

## **PART ONE—FINDINGS AND CONCLUSIONS**

### **I. THE JOINT INQUIRY**

In February 2002, the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence agreed to conduct a Joint Inquiry into the activities of the U.S. Intelligence Community in connection with the terrorist attacks perpetrated against our nation on September 11, 2001. Reflecting the magnitude of the events of that day, the Committees' decision was unprecedented in Congressional history: for the first time, two permanent committees, one from the House and one from the Senate, would join together to conduct a single, unified inquiry.

The three principal goals of this Joint Inquiry were to:

- ε · conduct a factual review of what the Intelligence Community knew or should have known prior to September 11, 2001, regarding the international terrorist threat to the United States, to include the scope and nature of any possible international terrorist attacks against the United States and its interests;
- ε · identify and examine any systemic problems that may have impeded the Intelligence Community in learning of or preventing these attacks in advance; and
- ε · make recommendations to improve the Intelligence Community's ability to identify and prevent future international terrorist attacks.

It should be noted that this Joint Inquiry had the specific charter to review the activities of the Intelligence Community and was limited to approximately one year's duration. It is recognized that there are many other issues relating to the events of September 11, 2001 that are outside the limits of the Intelligence Community, and that additional new [page 2] information may be developed within the Intelligence Community that was not reviewed by the Inquiry within the allotted time. With that in

mind, we look forward to cooperating with the new National Commission on Terrorist Attacks Upon the United States and the continuing oversight efforts of the House and Senate Intelligence Committees.

During the course of this Inquiry, these Committees have held nine public hearings as well as thirteen closed sessions in which classified information has been considered. In addition, the Joint Inquiry Staff has reviewed almost 500,000 pages of relevant documents from the Intelligence Community agencies and other sources, of which about 100,000 pages have been selected for incorporation into the Joint Inquiry's records. The Staff also has conducted approximately 300 interviews, and has participated in numerous briefings and panel discussions, that have involved almost 600 individuals from the Intelligence Community agencies, other U.S. Government organizations, state and local entities, and representatives of the private sector and foreign governments.

Thus, the Inquiry has sought and considered information from agencies throughout the Intelligence Community and other parts of the federal government; from relevant state and local authorities; and from private sector and foreign government individuals and organizations. This report is based on information gathered by the Committees throughout this Inquiry as well as testimony and exhibits received during the course of both the closed and open hearings. Consistent with the need to protect the national security, [page 2] the Committees will also subsequently issue an unclassified version of this report for public release.\*

The statement of the Committees' findings and recommendations in Part I of this report includes only a brief summary of the nature of the terrorist threat that faced the United States, and the Intelligence Community, in the years that preceded the vicious attacks of September 11, 2001. Given the scope of the information and issues considered during the course of this Inquiry, these findings and recommendations can only be completely understood against the background of the full hearing and investigative record. To provide that context, a detailed description of the hearings and investigative work of the Joint Inquiry is contained in Part II of this report.<sup>1</sup>

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\* This is the unclassified version of the original classified report that was approved by the Joint Inquiry.

## II. THE CONTEXT

September 11, 2001, while indelible in our collective memory, was by no means America's first confrontation with international terrorism. Although the nature of the threat had evolved considerably over time, the United States and its interests have long been prime terrorist targets. For example, the bombings of the Marine barracks and the U.S. Embassy in Beirut, Lebanon in 1983 should have served as a clear warning that terrorist groups were not reluctant to attack U.S. interests when they believed such attacks would further their ends.

The Intelligence Community also had considerable evidence before September 11 that international terrorists were capable of, and had planned, major terrorist strikes within the United States. The 1993 attack on the World Trade Center confirmed this point, as did the 1993 plots to bomb New York City landmarks and the 1999 arrest at the U.S.-Canadian border of Ahmad Ressay, who intended to bomb the Los Angeles International Airport. [Page 4]

Usama Bin Ladin's role in international terrorism had also been well known for some time before September 11. He initially came to the attention of the Intelligence Community in the early 1990s as a financier of terrorism. However, Bin Ladin's own words soon provided evidence of the steadily escalating threat to the United States he and his organization posed. In August 1996, he issued a *fatwa* -- or religious decree -- authorizing attacks on Western military targets in the Arabian Peninsula. In February 1998, Bin Ladin issued a second *fatwa* authorizing attacks on U.S. civilians and military personnel anywhere in the world. Bin Ladin's *fatwas* cited the U.S. military presence in

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<sup>1</sup> Anthrax attacks in October 2001 eventually killed five Americans, contaminated the Senate Hart Office building in Washington, D.C. as well as U.S. Postal Service facilities in Maryland, and significantly affected the U.S. economy. The statement of Initial Scope of this Joint Inquiry made specific reference to the anthrax attacks. In pursuing that matter, the Inquiry received briefings from the FBI and the U.S. General Accounting Office (GAO) regarding their investigations of the anthrax attacks. It also requested that GAO's Center for Technology and Engineering review the attacks; current knowledge regarding the use of anthrax as a weapon; technologies available to detect anthrax; and the law enforcement community's ability to combat chemical and biological terrorist attacks, including the FBI's resources and analytical capabilities to investigate such attacks. The GAO report has been completed. It is summarized in Part Three of this report and is included in its entirety as an appendix. To date, no connection has been established between the anthrax attacks and the terrorist attacks of September 11, 2001.

Saudi Arabia and the Persian Gulf, the Palestinian issue, and U.S. support for Israel as justification for ordering these attacks.

The gradual emergence of Bin Ladin and others like him marked a change from the type of terrorist threat that had traditionally confronted the Intelligence Community. Throughout the Cold War, radical left and ethno-nationalist groups had carried out most terrorist acts. Many of these groups were state-sponsored. The first bombing of the World Trade Center in February 1993, however, led to a growing recognition in the Intelligence Community of a new type of terrorism that did not conform to the Cold War model: violent radical Islamic cells, not linked to any specific country, but united in anti-American zeal. A July 1995 National Intelligence Estimate noted the danger of this “new breed”. By 1996, agencies within the Intelligence Community were aware that Bin Ladin was organizing these kinds of cells, and they began to collect intelligence on him actively.

In January 1996, the Counterterrorist Center (CTC) – which had been established at CIA in 1986 -- created a special unit that was dedicated to focusing on Bin Ladin and his associates. The unit quickly determined that he was more than a terrorist financier, and it soon became a hub for expertise on Bin Ladin and for operations directed against his terrorist network, al Qa’ida. Officials from the unit, which started with about 16 CIA officers and grew to about 40 officers from throughout the Intelligence Community prior to September 11, 2001, had unprecedented access to senior agency officials and White House policymakers.

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[At the FBI, the Radical Fundamentalist Unit was created in March 1994 to handle responsibilities related to international radical fundamentalist terrorists, including Usama Bin Ladin. This Unit also handled other counterintelligence matters, and was

responsible for the coordination of extraterritorial intelligence operations and criminal investigations targeted at radical fundamentalist terrorists. In 1999, the FBI recognized the increased threat to the United States posed by Bin Ladin and created the Usama Bin Ladin Unit to handle al-Qa'ida-related counterterrorism matters].

[As al-Qa'ida grew, both CIA and FBI officials recognized that the foreign intelligence, security, and law enforcement agencies of foreign governments, collectively referred to as "foreign liaison," could be of great value in penetrating and countering the organization. They understood that foreign liaison could act as a tremendous force multiplier against terrorism and, with that in mind, tried to coordinate and streamline what had been ad hoc relationships. As a result, as former National Security Advisor Sandy Berger testified, al-Qa'ida cells were disrupted in a number of countries after 1997. CTC also stepped up its efforts to enhance the capabilities of some foreign liaison services to work against joint terrorist targets. These efforts had mixed results].

The FBI also increased its focus on counterterrorism, establishing its own Counterterrorism Center at FBI Headquarters in 1996. Recognizing the importance of good relationships with foreign liaison services, the FBI expanded the permanent stationing of agents, known as Legal Attaches, or "Legats," in principal cities across the globe. In addition to improving relations with foreign services, the FBI engaged in an aggressive program with the CIA to arrest terrorists outside the United States. Finally, the FBI established Joint Terrorism Task Forces (JTTFs) in thirty-five field offices before September 11. These task forces were designed to bring together a range of federal, state and local agencies that could provide valuable assistance in counterterrorism investigations.

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The August 1998 bombing of two American embassies in East Africa definitively put the U.S. Intelligence Community on notice of the danger that Bin Ladin and his network, al-Qa'ida, posed. The attacks showed that Bin Ladin's network was capable of carrying out very bloody, simultaneous attacks and inflicting mass casualties. In December 1998, George Tenet, the Director of Central Intelligence, gave a chilling direction to his deputies at the CIA:

We must now enter a new phase in our effort against Bin Ladin. . . . We are at war. . . . I want no resources or people spared in this effort, either inside the CIA or the Community.

Discovering and disrupting al-Qa'ida's plans proved exceptionally difficult, however. Details of major terrorist plots were not widely shared within the al-Qa'ida organization, making it hard to develop the intelligence necessary to preempt or disrupt attacks. Senior al-Qa'ida officials were sensitive to operational security, and many al-Qa'ida members enjoyed sanctuary in Afghanistan, where they could safely plan and train for their missions. Finally, senior members of al-Qa'ida were skilled and purposeful: they learned from their mistakes and were flexible in organization and planning.

Nonetheless, particularly after the bombings in East Africa, the Intelligence Community amassed a body of information detailing Bin Ladin's ties to terrorist activities against U.S. interests around the world. Armed with that information, prior to September 11, 2001, U.S. Government counterterrorist efforts to identify and disrupt terrorist operations focused to a substantial degree on Bin Ladin and his network. The Intelligence Community achieved some successes – in some cases, major successes – in these operations. In other cases, little came of the Intelligence Community's efforts.

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By late 2000 and 2001, the Intelligence Community was engaged in an extensive, shadowy struggle against al-Qa'ida. Despite such efforts, Bin Ladin carried out successful and devastating attacks against Americans and citizens of other nations, including the bombing of USS Cole in Yemen in October 2000 and the attacks on the World Trade Center and the Pentagon on September 11, 2001.

### **III. FINDINGS AND CONCLUSIONS**

#### **A. Factual Findings**

In reviewing the documents, interview reports, and witness testimony gathered during this Inquiry, the Joint Inquiry has sought to determine what information was available to the Intelligence Community prior to September 11, 2001 that was relevant to

the attacks that occurred on that day. The record that has been established through this Inquiry leads to the following factual findings and conclusions.

**1. Finding: While the Intelligence Community had amassed a great deal of valuable intelligence regarding Usama Bin Ladin and his terrorist activities, none of it identified the time, place, and specific nature of the attacks that were planned for September 11, 2001. Nonetheless, the Community did have information that was clearly relevant to the September 11 attacks, particularly when considered for its collective significance.**

Discussion: This Inquiry has uncovered no intelligence information in the possession of the Intelligence Community prior to the attacks of September 11 that, if fully considered, would have provided specific, advance warning of the details of those attacks. The task of the Inquiry was not, however, limited to a search for the legendary, and often absent, “smoking gun.” The facts surrounding the September 11 attacks demonstrate the importance of strengthening the Intelligence Community’s ability to detect and prevent terrorist attacks in what appears to be the more common, but also far more difficult, scenario. Within the huge volume of intelligence reporting that was available prior to September 11, there were various threads and pieces of information that, at least in retrospect, are both relevant and significant. The degree to which the Community was or was not able to build on that information to discern the bigger picture [page 8] successfully is a critical part of the context for the September 11 attacks and is addressed in the findings that follow.

**2. Finding: During the spring and summer of 2001, the Intelligence Community experienced a significant increase in information indicating that Bin Ladin and al-Qa’ida intended to strike against U.S. interests in the very near future.**

Discussion: The National Security Agency (NSA), for example, reported at least 33 communications indicating a possible, imminent terrorist attack in 2001. Senior U.S. Government officials were advised by the Intelligence Community on June 28 and July 10, 2001, that the attacks were expected, among other things, to “have dramatic consequences on governments or cause major casualties” and that “[a]ttack preparations have been made. Attack will occur with little or no warning.”

Some Community personnel described the increase in threat reporting as unprecedented, at least in their own experience. The Intelligence Community advised senior policymakers of the likelihood of an attack but, given the non-specific nature of the reporting, could not identify when, where, and how an attack would take place. Deputy Secretary of State Richard Armitage, in his testimony, described his recollection of the threat and the U.S. Government's response:

We issued between January and September nine warnings, five of them global, because of the threat information we were receiving from the intelligence agencies in the summer, when [DCI] George Tenet was around town literally pounding on desks saying, something is happening, this is an unprecedented level of threat information. He didn't know where it was going to happen, but he knew that it was coming.

**3. Finding: Beginning in 1998 and continuing into the summer of 2001, the Intelligence Community received a modest, but relatively steady, stream of intelligence reporting that indicated the possibility of terrorist attacks within the United States. Nonetheless, testimony and interviews confirm that it was the general view of the Intelligence Community, in the spring and summer of 2001, that the threatened Bin Ladin attacks would most likely occur against U.S. interests overseas, despite indications of plans and intentions to attack in the domestic United States.**

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Discussion: Communications intercepts, the arrests of suspected terrorists in the Middle East and Europe, and a credible report of a plan to attack a U.S. Embassy in the Middle East shaped the Community's thinking about where an attack was likely to occur. While former FBI Director Louis Freeh testified that the FBI was "intensely focused" on terrorist targets within the United States, the FBI's Executive Assistant Director for Counterterrorism testified that in 2001 he thought there was a high probability – "98 percent" – that the attack would be overseas. The latter was the clear majority view, despite the fact that the Intelligence Community had information suggesting that Bin Ladin had planned, and was capable of, conducting attacks within the domestic United States.

This stream of reporting began as early as 1998 and continued during the time of heightened threat levels in 2001. For example, the Community received reporting in May 2001 that Bin Ladin supporters were planning to infiltrate the United States to conduct terrorist operations and, in late summer 2001, that an al-Qa'ida associate was considering mounting terrorist attacks within the United States.



[Of particular interest to the Joint Inquiry was whether and to what extent the President received threat-specific warnings during this period. The Joint Inquiry was advised by a representative of the Intelligence Community that, in August 2001, a closely held intelligence report for senior government officials included information that Bin Ladin had wanted to conduct attacks in the United States since 1997. The information included discussion of the arrest of Ahmed Ressam in December 1999 at the U.S.-Canadian border and the 1998 bombings of U.S. embassies in Kenya and Tanzania. It mentioned that members of al-Qa'ida, including some U.S. citizens, had resided in or traveled to the United States for years and that the group apparently maintained a support structure here. The report cited uncorroborated information obtained and disseminated in 1998 that Bin Ladin wanted to hijack airplanes to gain the release of U.S.-held extremists; FBI judgments about patterns of activity consistent with preparations for hijackings or other types of attacks; as well as information acquired in May 2001 that indicated a group of Bin Ladin supporters was planning attacks in the United States with explosives].\*

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**4. Finding: From at least 1994, and continuing into the summer of 2001, the Intelligence Community received information indicating that terrorists were contemplating, among other means of attack, the use of aircraft as weapons. This information did not stimulate any specific Intelligence Community assessment of, or collective U.S. Government reaction to, this form of threat.**

Discussion: [While the credibility of the sources was sometimes questionable and the information often sketchy, the Inquiry confirmed that the Intelligence Community did receive intelligence reporting concerning the potential use of aircraft as weapons. For example, the Community received information in 1998 about a Bin Ladin operation that would involve flying an explosive- laden aircraft into a U.S. airport and, in summer 2001, about a plot to bomb a U.S. embassy from an airplane or crash an airplane into it. The FBI and CIA were also aware that convicted terrorist Abdul Hakim Murad and several others had discussed the possibility of crashing an airplane into CIA Headquarters as part of “the Bojinka Plot” in the Philippines, discussed later in this report. Some, but

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\* National Security Advisor Condoleeza Rice stated in a May 16, 2002 press briefing that, on August 6, 2001, the President's Daily Brief (PDB) included information about Bin Ladin's methods of operation from a historical perspective dating back to 1997. One of the methods was that Bin Ladin might choose to hijack an airliner in order to hold passengers hostage to gain release of one of their operatives. She stated, however, that the report did not contain specific warning information, but only a generalized warning, and did not contain information that al-Qa'ida was discussing a particular planned attack against a specific target at any specific time, place, or by any specific method.

apparently not all, of these reports were disseminated within the Intelligence Community and to other agencies].

The Transportation Security Administration, for example, advised the Committees that the Federal Aviation Administration (FAA) had not received three of these reports, that two others were received by the FAA but through State Department cables, and that one report was received by the FAA, but only after September 11, 2001. Many policymakers and U.S. Government officials apparently remained unaware of this kind of potential threat and the Intelligence Community did not produce any specific assessments of the likelihood that terrorists would in fact use airplanes as weapons. For example, former National Security Advisor Sandy Berger testified before these Committees that:

I don't recall being presented with any specific threat information about an attack of this nature [the use of aircraft as weapons] or any alert highlighting this threat or indicating it was any more likely than any other.

That testimony is consistent with the views publicly expressed by the current National Security Advisor, Condoleeza Rice, shortly after the September 11 attacks.

[Page 11] Similarly, Deputy Under Secretary of Defense Paul Wolfowitz testified that he had not been made aware of this type of potential threat:

I don't recall any warning of the possibility of a mass casualty attack using civilian airliners or any information that would have led us to contemplate the possibility of our shooting down a civilian airliner.

Even within the Intelligence Community, the possibility of using aircraft as weapons was apparently not widely known. At the FBI, for instance, the FBI Phoenix field office agent who wrote the so-called "Phoenix memo" testified that he was aware of the plot to crash a plane into CIA Headquarters, but not the other reports of terrorist groups considering the use of aircraft as weapons. The Chief of the Radical Fundamentalist Unit in the FBI's Counterterrorism Division also confirmed, in an Joint Inquiry interview, that he was not aware of such reports.

**5. Finding: Although relevant information that is significant in retrospect regarding the attacks was available to the Intelligence Community prior to September 11, 2001, the Community too often failed to focus on that information and consider and appreciate its collective significance in terms of a probable terrorist attack. Neither did the Intelligence Community demonstrate sufficient initiative in coming to grips**

**with the new transnational threats. Some significant pieces of information in the vast stream of data being collected were overlooked, some were not recognized as potentially significant at the time and therefore not disseminated, and some required additional action on the part of foreign governments before a direct connection to the hijackers could have been established. For all those reasons, the Intelligence Community failed to capitalize fully on available, and potentially important, information. The sub-findings below identify each category of this information.**

**[Terrorist Communications in 1999]**

**5.a. [During 1999, the National Security Agency obtained a number of communications – none of which included specific detail regarding the time, place or nature of the September 11 attacks -- connecting individuals to terrorism who were identified, after September 11, 2001, as participants in the attacks that occurred on that day].**

[Page 12]

Discussion: [In early 1999, the National Security Agency (NSA) analyzed communications involving a suspected terrorist facility in the Middle East that had previously been linked to al-Qa'ida activities directed against U.S. interests. Information obtained [—] included, among other things, the full name of future hijacker Nawaf al-Hazmi. Beyond the fact that the communications involved a suspected terrorist facility in the Middle East, the communications did not, in NSA's view at the time, feature any other terrorist-related information. The information was not published because the individuals mentioned in the communications were unknown to NSA, and, according to NSA, the information did not meet NSA's reporting thresholds. NSA has explained that these thresholds are flexible, sometimes changing daily, and consist of several factors, including: the priority of the intelligence requirement; the apparent intelligence value of the information; the level of customer interest in the topic; the current situation; and the volume of intercept to be analyzed and reported].

[During the summer of 1999, NSA analyzed additional communications involving a suspected terrorist facility in the Middle East that included the name of Khaled. At about the same time, the name Khallad also came to NSA's attention. This information did not meet NSA's reporting thresholds and thus was not disseminated].

[In late 1999, NSA analyzed communications involving a suspected terrorist facility in the Middle East that included the names of Khaled and Nawaf. At this time, NSA did not associate the latter individual with the Nawaf al-Hazmi it had learned about in early 1999. Later, the two individuals [—] were determined to be Khalid al-Mihdhar and Nawaf al-Hazmi, now known to be two of the September 11 hijackers. [—————]. This information was passed to the CIA as well as the FBI in late 1999. In early 2000, NSA also [—————] passed additional information about Khalid to the CIA, FBI, FAA, the Departments of State, Treasury, Transportation, and Justice, and others in the U.S. Government].

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### **Malaysia Meeting and Travel of al-Qa'ida Operatives to the United States**

**5.b. The Intelligence Community acquired additional, and highly significant, information regarding Khalid al-Mihdhar and Nawaf al-Hazmi in early 2000. Critical parts of the information concerning al-Mihdhar and al-Hazmi lay dormant within the Intelligence Community for as long as eighteen months, at the very time when plans for the September 11 attacks were proceeding. The CIA missed repeated opportunities to act based on the information in its possession that these two Bin Ladin-associated terrorists were traveling to the United States, and to add their names to watchlists.**

Discussion: [By early January 2000, CIA knew al-Mihdhar's full name and that it was likely Nawaf's last name was al-Hazmi, knew that they had attended what was believed to be a gathering of al-Qa'ida associates in Malaysia, was aware that they had been traveling together, and had documents indicating that al-Mihdhar held a U.S. B-1B-2 multiple entry visa that would allow him to travel to and from the United States until April 6, 2000. CIA arranged surveillance of the meeting and the DCI was kept informed as the operation progressed].

Despite having all this information, and despite the republication of CTC guidance regarding watchlisting procedures in December 1999 (see Appendix, "CTC Watchlisting Guidance – December 1999"), CIA did not add the names of these two individuals to the State Department, INS, and U.S. Customs Service watchlists that are used to deny individuals entry into the United States. The weight of the record also

suggests that, despite providing the FBI with other, less critical, information about the Malaysia meeting, the CIA did not advise the FBI about al-Mihdhar's U.S. visa and the very real possibility that he would travel to the United States. The CIA stated its belief that the visa information was sent to the FBI and produced a cable indicating that this had been done.\*

The FBI, for its part, had no record the visa information was received. Although the facts of the Malaysia meeting were included in several briefings for senior FBI officials, including FBI Director Louis Freeh, no record could be found that the visa information was part of these briefings.

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[On March 5, 2000, CIA Headquarters received a cable from an overseas CIA station indicating that Nawaf al-Hazmi had traveled to Los Angeles, California on January 15, 2000. The following day, March 6, CIA Headquarters received a message from another CIA station noting its "interest" in the first cable's "information that a member of this group had traveled to the U.S." The CIA did not act on either message, again did not watchlist al-Hazmi or al-Mihdhar, and, again, did not advise the FBI of their possible presence in the United States. In 2000, these same two individuals had numerous contacts with an active FBI counterterrorism informant while they were living in San Diego, California].

On January 4, 2001, CIA acquired information that Khallad, a principal planner in the bombing of *USS Cole*, had, along with al-Mihdhar and al-Hazmi, attended the January 2000 meeting in Malaysia. Again, the CIA did not watchlist these two individuals. At the time, al-Mihdhar was abroad, but al-Hazmi was still in the United States. FBI Director Robert Mueller testified to the Joint Inquiry that: "al-Mihdhar's role in the September 11 plot . . . before his re-entry into the United States may well have been that of the coordinator and organizer of . . . the non-pilot hijackers."

In May 2001, the CIA provided FBI Headquarters with photographs taken in Malaysia, including one of al-Mihdhar, for purposes of identifying another *Cole* bombing

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\* In interviews, CIA personnel could not confirm that the visa information had in fact been provided to the FBI.

suspect. Although the CIA told FBI Headquarters about the Malaysia meeting and about al-Mihdhar's travel in Southeast Asia at that time, the CIA did not advise the FBI about al-Mihdhar's or al-Hazmi's possible travel to the United States. Again, the CIA did not watchlist the two individuals. While CIA personnel were working closely with the FBI in support of the *USS Cole* bombing investigation, the importance and urgency of information tying suspected terrorists to the domestic United States apparently never registered with them. CIA Director Tenet testified that CIA personnel:

. . . in their focus on the [*USS Cole*] investigation, did not recognize the implications of the information about al-Hazmi and al-Mihdhar that [page 15] they had in their files.

On June 11, 2001, FBI Headquarters and CIA personnel met with the New York FBI field office agents who were handling the *USS Cole* investigation. The New York agents were shown the Malaysia photographs, but were not given copies. Although al-Mihdhar's name was mentioned, the New York agents' requests for more information about al-Mihdhar and the circumstances surrounding the photographs were refused, according to one of the field office agents. The FBI Headquarters analyst recalls that she said at the meeting that she would try to get the information the agents had requested.

In Joint Inquiry hearing testimony, one of the New York FBI agents who was present described his recollection of the meeting:

When these photos were shown to us, we had information at the time that one of the suspects had actually traveled to the same region of the world that this might have taken place, so we pressed the individuals there for more information regarding the meeting. So we pressed them for information. [A]t the end of the meeting – some of them say it was because I was able to get the name out of the analyst, but at the end of that day we knew the name Khalid al-Mihdhar but nothing else. The context of the meeting was that we continued to press them two or three times on information regarding, “Why were you looking at this guy? You couldn't have been following everybody around the Millennium. What was the reason behind this?”

And we were told that that information – as I recall, we were told that that information could not be passed and that they would try to do it in the days and weeks to come. That meeting – I wouldn't say it was very contentious, but we were not very happy, the New York agents at the time were not very happy that certain information couldn't be shared with us.

Again, in that meeting, the CIA had missed yet another opportunity to advise the FBI about al-Mihdhar's visa and possible travel to the United States and, again, the CIA took no action to watchlist these individuals. Just two days later, al-Mihdhar obtained a new U.S. visa and, on July 4, 2001, he re-entered the United States.

It was not until mid July 2001, that a concerned CIA officer assigned to the FBI triggered a CIA review of its cables regarding the Malaysia meeting, a task that, [page 16] ironically, fell to an FBI analyst assigned to the CTC. Working with the Immigration and Naturalization Service (INS), the FBI analyst determined that both al-Mihdhar and al-Hazmi had entered the United States. As a result of that effort, on August 23, 2001, the CIA finally notified the FBI and requested of the State Department that the two individuals should be watchlisted.

Even then, there was less than an all-out effort to locate what amounted to two Bin Ladin-associated terrorists in the United States during a period when the terrorist threat level had escalated to a peak level. For example, neither CIA, FBI, nor State Department informed the FAA. On August 21, 2001, coincidentally, FAA had issued a Security Directive, entitled "Threat to U.S. Aircraft Operators." That Directive alerted commercial airlines that nine named terrorism-associated individuals -- none of whom were connected to the 19 hijackers -- were planning commercial air travel and should receive additional security scrutiny if they attempted to board an aircraft. The Directive was updated on August 24 and August 28, 2001. Had FAA been advised of the presence of al-Hazmi and al-Mihdhar in the United States, a similar directive could have been issued, subjecting the two, their luggage and any carry-on items to detailed, FAA-directed searches.

