

Treasury Sanctions Foreigners for Israel

Description

Will Israel-lobby-captured OTFI sanction Americans?

by [Grant Smith](#) Posted on [August 30, 2018](#)

The American Israel Public Affairs Committee (AIPAC) was ordered to register as an Israeli foreign agent on [November 21, 1962](#) when it was part of the American Zionist Council. AIPAC has never complied with the order, and the Department of Justice has never enforced it. AIPAC's associated think tank, the Washington Institute for Near East Policy (WINEP) was spun off from AIPAC as a survival tactic during a 1980s FBI investigation [into AIPAC over economic espionage](#) that produced America's [worst-performing bilateral trade agreement](#). Incredibly, decades later both organizations appeared to want to get into law enforcement and were instrumental lobbying President George W. Bush for the 2004 launch of the Office of Terrorism and Financial Intelligence (OTFI) Treasury unit. (See Washington Institute for Near East Affairs [congressional testimony in support of the creation of OTFI to be headed by Stuart Levey](#))

Although OTFI proclaims it is "safeguarding the financial system against illicit use and combating rogue nations, terrorist facilitators, weapons of mass destruction (WMD) proliferators, money launderers, drug kingpins, and other national security threats," the secretive office has a special blind spot for major terrorism generators, such as tax-exempt money laundering from the United States into illegal Israeli settlements and proliferation financing and weapons technology smuggling into Israel's clandestine nuclear weapons complex.

As AIPAC and WINEP demanded in 2003, the office as initially led by Undersecretary of Treasury Stuart Levey, who worked in unusually close coordination with the Israeli government. [Levey's Harvard thesis](#) (PDF) was about how Israel lobbying organizations could become more effective by staying beneath the radar of public scrutiny and distancing themselves from the notoriety generated by the illicit activities of such ideological fellow travelers as the Jewish Defense League. JDL was a Department of Justice-designated terrorist organization involved in bombings and more recently had a supporter indicted for [2017 violence](#) against a peaceful protester of AIPAC's policy conference.

In its early years OTFI rebuffed Freedom of Information Act (FOIA) attempts to obtain information about OTFI operations and the purpose of Levey's numerous taxpayer-funded trips to Israel by citing the Bank Secrecy Act. OTFI is even more impenetrable to outside scrutiny than most Treasury offices, most particularly [OTFI's personnel](#) records. Levey made OTFI briefers available mostly for private presentations and off-the-record Q&A sessions to a limited number of organizations well-known for having the advancement of Israel as a top organizational goal, such as WINEP and the Foundation for the Defense of Democracies.

When Levey finally stepped down in 2011, the top job at TFI was transferred to David Cohen, who worked at the same Washington DC law firm as Levey, Miller, Cassidy, Larroca & Lewin LLP (which later merged into Baker Botts LLP). Cohen continued Levey's practice of curtailing OTFI's availability to

any concerned public opposition. On September 12, 2012, Cohen [refused to answer reporter questions](#) about Israel's possession of nuclear weapons, and whether sanctioning Iran, a signatory to the Treaty on the Non-Proliferation of Nuclear Weapons, over its internationally-inspected civilian nuclear program was an example of endemic double standards at OTFI. In 2015, [Mondoweiss](#) observed that the key requirement for Americans working in the top "counterterrorism" job at OTFI appeared to be being both Jewish and Zionist. Most Americans (70%) [do not self-identify as Zionist](#). (Defined in the poll as any person who believes in the development and protection of a Jewish nation in what is now Israel.)

Cohen was succeeded by longtime OTFI employee Adam Szubin, former counsel to Stuart Levey, who was appointed to lead OTFI during the Obama administration, but never confirmed by the Senate. Szubin also visited Israel frequently on the taxpayer dime and, like Levey and Cohen before him, [kept WINEP and AIPAC lobbyists well-briefed on OTFI initiatives](#). Szubin served as interim under secretary from January 20, 2017 until February 13, 2017. In 2017 the already narrow hiring criteria of OTFI was even further restricted. According to the news and intelligence website DEBKAF, OTFI's current leader Sigal Pearl Mandelker, also a dedicated Zionist, [either had or still has Israeli citizenship](#). (PDF) Mandelker was confirmed by the Senate on June 21, 2017.

Within its own organization, Department of Justice policy has no issue with dual-nationals seeking and [being granted sensitive jobs](#). (PDF) However, there are obvious potential conflicts of interests with an Israeli-American dual national, dedicated to the advancement of Israel, running OTFI. The progression reveals that the leadership of OTFI is being hand-picked by the Israel lobby on the basis of predicted devotion to advancing the strategic position Israel. This raises the question of how such influence negatively impacts Americans, as AIPAC and the Israel advocacy ecosystem prepare to expand the OTFI model across [states](#) and within the federal bureaucracy.

AIPAC is attempting to pass new laws and enforcement powers to target Americans found "guilty" of boycotting Israel over its endemic human rights abuses. [Drafts](#) of the "Israel Anti-Boycott Act" appear to allow secretive units such as OTFI or new units housed within the Export Import Bank to fine Americans up to \$1 million and imprison them for up to 20 years for such boycott activities. Free speech rights arguments have not been much of an obstacle to such secretive extra-judicial operations. OTFI worked to successfully to imprison New Yorker Javed Iqbal for nearly six years over airing Hezbollah videos on his privately-owned cable network that Israel affinity organizations found distasteful. OTFI shut down nonprofit charities the Israel lobby opposed such as Al-Haramain, Benevolence International, Global Relief, and Kind Hearts with little due process. Because the Israel lobby's "Israel Anti-Boycott Act" could go even further, it is particularly relevant to scrutinize OTFI as the model for taking sanctions applied mostly to disenfranchised foreigners, and turning them against American citizens residing and doing business in the U.S.

