



NANCY D. BEAULIEU

AARON M. G. ZIMMERMAN

FBI: Mission Extended

We have to smash the FBI into bits and rebuild it to do terrorism. We're off running around after crooks who rob banks when there are people planning to kill Americans right here in the USA.

—Dale Watson, FBI Assistant Director of Counterterrorism, early 2000¹

On July 10, 2001 a U.S. Federal Bureau of Investigation (FBI) agent in the Phoenix, Arizona, field office sent an electronic communication to agents within units dedicated to radical Islamic fundamentalism and Osama bin Ladin in FBI headquarters, and to agents on International Terrorism squads in the New York City field office. The agent wrote that there was a coordinated effort by bin Ladin to send students to the United States for aviation-related training in Arizona. The agent also requested that headquarters task agents to accumulate a list of civil aviation universities and colleges around the country, establish liaisons with these schools, disseminate the intelligence within the Intelligence community, and seek authority to obtain visa information for individuals seeking to attend flight schools. Nobody at headquarters or the New York field office acted on the agent's intelligence or recommendations.

A month later, in August 2001, agents in the FBI's Minneapolis, Minnesota, field office, working with the Immigration and Naturalization Service (INS), detained Zacarias Moussaoui, a French national who had enrolled in flight school in Minnesota. The FBI agents were unaware of the intelligence developed by the agent in Phoenix field office, but suspected that Moussaoui was involved in terrorist activity. FBI Headquarters personnel and agents in the Minneapolis field office misunderstood the legal standard for obtaining a court order to search Moussaoui's belongings under the Foreign Intelligence Surveillance Act (FISA) and spent time trying to connect al-Qaeda to Chechen rebels in order to meet the standard.

These incidents were strikingly reminiscent of the early 1990s when the Bureau missed cues that foreign radical Islamists had the intention, capability, and plan to strike the buildings at the World Trade Center (WTC) in Manhattan. In 1993, the terrorists detonated a 1500-pound bomb in the underground parking lot of the WTC, killing six people and injuring a thousand more. Later, researchers uncovered "a direct connection" between the 1993 WTC bombing and the horrific attacks on the same buildings on September 11, 2001. There was "a dotted line of intelligence that ran like a

¹ Richard A. Clarke, *Against All Enemies: Inside America's War on Terror* (New York: Free Press, 2004). p. 219.

hot circuit from Afghanistan to New York to the Philippines and back to New York again.” Tragically, the FBI had failed to connect the dots.²

In the years following the WTC bombing, the leadership of the FBI undertook two major change efforts explicitly designed to reorganize the Bureau to better deal with domestic terrorist threats. Commissions were formed and reports were issued. But the efforts to overhaul the Bureau ultimately failed. Leading up to 2001, the FBI had still not adapted to a world of new threats and an extended mission.

Early Warnings

El Sayyid Nosair

On November 5, 1990, El Sayyid Nosair assassinated radical Jewish rabbi Meir Kahane in the ballroom of a Manhattan hotel. Kahane was a former member of the Israeli parliament and had been linked to terrorism. His political party had been banned in Israel. Nosair was a militant of Egyptian origin who had been planning to shoot Kahane for over a year. After the murder, Nosair fled the scene, but a bullet-wound and crowds from the hotel hampered his escape. He was apprehended and taken to a hospital where he recovered and was later arrested.

Eddie Norris, a lieutenant with the New York Police Department (NYPD), investigated the murder. Later Norris observed: “In any attempt to understand the events of September 11, 2001, it makes sense to begin with El Sayyid Nosair. That’s where the law enforcement aspect of the September 11 story began, and where American law enforcement agencies first revealed themselves to be institutionally ill-equipped for the war this new enemy had brought to U.S. shores.”³

A few days into the Kahane murder investigation, FBI agents with the Joint Terrorism Task Force⁴ (JTTF) in New York removed sixteen boxes of files and papers from Nosair’s apartment and sent them to the squad room at Norris’s precinct at the NYPD. When the Manhattan District Attorney (DA) “claimed jurisdiction over Kahane’s murder, meaning the investigation would belong to the NYPD, not the FBI,” the FBI removed the files from Norris’s office (while Norris was at lunch) and sent them to the DA’s office. The FBI “agreed to ‘monitor’ the investigation, which in effect meant to do nothing. The Bureau rarely puts its resources or reputation behind a case it doesn’t own completely.”⁵ Ostensibly, the DA would use the materials (most of which were in Arabic)—including blueprints and maps of New York landmarks, secret U.S. Special Forces training manuals, and instructions on making bombs—to prepare for Nosair’s trial. Norris was never told the files were available, and they remained untouched in the DA’s office for three years. “Many officials, Norris among them, have since claimed that the files provided a virtual road map to future terrorist acts, including the 1993 World Trade Center bombing.”⁶

² Peter Lance, *1000 Years for Revenge: International Terrorism and the FBI—The Untold Story* (New York: Regan Books, 2003), p. 3.

³ John Miller and Michael Stone with Chris Mitchell, *The Cell: Inside the 9/11 Plot and Why the FBI and CIA Failed to Stop It* (New York: Hyperion, 2002), p. 47.

⁴ The JTTF was founded in 1980 and was comprised of ten FBI agents and ten New York policemen. By 1993, it had 40 agents from the FBI, NYPD, INS, FAA, ATF, and the U.S. Marshals Service.

⁵ Miller, *The Cell*, p. 55.

⁶ *Ibid.*, p. 46.

When the documents were finally translated, FBI agents discovered an international terrorist network headquartered in the U.S. as well as detailed plans to “demoralize the enemies of Allah...by means of destroying and blowing up the pillars of their civilization and blowing up the tourist attractions they are so proud of and the high buildings they are so proud of.” In addition, there were several cassette tapes that contained telephone conversations between terrorists based in the U.S., Pakistan, and Palestine.⁷

Neil Herman, the FBI agent who supervised the JTTF office in New York, “had been warning his bosses about” acts like the Kahane murder. But even after the fact, “when it seemed obvious that Nosair had been part of a larger group” his superiors would not “mount a more aggressive assault on terrorism.” “The deal with the DA’s Office was worked about way above Herman’s pay grade, so the door was closed to making a conspiracy case against Nosair’s jihad-minded pals. Herman said, ‘You couldn’t get anybody to take terrorism seriously.’”⁸

At his trial, Nosair claimed a disgruntled Kahane follower had been the assassin. The jury acquitted him of the murder, but found him guilty of shooting two others as he ran away from the crime scene. They also found him guilty of possessing an illegal firearm. Nosair was given the maximum possible sentence: 7 to 22 years in prison.⁹

Emad Salem

During the Kahane investigation and trial, in another part of the New York FBI office, agent Nancy Floyd was using information provided by informer Emad Salem to uncover Russian spies hiding under diplomatic cover. Salem, a former Egyptian army officer, was head of security at a New York hotel frequented by diplomats. Through their collaboration, Floyd learned that Salem also had valuable information on a growing network of Muslim extremists in the New York area, particularly Sheik Omar Ahmad Ali Abdel Rahman, also known as the “Blind Sheik”. When she realized the value of the information Salem provided, she informed her boss, who introduced her to the JTTF agents who were monitoring the Nosair matter: Louie Napoli and John Anticev.

Salem proved to be “a useful commodity to the FBI.” When Napoli and Anticev met him,

He was a known quantity. He already knew how the Bureau operated. And his handler recommended his work. Indeed she believed Salem might be just what the JTTF was looking for: a Middle Easterner who could penetrate the underground organizations in New York that were raising money for international Islamic terrorist groups. There was one problem with these reports: Carson Dunbar, JTTF’s overseer in the FBI’s National Security Division, was reluctant to trust too much in the man [Emad Salem] who was providing them. Dunbar was no older than Neil Herman, but his inherent caution reflected an organizational mentality more suited to the Khrushchev era than the post-Soviet 1990s.¹⁰

⁷ Steven Emerson, “The Other Fundamentalists,” in *Terrorism in the United States*, ed. Frank McGuckin (New York: H.W. Wilson Company, 1997).

⁸ Miller, *The Cell*, pp. 55–56.

⁹ *Ibid.*, p. 67.

¹⁰ Miller, *The Cell*, p. 71.

