

Testimony of

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Good morning Mr. Chairman and Members of the Committee. On behalf of the Federal Bureau of Investigation, I would like to thank you for the opportunity to discuss the Inspector General's report on the September 11 detainees. I would also like to recognize the Inspector General and his staff for their efforts in putting the report together.

The FBI is aware that delays in the clearance process led to some extended, but legal, detentions. I believe delays in our clearance process and inconsistencies in the classification of detainees, while unintentional, should be recognized, as should the fact that each of the 762 illegal aliens was lawfully detained. The Office of the Inspector General (OIG) pointed out possible areas of improvement, and we are in the process of closely examining their findings and, in concert with the Department of Justice, implementing recommendations that we believe will improve the process in the future. We will certainly work with the OIG as we continue our ongoing efforts to improve the FBI's counterterrorism program.

That being said, I think it is important to understand the context in which these detentions occurred.

In the days, weeks and months after the terrorist attacks of September 11, 2001, the FBI by necessity worked under the assumption based on consistent intelligence reporting, that a second wave of attacks could be coming. We did not know where, when, or by whom, but we knew that the lives of countless Americans could depend on our ability to prevent that second wave of terror. The pressure placed on both the law enforcement and the intelligence community was tremendous and we certainly had more questions than answers. If air travel resumed, would one or more planes slam into a building full of people? Could the attack come in another form, such as chemical or biological? We had to proceed with an excess of caution because the consequences of releasing someone who really was a terrorist could have cost thousands of lives. And given the choice between finishing checks on those already in custody or locating and neutralizing the seemingly endless threats that were still being reported and investigated, we made a conscious decision to prioritize and neutralize potential threats first. In addition, given the primary goal of protecting the security of the American people, the FBI believed it would have been irresponsible to simply release individuals who, not only were in the country illegally, but also were potential threats or who may have crucial information related to the attacks, particularly given that the federal government had the legal authority to detain them based upon their illegal presence in the United States. In fact, the OIG Report recognizes and agrees with the priority of prevention over investigation in the days following 9/11.

In order to put the 9/11 response in proper perspective, it is important to understand the responsibilities of the International Terrorism Operations Section within the FBI's Counterterrorism Program in the years that preceded the unprecedented attacks. As Director Mueller noted recently, prior to 9/11 we had only 535 Special Agents assigned to International terrorism matters worldwide and only 82 agent and support staff serving at FBIHQ. In spite of that finite staff our responses to the threats posed and the resultant successes should not go unrecognized. As you now know, Usama Bin Laden and Al Qa'ida were the subjects of sealed indictments obtained prior to the attacks on our embassies in Dar Es Salaam, Tanzania and Nairobi, Kenya on August 7, 1998. Following those attacks, the FBI deployed over 1,000 agents and later secured the indictments of 23 individuals responsible for the deaths of 244 persons to include 12 Americans and the wounding of over 5,000 mostly Kenyan and Tanzanian citizens. The FBI in concert with the United States Attorneys Office in the Southern District of New York gained convictions of four subjects and we await the extradition of three others currently in custody in the United Kingdom.

Additionally, the FBI's International Terrorism Operations Section, known as ITOS, was responsible for: coordinating the forensic deployment to Kosovo; the massive investigation and offshore recovery efforts following the October 1999 crash of Egypt Air flight 990; the response to Al-Qa'ida's December 1999 Millenium conspiracy to attack us in the United States, Jordan and Yemen; and the October 12, 2000 attack on the USS Cole in which 17 brave U.S. sailors lost their lives.

While those investigations consumed significant resources, we remained committed to and actively involved in dozens of extraterritorial cases to include the June 1985 Hizballah hijacking of TWA flight 847 which ended in the brutal murder of U.S. Navy diver Robert Stetham. The United States holds three of the top 22 International Terrorist fugitives responsible for that crime.

