

**THE 9/11  
COMMISSION  
REPORT  
ONE YEAR LATER**

**A CITIZENS' RESPONSE:**

**DID THE COMMISSION GET IT RIGHT?**

**9/11 FAMILIES, GOVERNMENT WORKERS  
AND SCHOLARS RESPOND**

**Complete record of Transcripts and Written Submissions**

Friday, July 22, 2005

Caucus Room  
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Congressional Briefing, July 22, 2005

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## The 9/11 Commission One Year Later

### PROCEEDINGS

#### PART ONE: A CRITICAL EXAMINATION OF THE 9/11 COMMISSION

##### WELCOME

REP. McKINNEY: Good morning, everyone. Thank you so much for being here this morning.

I would like to invite the family members who are here, like Mr. McIlvaine, to come up to the top, please.

We will have up here the family members, and any members of Congress who come by during the very busy day. At the lower dais, we will have the panelists. On the side table, we have the questioners. In the middle of the room, we have the wonderful, beautiful audience.

Pastor West, could you please come forward? Come join us up here.

MS. BROWN: I'd like to invite the Jersey Girls to join us at the panelists' table. Mindy Kleinberg and Lorie Van Auken, please join us at the panelists' table.

Good morning. I'm Verna Avery Brown with the Washington Bureau Chief for Pacifica Radio.

It's important that we note today's hearings are being held against the backdrop of yet another terrorist attack. Yesterday, seven men carrying bombs in backpacks hit three subway trains and a double decker bus in London. Fortunately, this time, the bombs only partially detonated.

Fifteen days ago, however, the outcome was far more devastating. Fifty-six people and the attackers were killed.

These recent attacks, albeit in London, serve as an all-too-painful reminder of the vulnerability of the world against terrorist attacks.

Today, we are undertaking an examination, a critical examination, of the 9/11 Commission that investigated the tragedy that befell this country on September 11, 2001, resulting in the deaths of over 3,000 individuals.

This briefing is hosted by the Honorable U.S. Representative Cynthia McKinney, whose courageous leadership around this issue is keeping the matter before the public eye until the American people feel the nagging questions have been adequately addressed -- welcome to the 9/11 Commission Report One Year Later - A Citizens' Response - Did the Commission Get It Right?

I now give you the Honorable Cynthia McKinney.

##### OPENING STATEMENT

REP. McKINNEY: Thank you very much. I want to thank everyone for coming today to this briefing, as we take a scrutinizing look at the 9/11 Commission final report on the anniversary of its publication, and ask the question did the commissioners get it right.

I especially want to thank all of the panelists here today, some of whom have traveled across the Atlantic to be here.

I wish to point out that without the families of victims of 9/11, none of us would be here today to hear them, as we shall very shortly present their evaluation of the work of the 9/11 Commission, and that is because there would not have been any commission were it not for the stubborn refusal of family members of the victims of 9/11 to accept the silence and obstruction of the White House and Congress on this issue.

With us today, we have two of the Jersey Girls, Mindy Kleinberg and Lorie Van Auken, who lost their husbands, Alan and Kenneth, on 9/11, and who co-chaired the Family Steering Committee. Bob McIlvaine, who lost his son, Bobby, on September 11th, and who works with 9/11 Families for Peaceful Tomorrows, and Marilyn Rosenthal, who lost her son, Josh, on September 11th.

It is principally through the efforts of these and thousands more Americans whose families were touched by the tragedy of September 11th that this Administration reluctantly agreed to establish the Commission.

Yet, even once it was founded, the families had to fight to overcome under funding and to extend unreasonably short deadlines.

When we talk of the 9/11 Commission and its report, we must first thank the families for their perseverance in seeing to it that any commission was assembled at all.

We need to remind ourselves that this Commission's task was to investigate the murder of nearly 3,000 persons, and while the Commission published a final report, there is today widespread skepticism among the American public about the Commission's report, and many voices are calling for keeping the investigation alive.

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Monica Gabrielle lost her husband, and she is with us today, this morning, as a panelist.

Within days of the attacks, we were told that the perpetrators were from a terrorist network known as al-Qaeda. When reporters and members of the public asked for details, then Secretary of State, Colin Powell, promised that it would be made all clear to the world in a white paper.

Nearly four years and two wars later, we still have no official statement from the Bush Administration on the specifics of who did it, who aided and financed them, or what their origins are.

For the families who suffered so much loss, this surely feels like adding insult to injury. They deserve to know everything there is to be known about how their loved ones died.

They fought for an investigation that would be non-partisan, independent, and that would get to the bottom of things. But as work got underway, not only did the Commission run up against obstruction by the Administration and non-cooperation from Government agencies, many, if not most of the commissioners themselves, had conflicts of interest.

Several commissioners spoke out about problems in the process, the lack of investigative rigor and heavy reliance on previous work, the Joint Commission Report, the drafting of recommendations before the investigative process got rolling, the failure to take testimony under oath, or in many cases, to even take transcripts.

As the original deadline approached, the Commission's work was half done, and only after the families fought for it was the deadline extended. Then last year, we got the final report, an extensive prosaically impressive report, but as some of us sat down to read it, the errors and omissions immediately jumped out at us.

How was it that it took over an hour after the first transponder went off before planes were scrambled to meet the threat? All of them too late.

What happened to those reports that surfaced within months of September 11th stating that seven or more of the alleged hijackers had come forward and claimed they were victims of stolen identities and were alive and well, living in Saudi Arabia, Morocco, and Tunisia?

Why did the Commission choose not even to address this?

What about the terrorist, Omar Saeed Sheikh, now sitting in a Pakistani prison on charges of participating in the kidnapping and murder of Wall Street journalist Daniel Pearl?

According to Indian intelligence, this man received orders from a Pakistani general to transfer \$100,000 to Mohamed Atta. People all over the world are talking about this story, but not a word about it in the report.

What about Osama bin Laden and his role in the Mujahedin backed by the CIA in the 1980s to fight the Soviets? The Commission didn't go there.

This morning, we will be hearing about these omissions, errors, and about the historical background of September 11th from the collection of experts we have assembled.

In the afternoon, we will be looking at the report's recommendations. I think we will find very little in them that challenges the Bush Administration's foreign policy and its war on terrorism.

In fact, its recommendation for centralizing America's intelligence networks seems designed to further that agenda.

We will be hearing about how under the Patriot Act and the dual legal system that has been enacted to allow detainees to be held indefinitely without facing judge or jury, our civil liberties are being eroded in the name of fighting the terrorists, as if the term "terrorist" alone tells us all we need to know about our enemies.

We need to know about our enemies if we are going to reclaim a future free from the fear of terrorist attacks and weapons of mass destruction.

We cannot afford to shy away from inconvenient truths. Many of you may find what you hear today to be inconvenient information. Dr. Martin Luther King, Jr. said the ultimate measure of a man is not where he stands in moments of comfort and convenience, but times of challenge and controversy.

I encourage you to engage with the issues that are raised. If you don't agree or don't like what you hear, challenge it. I believe that we should take in what every reasonable person has to say, to inform our decisions, because that is the best way to find the truth.

In our pursuit of the truth, I encourage you to emulate the courage and the determination of the September 11th families in their struggle to know what really happened.

Thank you very much for being here today.

MS. BROWN: Thank you, Congresswoman McKinney.

This morning, we are going to receive four panels during our morning session. We will hear from the Families Report, as the first panel.



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The second panel will be "Behind the 9/11 Commission: Flaws in the Process, a Staff Report and a Citizens' Critique."

The third panel will be focused on "Omissions and Errors in the Commission's Final Report, and then "9/11 in Historical Perspective: Flawed Assumptions, The Underground World of Terrorist Financing."

We will take a short break for lunch at that time, and then we will receive an afternoon panel.

We would like to begin with our first panel of guests. Lorie Van Auken, a member of the 9/11 Family Steering Committee. Lorie's husband, Kenneth, was killed in the attacks upon the World Trade Center on September 11, 2001. Kenneth Van Auken, 47 years old, worked for Cantor Fitzgerald on the 105th floor of Tower One.

Ms. Van Auken served as co-chair of the Family Steering Committee for the 9/11 Independent Commission, and with fellow widows Mindy Kleinberg, Kristen Breitweiser, and Patty Cazassa, Ms. Van Auken helped to found September 11th Advocates.

Together these women put aside their grief, knocked on doors and twisted arms until Congress and the President agreed to form an independent commission to investigate how the attacks happened.

They refused to give up until even the most reluctant players bared their presidential daily briefs. The iron determination of the Jersey Girls, as they have come to be known as, earned them national and international notoriety.

Unsatisfied with many aspects of the 9/11 Commission and its report, they continue to press for accountability, and refuse to accept that what happened was simply a failure of processes and organizations, and not people.

Mindy Kleinberg is a widow to husband, Alan, killed in the attacks upon the World Trade Center on September 11th. Alan Kleinberg, 39, worked for Cantor Fitzgerald on the 104th floor of World Trade Center Tower One.

Ms. Kleinberg served as co-chair of the Families Steering Committee for the 9/11 Independent Commission, and again, with fellow widows, Lorie Van Auken, Kristen Breitweiser, and Patty Cazassa, Ms. Kleinberg helped to found September 11th Advocates.

And Monica Gabrielle is also joining us. She lost her husband in the attacks as well.

We are going to have a prayer as well, to bless these proceedings before we move forward. I would like to invite Pastor West to deliver the blessing.

### BLESSING

PASTOR WEST: Let us pray. Creator of the Universe, we are people gathered here from far and near, the north, the south, east and west, seeking your truth.

Some of us come with pain and sorrow seeking relief, knowing that relief will come only when your truth is revealed to us.

Some of us come out of fear that we will experience yet another 9/11.

Send us your words of truth, that will drive away all of our fears.

Some of us are here because there is a void in our lives, knowing that only your truth will remove that void.

No matter why we are here, we are all here for one common desire, to have the truth, the real truth, revealed to us.

Thank you for those who planned this session, for as mortals, we know what is required of us to do justice and walk humbly with our God. As we do justice and walk humbly with you, we pause this morning to remember those who died, those who were injured, and families and friends who are seeking healing and wholeness.

Let us be silent and remember those.

(Silent pause.)

PASTOR WEST: Amen.

MS. BROWN: Thank you, Pastor West.

A few housekeeping notes before we begin. I would like to ask everyone to turn off their cell phones. I know it's painful, but we would like for you to do so.

We have reserved seating in the front for family members. If there are family members here who are not sitting in the front, we invite you to assume your seat there, congressional staff and members and the press as well.

When you are speaking, you will be sitting on the lower dais of the panelists and facing the audience.

Also, we are having a timekeeper this morning. They will keep our busy agenda on track, and they will also help us to keep the speakers on track as well. We will ask the speakers to keep an eye on our timekeeper over here, if

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you will raise your hand, who will be giving us signals. When you hear the bells, you will know that you have at least two minutes left to conclude your remarks.

Lunch and accommodations at 1:00 p.m., and all are invited to a lunch at Representative McKinney's office in Cannon House Office Building, Room 320.

We would like to also welcome all of the Congress people who are here with us this morning.

REP. McKINNEY: I'm sorry. I didn't notice I had been joined by my sister, Congresswoman Caroline Kilpatrick from Detroit, Michigan.

MS. KILPATRICK: Good morning.  
(Applause.)

MS. BROWN: We will begin our discussion this morning now with representatives from the families. Lorie Van Auken. Good morning, Lorie.

### 9/11 FAMILIES REPORT: UNANSWERED QUESTIONS AND THE CALL FOR ACCOUNTABILITY

MS. VAN AUKEN: Good morning. My name is Lorie Van Auken. I am speaking today on behalf of 9/11 widows, Monica Gabrielle and Mindy Kleinberg, who are here with me today.

On the morning of September 11th, my husband, Kenneth, was killed while at his office on the 105th floor of the North Tower at the World Trade Center.

We extend our sincere thanks to you, Representative McKinney, as well as to all of those who are responsible for setting up this hearing and giving us this opportunity today.

On the morning of September 11th, I received the following message from my husband, Kenneth.  
(Audio message follows:)

"I love you. I'm in the World Trade Center. The building was hit by something. I don't know if I'm going to get out, but I love you very much. I hope I'll see you later. Bye."

MS. VAN AUKEN: From his words, I knew that Ken survived the impact of the plane, so I tried to call him back, but there was no answer. I fell to my knees in a panic, still clutching the telephone.

A moment later, when the phone rang, it startled me completely. I prayed that it was Ken, but it was my mother. She told me to turn the television on. I told her about Ken's message. I told her that I couldn't reach him. I told her that I was very scared.

I watched the t.v. in utter horror as black smoke billowed out from the building through a gaping hole the size of an airplane. I knew that Kenny was in that building. I watched as the people ran from the World Trade Center, hoping for a glimpse of my husband.

Then the second tower was hit. As I continued to watch the breaking news, they showed the President sitting in an elementary school classroom, juxtaposed with the footage of black smoke coming from the World Trade Center, along with people jumping to their deaths from the burning buildings.

I screamed at the television. Get up, President Bush. Get up and do something, but he remained seated in a classroom of small children. I watched as Andrew Card whispered something to the President, and yet, still my President remained seated in a classroom of small children, when our country was so obviously under a terrorist attack.

In between panic and hysteria, in between hoping that my husband would get out of the World Trade Center alive, and wondering how I would ever break this news to my children, I also wondered why the Secret Service was letting the President stay in the classroom full of children.

Why didn't they whisk him away? It seemed as if every target in America was being attacked. So, wasn't the President, the leader of the free world, in danger of being fatally attacked as well? Weren't the children who were in the classroom with the President in danger, too?

After two days and hundreds of phone calls to New York City hospitals and to the Red Cross, receiving no guidance, and absolutely no answers, my husband's employer, Howard Lutnick, the CEO of Cantor Fitzgerald, recounted on a news program that no one who was in the offices of Cantor Fitzgerald at the time of the attacks had survived.

That meant that Ken was gone. My looming and painful question as to whether or not my husband had survived was now answered.

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We now knew that the time for hoping was over. Our lives were forever changed. My children would never again see their father, and I was now a widow. The grieving was just beginning.

With what felt like a gaping hole in my heart, with two traumatized teens to now raise alone, I wondered if I would ever feel like eating or breathing again. For me, one horribly sad question had been answered, but many more questions would soon follow.

The questions began to gnaw at me slowly at first. I wondered how on earth almost two hours could have passed with four domestic commercial airplanes flying around the skies of America without a response from our military.

I began to Google search and read whatever articles and time lines I could get my hands on. Once I began my research into 9/11, I found it hard to leave the computer.

Because I was unable to sleep and because I needed desperately to reconstruct and understand the events of 9/11, it began to appear to those close to me that I was shackled to the computer, and I have to admit, in a manner of speaking, I was.

Having connected with a few other widows, it was not long before we were all researching the events, while we waited for an official inquiry into the attacks to be initiated. Then the news came. Only intelligence agency failures would be examined. How could that be?

Our husbands were killed at their desks when commercial airplanes flew into their office buildings. They had no means of escaping, and had practically no chance of evacuating on 9/11.

The buildings that were supposedly so magnificently designed, had collapsed in minutes.

Why would the investigation of our loved ones' murders be limited to only intelligence agencies? What about airline security, hi-rise building security, and border security?

What about the FAA, the Port Authority, the Secret Service and NORAD, all of whom were partly to blame for the failures that allowed the 9/11 attacks to occur. Didn't those areas and entities need to be investigated, too?

Incredulous but undeterred, we realized that it was necessary to take a thorough and independent look at what had gone wrong on 9/11. Our children were going to have to grow up in this changed world, and we needed to make sure that this could never happen again. We knew that with the 3,000 deaths on 9/11, there remained thousands of questions that needed to be answered.

So, we fought for the creation of the 9/11 Commission, and with all of America by our side, we finally won that battle. The Commission was passed into law in the Autumn of 2002 and by January 2003, the Commission finally sat down to commence its very important work.

The 9/11 Commission's report is one year old today. This report was supposed to provide the definitive account of what had transpired on September 11, 2001. We hoped that our thousands of unanswered questions would be addressed and answered. Yet, incredibly, we have found that the Commission's definitive final report has actually yielded more questions than answers.

Moreover, there are still so many areas that remain unexplained or only vaguely touched upon by the 9/11 Commission, so much so that it was quite difficult for me to decide where I should start my testimony to you today.

One. The Time Line of 9/11 - the Story of Seismic Information. I will begin with what I had first hoped for from the Commission. I believed that we needed the official time line, the official and definitive time line for 9/11.

One of my questions had to do with the time that Flight 93 officially crashed. The Commission report says United 93 crashed in Pennsylvania at 10:03:11 a.m., and adds that the precise crash time has been the subject of dispute.

In Footnote 168 of Chapter One, it says "We also reviewed a report regarding seismic observations on September 11, 2001, whose authors concluded that the impact time of United 93 was 10:06:05. Seismic data reflects the time that the earth shook in response to the crash. Atomic clocks are used to record this data."

I personally spoke with the men whose names appear on the seismic data report from 9/11. They received calls from the 9/11 Commission, too. I asked the seismologists, unless data existed that showed that the earth also shook at 10:03 a.m., how could the Commission affix the time of Flight 93's crash to 10:03? They couldn't give me an answer, nor apparently could the commissioners in their final report.

The crash of Flight 93 is one of the major events of 9/11. If we couldn't figure out what time that crash occurred, how could we ever understand the real complexities of the day?

Perhaps most alarmingly, what does this say about the quality of the rest of the work product in the final report if the Commission could not accurately isolate this easily defined piece of information?

Two. Warnings - the Story of Ignored Warnings by Individuals. At 1:47 p.m. on September 11, 2001, while aboard Air Force One, Ari Fleischer was asked the following question by a press briefing pool, "Had there been any warnings that the President knew of?" Mr. Fleischer answered simply "No warnings."

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No warnings. From my simple research using Google on my home computer, I learned there were plenty of warnings. For example, newspapers in England, France, Germany and Russia reported there were indeed many warnings delivered to the Bush Administration throughout the Spring and Summer of 2001.

German intelligence warned both American and Israeli agencies that terrorists might be planning to hijack commercial aircraft to use them as weapons, and to attack important American targets.

During the G-8 Summit in Genoa, Italy during the month of July 2001, Egypt warned of a plot to use airplanes to attack President Bush while he was there for the Summit.

As an aside, this warning was taken so seriously that anti-aircraft missiles were deployed near the Columbus Airport in Italy.

Even ABC News reported Bush Administration officials acknowledged that U.S. intelligence officials informed President Bush weeks before the September 11th attacks that bin Laden's terrorist network might try to hijack American planes.

Likewise, News Week reported that as many as 10 to 12 warnings were issued, and more than two of the warnings specifically mentioned the possibilities of hijackings. Similarly, George Tenet was issuing many warnings that bin Laden was the most immediate threat to Americans.

Indeed, the al-Qaeda warnings were dire enough in May of 2001 to motivate President Bush to appoint Vice President Cheney to head a taskforce to combat terrorist attacks on the United States.

As reported by The Washington Post, President Bush said that Vice President Cheney would direct a Government-wide review on managing the consequences of a domestic terrorist attack, and Vice President Cheney was quoted as saying "I will periodically chair a meeting of the National Security Council to review these efforts."

According to The Washington Post, neither Cheney's review nor Bush's took place.

The 9/11 report chose not to address any of the aforementioned warnings, and thus, in my opinion, did not answer the most important question, which was with all of these warnings, why were we still so ill prepared?

Three. Dots Not Connected - the Story of David Frasca. It would seem that the Radical Fundamentalism Unit, the RFU, at FBI headquarters, was in receipt of various pieces of information, that if put together, should have allowed them to see that a threatening pattern involving persons of interest was emerging during the Summer of 2001.

For example, the RFU was in receipt of both the Phoenix memo, the FBI memo that suggested there was a pattern of suspicious activity involving large numbers of Arab men taking flying lessons in American flight schools, and the FBI's file on Zacarias Moussaoui, an Arab man who was enrolled in an American flight school and fit the profile of a terrorist.

While the 9/11 Commission goes into much detail about the facts surrounding the Phoenix memo and the case of Zacarias Moussaoui, they do not mention perhaps the most damning of all facts involving both issues, namely, that it was only two individuals at the RFU who received the Phoenix memo and the Moussaoui information within weeks of each other.

They subsequently and detrimentally blocked not only the dissemination of this information within the community, but also stymied further requested avenues of investigation within the community of such pieces of vital information.

The 9/11 Commission blames the failure to connect the two dots of the Phoenix memo and Zacarias Moussaoui's file on the FBI's institutional misunderstanding of the Reno Wall, and the agency's inherent inability to share information across and throughout its ranks.

What is missing from this analysis and rather facile conclusion is that it was two individuals who worked together, and not a misunderstanding of the Reno Wall that is to blame for the failure of the FBI to receive a FISA warrant in the case of Zacarias Moussaoui.

It is likewise those same individuals who are responsible for the Phoenix memo being down played and all but ignored.

FBI supervisor, David Fasca, and his underling, Michael Maltbie, not only failed to permit FBI agents to request a FISA warrant for Moussaoui, but also altered the agents' initial request for it.

Specifically, on August 28, 2001, Maltbie edited the Minnesota FBI's request for a FISA warrant to search Zacarias Moussaoui's possessions. The Minnesota FBI field office wanted to prove that Moussaoui was connected to al-Qaeda through a rebel troop in Chechnya, but the RFU agent, Maltbie, removed the information connecting the Chechnya rebels to al-Qaeda.

Subsequently, the FBI Deputy General Counsel, who received the edited request, scrubbed clean of any international terrorist ties, decided that there wasn't enough of a connection between Moussaoui and al-Qaeda to allow an application for a search warrant through FISA.

Thus, a FISA warrant was never even applied for.

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Later, in a report released on June 9, 2005, the FBI's Inspector General's Office, far from down playing this exchange, cited a top FBI lawyer's statement that "He had never seen a supervisory special agent in headquarters so adamant that a FISA warrant could not be obtained, and at the same time, a field office so adamant that it could."

The report also noted that the Minneapolis field office sought an expedited FISA, which it explained normally involved reports of suspected eminent attack or other eminent danger.

To reiterate, the first memo the supervisor of the Radical Fundamentalism Unit, David Frasca, received warned that Osama bin Laden was probably coordinating efforts to send men for flight training, the Phoenix memo, and only a few weeks later, Frasca received a file on a suspicious individual, Moussaoui, actually training at a flight school.

In essence, the Moussaoui case was actual confirmation of the Phoenix memo's prediction, and it was these same men, Frasca and Maltbie, who not only swore to the efforts of FBI agents to get a FISA warrant to search Moussaoui's belongings, including his laptop, that had information leading to other 9/11 hijackers, but it was also Frasca and Maltbie who tampered with the papers requesting a FISA warrant.

Moussaoui's laptop was finally searched after the 9/11 attacks. German telephone numbers were found, as was the name "Ahad Sabet." The numbers led the FBI to determine that the name "Ahad Sabet" was an alias for Ramzi bin al-Shibh, former roommate of Mohamed Atta, the pilot of American Airlines Flight 11, which crashed into Tower One, my husband's building, on 9/11.

Agents also discovered that Ramzi bin al-Shibh had wired money to Moussaoui in the Summer of 2001. In addition, they found a document connecting Moussaoui with the Malaysian Yazid Sufaat, a connection that could have led them to 9/11 hijackers, Khalid Almihdhar and Nawaf Alhazmi. Those were two of the hijackers said to have crashed Flight 77 into the Pentagon.

Both Almihdhar and Alhazmi lived in San Diego, California, had their names blatantly published in the San Diego phone book, and had contacts with individuals under FBI investigation.

At the time of Moussaoui's arrest, one FBI agent commented in this case notes quite prophetically that Moussaoui seemed like a man who was capable of flying airplanes into the World Trade Center.

Sadly, the FBI agents were trying their best to follow these leads, but for some unknown reason, FBI headquarters thwarted their own agents instead of thwarting the terrorists.

While several entries refer to Moussaoui in the Commission's final report, the Commission fails to discuss the Moussaoui case in a comprehensive manner.

For example, how could the Commission fail to mention that it was these two men, David Frasca and Michael Maltbie at the FBI's Radical Fundamentalism Unit, who received the Phoenix memo and then thwarted attempts to acquire a FISA warrant for Moussaoui's computer?

How could the Commission remain silent on this matter when these men, Frasca and Maltbie, have since been promoted within the FBI?

Why didn't the Commission apply the axiom that an agency is only as good as the people who work for it?

To quote Senator Shelby, "They continue to reward bad behavior, and the results speak for themselves."

By leaving this highly relevant fact unaddressed, the Commission leaves bare that its conclusion about the need for intelligence community reforms is half baked at best and hollow at worse.

Four. The Hamburg Cell - the Story of Marwan and a Phone Number. Had David Frasca and Michael Maltbie not altered the FISA application, it is likely that the FBI would have discovered the members of the notorious Hamburg Cell.

The Hamburg al-Qaeda Cell was central to the 9/11 plot. Members of this cell included lead hijacker, Mohamed Atta, who is said to have piloted Flight 11; 9/11 hijacker, Ziad Jarrah; 9/11 hijacker, Marwan al-Shehhi, said to have piloted Flight 175, and Ramzi bin al-Shibh, who wired money to the hijackers.

Further proof of the significance of the Hamburg Cell can be found in the fact that in March 1999, Marwan al-Shehhi had already caught the attention of German intelligence officials who were monitoring the telephone of Mohammed Haydar Zammar, an Islamic extremist in Hamburg, who was closely linked to important al-Qaeda plotters, who ultimately master minded the 9/11 attacks.

The German intelligence officials gave the Central Intelligence Agencies the first name of "Marwan," and his telephone number in the United Arab Emirates, and asked the CIA to track him. Nevertheless, according to the official record, CIA did nothing with this information.

Close surveillance of Marwan al-Shehhi in 1999 would have revealed his early connections to Flight 11 hijacker Mohamed Atta, who was al-Shehhi's roommate at the time. Both men had also attended the wedding of a fellow Muslim at a radical mosque in Hamburg of October 1999, an event considered to be significant for the September 11th hijacking teams, because it occurred at a time when the 9/11 plot was taking shape.

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Yet, the requested surveillance on Marwan never happened. It would seem that the Director of the CIA at the time, George Tenet, did not feel that they had enough information to be able to track down this terrorist.

He has stated "The Germans gave us a name, 'Marwan,' that's it, and a phone number." The Director of Central Intelligence replied, adding "They didn't give us a first and last name until after 9/11."

It seems unbelievable that with a first name and a phone number, the CIA would not have even attempted to follow up on this lead.

As columnist Maureen Dowd wrote "For crying out loud, as one guy I know put it, I've tracked down women across the country with a lot less information than that."

Although Philip Zelikow, the 9/11 Commission staff director, was quoted as having said "The Hamburg Cell is very important to the investigation of the September 11th attacks, and intelligence on Mr. al-Shehhi is an issue that is obviously of importance to us, and we are investigating it."

On February 24, 2004, when asked whether American intelligence officials gave sufficient attention to the information about Mr. al-Shehhi, Mr. Zelikow continued to say "We haven't reached any conclusions."

Five months later, when the Commission released its final report, no further conclusion or explanation for the CIA's failure to follow the German lead was noted.

Why did the Commission ignore this important piece of information and the CIA's failure to act on it?

Five. Watch Listing Issues - the Story of Surveillance. An area that was addressed more thoroughly in the 9/11 Commission's final report was the matter of Pentagon Flight 77 hijackers, Khalid Almihdhar and Nawaf Alhazmi.

However, because much of the information on these two important characters is found in the minute text of the Commission's report footnotes, learning the details requires a magnifying glass.

The Commission failed to explain how and why the CIA dropped the ball with information it acquired about the January 2000 terrorist summit in Malaysia. It has been reported that the 9/11 attacks and the USS Cole bombings were planned at this meeting.

In attendance, were key Cole bomber, Khalid bin Attash and two of the would-be 9/11 hijackers, Khalid Almihdhar and Nawaf Alhazmi.

Although the CIA identified the men as suspected extremists via their participation in the meeting with the identified Cole bomb bombing suspect, the CIA inexplicably failed to request that the two men be placed on the Government's Watch List until late August 2001. By that time, both Almihdhar and Alhazmi were already in the United States.

Even though the men were living in San Diego, listed by their correct names in the local phone book, and their landlord was an FBI informant, the Bureau stated that it did not learn of their whereabouts until after 9/11.

From the footnotes of the 9/11 Commission report, we learned that the CIA intentionally kept the FBI out of the loop with regard to these two hijackers who were living in this country.

Had someone in the CIA made the decision to not inform the FBI about these two 9/11 hijackers? If so, why did the 9/11 Commission bury it in a footnote and not address why such action was taken?

The purposeful withholding of vital information by one intelligence agency from another intelligence agency is a type of failure that cannot be corrected or masked through simple reorganizational reforms of the intelligence community.

Even a plain reading of the footnote detailing the CIA's dubious behavior raises serious questions that beg to be answered.

In July 2005, in response to the 9/11 public discourse hearing on intelligence agencies, we wrote a press release that included the following information with regard to Chapter 6, called "From Threat to Threat."

Footnote number 44. Footnote number 44 details an instance where a CIA desk officer intentionally withheld vital information from the FBI about two of the 9/11 hijackers who were inside the United States. This footnote further states that the CIA desk officer covered up the decision to withhold said vital information from the FBI. Finally, Footnote number 44 states that the CIA desk officer could not recall who told her to carry out such acts.

While several notable instances of this sort of intentional withholding of vital information from and among intelligence agencies are found throughout the 9/11 Commission's final report, we call special attention to four additional examples in our press release.

We did so with the hope that the 9/11 commissioners would now explain why the truth has not been revealed to the American public about one of our intelligence agencies' ongoing surveillance of the 9/11 hijackers while they were living inside the United States in the 18 months leading up to the 9/11 attacks.

The leads to Almihdhar and Alhazmi in San Diego were key, but perhaps even more relevant was the earlier gleamed information about Marwan al-Shehhi, because that information would have immediately unearthed the existence of the Hamburg Cell, the epicenter from which the 9/11 plot was prepared.

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According to testimony given in Germany after the 9/11 attacks, al-Shehhi was one of only four members of the Hamburg Cell who knew about the 9/11 attacks beforehand.

Marwan al-Shehhi and Mohamed Atta traveled to Afghanistan in 2000 to train at an al-Qaeda training camp with several other September 11th plotters, and after returning to Germany, al-Shehhi made an ominous reference regarding the World Trade Center to an Hamburg librarian saying "There will be thousands of dead, you will all think of me," German authorities said.

Soon afterward, Atta, al-Shehhi and another plotter, Ziad Jarrah, began e-mailing several dozen American flight schools from Germany to inquire about enrollment. They arrived in the United States later in 2000 to begin flight training.

In its final report, the Commission continues to perpetuate the myth that the CIA's failure to communicate with the FBI was some sort of institutional failure, and thus, readily fixable by intelligence community reforms.

That notion is extremely harmful to our nation. Why didn't the Commission address the intentional lack of communication between the CIA and the FBI?

Six. Planes as Missiles - the Story of the PDB. In spite of many explicit warnings, National Security Advisor, Condoleezza Rice, claimed that the Administration was never warned of an attack before 9/11.

She went on national t.v. and stated "I don't think anybody could have predicted that they would try to use an airplane as a missile, a hijacked airplane as a missile."

However, as previously recounted, there were many warnings that terrorists might use planes as missiles.

How could the National Security Advisor to the President of the United States not have been aware of this possibility?

Further, why, if this was indeed a breakdown of communication within the Executive Branch of our Government, wasn't that addressed by the Commission?

If the vital flow of information from the agencies to the National Security Advisor was somehow hampered, wouldn't we need to understand how and why this was in order to make sure that the proper channels and information to and from the Executive Branch were operational in the future?

While Condoleezza Rice seems to have failed in her capacity as National Security Advisor to inform President Bush of such warnings, there were many others within the President's cadre of advisors who also could have apprised him of the same information.

Yet, on 5/17/02, President Bush also seemed to have no idea about the threat, saying "Had I known that the enemy was going to use airplanes to kill on that fateful morning, I would have done everything in my power to protect the American people."

To our further dismay, when Condoleezza Rice testified before the Commission in April of 2004, we learned that on August 6, 2001, the President had been briefed by the CIA about just such a possibility.

Although Ms. Rice argued during her testimony that the presidential daily brief of August 6, 2001 was historical in nature and didn't warn of a domestic threat, the title of the PDB was "Bin Laden Determined to Strike in the United States."

The title alone reveals that the document did indeed refer to a domestic threat, and was in fact not a historical recap.

At one point, to clarify and dispel the purely historical argument, I color coded the PDB so that everyone could see exactly what parts of the PDB said that the threat was both domestic and current.

I have done the same for this hearing. The orange is the domestic threat, and highlighted in yellow, it's in the present tense, it's current, on both pages.

An example of the current and domestic threat in the text of the August 6, 2001 PDB was this statement. "Nevertheless, FBI information since that time indicates patterns of suspicious activity in this country consistent with preparation for hijackings or other types of attacks, including recent surveillance of Federal buildings in New York."

Why did the 9/11 Commission fail to call Ms. Rice to account for her deliberately misleading public statements? Why wouldn't the Commission address the discrepancies between the sworn testimony and uncovered facts?

Not holding witnesses accountable for the veracity of their sworn testimony undermines the process.

Seven. Patterns of Hijacking - the Story of 52 Warnings. We also hoped that the 9/11 Commission would explain the patterns of hijacking language found in the PDB. Where did this information come from? Perhaps it originated with the FAA.

The explanation was not found in the final report released on July 22, 2004, but months later when the second monograph was finally made public, that the Commission had produced, we learned that there had been actually 52 warnings issued by the FAA during the six months preceding 9/11.

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When on September 11, 2001, Ari Fleischer, the White House Press Secretary, said there were no warnings, what could he have possibly meant?

What exactly did our Government do with the 52 warnings it received during the Summer of 2001? If nothing was done with regard to said warnings, why was that? Whose job was it to make sure that appropriate defensive action was taken?

At the very least, directives could have been issued to airport screeners to be on the look out for certain types of suspicious behavior.

On February 11, 2005, in response to the Commission's release of its FAA monograph, we sent out another press release. We stated "Notably missing from this monograph is any information pertaining to NORAD's failure to scramble jets in a timely manner, which leads us to wonder what else is being withheld from the public?"

We went onto state "Of the 105 warnings issued, 52 warnings regarding al-Qaeda were given to the FAA by the intelligence community in a six month period, from April 2001 to September 2001. According to the 9/11 Commission's final report, there were eight information circulars put out by the FAA between July 2 and September 10, 2001. Five of these information circulars targeted overseas threats, while the remaining three targeted domestic threats."

Finally, we stated "The 52 threats regarding al-Qaeda were not received by the FAA in a vacuum. From March 2001 to September 2001, according to the joint inquiry of Congress, our intelligence community received at least 41 specific threats of a possible domestic attack by al-Qaeda.

Additionally, the FAA was also made aware of the August 15, 2001 arrest of Zacarias Moussaoui, and finally, the FAA attended a high level meeting on July 5, 2001 where the domestic threat posed by al-Qaeda was discussed by all relevant intelligence agencies."

The FAA monograph reveals that in the Spring of 2001, the FAA had already determined that if the intent of the hijacker is not to exchange hostages for prisoners but to commit suicide in a spectacular explosion, a domestic hijacking would probably be preferable.

It would seem that during the Summer of 2001, there were indeed enough warnings and concern that all agencies should have been put on alert. Actions should have and could have been taken.

Nevertheless, the 9/11 commissioners never once reflected upon whose job it was to coordinate all those pieces of evidence.

They also left unaddressed the fact that with all this information floating throughout the agencies in the Summer of 2001, why didn't our National Security Council convene to discuss the very pertinent and very relevant issue of terrorism until September 4, 2001, a mere seven days before 9/11?

Eight. Accountability - the Story of a Lack Thereof. To date, no one has ever been held accountable for 9/11. Government officials who failed in their jobs were promoted and given medals. Terrorists have yet to be indicted or successfully prosecuted. Even the so-called masterminds, Ramzi bin al-Shibh and Khalid Shaikh Mohammed, have yet to be prosecuted, and Osama bin Laden is still on the loose, evading capture.

When we learned that German prosecutor Dr. Krause was scheduled to testify before the 9/11 Commission in June of 2004, I wrote the following e-mail and sent it off to the commissioners.

"I am especially interested in learning what the German prosecutor, Dr. Krause, thought about the U.S. Government not turning over people such as Ramzi bin al-Shibh or transcripts of his interrogation, who was reportedly in U.S. custody at a secure location.

This lack of cooperation by the U.S. Government made it impossible for the German courts to successfully prosecute Mr. Massoudi, who was put on trial in Germany for crimes related to 9/11."

Dr. Krause never did testify before the Commission. Our questions for him regarding the lack of cooperation between the U.S. Government and the German Government which led to the release of suspected terrorist Mounir El Motassadeq, also remain unanswered.

The Commission's report only tells us that Mounir El Motassadeq witnessed the execution of Mohamed Atta's will.

If these two men were truly involved in the 9/11 plot, why didn't the U.S. Government turn over all of the evidence in their possession in order to convict these two men?

Why would our Government refuse to cooperate with the German Government in order to help incarcerate such known terrorists?

Why did the 9/11 Commission report fail to address this in a substantive manner, and more pointedly, how will we ever win the war on terror without prosecuting and holding terrorists accountable?

Nine. Air Defense - the Story of NORAD's Belated Response. In other defense capacities, on the morning of 9/11, the Commission's report discusses the actions of the FAA, NORAD and NEADS. In particular, I make reference



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to footnote number 116, page 458, which says "On 9/11, NORAD was scheduled to conduct a military exercise, Vigilant Guardian, which postulated a bomber attack from the former Soviet Union.

We investigated whether military preparations for the large scale exercise compromised the military's response to the real world terrorist attack on 9/11. Accordingly, the newly sworn in Joint Chiefs of Staff, General Eberhart, said that it took the military about 30 seconds to make the adjustment to the real world situation."

The following words which show there was confusion have troubled me since my research began. NEADS. This comes from the Commission report and from the day of 9/11 transcripts.

"NEADS. Is this real world or exercise? FAA. No, this is not an exercise, not a test."

On page 20, we note more confusion. "NEADS did not know where to send the alert fighter aircraft and the officer directing the fighters pressed for more information, 'I don't know where I'm scrambling these guys to, I need a direction, a destination.'"

On page 26, "NORAD heard nothing about the search for American 77. Instead, the NEADS air defenders heard renewed reports about a plane that no longer existed, American 11. At 9:21, NEADS received a report from the FAA.

FAA, Military Boston Center: I just had a report that American 11 is still in the air and on its way towards -- heading toward Washington. NEADS: Okay. American 11 is still in the air? FAA: Yes. NEADS: On its way toward Washington? FAA: That was another -- it was evidently another aircraft that hit the tower. That's the latest report we have. NEADS: Okay.

FAA: I'm going to try to confirm an i.d. for you, but I would assume he's somewhere over New Jersey or somewhere further south. NEADS: Okay. So, American 11 isn't the hijacked at all then? FAA: No, he's a hijack. NEADS: He -- American 11 is a hijack? FAA: Yes. NEADS: And he's heading into Washington? FAA: Yes. This could be a third aircraft."

The mention of a third aircraft was not a reference to American 77. As the Commission report says, there was confusion at that moment in the FAA.

General Eberhart's claim that the military exercises somehow made the military better prepared on 9/11 does not ring true. Instead, it appears that the concurrent military exercises completely confused everyone.

Flight 11 was the flight that hit the first building at the World Trade Center in New York City.

Thus far, we are still waiting for the monograph on the failures of NORAD that the Commission said it would produce.

Ten. Toothless Investigation - the Story of Subpoena Power Not Used. While the Department of Defense and others were threatened with subpoenas for not being forthcoming with information requested, we were of the mindset that all known evidence pertaining to September 11th should have been subpoenaed by the Commission from the outset with no exceptions, which by the way, was also the mandate of the 9/11 Commission.

No stone should have remained unturned, and yet, this was not the case. For example, with regard to videos that recorded the Pentagon crash, we knew of at least three versions of videos that showed the crash of Flight 77.

Yet, only one version ever made its way into the public domain. That version had the date stamp of 9/12 instead of 9/11/01. The time stamp is repeated on two of the five frames while the other times on the frames were missing.

We had read in National Geographic about the second video that was recorded by cameras located at the Sheraton Hotel overlooking the Pentagon. We also read about the third video recording that showed the crash from the nearby gas station security camera.

We asked the Commission specifically to subpoena for these videos, and just before the Commission released its final report, we met with some of them. They told us that they had not subpoenaed for this evidence, but had instead issued document requests, which were never answered.

This seeming lack of persistence on the part of the Commission to collect all known evidence is worrisome. Again, if in fact they were unwilling to go after easily obtainable evidence, what other critical and more difficult pieces of the story were they missing?

How was one to feel comfortable with their investigation knowing that they were not aggressively pursuing the most tangible of evidence or information?

Also missing from the Commission's definitive report is testimony from national security whistleblowers, who had tried to testify before the Commission, but were either not asked to testify or their testimony was only barely acknowledged, or worse yet, completely omitted from the record.

This list includes Robert Wright, FBI agent, whom the FBI refused to allow to testify and the Commission did not subpoena him. John M. Cole, FBI counterintelligence, who had pertinent information with regard to Pakistan, Afghanistan, and the 9/11 attacks. He notified the 9/11 Commission during its tenure, but never received a response back from them.

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Colleen Riley, FBI Division counsel. The Commission did not interview her and chose instead to rely on transcripts from the Joint Senate/House Intelligence inquiry.

Mike German, FBI counterintelligence. In February 2004, his name and contact information were provided to the Commission as a key witness, but they never called him to testify.

Mark Burton, senior analyst at NSA. He provided dozens of pages of information and testimony to the 9/11 Commission, but was ignored, and was never invited to testify.

Behrooz Sarshar, language specialist at the FBI. He was refused twice by the Commission to testify, but finally did testify. However, his testimony was omitted from the final report.

This list is in no way complete. Rather, it is just a small sample of legitimate witnesses or corroborators of valuable 9/11 related information that they tried to provide to the Commission, but they were instead turned away, knowing full well that the best source of how an agency really works would entail talking to the people who actually work there.

Why is it that the Commission refused these key witnesses an opportunity to tell what they knew? How could the Commission be trusted to make the right decisions without obtaining all pertinent information? Worse yet, what happens when the Commission actively and knowingly ignores that information?

One whistleblower that we made sure the Commission met with was FBI translator, Sibel Edmonds. It was only when we walked her into the Commission's offices that they agreed to hear what she had to say.

Once the report was released, Sibel read it with great hope. Disappointed in the Commission's failure to address her very real concerns, she wrote in an open letter "Unfortunately, I find your report seriously flawed in its failure to address serious intelligence issues that I am aware of, which have been confirmed, and which as a witness to the Commission, I have made you aware of.

Thus, I must assume that other serious issues that I am not aware of were in the same manner omitted from your report. These omissions cast doubt on the validity of your report, and therefore, on its conclusions and recommendations."

A thorough and definitive investigation by the Commission would have addressed all of her concerns and spoken to all of the whistleblowers. It would have subpoenaed for the information it required and examined the plethora of information that other citizens and groups responsibly provided.

Finally, without compromising our national security, it would have reported all of its findings with its redactions blacked out and submitted to the American people.

In essence, the Commission could have produced a final product where the resulting conclusions and recommendations could be trusted.

Instead, at the end of the day, what we got were some statements that truly insulted the intelligence of the American people, violated our loved ones' memories, and might end up hurting us one day soon.

One such statement was that 9/11 was a failure of imagination, a failure of whose imagination? What exactly does that mean?

When you have a CIA Director with his hair on fire, a system blinking red, 52 FAA warnings, an August 6, 2001 PDB entitled "Bin Laden Determined to Strike in the United States," leads on several 9/11 hijackers, including Alhazmi, Almihdhar and Marwan al-Shehhi, warnings from many foreign governments, a Phoenix memo, warning of Islamic extremists taking flying lessons, the arrest of would be terrorists Zacarias Moussaoui, facts imparted to one agent, Agent Frasca, at the RFU of the FBI, 9/11 was truly a failure, all right, but I would certainly not call it a failure of imagination.

Once again, these warnings and threats were not received in a vacuum, nor were they so common that they should have been ignored in the wholesale and brazen manner in which they were.

To me, it seems rather clear that there were enough warnings making their way to the appropriate people that meant that the proverbial dots should have and could have all been connected, and thus, in light of all the incoming information in 2001, exactly whose failure was it to understand that our new enemy was terrorism, and exactly who failed us by not having the agencies do anything in a defensive posture to protect Americans from just this possibility?

Another outrageous statement made at the time of the release of the 9/11 final report that got a fair amount of media coverage was the one "Everyone's to blame, therefore, no one's to blame."

The problem with that assumption is that it creates a no fault Government, and a no fault Government does nothing to ensure that things will be different or better in the future.

When you hold people accountable, it serves as a deterrent for those that would repeat that same behavior in the future.

For the record, I would like to see that assumption restated to read "Everyone's to blame, therefore, everyone's to blame."

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In fact, the fact that there has been no accountability for the failures that led to the deaths of almost 3,000 people is truly unconscionable and irresponsible on the part of all of our nation's leaders.

What do we do now? The tools of democracy available to the citizens of America to address these issues are incredibly limited.

We asked for an independent commission to investigate 9/11 because that was the only tool that we, as American citizens, had access to, and hoped that our leaders, the members of Congress and the American public, would ensure its validity and that its ensuing recommendations would make us all safer, as safe as we could reasonably expect to be in the event of another attack.

We spent 14 months correcting information and lobbying for the creation of the Commission, and another 20 plus months monitoring the Commission's work, forwarding any and all research, making sure to send along our questions for the witnesses who were questioned, attending the hearings, making phone calls and lobbying for the extensions of time and money, sending thousands of e-mails, all in the hope that in the end, Americans could feel confident that we had indeed the definitive story of 9/11.

Sadly, as Americans, we have all been let down.

On the morning of 9/11, I lost my husband and best friend of almost 16 years. My two children, Matt and Sara, lost their beloved father on that terrible day. From that horrible day of September 11th forward, it has been made clear that in not allowing for truth and justice to prevail, America may have forever lost her way.

For those who might question the reasoning and importance for re-examining the Commission's report, the events that led up to and the day of September 11th, one only has to recall the enormous ramifications that the attacks of September 11th have had on our country.

Our leaders have almost overnight reformed Government agencies and instituted innumerable laws in the interest of national security and our living in a post 9/11 era.

Some, like the controversial Patriot Act, were forced through Congress without the benefit of congressional debate to determine its necessity and effectively find the proper balance between national security and our civil liberties.

More lethally, our foreign policy has shifted to one of preemption, and thus, we are at war in both Afghanistan and Iraq, were so many of our good men and women serving in the Armed Forces have lost their lives or have come home forever maimed.

It is important to look back because in order for our leaders to make wise decisions about the changes we are instituting, we must understand what it was exactly that went wrong that allowed our nation to become so vulnerable to terrorism, and we should not feel it improper to re-examine the investigations and decisions already made, especially in light of the fact that right after the 9/11 attacks, our leaders went full speed ahead with so many changes, most without the benefit of much of the information that has only recently been made available.

Again, with lives on both sides of the equation, we cannot afford to be wrong or caught off guard either over there or here at home, like we were on the morning of 9/11.

Thus, only an honest re-evaluation of how the 9/11 attacks could have happened will allow us to reverse the adverse consequences of overreaching laws and the existing loop holes in our security systems in order to allow us to be safer in the future.

Thank you.

MS. BROWN: Thank you, Lorie, for that very compelling and well researched testimony, and for reminding us of why we are all here, outlining those very important yet unanswered questions.

Lorie, do you have a copy of your document, your well researched document for Congresswoman McKinney's staff?

MS. VAN AUKEN: I'll get it to you.

MS. BROWN: Okay. We would like to have that. You are speaking on behalf of the other family members, are you not?

We would like to introduce our questioners at this time, to see if they have questions of this panel. I am going to introduce our questioners briefly, and then we will entertain one question from each questioner.

Mike Ruppert, who is from The Wilderness. Wayne Madsen is the independent investigative journalist. Ray McGovern, who is a former CIA agent.

We are going to begin our questioning with Representative McKinney.

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REP. McKINNEY: Thank you. I really have a ton of questions, but I think it's more important that I just make a statement, and that is how compelling and thoroughly researched your testimony has been today, how absolutely moving it was to hear your husband's voice, so that we have the opportunity to touch and feel as best we can a little bit of what you feel, what you must feel.

Those feelings then compel you to ask questions, to seek answers, and you deserve to have those answers. I just want to thank you so much, the three of you, Lorie, Mindy, and Monica, for being here with us today and enlightening us and sharing with us a little bit of your pain and of your patriotism, to want the best out of your Government, our Government, and for the future of our country.

Thank you very much.  
(Applause.)

MS. BROWN: We will begin our questioning now. Mike Ruppert.

MR. RUPPERT: This is difficult for many of us and somewhat cathartic even all this time after the attacks. I think I speak for many people in this room to express my gratitude to you, because it's apparent that you have not stopped digging even after the release of the Kean Commission report, and your positions seem to have changed a great deal since then.

One of my biggest questions would be, and you mentioned them in passing, the war game exercises, which we now know were taking place. There were five simultaneous exercises, and I think we will hear from another presenter today, six, which in effect paralyzed NORAD's response on the day of September 11th.

You have also gone to read the footnotes, and I want to comment that I saw Congressman Hamilton, who was the vice-chair of the Commission on CSPAN recently denigrating people who bothered to read the footnotes and point out the inconsistencies, but I thank you for doing that.

There is one particular footnote that I will refer to very quickly in the Kean Commission report, which referred to the war game exercise, Vigilant Guardian. I think it is footnote 161. It's in my book.

It was as an over the pole Russian exercise to practice for Russian bombers, when in fact, the NORAD website indicates that the Russian over the pole exercise in progress that day was Northern Vigilance, not Vigilant Guardian, which we now know, thanks to USA Today and many other sources, and on the record courses submitted to the Commission, was a hijack drill.

We also have statements from Richard Clarke in his book that there was another exercise in progress that day called Vigilant Warrior. I have obtained an on the record statement from a NORAD officer indicating that was a live flight exercise.

Have you looked into the issue of the war game exercises and how important a question do you feel that is to answer, and I will shut up with this, you have gone past the point of you have deliberately stopped using the word "mistakes," that there were a bunch of mistakes that occurred on 9/11, that it was all somehow a bunch of sequential accidents, and you made a deliberate statement about the FBI.

Are you beginning to feel that there were some deliberate actions that might have affected NORAD's response that day?

MS. VAN AUKEN: We waited a long time before we came out with criticism of the report because it took a long time to read the report and the footnotes and wait for the monographs to come out.

We didn't want to jump to any conclusions. We gave everybody the benefit of the doubt for a very, very long time, which is why our language has shifted now that we have seen more of what was and wasn't in there.

As far as the war games go, you know, we read Richard Clarke's book also. I think it is page four that talks about the different exercise that is not in the Commission report.

It is something that has disturbed us also, because if you're talking about the definitive report of 9/11, everything that happened on the morning of 9/11 should be included, and it isn't. It's upsetting.

MS. BROWN: Thank you. Before we go to our next questioner, I'd like to ask if there are any speakers in the audience who have not had an opportunity to contact John Judge, would you please raise your hand? John is at the end of the table, if you could go over there and see him.

Our next questioner, Wayne Madsen.

MR. MADSEN: Thank you. Lorie, I was particularly interested in what you said about the United Flight 93 plane that crashed in Pennsylvania, and the lack of any seismographic record of that impact.

## The 9/11 Commission One Year Later

I was wondering if you had the chance or opportunity to speak to any of the people in Shanksville, Pennsylvania, where the plane actually crashed. Many of them talk about the eight mile debris field, which is not indicative of an impact by putting the plane into the ground.

Also, they mention another aircraft seen in the area that day, that morning.

The other thing I will add is although we hear an awful lot right now from disgruntled people in many of the intelligence agencies, one we don't hear an awful lot from is the National Security Agency.

I had the chance to talk to someone who was on duty that morning at the National Security Operation Center, the NSOC, which is sort of the nerve center for all communications intercepts in the U.S. intelligence community.

This individual heard in the tactical communications area over the loud speaker that morning to U.S. Air Force pilots over Pennsylvania stating "We are engaging the target."

This is the first indication out of NSA that there were U.S. military aircraft in the area, and that they obviously did what Mr. Rumsfeld -- he kind of messed up when he said "When they shot down the plane in Pennsylvania," and then corrected himself.

I was wondering if you heard any of this from the people in Shanksville or any other sources on the plane in Pennsylvania.

MS. KLEINBERG: We did not speak to anybody in Shanksville. Our bottom line was that we were hoping that was the job of the Commission. At the end of the day, when they released their report, there wouldn't be so many questions outstanding, either by us or other citizens, that you would have been able to read the report and felt that you had all those areas covered. Obviously, it wasn't.

MS. BROWN: Thank you. Last questioner, Ray McGovern, former CIA agent, with VIPS, Veteran Intelligence Professionals for Sanity.

MR. McGOVERN: I would like to refer first to the remark made by Congresswoman McKinney, referring to Colin Powell's very mysterious promise that we would have a white paper. He made that promise a week or so after 9/11. Then ten days later, he said, oops, I misspoke. You're not going to have a paper, a white paper on this. You are going to have to depend on the press to figure out what happened.

That's precisely what he said. I was always mystified by that. I said to myself, well, he must not have much information.

I think Lorie Van Auken's testimony today, however brief it was, shows there was a plethora of information. Indeed, the reason there is no white paper is because there was too much damning, too much incriminating information, too much.

I just would like to comment on the unusually smiling and greatly deferential attitude that the committee members and staff exhibit to you, the families, in public, and the way they have ignored your questions in private.

I'm just wondering how you feel, how you felt when you saw the final report come out dismissing many of your questions, avoiding many of the others, and leaving, as you have already said, so many questions unanswered.

What do you suppose lies behind that? Is it simply gross incompetence? Is it arrogance, or is it something worse?

MS. KLEINBERG: I don't know. What I can tell you is unfortunately for us, we have learned to lower our expectations every time we go through another process.

When the final report came out, while we were hopeful, it was just another disappointment.

We feel that we have to remain undeterred from those disappointments and just keep plugging along. It's not for us to determine motive or why. We need to make sure that the mission of making this nation safe is completed, and we will just keep plodding along until we feel that has been accomplished.

MR. McGOVERN: I admire you all for hanging in there. Thank you.