Nevertheless, Salem was hired by the FBI as an undercover intelligence asset for \$500 a week. He was allowed to work without a wire and was promised that he would never have to testify in court.¹¹ Salem insisted on this out of fear for possible recrimination against his family still in Egypt. As he built trust with Nosair's friends and supporters, he was able to get inside Sheik Omar's group. He provided Napoli and Anticev "hints of some kind of bomb plot." Apparently, the group had targeted twelve Jewish locations for bomb attacks. Napoli and Anticev brought the matter before their FBI supervisors. "Build a case that can be taken to court," they were told. "Dunbar also informed Napoli that the time had come for his informant to get with the program and wear a wire. Without recordings of the conspiracy, the Bureau would have a very weak case. Either Salem wired up and agreed to testify, Dunbar said, or the Bureau would have to drop him."¹² Salem refused, and in July 1991 he was fired.

Without Salem, the JTTF agents continued to use the information they possessed to conduct surveillance on the suspected bombers. Eventually, they were "just a whisper away from the World Trade Center plot."

But once more Dunbar lost patience with the operation. The surveillances were already eating up manpower from other cases. He called [Napoli and Anticev] back to New York, preventing them from following their subjects home later that evening. More troubling, however, were the implications for the future of the investigation. With much of the action now taking place in New Jersey and Pennsylvania, Dunbar wanted to transfer the entire case to the Newark office. At that point, JTTF's jihad investigation would effectively be dead in the water, killed by an administrative stroke of the pen.¹³

The 1993 World Trade Center Bombing

On February 26, 1993 a bomb in a Ryder van exploded in the underground parking garage of the World Trade Center in New York City. Six people were killed and more than 1,000 were injured in the attack. The NYPD, the Bureau of Alcohol, Tobacco, and Firearms (ATF), and the FBI launched a joint investigation.

The FBI's forensics specialists analyzed the wreckage and were able to determine which vehicle had contained the bomb. "They had earlier amazed us all by rebuilding Pan Am 103 from pieces scattered over hundreds of square miles, and then determining which suitcase had held the bomb. Now they were able to identify the specific Ryder rental truck and trace it back to a franchise in nearby northern New Jersey."¹⁴

Ryder knew that the vehicle had been rented on February 23 from its office in Jersey City, New Jersey, to a Mohammed A. Salameh. FBI agents performed a background check on Salameh and discovered that he was a follower of Sheik Rahman, who preached at a Jersey City mosque. Salameh was arrested when he returned to the Ryder office to collect the security deposit on the van, which he claimed was stolen.¹⁵

¹¹ A wire is a hidden device used to record conversations.

¹² Miller, *The Cell*

¹³ Ibid., pp. 90-91.

¹⁴ Clarke, *Against All Enemies*, p. 76.

¹⁵ Ibid., p. 76.

The investigation brought many things to light. As Napoli and Anticev had known, the bombers were part of a much larger network covering territory in Brooklyn, Queens, and northern New Jersey and were centered around Sheik Rahman. "Rahman had been sentenced in absentia for terrorism in Egypt. He was on the State Department visa lookout list, but somehow he had managed to get a visa at the U.S. embassy in Sudan and had moved to New York. Egyptian government requests that he be extradited had apparently been made and rejected."¹⁶

A few days after the bombing, Richard Clarke, a staff member of the President's National Security Council (NSC), convened a meeting of the U.S. Counterterrorism Security Group (CSG). By that point, he had a report prepared by the FBI containing a "list of the cell that had performed the bombing." At the meeting, Clarke asked the FBI representative, Bob Blitzer, "So you know the names of the guys who did it. What is the group? Or to quote from a great movie, who *are* these guys?" Blitzer reportedly replied, "Nobody we know."¹⁷

Apparently, Blitzer had been unaware that, for more than a year before the bombing, the FBI had been monitoring Sheik Rahman and the two mosques attended by his followers; however, federal guidelines had limited the agents' ability to conduct close surveillance.¹⁸ Clarke asked more questions and learned that the INS had permitted two of the suspected terrorists to enter the U.S. without passports. They had arrived together at the airport. One, Ahmed Mohammed Ajaj, was detained because he had a bomb-making manual in his possession. The other, Ramzi Yousef, was given a citation to appear before an immigration judge but was allowed to enter the country. Blitzer assured Clarke: "Don't worry, Dick, we'll pick them all up. We'll track them down. We'll find out who they worked for."¹⁹ Clarke later wrote:

The FBI and CIA should have been able to answer my question, "Who *are* these guys?" but they still could not. The real answer was a group that the FBI and CIA had not yet heard of: al Qaeda. The first member of al Qaeda arrested in the United States—as we later discovered—was El Sayyid Nosair.²⁰

A few months after the bombing, an Egyptian-born American citizen name Ali Mohammed went to Seattle to meet an al Qaeda operative who was driving in from Canada. When the operative was stopped at the border, Mohammed tried to intercede, telling the border officials that he worked for the FBI. This was partially true, in that he had worked as an FBI informer.²¹ Canada contacted the FBI, who sent agent Zindt to meet Mohammed.

During the course of their conversation, Mohammed gave the FBI its first glimpse of al Qaeda. According to court papers, he told Zindt that [Osama] bin Laden was determined to drive U.S. forces off the Arabian Peninsula and was "building an army" capable of toppling the Saudi monarchy. Zindt was troubled enough by Mohammed's information that he called in intelligence officials from the Defense Department to meet with him. But apparently neither the Bureau's New York office nor JTTF were informed about the interviews, even though

¹⁶ *Ibid.*, p. 78.

¹⁷ *Ibid.*, p. 76.

¹⁸ Ralph Blumenthal, "F.B.I. Inquiry Failed to Detect Any Sign of Attack," *The New York Times*, March 6, 1993.

¹⁹ Clarke, *Against All Enemies*, p. 77. See also Miller, *The Cell*, p. 77.

²⁰ Clarke, *Against All Enemies*, p. 78.

²¹ Mohammed had also been an intelligence officer for the Egyptian army and had served with the U.S. Special Forces in Fort Bragg, NC. He had been the source for Nosair's Special Forces Training Manuals.

Islamic terrorists had tried to blow up the World Trade Center only few months before and the... investigation was ongoing.²²

When the FBI searched Salameh's apartment and a storage unit he had rented and found chemicals that were components of the bomb detonated at the WTC and a business card that led to a second suspect, Nidal Ayyad. Ayyad was also a member of the Jersey City mosque and shared a joint bank account with Salameh. The FBI also took two other suspects into custody: Mahmud Abouhalim (who had been Nosair's getaway driver and Sheik Omar Abdel Rahman's chauffeur) and Ahmed Mohammed Ajaj. Abouhalim had left the United States the day after the bombing and was captured in Egypt by Cairo police. Ajaj had attempted to enter the country with bomb-making materials in his suitcase and was in prison at the time of the bombing. Ramzi Yousef, the master bomb-maker and suspected mastermind behind the plot, entered the country with Ajaj. In September 1993 Salameh, Abouhalim, Ayyad, and Ajaj were all tried, convicted, and sentenced to 240 years in prison for the WTC bombing. But Yousef was still at large.

The hunt for Yousef was led by an increasingly frustrated Neil Herman at the JTTF in NY. In mid-1994, Yousef was the world's most-wanted terrorist. Herman knew Yousef was a "ticking time-bomb" and sent a Teletype out to all of the FBI's foreign offices, stating the urgency of finding Yousef and that any leads on him should be immediately followed up to prevent future terrorist attacks. Herman was disciplined for sending the message. "I was thought to be bashing policy... My supervisor called me into his office and instructed me to write another cable saying that I wasn't speaking for the New York Office."²³

Meanwhile, Yousef was in the Philippines designing plans to assassinate both President Clinton and Pope John Paul II, both of whom were planning visits to the country. While Yousef was there, the bomb-making equipment started a chemical fire in Yousef's apartment. The fire attracted police attention. Yousef escaped, but the police discovered a horde of evidence, including Yousef's laptop. Upon learning of these events, Herman sent an FBI team to investigate.

When the FBI agents got to the Philippines, they locked horns with CIA agents.

The agencies [had] different, often conflicting approaches to investigations. Both agencies' priorities were to capture Yousef as quickly as possible, but Herman's agents had also come to Manila to collect evidence and build criminal cases against him and his accomplices, while the CIA was there chiefly to extract intelligence about Yousef's contacts and activities. The last thing the Agency wanted to do was to get involved in a big, splashy trial in which its officers might have to testify in open court and reveal information about their identities and procedures. Through 1995, relations between the agencies were marred by rivalry and mistrust. The CIA felt the Bureau's doggedly legalistic approach to cases was getting in the way of their intelligence gathering, and worse, the Bureau was withholding vital information under cover of grand jury secrecy. Meanwhile, Herman didn't want the Agency messing about with his witnesses and getting in his investigators' way.²⁴

Following the conviction of the WTC bombers, the FBI continued to monitor the activities of Islamic fundamentalists in the New York area. Emad Salem again went undercover for the FBI and became a member of the Sheik Rahman's Jersey City mosque. While undercover, Salem learned that the group planned to bomb several other New York City landmarks in addition to the World Trade

²² Miller, *The Cell*, p. 145.

