

UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF COLUMBIA

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IN THE MATTER OF:	
BASSEM YOUSSEF,	CA No. 1:03CV01551
	(D.D.C.)(CKK)
Complainant,	
v.	
FEDERAL BUREAU OF	
INVESTIGATION, et al.,	
Agency.	
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Monday,
March 14, 2005

Washington, D.C.

DEPOSITION OF

GARY BALD

called for examination by Counsel for the Complainant,
at 2:00 p.m., pursuant to notice of deposition (OR by
agreement of counsel), in the law offices of Kohn,
Kohn, and Colapinto, 3233 P Street, NW, Washington,

DC, when were present on behalf of the respective
parties:

APPEARANCES:

On Behalf of the Complainant:

STEPHEN KOHN, ESQ.

KOHN, KOHN, AND COLAPINTO
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On Behalf of the Agency:

CARLOTTA P. WELLS, ESQ.
FEDERAL PROGRAMS BRANCH

U.S. DEPARTMENT OF JUSTICE

CIVIL DIVISION

20 MASSACHUSETTS AVENUE, NW

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ALSO PRESENT:

Bassem Youssef, Complainant

Auron Parniss, Law Clerk

I-N-D-E-X

WITNESS	DIRECT	CROSS	REDIRECT	RE CROSS
GARY BALD	4	94	100	--

E-X-H-I-B-I-T-S

Bald

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1 P-R-O-C-E-E-D-I-N-G-S

2 2:00 p.m.

3 Whereupon,

4 GARY BALD

5 was called for examination by Counsel for the
6 Complainant, having been first duly sworn, assumed the
7 witness stand, was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. KOHN:

10 Q Would you please state your name and
11 address for the record?

12 A It's Gary Bald, 935 Pennsylvania Avenue
13 Northwest, Washington, D.C.

14 Q That's your work address?

15 A Correct.

16 Q Have you ever had your deposition taken
17 before?

18 A Probably, but I don't remember having done
19 it.

20 Q Are you currently represented by counsel?

21 A No, but I have able partners here to guide
22 me along.

1 Q Are they representing you today?

2 THE WITNESS: Are you representing me or
3 the FBI?

4 MS. WELLS: In your official capacity as
5 an FBI employee.

6 BY MR. KOHN:

7 A Okay. Then they are.

8 Q Okay. Is there any reason why you can't
9 tell the complete truth today?

10 A No. I'm not sure what I'm going to be
11 asked, but I'm not even sure what the issue is, but
12 I'll always tell the truth.

13 Q If you don't understand one of my
14 questions, feel free to ask me to rephrase it.

15 A Okay.

16 Q If you at any time need a personal break
17 for any reason, you can just let me know and we'll go
18 off the record so you can take a break.

19 A Okay.

20 Q If you need to consult with counsel at any
21 time, you can just let me know. We can go off the
22 record and you can consult with counsel.

1 A Okay.

2 Q Okay. Just very briefly, what is your
3 background in the FBI?

4 A I came to the FBI 9/11/1977. I had worked

5 in the laboratory division as a laboratory examiner;
6 Albany Division; Philadelphia; OPR; Newark Inspection
7 Division; Atlanta division as ASAC; Boston as an
8 inspector, that's actually as a detail not assigned to
9 the Boston office, on a TDY assignment; headquarters
10 as an inspector; Baltimore as an SAC; headquarters as
11 a DAD; headquarters as an AD; headquarters as an EAD.
12 Don't ask me to do it backwards.

13 Q Okay. Now, were you hired as an agent to
14 be a laboratory inspector?

15 A No. Support employee.

16 Q What's your educational background?

17 A I have a Master's Degree in Forensic
18 Science.

19 Q When did you get that?

20 A Eighty-one.

21 Q Was that from George Washington
22 University?

1 A It was. Yes.

2 Q That program they have?

3 A Yes.

4 Q What's your B.S. in?

5 A Psychology.

6 Q Where was that?

7 A South Carolina.

8 Q Did you hold any substantive employment
9 before getting a job in the laboratory division?

10 A Not field related.

11 Q Okay. When did you become an agent?

12 A In April of '81.

13 Q That's when you went to Philadelphia OPR?

14 A To Albany.

15 Q Oh, to Albany?

16 A I went to Albany and then to Philadelphia
17 and then to OPR. OPR's separate from Philadelphia.

18 Q Oh, okay.

19 A In other words, Albany was before
20 Philadelphia.

21 Q In which | okay, what year was the Albany
22 division?

1 A Albany was '81 to '84.

2 Q And Philadelphia?

3 A Let's see, '84 to '89.

4 Q Then OPR?

5 A Eighty-nine to '91.

6 Q And Newark?

7 A Ninety-one to '95.

8 Q Atlanta?

9 A Ninety-five to '96.

10 Q Boston?

11 A Oh, I'm sorry, I should have got this

12 right - '95 to --

13 Q That's ASAC in Atlanta, '95 to '96?

14 A Ninety-five to '96.

15 Q Then I have Boston inspector TDY?

16 A No. I'm sorry, there's one missing.

17 Between Newark and Atlanta, I was at the Inspection

18 Staff, and that was '95 to '96.

19 Q Okay.

20 A Then Atlanta would have been '96 to '99,

21 and TDY to Boston from '99 to '03. Then headquarters

22 inspection '03, Baltimore '03 to '04, DAD at CTD was

1 '04 | I got these years mixed up.

2 Q Let me look at your notes. I can do it
3 easier if I look at it, I'm sorry --

4 A Sure. That's okay.

5 Q Because I think I might be one year off.

6 A This might be '02, right? I think this is
7 '02. That's what the difference is. Baltimore is
8 '02, '03. This is '04 and '05. Sorry about that. I
9 dropped a year, or added a year.

10 Q When did you | which one of these did you
11 go into the Senior Executive Service?

12 A Boston.

13 Q Up through your assignment as the DAD
14 Counterterrorism, can you describe in which of these
15 offices did you perform substantive operational
16 counterterrorism work?

17 A None.

18 Q Were you ever assigned with primary duties
19 for counterterrorism like a CT desk or something like
20 that?

21 A No. No.

22 Q What would you define as your first

1 substantive job in counterterrorism?

2 A It would have been the DAD Ops.

3 Q That would be the DAD Counterterrorism
4 Division?

5 A Correct.

6 Q How did it come | how did you come to get
7 that job, DAD in counterterrorism?

8 A I was drafted into the assignment.

9 Q By who?

10 A Well, the Director would have ultimately
11 made the decisions.

12 Q But who drafted you into it?

13 A I assume it would have been John Pistole,
14 who was the AD at the time. AD | yes, AD at the time.

15 Q Did it | were you asked to apply or what
16 happened?

17 A I was | my name was put into the hat for
18 consideration.

19 Q Did you put it in or someone else?

20 A I did not.

21 Q Do you know who put it in?

22 A I'm assuming John Pistole did.

1 Q Were you told it was being put in?

2 A Yes.

3 Q Did you agree or disagree to have it put
4 in?

5 A I was asked if I would serve and the
6 answer was yes.

7 Q Who asked you that?

8 A It would have been John.

9 Q Did you want to leave your SAC position in
10 Baltimore for the headquarters CT DAD?

11 A No.

12 Q That's why you used the word drafted?

13 A Well, the difference there, the
14 distinction, is - no, you can be drafted and want to
15 go. The distinction there is that I felt that I had
16 some things that I had to resolve in Baltimore before
17 I would look to move to headquarters.

18 Being drafted just means that you didn't
19 apply for a position in a particular position. It
20 doesn't really have anything to do with whether you
21 want to go or not. It just so happened I felt that I
22 had unfinished business in Baltimore at the time.

1 Q You were selected for the position?

2 A Yes.

3 Q Had you been asked earlier by anyone to
4 come and to see if you wanted a position in the
5 Counterterrorism Division?

6 A No.

7 Q You don't remember Mr. D'Amouro or anyone
8 asking?

9 A No. That certainly did not happen.

10 Q Do you know why they wanted you to come
11 in, you particularly, to become the DAD for
12 Counterterrorism?

13 A They were looking for leadership in the
14 deputy position.

15 Q How would you describe your background and
16 experience in counterterrorism up until the time that
17 you were named the DAD in the Counterterrorism
18 Division?

19 MS. WELLS: Objection, asked and answered.
20 Go ahead.

21 THE WITNESS: I was just going to say it
22 would have been through being SAC in Baltimore and

1 overseeing the terrorism program. Actually, we were
2 kind of revamping the terrorism program there.

3 BY MR. KOHN:

4 Q Had you ever served in an official
5 capacity, like in a Middle Eastern country, like an
6 assignment in a Middle Eastern country?

7 A No.

8 Q What would be your training in counter |-

9 A Can I ask just one quick question?

10 Q Sure.

11 THE WITNESS: Do you follow-up question on
12 this or is it just simply responding to his questions?

13 MS. WELLS: We'll decide at the end
14 whether or not we want to do some follow-up.

15 THE WITNESS: Okay. That's all I wanted
16 to know.

17 MS. WELLS: Is there something you want to
18 add to the record? I don't know if he would allow it
19 or not.

20 THE WITNESS: No, that's okay. We can
21 talk afterwards.

22 MR. KOHN: Yes. She's allowed to ask

1 questions when we're done, and if you can just take
2 notes or consult her, you can just do that. She can
3 follow up to clarify something !-

4 THE WITNESS: Okay.

5 MR. KOHN: If you all think that's what's
6 necessary.

7 THE WITNESS: Okay. Just proceed with
8 your question.

9 BY MR. KOHN:

10 Q What is your formal training in terrorism?

11 A It would have been on-the-job in a
12 Counterterrorism Division, and ! I'm just trying to
13 think if it was covered in any training class I took.
14 It may have been, but I wouldn't say that it was
15 significant in any of the prior training that I had,
16 and of course, on-the-job at SAC in Baltimore as well.

17 Q How would you ! what would you describe !
18 how would you describe your background and experience
19 in Middle Eastern culture?

20 A Not much.

21 Q You mentioned the Joint Terrorism Task
22 Force out of the Baltimore office?

1 A Yes.

2 Q Was that for international, domestic or
3 both?

4 A Both.

5 Q Was there someone from the Baltimore
6 division who was essentially primarily responsible for
7 that? Someone tasked with that job, or was that you?

8 A Well, there are a number ; it's ultimately
9 my responsibility. It was ; there was an ASAC that
10 oversees terrorism as well as a supervisor when I got
11 there. But I quickly made an assessment and made some
12 changes there, but there was not a direct report to
13 me, if that's your question.

14 Q Okay. Were you ; after the 9/11 attacks -
15 9/11/01 - were you given any temporary assignments
16 regarding the 9/11 attacks?

17 A Yes.

18 Q What was that?

19 A I managed one of the teams at headquarters
20 in response to the 9/11 attacks.

21 Q Who asked you to come and do that?

22 A It was probably Tom Locke, who was the

1 Deputy in Inspection, or | was he Deputy of
2 Inspections? I think he was Deputy in Inspections at
3 the time.

4 Q Was that | that was for 90 days, or did it
5 go more than 90, do you know?

6 A No. It was a very short period of time
7 because I had my project in Boston that I had to see
8 through. After 9/11, I brought my Boston team over to
9 the Boston office to assist them because they had a
10 significant response to the 9/11.