MS. BROWN: Thank you all. We want to thank the panelists and invite our second panel to move to the table, please.

Can we show them our appreciation for being here this morning?

(Applause, standing ovation.)

MS. BROWN: Moving quickly to our second panelists, if we could ask John Judge, Mel Goodman, and David MacMichael to join us at the panelists table, please.

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This discussion will be Behind the 9/11 Commission: Flaws in the Process, a Staff Report, a Citizens' Critique.

We are going to begin with John Judge, staff and 9/11 Citizens Watch. John?

### BEHIND THE 9/11 COMMISSION: FLAWS IN THE PROCESS

#### STAFF REPORT - A CITIZENS' CRITIQUE

MR. JUDGE: Thank you. We are running late, and I wanted to keep my comments short, but I think it's in the best interest of everyone to take a second look of what we have been given as a final report of the National Commission on terrorist acts upon the United States.

It has been seen as an authoritative report, often by people that haven't taken the time to read it. It was hailed as a bipartisan consensus in the making, and a final word, and I think all day today you are going to see that it rarely meets that standard.

It was followed by two monographs, and a year later, one more, although each of the nine investigative teams were working on a monograph, Representative Hamilton said that we will get no further monographs from those investigative teams.

It's interesting that the monographs that were released contained a page from Director Philip Zelikow of the Commission basically exempting them from the conclusions of the monographs.

The quote is "While the commissioners have been briefed on the work and have had the opportunity to review earlier drafts of some of this work, they have not approved this text, and it does not necessarily reflect their views."

This seems to indicate that while there might have been a bipartisan consensus by the commissioners in this report, it seems to reflect there might not have been a consensus between the investigative staff and the rest of the people on the Commission.

It was a commission that was beset with problems from the beginning, not only the obstruction in its creation, but under funding that was really effectively solved and a limited time period for political purposes.

Even though they did a great deal of work, 2,000 interviews, collected documents, the report is essentially self referential. The reason I say that is almost 100 pages at the end of the report, in tiny print, have footnotes to interviews and documents and evidence, not a page of which, classified or unclassified, can be seen by the public.

The National Security Archives recently did a Freedom of Information Act request for every single document listed in the footnotes from all the agencies involved, and every single request was denied, and denied in some cases on grounds that don't fit the legality.

Basically, you have a report where you are being asked to trust the investigators, what they saw in the evidence that led them to the conclusions, and you don't need to verify it independently, but I don't think that's the way it should work in a democracy.

They took some public testimony, but that testimony was marked by being primarily focused on the recommendations of the Commission and its policy, not on the events of 9/11, and the majority of that testimony on the events was taken at the end of the long discussion about policy.

In other words, they were making the policy recommendations before they found out what happened on 9/11.

The actual author of the report is still unstated, but I think in recent articles in The Republic by Ernest May, we get an inkling, and also the release of the book "Blind Spot," part of which was commissioned to be written by the 9/11 Commission, by Timothy Naftali. Naftali is at least the intellectual author of the report in its primary conclusion that this was an intelligence failure. That's the focus of his book.

Zelikow, the Director, Ernest May, who also worked on the Commission staff at the top level, and Naftali, who was commissioned to do that work, all three are part of the University of Virginia Miller Center on Public Affairs, a rather interesting institution that bears some scrutiny, and they have a long history together of scholarship at Yale and Harvard that interlinks with studies of U.S. intelligence, including contracted work with U.S. intelligence concerning covert operations.

I think that is one of the main problems that exist when you create a national security state, how do you investigate it without involving the people that are already part of that national security state.

This report reflects that in the choice that they made of the people that would be brought onto the staff. I'm sure we will be addressing some of that later. They say it openly in Ernest May's article, that was actually their priority, to get people that had been part of earlier covert operations.

Yet, at the same time, the report fails, as we will see in testimony later today, to address the historical framework of the covert operations that seem to have led into 9/11.

## The 9/11 Commission One Year Later

The missing white paper was mentioned. It did show up in England, in the British press. They said a white paper about the suspects and the evidence was given to them in order to get them to participate in the war in Afghanistan, and the quote in the British press was "It's not enough to go to court, but it's enough to go to war."

I'm not sure what this paper would show or what kind of evidence that is, but it is evidence that we never got a chance to look at.

This Commission's report is not a rush to judgment. It's rather a rush to exoneration. It fails to really hold people to accountability, and doing that, it doesn't make a witch hunt out of an investigation, but having standards of accountability, and at least calling witnesses that might be accountable people in the events would lead to a rigorous investigation, and maybe getting at the truth, because people might be more forthcoming.

In the beginning, the Commission didn't even take testimony under oath. Governor Kean, the Director, told us that they thought people would be more forthcoming if they were not under oath. We found that a little counter-intuitive.

I think in addition to its own flawed assumptions and how it approached it, it also faced ongoing obstruction by the White House that refused to release documents, even refused to release the classified version of the Joint Senate and House Intelligence inquiry study that had been prepared by some of the people who sat on the 9/11 Commission and who had sat in on the classified testimony of that Commission.

They did that consistently in terms of who would be testifying publicly and whether it would be under oath or not. There was very little transparency and very little accountability.

They were exempt under the law from the Freedom of Information Act in their work. They were exempt from the Family Advisory Committee Act, so there couldn't be any formal advisory committee by the family members that were here, and no family member was part of the Board.

By approaching the whole matter as an intelligence failure in the report, it obscured the evidence that what was normally a standard operating procedure in the period prior to 9/11 fell apart, apparently, in the months around and on that day.

It led to them pursuing leads and suspects, basically accepting earlier reports without doing further follow up, blaming certain suspects, even though the evidence is we don't yet clearly know who the suspects were that got onto the plane, and that's because several people have come forward saying that their identity was stolen, basically, by these people.

If we track that identity back in time, it doesn't tell us whether it's the person using it, a second person using it, or the original person involved. It's only that evidence, tracing those identities back in time, and primarily the testimony of three people that are still in protective custody that the Commission could not interview.

I'm talking about Ramzi Yousef, Khalid Shaikh Mohammed, Bin al-Shibh, who are suspects, masterminds of the plot, never been brought to court, no one can question them.

The Commission was not even allowed to talk to their handlers or interrogators. All they could rely on were the printed statements taken from these people in custody. We don't know if the statements are accurate or real. We don't know if there were conditions of torture. We have no idea, because there was no way to check it.

We are left with a story that comes from people that we can't get to, and we are left with a story that perhaps is giving us the wrong direction in terms of how we are looking.

Until we open up the report and until we can look at the actual evidence and compare it, and begin to actually investigate further on many of the areas that the Commission ignored, then we have a report that doesn't eventually serve the mandate that this Commission was required to take care of, looking at the truth of terrorist acts upon the United States. It was "acts," it was plural.

Another terrorist act the Commission completely ignored was the Anthrax incidents that followed about a month later, and that have never been adequately investigated or brought forward. That investigation seems to have stopped at a point where they got to the gate of Fort Dietrich and then there hasn't been anything since. This has been going on years now.

MS. BROWN: John Judge, a member of Citizens Watch, an advocacy group that diligently monitors the Government's actions, and currently a staff assistant with Representative McKinney's office.

Mel Goodman is a professor of international security at the National War College, and a senior fellow at the Center for International Policy. From 1966 to 1986, he was a senior CIA Soviet analyst.

In 1991, he was one of three former CIA officials to testify before the Senate against the nomination of Robert Gates as Director of Central Intelligence on the ground that he had slanted intelligence to suit policies.

Mel Goodman.

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### CONFLICTS OF INTEREST - A COMMISSION INVESTIGATES ITSELF

MR. GOODMAN: Thank you very much. Two personal remarks first. One, I want to thank Congresswoman McKinney for what she is doing. This is an important examination of the 9/11 Commission that was an historic opportunity that was missed in the 9/11 Commission study that is terribly flawed.

I know that Congresswoman McKinney is perceived by many as to be contrarian. I know how difficult it is to be a contrarian in the limited kinds of democracy we practice these days, and I hope one day her views will be considered conventional wisdom and not contrarian views.

My other personal observation is I just left the Government after 42 years of service, mainly with the CIA, but also the Department of Defense, the State Department, and the U.S. Army.

That experience was important to me. I believe in public service, and I have always believed that institutions will prevail over the long run, and truth will come out.

I think the 9/11 Commission has taught me that we need to be extremely rigorous and extremely tenacious in pursuing that truth, because there is a corporate mentality in this country that is working against allowing the truth to surface, even in tragedies, such as the 9/11 tragedy.

This morning I am going to talk about the flawed Commission itself, and this afternoon, I am going to be talking about the flaws of the Commission reforms, which for the most part are counterproductive, and will ultimately do great harm to the intelligence community.

There is one piece of connecting tissue that I want to emphasize in my morning remarks and my afternoon remarks. It is very simply this: the 9/11 tragedy, this terrible tragedy, was not due to oversight problems. It wasn't due to budgetary problems. It wasn't due to systemic or structural organizational problems. It wasn't due to organizational flaws.

This is what the 9/11 Commission studied and this is what they would have you believe. The 9/11 tragedy was due to personal failings, institutions didn't make mistakes. People made mistakes.

The 9/11 Commission needed to observe the importance of accountability, and they didn't do this. Finally, and this is my real regret, the 9/11 tragedy was about bureaucratic cowardice at places such as the Pentagon and the Department of Defense, and this needed to be examined as well. I hope eventually we can get into those areas.

Let me say something about the Commission. I want to talk about the Commission itself, about the flawed process of the Commission, and finally, about the conflict of interest within the Commission that is extremely important to understand the failure of the Commission.

Remember, there have only been three historic opportunities when we have had a chance to look at the intelligence community in this country. One was after Pearl Harbor, and that led to a series of investigations, that not only provided very trenchant analysis of what went wrong, but provided an outline for the National Security Act of 1947, which really was the most far reaching important national security reform we have ever had in this country, because what the National Security Act of 1947 did was to set up the national security community, as we understand it today.

The second opportunity was after a period of important CIA domestic abuses, and that was the Church Committee and the Pike Committee.

The Church Committee and the Pike Committee came up with excellent reforms, that unfortunately were observed in the breach, and if we had followed the wisdom, particularly of Senator Frank Church, the late Frank Church, we may have prevented the terrible tragedies that have taken place in the last five years in terms of not only of 9/11, but using false intelligence to send Americans into war where they did not belong in Iraq.

The third opportunity, unfortunately, was the 9/11 tragedy, which gave us this important opportunity to at least try to get the intelligence community, which spends over \$40 billion a year, try to get this institution correct, and to understand it, and to see what reforms need to take place.

Of course, with the 9/11 Commission, this wasn't done at all.

The 9/11 Commission had the broadest mandate of any commission in the history of the United States, with the exception of the Pearl Harbor Commission, there has probably been no more important national security commission, but in terms of broad mandate, the 9/11 Commission could have looked at any aspect of this tragedy, and it's regrettable that they didn't do that.

Let me briefly look at the Commission itself. What this country needed was an independent, non-partisan commission. The Commission wasn't non-partisan. It was presented to us as bipartisan. When you appoint a group of people, five Democrats and five Republicans, that is certainly not non-partisan. I would argue it isn't even bipartisan.

What it is balanced partisanship. You can look at the Commission's report time and time again to see where the Democrats on the Commission checked the views of the Republicans and the Republicans on the Commission checked the views of the Democrats.



## The 9/11 Commission One Year Later

Forget this notion that this was somehow a bipartisan commission. It wasn't. It was balanced partisanship, and it did a great deal of harm to the final product.

Also, if you look at the make up of the Commission, here you have an insufficiency in the kinds of people who were picked to be on the Commission. I'm not going to look at the Commission members one by one. The fact of the matter is this is a group of people without any intelligence experience at all. Not one individual on this Commission had ever received a President's daily briefing report, had never been involved as a consumer of intelligence, had very little understanding.

That was particularly true for one of the chairmen, the Governor from New Jersey, who admitted he had no understanding of the intelligence community whatsoever.

There was insufficient statute. There was insufficient experience. There was insufficient knowledge of intelligence, when this was totally relevant to what needed to be done.

It would have been very easy to get a blue ribbon commission. Where were people such as Sam Nunn, William Perry, George Schultz, General Brent Scowcroft, Bill Bradley, David Boren, Gary Hart, even Warren Rudman. People who have served on the intelligence committees, who had studied the problem of intelligence and policy very closely, and may have had a contribution to make on the importance of change within the intelligence community.

Let me look briefly at the process itself. The lack of statute may have contributed directly to the lack of rigor and the lack of tenacity within the Commission.

The previous speaker spoke eloquently about the subpoena power that was unused, virtually unused, and maybe totally unused.

This was a Commission that deferred every step of the way to executive privilege. They had a mandate where they did not have to defer to executive privilege. Take the point of view about the President's daily briefs.

The entire Commission was not allowed to examine the President's daily brief. Only four commissioners got a look at some of the President's daily briefs. No Commission member came away with an idea of what did the CIA actually inform the White House of about the problems of terrorism in the Spring and Summer of 2001.

The Commission also had the very good idea and correct idea that they should do their own de-briefings of detainees. Now, we didn't know then but we certainly know now how the CIA and the military used torture to gain testimony from these captives.

George Tenet told the co-chairman of the 9/11 Commission that they could not have permission to de-brief the detainees on their own, and the commissions just faded away. They didn't pursue this matter. They didn't go to the mat with George Tenet on this one.

Also, the matter of allowing the President and the Vice President to be de-briefed together. This is obviously no way to run a commission.

In addition to the weakness in terms of rigor and tenacity, I think it's very important that the Commission did not avail itself of the products that were out there, some completed, some nearing completion, some in important stages of the drafting process, that would have been very useful to their own work.

The obvious document that they needed to have, that they made no attempt to take full use of, was the CIA accountability report.

Not a lot is known about the CIA accountability report on 9/11. This is the only report out there that actually gets into naming names, and dealing with those people who performed miserably in the period prior to 9/11.

Remember, accountability is what is really one of the key issues that is at stake here. Find out who was involved. Find out if these people were rewarded for their work instead of punished. See what accountability issues can allow you to make systemic changes within the intelligence community.

The irony of all of this is the CIA accountability report was requested by a Joint Senate/House inquiry from 2002, which was signed by the Chairman of the House Intelligence Committee, Porter Goss.

Who is now sitting on the CIA accountability report that was completed exactly a year ago, actually in June, 2004? None other than the Director of Central Intelligence, who is now Porter Goss.

In addition to not looking at the CIA accountability report, the Commission didn't take advantage of the excellent work being done by the Rob Silberman Commission on Weapons of Mass Destruction, to show there were no weapons of mass destruction, even though you had one of the co-chairmen, Governor Kean, who believed the Bush Administration rationale for why we had to go into Iraq, because of the so-called links between Iraq and al-Qaeda, and so-called large stocks of weapons of mass destruction.

They didn't avail themselves of the important work done by particularly the Democrats in the Senate Select Committee on Intelligence, the work done on the Office of Special Plans that was preparing false intelligence for the Bush Administration, that could have been refuted in terms of the evidence that wasn't there for so-called links between Saddam Hussein and Osama Bin Laden.

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Finally, very important work that was done on intelligence reform by General Brent Scowcroft that was completed before the 9/11 Commission even began its work, and this work wasn't used.

Finally, since I'm virtually out of time, let me just say one thing about conflict of interest. There were too many cases within the Commission by Commission members and staff members, particularly the staff director, Philip Zelikow, where people had to recuse themselves because of their own conflicts.

I'm not in a position to get into all of the various conflicts, but the fact of the matter is this was known before these people were even appointed.

This should have been grounds -- just as Henry Kissinger eventually had to resign as Chairman of the 9/11 Commission because of his own conflicts of interest -- they shouldn't have gone ahead to name those people who couldn't even take part in the serious work of trying to understand what happened on 9/11 and how do you reform the intelligence community.

The most important individual to me, other than a commissioner, was the staff director, Philip Zelikow. His conflicts of interest were so great that you do have to wonder why this individual was appointed to head this important staff of over 80 people.

He had very strong ties to the George Herbert Walker Bush Administration. Very strong personal and political and policy ties to Condoleezza Rice.

More importantly, Philip Zelikow was running the case study program at Harvard which took millions of dollars from the Central Intelligence Agency over a ten year period to write case studies on the CIA, to establish a record that was essentially untrue with the facts about the work of the CIA.

Of course, the classic case study that Philip Zelikow chaired, along with Ernest May, who was his patron at the Harvard Kennedy School, was the case on the Soviet Union, how the CIA got it right. You know, the politics of getting it right.

Of course, as we all know, one of the greatest disasters of politicization of intelligence that occurred even before the Iraq war was over the politicization of intelligence on the Soviet Union.

Who did Philip Zelikow bring into the staff structure as a team leader on his staff? None other than Douglas MacEachin, who was serving a tour up at the Harvard Kennedy School.

Who was Douglas MacEachin? Douglas MacEachin was the head of the Soviet analysis job during the 1980s, who was responsible for most of the politicization of intelligence.

Here you have Philip Zelikow from Harvard and the case study program, and Douglas MacEachin, as a team leader on Zelikow's staff, making serious decisions about the need for change within the intelligence community.

My last word is what this study is all about, and what this process is all about, is how do you regain integrity within the intelligence community, and how do you regain integrity with an investigative process such as the 9/11 Commission, and ultimately, that's not about change in structure. It's not about changing systems. It's not about changing organizations.

It's about appointing people to important positions who have the nerve and the courage to tell truth to power. That is what is missing from our Government at this particular juncture.

(Applause.)

MS. BROWN: Thank you. We are going to move now to our question and answer period. Again, we will ask for one question.

MR. JUDGE: Are we going to read David MacMichael's comments?

MS. BROWN: We are going to do that.

REP. McKINNEY: We have it under control, John.  
(Laughter.)

MS. BROWN: We are going to entertain questions from our questioners, one question each. We would like for you to raise questions about the whistleblowers that have been ignored, in the absence of David MacMichael. We would invite our panelists, John and Mel, to address that issue.

Let's reverse the order and begin with Representative McKinney, and then we will go to Ray McGovern.

## The 9/11 Commission One Year Later

REP. McKINNEY: Thank you very much.

Again, I have a comment, and that is it seems I have to say the same thing over and over again. That is Washington, D.C. seems to be the only place where you can make repeated mistakes at the job, on the job, at the work place, and get a promotion.

Now, I don't understand that. The average person goes to work. They wake up every day, and if they are late five days, they get docked their pay at least, or they may even get fired.

My question to the panelists is what does the fact that we have seen promotions instead of punishment for failure -- what if anything does that tell us about the policy that these people who were promoted were carrying out?

MR. GOODMAN: Let me make one observation about that. We all know about the famous remarks George Tenet made to the President, that will be his epitaph, that if the President wanted intelligence on Iraq that would help him go to war, that would be "a slam dunk," the CIA could get him any kind of intelligence he wanted, which is exactly what the CIA then did.

George Tenet, when he left the Government six months later, received the Presidential Freedom Award. When we finally get our hands on the CIA accountability report, and I think one day, we will, and we find out the individuals who made the major errors, the major blunders, including people such as George Tenet, we are going to find a list of people who have been rewarded by the system.

There is no doubt in my mind about that. I don't it for a fact, but I can bet on it, because that's what happened during the 1980s. The people who had the worse track record on the intelligence on the Soviet Union were rewarded through the system, because the system wanted to paint the Soviet Union as ten feet tall to justify Reagan's defense budgets that were at record levels for peace time in the 1980s.

The lesson from all of this, and it's a very serious lesson, is this kind of behavior, this kind of activity, creates cynicism in society, and it creates cynicism particularly among our young people.

When you have done that, when you have created cynicism and you turn people off to the important work of Government and public policy and public service, you have really discredited yourself, and you have really harmed the nation. This is what I worry about.

MS. BROWN: Ray McGovern, did you have a question for our panelists?

MR. McGOVERN: Sure. The comments by Lorie Van Auken on all the whistleblowers who were ignored, she must have mentioned about 12 of them, I think just stands and speaks for itself.

Sibel Edmonds, who was here just a minute ago, is the arch example of that, testified for two and a half hours, not a word of her testimony appeared in the final 9/11 Commission report.

I would like to turn again to the composition of the Commission, and ask Mr. Goodman about the two chairmen. We have talked a little bit about Governor Kean, but nothing has been said about Lee Hamilton.

Lee has been, like many of the other commissioners, sort of anointed for the last year, virtually -- almost canonized, I'd say beatified, you know.

They have all been treated with great deference, and yet we hear from Lorie's very concise wrap up this morning how they missed the ball on so many things.

Lee Hamilton, in my memory, has a rather checkered career on commissions like this, and in responsibilities such as this. I'm thinking Iran Contra, for example.

I think to evaluate his "impartiality," one has to see or to take a look at how he functioned during the Iran Contra.

Would any of you have any recollection of that?

MR. GOODMAN: Actually, I do. Here is where I beg to differ, and this is my personal disappointment with Lee Hamilton.

Lee Hamilton did excellent work on the Iran Contra investigations. I remember when he made a series of statements. I was teaching at the National War College in the late 1980s. I made them required reading for the 150 military officers who were at the National War College.

To me, pardon the expression, he was my great white hope on the 9/11 Commission, because you knew that Governor Kean really had no background whatsoever to deal with this, and there were very political types, like John Lehman, Slade Gorton, who really did not belong on that Commission. He performed poorly as a member of the Senate Select Committee on Intelligence in the 1990s.

Lee Hamilton understood these issues. My real regret is where was Lee Hamilton during all of this?

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My other problem with both the co-chairmen, Kean and Hamilton, is both said publicly, not in the report itself, that there was enough evidence that was accumulated, enough intelligence accumulated before 9/11 to prevent 9/11.

Nowhere does the committee reach that conclusion. Actually, to be fair to some of the staff reports, there were 17 or 18 of them, and I'm very critical of the media community for not analyzing those staff reports. They were all on the Internet. All you had to do was go to the 9/11 Commission website and analyze them.

The staff studies of the Commission came closer to raising serious issues of accountability and blame than the final report did.

The final report ultimately is a cover up. I don't know how else to describe the final report.

My great regret is Lee Hamilton didn't exercise the kind of statute he has as a man of integrity.

MR. JUDGE: I would just note that at a public meeting where the family members were demanding that Philip Zelikow step down as the Director, Governor Kean responded to their concerns by saying that he was aware and the Commission was aware of the conflicts with Mr. Zelikow. In fact, he and one of the commissioners, Jamie Gorelick, had to testify to their own Commission, and he said Zelikow had recused himself at certain points in the investigation, and he paused for a second and he said as all of us will have to recuse ourselves at some point.

That's the Commission that's looking into it, a commission where every member of which has some conflict serious enough to recuse themselves. That's the dilemma. How do you get somebody far enough outside the system to look inside the system or be allowed to.

MS. BROWN: In fact, one of the family members, Bob McIlvaine, whose son, Bobby McIlvaine, an assistant VP of Media Relations at Merrill Lynch, who died on September 11th at the World Trade Center, would like to make a comment on that.

MR. McILVAINE: Ray, you took some of my talk away when you mentioned Hamilton. John, I think you remember, right after the joint congressional investigation, when the Blue Book came out, David Portorti, a member of September 11th Families for Peaceful Tomorrows, we went to talk to Lee Hamilton.

I will never forget this. The Jersey Girls were there, Dave and I. We were talking about the 28 redacted pages of the Blue Book, the first Commission. He said to us, well, as much as I would like that information to come out to the public, because of national security, I just couldn't allow it.

I spent my whole life researching. That's all I do. I don't know if I'm going to be able to write a book or what.

Going back to Iran Contra, it was absolutely phenomenal, he practically made the exact same comment on the Commission of the Iran Contra.

To me, there were a lot of people who should have been put in jail from that, at the highest level. Yet, he came out with that same statement, because of national security, we can't release certain information.

That bothers me. That really angers me. I just wanted to mention that.

MS. BROWN: Thank you, Bob. Our next questioner, Wayne Madsen.

MR. MADSEN: I'd like to keep this theme going because this was my question before your comments. It was on what we now know Mark Felt told Woodward, when you follow the money, you will get at the root of all these scandalous operations.

My question is do you have a sense that when Bush first nominated Henry Kissinger to be the chairman, and then he stepped down because of conflicts of interest, and then they put Lee Hamilton on to take the place of George Mitchell, who also had conflicts of interest, that there was a conscious decision not to have this Commission look into the money going back to the funding of the Mujahedin in Afghanistan. We could roll in BCCI. We could roll in Iran Contra.

And the fact that a wonderful former member of the House, Chairman of the House Banking Committee, Henry Gonzales, the late Henry Gonzales, always expressed frustration that he got no cooperation from Lee Hamilton, head of the House Intelligence Committee at the time, or I should add also from the person on the Senate Banking Committee that was looking into these issues, Senator John Kerry. He said he wasn't getting much help from him.

My question is we heard about the mysterious stock puts. When I went to one of the news conferences, Hamilton said "I reject the premise of your question," even though Governor Kean said it was still on the table to investigate that. I don't think it ever was. These were the stock puts on United Airline and other stocks before 9/11.

The fact that Paul O'Neill, the Treasury Secretary, had gone to the United Arab Emirates and been briefed on suspicious money movements through the UA Central Bank in Dubai. To my knowledge, they didn't talk to him.

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Riggs Bank's involvement in the Bosnia Defense Fund. We know money bled into al-Qaeda units operating in the Balkans.

With all this information, was this just a stacked deck against looking at what Mark Felt said to Woodward, follow the money, that they would not follow the money?

MR. GOODMAN: I'll let John talk about the money issue. Let me just say one thing about the Commission. The President didn't want the Commission. The Senate Select Committee for Intelligence didn't want the Commission. The House Committee on Intelligence did not want the Commission.

The first commissioner named was Henry Kissinger. Now, I have great respect in some ways for Henry Kissinger. Any of those who have read his memoirs know that this is not a person who looks for the truth from documentation. This is a person who uses documents to put the best face on an issue and really to sing the praises of Henry Kissinger.

Immediately after this appointment was made, I wrote that this sort of gives away the game. There is no way they are going to get to the bottom of the 9/11 Commission because they are going to appoint the kind of commission that just won't go there.

If you look at the people who were selected and the way they were balanced off, five Democrats against five Republicans, an inexperienced Governor from New Jersey, and a former Congressman from Indiana, who apparently was not up to it or did not want to apply the rigor that was needed, and look at the commissioners themselves, I think they got the product they wanted, which is to stay away from personal involvement, accountability, bureaucratic cowardice, and particularly what the White House knew and when it knew it, and how much information did it have.

One thing that comes out of the staff reports that doesn't come out of the Commission report, if you compare the work the Clinton Administration did before the Millennium crisis, and the spike in intelligence material, and how active the Administration was to gather the intelligence community and to pursue every lead, and to stay on top of this situation, then look at the next spike on intelligence reporting on terrorism, which was the Spring of 2001, when nothing was done, important positions went unfilled, particularly at the Pentagon.

Rumsfeld didn't want to talk about terrorism because he wanted to deploy a national missile defense system in Alaska and California that doesn't work.

You had a National Security Advisor, Condoleezza Rice, who wasn't keeping the President up to date, and wasn't checking on how the bureaucracy was performing on this very important matter of terrorism, as Richard Clarke was trying to communicate to her.

They got the report they wanted by appointing the Commission that they felt they needed to appoint, which is classic, if you look at commissions in the history of Washington politics, that is how you, as you say, stack the deck.  
(Applause.)

MR. JUDGE: I'll just say you will hear about the money in the other panels in great detail.

MS. BROWN: While we are in this segment on whistleblowers, we would be remiss if we did not acknowledge the presence of Sibel Edmonds, who has joined us.  
(Applause.)

MS. BROWN: Sibel, as many of you may know, is a former FBI translator who gained prominence when she went public with information that suggests that the U.S. was warned of the impending attacks, using airplanes as missiles to attack buildings within the U.S.

Thank you, Sibel.

Our next questioner, Mike Ruppert.

MR. RUPPERT: Professor Goodman, you and I will forever disagree about a couple of things, one of which is your statement that these were blunders and they were personal and not institutional. I will go to my grave, and I believe my book documents an irrefutable case that the "mistakes" made were deliberate and intentional, and they were both personal and systemic.

(Applause.)

MR. RUPPERT: You made a brief reference to Pearl Harbor, and there is a book -- I have butchered a couple of first names, I got the last names right today -- Stinnett, and I believe his first name is Robert, "Day of Deceit," with FOIA release of documents showing we had broken the Japanese codes prior to Pearl Harbor, knew the attacks were going to take place, and allowed them to happen.

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I go further with respect to 9/11, arguing that we facilitated the attacks. We will never agree on that. I stipulate I never want to agree on that.

Perhaps we can agree on something. You talked about the deliberate slanting of intelligence, and I am well familiar with DCI Gates, who was a DDI, I believe, under Bill Casey, Deputy Director of Intelligence, but from Richard Helms all the way through George Tenet, there have been allegations and records indicating that intelligence has been slanted for political purposes. I think we can agree on that.

Looking at the 9/11 Commission, the Kean Commission, with these abundant conflicts of interest, I am particularly taken aback within the last week seeing now this startling new evidence that Iran had something to do with 9/11, after seeing 20,000 to 40,000 Iraqi civilians killed in what I think is an useless invasion of Iraq and too many deaths of American Service personnel.

How in your opinion was the spin placed or the intelligence placed as a result of these conflicts of interest in the Kean Commission, to produce a political result, and what political results have come as a result of the Kean Commission that were truly political?

MR. GOODMAN: This afternoon, I am going to be talking about the reforms that stem directly from, I think, the inaptitude of the Commission, because these are reforms that will not help the intelligence process.

Let me say one thing about the intelligence reforms. If you look at the reforms of the 9/11 Commission, would any of those reforms have prevented the misuse of intelligence and the politicization of intelligence that were used to lead this country into war? Not one of them.

If you look at the reforms, would one of those reforms prevent another act of terrorism? No, of course not.

This is what I worry about, and I share your concern there. My problem is I find that most charges of conspiracy, from my 42 years of Federal service, are really dealing with problems that are what the British call "cock ups," and not conspiracy.

I think serious mistakes were made. I don't think they were willful in the case of 9/11 any more than they were in the case of Pearl Harbor. This is no time to be debating that.

MS. BROWN: Thank you very much. We want to thank our panelists, as we move to our next panel discussion, which is Omissions and Errors in the Commission's Final Report.

We would like to invite Paul Thompson, John Judge, and Nafeez Ahmed to the table.

REP. McKINNEY: Panelist John Judge has submitted for the record a list of national security experts who were censored by the 9/11 Commission, and this will be available for the record, in the record.

MS. BROWN: While we are waiting for our next panelists to take their seats, I would just like to announce that today's briefing has been co-sponsored by Representative Raul Grijalva of Arizona. We thank him for his participation as well.

(Applause.)

MS. BROWN: We made an announcement earlier, and I guess this is the part where I have to have egg on my face, because we announced that there was going to be lunch for everyone.

Unfortunately, there is just lunch for the family members and the panelists. If you were hanging on for more than just food for thought, I hate to be the one to have to break it to you. Food is available downstairs as well.

We will begin our next panel discussion. Our next panelist is Paul Thompson, who is the author of "Terror Timeline."

(Applause.)

MS. BROWN: Paul is a free lance researcher and is the creator of the Center for Cooperative Research's Complete 9/11 Timeline, a compilation of over 5,000 articles and reports on 9/11.

In the aftermath of the September 11th attacks, Mr. Thompson found himself pouring over news of the attacks on the Internet and growing increasingly frustrated with how incomplete the story of September 11th was.

He began gathering and condensing every credible fact on 9/11 and posted these facts on line in chronological order to build a "terror timeline."

Paul?

## The 9/11 Commission One Year Later

### OMISSIONS AND ERRORS IN THE COMMISSION'S FINAL REPORT

#### NORAD/FAA, P-56 RESPONSES, PRE-9/11 EXERCISES

MR. THOMPSON: Thanks. I want to start off on my discussion about the FAA and NORAD response on the day of 9/11 with a quote from Senator Mark Dayton.

Last year, he read the 9/11 Commission report and he was quite outraged, and let me tell you what he has to say.

He said "NORAD and the FAA have covered up 'catastrophic failures' that left the nation vulnerable during the 9/11 hijackings."

"For almost three years now, NORAD officials and FAA officials have been able to hide their critical failures that left this country defenseless during two of our worse hours in history. NORAD officials lied to the American people. They lied to Congress. They lied to your 9/11 Commission to create a false impression of competence, communication, and protection of the American people."

He calls NORAD and FAA failures "The most gross incompetence and dereliction of responsibility and negligence that I've ever under those extreme circumstances witnessed in the public sector."

What exactly is he talking about? What are the failures that were so grave?

Let me just start briefly and mentioning what was happening before 9/11, what standard procedure was. NORAD, if you don't know, that is the military organization that defends the skies over the U.S.

The Federal Aviation Administration, FAA, they had established standard procedures for air traffic controllers to contact NORAD whenever civilian planes strayed from their pre-arranged flight course, or when they lost contact with air traffic control.

When NORAD was contacted, they would typically send a fighter up to intercept whatever the problem was with the plane and figure out what was wrong. Then there would be a graduated response. First, they might tip their wings. They might look into the cockpit, and try to figure out what the problem was.

Now, NORAD claims that at the time of 9/11, the fighters on alert had up to 15 minutes to get airborne, and in fact, it just so happened that there were military exercises that were taking place that day, and they say that because of that exercise, the response time was more like five minutes. Within five minutes, they could have gotten the planes up into the air.

Now, this was contrary to what some people say. This was actually an extremely common and standard procedure before 9/11. It did not require White House approval. People would just make the decision on the spot in NORAD.

For instance, in the year 2000, there were 425 unknowns, pilots who didn't file flight plans or they diverted from the flight plans, or they were using the wrong radio frequency, or something of that manner.

In many cases, the issues would get quickly resolved, but in that year, fighters had to take off and investigate these unknowns 129 times in the course of the year.

What was supposed to happen on 9/11, which was that the fighters would get up very quickly, actually happened on a very regular basis, a couple of times a week, before 9/11.

What is strange, and what Mark Dayton was making reference to is that there are all these conflicting accounts about what happened, and how quickly the fighters responded. I actually count five major accounts of what happened that day that are in serious conflict with each other.

Originally, in the days after 9/11, right after 9/11, Richard Myers, the Acting Joint Chiefs of Staff Chairman, a NORAD spokesman, New York Mayor Rudolph Giuliani, they all said that there were no fighters launched on the morning of 9/11 until after the Pentagon was hit at 9:37.

Then just days later, on September 18, 2001, NORAD put forth a timeline. They released a timeline that was significantly different. They said that fighters had been ordered to launch 45 minutes earlier than their first account.

Then in May 2003, NORAD officials, prominent officials, testified under oath before the 9/11 Commission, and they put forth yet a different timeline that had many different numbers about what happened and when it happened.

Then in January 2004, there was a book put out by the military called "Air War Over America," that had yet again a very different account of what happened and when it happened.

Finally, the fifth timeline that we come to, the fifth account, is put forth by the 9/11 Commission in June and July of 2004. This one is probably the most conflicted of all. It's almost a complete re-write of what happens with the hijacked planes and the response from the fighters.

There is just all this confusion. I have very limited time here to talk about this. This is a very complicated issue. What I decided to do was rather than go in depth about or try to cover all four flights, I'm just going to focus on one of the flights, and we can use that as a case study to really see what was indicative of all the flights.

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I decided to focus on Flight 77. Let me just give you some brief information about what happened there.

Flight 77, a problem began on that flight at 8:56, when the transponder signal was turned off, so there was no longer a radar signal, except for the primary and a back-up radar signal. At the same time, radio communication with the air traffic control stopped.

By this time, one of the planes has already crashed into the World Trade Center. Some of the other planes are missing. Certainly, this would be evidence that a plane has been hijacked, at least to strongly suspect that.

However, the 9/11 Commission says that the air traffic control, which was the Indianapolis air traffic control center, when they got this information, they no longer had the transponder signal, they no longer had contact, but they don't tell anybody about this. That is what the 9/11 Commission says.

There are a lot of problems with this. For instance, from other accounts, we know that within minutes of the plane disappearing, American Airlines headquarters was notified, according to newspaper reports, and even the testimony of some people from American Airlines.

According to the New York Times, the National Military Command Center, NMCC, located in the Pentagon, was also notified, just within minutes. This is what you would expect, that notification would be going out.

In fact, what the 9/11 Commission says is for some reason, the Indianapolis flight control center assumed that Flight 77 had accidentally crashed into the ground. They are not even thinking about a hijacking.

In response to thinking about an accident, they contacted the West Virginia State Police, and asked if there were reports of a downed aircraft. They contacted Air Force Search and Rescue Unit, and asked them to look for downed aircraft. They contacted the local FAA office. That's all they contacted.

They didn't contact NORAD. We talk about the standard procedure of 129 times happening, when you lose contact with a plane, just as a matter of course, you send a fighter up to see what happened.

For some strange reason, the 9/11 Commission is saying that didn't happen.

In fact, the 9/11 Commission claims that not only did they not contact NORAD, they didn't contact the FAA headquarters. They didn't contact the FAA command center, which was responsible for the day to day operations of the whole air traffic system. They didn't even contact the neighboring flight control centers to see if any of them had spotted the missing plane.

At 9:05, the plane reappeared in the air space managed by Indianapolis, allowing them the view as the plane had turned around and was headed east towards Washington, D.C.. We even have American Airlines headquarters claiming in testimony to the 9/11 Commission that they had been told the plane was turned around, but the 9/11 Commission says this isn't so.

I find this quite incredible. The 9/11 Commission claims it wasn't until 9:20 when Indianapolis communicated with the FAA command center and notified them that Flight 77 was missing, and then the information started to get out to other command centers, but still, NORAD wasn't notified.

We are talking over half an hour later, the plane has been missing, still no one notifies NORAD, until finally 9:34, three minutes before the plane crashes, and then it was only mentioned inadvertently in passing when talked about with something else.

In order for this to be true, the 9/11 Commission is making the claim essentially that the Indianapolis flight control center and the local FAA center that they contacted were in complete lack of contact with the outside world during this time, that they were unaware, unlike the tens of millions of people who had been watching CNN, that there was an ongoing crisis, that planes had crashed into the World Trade Center, two planes.

They are saying that all the way until 9:20, there has been over half an hour now where this has been the breaking news, that nobody in this entire Indianapolis flight control center or the FAA center had any idea that any of this had been happening.

We know that just isn't true. In fact, there was one news report saying that other centers such as theirs had been notified of the crisis long before the first plane even crashed into the World Trade Center.

What we see is an account coming from the 9/11 Commission that in my opinion is just frankly impossible.

I could go into a lot of length, unfortunately, I'm out of time, about the fighter response, but we see all kinds of similar anomalies that really don't stand up when you look at them logically.

According to what the 9/11 Commission says, there was no plane that actually came, no fighter that actually came to Washington to defend Washington for this plane or any other plane until about 10:00.

It is really remarkable. This plane was missing at 8:56. Nothing was done to defend Washington. No plane arrived for over an hour.

Thank you very much.

(Applause.)



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MS. BROWN: Thank you, Paul. Our next speaker is Nafeez Mosaddeq Ahmed, Executive Director of the Institute for Policy Research and Development in London, England.

He is the author of the recently published book "The War on Truth, 9/11, Disinformation, and the Anatomy of Terrorism," which de-constructs the findings of the 9/11 Commission report, and investigates the worldwide web of terrorist networks across space and time.

Good morning, Mr. Ahmed.  
(Applause.)

### SUSPECTS AND PLOTS, THE LINK TO AL QAEDA AND OSAMA BIN LADEN

MR. AHMED: Thank you. The title of my section is "Suspects and Plots, Osama Bin Laden and U.S. Intelligence." I am going to try and present a number of important facts and reports that fundamentally challenge the official account of the nature and identities of the alleged 9/11 hijackers, very briefly. I won't be able to cover everything at all, but their relationship to al-Qaeda and their activities as Islamic extremists.

While I won't offer alternative theoretical explanations, it must be noted that the facts I am going to refer to constitute as yet unresolved anomalies that struck at the core of the official narrative espoused by the 9/11 Commission and other previous inquiries.

A variety of reports and reliable accounts during this investigation and eye witness testimonials provided a very bizarre picture at odds with the conventional portrayal of the 9/11 hijackers and Islamic fundamentalists.

Two key hijackers, for example, Mohamed Atta and Marwan al-Shehhi, are known to have visited the Woodland Park Resort Hotel in the Philippines several times between 1998 and 2000. Numerous local residents and hotel workers, according to the International Herald Tribune, recognized them from news photographs after the event.

The report says they drank whiskey with Philippine bar girls. They dined at a restaurant that specialized in Middle East cuisine, and visited at least one of the local flight schools.

Al-Shehhi himself threw several parties with different Arab friends. They drank alcohol. They had lots of big vehicles and a lot of money.

There were a number of reports like this. They spent time with the girls, the chamber maids, and so on and so forth, the general kind of activities that is not commensurate with this kind of strict Puritan Islamic ideology of al-Qaeda.

There were many reports of this nature that I'm going to briefly give you. U.S. investigators have said that five of the hijackers, including Atta and al-Shehhi and others, Nawaf Alhamzi, Ziad Jarrah and Hani Hanjour, they visited Las Vegas six times between May and August 2001.

In accordance to the San Francisco Chronicle, for example, they "Engaged in some decidedly un-Islamic sampling of prohibited pleasures in America's reputed capital of moral corrosion." These activities included drinking alcohol, which is strictly prohibited in Islam, gambling, the same, and visiting strip clubs.

I could go on. I don't want to repeat the kind of reports that are available, but suffice it to say the number and consistency of the reports is sufficient to conclude that this is true. These guys were basically not acting at all in accordance with the kind of tradition requirements of Islam.

Just to give you an idea, I have a quote from an expert. His name is Mahmoud Mustafa Ayoub. He is a professor of religion at Temple University in Philadelphia. He specializes in Islamic and Middle East studies.

He said "It is incomprehensible that a person could drink and go to a strip bar one night, then kill themselves the next day in the name of Islam. People who would kill themselves for their faith would come from very strict Islamic ideology. Something does not add up."

Just to give you a deeper understanding of what we are talking about, al-Qaeda is basically a radical tendency within a broader Islamic movement known as the Salafi movement, which originates in Saudi Arabia. It is derived from the Arabic term "salaf," which means to precede, and refers to the companions of the Prophet Muhammed.

The general idea is that you have to very strictly follow the precise behavior of the prophet. If you go outside of that boundary, you are basically exiled from the religion. You cannot call yourself a real Muslim.

The fact that these people were behaving in this way is very, very bizarre. That's one element of the picture that I want to give you. What was their connection to al-Qaeda? How were they connected to al-Qaeda if they were behaving in a way which was supposedly completely at odds with al-Qaeda traditions?

Moving on from there, another very interesting phenomenon which needs to be acknowledged, and which the Commission report simply doesn't look at in any detail at all, is how these al-Qaeda officers were able to go in and out of the United States without any kind of sanction at all from the Immigration Services.

There was a very interesting report by Joel Mowbray from the Conservative National Review. What he argued, and he interviewed a number of State Department officials who worked with the visa's in Consular Affairs, and

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what he concluded was the expert analysis of these visa's was the visa application forms of 15 of the 9/11 terrorists showed that all of them among the 15 reviewed should have been denied visa's under then existing law.

It wasn't that the law was a problem. It was that the law simply wasn't applied. Six separate experts were interviewed by Mowbray. They analyzed the simple two page form, and they came to the same conclusion. All of the visa applications reviewed should have been denied on their face.

He catalogs some of the glaring problems with the visas. He said even an untrained eye would be able to look at this and say this is impossible to allow these people into the country.

The very odd thing that I'd like to draw to your attention, I have a statement from a guy by the name of Michael Springmann, who was Chief of the U.S. Consulate in Jeddah. It has been confirmed that 15 of the hijackers or perhaps the number is 13, I can't quite remember, at least 13 of them obtained visas to the United States from the U.S. Consulate in Jeddah.

It is interesting because according to Michael Springmann, who used to be head of the Visa Bureau in Jeddah in the 1980s, he said that he had been protesting to the State Department that the CIA, according to him, was using the U.S. Consulate in Jeddah to grant visa's to unqualified applicants from all over the world, basically to recruit Mujahedin in the Afghan war.

What Springmann subsequently said in the aftermath of 9/11 was that he's worried after hearing these reports that this pipeline wasn't closed off.

Here's what he said. He said this in an interview with CBC Radio in Canada. "I had not been protesting fraud. What I was protesting was, in reality, an effort to bring recruits, rounded up by Osama bin Laden, to the U.S. for terrorist training by the CIA...The State Department did not run the Consulate in Jeddah. The CIA did. Of the roughly 02 Washington dispatched staff there, I know for a certainty that only three people (including myself) had no ties, either professional or familial, to any of the US intelligence services."

That is an issue that the 9/11 Commission has simply just not dealt with in sufficient detail.

The other issue I want to bring up is the issue of military training. There are many reports that came out in 9/11 that many of the hijackers received U.S. military training at installations in the United States, which required a certain degree of security clearance.

The reports came from Newsweek, the Washington Post, and the New York Times. Five of the alleged hijackers, it has been alleged, received training in the 1990s at secure U.S. military installations.

These included, according to Knight Ritter News Service, Mohamed Atta had trained at the International Officers School at Maxwell Air Force Base in Montgomery, Alabama. AbdulMalik Calamari had attended Aerospace Medical School at Brooks Air Force Base in Texas. Saeed Agamid had been to the Defense Language Institute in Monterey, California. There are others apparently, four of them trained at the Pensacola Naval Air Station. There are many other reports of this nature.

When this actually came out in the press, obviously there was a big kind of hullabaloo. How did this happen?

Senator Bill Nelson actually faxed the Office of the Attorney General, John Ashcroft, and he demanded to know, is this true. September 17th is when he made contact and he asked the Pentagon, can you confirm or refute these reports.

By September 21st, Senator Nelson was informed that the FBI could neither say yes or no, according to his press office. Apparently, the Bureau was still investigating any connection to the military facility.

Daniel Hop sicker, former producer at PBS Wall Street Week and former investigative reporter for NBC News contacted Senator Nelson's office a month later. He wanted to know precisely what was going on. They said that the FBI had said they were trying to get through something complicated and difficult.

This is several months after this happened. Hop sicker wasn't satisfied with this, and in the end, he spoke to somebody at the Department of Defense, and really pushed them. In the end, this person admitted "I do not have the authority to tell you who attended which schools."

This is a very significant statement because it confirmed somebody did attend schools, but we just don't have the authority to tell you.

Again, this is an issue that the 9/11 Commission simply has not looked into.

To give you one more thing, the other issue I wanted to discuss but I won't be able to discuss it in any detail here, is the extent of the surveillance of almost every one of the hijackers by the intelligence community.

The evidence in the public record, and I've discussed this in my book "The War on Truth," it shows every single hijacker was for at least a year to more than a year under surveillance of the U.S. intelligence community, and often many other intelligence agencies.

Despite that, despite some of them being known to the U.S. intelligence community, they were still able to come into the United States.

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I will only give the example of Mohamed Atta. We have confirmation that Mohamed Atta was on a terrorist watch list since 1986. He had been implicated in a bus bombing in Israel.

This is very strange. If he was on a terrorist watch list since 1986, he was able to come in and out of the United States. His visa in particular had expired before he came in. He came in January 2001 through re-entry. He was in violation of his visa status. Yet, somehow he was allowed in.

Why wasn't the screens flashing that this guy is a confirmed suspected terrorist?

I guess I will close -- I don't want to go into too many details and take too much time -- just to give you an example, the conventional narrative tells us that Mohamed Atta was not extensively surveilled once he had entered into the United States.

I found an interesting report from the Miami Herald quoting officials from the National Security Agency, confirming that essentially that conversations between Mohamed Atta, who was obviously the chief 9/11 hijacker, and Khalid Shaikh Mohammed, who has been described as the kind of 9/11 mastermind -- that conversations between them occurred and these were monitored by the National Security Agency while Mohamed Atta was in the United States.

The most interesting is the Herald points out "The NSA is prohibited by law from monitoring calls to and from the United States without special court orders."

So, this was approved, and yet, this is something that has been denied, it hasn't been looked into.

I have a report from the London Independent that "Officials say that Mr. Mohammed," Khalid Shaikh Mohammed, who was in Pakistan at the time, "Received a telephone call from Mohamed Atta, the hijackers' ring leader, on 10 September. Intelligence officials who monitored and then translated that conversation believe that using coded language, Mr. Mohammed gave Mr. Atta the final approval to launch the strikes."

The question, of course, that needs to be asked is what else remains of these conversations that were intercepted? How much information was available? Why was this not acted on and circulated in the intelligence community appropriately, and why hasn't the Commission dealt with this issue?

In conclusion, they were clearly not Islamic extremists. It is difficult to see how this fact fits with the conventional assumption they were devout members of Osama bin Laden's al-Qaeda.

Furthermore and alternatively, it is difficult to see how even if they were members of al-Qaeda, how the conventional depiction of al-Qaeda as a network of devout militant Islamic extremists can be maintained given their distinctively un-Islamic conduct.

The question then arises as to who these people were, and alternatively, what was the nature of this apparent al-Qaeda cell? The official narrative as it stands cannot resolve this problem.

It is exacerbated in light of the fact that the majority of the 9/11 hijackers repeatedly entered and re-entered the United States on fraudulent visa's, apparently supplied by the U.S. Consulate in Jeddah, which reportedly has a CIA connection.

Worse still, many of these hijackers while in the United States somehow managed to obtain high level security clearances to train at several U.S. military installations.

They had connections with the U.S. military while they were connected to al-Qaeda, and I will leave it at that.

This is a fundamental anomaly and it strikes at the core of the official narrative. I don't know what the explanation is. I won't pretend to.

We need to have some kind of investigation to resolve this.

(Applause.)

REP. MCKINNEY: We are lenient with Mr. Ahmed because he has come such a long, long way.

I do want to just mention to you these two books, "The War on Truth" by Nafeez Ahmed, and "The Terror Timeline" by Paul Thompson. I highly recommend these two books to all of the people who are listening in our audience.

From time to time, you will hear bells ringing and buzzers going off and me popping up and darting out. It is because we have votes going on, and I have a limited amount of time in order to get over there.

I will be going in and out, as I'm about to do now. They just called a vote. This will go on, and we will get back on schedule.

(Applause.)

MS. BROWN: Thank you, Representative McKinney.

As Representative McKinney said, we will get back on schedule after lunch. In the interest of time, we are going to combine the next two panels.

I would like to invite John Newman and Marilyn Rosenthal to join us at the panelists table. John Judge, who is a wealth of information, we are going to invite him to integrate his comments into the question and answer period, so if all panelists can stay put, and we will invite the other two panelists to join you.

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We would like to get an initial statement from each of you, and then we will go to the question and answer period for all of our panelists.

We can begin with John Newman. John Newman spent 21 years in Army intelligence and served as Assistant to the Director of the National Security Agency. He also serves as an attaché in China. He is a history professor at the University of Maryland, and has been teaching courses in counterterrorism for ten years. Mr. Newman has written and published widely and is working on a manuscript about the events leading up to 9/11.

John?

### THE \$100,000 TRANSFER: PAKISTAN ISI, BIN LADEN AND U.S. INTELLIGENCE

MR. NEWMAN: It's a pleasure to be here and an honor to be here today, and to make my small contribution.

It falls to me this morning to bring to your attention the story of Saeed Sheikh, whose full name is Ahmed Omar Saeed Sheikh, and his astonishing rise in power in al-Qaeda and his crucial role in 9/11 was completely utterly missing from the 9/11 Commission report, and also to deal with what U.S. intelligence knew about his links to the ISI, Pakistani intelligence, and what if anything was said or not said in the Commission report about these things.

I would also like to acknowledge Paul Thompson's timeline, without which I wouldn't have been able to do very much, at least get started. Let me just put that out there on the table.

This 28 year old British national of Pakistani extraction left his prestigious London School of Economics in 1993 to hook up with Pakistani terrorists in Bosnia. After that, he took up Jihad and trained in the terror camps in Afghanistan.

In 1994, he tried to spring a terrorist leader from a jail in India by luring an American and three Britons to locations where they were kidnapped, but the plot failed, and he ended up in jail instead. The hostages were rescued.

Pakistan's Intelligence Service, the ISI, paid for his lawyer, but he was never tried during his five years of incarceration.

In 1995, five hostages, including an American, were killed in an attempt to spring Saeed Sheikh from jail.

An Indian citizen was murdered in 1999 when al-Qaeda and the ISI succeeded in freeing Saeed Sheikh by hijacking Indian Airlines Flight 814. Bin Laden immediately appointed Saeed Sheikh as a member of the Majlis al shura, the elite political council of al-Qaeda, and referred to Sheikh as his special son.

No attempt was made to arrest him when he returned to Pakistan. The ISI gave him a home and protection from the police. He lived openly and frequently swanky parties attended by senior government officials. U.S. Government sources told Newsweek he was a protected asset of the ISI.

During his imprisonment, there was no indictment and no trial in India. There were no indictments in Britain or the United States either.

Despite his kidnapping British citizens, he was allowed to immediately travel to London. Go figure. On January 2, 2000, a British Foreign Office spokesman would only say that this was so because he was a British citizen and had not been convicted of any offenses overseas.

There was no conviction because there had been no trial, and Britain could have indicted and tried Saeed Sheikh if they wanted to. The fact is they didn't want to.

They waited until after the September 2002 conviction for the murder of Daniel Pearl, for whom most Americans know about this man, to ask questions of the India Government in connection with the first kidnapping.

The British press called this long delay a mystery, but the outraged families of Sheikh's victims condemned it and called their government's decision a disgrace and a signal to others to do the same.

The Americans did not act either, even though he had kidnapped an American citizen in 1994 and another American had died in the attempt to break him out in 1995.

These events led to no indictment in 1994, no indictment in 1995, and there was no indictment after the hijacking of Flight 814 in 1999.

The United States would wait until after the 9/11 attacks to take action, seeking an indictment of Saeed Sheikh for the 1994 kidnapping in November 2001.

The question is why? Did the United States not indict Saeed Sheikh because he was a British informant?

While the CIA itself claims it failed to penetrate al-Qaeda's leadership, the agency has acknowledged on Capitol Hill and in various forums that there were numerous sources being handled by foreign intelligence services.

Did the agency receive information provided by Saeed Sheikh from British or Pakistani intelligence? This would help explain why Saeed Sheikh was not indicted and escaped justice for his crimes and traveled freely around England.

