policy development directed at national security threats to the financial system.

Second, the office is also working to enhance the existing function that we had in terms of the full range of political and economic support for the Department. As you know, the Treasury Department is also a member of the National Security Council, and the senior policymakers need just-in-time intelligence for fast-breaking items, as well as in-depth analysis from the intelligence community. So, if confirmed, I would work to better integrate intelligence into the policy process and improve all aspects of support to the Department's mission.

Third, as a member of the intelligence community, the department really needs to reinvigorate its relationship with the rest of the intelligence community. The Secretary has already met with DNI Negroponte and, if confirmed, I would plan to devote a lot of my time and energy to re-engage Treasury in IC forums. As you know, our office is the smallest of the intelligence components, but I believe that it can make a significant contribution in terms of both collection and production issues.

Fourth, the Office of Intelligence and Analysis has been designated as the office that will coordinate and oversee all intel-

ligence analysis throughout the Department. The Department houses the bulk of financial information across the board in the U.S. Government, as well as expertise in the global financial system. If confirmed, I will work closely with the Directors of the Office of Foreign Asset Control, OFAC, as well as the Financial Crimes Enforcement Network, called FinCEN, to build a broad analytical capacity within the Department.

And finally, as a new office, OIA must make significant investments in its future and as a new office that's primarily human resources as well as information technology infrastructure. I've been spending a major part of my time as the Deputy Assistant Secretary trying to ensure that we have the capability to produce the kind of sophisticated analytical products that I believe OIA is uniquely positioned to provide. If confirmed, I would work closely with Under Secretary Levey, the chief information office, as well as the Assistant Secretary for Management, to ensure that the office has the tools necessary to get the job done.

So, Mr. Chairman and Senator Rockefeller, I am grateful for this opportunity to appear before you today, and I'd be pleased to answer any questions that you may have.

Chairman ROBERTS. I have some questions for you that are routine but, nevertheless, are very important and I will proceed with those at this time.

Does the nominee agree to appear before the Committee here or in other venues when invited?

Ms. GARDNER. Yes, I do.

Chairman ROBERTS. Ms. Gardner, do you agree to send Treasury intelligence officials to appear before the Committee and designated staff, when invited?

Ms. GARDNER. Yes.

Chairman ROBERTS. Do you agree to provide documents or any materials requested by the Committee so that it can carry out its oversight and legislative responsibilities?

Ms. GARDNER. Yes.

Chairman ROBERTS. Will you ensure that all Treasury Department entities provide such material to the Committee, when requested?

Ms. GARDNER. Yes, I do.

Chairman ROBERTS. Do you agree to provide such other information that the Committee may require so that it can carry out its oversight and legislative responsibilities?

Ms. GARDNER. Yes, I do.

Chairman ROBERTS. I thank you for your responses.

My first question is in regard to the focus of your enhanced analysis capability. Before the creation of the OIA, the Department's intelligence office did not produce any analytical products. The former Office of Intelligence Support served primarily in a liaison function, ensuring that the products of other intelligence community components were disseminated to the principals in the Department. Explain in brief how you plan to expand the range of analytical products that the Office of Intelligence and Analysis will produce.

Ms. GARDNER. The vision for the office is to create a center of expertise for terrorist financing as well as the financial underpin-

nings of other national security threats. Like INR, our office is largely a departmental intelligence shop, basically taking intelligence from throughout the intelligence community and making it actionable intelligence. I know that's somewhat of an overused phrase, but what we're doing is trying to take the intelligence that comes into the building and apply the full range of Treasury authorities that we could use against them.

So the current intelligence process is just making sure that when we get the information that we're able to give it to the policy-makers, who can then assign an action and we can ensure follow-up.

We're also trying to build a strategic intelligence capacity, looking at systemic issues. I think that other organizations are very good at being experts on the terrorist group itself, but I think we are very well positioned to provide unique information in the Treasury Department because, as I mentioned, it houses the bulk of the financial information from throughout the world.

For example, the private sector. We have an excellent relationship with the banking community, the financial sector, and we do get suspicious activity reporting through the FinCEN, which is the Financial Crimes Enforcement Network.

We also have access within the department to a wide range of expertise on the global financial network. We also have relationships with finance ministries across the world, which is very unique and provides information that I think we couldn't get elsewhere. We also have access to information from financial intelligence units, about 100 of them, throughout the world, also through FinCEN.