²³ Ibid., p. 122.

²⁴ Ibid., pp. 124-125.

Center: the United Nations building, the federal office complex where the FBI field office was located, the Holland and Lincoln tunnels, and the George Washington Bridge. The group's members, including Sheik Rahman, were eventually arrested on charges of conspiracy for their plans to bomb the landmarks and other plans for assassinations of several prominent individuals. Their trial began on January 30, 1995. Using as evidence the FBI's secretly recorded conversations between Salem and the suspects, transcripts of Rahman's speeches, and FBI video of the suspects making bombs in a warehouse, the jury convicted Rahman and his followers on October 1, 1995.

During the trial, Ramzi Yousef was captured in Islamabad, Pakistan, as the result of a tip-off from one of his assistants. This person had been "appalled" at Yousef's efforts to enlist his help in planting bombs on two transcontinental flights. On his flight from Pakistan to the U.S., Yousef boasted to agents about the WTC bombing. He had hoped the tower would topple over and bring down the second tower as well.²⁵ Yousef was convicted in November 1997. After being sentenced to life in prison without parole, Yousef asserted, "Yes, I am a terrorist and proud of it."²⁶

The History of the FBI²⁷

The Federal Bureau of Investigation (FBI) was created in 1908, when Attorney General Charles Bonaparte (under President Theodore Roosevelt) established a then-unnamed group of special investigators (patterned after the model of the private detective agency²⁸) to report to the Department of Justice's Chief Examiner. Its mandate was to investigate all federal criminal violations that had not been specifically assigned to another federal agency by Congress. In particular, it was geared to "conduct investigations necessary to the Justice Department's prosecution of economic crime."²⁹

The creation of the Bureau was controversial, and some citizens and members of Congress feared that it would become a kind of secret police or domestic spying agency. As a result,

Bureau officials sought to justify the force's existence by promoting alarm over crime or national security menaces and by publicizing concrete accomplishments. Created as an executive agency, but dependent on Congress for annual appropriations, the Bureau had to carve out a secure place for itself in federal law enforcement.... Bureau officials publicized impressive statistics on the number of cases solved and the dollar value of stolen vehicles recovered.³⁰

From 1924 to 1972, J. Edgar Hoover served as director of the Bureau, exercising total control and largely defining the culture and policies of the organization. Hoover sought to professionalize the force and established a special training school for agents. "The training and expertise of FBI agents" was one of the "hallmarks" of the FBI and led to its "elite status in the law enforcement

²⁵ Ibid., p. 135.

²⁶ Dale Watson, Chief, International Terrorism Section, National Security Division, Federal Bureau of Investigation, "Foreign Terrorists in America: Five Years After the World Trade Center," Before the Senate Judiciary Committee Subcommittee on Technology, Terrorism, and Government Information, February 24, 1998.

²⁷ Much of this section draws from information in *The FBI: A Comprehensive Reference Guide*, Athan G. Theoharis, ed., with Tony G. Pveda, Susan Rosenfeld, and Richard G. Powers. (Phoenix: Oryx Press, 1999).

²⁸ Tony G. Poveda, "The Traditions and Culture of the FBI" in *The FBI: A Comprehensive Reference Guide*, Athan G. Theoharis, ed. (Phoenix: Oryx Press, 1999), p. 170.

²⁹ Ibid.

³⁰ Ibid., p. 169.

community.”³¹ All agents hired were graduates of four-year universities and many were lawyers or accountants.

Furthermore, Hoover brought an “emphasis on applying science to law enforcement”, first seen in fingerprint analysis.³² In 1932 he created a dedicated crime laboratory at FBI headquarters “to provide expert assistance to the Bureau and local law enforcement agencies in the analysis of physical evidence. Beginning with meager resources—a microscope and some ultraviolet light equipment—the crime laboratory’s operations eventually expanded to include the analysis of blood and other physiological fluids, hair, soil, clothing fibers, and other types of physical evidence...” Areas of analysis expanded to include document verification, handwriting, firearms and bullets, and explosives.³³ Later, the FBI also developed expertise in psychological profiling of criminals, undercover operations, and DNA analysis.³⁴

As a result of the violent crime in the 1930s, the FBI was given authority to make arrests and carry weapons. The Bureau’s scope of activity expanded as the number of federal laws governing criminal activity increased. In 1936 President Franklin D. Roosevelt directed the FBI to investigate potential rebellion from Nazi and Communist organizations. In 1940 Roosevelt gave the agency the responsibility for foreign intelligence in the western hemisphere and domestic security in the United States. During the 1950s, the threat of communism and the activities of other socialist and civil rights organizations dominated the attention of the FBI. During the 1960s and 1970s the agency turned its focus towards civil rights violations, organized crime, and violent subversive groups like the Black Panthers and the Ku Klux Klan.

Throughout Hoover’s tenure, the FBI developed a subculture that operated outside the realm of strict legality. Wiretapping, break-ins, and other “black bag jobs” were used to gather intelligence. Some of this intelligence was used against criminals and violent organizations. Much information, however, was of a more salacious nature. Hoover kept extensive files in his office detailing damaging personal information about prominent American politicians and cultural figures. Most of these files were destroyed after Hoover’s death in 1972. Clarence M. Kelley succeeded Hoover as director, serving from 1973 to 1977, and curtailed much of the FBI’s clandestine activities.

In the late 1970s, Director William H. Webster (1977–1987) focused the agency on three major programs: White Collar Crime, Organized Crime (War on Mafia), and Foreign Counterintelligence. **White Collar Crime** included crimes against businesses (e.g., money laundering), crimes against consumers (e.g., antitrust), securities and investment fraud, health and safety violations affecting the general public, fraud against the government, corruption of public officials, and civil rights violations. **Organized Crime**, as defined by the Racketeer Influenced and Corrupt Organizations (RICO) statute of the Organized Crime Control Act of 1970, referred to the use of profits derived from illegal activity in any enterprise and the use of any enterprise to commit a pattern of criminal activity (e.g., racketeering, fraud, bribery, money laundering, and narcotics). To gather evidence against suspects, FBI agents employed wiretapping, sting operations, and informants who were promised protection under the Witness Protection Program. **Foreign Counterintelligence** referred to the process of detecting and countering efforts by foreign organizations aimed at gathering classified, sensitive, or proprietary information about the United States. The FBI’s involvement in foreign counterintelligence dated back to World War I, with the concern for German spies. Concern increased

³¹ Ibid., p. 173.

³² Ibid.

³³ Ibid., pp. 173–174.

³⁴ Ibid., pp. 198–200.

during World War II and the Cold War Era. However, the collapse of the Soviet Union eliminated the nation's major intelligence adversary.

In the 1980s, Illegal Drugs (War on Drugs), Violent Crimes, and Counterterrorism were later added as other priorities of the agency. The **"War on Drugs"** was added to the FBI's investigative responsibilities as a joint responsibility with the Drug Enforcement Administration as a result of its being a major domestic policy initiative of the Reagan administration. **Violent Crimes** included kidnapping, bank robbery, wanted fugitives, violent gangs, violent crimes and property crimes of an interstate nature, crime on Indian reservations, crimes against U.S. citizens overseas. Task forces were created to work with local law enforcement agencies. **Counterterrorism** became a priority after April 1982 when President Ronald Reagan signed a National Security Decision Directive giving the FBI the responsibility of investigating terrorism in the United States. The Comprehensive Crime Control Act of 1984 addressed the FBI's role in responding to hostage taking, and the Omnibus Diplomatic Security and Antiterrorism Act of 1986 expanded the FBI's jurisdiction to include investigating acts of terrorism directed against Americans overseas.

FBI's Organization³⁵

Headquarters

Of the FBI's 28,000 employees, 10,000 were in its headquarters. The FBI's central headquarters in Washington, DC, managed the agency as a whole, and performed centralized administrative, training, and laboratory functions. The headquarters consisted of the Director and the Deputy Director, to whom the following reported directly: Chief of Staff, Inspection Division, Office of Public Affairs, Congressional Affairs Office, Office of the Ombudsman, Office of General Counsel, Office of Equal Employment Opportunity, Chief Information Officer (a position created in December 2001), Office of Professional Responsibility, as well as Executive Assistant Directors for Intelligence, Counterterrorism/Counterintelligence, Criminal Investigations, Law Enforcement Services, and Administration.