If this is correct, if Saeed Sheikh had been arrested, the best penetration of the al-Qaeda leadership would have been lost. Al-Qaeda had learned in the early 1990s from the Ali Mohammed case, that many of you probably know

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about, which I can't take the time to go into, that the benefits far outweighed the risks of becoming an informant for a western intelligence agency.

I was interested in your presentation and where you were going with the whole visa thing in Jeddah for that same reason.

If the foregoing analysis has any merit that western intelligence agencies were receiving reports from a senior al-Qaeda source, once again, al-Qaeda had used western intelligence to accomplish its own mission. Saeed Sheikh was probably a triple agent.

According to Pakistani Police reports, for two years after his release, Saeed Sheikh traveled regularly to training camps in Afghanistan, where he trained recruits for al-Qaeda. According to British Police reports, he trained the 9/11 terrorists in hijacking techniques.

Saeed Sheikh reported directly to Abu Zubaida, al-Qaeda's chief of external operations. He turned al-Qaeda into the more capable and operationally secure organization that it was on the morning of 9/11.

Saeed Sheikh, the man about whom the Commission report utters not one word, overhauled al-Qaeda's logistics, communications and financial networks, and was given responsibilities in international liaisons, such as relations with the Hizballah or the Sudanese National Islamic Front.

To facilitate financial and communications needs, he designed a new secure encrypted web based communications system for al-Qaeda. There was talk he would one day succeed Bin Laden.

Over and above all these responsibilities, Saeed Sheikh had another extremely sensitive job for al-Qaeda. He was the group's principal liaison with the ISI, working with various and current former officers of Pakistani intelligence, including Lieutenant General Mohammed Aziz Khan, one of the most powerful commanders in Pakistan.

Saeed Sheikh played a vital role in the 9/11 plot by financing the hijackers. For his trouble, he received the same personal budget as the two other key coordinators, Khalid Shaikh Mohammed and Ramzi bin al-Shibh.

As the 9/11 attacks neared, the ISI chief, General Ahmed, became more deeply mired in the plot, apparently to secure new sources of funds for the airline tickets needed for the reconnaissance flights and the flights on the date of the attack.

In early August, Saeed's former prison mates kidnapped a wealthy shoe tycoon in India and held him for 15 days. The chief gangster, Mr. Ansari, ran the kidnapping operation right from Dubai, United Arab Emirates, right where Saeed Sheikh was carrying out his 9/11 paymaster duties.

The kidnapers freed their hostage for \$830,000 and gave \$100,000 to Saeed Sheikh. In an e-mail discovered afterwards, Ansari said "I paid \$100,000 to Sheikh."

On the orders of the ISI chief, General Ahmed, Saeed Sheikh then wired the money to the hijacker leader, Mohamed Atta. Flush with cash, Atta, Alhazmi, and Hanjour each flew first class on the type of aircraft they would use on 9/11.

I will turn to the Commission report and what U.S. intelligence did with this in the hours and days right after the 9/11 attacks.

In the appendix of names at the back of the 9/11 Commission report, there is a "Sheikh Saeed al-Masri" listed as an Egyptian and finance chief of al-Qaeda. "Al-Masri" is simply a common code name used by many al-Qaeda operatives, and of course, "Sheikh Saeed" is the transposition of the name "Saeed Sheikh," about whom the report says nothing.

In chapter two, which describes the al-Qaeda leadership in detail from 1988 to 1998, there is no mention of this Sheikh Saeed al-Masri, the alleged Egyptian finance chief of al-Qaeda.

Chapters five and six pick up the history of al-Qaeda again, as plans were honed for a major attack on the U.S. mainland, but despite the many, many names mentioned or discussed, nowhere was this reputed finance chief, Sheikh Saeed, mentioned.

Besides the entry in the Index of Names, Sheikh Saeed is mentioned only one time in the 9/11 final report. He pops out of nowhere, just six weeks before the attack, and is identified only as al-Qaeda's finance chief, and is said to have been in a handful of senior al-Qaeda leaders who opposed the attacks. He is never mentioned again, probably because he's the ghost of our Saeed Sheikh.

The 9/11 Commission, which studied U.S. intelligence and law enforcement community's performance in great detail, maybe not so much in great detail, but they did, neglected to cover the community's performance during the weeks following the attacks to determine who was responsible for them. Not a word about that in the report.

The report does discuss the immediate U.S. responses, but the immediate investigation is never addressed. Anyone who has closely studied the post-9/11 investigation knows that the first breakthrough came two weeks in the investigation when the money transfers from the United Arab Emirates to the hijackers were uncovered.

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Furthermore, if you have studied that investigation, you know there is no disputing that while investigators may have struggled with the identity of the paymaster, they were clear about one thing - he was al-Qaeda's finance chief.

For this reason alone, you have to ask why the 9/11 Commission report never mentions the finance chief's role as the 9/11 paymaster.

The 9/11 Commission staff was not brain dead. They likely left this out because of the sensitivity of Saeed Sheikh's story.

The investigators learned that most of the late money transfers in the 9/11 operation were linked to an alias that Saeed Sheikh had used, Mustafa Ahmed al-Hawsawi, but U.S. investigators did not yet know this was his alias.

They began to find out who Hawsawi was, and the first person they suspected was announced on September 24th, we will call him Mustafa number one, Mustafa Ahmed. On September 28th, a senior Government official told the press that the U.S. is seeking this Egyptian born terrorist named Mustafa Mahmood Saeed Ahmed, whose past had included money transfers to Bin Laden. Three days later, they dropped him from the investigation.

We found out why on October 1st, when U.S. investigators announced that they had found the smoking gun -- there's a nice place on the website of the timeline if you would like to look more here -- they found the smoking gun linking Bin Laden to the 9/11 attacks.

The FBI told many media outlets the 9/11 paymaster was Sheikh Saeed, an Egyptian, also known as Mustafa Mohammed Ahmed. We will call him Mustafa number two. And that he was also known as Sheikh Saeed. The FBI said it was he who had transferred the money to Mohamed Atta on the days leading up to the attacks, and that he was a senior financial manager for Bin Laden and had been in that capacity since his days in the Sudan.

This is exactly what the United States needed to make an iron clad case proving Bin Laden's guilt. They were very pleased with themselves, and they announced that they had found the smoking gun linking Bin Laden to the attacks.

They had indeed found the smoking gun, but had no idea of the bombshell they would uncover one week later. Then Mustafa Mohammed Ahmed, like Mustafa Mahmood Saeed Ahmed before, were dropped, as the paymaster, and the 9/11 Commission does not mention either of those names in the extensive list of those connected to the plot.

At the end of the first week of October, an FBI team investigating the 9/11 attacks made a startling breakthrough. The first details emerged on CNN's coverage. The investigation now identified Mustafa Ahmed al-Hawsawi as our Saeed Sheikh, the man released from prison in India less than two years ago, after hijackers of an Indian Airlines flight demanded his freedom.

The sources for this CNN story was said to be senior level U.S. Government sources and U.S. investigators.

Two days later on October 8th, CNN followed up the story reporting "Indian and U.S. authorities now see a link between the 1999 Indian Airlines Flight 814 hijacking and the September 11th attacks on the United States."

Freed was Ahmed Omar Saeed Sheikh. Authorities said he used this pseudonym to wire \$100,000 to suspected hijacker, Mohamed Atta, and distribute the money in the United States.

There was more. An FBI team working with cell phone numbers provided by Indian intelligence uncovered a new smoking gun. They learned that the chief of the ISI, Mahmood Ahmed, had ordered Saeed Sheikh to send \$100,000 of the kidnapping ransom to Mohamed Atta a month before the 9/11 attacks.

This ugly detail emerged when the FBI team ran traces on Saeed Sheikh's cell phone number beginning in July; the ISI chief's number was among the regular people that Saeed Sheikh communicated with.

On October 7th, President Musharraf sacked Ahmed for this notorious act. This story was widely covered in the press around the world, not covered here in the United States. One piece was added on October 9th that Musharraf had done this at the behest of the U.S. authorities which asked for his removal after they confirmed the role of the money transfer to Atta.

This bombshell could not have come at a worse time. Washington and London were preparing to invade Afghanistan while securing Pakistan as an ally. It's hard to imagine a revelation more damaging than the fact that Pakistan's intelligence service and most powerful Army commanders were behind the 9/11 attacks and the paymaster, a known terrorist who had been able to carry out his mission because the U.S. and U.K. had set aside justice for his crimes.

More than the ISI chief that had been involved in Pakistan, the investigation established there were other generals, Aziz Khan, and others, and I am going to skip over that because I am out of time.

It is now clear that these Islamic generals who had installed Musharraf in 1999 were behind Saeed Sheikh. Musharraf fired them all the same day, October 7th, the day after Saeed Sheikh's links to them were discovered.

But that a sovereign government and supposed ally was so directly involved in the 9/11 atrocity must have stunned and deeply embarrassed the American Administration. It was as politically damaging for Prime Minister Tony Blair as Pakistan's role was for President Musharraf.

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The stakes in Pakistan were very high, as U.S. General Anthony Zinni explained to CBS and 60 Minutes. Musharraf may be America's last hope in Pakistan, and if he fails, the fundamentalists will get hold of the Islamic bomb.

Musharraf was also vital to the war effort and was the key to neutralizing Islamics from rounding up al-Qaeda operatives in Pakistan.

The story of Saeed Sheikh and the generals are only lightly covered in western media, and only one American newspaper, the Wall Street Journal, carried it on October 10th. One wonders if this didn't put the Wall Street Journal on the ISI's radar screen. Remember the story of Daniel Pearl a few weeks later.

Not a single other American outlet carried the story, and the role of Saeed Sheikh and the generals in the 9/11 attacks disappeared in the American and British media. Prominent outlets, New York Times, Los Angeles Times, and BBC still carried the story that the paymaster was an Egyptian.

Asian media, however, bored in on the story, asking why there was so little pressure to hand him over. There would be no pressure to do so until after Pearl was murdered four months later.

Pearl had discovered that senior Pakistani scientists were helping Bin Laden acquire nuclear know-how. For his part, Saeed Sheikh didn't seem worried about it. He returned in October to Lahore, and again partied with government leaders.

The American media, wholly dependent on U.S. Government sources, seemed not to notice. In the middle of November, the U.S. Government suddenly dropped his Egyptian identity and claimed he was a Saudi businessman. Where did that come from? From a British source, two oblique references to another Ahmed in a link to al-Qaeda, and with that, the story died.

This dubious fourth version underpinned the separation of Saeed Sheikh from the astonishing story of his rise to power in al-Qaeda and his shadowed but crucial role in the 9/11 plot. However, the paymaster was still the CFO of al-Qaeda.

The 9/11 Commission report which carries Mustafa al-Hawsawi as the paymaster and Sheikh Saeed as the al-Qaeda CFO, has dodged the issue, and does not say if the two are the same or not.

Thus, technically, even if the Commission staff knew the truth, they have not told a bald lie.

MS. BROWN: John?

MR. NEWMAN: By not addressing the issue, however, the Commission leaves the impression that both men are real, which helps to perpetuate the suppression of Saeed Sheikh's story.

While they decoupled Saeed Sheikh from 9/11 and al-Qaeda, U.S. authorities had no intention of letting him get off scott free, and in November, at the very moment he went from prominence to obscurity, the United States finally but secretly indicted Saeed Sheikh for the 1994 kidnapping of an American in India.

MS. BROWN: Excuse me, John. We are going to have to ask you to wrap up.

MR. NEWMAN: Okay, just a few sentences to go.

MS. BROWN: Thank you.

MR. NEWMAN: The Administration officials speak on terms of anonymity and were told that the Justice Department had pressed the National Security Council to have Saeed Sheikh extradited. One might be justified in asking the question why would the National Security Council have to be pressed to extradite a murderer of U.S. citizens?

By late February, the issue was moot. Pearl was murdered, and Musharraf swore he would personally hang him before turning him over to the Americans, unlike Khalid Shaikh Mohammed and Ramzi bin al-Shibh, whom he did turn over. Of course, they had not been western penetrators of al-Qaeda.

We have learned through Congresswoman McKinney's Office that there was a classified briefing about Saeed Sheikh. While that is comforting, the fact that the rest of the world knows about his role in 9/11 while the American public and most of Congress remains ignorant is disquieting.

We can no longer say we are protecting sources and methods about a story known to the rest of this planet. We are now mocked for our ignorance about this story, and even members of Britain's Parliament poke fun at us.

It is long past time to come clean about Saeed Sheikh.

MS. BROWN: Thank you, John.

(Applause.)

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MS. BROWN: Hopefully, you have the complete statement available for the Representative's staff, so that can be distributed, John.

MR. NEWMAN: Yes, I do.

MS. BROWN: If there are things you had to leave out, it will be made available.

I also want to announce that there is going to be a DVD of testimony on tape by William Pepper, the author and English barrister and American lawyer, with specialized training in international law and international human rights, on this same topic.

He convened a seminar in international human rights at Oxford University. That DVD will be aired right here in this room during the lunch break, for those who are interested in seeing it.

Our next speaker is Marilyn Rosenthal. She is the mother of Josh Rosenthal, who was killed in the attack on the South Tower of the World Trade Center on September 11th.

She is currently editing her book "9/11, Searching for My Son and His Killers." Since her son's death, she has become an expert on warnings about and proceedings about and preceding the 9/11 attack.

She is professor emerita, medical sociologist, and adjunct professor in the Department of Internal Medicine at the University of Michigan Medical School. She is also an Associate Director of the UM Medical School's program in society and medicine.

Welcome, Ms. Rosenthal.

### FOREKNOWLEDGE AND FOREWARNINGS OF 9/11

MS. ROSENTHAL: Thank you very much. I appreciate the opportunity to share some of my research.

After my son was killed and we somewhat recovered from the trauma and the shock, my first reaction as a social scientist was to find out as much as I could from as reliable sources as I could.

One of the subjects I was interested in, along with many other members of victims' families, is what information the White House could have had available to it before 9/11.

I'd like to summarize my findings here by telling you a little bit about the ten different sources of information the White House could have had access to, that the President could have had on his desk, in helping understand what was going on in the world.

There are 15 United States Government intelligence agencies. We have heard a lot about the CIA and the FBI, but there is many more than that. I want to talk about one of them, after I go through the list.

We also have documented the information that the White House and various intelligence agencies received from foreign intelligence agencies in a period of time leading up to 9/11.

In addition to that, there are the public declarations from Osama bin Laden. There were the transition briefings from the Clinton Administration officials. There was information from America's foremost terrorism experts, George Tenet and Richard Clarke. There was information that came through the FAA, the Federal Aviation Administration. There were unusual activities in the financial markets, and there were thousands of threat warnings in the Summer of 2001.

Here's a list of the 15 intelligence agencies that we pay our tax monies for. We are just going to quickly go through that. I'd like to just say a few words about the National Security Agency, which monitors electronic messages and telephone calls.

During the Summer of 2001, the National Security Agency reported at least 33 communications that they had intercepted and translated, indicating a possible imminent terrorist attack in 2001.

I am wondering if those 33 included the following two? On August 20, 2001, Mohamed Atta sent a coded e-mail message to Ramzi bin al-Shibh, the handler for the cell here, indicating the approximate time of the attack, in three weeks, and the four targets. That was a coded message. I would presume our coding experts would have been able to figure out what that said.

A little easier to figure out was a telephone message from Atta to Ramzi on August 29, 2001, indicating the date of the attack, and the code in that was so simple that my 12 year old granddaughter could figure it out immediately, and it was 11/9. That's a European way of writing a date, 9/11.

That information is from a book called "Masterminds of Terror," which was written by two British journalists, and is based on interviews with Ramzi and Khalid Shaikh Mohammed before they were captured in Pakistan.

In addition, we can look very quickly at the foreign sources of intelligence concerning imminent attacks.

All my material, by the way, is from the public sector, and any of you with persistence can find all this.



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In the late Summer of 2001, there were specific messages from Britain, Egypt, Israel, Jordan, the governments, their intelligence agencies or heads of governments, and interestingly enough, from a secret Taliban adversary from Afghanistan. I don't know what to make of that. Warnings of an imminent attack.

There was additional intelligence information in the decade before, and particularly the year before, from all of those intelligence agencies.

Then when we turn to Government reports, some of which have been mentioned here, there were eight Government reports between 1994 and the last one in 2001. The first one in 1994 was, for example, called Terrorism 2000, the Future Face of Terrorism. Of course, the 2001 report was the Hart-Rudman report on counterterrorism.

The majority of these reports, beginning with the 1994 report, indicate possible scenarios where terrorists would hijack airplanes and crash them into American landmarks.

If the President had wished, he could have had a good deal of information from those eight reports.

Let's look at statements from Osama bin Laden. Between 1993 and April 2001, Osama bin Laden gave 26 televised interviews with British and American and foreign correspondents in the Middle East. He gave 26 televised interviews or made public statements that contained threat warnings.

Between December 1992 and September 9, al-Qaeda carried out nine bombings, assassinations, and attempted assassinations.

Of course, I'm going to go over the material quite quickly concerning statements made by the Director of Central Intelligence, George Tenet. Let me just read a few of these.

"From 1995 to 9/11, we produced 46 papers, I would call significant strategic intelligence analysis on bin Laden, al-Qaeda and Islamic extremists. During 2000 and 2001, we pushed our analytic products into broader circulation, the leadership of the CIA repeatedly warned the policy community in the Executive Branch and Congress of the seriousness of the threat." He went on to give some specific examples.

You all know about the presidential briefing. You may have missed an interesting quote from George Tenet at 8:50 on 9/11, who was having breakfast with former Senator Boren in the Sheraton Hotel. An aide informed him that the World Trade Center had been attacked, and Tenet's response was "This has the fingerprints of bin Laden all over it."

Of course, there is the second renowned American terrorism expert, Richard Clarke. These are quotes taken from his book. He talked about the difference between the Clinton Administration and the Bush Administration in terms of priorities they gave to terrorism, their emphasis on terrorism.

There was also his January 25, 2001 memo to Condoleezza Rice, which was only just released a short time ago, which contained explicit warnings.

He is quoted as saying in the Summer of 2001 that the threat level exceeded anything George Tenet and I had ever seen and it took until September 4th to get the principals committee meeting on al-Qaeda that he had requested urgently in the January 25th memo.

I have to read aloud a statement that Richard Clark made on 60 Minutes on March 21, 2004, because it expresses exactly how I feel.

"Frankly, I find it outrageous that the President is running for re-election on the grounds that he is doing such great things about terrorism. He ignored it for months when maybe we could have done something to stop 9/11, maybe. We'll never know."

Then there was information that was available from the FAA. Security breaches at airports have been known and documented and reported on for decades. There is nothing new in that subject area.

It has already been stated that between April and September 10th, the FAA had received 52 separate intelligence reports specifically mentioning al-Qaeda threats to domestic airlines. They distributed 15 security flyers that included mention of Osama bin Laden hijacking and attacks in the United States.

We have already heard the final quote. We also know that in the several months before 9/11, there were 30 cockpit intrusions on American commercial airlines. There is a lot to be said about that.

I see my time is running short.

There has been a lot of interest in activities in the financial markets, and all of you know about the unusual spikes in put orders in the options market in American and unusual airlines, unusual short sells and re-insurance companies that held insurance on buildings in the World Trade Center. There was also unusual purchases of Treasury notes, and unusual surges in currency flow.

One of the staff reports which was published some time after the 9/11 Commission report did go into great detail on the SEC investigation of activities in the financial markets.

The research is impressive and persuasive in terms of the activity that went on in the American market. The evidence persuades me that it was not related to al-Qaeda, and that was the point that the staff made, there is no evidence that al-Qaeda was involved in any of the manipulations in the American financial markets.

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However, there are questions that remain. The SEC examined 9.5 million transactions. That sounds like a lot, until you calculate the number of transactions that go on in a week's period of time. All we know is that they looked at transactions for the weeks before 9/11. I checked that out and included the weeks of August through September 9th, and that represents 17.6 percent of all the transactions.

We have to ask some questions about their methodology. Furthermore, they depended on the word of overseas sources, and they claimed they were unable to check that. They indicate difficulty in investigating offshore and shell companies.

Nobody has explained why the President of the German National Bank speaking publicly a number of times in the week after 9/11, why such a person would suggest insider trading in "airline and insurance stocks, gold and oil futures." The staff reasoned that only al-Qaeda could have been the source of such insider trading.

I think we have to ask some questions about the possibility of other individuals who might have been hidden al-Qaeda supporters or others with access to this intelligence, particularly from overseas.

Of course, we just have to ask how are our financial markets actually protected.

MS. BROWN: Ms. Rosenthal.

MS. ROSENTHAL: Let me just show one more slide.

MS. BROWN: We have about one more minute and then we are going to have to go to the questions.

MS. ROSENTHAL: Let's go to the categories and overall distributions of the threat warnings.

With some graduate students helping me, we collected from what we considered to be responsible sources, as many of the threat warnings as we could find, on the web, in newspapers, from reliable books.

Among the thousands of threat warnings we collected, we found 144 unique threat warnings. There is a lot of repetition of these. We were able to categorize these in a variety of ways. You can see from the chart what we found.

It turns out that 21 percent of the unique warnings were about terrorist hijacking planes and crashing them into buildings and American landmarks.

I am willing to make an assessment. I have a number of quotes from various individuals here. My final assessment is this. 9/11 could have been prevented or at least contained. There was enough specificity in the pre-9/11 information to institute these security steps: harden cockpit doors and tighten airport security.

I thank you very much for indulging me.

MS. BROWN: Thank you very much.  
(Applause.)

MS. BROWN: There is indeed so much information and so little time. Unfortunately, the Commission did not air this information, which is why we are holding these briefings today.

I want to let everyone know that this session, this briefing, is on line streaming, as we speak. Also, a DVD will be available of this briefing later, and an on line posting will be available later at [www.house.gov/mckinney](http://www.house.gov/mckinney).

We are going to move now briefly to the question and answer segment. I'm going to urge you to please keep your questions very brief and incisive and your responses as well, so we can get to our final panel before lunch, which is scheduled at 1:00.

Let's begin with Mike Ruppert. Mike?

MR. RUPPERT: A brief procedural issue, since you have combined two panels, we have lost one question per questioner. If I ask very short and brief questions, may I get the two questions, one for the first panel that you have combined into this one? They will be very short.

MS. BROWN: Yes.

MR. RUPPERT: First of all, it's a great panel. I know most of you. I haven't met you, Marilyn. Dr. Newman, I'm very familiar with your work on JFK and Mexico City; good job. You three guys and I have presented a number of times, and I salute you.

My first question I will direct first to John Newman, but then the other guys can jump in. To summarize the ballad of Omar Saeed Sheikh, which I will call it the ballad of Omar Saeed Sheikh, basically we have a guy who was

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an Pakistani ISI asset, we will call him that, who on orders of General Ahmed, the head of the Pakistani ISI, wired \$100,000 to Mohamed Atta shortly before the 9/11 attacks.

Thanks to Professor Michel Chossudovsky of Canada, who has written extensively on this and talked about it, we know that the head of the Pakistani ISI is de facto approved by the DCI here in the United States, Director of Central Intelligence, and there is a close ongoing relationship.

Also, Congressman Dana Rohrabacher, who is a colleague of Congresswoman McKinney, in open hearings, which I have quoted in my book "Crossing the Rubicon," documented extensively that the Pakistani ISI was used by the United States Government, specifically the CIA, to arm the Mujahedin and the roots of al-Qaeda and the Taliban especially in the years leading up to 2001.

I and many others have drawn the conclusion that Omar Saeed Sheikh and General Ahmed wired this \$100,000, that they could not have wired this \$100,000 to Mohamed Atta without the approval, if you will, of the Director of Central Intelligence in the U.S. national security establishment.

How do you feel about that?

MR. NEWMAN: I don't know. I just don't really have a feel for that. I just know we were mindless in our approach to the ISI in Pakistan, not just with 9/11, but going all the way back into the 1980s. It was proliferation and counternarcotics was always the excuse why we had to look the other way. Of course, they were proliferating like crazy and doing nothing at all to stop narcotics, so it was a failed policy.

If you look at the State Department, the story there, and the White House initiatives, they did whatever they wanted to, and we blessed it.

Whether or not Tenet was intimately involved every day with every decision, I can't address that. I just don't know.

MR. RUPPERT: Nafeez, do you have a feel on that?

MR. AHMED: I won't answer directly, but what I will do is refer to a few interesting things I've mentioned in my book.

One report I read, this guy is British. In 1998 and 1999, there was a report in the British press that Ahmed Omar Sheikh Saeed was offered amnesty by the British Security Services, if you come to the U.K., obviously we will have to arrest you, but if you work with us as an informant, then you can live in London as a free man.

Subsequently, he was seen between 2000 and 2001 by people who recognized him or knew him before he actually went on to join al-Qaeda. He was seen in those months. Several times he had come in and out of the U.K.

The government's response, as John mentioned, was to the outrage of the victims' families to the 1994 hijacking he participated in, how could the government allow this to happen. This guy should have been arrested and prosecuted, and the response of the government was decidedly inadequate. Well, he hasn't been tried and convicted. Maybe that is what we should do in Britain.

The question remains as to what is his connection to the British Government in that respect. The facts seem to suggest that he did go on to join and agree to the amnesty, which calls into question his relationship to the intelligence services and raises the issue.

There are a number of reports, which are very disturbing.

MR. RUPPERT: Let me move very quickly into my second question. Paul, early on you referenced the war games. In "Crossing the Rubicon," of course, I have done a detailed analysis of three field training exercise war games and two command post exercises that were taking place on 9/11, which effectively paralyzed NORAD response.

We had Northern Vigilance moving a large number of U.S. fighters out of the northeast air defense sector at a time of heightened danger, very specific warnings.

We have documented war game and live fly drills taking place, thanks to CNN and USA Today.

Since the publication of my book, I have confirmed an additional exercise, Northern Guardian, which I only mentioned in passage, which also had moved fighters to Iceland and Greenland on the day of 9/11, and as many as 22 false radar injects inserted onto the northeast air defense sector radar screens.

In light of the fact that in May 2001, a White House order placed all war game exercises under the direct control of the Vice President, Richard Cheney, and his office, who had responsibility for scheduling all war game exercises, how would you categorize the scheduling of now five separate conflicting overlapping war game exercises on 9/11 which paralyzed FAA and the northeast air defense sector?

Would you call that an accident or could you call that an accident?

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MR. THOMPSON: I think that is a very important issue and one I've been looking into a lot lately. I'm about to publish an essay on the Internet that I co-wrote with another person that should come out in a week or two on the cooperativeresearch.org website, where we are looking into exactly this question.

Following up on your research and other people's research, we found yet more war games. There is another one called Global Guardian that was actually described in one newspaper article as "a practice Armageddon."

If you can imagine, on the day of 9/11, there is a practice Armageddon involving large sectors of the U.S. military, and this is something that has not been commonly reported.

Another thing we found that was interesting is that many of these war games seemed to be coordinated together, at least in past years. You can see this from a lot of the names. We have Vigilant Guardian, Northern Guardian, Global Guardian. Obviously, there's a link there.

Curiously, in the case of some of these war games, it appears that in past years, they had taken place in October, and they were moved to early September in this year, causing seemingly a larger number of war games than was usual, all taking place at the same time.

MR. RUPPERT: In light of the fact that the United States Government, we now know, was swimming in detailed warnings about aircraft being hijacked to use as weapons against the World Trade Center, the White House, et cetera, multiple targets, we were swimming in threat warnings at that time, specific ones, does it make sense to you that these five or six, however many now, war game exercises would have been scheduled so as to weaken the response capabilities of NORAD or the northeast air defense sector at that time?

MR. THOMPSON: A fact I find very interesting, which was mentioned in the New York Times and seems to have missed most people, is that in early July, Richard Clarke and Condoleezza Rice were in a meeting. One of the things that came out of that meeting was that they directed the FBI, the CIA, and the Pentagon to prepare for three to five simultaneous terrorist attacks.

Of course, we know there were four attacks. That was a pretty good guess. As far as we know, although they were directed very urgently to do something about this, we have no evidence they actually did make those types of preparations. Instead, they were going ahead with all these training exercises, in the case of the Pentagon, which in the time of extreme danger just didn't make sense.

I think this is one of the most important issues that we really have to look in great depth at.

MS. BROWN: Mike, no more questions. You artfully turned one question into five. I am going to ask for Wayne Madsen to please honor the one question.

REP. McKINNEY: That's right. You can't trust those California guys.

MR. MADSEN: My question is on the financing. I was wondering if any of you have looked into the activities of Russian arms dealer Victor Bout, who was transporting weapons, passengers, providing other air services for the Taliban and al-Qaeda from his base of operations in the United Arab Emirates.

MR. THOMPSON: If I could just interrupt there. I believe I'm on the schedule to speak a second time, and I'm actually going to speak at some considerable length about Victor Bout.

MR. MADSEN: Okay. That's good.

MS. BROWN: Why don't we save that until the next panel discussion.

MR. MADSEN: The thing on the other intelligence director who resigned from an agency that was affiliated with al-Qaeda activities, he was the head of Saudi intelligence, Prince Turki al-Faisal, who by the way, has now been named by Saudi Arabia's replacement ambassador for Prince Bandar, and right now, it looks like the Bush Administration -- he's going to be allowed to present his credentials to President Bush.

Prince Turki had many meetings with Bin Laden and Taliban and al-Qaeda leaders. If anyone could talk about his role in helping to fund. He has denied it and he has sued Paris Match, the French magazine, for libel successfully. I don't think we have to worry about Saudi lawyers in the United States.

Can you say anything about Prince Turki and what he did similar to what Mahmood Ahmed did with the ISI?

MR. THOMPSON: Yes, I can probably speak to that issue. He was fired. He had been Director of the Saudi Intelligence Agency for something like 25 years, and he was fired about a week before 9/11.

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I believe the Wall Street Journal and maybe one or two other newspapers actually speculated that his firing may have been a result of the Saudi's having foreknowledge of the 9/11 attacks, and essentially trying to cut their losses because of his deep involvement with al-Qaeda.

That certainly is one possibility. There are numerous press reports that suggest that he was visiting Bin Laden in Afghanistan a number of times. He was participating in some very important meetings that involved Saudi intelligence and the Bin Laden family, outside of Osama, where large payments were made, agreements that we are going to send so many hundreds of millions of dollars over the next few years to al-Qaeda and in return, you promise not to attack Saudi Arabia.

All these different things that really need to be addressed, and the many 9/11 relatives have joined the Saudi lawsuit that have named him and many other people as essentially accomplices to the 9/11 plot.

Unfortunately, he was taken off that lawsuit because he has diplomatic immunity as a result of being an ambassador.

MR. NEWMAN: I'd like to piggyback on that point, too. The Crown Prince Abdullah did go to Afghanistan in early May to try and argue the case for not conducting attacks on the United States from Afghanistan. I don't have time to go into the details of that.

If you look closely at that, I've always had the sneaky feeling, looking at the material, or what we do know about it, that it betrayed an early knowledge that the Saudi's may have had of the attack.

MR. McGOVERN: I would first like to thank the people who compiled reconstructions and chronologies, without which analysis and conclusions are not possible.

Prince Turki, has he not just been announced as the new ambassador here in Washington?

MR. THOMPSON: I guess so.

MR. McGOVERN: Yes, yesterday. Wow! In view of what has just been said here.

Let me just direct one question, a brief one, to Dr. Rosenthal, whose presentation I really appreciated. The question has to do with this wonderful quote about George Tenet, the fingerprints of Bin Laden being all over this. What is your source for that? Do you remember?

MS. ROSENTHAL: I have a slide that lists all my sources that is totally unreadable. I will give you my card.

MR. McGOVERN: We can get together later. If it was Michael Gettler, that's my source. I've written about this. If it was someone else, that would be nice confirmation.

MS. ROSENTHAL: From my recollection, it was from the Washington Post.

MR. McGOVERN: Okay, it was Michael Gettler. In our business, we have to be careful about false confirmation.

Let me tell you why I think that's important. He also said, that is George Tenet having breakfast with his patron, Senator Boren, as George Tenet is interrupted by one of his aides saying what had happened in the buildings up in New York, he is quoted as saying "This has the fingerprints of Osama Bin Laden all over it."

I wonder if that fellow taking flight training is involved?

Why is that important? That is important because it shows me that George Tenet was fully briefed, fully informed, about Moussaoui, and that as night follows the day, the President of the United States was fully informed about Moussaoui as well, because George Tenet was keeping him up to date on all this.

The thing that has been prohibited from us knowing, i.e., the role of the President of the United States and the Vice President, what the President and Vice President knew before 9/11, not covered in the Joint Committee report, not covered in the 9/11 Commission report, never covered, not even with respect to the Commissions on Iraq.

We know, at least from Michael Gettler in the Post, if that quote is correct, that Tenet knew this was Osama bin Laden's operation, and he also knew about Moussaoui taking flight training in Minneapolis, and as I say, we can't be 100 percent sure, but I think it's a fair guess, a very good guess, that the President knew chapter and verse about that and did nothing.

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MS. ROSENTHAL: In fairness, I would like to contrast it with a quote when the President was told that the first plane had hit, and I believe by Andrew Card, when he was in Sarasota, about to enter the elementary school, and this is from the Sarasota Herald Tribune.

What he is quoted as responding, and I haven't double checked this, as I have the Tenet quote, he was told that a plane hit the World Trade Center. The aide to Tenet said the World Trade Center has been attacked by a plane. The President's response, if the quote is accurate, "Wow, bad pilot."

MR. JUDGE: I would maybe add that in the 9/11 Commission report, there is a little bit of discussion, although they didn't interview Colleen Rowley separately from the other people in Minnesota, but using their material, their focus on Moussaoui fit within that framework of knowing what it was about, because at one point a supervisor was berated by someone at headquarters. They don't name people in most places.

The FBI headquarters says to this Minnesota supervisor, you're just trying to get people all stirred up, when they wanted to look at Moussaoui's materials. He said, yes, I am, because I'm afraid that he's going to run a plane into the Twin Towers.

Then they sent a memo to CIA on the same issue, to look for him abroad, and the CIA memo alerted them saying we have reason to suspect that this person may be a suicide hijacker.

Now, this is all prior to 9/11. "Suicide hijacker" is a pretty interesting term to make prior to 9/11.

MR. McGOVERN: The way they found out about Moussaoui's terrorist ties was by doing an end run around the bureaucracy, the people in Minnesota had to go to the folks they knew at headquarters in Langley, CIA headquarters, ask them to send a cable out to the field, in Paris, and liaison there in Paris. CIA got the answer that yes, he was tied, and George Tenet was drawing on that information when he made that comment.

A lot was known and a lot was told, and there is no acknowledgement whatever in the 9/11 report about that.

MS. BROWN: Can we give our panelists a hand here?  
(Applause.)

MS. BROWN: In the interest of time and inasmuch as your thirst for knowledge and this information has required us to make a slight adjustment in our schedule, rather than take a full hour break for lunch, we are going to break now. We will return here by 1:00, which is basically a 10 to 15 minute break.

There are light refreshments in the back. If the panelists would like to join the Congresswoman in 320 Cannon for a brief time, feel free to do so.

When we return, we will just roll through the rest of the day, and we will begin the discussion with Loretta NAPOLEONI, Peter Dale Scott, Nafeez Ahmed, and Anne Norton.

Thank you all very much.

(Whereupon, a luncheon recess was taken.)

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### AFTERNOON SESSION

REP. McKINNEY: If we can resume our hearing. We need Loretta NAPOLEONI, Peter Dale Scott, Nafeez Ahmed, and Anne Norton, and of course, as usual, the women are in place.  
(Laughter.)

REP. McKINNEY: In place and on time. I think we will go ahead and get started.

Loretta NAPOLEONI is author of "Terror Incorporated, Tracing the Dollars Behind the Terror Networks," whose original title was "Modern Jihad," the first book to tackle issues raised by the attacks of September 11, 2001, from an economic perspective.

In *Terror Incorporated*, she reveals how the new "economy of terror" has evolved by proxy through various wars, from the Cold War to the war on terror, and shifting the focus away from religious and cultural differences, argues that Islamic terror groups are driven by real economic forces in the Muslim world.

Ms. NAPOLEONI has worked as a consultant for Homeland Security, and was chairman of the Countering Terrorist Financing Group at the Madrid Conference on Terrorism, Democracy and Security.

We are also joined by Anne Norton, who is the author of "Leo Strauss and the Politics of American Empire," in which she traces the influence of German-Jewish émigré scholar Leo Strauss on the neo-conservative movement and the Bush Administration. Ms. Norton, the Alfred Cass Term Chair Professor of political science and comparative language at the University of Pennsylvania, has written numerous books, chapters and articles on American popular culture and political theory.

Welcome. We will begin to receive your testimony in the order in which you have been introduced. Thank you very much for being here.

### 9/11 IN HISTORICAL PERSPECTIVE: FLAWED ASSUMPTIONS

#### THE UNDERGROUND WORLD OF TERRORIST FINANCING

MS. NAPOLEONI: Ladies and gentlemen, thank you very much for coming here today. I must thank also Cynthia McKinney for inviting me and organizing this venue.

I hope you will cope with my doubly foreign accent, meaning Italian and British.

To date, the most significant failure of countering terrorist financing has been the inability of investigative authorities to anticipate terrorist sponsored next moves.

After 9/11, for example, the clamp down on Islamic charities and the investigation into bank accounts of wealthy Middle Eastern businessmen has been followed by a vast capital outflow from the United States to Europe and the Middle East.

In 2002 alone, \$200 billion of Saudi money left this country just days before the filing of the families of the 9/11 victims. Some of this money went to Europe, and went to boost a growing network of radical and informal mosques, where European suicide bombers have been molded and prepared for attacks, not only in the Middle East but also in Europe.

Among them, there may have well been the four suicide bombers which hit London just a few weeks ago.

In retrospect, the U.S. and western authorities should have considered how crime and terror were going to react to anti-terrorist financing policies, and what they should have done was to block any avenues available to crime and terror to circumvent the new legislations.

What I will do today, I will briefly review the ability and speed in which smugglers and money launderers, people that do business regularly with armed organizations have adapted and profited from fast changing economic realities.

I'll do that to show you how dynamic these forces are. I will then touch very briefly about the smuggling of gold from Congo, a potentially very profitable business, which has not as yet been infiltrated by international armed organizations.

From this analysis, what is going to emerge is that we need to implement a forward looking anti-terrorist policy, one which predicts the enemy's next move.

Smuggling is the terrorists' most profitable business. It accounts for almost half of terrorist total revenues. Drug smuggling, in particular, plays a very important role in the terror balance of payments. It is also an area where crime and terror have successfully established a joint venture in profitable businesses.

Let's not forget that the explosive use in the Madrid bombing was obtained by bartering Morocco hashish against explosives, over a long period of time, more than 12 months.

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The historical analysis of the economics of terrorists shows that since the end of World War II, armed organizations were able to build an international economic system. This international economic system has three main evolutionary stages.

The first one is the state sponsor of terrorism, which we all remember was a feature of the Cold War. The second one was privatization of terrorism, which took place at the end of the 1970s/early 1980s. The third one is the globalization of terrorism which took place in the 1990s.

An example of a state sponsor of terrorism where drug smuggling played a very important role is actually the Fallujah in Afghanistan. In the 1980s, the ISI, the Pakistani Secret Service, convinced the CIA to develop the poppy production in Afghanistan. At that time, Afghanistan only produced a small quantity of poppies for domestic consumption.

The reason why they developed this industry is because they wanted to raise money to fund the Fallujah and any particular Mujahedin.

Today, Afghanistan produces 80 percent of the world supply of opium and heroin. War lords, including groups linked to the Taliban and al-Qaeda, and a member of the ISI are still involved in this business.

A member of the military Secret Service of the British military actually admit that they are very concerned about the growing business of narcotics in Afghanistan today.

The second evolutionary stage of the economics of terrorism is privatization. Also, drug smuggling is at the core of its financing. This took place in the 1970s/early 1980s when some armed organizations were able to gain independence from the sponsor, and by doing that, they stopped fighting war by proxy and they begun fighting their own war. The most successful privatization was the PLO in the Middle East, and the IRA in Northern Ireland. In both circumstances, smuggling of narcotics played an important role in their revenues.

Arafat used to receive a cut from the hashish smuggling from the Bekaa Valley located between Lebanon and Syria. The IRA was in control of smuggling of tobacco, narcotics and alcohol in Northern Ireland.

The most dramatic impact of smuggling of narcotics upon the economics of terrorism is perhaps the birth of the shell state. A shell state is a state that only has the outside of the state, the socioeconomic infrastructure, but lacks the core which is the right of self determination and willingness, the national identity.

One example of a shell state created around narcotics is Sundera Luminosa in Peru, but there were many others.

The formation of the shell state is always the same. The armed organization moves into a territory, it controls this territory with force. It proceeds to destroy the socioeconomic infrastructure of the previous authority, and substitutes its own, which is based upon the maintenance of the war on the arms struggle.

We have today many examples of new shell states. For example, in Iraq, the Fallujah was a conglomerate of very small shell states, before the U.S. invaded the town, it was controlled by a foreign member of the Backus (phonetic) party and by the Islamic nationalists.

Columbia is another area where we see a proliferation of shell states related to the business of narcotics. All the groups and armed organizations involved in Columbia, the FARC, the M-19 and the AUC, are actually controlling their own shell state.

The potential danger of Latin America proliferation of this type of states should absolutely not be undivided. Columbian military sources have recently revealed to me that the AUC backing this group are trying to de-stabilize Argentina.

The aim is to use Argentina as a gun shipment point for a new potentially very dangerous smuggling business, which is the supply of plutonium from Brazil.

It is imperative to deal with terrorism globally. Any relation to the war on crime, we cannot possibly deal with this phenomenon in isolation.

This point is very well illustrated by the last evolutionary stage of the economics of terrorism, the globalization of terrorism. That took place in the 1990s. The de-globalization of the international financial markets gave the possibility to armed organizations to link up with each other, to become transnational, al-Qaeda being the best known example of that.

A transnational organization is an organization which is able to raise money across borders, but it is also an organization which is able to carry out attacks in more than one country.

The de-globalization of the international financial markets also gave the opportunity to armed organizations to link up with the world of crime and with the legal economy. Today, they all move within the same economic system.

I have calculated in my book the size of the international economic system. It is \$1.5 trillion. It is trillion, not billion. This is almost twice the GDP of the United Kingdom or five percent of the world's economy.



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The composition of this economic system is as follows: \$500 billion is the gross criminal -- money generated by criminal organizations across the world. \$500 billion is capital flight. This is money that moves from countries to countries undetected, illegally, and unrecorded.

The remaining \$500 billion is the new economy of terror, money generated by armed organizations across the world, of which one-third is produced by legitimate businesses.

Until 9/11, the bulk of this \$1.5 trillion was money laundered in the United States. After the introduction of the Patriot Act, which blocked the entry of dirty and terrorist money into the U.S. through offshore facilities, it became more and more difficult to launder money in the U.S., so money laundering went somewhere else. It went to Europe where a similar legislation does not exist.

A group of economists have actually linked the fall in the value of the U.S. dollar which started at the end of 2001 with the introduction of the Patriot Act. The Patriot Act, in fact, was extremely unpopular among international bankers. We have seen an outflow of dollars from the U.S. into other currencies, in particular, the Euro. These dollars are not only produced by the illegitimate businesses, but also by legitimate businesses.

The Patriot Act, far from starving crime and terror of its lifeline, which is money, in reality, has damaged the U.S. dollar.

Blocking offshore facilities in the outskirts of the United States has not stopped money laundering, because crime and terror were able to circumvent the restriction imposed by the U.S. authority and they went somewhere else.

Thus, the failure of this legislation lies in two main elements. The first one is that the legislation only took into consideration past and present measures of laundering money. It did not anticipate how crime and terror were going to adapt to the new environment.

Secondly, it did not take into consideration the danger of the globalized war, in particular, the globalized economy, where no financial barriers are in place. Thus, blocking one entry into our system is not sufficient if all the others are still open.

Today, there are potentially several international businesses where terrorists could form joint ventures with criminal organizations and profit from these businesses, and use these businesses to move money around.

One of these businesses is smuggling of gold from the Congo. For decades, neighboring countries have been used as transshipment points to export gold from the Congo. This gold has been smuggled by war lords and armed groups which control the territory. The situation in the Congo is a conglomerate of shell states controlled by these two groups.

For years, gold refineries, which are located in Switzerland, the United States, the United Arab Emirates, and South Africa, have smuggled gold from the Congo, from neighboring countries, on the false pretenses that this gold was not from the Congo. Both traders and buyers have not investigated the origins of the gold. There is more to that.

Payment of the smuggled gold often takes place in barter form, so traders exchange gold shipments for shipment of goods. These goods are then smuggled back into the Congo and are sold inside their economy. This gives to the war lords and armed organizations that control the territory a tremendous power to maintain the population under their economic control.

The Human Rights Watch has recently denounced the smuggling of gold in the Congo. A U.N. delegation of experts has been sent to the Congo recently in order to look at the possibility to impose sanctions upon neighboring countries.

Although none of these reports, not the U.N. or the Human Rights Watch, mentioned the link between Osama bin Laden or other organizations linked to al-Qaeda and the smuggling in the Congo, privately, members of both delegations have expressed their concern that this particular business could be easily infiltrated by al-Qaeda and other armed organizations linked to it.

Let's not forget that Osama bin Laden has more than once suggested the use of gold instead of currencies to members of his network. Also, let's not forget that the Halawah, which is the informer back in the system, used by many of the Islamic armed organizations, uses currencies and gold as transactions.

Gold can be used not only to move money around the world very easily, but also to go and fund the next attack, wherever it is about to take place.

To conclude, a forward looking anti-terrorist financing policy should look at the situation in Congo, isolated as a potential area where terrorist financing could take place.

In order to prevent that, it should dismantle this business of smuggling gold.

Because the majority of the gold is purchased by a small group of western refineries, governments of such countries could make sure companies verify the true origin of the gold they buy. They could implement measures whereby the origin of the gold has to be checked and documentation has to be produced.

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Of course, a forward looking approach in the fight against terrorism will require the full participation of the private sector, and a multilateral policy. One country alone, not even if it is the United States, can actually fight this war on terror alone.

Among other things, this policy, if implemented, will then cut the link between crime and terror. Terror will not any longer be a very profitable partner for crime.

Breaking the link between crime and terror would already be a step forward, which you have not yet made.

Thank you.

(Applause.)

REP. McKINNEY: Thank you very much, Loretta. I'll definitely have some questions for you.

Now, Ms. Norton?

### THE RISE OF THE NEO-CONSERVATIVES

MS. NORTON: I'm a political theorist, and I hope you will excuse me if my focus is slightly different.

I want to return to politics and to the political questions which seem to me to be at the forefront of certain aspects of American policy in the world after 9/11. Some of these are the rising executive power, the expanding tolerance of authoritarianism, both at home and abroad, and the changing focus of American foreign and domestic policy.

Central to this is the change in American conservatism. American conservatism once had a certain sort of fairly recognizable profile, a commitment to certain tenets, conservatives revered custom and tradition, they distrusted abstract projects, grand theories. They advocated balanced budgets in small government, and they were frugal about government spending. They were cautious, above all.

This disposition and the political positions that expressed it have a very long history in the United States, but it has been radically altered in recent years.

Neo-conservatives are not conservative, according to this traditional model, and they are, as they will tell you, as Tom Delay once told me, they are revolutionaries.

Neo-conservatives have a rather different and rather disturbing profile. They want a strong state, a state that will put its strength to use, that allies itself and will empower corporations.

They have an economic rhetoric that speaks to the concerns of small business, small property owners, and working people, but the benefits are given to wealthy individuals and corporations.

They reject the vulgarity of mass culture. They deplore the decadence of artisan intellectuals, although often not religious themselves, they ally themselves with religion and religious crusades.

They encourage family values. For women, a return to children, cooking, and the church.

They make a romance of war, arguing that war will restore manliness, private virtue and public spirit. They favor the expansion of executive power. They admire authoritarian leaders abroad, especially, as you have already heard, Pakistan's Pervez Musharraf, and they argue that America itself would profit from a more authoritarian presidency, and what they call a more disciplined democracy.

A more disciplined democracy, as they define it, is one with more surveillance of the people, more secrecy in the government, and willingness to employ methods earlier conservatives and indeed, earlier Americans, rejected, the curtailment of civil rights, and of course, torture.

Treating 9/11 as an institutional problem has given them a license to expand executive power and to employ these previously prescribed methods.

Neo-conservative foreign policy centers on a fear of world government and the international institutions that might lead to it, most notably, the United Nations, a rejection of multilateralism, and as they say, above all, the ability to distinguish friends from enemies.

Neo-conservatives want to describe this particular ability to distinguish friends from enemies to proclivities, but it belongs to Karl Schmidt, often called the crowned jurist of the Third Reich. Schmidt regarded the distinction between friend and enemy as the foundation of politics, and along with this, he argued that sovereignty came not from the people, but from the decision. That is to say the capacity of the executive, the ruler, to decide matters, and that arbitrary power was a foundation for sovereignty.

These ideas came to me of conservatism both directly from Karl Schmidt and through Leo Strauss, who has taught many of the most prominent neo-conservatives in the present Administration, and indeed, in neo-conservative think tanks throughout the city, and indeed, throughout the country.

Neo-conservatives have employed this ideology as the rationale for the expansion of executive power.

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Europeans regard neo-conservatism with special skepticism, and they do so, as you might have already realized, because they know its progenitors all too well, the desire for the combination of traditional values, the desire for an expansion of executive power, the ambition to create a new world order, and the identification of a providential enemy are all parts of a very familiar past, the shadows of German national socialism and 19th Century European empires fall very heavily on the neo-conservative project.

As the Administration responded to 9/11, this influence became increasingly evident. Before 9/11, neo-conservatives saw America's military hegemony as an opportunity, as they argued national security should no longer be concerned with defending against threats, rather, it should be regarded as an opportunity, and that opportunity should be seized.

In their words, America should seek to make trouble in the world. They call this robust internationalism, and a valid expansionist foreign policy aimed at establishing a new world order to rival Rome, and to surpass the European Colonial projects of the 19th Century.

This vision of America's role requires considerably more, more power in the Executive Branch, particularly stronger police powers, more military funding, more arms, more money, a larger executive bureaucracy.

After 9/11, America's military hegemony, sort of unipolar character, was cast not merely as an opportunity but as a civilizational struggle.

In his first term, George Bush cautiously but accurately referred to the global war on terror as a crusade. Casting what the conservatives called the Pax Americana as a civilizational struggle identified what Karl Schmidt had called the providential enemy and clarified the policy focus on the Middle East.

The providential enemy is not an ordinary enemy, Schmidt argued, not one simply to be defeated. The providential enemy had to be absolutely annihilated.

The promise made after 9/11 to seek the annihilation of the terrorists was a dangerous and self defeating promise. It declared a war without a clear enemy, with no clear strategic objectives, a war without limits.

This did away with the traditional constraints on the conduct of war from the just war theories of Augustus and Aquinas and Alfarabi to the Geneva Convention. Abu Ghraib and Guantanamo have shown us the consequences that follow when these traditional restraints are removed.

Neo-conservative policy in the wake of 9/11 installed a new language, a new military, and a new anti-semitism. The new language is one in which mercenaries are called "civilian contractors," and "foreign fighters" refers solely to those not allied with the United States.

The new military relied heavily on private forces, these old mercenaries now called civilian contractors, who made more for the same activity that ordinary soldiers performed for little compensation.

While soldiers raid junkyards to fashion hillbilly armor, corporations are making increasing amounts of money on these privatized contracts.

The old phrase in American politics "A rich man's war and a poor man's fight," acquired a new salience.

The burdens of the war were borne not by the nation as a whole, but disproportionately by a few, an inequity that reflects neo-conservative conceptions of the proper distinction between the few and the many - the few who rule and the many whom the few are permitted to deceive.

Moreover, it confirms Tocqueville's warnings about the dangers of a volunteer army, and the importance of the draft as securing an army in which the people as a whole bear the burdens of war.

The response to 9/11 showed initially a commendable desire to avoid the immediate targeting of Muslims or Arabs. One could argue that despite the arrest of Brown and Mayfield, the detention and deportation of scores of American Muslims, the explicit rhetorical targeting of Arabs and Muslims has been largely avoided.

Neo-conservative foreign policy, however, has been driven by a new form of anti-semitism. At the end of the 19th Century, it was the Jewish anarchist and the Jewish communists who were portrayed as agents of global terror.

Now, it is Muslims who are involved in shadowy global conspiracies, Muslims who have fellow travelers, the old language of anti-semitism has found a new target.

We have licensed this anti-semitism at home and funded it abroad on the condition that it take the Arab and Muslim rather than the Jew as its target.

This has produced discrimination against Arabs and Muslims in the United States, indifference to the growth of democracy in Palestine, and the counterproductive policy of regime change in the Middle East.

The targeting of Muslims as the providential enemy is evident throughout the 9/11 Commission report. I think the most glaring example is near the conclusion on page 362.

Here, Islam in general is identified as the enemy because of its inability to distinguish between religion and politics, a peculiar standard and one which American politics in even its most secular form would not satisfy.

This kind of providentialism has led to a misdirection of American military action and continued political failure. The blanket condemnation of Islam hampers the ability to identify true terrorist threats and throughout the

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report, it encourages a focus on institutional failure, sort of bureaucratic tidiness, rather than attention to political context.

One of the most remarkable features of the 9/11 Commission report is its utter indifference to politics or to history. In the whole report, there is probably a total of three pages on political context, an extraordinary void.

One would think this were an act of God or change in the weather, and not a political act in a political context with a long, complex, but indeed, widely known and widely studied history.

This neo-conservative policy in the wake of 9/11 and more immediately, in the wake of the attacks in London, and the continuing news from Iraq, obliges us to conclude that neo-conservative foreign policy has failed to spread democracy or to diminish terror.

It has succeeded rather well, however, at diminishing democracy at home while failing to extend it abroad.

Thank you.

REP. McKINNEY: Thank you very much.  
(Applause.)

REP. McKINNEY: Before we proceed with my introduction of Peter Dale Scott, Dr. Scott, I'd like to ask if we have a copy of the testimony of all of the panelists on this panel? Do we?

MR. JUDGE: Yes, most of them.

REP. McKINNEY: Dr. Scott is professor emeritus of English at the University of California, Berkeley. He is author of "Drugs, Oil and War," and seven other books, including "Deep Politics and the Death of JFK," and "The Iran-Contra Connection."

He has also published award winning poetry. Both his prose and poetry deal among other matters, with U.S. covert operations, their impact on democracy at home and abroad, their relations to the John F. Kennedy assassination, and their relations to the global drug traffic.

Dr. Scott holds degrees from McGill University in Montreal, his city of birth. Prior to having taught for 34 years at UC Berkeley, Dr. Scott was a Canadian diplomat and served at the United Nations and the Canadian Embassy in Poland.

