

JOINT INQUIRY INTO INTELLIGENCE COMMUNITY
ACTIVITIES BEFORE AND AFTER THE
TERRORIST ATTACKS OF SEPTEMBER 11, 2001

HEARINGS
BEFORE THE
SELECT COMMITTEE ON INTELLIGENCE
U.S. SENATE
AND THE
PERMANENT SELECT COMMITTEE
ON INTELLIGENCE
HOUSE OF REPRESENTATIVES

VOLUME I

SEPTEMBER 18, 19, 20, 24, and 26, 2002

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Volume I

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JOINT COMMITTEE HEARING ON THE EVENTS SURROUNDING THE ATTACK ON THE UNITED STATES ON SEPTEMBER 11, 2001

WEDNESDAY, SEPTEMBER 18, 2002

U.S. SENATE, SELECT COMMITTEE ON INTELLIGENCE AND
U.S. HOUSE OF REPRESENTATIVES, PERMANENT SELECT
COMMITTEE ON INTELLIGENCE,

Washington, DC.

The committees met, pursuant to notice, at 10:10 a.m., in room SH-316, Hart Senate Office Building, the Honorable Bob Graham, Chairman of the Senate Select Committee on Intelligence, presiding.

Senate Select Committee on Intelligence members present: Senators Graham, Levin, Rockefeller, Feinstein, Wyden, Durbin, Bayh, Edwards, Mikulski, Shelby, Kyl, Inhofe, and DeWine.

House Permanent Select Committee on Intelligence members present: Representatives Goss, Bereuter, Castle, Boehlert, Gibbons, LaHood, Hoekstra, Burr, Everett, Pelosi, Bishop, Condit, Roemer, Harnam, Boswell, Peterson, and Cramer.

Chairman GRAHAM. I call the Joint Inquiry committee to order.

We are here today because 3,025 innocent people, most of them Americans, were killed 53 weeks ago when terrorists stunned the world by hijacking domestic airliners and crashing them into the World Trade Center towers, the Pentagon, and a field in rural Pennsylvania. We are here today because so many Americans have been personally touched by these horrific events.

We who are privileged to serve in the Senate think of our colleagues and staff as a family. And the Senate family, especially those of the Select Committee on Intelligence, suffered a special loss. Terry Lynch, who had turned 49 one week before the attacks, was married and the father of two beautiful daughters, Tiffany Marie and Ashley Nicole. For more than two decades, he was a public servant. He spent several years on the bipartisan staff of the Senate Intelligence Committee, where he was our expert on Middle Eastern affairs. In 1999, Terry left government service and became a consultant.

On September 11, 2001, Terry was attending a meeting at the Pentagon on the subject of extending military survivor benefits to military families. Every day, Terry's family and the Senate family mourn his loss. And we have him on our minds and hearts today as we begin the public hearing phase of the joint inquiry committee's review of those events of September 11.

**The FBI's Handling of the Phoenix Electronic Communication
and Investigation of Zacarias Moussawi Prior to September 11, 2001**
Eleanor Hill, Staff Director, Joint Inquiry Staff
September 24, 2002

Introduction

Mr. Chairman, members of this Joint Committee, good morning. I appreciate the opportunity to appear before the Committee once again. At our last hearing, we discussed information the Intelligence Community had available prior to September 11, 2001 regarding the September 11 hijackers. Today, I will discuss:

- The July 10, 2001 electronic communication (EC) from the FBI's Phoenix field office to FBI headquarters, also known as the "Phoenix memo"; and
- The investigations, prior to September 11, 2001, of Zacarias Moussawi.

As I mentioned in discussing our work concerning the September 11 hijackers, I want to again emphasize the significance of these areas when viewed collectively. Three areas were available in the same section at the Federal Bureau of Investigation's (FBI) headquarters in late August 2001. Two of these areas were addressed in the Director of Central Intelligence's (DCI) Counterterrorist Center (CTC) at approximately the same time. No one apparently saw the potential collective significance of this information, despite the increasing concerns throughout the summer of 2001 of an impending terrorist attack.