11 I helped in the Boston office in
12 overseeing or directing the investigation after 9/11
13 where a | as almost a consiglieri to the SAC, for
14 example.

15 As soon as the airport opened | my
16 recollection is as soon as the travel airport was
17 opened there, I was asked to fly down to Washington to
18 head up one of the teams there that was looking for
19 the proverbial fifth flight.

20 I did that for a period of time. I'm not
21 sure how long, but it was | I'd have to go back and
22 check to see how long. It was not a long time, but it

1 was probably a matter of weeks, I would think. I have
2 to check to be sure.

3 Q Who was the supervisor who managed the TDY
4 assignment?

5 A I'm not sure. It actually wasn't TDY
6 because I was ; that's my home where I was living. I
7 was brought off of TDY down to that assignment --

8 Q Oh, okay.

9 A For Tom Locke. Tom had to take it on. I
10 don't know who had it. I believe Tom was reporting to
11 the Deputy Director at the time, but I'm not sure.

12 Q Then after you did that, you returned back
13 to TDY in Boston?

14 A I did, yes.

15 Q Now, did you know Mr. Pistole at all?

16 A I think I ; I'm not sure when I first met
17 him. I probably had more interaction with him at
18 Boston, even though that was a professional
19 relationship, because they were recused from my
20 project up there.

21 He was the ASAC in Boston at the time, but
22 we had ; it probably overstates it to say an

1 adversarial relationship, but I was basically
2 investigating the office he was assigned in.

3 Q What was the issue?

4 A This was the John Connally investigation
5 and the Whitey Bolger ; are you familiar with that?

6 Q Yes.

7 A Okay. I can give you more details if that
8 doesn't clarify it.

9 Q Yes. So, you were doing ; so you were the
10 inspection division doing an inspection as to how that
11 all happened?

12 A No. I did a criminal investigation of
13 Prosecutor John Connally for his corrupt relationship
14 with Whitey Bolger and Steve Fleming. It was going to
15 be a 90-day TDY that lasted forty-five months, away
16 from my family.

17 Q You knew him from that work?

18 A I certainly knew him from that
19 relationship. It's possible I met him before. His
20 background was organized crime; mine was organized
21 crime and drugs. It's possible we interacted before,
22 but I don't have any independent recollection of that.

1 Q Do you know what it was that led to,
2 either Mr. Pistole's or whoever else recommended it,
3 your being drafted and sought out to put your | people
4 putting your name in for that DAD position?

5 A I understand it was for leadership.

6 Q But do you know who it was? Who was the
7 person who said we think you're the man for it, then
8 do it?

9 A I don't know, although I know that the
10 Director or Deputy Director | well, let me back up and
11 start the other direction. John Pistole certainly
12 knew of the work that I did in Boston. The Deputy
13 Director and the Director both knew of the job I did
14 in Boston. Plus I also led the FBI's role in the
15 sniper investigation in Baltimore.

16 I believe those two things combined, the
17 leadership that they saw in those two assignments was
18 what led them to draft me.

19 Q It would be your opinion that the Director
20 and the | the Deputy Director was who?

21 A Bruce Gebhardt.

22 Q You believe that both the Director and the

1 Deputy Director and Mr. Pistole would have known of
2 your leadership skills and would have been in a
3 position to recommend drafting you?

4 A They absolutely did, yes. I reported
5 directly to the Director on the Boston investigation.
6 It's probably an overstatement. I reported through
7 the Assistant Director of the Criminal Division, but
8 I interacted very infrequently at that level on that
9 case because of the sensitivities involved. It was
10 basically an independent investigation.

11 I reported in a very small stream to the
12 Director. Now, much of that would have been ; a
13 significant portion of that was before Director
14 Mueller, under Director Freeh. Also, the convictions
15 and the trial and so forth were afterwards, so he
16 would have been closely involved with tracking that.

17 Q When ; between the time you first heard
18 that you were being drafted or your name was under
19 consideration, through the time you actually took the
20 position, are you aware of any discussions about your
21 background and experience in counterterrorism and how
22 that might relate to whether you should have the job

1 or not?

2 A I don't recall any. It's possible. I
3 don't recall any discussions. I know that what they
4 were looking for was leadership rather than terrorism
5 background, which I think is what we look for in all
6 of our management positions.

7 Q Is there - in your mind is there - in
8 order to give leadership to counterterrorism, do you
9 need to have detailed understanding of
10 counterterrorism operations?

11 A No.

12 Q To give leadership in counterterrorism -
13 in your mind, to give leadership in counterterrorism
14 as it relates to Middle Eastern counterterrorism
15 organizations, do you think having detailed knowledge
16 of Middle Eastern history and culture is important?

17 A I think it's helpful, not required. I
18 wouldn't say it's important, although I wish that I
19 had it. It would be nice.

20 Q Why would it be nice if you had it?

21 A The issues that you face as a deputy and
22 as an AD and now as an EAD are program management

1 issues. They are not ; for example, I don't do
2 interviews as a DAD. I don't conduct surveillances as
3 a DAD. I'm looking at the way we do things, not so
4 much how we do things, and yet I have a professional
5 interest in Middle Eastern subjects and culture.

6 I don't believe that creeps into being a
7 requirement, or even the absence of it, I don't even
8 see as being an impediment at all for me for what I
9 do, but I have a professional interest in it. I do
10 spend some time reading about it, but that's for a
11 personal understanding of the groups. I don't see an
12 operational ;-

13 Q This testimony you're giving is from, I'm
14 assuming, this would run from when you - for the DAD,
15 the AD and your current EAD position?

16 A Correct.

17 Q A question ;-

18 A We have - just to give you an example,
19 probably the strongest leader that I know in
20 counterterrorism has no counterterrorism background.

21 Q Who is that?

22 A Art Cummings. My understanding is he has

1 no terrorism experience, and I could be mistaken on
2 that. That's my understanding, and he is probably the
3 most knowledgeable person I know on Al Qaeda, for
4 example. I may be mistaken. I think his background
5 was criminal. In fact, I think he was in the criminal
6 division.

7 Q I don't want to ask, assuming the
8 negative, but if you don't have expertise, say in
9 Al Qaeda, how can you judge whether a subordinate has
10 expertise in Al Qaeda?

11 A I don't have to judge whether somebody has
12 expertise in Al Qaeda. I have to judge whether our
13 program is operating effectively, whether we're
14 achieving the desired results, whether the plans, the
15 game plans, for how we investigate those groups are
16 effective.

17 Q Your testimony is that you thought Mr.
18 Cummings had exceptional knowledge about Al Qaeda?

19 A Yes.

20 Q My question is, and don't take this the
21 wrong way, but if you don't have exceptional knowledge
22 in Al Qaeda, how are you in a position to actually

1 know whether someone has that knowledge or not, or do
2 you just think they have it? I mean, what ability
3 would you have to make an objective, detached opinion
4 on that?

5 A Let me answer you by turning around, if I
6 can, and then I'll give you an explanation.

7 Q Sure.

8 A If you ask me to explain how we solved the
9 sniper case, I think I could give you an explanation
10 that you would say okay, that makes sense. You don't
11 have any background in doing an investigation of that
12 type, so I think that you're an educated person, an
13 intelligent person, and I think could grasp those
14 concepts as put to you by somebody who has been
15 involved in that process.

16 Now, having set that reverse stage, I
17 spent a lot of time with Art Cummings. I've been in
18 briefings with him, I've asked him to do briefings of
19 me, I've asked him to do briefings of others. We
20 talked about operational matters, which I do
21 understand very well.

22 I've understood his strategies for how he

1 approaches different issues, I've watched his
2 interaction with others, his peers, I've watched how
3 they assess him, I've heard their input as to his
4 capabilities.

5 I've had people in the White House that
6 have complimented me directly and actually asked if I
7 would detail him to the White House as an expert in
8 terrorism. They've selected him to be the number two
9 in the National Counterterrorism Center at the request
10 of the National Counterterrorism Director because of
11 his knowledge and capabilities in terrorism.

12 So, it's kind of a combination of
13 conversations and observations that I get to draw on.

14 Q Who's the Director of the National Center
15 for Counterterrorism?

16 A John Brennan's the Acting Director.

17 Q What's his name?

18 A John Brennan.

19 Q Is Mr. Brennan | is he still with the CIA,
20 or is he now with the NCTC?

21 A Well, he's a CIA employee. I'm guessing
22 he is still detailed, on a detail assignment. He was

1 TTIC Director and now the Acting Director of NCTC.

2 Q NCTC?

3 A NC - National Counterterrorism Center.

4 They replaced it; it swallowed up TTIC.

5 Q Okay. Other than, say, hearsay and
6 observations, you would agree with me that if you
7 don't have the expertise yourself, someone who you
8 think has expertise could make a statement about
9 Al Qaeda that's completely wrong but you'd have no way
10 of knowing whether it was right or wrong, except for
11 essentially hearsay type of thing -

12 A Disagree.

13 Q You disagree. Okay. What about knowledge
14 of Arabic? Is that something that you do you speak
15 Arabic?

16 A I do not.

17 Q Do you think that's something that a
18 person in any of the positions you've held dealing
19 with counterterrorism that would be to their advantage
20 to speak Arabic?

21 A No. No.

22 Q What about at the section chief level? Do

1 you think that would be advantageous for Arabic?

2 A No.

3 Q How about at the unit chief level?

4 A No.

5 Q So essentially Arabic would not be helpful
6 for a field agent?

7 A Yes. Basically someone who is interacting
8 with people who speak a foreign language would be the
9 most | the ones who would benefit the most from
10 understanding or speaking a foreign language.

11 Now, I will give you | there's, I guess,
12 a qualifier to that. In the document exploitation
13 unit we currently are staffed with, I think, the wrong
14 people. It's one of the changes we're going to make
15 here shortly.

16 We currently have supervisors in that
17 unit, and we're going to take a look at whether or not
18 those functions can be performed by non-supervisors.
19 However, if you're in that unit and you are involved
20 in reviewing documents in a foreign language, for
21 example, that would be a similar situation as I
22 described to an agent working with foreign speakers.

1 Certainly, if you're in a position to
2 translate, you would need them. If you were in a
3 position to review documents in a foreign language,
4 you would need that language as well.

5 Q That would be more the work of a
6 translator or a field agent, not of a supervisor?

7 A That's right, with the exception of the
8 document exploitation unit. It's staffed with
9 supervisors who speak - and speaking Arabic, for
10 example, would be beneficial for those folks.
11 Although I don't feel we need supervisors in those
12 roles.

13 That's something that we're taking a look
14 at. It would be better if we not share that with
15 anybody and get them all concerned about it because we
16 haven't made a final decision, but we are taking a
17 look at that.

18 Q Did you know Mr. Pat D'Amouro?

19 A I do.

20 Q Did you know him before you took a job in
21 the Counterterrorism Division?

22 A Yes.

1 Q How did you know him?

2 A Pat and I were team leaders together. I
3 haven't seen your list, but it was in my assignment in
4 '95 to '96 on the inspection staff.