So what we'd like to do is fuse all of the open source information that we're getting from FinCEN, which is a major open source collector on financial data, as well as the intelligence information and being able to provide that to look at targets for action short-term by the Department and looking at longer-term systemic trends such as how are bad guys moving money. Based on the information that we are seeing every day, we would look at trends and patterns of how money is being moved across, whether it's the formal financial sector or the informal sector.

Chairman ROBERTS. Well, I thank you for that comprehensive answer. This is going to be, I suppose, some could say an unfair question, but what would you say would be your highest analytical priority? You mentioned the bad guys. I'm assuming that you would probably say that.

Ms. GARDNER. I think that our key priorities are in this order—al-Qa'ida and its affiliates and their financial networks. What we're trying to get is not just the key nodes, individuals or groups, but looking at the entire network, because, as you know, you shut down one node and another node pops up. And also the way that al-Qa'ida is becoming kind of more decentralized, looking at not just al-Qa'ida but all its affiliate groups. So that would be our No. 1 priority.

But also, following closely behind that is financing for the Iraqi insurgency. We spend a lot of our analytical capacity on that.

And more broadly, as I mentioned before, the financial underpinnings of broader national security threats. You can think

about some of the countries, the rogue countries that I'm referring to, but if a National Security Council question is how do we deal with country X, Treasury can come to the table with unique tools and authorities—sanctions, a broad range of instruments. So we're looking at broader national security threats.

We're also looking at financial networks of proliferators. That's a new area for us. And then down lower on the list would be issues such as keptocrats.

Chairman ROBERTS. To what extent, if any—I'm going to switch subjects on you now—has the Office of Intelligence and Analysis provided any input into the developing regulations as Congress goes through the re-authorization of the USA PATRIOT Act?

Ms. GARDNER. As the Office of Intelligence, we have not been directly involved in the framing of the regulations. Our umbrella office, the Office of Terrorism and Financial Intelligence, and FinCEN and others are taking the lead on that.

Chairman ROBERTS. So if I ask how has the PATRIOT Act helped the Treasury Department's Office of Terrorism and Financial Intelligence address the terrorist finance issue, that's a little premature or can you answer that?

Ms. GARDNER. Well, more broadly speaking, we are a beneficiary of information from the PATRIOT Act. For example, the Bank Secrecy Act, which was amended within the PATRIOT Act, that relates to FinCEN and they are the large collector of that information—the suspicious activity reporting, the currency trade, the CTRs. We are a beneficiary of that information, but we're not the actual collector. We're primarily the analytical arm of the Treasury Department.

Chairman ROBERTS. You've talked a lot about being an equal partner in the interagency discussions in regard to terror financing. In your experience as Acting Assistant Secretary, has the OIA received the quality and quantity of intelligence it needs from other agencies to execute its mission?

Ms. GARDNER. We actually have an excellent relationship with the rest of the intelligence community on terrorist financing. We have a very well-established policy coordinating committee that meets almost weekly. We just met yesterday. And what we try to do is systematically look at the threats, look at the whole range of what can CIA bring to the table, FBI, DHS, NSA and others. And I think that we actually have a very productive interagency process for terrorist financing.

Chairman ROBERTS. I'm probably unintentionally taking away a question that the Vice Chairman will ask you, but what steps do you plan to take to improve information access—that's our latest buzzword and interest—for and by the Department of the Treasury?

Ms. GARDNER. Information access from other organizations?

Chairman ROBERTS. Yes, ma'am. Not information-sharing. Information-sharing does connote somebody owns it and they'll push it to you when they decide, as opposed to you having a seat at the table and having the same mission and thereby having information access.

Ms. GARDNER. Well, as I mentioned, I think that we have a variety of forums where we can have the information access, as you

suggested. There are a number of ways, both personally, one-on-one. We have lots of very good bilateral relationships with the rest of the intelligence community, but also multilateral, through the interagency process.

And one area where we do probably need to do some more work is in the information technology side, to make sure that we have information access.

Chairman ROBERTS. Have you had any discussions with our new Director of National Intelligence with regard to the relationship between your shop and the intelligence community?

Ms. GARDNER. Yes. As I mentioned, I met with Ambassador Negroponte and General Hayden yesterday, and they were very supportive and offered anything that they could do to help, especially in the area of things like information technology, where I think they can have input. And Ambassador Negroponte has also met with Secretary Snow and they have a very good relationship.

Chairman ROBERTS. Was there any discussion with the DNI's office regarding the new procedures and priorities for developing your budget?