I would be remiss if I did not point that today we meet on the Seventh Anniversary of the June 25, 1996 attack by Saudi Hizballah at Khobar Towers which resulted in the deaths of 19 courageous airmen. Thanks largely to the tireless efforts of former FBI Director Louis Freeh, five years after the attack, a painstaking and at times frustrating investigation reached a milestone. Thirteen individuals were indicted in the Eastern District of Virginia, four of whom remain on the Top 22 International Terrorist fugitives list.

Additionally, ITOS coordinated the FBI's response to the kidnappings and murders of Americans by the Abu Sayyaf in the Philippines and by the FARC in Colombia. In fact, on April 30, 2002, Attorney General Ashcroft announced the indictment of six FARC members charged with killing three Americans in 1999. ITOS also coordinated the FBI's response to the killing of U.S. citizens over a 20 year period by the terrorist organization 17 November in Greece. The first killing attributed to 17 November was the December 23, 1975 assassination of CIA station chief, Richard Welch. Today, 19 defendants are currently on trial in Greece for the murder of 23 people including four Americans.

Simply stated, Senators, the men and women in ITOS were fully engaged in the war on terrorism and applied every resource available.

In the aftermath of the 9/11 attacks, the FBI's response was immediate. In a matter of hours we had deployed to each of the crash sites, ordered dozens of seasoned management personnel back to Washington, and fully staffed a 24/7 operation at our Command Center with up to 500 persons representing approximately 30 federal agencies. At the height of the 9/11 investigation, known as PENTTBOM, the FBI assigned 7,000 agents to assist full-time. The majority were reassigned from other national security and criminal investigative work. The lack of prior counterterrorism training and experience, although not recognized by the OIG, needs to be factored into this discussion.

Before the month was out, we were faced with another unique attack - Anthrax. Not knowing whether we faced a domestic threat, an international threat, or a follow-on attack by Al-Qa'ida, we again responded with significant resources as we dealt with an unknown killer or killers, first in Florida, then in New York, and finally here on Capitol Hill. Additionally, we turned our attention to the kidnapping of journalist Daniel Pearl and the crash of an American Airlines flight in Queens on November 12, 2001. In order to ensure the security of the Winter Olympics in Salt Lake City, and drawing lessons from the prior attack in Atlanta, we deployed 1103 agent and support personnel, in addition to those assigned to our Salt Lake City office.

Meanwhile, PENTTBOM became the largest and most complex investigation in the history of the FBI. In spite of operating under severe handicaps, the New York Office - relocated to a garage on 26th street, and lacking a proficient infrastructure - began a 24/7 operation utilizing 300 investigators from 37 agencies. The 1-800 toll-free line set up in our Atlanta office received 180,000 calls from a shocked public eager to assist. 225,000 e-mails were received on the FBI's internet site. Evidence response teams from throughout the country were dispatched to New York, Washington and Pittsburgh.

Nationwide we covered over 500,000 investigative leads and conducted over 167,000 interviews. We collected over 7,500 pieces of evidence which were submitted for analysis. Working in conjunction with New York City agencies and authorities, we helped process over 1.8 million tons of debris for investigative leads and victim identification and took more than 45,000 crime scene photographs.

As this massive investigation unfolded, the concern of follow-on attacks was critical to our thinking and to our development of an investigative strategy. As investigators came upon individuals who were in this country illegally, it was absolutely essential to determine to the extent possible, any connection to the attacks and the threat posed by them, if any. To do otherwise would have been irresponsible, if not negligent.

As for the clearing process itself, the OIG Report states that some investigations were straightforward. That is true, but even so-called "straightforward" investigations take time. Many of the investigations were far from straightforward. For each detainee we had to conduct a preliminary investigation. This is more than a name check or Lexis-Nexis search. It often requires getting court-approved checks for phone records or computer records. It may involve translation services, multiple interviews, surveillance and other time-consuming work.

This policy was sound. We did not know who these people were -- some had numerous identity documents and others had failed polygraphs on questions such as "did you know any of the hijackers?" or "were you involved in the September 11th attacks?"

