HARVARD | BUSINESS | SCHOOL

9- 710 - 450

REV: MAY 24, 2010

JAN W. RIVKIN

MICHAEL ROBERTO

Federal Bureau of Investigation, 2001 (Abridged)

In November 2001, Robert S. Mueller, Director of the Federal Bureau of Investigation (FBI), sent Congress a proposal to reorganize his agency. Mueller had taken the helm of the FBI on September 4, 2001. One week later, 19 terrorists had killed more than 3,000 people in the 9/11 attacks.

Mueller viewed his November 2001 restructuring plan as the first step in an effort to transform the Bureau. The FBI served as both the chief law enforcement agency and the main domestic intelligence wing of the U.S. government. In practice, though, law enforcement overshadowed intelligence at the FBI. In the wake of the 9/11 attacks, Mueller recognized that the nation required a much stronger domestic intelligence service, and he believed passionately that that service should reside within the FBI. He knew, however, that critics would call for the Bureau to narrow its scope, focus on law enforcement, and cede domestic intelligence to a new, specialized agency. Indeed, many other countries maintained separate organizations for law enforcement and domestic intelligence (**Exhibit 1**). Senator John Edwards, a member of the Senate's Select Committee on Intelligence, became one of the early, outspoken advocates for emulating that approach in the United States:

> At its heart the FBI is a law enforcement agency dedicated to arresting, prosecuting, and convicting people who break the law. FBI agents are very good at law enforcement, but law enforcement isn't intelligence…. The FBI hires and promotes based on law enforcement criteria, it builds cases rather than connecting dots, and it keeps information secret rather than getting it to those who can use it to stop the terrorists. The FBI has tried to reform for years, but the bureaucratic resistance is tremendous. Today we don't have the luxury of failing to turn the FBI into something it isn't meant to be. We need to create what we need.[1]

The President and Congress would ultimately decide the scope of the FBI's mission. Mueller hoped to convince these decision makers and the American public that the FBI should remain the nation's domestic intelligence service.

Development of the FBI

The FBI had a storied history. Since 1870, the Department of Justice (DOJ), headed by an Attorney General, had been responsible for prosecuting federal crimes and representing the United States in legal matters. In 1908, the Attorney General appointed 34 Special Agents to serve in a Bureau of Investigation within the DOJ. The Bureau soon set up field offices, each with responsibility for and authority over its own geographic area, in nine major cities.

This case is an abridged version of "Federal Bureau of Investigation (A)," HBS No. 707-500, prepared by Professors Jan W. Rivkin and Michael Roberto (Bryant University). HBS cases are developed solely as the basis for class discussion. Cases are not intended to serve as endorsements, sources of primary data, or illustrations of effective or ineffective management.

J. Edgar Hoover became Director of the Bureau of Investigation in 1924 and, by 1930, put 30 field offices in place. To make the Bureau a highly professional organization, Hoover instituted management practices unusual for law enforcement agencies of the time, including a performance appraisal system, periodic inspections of each field office, strict hiring criteria, and formal training courses. During the 1930s, the Bureau established its Technical Laboratory, which became famous for its forensic capabilities; set up the National Academy, which gave state and local police officers advanced training; and became known as the Federal Bureau of Investigation, or FBI. Hoover also strove to establish the Bureau's prominence in the public eye and its independence within the federal government. The Bureau captured the public's imagination in the 1930s with a successful campaign against prominent gangsters such as John Dillinger, Al Capone, and "Machine Gun" Kelly.

The FBI's mandate grew over time. With the rise of Fascism and Communism during the 1930s, President Franklin Roosevelt authorized the FBI to collect intelligence on domestic organizations such as the German-American Bund and the American Communist Party. When World War II began, the Bureau took responsibility for counterintelligence—that is, efforts to investigate and disrupt spying and sabotage by foreign nations. The FBI's law enforcement responsibilities expanded further in the postwar years as the Civil Rights Act of 1964 identified many forms of discrimination as federal crimes. Organized crime also became a major focus, as the Bureau and the public learned more about the American mafia. With Hollywood producing movies such as *The Godfather*, the public became fascinated by the mafia and its nemesis, the FBI.

In 1956, Hoover launched a program to secretly monitor and disrupt the activities of the Communist Party U.S.A. The program expanded, however, to cover many domestic political figures and organizations, including Martin Luther King, Jr. and Vietnam War protesters. In the early 1970s, public disclosures about this secret domestic spying program shocked and angered many Americans. Congressional investigators found widespread evidence of secret surveillance activities that violated the civil liberties of Americans. The FBI's reputation suffered a severe blow. Subsequent legislative reforms limited the Bureau's ability to gather intelligence within the United States.

Hoover died in 1972, having served as FBI Director for 48 years under eight Presidents. His successor, Clarence Kelley, set out to limit domestic intelligence investigations and improve the Bureau's image. Kelley established three priorities for the FBI: counterintelligence, organized crime, and white-collar crime. He called on the largely-autonomous field offices to allocate agents based on these priorities. Kelley's successor, former federal judge William Webster, declared counterterrorism a fourth critical priority for the Bureau. However, most of the FBI's resources remained focused on its other three priorities. Illegal drug offenses became the Bureau's fifth national priority in the 1980s. The "Pizza Connection" case, the most complex investigation of Webster's tenure, uncovered a scheme by mafia figures to distribute drugs and launder money through pizzerias. The lead prosecutor on the case, Louis Freeh, who had earlier been an FBI agent, received widespread acclaim for bringing 22 defendants to trial and securing 18 convictions.