Ms. GARDNER. Not directly, yet. We have had discussions with their staff in terms of the former Community Management Staff. We're starting discussions right now.

Chairman ROBERTS. So that's a priority consideration.

Ms. GARDNER. Yes.

Chairman ROBERTS. How do you envision the process for formulating your fiscal year 2007 budget?

Ms. GARDNER. Well, within the Department we've already launched our fiscal year 2007 budget process, and we will coordinate that very closely with the DNI's office. As you know, as a departmental office, we go through two chains. We have the Treasury appropriations chain, but then we have the intelligence oversight chain. So we actually are going through two channels for that.

Chairman ROBERTS. We had hoped you could go through one, but that was not the case.

It's been 18 months since the position for which you have been nominated was established in law, and I'm told that in order to have a core staff upon which to build, the Department of Treasury basically detailed the Foreign Terrorist Division from the Office of Foreign Assets Control to the Office of Intelligence and Analysis.

First, is that correct? If so, do you have any thoughts on the detailing of the whole Foreign Terrorism Division to your shop?

Ms. GARDNER. After 9/11, there was a great need for intelligence analysis on terrorist financing, and at the time, the former Office of Intelligence Support, OIS, really didn't have the wherewithal to build that analytical capability. And OFAC, to its credit, stepped up and filled the void. The work that they do is basically building evidentiary packages for designation of terrorist groups. So primarily it is an intelligence analysis function. About 90 percent of their work is based on intelligence sources.

So when OIA was created, it made sense to move that function over to OIA, and we had many discussions with the Director of OFAC, who I have an excellent relationship with, of how do we split this function. If OIA did the targeting and then OFAC did the analysis, how do we break up that line in the process?

And it really didn't make sense to break it at any point where you would have two centers of expertise on the same groups that we were trying to designate. So I believe, and the Secretary has stated, that the decision was not driven by resources, although we did look at overlap. So I think that we started on April 1 with the transfer of the detail of OFAC analysts, and I believe that we've made excellent progress, even in this short time.

I think OFAC actually has benefited from this move. They are better able now to leverage IC resources. They were doing work that was 90 percent intelligence sources. For example, they weren't reading the current intelligence every day. And if they were preparing the packages, they weren't updating and making sure that new targets were being considered. And now that we have a better line into the intelligence community, they have a better opportunity to work with them in terms of downgrading information that's usable at the U.N. or with foreign governments. We also now have hired a full-time requirements officer, so now these OFAC analysts have access to feeding requirements into the intelligence community. And even things like intelligence community training they now have access to.

So I believe they are better integrated into the intelligence process as well as the policy process. So I think it's a win-win situation where OFAC has benefited and the Department has benefited.

Chairman ROBERTS. Well, you've just taken away about four of my questions and done it very well. One was, can you assure the Committee that OIA will be supportive of OFAC at the level necessary to ensure the latter can achieve its mission? You've answered that.

Does the Administration's budget request for fiscal year 2006 provide for the hiring of personnel and the procurement of your requisite equipment that you deem essential to do the job?

Ms. GARDNER. Yes. If we are able to get our 2006 request, that would take us a long way to fulfilling our mission.

Chairman ROBERTS. Has the Office of Intelligence and Analysis met its hiring objectives?

Ms. GARDNER. For fiscal year 2005 we have met all our objectives except for the Assistant Secretary and that person's special assistant.

Chairman ROBERTS. What about 2006? How confident are you?

Ms. GARDNER. I'm very confident. We had 800 applicants for the positions that we were advertising in fiscal year 2005, so we've been able to attract some very good candidates.

Chairman ROBERTS. Eight hundred applicants for how many positions?

Ms. GARDNER. For this fiscal year, seven.

Chairman ROBERTS. Seven? That's very impressive.

What additional resources or authorities do you need for OIA to effectively and efficiently meet its duties and responsibilities? Here's your chance.

Ms. GARDNER. Well, as I said, if we are able to get our full request for fiscal year 2006, I think we will be able to fulfill our mission.

Chairman ROBERTS. Without objection, a statement by Senator Bond will appear at the appropriate place in the record following

the statement by the distinguished Vice Chairman, who I recognize at this point.

Vice Chairman ROCKEFELLER. Thank you, Mr. Chairman.

This is not exactly on point, but it just occurred to me that I think it was right here that Senator Frank Church revealed for the very first time to me that the President and his people had been reading my mail for the previous 20 years. I was on Nixon's enemies list. I don't quite know why—probably my personality. But I'm just trying to think of all the letters that he must have read. I think I was dating my wife at the time. I thought I was all sort of interesting historically.