Dr. Scott?  
(Applause.)

### DEEP POLITICS: CONTRA-GATE, DRUGS, OIL. COVERT OPERATIONS AND TERRORISM

MR. SCOTT: The American people have been seriously misled about the origins of the al-Qaeda movement, blamed for the 9/11 attacks, just as they have been seriously misled about the reasons for America's invasion of Iraq.

The truth is that for at least two decades, the United States has engaged in energetic programs to secure U.S. control over the Persian Gulf, and also to open up Central Asia for development by U.S. oil companies.

Americans were eager to gain access to the petroleum reserves of the Caspian Basin, which at that time, was still estimated to be the largest known reserves of unexploited fuel on the planet.

To this end, time after time, U.S. covert operations in the region have used so-called Arab Afghan warriors as assets, the Jihadi's, who we loosely link with the name and leadership of al-Qaeda.

In country after country, these Arab Afghans have been involved in trafficking Afghan heroin. America's sponsorship of drug trafficking Muslim warriors, including those now in al-Qaeda, dates back to the Afghan war of 1979-1989, sponsored in part by the CIA's links to the drug laundering Bank of Credit and Commerce International, BCCI.

It was part of CIA Director Casey's strategy for launching covert operations over and above those approved and financed by a democratically controlled Congress.

The most conspicuous example of this alliance with drug traffickers in the 1980s was the Contra support operation. Here again, foreign money and drug profits filled the gap after Congress denied funds through the so-called Boland Amendments.

In this case, Government funds were also used to lie about the Contra's to the American people. I will apropos of this morning, there was also a massive cover up, including a cover up of people, some of them convicted, who are now in the present Administration.

My book "Covert Politics," talks about the role of Lee Hamilton in that cover up.

## The 9/11 Commission One Year Later

The lying continues. The 9/11 Commission report assures Americans that "Bin Laden and his comrades had their own sources of support and training, and they received little or no assistance from the United States."

This misleading statement fails to consider that (1) al-Qaeda elements received considerable indirect U.S. Government assistance. First, in Afghanistan, until 1992, and thereafter in other countries, such as Azerbaijan, 1992 to 1995, and Kosovo, 1998.

Before 1992, for example, the Afghan leader, Jallaladin Haqqani, organized and hosted the Arab Afghan volunteers known later as al-Qaeda, and in turn, Haqqani "received bags of money each month from the CIA station in Islamabad."

The Arab Afghans were also trained in urban terrorism, including car bombings, by Pakistani ISI operatives, who in turn were trained by the CIA.

(2) key members of the network, which became al-Qaeda, such as Sheikh Omar Abdel Rahman, Ali Mohamed, Mohamed Jamal Khalifa, and Mohammed Atta, were granted visa's to enter the United States, despite being suspected of terrorism and in some cases, on State Department watch lists. Al-Qaeda foot soldiers were also admitted to the United States for training under a special visa program.

(3) an al-Qaeda operative at Fort Belvoir, Virginia was given a list of Muslim candidates for al-Qaeda Jihad.

(4) when al-Qaeda personnel were trained in the United States by a key al-Qaeda operative, Sgt. Ali Mohamed of the U.S. Army Special Forces, Mohamed was still on the U.S. Army payroll.

(5) as we know, there was FBI protection of al-Qaeda terrorists from investigation and prosecution, the case of Moussaoui that we heard about this morning being just one.

In part, America's limited covert assistance to al-Qaeda after 1989 was in order not to offend al-Qaeda's primary supporters, which America needed as allies, the intelligence networks of Saudi Arabia and Pakistan.

Unquestionably, the entry of United States oil companies into oil rich Azerbaijan was achieved with the assistance of a U.S. organized covert program using Arab Afghan operatives associated with Bin Laden.

Oil was the driving force of U.S. involvement in Central and South Asia, and oil led to U.S. coexistence with both al-Qaeda and the world dominating Afghan heroin trade.

This brings us to another extraordinary distortion in the 9/11 report. While the drug trade was a source of income for the Taliban, it did not serve the same purpose for al-Qaeda.

That drug trafficking does support al-Qaeda connected operations, as it has been energetically asserted by the governments of Great Britain and many other European countries, as well as the head of the U.S. Congressional Taskforce on Terrorism.

Heroin trafficking has been the source of income in particular for al-Qaeda related warriors in Tajikistan, Uzbekistan, Azerbaijan, Chechnya and Kosovo.

Most recently, it has supported terrorist attacks in the Netherlands and Spain.

U.S. support for al-Qaeda elements, particularly in Azerbaijan and Kosovo, has increased dramatically the flow of drugs to the west and also to this country.

In the former Soviet Republic of Azerbaijan, Arab Afghans clearly assisted the effort of U.S. oil companies to penetrate the region. In 1992, Richard Secord, Heinie Aderholt and Ed Dearborn, three veterans of U.S. operations in Laos and then Iran-Contra, turned up in Baku, under the cover of an oil company, MEGA Oil. MEGA never did find oil, but it did contribute materially to the removal of Azerbaijan from the sphere of post-Soviet Russian influence.

As MEGA operatives in Azerbaijan, Secord, Aderholt and Dearborn, and their men, engaged in military training and they passed brown bags filled with cash to members of the government, and above all, set up an airline on the model of Air America, which was soon picking up hundreds of Mujahedin mercenaries in Afghanistan.

Meanwhile, Mujahedin leader, Gulbuddin Hekmatyar, in Afghanistan, who at the time was still aligned with Bin Laden, was "observed recruiting Afghan mercenaries," that is to say Arab Afghans, al-Qaeda, "to fight in Azerbaijan against Armenia and its Russian allies."

In this period, Hekmatyar's heroin surged through Baku into Chechnya, Russia and North America. It is difficult to believe that Dearborn's airline, much like Air America, was not involved.

The triple pattern of drugs, oil, and al-Qaeda was seen again in Kosovo in 1998, where the al-Qaeda backed Islamist Jhadi's of the Kosovo Liberation Army, KLA, received overt American assistance from the U.S. Government.

Though unmentioned in mainstream books on the war, both the al-Qaeda and the drug backgrounds of the KLA are recognized by experts, and to my knowledge, have never been contested by them.

At the time, critics charged that U.S. oil interests were interested in building a trans-Balkan pipeline with U.S. Army protection. Although initially ridiculed, these critics were eventually proven correct.

ABC News announced in December 2004 that a \$1.2 billion pipeline south of a huge new U.S. Army base in Kosovo has been given the go ahead by the governments of Albania, Bulgaria, and Macedonia.

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Meanwhile, by 2000, according to DEA statistics, Afghan heroin accounted for almost 20 percent of the heroin seized in the United States, nearly double the percentage taken four years earlier. Much of it is now distributed here by Kosovo Albanians.

Now, I'd like to talk a bit about Sgt. Ali Mohamed, and I'm sorry I don't have enough time to do justice to this subject.

The 9/11 report describes Ali Mohamed as "a former Egyptian Army officer who had moved to the United States in the mid-1980s, enlisted in the U.S. Army, and became an instructor at Ft. Bragg, as well as helping to plan the bombing of the U.S. Embassy in Kenya."

In fact, Ali Mohamed was a very important al-Qaeda agent who, as the 9/11 Commission was told, "trained most of the al-Qaeda's top leadership, including persons who would later carry out the 1993 World Trade Center bombing."

The person telling the 9/11 Commission this, U.S. Attorney Patrick J. Fitzgerald, very much in the papers these days, misrepresented Ali Mohamed's FBI relationship.

He told the Commission that "From 1994 until his arrest in 1998, Mohamed lived as an American citizen in California, applying for jobs as an FBI translator, and working as a security guard for a defense contractor."

Ali Mohamed was not just an FBI job applicant. Unquestionably, he was an FBI informant, and almost certainly, he was something more than this.

A veteran of the CIA trained body guards of Egyptian President Anwar Sadat, he was able, despite being on the State Department watch list, to come to America around 1984 on what an FBI consultant has called "a visa program controlled by the CIA," and to obtain a job, first as a security officer, then with U.S. Special Forces.

In 1998, he took a lengthy leave of absence from the U.S. Army and went to fight in Afghanistan, totally against U.S. Army regulations, and there, he met with Ayman al-Zawahiri, who was later Bin Laden's chief deputy in al-Qaeda, and the rest of the Arab Afghan leadership.

Despite this breach of regulations, he was able to receive an honorable discharge one year later, at which point he established close contact with Bin Laden in Afghanistan.

Ali Mohamed clearly enjoyed U.S. protection. In 1993, he was detained by the RCMP in Canada, and a single phone call to the United States secured his release. This enabled him to play a role in the same year in planning the bombing of the U.S. Embassy in Kenya in 1998.

Eventually, he was allowed to plea bargain and receive a secret sentence. We don't know what the sentence is, still not known as late as 1991, where he is continuing to talk to the press. The amazing thing, although he was named as a conspirator in that bombing, he was not an indicted conspirator, which itself is evidence of something going on behind the scene.

Congress should determine the true relationship of the U.S. Government to Ali Mohamed, who was close to Bin Laden and above all, al-Zawahiri, who has been called the main player in 9/11. This is very important, I think, whereas the report focuses almost uniquely on Khalid Shaikh Mohammed and Ramzi bin Al-Shibh. Many other sources independently say the main figure and the top brains in al-Qaeda was al-Zawahiri, who Ali Mohamed was clearly close to.

I didn't put it in my remarks, but he brought al-Zawahiri twice to this country to raise funds ostensibly for charities, but funds that were used, in fact, for covert operations.

This was our U.S. insight into the top level of the Arab Afghans and of al-Qaeda.

In particular, Congress should determine why Patrick Fitzgerald chose to mislead the American people about Mohamed's FBI status.

In short, the al-Qaeda terror network accused of the 9/11 attacks was supported and expanded by U.S. programs and covert operations, both during and most importantly, after the Soviet/Afghan war.

Congress should re-think their decision to grant still greater powers and budget to the agencies responsible for fostering this enemy in the first place. Voices clamor from the Muslim world that the best answer to terrorism is not war, but justice. We should listen to them.

By using its energies to reduce the injustices tormenting Islam, the United States will do more to diminish terrorism than by creating any number of new directorates in Washington.

Thank you.

(Applause.)

REP. McKINNEY: This is absolutely riveting testimony. Absolutely riveting. Thank you. Nafeez?

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### AFGHANISTAN MUJAHEDIN - COVERT OPERATIONS, CREATING TERRORISM

MR. AHMED: Thank you. I am very glad, Peter, that you brought up this kind of information because this is kind of the core of my new research, and that is what I will be discussing. I will be discussing some of these issues of what has been happening in the post-Cold War period.

An actual understanding of the history of U.S. relations with the Afghan Mujahedin is essential to understanding national terrorism today.

What I am going to try to do is attempt to condense this history very, very briefly, to capture some of its most striking and significant features.

In doing so, I am going to hope to demonstrate as fact a hypothesis that flies entirely in the face of the official narrative, that U.S. relations with the Mujahedin selectively did not end with the Cold War, but on the contrary, have continued in many ways to this day in the post-Cold War era, and that this subtle hidden relationship contributes quite directly to the systematic undermining of national security through the inadvertent cultivation of the sources of international terrorism.

I won't talk about the formation of al-Qaeda as such. This is not going to be very interesting since we all know about the history of al-Qaeda's formation at the behest of the United States and other western powers in Afghanistan.

What about beyond Afghanistan? It was very interesting, because after the Soviet truce with Afghanistan and the collapse of the Soviet Union in about 1989, the anti-Soviet Afghan factions began competing for power.

Although in 1991, the U.S. and the USSR formally agreed to jointly cease aiding any faction in Afghanistan, in fact, the Department of State remained anxious about who might emerge as the widow of this competition within Afghanistan amongst the different factions.

According to a Swiss t.v. journalist by the name of Richard Levivier, in his book "Dollars for Terror," European intelligence sources that he cites revealed that the CIA and the Saudi's were intent on securing a regime commensurate with their joint regional interests, and agreed that they did not want to give up "the assets of a possible collaboration."

Accordingly, in 1991, the CIA and Saudi intelligence and Bin Laden held a series of meetings. Although exactly what was agreed upon remains secret, Levivier cites the European intelligence sources reported "The CIA remained determined to maintain some kind of influence in Afghanistan, which is, of course, the vital root to Central Asia where the great oil companies are preparing and have been preparing the energy el dorado for the coming millennium."

Levivier's findings are corroborated to some extent by other creditable sources. We know for a fact that after the Soviet withdrawal, Osama bin Laden returned for a short period to Saudi Arabia to tend to the family construction business in Jeddah.

Even after 1991, when Saudi security held onto Bin Laden's passport, he had considerable influence in Saudi royal circles, and managed to lobby the Saudi royal family to organize civil defense and to raise a force among the Afghan war veterans to fight Iraq.

The Saudi regime turned down his offer. Instead, they accepted the influx of 300,000 U.S. soldiers. Now, according to journalist, Gerald Posner, as we know from NBC Today, this was the key point at which Bin Laden decided to become an apparent enemy of the Saudi regime.

In April 1991, according to a classified U.S. intelligence report, then head of Saudi Intelligence Services, Prince Turki al-Faisal, struck a secret deal with Bin Laden, despite his being under house arrest for his opposition to the presence of U.S. soldiers.

Under this deal, although the regime would publicly disown him, Bin Laden was permitted to leave Saudi Arabia with his funding and supporters. Moreover, the regime would continue to fund his activities on the condition that he does not target the Saudi kingdom himself.

Posner's accounts of a secret agreement between Bin Laden and Saudi intelligence is significant because he argues this was known to U.S. intelligence, this wasn't something that we didn't know.

Levivier also interviewed a CIA analyst about the role of the Mujahedin. This CIA agent said "The policy of guiding the evolution of Islam and of helping them against our adversaries worked marvelously well in Afghanistan against the Red army. The same doctrines can still be used to de-stabilize what remains of Russian power, and especially to counter the Chinese influence in Central Asia."

When I read this, I was quite surprised. Could this really be possible? I thought how can we test this hypothesis? Why don't we have a look at these key regions, Eastern Europe, the Balkans, Central Asia, and let's see if you can establish that some kind of connection continues to exist between the United States and al-Qaeda.

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As Peter rightly pointed out, we know for a fact that in the Balkans, the United States twice connected themselves with al-Qaeda in the first Bosnian war, the Pentagon -- this has come out in a number of ways.

I suppose the most credible source is the official Dutch inquiry which produced a report a few years ago, and based on Dutch intelligence sources, the Pentagon was flying Mujahedin into Bosnia to manipulate the direction of the conflict, to the extent that Yossef Bodansky, who was director of the Congressional Taskforce on Terrorism, said through his outlet that U.S. special forces were actually seen coming off planes with the Mujahedin. This is a very close kind of coordination.

The same kind of policy was implemented in Kosovo, as Peter mentioned, the KLA, and as the State Department confirmed in 1998, that the KLA has connections to al-Qaeda.

A man by the name of Ralph Museka, head of a department in Interpol, actually testified before Congress in the year 2000. He confirmed the same thing, that we know for a fact that al-Qaeda has been funding the KLA.

There is an inner movement of people in terms of Mujahedin. There is also movement of drugs and heroin, so on and so forth, between these organizations. There is a clear linkage there.

At the same time, we know that before the Kosovo war, according to sources at the Sunday Times, the United States and Britain got involved and were training the KLA, the same people who, of course, are mingling with al-Qaeda.

This is very worrying because to go back to Bodansky, Bodansky has pointed out that the Albania Mafia, which is highly connected to the KLA, is laundering money, providing technology, safehouses, and other support within this country, and of course, within the U.K.

This is what he says, Bodansky says, "This isn't to say that the Albanians themselves have carried out active terrorist operations, but there are undoubtedly sleeper agents within the Albanian networks and they can rely upon those networks to provide them with support. In any case, a serious investigation of the Albanian mob isn't going to happen because they are our boys, they are protected."

This phenomenon didn't just occur in the Balkans. I looked at a number of key regions. I looked at North Africa and the countries I looked at in there were Algeria and Namibia. I also looked at the Asian Pacific. I looked at the Philippines. I looked at Caucasus. I looked at the Russian-Czech conflict.

I found a very odd pattern. Just to give you an idea, I will look at North Africa and Algeria. In Algeria, we have a conflict going on, where we have a secular regime which is fighting a radical minority group, which is affiliated by numerous reports to al-Qaeda.

One of the main organization terrorist groups active in Algeria is the GIA, which has spearheaded a campaign in the country that slaughtered something like 100,000 civilians. It is very well known and documented by numerous human rights groups.

The same group which has carried out these massacres, numerous reports have emerged in the British press, defectors from the Algerian intelligence services have come out on record and have stated that the GIA has been manipulated and penetrated by Algerian intelligence services, and is being used to consolidate the regime's power.

We have a very close relationship to the Algerian regime, the United States, Britain and Europe. We have very close ties due to the oil and gas there. We have very heavy investments. We even have very close military ties, particularly the French Government has very close military ties to the regime.

The United States Government has been involved with many new military programs with Algeria and so forth. We are very tied with Algeria. We do not want to damage this relationship.

The problem arises when is there a point -- is there any information to suggest that we are aware of the fact that this is going on, apart from the fact this has come out in the public record.

Interestingly, there was a trial in the U.K. from which emerged various classified foreign office documents. The trial was actually about the case of some Algerian terrorists or alleged terrorists in the U.K.

What emerged from these foreign office documents was that the United States intelligence services and British intelligence services have been aware of this phenomenon for many years.

There was a report in the Guardian Newspaper, by the way. Many of the reports talked about the British reports saying we are aware, we believe that the GIA has been manipulated by the Algerian Secret Services for their own ends, you know, we believe the Algerian Secret Services are completely unscrupulous, and so on and so forth.

The U.S. intelligence report was the 1995 Paris bombings, which were blamed on Algerian militants, the GIA, we believed at least one of the bombs was carried out when ordered by the Algerian Secret Services. We do not have any evidence to suggest that the GIA actually carried this out, and so on and so forth.

I found the same pattern was prevailing in the Philippines, very much similar. We had Abu Sayyaf, a terrorist organization, which we must emphasize was heavily tied to 9/11. Khalid Shaikh Mohammed, a mastermind of 9/11, was based in the Philippines, a member of Abu Sayyaf.



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It was in the Philippines that they hatched the Project Bojinka plan, which was the blueprint behind 9/11, as it is now well known. It was hatched in 1995. It had two dimensions. One dimension was to blow up 11 airliners or so for the Pacific. Another was to hijack civilian planes and hone them into key buildings in the United States.

Abu Sayyaf, again, I looked at Philippines sources, Philippines newspapers, went through the records, and have a public address from a guy by the name of Senator Pimentel, who is a very prominent legislator in the Philippines.

He gave a public address before the Philippines Senate, and he said "I have information that Abu Sayyaf has been handled by Philippines' military intelligence." He even named officials who were working in the Philippines Ministry at that time and said we need to investigate these people.

He named one guy by the name of Edwin Angeles, who was supposedly a leader of Abu Sayyaf, and he said this man is actually a double agent. He's been an informant for years. This subsequently came out. It actually emerged. It was a whole scandal in the Philippines press.

Again, we have a very close relationship to the Philippines regime.

I have a quote from a U.S. Major who was saying where we worked, there were counterparts, we have co-generals, co-directors. We have one troop for every Philippines troop. We are working very closely on counterterrorist offenses against what is happening.

I don't want to go into detail.

REP. McKINNEY: Because we don't have time.

MR. AHMED: Yes, we don't have time. Suffice it to say in conclusion, this is a phenomenon I have discovered to be paraded throughout many regions in the Middle East and Central Asia. It is a very worrying phenomenon. It fundamentally challenges the whole paradigm of the war on terror.

If we are allying ourselves in some manner with al-Qaeda in this rather direct way, how can we fight a war and win? It just doesn't make any sense.

The first thing we need to do is go to the source of our policy and correct that before we want to fight a war.

I would suggest that we need to look exactly at what we are doing in this respect before we go around invading other countries and saying we are going to go and solve terrorism through military invasion.

REP. McKINNEY: Thank you very much.  
(Applause.)

REP. McKINNEY: In the interest of time, I have dozens of questions, but I am going to forego my questions because I think they would pale in comparison to the questions that our experts can provide for this panel.

However, I would just like to say that this testimony will be made available for the record, and I hope to have the opportunity through the good graces of CSPAN to reveal my thoughts on this particular panel and any other panel on which I forego questions at the proper time.

Right now, we will go to our panel of expert questioners, starting with Mr. Ruppert.

MR. RUPPERT: Thank you, Congresswoman. I really enjoyed listening to this. We have heard these correlations between Iran-Contra and the present day keep occurring, aside from the fact that so many members of the same Administration that ran Iran-Contra are back in this Administration.

I am left with one fundamental question.

We know and I know that Peter knows very well that much of the funding for the so-called Contra effort, which was a U.S. ally, was provided by the illicit drug trade.

However, we do also know that in the year prior to the attacks of 9/11, the Taliban destroyed 94 percent of the opium crop in Afghanistan, so there was virtually no opium growing on September 11th.

My question remains -- of course, I have serious questions about the definition of this thing "al-Qaeda," whether it's a noun, a verb, an adjective. I don't know what it is. It's an amorphous concept.

It is preposterous for me to assume that al-Qaeda, whatever it is, is now being funded by drug money since Afghanistan is now thoroughly under the control of the U.S. military, especially war lords, the opium war lords, many of whom were released by the CIA from prison, and Afghani opium production since 9/11, of course, has multiplied and multiplied again geometrically to the point that now, I think, the last harvest was close to 5,000 metric tons in Afghanistan, supplying now 78 percent of the world's opium supply, but we can't blame that on al-Qaeda.

My question remains, how is this amorphous thing called "al-Qaeda" getting its money and from whom and from where?

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MR. SCOTT: I'd like to comment about the Taliban suppression of the opium, which is absolutely confirmed, no question. It was also for only one year, or actually, a year and a half, but effectively, for one year.

The question arises was this what they were going to do for the rest of time, or was this an adjustment of the market to drive up prices. On that point, I think there is no agreement.

I think also they made a lot of fudging in this country about the fact because we could hardly proclaim a war on drugs in Afghanistan because we were going to war against the Taliban, which had just outlawed it, and whose effectiveness we had recognized, and we were going to use as our ally, Massoud, and the northern alliance, who did more than anyone else to pick up the slack and they tripled their production in the same period.

We definitely went into Afghanistan as the allies of the drug traffickers rather than the opponents of them.

I'm not as offended by this now as I was when I wrote "Drugs, Oil and War," because it was clear that Bush was not going to come through with the money that was needed to reconstruct Afghanistan, or even to keep it alive.

Much as I dislike the global drug traffic and the people who conduct it, the fact of the matter is people lasted through that first Afghan winter largely because there was a drug trade, and there is now the beginnings of an effort to cut back on it.

If Karzai is ever going to control more than Kabul, most rulers of Afghanistan have not been able to do this, but if he is ever going to do it, he's going to have to go after the regional war lords. There is some sign that in a very slow way, this is beginning to happen.

I'm not going to be as condemnatory of our use of drug traffickers as I was at one time.

As to what is happening now, I think since 9/11, al-Qaeda, if it's worth using the name at all, describes a phenomenon that has changed very radically, has become very much more polycentric.

The role of central leadership and planning and so on is no longer what it was. I think what we are beginning to learn about London is proof of this.

The case of Madrid is very interesting. Here were people who had past al-Qaeda connections, no question. The involvement of some of them with the local drug traffic was very marked and visible.

I think that maybe one of the things that is going to hold these various groups of bombers around the world is going to be the drug traffic itself.

Just as to flip it over, for a long time, the global drug traffic enjoyed the immunity that it did, or the impunity, I'm not sure which word you should use, because in country after country, the people who were overseeing the drug traffic in that country were intelligence networks who in turn were protected by their relationship to U.S. intelligence agencies and the CIA.

The globalization of terrorism, which we heard about, has to do, I think, with the globalization of the drug traffic which has been a by-product of the CIA's consistent and repeated reliance on drug assets to get outside of congressional budgets.

MR. RUPPERT: Very quick follow up. Would it be correct to say then that he or she or it who controls the global drug trade would therefore control the jugular vein of terrorist financing?

MR. SCOTT: I don't see it as unified as that, particularly not now. It was perhaps more unified 20 years ago than it is today.

MR. RUPPERT: Thank you.

MS. NAPOLEONI: Can I answer? I think there is a little bit of confusion. Financing of terrorists is an extremely complex issue. Drug trade is very important. It is the most important. Let's not forget that one-third of the \$500 billion which is generated every year by armed organizations around the world is actually produced by legitimate businesses.

This is one of the problems in the so-called financial war on terror, the fact that we are focused far too much on dirty money and not at all on clean money, which is then dirty by the armed organizations when they use it for attacks.

What we are seeing today in the evolution of al-Qaeda, which we should really not talk about al-Qaeda any more, it is not the organization integrated with the Kubala as it was before 9/11. It has actually become an ideology.

For the people who actually want to join in, who want to emulate 9/11, because this is the pattern we are seeing in London and we have also seen in Madrid, for these people, al-Qaeda is the only anti-imperialist ideology available today. I think we have to look at that from this point of view.

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The funding, what we are seeing in Europe, is becoming very similar to the funding of the marxist armed organization of the 1970s, which means self funded. There is no more movement of money any more.

The movement of money is actually in the Muslim world, it is within the Islamic banking system. The money actually is moving within that system and then reaches Iraq. This is where the old style financiers of Osama Bin Laden are actually sending their money, not in Europe, not inside the U.S. It is much more complex today, more difficult to track the money also.

Imagine, the London bombing probably cost less than \$10,000. It was all in cash. It was probably raised by the people in this informal radical mosque or within the community of supporters.

MR. MADSEN: I really enjoyed this panel. I have a thousand questions, but I'm going to ask one.

My question is could you describe your feelings on what obviously is a nexus between past criminal conspirators involved in the Afghan war, BCCI, Enron-Contra, even going through Enron, which replaced BCCI as a Bush family cartel and slush fund, the nexus between these criminal conspirators, many as it has been described, are in this Administration, and the neo-conservatives, many of them embrace that particular political ideology, and these Christian demurests who also embrace much of the neo-conservative ideology, who all believe in the end times and things like that, and the people who are willing to out and expose a covert CIA network designed to find where weapons of mass destruction are being bought and sold.

If people would do this and they have as past criminal record, would these neo-conservatives, these past criminal conspirators, in your opinion, have actively sought to suppress the intelligence prior to 9/11 to give them a reason to pass things like the Patriot Act, do this projection of American power around the world through their manifesto, which was the project for New American Century, because their ideological soul mates, who were the national socialists in Germany, burned down their own parliament building to get the enabling act passed which shredded the German constitution.

My question is how far do you think these neo-conservatives, many of who are past political conspirators, would go?

We are talking about intelligence broke down. Nobody was held accountable. I think the only guy that lost his job on 9/11 was the head of security at Logan Airport. Everyone else got promoted or got presidential freedom medals and things like that.

John O'Neill, Mike mentioned, lost his job and also lost his life, but he was really after these al-Qaeda networks in Yemen, and he was thrown out by the U.S. Ambassador.

We have hundreds and hundreds of examples like that. How far do you think they would have gone and do you think it would be possible for the neo-conservatives with their philosophy to have purposely allowed 9/11 to happen by ignoring intelligence, even maybe facilitating some of these terrorist cells that came to the United States?

MR. SCOTT: One can only speculate about this. I can't come up with neat facts or documents or anything that would prove it. I like normally to stick to the level of documents.

We heard this morning Mel Goodman in a speech, which generally, I found very interesting. He said this wasn't an institutional failure, it was a personal failure.

Mike Ruppert came back and said no, this was (a) deliberate and (b) systemic.

My own position is halfway in between. I do think that there was deliberate, whatever happened on 9/11, whether they let it happen, made it happen, whatever, it's an event which some people wished for. There has been too many -- I think this was a clique in the sort of high tech big budget military thing that without another Pearl Harbor, we're not going to get the budgets we need.

I think at a minimum, there were some people who said ah, we have our Pearl Harbor, and proceeded to act accordingly.

I don't see this as being the system. I think this all goes back in a sense to the church reforms, which Mel Goodman praised this morning. They created a situation where the CIA and in general, the intelligence community, was no longer the unsupervised arena that it had been before. It became, if only minimally, under some kind of congressional review and minimal accountability.

The result was we saw the beginning of offshoring and off loading of covert operations. The best example, perhaps, being Casey, CIA Director Casey's use of BCCI, and also the elaborate arrangements for supporting the Contra's.

Congress has said don't do it. Instead of not doing it, you just go elsewhere to find the assets to do it.

This has created a kind of global symbiosis between the agents who are supposed to be defending the United States, and the people on the other side, who we are supposed to be defending ourselves against. There is a great deal, I think, of interaction. Double agents, triple agents. People like Saeed Sheikh and Ali Mohammed.

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There is a milieu growing up that is in between the two. It is a time for Kabal's, and not the only Kabal. I don't put the Christian fundamentalists in this picture at all. I think they believe too sincerely what they are doing to be major players on this abstract international level.

When you find a milieu and you have this kind of 20 or 30 years now of experience with off loaded intelligence operations, you can say that it's not just because Bush was elected. This was something that was going to happen, something like this, because of that degree of inter-penetration between the so-called defenders and the so-called enemy, both of which need to be looked at much more acutely by the public and Congress than they are at present.

MS. NORTON: Could I side with the neo-conservatives, which is not a position in which I usually find myself.

I think it is a mistake to look for a kind of conspiracy "gotcha" moment here, for the following reason. First because I'm completely convinced that the majority of neo-conservatives, as Mr. Scott said, like the Christian fundamentalists, believe in what they are doing quite sincerely.

What is dangerous in politics is not our vices, it is the nefarious activities in which people engage in mindfully, that sort of double agent, triple agent, spy versus spy, but rather our virtues. with the deeply held convictions of the neo-conservatives that it would be better for the few to lead the many, that it would be better for the Middle East to be reconfigured by the United States, these really sincerely held beliefs are a problem.

It's not when they depart from their beliefs, but when they fulfill them that the nation may be most endangered, and looking at tiny events for that "gotcha" moment directs our gaze away from these broad movements in American politics repeated in American foreign policy not only over the course of years, but over the course of decades.

The expansion of executive power at home, on the domestic front, all these things are so profound, so persistent, and so dangerous that any event pales in comparison to those. We need to keep our eye on these, on the broad directions of American foreign policy and the broad directions of American domestic political change in order to appreciate what the true effects of this change has been.

MR. AHMED: Could I just comment very briefly, to comment on your question. My position is really that rather than coming out and arguing a particular overriding conclusion or theory at this stage, it is of more value for the people to want to kind of promote the kind of independent investigation, you want to expose the anomalies in the previous investigation.

It is of more value to point out the fact of why did they fail, given the abundance of information available.

I would concur somewhat with what Peter said in the sense that it seems pretty clear to me that at some level, there were deliberate decisions made by various individuals, simply either to obstruct investigations or ignore investigations, so on and so forth.

That is absolutely clear. The question is how far did that go. I don't think we need at this stage to discount anything and say, well, it's completely impossible that this could have been allowed or arranged or whatever, but at this stage, if we focus on the absolute facts, we can pinpoint these particular failures, and these particular events which occurred where investigations were blocked, obstructed, information was there, available, and wasn't acted on. It doesn't make any sense.

I find it quite inexplicable, but I won't come out and say this is my explanation. It's very difficult.

I think the important thing is to point out the failures and to say this has not been explained at all by the Commission. I think if we do that, we will be able to make headway with pushing for some kind of more public disclosure on this.

MR. McGOVERN: I certainly agree with that last statement. I'm thinking what an idea and insight rich panel. I thank you all, panelists, and those who invited you.

I'd like to pick up on two comments, one by Peter Dale Scott, and the other by Anne Norton, and try to combine them.

What Peter Dale Scott said about the answer not being war, but justice, and what Anne said about the fact that of the 567 pages of this extraordinary report, there were only three or so that had to do with the political background and factors at work here, which if my math is right, that's less than one-half of one percent.

It drove me back here to my dog eared copy of this, and what I'd like to do is read one sentence from each of those three pages, and I would ask for your comment.

First sentence, page 147, for those of you who have your Bibles with you. "Khalid Shaikh Mohammed's animus toward the United States stemmed from his violent disagreement with U.S. foreign policy favoring Israel."

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Page 375. "By 2003," these are polls taken after 9/11, and after the invasion of Iraq. "By 2003, polls showed that the 'bottom had fallen out of support for America and most of the Muslim world.'" Again, this is after the invasion in Iraq but before Abu Ghraib.

Then comes the subhead "Engaged the Struggle of Ideas." Sounds promising. "The Government must define what our message is." This is a recommendation.

"American foreign policy is part of the message. America's policy choices have consequences. Right or wrong, it is simply a fact that American policy regarding the Israeli/Palestinian conflict and American actions in Iraq are."

Would either or both of you please finish that sentence? I'll read the first part again and put you on the spot here.

"Right or wrong, it is simply a fact that American policy regarding the Israeli/Palestinian conflict and American actions in Iraq are."

MR. SCOTT: Well, I don't have my copy with me. I think what they said was contributing to the problem or something like that.

MR. McGOVERN: Is this why they hate us?

MR. SCOTT: What I think is yes, by a factor of ten multiplied the likelihood of terrorist attacks by invading Iraq. I think we should not over estimate America's ability to resolve the Israel/Palestine conflict, although that would certainly, I think, be one of the best things one could do to mitigate the dangers of terrorism.

We sort of lost control of our destiny in Iraq, too, now, but ultimately, I wrote this last November, we are going to have to withdraw. If that's the case, the best time to do it is sooner rather than later. We are going to lose face if we withdraw now. We will lose more face if we withdraw later.

I'd like to make the analogy with Vietnam here. I've just been living in Thailand. I know a bit now about Thai history.

In the course of fighting the war in Vietnam, America was essentially creating a revolutionary movement in Thailand. Everyone was saying, of course, if America leaves, the dominos will fall and the whole region will be communist.

You just have to look at the region now. It is where people go to lie on beaches and buy little Buddha's and things like that.

America achieved its goals by withdrawing from Vietnam. That was the beginning where pro-American sentiment began to arise and anti-American sentiment began very drastically to fade away, not just in Vietnam, with whom we are now quite friendly, but in the whole of Southeast Asia, which really was being radicalized, revolutionized by the American presence, and those revolutionary movements and with them the military dictatorships which we were responsible for installing, all of that melted away, and you have the makings now of not perfect societies but definitely much better societies than we had before.

That is my act of faith, that if we could do the same thing in Iraq and pull back, that you would see a diminishing of anti-American sentiment, and a growth of gratitude for America. We have done some good things in the region, and we could do more in a peaceful way.

MR. McGOVERN: Thank you.

MS. NORTON: I'm a partisan of do the right thing, whatever the consequences, but I've also noted, and particularly with regard to American policy in the Middle East, how very tragic good intentions can be.

The American alliance with Israel, I think, is on the one hand one of the most honorable things about the United States. It is evidence of a desire to back democracies. It is a recognition that the democracies we back might be very different than our own, a nation that gives a public place to religion, that has birth right citizenship, based on descent rather than on residence or on commitment.

And the desire to out do Europe, not only to avoid the genocides that Europe saw, but to shelter at home and abroad populations that have been the subject of genocide.

In this really honorable task, the United States has taken on a series of actions that betray both itself and the ideals that it advanced in the alliance with Israel, the movement away from democracy, which is often justified, well, we need to learn from the Israeli's how to discipline democracy.

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Torture is legitimate in a good cause. The forgetting of the requirement of democracy in Palestine, and similarly, it's an extraordinary ambition to want to reconfigure the Middle East in a democratic direction, but the notion that democracy is something that grows from the barrel of a gun is much more difficult to support.

I think that kind of consistent self portrayal in American policy is indeed something that Americans must consider very thoroughly, and should have considered when they looked to the political events of 9/11.

REP. McKINNEY: I am certain that this panel could go on and on and on, because we are really getting to the heart of some very important issues that this Congress needs to deal with, but we do have time constraints.

In the real world, I would just like to thank the members of this panel for their wonderful, riveting, honest, thoughtful presentations.

(Applause.)

### PART TWO: A CRITICAL EXAMINATION OF THE COMMISSION'S RECOMMENDATIONS

REP. McKINNEY: I will introduce our new moderator for the remainder of the afternoon, Ms. Rabia Rayford.

MS. RAYFORD: Good afternoon. My name is Rabia Rayford. I am a political and social activist in the Washington, D.C. area. I am a former Board member of Washington, D.C.'s WPFW Pacifica Radio, a local advisory board member.

As we are taking our seats, I wanted to say that I'm very encouraged by this panel. I am hoping that this will somehow translate into the schools. We need more young people here and listening to this, because they are the ones that are going to pass this on.

I also wanted to say that I'm very encouraged by some of the topics that are coming up. I'm happy that the members of the September 11th Families for Peaceful Tomorrows are here. I've got to meet a couple of the members before.

I am also a former intern press secretary for Congresswoman Cynthia McKinney, and I've met a lot of very focused, committed and dedicated individuals through the Congresswoman, and I'm very grateful for that.

My best friend is a physician, and one of the things that she says about war is that at some point, we are all going to have to come together, to talk to each other anyway, so why don't we begin with conversation.

On that note, I want to introduce some of the speakers. Wayne Smith, a former diplomat and a member of the Center on International Policy. He will be speaking on foreign policy, immediate response and recommendations, and the end of international law.

I've been told Bob McIlvaine has already been introduced. He will be speaking on alternatives to Pax Americana and permanent war. He is also a member of the September 11th Families for Peaceful Tomorrows.

Next, we will go to domestic policy, immediate response and recommendations. Dual legal systems and military tribunals will be addressed by Kit Gage. Kit Gage is president and founder of the National Coalition to Protect Political Freedom, and has directed the First Amendment Foundation and National Committee Against Repressive Legislation since April 2001.

Ms. Gage is a regular contributor to various journals on matters concerning freedom of speech and other civil liberties, immigrant rights, women's rights, and other human rights issues.

Ms. Gage was executive vice president, and earlier, the first legal worker vice president of the National Lawyers Guild. She also served as a board member of the Guatemala Human Rights Commission/USA.

She is a graduate of Grinnell College and with an independent degree in women, socialization and conflict, and is married and has two remarkable adult daughters.

Just to back track on Wayne Smith, he is a senior Fellow and director at the Center for International Policy. He directs the Cuba program and is a contribution to the national security program.

He is also a visiting professor of Latin American studies and director of the University of Havana exchange program at Johns Hopkins. He is a former senior associate at the Carnegie Endowment for International Peace.

During his 25 years with the State Department, 1957 to 1982, he served as executive secretary of President Kennedy's Latin American Task Force and chief of mission at the U.S. Interests Section in Havana. In addition, he served in Argentina, Brazil, and the Soviet Union.

We will also be looking at civil liberties in American post-9/11, is security worth the trade. Speaking will be Mary Rose Oakar, who is president of the American- Arab Anti-Discrimination Committee, ADC.

Ms. Oakar is a long time resident of Cleveland, Ohio, who received her B.A. at Ursuline College and her M.A. at John Carroll University, both in Cleveland.

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Ms. Oakar is a former professor and has received several honorary doctorates. She has served on the Cleveland City Council, the Ohio House of Representatives, and for 16 years in the United States House of Representatives.

In Congress, she advocated for peace and justice in the Middle East and for those of Middle East ancestry in the United States. In addition, she served as a monitor for the Palestinian elections, and has attended Middle East peace signings at the White House, in Egypt and Jordan, and once accompanied President Clinton to Syria.

McCall's Magazine named Ms. Oakar one of the ten best members of Congress for health and women's issues, and she has received numerous awards for her legislation concerning breast cancer and the elderly.

Next we will have Elaine Cassel, who is an author of "The War on Civil Liberties," which documents the erosion of civil rights and liberties under the Bush Administration. She is an attorney, a professor of law at Concord and Marymount Universities, and is a regular contributor for Findlaw and the blog Civil Liberties Watch.

After that, we will be looking at the rise of secrecy after 9/11. With us will be Rebecca Daugherty, who is from the Reporters Commission on Freedom of the Press.

Then we will go to the Patriot Acts, sunset on freedom, and we will be hearing from William Michaels, who is the author of "No Greater Threat."

Then we will have questions.

Jumana Musa is also joining us, and she is with Amnesty International.

The first person will be Mr. Wayne Smith.

### FOREIGN POLICY: IMMEDIATE RESPONSE AND RECOMMENDATIONS

#### THE END OF INTERNATIONAL LAW?

MR. SMITH: Thank you very much. The title "The End of International Law," I don't think is meant to suggest that the 9/11 Commission's report will mean the end of international law.

If you read the statements of the Bush Administration and analyze its attitudes and actions towards international law and international conventions and agreements, you might begin to reach that conclusion.

REP. McKINNEY: Excuse me. I'm having difficulty hearing you. Could you please move the microphone closer to your mouth?

MR. SMITH: I'm sorry. I can't hear you. What?  
(Laughter.)

MS. RAYFORD: Move the microphone closer to your mouth, she is having trouble hearing.

MR. SMITH: Okay. Now, I can hear you, too.

This is not as we were told initially, as first pictures of Abu Ghraib came out, we were told just the isolated acts of rogue soldiers. Any mistreatment, no, no. This is not part of a pattern at all. Well, it was, as it turns out, part of a pattern.

We have heard the recent testimony of the generals up here on the Hill acknowledging that yes, more the practice according to the instructions given by the Pentagon, stripping the prisoners, making them wear women's underwear on their head to degrade them and humiliate them, and as we have seen in other memo's and testimony, there was a practice of chaining prisoners in a fetal position and so forth.

One of the generals the other day said well, these practices didn't really get over into torture. They may have been degrading. They may have been embarrassing. They didn't get into torture.

We have also seen the Justice Department memo's some time back, unless the pain was up to that of a surgical incision, without anesthetic, it really didn't count for torture.

Over and over again, we have heard that the Geneva Conventions don't really apply because these are not the soldiers of a regular army serving a foreign government with which we are at war.

I would put forward that all this, about the Geneva Conventions, and the excuses for the mistreatment of prisoners is utter nonsense. None of it is based on international law. None of it is based on common sense.

The 9/11 Commission report says that the United States should engage its friends to develop a common coalition approach toward the detention and humane treatment of captured terrorists.

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New principles might draw upon Article 3 of the Geneva Conventions on the law of armed conflict. That article was specifically designed for those cases in which the usual laws of war did not apply. In other words, these cases in which our Government tells us the Geneva Conventions don't apply.

The minimum standards are generally accepted throughout the world as customary international law.

What does Article 3 call for? Well, among other things, it prohibits outrages -- this is for those to whom the Geneva Conventions might not apply -- it prohibits strictly outrages upon personal dignity, in particular, humiliating and degrading treatment.

All these practices of stripping the prisoners naked, putting women's underwear or perhaps even men's underwear on their heads, is degrading treatment. It is prohibited by international law. We are violating international law as we get down to those practices.

I can't remember another time in American history, I'm not ageless, but I have lived a long time, and I don't remember ever having been ashamed of what we were doing to foreign prisoners.

In World War II, we treated prisoners well, let's say soldiers. Even German spies arrested in the United States were not treated in a degrading manner. They were not humiliated. They were treated according to the law.

I can hear Carl Rove now saying that these fuzzy thinking people just want to cozy up to the terrorists, treat them like teddy bears. It isn't that at all.

It is a matter of respecting international law, yes, but also degrading treatment, the inhumane treatment of prisoners is dumb. Dumb because as most intelligence experts will tell you, information received as a result of such acts is highly questionable if not worthless. You start pushing someone around and eventually they will say what you want to hear, whether it's true or not, and you can't rely upon it.

Beyond that, how do we think that this is going to go over in the Muslim world, as the pictures, as the testimony of the treatment of these prisoners comes out in the Muslim world, it is certain to and it has and will continue to fuel passions against us.

I'm not saying this is the cause of the problem. Of course, 9/11 happened before we had any terrorist prisoners.

This is not an intelligent way to proceed in our struggle against terrorism. We ought to get back to full respect for international law, and fully humane treatment of all prisoners, without any exception.

Thank you.

(Applause.)

MS. RAYFORD: Bob McIlvaine?

### ALTERNATIVES TO PAX AMERICANA AND PERMANENT WAR

MR. McILVAINE: My name is Bob McIlvaine. I am from Philadelphia, Pennsylvania. You get a break. I'm really not an expert, although I do speak a lot.

When my son was murdered, I immediately was against our action in Afghanistan, primarily because it is my son's legacy, he was a pacifist. He just truly was such a great, great intellect.

I remember the week before he died --

REP. McKINNEY: That is all right, Mr. McIlvaine. We are with you.

MR. McILVAINE: The week before he died, we talked about the Taliban. He said, you know, dad, I really think it's the Taliban. I said, why. Well, I've been reading things about the oil, they want to put the pipeline through there, we wanted to run the pipeline through, that we had to negotiate with the Taliban.

Of course, because of him, I've only stayed up on current affairs, but nothing like I have or should have.

The next week, he dies. I said, my goodness, and now we are going to go to war against Afghanistan and the Taliban. That conversation I had with him really resonated, and I said, this is absurd.

I started thinking about what someone had said previously, it's about justice. We can catch this man. This is the one opportunity probably in the history of mankind that the whole world would have united saying this is absolutely insane.

Three thousand people were slaughtered, innocent civilians. Not that it has never happened before, but you are in America.

I really felt optimistic. I said to myself, you know, I can really deal with my son's death, find the murderers of my son. Of course, that never happened.

I just looked for an outlet. I didn't know who to talk to. I just wanted to find people that felt the way I did. My sister and my brother, of course, we should go in Afghanistan, we have to defend our freedoms. I said, what do



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you mean, our freedoms? My sister said, well, we have a right to do certain things and this is what this is all about, they took our freedoms away.

God bless my sister. I said to her, Sue, just make an effort to look for information. There is so much information out there, and I'm not going to sit here and lecture you.

Damn if she didn't do that, and now she is working with me in Peaceful Tomorrows. We are going to Japan Sunday, and we are going to walk with the survivors of the atomic bomb. We are going to the tombstone honoring civilians killed in war.

(Applause.)

MR. McILVAINE: That is what our whole group is about. That is what I am about. It's difficult. It's extremely difficult to hear Lorie's testimony and hear her husband.

I still don't know how my son died. I don't know if he jumped. I didn't get a body. It is very difficult.

This is why so many people have difficulty getting involved in all this. My wife can't. She screams at me if I come home and tell her some of these things I've heard. It's too disheartening to think all these things are happening, and that our innocent people are murdered.

Anyway, I don't have that much time, but I have spent my whole life trying to in honor of my son to understand why my son was murdered. I work with Peaceful Tomorrows, and we have been nominated for two Nobel Peace Prizes. It gives me a good feeling to work with them.

On my own, I am in constant search, and hearing from Michael and Ray and all these experts, it is connecting the dots. I speak to a lot of high schools, a lot of colleges. I try to urge them, connect the dots. Go back to World War I, the silly World War I, yet so many people had to die.

I try to run it through to 2001 and say this is the reason my son is dead, it is a cause and effect type of thing. I explain to them I'm not a researcher, I'm not an expert. Please try to find it on your own.

I finally found Peaceful Tomorrows in about October of 2002, searching their website. As a group, it was founded in February of 2002, and the name is based upon Martin Luther King's speech, wars are poor chisels for peaceful tomorrows. We live by that.

War is insane. We will do anything. Our biggest project coming up, we are having an international conference on terrorism at Princeton University in 2006. We are trying to get a coalition of civilians, victims, from all around the world.

I hate to call myself a "victim." Please don't think of me as a victim.

We have to come together and make the solution that war is never ever ever ever the answer. Justice is the answer. We have to live by that.

I had an unbelievable opportunity to go to Bogota. I haven't flown since 9/11. Not that I'm necessarily afraid, but I just won't fly. I've learned too much about the shoe bomber. I'm just not going to leave the country.

Bogota, they have an international conference on violence and terrorism, and they called me to speak down there. I decided to do it. There were probably about 2,000 people in the auditorium, the first two rows were all victims. 13 year olds with legs missing. Burn victims.

I had dinner with one burn victim, 75 percent of her body, an African/Columbian. She lost her three children and her husband. I said, I feel sorry for myself sometimes. That woman could sit there and laugh with me, because you have a bond with people who have suffered.

That is what we have to think about. It's the civilians, the 25,000 civilians in Iraq that have died, and 500,000 people in Iraq that have died in the 1990s.

What is this foreign policy that we have? We talk about Pax Americana. In Latin, does that not mean American peace? Have we perpetrated peace in this world? Have we, since 1945? I think not.

It gives me so much comfort to work with this 9/11 group because somehow some way, we are going to find peace. It is important to me to go out into the community. I learned so much from the experts.

I've quoted you many times, Ray, since our last talk. If you are not angry at what's happening around the rest of the world, every day of your life, you have to be angry. If you're not, you are an unjust person.

This is a quote from St. Thomas Aquinas. Ray talked about that the other day.

Anger is to me very important. Anger keeps me focused. When I'm not angry, I get mellow and want to drop away from all this. It is truly a double edged sword.

The more I'm involved in it, it destroys me. I'll go home and I'll get depressed. My family members find it very difficult to get involved in this.

The alternative is you just have to keep demanding peace. You have to talk the talk, and more importantly, because we sit down with people and say, well, we should have peace. They look at you, yeah, how are we going to

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find it. That's where you have to know your history. That's where you have to say well, look what happened here, this is why we had this happening and that happening.

I said, boy, you have a good point, because that is what happened to my sister. She finally went on the Internet and researched everything. She just said I always thought the United States is doing the right thing. Now she believes, well, this isn't happening. Now, she is working for peace.

That is so important, especially in the educational system. We have to teach what is happening in Israeli/Palestine, an objective look at it. All these things. We must teach World War I differently, what happened after World War I.

It's the kids of this country, the kids of the world, they have to get -- that is the only reality to me, truth. That is very evasive. If we get the kids around the world -- that is one thing that we have in Peaceful Tomorrows, we speak around the world, and we will keep pushing that effort.

Thank you.  
(Applause.)

MS. RAYFORD: Thank you, Mr. McIlvaine. Next, we will go straight into domestic policy, immediate response and recommendations, and we will hear from Kit Gage and Jumana Musa on dual legal systems and military tribunals.

### DOMESTIC POLICY: IMMEDIATE RESPONSE AND RECOMMENDATIONS

#### DUAL LEGAL SYSTEMS AND MILITARY TRIBUNALS

MS. GAGE: Mr. McIlvaine, you said you are not an expert, but you are clearly an expert in seeking justice. I can't imagine a more important kind of expertise in the universe than seeking justice. I wouldn't apologize a minute for what you do.

I want to get to some basics here. I know you have talked about a whole range of important things today. I want to talk about how you try to find justice, dealing with those who commit terrorist acts.

Start out, what is terrorism? Simple question. What is terrorism? There's definitions, but the most commonly understood definition is a simple one. It's a crime that's committed to intimidate a government or a people. Simple. It is a crime trying to intimidate. It can be a little crime. It can be a big crime. It can be a horrible crime.

The kind of terrorism we are talking about, we, the U.S. Government, have declared war on terrorism, a perpetual war on terrorism, an endless war on terrorism. That is a really big handful. It's a really big challenge because all of a sudden you are not talking about World War I or World War II. You are talking about an endless time frame.

It's clear terrorism has been around since the year dot. It's not going away. People always have committed crimes to intimidate other people.

So, we have this war on terrorism. How do you possibly try to punish people who are accused of terrorism? It's a fair question. It's impossible to imagine how you could possibly punish someone who committed the horrible attacks on the World Trade Center and the Pentagon and Pennsylvania. It's kind of a disconnect. You can't imagine the kind of things you could do to people to kind of rectify that. You have to sort of throw that away.

So, how in a real world do we try to find people who commit terrorist acts and what do we do with them? Do you try them like you consider normal criminals like the U.S. Constitution calls for? Do you treat them in an international system along the lines of the Geneva Conventions, which envisions in an international scheme what you do.

Or do you throw that all away and just toss them in the clink forever, or do you have some other variation on that theme that incorporates some pieces or another of all of those?

I want to look at since 9/11. I'm going to be brief. I want to look at since 9/11, what we have done, and even a little before.

You have to look at how people are caught. Are they on the battlefield or are they at home? Are they U.S. citizens, are they not U.S. citizens?

Those all help to determine what you are going to do to try to bring people to justice.

What did we do on the battlefield? We had John Walker Lindh, U.S. citizen. What do we do? We are going to try him. U.S. court of law. We had Yasser Hamdi. U.S. citizen. Found in a battlefield. We said, well, maybe not. Maybe not any kind of court of law. In fact, we are just going to bring him to the U.S. and put him in a detention center, and he doesn't have to have a lawyer and he doesn't have to hear any charges, and we don't have to figure out whether whatever he did is whatever he did.

Two very similar examples, completely different choices that the U.S. Government made.

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At home. Look at Oklahoma City. No one could possibly argue that's not a terrorist crime. What did we do? We found the people we thought committed the crime or at least a couple of them, and we tried them in a court of law, U.S. Constitution, full range of rights, lawyers, see the evidence, judge, jury, et cetera.

One of them is dead. One of them is in jail for the rest of his life. We used the criminal justice system. Nobody argued about it.

Jose Padilla. Maybe not. Found not even committing a crime, found on an airplane landing at O'Hare Airport, but accused of being a heinous terrorist. Maybe he is, but the U.S. chose to treat him completely differently from the Oklahoma City bombers.

Now, there are a couple of differences here. Maybe it is too obvious to point out there are some ethnic differences on these guys. That could be a factor.

It points out that even the U.S. Government has treated people with very similar patterns in completely different ways. I think that points to a really critical thing.

The U.S. Government is perfectly capable of using the criminal justice system to try people it believes have committed horrible criminal terrorist activity. When it doesn't, it is interesting what happens.

Look at Mr. Padilla. Now, as he has been in jail since May 2002, the courts have gone back and forth, finally, he has gotten a lawyer. Finally, he has seen some of the evidence. Finally, now, a couple of days ago, he gets a hearing in the Fourth Circuit after the U.S. Supreme Court finally tells the Government, you know, you really have to give this guy some kind of a hearing. We are not telling you exactly what kind, but some kind of a hearing. So, two days ago, he finally has his hearing. It is three years later.

We still don't know. We don't have charges against him yet. We don't know whether precisely this guy has committed or was planning to commit any terrorist crime.

That uncertainty, I would argue, is really a problem in the overall plan to try to pursue terrorists.