Freeh later became the FBI's Director, serving from 1993 to 2001. Freeh's strong confidence in FBI agents on the streets led him to cut Headquarters staff by 37% and shift personnel to the field offices even as the FBI's budget grew by 58%. When terrorists bombed the World Trade Center in New York in 1993, Freeh perceived it as a "wakeup call." He created the Counterterrorism Division at FBI Headquarters to match a similar center at the Central Intelligence Agency (CIA), set up job rotations among senior FBI and CIA counterterrorism officials, and pressed for more interagency cooperation to fight terrorism.

In a five-year strategic plan adopted in 1998, the FBI declared national security, including counterterrorism, a top priority. The plan had little effect on the subsequent allocation of resources, however. In 2000, the FBI assigned 2,426 agents to white-collar crime, 2,172 to organized

crime/drugs, 2,055 to violent crimes, and 2,126 to counterterrorism and counterintelligence. By one estimate, only 10% of the counterterrorism and counterintelligence agents focused on the former.[2] Of the FBI's 12,730 convictions in 1998, more than half involved drugs, bank robberies, and bank fraud, while only 37 related to terrorism.[3]

The FBI Before the 9/11 Attacks

On September 4, 2001, Mueller became the Director of the FBI. Earlier, he had graduated from Princeton, served as a Marine officer in Vietnam, studied law at the University of Virginia, and developed a distinguished career at the Department of Justice. At the DOJ, Mueller had prosecuted the full array of cases—from organized crime and narcotics to terrorism and public corruption—and had led major divisions at headquarters as well as offices in Boston and San Francisco.

As FBI Director, Mueller took the helm of an organization with an annual budget of $3.4 billion. Ten thousand employees worked at FBI Headquarters, and 18,000 other employees were spread across 56 major field offices, numerous domestic satellite offices, and 44 international outposts. The chairman of the Senate Judiciary Committee, a key oversight body, summarized the challenge: "The new FBI Director will inherit an agency with superb resources and capabilities, but it is also an agency beleaguered by a series of high-profile mistakes and by a culture that too often does not recognize and correct its errors."[4] The challenge would expand dramatically after the 9/11 attacks.

Position and Role within the U.S. Government

The federal government consisted of three branches **(Exhibit 3).** The executive branch, headed by the President, carried out the nation's laws and conducted the foreign, domestic, and military affairs of the country. The legislative branch, embodied by Congress, voted on federal laws and oversaw the executive branch (e.g., by approving its budget and reviewing its actions via standing committees). The judicial branch consisted of a hierarchy of courts that tried criminal and civil cases involving federal law and the U.S. Constitution. The FBI resided within the executive branch, specifically within the DOJ. As such, the Director of the FBI reported to the Attorney General.

The FBI pursued two basic missions: solving crimes and preventing crimes. Solving crimes involved investigating a criminal act after it occurred, collecting and analyzing evidence, apprehending suspects, and helping DOJ prosecutors prove the guilt of suspects beyond a reasonable doubt in court. Preventing crimes involved anticipating threats to the public and disrupting them before they caused harm. The two missions corresponded roughly to the criminal and intelligence contexts described below. Overall, the FBI had jurisdiction over some 200 types of federal crimes ranging from civil rights violations and public corruption to art theft and organized crime.

Crime-solving context In pursuing each of its two missions, the FBI worked alongside other governmental authorities. The FBI's primary partners in its crime-solving mission included a mind-bogglingly complex set of state, local, and tribal law enforcement (SLTLE) agencies. In the U.S. in 2000, 17,784 state and local police agencies employed 708,022 full-time sworn officers.[5] The officers in the Chicago Police Department alone outnumbered the agents in the FBI. The FBI maintained close relationships with SLTLE authorities, though naturally some conflicts emerged in these interactions.

Intelligence context The FBI was a key member of the Intelligence Community of the federal government. The Intelligence Community consisted of 14 distinct agencies: the Central Intelligence Agency (CIA); eight agencies within the Department of Defense; the FBI, which took the lead for domestic intelligence efforts; and smaller bureaus within the Departments of Energy, State, Transportation, and Treasury. The National Security Act of 1947 established the CIA as the

Intelligence Community's lead agency. Due in part to Hoover's lobbying, the Act strictly limited the CIA's ability to act inside the United States, denying it any "police, subpoena, or law enforcement powers, or internal security functions." Instead, the CIA focused abroad, gathering, analyzing, and acting on intelligence related to foreign governments or organizations. Its Directorate of Operations conducted clandestine activities abroad, while the Directorate of Intelligence analyzed information.

The Director of Central Intelligence (DCI) served as the nominal leader of the Intelligence Community. The DCI ran the CIA, advised the President on intelligence matters, and coordinated the Intelligence Community. In the last role, he had limited authority. The other agencies funneled their annual intelligence-related budget requests through the DCI, but once allocated, funds flowed through department secretaries, not the DCI. The DCI could neither monitor nor reallocate spending. Moreover, he had limited authority to hire or fire senior officials in the Intelligence Community. Consequently, the FBI Director had considerable autonomy over domestic intelligence activities.