Further, only the FBI's New York field office received a request from FBI Headquarters to conduct a search for the two prior to September 11, 2001. The Headquarters written instruction to the New York field office only identified al-Mihdhar in its subject line. Nawaf al-Hazmi was mentioned in the text, and it is not clear whether it was intended that he be a subject of the search as well. It was not until September 11, 2001 that the Los Angeles FBI field office was asked to conduct a search. Other FBI

offices with potentially useful informants, such as San Diego, were not notified prior to September 11.

A New York FBI field office agent testified that he urged FBI Headquarters on August 28, 2001 to allow New York field office criminal agents to participate in the search with FBI intelligence agents, given the limited resources that are often applied to [page 17] intelligence investigations. The request was refused by FBI Headquarters because of concerns about the perceived “wall” between criminal and intelligence matters. Looking back, the New York FBI agent testified about his hope that the Intelligence Community would overcome this kind of restriction in the future:

...after everything happened and we had ramped up where thousands of FBI agents all over the world were trying to find somebody, I thought to myself – and I don’t necessarily know how to do it, but we’ve got to be able to get there – when we find out a Khalid al-Mihdhar is in the country, intelligence, criminal, or whatever, we’ve got to be able to get to the level we were at September 12, the afternoon of September 11. We’ve got to be able to get there before September 11, not September 12.

Joint Inquiry witnesses testified that other federal agencies with potentially valuable information databases were never asked to assist in FBI’s search.

### [Terrorist Communications in Spring 2000]

**5.c. [In January 2000, after the meeting of al-Qa’ida operatives in Malaysia, Khalid al-Mihdhar and Nawaf al-Hazmi entered the United States [—————]. Thereafter, the Intelligence Community obtained information indicating that an individual named “Khaled” at an unknown location had contacted a suspected terrorist facility in the Middle East. The Intelligence Community reported some of this information, but did not report all of it. Some of it was not reported because it was deemed not terrorist-related. It was not until after September 11, 2001 that the Intelligence Community determined that these contacts had been made from future hijacker Khalid al-Mihdhar while he was living within the domestic United States].**

Discussion: [While the Intelligence Community had information regarding these communications, it did not determine the location from which they had been made [—]]



[\_\_\_\_\_]. After September 11, the FBI determined from domestic toll records that it was in fact the hijacker Khalid al-Mihdhar who had made these communications and that he had done so from within the United States. The Intelligence Community did not identify what was critically important [page 18] information in terms of the domestic threat to the United States: the fact that the communications were between individuals within the United States and suspected terrorist facilities overseas. That kind of information could have provided crucial investigative leads to law enforcement agencies engaged in domestic counterterrorist efforts].

**[Two Hijackers Had Numerous Contacts with an Active FBI Informant]**

**5.d. [This Joint Inquiry confirmed that these same two future hijackers, Khalid al-Mihdhar and Nawaf al-Hazmi, had numerous contacts with a long time FBI counterterrorism informant in California and that a third future hijacker, Hani Hanjour, apparently had more limited contact with the same informant. In mid- to late-2000, the CIA already had information indicating that al-Mihdhar had a multiple entry U.S. visa and that al-Hazmi had in fact traveled to Los Angeles, but the two had not been watchlisted and information suggesting that two suspected terrorists could well be in the United States had not yet been given to the FBI. The San Diego FBI field office, which handled the informant in question, did not receive that information or any of the other intelligence information pertaining to al-Mihdhar and al-Hazmi, prior to September 11, 2001. As a result, the FBI missed the opportunity to task a uniquely well-positioned informant -- who denies having any advance knowledge of the plot --- to collect information about the hijackers and their plans within the United States.]**

Discussion: [Nawaf al-Hazmi and Khalid al-Mihdhar had numerous contacts with a long-time FBI counterterrorism informant while they were living in San Diego, California. There are several indications that hijacker Hani Hanjour may have had more limited contact with the same informant in December 2000.]

[During the summer of 2000, the informant advised the FBI handling agent that the informant had contacts with two individuals named "Nawaf" and "Khalid". The informant described meeting these individuals. The informant described the two to the FBI agent as Saudi Muslim youths who were legally in the United States to visit and attend school. The FBI agent did not, at the time, consider these individuals to be of

interest to the [page 19] FBI. While the agent says he asked the informant for the individuals' last names, the informant never provided that information and the FBI agent did not press for the names because he had no reason to think they were significant until after September 11, 2001.]

[-----]

[During one of their last contacts, al-Hazmi advised the informant that he was moving to Arizona to attend flight training, but the informant did not advise the FBI of this information until after the September 11 attacks].

[When the FBI's San Diego field office determined after the attacks that a long-time FBI counterterrorism informant had had numerous contacts in 2000 with two of the September 11 hijackers, personnel there were immediately suspicious about whether the informant was involved in the plot. Subsequently, however, all of the field office personnel, including senior managers and various case agents, concluded that the informant was unwitting of, and had no role in, the September 11 plot].

[Several questions remain, however, with regard to the informant's credibility. First, while there are several indications suggesting that future hijacker Hani Hanjour had contact with the informant in December 2000, the informant has repeatedly advised the FBI that the informant does not recognize photos of Hanjour. Second, the informant told the FBI that the hijackers did nothing to arouse the informant's suspicion, but the informant also acknowledged that al-Hazmi had contacts with at least four individuals the informant knew were of interest to the FBI and about whom the informant had previously reported to the FBI. Third, the informant has made numerous inconsistent statements to the FBI during the course of interviews after September 11, 2001. Fourth, the informant's responses during an FBI polygraph examination to very specific questions about the informant's advance knowledge of the September 11 plot were judged by the FBI to be "inconclusive," although the FBI asserts that this type of result is not unusual for such individuals in such circumstances].

[Page 20]

[Finally, there is also information which conflicts with the information provided by the informant concerning the dates of contacts with the hijackers. The Joint Inquiry, for example, brought to the FBI's attention information that is inconsistent with the date of initial contact as provided by the informant. In its November 18, 2002 written response to the Joint Inquiry, the FBI has acknowledged that there are "significant inconsistencies" in the informant's statements about these contacts. The FBI investigation regarding this issue is continuing].

[The Administration has to date objected to the Inquiry's efforts to interview the informant in order to attempt to resolve those inconsistencies. The Administration also would not agree to allow the FBI to serve a Committee subpoena and deposition notice on the informant. Instead, written interrogatories from the Joint Inquiry were, at the suggestion of the FBI, provided to the informant. Through an attorney, the informant has declined to respond to those interrogatories and has indicated that, if subpoenaed, the informant would request a grant of immunity prior to testifying].

[The FBI agent who was responsible for the informant testified before the Joint Inquiry that, had he had access to the intelligence information on al-Mihdhar's and al-Hazmi's significance at the time they were in San Diego:

It would have made a huge difference. We would have immediately opened [—————] investigations. We had the predicate for a [—————] investigation if we had that information...[W]e would immediately go out and canvas the sources and try to find out where these people were. If we locate them, which we probably would have since they were very close – they were nearby – we would have initiated investigations immediately...We would have done everything. We would have used all available investigative techniques. We would have given them the full court press. [Page 21] We would...have done everything – physical surveillance, technical surveillance and other assets.

[Whether, as the agent testified he believes, that kind of investigative work would have occurred and would have then uncovered the hijackers' future plans will necessarily remain speculation. What is clear, however, is that the informant's contacts with the hijackers, had they been capitalized on, would have given the San Diego FBI field office perhaps the Intelligence Community's best chance to unravel the September 11 plot. Given the CIA's failure to disseminate, in a timely manner, intelligence information on

the significance and location of al-Mihdhar and al-Hazmi, that chance, unfortunately, never materialized].

### **The Phoenix Electronic Communication**

**5.e. On July 10, 2001, an FBI Phoenix field office agent sent an “Electronic Communication” to four individuals in the Radical Fundamentalist Unit (RFU) and two individuals in the Usama Bin Ladin Unit (UBLU) at FBI Headquarters, and to two agents on International Terrorism squads in the FBI New York field office. In the communication, the agent expressed his concerns, based on his first-hand knowledge, that there was a coordinated effort underway by Bin Ladin to send students to the United States for civil aviation-related training. He noted that there was an “inordinate number of individuals of investigative interest” in this type of training in Arizona and expressed his suspicion that this was an effort to establish a cadre of individuals in civil aviation who would conduct future terrorist activity. The Phoenix agent’s communication requested that FBI Headquarters consider implementing four recommendations:**

- **accumulate a list of civil aviation universities/colleges around the country;**
- **establish liaison with these schools;**
- **discuss the theories contained in the Phoenix EC with the Intelligence Community; and**
- **consider seeking authority to obtain visa information concerning individuals seeking to attend flight schools.**

**However, the FBI Headquarters personnel did not take the action requested by the Phoenix field office agent prior to September 11, 2001. The Phoenix communication generated little or no interest at either FBI Headquarters or the FBI’s New York field office.**

[Page 22]

Discussion: Before the Joint Inquiry, the Phoenix agent who authored the Phoenix communication testified that:

What I wanted was an analytical product. I wanted this discussed with the Intelligence Community. I wanted to see if my hunches were correct.

He noted, however, that he also knew that this type of analytical product took a back seat to operational matters at the FBI:

But, I am also a realist. I understand that the people at FBI Headquarters are terribly overworked and understaffed, and they have been for years. And at the time that I am sending this in, having worked this stuff for 13 years, and watched the unit in action over the years, I knew that this was going to be at the bottom of the pile, so to speak, because they were

dealing with real-time threats, real-time issues trying to render fugitives back to the United States from overseas for justice. And again, it is a resource issue.

The Phoenix agent was correct, and his communication did fall to the bottom of the pile.

He sent the communication to four individuals in the Radical Fundamentalist Unit, two individuals in the Usama Bin Ladin Unit, and two agents on International terrorism squads in the New York field office. Only three of the eight addressees recall reading the communication prior to September 11, 2001. Neither of the two Intelligence Operations Specialists who reviewed it at FBI Headquarters undertook a comprehensive national analysis of the theories it set forth. Nor did they send the communication to the FBI's analytic unit or the Intelligence Community, as requested by the Phoenix agent. Instead, it was forwarded to the Portland FBI field office, not primarily because of concerns about flight school theories, but rather because that field office had a possible investigative interest in one of the individuals who were named in the communication.

Similarly, the New York field office personnel who reviewed the communication said they found it to be speculative and not particularly significant. That office had been one of the recipients of a 1999 FBI Headquarters request to track Islamic flight students in its area of jurisdiction.

[Page 23]

The Chief of the Radical Fundamentalist Unit testified that he did not see the communication prior to September 11, 2001. In his testimony before the Joint Inquiry, FBI Director Mueller acknowledged that: "the Phoenix [communication] should have been disseminated to all field offices and to our sister agencies, and it should have triggered a broader analytical approach."

After September 11, the FBI discovered that [—————],\* one of the individuals who was identified in the Phoenix communication, was an associate of hijacker Hani

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\* The identities of several individuals whose activities are discussed in this report have been deleted by the Joint Inquiry. While the FBI has provided the Joint Inquiry with these names and those names are contained in the classified version of this final report, the Joint Inquiry has decided to delete them from this unclassified version due to the as yet unresolved nature of much of the information regarding their activities.

Hanjour. [This individual] left the United States in April 2000 and returned in June 2001, remaining in the United States for approximately one month. The FBI now speculates that [the individual] may have returned to the United States either to evaluate Hanjour's flying skills, or to provide Hanjour with his final training on the flight simulator before the September 11 attacks. [The individual] was an experienced flight instructor who was certified to fly Boeing 737s.

The FBI also has determined since September 11, 2001 that another individual mentioned in the Phoenix communication – [—————] -- is also connected to the al-Qa'ida network. [—————] was arrested at an al-Qa'ida safehouse in Pakistan in 2002 along with [—————], one of the most prominent al-Qa'ida facilitators.

### The FBI Investigation of Zacarias Moussaoui

**5.f. In August 2001, the FBI's Minneapolis field office, in conjunction with the INS, detained Zacarias Moussaoui, a French national who had enrolled in flight training in Minnesota. FBI agents there also suspected that Moussaoui was involved in a hijacking plot. FBI Headquarters attorneys determined that there was not probable cause to obtain a court order to search Moussaoui's belongings under the Foreign Intelligence Surveillance Act (FISA). However, personnel at FBI Headquarters, including the Radical Fundamentalist Unit and the National Security Law Unit, as well as agents in the Minneapolis field office, misunderstood the legal standard for obtaining an order under FISA. As a result, FBI Minneapolis field office personnel wasted valuable investigative resources trying to connect the Chechen rebels to al-Qa'ida. Finally, no one at the FBI apparently connected the Moussaoui investigation with the heightened threat environment [page 24] in the summer of 2001, the Phoenix communication, or the entry of al-Mihdhar and al-Hazmi into the United States.**

Discussion: On February 23, 2001, Moussaoui entered the United States at Chicago's O'Hare Airport, traveling on a French passport that allowed him to stay in the country without a visa for 90 days, until May 22, 2001. On August 11, 2001, Moussaoui and his roommate arrived in Eagan, Minnesota to begin classes at Pan Am, a flight school that offered training on a Boeing 747 flight simulator used by professional pilots.

According to FBI documents, on August 15, an employee at Pan Am called the FBI's Minneapolis field office because he and other employees were suspicious of Moussaoui, who met none of the usual qualifications for Pan Am students. The FBI's Minneapolis field office opened an international terrorism investigation and determined that, since Moussaoui had been authorized to stay in the United States only until May 22, 2001, he was no longer in proper legal status.

On the same day the Minneapolis field office learned about Moussaoui, it asked both the CIA and the FBI's legal attaché in Paris for any information about Moussaoui and informed FBI Headquarters of the investigation. The FBI Headquarters agent who was responsible for the contact suggested that the Minneapolis field office put Moussaoui under surveillance. However, a Minneapolis field office supervisory agent testified to the Joint Inquiry that:

. . . [m]y background in the criminal arena suggests that when a violation occurs and you can stop further or potential criminal activity, you act on that. So that is exactly what I instructed the agents to do. . . . Because I didn't want him to get any additional time on a flight simulator that would allow him to have the knowledge that we could no longer take back from him to operate an aircraft.

INS agents took Moussaoui into custody on August 16 because his authority to stay in the United States had expired. Moussaoui declined to consent to a search of his belongings. On Saturday, August 18, the Minneapolis field office sent a detailed memorandum to an agent in the Radical Fundamentalist Unit (RFU) at FBI Headquarters describing the investigation.

[Page 25]

The memorandum stated that Moussaoui had two knives, padded gloves and shin guards in his possession when he was arrested; had told his roommate that "true Muslims must prepare themselves to fight;" and had begun exercise and martial arts training. In addition, the memorandum stated that the Minneapolis field office believed that Moussaoui and his roommate were part of a larger international radical fundamentalist group. Based on Moussaoui's "possession of weapons and his preparation through physical training for violent confrontation," the Minneapolis field office stated it had reason to believe that Moussaoui, his roommate, "and others yet unknown," were conspiring to seize control of an airplane.

The Minneapolis field office agent testified to the Inquiry that Minneapolis agents decided not to try to obtain a criminal search warrant to search Moussaoui's belongings as that might prejudice any subsequent efforts to get a court order for a physical search under FISA. The FBI field office agent contacted the CTC, which then advised CIA stations abroad about Moussaoui and asked them in an August 25 cable to provide any relevant information they might have. Based on information provided by the FBI's Minneapolis field office, that cable described Moussaoui and his roommate as "suspect 747 airline attackers" and a "suspect airline suicide attacker," who might be "involved in a larger plot to target airlines traveling from Europe to the U.S....."

On August 21, 2001, the Minneapolis field office agent sent an e-mail to the RFU supervisory agent at FBI Headquarters stating: "[It is] imperative that the [U.S. Secret Service] be apprised of this threat potential indicated by the evidence....If [Moussaoui] seizes an aircraft flying from Heathrow to NYC, it will have the fuel on board to reach DC." In an interview, the FBI Headquarters agent to whom the message was addressed said that he told the Minneapolis field office agent that he was working on a notification to the entire Intelligence Community and the Secret Service about the threat presented by Moussaoui. The RFU supervisory agent did send a teletype message to the Intelligence Community and other U.S. Government agencies, including the FAA, on September 4, 2001. That message reported the FBI's interviews of Moussaoui and his roommate, as well as other information the FBI had obtained. The teletype, however, merely described [page 26] the steps in the investigation and did not place Moussaoui's actions in the context of the increased level of terrorist threats during the summer of 2001. Nor did it provide its recipients with any analysis of Moussaoui's actions or plans, or information about what type of threat he may have presented.

[On August 22, the FBI legal attache's office in Paris provided a report to the RFU and the Minneapolis field office that contained information {—————  
—————}]. The FBI's receipt of this information began a series of discussions between the Minneapolis field office and FBI Headquarters focusing on whether the Chechen rebels were a "recognized" foreign power for purposes of obtaining approval to



search Moussaoui's belongings under FISA. The Minneapolis field office agent testified to the Joint Inquiry that he had had no training in FISA, but that he believed, based on advice from FBI Headquarters, that "we needed to identify a – and the term that was thrown around was 'recognized foreign power' and so that was our operational theory." As the FBI's Deputy General Counsel has testified, however, this was incorrect. The FBI may obtain a search warrant under FISA for an agent of any international terrorist group, including the Chechen rebels. Because of this misunderstanding, the Minneapolis field office expended valuable time and effort trying to establish a connection between the Chechen rebels and al-Qa'ida, which it believed was a "recognized" foreign power].

The FBI Headquarters supervisory agent briefed the FBI's Deputy General Counsel, who testified that he agreed with the Headquarters agent that there was insufficient information to show that Moussaoui was an agent of a foreign power. The FBI's focus shifted to arranging for Moussaoui's deportation to France on September 17, 2001, at which point French officials would search his belongings and provide the results to the FBI. Although the FBI was no longer considering a search warrant under FISA, no one revisited the idea of attempting to obtain a criminal search warrant.

[Page 27]

Thus, during the summer of 2001 -- a time when the Intelligence Community was on the highest state of alert, disparate parts of the FBI had information about Zacarias Moussaoui -- a suspected suicide hijacker, a Phoenix field office agent's suspicions about radical fundamentalists engaging in flight training, and the entry into the United States of Nawaf al-Hazmi and Khalid al-Mihdhar, who would become two of the September 11 hijackers. The FBI field office agents in Minneapolis who were investigating Moussaoui knew nothing about the Phoenix communication or al-Hazmi and al-Mihdhar. The Phoenix field office agent had never heard about Moussaoui or the two future hijackers. The FBI agents in New York who were informed on August 23, 2001 that al-Hazmi and al-Mihdhar had entered the United States knew nothing about the other events of that summer. And, finally, the Chief of the RFU at FBI Headquarters, which had handled both the Moussaoui investigation and the Phoenix communication, acknowledged in testimony to the Joint Inquiry on September 24, 2001, that no one at FBI Headquarters connected those events.

[The indictment against Moussaoui, which was filed on December 11, 2001, alleges that Moussaoui possessed a number of items on August 16, 2001. On that day, which is when FBI and INS agents first interviewed him, the INS took Moussaoui's possessions for safekeeping. Absent search authority, however, the possessions were not examined at that time. As it turned out, according to the indictment, Moussaoui's possessions included letters indicating that Moussaoui was a marketing consultant in the United States for Infocus Tech. The letters had been signed by Yazid Sufaat, whom the Intelligence Community was aware was the owner of the Malaysian condominium in which the January 2000 al-Qa'ida meeting attended by hijackers al-Mihdhar and al-Hazmi had been held. The indictment also alleges that Moussaoui possessed a notebook listing two German telephone numbers and the name "Ahad Sabet," which, the indictment states, was used by Ramzi Bin al-Shibh to send funds to Moussaoui. Bin al-Shibh, who was apprehended in Pakistan in September 2002, is named in the indictment as a supporting conspirator].

### **Hijackers In Contact With Persons of FBI Investigative Interest in the United States**

**5.g. The Joint Inquiry confirmed that at least some of the hijackers were not as isolated during their time in the United States as has been previously suggested. Rather, they maintained a number of contacts both in the United [page 28] States and abroad during this time period. Some of those contacts were with individuals who were known to the FBI, through either past or, at the time, ongoing FBI inquiries and investigations. Although it is not known to what extent any of these contacts in the United States were aware of the plot, it is now clear that they did provide at least some of the hijackers with substantial assistance while they were living in this country.**

Discussion: The Intelligence Community had information indicating the potential existence of an al-Qa'ida support network in the United States prior to the attacks, and this was consistent with al-Qai'da's modus operandi in previous attacks. The FBI had, to some degree, focused sources and investigative work on radical Islamic extremists within the United States prior to September 11. Former National Security Advisor Sandy Berger testified that, during his time in office, the FBI view had been that "al-Qa'ida had limited capacity to operate in the United States and any presence here was under surveillance."

[Ironically, this Inquiry has confirmed that at least some of the hijackers operated, without detection, within the scope of the FBI's coverage of radical Islamic extremists. Hani Hanjour, Mohamed Atta, Marwan al-Shehhi, Nawaf al-Hazmi, and Khalid al-Mihdhar may have had contact with a total of 14 people who had come to the FBI's attention during counterterrorism or counterintelligence investigations prior to September 11, 2001. Four of those 14 were the focus of active FBI investigations during the time that the hijackers were in the United States. In fact, as noted earlier, two future hijackers had numerous contacts with an active FBI counterterrorism informant while in the United States. Despite their proximity to FBI targets and at least one FBI source, the future hijackers successfully eluded FBI attention].

Several examples illustrate not only the reliance of the hijackers on the potential support networks, but also the ease with which they operated despite the FBI's pre-September 11 domestic coverage. Shortly after their arrival in the United States, future hijackers Khalid Al-Mihdhar and Nawaf Al-Hazmi moved to San Diego at the suggestion of Omar al-Bayoumi, who had previously been the focus of an FBI counterterrorism [————] inquiry. In San Diego, they stayed at al-Bayoumi's apartment for several days until he was able to find them an apartment. He then co-signed their lease, paid [page 29] their security deposit and first month's rent, arranged a party to welcome them to the San Diego community, and tasked another individual to help them become acclimated to the United States. [—————]. The second individual served as their translator, helped them obtain bank accounts and drivers' licenses, and assisted them in locating flight schools.

[Other individuals in San Diego also provided the two hijackers with similar types of assistance. A manager of a local gas station, who was at the time being investigated by the FBI, hired al-Hazmi to work for him briefly, after receiving a call from a mutual friend at the mosque. In addition, a local imam, who was the subject of an FBI counterterrorism inquiry for part of the time that the future hijackers were in San Diego, served as their spiritual advisor when they were living in San Diego. Finally, al-Hazmi and al-Mihdhar also maintained a number of other contacts in the local Islamic

community during their time in San Diego, some of whom were also known to the FBI through counterterrorist inquiries and investigations].

Future hijacker Hani Hanjour also may have received flight-related assistance from [an individual], who, was also known to the FBI and was, in fact, included among the individuals discussed in the Phoenix communication. As noted earlier, [this individual] left the United States in April 2000, and returned in June 2001, remaining in the United States for approximately one month. [The individual] was an associate of Hanjour's and the FBI now speculates that [the individual] may have returned to the United States either to evaluate Hanjour's flying skills, or to provide Hanjour his final training on the Cessna simulator before the attacks. This individual was an experienced flight instructor and was certified to fly Boeing 737s.

When some of the future hijackers relocated to the East Coast, it appears that they received assistance similar to that provided to them on the West Coast. Al-Hazmi and al-Mihdhar's spiritual advisor relocated to the East Coast, and, when Hanjour and al-Hazmi arrived at his mosque, one of the mosque's members helped them find an apartment in the area. After approximately a month, this same individual drove Hanjour and al-[page 30] Hazmi, along with two other hijackers, to Connecticut, and then to Paterson, New Jersey. From the hotel in Connecticut where they stayed for two nights, a total of 75 calls were made in attempts to locate apartments, flight schools, and car rental agencies for the future hijackers. The hijackers were also in contact with a number of other people during their time on the East Coast.

[The fact that these future hijackers could rely on this type of support within the United States is consistent with other information that was available to the Intelligence Community prior to September 11, 2001. That information also points to the existence of an al-Qa'ida support network within the United States. An August 2001 Intelligence Community publication for senior U.S. government policy officials (called a "SEIB"), for example, indicated that al-Qa'ida members, including some U.S. citizens, have resided in or traveled to the U.S. for years, and the group apparently maintains a support structure in the United States. The FBI Phoenix field office agent who authored the Phoenix communication also testified that, based on his experience, he had developed an

“investigative theory” that indicated that this kind of support network had been in place in Arizona for some time].

[Finally, an early summer 2001 Intelligence Community report stated that Khalid Shaykh Mohammed – the senior al-Qa’ida official who has been identified as the mastermind of the September 11 attacks -- was recruiting individuals to travel to the United States and engage in planning terrorist-related activity there. According to the [—————] report, these individuals would be “expected to establish contact with colleagues already living there.” This information was disseminated [—————] to all Intelligence Community agencies and the [—————], military commanders, and components within the Departments of Treasury and Justice].

[A September 12, 2001 FBI interview [—————] —————] also suggests the existence of an al-Qa’ida support network within the United States. In that interview, an individual with al-Qa’ida connections recalled that a senior al-Qa’ida operative had discussed [page 31] “using multiple cells operating independently in the United States that could execute ten operations simultaneously or in sequence that would produce a big impact on the United States.” When queried by the FBI, the individual indicated that the senior operative had the necessary people positioned in the United States to carry out such a plan, noting that the senior operative has many contacts in the United States].

### Hijackers’ Associates in Germany

**5.h. [Since 1995, the CIA had been aware of a radical Islamic presence in Germany, including individuals with connections to Usama Bin Ladin. Prior to September 11, 2001, the CIA had unsuccessfully sought additional information on individuals who have now been identified as associates of some of the hijackers].**

Discussion: [CIA and FBI counterterrorism operations and investigations prior to September 11, 2001 repeatedly produced intelligence relating to two individuals in Hamburg, Germany – Mamoun Darkazanli, a suspected logistician in Bin Ladin’s network, and Mohammed Zammar, a suspected recruiter for al- Qa’ida. The CIA had

been seeking more information about Darkazanli. [\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_].

After September 11, 2001, it was determined that these same two individuals had been associates in Hamburg of hijackers Mohamed Atta, Marwan al-Shehhi, and Ziad Jarrah, as well as other individuals, such as Ramzi bin al-Shibh, who are now believed to have been involved in the September 11 plot. In fact, the FBI now believes that Zammar recruited Atta, al-Shehhi, and Jarrah into Al Qaeda, and encouraged their participation in the September 11 attacks.