Mr. Hamdi, the U.S. Supreme Court said, you have to give this guy a hearing. You have to give him a hearing. The U.S. got so scared about the possibility of giving him a hearing, it let him go. It deported him. He's now in Saudi Arabia, as far as I know, not in jail, not charged with a crime.

Before 9/11, I worked with a group, and I'm wrapping up with this, that dealt with the issue of secret evidence. The U.S. was using secret evidence to deport people, to try to deport them. We, through the process of finally getting these guys in court and demanding that the Government let the secret evidence be opened up to the public, we discovered the Government in many cases was wrong. It didn't have what it thought it had. The people who it was holding because they thought they did certain things hadn't really done them. Most of those folks got let go without having been deported, because the Government said, oops.

It seems to me that we don't want to say "oops" when we are going after terrorists, and particularly not when we are talking about the serious kinds of events, horrible events, that have been going on, in London and in New York, and will continue to go on, an Oklahoma City and wherever will continue to go on, hopefully less, but will go on.

We have to develop a mechanism that tells us that we have the right people. Tells us to the extent that the law works that these are the people who should be held in jail. These are the people who should be held accountable and not somebody else.

I'm not talking about Guantanamo. I'm not talking about what is going on in Iraq and Afghanistan and other countries. These are the people about whom they have had the most rights, the most visibility.

It makes it even more important on what Jumana is going to be talking about, that we have some consistency, that we have a policy that is rational but that looks to more than 200 years of law, of mistakes, of efforts to try to find justice, to try to seek justice.

Thank you.

(Applause.)

MS. RAYFORD: Thank you, Ms. Gage. Next, we will hear from Jumana Musa, Amnesty International.

MS. MUSA: Hi. I actually am going to talk about Guantanamo and sort of the lesser talked about detainees and legal processes.

I do want to start by thanking the families of 9/11 victims. It is very humbling to sort of sit on a panel and share this space, because I cannot imagine sort of the enormity of being attached to this sort of iconic U.S. image, but have it be so personal to you. I'm thankful that you all are here and continuing to press our country and our Government to look at these issues and to provide true security for all of us.

I do want to start by saying that the attacks of September 11th, like the attacks in Bali and Madrid and London and the almost daily attacks in Iraq are crimes against humanity.

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There is no political cause or religious interpretation that can justify such indiscriminate attacks on civilian populations. The perpetrators of these types of attacks should certainly be brought to justice.

The issue that we have is this process must respect human rights and the rule of law. This is not something that we have seen so far.

I'm going to go back to the recommendation that Mr. Smith had read earlier, where they talked about customary international law and common Article 3 of the Geneva Conventions providing a basis for treatment of detainees.

One of the passages in it says "The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all judicial guarantees which are recognized as indispensable by civilized people is prohibited."

What we are seeing in Guantanamo is exactly the efforts to pass those types of sentences and carrying out of executions, completely outside of any legally recognized or regularly constituted court.

We have already heard about the allegations of torture and ill treatment in U.S. custody. It has been well documented in Guantanamo and Afghanistan and Iraq, and other nations that the U.S. has rendered people to, a little bit of outsourcing, other torture and ill treatment.

We have also seen some Government investigations, which always seem to sort of end with a wink and a nod and say we know this guy was in charge, we know he was in charge in Guantanamo, he may have been in charge in Iraq. The investigators might have said, hey, we should probably sanction this guy, but we are going to let him go, and for all we know, he might get promoted in the future.

It seems to be pattern and practice with this Government, that rather than sanction the people who are involved in writing these policies, instituting these practices, they tend to get let off the hook and promoted.

I think the reason that Guantanamo is so important, not because it is the one place in the world where the worse human rights' abuses are occurring, but it's certainly the most visible manifestation of the U.S. Administration's refusal to uphold human rights and the rule of law.

When it came time to set up military commissions in Guantanamo Bay to try people for war crimes, the U.S., rather than looking at any kind of established justice system, went off a presidential order in November 2001, and essentially chose to reach back to a couple of Supreme Court cases from around World War I and World War II, and say we can create these military commissions and ignore the following 50 plus years of developments in Federal law, in international law, and in military justice.

In doing so, they came up with these commissions. These commissions are basically made up of the rules and instructions that are put up on the Defense Department's website. Just a body of instructions and orders that go up that could change at any time.

At the outset, I do want to let you know that the problems that I am about to detail with the military commissions are issues with the way in which they are constructed. It's not a reflection on the men and women who are assigned to the Office of Military Counsel, who are doing their best to work within the system they have, and they have some very good people there.

I do want to separate that out, because this is not an issue of personnel. It is an issue of the system and the folks who created it.

I am going to go through four fundamental problems, although there is a great deal more. It is something that could be talked about all day. I think it is easy to look just from these four why these commissions are so problematic.

I do remember sitting in one of the sessions and one of the journalists said to me, you know, I'm not a lawyer, what should I be looking for today. My response to her was you don't need to be an attorney to see the problems with these commissions. She agreed with me later.

The first thing I will say is that they are absolutely discriminatory. I think it was laid out quite nicely, the difference you might encounter if you are John Walker Lindh versus Yasser Hamdi, or if you bomb Oklahoma City or are picked up at O'Hare Airport, and the arbitrary nature of that.

The President's order sets out that this order is for non-citizens. If you are John Walker Lindh and you are picked up in Afghanistan with plenty of the folks who are currently in Guantanamo, you go to the U.S. You get Federal court. You get the rights inherent with that.

If you are not a U.S. citizen, you get thrown in Guantanamo and you get the rules we put up on the website.

In addition, we have also seen close allies of the U.S. negotiating on behalf of their citizens. If you are an Australian, like David Hicks, you are charged before the military commission, your government seems to think they are a-o.k. in terms of a system of justice, but they said, hey, if he's going to have to serve time, he should get to come home to Australia.

If you are from Yemen or from Sudan and your government doesn't have that kind of relationship with the U.S., you are stuck in Guantanamo.

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If you are British and you are identified as eligible for trial before the military commission, and your government, who is close to the United States, raises a stink and says absolutely no way, we won't allow our citizens to be tried before these military commissions, unless they are brought in line with fair trial standards.

Well, earlier this year, the U.S. quietly released those two detainees and sent them back to Britain without trying them or charging, which is all but an omission that they refused to bring these military commissions in line with fair trial standards.

The bottom line is if they are from a country that can't or won't negotiate with the U.S. Government, you are out of luck.

The second problem. The military commissions have exactly one rule of evidence, which is it can admit evidence that is "probative to the reasonable person," which could be just about anything that's not completely unrelated, which means it can admit hearsay evidence, and more significantly, you can admit evidence that's obtained by torture.

I think it's been well documented that evidence obtained by torture is extremely unreliable, but more importantly, it's illegal. It's illegal under Article 15 of the Convention Against Torture, which the U.S. has signed and ratified, which reads "Each state party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings."

However, as we know, this Administration seemed to take a pick and choose approach to international law as well as domestic law, and I think they chose to ignore that one.

I think that is also particularly troubling when you take it with my third point, which is that the accused can be excluded from the proceedings. When I say "excluded," some people have the notion just excluded from classified portions, which can be problematic, and there has been plenty of ways of dealing with classified information in the U.S. system, and how to keep the accused abreast of what is happening.

Within the military commission, the accused can be excluded, although his detailed military defense counsel can stay there, he cannot share anything that he learned with the accused.

When they say "protected information," I guess that's much broader than "classified information," which could include everything from classified or classifiable evidence, information protected by law or rule from unauthorized disclosure, the physical safety of participants in commission proceedings, including prospective witnesses, intelligence and law enforcement sources, methods or activities, and then the catch all, "and other national security interests."

They have a broad brush as to what they can actually exclude people from, exclude the accused, not give him a summary, and not allow his attorney to tell him what happened.

If you take that in conjunction with the rule that says they can admit hearsay, they can admit evidence obtained by torture, you can actually end up with a system where by the accused will be excluded from proceedings where an anonymous witness is presenting hearsay evidence that may have been obtained by torture, where there is no record of the initial interrogation, or even the ability to check if this translated properly, and that testimony can convict him and even sentence him to death.

What is even more troubling after you get through all of this is once there is a decision made by these military commissions, there is absolutely no independent review whatsoever.

The review stays completely within the executive. The commission decision goes to the appointing authority. There is this little review panel that was selected personally by Secretary of Defense Donald Rumsfeld, which can give an advisory opinion, but then the decision goes back to the President and Secretary of Defense, who approved the charges in the first place.

It is a very circular system. It is really meant to prevent any kind of outside review of these decisions or these processes.

You essentially have this system which was created by a presidential edict and can be altered at any time at the whim of the executive, and when you look at it in that sense, an impending appeal is more needed than ever.

These are just a few of the problems. I could go through the issues with the panel, non-lawyers acting as judges and juries all at once.

The idea that this is a legal system in and of itself, and the fact that they have put out phrases that people are innocent until proven guilty, and this will be full and fair.

However, everyone facing trial by a military commission has already been deemed to be an enemy combatant, which has had an ever changing definition, but from what the President and other Administration officials have told us, that means they are the worse of the worse and very bad people, and therefore somehow deserving of no particular rights.

Then sort of just particular to all of this is within the President's order, they make it clear that nobody in Guantanamo is subject to any law except for the ones that they choose to bestow on them, whatever rights they choose to bestow.

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They say within the order that "With respect to any individual subject to this order, that military tribunals shall have exclusive jurisdiction. The individual shall not be privileged to seek any remedy or maintain any proceeding directly or indirectly, to have any such remedy or proceeding sought on the individual's behalf in any court of the United States or any state thereof, or any court of a foreign nation or any international tribunal."

Should there be any confusion by the idea that they are seeking to act unilaterally outside of the law, they put it in black and white.

I think this certainly promotes the direction that we have seen this Administration take, which is pursuit of unfettered executive power.

One of the things I saw today that was a little disturbing, someone sent me a website. Apparently, Rush Limbaugh now has a whole series of "Club G'itmo" accessories that you can buy, and you can take your picture in them and send them to his website.

One of the things on the Club G'itmo tee shirts, you can get one with a phrase on the back that says "What Happens in G'itmo Stays in G'itmo."

The issue here, of course, is that is certainly not true. The United States as the world's super power has the ability to either raise or lower the bar when it comes to individual rights, human rights and the rule of law, and in this instance, it is lowering the bar.

I have witnessed this sort of parody of justice that has been happening in Guantanamo, and there is no gratuitous references of "full and fair" that are going to make it any more full and fair.

If the process wouldn't be deemed acceptable for U.S. citizens, it shouldn't be acceptable for citizens of Australia, Yemen, Sudan, or Canada.

I think if they were to go along with the Commission's recommendation on this one, it would go back to a recognized tribunal or court, whether it's a court martial, U.S. court, et cetera.

MS. RAYFORD: Thank you, Ms. Musa. Thank you very much.  
(Applause.)

MS. RAYFORD: We are moving onto Civil liberties in American post-9/11, is security worth the trade?  
Mary Rose Oakar will be speaking.

### CIVIL LIBERTIES IN AMERICAN POST-9/11

#### IS SECURITY WORTH THE TRADE?

MS. OAKAR: Thank you, Madame Chair. I want to compliment all the panelists. I am really so taken by all the remarks. It is very instructive, and that is why this hearing is so important.

I want to congratulate Congresswoman Cynthia McKinney because now that I'm an observer of Congress, and not a member, I don't see this side of the story at hearings whatsoever. I am delighted that you are having this, and hopefully, the American people will have another point of view and diverse opinions about what is going on, not only in our country, but throughout the world.

I do represent the American-Arab Anti-Discrimination Committee, which is 25 years old, fighting for civil rights, and of course, we condemn terror attacks. We advocate the Dr. Martin Luther King philosophy.

Arab-American, Muslim and South Asian communities have faced extraordinary difficulties in the days, weeks, and months following the terrorist attacks of September 11th.

The anxiety and the fear created in the communities and the hate crimes -- I did bring with me, which is part of the congressional record, our report on hate crimes since 9/11. If anyone wants a copy, I'd be happy to send it to you.

And the discrimination that was compounded by serious civil liberties concerns regarding aspects of the investigation into the terrorist attacks, and the new Homeland Security policies and regulations.

Of course, the atmosphere has been exacerbated by the campaign in American popular culture of racial profiling, some members of the media, including who you just mentioned, and some elected officials for the vicious defamation and vilification against Arabs, Islam, and anybody who is perceived to be.

Just the other day, a member of Congress, if I can believe this, indicated that a possible solution to certain terrorist attacks could be to "nuke Mecca."

This type of inflammatory rhetoric only feeds fuel to the fire because you can be sure that his words were broadcast throughout the more 1.3 billion Muslims throughout the world.

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Certainly, there has been administrative policies and actions taken by the Executive Branch, and frankly, some laws that Congress passed, which have served to curb our rights and due process, undermine fundamental constitutional protections, and profile communities and target them for heightened scrutiny.

We believe as Arab-Americans, that when you protect one group, you are protecting the civil rights of all people, not only in this country, but hopefully throughout the world.

The targeting has focused on the Arab and Muslim communities, and includes among other measures, detentions -- and some of this is mentioned, but I think it bears repetition, since you don't hear it very often in these halls

-- detentions without charges, closed hearings, interviews of Arab and Muslim men by the various members of law enforcement, a form of ethnic and racial profiling, especially in October, right before the election. It seemed to increase a little bit.

Secrecy regarding immigration detainees, and the registration and monitoring of Arab males under a very controversial and discriminatory program called the National Security Entry/Exit Registration System, NSSERS, and also known as the Special Registration Program.

This program is aimed exclusively at any male between certain ages above 16 to 45, I believe, individuals coming to our country on visa's like students, like people who want to go to the Cleveland Clinic in my home town, et cetera, or even to Disneyland.

It included only Arab men, and with the exception of North Korea, and as you know, not many people come from North Korea, these men were required to register, fingerprint, photograph with local immigration officers by a specified deadline. Some of them never got notice of this because it happened after 2002, and were required to register at designated ports of departure prior to leaving, when they first started Homeland Security, as an example.

I think anecdotal examples, to put a face to some of this. There were 40 students that came from one of the Arab countries, and they were leaving. You are required if you are an Arab male to register out. They were leaving because they were on Summer break from school. They were all seniors in college.

Nobody was at the office at Dulles Airport for Homeland Security, which was supposed to be open from 9:00 to 4:00 or something like that. These young men thought, well, they are not open, so I guess it's okay to leave. Their flight was that night.

They left, and now they can't come back to this country because they failed to register. We are trying very hard to get them grandfathered, since it wasn't their fault that the office was not open, even though it was supposed to be open.

Some of these registration requirements are eliminated, but we still have some of those registration requirements, again targeting one group of people. However, I can't understand why this program still exists.

Now, we have the U.S. Visit Program, which covers visa holders throughout the world. Why do you now have to target Arab men or people from North Korea?

While the program was advertised as a national security tool, it proved to be an ineffective tool of law enforcement and a waste of valuable resources. No terrorists were apprehended, not one, as a result of this failed program called NSEERS.

Certainly, there is no greater responsibility of Government today than to work to prevent future terrorist attacks, but instead of focused and effective law enforcement investigation, the Government turned to broad measures that threaten basic rights, and indeed, enhanced the quality of our constitutional rights.

I can give you all kinds of examples. We get 350 cases every week, where people call us in our national office and other offices across the country.

Hundreds have been jailed for months and years when it appears without the Government openly giving evidence linking them to terrorism. Many of these detained have been held "incommunicado." No right to an attorney. Some of whom happen to be Americans.

I will give you one example which might surprise you. There was a Catholic nun who went to the Immigration Office in my State of Ohio, and was going to file and take the test to become an American citizen, et cetera.

She went alone, unfortunately. English is her second language. She went alone. She was whisked away to jail. She had no idea why they did this to her. Nobody told her anything. She was in jail for three weeks. Nobody knew where she was.

Finally, and she happened to be Lebanese, she said send me back to Lebanon. They wouldn't do anything. Can I call my family? No. Can I talk to an attorney? No. Finally, she threatened to commit suicide. When she did that, they let her go back to the parish where she was working.

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That does happen in this great country of ours, even when the Government selectively targeted thousands of Arab and Muslim men for voluntary interviews. Federal terrorism investigators continued to insist that none of the 8,000 men targeted were terrorist suspects.

Investigators also publicly acknowledged that they had no reason to believe that those selected for interviews had any useful knowledge regarding terrorist activities.

Thus, these interviews were driven by the interviewees' ethnicity, gender and countries of origin, and sometimes religion.

Many of these people were interviewed, by the way, at their jobs. Now, even if the law enforcement agencies said they did nothing wrong, they are free, we just want to question them, many of these people lost their jobs, and as a result, there is terrific employment discrimination.

We have examples such as an airline pilot who happened to be Arab-American and worked for the company for 19 years, had an impeccable record. They laid him off, gave no reason. We finally interceded, and EEOC did a good job. He's back on the job.

Everybody now has a wonder about this guy. You can imagine what that is like, not only humiliating, but threatens their economic security.

The country's experiences with terrorism demonstrates the ineffectiveness of using racial or religious markers as keys to finding terrorist suspects, both potential and actual.

Americans of non-Arab descent, such as John Walker Lindh, Jose Padilla, and Richard Reid, British national of English and Jamaican heritage, are examples of how neither ethnicity nor national origin are consistent characteristics of al-Qaeda operatives.

Then, of course, there is Timothy McVeigh, who committed the second worse terrorist act, and I don't believe we racially profiled blond hair/blue eyed American men.

We believe the 9/11 attacks on our nation require some reconsideration of the balance between security and liberty. We understand the need to have increased security.

Arab-Americans died in 9/11. Firefighters who happened to be Arab died in 9/11. We all feel it is abhorrent for anyone to lose their life or their security.

Just one last thing. Bad law enforcement does not make us safer. We need to be mindful of what the 9/11 Commission stated, which is one thing I agreed with, at least, regarding the protections of civil liberties, that "While protecting our homeland, Americans should be mindful of threats to vital personal and civil liberties. This balancing is no easy task, but we must strive to keep it right."

I certainly hope we do, and this hearing is going to be important. I would like to submit some more material for your record, Madame Chair. Thank you.

REP. McKINNEY: Thank you; absolutely.  
(Applause.)

MS. RAYFORD: Thank you, Ms. Oakar. Next, we will hear from Elaine Cassel.

MS. CASSEL: Thank you, Madame Chair, and thank you for allowing me to be here. I'm just so caught up in all these presentations and remarks. I keep making notes that I want to talk about this, but I'm going to stick with what I prepared.

I appreciate Representative McKinney's staff giving me the task of doing something very specific today, because I have ranted and raved for the past four years, and you can find many of my rantings and ravings on line in articles that I've written about many of the so-called terrorist prosecutions.

Many of the cases everyone has spoken about here, I have written about them in one way or the other.

What I was asked to focus on was a specific recommendation of the 9/11 panel, and then make a recommendation of my own. That made me have to stand back and try to be a little sane and sensible, and figure out what could I find that I could make a specific recommendation about.

I found something. My remarks are mainly directed at the Congress, and I hope that as they find their way in the record and with Congresswoman McKinney and others, that this might be taken to heart and you might find it useful.

Following up on what Mary talked about, civil liberties post-9/11, is security worth the trade. My answer is I don't know. It depends. Not based so far on the convictions and the detentions that I've written about and that you have heard about this afternoon, and the practices that I have witnessed daily, and that we all witness daily.

I'm not convinced that there has to be a tradeoff between the constitutionally based liberties of every day law abiding Americans and protecting us from the evils of terrorists and terrorism.



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For instance, to use an example that we have talked about in terms of Richard Reid, I don't think it has been proven or shown to be reasonable that having everyone boarding an airplane and taking off their shoes because Richard Reid tried to set his shoe on fire is keeping us safer.

Now, that's a small thing. Of course, we have gotten used to it. It's not a terrible intrusion. What's it all about? Does it make any sense?

There was a specific recommendation of the 9/11 panel, recommendation number 41, page 428. "The Department of Homeland Security," and I'm quoting, "and its oversight committees, should regularly assess the types of threats the country faces to determine (a) the adequacy of the Government's plans and the progress against those plans to protect America's critical infrastructure, and (b) the readiness of the Government to respond to the threats that the United States might face."

I have some specific recommendations, but first of all, you hear President Bush and former Attorney General Ashcroft, and now Attorney General Gonzalez, talk about how all these so-called terrorist prosecutions where they have been successful at locking people up, sometimes for life, are making us safer and making the world safer, but if you read closer those cases and read some of the indictments, you will find they weren't nearly about what you are led to think they were about.

It's highly questionable whether what the people were convicted of doing even constituted terrorism. As Kit mentioned, you can find hundreds of definitions of "terrorism," but the one that most of us can accept as reasonable, that is using violence to target civilians for the purpose of political gain, is what we all should be interested in, and I think that is what the 9/11 Commission was interested in addressing.

I recommend that the Congress put the emphasis on the access, assess, and adequacy part of this recommendation, and require that the Department of Homeland Security, the Department of Defense, the Department of Justice, the FBI, and the CIA, and every other agency that says it has to violate restrictions on Government power required by the Bill of Rights, I ask the Congress to hold these agencies accountable by requiring the following:

That the agencies show what they have done to appropriately assess terrorist threats from all manner of sources.

Two. That they be required to identify and quantify insofar as possible what these threats are.

As Mary just spoke about, rounding up thousands of Muslims after September 11th and detaining them for months in the Manhattan Detention Center did not net one charge of terrorism.

Registration of Muslim men, as she talked about, did nothing except humiliate and terrify not just Muslims but Americans like all of us here.

Number three. Prioritize these threats in order of the greatest harm to the greatest number of people, or to the greatest resources, such as our air, our water, our energy system, financial markets, and of course, huge targets, big and important targets, for our health and safety.

Number four. Develop intelligence, non-politicized intelligence, if that's possible, and prevention and intervention strategies that are commensurate with the risk.

Number five. Demonstrate why Americans must suffer this or that specific erosion of liberty in order to address this particular threat or threats. In other words, prove the efficacy of the intervention and prove to us, with rational facts and challengeable evidence, that the tradeoff is worth it.

Prove that the interventions chosen are the least harmful to our freedoms. I use a term from mental health law, "the least restrictive alternative" that is acceptable under the circumstances in order to be effective for the targeted prevention or intervention.

Number seven. Do not under any circumstance trust what the Executive Branch tells you, but demand verification from outside experts that the threats and remedies claimed are real.

Now, we know this Administration is masterful at disinformation, misinformation, red herrings. As I hear and I listen -- I adore CSPAN, so to CSPAN who is here today, I say thank you -- whenever I'm in the car, I always have CSPAN on listening to hearings. It just kills me to hear the Administration refuse to answer or I'll have to get back to you on that, and you wonder how often do they really get back to you on that.

Number eight. Require, as all good assessments and interventions require, that the agencies periodically review their programs and interventions against verifiable results, showing that the actions taken, including those that have eroded specific liberties, are yielding sufficient results that makes security worth betrayed. If they are not, then change the programs.

(Applause.)

MS. CASSEL: Finally, in order to make this happen, hold the budgets hostage for the receipt of this information. We know that's the only thing that matters to the Executive Branch, is that they get the money to do what they want to do.

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Until they answer the questions and until those answers are verifiable and demonstrated, then don't give them the money.

I realized in talking to another member of the panel that representatives and senators who do that are going to be accused of being soft on terrorism and Karl Rove is going to make fun of you and all that.

You are going to have to stand up to this. We are not going to have anything left if you don't.

Four years since September 11th, almost four years, and one year since the 9/11 Commission's report, critical infrastructures and resources are unprotected, and protections are unplanned, as far as I know.

Co-Chair of the panel, Lee Hamilton, mentioned that this morning in a press briefing. He was very frustrated by that, and he mentioned these are difficult tasks to take on.

I noted thinking about what I was going to say that yes, it's easy to search every airline passenger and every person who is on the Mall for the 4th of July fireworks. That's easy. All you have to do is pay triple overtime, you know, let everyone stand in line for hours.

It's hard to try to assess the risk to our critical infrastructure and to intervene and prevention. This country is full of brilliant people who can get to that task of trying to figure out how to do that.

It's easy to open a file on demonstrators against the Administration's policies and conduct surveillance on the ACLU and Greenpeace, as the Washington Post reported last week. I seriously doubt that the ACLU and Greenpeace are terrorist organizations. In fact, if they were, the Government would have shut them down.

Why are we paying the FBI's counterterrorism unit to amass thousands of files on these organizations and individuals?

(Applause.)

MS. CASSEL: In addition to that, in that same report, the Washington Post reported about the hundreds of files that were kept on protestors at the Republican National Convention.

The 9/11 Commission says that the threat of terrorism comes from Islamic extremists. I was listening to some speakers earlier this morning or earlier this afternoon, and the speakers today challenged that conclusion. As Kit mentioned and others have mentioned, the threat of terrorism is from many sources. That's why we have to identify and assess where the greatest risks are.

For instance, the FBI has been able to assess risk and we have enacted laws to protect abortion clinics. People who bomb abortion clinics and kill abortion doctors, one pled guilty just recently, that's something again that the criminal justice system can identify, can conduct surveillance on, and can address.

The agencies charged with protecting us should address their resources for assessment and creating verifiable methods in order to identify the risks. They can use, for instance, models that are already used by behavioral scientists, have been used, for instance, by the FBI in conducting and creating a model for identifying potential school killers.

The FBI has done some wonderful work with many behavioral scientists, and they have about a 100 page study of how you can identify what specific types of children, for instance, exhibiting specific types of behavior, might need certain interventions in order to protect them and the rest of the children in school.

This is doable. We have spent billions, even trillions of dollars on homeland security since 9/11, much of it wasted or unaccounted for. June 30, 2005, the Washington Post headline, "The High Cost of the Rush to Security," TSA lost control of over \$300 million spent by contractors to hire airport screeners." \$300 million lost. July 19th. \$15 million to barricade the Lincoln Memorial.

Is there data to back up these expenditures, blocking off memorials to protect us against a real threat?

I can hardly bear the irony of having to pass through security at the Jefferson Memorial, so I refused to do it.

In reading the article about the Lincoln Memorial, my 11 year old grandson, with whom I had a visit on the Mall recently, suggested that "If we," meaning us, "can't get to it, they," I think meaning the Government, "may as well tear it down." I think he has a point.

All Federal agencies receiving homeland security funds should be held accountable for how they are spending it, and should prove to us that they are spending it in order to make it safer.

I want to quote from the House Minority Leader Pelosi, who yesterday in calling for continued debate about the Patriot Act, said, referring to the Congress "We have a duty to protect the American people from terrorism, but also to protect law abiding American citizens from unaccountable and unchallengeable Government power over their personal lives."

MS. RAYFORD: Ms. Cassel, your statement can be submitted to the record. We are running out of time.

MS. CASSEL: I just encourage Congress to heed her challenge, and then we will know whether the tradeoff is worth it.

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MS. RAYFORD: Thank you. Elaine Cassel.  
(Applause.)

MS. RAYFORD: These proceedings are currently being streamed on line at [www.pacifica.com](http://www.pacifica.com). We want everyone who is listening to know that we are in a briefing on the 9/11 Commission report, and that this briefing was convened by Congresswoman Cynthia McKinney. We are in the Caucus Room at the Cannon House Office Building, Room 345.

We are now moving onto the rise of secrecy after 9/11. We will hear from Rebecca Daugherty.

### THE RISE OF SECRECY AFTER 9/11

MS. DAUGHERTY: Thank you very much. I am Rebecca Daugherty. I am the FOI Service Center Director at the Reporters Committee for Freedom of the Press. I am very grateful to be here.

I think secrecy is so much of a part of the dialogue on the events of 9/11 and what we have seen happening since 9/11.

At the Reporters Committee for Freedom of the Press, we are concerned with increasing Government secrecy every day. The findings of the 9/11 Commission were that Government secrecy prior to the tragedy was so pervasive that the failure of Government agencies to share information may have contributed to the failure of our Government to detect and prevent those events.

This wasn't the first of the tragedies in our lifetime, found in retrospect to have been exacerbated by secrecy. Although the Government had committed no evil acts in its handling of the 1993 raid on the Branch Davidian Compound at Waco, its failure to be candid with the public caused untold damage and many events to occur afterward.

This was found by Special Counsel, former Senator John Danforth, who did a long study of what had happened at Waco and afterwards.

He noted that inexplicable Government secrecy about the use of pyrotechnic devices at Waco, uses found not to have ignited the tragic fires that consumed the compound, was something that everyone thought about and no one knew the truth about, and even though the Government may have, in his investigation, done no wrong, its bunker mentality gave the public all over the country the idea that it had.

The 9/11 Commission wrote at some length about the failure of the Government prior to 9/11 to share information between agencies, but it also acknowledged that the national news media had nothing to report. The secrecy that occurred before 9/11 was so pervasive that information was just withheld.

The Commission found that the events of 9/11 were a shock, but should not have been a surprise. They were preceded by a decade of rapidly escalating Islamic terrorism of attacks foiled and less successful attacks. The system, the report said, was blinking red. There were many indicators that Bin Laden was planning something big.

Those indicators never got the attention in the media that would give the public any idea of the breadth of the escalating problem.

The fears of the millennium changes, where the Government worked regularly with the news media to make the public aware of the dangers that could occur as a system design for one century would be called upon to be used in the next century were well done. The Government had a lot of communication with the public. The media communicated to the public, and we were all ready. This certainly didn't happen with the events of 9/11.

The Commission found that 9/11 was preceded by the failures of the imagination, with too few minds devoted to the consideration of too few facts.

Islamic terrorism was simply not a matter of vigorous and informed debate among the public, the media, or Congress.

It's a major irony that a tragedy that in retrospect is attributable in pertinent part to secrecy, has spawned incredible new efforts by the Federal and state governments to keep even more information secret.

Virtually every state has either adopted or proposed new secrets as a result of the events of 9/11. For the most part, this has to do with keeping secret vulnerabilities in the infrastructure.

The 9/11 Commission found that 85 percent of the critical infrastructure is privately owned but there is Government oversight of most of it, of the transportation system, the communication system, water and lights, dams and bridges. In the bunker mentality we saw after Waco, the Government has tried hard to make weaknesses secret.

Here there is a thought that if the infrastructure is weak, has weaknesses, then it will be vulnerable to terrorists, and if they know of the weaknesses, they will be able to capitalize on them.

Far scarier is the thought, I think, that the infrastructure could be secretly weak, if no one knows of the weaknesses, who is going to demand that it be made stronger?

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We have heard the Government attorneys refer to alphabet soup of new labels for Government information, SBU, sensitive but unclassified. FOUO, for official use only. SSI, sensitive security information, et cetera. Clearly, those labels are not intended to displace the disclosure requirements of the Freedom of Information Act, but we believe many in the Federal workforce believe they do, that information that does not fall within one of the nine exemptions to the Act can be protected, simply because it bears a protective label.

In addition, information on vulnerabilities that has been available on Federal websites has been removed, even where public notification is required by the Clean Air Act. This month, the Environmental Protection Agency gave OMB Watch the risk management plans filed by chemical plants, which notify communities what risks exist and what they are doing to protect against worse case scenarios.

The delivery of that information only came after OMB Watch filed a Freedom of Information Act lawsuit. It didn't come as a result of its request.

We have seen the Executive Order on classification change after 9/11 to permit reclassification of records. It provides for new categories of information to be classified, infrastructure vulnerabilities or capabilities, protection services relating to national security and weapons of mass destruction.

That gives the Director of the Central Intelligence Agency the power to block declassification decisions by the interagency security classification appeals panel.

In addition, we have seen new information protected from disclosure by agency policies, which have been upheld by the courts.

In *Living Rivers*, a 2003 case in U.S. District Court in Salt Lake City, it allowed the law enforcement maps of flood areas below Hoover and Grand Canyon Dams to be withheld because it might be of use to terrorists to know where the flood waters would go if the dam burst.

That information would also be very useful to the people who lived in what was anticipated as the flow, and yet because terrorists might use that information, it couldn't be made available to the public that lived in that area or any place else.

The U.S. Court of Appeals for the D.C. Circuit and *Center for National Security Studies vs. Department of Justice* allows the Government to keep secret the names of all of the detainees domestically that were held for months and months. We can get a spreadsheet on those detainees. We can see what they were accused of, whether they were let go, and so forth, but we don't know who they are.

I would tell you that we know very little about who was held, if we don't know who they are. No spreadsheet is going to give us any kind of a picture about what happens with detainees.

In another case, the U.S. District Court in Los Angeles allowed the U.S. Customs Service to protect internal documents on the inspections of sea port operations, where are you most likely to get by Customs, because terrorists could learn how often inspections occurred and send their containers to vulnerable ports. I would wager that we want to know also where those vulnerable ports are, and to do something about them.

The decision meant that the public could exercise no oversight over the way in which the Government conducts these inspections, if it does conduct those inspections.

The Reporters Committee certainly empathizes with the need to protect this country in different ways in the wake of 9/11. However, we believe that the greater protection comes from better and more widely dispersed knowledge and that certainly with exceptions where disclosures could clearly compromise national security, a public that is better informed is safer and better able to protect itself in the future, not only from terrorists, but from the dark undersided activity kept secret when sunshine could and should have illuminated it.

We appreciate your interest in our views. Thank you.  
(Applause.)

MS. RAYFORD: Thank you. Thank you, Ms. Daugherty. Next, we will go into the Patriot Acts, sunset on freedom. We will have William Michaels, our last speaker.

### THE PATRIOT ACTS - SUNSET ON FREEDOM?

MR. MICHAELS: Good afternoon. It is actually C. William Michaels. There is a typo in the program, but the name plate is correct.

Timekeeper, I think I am scheduled for 15 minutes, but I will attempt to be less than that, but you will let me know, I'm sure.

Thank you. I'm honored to be on this program of very impressive people who represent much of the serious thinking and acting that has been going on about these issues. I thank Representative Cynthia McKinney's office and the organizers of this event for their efforts and for their invitation.

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I am presenting last, so I will try to be as concise as possible, which hopefully also means as brief as possible. The topic is sunset on freedom. In October 2001, as the USA Patriot Act was moving quickly through Congress, concern was expressed inside and outside the Hill over several of the quite dramatic sections in Title II of the bill.

Among these were greatly expanded investigation and surveillance authorities under the Foreign Intelligence Surveillance Act, increased duration of FISA warrants, authorization for the first time in a Federal statute of non-physical search warrants, commonly known as sneak and peek warrants, combined with a provision allowing for delayed notification of execution of these warrants for a reasonable period.

Permission for FBI access to any tangible thing in the terrorist investigations through a court order, which a court must assign, if the FBI's application for the order meets stated requirements, and nationwide service of search warrants.

We have seen a strong showing for the bill, the Bush Administration, and some in the congressional leadership. I have no specific names to note, which would be a detour at this point anyway.

Offered to include a four year sunset or expiration provision for many of these sections.

Given the wide vote margins in both houses on the final bill, 357 to 66 in the House, and 98 to 1 in the Senate, negotiations of this sort seem in retrospect perhaps to have been unnecessary. There were concerns to be addressed and it seemed this approach addressed them.

Keep in mind that sunset provisions occur only in Title II of the statute. There are no sunset provisions in any other of the ten titles of the Patriot Act.

There was a provision allowing Congress by joint resolution to invalidate all of Title III, which includes terrorist financing investigations, but that provision was repealed by the 2004 Intelligence Reform Act, thus, making Title III permanent.

When the Patriot Act was signed on October 26th, the prevailing understanding among many in Congress and certainly among the public was that these Title II provisions would expire at the end of 2005, as declared in the law.

Many observers, however, and I count myself among them only to mention that more astute people than I called attention to this, remarked that this sunset deal was not likely to last, and sure enough, by the time of the State of the Union Address in 2003, following the elections, the Administration announced its intention to ask Congress to renew the Patriot Act.

Of course, the Patriot Act did not need renewing. What that term referred to was the repeal of the sunset provisions of those Title II sections set to expire. Thus, making them as permanent as the rest of the statute.

This theme of renewing the Patriot Act was repeated throughout 2003 in statements by then Attorney General John Ashcroft, and by other Administration figures. It became a specific theme in the 2004 State of the Union Address, as well as throughout the presidential campaign.

Here in mid-2005, Congress is about to do just that. The Patriot Act reauthorization legislation, which would renew most if not all of these Title II sections, is moving through the House. The number of Title II sections to be renewed might vary depending on how current amendments fare in the final bill, and given that action on the Senate bill is still to be completed, and a real brief outline of some of that material is in a Washington Post article in today's Post.

We are here to consider the development, in light of the 9/11 Commission recommendations. It is important to note that very little of what Title II of the Patriot Act does is reflected in those recommendations. Many of them incorporated in the 2004 Intelligence Reform Act are reflected in that statute.

Other recommendations on things as national standards for driver's licenses, of course, are in the Real I.D. Act.

To the extent the 9/11 Commission recommendations address emergency responders, increased border screenings, use of biometrics in passports, and the like, these matters can be found in Patriot Act Title IV and Title V.

One or two recommendations involving the scope and extent of information sharing and privacy protection relate in general to Title II and Title VII. Other recommendations could relate to other laws, like the Homeland Security Act or the Transportation Security Act.

In any event, the 9/11 recommendations are not specifically directed to the Patriot Act.

Nevertheless, unquestionably, increased attention to homeland security brought about by these recommendations further propelled by additional statutes, such as the Homeland Security Act, Intelligence Reform Act, and Real I.D. Act, formed the background of congressional interest in responding to the Administration's call to renew the Patriot Act.

It is that when the current congressional activity on the Patriot Act is completed, it is likely that not one of the Patriot Act Title II section scheduled to sunset on December 31, 2005, will actually expire.

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Whether this means the Administration and Congress never intended to keep to their ends of the sunset deal would be an interesting debate. Perhaps we will read about that some day in John Ashcroft's memoirs.

Whatever winking may have gone on, and I'm not suggesting that it did, we will now be faced with a Patriot Act that will be in all respects entirely permanent.

Surely, this situation is a grave disappointment to those of us who believe that Title II sunset language meant what it said. I do not doubt that everyone is acting in what they believe to be in the best interest of their country at a time of great national apprehension over the threat of terrorism, and the firm desire to do everything reasonably possible to prevent a repeat of the tragic and horrific 9/11 attacks.

Since the Patriot Act, the bombings in Madrid and London and elsewhere demonstrate well enough that the threat remains quite real.

Nevertheless, on the topic of the Patriot Act - sunset on freedom, a few things about this renewal of the statute stand out. I offer them for later discussion as I move onto my final points.

The Administration's contentions of what is or is not needed in the war on terrorism are going to continue to get a very favorable hearing in Congress for quite some time.

For example, it appears that Section 215 will be renewed, even though information is sketchy as to how often that section has been used and whether it has yielded any valuable anti-terrorism information.

For another example, the seizure and detention by the Executive Branch of foreign nationals suspected of terrorism, authorized under Sections 411 and 412, to date have not been used at all. Yet, there was no serious discussion in Congress to repeal those sections.

Title III of the Patriot Act remains a concern. We have heard enough on Title II sunset provisions, so I will not get into Title III, which in any event is far too complex to describe in the limited time available. I will note, however, that it is the bulk of the Patriot Act language.

I will note only that Title III, which re-writes Federal banking law in many respects, authorizes information gathering through a process which functions as an administrative subpoena, and has been considerably expanded to the newly broadened definitions of "domestic financial institution," and poses at least the same set of privacy and investigative powers concerns as does Title II. It involves information, at least as sensitive to the American public, as library and book store records, and has a broader scope.

The Patriot Act remains the focal point of debate among Americans over the war on terrorism, even though actual details of the statute are not widely known by the public.

Whether one is for or against the Patriot Act has become a political litmus test and our national lexicon, and will remain so even after the reauthorization bill is passed and Congress moves onto other things.

We need to continue that debate in the greater interest of coming to terms with implication of these national security issues.

Concerns that we are being soft on terrorism have resulted in a woefully attenuated effect in Congress. Of the impressive list of state legislatures, towns, municipalities, and other jurisdictions across the country, which have passed resolutions or ordinances, critical of the Patriot Act in one form or another.

That number, which continues to grow, is now reaching 400, an astounding and unprecedented figure when one considers that at no time in recent history, at least that I can remember, has there been a broad coast to coast movement of town councils representing a wide political spectrum and many walks of life, taking time out to criticize the standing Federal law.

(Applause.)

MR. MICHAELS: My belief was that when this resolutions movement reached the 200 figure, Congress would have no choice but to take notice. Yet, we are nearly double that number, and Title II of the Patriot Act, far and away the motivation and focus of these resolutions, is about to be reauthorized in toto, if not in large part.

We need to consider that conundrum. For me, it does not bode well for a true representative democracy.

In the reauthorization debate, little significance has been attached to the fact that we have had the Patriot Act for nearly four years, but not one person has been arrested in the United States and charged with direct involvement or assistance in the September 11th attacks.

No such person was identified even from the round ups, already mentioned, immediately after the September 11th attacks and before the Patriot Act was enacted, of more than 1,000 suspects, mostly foreign nationals, many of them held for extended periods in places like the Metropolitan Detention Center in New York.

I refer you to the Department of Justice Office of Inspector General's two reports on that overall situation and on the conditions of those held.

Many reasons can be offered for this fact, among them the obvious reasons that those that were involved in the attacks are either overseas or already dead. Still, stronger demands by Congress could have been made for

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explanations from the Administration of why we continue to need this entire statute, when investigation of the 9/11 attacks clearly was a major reason for enacting it.

The same can be said in fact for the anthrax scare, which was gripping Washington and New York at the very time that the Patriot Act was being considered.

With the reauthorized Patriot Act, we have a statute that emphasizes themes of surveillance, investigation, information sharing, cyber terrorism, and infrastructure, and which brings to bear approaches of expansion of Executive power, reduced court involvement, increased secrecy, advent of new technologies, and a more direct merging of Federal, state and local law enforcement activity in terrorism investigations.

These are themes that continue in other statutes and to the extent of a more comprehensive view of the terrorism threat.

The Commission, to its credit, consistently noted the observation that terrorism is a tactic, not necessarily an end in itself.

Finally, in the now quite familiar debate over whether we must trade security for civil liberties, as Elaine has suggested, I suggest that this is a good time once again to examine that assumption.

There are unfortunate examples in our history to be sure, but in no recent time has an Administration so directly required the American public to trade civil liberties to this extent, to investigate criminal conspiracies of other types.

I've heard the rationales. I still do not think the case has been made that civil liberties of any sort must be compromised so we can get to the bottom of what terrorist conspiracies may or may not be operating within the United States.

All of this plus the scope and approach of the 9/11 Commission recommendations, which deal with everything from the FBI, passports, driver's licenses, airline passengers, brings me to the final points.

And that is the effect we may be seeing as these varied parallel developments, including, of course, the conflicts in Iraq and Afghanistan, the situation in military commissions in Camp Delta, Guantanamo Bay, which continue to unfold as we dispense with the legal preliminaries, and U.S. citizens held as enemy combatants, come to a single point, which should be considered as we continue with this national debate as what might be on the horizon at that point.

Those wider considerations can be summed up in my 12 common characteristics of what can be called a "national security state." I appreciate the effort to try to get that up there. We do what we can.

By that term, I do not necessarily invoke any particular historic example, but suggest in general a national government preoccupied by indeed finding itself through concepts of national security.

I will close then by listing those 12 characteristics without comment, in the hopes that they may serve to generate national discussion on the road down which we may be headed, as we enact or reauthorize statute after statute, and as we give further consideration to the 9/11 Commission's recommendations.

Here they are, 12 common characteristics of a national security state. They are also available as hand outs on the table.

Number one. Visible increase in uniformed security personnel. Number two. Lack of civil accountability for the actions of law enforcement and security personnel. Number three. Reduced role of the judiciary and executive treatment of suspects.

Number four. Secrecy of ruling authority and momentum of the threat. Number five. Media in the service of the state. Number six. Public and national resources called to service against security threat.

Number seven. Patriotism moving to nationalism. Number eight. Lack of critical response by religious denominations. Number nine. War time mentality and permanent war economy.

Number ten. Targeted individuals or groups. Number 11. Direct attack against dissent. Number 12. Increased surveillance of citizenry.

(Applause.)

MS. RAYFORD: Thank you.

MR. MICHAELS: I thank you for your attention and look forward to your comments.

MS. RAYFORD: Thank you, C. William Michaels. Next, we will have questions, and we will begin with Ray McGovern, and then Wayne Madsen, and Mike Ruppert. One question each.

MR. McGOVERN: I'll make mine a small question. John Walker Lindh was mentioned. I'm interested in how much is known about the fact that a young woman lawyer in the Justice Department was fired because she warned

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her superiors that if they violated FBI and Justice Department rules, that they couldn't really prosecute him the way they wanted to.

I think the outcome of that was the reason that he plea bargained was in return for his not mentioning the torture that he went through, that they agreed to give him less than the full sentence they were pressing for.

Can you elaborate on that, anyone?

MS. CASSEL: I wrote about that case and I know her personally. Her name is Jesselyn Radack. I urge you to look up on the Internet and read about her. Actually, she was fired because she found out that the judge in the John Walker Lindh case had ordered the Department of Justice to turn over any e-mails it had between her and the FBI agents in the field in Afghanistan, who questioned Mr. Lindh.

She found out by inquiry that the Justice Department had turned over very few of the e-mails. She contacted the prosecutor in Alexandria herself, and gave him the e-mails, and when her supervisors found out about it, they were furious, and they immediately wrote her up and told her she should seek other employment.

She was brilliant, one of the honors program students in the Justice Department and went to Yale, so she was a brilliant mind. The law firm that she went to, she had not been there very long when the FBI appeared at her law firm, a white collar law firm in D.C., and said they were conducting a criminal investigation of her, and they wanted her files and her computers and so on. She was fired from that.

Subsequent to that time, what happened is that John Ashcroft filed a complaint against her with the State Bars of which she is a member, and said she should be disbarred or seriously disciplined for violating Justice Department confidentiality.

In other words, because she had reported it and then talked to the press, Newsweek, of what had happened to her, she was accused of being unethical, which is pretty amazing.

The case against her in Maryland has been dismissed, so she can practice law there. The case in the District of Columbia is pending and has been pending for two years.

While a case is open against her in any state, she cannot practice law in any state of the country. She has three children. She is the major supporter of her family, and she also suffers from multiple sclerosis. She is a real victim in the Bush Administration's war on the truth.

MR. McGOVERN: That is our Department of Justice.

MS. CASSEL: Yes.

MS. MUSA: I think something to draw from that as well, that people should remember, I know there is a lot of shock amongst the American public when we saw the pictures of Abu Ghraib. The evidence of torture in U.S. custody far exceeded that. The pictures of John Walker Lindh stripped naked and taped to a stretcher were a clear indication of things to come.

I think, as you correctly pointed out, part of his plea bargain was they were going to take all these death penalty offenses off the table if he agreed to never speak a word about the abuses he suffered in custody for the entire 20 years of this sentence.

I think that is just yet another way that the Administration has kept the information about torture and ill treatment in custody from coming out.

If I were to have a recommendation, it would be for another independent commission to look into those allegations, those policies, those practices, what prevented any type of oversight or investigation into the claims.

MS. DAUGHERTY: I'd like to say, too, that Jesselyn Radack was a magazine cover story about that time. I think she represents what is happening to Government employees who talk to anyone. Her victimization really in whistleblowing did not come from a direct discussion with the press, although she was later able to tell her story, but we have seen terrible things happen to Government employees who talk to the press.

MS. RAYFORD: Thank you. We need to move onto the next questioner.

MR. MADSEN: I want to thank Mr. McIlvaine for your very moving comments, even with your personal tragic loss, you reminded me once again why Philadelphia is called the City of Brotherly Love. Thank you again for your comments.

On the foreign policy issue, for those who can address it, and this impacts on how we treat these so-called enemy combatants and detainees, we have seen basically the people who came out with the project for a new American



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century and all these other Heritage Foundation, AEI tracks, and all the other various groups out there, Foundation for the Defense of Democracies.

They have pretty much gotten what they wanted. My question is when we get rid of this mess that is running Washington, how long is it going to take in your estimation to try to get our foreign policy back to the status quo ante prior to 9/11?

Right now, we see embryonic anti-U.S. strategic blocks forming, the Shanghai cooperation organization, which includes the Central Asian stance, China and Russia. We are actually getting together the feared communist block that we were so much against in the Cold War. It was a fantasy then, but it is becoming fact now.

What is happening in Latin America, of course, from the hijacking of our Cuban policy by some fanatics in Southern Florida and also how we treat Venezuela and other countries.

Again, this is repeated in Africa, the Southern Pacific with our rejection of Kyoto. We are probably the most despised country on the planet right now.

Twenty-five, 50 years, 100 years, to try to get back to the status quo ante, in your estimation?

MS. RAYFORD: Could you repeat the question, please?

MR. MADSEN: How many years do you think it is going to take to get our foreign policy back to where it was when we did have respect for the United Nations system and bilateralism and multilateralism?

MR. SMITH: I was going to say I think the damage is indeed great. The statute of the United States in many parts of the world has never been lower, never had less respect. Latin America is using this, as you suggest, to declare its independence of us.

It might, however, not take so long. I think this Administration's foreign policy is such a disaster, it is so unethical, it goes against so much that the United States has always stood for, that we may over the next three years see a dramatic reaction. That's my hope. That it will get us back on track. It won't succeed in getting us back on track until this Administration is out of office.

At least it can begin to limit the damage done by this Administration to foreign policy, to the ethics, our record for ethics in the world, and the world at large, and we can then, after this Administration, quickly get back on track. That's my hope. You may be right, it may take 25, 30 or more years.

MR. MICHAELS: I'd like to add also a footnote, something that struck me about an article I came across the other day on this enemy combatant business. We can get into maybe if time allows some of the technicalities of how a person gets to be called an "enemy combatant" out of the Geneva Convention and so on.

What I am about to say is becoming a matter of American law in the law books is pretty difficult to avoid over time. In fact, the Administration is now calling into service Supreme Court cases dating back to the Civil War in terms of how it is going to treat enemy combatants and military tribunals.

Nevertheless, what struck me, as I was about to say, is the Padilla case, where the Supreme Court, although it didn't rule directly on Padilla, had mention in the Hamdi case that well, Padilla probably is not going to make it as an enemy combatant because after all, he wasn't seized on a battlefield. He was seized in Chicago O'Hare Airport, and eventually through a series of events, wound up designated as an enemy combatant.

The article I came across said that during the hearing on this case, which I believe is now before the Fourth Circuit, Government attorneys said that doesn't matter because the entire United States is now a battlefield.

It doesn't matter where we seize these people. We can declare that this country is now a battlefield, and therefore, that distinction makes no difference.

If the Fourth Circuit buys that, and so far the Fourth Circuit has bought a lot, we may wind up with a reported decision as a matter of Federal criminal law or Federal constitutional law, of how you become an enemy combatant, even though you are a U.S. citizen and even though you were never seized in any kind of actual arms conflict.

I don't know how many years it would take us to get out of that.

MS. OAKAR: May I respond? I think if you look back to some of the egregious occurrences, like the McCarthy hearings, the manner in which we treated African Americans, et cetera, the McCarthy hearings and what happened is very, very instructive, and it was one of Senator McCarthy's own party, the only woman in the Senate, Senator Margaret Chase Smith, who stood up on the Floor of the Senate and said -- I'm paraphrasing, of course, she was much more eloquent -- she said I am ashamed of my party. I am ashamed of these hearings.

It took many, many years. She was the catalyst in my judgment, from the little I know about it, in inspiring other Americans to stand up.

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I remember as a little kid, it was one of the few hearings that were first televised. We had just gotten this television set, so my parents must have had it on.

I remembered that speech. How long did it take for the artists of our country, like Lillian Hellman, to get credibility? It took years, decades.

I think it is imperative for people like Cynthia McKinney and other members to follow her example and be courageous enough to have hearings right in this body, to challenge whether the Republicans or Democrats, of course, the Republicans control all the shots these days, but to challenge what is going on.

There are some moderate Republicans who are questioning what is going on with the aberration of the Constitution, et cetera.

In my judgment, people who really want to make a difference who are watching all this and so forth have to let their members of Congress know, and the President know, who takes tens of polls every day, let the people know that they are abhorred at what is going on with what is supposed to be the freest democracy in the world.

MS. RAYFORD: Thank you. We will move onto to Mike Ruppert.

MR. RUPPERT: This is going to be a difficult question for me. I'm going to have to wind up beating up on my dear friend, Cynthia McKinney, because she is the only sitting member anywhere in the United States Congress who was in this room today. Why?

We have heard some really disturbing things here today, some things weren't even mentioned. I want to thank Mr. Michaels for referring to the fact, what was it, four or five states, God knows how many cities now, have passed resolutions opposing the Patriot Act.

There was a Board Federal that had to something with respect for state and local governments that seems to disappear as we descend into empire here.

The United States has thumbed its nose at the International Criminal Court at The Hague. We have basically told them we don't care who you indict, we are not going to let you talk to any of our people, and how do we expect the world to behave like that.

It's very interesting that the Patriot Act was already drafted before the 9/11 attacks occurred. 9/11 is the watershed moment that has opened the door to everything else that has followed, and that is why it is so important to understand the significance of 9/11, above and beyond.

Nobody mentioned total information awareness, and the absolute violation of any privacy we have with respect to all of our personal records and its attachment to promised software, which is a matter of record, that software exists that can data mine every aspect of our lives on an almost real time basis.

We have seen portions of the first, fourth, fifth, sixth and eighth amendments to the Constitution either abrogated totally or partially since 9/11.

Where I have to hold Congress to blame is that there was a state of emergency declared on 9/11 and it is a statutory obligation of the Congress of the United States to meet after 60 days to review that state of emergency and grant the statutory authority for so many of the violations, especially with respect to the military tribunals, which have taken place overseas.

To my knowledge, Congress has not once met to even discuss that state of emergency. This is why I am at a point -- I've been walking these halls -- this is going to be a jump ball question, like I'm going to throw the basketball in the air and I'll bet you it hits the ground because nobody wants to touch it.

I've been walking these halls since 1979, when I first came to Congress looking for help, because my life was in danger. That was a lot more real to me than some academic discussion. I was a whistleblower with LAPD. I needed help from Congress, because I caught my Government doing something wrong.

I've been walking these halls every year since. I'm sorry. I see a descend, and you have described, if you will, a diseased state of a republic, whatever you want to call it, descending. This is a historical question for anybody who wants to take it, any of you historians out there.

Have any of you ever seen a nation or an empire at the pinnacle of power, whether it be Rome, France, Spain, Britain, anywhere else, descend down a road to totalitarianism and on its own voluntarily decide to turn around?