The **Counterterrorism Division** aimed to identify and prevent acts of terrorism by individuals and terrorist sleeper cells in the United States, to dismantle terrorist financial support networks, and to disseminate threat-related information and/or analysis to local, state, and federal agencies, senior government policy makers, and to the private sector. The **Counterintelligence Division** was responsible for neutralizing foreign acquisitions of weapons of mass destruction and preventing the penetration/compromise of the U.S. government, Intelligence Community, and critical national assets—by integrating law enforcement with intelligence efforts and coordinating its activities with the U.S. Intelligence Community.

The **Criminal Investigative Division** coordinated investigations related to the FBI's traditional law enforcement activities: white collar crime, organized crime (including the "War on Drugs"), violent crimes and major offenders, and civil rights violations. The Executive Assistant Director for Criminal Investigations also oversaw the Cyber Division, which was created in December 2001 to coordinate and supervise the investigation of federal violations related to the Internet, computer systems, and networks, as well as protecting the nation's critical information infrastructure and other key assets through participation in the National Infrastructure Protection Center.

³⁵ Much of this section draws from information in *The FBI: A Comprehensive Reference Guide*, Athan G. Theoharis, ed., with Tony G. Pveda, Susan Rosenfeld, and Richard G. Powers. (Phoenix: Oryx Press, 1999).

Law Enforcement Services included FBI activities that supported its investigative functions, such as the forensic laboratory, criminal justice information services (National Crime Information Center, Fingerprint Identification Program, and Uniform Crime Reporting), and the training academy. It was also responsible for sharing information with other domestic and foreign law enforcement agencies. **Administration** functions included those related to budgetary and fiscal matters, information resources and management, personnel, and internal security.

Over time, FBI headquarters was regularly reorganized as new directors put their stamp on things. For example, upon being sworn in as director in 1993, Louis Freeh set about reducing the size of the Headquarters staff. He disdained the FBI bureaucracy and had an affection for the brick agents (as field agents were sometimes called) who did the “work of the Bureau.” He reduced the number of staff at headquarters by 37%, sending the headquarters personnel into the field. In addition, he eliminated a number of staff positions, including the associate deputy director and all assistant section chiefs.

Budgets and Decision Rights

The FBI categorized its investigations into different programs such as National Foreign Intelligence, Domestic Terrorism, National Infrastructure/Computer Intrusion, Organized Crime/Drugs, Violent Crimes & Major Offenders, White Collar Crime, Civil Rights, Applicant Matters, Training, and Miscellaneous. FBI managers in charge of each program submitted requests for resources on an annual basis to the Finance Division. The Finance Division then reviewed each request to ensure it supported the FBI’s Strategic Plan and incorporated them into the budget request submitted to the Attorney General (AG). After approved by the AG, the budget needed the approval of the Office of Management & Budget and the Justice Management Division. Congress then discussed the budget request with the FBI Director and could choose to amend or supplement the budget after giving its approval.

Using the approved budget figures, and using the FBI’s priorities and historical use of resources, the FBI Resource Management and Allocation office set Funded Staffing Levels for each program. **RMA** and the FBI manager in charge of the program worked together to allocate the program staffing level across headquarters and the Bureau’s 56 field offices. This allocation was submitted to the Director for approval. Rather than being allocated by investigative program, each field office was allocated support personnel in three areas: clerical/administrative, investigative, and technical.

The program managers in headquarters were also tasked with approving certain sensitive techniques in investigations. For example, an agent needed to obtain approval from FBI Headquarters and the Department of Justice to allow a human source of intelligence to continue engaging in illegal activity (e.g., providing financing to terrorist activities, which was specifically outlawed by the 1996 Antiterrorism and Effective Death Penalty Act). Obtaining such approval could sometimes take as long as six months.

Headquarters program managers were also responsible for making linkages between separate investigations, and determining whether and what information should be shared with other government agencies or with policymakers.

Field Offices

Most of the FBI’s investigation work was performed in the field by special agents, who had educational backgrounds in the following fields: law, accounting, engineering/science, language, and

"diversified" (a college graduate with at least three years of work experience). New agents received training for 16 weeks at the FBI Academy at Quantico, Virginia in Academics, Firearms, Physical Training/Defensive Tactics, and Practical Exercises. Three days were devoted to national security matters, including counterterrorism and counterintelligence. After graduating from the Academy, an agent served a two-year probationary period.

New agents were assigned to a field office or smaller satellite office (also known as resident agency) based on current staffing and high-priority specialty needs, and were generally expected to remain in their first office of assignment for a minimum of four years. The FBI had 56 field offices and 400 resident agencies. Field offices varied considerably because, for the most part, they set their own priorities with little direction from headquarters. Analysis by the Department of Justice Office of Inspector General found that between October 1, 1995 and June 1, 2002, 25 (of the 56 total) field offices expended the greatest amount of special agent resources on white collar crime, 16 offices on violent crimes and major offenders, ten offices on organized crimes and drugs, four on national foreign intelligence. Thus, only 7% of the offices had national foreign intelligence as their predominant program.³⁶

Except for field offices in New York City and Washington, DC, a "special agent in charge" (SAC) oversaw each field division and assigned investigations. Within a field office, agents were assigned to squads. Each squad had a supervisor, which assigned and reviewed the work of the agents that were members of their squad. Because the performance of agents was largely measured according to the number of arrests, indictments, and prosecutions they contributed to, those investigations that led to fewer prosecutions were generally less desirable assignments. Specifically, "fields such as counterterrorism and counterintelligence... were viewed as backwaters."³⁷ Further, most agents preferred to conduct tactical analysis that would advance their investigations, rather than more strategic analysis required for counterintelligence and counterterrorism.

As in most large organizations, tension existed at the FBI about the optimal amount of centralization and the relationships between headquarters and the field offices. SACs were said to operate their field offices like "fiefdoms." Carol Toohey, a former SAC in Atlanta commented on the director taking an active role in the security preparations for the 1996 Olympics in Atlanta: "You can't do that because you don't have all the information you need. If you have a senior SAC on site with twenty or thirty years of experience in the Bureau, that is the person most qualified to make decisions." At least some in the leadership concurred: "The more decisions made in Washington from the SIOC, the less informed and more political they become."³⁸

Michael Chertoff, a former U.S. Attorney in Newark, acknowledged the authority traditionally accorded to SACs but also noted the potential weakness of decentralization for the Bureau's anti-terrorism and intelligence activities:

The traditional model of the bureau was very decentralized. The SACs would do their thing, and headquarters would not do anything operational. But terrorism and national security or espionage cases are really national. What goes on in Miami and San Francisco may be linked. The old method of having an office of origin in a particular city doesn't make sense

³⁶ U.S. Department of Justice Office of the Inspector General Audit Division, "Federal Bureau of Investigation Casework and Human Resource Allocation," Audit Report 03-37, September 2003, p. x.

³⁷ National Commission on Terrorist Attacks upon the United States, "Law Enforcement, Counterterrorism, and Intelligence Collection in the United States Prior to 9/11," Staff Statement No. 9, p. 3.

³⁸ Ronald Kessler, *The Bureau: The Secret History of the FBI* (New York: St Martin's Press, 2002), p. 405.

in terrorism and national security. There is no real center of gravity, and they need to be part of the national security components.³⁹

Opening an investigation usually came about when a crime was committed.⁴⁰ The field office that initiated a case maintained control over it and was referred to as the "Office of Origin." Field offices were expected to route any information related to a case to its Office of Origin and the unit at FBI's headquarters that covered that type of investigation. In addition to storing cases in the local field office file and database systems, reports were also supposed to be uploaded in to the bureau-wide Automated Case System (ACS). Because any information recorded on paper and stored in a file was potentially discoverable in court, agents were often discouraged from putting analysis in writing. Another more mundane factor limited the usefulness of the ACS. The FBI's information systems were antiquated and cumbersome. The ACS was not connected to the Internet and could not be navigated using a mouse. Because the system was so slow, individuals at the Bureau developed 42 additional and separate systems to work around the ACS. If an agent wanted to gather information on an individual, he or she would need to search all 42 systems.⁴¹

Both of these factors played a role on August 29, 2001, when an FBI agent assigned to the CIA's Counterterrorist Center discovered that two terrorists associated with bin Laden had entered the United States just a few months earlier.

He pleaded with headquarters to approve a criminal investigation so that the full resources of his squad could be used to find [the terrorists]. Again attorneys at the National Security Law Unit at headquarters were asleep at the switch. They said that while an intelligence investigation could be started, a full and possibly more aggressive criminal investigation could not be opened because the source of the information was intelligence. The lawyers said there was a need to protect the sources of the information in the event of a criminal trial.⁴²

Two weeks later, on September 11, 2001, these terrorists helped to hijack a commercial airliner. Eventually there would be a criminal trial relating to these two terrorists.