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### **Khalid Shaykh Mohammad**

**5.i. Prior to September 11, the Intelligence Community had information linking Khalid Shaykh Mohammed (KSM), now recognized by the Intelligence Community as the mastermind of the attacks, to Bin Ladin, to terrorist plans to use aircraft as weapons, and to terrorist activity in the United States. The Intelligence Community, however, relegated KSM to rendition target status following his 1996 indictment in connection with the Bojinka Plot and, as a result, focused primarily on his location, rather than his activities and place in the al-Qa'ida hierarchy. The Community also did not recognize the significance of reporting in June 2001 concerning KSM's active role in sending terrorists to the United States, or the facilitation of their activities upon arriving in the United States. Collection efforts were not targeted on information about KSM that might have helped better understand al-Qa'ida's plans and intentions, and KSM's role in the September 11 attacks was a surprise to the Intelligence Community.**

Discussion: [According to information obtained by the Intelligence Community from several sources after September 11, 2001, Khalid Shaykh Mohammed (KSM) -- also known as "Mukhtar" (Arabic for "The Brain") -- masterminded the September 11 attacks. The information indicates that KSM presented a plan to Usama Bin Ladin to mount an attack using small rental aircraft filled with explosives. Usama Bin Ladin reportedly suggested using even larger planes. Thus, the idea of hijacking commercial airliners took hold.

Thereafter, KSM reportedly instructed and trained the hijackers for their mission, including directing them to undergo pilot training].

KSM came to the attention of the Intelligence Community as a terrorist in early 1995 when he was linked to Ramzi Yousef's "Bojinka Plot" in the Philippines. One portion of that plot involved the idea of crashing an airplane into CIA Headquarters. Through additional intelligence and investigative efforts in 1995, KSM was also connected to the first World Trade Center bombing. He was indicted by a U.S. grand jury in January 1996. The indictment was kept under seal until 1998 while the FBI and CIA attempted to locate him and arrange to take him into custody. Subsequently, indications were received that he might have been involved in the East Africa U.S. Embassy bombings.

[In June 2001, [—————] disseminated a report to all Intelligence Community agencies, [—————], military commanders, and components in the Treasury and Justice [page 33] Departments emphasizing KSM's ties to Bin Ladin as well as his continuing travel to the United States. The report explained that KSM appears to be one of Bin Ladin's most trusted lieutenants and was active in recruiting people to travel outside Afghanistan, including to the United States, on behalf of Bin Ladin. According to the report, he traveled frequently to the United States, including as recently as May 2001, and routinely told others that he could arrange their entry into the United States as well. Reportedly, these individuals were expected to establish contact with colleagues already there. The clear implication of his comments, according to the report, was that they would be engaged in planning terrorist-related activities].

Although this particular report was sent from the CIA to the FBI, neither agency apparently recognized the significance of a Bin Ladin lieutenant sending terrorists to the United States and asking them to establish contacts with colleagues already there. CTC questioned this report at the time and commented: "We doubt the real [KSM] would do this...because if it is [KSM], we have both a significant threat and an opportunity to pick him up." Neither the CIA nor the FBI has been able to confirm whether KSM had in fact been traveling to the United States or sending recruits here prior to September 11.

**[Terrorist Communications in September 2001]**

**5.j. [In the period from September 8 to September 10, 2001 NSA intercepted, but did not translate or disseminate until after September 11, some communications that indicated possible impending terrorist activity].**

Discussion: [In early September 2001, NSA intercepted [—————] communications involving [—————]]. The communications discussed events that were to occur in the near term and appeared to be related to terrorism. In the first communication, [—————] [—————] asked whether [—————]. [—] responded that [—————] [—————].

[Page 34]

[Another communication, between [————] and an unknown person [————], was a discussion of whether [—————]. [—————] [—————]. NSA did not disseminate reports regarding the communications until September 12 and 13, 2001].

Two additional communications that indicated imminent terrorist activity were intercepted by NSA on September 10, 2001. The communications contained conversations between unknown individuals located abroad. NSA Director Hayden described the content of those communications in his testimony before the Joint Inquiry:

In the hours just prior to the attacks, NSA did obtain two pieces of information suggesting that individuals with terrorist connections believed something significant would happen on September 11.

These communications were, however, not translated into English and disseminated by NSA until September 12, 2001.

It remains uncertain whether any of the September [—————] conversations referred directly to the attacks of September 11. Like the intelligence reporting described earlier, these intercepts did not provide any indication of where or what terrorist activities might occur.



## **B. CONCLUSION – FACTUAL FINDINGS**

In short, for a variety of reasons, the Intelligence Community failed to capitalize on both the individual and collective significance of available information that appears relevant to the events of September 11. As a result, the Community missed opportunities to disrupt the September 11 plot by denying entry to or detaining would-be hijackers; to at least try to unravel the plot through surveillance and other investigative work within the United States; [page 35] and, finally, to generate a heightened state of alert and thus harden the homeland against attack.

No one will ever know what might have happened had more connections been drawn between these disparate pieces of information. We will never definitively know to what extent the Community would have been able and willing to exploit fully all the opportunities that may have emerged. The important point is that the Intelligence Community, for a variety of reasons, did not bring together and fully appreciate a range of information that could have greatly enhanced its chances of uncovering and preventing Usama Bin Ladin's plan to attack the United States on September 11, 2001.

## **C. SYSTEMIC FINDINGS**

Our review of the events surrounding September 11 has revealed a number of systemic weaknesses that hindered the Intelligence Community's counterterrorism efforts before September 11. If not addressed, these weaknesses will continue to undercut U.S. counterterrorist efforts. In order to minimize the possibility of attacks like September 11 in the future, effective solutions to those problems need to be developed and fully implemented as soon as possible.

**1. Finding: Prior to September 11, the Intelligence Community was neither well organized nor equipped, and did not adequately adapt, to meet the challenge posed by global terrorists focused on targets within the domestic United States. Serious gaps existed between the collection coverage provided by U.S. foreign and U.S. domestic intelligence capabilities. The U.S. foreign intelligence agencies paid inadequate attention to the potential for a domestic attack. The CIA's failure to watchlist suspected terrorists aggressively reflected a lack of emphasis on a process designed to protect the homeland from the terrorist threat. As a result, CIA**

**employees failed to watchlist al-Mihdhar and al-Hazmi. At home, the counterterrorism effort suffered from the lack of an effective domestic intelligence capability. The FBI was unable to identify and monitor effectively the extent of activity by al-Qa'ida and other international terrorist groups operating in the United States. Taken together, these problems greatly exacerbated the nation's vulnerability to an increasingly dangerous and immediate international terrorist threat inside the United States.**

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Discussion: The United States has a long history of defining internal threats as either foreign or domestic and assigning responsibility to the intelligence and law enforcement agencies accordingly. This division reflects a fundamental policy choice and is codified in law. For example, the National Security Act of 1947 precludes CIA from exercising any internal security or law enforcement powers. The Congressional investigations of the 1970's into the activities of the intelligence agencies, including their efforts to collect information regarding anti-Vietnam War activists and other "radicals," reinforced the importance of this division in the minds of the Congress, the American public, and the agencies.

The emergence, in the 1990s, of a threat posed by international terrorists who operate across national borders demanded huge changes in focus and approach from intelligence agencies traditionally organized and trained to operate primarily in either the United States or abroad. The legal authorities, operational policies and cultures that had molded agencies like CIA, NSA and the FBI for years had not responded to the "globalization" of terrorism that culminated in the September 11 attacks in the United States. While some efforts, such as the creation of the CTC at CIA in 1986, were made to increase collaboration between these agencies, the agencies focused primarily on what remained essentially separate spheres of operations. In the absence of any collective national strategy, they retained significant autonomy in deciding how to attack and array their resources against Usama Bin Ladin and al-Qa'ida. Efforts to develop such a strategy might have exposed the significant counterterrorism gaps that existed between the agencies as well as the increasingly urgent need to compensate for those gaps in the absence of more fundamental changes in organization and legal authority.

Prior to September 11, CIA and NSA continued to focus the bulk of their efforts on the foreign operations of terrorists. While intelligence reporting indicated that al-

Qa'ida intended to strike in the United States, these agencies believed that defending against this threat was primarily the responsibility of the FBI. This Joint Inquiry found that both agencies routinely passed a large volume of intelligence to the FBI, but that neither agency followed up to determine what the FBI learned from or did with that [page 37] information. Neither did the FBI keep NSA and CIA adequately informed of developments within its areas of responsibility.

As noted earlier, the record confirms instances where, despite numerous opportunities, information that was directly relevant to the domestic threat was simply overlooked and not disseminated in a timely manner to the FBI. For example, the CIA analyst who neglected to raise the information concerning al-Mihdhar and al-Hazmi's U.S. travel in a June 2001 meeting with the FBI in New York said in a Joint Inquiry interview that the information he had learned concerning the pair's travel to Los Angeles "did not mean anything to him." He also explained to the Joint Inquiry that the information was operational in nature and he would have needed permission before disclosing it.

The CIA's inconsistent performance regarding the watchlisting of suspected terrorists prior to September 11 also suggests a lack of attention to the domestic threat. Watchlists are a vital link in denying entry to the United States by terrorists and others who threaten the national security, and CTC had reminded personnel of the importance of watchlisting in December 1999 (see Appendix, "CTC Watchlisting Guidance – December 1999"). Yet, some CIA officers in CTC indicated they did not put much emphasis on watchlists. The Joint Inquiry confirmed that there was no formal process in place at the CTC prior to September 11 for watchlisting suspected terrorists, even where, as was the case with al-Hazmi and al-Mihdhar, there were indications of travel to the United States.

Other CIA personnel reported that they received no training on watchlisting and that names were added on an ad hoc basis. In the days and weeks following the September 11 attacks, more focused CIA review of over 1,500 Classified Intelligence Reports that had not previously been provided to the State Department for watchlist purposes resulted in the identification of 150 suspected terrorists and the addition of 58

suspected terrorist names to the watchlist. DCI Tenet acknowledged in his testimony before the Joint Inquiry that CIA's watchlisting training had been deficient and that a [page 38] mistake had been made in the failure to watchlist both al-Mihdhar and al-Hazmi promptly.

[There were also gaps between NSA's coverage of foreign communications and the FBI's coverage of domestic communications that suggest a lack of sufficient attention to the domestic threat. Prior to September 11, neither agency focused on the importance of identifying and then ensuring coverage of communications between the United States and suspected terrorist-associated facilities abroad [—————]. Consistent with its focus on communications abroad, NSA adopted a policy that avoided intercepting the communications between individuals in the United States and foreign countries].

NSA adopted this policy even though the collection of such communications is within its mission and it would have been possible for NSA to obtain FISA Court authorization for such collection. NSA Director Hayden testified to the Joint Inquiry that NSA did not want to be perceived as targeting individuals in the United States and believed that the FBI was instead responsible for conducting such surveillance. NSA did not, however, develop a plan with the FBI to collect and to ensure the dissemination of any relevant foreign intelligence to appropriate domestic agencies. This further evidences the slow response of the Intelligence Community to the developing transnational threat.

[The Joint Inquiry has learned that one of the future hijackers communicated with a known terrorist facility in the Middle East while he was living in the United States. The Intelligence Community did not identify the domestic origin of those communications prior to September 11, 2001 so that additional FBI investigative efforts could be coordinated. Despite this country's substantial advantages, there was insufficient focus on what many would have thought was among the most critically important kinds of terrorist-related communications, at least in terms of protecting the Homeland].

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While most of the Intelligence Community focused on the collection of foreign intelligence, the Joint Inquiry was told repeatedly that the nation lacked an effective domestic intelligence capability prior to September 11. Former National Coordinator for Counterterrorism Richard Clarke saw this as a longstanding problem that became painfully obvious in the aftermath of September 11:

Well, I hear all of these comments about the Phoenix memo, the Minnesota case, whatever. I think they miss the point that the failures were years earlier. It was a failure on the part of the United States to not have a domestic intelligence collection capability. I understand the reasons for the lack of the ability. I know the abuses the FBI engaged in [during] the 1950s and 1960s. I know the reason we have the Attorney General-levied guidelines. But I think the pendulum swung too far, and when we became aware of the fact that there were forces in the world such as al-Qa'ida, and others, Iran, Hezbollah, that meant us ill, certainly by the 1980s or 1990s we should have recognized the need for a domestic intelligence collection capability. Other democracies with civil rights and civil liberties have that. It doesn't mean you become a totalitarian state if you do a good job of oversight and control. We needed to have a domestic intelligence collection and analysis capability, and we did not have it, and only now are we beginning to get it.

....

But my point about the FBI was not just a few hints were missed or dots weren't connected; it is – my point was, they didn't have the mission. It was not their job to be a domestic collection service. Their job was to do law enforcement. And they didn't have the rules that permitted them to do domestic intelligence collection.

While the FBI's counterterrorist program had produced successful investigations and major prosecutions of both domestic and international terrorists, numerous witnesses told the Joint Inquiry that the program was, at least prior to September 11, incapable of producing significant intelligence products. The FBI's traditional reliance on an aggressive, case-oriented, law enforcement approach did not encourage the broader collection and analysis efforts that are critical to the intelligence mission. Lacking appropriate personnel, training, and information systems, the FBI primarily gathered intelligence to support specific investigations, not to conduct all-source analysis for dissemination to other intelligence agencies. Former National Security Advisor Sandy Berger testified about the FBI's failure, prior to September 11, to assess the extent of the foreign terrorist threat to the United States adequately: [page 40]

Until the very end of our term in office, the view we received from the Bureau was that al-Qa'ida had limited capacity to operate in the United

States and that any presence here was under surveillance. That was not implausible at the time. With the exception of the World Trade Center bombings in 1993, not attributed before 9/11 to Bin Ladin, plots by foreign terrorists within the United States have been detected and stopped. But revelations since September 11 have made it clear that the Bureau underestimated the domestic threat. The stream of threat information we received continuously from the FBI and CIA pointed overwhelmingly to attacks on U.S. interests abroad. Certainly, the potential for attacks in the United States was there.

Former National Security Advisor Brent Scowcroft told the Joint Inquiry hearing on September 19, 2002, that:

. . . I was thinking back [on] intelligence information from the FBI, and I was trying to think of cases where we actually got it. Not very much, because we are or I was focused on foreign intelligence primarily. There was some counterintelligence issues where the FBI intelligence was particularly involved, and the one case I mentioned. Pan Am 103, but that was investigative intelligence and the FBI and the CIA did an absolutely brilliant job on that. But I can't think of many--can't recall of any instances of pure intelligence product from the FBI. And I don't say that pejoratively at all.

Former National Coordinator for Counterterrorism Richard Clarke voiced similar concerns about the extent of the FBI's understanding of the domestic threat:

Let me give you the FBI case, because I think it is the most clear. Following the Millennium alert . . . and . . . review, it became very clear to . . . the [FBI] Assistant Director for Counterterrorism, there was the potential for sleeper cells in the United States, people . . . the United States that had been involved in the planned attacks.

. . . .

This was in 2000. The Assistant Director . . . then began a program to try to get more control of the 56 FBI field offices, and I visited five or six of the field offices and asked them what they were doing about al-Qa'ida. I got sort of blank looks of "what is al-Qa'ida?"

He compared the effort to add priority to al-Qa'ida investigations in the FBI field offices to "trying to . . . sort of turn this big Queen Mary luxury liner, trying to turn it."

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Numerous individuals told this Inquiry that the FBI's 56 field offices enjoy a great deal of latitude in managing their work, consistent with the dynamic and reactive nature of its traditional law enforcement mission. In counterterrorism efforts, however, that flexibility apparently served to dilute the FBI's national focus on Bin Ladin and al-

Qa'ida. Although the FBI made counterterrorism a "Tier One" priority, not all of its field offices responded consistently to this FBI Headquarters decision. The New York Field Office did make terrorism a high priority and was given substantial responsibility for the al-Qa'ida target following the first attack on the World Trade Center in 1993. However, many other FBI offices were not focused on al-Qa'ida and had little understanding of the extent of the threat it posed within this country prior to September 11.

The combination of these factors seriously handicapped efforts to identify and defend against the foreign terrorist threat to the domestic United States. It is not surprising, in the absence of more focused intelligence, that senior policymakers told this Inquiry that, prior to September 11, they believed the terrorist threat was focused on U.S. interests overseas. Deputy Secretary of State Armitage, for example, testified that ". . . I don't think we really had made the leap in our mind that we are no longer safe behind these two great oceans. . . ." Former Deputy Secretary of Defense John Hamre said in a Joint Inquiry interview that he could not remember ever seeing an intelligence report on the existence of terrorist sleeper cells in the United States. In retrospect, he recalled: ". . . we thought we were dealing in important things, but we missed the domestic threat from international terrorism."

**2. Finding: Prior to September 11, 2001, neither the U.S. Government as a whole nor the Intelligence Community had a comprehensive counterterrorist strategy for combating the threat posed by Usama Bin Ladin. Furthermore, the Director of Central Intelligence (DCI) was either unwilling or unable to marshal the full range of Intelligence Community resources necessary to combat the growing threat to the United States.**

Discussion: The Intelligence Community is a large distributed organism. It encompasses 14 agencies and tens of thousands of employees. The number of people [page 42] employed exclusively in the effort against Usama Bin Ladin and al-Qa'ida was relatively small. In addition, these people were operating in geographically dispersed locations, often not connected by secure information technologies, and within established bureaucracies that were not culturally or organizationally attuned to one another's requirements. Many of them had limited experience against the target, and did not know one another. To achieve success in such an environment, leadership is a critical factor. The Joint Inquiry found that the Intelligence Community's structure made leadership difficult.

Usama Bin Ladin first came to the attention of the Intelligence Community in the early 1990s, initially as a financier of terrorist activities. In 1996, as Bin Ladin's direct involvement in planning and directing terrorist acts became more evident, the DCI's Counterterrorist Center (CTC) created a special unit to focus specifically on him and the threat he posed to the interests of the United States. Personnel within CTC recognized as early as 1996 and 1997 that Usama Bin Ladin posed a grave danger to the United States.

Following the August 1998 bombings of two U.S. embassies in East Africa, the DCI made combating the threat posed by Usama Bin Ladin one of the Intelligence Community's highest priorities, establishing it as a "Tier 0 priority." The DCI raised the status of the Bin Ladin threat still further when he announced in writing in December 1998 regarding Bin Ladin: "We are at war...I want no resources or people spared in this effort, either inside the CIA or the [Intelligence] Community." This declaration appeared in a memorandum from the DCI to CIA senior managers, the Deputy DCI for Community Management and the Assistant DCI for Military Support.

The Intelligence Community as a whole, however, had only a limited awareness of this declaration. For example, some senior managers in the National Security Agency and the Defense Intelligence Agency say they were aware of the declaration. However, it was apparently not well known within the Federal Bureau of Investigation. In fact, the Assistant Director of the FBI's Counterterrorism Division testified to the Joint Inquiry that he "was not specifically aware of that declaration of war."

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Furthermore, and even more disturbing, Joint Inquiry interviews of FBI field office personnel indicated that they were not aware of the DCI's declaration, and some had only a passing familiarity with the very existence of Usama Bin Ladin and al-Qa'ida prior to September 11. Neither were the Deputy Secretary of Defense or the Chairman of the Joint Chiefs of Staff aware of the DCI's declaration. This suggests a fragmented Intelligence Community that was operating without a comprehensive strategy for combating the threat posed by Bin Ladin, and a DCI without the ability to enforce consistent priorities at all levels throughout the Community.



The Director of NSA at the time of the DCI's 1998 declaration was Lieutenant General Kenneth Minihan. He acknowledged in a Joint Inquiry interview that he was aware of that declaration, but believed that the DCI was speaking for CIA only. In his experience, he said, the DCI generally left Intelligence Community matters to the head of the Community Management Staff.

The record of this Joint Inquiry indicates that the DCI *did not* marshal resources effectively even within CIA against the threat posed by al-Qa'ida. Despite the DCI's declaration to CIA officials that the Agency was at war with Bin Ladin, there is substantial evidence that the DCI's Counterterrorist Center needed additional personnel prior to September 11, and that the lack of resources had a substantial impact on its ability to detect and monitor al-Qa'ida's activities. For example:

- In a September 12, 2002 Joint Inquiry hearing, the former Chief of CTC testified that he did not have enough people to counter the threat posed by Bin Ladin's network: "The three concepts I would like to leave you with are people, the finances, and operational approvals or political authorities. We didn't have enough of any of these before 9/11."
- In the same hearing, a senior CTC manager said, "Did we have enough personnel resources? No. We always needed more."

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- In the same hearing, a former Chief of the CTC unit dedicated to focusing on Bin Ladin explained: "We never had enough officers from the Directorate of Operations. The officers we had were greatly overworked....We also received marginal analytic support from the Directorate of Intelligence...."
- In a September 20, 2002 Joint Inquiry hearing, a CIA officer commented on the reasons for the CIA's failure to follow-up regarding the two September 11 hijackers who came to the attention of the Intelligence Community in January 2000:

How could these misses have occurred?... The CIA operators focused on the Malaysia meeting while it occurred; when it was over, they focused on

other, more urgent operations against threats real or assessed. Of the many people involved, no one detected that the data generated by this operation crossed a reporting threshold, or, if they did, they assumed that the reporting requirement had been met elsewhere.... They are the kinds of misses that happen when people – even very competent, dedicated people such as the CIA officers and FBI agents and analysts involved in all aspects of this story – are simply overwhelmed.

- When asked why there was no marshaling of personnel to CTC to fight Bin Ladin's network, the former Chief of CTC recalled that the CIA's Deputy Director of Operations said there were not enough personnel to go around and CTC was already well-endowed with people as compared to other divisions in CIA.

Almost immediately after September 11, 2001, there was a substantial infusion of personnel into the CTC. No comparable shift of resources occurred in December 1998 after the DCI's declaration of war, in December 1999 during the Millennium crisis, or after the attack on *USS Cole* in October 2000.

In his testimony before the Joint Inquiry on October 17, 2002, the DCI said, "In hindsight, I wish I had said, 'Let's take the whole enterprise down,' and put 500 more people there sooner." It is noteworthy that the DCI's comments were limited to the CIA [page 45] and did not encompass marshaling the resources of other agencies within the Intelligence Community.

Despite the DCI's December 1998 declaration of war, other priorities continued to detract from the Intelligence Community's effort against Bin Ladin. The Joint Inquiry heard repeatedly about intelligence priorities that competed contemporaneously with Bin Ladin for personnel and funds. These included a range of regional and global issues.

The NSA Director described the pre-September 11 situation at NSA:

We, like everyone else at the table, were stretched thin in September. The war against terrorism was our number one priority. We had about five number one priorities. And we had to balance what we were doing against all of them. . . . .

[Further, the NSA Director testified that he knew what NSA had to do to improve its capabilities against the modern means of communications used by Bin Ladin and other

targets prior to September 11, but was unable to obtain Intelligence Community support and resources for that effort:

Given all the other intelligence priorities, it would have been difficult at that time within the [Intelligence Community] or the Department of Defense to accept the kind of resource decisions that would have been necessary to make our effort against the target more robust. NSA was focused heavily on [a range of regional and global issues]. Our resources, both human and financial, were in decline. Our efforts in 2000 to churn money internally were not accepted by the Community; its reliance on [signals intelligence] had made it reluctant to give it up].

The inability to realign Intelligence Community resources to combat the threat posed by Usama Bin Ladin is a relatively direct consequence of the limited authority of the DCI over major portions of the Intelligence Community. As former Senator Warren Rudman noted on October 8, 2002 in his testimony before the Joint Inquiry: “You have a Director of Central Intelligence who is also the Director of CIA; eighty-five percent of [the Intelligence Community’s budget] is controlled by the Department of Defense.”

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While the DCI has statutory responsibility that spans the Intelligence Community, his actual authorities are limited to the budgets and personnel over which he exercises direct control, i.e., the CIA, the Office of the DCI, and the Community Management Staff. As former Congressman and House Intelligence Committee Chairman Lee Hamilton stated in his testimony to the Joint Inquiry on October 3, 2002:

Currently, the Director of Central Intelligence, the leading intelligence figure, as we all know, does not control but a small portion of his budget. The DCI has, as I understand it, enhanced authority after 1997, and that permits him to consolidate the national intelligence budget, to make some trade-offs, but given the overwhelming weight of the Defense Department in the process, that is of limited value.

....

The very phrase “Intelligence Community” is intriguing. It demonstrates how decentralized and fragmented our intelligence capabilities are. . . . The Intelligence Community is a very loose confederation. . . .

....

[T]he thing that puzzles me here is why we reject for the Intelligence Community the model of organization that we follow in every other enterprise in this country. We have someone at the head who has responsibility and accountability. We accept that. But for some reason we reject it when it comes to the Intelligence Community.

Further evidence of the absence of authoritative leadership and a comprehensive counterterrorist strategy can be found in what the DCI referred to in his Joint Inquiry testimony on October 17, 2002 as “The Plan.” In his testimony, the DCI said:

In spring of 1999, we produced a new comprehensive operational plan of attack against [Usama Bin Ladin] and al Qaeda inside and outside of Afghanistan. The strategy was previewed to senior CIA management by the end of July of 1999. By mid-September it had been briefed to the CIA operational level personnel, to NSA, to the FBI and other partners. The CIA began to put in place the elements of this operational strategy which structured the agency’s counterterrorism activity until September 11 of 2001.

[According to documents reviewed by the Joint Inquiry, “The Plan” of 1999 consisted primarily of a variety of CIA covert action efforts directed against Usama Bin Ladin. Later, “The Plan” also included [\_\_\_\_\_].

Thus, “The Plan” was focused principally on CIA, Afghanistan, covert action, and technical collection aimed at Usama Bin Ladin].

From a broader perspective, “The Plan” was significant for what it did not include:

- An Intelligence Community-wide estimate of the threat posed by Usama Bin Ladin’s network to the United States and to U.S. interests overseas;
- Significant participation by other elements of the Intelligence Community;
- A delineation of the resources required to execute “The Plan;”
- Any decisions to downgrade other Intelligence Community priorities to accommodate the priority of “The Plan;”
- Any attention to the threat to and vulnerabilities of the U.S. homeland; and
- Any FBI involvement.

The absence of involvement by agencies other than CIA in “The Plan” is particularly troubling, given gaps that existed in the efforts by other agencies to address Bin Ladin. While the CIA was putting significant effort and attention into Usama Bin Ladin, covert action, and Afghanistan, the FBI, for example, was focused on other issues. Although FBI leadership recognized after the Embassy bombings in August 1998 that al-

Qa'ida posed an increasing threat to United States interests, investigations in the United States of those who raised funds for other terrorist groups continued to consume considerable field resources and attention prior to September 11.

While the FBI devoted considerable resources to the criminal investigations of the terrorist attacks overseas, substantial efforts to prevent similar attacks at home were lacking. Former National Security Advisor Sandy Berger told the Joint Inquiry: ". . . if there was a flood of intelligence information [on terrorism] from the CIA, there was hardly a trickle from the FBI." In some FBI field offices, there was little focus on, or awareness of, Usama Bin Ladin and al-Qa'ida. This included the San Diego field office where FBI agents would discover, after September 11, that there had been numerous local connections to at least two of the hijackers.