I, for one, am extremely skeptical. This is the bravest woman on Capitol Hill, of all the members I've ever met, sitting right up there.

(Applause.)

MR. RUPPERT: I have to ask because a lot of Americans are scared. There are a lot of Americans who don't buy what's going on. There are a lot of Americans who are worried their sons and daughters are going to be drafted.

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There are a lot of Americans who are going to be worried about waking up -- we are waking up in a totalitarian state. We are trying to throw them a bone here, and I don't see much meat on the bone we are throwing them today.

Historically, what hope do you have that we are going to be able to turn any of this around, and please do not give me or any of the American people a platitude response about we can write letters and have hearings and all this stuff.

This is the only woman who has put her career -- she had a two year vacation and had to come back, thanks to a lot of people in this room.

We want some action. How optimistic are you that we are going to do any of this?

MR. MICHAELS: In my book, I give ratings to these 12 characteristics of the national security state. I'm working on a second edition that is going to be coming out soon, where I revise those ratings. The trend is not good.

I do think we are in a water shed moment, and I'm not saying that to be dramatic because cameras are around. I think this country has to really examine itself as to where it is going with all of this, and roll all of this into a ball.

We focus a lot on the Patriot Act because it seems to be an iconic sort of statute nowadays, but there is so much that has been going on aside from it in a lot of parallel developments that continue. If you roll all of that into a ball and roll it somewhere, where is it going? I don't think it's going anywhere good.

There are moments, and obviously, September 11th was what I would call a galvanizing moment, but there are other instances in which we came very, very close and have dropped back. I think the McCarthyism of the 1950s was one example. The interment of Japanese Americans in the 1940s is an example, even though that was ruled constitutional by the Supreme Court in a case called *Karamatsu vs. United States*, it is not there any more.

We don't do that any more. I don't think you could find an instance where that situation would happen again, although enemy combatants is a very interesting development.

I forget which Administration this was, and I'm saying Madison, but I may be wrong, any historians out there might want to correct me, the original Alien Citizen Acts based on the XYZ affair, for those of you who know your history, the Palmer raids. We can go on.

Some people think this is a march to a certain point. I think it may also be seen as kind of like an ebb and flow maybe, a pendulum or a sign wave. Certainly, we are at the bottom of that. We need to get back up.

The question is what will do that. I think there has to be an assemblance of political will in this country to do that. There has to be a very, very clear understanding by the American people of what is happening.

Jefferson said we are granted unalienable rights. Legally, what that means, "unalienable," is cannot be transferred or destroyed. Our rights are ours. The Government does not give us our rights. Jefferson tells us that our rights belong to us from the time that we are born.

The Government's job is to recognize and guarantee those rights. When the Government is not doing its job, it's the Government that's on the defensive, not the public.

Those rights, therefore, cannot be taken away. They can only be surrendered. We have to be very careful about what rights we are surrendering. I do agree with you that there is a point at which we will not get back what we have surrendered.

MS. RAYFORD: Ms. Musa, could you answer that question as well?

MS. MUSA: That's hard to follow up. I would tend to agree with the ebb and flow. The one thing I would say in just coming from the perspective of Amnesty International and our recent experience with the Administration, and they had a lot to say about us, we see what we frequently see, which is as soon as a strong criticism comes out about Administration policy, they attack the voice and they ignore the criticism.

I think what we were quite heartened by, and what I think will move in and having this screened and put out there, was the fact that our experience was certainly from calls, and if you didn't follow it, the Administration attacked us for calling Guantanamo the gulag of our times.

Then we saw all the congressmen with food and lemon chicken, whatever they brought out to show that everyone is being fed well and treated really nicely down in Guantanamo.

What we saw as an organization, there were the few calls, the few crazies, the few you guys are supporting al-Qaeda, the typical, but the hits to our website went through the roof. More on line actions taken on the issue of torture than we had seen in months.

The one action we had on line that you could take to call for an independent commission got more hits than usually all of our on line actions get in one month.

We had incredible sign up's for our denounce torture campaign, which is meant to educate, which is meant to have public forums to educate and mobilize people on this issue.

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I think just as in the past, what is critical here is the dissemination of information to the public. We have heard how in so many ways that has been blocked and that has been difficult. Of course, speaking from the perspective of not just a human rights attorney but from a grassroots organization, I think that is the one area that can't be ignored.

I think sometimes it is the difficulty of taking some of these technical things, whether it is about the Patriot Act, whether it is about classifying and re-classifying information, whether it is about what the heck does NSERS mean, all these other things that can easily get looped up into Government jargon so they sound very benign, and just making those accessible and real to people.

I think you will see a political will to turn this around.

MS. CASSEL: Can I just say briefly, and I will make it really brief, the thing that scares me the most and that I think Americans need to be most aware of is this allegation that the President of the United States has absolutely unbridled power at time of war.

It was said by the Fourth Circuit in the Hamdi case, the Supreme Court pulled back on that in its decision, but it was reiterated last week in the decision of the Hamdi case with Judge Roberts, the Supreme Court nominee, being one of three of the unanimous opinion.

If you read that opinion, it is a brief opinion, you can easily find it on line, if you follow the arguments in the Fourth Circuit, the conservative viewpoint is that the President's hands cannot be tied at a time of war, and when you go back and read your history and read about the war time powers of a President, if you accept that premise, if the American people are going to accept that premise, that we are at war and the war is fought on every street in this country, as Judge Ludig offered to the Government in the Fourth Circuit this week, then we are in real trouble because I wonder if the next President, be it Democrat, Republican, or whatever, is going to give up those powers.

MR. RUPPERT: Doesn't the Constitution of the United States require that only the Congress can declare war?

MS. CASSEL: The courts say that was given in the war on terror. Whether that's true or not, the courts said there were congressional authorizations, and that's what they say.

MR. MICHAELS: Congress has sole authority to declare war.

MS. RAYFORD: Thank you, Ms. Cassel.

We are attending a congressional briefing on the 9/11 Commission report one year later. The full title is "A Citizens Response - Did the Commission Get it Right?" convened by Congresswoman Cynthia McKinney.

I wanted to acknowledge some other reporters, Barry Schwicker is here. He's a Canadian journalist.  
(Applause.)

MS. RAYFORD: Would you stand?

REP. MCKINNEY: Stand up, Barry.

MS. RAYFORD: Also, David Ray Griffin who wrote "The New Pearl Harbor." He was here earlier.  
(Applause.)

MS. RAYFORD: As mentioned before, Pacifica is currently streaming live to all its affiliates. You can also go to [www.pacifica.org](http://www.pacifica.org). This briefing is also streaming on [www.ndmedia.org](http://www.ndmedia.org) worldwide. CSPAN is covering the full day and will air this Saturday night, July 23th. Free Speech T.V. will also make this briefing available.

DVDs of today's hearing will also be made available. This briefing will be posted on line at [www.house.gov/mckinney](http://www.house.gov/mckinney), and various other 9/11 truth websites, such as Amnesty International and others.

We are going to move forward with our next panel. We want to thank the panelists who are here with a round of applause.

(Applause.)

### INTELLIGENCE REFORM: IMMEDIATE RESPONSE AND RECOMMENDATIONS

MS. RAYFORD: Next, the topic is "Intelligence Reform: Immediate Response and Recommendations."

The first topic will be "The New DNI: Congressional Oversight and Unbiased Intelligence." Speaking will be Mel Goodman, who is a former CIA agent/analyst and currently works with the Center for International Policy, and is a

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professor of international security at the National War College, and a senior Fellow at the Center for International Policy.

Also, Mr. Ray McGovern, who we have heard, will be also here. He is a veteran of Analysis Directorate of the CIA.

Both of them will be discussing congressional oversight and unbiased intelligence.

We will also have the topic "The Wall: Breaking Down the Division of Intelligence, Military and Law Enforcement." Speaking will be David MacMichael, who is former CIA. Mr. MacMichael is an historian and former U.S. Marine officer who served as a CIA senior estimates officer at the National Intelligence Center, specializing in western hemisphere affairs.

He was the editor and publisher of the magazine UNCLASSIFIED, which opposes the use of covert intelligence operations.

Mr MacMichael is also a member of the Veteran Intelligence Professionals for Sanity.

Mr. MacMichael will be speaking on "The Wall: Breaking Down the Intelligence, Military and Law Enforcement."

The next topic will be "Covert Operations and Increased Intelligence Budget - Solution or Cause?" Speaking will be John Nutter, Dr. John Nutter, who is a political scientist and the author of "The CIA's Black Ops: Covert Action, Foreign Policy, and Democracy."

He served as a faculty member at Michigan State University and Texas A&M University. He has taught courses on covert action, terrorism, guerrilla warfare, and international politics.

Are all of our panel members seated? Can you please go in the order that you were mentioned? That is Mr. Goodman, Mr. McGovern, Mr. MacMichael, and Mr. Nutter.

Mr. Goodman, would you like to begin?

### THE NEW DNI: CONGRESSIONAL OVERSIGHT AND UNBIASED INTELLIGENCE?

MR. GOODMAN: I will be brief. This morning, I argued that the 9/11 Commission was constructed basically for failure, so it should be no surprise that I also believe that the intelligence reforms were not only failures, but extremely counterproductive in any attempt to try to reform the intelligence community.

I think basically if you look at the approach that the 9/11 Commission took to look at organizations and structures and budget and oversight, they were destined to miss the real failures, which were personal failings.

MR. RAYFORD: Mr. Goodman, would you suspend your thoughts for one moment? We need the people in the audience to please settle down. This is being aired live. Thank you very much. We want to hear the comments.

Thank you, Mr. Goodman.

MR. GOODMAN: Thank you. The point I was trying to make is that the 9/11 Commission emphasized the wrong issues in terms of budgetary issues, oversight issues, structural problems and organizational problems, that the real problems dealt with personal failings, bureaucratic cowardice, and the lack of any accountability.

All I really want to do is march through the six or seven reforms that the Commission agreed on, try to describe what is wrong with those reforms, and then get into the six or seven points that I think need to be considered as genuine intelligence reform, if we are ever going to get the problem of intelligence, which now costs this country over \$40 billion a year, we spend more than the entire world on intelligence matters.

The first reform, obviously, was the creation of a Director of National Intelligence. I'm not going to get into the major problem of the DNI, because Ray McGovern is going to discuss that from the terms of politicization of intelligence.

I just want to say that if you wanted to politicize intelligence on any sensitive issue, I can't think of a better way to do it than to place the Director of National Intelligence inside the Executive Branch.

I don't want to talk a lot about John Negroponte, but given his history in Nicaragua and Honduras, and the cover ups of the rapes and the murders that took place, and we know about the cover ups, this is certainly a poor man to turn to if you were going to try to really tell truth to power, which is the job of the Director of National Intelligence.

You have taken a step that is going to be vastly expensive and vastly disruptive. We have already seen the kinds of problems it has created in the intelligence community.

This problem is further worsened by the fact that John Negroponte is on record as saying that he believes that intelligence is a service function, and that the job of intelligence is to "meet consumer demands."

Anyone who believes that is halfway on the road to politicization.

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The second reform was to weaken the role of the CIA and the Director of Central Intelligence. Granted, the CIA has been a major problem in American national security policy for the past 30 or 40 years, and it clearly needs change.

I think we have to remember what Harry Truman kept in mind, that you do need a central intelligence agency outside the policy process, outside the political process, that can provide objective and balanced information and intelligence assessments to policy makers and particularly to the White House and to the Congress.

By weakening the CIA, you are eventually going to turn the CIA into nothing but a collection agency. That would be human intelligence, the so-called "human issue". Step by step, what we have done is gradually taken away the CIA's capabilities in signals intelligence in order of battle and military intelligence in satellite imagery.

The important thing about that, and I will address this later, is that all of these issues in all of these areas have been given over lock, stock and barrel to the Pentagon. What you really have is the military's control of the intelligence community.

If there is one institution in town that controls this \$40 billion institution, it is the Pentagon. Something has to be done about that. The 9/11 Commission didn't even touch that problem.

The third reform that was addressed by the 9/11 Commission was the incentive for sharing, for sharing intelligence. If the President of the United States wanted intelligence shared, all he had to do was bring in the major actors, the principals of all of these agencies, and lay it out on how intelligence should be shared, and if that isn't done, then heads should roll.

This is not a hard thing to accomplish. This has never been done because there has never been any real interest in sharing intelligence.

Secret intelligence is power to the intelligence community. The FBI has not shared its sensitive sources. NSA has not shared its sensitive intercepts. During the whole build up to 9/11, one of the problems was they shared summaries of their communications that were intercepted, but never full text assessments of what they intercepted.

Of course, intelligence has to be shared. All of the agencies of the intelligence community must see this intelligence. This is something that the President could do very quickly.

The next reform I want to discuss is the creation of a national counterterrorism center, which a lot of people feel is an useful reform. Frankly, that's a reform that worries me. Going back to what Mr. Michaels was saying earlier, in looking at the characteristics of a national security state, I would add a 13th characteristic, the politicization of intelligence and using intelligence to go to war is certainly a characteristic of a national security state, and that is the 13th characteristic that we are seeing.

If you take his formula and you look at the role of the Director of National Intelligence and the power he has now over FBI domestic intelligence collection, and look at the role of the national counterterrorism center, which has joint operational planning in the security area, we really have the kind of joint operational structure that is not far from MI\_5, the very intelligence institution in Britain that I think most members of Congress do not want to create in the United States.

I think one of the things that needs to be debated in this country, are we introducing an MI-5 type organization into the political process and the intelligence process through the reforms of the 9/11 Commission.

The fourth reform dealt with funding and public accountability. This is an important reform. The Church Committee and the Pike Committee over 30 years ago called for an openly declassified figure for intelligence. Frankly, to have a secret figure for intelligence violates the Constitution, in which you have to make a public accounting of funds.

This had nothing really to do with the 9/11 disaster. The important issue about funding is the amount of money being spent by the intelligence community and by the various homeland security initiatives.

We have a Pentagon that is now spending over \$420 billion a year. Homeland Security is spending nearly \$40 billion a year. Intelligence is spending over \$40 billion a year. George Bush alone has doubled the CIA budget during his time in office, and the public has no way of offering any assessment on any of these issues because a lot of these numbers are secret numbers.

It had nothing to do with 9/11, but this is a very important area. There is no sign whatsoever that this is a reform that is being observed any other way but in the breach.

Finally, another problem that the 9/11 Commission talked about but had nothing to do with 9/11, but would be important, is we need to get back to a genuine oversight process. This is where the Congress has let down the people of the United States. The only way we have to get a handle on intelligence activities is through the Senate and the House Intelligence Committees.

Now, the 9/11 Commission called for a joint Senate and House, a blue ribbon commission that would clearly be non-partisan, which is what we need. The Senate would probably not allow that, and I'm not even sure the House

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favors it, but until we get back to a rigorous oversight process, there is no way for citizens to have a knowledgeable, informed way of offering opinions about the intelligence community.

Finally, the last reform, which was totally ignored by the intelligence community and probably for the right reasons, was the idea of taking all the paramilitary capabilities of the CIA and placing them in the Pentagon, where we would have less access to the activities of the military over the conduct of paramilitary activities.

This would be an extremely dangerous step. I think that is why both the CIA Director and the Secretary of Defense have agreed to ignore this particular reform.

What kind of reform do we need? I'll be extremely brief. One, the 9/11 Commission centralized intelligence. That is very dangerous. We need to de-centralize intelligence. You need redundancy intelligence. No one institution, no one agency, no one bureaucracy, no single analyst or individual is going to have the final answer on any of these serious intelligence problems.

These intelligence issues deal with nuance. They deal with very grey areas. They deal with issues that you are never going to have complete information on. You need as much competitive analysis as possible.

What this reform has done is placed most intelligence analysis in the hands of the Director of National Intelligence inside the Executive Branch, and I said earlier, this is just a recipe for politicization of intelligence.

Somehow, we have to get back to de-centralization of intelligence. We need to de-militarize intelligence. The Pentagon controls about 85 to 90 percent of the intelligence budget, and nearly 90 percent of the intelligence personnel.

If you look at the major collection agencies that spend most of the \$40 billion, these are all Pentagon agencies. It's in their charter. They are called "combat support agencies." They are controlled by Donald Rumsfeld.

Even before the 9/11 Commission had done its work, Rumsfeld did a very clever thing. He created something that has never existed before, an Under Secretary of Defense for Intelligence. That should have been vetted by the Senate Intelligence Committee, but Rumsfeld didn't go there. He went to his buddy in the Senate, John Warner, from Virginia, and John Warner chopped off on that immediately, and now with that, Rumsfeld has a tool to manipulate any reform that takes place in the intelligence community.

The battle that Negroponte is going to have if he's going to be successful is dealing with the Pentagon and dealing with an Under Secretary of Defense for Intelligence, who has far more power than Negroponte, far more control over the personnel and the budget of the intelligence community.

Finally, we have to get away from this idea that the only way to arrive at acceptable conclusions on intelligence and operational matters is fusion centers.

The national counterterrorism center is a so-called fusion center. What a fusion center is to take people from the Directorate of Operations, people who work undercover, who are operationally oriented, and to mix them with analytical people, analysts, intelligence analysts, from the Directorate of Intelligence.

Whenever we have had a fusion center at the CIA and any other part of the Government, you have had failure, because the operations people have manipulated the analysts.

One thing to keep in mind. Operations is all about policy. Covert action is policy. Clandestine operations is about policy. Even the clandestine collection of intelligence is oriented towards supporting policy. It's a service unit for policy makers. It has become that way over the last 10 or 15 years.

If you are going to do analysis fairly, and have some kind of objective voice, you can't contaminate that process with the operational ethic and operational personnel.

A fusion center failed at the CIA, which led to 9/11, and that was the counterterrorism center. It immediately formed TTIC, the terrorist threat integration center, a failure, and now we even have a larger fusion center called the national counterterrorism center.

These are formulas, I think, for disaster, and also for politicization.

Finally, I would say even though we don't like to use any word that deals with elitism in this country, we do need some kind of elite analytical cadre in this country. We need people who can think strategically. We need to be able to bring people in from the academic community or from the think tank community to write national intelligence estimates, to do strategic analysis.

The CIA has gotten away from strategic analysis. They do very little of it. They are essentially a wire service for current intelligence. That is what they do primarily. They don't do deep think pieces.

If you look at the major problems that we have around the world, our North Korean policy is a disaster. It is strategically so conceptually flawed, that is one that is going to be hard to put back on the track, in response to a question that came up earlier.

If you look at proliferation problems, these are serious strategic issues that require deep thinking and not the kind of constant seat of the pants assessments they get from the various intelligence agencies in the intelligence community.

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All of this could have been done without creating a Director of National Intelligence. All you had to do was re-write some of the Executive Orders. Frankly, a Director of Central Intelligence has the power to move money around, to move personnel around, to move programs around, to mandate collection priorities.

President Carter did this for Admiral Stansfield Turner when Turner became Director of Central Intelligence and looked around as a good military man and wanted to know what his authority was. He felt it was insufficient. President Carter took care of that problem for him.

The problem with people like George Tenet, who was a political hack, he wanted to serve a master. That was the slam dunk thing. Sure, Mr. President, that's a slam dunk, I can get that for you. He didn't want to do the real grueling work of the intelligence business.

My final word is we are not going to get the problem of terrorism right, and forget about a war on terrorism. As someone said earlier, terrorism is a tactic and you can't conduct war against a tactic.

President Roosevelt didn't declare war on the Blitzkrieg. He declared war on Germany.

I don't know what this war is all about. I don't know how it could be won. It's continuous. It's global. It is now at home. It is going to be very hard to reverse.

You are not going to get any of the terrorism struggle right unless you get the intelligence right. You are not going to get the intelligence right unless you have more foreign liaison. I say that because the 9/11 Commission says there is too much dependence at the CIA on foreign liaison.

Well, if you go back and look at all of the captives, the al-Qaeda captives and the various terrorist captives that we have had, virtually every one has been arranged with foreign liaison. Without the help of Pakistan and Saudi Arabia, Egypt and Jordan, and even Syria, which the White House doesn't like to talk about, we would have done nothing in the world of trying to stop terrorism and to capture al-Qaeda captives.

Landing 160,000 troops in Iraq is just not going to do it. We have created a safe haven and a sanctuary for terrorism. We have created terrorism where it didn't exist before.

Until we start to address these problems and start to really confront the damage that the 9/11 Commission has done to us, it's going to be very hard to get this policy back on the tracks.

Thank you.

(Applause.)

MS. RAYFORD: Thank you, Mr. Goodman. Mr. Ray McGovern.

MR. McGOVERN: Thank you. I guess it's been about 20 years since we worked together, Mel. I have to tell you, I feel like a poignant moment here. We didn't always agree on everything on substance back then, but I find myself agreeing with everything you just said, and I want to associate myself with that.

I also want to say that those were the best of times, and it became the worse of times. I'm sitting next to two colleagues here who are good examples to everyone because of the courage and integrity they have.

Mel would not abide the prostitution of intelligence. He failed to see Russians under every rock, as Bill Casey did. He wouldn't recognize Russians under every rock. He said they were Libyans. He said they were Vietnamese. They were not all Russians. For that, he paid a heavy price, and he quit.

Not only that, but he testified very manfully, very courageously, against Robert Gates, the arch deacon of institutional politicization, to try to prevent him from becoming the Director of Central Intelligence. Thirty-one senators voted against Gates, which was unprecedented in this town.

Dave MacMichael, he came onto work on Latin America the same day Bill Casey came on to be the Director. When he saw the charade that was happening with respect to Central America, he went down there to see what the situation was himself. When he found out the real case, he quit, and went public, including at The Hague.

So, I'm sitting next to two very, very courageous folks, and I feel honored to be here, because I think we are all in the same business. We are all trying to spread a little truth around the way we used to do -- I hate to say it -- in the old days.

(Applause.)

MR. McGOVERN: Let me say a word about congressional oversight, and just to add what Mel has already said. Streamlining the Committee's nice idea, given the power structures around here, probably not possible, but you have to realize what the implications of this are.

Witness the John Bolton affair. Because the Senate Intelligence Committee is the conduit through which things like NSA intercepts would have to go, Roberts, a supreme regime loyalist, was able to sandbag that whole process.



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However much Lugar, however much Joe Biden would beg their colleague, Pat Roberts, no, you're not cleared for this, I'm not going to show you those intercepts, so they don't know who it was that John Bolton wanted to snoop on among his colleagues.

Think about Representative Hoekstra. It was his predecessor who asked for the IG report from the CIA that Mel mentioned this morning, the one which talked about CIA performance on 9/11, it was finished in June of last year, so over a year ago, and it was ready, and to his credit, Hoekstra wrote a letter and said may we pretty please have a copy of that. We understand it is finished.

They thumbed their nose at him. The White House said no, don't give it to them. To this day, even though people have been named in there, even though it would be incredibly helpful to this kind of session, it's not available.

What we have is the fox in charge of the chicken coop here. We have an oversight in the other sense of the word.

Why is this important? Well, think about this. Senator Roberts, Pat Roberts, Republican from Kansas, has admitted publicly that if the senators and representatives knew in October of 2002 that the intelligence was bogus, that there were no weapons of mass destruction, no ties between Iraq and al-Qaeda, it would be very doubtful they would have voted for this war.

Then he finds out particulars about the forgery. The forgery, my friends, has to do with the charade or the fable that Iran was seeking uranium in the African country of Niger. We knew that was a forgery before the war started. Representative Waxman wrote a very bitter letter to the President on the 17th of March, 2003, saying look, we have been briefed on this intelligence, it turns out it is based on a forgery. I voted for this war based on that tale about uranium from Niger. How can this happen?

Well, now we have the whole affair with Valerie Plame and Joe Wilson. We have an incredible example of White House neuralgia. What kind of a response this has been, when Joe Wilson told the truth. Why was that?

With all this who shot John, we forget. This had to do with the biggest lie justifying the war. What was that lie based on? It was based, my friends, on a forgery.

Who did the forgery? Well, Jay Rockefeller, ranking member of the Democrats there on the Senate Select Committee on Intelligence, said let's ask the FBI to look into that. What did Pat Roberts say? No, I don't think that would be appropriate. The FBI is not looking into it.

Why do you suppose everybody is so exercised about this? Because they are afraid that if you peel the layers down, if you go a little deeper and you ask, well, who did the forgery, you might find out that forgery was made in the United States of America, folks. You might find out that forgery was concocted or fabricated by the same folks that gave us Iran-Contra.

There are a lot of our fellow alumni running around out there, not from the Intelligence Directorate, mind you, that are just pleased as punch to hire themselves on to do these kinds of things. I think we are getting closer and closer to finding out who that is.

About the new DNI. What can I say? I would also emphasize what Mel said this morning. It's not the way you draw the lines and diagrams, it's the people. Character counts. Integrity counts. Doing your job counts. Being promoted on the basis of doing your job and telling the truth counts. Accountability? It has dropped out of the dictionaries in this town. You can't find it.

I served under nine DCIs and four at very close remove. I can tell you that what Mel said about Admiral Turner is exactly right. He said to the President, look, I'm supposed to be head of this whole community, and I don't have the authority. I'm a military man. I am very reluctant to accept responsibility without having the necessary authority.

Jimmy Carter said no problem, I'll do an Executive Order for you. He did. If the FBI was not sharing information with him, he'd go to the Oval Office and say Mr. President, would you please call the Director of the FBI and have him share what I need, or else I can't be your principal intelligence advisor.

I've seen the system work. More relevant to today's proceedings, I had the good fortune to be with Stan Turner almost a year ago, about 11 months ago, because it was about the 9/11 Commission report, on the Lehrer Report.

As we were waiting to go on, I said to Stan, why didn't you tell the Commission that you made the system work. He said, oh, Ray, I didn't tell them. I said, well, Stan, you're no shrinking violet. No, Ray, you don't understand. They didn't want to talk to me. They didn't want to talk to me.

Here's a very vigorous alumnus of this Director of Central Intelligence post, who made the system work, and no one, staff or members of that Commission, saw fit to check with Stan Turner. It's just quite remarkable.

When I hear yesterday on the radio as I'm driving around, this new head of the national terrorist information center, what's it called -- NCTC. He's going through his confirmation proceedings. Barbara Mikulski says, well, you

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know, it seems to me you all create a center, whenever there is a problem, there's a new center. It's a center centered environment you all live in.

He didn't handle that really well because her following question was how does this relate to the national terrorist center in the CIA, and how does it relate to the FBI. He said, well, we are going to work that out. We are going to work that out.

What I would point out is there are people around who have the experience to comment on these things. Sometimes, they do it beside themselves. Sometimes, they just instinctively react.

Tom Ridge was such a person, of all people, Tom Ridge. When he heard about this plan to have a national intelligence directorate sit on top of all this 15 agency bureaucracy and on top of the Director of Central Intelligence, he said very quickly, you know, I don't think you need a czar. He told Fox News Channel we already have one level of bureaucracy that we don't need.

Now, who better to comment on that than Tom Ridge, who was given 180,000 people from 32 separate Government agencies, to sit on top as a czar? He spoke truth despite himself.

So did Slade Gorton. Someone mentioned him before. He was a member of the 9/11 Commission. Exactly a year ago, after the issuance of their report, I had been asked by BBC to go to their studios and talk. As I'm coming out, who is coming in but Slade Gorton and Jamie Gorelick.

I said hi. Jamie went right into the studio, but I had a chance to talk with former Senator Gorton. I took him aside and I said, Senator Gorton, you know that the DCI, the Director of Central Intelligence, already has all the authorities that he needs under the National Security Act of 1947. All he has to do is have the President back him up. He can do the job.

You know what? He put his arm around me and he said yeah, I know, but this one won't use them, won't use those authorities. Then Slade Gorton got invited into the BBC thing.

So, we are going to create a whole new super structure because one fellow wouldn't use the authorities that were easily available to him, given the necessary presidential backing.

Perhaps the best comment came from Bill Odom. Some of you know Bill. He was about as high as you can go in the Army intelligence. He headed up Army intelligence, and then he headed up the National Security Agency. He's a Ph.D., Soviet specialist or Russian specialist now, I guess, very well respected around town.

He wrote a little article in the Washington Post on August 1 of last year, just ten days after the release of the 9/11 report. What he said was no organizational design can hope to compensate for incompetent incumbents. You can add sycophantic incumbents to incompetent. That's a sad story to tell.

Let me just very briefly mention that on June 23, 1972, Bob Haldeman and Richard Nixon are talking on tape. What they are doing is they are talking about getting the CIA to obstruct the FBI's investigation of Watergate. June 23th? That is six days after Watergate.

Now, as some of you will remember, they got Dick Walters, the Deputy Director for CIA down there, and they told him, you know, we can make believe McCord really still works for the CIA. You know, you have to help us out here. We could finesse this thing.

Dick Walters went back and talked to Richard Helms. Long story short. Helms says, no, I don't think we are going to do that. Helms was motivated mostly by his all consuming determination to protect the agency. Sometimes, that works not so well for the country. This time, it did work well for the country.

The reason I mention this is what would happen now. Where would the President go? He'd go to Negroponte. What is different about Negroponte? He has no institution to protect or defend. Negroponte's whole record is one of being an obedient bureaucrat who will carry out any policy he is told to do, even if he decides or even if he must realize that it's not only illegal, Iran-Contra, I mean, but immoral. Death squads, I mean.

You have a real problem now, folks, because you don't even have a person like Dick Helms who would place some premium on loyalty.

One last thing. It wasn't only Helms. When John McCord, who was one of the three Watergate burglars, I assume too much because not all of you have hair as grey as me -- John McCord was wondering what to do and his lawyer approached him in 1973 and said you know, I think we can fix it so you could be re-hired by the CIA, you know, and then you could pretend you were doing it on their say so. That would make everybody feel pretty good around here. What do you say?

You know what McCord said? Helms would never buy that. Helms would never agree to that. Do you know what the fancy lawyer did? Threw down the Boston Globe, take a look at this. Headline "Jim Schlessinger Named New Director of Central Intelligence."

The lawyer says to McCord, I think this person will cooperate. Helms said, you're fired. He was given a sinecure, being Ambassador to Iran, where he did one bang up job.

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The point being that it's pretty cynical stuff out there. When Jim Schlessinger came on board as Director of Central Intelligence, he convened the senior managers. I was not yet a senior manager.

I remember when they came back sort of ashen faced and told us on staff, look, you guys, and in those days, we were mostly guys, I don't want you to misunderstand why I'm here. I'm here to see that you don't screw Richard Nixon, and I don't report to Henry Kissinger as my predecessors would have, head of the National Security Council. I report to Bob Haldeman. You think about that and go back and we will see if we can work together.

Politicization, my friends, is not new. It depends on the person who is either willing or unwilling to be politicized. I sit next to two or three here who are unwilling or had been unwilling to be politicized. People like Admiral Turner also fit that bill.

We do have some good models. With the new structure that has been invented here, all I can say again is Mel is exactly right. It's going to be easier and easier to politicize intelligence judgments and intelligence operations with this new unnecessary structure.

I will end there. Thank you very much.

(Applause.)

MS. RAYFORD: Thank you, Mr. McGovern.

Our next topic is "The Wall: Breaking Down the Division of Intelligence, Military and Law Enforcement." We have Mr. David MacMichael who will be speaking.

Mr. MacMichael?

### THE WALL: BREAKING DOWN THE DIVISION OF INTELLIGENCE, MILITARY AND LAW ENFORCEMENT

MR. MacMICHAEL: Thank you. This business about breaking down the divisions between intelligence, the military and law enforcement occupied a significant portion of the debate that went on after 9/11.

I would say that the 9/11 Commission report was in common with almost every other official or unofficial assessment of the attacks on the World Trade Center and the Pentagon emphasized failures in communication among those U.S. agencies responsible for warning of threats and responding to them.

Indeed, the report acknowledges serious communication deficiencies within the individual agencies themselves. Information not passed through established channels. The prime example of that being the refusal of a Washington FBI office to forward to Minneapolis field office's request for a FISA search warrant on one of the 9/11 bombers out of fear the request might be denied, making the office in Washington look bad. That's bureaucracy in action or inaction.

CIA information on travel by al-Qaeda suspects was not passed on or shared with FBI or Immigration Service officials. North American Air Defense Command procedures on commercial flight path deviations simply were not followed. Questions about information exchange between the FAA and the controllers in NORAD.

Not surprisingly, the final section of the report, which is titled "How to Do It," stresses the necessity in order to defeat or forestall any future terrorist attacks of reorganizing the country's national security apparatus, placing it under a central command, giving it more power to surveil and to react preventively against real or suspected threats, no nail files on commercial flights, please, and very significantly, to eliminate the alleged legal or policy regulations that had supposedly prohibited communications between the intelligence agencies, read there CIA, law enforcement, read FBI, and the military forces.

The immediate Government reaction long before the filing of any reports such as that of the 9/11 Commission, which we are discussing today, or that of the Senate Select Committee on Intelligence of July 9, 2004, or this year's Presidential Commission, headed by former Senator Robb and Judge Silberman, was to present to an eager Congress, I would say, the so-called Patriot Act, which seemingly erased all legal barriers to investigation and prosecution of all possible threats to national security.

I would say here having said "national security," that is that still legally undefined term introduced into the American vocabulary back in 1947, when the determination to forestall any new Pearl Harbors, unified, sort of, the Armed Services, and created our first national foreign intelligence agency, the CIA.

Now, it is instructive, I think, to re-visit the debate that went on over the 1947 Act, both in Congress and nationally. The questions faced were very similar to those we are discussing today.

Why had Pearl Harbor happened? Why had the information been held, because we had broken the Japanese codes, by the Chief of Naval Operations, and not been passed to the fleet commanders in Hawaii? Why had those commanders not acted appropriately on the information they did get?

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The debate on all this still goes on. In any event, it was largely accepted that the failure had been systemic, and so the answer was systemic change.

Moreover, even though we had won the war, the menace of the access was replaced almost immediately by that of the Soviet Communists, and the Cold War era that would define our lives for the next half century had begun.

When, as I say, we re-visit that debate, many of us here would be surprised, I think, to find that the major congressional opposition to the proposed changes was from traditional conservative Republicans, many from the Midwest, who remained basically isolationists, and looked at the creation of the national security state and had particular concerns about something so un-American as a national foreign intelligence service.

Indeed, one of the more formidable opponents of the CIA was J. Edgar Hoover, who feared that the new intelligence agency would take over his turf, as indeed it did, in Latin America.

It should be noted though that the new law specifically prohibited the CIA from carrying out any domestic intelligence activities nor having any law enforcement powers.

Nevertheless, the opposition was overcome, largely because of the then dominant East Coast Republican establishment symbolized by John Foster Dulles and his brother, Alan, who were to become respectively Secretary of State and CIA Director in the Eisenhower Administration, and internationalists and actively anti-Soviet as the Democratic party symbolized by Harry Truman's Secretary of State, Dean Acheson.

I will do an aside here. One of the interesting historical notes here, Dean Acheson, as he described and elaborated on the new Soviet menace, used the analogy with the rise of Islam in the 8th and 9th Century, which had threatened Europe. As we see the red menace, more into the Islamic menace, again, we see a foreshadowing of it even there.

Domestically, Federal law enforcement under J. Edgar Hoover, FBI, led the battle against the internal red menace, subversion and espionage, with able support from Congress. The Smith Act, the House on American Activities Committee, and the rise of McCarthyism help us recall the atmosphere of those times.

I remind you of this history to make the point that 9/11, tragic as it was, is not the first time in relatively recent years, that the United States has been gripped by fear of surprise attack or a subversion by some alien ideology whose unscrupulous followers would employ the most unthinkable means against us and our way of life, which for unfathomable reasons, they hated and hoped to destroy.

Our response to this, a response embodied in the term "national security," always has included a belief that we have inadequate information, intelligence, that is, about the enemy and where, when and how he intends to strike us.

Likewise, it has always included a belief that the enemy has planted his agents among us, and therefore, domestic law enforcement needs increased powers and resources to surveil and monitor suspect citizens and to prosecute them for actions interpreted as threatening that national security, even at the expense of traditional liberties.

To a somewhat lesser degree but not unimportantly, the response usually includes an enhanced role for the military, either in the often clandestine conduct of domestic intelligence activities, or in direct activities that many observers argue violate the posse comitatus laws, prohibiting use of the military for domestic law enforcement.

The line between police and military grows increasingly blurred as all one has to do is look at police SWAT teams, dressed in military field gear, and toting heavy weaponry supplied by the Pentagon, routinely employing military tactics. The symbol for this, I guess, is the assault a dozen or so years ago against the Branch Davidian Compound in Waco, Texas.

By the same token, the sense of imminent, even if hard to demonstrate threat, has been used over this period to justify so-called covert operations carried out in other countries, principally by the CIA, but increasingly in recent years by special units of the Armed Forces.

More and more the fig leaf of plausible deniability employed in such operations has been dropped, as we claim the right to intervene militarily and politically in other countries, on grounds of imminent threat to ourselves or others, or even as now, to advance democracy, the absence of which in some other state, we can interpret as itself a threat to our own political system.

Let me conclude quickly here by emphasizing that for those even slightly familiar with the current intelligence reform proposals, there is a more than vague sense, to use Yogi Berra's immortal phrase, "Deja vu all over again." There has been a failure.

Pearl Harbor. The unpredicted Soviet development of the Atomic Bomb, the Chinese Communist victory in 1949. Remember who lost China.

The equally unpredicted North Korean invasion in 1950. The Bay of Pigs failure. Vietnam. The overthrow of the Shah in 1978. Samosa and Nicaragua a year later, not only unpredicted, but confidently declared by our intelligence estimates as impossible, or a scandal, and Iran-Contra comes to mind inevitably here, and some others in the 1970s.

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What happens next? A commission will be appointed, usually by the Executive, but post-Vietnam, often by the Congress.

You will recall the Hoover Commission in the 1950s, the Church and Pike Commissions of the 1970s, and the Iran-Contra Joint Congressional Committee in the 1980s. Often forgotten are the Senate hearings of 1992, which tried to learn how we were so unprepared for Iraq's evasion of Kuwait, and led among other things to the late Senator Moynihan's very serious proposal for doing away with the CIA altogether, and Senator Arlen Specter's repeated and now accepted idea that the post of National Director of Intelligence and Director of the CIA be separated.

The Committee, talking of this generic committee here, will labor long and hard and recommend inevitably that the agencies concerned coordinate their activities better and share their information.

Depending on the era, if it's post-attack or post-scandal, is what determines this, the recommendations will either call for more or less Executive Branch independence in using the intelligence system, usually with reference to the conduct of covert operations, or for more or less congressional oversight and control of intelligence.

Attention inevitably has called for the need of better qualified officers, particularly in the area of language skills in the intelligence services.

Again, depending on the era, there will be the call for either more openness, the matter of publishing the amount of the intelligence, total intelligence appropriation is one, or for less.

When we call for less, as we are doing now, the great fear is that our skilled and unscrupulous opponents will be able to use something, like merely the publication of the total intelligence budget, that one apparently innocuous tile from the intelligence mosaic, to uncover our most precious secrets, the crown jewels, so to speak.

I will close now with a dated but still useful reference and a quotation, which is also dated, but also useful.

The reference I have here is the Congressional Research Service report of August 15, 1988, post Iran-Contra era, during Iran-Contra, on intelligence reform, recent histories and proposals.

I think it is very worth reading this relatively brief report to see how frequently these issues are re-visited and what the results are.

Now, the quote I want to give you is from a book written by a very interesting man, now deceased, Arthur Macy Cox, who was George Tenet's principal assistant when George Tenet, post-World War II, was head of the State Department's Planning Office.

Arthur Macy Cox went onto have a very distinguished career in Government, including service in the CIA. I had several lengthy discussions with him back in the early 1990s.

His book is called "The Myths of National Security, the Peril of Secret Government." It was published by Beacon Press in 1975. I will not be lengthy in these quotes, I hope.

He wrote in the midst of Watergate, "The political demise of Richard Nixon was devastating evidence of a national illness that has pervaded our society for years, but the first presidential resignation in our history did not arrest the disease. It merely focused attention on the need for a cure.

The corruption of Watergate was a symptom of a larger malady resulting from the use of the big lie technique to deceive the American people, countless lies perpetrated under cover of a vast system of executive secrecy justified on grounds of protecting our national security. Unless we understand how this happened, we will not be able to restore our democracy to health."

He goes on "The drafters of the Constitution provided us with an ingenious system of Government based on machinery to check and balance the use of power, but they did not anticipate the problem of secret Government, nor has that problem been dealt with in subsequent constitutional amendments.

Despite a lack of safeguards, a large consensus of the American public since World War II, has granted to succeeding presidents extraordinary secret powers to protect the security of the nation. The people felt that in matters of national survival, the President should be given total trust. He should be allowed to make decisions in secret to protect our national security, but democracy and secrecy are incompatible and it has now become clear that secret powers should never have been delegated without guarantees of accountability to the people's representatives in the Congress."

I'll stop there.

(Applause.)

MS. RAYFORD: Thank you, Mr. MacMichael.

Our next topic is "Covert Operations and Increased Intelligence Budget - Solution or Cause?" with John Nutter.

Mr. Nutter?

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### COVERT OPERATIONS AND INCREASED INTELLIGENCE BUDGET -- SOLUTION OR CAUSE?

MR. NUTTER: Thank you. I applaud all of you for lasting out this event. I know it's been some time. I trust if I'm brief, you will applaud me, too.

As I listened to David, I was struck by the various documents that I've read in my scholarship, documents like the Tower Commission report on Iran-Contra, the Church Committee, the Pike Committee, and its recommendations, the Taylor Committee, which some of you may recognize as the postmortem on the Bay of Pigs.

I mention those because as I read the 9/11 Commission report, I was struck by an astonishing resemblance to a line from the movie Casablanca, where Louie says "Messr. Strausser's been shot, round up the usual suspects."

One could very easily take the recommendations from any of those reports, cut and paste them into the 9/11 Commission, and you wouldn't be able to tell the difference.

Periodically, this nation runs into a spectacular failure of some kind of intelligence operation, and produces reports like these. They frequently come out the same.

I'd like to talk today briefly about just a couple of items, mainly focusing on the recommendations. There are two recommendations I'd like to talk about.

One is a line from the 9/11 Commission report which says -- and I found a wonderful piece of understatement -- "Congressional oversight is dysfunctional." Well, dysfunctional is when your kids act up.

I guess I'm here to suggest something maybe even in stronger terms than my colleagues here have suggested. I think congressional oversight is a fantasy. I do not believe that it is possible. I do not believe there is a way we can construct our institutions to protect us from the politicization of intelligence, the politicization of covert activities and covert operators.

In the past, we have seen instances of the congressional oversight working. We have to ask ourselves why was that. That was because the people who were reporting to Congress were at that time honorable and honest men. They were law abiding, even when they didn't want to be, they abided by the law.

You have to understand that when you ask a DCI or perhaps a director of national intelligence or whatever we are going to have in the future, to report covert operations to Congress, you need to understand what is going on in their heads.

Covert operation is supposed to be deniable. It's supposed to be something that you don't read about in the New York Times. It's supposed to be something that is protected by the doctrine of plausible deniability.

Now, plausible deniability is kind of an interesting concept because you can actually read something about it in the writings of George Washington in the Federalist papers. It goes back that far.

Clearly, the founders understood that mechanisms like that might be useful, but their understanding of plausible deniability was that you conduct an operation in which you can't prove the United States was responsible.

Over time, that doctrine changed. The concept of plausible deniability came to mean you can't prove the President knew about it.

There is a wonderful discussion in the minutes of a National Security Council meeting from President Eisenhower's Administration, where Eisenhower and Alan Dulles are discussing the idea of assassinating Patrice Lumumba from the Congo.

Now, Eisenhower doesn't want to say "kill him," and he never does. They fall back on euphemisms, I wish he'd go away, you know, how could we get rid of him, which preserves for the President the notion that I just meant I wanted him voted out of office. Sure.

We also have to understand that almost any mechanism we produce for congressional oversight requires a DCI to come clean. As we have heard from the rest of the panel, you know what, there are two things that can influence that.

One is that many of our high level intelligence managers or directors have the capacity to omit or misrepresent things. Some of them, as Bill Casey did, had the ability to mumble so badly that you couldn't understand him anyway.

For most of them, if they are a political member of the Government, as we seem to be moving toward, how are you going to expect them to come clean? If they don't, what are you going to do about it?

Even if they are not politically motivated, you also have to understand that someone like a DCI, a Director of Central Intelligence, sits at the top of a large institution. Anyone who sits at the top of a large institution has an interest in protecting that institution.

As honorable as someone might choose to be, that's another motivation for not always telling everything that you really should.

More important than that, the question you have to ask when you come to oversight is where is the audit? If you as a DCI don't admit something to Congress, how are they going to find out about it?

Of course, I think the answer today is probably CNN, but CNN isn't every where. It doesn't know everything.

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Even with that, if you can find a way to get around the notion that you can find out everything that is going on, I still claim congressional oversight is probably impossible because if someone violates the law, it's almost impossible to prosecute them.

Covert operators know too much. You know what? You bring them into court. The first thing they do is begin filing discovery motions for deeply, deeply secret documents, and not willing to give those documents up, in some cases, such as Iran-Contra, because those documents would show the culpability of the rest of the members of Government who weren't indicted yet, those documents will never be produced.

Even if the Government is willing to produce those documents, you still have the ability of covert operators to -- I love this phrase, a phrase that entered our jargon in the 1980s -- covert operators still have the ability to grey mail the Government, to threaten to expose operations, personnel, that would be at the very least embarrassing to the Government, if not cause deep political damage.

My view is congressional oversight remains this fantasy out there that we think we can accomplish, but we have heard congressional oversight. We had it in the National Security Act of 1947. We had it in the Church Commission. We have had it in the Tower Commission. Now, we have it in the 9/11 Commission.

You know what? The answer in all of these commission reports always seems to be let's do more of what we did. It didn't work, but let's do more of it.

Let me talk just a minute or two about the other thing that happens with covert operations, and that is unintended consequences.

We have heard a lot about those kinds of things today, the dealings with drug dealers, gun runners, training of future terrorists in Afghanistan, and Afghanistan is just the tip of the iceberg there.

If you are familiar with the history of covert action, you will understand that even covert intervention in other countries, for example, Iran, just to choose one at random, often produces countries that really hate us. They don't like us intervening in their affairs any more than we would really like them intervening in our affairs.

Perhaps the most dangerous aspect, and I guess it is unintended, something that Peter Scott mentioned earlier, described as the offshoring of covert operations. Our covert operations often morph into something controlled by private enterprises of various kinds.

When they do so, it makes it very difficult for the people out there, the people of the United States, members of Congress, members of the press, people in other countries, to tell when an operation is an U.S. operation and when it's an operation run by a bunch of guys that used to be in the Air Force.

That's very hard to do. It's very confusing. It is extraordinarily damaging for our foreign policy.

MS. RAYFORD: Mr. Nutter, I think your time is up. You can submit the rest of your comments for the record.

MR. NUTTER: All right.

MS. RAYFORD: Thank you very much, Mr. Nutter.  
(Applause.)

MS. RAYFORD: A few announcements. There will be a rally at L'Enfant Park tomorrow at 11:00 a.m., where many of today's speakers can be heard again, if you are interested in learning more information.

We are currently listening to the congressional briefing entitled "The 9/11 Commission Report One Year Later - a Citizens Response, Did the Commission Get it Right," and it is convened by Congresswoman Cynthia McKinney.  
(Applause.)

REP. McKINNEY: Thank you.

MS. RAYFORD: This briefing is being webcast live on [dc.ndmedia.org](http://dc.ndmedia.org). That is [www.dc.ndmedia.org](http://www.dc.ndmedia.org), by the D.C. Radio National Coop.

Also, we would ask those speakers who can, if they would submit their comments on line to [www.dc.ndmedia.org](http://www.dc.ndmedia.org), and then people can read them there.

Some of the other websites, Kit Gage is associated with [www.ncppf.org](http://www.ncppf.org), [ncpps.org](http://ncpps.org). Also, [ncarl.org](http://ncarl.org).

Paul Thompson, [www.cooperativeresearch.org](http://www.cooperativeresearch.org), has the complete 9/11 Timeline.

Also, C. William Michaels is at [www.nogreaterthreat.com](http://www.nogreaterthreat.com). He has the 12 characteristics of a national security state.

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As mentioned before, this entire proceedings will be available on Congresswoman McKinney's site, which is [www.house.gov/mckinney](http://www.house.gov/mckinney).

At this time, I would ask our expert panel, for those who have questions. We have two expert panelists. We will start with Mike Ruppert.

MR. RUPPERT: Thank you. You covered a lot of ground. I thought there was another guy at the agency who didn't quite go along with things. I think it was your boss, maybe, John McMahon. Wasn't he a guy who objected to what was going on with Casey and the politicization of intelligence at the time?

MR. MacMICHAEL: The person you are referring to is in fact the man that was my boss at the time, head of the analytic group at the National Intelligence Council, whose name is Harold Ford, a very widely respected individual, who now lives in retirement here in Potomac, Maryland.

MR. RUPPERT: Thanks. Let me get onto my question. That just popped into my mind. Many years ago, I was a Los Angeles policeman. I worked on patrol. I worked narcotics investigations. Before that, when I was an undergrad at UCLA, I interned for the chief of police, Ed Davis, in Los Angeles. He was part then of President Richard Nixon's Commission on Criminal Justice Standards and Goals.

There was a hot debate then, at the drafting of this report. He even called in a guy from The Rand Corporation, which I thought was kind of funny, about buying into other law enforcement agencies' context, either in a lateral direction or in a vertical direction.

Then the debate was with the State of California, as to whether LAPD should have shared radio frequencies with the State of California.

As I read the Patriot Act, especially Title III of the Patriot Act, there is an enormous mandate for uniformization, to make up a term, of communications and data sharing from the highest level of Federal law enforcement, which I would assume now is the National Director of Intelligence, all the way down to local law enforcement, including uniform radio frequencies, uniform access to databases, uniform response to chemical biological weapons threats, uniform ammunition, uniform firearms, uniform everything else.

As I was looking at Title III of the Patriot Act and the reinforcing positions in the Homeland Security bill, I thought, gee, this is a great way to back door every police department, local police department, from Toledo to Poughkeepsie to Los Angeles, to make them a de facto Federal law enforcement agency, just because they have to operate by the same "emergency standards and guidelines."

What are the dangers of that? What do you think?



## The 9/11 Commission One Year Later

### EVENING SESSION

MR. MacMICHAEL: A short answer, Michael, is what is technically possible will be done. At the time you were dealing with this question, 30 plus years ago, there was no technical means really for doing this. Those means are now available, and as the French philosopher, Jacques Elieue, said back in the late 1940s, "What is technically possible will be done whether it's beneficial or not."

MR. MADSEN: My question is for the two panelists who obviously when you were at Langley were consumers of signals intelligence output from the National Security Agency.

I would be remiss if I didn't ask this question for the thousands and thousands of technicians, linguists, military civilian people serving here and abroad in the NSA, whose agency is being systematically dismantled because of the policies of the man who is now Mr. Negroponte's deputy, General Michael Hayden, who was the longest serving Director of NSA, who instituted a program called Groundbreaker, which started to outsource to private companies, beltway bandits, critical functions at NSA, and a signals intelligence modernization effort called Trailblazer, which he told the Congress, the Senate, during his confirmation hearings, was late and over budget.

The problem with this outsourcing, it's not so much politicization of NSA, although that is a problem, as we saw with unfettered access to raw intercept data by Mr. Bolten, who apparently wanted to find out what his bosses and colleagues and other parts of the State Department were saying about him and his agenda.

Two questions on NSA. The problem is having private contractors now engineering follow on new signals intelligence systems, like Oceanarium, which is going to be the big mother load of all that raw intercept data, which could be there for the picking by not only these contractors, but also by people like Mr. Bolten who really have no need to know other than the fact these people want to use raw intercept data for political purposes.

Also, the problem with outsourcing intelligence functions to private companies. As we know, when you outsource something to a private company, it gets away from the oversight, and they can say things are proprietary trade secrets and not have to tell you.

Your thoughts on what is happening at my old agency, NSA. I know many of my friends up there, and I've spoken to many, current and former NSA people, who are quite upset about what's happening to their agency, as is happening apparently to the other intelligence agencies.

MR. McGOVERN: Wayne, I would start out by saying how valuable the information that you all served up to us has been over the years. It has been a very professionally run organization, at least up until the time I left.

It pains me greatly to hear not only about this happening in NSA, but I keep hearing Analysis is being outsourced now. Can you imagine. If Analysis is being politicized now, and you outsource it to the beltway bandits, my goodness. You're going to get the answer the President wants every single time, and renewal of your contract as well.

It's a real problem. The trends are not very hopeful. What my friend, Dave, said about what's possible will be, that is driving a lot of this. I'm going to reserve judgment on General Hayden. I have just observed a couple of troubling things so far, but nothing which would lead me to make any real judgments.

That is about all I can say on that. Dave?

MR. MacMICHAEL: No. I can barely use a computer.

MS. RAYFORD: Thank you. We want to thank our panelists and our expert questioners, for a wonderful and very informative experience.

(Applause.)

MR. MacMICHAEL: Thank you very much. If I may, I was short before, I neglected to finish part of the quotation from Arthur Macy Cox, which I think is very relevant to everything we have been discussing today.

"The peril of inadequate accountability is intensified because the American public is often gullible, especially in matters of national security."

We could go on with many examples, but that's crucial to the argument that we hear so frequently, our Commander and Chief said it, we've got to do it.

MR. McGOVERN: They can't be gullible if we get the word out. My experience has been it used to be we had a free press in this country. Over the last four years, that has really changed markedly, so we have to be smart

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enough to use this technology, and it's available to us, we just have to be bright enough to get the word out despite the non-cooperation of the mainstream domesticated press.

(Applause.)

### CONCLUSION

REP. McKINNEY: Thank you very much. I would just like to say after we have heard all of the testimony that has been presented to us today, there is one thing that is very clear, and that is that we must know what our Government is doing in our name.

The American people have to inform themselves, despite the failure of the corporate press, to investigate the information in the public domain that provides answers to our questions.

Today is a very special day because we have brought truth to Capitol Hill today.

(Applause.)

REP. McKINNEY: We have brought information to Capitol Hill. No longer can the Congress say we don't know. Today's hearing consisted of the best and brightest minds who are experts in their fields. Whistleblowers, academics, scholars, family members, all here today to let Congress and the American people know the truth.

I am thankful for all of this array of cameras that are here today, because you will get the word out to the American people and let them know the truth.

Today, the Cannon Caucus Room was a no spin zone, but it is clear that we must now add another question, and that is who are we and what are we becoming?

I want to thank the millions of truth seekers, the panelists, the questioners, my staff, alternative medias, CSPAN, and most importantly, the voters of the 4th Congressional District of Georgia, who made this day possible.