5 Q Do you know if he played any role
6 whatsoever in recommending you to the DAD?

7 A I don't know, and I believe he was gone
8 from the Counter-Terrorism Division before I was
9 brought back. I'm certain he was. He was no longer
10 the EAD. He was already in New York. I'm not sure of
11 the timing of that, but it was before I was brought
12 back is my recollection.

13 But if your vein there was whether or not
14 he played a role in my selection, I'd have no way of
15 knowing, although he didn't do me any favors if he
16 did.

17 Q Did you recommend Mr. D'Amouro for that
18 acting SAC position in New York after Mr. O'Neil
19 retired?

20 A No. As I said, I think he was there
21 before I was brought back.

22 Q No, this is before 9/11 now.

1 A No.

2 Q Pat D'Amouro became the acting SAC in
3 around August of '01 when O'Neil retired.

4 A Yes. I did not know.

5 Q Do you know Mr. Dale Watson?

6 A Yes, not well. I'm not sure he would know
7 me, but I, of course, know who he is. I think he does
8 know me.

9 Q But in terms of manage | he was already
10 gone when you came into CT?

11 A Yes. I'm pretty sure he was. I'm not
12 sure when he left. I was trying to think of the
13 retirement functions that I might have gone to. It's
14 possible I went to his. I don't think I did.

15 Q When was the first time you ever heard of
16 Mr. Bassem Youssef?

17 A It would have been back | once I got back
18 as DAD - and please correct me if I'm not remembering
19 - but I don't recall having met with him before or
20 known of him before.

21 Q Do you remember seeing anything in the
22 newspapers or any news articles about him filing a

1 discrimination lawsuit?

2 A No. In fact, nobody has really given me
3 much background as to why I'm here. In fact, when I
4 saw Bassem, I had to ask somebody if that was Bassem,
5 so I don't know him well. I think I met you one time,
6 if I'm not mistaken.

7 Q Have you discussed this deposition with
8 anybody?

9 A We spoke very generally about the
10 existence of the need to take a deposition. I was
11 surprised when I was told that I was being asked to
12 give a deposition because I know of Bassem. I don't
13 know him next to at all, so that was the discussion
14 that we had.

15 Q So you've never directly supervised Mr.
16 Youssef?

17 A Not directly, correct.

18 Q So any information you have about him
19 would have come through secondhand sources?

20 A Yes.

21 Q Have you ever discussed Mr. Youssef with
22 Mr. Cummings, Art Cummings?

1 A Probably not.

2 Q Do you remember discussing Mr. Youssef
3 with anybody?

4 A Yes, but let me think who it might have
5 been. It could have been one of three people, I'm
6 just not sure because my memory on Bassem is not
7 remarkable, but it would have been Willie Hulon, John
8 Lewis, Laurie Bennet, one of those three. I think,
9 certainly, likely John Lewis. It would depend a
10 little bit about the timing of when I had the
11 conversation, but I |-

12 Q Do you remember what this person said?

13 A Well, I remember the topic was on needing
14 to take the document exploitation unit in a new
15 direction, and | I'm sorry, I was going to try and
16 think of when that might have been, but I can't
17 remember.

18 It would have been, likely when I was |
19 since I became the AD, which would have been in early
20 March. I was not the EAD at the time.

21 There was a time when I didn't have any
22 deputies. Then John Lewis came in and then Willie

1 came in and then Laurie came in, so I'm not sure where
2 in that time period, but I had a number of discussions
3 that did not relate to Bassem, although it was his
4 unit.

5 We were ; I was not satisfied with the way
6 that the unit was carrying out its business. It was
7 a unit that is ; just being careful on classified
8 information ; the approach that was being followed was
9 a criminal approach and not an intelligence approach,
10 and we needed to have an intelligence approach.

11 This conversation would have been with
12 John Lewis and the need to adjust the way we do things
13 and do an intelligence approach to our exploitation,
14 preserving the criminal approach but not relying
15 exclusively on the criminal approach.

16 I had that discussion, probably on a
17 couple of occasions, but they were not specific as to
18 Bassem. It was more that the unit itself needed to be
19 redirected.

20 Q Was the unit redirected?

21 A I believe that the unit's been redirected,
22 although in the interim I've moved to EAD, and that's

1 now Willie's, Willie Hulon's, responsibility. My
2 expectation is that it has, but I can't ; Willie would
3 be the better one to answer that question.

4 Q Was this change in approach, was this more
5 of a policy change? In other words, you were changing
6 the policy direction of it, or was this a performance-
7 type of thing where there were performance issues you
8 were trying to fix?

9 A It was a need to have it go in a different
10 direction.

11 Q Is that essentially ; policy may be the
12 wrong word.

13 A Yes, it is.

14 Q Is that looking at it more of the, say,
15 the ;-

16 A It would be a program management issue.

17 Q Program management?

18 A Yes.

19 Q Explain to me, what is a program
20 management issue?

21 A The way we do things needed to be fixed.
22 That's kind of program management.

1 Q In terms of there was a poor performance
2 or in terms of general direction?

3 A The way that the unit was handling
4 document exploitation ; let me just think on a
5 classified level here a second. The way that the unit
6 was exploring, for example, hard drives that needed to
7 be exploited was that they were basically taking each
8 sector on the computer and slicing it very narrowly to
9 see if there was anything of value there.

10 The problem is, that works ; it's an
11 excellent approach when you've only got one hard
12 drive. It's manageable if you've got one or two,
13 depending on your staffing. It is completely
14 inadequate when you're getting the large flow of hard
15 drives that we get in in the intelligence process now.

16 What needed to happen is we needed to
17 reverse the process. We needed to use automated tools
18 to do an intelligence assessment of the hard drives
19 first, which is done completely by computers and
20 constantly by computers.

21 You use the computers to point you to
22 sectors on the hard drives that you would then slice

1 and dice, with the understanding that there will be
2 some hard drives that you do have to take your time
3 and painstakingly go through.

4 The problem is the need to look through
5 the hard drives very quickly in case there's any
6 intelligence to glean that may be operational, threat-
7 related, up front rather than the methodical slicing
8 and dicing on the front end.

9 That needs to be moved to the back end,
10 assuming we do it to all of them, and that's an
11 invalid assumption because we will use those tools to
12 decide which ones we should slice and dice. That's
13 generally ; we had to reverse that process.

14 Q Is there anything that you remember
15 specifically coming up about Mr. Youssef?

16 A No. The only ; let me give you a
17 qualifier on that though. The only discussion that I
18 remember having was that the unit was not responding
19 quickly to that need to change, perhaps saying that it
20 was not readily embracing that need to change.

21 It may have been represented to me that
22 that was Bassem's position, I'm not sure of that. The

10 Q Then what happened?

17 As I recall, there were two components
18 that kind of came together or had roles in that. I
19 had a presentation that was done in SIOC that I know
20 Bassem was there. In fact, I think that's the first
21 time we met, if I'm not mistaken.

22 As I recall, you were standing down the

1 aisle from me, and I don't remember whether Bassem
2 spoke or whether it was his staff that spoke.

3 I may have met you one other time, if I went
4 into :-

5 THE WITNESS: Are you all in the 4300 card
6 or did you used to be? Is that where your office used
7 to be? I'm not trying to question him.

8 THE COMPLAINANT: I wasn't, but that
9 wasn't the first time that we met.

10 THE WITNESS: Okay, yes. I did have a
11 presentation once before on something. I wasn't sure
12 if it was from your unit or not, but SIOC was my
13 recollection. I don't recall any other role.

14 As I said, I ended up being promoted and
15 the issue was, in my conversations with John Lewis,
16 was turning a corner. I don't know whether I had that
17 conversation after I left or just before I left, but
18 it would have become Willie's responsibility, Willie
19 Hulon's responsibility, after I left.

20 BY MR. KOHN:

21 Q Okay. Do you know the TURK system at all?

22 A TURK? Yes. Time Utilization Record

1 Keeping.

2 Q If someone wanted to find | do you know if
3 you could put an employee's name in that and have it
4 spit out and find out essentially how much time they
5 spent on counterterrorism or white-collar crime? Can
6 you access it by individual names?

7 A I believe you can, but I'm the wrong
8 person to ask that question to. I don't believe I've
9 ever used it that way.

10 Q Have you ever heard any discussions in the
11 FBI |-

12 A Let me make a quick qualifier. In the
13 inspection process, we on occasion would do that, but
14 the reports that I usually see are reports on a large
15 number of people, maybe a squad or a field office.
16 I'm certain that the records are available on
17 individuals because that's the way they're captured
18 and entered.

19 I don't know what the timeframe for
20 retention is by individual, although arguably it's
21 probably as long as it is on the entity itself.

22 Q Has there ever been a time where you heard

1 from anyone, the Director, anybody, that Mr. Youssef
2 had raised an issue that his expertise in
3 counterterrorism was not being properly utilized by
4 the FBI?

5 A No. If that was raised to me, it could
6 have been a discussion that we had when I was saying
7 what is this about, although I don't have an
8 independent recollection of that.

9 Q If it was from your counsel, they'd
10 probably say that was privileged.

11 A Yes. That's my --

12 Q Other than with counsel?

13 A In my opportunity to raise it, but I don't
14 believe that that was discussed, no.

15 Q Were you aware at any point that
16 Mr. Youssef had met with the Director of the FBI,
17 Mr. Mueller, and Congressman Wolfe and discussed with
18 them about the failure to properly utilize his
19 expertise?

20 A No. No. Which expertise are you --

21 Q Expertise in counterterrorism.

22 A No. I would say no generally, but I was

1 just curious which expertise.

2 MR. KOHN: If we can mark this Exhibit as
3 Exhibit Number 1 for the Bald 1 we'll call it. For
4 the record, Exhibit Number 1 is a two-page document,
5 DOJ Number 3952, 3953, from Gary M. Bald to Mr. Edward
6 Curran.

7 (Whereupon, the document referred to was
8 marked for identification as Bald Exhibit No. 1.)

9 BY MR. KOHN:

10 Q My first question, do you recognize this
11 document?

12 A I do.

13 Q Did you have anything to do with the
14 decision-making process in this matter?

15 A I did.

16 Q Just tell me, what happened? When did you
17 first learn that Mr. Curran had a request and what
18 occurred?

19 A Let me ask you a question, if I can from
20 a procedural standpoint.

21 Q Sure.

22 A There are some sensitive liaison issues

1 involved that I would not want to have get back to
2 this particular agency.

3 My concern, and actually the reason ; this
4 is an easy one to go through ; but the reason that
5 Bassem was not told in greater detail as to why he
6 wasn't picked to go on this was because I felt I was
7 going to put him in a position to have to maintain his
8 loyalty to the FBI or maintain his loyalty to his
9 friend who was inviting him on this.

10 Therefore, he was not given the full
11 reason as to why he wasn't selected. It was a
12 management decision. So, I am perfectly familiar with the
13 situation and happy to discuss it. However, I would like to ask
14 if it's possible that this not be articulated to a point
15 that it might get back to this particular agency, if
16 that's possible.