Operations and Organization

The field The individual Special Agent represented the heart and soul of the FBI. Although Headquarters in Washington, DC, housed the largest number of FBI personnel, the typical agent longed to be on the streets, working a case at a field office. The agent was a man or woman of action, with little tolerance for bureaucracy. As one put it, "I'm here to fill jail cells, not file cabinets." The agent exhibited a passion for justice, closure, and convictions: "I like the look on criminals' faces when they're in handcuffs and convicted. That's what I joined the FBI to do: lock up bad guys." Whether going undercover to infiltrate drug gangs, pursuing criminals who preyed on children, or bringing corrupt officials to justice, good agents took their jobs personally. Agents who pursued their cases creatively and aggressively were heroes of the organization. Though law and procedure strictly governed an agent's activities, the job provided ample room for variety and initiative. In the course of a day, an agent might interrogate suspects, develop new informants, scan cases for patterns, work with prosecutors, or court SLTLE partners.

The case served as the focal point of an agent's work. Joseph Ford, Chief of the Economic Crimes Unit in 2001, described the role of cases in organizing an agent's work: "[Before 9/11,] think of an agent's work as a classic 'in-box' exercise. If something showed up in your in-box on your desk, you opened a case and began an investigation." In large field offices, agents typically worked in tight-knit squads that specialized in a particular type of case—for instance, organized crime, drugs, or counterterrorism. Squads in smaller offices tended to be generalists.

Cases fell into two categories: criminal and intelligence. A particular criminal act, such as a bank robbery, prompted the opening of a criminal case. The squad then collected evidence that would enable a U.S. prosecutor to make a legal argument beyond a reasonable doubt and secure a conviction. An intelligence case involved gathering information about someone's plan to harm the public and taking action to disrupt the plan. Charles Price, a Special Agent in the Washington Field Office, summarized the distinction: "A criminal case is all about figuring out what happened. An intelligence case is all about figuring out what's going to happen." He added:

> On September 10, 2001, many of the intelligence guys really wanted to be on the criminal side…. On counterterrorism, you need an engaged and powerful headquarters. But that means agents in the field have to ask a boatload of 'Mother May I?' questions. So, as an agent, you can either work your own criminal cases, with tons of autonomy, or you can become a "Mother May I?" guy. The other thing is validation. In criminal cases, there's a clear thumbs up or thumbs down that comes from the U.S. Attorney, the judge, the grand jury, and ultimately the jury. There's also a statute of limitations, a deadline. Where's that closure on intelligence work?

Greg Leylegian, an agent long involved in intelligence cases, commented, "In some ways, it's a lot easier to do criminal work. You don't have to do a lot of paper work." One senior official described how agents who worked criminal cases viewed agents on other cases: "The counterterrorism guys never arrested anyone, never stopped anything. It was hard to keep score on their effectiveness."[6]

A Special Agent in Charge (SAC) led each field office. An SAC enjoyed wide latitude in running an office, and many young agents aspired to become an SAC. To do so, an agent had to receive positive reviews from supervisors and move among field offices every 2-3 years. He or she needed to take on supervisory roles, primarily via a voluntary system that veterans referred to as "raising your hand." Finally, an agent had to serve some time at headquarters and apprentice as an assistant SAC.

One Congressional staffer referred to the SACs as "princes with their own little fiefdoms, and the director is like the king who doesn't necessarily have the power to rein them in."[7] The SAC implicitly set an office's priorities by allocating agents to cases. More formally, the SAC set priorities from a menu provided by headquarters, to reflect the local situation. For instance, the Miami, Chicago, and Washington field offices might emphasize narcotics, organized crime, and counterintelligence, respectively. Before 9/11, "It was not uncommon to find field offices with unjustified priorities in their list of priority rankings," explained Willie Hulon, the Bureau's Chief Inspector in 2001.

Headquarters Nearly 10,000 people worked at or with FBI Headquarters, located in Washington halfway between the White House and the U.S. Capitol. To visit Headquarters, one passed concrete security barriers, walked through a metal detector, and entered an interior courtyard embellished with a quotation from Hoover: "The most effective weapon against crime is cooperation." Past a second security checkpoint, one entered a maze of long nondescript, windowless corridors. Executive offices, on a password-protected corridor, tended to be decorated with memorabilia from past cases and assignments. Career FBI professionals filled most executive roles; only the Director was a political appointee. Former SACs and assistant SACs filled numerous executive positions, and many soon returned to field roles. Headquarters performed two related functions: it oversaw and coordinated field offices, and it provided central services.

Oversight and coordination. Headquarters guided field offices by means of the priority-setting process described above, via metrics, and through inspections. Headquarters measured a field office's performance in several ways, with an emphasis on the number of arrests, indictments, prosecutions, and convictions. The FBI's Inspection Division conducted on-site, stem-to-stern reviews of each field office every 3 years. An inspection assessed many activities including agent compliance with legal procedures and guidelines, as well as the quality of case record-keeping.

Coordination across field offices was light-handed. Under an "office of origin" system, a field office that started a particular investigation stayed with it even if it expanded beyond one geographic area. The New York Field Office, for instance, first indicted Usama Bin Ladin and thus became the hub for all Bin Ladin cases. This approach reduced the need for coordination from headquarters. Some coordination did take place through three operating divisions at Headquarters: the Criminal Investigative, Counterintelligence, and Counterterrorism Divisions (CTD). The latter two divisions had been part of a unified National Security Division until 1999, when they were separated in response to counterintelligence failures—specifically, reports that Chinese spies had stolen nuclear secrets from U.S. laboratories. (See **Exhibit 4** for organizational charts of Headquarters.)