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The Executive Assistant Director of the FBI's Counterterrorism Division testified to the Joint Inquiry that the FBI had no war plan against Bin Ladin: "Did we have a war plan, a five-paragraph ops order issued on Usama Bin Ladin and al-Qa'ida? Absolutely, we did not at that time." When asked how the FBI's counterterrorism program fit into the overall Intelligence Community counterterrorism program, the same Assistant Director replied: "I am not sure if I know the answer to that. I talked to [the DCI] briefly about this. I have talked to [the CTC Chief] prior to -- the answer to your question is, I don't know the answer." Without a comprehensive strategy in place for the whole Intelligence Community, there was no assurance that agencies like the FBI were focused on the DCI's "war" effort.

Consistent with the absence of any comprehensive strategy, a recent Department of Justice Inspector General (IG) report found that: "The FBI has never performed a comprehensive written assessment of the risk of the terrorist threat facing the United States." As the IG report explained: "Such an assessment would be useful not only to define the nature, likelihood, and severity of the threat but also to identify intelligence gaps that need to be addressed. Moreover, we believe that comprehensive threat and risk assessments would be useful in determining where to allocate attention and resources...on programs and initiatives to combat terrorism." This kind of assessment still had not been completed as recently as Director Mueller's testimony on October 17, 2002. Nor did the DCI's National Intelligence

Council ever produce a National Intelligence Estimate (NIE) regarding the threat to the United States posed by al-Qa'ida or Usama Bin Ladin.

Without the support of a comprehensive strategy or credible domestic threat assessment, DCI resource requests were often unsuccessful. In response to questions about his own efforts to obtain additional counterterrorism resources, the DCI described to the Joint Inquiry hearing on June 18, 2002 his inability, prior to September 11, to generate necessary support within the Executive Branch:

[I would ask e]very year in [the] budget submission. [Page 49]

. . . .

I'm not talking about the Committee. I'm talking about the front end at OMB and the hurdle you have to get through to fully fund what we thought we needed to do the job. Senator Kyl once asked me a question in Senator Shelby's Committee and said, how much money are you short. I'm short \$900 million to \$1 billion every year for the next five years, is what I answered. And we told that to everybody downtown for as long as anybody would listen and never got to first base. So you get what you pay for in terms of our ability to be as big and robust as people - and when I became Director, we had [————] case officers around the world. Now we're up to about [————] and the President's given us the ability to grow that by another [————]. And everybody wonders why you can't do all the things people say you need to do. Well, if you don't pay at the front end, it ain't going to be there at the back end. Having said that, I think we made an enormous amount of progress against this target. That would be my view].

**3. Finding: Between the end of the Cold War and September 11, 2001, overall Intelligence Community funding fell or remained even in constant dollars, while funding for the Community's counterterrorism efforts increased considerably. Despite those increases, the accumulation of intelligence priorities, a burdensome requirements process, the overall decline in Intelligence Community funding, and reliance on supplemental appropriations made it difficult to allocate Community resources effectively against an evolving terrorist threat. Inefficiencies in the resource and requirements process were compounded by problems in Intelligence Community budgeting practices and procedures.**

Discussion: [Throughout the Joint Inquiry, numerous officials at CIA, NSA and the FBI testified that the greatest constraint in their effort against al-Qa'ida was the availability of too few resources, compounded by too many requirements and priorities. Regional and global issues were identified as some of the other important issues that competed with counterterrorism and made heavy resource demands].

These other policy priorities demanded the support of the Intelligence Community and made it difficult to transfer people or funds to counterterrorism. DCI Tenet testified that:

As I ‘declared war’ against al-Qa’ida in 1998 – in the aftermath of the East Africa embassy bombings – we were in our fifth year of round-the-clock support to Operation Southern Watch in Iraq. Just three months earlier, we were embroiled in answering questions on the India and Pakistan nuclear tests and trying to determine how we could surge more people to understanding and countering [page 50] weapons of mass destruction proliferation. In early 1999, we surged more than 800 analysts and redirected collection assets from across the Intelligence Community to support the NATO bombing campaign against the Federal Republic of Yugoslavia.

[Similarly, NSA Director Hayden testified that NSA was focused heavily on several other high priority intelligence targets. An FBI budget official told the Joint Inquiry that counterterrorism was not a priority for Attorney General Ashcroft before September 11, and the FBI faced pressure to make cuts in counterterrorism to satisfy his other priorities].

The Joint Inquiry’s review of available budget and resource data confirmed that, overall, the Intelligence Community budget peaked in fiscal year 1992 and thereafter fell or remained even in constant dollars. The FBI is an exception to the overall resource picture. Its overall funding increased for much of the 1990s, though most of this went to the Bureau’s non-intelligence programs.

[In all, however, Intelligence Community capabilities declined over time. At the CIA, for example, the Directorate of Operations cut the number of its personnel deployed overseas by almost [————] and closed down a portion of facilities in one part of the world – where much information relating to terrorism could likely have been available. In addition, the necessary support “tail” for counterterrorism, such as communications and training, suffered from the decline in resources].

Specific funding for counterterrorism was, however, at least one exception to the overall budget decline. Within existing budgets, counterterrorism spending generally

increased while funding for other issues generally fell or remained steady. The counterterrorism component of the overall Intelligence Community budget, for example, at least doubled at most agencies. Former National Security Advisor Sandy Berger emphasized the added funding that was provided for counterterrorism: [page 51]

. . . the Clinton Administration more than doubled the federal government's counterterrorism spending from \$5 billion in FY [Fiscal Year] 1996 to over \$11 billion in FY 2000) at a time of strong bipartisan effort to achieve balanced budgets that resulted in highly constrained spending for most programs. . . [T]he FBI's counterterrorism staff budget increased by 250% and their counterterrorism budget increased by nearly 350%. Similar increases were made in the CIA counterterrorism budget.

In general, personnel allocated to counterterrorism also increased. Although specifics are imprecise, this Inquiry's review and estimates provided by various agencies indicate that the number of personnel working on terrorism steadily increased despite overall decreases in Intelligence Community staffing. Nevertheless, the number of counterterrorism personnel prior to September 11 generally remained small and paled by comparison with post-September 11 levels.

During the course of the Joint Inquiry, Intelligence Community officials identified a number of factors that limited their ability to allocate greater resources for counterterrorism, despite the funding increases that occurred in that area. These included, in addition to the overall general decline in funding for intelligence, outdated and unrealistic intelligence priorities, and an overburdened requirements process.

The Intelligence Community's current strategic-level guidance for national security priorities was established by Presidential Decision Directive (PDD)-35 in 1995. Former National Security Advisor Anthony Lake described PDD-35 as follows: "It formally established our top intelligence priorities and placed terrorism among them, led only by intelligence support for our troops in the field and a small number of states that posed an immediate or potential serious threat to the United States." In an effort to rank the myriad post-Cold War threats facing the United States, PDD-35 established a tier system of priorities. The tiers were broad and concentrated at the upper levels of the scale. For example, there were both Tier 1A and Tier 1B priorities, but the highest priority was assigned to Tier Zero.



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However, as several Intelligence Community officers told the Joint Inquiry, in practice, the lack of adequate separation between the tiers made it very difficult to choose between priorities, and the intelligence prioritization process was often confusing. Former National Counterterrorism Coordinator Richard Clarke noted that the White House "...never really gave good systematic, timely guidance to the Intelligence Community about what priorities were at the national level." Deputy National Security Advisor Steven Hadley responded to Joint Inquiry questions by stating that Bush Administration officials were told by Clinton Administration officials during the transition that "this priority-setting process [PDD-35] ... was not effective for communicating changing priorities over time." Joint Inquiry interviews with Intelligence Community officials indicate that many felt that the prioritization process was so broad as to be meaningless.

Moreover, PDD-35 was never effectively adapted before September 11 to meet the changing nature of the threat, despite specific language in the document that required an annual review. As certain threats, including terrorism, increased in the late 1990s, none of the "lower level" Tier 1 priorities were downgraded so that resources --money and people-- could be reallocated. For much of the Intelligence Community, everything became a priority since its customers in the U.S. Government wanted to know everything about everything all the time.

The growing inadequacy of the PDD-35 structure fueled an overburdened and increasingly ineffective requirements system within the Intelligence Community. At NSA, for example, an official described the PDD-35 requirements system as "cumbersome." NSA analysts acknowledged that they had far too many broad requirements -- some 1500 formal requirements by September 11 -- that covered virtually every situation and target. Working from these 1500 formal requirements, NSA had developed almost 200,000 "Essential Elements of Information" that were desired by its customers. While they understood the gross priorities and worked on the requirements that were practicable on any given day, several NSA analysts acknowledged that the [page 53] priority demands sometimes precluded them from delving as deeply into certain areas as they would have liked.

As counterterrorism became an increasingly important concern for senior Intelligence Community officials, collection and analytic efforts did not always keep pace because other requirements competed with terrorism for attention, and real priorities often were not clear. In Joint Inquiry interviews, CIA officials said that, because overall resources were finite, any increased focus on counterterrorism meant that other issues would have to receive less attention. At the FBI, where overall funding had increased, officials said that substantial efforts focused on investigating terrorist cases overseas, critical infrastructure protection programs, and other priorities not directly related to strategic intelligence or al-Qa'ida activity within the United States.

[The Director of NSA testified that prior to September 11, other priorities frustrated his attempts to acquire capabilities to process modern communications used by terrorists and other intelligence targets:

It required a significant redirection of investment for us to acquire the capabilities to exploit modern communications. I mentioned . . . trying to churn . . . within what was then a fixed top line about \$200 million . . . . And we could only get about a third of it to stick because the people who were using the products we created out of traditional means were unable to give up those product lines to allow us to reinvest those dollars for the new age signals environment . . . . I was unable to move some money because we were going to erode our coverage of [another intelligence target] as part of this effort.]

Even within the CTC, the staff and resources dedicated to counterterrorism could not keep pace with the amount and scope of incoming intelligence reporting. The DCI attributed CIA inaction on a cable pointing to al-Hazmi's travel to the United States to the fact that overworked CTC personnel did not have time to read "information only" cables from the field:

The cable that came in from the field at the time, sir, was labeled "information only," and I know that nobody read that cable. . . . Sir, we weren't aware of it [page 54] when it came into headquarters. We couldn't have notified the [FBI]. Nobody read that cable in the March time frame. . . . It was an information-only cable from the field and nobody read that information-only cable. [In hindsight, of] course it should have been.

Another CIA official indicated, post-September 11: "The second thing that was clear, as I showed [CTC personnel] the cable from March 5, [2000] -- just the look on their face told me everything I needed to know. They just hadn't seen it. It passed them by." The former CTC Chief added:

We have asked everyone have you seen this and what action was taken. It did not attract appropriate attention so that they could have been watchlisted. I think the Director has already mentioned that that was not done at the time. I think that it was reasonable by certainly March 5 that we would have been in the position, we should have been in a position to firmly watchlist this. I just have to underscore that we do this hundreds of times a month. It should have been done. It was not. We have very good people working this issue. It was not done, and it was not done because of the press of lots of other work. We probably should have picked up on this in early March, but we'd gone by for two months. The delay in that, sir, was the [ ], took about six weeks to get that information to us, and in March we should have picked up on it. All things being equal, they should have been watchlisted; I think that month we watchlisted about 150 people. It should have been done. It wasn't. It was a fact of life. And I think what contributed to that was these same officers watching this operation were also doing a lot of other things. So it's like balls in the air. There gets to a point where you don't treat each one with the attention that it deserves.

There was also a March 6, 2001 cable from the field that called attention to the portion of the March 5 cable regarding al-Hazmi's travel to the United States, but CTC personnel also did not read that cable at the time.

Senior NSA and CIA officials have acknowledged that, in hindsight, they would have devoted many more personnel resources to the al-Qa'ida target and expedited the development of certain collection capabilities. However, they testified that the operating environment prior to September 11 – a combination of escalating requirements and limited resources – limited their ability to respond to the growing terrorist threat.

[Page 55]

Those problems were aggravated by shortcomings that existed in the Intelligence Community's budgeting practices. The President annually submits to Congress an Intelligence Community budget for the coming fiscal year. Included in that request are both ongoing and new programs that are subject to long established, well understood oversight and accountability procedures. Supplemental appropriations usually are granted in reaction to unforeseen events that are not part of the President's budget

request. Since it is temporary by nature, supplemental funding is not meant to pay for additional personnel or for structural upgrades in future years.

The Intelligence Community received large supplemental appropriations from 1998 to 2001 to fight terrorism. These additional funds were provided by Congress following several major al-Qa'ida attacks and to support the effort during the Millennium celebrations. In particular, most of CIA's and some of NSA's efforts against al-Qa'ida in the late 1990's were funded from supplemental appropriations.

In Joint Inquiry interviews, Intelligence Community officials were critical of this reliance on supplementals for counterterrorism programs. A former CTC Chief, for example, told the Joint Inquiry that reliance on supplementals made it hard to create a stable counterterrorism program. He noted that it is far more difficult to develop plans for hiring and training personnel and to pursue long-term technical programs that require years to develop without a stable year-to-year funding basis.

Despite such limitations, the Intelligence Community agencies sought additional supplemental appropriations to sustain its counterterrorism effort rather than alter the President's budget request to provide annual counterterrorism funding. This is because altering the annual budget request would have required the Intelligence Community agencies to make substantial reductions in other programs, a course they were reluctant to follow because of the many other intelligence priorities for which they were responsible.

Certain other Intelligence Community budgeting practices and procedures further impeded efforts to ensure an effective allocation of resources to counterterrorism. A lack [page 56] of transparency in agency budgets made it very difficult to determine whether the counterterrorism mission was properly funded because counterterrorism is not an explicit Intelligence Community budget category. Instead, each Intelligence Community agency budget consists of a compilation of funding levels desired for specific capabilities, such as the cost of a particular number of intelligence officers or satellites. Many of these capabilities are useful for more than one mission. For example, a CIA operations officer may collect intelligence on the internal politics of a country, a weapons shipment, and terrorism. The CIA considered having its personnel record the time they

expend on various missions, as do FBI field officers, but this was rejected due to the perceived administrative burden it would impose.

This makes it very difficult to measure the amount of resources that the Intelligence Community allocates to a particular mission such as counterterrorism. As a result of this ambiguity, the Intelligence Community often does not know how much it spends on different issues and, therefore, is unable to compare the funding levels it is devoting to one mission versus another. For example, the CIA had great difficulty determining for this Inquiry precisely how many of its personnel worked on al-Qa'ida in recent years.

Moreover, different components of the Intelligence Community use different measures when they do try to determine how much they spend on missions such as counterterrorism. To further complicate matters, there is no agreed-upon way to measure the level of indirect costs, such as communications, that is devoted to counterterrorism versus other mission areas. Congressional overseers as well as senior Intelligence Community managers thus find it difficult to judge whether agency resource allocations reflect overall intelligence priorities.

In Fiscal Year 1999, the Office of Management and Budget began to require that the Intelligence Community identify counterterrorism spending in each agency. However, this information is gathered after money is spent, rather than as a planning and accountability tool for Intelligence Community managers. In addition, the information is [page 57] collected manually, is not subject to systematic controls and does not constitute much more than an educated estimate.

Finally, the Joint Inquiry confirmed through interviews that several other budget-related problems hindered Intelligence Community efforts to satisfy counterterrorism priorities and requirements:

- The DCI's Community Management Staff has little authority to ensure compliance with the DCI's priorities. It cannot withhold funding from the Intelligence Community agencies if they do not comply with those priorities;

- Managers within the CIA often found the budget planning and execution process confusing, making it harder for them to articulate their needs; and
- Intelligence Community officials complained that reprogramming money is difficult due to a slow Congressional approval process for even small changes.

**4. Finding: While technology remains one of this nation's greatest advantages, it has not been fully and most effectively applied in support of U.S. counterterrorism efforts. Persistent problems in this area included a lack of collaboration between Intelligence Community agencies, a reluctance to develop and implement new technical capabilities aggressively, the FBI's reliance on outdated and insufficient technical systems, and the absence of a central counterterrorism database.**

Discussion: The Joint Inquiry confirmed that the Intelligence Community had not yet fully incorporated the benefits of technology in the war against terrorism. Lack of agency collaboration in the areas of technical collection and systems development was one contributing factor. While CIA and NSA have had many successful joint counterterrorism technical operations, the Inquiry was told that overlapping targets and greater use of similar technologies caused friction between the two agencies in some instances. Disputes emerged regarding which agency should be in charge of developing and using such technologies against which targets. The Director of NSA explained to the Joint Inquiry that “the old divisions of labor are impractical – the new electronic universe [page 58] requires more and more cooperation.” He added that he “would not be surprised if someday the closeness of this relationship would require organizational changes.”

In Joint Inquiry interviews, agency personnel stated that, while individual relationships and cooperation between CIA and NSA at the working level had often been very good, relationships at the mid- and upper-management levels of those agencies were often strained. CIA perceived NSA as wanting to control technology use and development, while NSA was concerned that CIA was engaged in operations that were NSA's responsibility.

As a result, significant agency resources were devoted to documenting authorities and responsibilities. For example, no less than seven executive-level memoranda (including one from the President) have been necessary to reach agreement and define the responsibilities and authorities of CIA and NSA in one counterterrorism effort. The agencies also established a Senior Partnership Advisory Group to continue to deal with these issues and CIA assigned several officers to NSA to enhance technology development.

Prior to September 11, the Director of NSA publicly acknowledged the challenge posed by Usama Bin Ladin's access to the modern communications technology developed by a three trillion dollar industry. Despite this recognition, NSA failed to focus its efforts against al-Qa'ida's use of certain forms of this technology, [—————]. NSA also had not adapted technology fully to the challenge of transnational threats such as terrorism. These present much different challenges than those posed by state actors, such as the former Soviet Union, that were NSA's primary targets in the 1980's. As a result, prior to September 11, NSA provided little counterterrorism intelligence from certain important technical sources. More critically, NSA has not been able to describe to the Joint Inquiry its plans to address this technical problem on a larger scale.

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Similarly, NSA could not demonstrate its current analytic tools to the Joint Inquiry and could not identify upgrades that will assist NSA analysts in identifying critical intelligence amidst the large volumes of information it collects. In the absence of such tools, NSA language analysts must still conduct the bulk of their work with pencil and paper. Many develop their own personal "databases" on index cards that cannot be made readily available to counterterrorism analysts at other agencies. NSA's highly publicized TRAILBLAZER program was often cited by NSA officials as the solution to many of these problems, but the implementation of those solutions is three to five years away and confusion still exists at NSA as to what will actually be provided by that program.

The FBI's Deputy Assistant Director for Counterterrorism Analysis testified to the Joint Inquiry that "one of the FBI's major deficiencies was that the FBI confronted a

variety of problems in sharing information, not only with other agencies but within the Bureau itself. This was and is largely attributable to inadequate information technology.” Likewise, Director Mueller acknowledged to the Joint Inquiry that “[o]ver the years, [the FBI] failed to develop a sufficient capacity to collect, store, search, retrieve, analyze, and share information.”

In their testimony, FBI field agents from Phoenix, Minneapolis and New York all cited the FBI’s technology problems as among the top three things they would like to see addressed in terms of the counterterrorism effort. As a New York agent explained:

The technology, number one. The FBI is a member of the Intelligence Community. We have to be able to communicate with them. We have to be able to have databases that can be integrated with them, and right now we do not. It is a major problem. It is a major problem for our analysis.

The FBI deployed its Automated Case System (ACS) in 1995 to replace a system of written reports and indices. The ACS was supposed to enable agents to send leads to other FBI offices and units and to have access to a vast array of data electronically.

[Page 60] However, study after study has concluded that ACS is limited in its search capacity, difficult to use, and unreliable.

The Chief of the FBI’s Radical Fundamentalist Unit (RFU) testified that ACS remains unfriendly, unreliable and unworkable, and that, instead of using ACS to manage cases, many agents rely on e-mail and paper copies to transmit important data. In interviews, some FBI personnel conceded that “routine” leads, on which there were no automated communications, might have “fallen through the cracks.” Despite the priority given to the war against terrorism since September 11, the Joint Inquiry heard testimony that, at least as of the end of September 26, 2002, there were still 68,000 outstanding, unassigned leads directed to the Counterterrorism Division, dating back to 1995. Because many FBI personnel did not use ACS to track outstanding leads, the FBI has been unable to determine how many of these leads have been completed. As the RFU Chief explained:

I think we need to make it very clear, though, because there is [sic] 68,000 leads outstanding on that point, that does not mean that those leads were not handled.... [E]ven though the lead is shown in the computer as not covered by the Counterterrorism Division, it is covered by the operational



unit. So there is a lot of duplication. . . . [T]he system is very cumbersome, and people unfortunately have just become very frustrated with it, to the point where . . . [w]hat will frequently happen, for example, is even though a field division sends a lead to headquarters and ACS, they are also e-mailing that communication to the particular FBI headquarters [supervisory special agent]. So they are getting it and working on it via the e-mail but not necessarily within the ACS system. . . . Even though a couple of years ago . . . there was a directive that went out to the field telling them to stop sending hard copies to headquarters because they should be retrieved electronically, it was well known, both in the field and at headquarters, that you wouldn't get the communication or there was a good chance that you weren't going to get it. As such, the field would routinely still send hard copy.

ACS requires that FBI analysts search for information relevant to their analytical responsibilities. This is in stark contrast to the CIA's automated system, which automatically routes communications to analysts that are relevant to their interests. Before September 11, 2001, many FBI field agents did not include sensitive information in ACS because they believed the system was not secure. In addition, many agents who did include information in ACS blocked access to it in order to limit the number of FBI [page 61] personnel who could obtain the information. Given these limitations, ACS does not provide assured retrieval of complete, authoritative information on any subject. The fact that many FBI personnel do not understand how to make maximum use of the limited capabilities of ACS and the FBI's other databases compounds the problem.

Because of its limitations, many agents simply did not use ACS as a research or case management tool. When the Phoenix FBI field office agent was drafting his July 2001 Electronic Communication, he had no easy or reliable way of querying a central FBI system to determine whether there were other reports on radical fundamentalists taking flight training or whether other FBI field offices were investigating similar cases. As a result, the agent did not know that another FBI field office had voiced concern about Middle Eastern men taking flight lessons in 1998 or that an operational unit in the Counterterrorism Section at FBI Headquarters had directed twenty-four field offices (including Phoenix) to pay close attention to certain Islamic students engaged in aviation training in 1999.

In addition, because of the limitations of ACS, a number of addressees on the Phoenix communication, including the Chief of the FBI Headquarters Radical Fundamentalist Unit, were not aware of the communication before September 11. Further, even though that Unit handled both the Phoenix communication and the exchanges with the Minneapolis FBI field office in connection with the Moussaoui investigation, no one connected the two matters. Likewise, the Minneapolis FBI field office agents investigating Moussaoui had no reliable way of determining whether there was information in FBI files about threats to aviation or terrorist plots to hijack planes and, therefore, did not know about the Phoenix communication and other concerns about Middle Eastern men taking flight lessons.

While ACS and most other FBI databases are classified at the Secret level, a large percentage of the information disseminated throughout the Intelligence Community is classified Top Secret and, therefore, cannot be maintained on ACS. The information is instead maintained on a separate database to which FBI counterterrorism personnel do [page 62] not have access at their desks. Further, the CIA places human intelligence information in a special compartment at the Secret level and that information also cannot be shared within the FBI's databases.

The Chief of the FBI's Radical Fundamentalist Unit described the FBI's situation in September 24, 2002 testimony to the Joint Inquiry:

. . . [C]ommunications coming into our building from NSA, from CIA cannot be integrated into our existing databases. So if an analyst is working, say, on a subject in Phoenix division and they run that person's name through our databases, they will not retrieve information on that person that other agencies may also have. It is required of them to get up, walk over to a different set of--or a different computer that has access to a different database and search that name in that database; and the two databases will never come together and be integrated. So it is a setup for failure in terms of keeping a strategic picture of what we are up against.

Although some FBI personnel have access to separate Top Secret Intelligence Community networks, the FBI's computer systems are not linked to Intelligence Community systems or even to the Department of Justice.

**5. Finding: Prior to September 11, the Intelligence Community's understanding of al-Qa'ida was hampered by insufficient analytic focus and quality, particularly in terms of strategic analysis. Analysis and analysts were not always used effectively because of the perception in some quarters of the Intelligence Community that they were less important to agency counterterrorism missions than were operations personnel. The quality of counterterrorism analysis was inconsistent, and many analysts were inexperienced, unqualified, under-trained, and without access to critical information. As a result, there was a dearth of creative, aggressive analysis targeting Bin Ladin and a persistent inability to comprehend the collective significance of individual pieces of intelligence. These analytic deficiencies seriously undercut the ability of U.S. policymakers to understand the full nature of the threat, and to make fully informed decisions.**

Discussion: Despite the recognition of the increased threat posed to the United States by al-Qa'ida, the U.S. Intelligence Community's analytic focus on al-Qa'ida was woefully inadequate prior to the September 11 attacks. At the CTC, for example, there were only three analysts assigned to work on al-Qa'ida full time between 1998 and 2000, [page 63] and five between 2000 and September 11, 2001. Including analysts from elsewhere in CIA who were in some part attentive to al-Qa'ida, the total was fewer than forty.

[In terms of "work years," the equivalent of nine analyst work years was expended on al-Qa'ida within CTC's Assessments and Information Group in September 1998. According to CIA, nine CTC analysts and eight analysts in the Directorate of Intelligence were assigned to UBL in 1999. This was only a fraction of the analytic effort that was to be devoted to al-Qa'ida in July 2002].

DCI Tenet acknowledged at the June 19, 2002 Joint Inquiry hearing that:

I think that is correct. I think [the number of analysts in the CTC analytic unit working on Usama Bin Ladin and al-Qa'ida] was too small. . . . I think one of the things I would say is from a strategic analytical perspective we should have had more analysts than we did. . . .

[At the FBI, there were fewer than ten tactical analysts and only one strategic analyst assigned to al-Qa'ida prior to September 11, 2001. The NSA had only a limited number of Arabic linguists, on whom analysis depends, and, prior to September 11, few were dedicated full-time to targeting al-Qa'ida. At the time, NSA's Arabic linguists were

also being used to support other high priority targets in the region and to translate intelligence originating in the region and elsewhere].

Elsewhere in the Intelligence Community, other agencies dedicated varying numbers of analysts to the al-Qa'ida issue prior to September 11, 2001. The other two primary all-source analysis centers, DIA's Joint Intelligence Task Force, Combating Terrorism, and State Department's Bureau of Intelligence Research (INR) focused on anti-terrorism and force protection analysis to protect overseas equities. INR dedicated one analyst solely to al Qa'ida, and, at Secretary of State direction, provided a daily summary of intelligence relating to Usama bin Ladin and his activities. DIA devoted 30 analysts to Sunni Extremism and, on any given day, several of them – augmented by Reservists – would be involved with Usama bin Ladin-related issues.

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Other agencies and organizations maintained at least an awareness of al-Qa'ida and performed roles such as financial tracking and training camp observation consistent with their charters. One non-Intelligence Community organization, the FAA, dedicated as many as five analysts at any one time to al Qa'ida. In late 2000, according to FAA officials, FAA offered CTC Chief Cofer Black the support of its nearly two-dozen analysts regarding transportation security issues in exchange for broader information sharing, but this offer was not accepted because of CTC concerns about protecting its sources and methods. The Joint Inquiry was told that a similar offer of analytic support was made to CTC Chief Black by DIA in 2000, but with similar results. FAA and DIA are both represented at CTC.