In the New York office, the 45 agents investigating al Qaeda were purposely divided into two groups, one focused on criminal matters and one focused on intelligence. They were forbidden to speak to one another. SAC Mawn recalled: "We had to report violations when criminal and intelligence agents talked to each other. The assistant special agent in charge of both sides had to try to keep it all separate in his head. My guys were always coming to me and complaining that they weren't allowed to share information between intelligence and the criminal side." Kenneth Maxwell, chief of the Counterterrorism Branch and the agent in charge, observed: "The problem was not that we didn't share information with other agencies. The problem was that, even though the law allowed it, we were precluded from sharing information among ourselves. We were warned by the National Security Law Unit that our careers were at stake."⁴³

In addition to agents, field offices had analysts and other support personnel to help with investigations and office work. Both agents and support personnel used the Time Utilization and Recording System (TURK), in which they recorded the percentage of time they spent by type of

³⁹ Ibid., p. 409.

⁴⁰ Ibid., p. 501.

⁴¹ Ibid., pp. 453–455.

⁴² Ibid., pp. 519–520.

⁴³ Ibid., p. 520.

investigation. The percentages were based on a 10-hour workday for agents and an 8-hour workday for support personnel.

It was tradition within the FBI to hire analysts from within the agency rather than recruit individuals with relevant educational background and expertise. Jamie Gorelick, the Deputy Attorney General, became aware and concerned about the bureau's analytical capability when she found that "the bureau could not produce a quality report on possible threats at the 1996 Olympics Atlanta."⁴⁴ Analysts were often unable to gain access to information, since access was typically gained via personal relationships. Analysts were also discouraged from writing their analysis because of the fear it could be subpoenaed as evidence in court trials.

Law Enforcement vs. Intelligence

Beginning with Hoover's reign, two subcultures developed in the agency: the visible law enforcement agents and the secret intelligence agents. The techniques employed in conducting foreign and domestic intelligence were dramatically different from those used in the agency's law enforcement activities.

Law enforcement The mission of law enforcement was to arrest, prosecute, and convict offenders for specific violations. Law enforcement involved assembling evidence that related to the witnesses to the crime or to a prior crime of the perpetrator; the physical evidence linking a criminal to the crime he or she committed, and written records made by suspects, the government, or others, and information on similar offenses and their perpetrators. In the course of an investigation, agents needed to adhere to certain legal constraints to make sure that evidence could be submitted in a trial. For example, physical evidence located in a private place (such as a home) was protected by the Fourth Amendment to the Constitution. Thus, an FBI agent usually needed to obtain a search warrant from a federal judge in order to search the premises and seize the evidence.

Special rules also applied to interviews conducted by the FBI. Once an individual was considered a suspect, for example, the Fifth Amendment to the Constitution stipulated that an individual could not be forced to incriminate himself or speak without a lawyer present. FBI agents had to obtain a grand jury subpoena for a suspect to give hair, blood, saliva, or voice samples, or for authority to obtain certain types of financial, medical, or educational records, which were protected by privacy statutes.

Intelligence While law enforcement was seen as a powerful form of prevention of most crimes, intelligence was aimed at crimes for which prevention was critical because of the potential harm or destruction (e.g., the large number of casualties from terrorist attacks on airplanes, major tunnels and bridges, or national events or devastation of attacks on national symbols or critical infrastructure, such as the electricity grid, water supply, mail service, and major means of transportation). Agents gathered intelligence from the organization's own writings or speeches and informants. To thwart intelligence gathering, terrorist organizations often restricted membership to those with a long history of association with related causes or by requiring a test of loyalty (e.g., commission of a crime); organized themselves into cell structures that limited the amount of information to which any single member had access, or had an above-ground front organization to provide support to an underground organization whose activities would be largely unknown to the front members; and took severe action against informants and their families.

⁴⁴ Ibid., p. 349.

Former CIA director, William Casey, compared intelligence gathering and analysis to building a mosaic:

There were thousands of pieces of intel, he observed—little pieces of broken glass consisting of ELINT (electronic intelligence), PHOTINT (spy-satellite imagery), COMINT (communication intercepts), and HUMINT (from on-the-ground spies). Policy could never depend exclusively on any given piece of the mosaic, Casey argued; only by standing back and viewing the assembled pieces together could one get a clear picture of the truth.⁴⁵

In carrying out the work of intelligence investigations, agents often engaged in electronic monitoring or covert physical searches. Such surveillance targeted at agents of foreign powers was authorized by Foreign Intelligence Surveillance Act (FISA). Agents needed to obtain the authorization from the Foreign Intelligence Surveillance Court (FISC), which was comprised of eleven district court judges selected by the Chief Justice of the United States. In contrast to the standard needed to be met for law enforcement searches or electronic intercept warrants, FISA did not require agents to establish probable cause that criminal activity is occurring or has occurred. Nevertheless, FISA orders could only be issued if agents demonstrated that the purpose was to collect foreign intelligence.⁴⁶ Several agents had complained that the FISA approval process involved multiple levels of review and was lengthy and inefficient.

In addition to securing a warrant from the FISC, an agent had to follow certain Attorney General procedures designed to “minimize the acquisition and retention, and prohibit the dissemination, of non-publicly available information concerning unconsenting U.S. persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information.”

In fact, a “wall” had emerged between criminal and intelligence investigations for fear that the different techniques used in one would negatively impact the outcome of the investigation of the other. For example, certain intelligence techniques were not admissible as evidence in a criminal case. FBI agents were unable to share information from FISA surveillance with FBI criminal investigators unless an attorney in the field office or in the Office of Intelligence Policy and Review at the Department of Justice authorized its release.

A Changing Terrorist Threat and the FBI’s Response

The 1993 World Trade Center bombing and the terrorist plots discovered in the following years represented a new type of threat. In the past, international terrorist activity against the United States had mostly occurred outside of the country (e.g., the 1983 bombing of the U.S. Embassy and Marine Barracks in Beirut by Islamic Jihad; the kidnapping of several U.S. citizens in Lebanon in 1984; the June 1985 hijacking of TransWorld Airways Flight 847).

The nature of the terrorist organizations and their funding had also changed. They were less dependent on state sponsors and their membership spanned several countries. The 1993 WTC bombing was the work of at least five different groups—including the Palestinian-based Islamic Jihad, Hamas, the Sudanese National Islamic Front, the Pakistan-based al Fuqrah, and groups funded

⁴⁵ Lance, *1000 Years*. p. 5.

⁴⁶ The USA Patriot Act modified FISA to allow FISA orders to be issued where “a significant purpose of the surveillance is to obtain foreign intelligence.”

by Persian Gulf donors.⁴⁷ The WTC bombing mastermind, Ramzi Yousef, was involved in a series of attacks that spanned New York, the Philippines, and Pakistan.

The transnational nature of these organizations made them less responsive to the use of economic sanctions. In addition, they were harder to predict, track, or penetrate. Many of these organizations reflected a shift in motive from political gain to religion. Thus, they lacked concrete political goals and were more likely to try to punish their enemies by killing as many of them as possible. This was a dramatic change from politically motivated terrorist organizations, like the Irish Republic Army or the Palestinian Liberation Organization, who sought specific political concessions and were more careful not to alienate supporters with too much bloodshed.

Despite its success in capturing the perpetrators of the World Trade Center bombing, the FBI realized that such successful after-the-fact criminal investigations into terrorist attacks nevertheless left the country vulnerable to future attacks. It wrote to Congress in its first budget request after the 1993 World Trade Center bombing, "merely solving this type of crime is not enough; it is equally important that the FBI thwart terrorism before such acts can be perpetrated." Director Freeh later commented on the significance of the 1993 bombing: "Within the FBI and across the United States, this was a wakeup call that there were individuals in the United States who also sought to do us great harm." The bombing in April 1995 of the Alfred P. Murrah Federal Building in Oklahoma City provided further confirmation of the terrorist threat.

Both the 1993 and 1995 attacks "resulted in the emergence of international and domestic terrorism as major FBI domestic security concerns." Richard Clarke then National Coordinator for Counterterrorism and member of the National Security Council, summarized the changes: "It's post-Cold War security, not focused just on nation-state threats. The boundaries between domestic and foreign have blurred. Threats to the U.S. now are not Soviet ballistic missiles carrying bombs, they're terrorists carrying bombs."⁴⁸

The FBI Responds

The FBI recognized the need to develop the capability internally to pursue a more proactive approach to intelligence and counterterrorism.