OTFI has extraordinary powers to sanction entities and individuals and enact secondary actions against entities that do business with them under broad executive orders. An examination of OTFI's Specially Designated Nationals And Blocked Persons List ([SDN](#)) Human Readable Lists provides further evidence of Israel lobby regulatory capture. As part of its enforcement efforts, OFAC publishes the SDN list of individuals and companies it accuses of being owned or controlled by, or acting for or on behalf of, targeted countries. It also lists individuals, groups, and entities it claims are terrorists and narcotics traffickers designated under indicators that are not country-specific. Collectively, such individuals and companies are called "Specially Designated Nationals" or "SDNs." Their assets are blocked, and banks and US persons are generally prohibited from dealing with them. Lawyers

specializing in this area attest to the difficulty of removing those listed on the Treasury's SDN list. The tipoff that the list is Israeli-approved, is the absence of well-known nuclear weapons technology traffickers for the only country in the region that actually has a clandestine nuclear weapons program – Israel.

TFI/OFAC operatives code each SDN individual or entity suspected of trafficking in nuclear weapons technology with the designator code "NPWMD" meaning "Weapons of Mass Destruction Proliferators Sanctions Regulations" which cites [31 C.F.R part 544](#) authorities for the application of sanctions. However, Israeli film producer Arnon Milchan, who transacts millions of dollars through the US and international financial system, and his accomplice, Israeli Prime Minister Benjamin Netanyahu, are [both known to the FBI and DHS](#) as having facilitated the unlawful smuggling of hundreds of nuclear weapons triggers from the United States through a global network of front companies. Though never convicted, nothing prevents their listing on the SDN. However, neither individual nor their related business organizations or front companies used in the operation appear as sanctioned entities under the SDN.

In 2012, Belgian company Telogy International NV [committed 23 violations of the Export Administration Act of 1979](#) (PDF) by smuggling 22 Tektronix oscilloscopes worth hundreds of thousands of dollars. Oscilloscopes are critical nuclear weapons testing and production technology and export-prohibited without proper end-user licenses. OTFI's agents never entered either Telogy or the company that acquired it, Electro Rent Corp, into the SDN database to ward off banks and others from doing business with it – because Telogy smuggled the oscilloscopes to Israel.

It appears that OTFI leadership has ordered SDN list compilers not to include any Israeli nuclear weapons traffickers on the list. In the current SDN there are multiple entries for countries not believed to have nuclear weapons programs, such as Iran and Syria. There is not a single SDN NPWMD entry for any Israeli individual or entity, despite the [CIA's having confirmed](#) the existence of an Israeli nuclear weapons program in 1974, and that the program was fueled by material stolen from the United States in the 1960s. CIA considered Israel a proliferation threat to countries such as Taiwan (which appears a few times in the SDN) and South Africa. Indeed, there are only a handful of SDN entries for Israel at all, which mostly appear to be Russian oligarchs with Israeli passports.

AIPACs Israel Anti-Boycott Act legislation requires "enforcement actions" under some of the same authorities used by OTFI, the International Emergency Economic Powers Act, 50 U.S.C. § 1701-1706, in declaring as a "US national emergency" [grassroots-led boycotts of products made in illegal Israeli West Bank settlements](#) and other Israeli products and services. These boycotts are not really US emergencies in any sense, but rather target a grassroots strategy to protest of Israel's dismal human rights record. AIPAC considers the OTFI model of unaccountable, anonymous judges, jurors and financial executioners as an appropriate model to apply to Americans and foreigners who engage in entirely peaceful, lawful, First Amendment protected boycotts. AIPAC has lobbied for passage of the Israel Anti-Boycott Act for years even though statistically significant polling reveals that [69.1% of Americans oppose it](#).

One of the most cherished rights in America is the Confrontation Clause of the Sixth Amendment to the US Constitution which provides, "in all criminal prosecutions, the accused shall enjoy the right...to be confronted with the witnesses against him." However, the right only applies to criminal prosecutions, and not civil cases or other proceedings. But it is a commonplace American expectation that citizens

will not be punished for accusations of wrongdoing by anonymous accusers. OTFI and SDN operate beyond such expectations.

Having already served as de facto criminal prosecutors, judges and juries, and financial access executioners of foreigners, OTFI agents may upon passage of the Israel Anti-Boycott Act turn their extrajudicial powers on fellow Americans. Until now, OTFI staff has never borne any burden of confrontation by the accused. And even Americans who disagree with OTFI's selective interpretations of laws, based on executive orders and other authorities used to place foreigners on the SDN list, are unable to meaningfully interact with the OTFI personnel making such punitive policy decisions – unless they are an attendee of a special briefing conducted by Adam Szubin and also already fully paid-up donors or members of AIPAC or WINEP. Though courts [have held](#) that the US Constitution applies to non-citizens, if a foreigner has been unjustly placed on the SDN with no due process, he or she is presently unable to make a phone call from overseas to a known OTFI agent and informally present their case. OTFI is now clearly worth a much closer examination, because if AIPAC has its way either OTFI or an operation very much like OTFI, with anonymous extra-judicial Treasury powers, handpicked by the Israel lobby, may soon sanction American companies and individuals it secretly finds “guilty” of boycotts.

Excerpt from a [61-page legal memorandum](#), with 1,230 pages of exhibits filed in DC District Court on August 24, seeking full release of OTFI personnel records alongside those of other Treasury units.

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