The Intelligence Community's focus was also far more oriented toward tactical analysis of al-Qa'ida in support of operations than on the strategic analysis needed to develop a broader understanding of the threat and the organization. For example, as mentioned earlier, the DCI's National Intelligence Council never produced a National Intelligence Estimate (NIE) on the threat to the United States posed by al-Qa'ida and Usama Bin Ladin. Active analytic efforts to identify the scope and nature of the threat, particularly in the domestic United States, were clearly inadequate.

As noted in an August 2001 CIA Inspector General report, analysts assigned to CTC only had time to focus on crises or short-term demands, and “did not have the time to spot trends or to knit together the threads from the flood of information.” These shortcomings, unfortunately, had an impact on areas that were directly relevant to the September 11 attacks. The Joint Inquiry record confirms, for example, that the Intelligence Community had devoted little or no analytic focus prior to September 11 to the terrorist use of aircraft as weapons or to the significant role in al-Qa’ida that was played by Khalid Shaykh Mohammed.

This review also confirms that the FBI was performing little, if any, strategic analysis against al-Qa’ida prior to the September 11 attacks. The Chief of the FBI’s National Security Intelligence Section testified that the FBI had “no analysts” dedicated [page 65] to strategic analysis prior to September 11. In fact, as of that date, the FBI had only one strategic analyst working on al-Qa’ida matters. FBI Assistant Director for Counterterrorism Dale Watson testified that he could not recall any instance where the FBI Headquarters terrorism analytical unit produced “an actual product that helped out.”

When the FBI did complete analytic products, the quality was inadequate. During the summer of 2001, the U.S. Intelligence Community was in a state of heightened alert, due to concern about an imminent al-Qa’ida attack. However, this concern was not reflected in the FBI’s National Law Enforcement Threat System (NLETS) reports, which are the means through which the FBI communicated terrorist threat information with state and local law enforcement entities. In a May 2001 NLETS report, for example, the FBI assessed the risk of terrorism as “low,” and, in a July 2, 2001 NLETS report, stated that the FBI had no information indicating a credible threat of terrorist attack in the United States, although the possibility of such an attack could not be discounted. Additional FBI notices that were issued later in July 2001 indicated that there was a potential for attacks against U.S. interests abroad, but again that the possibility of an attack in the United States could not be discounted.

More focus on strategic analysis by the FBI and the CIA would have helped crystallize the threat, particularly within the United States, and perhaps spurred more immediate defensive action by U.S. Government policymakers. The Intelligence

Community was not, however, poised or equipped to deliver the kind of analytic products needed. The FBI, for example, was not even aware of the collective significance of information pertaining to al-Qa'ida that was contained within its own files. This fact is underscored by its failure to connect available information on al-Mihdhar and al-Hazmi, Zacarias Moussaoui, and the FBI Phoenix field office agent's Electronic Communication in the summer of 2001. The FBI's Deputy Assistant Director for Counterterrorism Analysis, recently detailed from CIA to improve the FBI's analytic capability, testified that the Bureau "didn't have analysts dedicated to sort of looking at the big picture and trying to connect the dots, say between the Phoenix memo and Moussaoui and some [page 66] other information that might have come in that might have suggested that there were individuals there who might be preparing to hijack aircraft."

One of the primary reasons that there was so little focus on strategic analysis in the Intelligence Community may have been the perception that operational personnel and matters were more important to agency counterterrorism missions and operations than analysis and analytic personnel. Consistent with its traditional law enforcement mission, the FBI was, prior to September 11, a reactive, operationally driven organization that did not value strategic analysis. While FBI personnel appreciated case specific analysis, for example, most viewed strategic analytic products as academic and of little use in on-going operations. The FBI's Assistant Director for Counterterrorism acknowledged in Joint Inquiry testimony that the reactive nature of the FBI was not conducive to success in counterterrorism:

No one was thinking about the counterterrorism program what the threat was and what we were trying to do about it. And when that light came on, I realized that, hey, we are a reactive bunch of people, and reactive will never get us to a prevention and what we do. . . .Is there anybody thinking and where's al-Qa'ida's next target? And no one was really looking at that.

He also testified about the difficulty of going beyond the FBI's traditional case-oriented approach:

We will never move away from being reactive. We understand that. And that's what people want to talk about most of the time is how's that case going in East Africa, or how's the *USS Cole* investigation going? But if you step back and look at it strategically you need to have people thinking

beyond the horizon and that's very difficult for all of us. It's particularly difficult for law enforcement people.

Other FBI executives acknowledged the FBI's pre-September 11 analytic failings.

Director Mueller testified that:

I would be the first to concede that we have not done a good job in analysis. We have not had either the technology nor the analytical cadre of individuals that we have needed to perform strategic analysis.

In Joint Inquiry testimony, the FBI's Deputy Assistant Director for Counterterrorism Analysis referred to strategic analysis as the FBI's "poor stepchild" prior to September 11, 2001. As a result, our review confirmed that strategic analysts were often marginalized by the operational units and rarely, if ever, received requests from operational sections for analytical assessments of pending al-Qa'ida's cases.

In 2000, FBI management aggravated this situation by transferring five strategic analysts who had been working on al-Qa'ida matters to FBI operational units to assist with ongoing cases. According to a former Chief of the International Terrorism Analytic Unit, this "gutted" the analytic unit's al-Qa'ida-related expertise and left the unit with little ability to perform strategic analysis.

Concerns about protecting criminal prosecutions also limited the FBI's ability to utilize strategic analytic products. In interviews, some analysts said they frequently were told not to produce written analyses, lest the analyses be included in discovery during criminal prosecutions. FBI analysts were further hindered because of the limitations of the FBI's information technology.

Due in large part to these cultural and practical issues, the Bureau has had little success in building a strategic analytic capability, despite numerous attempts before September 11 to do so. For example, in 1996, the FBI hired approximately fifty strategic analysts for counterterrorism purposes, many with advanced degrees. According to both current and former FBI analytic personnel and supervisors, most of those analysts left the Bureau within two years because they were dissatisfied with the role of strategic analysis at the FBI.

The lack of emphasis on strategic counterterrorism analysis was also an issue at the CIA. The former Chief of CTC testified that, at the CTC:

We have under-invested in the strategic only because we've had such near-term threats. The trend is always toward the tactical. . . . The tactical is where lives are saved. [Page 68] And it is not necessarily commonly accepted, but strategic analysis does not . . . get you to saving lives.

Analysts in the CTC also expressed concern to the Joint Inquiry that their opinions were not given sufficient weight. A manager in the CTC confirmed to the Staff that CIA operations officers in the field resented being tasked by analysts because they did not like “to take direction from the ladies from the Directorate of Intelligence.” Despite the need for increased analytic capability, CTC reportedly refused to accept analytic support offered by at least two other agencies prior to September 11, 2001. As mentioned earlier, representatives of both FAA and DIA informed the Inquiry that CTC management rebuffed their offers of analytic assistance in 2000 because those agencies wanted greater access to CTC information in return, and this raised CTC concerns regarding protection of its intelligence sources and methods.

Analysts at NSA commented to the Joint Inquiry that CTC viewed them as subordinate – “like an ATM for signals intelligence.” NSA analysts say they attempted to accommodate CTC preferences by focusing on short-term operational requirements – sometimes at the expense of more thorough analysis -- and even altered NSA reporting formats because CTC did not like including NSA analyst comments in the text of signals intelligence reports. Several NSA analysts also described a definite perception that the DCI would always side with CIA and CTC operational personnel in any disagreements between NSA and CTC.

Some of the shortcomings in analytical capability can be traced to the fact that analysts were often inexperienced, under-trained, and, in some cases, unqualified for the responsibilities they were given. At the CTC, the analysts were a relatively junior group prior to September 11 since CTC had traditionally relied on rotational assignments. An analytic career service was not created in CTC until about 1997. The average CTC



analyst had three years of analytic experience, versus the eight years for analysts in the CIA's Directorate of Intelligence.

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A former counterterrorism analyst at DIA explained to the Joint Inquiry the consequences for analytic perspective of this shortfall in experience and knowledge:

Coupled with this issue of experience comes the ability to place current intelligence reporting in the context of historical perspectives. In the period leading up to the 1998 East Africa bombings and the 2000 attack against the *USS Cole* in Yemen, terrorism analysts nearly across the board incorrectly assessed that a group would not conduct an attack in an area where it was able to operate with relative ease. Additionally, there appears to be a continued reluctance to correctly assess and evaluate the nature of cooperation between many [—————] and [—————] Islamic extremist groups. Both of these examples, and there are certainly others, occurred despite over a decade of credible reporting to the contrary.

At the FBI, a January 2002 internal study found that 66% of the FBI's 1200 "Intelligence Research Specialists" (strategic analysts) were unqualified. This problem was compounded by the fact that newly-assigned strategic and operational analysts received little counterterrorism training upon assuming their positions. As 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.

The quality of Intelligence Community counterterrorism analysis also suffered as a result of the fact that agency analysts often did not have access to important information residing at other agencies. DIA's Associate Director for Intelligence at the Joint Chiefs of Staff testified about the extent of these problems:

In my opinion, one of the most prolonged and troubling trends in the Intelligence Community is the degree to which analysts, while being expected to incorporate all sources of information into their assessments,

have been systematically separated from the raw material of their trade.... At least for a few highly complex high stakes issues, such as terrorism, where information by its nature is fragmentary, ambiguous and episodic, we need to find ways to emphatically put the “all” back in the discipline of all-source analysis.

[Page 70]

Intelligence Community analysts had particularly limited access to “raw material” contained in the FBI’s counterterrorism investigations, including Foreign Intelligence Surveillance Act (FISA)-derived information, and to unpublished NSA information. The former acting head of the FBI’s Usama Bin Ladin Unit informed the Joint Inquiry that, prior to September 11, the FBI would generally only provide the CIA with FISA-derived information when the FBI wanted it passed to a foreign government. Primarily due to the FBI’s technological problems, the FBI’s analysts did not even have access to all relevant FBI information. The FBI’s Deputy Assistant Director for Counterterrorism Analysis testified that “the FBI lacked effective data mining capabilities and analytical tools, it has often been unable to retrieve key information and analyze it in a timely manner—and a lot has probably slipped through the cracks as a result.”

There also was, and apparently continues to be, a reluctance at CIA to provide raw data to analysts outside the Agency. DCI Tenet testified that even analysts at the Department of Homeland Security will not be allowed access to CIA raw data:

There was a headline today that said raw data provided. Well, actually that's not what's envisioned. They will get all of the finished product, the finished analytical product, the finished intelligence that NSA, CIA and FBI issues, and on a case-by-case basis, depending on what kind of an environment we're in, we actually may give them a piece of raw data.

Discussions of access to “raw data” or “raw traffic” raise objections from CIA, since it immediately equates the term to internal operational traffic, and from NSA. Both agencies are concerned with protecting the sources and methods they use to collect intelligence, a responsibility that has been specifically placed upon the DCI by the National Security Act, and NSA is also concerned about its legal responsibilities to “minimize” U.S. person data in the information it collects.

A significant portion of the communications collected by NSA involves U.S. persons as parties or contains information about U.S. persons. NSA is responsible under law and Attorney General procedures for ensuring that information of this type that does [page 71] not have intelligence value is eliminated before intelligence is disseminated to persons outside the NSA production chain. NSA does allow analysts from other agencies to have access to raw intercepts on a case-by-case basis, typically at NSA and after the analysts have been trained in the minimization rules.

Analysts, for their part, maintain that there is intelligence information of potential significance embedded in the raw CIA and NSA data. Much of this, they believe, is filtered out during the CIA and NSA processes that determine what information analysts receive in disseminated form. The CIA has implicitly recognized this by integrating its counterterrorism analysts into CTC where they have full access to raw traffic, an access that most CIA analysts do not routinely enjoy.

[As an example, the Joint Inquiry found numerous operational cables relating to the meeting in Malaysia that was attended by al-Hazmi and al-Mihdhar in January 2000 containing information that could have enabled all-source analysts to assess that meeting more completely. DIA identified four specific leads its terrorism analysts could have pursued had this information been shared with it in early 2000, and three leads in the critical August 2001 timeframe that DIA believes would have allowed additional action to be taken concerning the arrest of Moussaoui and the watchlisting of Al-Mihdhar and al-Hazmi. However, DIA did not learn of this operational traffic until informed of it in the course of the Joint Inquiry in April 2002].

Intelligence analytical personnel told the Joint Inquiry that they are not seeking access to operational details or the identification of sources and methods. The DIA Director, for example, observed that he has tried to convince CTC that DIA does not want operational details, but only important intelligence buried in the operational traffic.

The inadequate quality of the Intelligence Community counterterrorism analysis impacted not only the Intelligence Community's strategy and operations, but also the

ability of the U.S. Government's policymakers to understand the threat and to make informed decisions. Several current and former U.S. government policymakers provided [page 72] testimony to this effect before these Committees. For example, Richard Clarke, the former National Coordinator for Security, Infrastructure and Counterterrorism at the National Security Council ("National Counterterrorism Coordinator") explained to the Joint Inquiry that:

FBI did not provide analysis. FBI, as far as I could tell, didn't have an analytical shop. They never provided analysis to us, even when we asked for it, and I don't think that throughout that 10-year period we really had an analytical capability of what was going on in this country.

Richard Armitage, the Deputy Secretary of State complained that Intelligence Community analysis tends to provide policymakers with only one view, and that dissenting opinions are rarely expressed:

I am the consumer. It's very rare that we get the one off voice or the dissident voice . . . . For a policy maker, the dissident voice is very helpful to either confirm what you think or really open up a new area, and this is not generally done. If I had to say the one biggest weakness in the analysis area, I would say that's it. Second, it's the way analysis in the Intelligence Community is generally put forth, and it's related, and that is consensus...I really would just enforce this observation about the need to get alternative views up, because almost everything that's important here is shrouded in ambiguity and uncertainty. There is a tendency to want to get things scrubbed out to get the differences eliminated.

Former National Security Advisor Sandy Berger implied in his testimony that the U.S. Government has often relied too heavily on analytic expertise within the U.S. Government, and that he believes that the best analytic expertise is often found elsewhere:

I think we live in a world . . .in which expertise increasingly does not exist in the government. It's a very complicated world. And the five people who know Afghanistan the best or Sierra Leone the best are probably located either in academia, think tanks or in companies, not to devalue the people of the government. So we have to find a way in my judgment to integrate the expertise that exists on the outside with the information that exists on the inside.

A former DIA counterterrorism analyst told the Joint Inquiry hearing on October 8, 2002: [page 73]

The single most important issue that will affect future performance is the experience level of the analyst. While this certainly applies to all intelligence analysts regardless of subject area, it is even more critical for those trying to prevent the next terrorist attack. In the case of an analyst responsible for tracking a Middle Eastern terrorist group, this person will need to have an expertise or at least a good working knowledge of terrorism itself, the group that they have for an account, regional and country issues present in the group's operating area, which can be quite extensive, and Islamic history, culture and the sects thereof. This . . . required level of expertise is rarely going to be found outside the Intelligence Community and is instead going to be recruited from academia and then developed in-house through training programs and mentors.

Former Chairman of the House Intelligence Committee Lee Hamilton noted in his testimony to the Joint Inquiry on October 3, 2002 that the Hart-Rudman Commission had concluded that the U.S. Government's personnel system has become a national security issue. As he stated:

There is too much rigidity in the system. There is not enough allowance for incentive. And it is an exceedingly serious problem in our government. And it has national security consequences. We've got to work through this matter so that managers can manage more effectively. . . . I would absolutely assure you . . . that you would not tolerate in your office the kind of management restrictions that operate today in the federal government. . . . Now I know the importance of this to employees, so it's a tough problem, but the only thing I want to say here, Senator, when you talk about personnel we are now approaching this national security review and we have to look at the civil service system and we have to find ways and means of getting more flexibility into it. If we don't, we're going to choke ourselves to death.

During the same hearing, former CIA Inspector General Frederick Hitz discussed a number of actions that might be taken to enhance the quality of the personnel employed by the Intelligence Community agencies. These included the idea of establishing an intelligence reserve corps that could be activated at a time of particular need, an intelligence reserve officer training corps, and more internships to introduce young people into the agencies. While he recognized that some of these ideas are not new, he did not believe they had been vigorously pursued.

In sum, prior to September 11, the Intelligence Community's analytic components failed to understand the collective significance of the information in their possession.

This failure is attributable not only to the factors discussed above, but also to a basic lack of creativity and imagination in evaluating the intelligence that was at hand. Ironically, the best example of the creative, imaginative and aggressive analysis of relevant [page 74] intelligence that this review has found was not a product of Intelligence Community analysts, but, instead, of an FBI field agent in Phoenix. The Phoenix agent, in reviewing his office's case files, went beyond the facts of those individual cases to focus on a larger, and far more serious, picture of the potential, long-term threat. By putting together various pieces of information, he became convinced that Usama Bin Ladin was sending individuals to aviation-related training in order to put al-Qa'ida in a position to target civil aviation. His July 2001 Electronic Communication to FBI Headquarters was a strategic analytic product that correctly identified at least one critical element that was to be used in the plot that unfolded on September 11, an element that apparently eluded far more seasoned analysts elsewhere in the Intelligence Community.

**6. Finding: Prior to September 11, The Intelligence Community was not prepared to handle the challenge it faced in translating the volumes of foreign language counterterrorism intelligence it collected. Agencies within the Intelligence Community experienced backlogs in material awaiting translation, a shortage of language specialists and language-qualified field officers, and a readiness level of only 30% in the most critical terrorism-related languages.**

Discussion: The language problem has been one of the Intelligence Community's perennial shortfalls. Prior to September 11, the shortage of language specialists who would be qualified to process large amounts of foreign language data in general, and Arabic in particular, was one of the most serious issues limiting the Intelligence Community's ability to analyze, discern, and report on terrorist activities in a timely fashion. According to a senior NSA official, [\_\_\_\_\_]. These are promptly scanned for intelligence value, and only the most important -- [\_\_\_\_\_] -- are then translated into English. Yet, prior to September 11, NSA had [\_\_\_\_\_] personnel assigned to this task.

[Analyzing, processing, translating, and reporting al-Qa'ida-related [\_\_\_\_\_] communications requires the highest levels of language and target knowledge expertise that exist at the National Security Agency. The large number of

communicants whose native origins cover all of the major Arabic dialects makes this [page 75] analysis linguistically and analytically difficult. The target lives in and understands life in a thoroughly Islamic milieu, a milieu that is often reflected in the target's communications].

Evaluating these communications requires considerable subject matter expertise in Islam in general and Islamic extremism in particular in order to ensure the best possible interpretations. Very few Arabic language analysts at NSA have done any graduate work in Islamic Studies and the vast majority of these linguists [—————  
—————  
—————].

The NSA Senior Language Authority explained to the Joint Inquiry that the Language Readiness Index for NSA language personnel working in the counterterrorism "campaign languages" is currently around 30%. This Index is based on the percentage of the mission that is being performed by qualified language analysts. The current low level of the Index is due in part to the fact that NSA has moved roughly [——] language personnel since September 11 from areas in which they were performing quite well to counterterrorism, where they must gain experience and expertise before their performance can improve.

[According to the Chief of the FBI's Language Services Division, prior to September 11, the Bureau employed [————] Arabic speakers and was experiencing a translation backlog. As a result, 35% of Arabic language materials derived from Foreign Intelligence Surveillance Act (FISA) collection were not reviewed or translated. If the number of Arabic speakers were to remain at [——], the projected backlog would rise to 41% in 2003.]

The Director of the CIA Language School testified that, given the CIA's language requirements, the CIA Directorate of Operations is not fully prepared to fight a world- [page 76] wide war on terrorism and at the same time carry out its traditional agent recruitment and intelligence collection mission. She also added that there is no strategic

plan in place with regard to linguistic skills at the Agency. When asked about the language ability of CIA field officers, the Language School Director stated:

[Traditionally we have had an adequate number of Arabic speakers to conduct their business in [\_\_\_\_\_]. Level of language required to use with a volunteer or for a thorough debriefing is very different than the level of language you need to socially chit-chat with somebody or to even recruit someone. And that is where the bar has been raised much higher, and that's why we must now have a cadre of language speakers, [\_\_\_\_\_] who indeed can debrief and write up reports with these volunteers].

The Director of the CIA Language School explained that CIA should have a pool of interpreters to meet language support needs at home and abroad, but that this is not easy to achieve. She stated that: "With the progress of technology, we keep on getting more material – [\_\_\_\_\_]. These things need translation, we don't have that capability." In her view, CIA field officers are typically generalists, and this has been important to their career progression culture since the mid-1970s. Now, however, it is an absolute must that these officers possess expertise rather than mastery of "one little dab here and one little dab there." Her recommendation was that either a culture change within CIA is called for or that a cadre of specialists be developed and not penalized.

**7. Finding: [Prior to September 11, the Intelligence Community's ability to produce significant and timely signals intelligence on counterterrorism was limited by NSA's failure to address modern communications technology aggressively, continuing conflict between Intelligence Community agencies, NSA's cautious approach to any collection of intelligence relating to activities in the United States, and insufficient collaboration between NSA and the FBI regarding the potential for terrorist attacks within the United States].**

Discussion: While one of the Intelligence Community's greatest strengths is its ability to rely on its advanced technical collection capabilities, the Joint Inquiry confirmed that the Community did not, prior to September 11, fully exploit those [page 77] capabilities in the effort against Bin Ladin and al-Qa'ida. Pre-September 11, [\_\_\_\_\_  
\_\_\_\_\_] ]. Post-September 11, this increased to [\_\_\_\_\_  
\_\_\_\_\_].



It became very clear after September 11 [\_\_\_\_\_

\_\_\_\_\_]. In testimony before the Joint Inquiry, the NSA Director acknowledged that “little was known prior to 11 September of how al-Qa’ida used [\_\_\_\_\_] communications. . . . We continue to attack key gaps that remain in our . . . [\_\_\_\_\_] exploitation capabilities.”

Similarly, NSA has long had a program to use [\_\_\_\_\_ \_\_\_\_\_], but again little was known about al-Qa’ida targets and few such operations were mounted before September 11. After September 11, this changed and the NSA Director was able to testify that: “[\_\_\_\_\_ \_\_\_\_\_].”

The inability to bring technical collection capabilities to bear in the counterterrorism area was particularly apparent in regard to signals intelligence that could have shed greater light on the potential for terrorist activity within the domestic United States. Both the NSA and the FBI have the authority, in certain circumstances, to intercept international communications, to include communications that have one communicant in the United States and one in a foreign country, for foreign intelligence purposes. While those authorities were intended to insure a seamless transition between U.S. foreign and domestic intelligence capabilities, significant gaps between those two spheres of intelligence coverage persisted and impeded domestic counterterrorist efforts.

[Page 78]

Before September 11, it was NSA policy not to target terrorists in the United States, even though it could have obtained a Foreign Intelligence Surveillance Court order authorizing such collection. NSA Director Hayden testified that it was more appropriate for the FBI to conduct such surveillance because NSA does not want to be

perceived as targeting individuals in this country and because the intelligence produced about communicants in the United States is likely to be about their domestic activities.

[As a result, NSA regularly provided information about these targets to the FBI – both in its regular reporting and in response to specific requests from the FBI – [—————] that NSA acquired in the course of its collection operations. The FBI used this information in its investigations and obtained FISA Court authorization for electronic surveillance [—————] when FBI officials determined that such surveillance was necessary to assist one of its intelligence or law enforcement investigations].

[One collection capability that was used by both NSA and FBI under approval of the FISA Court (the “FISA Court technique”) had a [—————] probability of collecting [—————] communications between individuals in the United States and foreign countries. NSA did not use the FISA Court technique against [—————], however, precisely because of this [—————] probability].

As NSA Director Hayden has testified to the Joint Inquiry, NSA believed it was the FBI’s responsibility to collect communications of individuals in the United States. General Hayden stated two reasons for this position. One is that, since the individual is in the United States, the information obtained is most likely to relate to domestic activity that is of primary interest to the FBI. The second reason is that NSA does not want to be viewed as targeting persons in the United States. Joint Inquiry interviews of a wide range of NSA personnel, from the Director down to analysts, revealed the consistent theme that NSA did not target individuals in the United States. This is so ingrained at NSA that one counterterrorism supervisor at NSA admitted that she had never even thought about using this technique against [—————].

[Page 79]

Despite the NSA view that this category of intelligence collection was the FBI’s responsibility, NSA and the FBI did not develop any plan to ensure that the Bureau made an informed decision about whether to use the FISA Court technique to collect communications between the United States and foreign countries that NSA was not covering. Thus, a gap developed between the level of coverage of communications

between the United States and foreign countries that was technically and legally available to the Intelligence Community and the actual use of that surveillance capability].

[This gap was potentially very damaging in the case of Khalid al-Mihdhar during the period in early 2000 when he was in the United States. [\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_] His presence in the United States was not determined by the Intelligence Community at the time. [\_\_\_\_\_  
\_\_\_\_\_].

[NSA and CIA officers often worked closely together in [\_\_\_\_\_] collection efforts against al-Qa'ida. The two agencies conducted [\_\_\_\_\_] operations, And these operations often met with some success. However, one type of these operations – [\_\_\_\_\_  
\_\_\_\_\_] – caused much friction between NSA and CIA. This was especially true at the mid- and upper-management levels where struggles developed regarding which agency was in charge of developing and using such technology when human intelligence and signals intelligence targets overlapped. CIA perceived NSA as wanting to control technology deployment and development, while [page 80] NSA was concerned that CIA was conducting NSA-type operations. The NSA Chief of Data Acquisition noted to the Inquiry that this has been an issue during his entire tour of almost three years. These frictions persisted even after the September 11 attacks. In the first six months of 2002, for example, no less than seven executive-level memoranda (including one from the President) were issued in attempts to delineate CIA and NSA responsibilities and authorities in this collection area].

The Chief of NSA's Signals Intelligence Directorate acknowledged these frictions in a Joint Inquiry interview, but cited the executive memoranda as evidence that the situation is improving. NSA Director Hayden, told the Joint Inquiry that "the old divisions of labor are impractical; the new electronic universe requires more and more

cooperation.” He also added that he “would not be surprised if someday the closeness of this relationship would require organizational changes.”

**8. Finding: The continuing erosion of NSA’s program management expertise and experience has hindered its contribution to the fight against terrorism. NSA continues to have mixed results in providing timely technical solutions to modern intelligence collection, analysis, and information sharing problems.**

Discussion: One of the side effects of NSA’s downsizing, outsourcing, and transformation has been the loss of critical program management expertise, systems engineering, and requirements definition skills. These skills were devalued by NSA during the 1990s when most technical development was done within the agency, and the impact of their loss was evident in NSA’s response to the Joint Inquiry’s attempts to gather information concerning NSA’s plans for developing solutions to its current technology gaps in areas of particular importance to counterterrorism. [—————  
—————  
—————]. NSA was able to provide little more than very high-level and general vision statements.