17 Q You're talking about the New Jersey
18 agency.

19 A Yes. Curran's agency.

20 Q Well, why don't we just go off the record
21 for a moment.

22 (Whereupon, the above-entitled matter went

1 off the record at 2:42 p.m. and resumed at 2:42 p.m.)

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18 RESTRICTED ACCESS

19

20 MR. KOHN: This will be restricted access.

21 Okay, what happened?

22 MS. WELLS: Wait, can we just | now that we're

1 back on the record, can we just clarify that this
2 testimony ; that the counsel for the parties have
3 agreed that the following testimony is going to be
4 subject to a restricted access and that the subject
5 matter of the testimony will not be released,
6 certainly not before counsel have had an opportunity
7 to discuss it, and if need be, go to the court to seek
8 appropriate measures to keep it protected if there's
9 a disagreement.

10 MR. KOHN: Okay. That's accepted.

11 BY MR. KOHN:

12 A Okay. One of the most important issues
13 facing us in the counterterrorism program now is the
14 need to have a centrally located, well-coordinated
15 counterterrorism program for the United States
16 government. The bifurcation of that process, I think,
17 is a safety issue for this country and one that we
18 need to work very carefully to avoid.

19 By that I mean parallel investigative
20 courses, different agencies that are conducting
21 independent terrorism investigations, for example,
22 much like the drug war are the, I think, our future

1 Achilles heel. If we can avoid it, then we're going
2 to do fine in terrorism. If we go the route of the
3 drug war, we are going to have huge safety issues for
4 our country, simply stated.

5 There are ; there's a universal acceptance
6 of the Joint Terrorism Task Force concept as the
7 central place to conduct terrorism investigations.
8 Anybody that wants to play comes to the JTTF. The
9 advantage to that is everybody at the JTTF table has
10 full optic into everything that's being done in the
11 terrorism arena. People that are not at the JTTF
12 table because of the classified nature of the
13 information do not have that optic.

14 There are very few entities in the United
15 States that are leaning in the direction of
16 independent investigative components. One happens to
17 be this particular component under Ed Curran, the New
18 Jersey Commission on Terrorism, I believe, Office of
19 Counterterrorism.

20 This one is ; we, I believe, have turned
21 the corner with, largely due to Joe Billie's great
22 success as Special Agent in Charge of the Newark

1 office. Joe and Ed Curran had a relationship that
2 served them well, and Joe has been able to resolve
3 some of the issues of concern here.

4 Prior to this letter coming in, I was
5 advised that Ed Curran was invited by the prior SAC
6 into the Newark office. It was to be a
7 familiarization meeting, a tour of the JTTF, a
8 discussion of how the JTTF works, etc.

9 What was reported to me was that Ed Curran
10 came into the office, said hello to the SAC, the SAC
11 said, why don't we go take a look at the JTTF and then
12 we'll sit down and talk. He says, no, why don't we
13 talk first, and said, well, I have | the whole crew is
14 assembled, would you like to say a couple of words to
15 them?

16 He says, I don't plan to have anything to
17 do with the Joint Terrorism Task Force. In fact, I
18 don't plan to have anything to do with you if we are
19 going to investigate terrorism. If we happen to find
20 somebody that we think is a terrorist, we'll give you
21 a call. Otherwise, we're not going to have anything
22 to do with the Joint Terrorism Task Force.

1 That was a huge concern to me. The
2 sprouting up of these type of components around the
3 country, I think, is contrary to the best interest of
4 the United States and to the terrorism investigative
5 approach that the entire U.S. government has agreed is
6 the best way to go.

7 When I unrelated to those conversations or
8 to the meeting that I just referred to - we got the
9 request from Ed Curran to have Bassem speak to their
10 counterterrorism component. My question was, why
11 Bassem?

12 The response I got was that - and I think
13 I recall the relationship - but I believe Ed Curran
14 was ASAC in Los Angeles and Bassem may have worked for
15 him in Los Angeles. Correct me if I'm wrong, but I
16 think I've got the office right.

17 I immediately saw a concern from the
18 standpoint that Bassem was going to be in a difficult
19 situation having to go in and basically provide a
20 presentation to his former ASAC, and yet address the
21 very, very difficult political issue of the fact that
22 the Counterterrorism Commission in Jersey should not

1 exist in its current form.

2 I felt that that was a minefield to put
3 anybody in. If it had been Art Cummings who had
4 worked for Ed Curran, I would not have sent Art
5 Cummings. If it had been myself, I wouldn't have gone
6 to do it.

7 It was a decision that was made in order
8 to protect Bassem from being in a tough spot because
9 I would have | if we would have sent Bassem, I would
10 have called Bassem in. I would have said these are
11 the parameters that you have to be careful of, and
12 this is the message that we have to leave with this
13 group when you leave there.

14 I fully expected that Ed Curran was not
15 going to be happy with the presentation that Art
16 Cummings was going to give. It was not going to
17 backdoor him, but he was going to lay it out crystal
18 clear of the need to work from one table. I didn't
19 want to put Bassem in the position to have to do that
20 to his friend.

21 So, I chose to send somebody who was
22 independent of that relationship, didn't have prior

1 relationships. Art Cummings is probably the best
2 diplomat leader and counterterrorism-knowledgeable
3 person that I know. He was in the right position at
4 CTD to be able to handle that assignment. So, I made
5 that decision.

6 I felt that if I were to tell Bassem that
7 that was the reason that I made that decision, that
8 Bassem would feel that I may feel some loyalty to tell
9 Ed Curran that he was not picked because they wanted
10 somebody else to come in that was going to address an
11 issue other than whatever Curran wanted to be
12 addressed. I didn't want to put him in that
13 situation.

14 Q Okay. Just going back a little bit, why
15 would the I as I understand it, Mr. Curran was asking
16 for someone - and in Bald 1 it's addressed here - to
17 speak with senior law enforcement officers and
18 counterterrorism coordinators about Muslim culture and
19 activities of terrorist groups so they may better
20 understand the terrorist threat they are facing in the
21 state of New Jersey.

22 A Yes.

1 Q My question is why couldn't Mr. Youssef
2 come in and just given an informational lecture, as
3 opposed to also having to address this issue of, as
4 I'll say it, as to whether the New Jersey program
5 should be a sub-part or something of the Joint
6 Terrorism Task Force?

7 A Because I would have been giving up a
8 golden opportunity to have the people that were
9 operating independently understand the Joint Terrorism
10 Task Force and the need to do things as a team. That
11 was much more important than providing them a cultural
12 presentation.

13 Q But the state of New Jersey was asking
14 for, essentially, information?

15 A Yes.

16 Q You decided that you don't want to give
17 them that information unless you could also put the
18 FBI's agenda up on it?

19 A No. The United States government's issues
20 on the table, correct.

21 Q Who did you discuss that decision with?

22 A I made the decision.

1 Q Did you bring anyone else in to assist you
2 in making that decision?

3 A No.

4 Q It's your understanding that you thought
5 that once Mr. Cummings was substituted in for
6 Mr. Youssef, you thought perhaps they wouldn't follow
7 through on the training?

8 A I was hoping that they would go through on
9 the training because I thought that that was something
10 that they would benefit from. I was hopeful.

11 Q But you thought there was a likelihood
12 that it wouldn't happen? I thought that's what you
13 said.

14 A I was not oblivious to the possibility
15 that it wouldn't happen, and the reason for that is I
16 believe that Ed Curran, and I don't have | this is my
17 personal belief, that Ed Curran invited Bassem because
18 he felt like he could get a presentation that he would
19 | that would be helpful to his team without having the
20 United States government's perspective on how to do
21 terrorism investigations adding to the mix.

22 Q When you say the U.S. government's

1 perspective |-

2 A Yes.

3 Q -- are you talking about the FBI?

4 A The White House and the CIA and the
5 Department of Homeland Security and the National
6 Security Agency and the Department of Defense.

7 Q It's your testimony that all of these
8 entities do not want states engaging in their own
9 independent counterterrorism investigations?

10 A Yes.

11 Q Do the states know this? Do they know
12 this is the policy of all these organizations?

13 A I don't know.

14 Q Have you told them?

15 A No.

16 Q Now |-

17 A And that has been a matter of discussion
18 in the joint interagency meetings that those groups
19 have on a regular basis.

20 Q But it would be your testimony that not
21 only the FBI holds this opinion, but the White House,
22 CIA and Homeland Security all hold the same opinion?

1 A And to put it in my words, that unilateral
2 terrorism investigative components are counter-
3 productive to the security of our nation.

4 Q Well, if that's the case, why wouldn't a
5 directive come out to all the states saying don't do
6 it?

7 A You would have to ; that would be a
8 political directive. You have states that have their
9 own constitutions or their own charters that they
10 follow. You have a blurred line between criminal
11 activity and terrorist activity that makes those
12 boundaries very difficult to define.

13 You would have to ask ; for something like
14 that to go out would be a political directive or a
15 political document.

16 Q The ; now, Mr. Youssef is an FBI employee,
17 correct?

18 A Yes.

19 Q At the GS-15 level?

20 A I believe so.

21 Q You understood he had worked with
22 Mr. Curran in the past?

1 BY MR. KOHN:

2 A I don't know.

3 Q Did you ever discuss ; did the thought
4 enter your mind to maybe discuss this policy with
5 Mr. Youssef?

6 A No. Because of his position, it would not
7 be ordinary for me to do that.

8 Q Or have anyone discuss it with him?

9 A I don't know whether anyone has discussed
10 it with him. It's possible that they have, I have
11 not.

12 Q Hypothetically, if Mr. Youssef was in
13 agreement with this policy, and if Mr. Youssef had,
14 say, a trusting relationship with Mr. Curran, do you
15 think Mr. Youssef may have been in a good position to
16 convince Mr. Curran to go along with this policy?

17 A No.

18 MS. WELLS: Objection, form.

19 BY MR. KOHN:

20 Q You made that totally on your own, without
21 consulting anybody?

22 A As the Assistant Director, that is my

1 responsibility to make that decision.

2 Q I just want to understand, what would |
3 and again, and forgive me, but if Mr. Youssef was only
4 going to go to New Jersey and give essentially | I'm
5 looking more at an academic-type of discussion, if you
6 look at what the invitation was about Muslim culture,
7 activities of terrorist groups - why couldn't he do
8 that and leave this policy issue discussion up to
9 somebody else?

10 A Because no one else had been able to get
11 in the door to have that policy decision.

12 Q But this is totally separate?

13 A It's not separate. It's counterterrorism.

14 Q But it's | essentially, it's a lecture
15 about Muslim culture activities.

16 A You can go to the university and get the
17 same thing. The FBI has a responsibility to this
18 country to have a successful, strong counterterrorism
19 investigative capability, and we have bridged the gap
20 now through Joe Billie and Ed Curran. I'm hopeful
21 that that will continue, but at that time it was an
22 opposite-ends-of-the-spectrum relationship.

1 I met Ed Curran. I met Ed Curran for the
2 first time when I was in an SAC in Baltimore. He came
3 through with a group of people, with a fellowship
4 group. We did a presentation at the Baltimore City
5 Police Department. I've never met him before.