Resources

The Department of Justice Inspector General found that the Bureau devoted significantly more agent resources to traditional law enforcement activities such as white collar crime, organized crime, drug, and violent crime investigations than to domestic and international terrorism issues. In FY 2000, the FBI used 6,815 agents in non-terrorism related criminal investigative programs: 2,426 in white collar crime, 2,172 in organized crime and drugs, 2,055 in violent crimes and major offenders, and 162 in civil rights. It used a total of 2,126 agents in its three programs related to terrorism. Non-terrorism programs continued to dominate agent utilization in 2001. In contrast to agent utilization, terrorism-related FBI programs consistently utilized more support personnel than any other program. Yet, even when agents were supplemented by support personnel, the total personnel utilized by terrorism-related programs were significantly less than those used in non terrorism-

⁴⁷ Steven Emerson, "The Other Fundamentalists," in *Terrorism in the United States*, ed. Frank McGuckin (New York: H.W. Wilson Company, 1997).

⁴⁸ Clarke, *Against All Enemies*, p. 230.

related programs in FY 2000 and 2001.⁴⁹ Director Louis Freeh wrote in an *Wall Street Journal* article that, for Fiscal Years 2000, 2001, and 2002 the FBI asked for 1,895 special agents, analysts and linguists to enhance its counterterrorism program, but received 76 people during those years.⁵⁰

In 1996 the FBI hired approximately 50 strategic analysts for counterterrorism purposes, many with advanced degrees. However, most of those analysts left the Bureau within two years because they were not satisfied with the role of strategic analysis at the FBI.⁵¹ The FBI also experienced a shortage of language specialists and language-qualified field officers, which resulted in a backlog of materials awaiting translation.

An internal study conducted in January 2002 found that 66% of the FBI's 1200 strategic analysts ("Intelligence Research Specialists") were unqualified. Newly-assigned strategic and operational analysts received little counterterrorism training upon assuming their positions: there was no training regimen other than a two-week basic analytical course. In 2002 the Chief of the FBI's National Security Intelligence Section testified:

While there was no standardized training regimen, other than a two-week basic analytical course, training was available on an ad hoc basis and guidance was provided by both the unit chiefs of the analytical units and the FBI's Administrative Services Division. The development of a standardized curriculum, linked to job skills, and career advancement was being planned..., but it was never implemented.⁵²

In 1993, the FBI determined the FBI needed legats in Tel Aviv, Cairo, Ankara, Riyadh, Amman, Tashkent, and Almaty. A legat was an FBI agent that served as a liaison with the host country's law enforcement services. Legats were later proposed in Tunis, Kuala Lumpur, Jakarta, Rabat, Sana, Tbilisi, and Abu Dhabi.⁵³ Between 1993 and 2001, the FBI expanded its Legal Attache or "Legat" offices around the world from 19 to 44.

Information Technology

In 1997 the FBI presented to Congress the Information Sharing Initiative (ISI), a four-year project with an expected cost of \$400 million. The purpose of the initiative was to upgrade the FBI's critical hardware, software, and communications capabilities. The initiative was abandoned after Congressional committees recommended that the FBI utilize a pilot implementation concept for the initiative because of previous IT projects that went overbudget and completed years behind schedule (the Integrated Automated Fingerprint Identification System and National Crime Information Center). The FBI prepared a project plan called eFBI, essentially a scaled back version of ISI in the spring of 2000; this plan was also not approved. In September 2000, the FBI's IT infrastructure was lacking: over 13,000 desktops were 4 to 8 years old and could not run basic software packages, while some communications networks were up to 12 years old. Most of the network components were no

⁴⁹ U.S. Department of Justice Office of the Inspector General Audit Division, "Federal Bureau of Investigation Casework and Human Resource Allocation," Audit Report 03-37, September 2003, p. 7.

⁵⁰ Louis J. Freeh, "Before 9/11—and After," *Wall Street Journal*, April 12, 2004.

⁵¹ Report of the Joint Inquiry into the Terrorist Attacks of September 11, 2001—By the House Permanent Select Committee on Intelligence and the State Select Committee on Intelligence, December 2002, p. 63.

⁵² Report of the Joint Inquiry into the Terrorist Attacks of September 11, 2001, p. 65.

⁵³ Louis J. Freeh, "Before 9/11—and After," *Wall Street Journal* April 12, 2004.

longer manufactured or supported, and special agents were unable to reliably e-mail each other on case specific information and often resorted to faxes.⁵⁴

In 2000, the FBI submitted to Congress an Information Technology Upgrade Plan (later renamed Trilogy). The goals of the plan were to get all case files into electronic databases, make the IT more user friendly for agents, provide access to all databases via one search engine, and provide reliable, high-speed flexible communications. In November 2000, Congress appropriated \$100.7 million for the first year of the \$379.8 million Trilogy project, which was to be funded over a three-year period.⁵⁵

One component of Trilogy, the Virtual Case File, was meant to replace the FBI's case tracking system, the Automated Case System, initially deployed in 1995 to replace a system of written reports and thus, enable agents to electronically access reports from other FBI offices and units. Many agents found the ACS limited in its search capacity, difficult to use, and unreliable, and thus, continued to rely on e-mail and paper copies to transmit information. In addition, because agents did not receive automated updates on when information was added to the system, it was possible for leads to "fall through the cracks."

In addition to the ACS, Trilogy was expected to replace four of the FBI's most important investigative applications. It would not replace the FBI's 37 other less-critical investigative applications or approximately 160 other non-investigative applications.⁵⁶

Organizational Changes

In 1996 the FBI established the Counterterrorism Center to combat terrorism on three fronts: international terrorism operations both within the United States and in support of extraterritorial investigations, domestic terrorism operations, and countermeasures relating to both international and domestic terrorism. It centralized many specialized operational and analytic functions related to counterterrorism. Eighteen federal agencies maintained a regular presence in the center and participated in its daily operations—including the CIA, the Defense Intelligence Agency, and the United States Secret Service. In particular, the FBI and CIA had also worked on developing a closer working relationship, including an ongoing exchange of personnel between the two agencies, and joint counterterrorism training conferences.⁵⁷

The FBI established more Joint Terrorism Task Forces (JTTFs), which were the main mechanism for sharing counterterrorism information with other law enforcement agencies. Among the federal full-time participants in the JTTFs were the INS, the U.S. Marshall's Service, the Secret Service, the FAA, the Customs Service, the Bureau of Alcohol Tobacco and Firearms, the State Department, the U.S. Postal Inspection Service, the IRS, and the U.S. Park Police. In addition to city-level JTTFs, there were six Regional Terrorism Task Forces (RTTFs) that operated on an ad hoc basis. On a semiannual basis, FBI agents assigned to counterterrorism matters met with their federal, state, and local counterparts for common training, discussion of investigations, and to share and discuss intelligence. Not all of the FBI field offices had JTTFs. Many were not fully staffed if state and local entities did not see value in having a representative on the task force. Many did not have access to the information

⁵⁴ U.S. Department of Justice Office of the Inspector General Audit Division, "FBI's Management of Information Technology Investments," Audit Report 03-09, December 2002, p. 89.

⁵⁵ Ibid.

⁵⁶ U.S. Department of Justice Office of the Inspector General Audit Division, "FBI's Management of Information Technology Investments," p. 2.

⁵⁷ Louis J. Freeh, Statement before the Senate Judiciary Committee, September 3, 1998.

systems of the FBI and their supervisors in their home agencies often lacked security clearance to gain access to information. Prior to September 11, only 35 FBI field offices had JTTFs and only six JTTFs had CIA representatives.⁵⁸

During the 1990s, the FBI engaged in two major organizational change efforts. Deputy Director Robert Bryant led the creation of a five year strategic plan unveiled in May of 1998. According to the 9/11 Commission:

The plan mandated development of a strong intelligence base, including human sources, intelligence collection, and reporting requirements. It called for implementation of a nationwide automated system to facilitate intelligence collection, analysis and dissemination. It envisioned creation of a professional intelligence cadre of experienced and trained agents and analysts. It hoped for partnership with intelligence community and national and local law enforcement agencies to leverage their expertise.⁵⁹

To implement this plan, the FBI created the Office of Intelligence; less than a year later, this Office was replaced by the Investigative Services Division (ISD). This division was to separate and elevate the tasks of strategic analysis and to convey professional status to those individuals working in the areas of intelligence collection and analysis. It consolidated analysts who had worked in separate divisions and also represented the first time that the strategic analysis function was made independent of the operational divisions. The ISD eventually failed, according to FBI officials, in part because it "did not receive sufficient resources, and there was ongoing resistance to its creation from the senior managers in the FBI's operational divisions."⁶⁰

Following on this failure, and recognizing the still present need to focus the organization on counterterrorism, Dale Watson developed MAXCAP 05. As the first head of the new Counterterrorism Division in 1999, Watson recognized the critical need to build organizational capability; his MAXCAP strategy was designed to do just that. Calling on the training division and the ISD (which was still around in at the time) asked for help to train and recruit more linguists, analysts, and technically trained experts to bring the Bureau to its "maximum feasible capacity" in counterterrorism by 2005. The additional human resources were to be complemented by better "intelligence gathering, valid and straightforward reporting and tracking mechanisms, effective interagency liaison and cooperation, and accountable program management." In the summer of 2000, he took strategy on the road, meeting with all of the FBI's assistant directors and SACs of the 56 field offices.⁶¹

A year after meeting with leaders of the field offices, a formal assessment of the effort found little progress. Watson recognized that resources, both human and budgetary, were a real constraint and pushed for more funding. In 2001, the Administration's budget proposal to Congress included an 8% increase in overall FBI funding and the largest increase in dedicated counterterrorism funding since 1997. However, in the same year, as the Department of Justice was beginning to prepare the budget proposal for the following year, it placed high priority on reducing the incidence of gun violence and reducing the trafficking of illegal drugs.