Each division at Headquarters consisted of several sections, and each section contained a number of units. CTD, for instance, included the International Terrorism Operations Section (ITOS) and the Domestic Terrorism Operations Section (DTOS).[8] Before 9/11, ITOS employed 90 individuals in five units, including a Radical Fundamentalist Unit and a Bin Ladin Unit. Each unit's staff consisted of a mix of supervisory Special Agents (SSAs) and intelligence operations specialists (IOSs). SSAs tended

to be Special Agents rotating through headquarters before taking on supervisory roles in field offices. IOSs were long-term non-agent employees with extensive knowledge of the histories and operational patterns of particular terrorist organizations. Some IOSs held advanced degrees, while others had worked their way up from clerical positions. IOSs had distinctly lower status than Special Agents. On request, SSAs and IOSs gave information and advice to agents working counterterrorism cases in field offices. They assisted agents in getting court orders to conduct surveillance, and they disseminated intelligence and threat information to field offices and other government agencies.

A squad in the field, therefore, was in a matrix structure. The supervisor of, say, an organized crime squad in Houston reported primarily through an assistant SAC to the SAC of the Houston field office. But he or she also relied on organized crime specialists in the Criminal Investigative Division at Headquarters for guidance and assistance.

Central services. Headquarters provided a range of central services, including the FBI's highly regarded technical laboratories and specialists.[9] The Bureau had invested deeply for decades in forensics capabilities, helping to pioneer techniques such as fingerprint cataloguing, psychological profiling of criminals, and DNA analysis. Its ability to analyze crime-scene evidence was legendary. For instance, after terrorists downed Pan Am Flight 103 over Scotland in 1988, FBI forensic specialists helped crack the case by determining that a tiny fragment of the debris came from a Libyan bomb-timing device. Further effort pinpointed the suitcase that contained the bomb and traced fabric in the suitcase to a particular shop in Malta. The proprietor of that shop led investigators to Libyan agents.

Not all central services received such praise. Information technology efforts, for instance, were heavily criticized. As of September 2000, a DOJ inspector reported, "over 13,000 desktop computers were 4 to 8 years old and could not run basic software packages [and] some communication networks were up to 12 years old and were obsolete…."[10] One long-time agent explained the attitude of many of his peers: "Real men don't type. The only thing a real agent needs is a notebook, a pen, and a gun, and with those three things, you can conquer the world."[11]

The Automated Case System, a software application intended to enable information sharing among Bureau personnel, did not meet people's needs. Consequently, individuals developed 42 additional applications as "work-arounds."[12] The difficulty of entering information into the system reinforced a Bureau tendency not to put analysis into writing, where it might be discoverable in court. In recent years, Congress had scaled back or declined FBI budget requests for IT upgrades. In 2000, the FBI announced a three-year effort to improve its information systems. Officials proclaimed that the new Virtual Case File software would replace the Automated Case System, improve productivity, and enhance information sharing within the Bureau.

Field offices expressed similar dissatisfaction with human resource services. "Ninety percent of my day is spent fighting Human Resources in Headquarters," declared one assistant SAC in a moment of frustration (and probably exaggeration). Officers in the field realized, however, that FBI human resource managers operated under difficult constraints. Civil service regulations and government pay scales made it difficult to hire, motivate, and dismiss federal employees. Moreover, it could take the FBI over one year to complete a new employee's background check and issue a security clearance. Once an employee received a clearance, he or she became difficult to retain. Many private firms sought individuals with security clearances and offered higher salaries than the FBI. A new Special Agent earned a salary of approximately $50,000, including overtime pay, while an agent or supervisor with 10+ years of experience might earn $90,000-$110,000.[13] These figures did not substantially exceed the pay of a New York police officer.[14] Nonetheless, the FBI attracted far more applicants for special agent positions than it could accept.

Headquarters also performed strategic analysis, an important service for counterterrorism. Strategic analyses looked in depth at patterns and trends related to particular crimes or threats and suggested courses of action. During the late 1990s, Director Freeh created an Investigative Services Division at Headquarters to house a professional cadre of non-agent intelligence research specialists (IRSs) who could conduct strategic analysis. (In contrast, the IOSs described above handled tactical analyses specific to a case—for instance, examination of a suspect's telephone calling patterns.) The number of IRSs declined prior to 9/11, and they often performed tasks other than strategic analysis.[15] According to a commission that investigated the 9/11 attacks, "The new division did not succeed. FBI officials told us that it did not receive sufficient resources, and there was ongoing resistance to its creation from the senior managers in the FBI's operational divisions."[16]

Information flow and The Wall Information did not always flow smoothly within and beyond the Bureau, particularly due to the complexity of the organization and its tasks as well as the sensitivity of information. One FBI executive described the general approach to information flow as "withhold, and share by exception."

The justice system created one idiosyncratic but important barrier to information flow. The U.S. Constitution protected citizens against "unreasonable searches" by the government and required government personnel to show probable cause and obtain a warrant before a search. However, the Foreign Intelligence Surveillance Act (FISA) of 1978 set up special rules for gathering intelligence about agents of foreign powers. A special "FISA court" reviewed warrants sought mainly to gather foreign intelligence information, and it tended to permit searches and electronic surveillance more readily than traditional courts. The rules prohibited criminal investigators and prosecutors from circumventing the traditional judiciary by using the more permissive FISA court to obtain warrants for cases that had little to do with foreign intelligence. The statute sought to protect civil liberties while enabling the FBI to collect intelligence about threatening activities of foreign powers.

Technically, the FISA law did not prevent FBI agents who were working on strictly criminal cases from being briefed on information that other agents gathered through FISA warrants. In practice, though, FBI agents came to refer to the FISA-related restrictions as "The Wall." Prior to 9/11, they presumed that someone working on a FISA case could not share any information with agents on criminal investigations, even information obtained through means other than a FISA warrant.