The impact of this lack of program management was evident during interviews with analysts who expressed frustration regarding their current working environment. [page 81] For example, they must now write three versions of reports in order to accommodate the demands of various customers and uses. The TRAILBLAZER program, which the NSA Director has described as NSA’s “effort to revolutionize how we produce SIGINT in a digital age,” is now not expected to produce such results until 2004 at the earliest and confusion still exists as to what those results will actually be. In the meantime, none of the analysts were aware of any near term efforts to alleviate their current system’s technical limitations.

NSA personnel also stated that NSA’s efforts to collect [—————  
—————], reveals a critical deficiency in its capabilities. The solution to this deficiency is well understood and estimated to cost less than \$1 million to implement. However, the project manager is still struggling for funds to pay for an upgrade that would not be completed until 2004.

The Joint Inquiry also found a high level of frustration among contractors who do business with the NSA. Common themes repeated to the Joint Inquiry concern the extremely poor quality of solicitation packages and acquisition expertise on the part of NSA employees and the inability of program managers to speak with consistency and authority on future contract opportunities. NSA also lacks a formal Contracting Officer Technical Representative certification program. This is of special concern as NSA continues to increase its reliance on contractors. In testimony to the Joint Inquiry in October 2002, the NSA Director stated that NSA “spent about a third of our SIGINT development money this year making things ourselves. Next year the number will be [dropping to] 17%.”

The Chief of Staff for NSA’s Signals Intelligence Directorate (SID) told the Joint Inquiry he fears that “SID has lost its business acumen...and [he] worries greatly about the lack of acquisition experience and program planning, especially in light of NSA’s huge budget increase.” He also told the Joint Inquiry that he has worked actively on this issue, especially in providing program management training to frontline workers.

[Page 82]

**9. Finding: The U.S. Government does not presently bring together in one place all terrorism-related information from all sources. While CTC does manage overseas operations and has access to most Intelligence Community information, it does not collect terrorism-related information from all sources, domestic and foreign. Within the Intelligence Community, agencies did not adequately share relevant counterterrorism information, prior to September 11. This breakdown in communications was the result of a number of factors, including differences in the agencies’ missions, legal authorities and cultures. Information was not sufficiently shared, not only between different Intelligence Community agencies, but also within individual agencies, and between the intelligence and the law enforcement agencies.**

Discussion: Counterterrorism, like other transnational threats such as drug trafficking, requires close coordination and information sharing among and within the Intelligence Community agencies. Despite some improvement, significant problems remained in the sharing of information within the Intelligence Community, prior to September 11. As a result, the Community was unable to exploit the full range of capabilities and expertise in the counterterrorist effort.

Each of the principal collectors and analyzers of counterterrorism intelligence -- the FBI, CIA, NSA, and DIA -- has its own distinct missions, sets of legal authorities and restraints, and cultures. Unfortunately, these factors, while serving many other legitimate purposes, often hinder collaboration and willingness to share information. In his testimony, former Congressman and House Intelligence Committee Chairman Lee Hamilton described the problem:

The very phrase "Intelligence Community" is intriguing. It demonstrates how decentralized and fragmented our intelligence capabilities are. . . . The Intelligence Community is a very loose confederation. There is a redundancy of effort, an imbalance between collection and analysis, and problems, as we have repeatedly heard in recent weeks, of coordination and sharing.

While DCI George Tenet and former FBI Director Louis Freeh testified that collaboration and information sharing in the Intelligence Community have markedly improved in recent years, this Inquiry found that the agencies still act too often and at too many levels as a loose collection of entities. The Joint Inquiry heard testimony that confirmed problems in sharing information between different Intelligence Community agencies, within individual Intelligence Community agencies, and between law [page 83] enforcement and intelligence agencies.

For example, the former FBI agent who had handled the San Diego informant testified about his personal experience with information sharing between the FBI and the CIA:

Ms. Hill: You also [said] that, in your opinion, information sharing between the FBI and the CIA prior to 9/11 was almost nonexistent.

Former FBI Agent: It was bad. Well, it's not nonexistent, but . . . if you have a case that has a common mission and everybody can benefit from it, you're going to get their assistance. But if you don't have that, asking them for something, it's very, very difficult.

. . . .

Former FBI Agent: If I had to rate it on a ten-point scale, I'd give them about a 2 or a 1.5 in terms of sharing information.

Ms. Hill: Well, could you tell us what your experience was? Why do you say that?

Former FBI Agent: [P]art of the problem here, I think, is being able to communicate with them. . . .

Ms. Hill: By “them,” you mean the CIA?

Former FBI Agent: With the CIA. Everything’s got to go through headquarters, usually.

Ms. Hill: Through your headquarters, or through CIA?

Former FBI Agent: Through [FBI] headquarters. Normally, . . . you have some information you want the Agency to check on. You end up writing it up, sending it back through electronic communication or teletype, . . . or memo. . . . And then the Bureau, FBI headquarters, runs it across the street to the Agency. And then, maybe six months, eight months, a year later, you might get some sort of response.

Even after the first World Trade Center attack in 1993, the Millennium plot, and attacks against U.S. embassies in East Africa in 1998 revealed that global Islamic extremists were capable of reaching into the United States, there was little sustained effort by the FBI, NSA, and CIA to work together to collect and share information about contacts between foreign persons in the United States and those abroad. For example, while a great amount of information that NSA collects is routinely transmitted electronically into CTC databases at CIA, this is not true of terrorist information collected domestically by the FBI.

The Acting Chief of the FBI’s Radical Fundamentalist Unit, told the Joint Inquiry in an interview that, prior to September 11, the FBI would primarily think to provide the [Page 84] CIA with information obtained through FISA surveillance only when it was also being passed to a foreign government. The FBI did not share such information with CTC on a routine basis, partly due to the FBI’s inadequate information technology, but also because they believed that sharing information with intelligence agencies raised legal concerns relating to the traditional separation between law enforcement and intelligence operations. As a consequence, gaps occurred in the collection and analysis of information about individuals and groups operating in the United States and abroad.

The FBI has traditionally viewed intelligence primarily as a tool for developing evidence to be used in FBI cases, rather than as the basis for valuable strategic analysis for the FBI or other intelligence agencies. As Director Mueller noted to the Joint Inquiry:

. . . one of the things that we have to do, and I think is changing since September 11, is for agents who are very good in the criminal sphere to look at a piece of information and not run it through the sifting that you do to determine whether it would be admissible in court. In other words, is it hearsay? Well, I am going to thrust it aside. Do I have lack of foundation? Therefore, I am going to disregard that.

Prior to September 11, FBI personnel were not trained or equipped to share intelligence developed during FBI counterterrorism investigations with the Intelligence Community or even with other units within the FBI on a regular basis. For example, after receiving the Electronic Communication from the Phoenix field office in July 2001 indicating that al-Qa'ida might be sending operatives to the United States for flight training, a Headquarters Intelligence Operations Specialist (IOS) did not send it to the FBI's analytic unit or to the CIA. Instead, the IOS forwarded it to the FBI field office in Portland, Oregon, primarily because of possible connections to an individual case there.

The Joint Inquiry's review of a July 2002 CIA cable that it found within a local FBI field office's investigative files provides another example of information sharing problems within the FBI. A CIA officer assigned to a Joint Terrorism Task Force in California sent a cable to CIA Headquarters after analyzing information gleaned primarily from a review of the local FBI field office's investigative files. He also [Page 85] provided a copy to the local FBI agent who was responsible for those files. The cable sets forth the CIA officer's concerns regarding indications that persons associated with a foreign government may have provided financial support to some of the September 11 hijackers while they were living in the United States. Those indications, addressed in greater detail elsewhere in this report, obviously raise issues with serious national implications. Nevertheless, the FBI agent to whom he provided a copy viewed it only in relation to ongoing investigations and did not consider its possible value for other cases or the FBI's national counterterrorism strategy. Thus, the FBI agent placed the cable in only one case file and did not forward a copy to FBI Headquarters.

Similarly, the FBI typically used information obtained through the Foreign Intelligence Surveillance Act (FISA) only in connection with the cases in which it was



obtained and would not routinely disseminate it within the FBI or to other members of the Intelligence Community. FBI personnel advised the Joint Inquiry that FISA information was not included in the FBI's Automated Case System (ACS) because both criminal and intelligence agents had access to that system.

Culture and policy issues also limited the extent to which CIA shared counterterrorism information within the Intelligence Community. As noted earlier, a lack of focus on the domestic terrorist threat, which was viewed as an FBI, rather than CIA, mission, accounted for some information sharing problems. For example, the DCI acknowledged in his testimony that CIA was not sufficiently focused on advising the State Department to watchlist all terrorist operatives who might be traveling to the United States, even though this would provide valuable information to domestic agencies in targeting these persons at ports of entry. On at least three occasions between January 2000 and August 2001, there were opportunities to watchlist future hijackers Nawaf al-Hazmi and Khalid al-Mihdhar, but the CIA failed to do so. In his testimony on October 17, 2002, the DCI admitted this failure, attributing it to:

. . .uneven practices, bad training and a lack of redundancy. The fact that [CTC personnel] were swamped does not mitigate the fact that we didn't overcome that [with] a separate unit or better training for those people.

[Page 86]

Aside from the formal watchlist procedure, the record strongly suggests that, despite numerous related contacts with the FBI during the period, no one at CIA advised the FBI about al-Mihdhar's U.S. visa and the fact that al-Hazmi had traveled to the United States. Ironically, this occurred despite the fact that both CIA and FBI personnel were at the time working in CTC where the information was received. The CIA employee who briefed FBI personnel about al-Mihdhar on January 6, 2000, but did not mention any information about al-Mihdhar's visa and potential travel to the United States, indicated in an e-mail to a colleague at CIA that same day: "In case FBI starts to complain later . . . below is exactly what I briefed them on." This CIA employee told the Joint Inquiry that he had, at the time, been assigned to work at the FBI Strategic Information Operations Center specifically to fix problems "in communicating between the CIA and the FBI." Obviously, such problems remained.

The Joint Inquiry also heard from many different agencies within the Intelligence Community, most notably the Defense Intelligence Agency (DIA), that the perception that collecting agencies have “ownership” of the intelligence they acquire impedes the free flow of information. In a Joint Inquiry interview, one DIA official complained that analysts were often denied access to critical intelligence held in other Intelligence Community agencies:

We have to get raw data to the analysts. The analysts have been separated from source-generated data that is important. There is excessive, filtering, packaging and selective product reporting that is not helpful. Some problems are so important that the U.S. Government cannot afford any longer to filter.

In his testimony, the DCI confirmed that this filtering will continue when he noted that even all-source analysts within the new Department of Homeland Security will not have access to all raw intelligence on anything like a routine basis. This tendency to ownership, in its simplest form, means that the originating agency is free to edit and otherwise truncate the information it collects before it disseminates it to other agencies. On the other hand, analysts frequently argued that, in the world of counterterrorism, there is information in this filtered data that the collecting agency may not recognize as having significance in the aggregate to analysts elsewhere. In interviews, DIA officials [page 87] emphasized that they always received threat information from other Intelligence Community agencies, but did not always have access to the background information necessary to understand the nature of the threat reporting fully. A senior DIA analytical official testified that:

Senior [Defense Department] officials received information that his analysts did not receive. However, to extract meaning from that data, to perform the true analytic function, we need to get that information into the hands and the brains of analysts who are paid to fill in the gaps of missing information to compensate for absent evidence and to turn information into knowledge. That’s what we pay them to do. They don’t have the information, they can’t do that.

In a written statement to the Joint Inquiry, the new Director of the DIA noted: “ In my opinion, one of the most prolonged and troubling trends in the Intelligence Community is the degree to which analysts – while being expected to incorporate the full

range of source information into their assessments – have been systematically separated from the raw material of their trade. “

Information sharing is also limited by the longstanding Intelligence Community practices of narrowly limiting disclosures of intelligence information outside normal channels in order to protect sources and methods. Disclosures to criminal investigators and prosecutors were intentionally limited to avoid having intelligence become entangled in criminal prosecutions. In deference to those kinds of restrictions, CIA did not provide the FBI New York field office criminal agents who were investigating the *USS Cole* bombing information regarding the al-Qa’ida meeting in Malaysia that was attended by hijackers-to-be al-Hazmi and al-Mihdhar.

A 1995 Department of Justice policy that established procedures -- often referred to as the “wall” -- governing FBI sharing of Foreign Intelligence Surveillance Act (FISA)-derived intelligence information with investigators handling parallel criminal investigations also prevented sharing of important intelligence. Under this policy, the FBI could share information from FISA surveillances with criminal investigators if the information was relevant to a crime under investigation and an attorney in an FBI field office or in the Office of Intelligence Policy and Review (OIPR) at the Department of [page 88] Justice authorized its release. In al-Qa’ida FISA cases, the FISA Court directed that the Court itself act as the “wall” and determine whether the information in question was relevant to a criminal investigation and, thus, could be shared.

Unfortunately, the Inquiry confirmed that the Intelligence Community agencies, perhaps overly “risk averse” in dealing with FISA-related matters, restricted the use of information far beyond what was required. The majority of FBI personnel interviewed in the course of the Inquiry incorrectly believed that the FBI could not share FISA-derived information with criminal investigators at all or that an impossibly high standard had to be met before the information could be shared. Most did not know that FISA-derived information could be shared with criminal investigators if it was simply relevant to the criminal investigation. Because of these misunderstandings, FBI intelligence investigators rarely sought approval to pass FISA-derived information to FBI criminal investigators.

Further, as a result of the FISA Court decision, NSA placed a caveat on all its [ ——— ] terrorism intelligence products requiring OIPR approval before information could be shared with criminal investigators. This stemmed from NSA's concern that it could not determine which of its intelligence reports were the result of information obtained through FBI-conducted FISA surveillances (and therefore subject to the "wall" requirements) and which were not. The effect of this NSA effort to comply with the FISA Court's decision was an unnecessary restriction on the sharing of NSA-acquired intelligence information with criminal investigators.

In August 2001, when the FBI was attempting to locate al-Hazmi and al-Mihdhar in the United States, an FBI Headquarters e-mail prohibited New York field office criminal agents from participating in the search because the information had originated in intelligence channels. However, because this information was not derived from a FISA surveillance, there was no reason it could not be shared with FBI criminal agents. Expressing his utter frustration with the system, a New York FBI agent responded by e-mail: [page 89]

Whatever has happened to this - someday someone will die – and wall or not – the public will not understand why we were not more effective and throwing every resource we had at certain "problems." Let's hope the [FBI's] National Security Law Unit will stand behind their decisions then, especially since the biggest threat to us now, UBL, is getting the most "protection."

**10. Finding: Serious problems in information sharing also persisted, prior to September 11, between the Intelligence Community and relevant non-Intelligence Community agencies. This included other federal agencies as well as state and local authorities. This lack of communication and collaboration deprived those other entities, as well as the Intelligence Community, of access to potentially valuable information in the "war" against Bin Ladin. The Inquiry's focus on the Intelligence Community limited the extent to which it explored these issues, and this is an area that should be reviewed further.**

Discussion: This Inquiry confirmed that, prior to September 11, problems in information sharing reached beyond the boundaries of the Intelligence Community to encumber the flow of information to and from various other entities. At each level, communications with potentially valuable partners in the war against terrorism – other

federal agencies, state and local authorities -- were restricted. Witnesses testified that these restrictions on information flow occurred at great cost to the counterterrorism effort.

Officials in the Departments of Treasury, Transportation, and State told the Joint Inquiry that, although they receive threat information from the Intelligence Community, they do not always receive the information that adds context to the threat warnings. In many instances, officials told the Joint Inquiry, this lack of context prevents them from properly estimating the value of the threat information and taking preventive actions. The Joint Inquiry was also told that not all threat information in the possession of the Intelligence Community is shared with non-Intelligence Community entities that need it the most in order to counter the threats.

For example, DCI Tenet testified that: "The documents we've provided show some 12 reports spread over seven years which pertain to possible use of aircraft as terrorist weapons. We disseminated those reports to the appropriate agencies, such as the [page 90] FAA, the Department of Transportation and the FBI as they came in." Subsequently, the Transportation Security Intelligence Service (TSIS) -- which formerly was the Intelligence Office at FAA -- researched the 12 reports mentioned by DCI Tenet to determine what actions had been taken as a result. TSIS reported to the Joint Inquiry that it had no record of having received three of those reports, two others had been derived from State Department cables, and one report was not received at all by FAA until after September 11, 2001. A TSIS official also testified that, despite its clear relevance to civil aviation, the FAA was not provided a copy of the FBI's July 1, 2001 Phoenix communication until its existence was made known to officials there by the Joint Inquiry in early 2002.

In a similar vein, the FAA had certain intelligence information in its possession prior to September 11 regarding the terrorist who was apprehended on his way from Canada to the Los Angeles Airport at the time of the Millennium. It also had conducted a detailed analysis of the bomb materials that were seized with him, and connected them to the Bojinka Plot to blow up commercial airliners over the Pacific that had been discovered in the Philippines in 1995. In testimony to the Joint Inquiry, a TSIS official

indicated uncertainty regarding whether or not these findings had been formally communicated to the CIA.

The CIA and NSA had sufficient information available concerning future hijackers al-Mihdhar and al-Hazmi to connect them to Usama Bin Ladin, the East Africa embassy bombings, and the *USS Cole* attack by late 2000, and there were at least three different occasions when these individuals should have been placed on the State Department's TIPOFF watchlist and the INS and Customs watchlists. Nonetheless, this was not done, nor was the FBI notified of their potential presence in the United States until late August 2001.

The CIA also did not provide the Department of State with almost 1500 terrorism-related intelligence reports until shortly after September 11, 2001. These reports led to the addition of almost 60 names of terrorist suspects to the State watchlist. Also, due to a [page 91] lack of awareness of watchlisting policies and procedures among CIA personnel before September 11, this information was not provided to the watchlists at INS, and Customs. Intelligence officers at the Departments of Energy and Transportation also did not have access to FBI data, CIA reports, and names on the watchlists.

The FBI did not advise the Department of State's Diplomatic Security Service of the reasons for its inquiries regarding al-Mihdhar and al-Hazmi's visa information in August 2001 when it was engaged in efforts to find the two individuals in the United States. Neither was INS asked by the FBI to use means available to it, including a search of the Law Enforcement Support Center's database, to locate al-Mihdhar and al-Hazmi when the FBI was looking for them in the United States in August 2001. INS and FAA officials who testified at the Joint Inquiry's October 1, 2002 hearing asserted that their agencies might have been able to assist the FBI in locating the two if the FBI had told them of the purpose and importance of the search.

Officials from the Departments of Transportation, State, Energy, Defense, and Treasury stated to the Joint Inquiry that, unless information is shared by the Intelligence Community on a timely basis, they are unable to include dangerous individuals on various watchlists to either deny them entry into the United States or apprehend them in

the United States. The Transportation Security Administration Assistant Under Secretary of Intelligence testified that, had he received the July 2001 FBI Phoenix field office agent's Electronic Communication, for example, he would have "...started to ask a lot more probing questions of the FBI as to what this was all about...what connections these people may have had to flight schools, by going back to the Airmen Registry in Oklahoma City that is maintained by the FAA to try to identify additional people."

The INS also was not privy to the presence of two known terrorists inside the United States. The INS Deputy Executive Associate Commissioner testified to the Joint Inquiry hearing on October 1, 2002 that "there is a likelihood" that INS agents would have been able to stop al-Mihdhar and al-Hazmi in August 2001. The INS Law Enforcement Support Center (LESC) has been in operation for more than ten years. It is [page 92] capable of querying every INS database and is available on a 24 hour per day, seven-day per week basis. The LESC reportedly can provide information in about seven minutes on the legal status of individuals in the United States.

In their testimony before the Joint Inquiry hearing, state and local government witnesses were adamant about the necessity of the intelligence and law enforcement agencies sharing terrorist information with state and local authorities. Former Virginia Governor James Gilmore stated that, in his entire four-year term, he never received any intelligence or law enforcement information regarding terrorists. Governor Gilmore also testified that:

... to the extent that there has been intelligence sharing, it has been ad hoc. It has been without a real systematic approach. And what would you expect. With the Intelligence Community, it is not within the culture if not within the statute that you don't share information. If you do, you are even subject to criminal penalties not to mention the danger of sharing information and to the danger of people who provide it. And the capacities of the United States in order to gather it.

In addition, he explained that he was not even given a security clearance while he was Governor that would have allowed him to be briefed on possible terrorist plots.

The Police Commissioner of Baltimore stated at the same hearing that he does not receive intelligence information about suspected terrorists living in his jurisdiction even

though some may have been associated with the September 11 hijackers. He also cited the fact that there are 650,000 law enforcement officers nationwide and they should be viewed by the federal intelligence and law enforcement agencies as force-multipliers. However, this can only happen if information flows in both directions. The Police Commissioner also testified that, domestically, the local police force is the “biggest collector” of information, not the federal government. To illustrate his point that information must flow in both directions, he added, “we can tell when people move from one cave to another in Afghanistan, but we can’t tell when they move from one row house to another in Baltimore.”

By contrast, former FBI Director Louis Freeh testified that information sharing with federal, state and local authorities was a priority for the FBI. In his Joint Inquiry testimony on October 8, 2002, he said: [page 93]

We doubled and tripled the number of Joint Terrorism Task Forces [JTTFs] around the United States so we could multiply our forces and coordinate intelligence and counterterrorism operations with the FBI’s federal, state, and local law enforcement partners. Thirty-four of these JTTFs were in operation by 2001. . . . We were also tasked to set up the National Domestic Preparedness Office to counter terrorist threats and to enhance homeland security.

Mr. Freeh added that counterterrorism was such a high priority that the FBI instituted a national threat warning system in order to disseminate terrorism related information to state and local authorities around the country and organized national, regional and local practice exercises to help the country prepare for terrorist attacks.

Further, FBI Director Mueller explained in his October 17, 2002 testimony before the Joint Inquiry the changes that had been made in this regard by the FBI since September 11, and added that:

As a result of these initiatives and despite some of the testimony that this [Inquiry] has heard, we have received numerous letters of support and gratitude from state and local officials and most particularly from the International Association of Chiefs of Police [IACP]. . . . Our agents must work closely with our local and state law enforcement partners. . . . I don’t believe that [the testimony of the Baltimore Police Commissioner] is representative of the feeling in the field. Does his testimony surprise me? I would say probably not. But I will tell you every time that I have . . .



.seen, either publicly or in testimony before this committee or another committee, that there is a police chief who is not getting what he or she wants, I have called, picked up the phone and called them to try to address those concerns.

. . . .  
[A] letter from William Berger, the President of the IACP. . . . praises us for the changes we have made to address this particular problem. I will just read one paragraph:

It is my belief that the steps you have taken have been very responsive to these concerns and clearly demonstrate the FBI's commitment to enhancing its relationship with State and local law enforcement in improving our ability to combat not only terrorism, but all crime.

I was at the IACP two weeks ago. I talked to the hierarchy, and I believe that they are supportive. There are isolated individuals throughout the United States who do not believe we are doing enough, and there are areas where we still have a ways to go, getting clearances for chiefs of police, exchange of information all the [page 94] way down and getting it back up. We have a number of [JTTFs] that are working exceptionally well around the country. I think if you went to 9 or 10, or 99 out of 100, or 55 out of 56 you will find that State and local police are very supportive of the relationship. There will always be one, there will always be two, and we try to address them as we come along.

Following the events of September 11, 2001, the IACP President did indeed write to FBI Director Mueller to express his appreciation for the steps the FBI has taken, including the creation of the State and Local Law Enforcement Advisory Panel and the Office of Law Enforcement Coordination. Subsequently, however, the IACP President was quoted on September 19, 2002 that:

[Federal communications with state and local police] didn't work again...Most local police in New England were informed by the FBI office in that area...about an hour before the public, but police in other regions didn't know about the change until Attorney General John Ashcroft and Homeland Security Director Tom Ridge announced it at a press conference.

The Inquiry found that the FBI's establishment of JTTFs in many FBI field offices had begun to correct some information sharing problems by encouraging coordination between federal, state, and local agencies prior to September 11. These efforts did result in some successes. For example, in the Moussaoui investigation, the INS representative on the Minneapolis JTTF was able to use the INS database to

determine Moussaoui's immigration status quickly. The INS and FBI representatives then approached Moussaoui together and he was taken into INS custody at an INS facility and questioned by the FBI.

However, a variety of shortcomings in the JTTF program limited its effectiveness prior to September 11. First, not all of the FBI field office had JTTFs. Further, some of the JTTFs were hampered by a lack of analytic personnel, limited participation by local law enforcement organizations, incomplete access to information by some of the participants, and the absence of CIA detailees.

Prior to September 11, only 35 FBI field offices had JTTFs and only six JTTFs had CIA representatives. This might help explain why [page 95] the CIA did not receive a copy of the July 2001 Phoenix communication until well after September 11. The Gilmore Advisory Panel reported anecdotal evidence suggesting that the JTTF and other similar efforts, while well intentioned, continue to be confusing, duplicative, non-routine, and bifurcated in both structure and implementation.

**11. Finding: Prior to September 11, 2001, the Intelligence Community did not effectively develop and use human sources to penetrate the al-Qa'ida inner circle. This lack of reliable and knowledgeable human sources significantly limited the Community's ability to acquire intelligence that could be acted upon before the September 11 attacks. In part, at least, the lack of unilateral (i.e., U.S. -recruited) counterterrorism sources was a product of an excessive reliance on foreign liaison services.**

Discussion: The U.S. Intelligence Community was not able to penetrate al-Qa'ida's inner circle successfully before September 11, despite the fact that human penetration of that organization was considered a priority. Richard Clarke, the former National Counterterrorism Coordinator, described the problem as well as the impact that it had on policymakers:

[It was not until 1999 that the Counterterrorism Center began to have some success in developing penetrations of al-Qa'ida. A new Director . . . took over the Counterterrorism Center and was instructed by George Tenet to get human penetrations of al-Qa'ida, and they did have some success in the succeeding years, although none of them very high level.

....  
.... [\_\_\_\_\_] never had anyone in position to tell us what was going to happen in advance, or even where Bin Ladin was going to be in advance [\_\_\_\_\_] we never knew where he was going to be in advance, And usually we were only informed about his – where he was after the fact. . . . And [\_\_\_\_\_] where they were able to tell us where they thought he was at the moment, [\_\_\_\_\_] the CIA itself recommended against action, because they said their sources were not very good, or not good enough to recommend military action].

[Page 96]

Former Director Louis Freeh emphasized the critical difference that human sources and adequate “infiltration” of terrorist organizations could have made in the context of the September 11 attacks:

If one of those 19 hijackers had spoken – maybe they did, maybe we don’t know about it yet – incautiously or imprudently to someone in some place where that information could have been captured, we could have had a day of terror prevented instead of September 11<sup>th</sup>. There’s all kinds of possibilities there. So, infiltration. We need to have our agents sitting around wherever they were sitting around in Hamburg and the U.A.E. and other places, as well as in the caves over in Afghanistan so we can know what is going on.

[Lacking access to senior, high level al-Qa’ida leadership, the Community relied on secondhand, fragmented and often questionable human intelligence information, a great deal of which was obtained from volunteers or sources obtained through the efforts of foreign liaison].