⁵⁸ Report of the Joint Inquiry into the Terrorist Attacks of September 11, p. 90.

⁵⁹ National Commission on Terrorist Attacks upon the United States, "Law Enforcement, Counterterrorism, and Intelligence Collection in the United States Prior to 9/11," Staff Statement No. 9. April 13, 2004. Hereafter cited as *Staff Stmt.* p. 9.

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

Reflecting upon these challenges, Watson—a 24-year veteran of the FBI—told the 9/11 Commission that “trying to implement this strategy was the hardest thing he had ever done in his life . . . and that [he] thought the FBI had to step up to a major choice of mission.”⁶²

⁶² Ibid.

Appendix

Excerpts from an Edited Memo from FBI Special Agent Coleen Rowley to FBI Director Robert Mueller, May 21, 2002⁶³

Dear Director Mueller:

I feel at this point that I have to put my concerns in writing concerning the important topic of the FBI's response to evidence of terrorist activity in the United States prior to September 11th. The issues are fundamentally ones of INTEGRITY and go to the heart of the FBI's law enforcement mission and mandate. Moreover, at this critical juncture in fashioning future policy to promote the most effective handling of ongoing and future threats to United States citizens' security, it is of absolute importance that an unbiased, completely accurate picture emerge of the FBI's current investigative and management strengths and failures.

To get to the point, I have deep concerns that a delicate and subtle shading/skewing of facts by you and others at the highest levels of FBI management has occurred and is occurring. The term "cover up" would be too strong a characterization which is why I am attempting to carefully (and perhaps over laboriously) choose my words here. I base my concerns on my relatively small, peripheral but unique role in the Moussaoui investigation in the Minneapolis Division prior to, during and after September 11th and my analysis of the comments I have heard both inside the FBI (originating, I believe, from you and other high levels of management) as well as your Congressional testimony and public comments.

I feel that certain facts, including the following, have, up to now, been omitted, downplayed, glossed over and/or mis-characterized in an effort to avoid or minimize personal and/or institutional embarrassment on the part of the FBI and/or perhaps even for improper political reasons:

1) The Minneapolis agents who responded to the call about Moussaoui's flight training identified him as a terrorist threat from a very early point. The decision to take him into custody on August 15, 2001, on the INS "overstay" charge was a deliberate one to counter that threat and was based on the agents' reasonable suspicions.

...

3) The Minneapolis agents' initial thought was to obtain a criminal search warrant, but in order to do so, they needed to get FBI Headquarters' (FBIHQ's) approval in order to ask for DOJ OIPR's approval to contact the United States Attorney's Office in Minnesota...

...

5) The fact is that key FBIHQ personnel whose job it was to assist and coordinate with field division agents on terrorism investigations and the obtaining and use of FISA searches (and who theoretically were privy to many more sources of intelligence information than field division agents), continued to, almost inexplicably,⁶⁴ throw up roadblocks and undermine Minneapolis' by-now

⁶³ Excerpted from the June 3, 2002 Issue of TIME Magazine. See <http://www.time.com/time/covers/1101020603/memo.html#>.

⁶⁴ During the early aftermath of September 11th, when I happened to be recounting the pre-September 11th events concerning the Moussaoui investigation to other FBI personnel in other divisions or in FBIHQ, almost everyone's first question was

desperate efforts to obtain a FISA search warrant, long after the French intelligence service provided its information and probable cause became clear. HQ personnel brought up almost ridiculous questions in their apparent efforts to undermine the probable cause.⁶⁵ In all of their conversations and correspondence, HQ personnel never disclosed to the Minneapolis agents that the Phoenix Division had, only approximately three weeks earlier, warned of Al Qaeda operatives in flight schools seeking flight training for terrorist purposes!

Nor did FBIHQ personnel do much to disseminate the information about Moussaoui to other appropriate intelligence/law enforcement authorities. When, in a desperate 11th hour measure to bypass the FBIHQ roadblock, the Minneapolis Division undertook to directly notify the CIA's Counter Terrorist Center (CTC), FBIHQ personnel actually chastised the Minneapolis agents for making the direct notification without their approval!

6) Eventually on August 28, 2001, after a series of e-mails between Minneapolis and FBIHQ, which suggest that the FBIHQ SSA deliberately further undercut the FISA effort by not adding the further intelligence information which he had promised to add that supported Moussaoui's foreign power connection and making several changes in the wording of the information that had been provided by the Minneapolis Agent, the Minneapolis agents were notified that the NSLU Unit Chief did not think there was sufficient evidence of Moussaoui's connection to a foreign power. ... The e-mail communications between Minneapolis and FBIHQ, however, speak for themselves and there are far better witnesses than me who can provide their first hand knowledge of these events characterized in one Minneapolis agent's e-mail as FBIHQ is "setting this up for failure." ... In the Moussaoui case, ... the process allowed the Headquarters Supervisor to downplay the significance of the information thus far collected in order to get out of the work of having to see the FISA application

"Why?—Why would an FBI agent(s) deliberately sabotage a case?" (I know I shouldn't be flippant about this, but jokes were actually made that the key FBIHQ personnel had to be spies or moles, like Robert Hansen, who were actually working for Osama bin Laden to have so undercut Minneapolis' effort.) Our best real guess, however, is that, in most cases avoidance of all "unnecessary" actions/decisions by FBIHQ managers (and maybe to some extent field managers as well) has, in recent years, been seen as the safest FBI career course. Numerous high-ranking FBI officials who have made decisions or have taken actions which, in hindsight, turned out to be mistaken or just turned out badly (i.e. Ruby Ridge, Waco, etc.) have seen their careers plummet and end. This has in turn resulted in a climate of fear which has chilled aggressive FBI law enforcement action/decisions. In a large hierarchal bureaucracy such as the FBI, with the requirement for numerous superiors approvals/oversight, the premium on career-enhancement, and interjecting a chilling factor brought on by recent extreme public and congressional criticism/oversight, and I think you will see at least the makings of the most likely explanation. Another factor not to be underestimated probably explains the SSA and other FBIHQ personnel's reluctance to act. And so far, I have heard no FBI official even allude to this problem—which is that FBI Headquarters is staffed with a number of short term careerists* who, like the SSA in question, must only serve an 18 month-just-time-to-get-your-ticket-punched minimum. It's no wonder why very little expertise can be acquired by a Headquarters unit! (And no wonder why FBIHQ is mired in mediocrity!—that maybe a little strong, but it would definitely be fair to say that there is unevenness in competency among Headquarters personnel.) (It's also a well known fact that the FBI Agents Association has complained for years about the disincentives facing those entering the FBI management career path which results in very few of the FBI's best and brightest choosing to go into management. Instead the ranks of FBI management are filled with many who were failures as street agents. Along these lines, let me ask the question, why has it suddenly become necessary for the Director to "handpick" the FBI management?) It's quite conceivable that many of the HQ personnel who so vigorously disputed Moussaoui's ability/predisposition to fly a plane into a building were simply unaware of all the various incidents and reports worldwide of al Qaeda terrorists attempting or plotting to do so.

*By the way, just in the event you did not know, let me furnish you the Webster's definition of "careerism: the policy or practice of advancing one's career often at the cost of one's integrity." Maybe that sums up the whole problem!