6 He came over and sat at my table and was
7 introduced to me, and the first words out of his mouth
8 were, you know the problem with the FBI is the FBI
9 can't do intelligence.

10 Q Which you | isn't that | don't many people
11 of knowledge have that opinion of expertise?

12 A People of knowledge don't. I think people
13 understand that what the challenges were for us were
14 the reporting. There were a lot of reasons for that.
15 We collect intelligence, have, I think, always done a
16 very good job of collecting it because of a lot, a
17 variety, of reasons, we've not done a great job of
18 sharing it.

19 I was just surprised at that approach that
20 he made. He didn't say hello, how are you, nice to
21 meet you. It was right out of his mouth, and it spoke
22 volumes about the perspective that he was coming from

1 to me.

2 Q So, was this | I mean now - so personally
3 you decided | I'm getting a little confused here as to
4 why Mr. Youssef couldn't go over and just give a
5 lecture to Curran's subordinates. Was this also you
6 didn't like Mr. Curran, you thought he had a bad
7 attitude about the FBI?

8 A Those are your words. I never felt that
9 way at all, no.

10 Q So, the remarks |-

11 A He's a former FBI employee.

12 Q I understand, but so the remarks and
13 everything you just testified to that you didn't think
14 that Curran had a bad attitude about the FBI?

15 A What I was describing was a polarization
16 of relationships. It was one that I felt I needed a
17 strong proven leader to fix.

18 Q Do you think that Bald 1, this response to
19 his request, that was going to make the relationship
20 with Mr. Curran better, worse, or of no impact?

21 A I felt that this was a great opportunity
22 to better the relationship.

1 Q How did you think Mr. Curran would | what
2 was your opinion how Mr. Curran would react to this?

3 MS. WELLS: Objection, form.

4 BY MR. KOHN:

5 Q Do you think he would agree with that?

6 A I don't know.

7 MS. WELLS: Objection, form.

8 BY MR. KOHN:

9 Q Nothing in this letter, Bald 1, states
10 essentially the real reason why Cummings was being
11 substituted for Youssef, correct?

12 A It was an opportunity to accomplish two
13 missions, both of which were vital to - or both of
14 which were important to the counterterrorism efforts.

15 Q Would you agree or | you would agree that
16 the FBI needs to more aggressively recruit Arab
17 Americans to become FBI agents?

18 A I would say we need to be more | we need
19 to hire more. That would be correct.

20 Q Would you agree that they would need a
21 more aggressive recruitment for Arab Americans?

22 A I can't say that. I think we have a

1 fairly aggressive recruitment effort. I think we need
2 to continue to hire people with that language
3 capability, and especially important for us in the
4 translation arena.

5 Q That's trans | what about as agents as
6 opposed to translators?

7 A I think that's helpful, yes. As agents,
8 yes.

9 Q Have you reviewed any reports concerning
10 the deficiencies of the FBI pre-9/11, evaluations of
11 that?

12 A Yes.

13 Q What | tell me, what are these reports or
14 documents?

15 A I couldn't begin to list them.

16 Q There's a large number of them?

17 A I've read a wide variety of them, sure.

18 Q I understand there's a DOJ Inspector
19 General report on 9/11?

20 A I'm certain there is one.

21 Q Have you read that one?

22 A I'd have to look at it to refresh my

1 memory. I've looked at so many document summaries.

2 Q Do you know if the inspection division of
3 the FBI ever came in and looked at the pre-9/11
4 Counterterrorism Division and made any conclusions or
5 recommendations?

6 A I don't think they did, but they may have.
7 It would seem to be a little unusual for their normal
8 responsibilities. It's possible, but I'm not |-

9 Q What do you remember in terms of documents
10 or reports discussing any of the pre-9/11 deficiencies
11 in the FBI's counterterrorism program, and any
12 recommendations to address those deficiencies?

13 A Well, the 9/11 Commission would be the one
14 that comes to mind.

15 Q Any others?

16 A I'm certain there were. I don't remember
17 what they are.

18 Q Do you remember if there were any
19 deficiencies identified in the FBI's management of
20 counterterrorism prior to 9/11?

21 A If you refresh my memory. I'm certain
22 that there were, but none come to mind.

1 Q Okay. Do you remember, in your mind, if
2 there were any ; if they had identified problems in
3 the qualifications of the people who were doing CT
4 work, for example, if they didn't have knowledge in
5 Arabic, they didn't have knowledge of Middle Eastern
6 culture?

7 A I don't believe either of those was among
8 anything I read. It's possible, but I don't believe
9 they were.

10 Q Do you believe that there were
11 deficiencies, pre-9/11, in the FBI's counterterrorism
12 program regarding Arabic-speaking agents, the number?

13 A Let me go from my personal assessment, if
14 that's what you're asking me for. I think we could
15 today, and could have then, used more people that
16 speak the language to be filling the role of
17 translators, as well as agents on the street.

18 Q Okay. My question's for agents, not
19 translators.

20 A Okay. Gotcha.

21 Q What about knowledge of Middle Eastern
22 culture and history, for agents?

1 A I'm not aware of a criticism along those
2 lines. Again, as I told you earlier, I think it is
3 helpful. I don't think it's a requirement.

4 Q What about the number of people assigned
5 in the Counterterrorism Division who had specific
6 Middle Eastern counterterrorism operational
7 experience? Was that a deficiency?

8 A I don't know. I would suspect that it
9 was, but I don't know.

10 Q What about |-

11 A One of the things that | and I guess we
12 have to talk about the timing of this because pre-9/11
13 | let me just think about that a minute. Your
14 question was pre-9/11 did we have a deficiency in
15 Middle Eastern experience?

16 Q Yes.

17 A I don't know that the answer to that would
18 be yes. It may be no. We may have had sufficient
19 experience pre-9/11 in Middle Eastern capabilities.
20 I just don't know the answer.

21 One of the things that is important to
22 remember is that 9/11 changed everything. After 9/11

1 we changed how we do terrorism investigations
2 completely. Therefore, to a large extent, knowledge
3 learned after 9/11 is certainly equally as important,
4 perhaps more important, than knowledge before 9/11.

5 Q What were the specific major changes in
6 the way the FBI does counterterrorism investigations
7 pre- to post-9/11?

8 A Primarily, it's the intelligence approach
9 to investigations versus the criminal approach.

10 Q Any others?

11 A That's the heart of it. There are many
12 others, but :-

13 Q Who would you consider to be the expert
14 within the FBI as to this intelligence approach?

15 A Well, we have ; there are a number of them
16 developing around the Bureau now. You're talking
17 about post-9/11?

18 Q Yes.

19 A A lot of the folks that have been working
20 the street since 9/11 have gathered, gained,
21 tremendous knowledge of how to conduct an intelligence
22 investigation.

1 are the section chiefs and certainly the deputy,
2 although I was not fortunate to have a full complement
3 of deputies the whole time, but the deputy and the
4 section chiefs.

5 Q But you would testify there's no one
6 person responsible in overseeing this move from
7 criminal to intelligence?

8 A Sure there is. It's the Director.

9 Q Of the FBI?

10 A Yes.

11 Q So |-

12 A Of course, that is then translated from
13 the Director through the lines of command down into
14 the Counterterrorism Division.

15 Q Who would be the top manager who's an
16 expert in intelligence approaches as they are
17 different from criminal approaches who essentially has
18 this knowledge that can look over the different
19 programs, policies, people. Who's that person?

20 A Well, I'm not sure we aren't talking past
21 each other. The approach, shifting to an intelligence
22 approach for investigations, is a conceptual approach

1 and a change in the way we do things in the field.

2 That conceptual approach is one that was
3 developed by a fair number of people back at
4 headquarters, including Pat D'Amouro when he was
5 there, under the direction, of course, of the
6 Director.

7 Q But I just to give you an example, for the
8 Warren Commission there would be someone chairing the
9 Warren Commission, looking at Kennedy. It would just
10 seem to be logical that if there was a major, and
11 you've already testified to, the major programmatic
12 shift within the FBI's counterterrorism, it only seems
13 to me logical that there would be a person or who is
14 like an expert in this area who other people could go
15 to and say hey, what about this, what about that?

16 A This was created after 9/11. Everybody
17 who's in the Counterterrorism Division and working it
18 in the field has the same amount of experience at the
19 new approach as everybody else.

20 So, you have a I you name it, you go
21 through the hierarchy in the Counterterrorism Division
22 and the people that are working counterterrorism in

1 the field, this has been something that was drawn up
2 after 9/11. We have all grown up with it to the
3 extent that we've been involved in the terrorism
4 program together.

-- TESTIMONY REMOVED, SUBJECT TO PROTECTIVE ORDER --

13 BY MR. KOHN:

14 Q In terms of being the SES for
15 counterterrorism, what about liaison skills with
16 foreign governments like Saudi Arabia. Would that be
17 helpful?

18 A No. Liaison skills are critical. Liaison
19 skills are portable from country to country, agency to
20 agency, individual to individual. If you've got
21 liaison skills, you develop the skills with whoever
22 you're dealing with. It's no problem.

1 Q So if someone had excellent liaison
2 skills, say, with the Saudi Arabian government, you
3 think that whatever it took to develop that type of
4 liaison ability could translate to, say, developing
5 other liaison ability?

6 A I think that's a logical inference. I
7 would turn it around and say that it is important to
8 have liaison skills that are transferable from entity
9 to entity. If you ever had anybody who only had
10 skills in developing liaison with one component, they
11 would not be helpful. They wouldn't do a good job in
12 leadership. I'm not saying that's even possible.

13 I suspect that there is if you have skills
14 with Saudi Arabia, for example, that you probably had
15 skills that would be transferable in other areas, but
16 I prefer to state it a different way, if you don't
17 mind.

18 Q Okay. But to do Middle Eastern
19 counterterrorism effectively, do you think having
20 strong liaison experience and skills with Saudi Arabia
21 is helpful?

22 MS. WELLS: Object to the form of the

1 question.

2 THE WITNESS: Would you say that one more
3 time?

4 MR. KOHN: To serve at the GS-15 level or above in
5 counterterrorism, do you think having strong liaison
6 skills with the Saudi Arabian government would be
7 important in any of those positions?

8 THE WITNESS: I think it --

9 MS. WELLS: Object to the form of
10 question.

11 THE WITNESS: I think it depends on the
12 position.

13 BY MR. KOHN:

14 Q So it could be, depending on the position?

15 A Yes. Obviously, if you don't have any
16 interaction with Saudi Arabia, it would be
17 meaningless.

18 Q Do you have any personal relations with
19 any of the major | like the Minister of Interior of
20 Saudi Arabia? Are you friends with him or do you
21 speak to him?

22 A I have liaison contacts in Saudi Arabia.

1 Q With who?

2 A I don't want to mention what the person's
3 name is, but I do at a high level.

4 Q Is that important for you to do your job?

5 A I developed those since I came back to
6 headquarters.

7 Q Is there anyone else at headquarters that
8 you know has strong personal liaison abilities with
9 leadership in Saudi Arabia?