[According to senior CTC officials, CIA had no penetrations of al-Qa’ida’s leadership and never obtained intelligence that was sufficient for action against Usama Bin Ladin from anyone. A large number of current and former CTC officers indicated that CTC had numerous unilateral sources outside the leadership who were reporting on al-Qa’ida, and a larger number who were being developed for recruitment, prior to September 11. The best source was handled jointly by CIA and the FBI. In addition, CIA managed a network of [\_\_\_\_\_] in Afghanistan that often reported information regarding Bin Ladin issues and relations with the Taliban. They occasionally provided threat information as well, but had no access to al-Qa’ida’s leadership].

[Especially after the East Africa U.S. embassy bombings in 1998, CIA also tried many avenues in an effort to obtain access to Bin Ladin and his inner circle. [—————  
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these creative attempts, according to former senior officials of CTC, CIA had no penetrations of al-Qa'ida's leadership, and the Agency never acquired intelligence from anyone that could be acted upon, prior to September 11].

[Numerous sources were being handled by foreign intelligence services. Most disruptions of al-Qa'ida activities abroad before September 11 were the result of joint initiatives with foreign governments. However, relying on foreign services [—————  
—————] meant that very little counterterrorism intelligence was obtained by CIA in some parts of the world [—————].

[There was a surge in volunteer sources after the 1998 East African embassy bombings, another surge on the anniversary of those bombings in 1999, and a third after the December 1999 disruption of the Jordanian Millennium plot. [—————  
—————]. One of these was very good and provided information that was used to thwart attacks on U.S. interests in Europe. Several of these volunteers continue to act as CIA sources. [—————  
—————]. The negative considerations were that most volunteer information was considered bogus by CTC, some volunteers were suspected of being al-Qa'ida provocations, and some were believed to have cooperated with terrorist groups].

The inability to develop reliable human sources effectively stemmed, in part, from the difficult nature of the target. Members of Usama Bin Ladin's inner circle have close bonds established by kinship, wartime experience, and long-term association. [Page 99] Information about major terrorist plots was not widely shared within al-Qa'ida, and many of Bin Ladin's closest associates lived in war-torn Afghanistan. The United States had no official presence in that country and did not formally recognize the Taliban regime, which viewed foreigners with suspicion. Pakistan is the principal access point to southern Afghanistan, where al-Qa'ida was particularly active, but U.S.-Pakistani relations were strained by Pakistani nuclear tests in 1998 and a military coup in 1999.

While attempts to penetrate al-Qa'ida cells outside Afghanistan may have presented fewer obstacles, other factors limited CIA efforts to do so. [\_\_\_\_\_]  
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\_\_\_\_\_]. This meant as a practical matter that CIA did not focus as heavily as would otherwise have been the case on recruiting human sources of counterterrorism intelligence in other locations such as [\_\_\_\_\_].

CTC personnel said they did not view guidelines issued by former DCI John Deutch in 1996 concerning CIA recruitment of human sources with poor human rights records as an impediment to the pursuit of terrorist recruitments in al-Qa'ida, and none of the CTC officers interviewed by the Joint Inquiry attributed the lack of penetration of the al-Qa'ida inner circle to the Deutch guidelines. In fact, the effort to recruit such penetrations became increasingly aggressive with respect to Bin Ladin's network beginning in 1999. These responses should be balanced against the examination of the effect of the Deutch guidelines that was conducted by the House Permanent Select Committee on Intelligence (HPSCI) Subcommittee on Terrorism and Homeland Security. Its July 2002 report stated in this regard: [page 99]

. . . Many CIA managers at headquarters posited that the guidelines did not present a problem and that no extra labor [was] required on the part of field officers as a result of the guidelines. Many others, including CIA officers in the field who brought their concerns to the attention of HPSCI members and staff, had a different view . . . . Their concerns were not that waivers were denied, but that they were not career enhancing and that the process by which requests were brought forward was cumbersome and resulted in disincentive to work to recruit anyone who might have been involved in proscribed acts. . . .

Prior to September 11, the FBI also attempted, but with only limited success, to develop human sources regarding the activities of al-Qa'ida and other terrorist groups within the United States. Again, the difficult nature of the target, as well as FBI and Department of Justice policies and practices, may have hampered the FBI's coverage of the radical fundamentalist community in this country.

Recruiting sources in fundamentalist communities within the United States may have been more difficult than such recruitments abroad. The FBI advised the Joint Inquiry that, for example, only 21 FBI agents possess the Arabic language skills that would be expected to be important in pursuing such recruitments.

However, even those FBI agents who were skilled at developing such sources faced a number of difficulties that may have hampered the FBI's ability to gather intelligence on terrorist activities in the United States. According to several FBI agents, for example, FBI Headquarters and field managers were often unwilling to approve potentially controversial activity involving human sources who were in a position to provide counterterrorism intelligence. The 1996 Antiterrorism and Effective Death Penalty Act specifically outlawed providing material support to terrorism. If an FBI source was involved in illegal funding or in terrorist training, the agent responsible for the source had to obtain approval from FBI Headquarters and the Department of Justice to allow the source to engage in the illegal activity. According to FBI personnel, this was a difficult process that sometimes took as long as six months. Because terrorist sources frequently engaged in activity that violated the 1996 Act, the cumbersome approval process often discouraged aggressive recruitment of these sources in the field.

[page 100]

FBI agents also cited to the Joint Inquiry the requirement for prior DCI approval of FBI source travel abroad as a roadblock to sending sources overseas for operational purposes. Several FBI agents expressed the opinion to the Joint Inquiry that the CIA took advantage of this requirement to prevent FBI sources from operating overseas. Another FBI agent complained that FBI Headquarters management did not readily approve overseas travel for sources because of its belief that the FBI should focus on activity within the United States. When FBI management did approve overseas travel for assets, it often declined to allow the responsible agents to accompany the sources during such travel. These decisions, according to FBI agents in Joint Inquiry interviews, significantly diminished the quality of the operations

The FBI also apparently did not use those counterterrorism sources that had been identified in the most effective and coordinated manner. The FBI generally focused source reporting on cases and subjects within the jurisdiction of specific field offices and did not adequately use sources to support a national counterterrorism intelligence program. For example, the FBI received intelligence in 1999 that a terrorist organization was planning to send students to the United States for aviation training. While an operational unit at FBI Headquarters instructed twenty-four field offices to “task sources” for information, it appears that no FBI sources were in fact asked about the matter.

In addition, when the Phoenix FBI agent reported to FBI Headquarters in July 2001 his concern that Middle Eastern students were coming to the United States for civil aviation-related training, there was no effort by either FBI Headquarters or the field office that was advised of his concern by FBI Headquarters to task counterterrorism sources for any relevant information. Similarly, when Minneapolis FBI field office agents detained Zacarias Moussaoui in August 2001, they were concerned that he might be part of a larger conspiracy. Nonetheless, neither the Minneapolis field office nor FBI Headquarters asked any FBI sources whether they knew anything about Moussaoui or the existence of any larger plot.

[Page 101]

[Finally, in August 2001, the FBI learned from the CIA that terrorist suspects Nawaf al-Hazmi and Khalid al-Mihdhar were in the United States. Neither the FBI field offices that were involved in the search nor FBI Headquarters thought to ask FBI field

offices to ask their sources whether they were aware of the whereabouts of the two individuals, who later took part in the September 11 attacks. As one result, the San Diego counterterrorism informant who had numerous contacts with those two individuals during 2000 was never asked to help the FBI locate them in the last weeks before September 11].

**12. Finding: During the summer of 2001, when the Intelligence Community was bracing for an imminent al-Qa'ida attack, difficulties with FBI applications for Foreign Intelligence Surveillance Act (FISA) surveillance and the FISA process led to a diminished level of coverage of suspected al-Qa'ida operatives in the United States. The effect of these difficulties was compounded by the perception that spread among FBI personnel at Headquarters and the field offices that the FISA process was lengthy and fraught with peril.**

Discussion: In the summer of 2000, during preparation for the trial in New York of those involved in the bombing of the U.S. embassies in East Africa, prosecutors discovered factual errors in applications for FISA orders sanctioning electronic surveillance. The FISA Court found that these errors included an erroneous statement that a FISA target was not under criminal investigation, erroneous statements concerning overlapping intelligence and criminal investigations, and unauthorized sharing of FISA information with criminal investigators and prosecutors.

The FISA Court also determined that these errors called into question the certifications that had been made by senior officials that the FISA surveillances requested by the applications had as their purpose the gathering of foreign intelligence, rather than criminal-related information, as required by FISA. After being informed of additional errors in subsequent months, the FISA Court barred an FBI agent who had prepared one of the erroneous applications from appearing before the Court again.

The FBI and the Department of Justice's Office of Intelligence Policy and Review (OIPR) began a systematic review of the FISA application process in September 2000 to [page 102] ensure the accuracy of FISA Court filings. Some FISA surveillances targeting al-Qa'ida agents were allowed to expire while OIPR and the FBI investigated how the errors had occurred. These orders were not renewed until after the attack on *USS Cole* in October 2000. In April 2001, the Bureau promulgated procedures for the review of draft



FISA declarations and the submission of FISA applications to the Court. OIPR also revised the standard al-Qa'ida FISA application to reduce the amount of extraneous information that was required and that increased the likelihood of factual errors.

During this process, many FISA surveillances of suspected al-Qa'ida agents expired because the FBI and OIPR were not willing to apply for application renewals when they were not completely confident of their accuracy. Most of the FISA orders targeting al-Qa'ida that expired after March 2001 were not renewed before September 11. The Joint Inquiry received inconsistent figures regarding the specific number of FISA orders that were allowed to expire during the summer of 2001. One FBI manager stated that no FISA orders targeted against al-Qa'ida existed in 2001, others interviewed said there were up to [—] al-Qa'ida orders at that time, and an OIPR official explained that approximately two-thirds of the number of FISA orders targeted against al-Qa'ida had expired in 2001.

Several organizations played a role in the breakdown of the FISA process in the year before the September 11 attacks. According to FBI personnel, OIPR and the FISA Court erred by requiring much extraneous information in FISA applications, thus increasing the likelihood of mistakes. Bureau agents frequently could not or did not verify the accuracy of information in the FISA applications. The FISA Court's order prohibiting an FBI agent from appearing before the Court also apparently had a chilling effect on FBI agents, and they became increasingly unwilling to confirm the veracity of FISA applications.

**13. Finding:** [—————  
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Discussion: [During his tenure, President Clinton signed documents authorizing CIA covert action against Usama Bin Ladin and his principal lieutenants. [—————

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104] [—————]. [Former National Security Advisor Sandy Berger testified to the Joint Inquiry on September 19, 2002 that, from the time of the East Africa U. S. Embassy bombings in 1998, the U. S. Government was:

. . . embarked [on] an very intense effort to get Bin Ladin, to get his lieutenants, through both overt and covert means. . . . We were involved – at that point, our intense focus was to get Bin Ladin, to get his key lieutenants. The President conferred a number of authorities on the Intelligence Community for that purpose.

Senator Shelby: By “get him,” that meant kill him if you had to, capture him or kill him?

Mr. Berger: I don’t know what I can say in this hearing, but capture and kill. . . . There was no question that the cruise missiles were not trying to capture him. They were not law enforcement techniques. . . .”]

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Berger noted in his Joint Inquiry interview, “We do not have a rogue CIA.”

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In his June 11, 2002 briefing to the Joint Inquiry, Mr. Clarke reiterated this point when he said: [page 105]

I think if you look at the 1980s and 1970s, the individuals who held the job of [DDO], one after another of them was either fired or indicted or

condemned by a Senate committee. I think under those circumstances, if you become Director of Operations, you would want to be a little careful not to launch off on covert operations that will get you personally in trouble and will also hurt the institution. The history of covert operations in the 1950s and 1960s and 1970s was not a happy one, and I think that lesson got over-learned by people who at the time were probably in their twenties and thirties, but by the time they became in their fifties, and they were managers in the [Directorate of Operations], I think that they institutionalized a sense of covert action is risky and is likely to blow up in your face. And the wise guys at the White House who are pushing you to do covert action will be nowhere to be found when the Senate Select Committee on Intelligence calls you up to explain the mess that the covert action became.

Mr. Clarke went on to say: "I think it is changed because of 9/11. I think it is changed because George Tenet has been pushing them to change it."

In a July 26, 2002 Joint Inquiry interview, a former Chief of CTC made a similar point when he implicitly acknowledged that he pushed whenever possible for clarity in the covert action authorities [\_\_\_\_\_]  
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The policy makers' reluctance [\_\_\_\_\_] limited the scope of CIA operations against Bin Ladin. [\_\_\_\_\_] [Page 106] [\_\_\_\_\_]  
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In any event, the differing perceptions about the scope of the authorizations shaped the types of covert action the CIA was willing to direct against Bin Ladin prior to September 11, 2001 and, therefore, its ultimate effectiveness. [\_\_\_\_\_

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107] [\_\_\_\_\_  
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The CIA's actual efforts to carry out covert action against Bin Ladin in Afghanistan prior to September 11, 2001 were limited and do not appear to have significantly hindered al-Qa'ida's ability to operate. [\_\_\_\_\_]:

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Many of these efforts were key elements in “the Plan” – initially developed in 1999 and subsequently modified -- that the DCI described in his testimony before the Joint Inquiry on October 17, 2002. “The Plan” did not, however, feature elements commonly associated with war plans or contingency plans, such as a mission statement, strategic goals or objectives, a statement of commander’s intent, a delineation of the resources that would be required or are available for the operation, or the measures by which operational success might be measured. Although a covert action plan might not be expected to contain all of the elements of a war plan, the absence of all these elements suggests an absence of rigor in the planning process.

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The Joint Inquiry heard testimony on September 12 and September 19, 2002 that, between March 2001 and September 2001, the Bush Administration was engaged in a

review of counterterrorism policy. \_\_\_\_\_

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\_\_\_\_\_]. [Deputy Secretary of State Armitage testified that the Bush Administration was considering, among other things, “increased authorities for the Central Intelligence Agency” in the summer of 2001 and was close to final agreement on a more aggressive strategy against Bin Ladin and his followers by September 11, 2001:

The National Security Council . . . called for new proposals [in March 2001] on a strategy that would be more aggressive against al-Qa’ida. The first deputies meeting, which is the first decision making body in the administration, met on the 30<sup>th</sup> of April and set off on a trail of initiatives to include financing, getting at financing, to get at increased authorities for the Central Intelligence Agency, sharp end things that the military was asked to do. . . . So, from March through about August, we were preparing a national security Presidential directive, and it was distributed on August 13 to the principals for their final comments. And then, of course, we had the events of September 11. . . .]

**14. Finding: [Senior U.S. military officials were reluctant to use U.S. military assets to conduct offensive counterterrorism efforts in Afghanistan, or to support or participate in CIA operations directed against al-Qa’ida prior to September 11. At least part of this reluctance was driven by the military’s view that the Intelligence Community was unable to provide the intelligence needed to support military operations. Although the U.S. military did participate in [—] counterterrorism efforts to counter Usama Bin Ladin’s terrorist network prior to September 11, 2001, most of the military’s focus was on force protection].**

Discussion: National Security Council officials, CIA officers in the CTC, and senior U.S. military officers differ regarding the U.S. military’s willingness to conduct operations against Usama Bin Ladin prior to September 11, 2001. In general, however, [page 110] these officials indicate that senior military leaders were reluctant to have the military play a major role in offensive counterterrorism operations in Afghanistan prior to September 11:



- In his June 11, 2002 remarks, former National Coordinator for Counterterrorism Richard Clarke said, “the overwhelming message to the White House from the uniformed military leadership was ‘we don’t want to do this,’ [\_\_\_\_\_]  
\_\_\_\_\_]”. Later in that same briefing, he said: “The military repeatedly came back with recommendations that their capability not be utilized [\_\_\_\_\_] in Afghanistan.”

- In a written response to the Joint Inquiry, former National Security Advisor Sandy Berger said:

President Clinton’s top military advisers examined [military options]. They advised us that there would be a low probability of success for such operations in Afghanistan (before 9/11 when we did not have the cooperation of Pakistan and other bordering nations) in the absence of substantial lead-time actionable intelligence (i.e., specific advanced knowledge of where bin Ladin would be at a specific time and place). There were many obstacles to deploying ground troops into Afghanistan from staging areas at some distance, including a serious possibility of detection, difficulty of basing back-up forces nearby and logistical difficulties.

- Interviews of officials at the CTC and a review of CTC documents support the finding that the military did not seek an active role in offensive counterterrorism operations. For example, \_\_\_\_\_  
\_\_\_\_\_].” In the CTC’s view, although there was “lots of desire at the working level,” there was “reluctance at the political level,” and it was “unlikely that JSOC will ever deploy under current circumstances.”

[Page 111]

- On September 12, 2002, a former Chief of CTC said: “You know, [the U.S. military] – they have their own views on their willingness to take casualties and take risky operations... For them to go, they are more exacting in their requirements, in terms of intelligence certainly, before they engage.”

- Another former Chief of CTC testified:

Actually it was discussed... turning the ball over to [the military], but having them do it themselves. They declined, as I recall, as best I recall, because they lacked the covert action authorities to work in that environment. Since there wasn't an official declaration of war, there wasn't fighting, they didn't think they had the authorities to go in and do it themselves. They were willing to help... but they couldn't put boots on the ground themselves.

- The former Chairman of the Joint Chiefs of Staff stated that the U.S. military primarily thought about the threat posed by Usama Bin Ladin's network in terms of protecting U.S. forces deployed overseas from terrorist attack. He also stated his belief that the CIA and FBI should have the lead roles in countering terrorism, and that military tools should be viewed as an extension and supplement to the leading roles played by the CIA and FBI. In discussing offensive counterterrorism operations in Afghanistan, the former Chairman cited the lack of actionable intelligence, noting "Look at the risk associated with swooping in." With regard to using U.S. military forces in clandestine operations, the former Chairman said: "you don't put U.S. armed forces in another country if the President doesn't declare war, unless you declare war on the Taliban." He said he never received a tasker to put boots on the ground to obtain actionable intelligence, noting "the military does what it is told to do."
- The Joint Chief of Staff's Director of Operations indicated that options developed by the military for the White House in 2000 were in part aimed at "educating" the National Security Advisor on the complexities of operations in Afghanistan involving "U.S. boots on the ground."

[Page 112]

In Joint Inquiry interviews, senior and retired U.S. military officers cited the lack of precise, actionable intelligence as a primary obstacle to the military conducting its own operations against Bin Ladin. The former Chairman of the Joint Chiefs of Staff stated, for example: ". . . you can develop military operations until hell freezes over, but they are worthless without intelligence."

However, according to CIA officers in the CTC who testified before the Joint Inquiry on September 12, 2002, the U.S. military often levied so many requirements for highly detailed, actionable intelligence prior to conducting an operation – far beyond what the Intelligence Community was ever likely to obtain – that U.S. military units were effectively precluded from conducting operations against Bin Ladin’s organization on the ground in Afghanistan or elsewhere prior to September 11. A former Chief of CTC's special Bin Ladin unit said:

[the military's] requirements, before they operate, are absolutely impossible for us to collect in most instances. [\_\_\_\_\_]  
\_\_\_\_\_  
\_\_\_\_\_]. And the requirements they sent us included items like, which side of the door are the hinges on, do the windows open out or go up and down. And it is just not the kind of intelligence we can provide on anything resembling a regular basis.

The Department of Defense did ask the Defense HUMINT [Human Intelligence] Service to determine whether it could obtain information regarding Bin Ladin’s whereabouts. However, the former Chairman of the Joint Chiefs of Staff indicated that the U.S. military did not undertake any independent efforts, utilizing U.S. military forces, to determine Bin Ladin’s location.

Lower-level military officers appeared to be more enthusiastic than senior military officials about active military participation in counterterrorism efforts. Senior CIA officers, CIA documents, and at least one former special operations forces [page 113] commander indicated, in interviews and testimony, that military operators were both capable and interested in conducting a special operations mission against Bin Ladin in Afghanistan prior to September 11. A former JSOC commander told the Joint Inquiry that his units did have the ability to put small teams into Afghanistan. A CIA document commenting on the prospects of Joint Special Operations Command units participating in an operation to capture Bin Ladin said: “lots of desire at the [military] working level,” but there was “reluctance at the political level.”

Despite senior officers’ reluctance to play a major role, military personnel and assets did contribute to several counterterrorism efforts in addition to force protection.

The Joint Inquiry has identified [—————] major types of military participation in, or support for, operations to counter Usama Bin Ladin's terrorist network prior to September 11:

- On August 20, 1998, following the bombings of two U.S. embassies in East Africa, the U.S. military, acting on President Clinton's orders, launched cruise missiles at Usama Bin Ladin-related targets in Sudan and Afghanistan. One of the objectives of those strikes was to kill Usama Bin Ladin. As former National Security Advisor Sandy Berger testified: "we [were] trying to kill Bin Ladin, we dropped cruise missiles on him;"
- Between 1999 and 2001, the U.S. military positioned a number of Navy ships and submarines armed with cruise missiles in the North Arabian Sea to launch additional cruise missile strikes at Bin Ladin in the event the Intelligence Community was able to obtain precise information on his whereabouts in Afghanistan; and
- [In 2000 and 2001, the Joint Staff and U.S. Air Force provided technical assistance in the development of the Predator unmanned aerial vehicle as a [Page 114] second source of intelligence on Usama Bin Ladin's precise whereabouts in Afghanistan. Former National Security Advisor Sandy Berger told the Joint Inquiry that:

The Clinton Administration was engaged in an active strategy against Bin Ladin and was continuously examining new initiatives for defeating Bin Ladin and al-Qa'ida, given what was known and the allies available at the time. For example, in 2000, we developed the Predator program, which was successfully tested in late 2000 and was available to be operationalized as a critical intelligence platform to confirm intelligence on his whereabouts when the weather cleared in the Spring of 2001].

In general, however, the CIA and U.S. military did not engage in joint operations, pool their assets, or develop joint plans against Usama Bin Ladin in Afghanistan prior to September 11, 2001 – despite interest in such joint operations at the CIA. Commenting on the idea of the CIA and U.S. military engaging in joint operations, a former Chief of CTC testified:

I think it is absolutely great [idea]. This is something we have been advocating for a long time. If you want to go to war, you take the CIA, its clandestinity, its authorities, and you match it up with special operations forces of the U.S. military, you can really – you can really do some damage.... This is something that we have tried to advocate at the working level, and we haven't made much progress. But, if this is something that [the Congress] would like to look into, it would be great for the United States.

Similarly, a former Chief of CTC's special Bin Ladin unit said: "As someone who served [————] and worked with special forces, they want to work with us and we want to work with them. History was made between the CIA and special forces. We need to do that." However, the former Chairman of the Joint Chiefs of Staff told the Joint Inquiry that he did not believe in joint operations with the CIA. He said, "I want to make sure the military piece of the plan is under military control, and not predicated on the CIA's piece being successful."

**15. Finding: The Intelligence Community depended heavily on foreign intelligence and law enforcement services for the collection of counterterrorism intelligence and the conduct of other counterterrorism activities. The results were mixed in terms of productive intelligence, reflecting vast differences in the ability and willingness of the various foreign services to target the Bin Ladin and al-Qa'ida network. Intelligence Community agencies sometimes failed to coordinate their relationships with foreign services adequately, either within the Intelligence Community or with broader U.S. Government liaison and foreign policy efforts. This reliance on foreign liaison services also resulted in a lack of focus on the development of unilateral human sources.**

[Page 115]

Discussion: [In the mid-1990s, CIA counterterrorism officials decided that unilateral operations alone were of limited value in penetrating al-Qa'ida and that foreign liaison services could serve as a force multiplier. Foreign intelligence and security services often had excellent local knowledge and capabilities; [—————  
—————  
—————  
—————

—————]. Therefore, CIA, FBI, NSA, and other Intelligence Community agencies strengthened their liaison relationships with existing foreign partners and forged new relationships to fight al-Qa'ida and other radical groups. For example, the CIA [—————  
—————

\_\_\_\_\_]. The FBI expanded its Legal Attache (Legat) program].

[Despite those efforts, many weaknesses in foreign liaison relationships were apparent before the September 11 attacks. These weaknesses limited the amount and quality of the counterterrorism intelligence received as a result of those relationships. For example, individuals in some liaison services organization are believed to have cooperated with terrorist groups].

[Regarding Saudi Arabia, former FBI Director Louis Freeh testified that, following the 1996 Khobar Towers bombing, the FBI “was able to forge an effective working relationship with the Saudi police and Interior Ministry.” A considerable amount of personal effort by Director Freeh helped to secure what he described as “unprecedented and invaluable” assistance in the Khobar Towers bombing investigation from the Saudi Ambassador to the United States and the Saudi Interior Minister. By contrast, the Committees heard testimony from U.S. Government personnel that Saudi officials had been uncooperative and often did not act on information implicating Saudi nationals].

[Page 116]

[According to a U. S. Government official, it was clear from about 1996 that the Saudi Government would not cooperate with the United States on matters relating to Usama Bin Ladin. [\_\_\_\_\_

\_\_\_\_\_]], reemphasized the lack of Saudi cooperation and stated that there was little prospect of future cooperation regarding Bin Ladin. [\_\_\_\_\_] told the Joint Inquiry that he believed the U.S. Government’s hope of eventually obtaining Saudi cooperation was unrealistic because Saudi assistance to the U.S. Government on this matter is contrary to Saudi national interests].

[A U. S. Government official testified to the Joint Inquiry on this issue [\_\_\_\_\_] as follows:

[\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_]...[F]or the most part it was a very troubled relationship where the Saudis were not providing us quickly or very vigorously with response to it. Sometimes they did, many times they didn't. It was just very slow in coming.

The Treasury Department General Counsel testified at the July 23, 2002 hearing about the lack of Saudi cooperation:

There is an almost intuitive sense, however, that things are not being volunteered. So I want to fully inform you about it, that we have to ask and we have to seek and we have to strive. I will give you one-and-a-half examples. The first is, after some period, the Saudis have agreed to the designation of a man named Julaydin, who is notoriously involved in all of this; and his designation will be public within the next 10 days. They came forward to us two weeks ago and said, okay, we think we should go forward with the designation and a freeze order against Mr. Julaydin. We asked, what do you have on him? Because they certainly know what we have on him, because we shared it as we tried to convince them that they ought to join us. The answer back was, nothing new.

....  
... I think that taxes credulity, or there is another motive we are not being told.

[Page 117]

[A number of U. S. Government officials complained to the Joint Inquiry about a lack of Saudi cooperation in terrorism investigations both before and after the September 11 attacks. \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_]. A high-level U. S. Government officer cited greater Saudi cooperation when asked how the September 11 attacks might have been prevented. In May 2001, the U.S. Government became aware that an individual in Saudi Arabia was in contact with a senior al-Qa'ida operative and was most likely aware of an upcoming al-Qa'ida operation. [\_\_\_\_\_  
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\_\_\_\_\_].

[\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_].