The Phoenix Electronic Communication

The Joint Inquiry Staff's interim statement to the Committee on September 18, 2002 discussed the indications of an impending terrorist detected by the Intelligence Community in the summer of 2001 and the warnings that intelligence resulted in. In that same timeframe, an FBI special agent in the FBI's Phoenix field office generated a document that has been subsequently described in media reports as the "Phoenix memo." It is known within the FBI as the Phoenix Electronic Communication, or "Phoenix EC." "EC" is an FBI term of art. ECs are the primary type of document used by the FBI for internal communications. In this statement, we use the terms "Phoenix memo" and "Phoenix EC" interchangeably.

The Joint Inquiry Staff reviewed the Phoenix EC and its handling by FBI headquarters with the following questions in mind:

- What did the EC say?
- Why did the special agent write it?
- Who handled it within FBI headquarters and what reaction did it elicit?

- Does FBI headquarters' handling of the document illuminate any broader, systemic problems within the FBI?

Introduction

On July 10, 2001, a Special Agent (SA) in the FBI's Phoenix Division sent an EC to individuals in the Osama Bin Ladin Unit (UBLU) and the Radical Fundamentalist Unit (RFU) within the Counterterrorism Division at FBI headquarters and to several SAs on an International Terrorism squad in the New York Field Office. In the EC, the SA outlined his concerns that there was a coordinated effort underway by Osama Bin Ladin to send students to the United States for civil aviation-related training. He noted that there were an "inordinate number of individuals of investigative interest" attending this type of training in Arizona and speculated that this was part of an effort to establish a cadre of individuals in civil aviation, who would be in position to conduct terrorist activity in the future.

The EC contained a number of recommendations that the agent asked FBI headquarters to consider implementing. Apparently, the communication did not raise any alarms at FBI headquarters or in the New York office. In fact, New York personnel who reviewed the EC found it to be speculative and not particularly significant. New York already knew that many Middle Eastern flight students, including several associated with Bin Ladin, trained in the United States. They believed that Bin Ladin needed pilots to transport goods and personnel in Afghanistan, and, at the time, viewed pilots connected to Bin Ladin in that light. About a week after its receipt, headquarters personnel determined that no follow-up action was warranted on the Phoenix EC recommendations. No managers at FBI headquarters took part in that decision or even saw the communication before September 11, 2001. No one apparently considered the significance of the Phoenix EC in light of what else confronted the FBI counterterrorist team during the summer of 2001: the unprecedented increase in terrorist threat reporting, the investigation and arrest of Zacarias Moussawi in August 2001, and the possible presence of Bin Ladin associates al-Mithdar and al-Hazmi in the United States.

Our review of the circumstances surrounding the Phoenix memo reveals a number of weaknesses at the FBI that, if left uncorrected, will continue to undercut counterterrorist efforts. The FBI handling of the Phoenix EC is symptomatic of a focus on short-term operational priorities, often at the expense of long-term, strategic analysis. Throughout this review, we have found that the FBI's ability to handle strategic analytic products, such as the Phoenix EC, was, at best, limited prior to September 11, 2001. Inadequate information sharing within the FBI, particularly between the operational and analytic units, is also highlighted by our review of the Phoenix EC. Several of the addressees on the EC, especially at the supervisory level, did not receive it prior to September 11 due to limitations in the electronic dissemination system. Those limitations are consistent with the complaints we have repeatedly heard throughout this inquiry about the FBI's technology problems. Finally, the case-driven, law enforcement approach, while important and extremely productive in terms of the FBI's traditional mission, does not generally "incentivize" attention to big-picture, preventive analysis and strategy. This

On Thursday, September 4, 2001, FBI headquarters sent a teletype to the Intelligence Community and other U.S. Government agencies, including the Federal Aviation Administration (FAA), providing information about the Moussaoui investigation. The teletype noted that Moussaoui was being held in custody but did not describe any particular threat that the FBI thought he posed, for example, whether he might be connected to a larger plot. The teletype also did not recommend that the addressees take any action or look for any additional indicators of a terrorist attack, nor did it provide any analysis of a possible hijacking threat or provide any specific warnings. The following day the Minneapolis case agent hand-carried the teletype to two employees of the FAA's Bloomington, Minnesota office and orally briefed them on the status of the investigation. The two FAA employees told the Joint Inquiry Staff that the FBI agent did not convey any sense of urgency about the teletype and did not ask them to take any specific action regarding Moussaoui. He just wanted to be sure the FAA had received the cable.