(Applause - standing ovation.)

REP. McKINNEY: We can make a peaceful tomorrow, and I think it began today. Thank you very much for your attention. Thank you.

(Applause.)

MS. RAYFORD: Thank you, Congresswoman McKinney. I want us all to give one more acknowledgement of Congresswoman Cynthia McKinney for her courageous work in this and all areas. Thank you, Congresswoman McKinney.

(Applause.)

(Whereupon, at 6:09 p.m., the conference was adjourned.)

## The 9/11 Commission One Year Later

### WRITTEN STATEMENTS OF PANELISTS

STATEMENT FOR CONGRESSIONAL BRIEFING, JULY 22, 2005  
by Lorie Van Auken

Good morning, my name is Lorie Van Auken. I am speaking today, on behalf of 9/11 widows, Monica Gabrielle and Mindy Kleinberg, who are here with me today. On the morning of September 11, 2001, my husband, Kenneth, was killed while at his office on the 105th floor of the North Tower at the World Trade Center.

We extend our sincere thanks to you, Representative McKinney, as well as to all of those who are responsible for setting up this hearing and giving us this opportunity today.

On the morning of September 11, 2001, I received the following message from my husband Kenneth:

#### **... PLAY MESSAGE ...**

From his words, I knew that Ken survived the impact of the plane, so I tried to call him back, but there was no answer. I fell to my knees in a panic, still clutching the telephone. A moment later, when the phone rang, it startled me completely. I prayed that it was Ken, but it was my mother. She told me to turn the television on. I told her about Ken's message. I told her that I couldn't reach him. I told her that I was very scared.

I watched the TV in utter horror as black smoke billowed out from the building through a gaping hole, the size of an airplane. I knew that Kenny was in that building. I watched as the people ran from the World Trade Center, hoping for a glimpse of my husband.

Then the second tower was hit. As I continued to watch the breaking news, they showed the President sitting in an elementary school classroom juxtaposed with the footage of the black smoke coming from the World Trade Center along with people jumping to their deaths from the burning buildings.

I screamed at the television, "get up President Bush, get up and do something". But he remained seated in a classroom of small children. I watched as Andrew Card whispered something to the President. And yet, still my President remained seated in a classroom of small children when our country was so obviously under a terrorist attack.

In between panic and hysteria, in between hoping that my husband would get out of the WTC alive, and wondering how I would ever break this news to my children, I also wondered why the secret service was letting the President stay in the classroom full of children. Why didn't they whisk him away? It seemed as if every target in America was being attacked, so wasn't the President — the leader of the free world — in danger of being fatally attacked as well? Weren't the children who were in the classroom with the President in danger too?

After two days and hundreds of phone calls to NYC hospitals and to the Red Cross, receiving no guidance and absolutely no answers, my husband's employer, Howard Lutnick, the CEO of Cantor Fitzgerald, recounted on a news program, that no one who was in the offices of Cantor Fitzgerald at the time of the attacks had survived. That meant that Ken was gone. My looming and painful question as to whether or not my husband had survived was now answered.

We now knew that the time for hoping was over. Our lives were forever changed. My children would never again see their father and I was now a widow. The grieving was just beginning. With what felt like a gaping hole in my heart and with two traumatized teens to now raise alone, I wondered if I would ever feel like eating or breathing again. For me, one horribly sad question had been answered, but many more questions would soon follow.

The questions began to gnaw at me, slowly at first. I wondered how on earth almost two hours could have passed with four domestic, commercial airplanes flying around the skies of America without a response from our military. I began "Google" searching and reading whatever articles and timelines I could get my hands on. Once I began my research into 9/11, I found it hard leave the computer. Because I was unable to sleep and because I needed desperately to

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reconstruct and understand the events of 9/11, it began to appear to those close to me that I was shackled to the computer screen, and I have to admit, in a manner of speaking, I was.

Having connected with a few other widows, it was not long before we all were researching the events, while we waited for an official inquiry into the attacks to be initiated. Then, the news came, that only the intelligence agency failures would be examined. How could that be? Our husbands were killed at their desks when commercial airliners flew into their office buildings? They had no means of escaping and had practically no chance of evacuating on 9/11. The buildings that were supposedly so magnificently designed had collapsed in minutes. Why would the investigation of our loved ones' murder be limited to only intelligence agencies? What about airline security, high-rise building security, and border security? What about the FAA, the Port Authority, the Secret Service and NORAD — all of whom were partly to blame for the failures that allowed the 9/11 attacks to occur. Didn't those areas and entities need to be investigated, too?

Incredulous but undeterred, we realized that it was necessary to take a thorough and independent "look" at what had gone wrong on 9/11. Our children were going to have to grow up in this changed world, and we needed to make sure that this could never happen again. We knew that with the 3,000 deaths on 9/11, there remained thousands of questions that needed to be answered. So, we fought for the creation of the 9/11 Independent Commission. And with all of America by our side, we finally won that battle. The Commission was passed into law in the autumn of 2002 and by January 2003 the Commission finally sat down to commence its very important work.

The 9/11 Commission's report is one year old today. This report was supposed to provide the definitive account of what had transpired on September 11, 2001. We hoped that our thousands of unanswered questions would be addressed and answered. Yet incredibly, we have found that the Commission's "definitive" final report has actually yielded more questions than answers. Moreover, there are still so many areas that remain unexplained or only vaguely touched upon by the 9/11 Commission — so much so that it was quite difficult for me to decide where I should start my testimony to you today.

### **1. The Timeline of 9/11 — The Story of Seismic Information**

I will begin with what I had first hoped for from the Commission. I believed that we needed the official and definitive timeline for 9/11. One of my questions had to do with the time that flight 93 officially crashed. The Commission report says "United 93 crashed in Pennsylvania at 10:03:11 am" and adds that "The precise crash time has been the subject of dispute" in footnote 168 of chapter one, it says that "We also reviewed a report regarding seismic observations on September 11, 2001, whose authors concluded that the impact time of United 93 was 10:06:05".

Seismic data reflects the time that the earth shook in response to the crash. Atomic clocks are used to record this data. I personally spoke with the men whose names appear on the seismic data report from 9/11; they received calls from the 9/11 Commission, too. I asked the seismologists: unless data existed that showed that the earth also shook at 10:03 am, how could the Commission affix the time of flight 93's crash at 10:03? They couldn't give me an answer. Nor apparently, could the Commissioner's in their final report.

The crash of flight 93 is one of the major events of 9/11. If we couldn't figure out what time that crash occurred, how could we ever understand the real complexities of the day? Perhaps, most alarmingly, what does this say about the quality of rest of the work-product in the final report if the Commission "could not" accurately isolate this easily defined piece of information?

### **2. Warnings: The Story of Ignored Warnings by Individuals**

At 1:47 P.M. on September 11, 2001, while aboard Air Force One Ari Fleischer was asked the following question by the Press Briefing Pool: "Had there been any warnings that the President knew of?"

MR. FLEISCHER answered: simply "No warnings".

No warnings? From my simple research, using "Google" on my *home* computer I learned that there were plenty of warnings. For example, newspapers in England, France, Germany and Russia reported that there were indeed many warnings delivered to the Bush Administration throughout the spring and summer of 2001. German Intelligence

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warned both American and Israeli agencies that terrorists might be planning to hijack commercial aircraft to use them as weapons and to attack important American targets. During the G-8 Summit in Genoa Italy during the month of July 2001, Egypt warned of a plot to use airplanes to attack President Bush while he was there for the summit. As an aside, this warning was taken so seriously that anti-aircraft missiles were deployed near the Columbus Airport in Italy.

Even ABC News reported, Bush Administration "officials acknowledged that U.S. intelligence officials informed President Bush weeks before the Sept. 11 attacks that bin Laden's terrorist network might try to hijack American planes." Likewise, Newsweek reported "that as many as 10 to 12 warnings" were issued, and "more than two of the warnings specifically mentioned the possibility of hijackings." Similarly, George Tenet, "was issuing many warnings that bin Laden was 'the most immediate' threat to Americans."

Indeed, the al Qaeda warnings were dire enough in May of 2001, to motivate President Bush to appoint Vice President Cheney to head a task force "to combat terrorist attacks on the United States." As reported by the Washington Post, President Bush said that VP Cheney would direct a government-wide review on managing the consequences of a domestic terrorist attack, and VP Cheney was quoted as saying "I will periodically chair a meeting of the National Security Council to review these efforts." But according to the Washington Post, neither "Cheney's review nor Bush's took place."

The 9/11 Report chose not to address any of the aforementioned warnings and thus in my opinion did not answer the most important question that was: *"With all these warnings, why were we still so ill prepared?"*

### **3. Dots not Connected: The Story of David Frasca**

It would seem that the Radical Fundamentalist Unit (RFU) at FBI Headquarters was in receipt of various pieces of information that, if put together, should have allowed them to see that a threatening pattern involving "persons of interest" was emerging during the summer of 2001. For example, the RFU was in receipt of both the Phoenix Memorandum (the FBI memo that suggested that there was a pattern of suspicious activity involving large numbers of Arab men taking flying lessons in American flight schools) and the FBI's file on Zacarias Moussaoui (an Arab man who was enrolled in an American flight school and fit the profile of a terrorist).

While the 9/11 Commission goes into much detail about the facts surrounding the Phoenix Memo and the case of Zacarias Moussaoui, they do not mention perhaps the most damning of all facts involving both issues. Namely, that it was only two individuals at the RFU who received the Phoenix Memo *and* the Moussaoui information within weeks of each other. They subsequently (and detrimentally) blocked, not only the dissemination of this information within the Community, but also stymied further requested avenues of investigation within the Community of such pieces of vital information.

The 9/11 Commission summarily blames the failure to "connect the two dots" of the Phoenix memo and Zacarias Moussaoui's file on the FBI's institutional misunderstanding of the "Reno Wall" and the agency's inherent inability to share information across and throughout its ranks. What is missing from this analysis and rather facile conclusion is that it was two individuals who worked together, (and not a "misunderstanding of the Reno wall") that is to blame for the failure of the FBI to receive a FISA warrant in the case of Zacarias Moussaoui. It is likewise those same individuals who are responsible for the Phoenix memo being downplayed and all but ignored.

FBI supervisor, David Frasca, and his underling Michael Maltbie, not only failed to permit FBI agents to request a FISA warrant for Moussaoui, but also altered the agent's initial request for it. Specifically, on August 28, 2001, Maltbie edited the Minnesota FBI's request for a FISA warrant to search Zacarias Moussaoui's possessions. The Minnesota FBI field office wanted to prove that Moussaoui was connected to al-Qaeda through a rebel group in Chechnya, but the RFU agent Maltbie removed the information connecting the Chechnyan rebels to al-Qaeda. Subsequently, the FBI Deputy General Counsel who received the edited request (scrubbed clean of any international terrorist ties) decided that there wasn't enough of a connection between Moussaoui and al-Qaeda to allow an application for a search warrant through FISA. Thus, a FISA warrant was never applied for. [Senate Intelligence Committee, 10/17/02]

Later, in a report released on June 9, 2005, the FBI's Inspector General's office far from downplaying this exchange, cited a top FBI lawyer's statement that "he had never seen a supervisory special agent in Headquarters so adamant that

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a FISA warrant could not be obtained and at the same time a field office so adamant that it could." The report also noted that the Minneapolis field office sought an "expedited FISA," which it explained, "normally involved reports of a suspected imminent attack or other imminent danger."

To reiterate, the first memo the supervisor of the Radical Fundamentalist Unit, David Frasca, received warned that Usama Bin Laden was possibly coordinating efforts to send men for flight training (the Phoenix Memo). And only a weeks later, Frasca received a file on a suspicious individual, Moussaoui, actually training at a flight school. In essence, the Moussaoui case was actual confirmation of the Phoenix memo's prediction. And, it was these same men, David Frasca and Michael Maltbie, who not only thwarted the efforts of FBI agents to get a FISA warrant to search Moussaoui's belongings — including his laptop that had information leading to the other 9/11 hijackers, but it was also Frasca and Maltbie who reportedly tampered with the papers, requesting a FISA warrant.

Moussaoui's laptop was finally searched after the 9/11 attacks. German telephone numbers were found, as was the name "Ahad Sabet." The numbers led the FBI to determine that the name "Ahad Sabet" was an alias for Ramzi bin al-Shibh, former roommate of Mohammed Atta, the pilot of AA Flight 11, which crashed into Tower One, my husband's building, on 9/11.

Agents also discovered that Ramzi bin al-Shibh had wired money to Moussaoui in the summer of 2001. In addition, they found a document connecting Moussaoui with the Malaysian Yazid Sufaat — a connection that could have led them to 9/11 hijackers Khalid Al Mihdhar and Nawaf Al Hazmi [New Yorker, 9/30/02, MSNBC, 12/11/01]. Those were two of the hijackers said to have crashed Flight 77 into the Pentagon. Both Al Mihdhar and al Hazmi lived in San Diego, CA, had their names blatantly published in the San Diego phone book, and, had contacts with individuals under FBI investigation.

At the time of Moussaoui's arrest, one FBI agent commented in his case notes, quite prophetically, that Moussaoui "seemed like a man who was capable of flying airplanes into the WTC". Sadly, the FBI agents were trying their best to follow these leads, but for some unknown reason, FBI Headquarters thwarted their own agents, instead of thwarting the terrorists.

While several entries refer to Moussaoui in the Commission's final report, the Commission fails to discuss the Moussaoui case in a comprehensive manner. For example, how could the Commission fail to mention that it was these two men, David Frasca and Michael Maltbie at the FBI's Radical Fundamentalist Unit (RFU), who received the Phoenix memo and then thwarted attempts to acquire a FISA warrant for Moussaoui's computer? How could the Commission remain silent on this matter when these men, Frasca and Maltbie have since been promoted within the FBI? Why didn't the Commission apply the axiom that, "an agency is only as good as the people who work for it." To quote Senator Shelby, "They continue to reward bad behavior, and the results speak for themselves."

By leaving this highly relevant fact un-addressed, the Commission lays bare that its conclusion about the need for intelligence community reforms is half-baked at best and hollow at worst.

#### **4. The "Hamburg cell"—the Story of Marwan and a Phone Number**

Had David Frasca and Michael Maltbie not altered the FISA application, it is likely that the FBI would have discovered the members of the notorious Hamburg Cell. The Hamburg al Qaeda Cell was central to the 9/11 plot. Members of this cell included; lead hijacker Mohammed Atta, who is said to have piloted Flight 11, 9/11 hijacker Ziad Jarrah, 9/11 hijacker Marwan al-Shehhi, who is said to have piloted flight 175, and Ramzi bin al Shibh who wired money to the hijackers.

Further proof of the significance of the Hamburg Cell can be found in the fact that in March 1999, Marwan al-Shehhi had already caught the attention of German intelligence officials who were monitoring the telephone of Mohamed Heidar Zammar, an Islamic extremist in Hamburg who was closely linked to important al Qaeda plotters who ultimately masterminded the September 11 attacks. The German intelligence officials gave the Central Intelligence Agency (CIA) the first name of "Marwan" and his telephone number in the United Arab Emirates, and asked CIA to track him. Nevertheless, according to the official record, CIA did nothing with this information.

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Close surveillance of Marwan Shehhi in 1999 would have revealed his early connections to Flight 11 hijacker, Mohammed Atta, who was Mr. Shehhi's roommate at the time. Both men had also attended the wedding of a fellow Muslim at a radical mosque in Hamburg in October 1999 — an event considered to be significant for the September 11 hijacking teams, because it occurred at a time when the 9/11 plot was taking shape.

Yet the requested surveillance on Marwan never happened. It would seem that the Director of the CIA at the time, George Tenet, did not feel that they had enough information to be able to track down this terrorist. He has stated, "The Germans gave us a name, Marwan — that's it — and a phone number," the director of central intelligence replied, adding: "They didn't give us a first and a last name until after 9/11...".

It seems unbelievable that with a first name and a phone number the CIA would not have even attempted to follow up on this lead. As columnist Maureen Dowd wrote, "For crying out loud. As one guy I know put it: 'I've tracked down women across the country with a lot less information than that.'"

Although Philip Zelikow, the 9/11 Commission staff director, was quoted as having said, "The Hamburg cell is very important" to the investigation of the September 11 attacks. And, intelligence on Mr. al Shehhi "is an issue that's obviously of importance to us, and we're investigating it". On February 24, 2004, when asked whether American intelligence officials gave sufficient attention to the information about Mr. al Shehhi, Mr. Zelikow continued to say, "We haven't reached any conclusions."

Five months later when the Commission released its final report, no further conclusion (or explanation) for the CIA's failure to follow the German lead was noted. Why did the Commission ignore this important piece of information and the CIA's failure to act upon it?

### **5. Watchlisting Issues—The Story of Surveillance**

An area that was addressed more thoroughly in the 9/11 Commission's final report, was the matter of Pentagon Flight 77 hijackers, Khalid al-Midhar and Nawaf Alhazmi. However, because much of the information on these two important characters is found in the minute text of the Commission Report's footnotes, learning the details requires a magnifying glass.

The Commission failed to explain how and why the CIA "dropped the ball" with information it acquired about the January 2000 terrorist "summit" in Malaysia. It has been reported that the 9/11 attacks and the U.S.S. Cole bombing were planned at this meeting. In attendance were: "key" Cole bomber Khallad bin Attash and two of the would-be 9/11 hijackers, Khalid al-Midhar and Nawaf Al Hazmi.

Although the CIA identified the men as suspected extremists via their participation in the meeting with the identified Cole bombing suspect, the CIA inexplicably failed to request that the two men be placed on the government's watchlist until late August 2001. By that time, both al-Midhar and Alhazmi were already in the United States. And, even though the men were living in San Diego, listed by their correct names in the local phone book, and their landlord was an F.B.I. informant, the bureau stated that it did not learn of their whereabouts until after 9/11.

From the footnotes of the 9/11 Commission report, we learn that the CIA intentionally kept the FBI "out of the loop" with regard to these two hijackers who were living in this country. Had someone in the CIA made the decision to NOT inform the FBI about these two 9/11 hijackers? And, if so, why did the 9/11 Commission bury it in a footnote and not address why such action was taken? The purposeful withholding of vital information by one intelligence agency from another intelligence agency is the type of failure that cannot be corrected or masked through simple re-organizational reforms of the intelligence community. Even a plain reading of the footnote detailing the CIA's dubious behavior raises serious questions that beg to be answered.

In July 2005 in response to the 9/11 Public Discourse hearing on the Intelligence agencies, we wrote a press release that included the following information with regard to Chapter 6, "From Threat to Threat", footnote #44:

Footnote #44 details an instance where a CIA desk officer intentionally withheld vital information from the FBI about two of the 9/11 hijackers who were inside the United States. This footnote further states that the CIA desk officer

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covered-up the decision to withhold said vital information from the FBI. Finally, footnote #44 states that the CIA desk officer could not recall who told her to carry out such acts.

While several notable instances of this sort of intentional withholding of vital information from and among intelligence agencies are found throughout the 9/11 Commission's Final Report, we called special attention to four additional examples in that press release. We did so with the hope that the 9/11 Commissioners would now explain why the truth has not been revealed to the American public about one of our intelligence agency's ongoing surveillance of the 9/11 hijackers while they were living inside the United States in the 18 months leading up to the 9/11 attacks.

The leads to al Midhar and Alhazmi in San Diego were key, but perhaps even more relevant was the earlier-gleaned information about Marwan al Shehhi. Because, that information would have immediately unearthed the existence of the Hamburg Cell—the epicenter from which the 9/11 plot was prepared.

According to testimony given in Germany after the 9/11 attacks, al Shehhi was one of only four members of the Hamburg cell who knew about the 9/11 attacks beforehand. Marwan al Shehhi and Mohammed Atta traveled to Afghanistan in 2000 to train at an al Qaeda camp with several other September 11 plotters. And after returning to Germany, al Shehhi made an ominous reference regarding the World Trade Center to a Hamburg librarian, saying: "There will be thousands of dead. You will all think of me," German authorities said.

Soon afterward, Atta, al Shehhi, and another plotter, Ziad Jarrah, began e-mailing several dozen American flight schools from Germany to inquire about enrollment, and they arrived in the United States later in 2000 to begin flight training.

In its final report, the Commission continues to perpetuate the myth that the CIA's failure to communicate with the FBI was some sort of institutional failure and thus readily fixable by intelligence community reforms. That notion that is extremely harmful to our nation . Why didn't the Commission address the intentional lack of communication between the CIA and the FBI?

### **6. "Planes as Missiles": The Story of the PDB**

In spite of many explicit warnings, National Security Adviser Condoleezza Rice claimed that the Administration was never warned of an attack before 9/11. She went on national TV and stated, "I don't think anybody could have predicted that they would try to use an airplane as a missile, a hijacked airplane as a missile."

However, as previously recounted, there were many warnings that terrorists might use planes as missiles. How could the National Security Advisor to the President of the United States not have been aware of this possibility? Further, why if this was indeed a breakdown of communication within the Executive Branch of our government, wasn't that addressed by the Commission? If the vital flow of information from the agencies to the National Security Advisor was somehow hampered, wouldn't we need to understand how and why this was in order to make sure that the proper channels of information to and from the Executive Branch were operational in the future?

While Condoleezza Rice seems to have failed in her capacity as National Security Advisor, to inform President Bush of such warnings, there were many others within the President's cadre of advisors who also could have apprised him of the same information. Yet, on 5/17/02, President Bush also seemed to have no idea about the threat, saying, "Had I know that the enemy was going to use airplanes to kill on that fateful morning, I would have done everything in my power to protect the American people."

<<http://www.whitehouse.gov/news/releases/2002/05/20020517-1.html>>



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And to our further dismay, when Condoleezza Rice testified before the Commission in April of 2004, we learned that on August 6, 2001, the President had been briefed by the CIA about just such a possibility. Although Ms. Rice argued during her testimony that the Presidential Daily Brief (PDB) of August 6, 2001 was "historical" in nature, and didn't warn of a "domestic threat," the title of the PDB was, "Bin Laden determined to strike in the U.S."

The title alone reveals that the document did indeed refer to a domestic threat, and was, in fact, not a historical recap. At one point, to clarify and dispel the purely "historical" argument, I color coded the PDB so that everyone could see exactly what parts of the PDB said that the threat was both domestic and current. I have done the same for this hearing.

### ... SHOW PDB ...

An example of the "current and domestic threat" in the text of the August 6, 2001 PDB was the statement "Nevertheless, FBI information since that time indicates patterns of suspicious activity in this country consistent with preparations for hijackings or other types of attacks, including recent surveillance of federal buildings in New York." Why did the 9/11 Commission fail to call Ms. Rice to account for her deliberately misleading public statements? Why wouldn't the commission address the discrepancies between sworn testimony and uncovered facts? Not holding witnesses accountable for the veracity of their sworn testimony undermines the process.

### 7. "Patterns of Hijacking": The Story of 52 Warnings

We also hoped that the 9/11 Commission would explain the "patterns of hijacking" language found in the PDB. Where did this information come from? Perhaps it originated with the FAA? The explanation was not found in the final report released on July 22, 2004. But, months later when the second monograph was finally made public, we learned that there had been actually 52 warnings issued by the FAA during the six months preceding 9/11. So, when on September 11, 2001, Ari Fleischer, the White House Press Secretary, said there were no warnings, what could he have possibly meant?

And, what exactly did our government do with the 52 warnings it received during the summer of 2001? If nothing was done with regard to said warnings, why was that, and whose job was it to make sure that appropriate defensive action was taken? We learned from anonymous sources that. At the very least, directives could have been issued to the airport screeners to be on the lookout for certain types of suspicious behaviors.

On February 11, 2005, in response to the Commission's release of its FAA Monograph, we sent out another press release. We stated, "Notably missing from this monograph is any information pertaining to NORAD's failure to scramble jets in a timely manner, which leads us to wonder what else is being withheld from the public."

We went on to state, "Of the 105 warnings issued, 52 warnings regarding al Qaeda were given to the FAA by the intelligence community in a six month period from April 2001 to September 2001. According to the 9/11 Commission's final report, there were eight information circulars put out by the FAA between July 2, and September 10, 2001. Five of these information circulars targeted overseas threats, while the remaining three targeted domestic threats."

And finally, we stated, "The 52 threats regarding al Qaeda were not received by the FAA in a vacuum. From March 2001 to September 2001, according to the Joint Inquiry of Congress, our Intelligence Community received at least 41 specific threats of a possible domestic attack by al Qaeda. Additionally, the FAA was also made aware of the August 15, 2001 arrest of Zacarias Moussouai. And finally, the FAA attended a high level meeting on July 5, 2001 where the domestic threat posed by al Qaeda was discussed by all relevant intelligence agencies."

The FAA monograph reveals that in the spring of 2001 the FAA had already determined that if "the intent of the hijacker is not to exchange hostages for prisoners, but to commit suicide in a spectacular explosion, a domestic hijacking would probably be preferable".

It would seem that during the summer of 2001 there were indeed enough warnings and concern that all agencies should have been put on alert. Action should have and could have been taken. Nevertheless, the 9/11 Commissioners never once reflected upon whose job it was to coordinate all these pieces of evidence. They also left unaddressed the fact that with all this information floating throughout the agencies in the summer of 2001, why didn't our National Security

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Counsel convene to discuss the very pertinent, very relevant issue of terrorism until September 4, 2001 — a mere 7 days before 9/11.

### **8. Accountability: The Story of the Lack Thereof**

To date, no one has ever been held accountable for 9/11. Government officials, who failed in their jobs, were promoted and given medals. Terrorists have yet to be indicted or successfully prosecuted. Even the so-called, "masterminds", Ramzi bin al Shibh and Khallid Sheikh Mohammed are yet to be prosecuted and Osama Bin Laden is still on the loose, evading capture.

When we learned that German Prosecutor, Dr. Krauss, was scheduled to testify before the 9/11 Commission in June of 2004, I wrote the following email and sent it off to the Commissioners:

*"I am especially interested in learning what the German Prosecutor, Dr. Krauss, thought about the U.S. Government NOT turning over people such as Ramzi bin al Shibh (or transcripts of his interrogation) - who is reportedly in U.S. custody at a secure location. This lack of cooperation by the US Government made it impossible for the German courts to successfully prosecute Mr. Mzoudi, who was put on trial in Germany for crimes related to 9/11."*

Dr. Krauss never did testify before the Commission. Our questions for him regarding the lack of cooperation between the US Government and the German Government, which led to the release of suspected terrorists Mzoudi and Motassedeq, also went unanswered. The Commission's report only tells us that Mzoudi and Motassedeq "witnessed the execution of Mohammed Atta's will." If these two men were truly involved in the 9/11 plot, why didn't the U.S. government turn over all of the evidence in their possession in order to convict these men? Why would our government refuse to cooperate with the German Government in order to help incarcerate such known terrorists? Why did the 9/11 Commission report fail to address this in a substantive manner? And more pointedly, how will we ever win the war on terror without prosecuting and holding terrorists accountable?

### **9. Air Defense: The Story of NORAD's Belated Response**

In other defense capacities on the morning of 9/11, the Commission's report, discusses the actions of the FAA, NORAD and NEADS. In particular, I make reference to footnote number 116, page 458 which says that:

On 9/11, NORAD was scheduled to conduct a military exercise, Vigilant Guardian, which postulated a bomber attack from the former Soviet Union. We investigated whether military preparations for the large-scale exercise compromised the military's response to the real-world terrorist attack on 9/11. Accordingly the newly sworn in Joint Chief of Staff, General Eberhart, said that "it took [the military] about 30 seconds" to make the adjustment to the real world situation.

But the following words, which show there was confusion, have troubled me since my research began:

NEADS: Is this real-world or exercise?

FAA: No, this is not an exercise, not a test.

On page 20, we note more confusion:

NEADS did not know where to send the alert fighter aircraft, and the officer directing the fighters pressed for more information "I don't know where I'm scrambling these guys to. I need a direction, a destination."

And on page 26:

NORAD heard nothing about the search for American 77. Instead, the NEADS air defenders heard renewed reports about a plane that no longer existed: American 11. At 9:21, NEADS received a report from the FAA:

FAA: Military, Boston Center. I just had a report that American 11 is still in the air, and it's on its way towards - heading towards Washington.

NEADS: Okay. American 11 is still in the air?

FAA: Yes. NEADS: On it's way towards Washington?

FAA: That was another - it was evidently another aircraft that hit the tower. That's the latest report we have.

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NEADS: Okay.

FAA: I'm going to try to confirm an ID for you, but I would assume he's somewhere over, uh, either New Jersey or somewhere further south. NEADS: Okay. So American 11 isn't the hijack at all then, right?

FAA: No, he is a hijack.

NEADS: He - American 11 is a hijack?

FAA: Yes.

NEADS: And he's heading into Washington?

FAA: Yes. This could be a third aircraft.

The mention of a "third aircraft" was not a reference to American 77.

As the Commission report says, "There was confusion at that moment in the FAA".

And, General Eberhart's claim that the military exercises somehow made the military better prepared on 9/11 does not ring true. Instead, it appears that the concurrent military exercises completely confused everyone.

Thus far, we are still waiting for the monograph on the failures of NORAD that the Commission said it would produce.

### **10. Toothless Investigation: The Story of Subpoena Power Not Used**

While the Department of Defense and others were threatened with subpoenas for not being forthcoming with information requested, we were of the mindset that all known evidence pertaining to September 11th, should have been subpoenaed by the Commission from the outset, *with no exceptions*. No stone should have remained unturned (which was also the mandate of the commission). And yet, this was not the case.

For example, with regard to videos that recorded the Pentagon crash, we knew of at least three versions of videos that showed the crash of flight 77. Yet, only one version ever made its way into the public domain. And that version had the date stamp of 9/12/01 instead of 9/11/01. The timestamps repeated on two of the five frames while the other times were missing.

We had read in National Geographic about the second video that was recorded by cameras located at the Sheraton Hotel overlooking the Pentagon. We also read about the third video recording that showed the crash from the nearby Nexcom gas station's security camera.

We asked the Commission, specifically Team 8, to subpoena for these videos, and just before the Commission released its final report we met with them. They told us that they had not subpoenaed for this evidence, but had instead issued document requests, which were not answered.

This seeming lack of persistence on the part of the Commission to collect all known evidence is worrisome. Again, if in fact they were unwilling to go after easily attainable evidence, what other critical and more difficult pieces of the story were they missing? How was one to feel comfortable with their investigation knowing that they were not aggressively pursuing the most tangible of evidence or information?

Also missing from the Commission's definitive report is testimony from National Security Whistleblowers who had tried to testify before the Commission, but were either not asked to testify, or their testimony was only barely acknowledged, or worse yet, completely omitted from the record.

This list includes:

**Robert Wright**, FBI Agent, whom the FBI refused to allow to testify, and the Commission did not insist nor did they subpoena him.

**John M. Cole**, FBI Counterintelligence, who had "pertinent" information with regard to Pakistan, Afghanistan, and the 9/11 Attacks. He notified the 9/11 Commission during its tenure, but never received a response from back from them.

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**Colleen Rowley**, FBI Division Counsel, the Commission did not interview her and chose instead, to rely on transcripts from the Joint Senate/House Intelligence Inquiry.

**Mike German**, FBI Counterintelligence, in February 2004, his name and contact information were provided to the Commission as a key witness, but they never called him to testify.

**Mark Burton**, Senior Analyst at NSA, He provided dozens of pages of information and testimony to the 9/11 Commission but was ignored and was never invited to testify.

**Berooz Shashar**, Language specialist at the FBI. Asked twice to testify but was twice refused by the commission . He finally testified, but his testimony was omitted from the final report.

This list is in no way complete, rather it is just a small sample of legitimate witnesses or corroborators of valuable 9/11 related information to provide to the Commission, but they were instead turned away. Knowing full well that the best source of how an agency really works would entail talking to the people who actually worked there, why is it that the Commission refused these key witnesses an opportunity to tell what they knew? How could the Commission be trusted to make the right decisions without obtaining all the pertinent information?

Worse yet, what happens when the Commission actively and knowingly ignores that information? One whistleblower that we made sure the Commission met with was FBI translator, Sibel Edmonds. It was only when we walked her into the Commission's offices that they agreed to hear what she had to say. Once the report was released, Sibel read it with great hope. Disappointed in the Commission's failure to address her very real concerns she wrote in an open letter:

*“ Unfortunately, I find your report seriously flawed in its failure to address serious intelligence issues that I am aware of, which have been confirmed, and which as a witness to the commission I have made you aware of. Thus, I must assume that other serious issues that I am not aware of were in the same manner omitted from your report. These omissions cast doubt on the validity of your report and therefore on its conclusions and recommendations.”*

A thorough and definitive investigation by the Commission would have addressed all her concerns and spoken to all whistleblowers. It would have subpoenaed for the information it required and examined the plethora of information that other citizens and groups responsibly provided. And finally, without compromising our National Security it would have reported all of its findings with its redactions blacked out and submitted to the American People. In essence, the Commission could have produced a final product where the resulting conclusions and recommendations could be trusted.

Instead at the end of the day what we got were some statements that truly insulted the intelligence of the American people, violated our loved ones memories, and might end up hurting us one day ... soon.

One such statement was that 9/11 was a “Failure of imagination”. A failure of whose imagination? What exactly does that mean? When you have a CIA director with his “hair on fire”, a system “blinking red”, 52 FAA warnings (terror travel monograph), an August 6, 2001 PDB titled “Bin Laden Determined to Strike in the U.S.”, leads on several 9/11 hijackers including, al Hazmi, al Midhar, and Marwan al Shehhi, warnings from many foreign governments, a Phoenix memo warning of Islamic extremists taking flying lessons, the arrest of would be terrorist Zaccharias Moussaoui, facts imparted to one agent - Agent Frasca - at the RFU (Radical Fundamentalist Unit) of the FBI. 9/11 was truly a failure alright – but I would certainly not call it a failure of imagination.

Once again, these warnings and threats were not received in a vacuum nor were they so common an occurrence that they should have been ignored in the wholesale and brazen manner in which they were. To me, it seems rather clear that there were enough warnings making their way to the appropriate people that meant that the proverbial dots should have and could have all been connected. And thus, in light of all the incoming information in 2001, exactly whose failure was it to understand that our new enemy was terrorism and exactly who failed us by not having the agencies do anything in a defensive posture to protect ourselves from this possibility?

## The 9/11 Commission One Year Later

Another outrageous statement made at the time of the release of the 9/11 Final Report that got a fair amount of media coverage, was the one, “Everyone’s to blame therefore no one’s to blame.” The problem with that assumption is that it creates a no fault government. And, a no fault government does nothing to ensure that things will be different or better in the future; they may in fact get worse. When you hold people accountable it serves as a deterrent for those that would repeat that same behavior in the future. For the record, I would like to see that assumption restated to read, “Everyone’s to blame, therefore everyone’s to blame.”

The fact that there has been no accountability for the failures that led to the deaths of almost 3,000 people is truly unconscionable and irresponsible on the part of *all* our nation’s leaders.

So what do we do now? The tools of democracy available to the citizens of America to address these issues are incredibly limited. We asked for an independent commission to investigate 9/11 because that was the only tool that we, as American citizens, had access to and hoped that our leaders, the members of Congress, and the American public would ensure its validity and that its ensuing recommendations would make us all as safe as we could reasonably expect to be in the event of another attack.

We spent fourteen months collecting information and lobbying for the creation of the Commission and another twenty plus months monitoring the commission’s work: forwarding any and all research, making sure to send along our questions for the witnesses who were questioned, attending the hearings, making phone calls and lobbying for the extensions of time and money, sending thousands of emails all in the hope that in the end, all Americans could feel confident that we had indeed, the definitive story of 9/11. Sadly, as Americans, we have all been let down.

On the morning of 9/11, I lost my husband and best friend of almost sixteen years. My two children, Matt and Sarah, lost their beloved father on that terrible day. And from that horrible day of September 11, 2001 forward, it has been made clear, that in not allowing for truth and justice to prevail, America may have forever lost her way.

For those who might question the reasoning and importance for re-examining the Commission’s report, the events that led up to and the day of September 11, 2001, one only has to recall the enormous ramifications that the attacks of September 11, 2001 have had on our country.

Our leaders have, almost overnight, reformed government agencies and instituted innumerable laws in the “interest of National Security and our living in a post-9/11 era”. Some, like the controversial Patriot Act, were forced through Congress without the benefit of Congressional debate to determine its necessity and effectively find the proper balance between National Security and our civil liberties. More lethally, our foreign policy has shifted to one of pre-emption and thus we are at war in both Afghanistan and Iraq, where so many of our good men and woman serving in the armed forces have lost their lives or have come home maimed forever.

It is important to look back because in order for our leaders to make wise decisions about the changes we are instituting we must understand what it was, exactly, that went wrong, that allowed our nation to become so vulnerable to terrorism. And, we should not feel it improper to re-examine the investigations and decisions already made, especially in light of the fact that right after the 9/11 attacks, our leaders went full speed ahead with so many changes – most without the benefit of much of the information that has only recently been made available. Again, with lives on both sides of the equation, we cannot afford to be wrong or caught off-guard either “over there” or here at home like we were on the morning of 9/11. Thus, only an honest re-evaluation of how the 9/11 attacks could have happened will allow us to reverse the adverse consequences of over-reaching laws and the existing loopholes in our security systems, etc. in order to allow us to be safer in the future.

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### THE PERSONAL IS POLITICAL

by Monica Gabrielle

The 9/11 Independent Commission was the result of tireless lobbying efforts by the 9/11 families, without whom the events surrounding 9/11 would have been swept away in an attempt to ignore the failings of our own government and its agencies and to lay the blame solely at the feet of the terrorists. While the terrorists did perpetrate this heinous crime, they could not have done so without the total failures of our local, state, and federal agencies — all of which are supposed to protect the public. These failures warrant close scrutiny, and we would expect our government to want to know how such devastation could have occurred. Instead, it simply accepted the status quo, blamed the terrorists, and charged blindly ahead. This was intolerable to us, the families. We wanted to know what the failures were, as specifically as feasible, in an effort to ensure that no one else ever has to walk in our shoes. We wanted accountability for those failures. We are still waiting.

The 9/11 Commission Report is a well-written story. However, because it was not presented as a “declassified report” (much like the Joint Inquiry of Congress’ report), there is a lot we will never know.

The recommendations presented by the 9/11 Commission, in the context of the report, seem sound and should be passed into legislation. However, this report is far from complete due to time and funding limitations and stonewalling by the White House, the City of New York, and the agencies being investigated. We need further investigation into the events surrounding 9/11, especially in the areas of money laundering (cutting off terrorist funding) and continued debate regarding our foreign policy, not only in the Middle East but around the world.

The 9/11 Intelligence Reform Bill is a step in the right direction, but it is certainly not the end of the line. A lot still needs to be done. For example, Congress is in dire need of reform. Congressional oversight must be exactly that—true oversight. We must make sure that our government reflects the will of the people and keeps us safe and secure. We, as citizens, have become too complacent about the status quo. The public should participate in the many debates sure to arise and force our elected officials to be accountable for their actions or lack of action. 9/11 taught me a grave lesson, and the cost was the loss of my gentle husband. I will no longer tolerate the status quo—there is always room for improvement.

### JULY 22 STAFF STATEMENT, CONGRESSIONAL BRIEFING

by John Judge, Staff Member, Office of Rep. Cynthia McKinney

The Final Report of the National Commission on Terrorist Acts Upon the United States (9/11 Commission) was issued one year ago. It has been hailed as an authoritative report on the events of 9/11, and as a “bipartisan consensus” of all the Commission members. However, an in-depth reading of their assertions, conclusions, questionable assumptions, contradictions of fact and omissions of key areas of inquiry leaves a different impression.

In addition to the report, the Commission has released a total of three “monographs,” reports from their investigative teams. There were nine teams, but the remainder of their work remains unseen. In addition, Commission director Philip Zelikow added a disclaimer to the each of the monographs covering Terrorist Travel and Terrorist Financing, and the White House delayed the release of the third concerning FAA/NORAD timelines, for almost a year for “vetting.” Zelikow’s comments, which refuse to identify these monographs as “official documents” of the Commission, reflect a possible lack of consensus between the Commission members and their investigative staff.

The Final Report is essentially self-referential, since the hundreds of pages of footnotes at the end relate to 2,000 interviews, numerous documents and evidence which is all classified and beyond public scrutiny, including previously non-classified material and forensic evidence. The National Archives retains the material until January 2, 2009, the waning days of the Bush administration. The National Security Archives, an advocacy group, has filed FOIA claims for hundreds of referenced agency documents and has been denied in each case.

The Commission did arrange some public testimony in twelve sessions, however ten of those related to the policy recommendations, not to the events of 9/11. Much of the testimony relating to critical events was not taken in public or under oath.

## The 9/11 Commission One Year Later

The question remains as to who was the actual author of the Final Report. Its intellectual author seems to have been Timothy Naftali, commissioned by director Phillip Zelikow and staff consultant Earnest May to write about the main theme of “intelligence failure” which formed part of his new book, *Blind Spot*. Zelikow and May were co-authors on a book about the Cuban Missile Crisis based on the recently released Kennedy White House tapes during the events. However, the director of the Kennedy Library where the original tapes are stored noted in an Atlantic article that “no student or scholar” could rely on the translations used in the book. Having compared them to the actual recordings, comments noted as “unintelligible” were often some of the strongest statements by President Kennedy against going to a nuclear option.

Zelikow and May worked together at the University of Virginia Miller Center on Public Affairs, where Naftali was in charge of the transcription section on presidential tapes. All three were also connected over time with Yale and Harvard university studies commissioned by the CIA on covert operations and case work. These connections are reflected in a recent article by May in *The New Republic* about how the investigative staff of the Commission was chosen, giving preference to those already part of the national security establishment who would have necessary security clearances in place, many of whom were part of earlier covert operations themselves. This highlights the dilemma - how can you have an investigation of the national security apparatus that does not involve those already inside it?

Their assumptions about history and covert operations set a framework that both accepted the named culprits at face value (despite the fact that some of their identities are still unknown) and a willingness to assign a sponsor without investigative vigor to explore all possibilities. The promised “White Paper” proving the case was never delivered to Americans by then-Secretary of State Colin Powell, but was taken to the British intelligence and government officials to enlist them in the war against Afghanistan. Their public statements, reflected in the British press, were that the evidence was “not enough to go to court, but enough to go to war.”

The only evidence linking the named suspects to Osama bin Laden comes from statements allegedly taken from three suspected “masterminds” of the 9/11 plot (Khalid Sheikh Mohammed, Ramsi Yusef and Ramsi bin al Shibh) who are isolated in protective custody in undisclosed locations. The Commission was not allowed to interview these suspects or their handlers and translators. Thus, their conclusions rely on printed “confessions” whose veracity and the conditions under which they were taken are still open to question.

This report is not a rush to judgment, but a rush to exoneration, holding no individual accountable for the failures that their conclusions claim were the basis for the success of the attack. Calling for accountability is not a “witch hunt” as the Commission inferred. There has been considerable Congressional oversight concerning the Commission’s recommendations, but until this briefing today, there has not been a single oversight hearing on the work of the Commission itself or its conclusions.

Hostility and frustration marked the administration response to the rise of questions and concerns after 9/11 from families and the public. No institutional investigations at either agency or federal level were being held. When the pressure led by the victims’ family members led to the establishment of a Commission in 2003, no family members were chosen to be members. The “bipartisan” appointments did not insure independence.

At one point, when Philip Zelikow’s serious conflicts of interest were made apparent to the family members they called for his resignation. Not only had he co-authored a book with Condoleezza Rice, but he had been part of the Bush transitional team to set up the National Security Council Rice would head, and had been present at the terrorist attack warnings given by both Sandy Berger and Richard Clarke. Both Zelikow and Commission Member Jamie Gorelick were close enough to events that they had to testify to their own Commission. Challenged by the families to drop Zelikow, Chairman Thomas Keane said that they were aware of the conflicts of interest regarding Zelikow and that he had recused himself at different points in the investigation “as all of us will have to recuse ourselves at some point”

Family members and others were also concerned about apparent conflicts of interests that involved most of the Commission members, ranging from ties to commercial airline boards, oil and other investments linked to the bin Laden family, and involvement in previous covert operations or the flawed Congressional investigations that failed to unearth them fully or hold all accountable who were involved.

The Commission was delayed at first, then rushed to complete its work before election season, and it was seriously under-funded. The White House refused members and staff access to key documents, including transcripts of hearings

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of the joint House and Senate Intelligence Committee investigation into 9/11 that two of the members had sat in on. The White House fought against public testimony under oath by administration officials, allowing Condoleeza Rice to do so under condition that no other official could be called.

The Commission in turn was less than transparent itself, exempted in the legislation from both the FOIA and the Family Advisory Committee Act. The public testimony taken was often not from the accountable people at the agencies involved. No sunshine principle was applied to the forensic evidence, allowing a wider range of expertise to view the materials and films confiscated but never released.

By approaching the events of 9/11 primarily as intelligence failure the Final Report obscured the evidence that what was often standard operating procedure in pursuing leads on suspects and threats inexplicably broke down prior to 9/11. The report mentions an FBI headquarters official telling the field supervisor in Minnesota who was pursuing suspected terrorist Moussaoui that he was trying to get everyone “all stirred up,” and in response the supervisor agreed saying they feared the suspect would “try to run a plane into the Twin Towers”. Similarly, the FBI memos on Moussaoui sent to the CIA were forwarded to offices in Paris and London seeking information on “a possible suicide hijacker.” All of this prior to 9/11.

Standard operating procedure also broke down in normal responses to air emergencies by NORAD and FAA that began as early as 8:14 but were not responded to until almost 10:00 am, when it was too late. The sharing of intelligence between agencies that had been routine broke down in relation to these suspects. And numerous, specific and imminent warnings and forewarnings failed to activate the responses necessary to prevent or intercept the plot, despite the fact that they led to security preparations for the specific type of attack and targets involved, and dozens of specific warnings within the FAA as well as exercises by NORAD and the Pentagon. These details were known since the discovery in the Philippines in 1996 of the “Bojinka Plot” in Ramsi Yusef’s computer which outlined both the method and the targets.

Finally, the Commission fails to address or acknowledge the historical context that can begin to explain the reasons behind the rise of Al Qaeda and the attacks on 9/11, as well as its ultimate sponsorship and facilitation. The huge covert operations in Afghanistan and Nicaragua, the scandals of Contragate and the hidden financing similar to both efforts, could have been very revealing if the Commission had not dismissed it as a “premise”, as Lee Hamilton put it. It is also revealing that many of the principles in these two covert operations are still in positions of power in the current administration.

Until these and other matters are fully explored, the Commission has not fulfilled its mandate of a full examination of what led to 9/11, and it does not rise to what a democracy requires to make informed decisions about its own security.

PRESENTATION BY DR. JOHN M. NEWMAN TO THE CONGRESSIONAL BRIEFING ON 911,  
JULY 22, 2005  
by John Newman, former NSA, author of JFK and Vietnam

It falls to me this morning to bring to your attention the story of Saeed Sheikh, whose full name is Ahmed Omar Saeed Sheikh.

This 28 year old British national of Pakistani extraction left his prestigious London School of Economics in 1993 to hook up with Pakistani terrorists in Bosnia. After that, he took up Jihad and trained in the terror camps in Afghanistan.<sup>i</sup>

In 1994, he tried to spring a terrorist leader from a jail in India<sup>ii</sup> by luring an American and three Britons to locations where they were kidnapped, but the plot failed, and he ended up in jail instead. The hostages were rescued.<sup>iii</sup> Pakistan's Intelligence Service—the ISI—paid for his lawyer,<sup>iv</sup> but he was never tried during his five years of incarceration.

In 1995, five hostages—including an American, Donald Hutchings—were killed in an attempt to spring Saeed Sheikh from jail.<sup>v</sup> An Indian citizen was murdered in 1999, when al Qaeda and the ISI succeeded in freeing Saeed Sheikh by hijacking Indian Airlines Flight 814.



## The 9/11 Commission One Year Later

Bin Laden immediately appointed Saeed Sheikh as a member of the Majlis al-shura, the elite political council of al Qaeda, and referred to Sheikh as “my special son.”<sup>vi</sup> No attempt was made to arrest him when he returned to Pakistan, where the ISI gave him a home and protection from the police. He lived openly and frequented swanky parties attended by senior government officials. US Government sources told *Newsweek* he was a “protected asset” of the ISI.<sup>vii</sup>

During his imprisonment, there was no indictment and no trial in India, and there were no indictments in Britain or the US. Despite his kidnapping of British citizens, he was allowed to immediately travel to London. On January 2, 2000, a British Foreign Office spokesman would only say that this was so because he was a British citizen and had not been “convicted of any offenses overseas.”<sup>viii</sup>

There was no conviction because there had been no trial, and Britain could have indicted and tried Saeed Sheikh if they had wanted to. The fact is they did not want to. They waited until after the September 2002 conviction for the murder of Daniel Pearl, whom Sheikh also lured to his death—to ask India for information on him in relation to the 1994 kidnapping.<sup>ix</sup> The British press called this long delay a “mystery,”<sup>x</sup> but the outraged families of Sheikh's victims condemned it and called their government's decision a “disgrace and a signal to others to do the same.”<sup>xi</sup>

The Americans did not act either, even though he had kidnapped an American citizen in 1994 and another American had died in the attempt to break him out in 1995. These events led to no indictment in 1994, no indictment in 1995, and there was no indictment after the hijacking of Flight 814 in 1999. The US would wait until after the 911 attacks to take action, sealing an indictment of Saeed Sheikh for the 1994 kidnapping in November 2001.<sup>xii</sup>

The question is why? Did the United States not indict Saeed Sheikh because he was a British informant? While the CIA itself failed to penetrate al Qaeda's leadership, the Agency revealed that “numerous sources were being handled by foreign intelligence services.”<sup>xiii</sup> Did the agency receive information provided by Saeed Sheikh from British or Pakistani intelligence? This would help explain why Saeed Sheikh was not indicted and escaped justice for his crimes and traveled freely to England.

If this is correct, if Saeed Sheikh were arrested, the West's best penetration of the al Qaeda leadership would have been lost. Al Qaeda had learned in the early 1990s from the Ali Mohammed case that gaining informant status with a Western intelligence organization provided benefits that far outweighed the risks.

If the foregoing analysis has any merit, Western intelligence agencies were receiving reports from a senior al Qaeda source. Once again, however, al Qaeda had used western intelligence to accomplish its mission. Saeed Sheikh was probably a triple agent.

According to Pakistani Police reports, for two years after his release, Saeed Sheikh traveled regularly to training camps in Afghanistan where he trained recruits for al Qaeda.<sup>xiv</sup> According to British Police reports, he “trained the [911] terrorists in hijacking techniques.”<sup>xv</sup> Saeed Sheikh al Qaeda into the more capable and operationally secure organization. He reported directly to Abu Zubaydah, al Qaeda's chief of external operations.<sup>xvi</sup>

Saeed Sheikh—the man about whom the Commission report utters not one word—overhauled al Qaeda's logistics, communications and financial networks, and was given responsibilities in international liaison, such as relations with the Hezbollah and the Sudanese National Islamic Front.<sup>xvii</sup> To facilitate financial and communications needs, he designed a new secure, encrypted web-based communications system for al Qaeda.<sup>xviii</sup> There was talk he would one day succeed Bin Laden.<sup>xix</sup>

Over and above all these responsibilities, Saeed Sheikh had another extremely sensitive job for al Qaeda. He served as the group's principal liaison with the ISI, working with various and current former officers of Pakistani intelligence, including Lieutenant General Mohammed Aziz Khan, who, after Musharraf himself, was the most powerful army commander in Pakistan. Saeed Sheikh played a vital role in the 911 plot by financing the hijackers. For his trouble, he received the same personal budget as the two other key coordinators. According to the 911 Commission, “KSM, Binalshibh, and plot facilitator Mustafa al Hawsawi (who was our Saeed Sheikh), each received money—perhaps \$10,000—to cover their living expenses while they fulfilled their roles in the plot.”<sup>xx</sup> Of course, the commission report never says who al Hawsawi was.

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As the 911 attacks neared, the ISI chief, General Ahmed, became more deeply mired in the plot—apparently to secure a new source of funds for the airline tickets needed for the reconnaissance flights and the flights on the date of the attack. In early August, Saeed's former prison mates kidnapped a wealthy shoe tycoon in India and held him for fifteen days.<sup>xxi</sup> The chief gangster, a Mr. Ansari, ran the kidnapping operation right from Dubai, UAE, where Saeed Sheikh was carrying out his 911 paymaster duties.<sup>xxiii</sup> The kidnappers freed their hostage for a reported ransom of \$830,000,<sup>xxiii</sup> and gave \$100,000 to Saeed Sheikh. In an email discovered afterwards, Ansari said “I’ve paid \$100,000 to Sheikh.”<sup>xxiv</sup> On the orders of the ISI chief, General Ahmed, Saeed Sheikh then wired this money to the hijacker leader, Mohamed Atta.<sup>xxv</sup> Flush with cash, Atta, Hazmi, and Hanjour each flew first class on the type of aircraft they would use on 911.<sup>xxvi</sup>

### The 911 Commission Report

In the appendix of names at the back of the 911 Commission report, there is a Sheikh Saeed Al Masri listed as an Egyptian and finance chief of al Qaeda. Al Masri is simply a common code name used by many al Qaeda operatives, and, of course, Sheikh Saeed is the transposition of the name Saeed Sheikh, about whom the report says nothing.

In chapter two, which describes the al Qaeda leadership in detail from 1988 to 1998, there is no mention of this Sheikh Saeed Al Masri, the alleged Egyptian finance chief of al Qaeda. Chapters five and six pick up the history of al Qaeda again, as plans were honed for a major attack on the US mainland but, despite the many, many names mentioned or discussed, nowhere was this reputed finance chief, Sheikh Saeed mentioned.

Besides the entry in the Index of Names, identifying him as Egyptian, this Sheikh Saeed is mentioned only one time in the Commission’s Report. He pops out of nowhere just six weeks before the 911 attacks, is identified only as al Qaeda's finance chief, and is said to have been in the handful of senior al Qaeda leaders who opposed the attack. He is never mentioned again—probably because he is a ghost of our Saeed Sheikh.

The 911 Commission, which studied the US intelligence and law enforcement community performance in great detail, neglected to cover the community's performance during the weeks following the attacks in determining who was responsible for them. The report does discuss the immediate US responses, but the immediate investigation by the US is never addressed.