Several other Arab governments hesitated to share information gleaned from arrests of suspects in the *USS Cole* bombing and other attacks. Even several European governments were described to the Joint Inquiry as indifferent to the threat al-Qa'ida posed prior to September 11, while others faced legal restrictions that impeded their ability to share intelligence with the United States or to disrupt terrorist cells. Prior to September 11, for example, [\_\_\_\_\_], despite repeated requests from CIA, [Page 118] provided little helpful information [\_\_\_\_\_]. A CIA representative described the situation in his testimony before the Joint Inquiry:

We had passed [\_\_\_\_\_] a great number of leads about al-Qa'ida members. We passed [them] a great deal of leads on al-Qa'ida members, including some of the people you see in the press now, like [\_\_\_\_\_], and we had really given them a lot of names to track after September 11. The arrests they made [after September 11, 2001] showed that they had in fact been following them and monitoring them to some extent. But the CIA did not get information back [ ] on it to any measurable extent that would help us with our efforts.

[CIA's liaison partners vary in competence and commitment. [\_\_\_\_\_]

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\_\_\_\_\_]. However, the Agency still had to rely heavily on liaison partners in several countries in order to acquire counterterrorism intelligence for the conduct of other counterterrorism activities].

There were also missteps in the efforts of various Intelligence Community agencies to develop foreign liaison relationships. [\_\_\_\_\_]

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\_\_\_\_\_]. However, significant problems arose because liaison on counterterrorism was not always well integrated into overall U.S. regional goals and



liaison relations. As a result, other issues, albeit important, sometimes diverted attention from counterterrorism.

The many channels for contact between U.S. and foreign intelligence services also led to a lack of coordination at times. Former National Security Advisor Sandy Berger noted that many U.S. agencies, ranging from the CIA and FBI to the Agriculture Department, develop liaison service relations and that, in some countries, there are now a dozen or more of these kinds of relationships. Often, U.S. ambassadors were not able to control these interactions, and, as a result, the U.S. Government did not always place [page 119] proper priorities on what it asked of foreign governments. In his testimony, Mr. Berger recommended giving “the DCI authority to coordinate all intelligence cooperation with other countries.”

Finally, the capabilities of FBI Legats were not always incorporated within the overall intelligence relationship with a foreign country. Thus, other members of the U.S. Intelligence Community did not always utilize relationships developed by the Legats to their full advantage.

**16. Finding:** [The activities of the September 11 hijackers in the United States appear to have been financed, in large part, from monies sent to them from abroad and also brought in on their persons. Prior to September 11, there was no coordinated U.S. Government-wide strategy to track terrorist funding and close down their financial support networks. There was also a reluctance in some parts of the U.S. Government to track terrorist funding and close down their financial support networks. As a result, the U.S. Government was unable to disrupt financial support for Usama Bin Ladin’s terrorist activities effectively].

Discussion: [Tracking terrorist funds can be an especially effective means of identifying terrorists and terrorist organizations, unraveling and disrupting terrorist plots, and targeting terrorist financial assets for sanctions, seizures, and account closures. As with organized criminal activity, financial support is critically important to terrorist networks like al-Qa’ida. Prior to September 11, 2001, however, no single U.S. Government agency was responsible for tracking terrorist funds, prioritizing and coordinating government-wide efforts, and seeking international collaboration in that effort. Some tracking of terrorist funds was undertaken before September 11. For the

most part, however, these efforts were unorganized and ad-hoc, and there was a reluctance to take actions such as seizures of assets and bank accounts and arrests of those involved in the funding. A U.S. Government official testified before the Joint Inquiry, for example, that this reluctance hindered counterterrorist efforts against Bin Ladin: “Treasury was concerned about any activity that could adversely affect the international financial system . . . .”]

Treasury Department General Counsel David Aufhauser testified to the Joint inquiry on July 23, 2002 that, prior to September 11, the financial war on terrorism was “ad-hoc-ism”, episodic, and informal without any orthodox mechanism for the exchange [page 120] of information or setting of priorities. He stated that, prior to September 11, the DCI never asked Treasury to perform an analysis of Bin Ladin, al-Qa’ida, or associated terrorist financing.

At the same hearing, the Chief of the FBI’s Financial Review Group also testified to the lack of an overall financial strategy against terrorist funding. He stated that the FBI’s financial investigations prior to September 11 were inconsistent, done on a case-by-case basis, and not supervised by a specialized unit at FBI Headquarters.

Given this lack of focus on terrorist financing, the Intelligence Community was unable, prior to September 11, to identify and attack the full range of Bin Ladin’s financial support network. Former National Counterterrorism Coordinator Richard Clarke described for the Joint Inquiry his pre-September 11 frustration with the Intelligence Community’s lack of focus in this regard:

[\_\_\_\_\_]  
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\_\_\_\_\_  
\_\_\_\_\_].

....  
Whenever we pressed the various agencies to do more on finding Bin Ladin’s money, we would hear that they didn’t consider it as important as the White House did for the reason you specified, that you were able to

stage an operation for a small amount of money. My view was that it may have been true that you could stage an operation for a small amount of money, but you couldn't run al-Qa'ida for a small amount of money. Al-Qa'ida was a vast worldwide organization that was creating terrorist groups in various countries that would not be called a-Qa'ida, but would be called names associated with that particular country. But they were creating terrorist groups, they were funding them from the start. They were taking preexisting terrorist groups and buying their allegiance and buying them additional capability. It seemed to me it must have cost a great deal of money to be al-Qa'ida, but I was never able to get the Intelligence Community to tell me within any range of magnitude how much money the annual operating budget of al-Qa'ida may have been.

[Page 121]

Prior to September 11, there was also some reluctance to use available financial databases to track suspected terrorists. The Chief of the FBI's Financial Review Group -- which had been only a section in the FBI's White Collar Crime Unit before September 11 -- and the Director of the Treasury Department's Financial Crimes Enforcement Network (FinCEN) both testified before the Joint Inquiry that, prior to September 11, they had capabilities to develop leads on terrorist suspects and link them to other terrorists and to terrorist funding sources. They both agreed that they would have been able to locate Nawaf al-Hazmi and Khalid al-Mihdhar in the United States in August 2001, if asked, through credit card and bank information. The use of these capabilities in the first weeks after September 11 enabled the FBI, with assistance from the Secret Service, to connect almost all of the 19 hijackers to each other very quickly by linking bank accounts, credit cards, debit cards, address checks, and telephones. Despite the existence of those capabilities, the FBI did not seek their assistance in the search for al-Hazmi and al-Mihdhar in late August 2001.

FinCEN was involved in tracking terrorist funds prior to September 11 and experienced some success. FinCEN began doing linkage analysis of terrorist financing in October 1999 and first identified a specific account with a direct link to al-Qa'ida in February 2001. It has the advantage of being able to work with both law enforcement and intelligence information, and to combine that information with Bank Secrecy Act and commercial data to assist the Treasury Department's Office of Foreign Assets Control (OFAC) and others in the seizure, blocking, and freezing of terrorist assets. FinCEN's capabilities have been made available to federal, state, and local law enforcement agencies for lead purposes since before September 11.

The FBI did some tracking of terrorist funds prior to September 11, but this was mostly done on an episodic basis, primarily directed at money laundering activity, in the context of field office investigations with no national or international coordination, and with very limited cooperation with the Treasury Department. The Joint Inquiry was informed that the FBI's newly-formed Financial Review Group is developing what did not exist pre-September 11, a national strategy for a coordinated U.S. Government-wide [page 122] effort to track terrorist funds, mine financial data from a common database, investigate, disrupt, arrest, and prosecute.

International cooperation in tracking terrorist funds was also not easy to achieve prior to September 11. For example, the Director of OFAC at the Treasury Department testified that he made two trips to Saudi Arabia, Bahrain, the United Arab Emirates, and Kuwait in 1999 and 2000 to request their cooperation in tracking and restricting Bin Ladin and al-Qa'ida funds, but only achieved limited results. Pre-September 11, OFAC did take some actions, such as trade sanctions and an asset freeze against the Taliban for harboring Bin Ladin, that achieved a modicum of success.

On September 24, 2001, President Bush gave a new priority to the tracking of terrorist funds when he stated: "We will direct every resource at our command to win the war against terrorists, every means of diplomacy, every tool of intelligence, every instrument of law enforcement, *every financial influence. We will starve the terrorists of funding.*" (Emphasis added.) The President made this statement four days after signing an executive order to block the funds of terrorists and their associates. Substantial actions have been taken by the U.S. Government in this area since September 11, including blocking terrorist-related assets; seizing assets and smuggled bulk cash; arresting terrorist financiers and indicting them; and, shutting down front companies, charities, banks, and hawala conglomerates that served as financial support networks for al-Qa'ida and Bin Ladin.

New authorities that have been granted since September 11 have also been instrumental in making these seizure and arrest actions successful. For example, OFAC at Treasury requested and received in the October 2001 USA PATRIOT Act explicit

authorities to block assets while an investigation is in progress and to use classified information as evidence in order to place additional names on the list for freezing and blocking assets. The challenge facing the Intelligence Community is to maintain, expand and adapt the use of these capabilities to combat future terrorist threats effectively. Despite improvements since September 11, former National Counterterrorism [page 123] Coordinator Richard Clarke told the Joint Inquiry that, as of June 2002, there were still many unanswered questions about Bin Ladin's finances:

We asked [CIA] in particular [—————], because initially – because he was said to be a financier. They were unable to do that, [—————]  
—————].CIA was [—————] unable to tell us what it cost to be Bin Ladin, what it cost to be al-Qa'ida, how much was their annual operating budget within some parameters, where did the money come from, where did it stay when it wasn't being used, how it was transmitted. They were unable to find answers to those questions.

Part of the challenge for the Intelligence Community, and particularly the FBI, is the difference between terrorist financing and other forms of organized criminal money laundering. Strategies and tactics that were effective in countering money laundering must be reexamined in order to assure their effectiveness in regard to terrorist financing. The Treasury Department's General Counsel was in England at a money laundering conference on September 11, 2001 and explained to the Joint Inquiry how his perception of the problem shifted as he watched the two World Trade Center towers disintegrate:

It was as if we had been looking at the world through the wrong end of a telescope. . . . Money had been spirited around the globe by means and measures and in denominations that mocked all of our detection. . . . The most serious threat to our well being was now clean money intended to kill, not dirty money seeking to be rinsed in a place of hiding.

#### **D. RELATED FINDINGS**

During the course of this Joint Inquiry, testimony and information were received that pertained to several issues involving broader, policy questions that reach beyond the boundaries of the Intelligence Community. In the three areas described below, the Inquiry finds that policy issues were relevant to our examination of the events of September 11.

[Page 124]

**17. Finding: Despite intelligence reporting from 1998 through the summer of 2001 indicating that Usama Bin Ladin's terrorist network intended to strike inside the United States, the United States Government did not undertake a comprehensive effort to implement defensive measures in the United States.**

Discussion: As noted earlier, the Joint Inquiry has established that the Intelligence Community acquired and disseminated from 1998 through the summer of 2001 intelligence reports indicating in broad terms that Usama Bin Ladin's network intended to carry out terrorist attacks inside the United States. This information encompassed, for example, indications of plots for attacks within the United States that would include:

- attacks on civil aviation;
- assassinations of U.S. public officials;
- use of high explosives;
- attacks on Washington, D.C., New York City, and cities on the West Coast;
- crashing aircraft into buildings as weapons; and
- using weapons of mass destruction.

The intelligence that was acquired and shared by the Intelligence Community was not specific as to time and place, but should have been sufficient to prompt action to insure a heightened sense of alert and implementation of additional defensive measures. Such actions could have included: strengthened civil aviation security measures; increased attention to watchlisting suspected terrorists so as to keep them out of the United States; greater collaboration with state and local law enforcement authorities concerning the scope and nature of the potential threat; a sustained national effort to inform and alert the American public to the growing danger; and improved capabilities to deal with the consequences of attacks involving mass destruction and casualties. The U.S. Government did take some steps in regard to detecting and preventing the use of weapons of mass destruction, but did not pursue a broad program of additional domestic defensive measures or public awareness.

[Page 125]

Both the DCI and the FBI Director discussed the important role that defensive measures could have played. According to the DCI's 's testimony, looking back at the September 11 attacks:

. . . since now we understand and possibly have understood the basis of the history of specific reporting with regard to specific targets, and the context was we raced from threat period to threat period, from target to target, and once we resolved them we never thought about the fact that the security that was protecting, whether it's a plane or an infrastructure or a bridge, is poor to begin and somebody will come back to the same target that they've planned against. Unless they see a security profile and a deterrent posture that's different, there's nothing to stop them from doing that, because essentially we all believed that it would never happen here. That's the point.

. . . .

. . . I posit a theory that we were so busy overseas in terms of what we were doing at the time that, you know, they were looking here the whole time and steadily planning in terms of what they were doing. So they were operating on two fronts.

FBI Director Mueller added:

I think you can look at what happened September 11 and I think both of us would say there are things we did right and things we missed and did wrong. But you look at it from the perspective of could we have prevented these individuals, identified these individuals and prevented them from undertaking this multi-plane undertaking, and I guess I would say I think it's speculation, but in looking at each of the areas that we could have done better, I'm not certain you get to the point where we stop these individuals.

On the other hand, looking at the concept of hijacking planes and taking them over, as a country one could look back and say with reports of hijackings over a period of time, perhaps we as a country should have looked at changing the way we protect our planes, which means doing what we are doing now in terms of hardening the cockpit, understanding that the threat of a hijacking is not for a person to hijack a plane and get it to the ground, utilizing the passengers as hostages, but the concept of using a plane as a weapon. Had we, as a country, reached the position where the attacks were such and the possibilities such that we would change what we did in our airline industry to harden cockpits and train pilots to resist being taken over, that's another avenue that I think might have made a difference. But that's speculation.

**18. Finding:** Between 1996 and September 2001, the counterterrorism strategy adopted by the U. S. Government did not succeed in eliminating Afghanistan as a sanctuary and training ground for Usama Bin Ladin's terrorist network. A range of instruments was used to counter al-Qa'ida, with law enforcement often emerging [pge 126] as a leading tool because other means were deemed not to be feasible or failed to produce results. Although numerous successful prosecutions were generated, law enforcement efforts were not adequate by themselves to target or eliminate Bin Ladin's sanctuary. While the United States persisted in observing the rule of law and accepted norms of international behavior, Bin Ladin and al-Qa'ida recognized no rules and thrived in the safehaven provided by Afghanistan.

Discussion: Between 1996 and September 2001, the United States worked with dozens of cooperating foreign governments to disrupt al-Qa'ida activities, arrest and interrogate operatives, and otherwise prevent terrorist attacks. Throughout that period of time, however, Afghanistan was largely a terrorist "safe haven." In its Afghan sanctuary, al-Qa'ida built a network for planning attacks, training and vetting recruits, indoctrinating potential radicals, and creating a terrorist army with little interference from the United States.

Some CIA analysts and operators have told the Joint Inquiry that they recognized as early as 1997 or 1998 that, as long as the Taliban continued to grant Bin Ladin's terrorist organization sanctuary in Afghanistan, it would continue to train a large cadre of Islamic extremists and generate numerous terrorist operations. In 1999, senior officials at the CIA and the State Department began to focus on the Taliban as an integral part of the terrorist problem. In 1999 and 2000, the State Department worked with the United Nations Security Council to obtain resolutions rebuking the Taliban for harboring Bin Ladin and allowing terrorist training. The Defense Department began to focus on this issue in late 2000, after the *USS Cole* bombing. A State Department demarche to Taliban representatives in Pakistan, on June 26, 2001, specifically noted the threats to Americans emanating from Afghanistan and stated that the United States would hold the Taliban regime directly responsible for any actions taken by terrorists harbored by the Taliban.

Former National Security Advisor Berger noted in a statement to the Joint Inquiry that "In fact, there was a concerted military, economic, and diplomatic pressure on the Afghanistan and the Taliban...." Mr. Berger also explained that Saudi Arabia and



Pakistan were pressed to cut support for the Taliban and that covert and military measures were taken to disrupt al-Qa'ida activities in Afghanistan. Unfortunately, the [page 127] Joint Inquiry found that none of these actions were effective in hindering terrorist training or al-Qa'ida's ability to operate from Afghanistan.

[Despite the Intelligence Community's growing recognition that Afghanistan was churning out thousands of radicals, the U.S. government did not integrate all the instruments of national power and policy – diplomatic, intelligence, economic, and military – to address this problem. [\_\_\_\_\_

\_\_\_\_\_]. Prior to September 11, military force was used only in the August 20, 1998 cruise missile strikes on targets in Afghanistan and the Sudan. Former National Security Advisor Sandy Berger testified to the Joint Inquiry that massive military strikes on Afghanistan would have had little public or Congressional support before September 11, 2001. Moreover, as Mr. Berger noted to the Joint Inquiry, a lack of intelligence on which to base action hindered efforts to use military force in Afghanistan].

Permitting the sanctuary in Afghanistan to exist for as long as it did allowed Bin Ladin's key operatives to meet, plan operations, train recruits, identify particularly capable recruits or those with specialized skills, and ensure that al-Qa'ida's masterminds remained beyond the reach of international justice. In his testimony before the Joint Committee on October 17, 2002, the DCI responded to a question about what he would do differently prior to September 11, 2001, saying:

[H]indsight is perfect, we should have taken down that sanctuary a lot sooner. The circumstances at the time may have not warranted, the regional situation may have been different, and after [September] 11 all I can tell you is we let a sanctuary fester, we let him build capability. And there may have been lots of good reasons why in hindsight it couldn't have been done earlier or sooner. I am not challenging it, because hindsight is always perfect, but we let him operate with impunity for a long time without putting the full force and muscle of the United States against it.

As an adjunct to covert and military efforts to eliminate Bin Ladin's sanctuary in Afghanistan, the United States Government relied heavily on law enforcement to counter

[page 128] terrorism. The origins of this emphasis on prosecutions can be traced back to the 1980s, when Congress and President Reagan gave the FBI an important role in countering international terrorism, including events overseas. More recently, the successful prosecutions of individuals involved in the 1993 World Trade Center bombing, the plot to attack New York City landmarks, and the 1998 bombings of two U.S. Embassies in East Africa added to the emphasis on law enforcement as a counterterrorism measure.

Senior Department of Justice officials, including former U.S. Attorney for the Southern District of New York Mary Jo White, who prosecuted many of the most important cases against al-Qa'ida, point out that they saw their efforts as an adjunct to other means of fighting terrorism. Prosecutions do have several advantages in the fight against terrorism. As Ms. White noted to the Joint Inquiry, prosecutions take terrorists off the street. She acknowledged that this does not shut down an entire group, but some bombs do not go off as a result of the arrests. In addition, critical intelligence often comes from the investigative process, as individual terrorists confess or reveal associates through their personal effects and communications. Former FBI Director Louis Freeh pointed out to the Joint Inquiry, "you can't divorce arrest from prevention." Ms. White also contends that the prosecutions may deter some, though admittedly not all, individuals from using violence. Finally, the threat of a jail sentence often induces terrorists to cooperate with investigators and provide information.

Heavy reliance on law enforcement had limits, however. As Paul Pillar, National Intelligence Officer for the Near East and Asia, explained to the Joint Inquiry, it is easier to arrest underlings than masterminds. Those who organize and plan attacks, particularly the ultimate decision makers who authorize them, are often thousands of miles away when an attack is carried out. In addition, the deterrent effect of imprisonment is often minimal, particularly for highly motivated terrorists such as those in al-Qa'ida.

Moreover, law enforcement is time-consuming. The CIA and the FBI expended considerable resources supporting investigations in Africa and in Yemen regarding the Embassies and *USS Cole* attacks, a drain on scarce manpower and resources that could

[page 129] have been used to gather information and disrupt future attacks. Further, there were no established mechanisms for law enforcement officials to share foreign intelligence developed in these investigations with the Intelligence Community, and they did not always recognize it, prior to September 11. Finally, law enforcement standards of evidence are high, and meeting these standards often requires unattainable intelligence or the compromise of sensitive intelligence sources or methods.

At times, law enforcement and intelligence have competing interests. The former head of the FBI's International Terrorism Division noted to the Joint Inquiry that Attorney General Janet Reno leaned toward closing down Foreign Intelligence Surveillance Act-based collection activities if they seemed to hinder criminal cases. Ms. White, however, said that the need for intelligence was balanced with the effort to arrest and prosecute terrorists.

The reliance on law enforcement when individuals can operate from a hostile country such as the Taliban's Afghanistan appears particularly ineffective, as the masterminds are often beyond the reach of justice. One FBI agent, in a Joint inquiry interview, scorned the idea of using the Bureau to take the lead in countering al-Qa'ida. He noted that the FBI can only arrest and support prosecution and cannot shut down training camps in hostile countries. He added that, "[it] is like telling the FBI after Pearl Harbor, 'go to Tokyo and arrest the Emperor.'" In his opinion, a military solution was necessary because, "[t]he Southern District [of New York] doesn't have any cruise missiles." As the DCI testified to the Joint Inquiry on June 19, 2002:

The fact that you went into the sanctuary and took it down is the single most important thing that occurred [after September 11], because they no longer operated with impunity in terms of their training and financing and all the things they were doing. And that opportunistically has changed the game. So the policy question I would answer first is, the longer you wait when you see this kind of thing, the longer you wait to intervene, the longer you wait to allow evidence to manifest behavior, I guarantee you will be surprised and hurt.

**19. Finding: Prior to September 11, the Intelligence Community and the U.S. Government labored to prevent attacks by Usama Bin Ladin and his terrorist**

**[page 130] network against the United States, but largely without the benefit of an alert, mobilized and committed American public. Despite intelligence information on the immediacy of the threat level in the spring and summer of 2001, the assumption prevailed in the U.S. Government that attacks of the magnitude of September 11 could not happen here. As a result, there was insufficient effort to alert the American public to the reality and gravity of the threat.**

Discussion: The record of this Joint Inquiry indicates that, prior to September 11, 2001, the U.S. Intelligence Community was involved in fighting a “war” against Bin Ladin largely without the benefit of what some would call its most potent weapon in that effort: an alert and committed American public. Senior levels of the Intelligence Community, as well as senior U.S. Government policymakers, were aware of the danger posed by Bin Ladin. Information that was shared with senior U.S. Government officials, but was not made available to the American public because of its national security classification, was explicit about the gravity and immediacy of the threat posed by Bin Ladin. For example:

- In December 1998, as noted earlier, the DCI wrote: “We must now enter a new phase in our effort against Bin Ladin...We are at war...I want no resources or people spared in this effort, either inside CIA or the [Intelligence] Community.”
- A classified document signed by the President in December 1998 read in part: “The Intelligence Community has strong indications that Bin Ladin intends to conduct or sponsor attacks inside the United States”; and
- A classified document signed by the President in July 1999 characterized a February 1998 statement by Bin Ladin statement as a “de facto declaration of war” on the United States.

In addition, numerous classified intelligence reports were produced and disseminated by the Intelligence Community prior to September 11, based upon information obtained from a variety of sources, about possible terrorist attacks being planned by Usama Bin Ladin’s terrorist network. Some of this information was summarized and released, in declassified form, in the Joint Inquiry’s September 18, 2002 hearing, including: [page 131]

- In June 1998, the Intelligence Community obtained information from several sources that Usama Bin Ladin was considering attacks in the United States, including against Washington, D. C. and New York;

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- In August 1998, the Intelligence Community obtained information that a group of unidentified Arabs planned to crash an explosive-laden plane from a foreign country into the World Trade Center;
- In September 1998, the Intelligence Community obtained information that Usama Bin Ladin's next operation could possibly involve flying an aircraft loaded with explosives into a U.S. airport;
- In October 1998, the Intelligence Community obtained information that al-Qa'ida was trying to establish an operative cell within the United States, and that there might be an effort underway to recruit U.S. citizen- Islamists and U.S.-based expatriates from the Middle East and North Africa;
- In September 1999, the Intelligence Community obtained information that Usama Bin Ladin and others were planning a terrorist act in the United States, possibly against specific landmarks in California and New York City; and
- In late 1999, the Intelligence Community obtained information regarding the Bin Ladin network's possible plans to attack targets in Washington, D. C. and New York City during the New Year's Millennium celebrations.

There is little indication of any sustained and successful national effort to mobilize public awareness about the gravity and immediacy of the threat prior to September 11, however. Specifically citing speeches by President Clinton at the United Nations in 1995 and at George Washington University in 1996 regarding the fight against terrorism, former national Security Advisor Sandy Berger told the Inquiry that the President: "continuously attempted to raise public awareness of the terrorist threat, as a central challenge to our country and our future, [and] including in every State of the Union address for eight years."

Clearly, there were Presidential remarks regarding terrorism in the years before September 11, 2001, including references to the threat that Bin Ladin's network posed to the interests of the United States. There were also periodic statements and references to [page 132] the threat from terrorism and Bin Ladin in Congressional testimony and elsewhere by both the DCI and the FBI Director.

In an interview, Richard Clarke, the former National Counterterrorism Coordinator under President Clinton, pointed to background briefings to the press by his office immediately after the Millennium crisis in January-February 2000 and the

Administration's cooperation with the *New York Times* in December 2000 and with CBS's *60 Minutes* on stories about terrorism as efforts to inform the American people of the growing terrorist threat.

These efforts were, however, largely sporadic and, given the classified nature of intelligence, limited in terms of the specifics that could be shared with the public about the immediacy and gravity of the threat. They were not sufficient to mobilize and sustain heightened public awareness about the danger of a domestic attack.

By comparison to what has occurred since September 11, the American public was not focused on and was not on heightened alert regarding Bin Ladin, his *fatwa* against the United States, and the immediate likelihood of a terrorist attack on American soil. In the aftermath of September 11, two incidents illustrate the difference that an alerted American public can, and does, make:

- On September 11, 2001, passengers aboard Flight 93, aware that two aircraft had been flown into the World Trade Center towers in New York City, attempted to retake control of their hijacked aircraft and, it is widely believed, saved further loss of life and destruction; and
- On December 22, 2001, an alert flight attendant on board an American Airlines flight from Paris to Miami noticed passenger Richard Reid attempting to light a fuse in his shoe. Reid was subsequently subdued by a number of passengers and has pleaded guilty to charges of attempting to blow up the aircraft.

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Kristen Breitweiser, speaking on behalf of the families of the victims of the September 11 attacks, reminded the Joint Inquiry of the importance of an alert and involved American public in the war against terrorism. In her testimony, she emphasized the potential importance of information that was not shared with the public before September 11, 2001:

One thing remains clear from history. Our intelligence agencies were acutely aware of an impending domestic risk posed by Al Qaeda. A

question that remains unclear is how many lives could have been saved had this information been made more public.

. . . .

How many victims may have taken notice of these Middle Eastern men while they were boarding their plane? Could these men have been stopped? Going further, how many vigilant employees would have chosen to immediately flee Tower 2 after they witnessed the blazing inferno in Tower 1, if only they had known that an Al Qaeda terrorist attack was imminent?

Could the devastation of September 11 been diminished in any degree had the government's information been made public in the summer of 2001?

**20. Finding: Located in Part Four Entitled "Finding, Discussion and Narrative Regarding Certain Sensitive National Security Matters."**