The Performance of the FBI as the 9/11 Plot Took Shape

In the aftermath of the 9/11 terrorist attacks, investigative committees faulted the performance of many government agencies. Criticism of the FBI centered on two episodes.[17]

The Phoenix Memo and Moussaoui

The first episode unfolded in the FBI's Phoenix and Minneapolis field offices. In April 2000, Phoenix Special Agent Kenneth Williams learned that one Zackaria Mustapha Soubra had enrolled in civil aviation courses in Arizona. Soubra belonged to an organization whose leader had issued *fatwas* (Islamic legal pronouncements) calling for *jihad* (holy war) against the U.S. Several pronouncements suggested airports as targets. Williams first interviewed Soubra on April 7, 2000, noticing in the man's apartment a poster of Usama Bin Laden. Soubra told Williams that he considered the U.S. government and its armed forces to be "legitimate military targets of Islam."

A year later, Williams began working on terrorism matters again after completing an arson investigation. He soon discovered that a number of other Sunni Muslims with radical fundamentalist views, from Saudi Arabia, Pakistan, and other nations, had enrolled in aviation courses. On July 10,

2001, Williams wrote an electronic memo "to advise the Bureau and New York of the possibility of a coordinated effort by Usama Bin Laden to send students to the United States to attend civil aviation universities and colleges…. These individuals will be in a position in the future to conduct terror activity against civil aviation targets."[18] Williams recommended that FBI field offices establish liaisons with flight schools; that Headquarters seek related information throughout the Intelligence Community; and that the FBI ask the State Department about similar individuals who had obtained visas to enroll in flight schools. Williams called a friend at Headquarters to ask who should receive the memo. He chose to address the memo to IOSs at Headquarters and to several agents in the New York field office. He opted not to include IRSs at Headquarters—those responsible for strategic analysis—because he felt that the Investigative Services Division was "on its last legs."[19]

Though dated July 10, the memo did not enter the Automated Case System until July 27. When the memo arrived at Headquarters, an IOS in the Radical Fundamentalist Unit and another in the Usama Bin Laden Unit reviewed it. The first IOS felt that the memo focused on Bin Ladin, while the second concluded that Soubra's connection to Bin Ladin was weak. Accordingly, the IOSs took no action. They did not share it with senior FBI personnel, nor did they distribute it to other federal agencies. Several agents in the New York field office also received the memo and took no action.

Separately, on August 15, 2001, the FBI's Minneapolis field office received a tip from a flight training school in Minnesota that one of its students, Zacarias Moussaoui, had paid $6,800 in cash for training to fly a Boeing 747 jet. Unlike most students at the school, Moussaoui did not have a pilot's license, work for a commercial airline, or have thousands of hours of flight experience. FBI agents discovered that Moussaoui held jihadist beliefs and had traveled recently to Pakistan. He became agitated when asked if he had visited terrorist training camps in Afghanistan.

The FBI agents in Minnesota suspected that Moussaoui intended to hijack a plane. They arrested him because he had overstayed his visa. The Minneapolis agents then contacted Headquarters to secure a FISA warrant to search Moussaoui's laptop computer and other belongings. FISA rules required the agents to demonstrate that Moussaoui was an agent of a foreign power. Headquarters officials argued that the agents could not provide such evidence and therefore decided not to pursue a FISA warrant. This decision sparked conflict between the field agents and Headquarters. In a confrontational phone call on August 27, 2001, a Minneapolis supervisor argued that he was trying to ensure that Moussaoui "did not take control of a plane and fly it into the World Trade Center."[20] The Headquarters agent replied, "That's not going to happen. We don't know he's a terrorist. You don't have enough to show he is a terrorist. You have a guy interested in this type of aircraft—that is it."[21]

At the time of the 9/11 attacks, Moussaoui remained in custody in Minnesota. Officials later determined that he had ties to the hijackers. The Phoenix memo did not identify any of the hijackers, though a student listed in the memo had ties to one hijacker. Later, Minnesota agents were startled when they learned of Williams' memo, and Williams had no idea about events in Minneapolis. CIA officials, who had been made aware of the Moussaoui investigation, expressed dismay that no one had told them about Williams' memo. The FBI personnel who had quashed the Moussaoui warrant request did not know of Williams' concerns.

Mihdhar and Hazmi

A second episode involved one of the actual hijackers – Khalid al Mihdhar.[22] Twenty months before 9/11, U.S. government officials identified Mihdhar as a likely terrorist and realized that he had a valid U.S. visa. Yet he managed to enter the U.S. twice, apply for and receive a new visa, and rent a room from an FBI informant…all without being tracked or detained.

The episode began in late 1999 when the National Security Agency (NSA)—a U.S. technical agency that intercepted communications and analyzed codes—learned that two individuals, with first names Khalid and Nawaf, would soon travel to Kuala Lumpur, Malaysia, for a meeting of suspected terrorists. The NSA informed the CIA, which arranged to track the individuals. As Mihdhar passed through Dubai, CIA agents obtained a copy of his passport and noted that he had a valid U.S. visa. CIA agents observed and photographed the meeting in Kuala Lumpur in January 2000. The CIA's Counterterrorism Center monitored progress and kept FBI leaders apprised of events. CIA staff did not, however, tell the FBI about Mihdhar's U.S. visa.