Chairman ROBERTS. If you're looking to me, No. 1, I have not had any access to that, other than what you've told me, which has been very interesting.

Vice Chairman ROCKEFELLER. Thank you.

Chairman ROBERTS. It's not often you get me speechless, Jay, but on that one I think you did.

[Laughter.]

Vice Chairman ROCKEFELLER. I know. I know. Candor is a marvelous thing.

In its monograph, so to speak, on terrorist financing, on page 4 of the 9/11 Commission, they stated that prior to September 11, those attacks, that "terrorist financing was not a priority for either domestic or foreign intelligence collection. As a result, intelligence reporting on the issue was episodic, insufficient and often inaccurate." Do you concur with that?

Ms. GARDNER. Before 9/11, I was not working on terrorist financing, but I can speak to the past several years that I've been working on the issue. It has become a priority, and I think that the various INTs do a wide range of collection. I don't want to get into too much detail. But I think that it is very robust at this point in terms of collection.

Vice Chairman ROCKEFELLER. You earlier mentioned analysis as opposed to collection. You made a differentiation between the two. So do you believe that collection and analysis on terrorist financing has improved since 9/11?

Ms. GARDNER. Yes. As I mentioned, the collection I think is fairly robust. And on the analytical side I think that we could probably do a little more on the strategic intelligence, and that's what we're trying to do, on the systemic problems—how do we deal with it—rather than just individual targets.

But yes, I think it has improved.

Vice Chairman ROCKEFELLER. I didn't know about FinCEN. I should have. And you indicated that there were approximately 100 other countries that you work with. Is it on these kinds of matters?

There has been not necessarily agreement between various governments in the general collection of intelligence or the analysis from the collection of intelligence. But in your area it's been more agreed upon.

Ms. GARDNER. Well, the financial intelligence units around the world are members of what's called the Egmont Group, and FinCEN is the United States' FIU, the financial intelligence unit. And intelligence is a bit of a misnomer. It's not like clandestine collection. But it's an informational unit where they have exchanges.

Some of the units are in the finance ministries. Some of them are in the ministries of interior. Some of them are in central banks. There's a wide variety.

But FinCEN manages that program, and we have access to the counterterrorism-related information from that program.

Vice Chairman ROCKEFELLER. All right. Has intelligence reporting since 9/11 led the Treasury Department to make changes? To be honest with you, I know under both Democratic and Republican administration's the Treasury has tended to focus on certain issues, and it's been my opinion—not particularly on this one. So do you think that the Treasury Department, since 9/11, has made changes in its general approach to tracking and disrupting terror financing, or has it confirmed the validity of the Department's current strategy?

Ms. GARDNER. Yes. I'm actually very glad you asked that question, because that's the very purpose of the new Office of Terrorism and Financial Intelligence, led by an Under Secretary. We only have three Under Secretaries at Treasury—one of them for international affairs, one for domestic affairs, and now we have one specifically for terrorism and financial intelligence. I think that's critical.

And the new approach that we're trying to take is a very holistic, integrated approach. In the past, Treasury didn't have an umbrella organization, so if a problem went to OFAC, the outcome would be a designation, because that's what they do. If the issue was directed at FinCEN, it would probably be a PATRIOT Act 311 designation.

Now what we're doing is we have a targeting meeting every week where the Office of Intelligence and Analysis tees up the target—whether it's an individual, a group, trend, rogue nation—and we say what are the range of Treasury authorities that we can put toward this target. It can be anything from going to the financial task force—financial action task force—which is a multilateral organization where we can basically tell country X you can't be a member of this international club because your standards aren't high enough. Or it could be a designation. It could be a range of actions.

So I think that the new strategy that Treasury has, you are right. Before TFI existed, the Office of Terrorism and Financial Intelligence, we didn't have the wherewithal to look at the full range of Treasury authorities. We didn't have an intelligence arm that could provide the analysis to support these authorities.

Now we have that kind of integrated approach and that's exactly what TFI is about.

Vice Chairman ROCKEFELLER. OK. I have this feeling, not necessarily correctly, that Treasury—well, for example, Rubin sort of told Clinton what to do on free trade, occasionally the word "fair" was mentioned, but not very often. I think John Snow, who ran a railroad that I fought for 20 years or 30 years in West Virginia, has his attributes, but I'm not sure that the focus on what we're talking about here would fall within either his level of interest or whatever. I don't know how to put that delicately, so I just didn't do it very delicately.