10 A Yes.

11 Q Who are they?

12 A Art Cummings, Joe Demerist, I believe Joe
13 does. I don't know whether Willie has established
14 them because | I had them when I was | I built them
15 when I was a deputy, a deputy AD timeframe. I was a
16 deputy for a short period of time, and I maintained
17 those after Willie arrived.

18 When I left, Willie was without his
19 operational DAD, so I don't know whether he actually
20 ventured out to build those contacts. I have
21 maintained them.

22 Q Willie is who?

1 A Assistant Director.

2 Q What's his last name?

3 A Willie Hulon. He's the Assistant Director
4 of Counterterrorism.

5 Q Who put him | in other words, how did he
6 get that position?

7 A I selected him.

8 Q Did you ask him to apply?

9 A I should rephrase. The Director selected
10 him.

11 Q Okay. Did you draft him?

12 A I did.

13 Q So is he another draft versus |-

14 A Yes. He was not a happy camper, either.

15 Q Do you know what his background experience
16 in counterterrorism was?

17 A Probably similar to mine, I think as SAC,
18 but perhaps not much before that. I'd have to ask him
19 to be sure. I knew at one point. I just don't
20 remember now.

21 Q You mentioned Joe Demerist. What's his
22 position?

1 A Assistant Section Chief. Actually, I
2 believe we had him as the Acting Section Chief. No,
3 he's now back to Assistant Section Chief in the
4 ITOS-1, the Sunni Extremist Section.

5 Q Do you think for ITOS-1, having somebody
6 in a leadership position there with strong liaison
7 connections with the Saudis is helpful?

8 A In your questions to me, it's more helpful
9 if you say strong liaison skills because it makes no
10 difference to me ; well, I would say no to answer, but
11 for this reason, and I don't want to split hairs, but
12 when you say that somebody has strong liaison skills
13 in one area, to me what I'm hearing is in only that
14 area.

15 I'm looking for somebody with strong
16 liaison skills across the board because Saudi Arabia
17 is a tip of the iceberg for the liaison that we're
18 currently maintaining. It's got to be liaison skills
19 across the board.

20 I just don't want to misanswer your
21 question. If you say is it important to have somebody
22 with strong liaison skills with Saudi Arabia, I would

1 say no. It's important to have strong liaison skills.

2 Q Okay, I understand that. You're also
3 testimony is that if someone does have strong liaison
4 skills in one area, you may assume that that might be
5 a personality trait and they could duplicate that in
6 other areas?

7 A I said |-

8 Q Not necessarily, but that would be an
9 indication?

10 A Yes. As I recall, I didn't make that
11 assumption. I said that may be reasonable to assume.
12 I would say that if you have somebody only in that
13 narrow area, then I'm not interested in them as a
14 leader. If they have the broad liaison skills, then
15 it is something that I'd be looking for in a leader.
16 That's what I would assess.

17 Q My next question is, in terms of the
18 Saudis and counterterrorism, Al Qaeda, how important
19 is strong liaison skills with Saudi Arabia, vis-à-vis
20 Al Qaeda?

21 A It is --

22 MS. WELLS: Objection to the form. Go

1 ahead.

2 THE WITNESS: It is important but not the
3 most important. The country is what I'm referring to.

4 BY MR. KOHN:

5 Q Yes, but |-

6 A It is an important country to have liaison
7 with for the reason you stated, but probably not the
8 most important country that we need liaison with for
9 Al Qaeda.

10 Q Do you know where Bin Laden was born?

11 A Yes.

12 Q Do you know where his family's from?

13 A Yes.

14 Q Where's that?

15 A Saudi Arabia. He's not been there for
16 some time and he's not there now. For our purposes
17 we're not so much interested in finding his home where
18 he grew up. We're interested in finding his home
19 where he is now. That's the reason that would be more
20 important to us now than liaison with where he used to
21 be.

22 Q After the 9 | and I know this might

1 predate you, but were you aware that after 9/11 there
2 were some liaison problems between the Saudi Arabian
3 government and the United States?

4 A There are.

5 Q Do you ; so you're telling me there still
6 are difficulties with that?

7 A Yes.

8 Q Are you aware that representatives of the
9 Saudi Arabian government made a request to former
10 Director Freeh that Mr. Youssef be used for liaison?

11 A I was not aware of that.

12 Q Are you aware ; did you ever ; were you
13 aware of what Mr. Youssef was able to accomplish as
14 LEGAT in Saudi Arabia vis-à-vis liaison with the
15 Saudis?

16 A I was not aware he was there.

17 Q You didn't know that Mr. Youssef worked in
18 Saudi Arabia?

19 A No.

20 Q So you were unaware he was the first LEGAT
21 for Saudi Arabia?

22 A I was not aware. If I ever knew, I don't

1 remember it now.

2 Q Isn't it true that a strong background in
3 international terrorism is essential for someone to be
4 selected into the SES for counterterrorism? Do you
5 know?

6 MS. WELLS: Object to the form.

7 THE WITNESS: I disagree. The reason is
8 because you need leadership. You don't need subject
9 matter expertise. The subject matter expertise is
10 helpful, but it is not a prerequisite. It is
11 certainly not what I look for in selecting an official
12 for a position in a counterterrorism position.

13 MR. KOHN: Isn't it true that in order to supervise
14 effectively counterterrorism, you must have subject matter
15 expertise in counterterrorism?

16 MS. WELLS: Object to the form.

17 THE WITNESS: No, and I would broaden it
18 beyond counterterrorism. You do not have to have
19 subject matter expertise in order to supervise the
20 area you are supervising. You have to have leadership
21 ability.

22 BY MR. KOHN:

1 Q Now, I'd like to ask you some questions
2 concerning Laurie Bennet.

3 A Okay.

4 Q I understand that she's currently a
5 section chief?

6 A Yes.

7 Q In, what is it, the Communications
8 Exploitation Section?

9 A Yes.

10 Q CXS?

11 A Yes.

12 Q Did you know her before she became a
13 section chief?

14 A No.

15 Q Did she ever work for you in any way?

16 A Not to my knowledge.

17 Q Do you know if she just apply for that
18 job, or was she drafted or asked to apply?

19 A Is this the package?

20 Q That is if I'm just asking from your memory
21 right now. We'll look at that.

22 A My recollection is she applied, but I'm

- 1 not sure that that's the case. It's unlikely that I
- 2 would have drafted her for that.

-- PGS. 79 - 82 REMOVED, SUBJECT TO PROTECTIVE ORDER --

4 Q Just for the record, would you | if
5 someone's an ERT, do you know | well, my question is,
6 if someone comes in to say there was a bombing and
7 they're working as an ERT |-

8 A I'm sorry, say that again?

9 Q If someone's saying there's a bombing and
10 they're working as an ERT, do you know if there's that
11 much difference between whether they're doing that in
12 a foreign country or a domestic country?

13 A It's a huge difference.

14 Q What's the difference?

15 A Legal entitlements, liaison with the
16 foreign service, what you do with the evidence, what
17 you're allowed to collect, what you aren't, when
18 you're allowed in the hole and when you're not, a lot
19 of issues.

20 Q So if someone is just serving as an ERT,
21 would you consider that - if someone's serving one
22 experience as an ERT on one investigation, would you

1 consider that significant overseas experience?

2 A Yes. Now that's not to say that it is,
3 and I'm not trying to qualify that as the most
4 significant, but it was significant versus having
5 traveled to a foreign country, for example. She was
6 in an operational setting, yes.

-- TESTIMONY REMOVED, SUBJECT TO PROTECTIVE ORDER --

11 Q It would be your testimony that you had no
12 prior relationship with her in terms of management or
13 knowing her at all?

14 A Correct.

15 Q Would she have known that you recommended
16 her or presented her?

17 A No, I don't believe she would. If the
18 process works correctly, she does not. It is a
19 recommendation only to the Deputy Director and to the
20 Director and then they make the selection. They can
21 go with my recommendation or not at their option.

22 Therefore, it does not make sense to

1 discuss my recommendation in case the number two, for
2 example, would be selected. What I wouldn't want is
3 for the number two to come in feeling he or she was
4 the number two.

5 Q Do you remember any discussion that she
6 had any involvement in the Mayfield case?

7 A When did she come in ? I don't know. I
8 don't remember the discussion, but I don't know if she
9 did.

10 Q Do you know what the Mayfield case refers
11 to?

12 A I do.

13 Q What's that?

14 A It's a poor fingerprint identification of
15 an attorney in the Portland area, Portland Division
16 area, based on a independent hit through Interpol that
17 the SMP got on the fingerprint taken out of a plastic
18 bag, I believe, on the floor of the truck of the
19 subject of the Madrid bombing.

20 Q As it turns out, Mr. Mayfield was not the
21 person whose fingerprint it was?

22 A That's correct. As Counterterrorism

1 Division's concerns ; that bore out to

2 Counterterrorism Division's concerns, that's right.

3 Q Are you aware that at the time she applied
4 that one of the things she was pointing to was her
5 quick reaction in the Mayfield case?

6 A No, but that would have been something I
7 would have taken into consideration.

8 Q Do you think that the way the FBI handled
9 the Mayfield case was good, bad, or how would you
10 judge that?

11 A I think it was exceptional with one
12 exception, and that is the missed fingerprint
13 identification at the laboratory. I think everybody
14 did a great job. In fact, some of the first reports
15 I got back were, ;Get back in touch with the SMP.;
16 This guy doesn't look like he's involved. That was
17 the initial ;-

18 Q But he was arrested?

19 A Ultimately ;-

20 Q Or detained?

21 A He was ultimately ; I'm fuzzy on that, I'm
22 sorry, but I think that's right, yes.

1 Q So in terms of the initial decision to
2 detain him, do you think that was a good decision?

3 A Yes, because it was based on the facts
4 that were at hand, that's right, which unfortunately
5 turned out to be not true, but much like you find in
6 your business, if your fact set is incorrect, your
7 behavior, your reactions, could be very prudent based
8 on the facts that you had.

9 If those facts change, that doesn't change
10 the fact that your behavior was appropriate, it just
11 changes the fact set.

12 Q Are you on her !-

13 A I was actually ! I'm sorry. I was looking
14 to see the total number of people that applied. I
15 couldn't remember whether it was just these four or if
16 there were others. That's why I was momentarily
17 distracted.

18 Q Just for the record, Green Quest is not a
19 Middle Eastern terrorism case.

20 A Green Quest is an umbrella catchall
21 investigation that Customs Department had initiated
22 that they were running independent of the FBI. At

1 some point | it was a whole bunch of terrorist finance
2 - a whole bunch of finance, criminal financing,
3 investigations that they were working under an
4 umbrella that they called Green Quest. It was like a
5 parent case.

6 Within that are a large number of
7 terrorism or financing investigations, some of which
8 were terrorism, and I am certain some of them were
9 Middle Eastern, but that's an assumption. I just
10 think it's | surely by the numbers that were under
11 Green Quest it is likely some of them related to
12 Middle Eastern terror financing.

13 Q But was Green Quest essentially an
14 investigation or a program concerning ecological
15 terrorists?

16 A No.

17 Q It had nothing to do with Earth First or
18 groups that were going with terrorists because of eco
19 - blowing up Hummers or something?