Meanwhile, Mihdhar and a companion, Nawaf al Hazmi, left the Kuala Lumpur meeting hurriedly, flew to Thailand, and disappeared into the streets of Bangkok. A few days later, the two flew to Los Angeles, becoming the first 9/11 hijackers to land on U.S. soil. They passed Immigrations and Customs officials, who were not aware that the CIA suspected them to be terrorists. Once in the U.S., Mihdhar and Hazmi used their real names to open bank accounts, apply for driver's licenses, and enroll in flight school.

In March 2000, Thai officials alerted the CIA that Hazmi had flown to Los Angeles. CIA personnel did not pass this information along to the FBI. Two months later, Mihdhar and Hazmi rented rooms in San Diego in the residence of an FBI informant. The informant told his FBI handler about the arrival of "two Saudi nationals," but agents in the local field office had no reason to pay special attention to the two. Soon afterwards, Mihdhar traveled to the Middle East to visit family.

In October 2000, al Qaeda attacked the *U.S.S. Cole*, a naval vessel, off the coast of Yemen, killing 17 sailors in an explosion. FBI agents rushed to Yemen to set up a criminal investigation. Yemeni officials gave the FBI a photograph of the person they suspected of masterminding the attack. FBI and CIA agents showed the photograph to a shared informant. He identified the mastermind and also pinpointed the same individual in photographs taken at the Kuala Lumpur meetings. This would have set off alarm bells for any individual who had all the pieces of information: Mihdhar and Hazmi had been associated with the mastermind of the *Cole* attack; Mihdhar had a valid U.S. visa; and Hazmi had landed in Los Angeles. No individual, however, had all this information.

All the pieces were, in fact, assembled in a single room in June 2001, when FBI and CIA officials convened to discuss progress on the *Cole* investigation. The individuals in the meeting, collectively, possessed all the information, yet they did not share it. CIA participants felt they could not disclose "CIA information" to the FBI. Meanwhile, Mihdhar—still in the Middle East—applied to the State Department for a new U.S. visa. He received the visa in time to fly to New York on July 4, 2001. For the second time, he passed through Immigrations and Customs without scrutiny.

In late July 2001, an FBI analyst at the CIA's Counterterrorism Center began to review information regarding the Kuala Lumpur meeting. By late August, she realized the potential significance of Mihdhar and Hazmi. She called the Immigration and Naturalization Service on August 22 and learned that Mihdhar had entered the U.S. twice. Worried, she asked that FBI agents investigate the two men. An argument broke out within FBI ranks about who should be involved. Agents conducting the criminal investigation of the *Cole* bombing wanted badly to speak with the two men. FBI lawyers objected due to FISA concerns. The lead to Mihdhar and Hazmi came from an intelligence investigation, so they concluded that criminal investigators should not be involved.

The task of tracking down Mihdhar and Hazmi fell to a New York agent with no experience in counterterrorism. The August 28 request was marked "routine," implying that the agent had 30 days to act. The FBI agent at the CIA's Counterterrorism Center also placed Mihdhar and Hazmi on the State Department's watchlist, which named 60,000 suspected terrorists who would be denied visas. The Federal Aviation Authority (FAA) had its own, separate no-fly list, containing the names of 12

suspected terrorists. (Indeed, the FAA's security chief did not become aware of the State Department list until after 9/11.) On 9/11, since Mihdhar and Hazmi did not appear on the FAA no-fly list, American Airlines permitted them to board Flight 77, which the hijackers crashed into the Pentagon.

Reaction and Reform

The immediate reaction of FBI personnel to the 9/11 attacks involved shock, anger, grief as well as an immense workload. Investigators managed three of the largest crime scenes ever, in New York, Washington, and Pennsylvania. They investigated many rumors regarding a second wave of attacks. Anthrax-laden mail soon created additional investigations. Within days, all available assets of the FBI focused on counterterrorism. Director Mueller and his senior team ordered an urgent shift in the Bureau's priorities: Effective immediately, agents would examine and resolve every terrorism-related lead that the FBI received.

As the nation stabilized in November 2001, Director Mueller and his top team took up the longer-term task of remaking the FBI. The U.S. required a much stronger domestic intelligence service, and Mueller believed strongly that such a service should remain part of the FBI. He knew, however, that he faced a steep challenge and considerable skepticism. As one long-time investigator for a Senate committee responsible for FBI oversight put it, "Mueller is essentially waging two wars at the same time: one against terrorism and one against his own bureaucracy. They are not geared up for prevention of anything. They are geared up to arrest someone after a crime has been committed."[23]

Exhibit 1 Domestic Intelligence Organizations in Six Nations

	Chief Law Enforcement Agency	Primary Domestic Intelligence Organization	Primary Foreign Intelligence Organization
United States	• Federal Bureau of Investigation	• Federal Bureau of Investigation	• Central Intelligence Agency
France	• Direction Generale de la Nationale (urban areas) and Direction Generale de la Gendarmerie (rural regions)	• Direction de la Surveillance du Terriroire	• Direction General de la Securite Exterieure
Canada	• Royal Canadian Mounted Police	• Canadian Security Intelligence Service	• No foreign intelligence service exists
Australia	• Australian Federal Police	• Australian Security Intelligence Organization	• Australian Secret Intelligence Service
United Kingdom	• The Metropolitan Police (Scotland Yard)	• The Security Service (MI5)	• Secret Intelligence Service (MI6)
Israel	• Israeli National Police	• Israeli Security Agency	• Mossad