Treasury has had a problem asserting itself at the table on non-specifically Treasury issues, if you know what I mean. Now you've indicated that you've got a new leader and you've got you, who we're going to confirm, and seven others. And you've had a good conversation with Negroponte.

But actually this question of following the money trail is so hugely important. We in our work tend not to get into that as much because we're not as good at that. So that means you have to be really, really good. And I want to know why I should look at you and feel good about the future, not with relation to you, but with relation to your place at the table, Negroponte, the traditional position of the Treasury Department.

Ms. GARDNER. I believe the Department has demonstrated a tremendous amount of commitment to this new office, both in terms of resources. As you know, we created both the Office of Terrorism and Financial Intelligence as well as OIA out of the budget cycle. So in 2004 and 2005 the Secretary took resources from international affairs, domestic finance, other parts of the Department in order to stand up TFI. I think that demonstrates a large amount of commitment of the senior leadership.

In terms of budget priorities for the next fiscal year, the Secretary has indicated, both publicly and within the Department, that TFI is a priority. So I believe we've been the beneficiary of that. And he has devoted a significant amount of his time and attention with us. Of course we have weekly intelligence briefings, but more regularly we brief him for the National Security Council meetings, and in many cases not just terrorist finance specifically, but the underpinnings, financial underpinnings of national security threats is an area in which Treasury has a unique niche and a contribution it can make at the National Security Council table.

So I believe that we are making a contribution. We do have a seat at the table. As well as on the area of terrorist financing, the policy coordination committee that I referred to earlier, we have a full seat at the table. We help drive the agenda. We share equally, the information access that you mentioned, from the intelligence community.

I believe that we are making good progress with our new office. We've been around for a year, so I'm sure there's more progress that we can make, but I think, in terms of commitment, you have that from the Department.

Vice Chairman ROCKEFELLER. I'm glad to hear that.

Just on a general basis, as you look at the importance of following the money trail—and that is a path and a skill which is absolutely essential for anything else that anybody does in the intelligence world, the policymaking world or whatever—could you go over again the structure you have or will have and defend it in its capacity, size, intricacy?

Ms. GARDNER. The Office of Intelligence and Analysis will have I think a robust analytical capability. Without going into numbers and dollars, we are divided up organizationally in terms of both the al-Qa'ida and its affiliates, Iraq, Syria, Iran. We have transnational threats. We have East Asia and Central Eurasia. I think we're organized in a way where we can get, both functionally and geographically, the full range of targets.

We also have the intelligence support side, where we're still going to be supporting the rest of the Department on the full range of political and economic issues.

So I believe we do have the capability to fulfill the full mission that we've articulated, as well as the resources.

Vice Chairman ROCKEFELLER. OK. I'm going to ask two more questions. It has been suggested that the intelligence community is neglecting the important role played by offshore banks, shell companies and business fronts in funding terrorism. Do you share this view? If so, why is this critical area not receiving more attention—if you believe that is the case? Is it because of the possible negative impact on economies in the Caribbean and elsewhere?

Ms. GARDNER. As I mentioned earlier in my statement, we are a work in progress and we've started on the current intelligence process. One of the areas that I mentioned that we need to work more on are these kind of systemic issues or functional issues, not in terms of this is the target, this is the threat, but how are people moving money. This is one of the areas, I think, that we do need to look into. I think it is currently a gap. We don't currently have people working on this.

But I think that that's what this office could offer—looking over the horizon at these kinds of strategic issues. We have not to date.

Vice Chairman ROCKEFELLER. So there's a lot of work to be done.

Ms. GARDNER. There's more work to be done, definitely.

Vice Chairman ROCKEFELLER. Finally, there is Hawala. The transfer of funds through so-called informal value transfer systems, often referred to by the term "hawala," present a difficult challenge to all of us in the intelligence community. Studies have shown that Hawala can serve a vital role in helping immigrant workers send funds to their families, especially for countries that lack developed financial systems.

However, that same system has proven itself highly susceptible to abuse by terrorist financiers. What policies has Treasury drawn up regarding the regulation of Hawala, and how has Treasury worked with foreign jurisdictions to improve the oversight of same?

Ms. GARDNER. That is an area where the Treasury Department has focused a lot of its energies. As you know, as the multinational pressure comes down on the terrorist organizations and there's more pressure on them in terms of how do we move and raise funds, they are looking more at non-traditional areas such as Hawala, couriers and, as you mentioned earlier Senator, diamonds, gold. That's an area that we are looking at.