20 A No.

21 Q Okay.

22 A Basically, what happened was the Attorney

1 General and the Secretary of Homeland Security got
2 together and said we have to do terrorism as a team
3 that has to be centrally coordinated by the FBI, who
4 has a large terrorism responsibility.

5 Terrorist financing cases will all be done
6 by the FBI with complete partnership and transparency
7 to Customs, but not unilaterally or independently as
8 they were done under Green Quest.

9 Therefore, Green Quest as it existed
10 dissipated, caused great hardship among the Customs
11 Department, because they felt that was their baby.
12 They felt they had a right to conduct terrorist
13 financing investigations.

14 They've implemented Cornerstone as a
15 replacement, although it has not reached the level
16 that Green Quest did, but it was unrelated to a
17 domestic terrorism group, for example.

18 Q This is for the record. You don't have
19 any direct knowledge whether Green Quest did concern
20 any organizations from the Middle East?

21 A I feel it is likely. I don't know because
22 Green Quest can encompass so many terrorist fin | or

1 so many ; I've got to be careful because it was not
2 just terrorist financing cases that Green Quest
3 covered. It was broader than terrorist financing, but
4 it included terrorist financing.

5 It is an assumption of mine that the Green
6 Quest umbrella included Al Qaeda or Middle Eastern
7 terrorist financing. I don't know that for sure. I
8 do know that it included terrorist financing cases.
9 I just don't know the ; it would be too many cases for
10 me to be able to tell you. We'd have to go back to
11 look.

12 By the way, as a result of that agreement,
13 we now have exchanged senior level ; not senior level,
14 but I believe 15, Grade 15, level people to Customs
15 and then over to TFOS, Terrorist Financing Operation
16 Section, in order to deconflict on things such as
17 Middle Eastern terrorist financing.

-- PGS. 89 - 91 REMOVED, SUBJECT TO PROTECTIVE ORDER --

1 record.

2 A Let me just add one more thing to that.
3 When you post these positions, you don't know who will
4 apply. What you're trying to do is to inform the
5 reader as to the type of background that will be
6 helpful in the position.

7 There are different language you can use.
8 If you say must, they must have this qualification,
9 then they must have that qualification. If they say
10 should, they don't have to have that qualification.

11 What that does for me as a person who's
12 advertising a position is it attracts, hopefully
13 attracts people with that background, but it does not
14 cause me to have to pick somebody with that background
15 if they lack the skills as a leader that I'm looking
16 for.

17 That's the reason that I would change the
18 language between must, and I'm not sure that that's
19 the standard language, but required qualifications and
20 desired qualifications is a better way to put it.

21 Q When you say skills as a leader --

22 A Yes.

1 Q Is that an objective definition Bureau-
2 wide or is that your definition?

3 A I don't know whether you will find a
4 description of a leader, I just don't know, in the
5 Bureau's Lexicon. I don't think that I've seen one,
6 although I may have. The leadership qualifications
7 that I look for are just that, they're what I look
8 for.

9 Q What are they?

10 A I want someone who is skilled at managing
11 people in programs, who have the ability to make
12 judgment decisions that are sound and are not swayed
13 by personalities. You should take into consideration
14 people's feelings but you don't make decisions based
15 on people's feelings, if that makes sense.

16 That's a little bit convoluted, I guess,
17 the way I said it, but I'm looking for somebody with
18 strong liaison skills. Interpersonal skills are
19 desirable. I would not want somebody who is an Atilla
20 the Hun, who is a nightmare for people to work for,
21 someone who is verbally abusive, for example.

22 I want someone who can interact with

1 people. I'm looking for people who lead by example,
2 that are committed to the organization, people that
3 have a vision as to where they want to take a program
4 and are successful at implementing that vision.

5 Not having written down a list, I'm sure
6 I'm leaving a few things out, but those are off the
7 top of the head.

8 Q You say ; are these the criteria that
9 you've applied since you've been the DAD in the
10 Counterterrorism Division?

11 A I would say these are among those. Again,
12 I apologize. If I had thought through them, I'd have
13 brought you a more complete list, but ;-

14 Q Do you have a list that you've written
15 down, typed it out?

16 A I don't think I do, but I could put one
17 together in a few more minutes.

18 Q Okay. We may come back to that, but
19 essentially ; so this is in your mind the kind of
20 criteria that you're looking for? I think your
21 testimony is this is your criteria?

22 A Correct.

1 Q Just to understand, when you were the DAD,
2 what was your opportunity to apply this criteria?

3 A You mean the jobs that I |-

4 Q In other words, were you on a career
5 board, were you the hiring official? In other words,
6 in applying this criteria, what was your opportunity
7 to apply?

8 A I would apply that criteria for the
9 positions I was selecting, and this is not new. For
10 as long as I've been in a position to select people to
11 fill positions, I have looked for leadership. It is,
12 I think, the most important component of someone who
13 is successful.

14 As a DAD, I believe I sat on one
15 headquarters mid-level management career board. Tom
16 Harrington primarily sat on those for CTD, so I think
17 I filled in for him one time.

18 As the AD, I do not sit in a voting
19 capacity. What I do is if there's an SES position
20 under me, I will present that package, but for
21 positions below SES I play next to no role in that
22 selection process.

1 Q Okay. When you were the AD, you would be
2 the one making the presentation to the SES career
3 board?

4 A Yes, and to broaden that I would ; I am
5 responsible for the determination to fill the
6 position. It has to be vacant, I can't create a
7 position, but the decision to advertise it.

8 I have the latitude within some parameters
9 to describe the position that I'm looking for. I
10 review the package when it comes in, I evaluate the
11 candidate's background as it comes to me, I rank them,
12 I go before the career board, I make a presentation,
13 and then I'm finished with the process.

14 Q When you do the ranking, is that when you
15 would apply the leadership criteria to the candidate?

16 A Leadership is one of a number, but yes.

17 Q As you testified, it's your most important
18 quality?

19 A Yes.

20 Q In terms of counterterrorism specifically,
21 your opportunity to apply the criteria was the most
22 pronounced when you were the AD where you'd be ranking

1 the applicants coming in?

2 A As it relates to the Counterterrorism
3 Division, is that what you're saying?

4 Q Yes.

5 A It would probably be the first time
6 because as a deputy, I don't know that :-

7 Q As DAD would you give input or something?

8 A Yes. I was just going to say, I don't
9 know that I'm a good example of that because if it
10 were a section chief position under me as a deputy, I
11 would likely tee all of that up for the Assistant
12 Director, the Assistant Director having the final
13 decision.

14 I did not have an opportunity, I don't
15 believe, to make a selection while I was the deputy.
16 I was the deputy for less than a month and the acting
17 AD for a month. Then I was selected as the AD, so I
18 just think my circumstances may be a little different
19 than what the position would call for.

20 Q How long did you serve as acting AD?

21 A Maybe a month. I think I actually assumed
22 the AD position. I think it was late February. I

1 think on paper it's officially the first week in
2 March.

3 I came in to counterterrorism in November
4 of '03, and then I don't remember exactly when John
5 Pistole was elevated, but I would have been the acting
6 AD when he was elevated.

7 Q Now as EAD do you have any input into
8 selection for the SES?

9 A I sit on and am a voting member of the SES
10 Board.

11 Q So, and again, when you do that do you
12 apply your leadership criteria?

13 A I do in a manner of speaking. The
14 presentation is made by the division head in most
15 cases, an Assistant Director. I listen with an ear
16 for leadership skills. It is more the AD's
17 presentation as a package than it is my independent
18 assessment of what a leader is that I apply.

19 I certainly have an interest in hearing
20 the background of people who are being considered for
21 SES. I will comment on if, for example, the Assistant
22 Director says this person has great leadership skills

1 and there are none described, then I would comment on
2 that. That's not happened, but I will certainly do
3 that.

4 I don't, for example, go through the
5 package, check off the things that are leadership
6 related and then tick them off as a practice. I may
7 do that, but not for every candidate. There are too
8 many.

9 Q How often does the Division Directors,
10 that would be the AD, their number one choice not get
11 selected?

12 A I don't have those numbers. It is ; I'll
13 form an opinion on that in a minute here. I wouldn't
14 know the numbers and you'd have to go to the numbers.
15 My instinct is to say that it is not infrequent, but
16 that's an instinct.

17 The reason is we meet and review as EADs
18 so many positions, and then it's a matter of weeks
19 until the finalist final selection comes out. I never
20 go back and look at what was ranked number one and who
21 was actually picked. In my mind I can't give you a
22 number.

1 It's especially vulnerable to change in
2 the SAC positions. That is because there are maybe
3 multiple SACs ; often there are multiple SAC positions
4 open at one time. People are ; it's not uncommon to
5 have somebody ranked number one for one position and
6 have them picked for another position, for example,
7 maybe where they don't want to go. So I'm not in a
8 good position ;-

9 Q Who is the Division Director for SAC
10 positions as opposed to counterterrorism where their
11 sections are clearly under that?

12 A It is currently the Assistant Director for
13 Counterintelligence who is responsible for presenting
14 those. It used to be the Assistant Director for the
15 Criminal Investigative Division.

16 It was briefly going to transition to me
17 in October of last year, a year ago, '04. That was
18 changed about the time that John Pistole was moving up
19 and I moved up.

20 Q But in my mind, I see a difference between
21 an SAC position versus, say, a section chief in a
22 headquarters position. Would you see ; in other

1 words, if I'm a division director, if I'm an assistant
2 director and there's going to be a section chief
3 reporting to me versus a SAC position, there seems to
4 be a little more autonomous than, say, a section chief
5 at headquarters.

6 A Yes.

7 Q So in my mind, it would seem logical that
8 if a division director was making a recommendation for
9 a headquarters section chief, SES, there'd be a higher
10 likelihood that that person would get who they wanted.

11 A Oh, I see what you mean.

12 Q Versus an SAC position, which may be more
13 competition for and less of a reason to defer to the
14 |Division Director.|

15 A My instinct would be the same as yours. I
16 don't know the numbers to say for sure, but yes, I
17 think that's probably right.

18 For the qualifier, it is not an automatic,
19 it is the Director's decision, but I think it probably
20 ends up being the number one candidate more often with
21 the section chief than it would be with an SAC.

22 Q Now I just want to go back. I'm going to

1 run through the, essentially, your definition of
2 leadership. I'm going to tell you what I have in my
3 notes and give you a chance to think it through to see
4 if there are others to add or you can prioritize it.

5 A Okay.

6 Q The first one I had here was judgment. I
7 have decision, sound judgment. That's what I have in
8 my note. Is that accurate?

9 A Yes. I'm just trying to think if I would
10 list that as an independent trait. No, I would
11 include that under leadership, I think.

12 Q Just under leadership?

13 A Yes.

14 Q Okay. This is what makes a good leader.
15 You have strong liaison skills. That's one of them.
16 You have ; you said interpersonal are desirable, but
17 is that meaning that that's not weighted as high as
18 maybe some others?

19 A Yes, and interpersonal, actually, is not
20 a part of leadership, so I would scratch that from
21 there. I would call that an independent trait. I
22 apologize because I did include that on my list.