Prior to September 11, 2001, no one at the FBI canvassed other individuals in the custody of and cooperating with the U.S. Government in connection with past terrorism cases to see if any of those individuals knew Moussaoui.

The final preparations for Moussaoui's deportation were underway when the September 11 attacks occurred.

Conclusion

The staff has described three series of events – pertaining to al-Mihdhar and al-Hazmi, the Phoenix EC, and Zacarias Moussaoui – each of which raises significant questions in their own right. In the wake of the September 11 attacks, they also illustrate the danger of seeing events in isolation from each other. In our view, taken together, they clearly demonstrate how our counterterrorism efforts must be based on a comprehensive and current understanding of the overall context in which terrorist networks like al-Qaida operate.

The first matter involved Khalid al-Mihdhar and Nawaf al-Hazmi, the two hijackers who came to the attention of the Intelligence Community in early 2000 but subsequently entered the United States unobserved and undetected later. The Intelligence Community succeeded in determining that these Bin Laden operatives were traveling in January 2000 to Malaysia and in collecting important information about them. The system broke down, however, in making the best use of that information and in ensuring that it was effectively and fully shared with agencies like the FBI, the State Department and the INS, that could have acted on it to either prevent them from entering the United States or surveil them and uncover their activities while in the United States.

In addition, the FBI and the CIA had responsibilities to respond to the October 2000 attack on USS Cole. Each had information that the other needed to carry out those responsibilities. But at a key meeting in New York on June 11, 2001, the CIA did not provide to the FBI information about the Malaysian meeting and its participants that

could have assisted the FBI in its investigation. These events reflect misunderstandings that have developed over the last several years about the use of information derived from intelligence gathering activities in criminal investigations.

The problem of communication demonstrated by the al-Mihdhar/al-Hazmi story existed not only between the CIA and FBI, but also within the FBI itself. Once it was determined in late August 2001 that Khalid al-Mihdhar was in the United States, the search to determine his whereabouts was constrained by FBI policies and practices regarding the use of intelligence information in FBI criminal investigations. This limited the resources that were made available for the FBI to conduct the search during a time in which al-Mihdhar and al-Hazmi were purchasing their September 11 tickets and traveling to their last rallying points.

The second matter – the Phoenix EC – also illustrates the Intelligence Community's strength and weaknesses. An FBI field agent perceived, amidst a profusion of clues, that terrorists could use the well-developed system of flight training education in the United States to prepare an attack against us. The field agent understood that it was necessary to go beyond individual cases and to undertake an empirical analysis broader than the geographic limits of a single field office. The idea was submitted to FBI headquarters, where, for a variety of reasons, it generated almost no interest. First, no one gleaned from the FBI's own records that others at the Bureau had previously expressed concerns about possible terrorists at U.S. flight education institutions. Second, anticipating future threats has not been a significant part of the FBI's general approach to its work. Third, the highest levels of the Intelligence Community had not communicated effectively to its personnel the critical importance of analyzing information in light of the growing awareness of an impending terrorist attack in the summer of 2001. Finally, FBI management did not perceive it would be useful to simply alert others at the FBI to the danger that one of its field offices perceived.

As for the third matter, one can see in the pre-September 11 handling of the case of Zacarias Moussaoui a myopic focus within both the FBI and the DCT's CTC on the case at hand. An FBI field agent and his supervisor saw a potential threat, were concerned about the possibility of a larger plot to target airlines, and reported their concerns to FBI headquarters. The Moussaoui information was also shared with the DCT's CTC. But, neither FBI headquarters nor the DCT's CTC linked this information to warnings emanating from the CTC in the summer of 2001 about an impending terrorist attack, nor did they see a possible connection to information available on August 23, 2001 that Bin Laden operatives had entered the United States. The same unit at FBI headquarters also had the Phoenix EC, but still did not sound any alarm bells.

No one will ever know whether a greater focus on the connection between these events would have led to the unraveling of the September 11 plot. But, clearly, it might have drawn greater attention to the possibility of a terrorist attack in the United States, generated a heightened state of alert regarding such attacks, and prompted more aggressive investigation and intelligence gathering regarding the information our Government did possess prior to September 11.