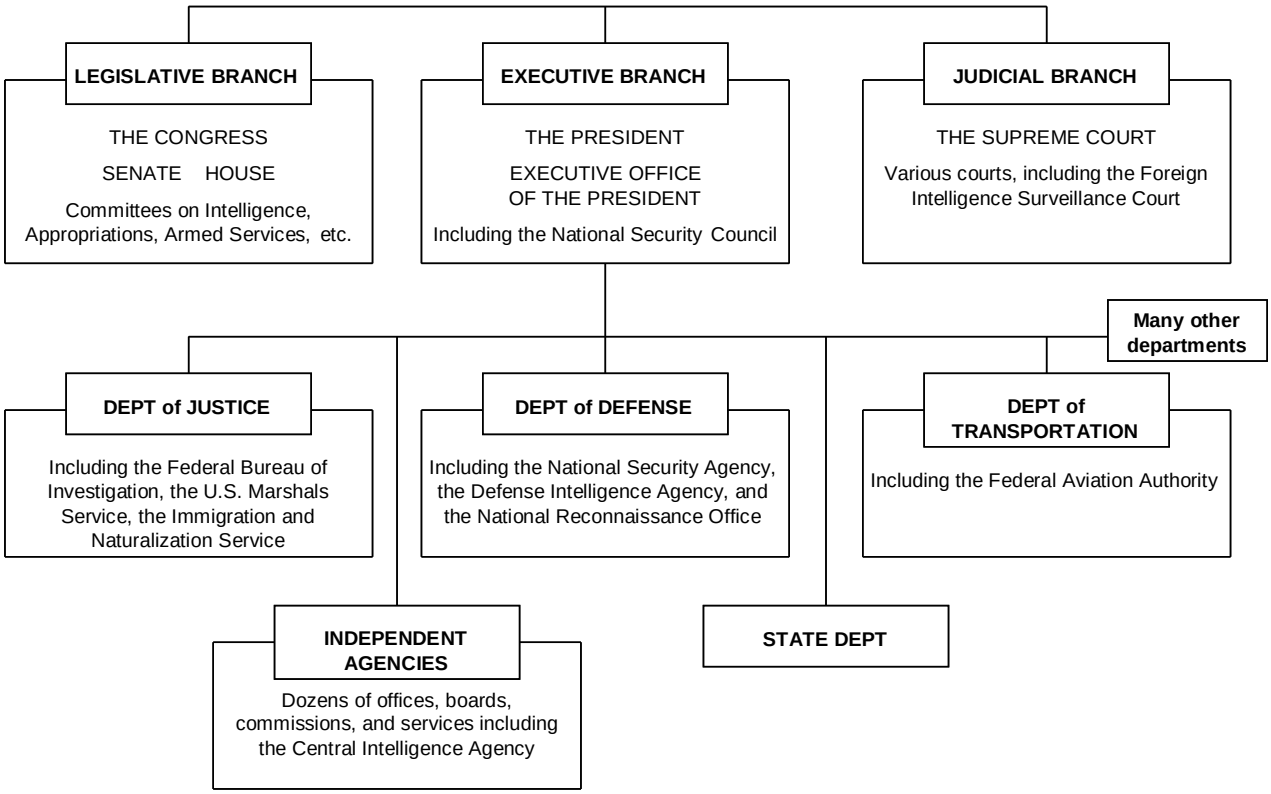
Source: Adapted from Peter Chalk and William Rosenau, "Confronting the Enemy Within: Security Intelligence, the Police, and Counterterrorism in Four Democracies," RAND Institute, 2004; and U.S. General Accounting Office Report, "Combating Terrorism: How Five Foreign Countries Are Organized to Combat Terrorism," 2001.

Exhibit 2 List of Acronyms

CIA	Central Intelligence Agency
CTD	Counterterrorism Division
DCI	Director of Central Intelligence
DOJ	Department of Justice
DTOS	Domestic Terrorism Operations Section
FAA	Federal Aviation Administration
FBI	Federal Bureau of Investigation
FISA	Foreign Intelligence Surveillance Act
IOS	Intelligence Operations Specialist
IRS	Intelligence Research Specialist
ITOS	International Terrorism Operations Section
NSA	National Security Agency
SAC	Special Agent in Charge
SSA	Supervisory Special Agent
SLTLE	State, local, and tribal law enforcement agencies

Source: Compiled by casewriter.

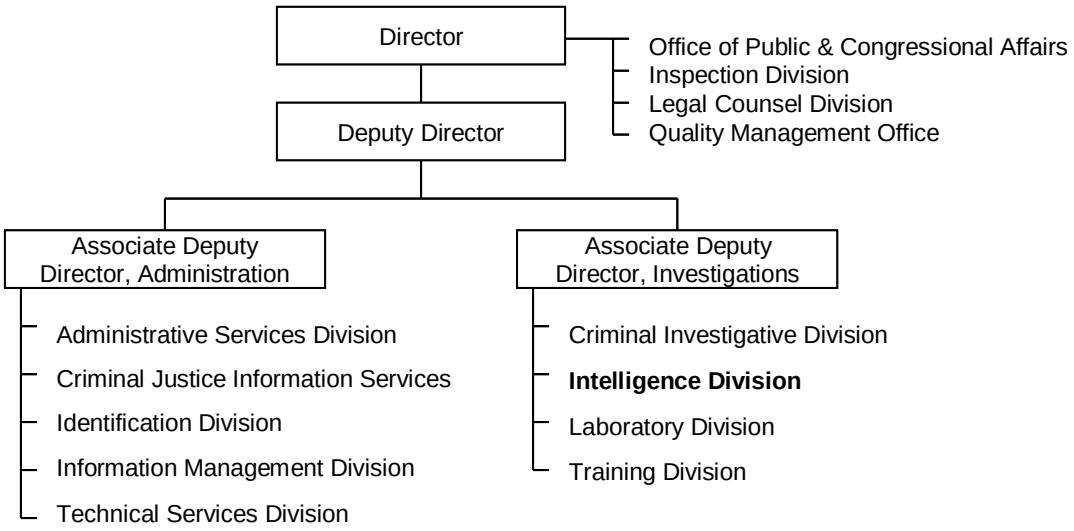
Exhibit 3 Truncated Organizational Chart of the United States Federal Government in 2001, with Counterterrorism Bodies Highlighted