1 Q Okay. Why don't we just do it again
2 because | you can maybe make some notes for yourself.

3 A Give me a second.

4 MR. KOHN: Why don't we just go off the
5 record because we may be close to the deposition
6 anyway and this might be the end of it. We'll go off
7 the record, we'll talk to Bassem, and then give you a
8 chance to kind of put that together because I think
9 that's important.

10 THE WITNESS: Okay. Good.

11 (Whereupon, the above-entitled matter went off the
12 record at 3:48 p.m. and resumed at 3:53 p.m.)

13 BY MR. KOHN:

14 Q You had testified that leadership was
15 essentially, from your management perspective, the
16 number one criteria you have for hiring someone into
17 the SES?

18 A That is typically my overarching interest,
19 yes.

20 Q Okay. We'd ask you now to define the
21 major characteristics of leadership. So if we can go
22 through that list slowly.

1 A Okay. Vision; decision-making, sound
2 decision-making, which is almost part and parcel with
3 judgment, although there is a slight difference;
4 liaison, as we talked about earlier.

5 Actually, liaison is not a part of
6 leadership, so you can take that off. It is
7 important, but I would list that separate than
8 leadership in my postings.

9 Managing people; proven success, although
10 arguably that would be separate as well; and program
11 management, demonstrated program management success.

12 Q Then you said liaison originally was in
13 leadership, but now it is some other criteria?

14 A Yes. That would be one of the others that
15 I would list would be liaison. Liaison interpersonal
16 skills would be separate. Important, but not a part
17 of leadership.

18 Q So liaison is no longer mandatory? That
19 would be something that would be good to have but you
20 don't need to have?

21 A No, I didn't say that. In leadership I
22 didn't say it was mandatory. Leadership is something

1 I look for as very high. Mandatory is different. I
2 think the terms are required or desired. None of what
3 I gave you is required.

4 Q What's required?

5 A It depends on the job, and I rarely put
6 anything in there as required. They almost always say
7 desired.

8 Q Okay. Then these would be the traits to
9 look at. So would it be fair to say :-

10 A Part of leadership.

11 Q Leadership.

12 A Leadership, correct.

13 Q Is it fair to say that someone could be
14 very strong in some areas of leadership, not as strong
15 in others?

16 A Yes.

17 Q Then you'd still think overall they had ;
18 were rated well?

19 A It's possible.

20 Q Okay, that's helpful. It's not that you
21 have five things you're looking at and you want to
22 make sure they have all five. These are

1 desirabilities, and someone could be very strong in
2 some |-

3 A Correct. What I've described here is
4 probably a shortened version, unfortunately. I'd give
5 you more if I could think of them off the top of my
6 head, but that would be in the category of leadership,
7 but leadership would not be the sole thing I would
8 list.

9 Interpersonal skills would be different,
10 absolutely separate, liaison would be separate, and
11 others, depending on the position.

12 Q Okay.

13 A For example, oral communication skills
14 would be something that would be different than
15 leadership, as would written communication skills,
16 depending on the position.

17 MR. KOHN: Okay. I don't have anything
18 further. Do you have any questions?

19 MS. WELLS: I just have a few follow-up
20 questions.

21 CROSS EXAMINATION

22 BY MS. WELLS:

1 Q You had a lot of discussions about your
2 tenure as a Deputy Assistant Director and Assistant
3 Director and Executive Assistant Director, but there
4 was nothing on the record, I don't believe, about how
5 you first came into the SES. Can you please tell us
6 about that?

7 A Okay. I was ASAC in Atlanta and got a
8 phone call November 8 of 1998 telling me that I had
9 three days to put together a team and report to Boston
10 to conduct an investigation of that, as we discussed,
11 the corruption allegations against the Boston office
12 and John Connally in particular and their handling of
13 two informants up there.

14 I ended up going up there. I fortunately
15 got the deadline pushed back until after January 1,
16 but I went up to Boston January of 1999. About | well,
17 sometime between then and early 2000 I applied for a
18 SES position as a SAC in Washington field office, as
19 I recall.

20 I was not | did not make the cut for
21 people that were considered. Usually you rank your
22 top candidates and then the other ones fall below

1 that.

2 I did not make the cut. That was
3 frustrating to me because I could see that my
4 assignment in Boston was going to be very lengthy. It
5 was going to end up putting me in a situation where it
6 was going to take some time before I would be eligible
7 for SES because the WFO basis for not including me in
8 the package was they wouldn't consider me for SAC
9 because I was not already in SES, which is not
10 uncommon when you're selecting an SES position in the
11 field.

12 My frustration was knowing that if I'd not
13 been sent to Boston, I would have had an opportunity
14 to apply for SES positions at headquarters, be perhaps
15 selected, and then kind of have my experience grow
16 into a point where I could then apply to be an SAC.

17 My concern being that after a lengthy
18 several-year process I would end up, in effect, still
19 in ASAC as far as competitiveness went for SES.

20 I raised that issue, the fact that I was
21 performing ; my title was actually Inspector in Charge
22 of that task force. I raised that as an issue. I

1 told them that this was an assignment that I was
2 basically running my own field office, and I would
3 like consideration given to whether or not I should be
4 given the SES pay that inspectors are given.

5 I don't know the process, but I do know
6 that the SES Board met and considered the position
7 that I had up in Boston and decided that it was an SES
8 position, and I became a member of SES.

9 Q Do you remember what division that
10 position was --

11 A Inspection Division.

12 Q Inspection Division.

13 A I was an Inspection Division detailed to
14 the Criminal Division as an Inspector in Charge, but
15 that was based on my initial application to the
16 Washington field office SAC position that I was
17 rejected for and I pushed the issue.

10 MS. WELLS: I have nothing further.

11 MR. KOHN: Okay. Just some follow-up.

12 REDIRECT EXAMINATION

13 BY MR. KOHN:

14 Q Mr. Mike Mines, he's a member of the SES
15 now?

16 A He is now, yes.

17 Q Do you know when that happened?

18 A I don't know. He doesn't work under me.

19 Q Were you ever asked to give him ; did
20 anyone ever ask you about him or make a recommendation
21 for him?

22 A No.

1 Q In terms of | you mentioned that on your
2 mind that, with Laurie Bennet, I think your testimony
3 was that you were impressed that she changed
4 directions of something challenging?

5 A My recollection | REMOVED SUBJECT TO PROTECTIVE ORDER
6 . My recollection is that she was
7 a successful leader in prior assignments.

8 Q But did you mention | you testified
9 specifically that she changed the direction.

10 A Yes.

11 Q Changed the direction of what?

12 A Well, I'd be happy to go back and read
13 through all of the information. I don't remember at
14 this point off the top of my head. That is my
15 collective recollection of her prior assignments.

-- PGS. 114 - 116 REMOVED, SUBJECT TO PROTECTIVE ORDER --

21 Q Okay. Now, you mentioned ; I'm sorry, did

22 you want to clarify something?

1 A No, go ahead.

2 Q You mentioned that you got into the SES.
3 You had applied for a Washington field office SES SAC
4 position. SAC position --

5 A SAC, yes.

6 Q You didn't get it, and then you ; who did
7 you then ; was there a person you went to and said,
8 hey, I should be given SES, given the type of job I'm
9 doing here?

10 A I actually ; I'm sorry, I actually asked
11 for consideration of the position I was in being
12 considered a headquarters SES position because I was
13 detailed to headquarters as an inspector in place.
14 There are inspectors that are SES, and I asked for
15 them to consider the role that I was playing to see if
16 it met the requirements to be an SES position, that's
17 right.

18 Q Then the people evaluated it and
19 determined you were correct?

20 A That's right.

21 Q So essentially, when you went on that
22 detail, you were performing the functional equivalent

1 of an SES?

2 A Yes.

3 Q Then you asked that that function be
4 recognized officially?

5 A I did, and I had been there for, let's
6 see, over a year, but I'm not sure how long.

7 Q How many people were you supervising on
8 that detail?

9 A There was a total of 15 on the task force.
10 It was functioning as an independent field office,
11 independent of the Boston office, including some
12 pretty heavy lifting with issues.

13 Q That's what you took to this Board?

14 A I don't remember what I took to the Board,
15 but that certainly would |-

16 Q Did you make an oral presentation, or you
17 just kind of wrote it up?

18 A I don't remember which I did. I didn't
19 make an oral presentation. I don't remember. I may
20 have made a written, but I don't remember that.

21 Q What was the criteria that in your mind
22 justified flipping your detailed assignment to an SES

1 position? What was it that you were doing?

2 A It wasn't flipping my detail assignment,
3 it was consideration of what I was doing, and
4 inspector positions are considered SES. We have other
5 inspector positions that are detail assignments that
6 are SES.

7 Q Just functionally, what was it that you
8 were doing in Boston functionally, that when you
9 looked at it said, because I'm doing this I should be
10 treated like the other inspector positions that are
11 SES? Do you remember?

12 A I don't remember, but I'll give you my
13 assessment now is that I was leading what, at the
14 time, was one of the most high-profile credibility-
15 related investigations that the FBI had.

16 Our entire integrity of the organization
17 was being called into question. The Director took
18 the, I think unprecedented, but I'm not sure, step of
19 assigning me to work independent of headquarters,
20 independent of Boston field office, in making
21 decisions in that investigation.

22 I determined the number of people. I

1 selected the people that worked for me. I was
2 responsible for dealing with judicial issues with the
3 prosecutors, interacted with SACs, high-level
4 politicians, including the Hill, and --

5 Q Are you aware that someone made a decision
6 to convert the LEGAT office in Riyadh from a GS-15 to
7 an SES position?

8 A I was not aware that that's an SES
9 position.

10 Q Do you know ; you would have no knowledge
11 of how that may have ; in other words, if that switch
12 happened the same way your switch happened?

13 A I don't know.

14 Q Did the Director support you, to the best
15 of your knowledge, when you made this application?

16 A I don't know. I would suspect yes because
17 he makes SES selections.

18 Q That was Freeh at the time?

19 A It would have been. Going back to your
20 last question on the Riyadh LEGAT, we were talking
21 about, Riyadh LEGAT, there are SES LEGAT positions. I
22 don't know that Riyadh is one of them, and I certainly

1 will find out because I was not aware that it is.

2 Q Do you know the process that occurred that
3 made some of these LEGAT positions into SES positions?

4 A I don't other than scope of
5 responsibility, I believe, but I don't know that for
6 sure. Bassem probably knows better than me, but I
7 think, and I'm making a guess here so I apologize,
8 maybe I shouldn't, but I think Moscow and London, but
9 I don't know for sure. London is. I don't know about
10 Moscow, I think it is.

11 Q I just wanted to clarify one progress,
12 which was ; I think I had asked you earlier
13 conversations about Mr. Youssef. Did you ever discuss
14 Mr. Youssef with the Director of the FBI?

15 A No.

16 Q Okay. I think I asked you that earlier,
17 but I just wanted to be sure.

18 MR. KOHN: Okay. I have nothing further.
19 Okay. Thank you very much. Thanks for coming down.
20 Thank you all.

21 (Whereupon, the above-entitled matter was
22 concluded at 4:12 p.m.)

