

LANNY BREUER DEPUTIZES BANKS RATHER THAN PROSECUTING THEM

Back when DOJ's head of criminal prosecutions, Lanny Breuer, let HSBC off without indictments, I noted that he didn't even mention HSBC's significant ties to funding terrorists.

When it came to one of the world's biggest banks, the Assistant Attorney General chose to simply ignore the threat DOJ's been singularly dedicated to defeating since 9/11, terrorism.

But the Statement of Facts on the HSBC settlement wasn't quite as reticent as Breuer himself. It said this about HSBC's ties to terrorist financing:

In addition to the cooperative steps listed above, HSBC Bank USA has assisted the Government in investigations of certain individuals suspected of money laundering and terrorist financing.

That is, the court documents on the settlement talk about HSBC helping to investigate terrorist financing, rather than HSBC playing a key role in making up to a billion dollars available for terrorist financing. DOJ turned HSBC's complicity in the central threat of our time into purported assistance pursuing it.

Poof! DOJ turned a criminal bank into a law enforcement partner, all through the secret exercise of so-called prosecutorial discretion.

Which is important background for the story about DOJ with which NPR's Carrie Johnson has begun the year, describing how Lanny Breuer is asking banks—the same banks who crashed the economy with a bunch of criminal scams that have gone unpunished—to serve as “quasi cops.”

Every year, banks handle tens of millions of transactions. Some of them involve drug money, or deals with companies doing secret business with countries like Iran and Syria, in defiance of trade sanctions.

But if the Justice Department has its way, banks will be forced to change – to spot illegal transactions and blow the whistle before any money changes hands.

[snip]

But [former OCC head Eugene] Ludwig, who now consults for banks at the Promontory Financial Group [which makes huge money not finding crimes for the banks], says prosecutors and bank regulators can't catch all the fraud, so they're depending on the banks themselves to do a better job.

"Banks are not set up historically really to be kind of quasi law enforcement enterprises, which is really what the U.S. government's asking of them," he says.

Every time a financial institution makes a fix, criminals try to work around it. Ludwig calls it a cat-and-mouse game. "Fair or not, it's what the government is demanding of our enterprises, and everybody has to face up to that reality, I think," he says.

Ludwig may be publicly complaining. But his firm has already gotten consulting fees to hide the scale of Standard Chartered Bank's fraud, and the government is about to give up on the badly-conflicted foreclosure abuse review for which Promontory consulted with Bank of American and Wells Fargo. It seems clear that Promontory will get rich whitewashing bank crimes so Lanny Breuer can pretend banks are cops, not robbers.

But that's not the most lucrative scam here.

After all, HSBC was able to reap billions because it served a key role in providing cash that went, in part, to terrorists. And yet it, unlike Muslim men, seems guaranteed under Lanny Breuer to wipe that slate clean by flipping on their former clients at a convenient time (and given that DOJ has taken no action against Al Rajhi bank, in only a limited fashion).

All this remains unstated. In fact, I guarantee you if it were ever asked, DOJ would refuse to divulge precisely what kind of quasi cop HSBC is playing, as it could under a law enforcement exception to FOIAs. Even Carl Levin's otherwise meticulous report on HSBC was silent about what happened when Treasury's former Under Secretary for Terrorist Finance went to HSBC.

But as part of the scam, it appears both a criminal bank and our buddies the Saudis have avoided any punishment for funding terrorism.

Which is how it works when the crooks get deputized rather than prosecuted.