It is also important to clarify another point which I believe has been significantly confused in the media -- that is the issue of some individuals being "cleared" of terrorism ties. The fact that an illegal alien was prosecuted for non-terrorism crimes or deported rather than prosecuted, does not mean that the alien had no knowledge of or connection to terrorism. For example, one immigration detainee who pled guilty to conspiracy to commit identification fraud and aiding and abetting the unlawful production of identification documents traveled overnight with two of the hijackers. The name and address of another immigration detainee, who pled guilty to identification fraud, was used by Al Qa'ida cell members in Hamburg, Germany to attempt to obtain U.S. visas.

In many cases, the Department of Justice, in conjunction with the FBI, determined that the best course of action to protect national security was to remove potentially dangerous individuals from the country and ensure that they could not return. Charges may have been withheld in such situations if, for example, they could have compromised ongoing investigations or sensitive intelligence matters.

Many leads took us overseas and therefore took time to resolve. It would have been a disservice to the American people we work so hard to protect for the FBI not to check with the law enforcement and intelligence organizations of the countries of origin for name checks and traces in certain instances. Then, as now, we had no control over the length of time our counterparts overseas took to accomplish these checks. Please do not lose sight of the fact that these investigations were taking place simultaneous with the investigation of the 19 hijackers, the processing of the crash sites and the resolution of the "second wave" threats.

The OIG Report concluded, "The Justice Department faced enormous challenges as a result of the September 11 terrorist attacks, and its employees worked with dedication to meet these challenges." I am pleased that the Inspector General recognizes the dedication displayed by so many in the FBI, other DOJ agencies, and our local, state and federal partners on the JTTFs.

At the same time, we recognize that we can always improve, and we have done so. Over the last twenty months, Director Mueller has refocused the FBI's priorities and the Bureau has made great strides in adapting to its mission of preventing terrorist attacks. The changes we have implemented and others that are ongoing, will ensure that should we ever face a similar crisis, we will handle that crisis with even greater efficiency and speed.

As I mentioned earlier, the vast majority of Special Agents engaged in the PENTTBOM investigation in the early months were not experts in counterterrorism. Today, we have a much larger pool of agents dedicated to and trained in counterterrorism. We have greatly increased the number of strategic analysts, vastly improved their training through the new College of Analytical Studies, and provided them with advanced new software tools to enhance their strategic intelligence capabilities. We have hired nearly 300 additional foreign language translators. New "Fly Away Squads" are now on standby to lend specialized counterterrorism knowledge and expertise, language capabilities, and analytical support around the country and the world as needed. This particular capability was utilized in Buffalo, Detroit, and Portland to assist local FBI offices and recently in Morocco to assist our counterparts in their investigations.

We have new flexibility to mobilize additional personnel as needed. The newly created Office of Intelligence will enable the FBI to assess gaps, devise strategies and implement plans for intelligence collection. It will help us quickly make the connections necessary to prevent terrorist attacks, and to determine a subject or suspect's connections to terrorism with greater efficiency than ever before.

Today, we have better coordination and information sharing with our partner agencies than ever before, and yet we recognize the need for continued improvement. The number of regional Joint Terrorism Task Forces has been increased from 35 in 2001 to 66 today. The new National JTTF acts as a national liaison entity and transmits information on threats and leads from the 30 participating agencies at FBI headquarters to the local JTTFs. We have CIA terrorism experts detailed to the FBI and our terrorism experts detailed to CIA. We are working with our former INS colleagues, now in the new Department of Homeland Security. The Bureau of Immigration and Customs Enforcement plays a critical role on our JTTFs.

The FBI acknowledges that our success is measured not only by how effectively we disrupt acts of terrorism, but also by how well we protect the Constitutional rights and cherished liberties of Americans in the process. We will continue to work to find new ways to continue to meet both of these crucial missions.

Thank you for affording me the opportunity to participate in today's discussion on this important topic, and I look forward to answering any questions that you may have.

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