But our sister organization on the policy side within the Office of Terrorism and Financial Intelligence has spent a lot of time in the FATF—the Financial Action Task Force, where I think there are 33 member countries, or 35—where they have talked with foreign governments on setting better standards on Hawala regulations. Areas in South Asia, even I think, have come a long way in terms of giving greater scrutiny to Hawala and making sure that they are better regulated.

So on the policy side I think we've done a significant amount of work, but they continue to work on that area as well.

Vice Chairman ROCKEFELLER. Thank you.

Chairman ROBERTS. Ms. Gardner, I know this question doesn't fall squarely within your area of responsibility, but I would appreciate your response and I think you can simply take it for the record and get back to me with a written response. I would actually prefer a written response, and it doesn't have to be done yesterday.

I have heard from a number of small banks in many of my rural communities in my home State of Kansas—and I'm sure the Vice Chairman has heard the same thing. It's in regard to the filing of something called SARs—and we're not talking about the disease, unless paperwork and regulations are a disease, which in Washington a good case could be made for that—but the filing of suspicious activity reports. And these banks, almost to a person, believe current regulations require them to file more suspicious activity reports than are warranted. They even think there are quotas. We're talking about banks with less than \$100 million in terms of their total assets—\$60 million, \$40 million—very small communities.

And I think this is in response in large part—we very typically do this in Washington—to the Riggs Bank case in which the bank was fined a considerable amount for systemic failure to report. And I understand that. As a matter of fact, I think, Mr. Vice Chairman, we have in our PATRIOT Act and perhaps you have in your standard operating procedure that you are fined \$1 million or twice the amount.

For a small bank like that, that really poses a hardship, and they get into defensive filings. And we don't have people out there that really have the expertise to do that, to become what I call sort of a bad news bear to go around and form all the rest of the limited people in the bank to be of help to their local community. In most cases, there's one bank. So consequently everybody knows everybody else.

So I guess my question is—or I know my question is—what's the Department doing to address the concerns that cause the defensive filings? And on the intel side, will these defensive filings cause more difficulty for you in gathering actual intelligence from the SARs reports?

You can respond now very briefly, but if you could respond in a written response for the record, I would certainly appreciate it.

Ms. GARDNER. On the first part of the question, I think you are right, that that's a question for my counterpart who heads FinCEN. Director Fox has been spending a lot of time on this issue, talking to the private sector. And I would take that back to the Department to answer on that one.

In terms of the intelligence community and our ability to sift through volumes of data, the volume problem is definitely real. The more information you have—how do you get the needle in the haystack? That's why I believe, first, we do have access to all the counterterrorism SARs, so we get those as well as hotline tips. And we integrate that in with the rest of the classified information.

But I think that's where our information technology system comes in. We do need to have better tools to be able to mine through that volume of data, and that's something that we're working on as well.

Chairman ROBERTS. We need information out to these small community banks. We have the story of Aunt Harriet, who lived in the community for 80 years and came in and had to show her driver's license to the local teller or whoever it was that she was doing business with, and couldn't figure out why on earth, since she'd been Aunt Harriet for 80 years, why in the Lord's name she should have to show her driver's license. But the person thought that that's what she had to do to comply with the SARs regulation. I think you can get where we're headed.

Without objection, the record will remain open until the close of business tomorrow for Members to submit statements or questions for the record. We do appreciate your appearance before the Committee and your forthrightness in responding to the Committee. And I am very hopeful that you will be confirmed soon.

Is there any other comment the distinguished Vice Chairman would like to make?

Vice Chairman ROCKEFELLER. Just one, and that is you raised a very interesting point when you talked about the network for the proliferators. It caught my attention because that's incredibly subtle, dangerous and where accuracy is needed. Can you just tell me what you meant by that?

Ms. GARDNER. Sure. The WMD Commission made a recommendation that we take our regime to deal with terrorist financing and apply that toward the financial network of proliferators, and we're working on trying to establish that process now. We work very closely with the intelligence community. They really have the expertise in terms of proliferators, but we're trying to buildup that expertise as well and have a similar robust program as we do for terrorist financing.

Vice Chairman ROCKEFELLER. Thank you.

Chairman ROBERTS. Very good. We thank you very much.

[Whereupon, at 4:12 p.m., the Committee adjourned.]

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