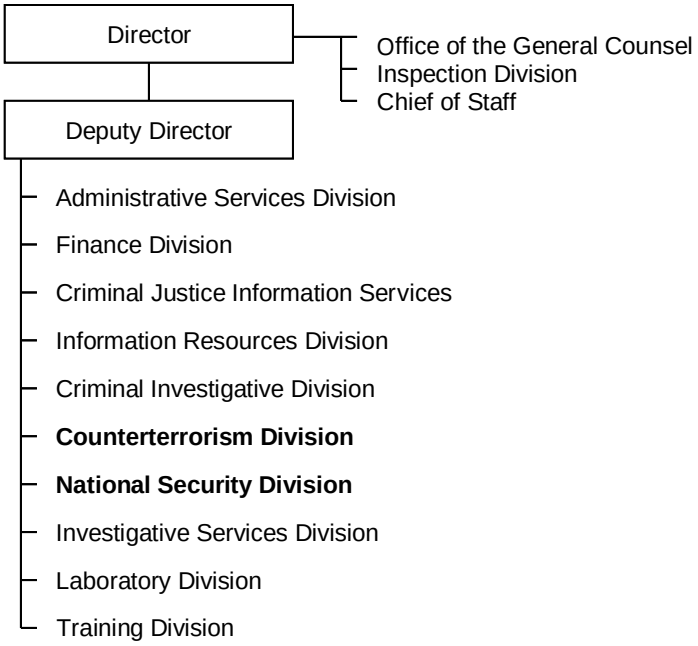
Source: Adapted from *The U.S. Government Manual*

Exhibit 4 FBI Headquarters Organization Charts

1992



1999 through November 2001



Source: FBI documents.

References

[1] Senator John Edwards, Homeland Security Address, Brookings Institution, Washington DC, December 18, 2002.

[2] Interview with Arthur Cummings, Special Agent in Charge of the FBI's Washington Field Office, May 17, 2006.

[3] David Burnham and Susan Long, "FBI falters by doing too much," USA Today, May 15, 2001.

[4] David Johnston, "U.S. prosecutor Is Bush's nominee to lead the FBI," *New York Times,* July 6, 2001.

[5] "Law Enforcement Statistics," Bureau of Justice Statistics, http://www.ojp.usdoj.gov/bjs/lawenf.htm, accessed December 2006.

[6] Don Van Natta, Jr. and David Johnston, "Wary of risk, slow to adapt, FBI stumbles in terror war," *New York Times*, June 2, 2002.

[7] Eric Lichtblau, "FBI Officials say some agents lack a focus on terror." *New York Times*, November 21, 2002. p. 1.

[8] This paragraph and the next draw from U.S. Department of Justice, Office of the Inspector General, "A Review of the FBI's Handling of Intelligence Information Related to the September 11 Attacks," November 2004, redacted version released June 2005, pp. 15-18.

[9] The following three paragraphs draw from Jan W. Rivkin and Michael A. Roberto, "Managing National Intelligence (A): Before 9/11," HBS case 706-463.

[10] U.S. Department of Justice, Office of the Inspector General, Audit Division, "Federal Bureau of Investigation's Management of Information Technology Investments," Audit Report 03-09, December 2002.

[11] Eric Lichtblau and Charles Piller, "Without a clue: How the FBI lost its way," *Milwaukee Journal-Sentinel*, August 11, 2002.

[12] Nancy D. Beaulieu and Aaron M.G. Zimmerman, "FBI: Mission Extended," HBS case 905-061, April 8, 2005, p. 12.

[13] U.S. Department of Labor, Bureau of Labor Statistics, http://www.bls.gov/oco/ocos160.htm.

[14] http://www.usatoday.com/news/nation/2004-04-05-cover-fbi_x.htm.

[15] U.S. Department of Justice, Office of the Inspector General, "A Review of the FBI's Handling of Intelligence Information Related to the September 11 Attacks," November 2004, redacted version released June 2005, pp. 17-18.

[16] Staff Statement No. 9, National Commission on Terrorist Attacks Upon the United States, p. 6.

[17] This section draws from Jan W. Rivkin and Michael A. Roberto, "Managing National Intelligence (A): Before 9/11," HBS case 706-463.

[18] http://www.justice.gov/oig/special/0506/app2.htm.

[19] U.S. Department of Justice, Office of the Inspector General, "A Review of the FBI's Handling of Intelligence Information Related to the September 11 Attacks," November 2004, redacted version released June 2005, p. 66.

[20] The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks upon the United States, Washington, D.C.: U.S.G.P.O., 2004, p. 275.

[21] The 9/11 Commission Report, p. 275.

[22] This section draws heavily from the U.S. Department of Justice, Office of the Inspector General, "A Review of the FBI's Handling of Intelligence Information Related to the September 11 Attacks," November 2004, redacted version released June 2005, Chapter 5.

[23] Dan Eggen and Jim McGee, "FBI rushes to remake its mission," *Washington Post*, November 12, 2001. p. A1.