⁶⁵ For example, at one point, the Supervisory Special Agent at FBIHQ posited that the French information could be worthless because it only identified Zacarias Moussaoui by name and he, the SSA, didn't know how many people by that name existed in France. A Minneapolis agent attempted to surmount that problem by quickly phoning the FBI's legal Attache (Legat) in Paris, France, so that a check could be made of the French telephone directories. Although the Legat in France did not have access to all of the French telephone directories, he was able to quickly ascertain that there was only one listed in the Paris directory. It is not known if this sufficiently answered the question, for the SSA continued to find new reasons to stall.

through or possibly to avoid taking what he may have perceived as an unnecessary career risk.⁶⁶ I understand that the failures of the FBIHQ personnel involved in the Moussaoui matter are also being officially excused because they were too busy with other investigations, the Cole bombing and other important terrorism matters, but the Supervisor's taking of the time to read each word of the information submitted by Minneapolis and then substitute his own choice of wording belies to some extent the notion that he was too busy. ...

7) Although the last thing the FBI or the country needs now is a witch hunt, I do find it odd that (to my knowledge) no inquiry whatsoever was launched of the relevant FBIHQ personnel's actions a long time ago. Despite FBI leaders' full knowledge of all the items mentioned herein (and probably more that I'm unaware of), the SSA, his unit chief, and other involved HQ personnel were allowed to stay in their positions and, what's worse, occupy critical positions in the FBI's SIOC Command Center post September 11th. (The SSA in question actually received a promotion some months afterward!) It's true we all make mistakes and I'm not suggesting that HQ personnel in question ought to be burned at the stake, but, we all need to be held accountable for serious mistakes. I'm relatively certain that if it appeared that a lowly field office agent had committed such errors of judgment, the FBI's OPR would have been notified to investigate and the agent would have, at the least, been quickly reassigned. I'm afraid the FBI's failure to submit this matter to OPR (and to the IOB) gives further impetus to the notion (raised previously by many in the FBI) of a double standard which results in those of lower rank being investigated more aggressively and dealt with more harshly for misconduct while the misconduct of those at the top is often overlooked or results in minor disciplinary action. From all appearances, this double standard may also apply between those at FBIHQ and those in the field.

...

Mr. Director, I hope my observations can be taken in a constructive vein. They are from the heart and intended to be completely apolitical. Hopefully, with our nation's security on the line, you and our nation's other elected and appointed officials can rise above the petty politics that often plague other discussions and do the right thing. You do have some good ideas for change in the FBI but I

⁶⁶ Another factor that cannot be underestimated as to the HQ Supervisor's apparent reluctance to do anything was/is the ever present risk of being "written up" for an Intelligence Oversight Board (IOB) "error." In the year(s) preceding the September 11th acts of terrorism, numerous alleged IOB violations on the part of FBI personnel had to be submitted to the FBI's Office of Professional Responsibility (OPR) as well as the IOB. I believe the chilling effect upon all levels of FBI agents assigned to intelligence matters and their manager hampered us from aggressive investigation of terrorists. Since one generally only runs the risk of IOB violations when one does something, the safer course is to do nothing. Ironically, in this case, a potentially huge IOB violation arguably occurred due to FBIHQ's failure to act, that is, FBIHQ's failure to inform the Department of Justice Criminal Division of Moussaoui's potential criminal violations (which, as I've already said, were quickly identified in Minneapolis as violations of Title 18 United States Code Section 2332b [Acts of terrorism transcending national boundaries] and Section 32 [Destruction of aircraft or aircraft facilities]). This failure would seem to run clearly afoul of the Attorney General directive contained in the "1995 Procedures for Contacts Between the FBI and the Criminal Division Concerning Foreign Intelligence and Foreign Counterintelligence Investigations" which mandatorily require the FBI to notify the Criminal Division when "facts or circumstances are developed" in an FI or FCI investigation "that reasonably indicate that a significant federal crime has been, is being, or may be committed." I believe that Minneapolis agents actually brought this point to FBIHQ's attention on August 22, 2001, but HQ personnel apparently ignored the directive, ostensibly due to their opinion of the lack of probable cause. But the issue of whether HQ personnel deliberately undercut the probable cause can be sidestepped at this point because the Directive does not require probable cause. It requires only a "reasonable indication" which is defined as "substantially lower than probable cause." Given that the Minneapolis Division had accumulated far more than "a mere hunch" (which the directive would deem as insufficient), the information ought to have, at least, been passed on to the "Core Group" created to assess whether the information needed to be further disseminated to the Criminal Division. However (and I don't know for sure), but to date, I have never heard that any potential violation of this directive has been submitted to the IOB or to the FBI's OPR. It should also be noted that when making determinations of whether items need to be submitted to the IOB, it is my understanding that NSLU normally used/uses a broad approach, erring, when in doubt, on the side of submitting potential violations.

think you have also not been completely honest about some of the true reasons for the FBI's pre-September 11th failures. Until we come clean and deal with the root causes, the Department of Justice will continue to experience problems fighting terrorism and fighting crime in general.

I have used the "we" term repeatedly herein to indicate facts about others in the Minneapolis Office at critical times, but none of the opinions expressed herein can be attributed to anyone but myself. I know that those who know me would probably describe me as, by nature, overly opinionated and sometimes not as discreet as I should be. Certainly some of the above remarks may be interpreted as falling into that category, but I really do not intend anything as a personal criticism of you or anyone else in the FBI, to include the FBIHQ personnel who I believe were remiss and mishandled their duties with regard to the Moussaoui investigation. Truly my only purpose is to try to provide the facts within my purview so that an accurate assessment can be obtained and we can learn from our mistakes. I have pointed out a few of the things that I think should be looked at but there are many, many more.⁶⁷ An honest acknowledgment of the FBI's mistakes in this and other cases should not lead to increasing the Headquarters bureaucracy and approval levels of investigative actions as the answer. Most often, field office agents and field office management on the scene will be better suited to the timely and effective solution of crimes and, in some lucky instances, to the effective prevention of crimes, including terrorism incidents. The relatively quick solving of the recent mailbox pipe-bombing incidents which resulted in no serious injuries to anyone are a good example of effective field office work (actually several field offices working together) and there are hundreds of other examples. Although FBIHQ personnel have, no doubt, been of immeasurable assistance to the field over the years, I'm hard pressed to think of any case which has been solved by FBIHQ personnel and I can name several that have been screwed up! Decision-making is inherently more effective and timely when decentralized instead of concentrated.

Your plans for an FBI Headquarters' "Super Squad" simply fly in the face of an honest appraisal of the FBI's pre-September 11th failures. The Phoenix, Minneapolis and Paris Legal Attache Offices reacted remarkably exhibiting keen perception and prioritization skills regarding the terrorist threats they uncovered or were made aware of pre-September 11th. The same cannot be said for the FBI Headquarters' bureaucracy and you want to expand that?! Should we put the counterterrorism unit chief and SSA who previously handled the Moussaoui matter in charge of the new "Super Squad"?! You are also apparently disregarding the fact the Joint Terrorism Task Forces (JTTFs), operating out of field divisions for years (the first and chief one being New York City's JTTF), have successfully handled numerous terrorism investigations and, in some instances, successfully prevented acts of terrorism. There's no denying the need for more and better intelligence and intelligence management, but you should think carefully about how much gate-keeping power should be entrusted with any HQ entity. If we are indeed in a "war," shouldn't the Generals be on the battlefield instead of sitting in a spot removed from the action while still attempting to call the shots?

I have been an FBI agent for over 21 years and, for what it's worth, have never received any form of disciplinary action throughout my career. From the 5th grade, when I first wrote the FBI and received the "100 Facts about the FBI" pamphlet, this job has been my dream. I feel that my career in the FBI has been somewhat exemplary, having entered on duty at a time when there was only a small percentage of female Special Agents. I have also been lucky to have had four children during my time in the FBI and am the sole breadwinner of a family of six. Due to the frankness with which I have expressed myself and my deep feelings on these issues (which is only because I feel I have a

⁶⁷ For starters, if prevention rather than prosecution is to be our new main goal (an objective I totally agree with), we need more guidance on when we can apply the Quarles "public safety" exception to Miranda's 5th Amendment requirements. We were prevented from even attempting to question Moussaoui on the day of the attacks when, in theory, he could have possessed further information about other co-conspirators. (Apparently no government attorney believes there is a "public safety" exception in a situation like this?!)

somewhat unique, inside perspective of the Moussaoui matter, the gravity of the events of September 11th and the current seriousness of the FBI's and United States' ongoing efforts in the "war against terrorism"), I hope my continued employment with the FBI is not somehow placed in jeopardy. I have never written to an FBI Director in my life before on any topic. Although I would hope it is not necessary, I would therefore wish to take advantage of the federal "Whistleblower Protection" provisions by so characterizing my remarks.

Sincerely

Coleen M. Rowley

Special Agent and Minneapolis Chief Division Counsel