Anyone who has closely studied the post-911 investigation knows that the first breakthrough came two weeks into the investigation when the money transfers from the United Arab Emirates (UAE) to the hijackers were uncovered. Furthermore, if you have studied the investigation, you know there is no disputing that, while US investigators may struggled with the identity of the 911 paymaster, they were clear about one thing: he was al Qaeda's finance chief. For this reason alone, you have to ask why the 911 Commission report never mentions the finance chief's role as the 911 paymaster. The 911 Commission staff was not brain dead; they likely left this out because of the sensitivity of Saeed Sheikh's story.

The investigators learned that most of the late money transfers in the 911 operation were linked to an alias that Saeed Sheikh had used—Mustapha Ahmed al Hawsawi, but US investigators did not yet know this was his alias. So the game to find out who al Hawsawi was afoot, and the first person they suspected was announced on September 24—Mustapha Ahmed. On September 28, a US “government official” told *Newsweek* that the US was seeking an “Egyptian-born terrorist” named “Mustafa Mahmoud Said Ahmed,” whose past had included money transfers to Bin Laden. Three days later, they dropped him from their investigation.

We found out why on October first, when US investigators announced that they had found the “smoking gun” linking Bin Laden to the 911 attacks. The FBI told various media outlets the 911 paymaster was “Sheikh Saeed, an Egyptian, also known as Mustafa Mohamed Ahmad,”<sup>xxvii</sup> and that he was also known as “Sheikh Saeed.”<sup>xxviii</sup> The FBI said it was he who had transferred the money to Mohamed Atta on the days leading up to the attack, and that he was a senior financial manager for Bin Laden and had been in that capacity since working on finances for Bin Laden in the Sudan years earlier.<sup>xxix</sup> That is what the US needed to make an iron clad case proving Bin Laden's guilt. Very pleased with themselves, they announced that they had found the “smoking gun” linking bin Laden to the attacks.<sup>xxx</sup> They had indeed—although they could not have anticipated the bombshell they would uncover one week later.

Then, Mustafa Mohammed Ahmed, like Mustafa Mahmoud Said Ahmed before him was dropped as the Dubai paymaster, and the 911 Commission did not include either of those two Egyptians among the extensive list of those

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connected to the 911 plot.<sup>xxxvi</sup> At the end of the first week of October, an FBI team investigating the 911 attacks made a startling breakthrough.

The first details emerged on *CNN's* coverage. The investigation now identified Mustafa Ahmed al Hawsawi as our Saeed Sheikh, the man “released from prison in India less than two years ago after hijackers of an Indian Airlines flight demanded his freedom.” The sources for this *CNN* story were said to be “senior level US Government sources” and “US investigators.”<sup>xxxvii</sup> Two days later, on October 8, *CNN* followed up the story reporting,

Indian and US authorities now see a link between [the 1999 IA Flight 814] hijacking and the September 11 attacks on the United States. Freed... was Ahmed Umar Syed Sheikh, whom authorities used a pseudonym to wire \$100,000 to suspected hijacker Mohamed Atta, who then distributed the money in the United States.<sup>xxxviii</sup>

There was more. An “FBI team”—working with cell phone numbers provided by Indian intelligence—uncovered a new smoking gun.<sup>xxxix</sup> They learned that the chief of the ISI, Mahmood Ahmed, had ordered Saeed Sheikh to send the \$100,000 of the kidnapping ransom to Mohammed Atta a month before the 911 attack.<sup>xl</sup> This ugly detail emerged when the FBI team ran traces on Saeed Sheikh's cell phone number. Beginning in July; the ISI chief's number was among those with whom Saeed Sheikh communicated with.<sup>xli</sup>

On October 7, President Musharraf sacked Ahmed for this notorious act. This story broke that same day in the Pakistani Newspaper *Dawn*,<sup>xlii</sup> and more details appeared in the *Press Trust of India*.<sup>xliiii</sup> Two days later, October 9, the *Times of India* carried the story and added one more piece: Musharraf had fired his ISI chef because US authorities sought his removal after they confirmed his role in the money transfer to Atta.<sup>xliiii</sup>

This bombshell could not have come at a worse time. Washington and London were preparing to invade Afghanistan while securing Pakistan as an ally. It's hard to imagine a revelation more damaging than the fact that Pakistan's intelligence service and most powerful Army commanders were behind the 911 attack and the paymaster—a known terrorist who had been able to carry out his mission because the US and UK had set aside justice for his crimes.

More than the ISI chief that had been involved in Pakistan. The investigation also established another of the 911 paymaster's bosses was Lieutenant General Mohammed Aziz Khan, the most senior corps commander in Pakistan and the clandestine Chief of Staff of the Army of Islam,<sup>xli</sup> and one of the most powerful men in Pakistan after General Musharraf. Aziz Khan commanded the corps at Lahore, where Saeed Sheikh lived and operated in Pakistan. Saeed Sheikh later confessed he had been in regular contact with the general.<sup>xli</sup> It was now clear that the Islamic generals who had installed Musharraf in the 1999 coup were behind Saeed Sheikh. Musharraf fired them all the same day, October 7, the day after Saeed Sheikh's links to them were discovered.

That a sovereign government—and supposed ally—was so directly involved in the 911 atrocity must have stunned and deeply embarrassed the American Administration. It was as politically damaging for Prime Minister Tony Blair as Pakistan's role was for President Pervez Musharraf. The stakes in Pakistan were very high. US General Anthony Zinni explained why to *CBS' 60 Minutes* saying, “Musharraf may be America's last hope in Pakistan, and if he fails, the fundamentalists would get hold of the Islamic bomb.”<sup>xliii</sup> Musharraf was also vital to the war effort, and was the key to neutralizing the Islamists and rounding up al Qaeda operatives in Pakistan.

The story of Saeed Sheikh and the generals are only lightly covered in Western media and only one American newspaper, the *Wall Street Journal*, carried it on October 10.<sup>xliii</sup> One wonders if this didn't put the *Wall Street Journal* on the radar screen of Al Qaeda and the ISI. Not a single other American outlet carried the story at this time, and the role of Saeed Sheikh and the generals in the 911 attack disappeared in the American and British media. Prominent outlets—including the *New York Times* (10/15) and the *Los Angeles Times* (10/20), the *BBC*, and the *Sunday Times*—still carried the story that the paymaster was an Egyptian.<sup>xliii</sup>

Asian media, however, bored in on the story of Saeed Sheikh and the generals, and prodded the West, asking why there was so little pressure on Pakistan to hand Saeed Sheikh over.<sup>xliii</sup> There would be no pressure to do so until after the Pearl was murder four months later. Pearl had discovered that senior Pakistani scientists were helping Bin Laden acquire nuclear know-how. For his part, Saeed Sheikh didn't seem worried. Sometime in October he moved back to his home in Lahore, Pakistan, and again partied with government leaders.

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The American media, wholly dependent on US Government sources, seemed not to notice. In the middle of November, the US Government suddenly dropped his Egyptian identity and claimed he was a Saudi businessman. On November 11, “Federal officials” told Newsweek that a Saudi businessman—whom they only called Ahmed—was the 911 paymaster Mustafa Ahmed al Hawsawi—and also bin Laden’s “chief financial officer.”<sup>xlvi</sup> What was the basis for the Saudi businessman story? Not surprisingly it came from Britain. It was also suspect. On November 11, Newsweek reported the details second hand from a “top FBI official” who told Newsweek that the bureau now carried the 911 paymaster and the Al Qaeda finance as another Ahmed—based on two references to an obscure “Ahmed” in a Dublin charity linked to al Qaeda discovered shortly after the attacks.

This dubious fourth version underpinned the separation of Saeed Sheikh from the astonishing story of his rise to power in al Qaeda and his shadowy but crucial role in the 911 plot. A noticeable facet of this fourth version of the paymaster story is that the 911 paymaster and the al Qaeda CFO were still the same person.

The 911 Commission report, which carries Mustafa al Hawsawi as the paymaster and Sheikh Saeed as the al Qaeda CFO,<sup>xlvii</sup> dodged the issue and does not say if the two are the same or not. Thus technically, even if the commission staff knew the truth, they have not told a bald lie. By not addressing the issue, however, the Commission leaves the impression that both men are real, which helps to perpetuate the suppression of Saeed Sheikh's story.

While they decoupled Saeed Sheikh from 911 and al Qaeda, US authorities had no intention of letting him get off scott free. In November—at the very moment he went from prominence to obscurity—the US, finally but secretly, indicted Saeed Sheikh for the 1994 kidnapping of an American in India. The indictment would only be revealed in late February, 2002. Then, “an administration official speaking on terms of anonymity” told *Agence France Press*, “the Justice Department had pressed the National Security Council” to have Saeed Sheikh extradited to the US.<sup>xlviii</sup>

One might be justified in asking the question: why would the National Security Council have to be pressed to extradite a murderer of US citizens? By late February, the issue was moot. For his role in Daniel Pearl’s murder ensured Saeed Sheikh would never be free; Musharraf swore he would personally hang him before turning him over to the Americans. Musharraf had no trouble turning over KSM and Ramzi Binalshibh—but they had not been western penetrators of al Qaeda.

### Postscript

We have learned through Congresswoman McKinney's Office that there was a classified briefing about Saeed Sheikh. While that is comforting, the fact that the rest of the world knows about his role in 911 while the American public and most of Congress remains ignorant is disquieting. We can no longer say we are protecting sources and methods about a story known to the rest of the planet. We are now mocked for our ignorance about this story—and even members of Britain's Parliament poke fun at us.

It is long past time to come clean about Saeed Sheikh.

### Notes

<sup>i</sup> Bernard Henry-Levy, *Who Killed Daniel Pearl?* (Hoboken, NJ: Melville House Publishing, 2003), pp. 349-350.

<sup>ii</sup> Yousri Fouda and Nick Fielding, *Masterminds of Terror* (New York: Arcade Publishing, 2003), p. 58.

<sup>iii</sup> Yousri Fouda and Nick Fielding, *Masterminds of Terror* (New York: Arcade Publishing, 2003), p. 60.

<sup>iv</sup> [*Los Angeles Times*, 2/9/02, *Daily Mail*, 7/16/02, *Vanity Fair*, 8/02.]

<sup>v</sup> Murray Weiss, *The Man Who Warned America* (New York: Regan Books, 2004), pp. 108-112.

<sup>vi</sup> Robert Sam Anson, “The Journalist and the Terrorist,” *Vanity Fair*, August 2002.

<sup>vii</sup> Daniel Klaidman, “Federal Grand Jury Set to Indict Sheikh,” *Newsweek*, March 13, 2002.

<sup>viii</sup> “UK Move to Allow Entry to Ultra Alarms Abducted Britons,” *Press Trust of India*, 1/3/00.

<sup>ix</sup> Praveen Swami, “A Sheikh and the Money Trail,” *Frontline* (India), October 6, 2001-October 13, 2001 issue.

<sup>x</sup> Praveen Swami, “A Sheikh and the Money Trail,” *Frontline* (India), October 6, 2001-October 13, 2001 issue.

<sup>xi</sup> “UK Move to Allow Entry to Ultra Alarms Abducted Britons,” *Press Trust of India*, 1/3/00.

<sup>xii</sup> Daniel Klaidman, “Federal Grand Jury Set to Indict Sheikh,” *Newsweek*, March 13, 2002.

<sup>xiii</sup> Joint Inquiry, Final Report, pp. 91-93.

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- <sup>xv</sup> David Bamber, Chris Hastings, and Rajeev Syal, "London House Linked to US Plot," *Telegraph*, September 30, 2001.
- <sup>xvi</sup> Yousri Fouda and Nick Fielding, op. cit., p. 58, and p. 64.
- <sup>xvii</sup> Bernard Henry-Levy, *Who Killed Daniel Pearl?* (Hoboken, NJ: Melville House Publishing, 2003), pp. 351-352.
- <sup>xviii</sup> Praveen Swami, "A Sheikh and the Money Trail," *Frontline* (India), Vol. 18, Issue 21, October 13, 2001.
- <sup>xix</sup> "Public Schoolboy who Turned to Terror," *Telegraph*, 7/16/02; and Robert Sam Anson, "The Journalist and the Terrorist," *Vanity Fair*, August 2002.
- <sup>xx</sup> 911 Commission, Staff Report 16, p. 11.
- <sup>xxi</sup> By Paul Watson, "Deadly Shooting in Calcutta May be Linked to Al Qaeda," *Los Angeles Times*, January 23, 2002.
- <sup>xxii</sup> They probably learned this when a Dubai-based man identified as Farhan, a known alias of Aftab Malik, called to claim responsibility for the 6:30 a.m. attack on the US Information building in Calcutta months earlier.
- <sup>xxiii</sup> By Paul Watson, "Deadly Shooting in Calcutta May be Linked to Al Qaeda," *Los Angeles Times*, January 23, 2002.
- <sup>xxiv</sup> Summit Mitra and Sayantan Chakravarty with Labonita Ghosh, "Kolkata Kidnapping: Jehad's Dirty Money," *India Today*, January 8, 2002.
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- <sup>xxii</sup> By Paul Watson, "Deadly Shooting in Calcutta May be Linked to Al Qaeda," *Los Angeles Times*, January 23, 2002.
- <sup>xxvi</sup> *911 Commission Final Report*, p. 248.
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- <sup>xxix</sup> "Bin Laden's 'Cash Link' to Hijackers," *BBC*, October 1, 2001.
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- <sup>xxxvi</sup> Bernard Henry-Levy, *Who Killed Daniel Pearl?* (Hoboken, NJ: Melville House Publishing, 2003), p. 254.
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- <sup>xlviii</sup> Pete Yost, "Secret Indictment by US of Alleged Mastermind in the Pearl Kidnapping Took Place Last Year, Newsweek Says," *Associated Press*, February 24, 2002.

THE ISI AND 9/11

TRANSCRIPT OF TAPED INTERVIEW FOR JULY 22<sup>nd</sup> CONGRESSIONAL BRIEFING

Dr. William Pepper

[Note: This taped interview as intended to be shown during the briefing, but was not shown due to lack of time. Kyle Hence of 9/11 Citizens' Watch taped the interview with Dr. Pepper.]

The ISI [Inter-Services Intelligence] is the counterpart of the Central Intelligence agency in Pakistan. It is their security and intelligence agency. And ISI over the years has worked very closely with the CIA, and I have to say with

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MI6, with the British secret intelligence forces as well. But in more recent times, particularly with respect to the conflict in Afghanistan and the attempt to remove the Soviets from Afghanistan, the CIA has played the most prominent role in terms of controlling and working with and coordinating activities of the ISI. ISI in many ways has been their feet and their arms on the ground in Pakistan and Afghanistan. I think it is very important to look on ISI as, though a Pakistani entity, an intelligence and security force, nevertheless very much under the control—during the critical period of the Afghan conflict—of the Central Intelligence Agency.

One cannot fully understand the overthrow of Soviet rule in Afghanistan and the removal of the Soviet forces, unless one understands the relationship of the CIA, ISI and the Taliban—the Taliban and the revolutionary activities that took place in Afghanistan, which were financed by the Central Intelligence Agency with its various associate entities, through ISI. ISI was the on-the-ground coordinator and financier of a lot of the operations.

General Mahmud Ahmed was one of the most powerful military figures in Pakistan. And when Musharraf made his move [in 1999] to seize power from Prime Minister Sharif's government, Mahmud Ahmed's support and movement on his behalf was critical at that point in time. Now when then Musharraf came in, and become formally and effectively, no longer just the chief of staff but effectively the ruler of the country, he took his trusted friend, Mahmud Ahmed, and he made him the head of ISI. He [Ahmed] was of course the head of ISI, Pakistani Intelligence, at the time of 9/11. He was also present in the United States during that period of time, arriving here a week prior to 9/11, actually on September 4<sup>th</sup>. His visit to the United States followed a visit to Islamabad by CIA Director George Tenet, as I recall. He then reciprocated that visit and arrived here around the 4<sup>th</sup> of September. During the course of his visit from the 4<sup>th</sup> through the period of 9/11 (I think he actually left somewhere around the 13<sup>th</sup> or 14<sup>th</sup> of September), he met with a number of high-ranking American officials, as would be expected, prior to 9/11 and indeed after 9/11. So he was in the United States and had a number of fairly clandestine and some public meetings during that period.

I think it is general knowledge in intelligence and military and even high-ranking civilian diplomatic circles in Pakistan that General Mahmud Ahmed instructed the transfer of funds to Mohamed Atta, who was allegedly one of the leaders if not the ringleader of the 9/11 hijackers. His instructions were given to Omar Sheikh Saeed. Sheikh Saeed is a long-term, undercover, covert operative of ISI, Pakistani Intelligence. He also probably, because of some of the security clearances required for some of the work that he did with respect to the operations of Taliban and Osama bin Laden in Afghanistan, he probably also has a CIA connection as well. You don't have one, as a rule, without the other under those circumstances. So he has been a trusted, high-level, covert operator.

He clearly was instructed by Mahmud Ahmed to transfer a sum of money, probably at least \$100,000 and many people believe a lot more than a \$100,000. Now the transfers were affected to two Florida bank accounts, from what we understand, that Atta had, and they emanated from Dubai, in the Emirates. Dubai is a favorite washing ground for money for these kinds of purposes from Pakistani Intelligence. The *Times of India* reported these transfers very specifically in October, October 9<sup>th</sup>, [2001]. *Agence France-Presse* also picked up on this story around that time, and the *Wall Street Journal*, of course, followed on reporting at around that time. And it's very interesting that Lieutenant General Mahmud Ahmed resigned his position on October 8<sup>th</sup>, *apparently* under pressure from the United States, as a result of the revelations. And the resignation, I think, must have been made reluctantly, and President Musharraf, I imagine, pressed him to resign. He then remained, from what I understand, pretty much out of contact, almost under house arrest for quite a period of time.

You have a situation where the head of Pakistani Intelligence, Mahmud Ahmed—the man who instructed the transfer of critical working capital funds (*apparently*) to the operatives of the 9/11 hijacking operation—was here in the United States between September 4<sup>th</sup> and onward through September 11<sup>th</sup>, involved in a series of meetings with military and intelligence officials as well as members of the Senate and the Congress at the time. Present in the United States during this time was the man who instructed the transfer of these vital funds. One would think that there should be some measure of interest or concern on the part of an investigation and investigating committee for that reality, and at least raise the presence, not to mention the fact that he was involved in the transfer of the funds.

Subsequently, of course, when he resigns on October 8<sup>th</sup>, a day before his involvement becomes public, there is nothing but silence to greet that event. The omission of these events and this activity from the Commission report, or the suppression of it in its investigative files, and the refusal to put it forward and to follow it wherever it may lead, in terms of responsibility, may in fact be treasonous.

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There seems to be a general feeling, and even more specific, I believe on behalf of Daniel Pearl's wife, that in fact this is where he was going, that the shoe-bomber Reid investigation was not really what was interesting him, but it was in fact this transfer of money from the ISI to Mohamed Atta. The treachery that befell Daniel Pearl, in my view, is much more likely related to those transfer of funds. I am reminded of one particular comment by President Musharraf, when he was asked about the Pearl kidnapping and death, and at one point he was heard to say 'well he was sticking his nose into things that he had no business looking into.'

INFORMATION AVAILABLE TO THE WHITE HOUSE PRE-9/11  
TEXT OF VISUAL PRESENTATION, JULY 22, 2005, WASHINGTON, DC  
by Marilyn Rosenthal, Ph.D.

### **The White House had Access to**

- 15 USA Government Intelligence Agencies
- Information from Foreign Intelligence Agencies
- Relevant Government Reports since 1995
- Public Declarations from Osama Bin Laden
- Transition Briefings from Clinton Administration Officials
- Information from America's Foremost Terrorism Experts: George Tenet and Richard Clarke
- Information from the FAA
- Unusual Activity in Financial Markets
- Thousands of Threat Warnings in the Summer of 2001

### **The Intelligence Community**

- CIA
- Defense Department
- Defense Intelligence Agency
- NSA
- National Geospatial Agency
- National Reconnaissance Office
- Intelligence units within each branch of military
- Justice Department
- FBI

### **National Security Agency**

During Summer, 2001, NSA reported at least 33 communications they had intercepted and translated, indicating a possible imminent terrorist attack in 2001.

Did these include....?

- Email message (coded) from Atta to Ramzi Aug 20, 2001 indicating approximate time of attack ( three weeks) and the four targets
- Telephone message (coded) from Atta to Ramzi August 29, 2001 indicating the date of the attack (from Masterminds of Terror, pps 138-40)

### **Foreign Sources of Intelligence: Imminent attacks**

- Late Summer, 2001
- Afghanistan ( secret Taliban emissary )
- Britain
- Egypt
- Israel
- Jordan

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### Additional Intelligence Information during 1990-2001

- Britain
- France
- Germany
- Italy
- Malaysia
- Philippines (Bojinka Plot)
- United Arab Emirates
- Yemen

### Eight Government Reports

- National Intelligence Council: “”Terror 2000: The Future Face of Terrorism”
- CIA Annual National Intelligence Estimates
- MID-1995 FBI Document “Ramzi Ahmed Yousef: A New Generation of Sunni Islamic Terrorists”
- CIA Establishes Bin Laden Issue Station; August 14, first report: “Usama Bin Ladin: Islamic Extremist Financier”
- CIA Central Intelligence Agency Report
- White House Commission on Aviation Security: Gore Report
- Interagency Report Commissioned by National Intelligence Council
- (Jan. 30.) US Commission on National Security /21st Century Hart-Rudman Report on Counterterrorism

### Osama Bin Ladin / Al Qaeda

- Between December 1993-April, 2001 OBL gave 26 televised interviews or made public statements that contained threat warnings
- Between December 1992-September 9, 2001 Al-Qaeda carried out 9 bombing, assassinations and attempted assassinations

### Director of Central Intelligence Tenet

From DCI Tenet’s testimony before 9/11 Committee.

- “From 1995 to 9/11, we produced 46 papers I would call significant strategic intelligence analyses on Bin Ladin, al Qaeda, and Islamic extremism”
- “During 2000-1 we pushed our analytic products, both strategic and tactical, into broader circulation”
- The leadership of the CIA repeatedly warned the policy community in the executive branch and Congress of the seriousness of the threat [testimony provides specific examples]

### Related Statements

- Tenet testified to 2 commissions that there were more threat warnings in summer 2001 than the CIA ever got in its whole history



## The 9/11 Commission One Year Later

- August 6 Presidential Daily Briefing entitled “Bin Ladin Determined to Strike in US”
- At 8:50am on 9/11, Tenet is at breakfast with former Senator Boran. An aide informs him WTC has been “attacked.” Tenet says, “This has the fingerprints of Bin Ladin all over it.”
- 

### **Director of Counterterrorism, Clinton and Bush Administration, Richard Clarke**

- “The Clinton Administration put a very high emphasis on terrorism and OBL. In the first 8 months of the Bush administration, terrorism was important but not urgent. George Tenet and I tried to make it urgent but they didn’t respond.”
- “In the Clinton Administration, terrorism policy development was done with the President. In the Bush administration, I was told to report to a deputy of the NSA.”
- Jan 25, 2000 Memo to Rice (released 2/05); Contained explicit warnings.
- “In the summer of 2001 the threat level exceeded anything George Tenet and I had ever seen.”
- “On September 4, 2001, the Principals Committee meeting on Al Qaeda that I had called for urgently on January 25, 2001, finally met”

From “60 Minutes” on March 21, 2004

- “Frankly, I find it outrageous that the President is running for re-election on the grounds that he is doing such great things about terrorism. He ignored it for months when maybe we could have done something to stop 9/11. Maybe. We’ll never know.”

### **Information from FAA**

- Security breaches at airports known for decades.
- Between April -September, 10 FAA received 52 separate intelligence reports specifically mentioning Al Qaeda threats to domestic airplanes.
- In months leading to 9/11 FAA distributed 15 security fliers that include mention of OBL, hijacking and attacks in America
- Summer 2001 Internal FAA Memo
- Document: “...If, however, the intent of the hijackers is ....to commit suicide in a spectacular explosion, then domestic hijacking would probably be preferable.”
- Schiavo (9/11 Commission testimony) During several months before 9/11, there were 30 cockpit intrusions on American airplanes

### **Pre-9/11 Market Activities**

In early September:

*Unusual Spikes* in Put orders in options market on American and United Airline ; *unusual* Short Sells on reinsurance companies; *unusual* purchases of treasury notes; *unusual* surge in currency flows (July-Aug ’01)

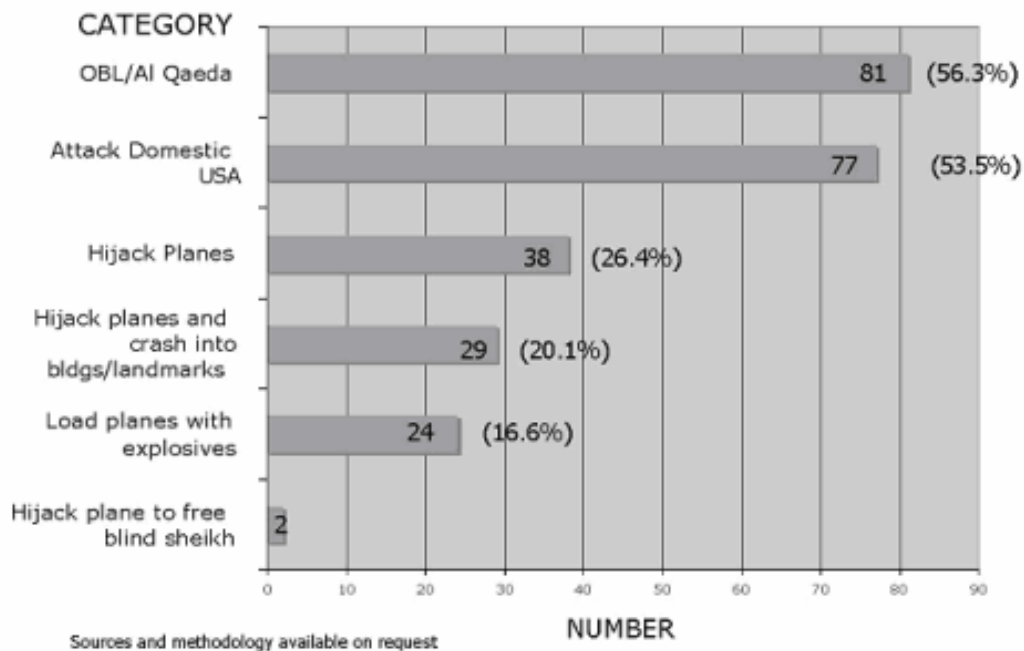
What the 9/11 Commission report states:

## Congressional Briefing, July 22, 2005

- “ Exhaustive investigations by the SEC, FBI, and other agencies have uncovered no evidence that anyone with advance knowledge of the attacks profited through security transactions.”
- 9.5 million transactions reviewed; Explanation examples: investment strategy one pension fund ; two hedge funds; one wealthy investor.

### Categories and Overall Distribution: 144 Unique Treat Warnings (1999-2001) (categories overlap)

## Categories and Overall Distribution 144 Unique Treat Warnings (1999-2001) (categories overlap)



These sworn statements speak for themselves. The Bush principals were clearly briefed by their Clinton counterparts about the need to give absolutely highest priority to Al Qaeda and Osama Bin Laden.

### 9/11 Commission Testimony from Key Experts

- Albright

“During our time in office, the transnational threat ( of terrorism) was a dominant theme in public statements, private deliberations and foreign relations. (names 9 specific items)

- Cohen

“In my experience the threat of international terrorism remained a top priority for all members of the Clinton team throughout the years I served at the Pentagon.”

## The 9/11 Commission One Year Later

### National Security Advisor Condoleezza Rice Statements from 9/11 Commission Testimony

“We were just given a list of options from the Clinton Administration.”

“The threats were not specific in time, place, manner of attack; they were not actionable.”

“Bush was moving to larger issues, not just al Qaeda.”

“Too much focus on Bin Ladin was misplaced, there should be a broader approach.”

“I couldn’t imagine planes as weapons; we were never briefed on this; I never saw such documents.”

“I don’t remember if I discussed this (August 6th Presidential Daily Briefing) with the President.”

“We had a structural problem; we didn’t share domestic and foreign intelligence.”

### 9/11 Commission Testimony from Key Experts

- Rumsfeld

“First, I must say, I know of no intelligence during the six-plus months leading up to September 11th that indicated that terrorists would hijack commercial airplanes, use them as missiles to fly into the Pentagon or the World Trade Center towers.”

- *Pentagon News (US Army Military district of DC Newsletter)*

“Pentagon exercises were held October 24-26, 2000 in anticipation of a plane used as a missile to crash into the Pentagon.” (Additional training for medical personnel held in 2001).

### Other Observations

- *Bush At War* by Bob Woodward

“He (Bush) acknowledged that Bin Laden was not his focus or that of his national security team. ‘...but I didn’t feel that sense of urgency and my blood was not nearly as boiling.’”

- *The Price of Loyalty: George W. Bush, the White House and the Education of Paul O’Neill*, by Ron Suskind

“Saddam Hussein was targeted for removal not in the 9/11 aftermath but soon after Bush took office.”

“Policy decisions (in the Bush Administration) are determined, not by careful weighing of an issue’s complexities; rather they’re dictated by a cabal of ideologues and political advisors operating outside the view of the top cabinet officers.”

### Assessment

- New administration was unwilling to accept the contents of briefings and policy plans from the Clinton Administration.
- Information was there, but so was a lack of presidential attention. The White House was obsessed with Iraq.
- President and his NSA were inattentive to increasingly strong threat warnings and PDBs, innumerable reports and memos
- National Security Advisor reorganized department in a way that suppressed information

*9/11 could have been prevented or at least contained*

FINANCING OF TERROR THROUGH SMUGGLING

by Loretta Napoleoni, author of *Terror Incorporated*

*Informal paper prepared by Loretta Napoleoni from extracts from Terror Incorporated and new material for the Congressional briefing on July 22, 2005. None of this material can be quoted or reproduced without the author's consent*

The most dramatic failure of tracking terror money has been governments' inability to predict the next move of terror's sponsors. To date there has not been any attempt to think and act in a pro-active way; investigative authorities are systematically a step behind those who traditionally bankroll armed organizations. They base their analysis on past and present events while they should look forward, i.e. anticipating what terror's sponsors are going to do in the near future. This approach is linked to the relatively low priority which has been given to the role of funding in the fight against armed organizations. Insufficient resources and man power have been allocated to it. While the analysis of the root causes of terrorism is paramount to find a solution to the problem, a strategy aimed at reducing its funding could help weaken the immediate threat posed by terror to Western and Eastern societies. If we want to financially starve armed organizations, a change in culture and in the overall approach to countering terror financing are very much needed.

By far the most significant entry in the terror balance of payments is smuggling, drug smuggling being one of the best know business. From the analysis of contraband over the last five decades, it emerges that criminal and armed groups can adapt to changing economic circumstances and environments, including *ad hoc* policies to destroy their businesses, quickly and efficiently. For example, far from curbing money laundering, the Patriot Act has simply shifted the bulk of such activity from the US to Europe, where a similar legislation does not exist. To be effective, anti-terrorism financial measures must anticipate the reaction of sponsors and armed organization and block any possible avenues to circumvent them or alternative sources of revenues. The example of gold smuggling from Congo, discussed below, will show how a forward looking approach can prevent the opening of new channels of terror financing.

**State Sponsored Terrorism using Drug Smuggling**

The illicit trade of narcotics is one of the areas where criminal organizations and terror groups have successfully established a commercial co-operation. The explosive used in the Madrid bombing was obtained by bartering Moroccan hashish. In a globalised world, both criminal and armed groups utilise the illegal economy, an international network of banks, financial institutions, offshore facilities and brokers, to wash the dirty profits of the drug trade. Narcotics, therefore, are one of the key links between the criminal, illegal and terror economy. The international battle against terror should be conducted bearing in mind that drugs' huge profits bankrolled not only criminal organizations but armed groups and illicit financial organizations. The use of illicit drug trade to fund armed organization is not a new phenomenon. During the Cold War, it became a feature of state sponsored terrorism. In the late 1940s, during the war in Indochina, Marxist armed groups, facing a serious shortage of cash, confiscated Laos' opium crop, sold it on the open market in Thailand and used the profits to buy arms from China. The French, who at the time struggled to bankroll the *Maquis*, the counterinsurgency groups created by the Service de Documentation Extérieure et du Contre-Espionage (SDECE), took a page from the enemy's book and formulated Operation X. The following year, the SDECE secretly negotiated to buy the entire Laotian crop from local tribes, who welcomed both the revenue and the opportunity to strike back at the communists. Soon after the harvest, the opium was loaded on a French DC-3 and transported to South Vietnam. From there it was trucked to Saigon and handed over to a gang of criminals well known to the SDECE for drug trade. Part of the opium was sold directly in Saigon dens and shops, part was purchased by Chinese merchants who exported it to Hong Kong and part was sold to the Union Corse, the Corsican Mafia, who smuggled it to France.<sup>1</sup> and to various European and North American markets. Thus the SDECE netted a handsome profit that was channelled to finance the *Maquis*.

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In the 1980s, as the anti-Soviet Jihad progressed, costs soared. There was constant shortage of money along the Afghan pipeline and so the ISI, the Pakistani Secret Service, and CIA began looking for additional sources of income, such as drug smuggling. Afghanistan was already a producer of opium, but it supplied only small neighboring regional markets. The ISI took upon itself the task of increasing production, processing the opium and smuggling heroin to rich Western markets. As the Mujahedeen advanced and conquered new regions, they were told to impose a levy on opium to finance the revolution. To pay the tax farmers began planting more poppies. Drug merchants from Iran, who had moved to Afghanistan after the revolution, offered growers credit in advance of their crops.<sup>2</sup> They also provided the expertise needed to refine opium into heroin. In less than two years, opium production boomed. Soon the narcotics-based economy took over the traditional agrarian economy of Afghanistan and, with the help of the ISI, hundreds of heroin laboratories were opened. Within two years the Pakistan-Afghanistan borderland became the biggest centre for the production of heroin in the world and the single greatest supplier of heroin on American streets, meeting 60 per cent of the US demand for narcotics. Annual profits were estimated between 100 and 200 billion dollars.<sup>3</sup>

The preferred smuggling route went through Pakistan. The ISI used the Pakistani army to carry the drugs across the country<sup>4</sup> while the BCCI, the Bank of Credit and Commerce International, provided financial and logistical support for the whole operation. Although most of it was sold and consumed in the streets of North America, no investigation from the US narcotics or the DEA was ever carried out; no action was taken to stop the well-documented flow of heroin from Pakistan to the United States.<sup>5</sup> By 1991, yearly production from the tribal area under the control of the Mujahedeen<sup>6</sup> had risen to an astonishing 70 metric tonnes of premium quality heroin,<sup>7</sup> up 35 per cent from the previous year.<sup>8</sup> In 1995, the former CIA director of the Afghan operation, Charles Cogan, admitted that the CIA had indeed sacrificed the drug war to fight the Cold War.

### **The Commercial War Economy of Sendero Luminoso**

The most devastating consequences of superpowers interference in the affairs of other nations have been the destabilisation of entire regions and the disintegration of their economies. The shocking legacy of state-sponsored terrorism in Latin America was the proliferation of armed groups and the subsequent birth of terror-run micro-economies. In the 1980s, parts of El Salvador, Nicaragua, Honduras, Colombia and Peru fell under the military control of right and left wing guerrillas. This happened to the people living in the Upper Huallaga valley in Peru. The valley, also known as Selva Alta because of its altitude, which ranges from 1,500 to 6,000 feet, is located on the eastern slopes of the north-eastern Andes. The region was restructured under the agrarian reforms of the late 1960s, which proved to be a great failure. Due to the harsh climate, none of the crops introduced managed to flourish and the local population was on the brink of starvation. Only one marketable plant appeared to be sufficiently resilient to thrive at such an altitude: *Erythroxylum Coca*. Local people have chewed its leaves for centuries to gain energy and calm hunger. Therefore, when the Colombian drug traffickers came to the valley to buy coca crops the impoverished farmers saw it as a blessing. Almost overnight, farmers became growers, catering for more than their own needs, and almost as quickly they fell victim to the exploitation of the powerful Medellin cartel.

In 1978, under mounting US pressure, the government of Francisco Morales Bermudez attempted to eradicate coca production. The programme was extremely unpopular and never took off. Despite military intervention, coca planting in Selva Alta increased to supply the buoyant drug traffic. In 1980, militants from the Sendero Luminoso armed group (*Senderistas*) moved to the Upper Huallaga valley and began living with the locals. They soon discovered that the population was harassed both by the drug traffickers and the police. So the *Senderistas* launched a two-pronged campaign: to undermine government policies, an easy task among a population constantly threatened by Lima, and to defend growers from the Colombian cartel.

During the same year, the Peruvian government introduced another project for coca eradication in the Upper Huallaga valley. The local population was apprehensive about the new agrarian programme that was going to take away their only viable means of survival: coca production. Capitalising on these fears, the *Senderistas* visited villages and small towns to sympathise with the people and to denounce the United States as the initiator of the reforms. They explained to the growers that cocaine was not a threat to Peru, but to the US. However, they added, Americans did not want to start a war against their own drug dealers and stop the monetary flow generated by the laundering of drug money. Therefore they put pressure upon the Peruvian government to curb coca production. Neither Washington nor Lima, stressed the *Senderistas*, cared that the livelihood of the entire valley was economically dependent on coca crop.

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The Sendero Luminoso offered protection against the military, who were about to enforce the new programme, and against the cocaine syndicate, which had been exploiting the growers. Almost enthusiastically, people rallied around the *Senderistas*. ‘They are professional agitators,’ dismissed the Peruvian Army General Hector John Caro, former chief of the secret police, ‘they are always prepared to act.’<sup>9</sup> Under Sendero Luminoso’s supervision the growers were organised into unions, a move which allowed them to negotiate better prices.

Employing terror tactics, the Sendero Luminoso began taking military control of the entire valley. A common ploy was to move into a town accompanied by at least 30 armed men, gather the inhabitants together, lecture them and proceed with interrogations to find out who was working for the local authorities or with the gangs. These individuals were then publicly executed and local authority was replaced by general assemblies composed of the *Senderistas*. Once an area was ‘liberated’, the *Senderistas* moved to the next town. By 1985 the group had established a strong military presence throughout the entire region. Bridges were blown up to prevent regular troops from reaching the valley and road blocks were established to search every vehicle approaching along the Marginal Highway, the sole communication link to the outside world. Selva Alta soon became a no-go area for police or government troops.

Meanwhile, the growers were content with the valley being under the grip of the *Senderistas* because they felt protected from the drug traffickers and criminal gangs as well as from the government’s agrarian reforms. Interestingly, the cocaine producers and drug traffickers also welcomed the change because discipline among growers pushed production up. By 1988, 211,000 hectares of the valley were covered with coca plants. In addition, under the Sendero’s rule, shipment procedures were streamlined. It was the Sendero’s responsibility to protect airstrips scattered around the valley, a task it continued to carry out in 2002 without interference. Shipping by small aeroplanes became not only easier, it became more efficient as well.

The Sendero’s activities did not remain limited to the control of coca production. In some areas they also took over other businesses, for example foreign exchange. In Xiòn local banks stopped exchanging dollars into Peruvian Intis for the intermediaries of the Medellin Cartel. Instead, the Sendero Luminoso, for a small commission, provided the Colombians with domestic currency to pay growers. Naturally, bankers were extremely unhappy about these arrangements, but there was nothing they could do because the Sendero Luminoso was the de facto governing authority in the valley. Control over foreign exchange allowed the *Senderistas* access to a considerable amount of hard cash in a country starved for foreign exchange. Part of the money was used to maintain its authority in Selva Alta and other enclaves; part was allocated to buy weapons to promote the group’s Marxist dream in Peru. The Sendero Luminoso was - before the Colombian FARC - by far the best-armed group in Latin America. Between February and September 1989, for example, it successfully undermined the government’s efforts to eradicate drug trafficking in the valley. In retaliation for the use of the herbicide Spike, which destroyed coca plantations, members of the Sendero Luminoso assaulted a military garrison in the town of Uchiza and shot dead the 50 soldiers who had surrendered after being outnumbered by the *Senderistas*. That same year the government declared the Upper Huallaga valley a military emergency zone under the control of a zone commander.<sup>10</sup>

In the Upper Huallaga valley, the Sendero Luminoso succeeded in creating a terror-run economy based upon drug revenues, which formed the core of a micro-state. Selva Alta is one of the many ‘state-shells’, de facto state entities created around a war economy generated by the activities of violent armed groups. The Sendero Luminoso’s model is that of a “commercial war economy”, based on the commercialisation of local resources, i.e. coca plantations and trafficking in illegal products such as narcotics. In this model ‘armed groups create economic sanctuaries by gaining military control of economically profitable areas [such as Selva Alta] and develop commercial networks with third parties, i.e. the Colombian drug cartels; they even work in collusion with rival groups. The impact can be positive by contributing to [...] the protection of illegal sectors, [for example coca production].’<sup>11</sup> Some of these economies can generate vast amounts of income, as is the case in the Upper Huallaga valley. In the late 1980s, total revenues for Peruvian coca leaves and coca paste yielded an estimated 28 billion dollars in the United States. Of this figure, the share of Peruvian paste producers and local traffickers was 7.48 billion dollars, equivalent to 20 per cent of legitimate Peruvian GNP, which in 1990 was 35 billion dollars. Growers got 240 million dollars for cultivating the coca. Sendero Luminoso’s share of this business in Selva Alta was estimated at 30 million dollars,<sup>12</sup> sufficient to purchase arms and expand its racket of protection and extortion across Peru. The benefits of the commercial war economy are also apparent among the population. The 66,000 families living in the Upper Huallaga valley enjoyed annual average earnings of 3,639 dollars, more than three times the 1,000-dollar per capita average income in the rest of Peru.

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The international ramifications of terror-run economies, such as that in the Upper Huallaga valley, are staggering. On a global scale, billions of dollars generated by narcotics have been laundered in the United States; in the 1990s between 30 to 40 per cent enter the US economy,<sup>13</sup> while the rest were pumped into the international illegal economy and used to fuel the New Economy of Terror.

### **The Birth of Narco-terrorism**

At dawn on 10 March 1984, a cluster of Colombian police helicopters appeared in the sky near the river Yari, about 700 miles south of Bogota. The camouflage birds landed on the riverbank and opened their bellies. A commando unit of elite anti-terrorist agents leaped out, quickly moving to attack a complex of nearby buildings, which were believed to be a hideout for local drug barons. As they advanced towards the target, the men were ambushed by heavy gunfire coming from the jungle around the clearing. It took them two hours to reach the compound and take control of it. Inside they found 13.8 tons of cocaine with a street value of about 1.2 billion dollars.<sup>14</sup>

The operation was successful in many respects. It destroyed an important drug base in the jungle, it inflicted huge financial losses on the drug barons and, more importantly, it unveiled a dangerous liaison between the FARC and the buoyant Colombian drug business. Investigators soon learned that the gunfire unleashed on the police at Yari had come from a commando unit of 100 FARC men. Documents found inside the buildings confirmed that the FARC was providing drug barons with armed protection.

In Colombia the alliance of terrorism and drugs is a recent and deadly phenomenon. Until 1980, the FARC and M19 (Movimiento 19 Abril) were struggling to survive on income from armed robbery and the kidnapping of local businessmen. The number of their followers had dropped to 200, a handful of hard-core militants; recruitment was at a standstill because the two organisations had no cash to spare for salaries and the leaders feared their own extinction. However, they soon learned that in the vast jungle of Colombia there was immense wealth waiting to be gathered. In 1981, Colombia produced 2,500 metric tons of coca leaf;<sup>15</sup> by 1986 this figure, fuelled by North America's insatiable appetite for drugs, had risen to a whopping 13,000 metric tons.<sup>16</sup> In the mid 1980s, the drug economy contributed 5 billion dollars a year in cash to the Colombian balance of payments.<sup>17</sup> Revenues from cocaine exports well exceeded revenues from coffee and cut flowers, the country's other two largest foreign exchange earners. The bulk of the drugs business was under the control of a handful of men running powerful cartels. In 1981 the FARC and M19 struck a deal with the Colombian drug mafia: they would provide armed protection against the army in exchange for a share in the coca profits.

The FARC levied a 10 per cent protection tax on all coca growers in areas under its control, which alone netted a monthly income of 3.3 million dollars.<sup>18</sup> By 1984, the FARC and M19 earned 150 million dollars per year from the business of protecting drug smugglers and traffickers. A large percentage of the profits was spent on recruitment, so that by 1988 both groups commanded a militia of 10,000 people, large enough to be feared by members of the government.<sup>19</sup> Another percentage was used to bribe top politicians to ensure that entire areas of Colombia came under rebel control, regions where the regular Colombian army could no longer venture. In the grip of the FARC and M19, the economy of these territories was quickly reduced to drug production and its armed defence. Coca was the single export and source of foreign exchange or income. Business became either ancillary to it or an indirect beneficiary of its profits.

As the alliance between the drug barons, FARC and M19 consolidated, the narco-terror business expanded and partnership was extended to fourth parties. A deal was struck with the Cuban authorities whereby Colombian vessels could use Cuban ports as a stopover for the shipment of drugs to the US. In exchange Cuba received as much as 500,000 dollars in cash for each vessel and the right to sell the Colombians arms for the FARC and M19.<sup>20</sup> The dynamics of the operation were explained by David Perez, an American drug dealer, at his trial in Miami in 1983. The Colombian cargo left Colombia bearing its own flag. When it entered international waters, however, it hoisted the Cuban colours and radioed Cuba with an estimated time of arrival. Once in Cuban waters, several small boats sailed to the ship. The drugs were loaded onto these boats and smuggled to Florida. Often this procedure resulted in barter deals whereby drugs were exchanged for arms. Profits for the Cubans varied from cargo to cargo, depending on the type of drugs; for example a 10-dollar per pound tax was levied on each cargo of marijuana. For a vessel of methaqualone (known in the US as Mandrax), Havana received a third of 7 million dollars.<sup>21</sup> In the 1980s, Castro netted a yearly 200 million dollars in foreign currency from the Colombian drugs and arms smuggling businesses alone.

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Domestically, the impact of the Colombian narco-terrorist economy has been tragic. Widespread political corruption, coupled with assassinations, curtailed any serious effort to fight the narco-traffickers. The massive amount of hard cash generated by the cocaine trade tilted the country's balance of payment into surplus and inevitably sustained business growth. As the drug barons' rivers of cash trickled down to the economy, it became more and more difficult to attack them as criminals. In the mid 1980s, President Betancour<sup>22</sup> attempted to fight back, only to be faced with the drug barons' threat to close down 1,800 businesses and to assemble an army of 18,000 people.<sup>23</sup> The weakness of the Colombian government in dealing with the phenomenon of narco-terror is underlined by its unsuccessful attempts to negotiate a peace treaty with the FARC, a desperate gesture which stresses the power this group has attained.

The extraordinary growth of the Colombian drug cartel affected not just the home front, but also produced a serious spillover into neighbouring countries. In Peru, as seen previously, the Sendero Luminoso was able to gain strength and eventually control large regions by mediating between local coca growers and Colombian drug traffickers. In August 2000 the Peruvian government was implicated in an arms smuggling scandal while supplying weapons to the Colombian FARC. It emerged that the Peruvian military had produced a regular purchase order to buy from the Jordanian government 50,000 AK-47 assault rifles made in Bulgaria. The shipment was flown from Amman on a Ukrainian cargo plane with a Russian-Ukrainian crew. The plane flew via the Canary Islands, Mauritania and Granada and, eventually, before landing in Iquitos, Peru, air dropped the arms into the Guainia region, near the border with Venezuela and Brazil, the territory controlled by the FARC.<sup>24</sup> The cargo flew back with narcotics, estimated at up to 40 tons of cocaine, which went partly to Jordanian brokers and partly to the former Soviet Union. The involvement of high-ranking Peruvian government officials in the smuggling contributed to the scandal, which eventually led to the resignation of President Fujimori<sup>25</sup> on 20 November 2000.

Middle Eastern money brokers linked to Islamist groups are believed to be involved in the laundering of Latin America narcotics profits. Drug gangs from Peru, Colombia and other South American countries converge in Ciudad del Este to ship drugs and wash their money. Ciudad del Este is also known as the Tri-border because it is situated at the interception of Uruguay, Paraguay and Brazil. Illegal profits are washed through the CC5 account offered by the Central Bank of Brazil to foreigners in Ciudad del Este. Originally this special account was set up to speed up the conversion and transfer of Paraguayan money to Brazilian banks. The whole operation takes less than a day. However, contraband and money laundering are not the sole attractions of Ciudad del Este. The city is also a major hub for Latin America armed organisations to relax and do business at the same time. Members of the IRA, ETA and FARC are regular visitors.<sup>26</sup>

### **The Black Market Peso Exchange**

In the mid 1980s, the Colombian drug smuggling trade contributed about 15 billion dollars per year to the economy of Florida. This huge injection of cash was mostly generated by the laundering of drug money,<sup>27</sup> money that inevitably corrupted Florida's financial establishment. Cash-hungry banks welcomed highly liquid businesses without asking too many questions. And even though they were legally required to report deposits of over 10,000 dollars in cash, they seldom did so, silently recycling the money.

After 9/11, the Patriot Act and other counter-terrorism financial measures, for example those imposed by the Financial Action Task Force (FATF), have reduced the flow of drug money being laundered in the US. Such measures, however, had a very limited impact, if any, in reducing the activities of both drug traffickers and terror groups handled through the informal banking system. This system can be described as a series of alternative and unregulated networks, through which money moves from country to country. One of these networks is the Black Market Peso Exchange, another one is the *hawala*. The Black Market Peso Exchange is the system of money laundering most commonly and widely used by the Colombian and other South American drug cartels. The *hawala*, which is very popular in the Muslim world, is predominantly used by Islamist terror groups. Both networks are extremely elusive to traditional monetary controls because they do not involve the physical movement of cash from one country to another. Ironically both system functions according to principles of globalization and deregularization: they are truly trans-national, they are self-regulated (failure to deliver the cash often results in death) and they are fast (the *hawala* de facto operates in real time).

In the early days of the Medellin drug cartel, cash was flown back to Colombia by the same planes which took the drugs to America. Once in Colombia, dollars had to be converted into pesos with the help of corrupt bankers. But the process was slow and the drug traffickers had to store huge amounts of cash. Cash storage created several problems. One Colombian drug trafficker, for example, buried so much cash on his property that occasionally, when it rained heavily, the resultant floods washed US dollars downstream, clogging the sewage system<sup>28</sup> According to Marci



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Forman, who directs the US custom services financial investigation unit, in Colombia today there are still warehouses full of US currency waiting to be exchanged into pesos.<sup>29</sup> US dollars are of no use to the Colombian drug cartel or to FARC, or to Sendero Luminoso in Peru. Members of these organizations live in secluded areas where they use local currencies and never travel abroad. They need domestic money to pay the growers, to buy protection, to corrupt politicians, to recruit and to purchase arms and explosives.

In the 1990s, to avoid storage problems and guarantee a steady flow of local currency, drug traffickers and terror groups successfully infiltrated the Colombian currency black market and transformed it into their own illegitimate and informal banking system: the Black Market Peso Exchange. The way the system works is fairly simple. The drug traffickers ship and sell the narcotics in the US; in exchange they receive US dollars in cash which they hand over to a money broker inside the US. The broker agrees to exchange it at a discount to the official rate, generally around 40%, and to deliver the corresponding pesos in Colombia within a few weeks. The broker then distributes the cash, which is generally handed over in boxes, suitcases or even inside the trunk of a car, among its vast staff of runners, who deposit it in small amounts into thousands of US bank accounts under their name. Once the money is in the bank, it is 'clean'.

At the same time the broker has an office in Colombia where legitimate businessmen go to buy foreign products, ranging from US cigarettes to TV sets, products that they acquire in pesos. The purchases are done with an exchange rate which generally is 20% above the official exchange rate. The US money broker buys the goods in the US using the drug money deposited by its runners, often from companies which know the origins of the funds; he then ships the products to his office in Colombia where they are sold in pesos. These pesos are then used to pay back the drug traffickers.

To avoid being monitored by the US monetary authorities, bank deposits and purchases are always below the \$10,000 limit imposed by the IRS. The technique of breaking down large sums of deposits into several transactions of less than \$10,000 is also illegal in the US. In January 2003, two women were sentenced to six years in prison for using their company, Pride International, an appliance export business, to money launder \$5 million of drug money,<sup>30</sup>

The Black Market Peso Exchange is also used by South American professionals, as well as politicians, to send dollars to their children studying in the US. Thus, it functions in a fashion similar to the *hawala*. It presents the same advantages: it is faster, cheaper and avoids any type of monetary controls.

According to the IRS, from 1999 to 2003, the volume of money laundered via the Black Market Peso Exchange, has risen from \$1 to \$6 billion.<sup>31</sup> According to Raymond Kelly, Commissioner of the US Custom Service, the Black Market Peso Exchange is "the ultimate nexus between crime and commerce, using global trade to mask global money laundering."<sup>32</sup>

### Money Laundering in Europe

While the Patriot Act had reduced the flow of drug money laundered in the US, it has not hindered this activity, it has simply shifted it towards Europe. European drug enforcement agencies agree that the introduction of a common European currency has facilitated the activity of laundering bulk cash in Europe. The absence of a homogenous money laundering legislation coupled with the proliferation of offshore facilities in Europe, has encouraged organized crime to wash drug money in the Old Continent. The n'drangheta, the Calabrian Mafia, is today at the centre of a complex network of drug business which includes imports of cocaine from Colombia, sales of narcotics in Europe and money laundering of the profits. Interestingly, the link between the n'drangheta and the Colombian drug cartel is Mancuso, the new leader of the AUC, the Colombian paramilitary group, who is of Italian origins.

In Italy, in the spring 2004, custom police busted a major operation run by the n'drangheta where drug money was laundered through real estate transactions in Brussels. The cash was shipped in bulk inside containers to Brussels, where it was used to buy existing properties or to fund the construction of new ones. The Italian police estimate that the n'drangheta bought an entire section of Brussels using this method. According to the Italian authorities, before the introduction of the Euro, the recycling of drug money was more expensive because funds had to be exchanged into various currencies. Italian organized crime groups, for example, used a money-exchange in Rome to convert cash denominated in European currencies into dollars. The cost was 50 liras per dollar. In addition, the operation was lengthy as the cash had to be exchanged over a long period of time to avoid alerting the monetary authorities. Italian police concurs that since 9/11, both the Mafia and the n'drangheta are laundering an increasing amount of drug money in Europe. The principal countries where this activity takes place are Belgium and Holland. Total earnings of the four

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major criminal organization, i.e. mafia, camorra, n'drangheta and sacra corona unita, amounts to 10% of Italian GDP (euro 100 billion).<sup>33</sup>

If Italian organized crime is increasingly using euros to conduct its drug trade activities, this means that the euro is also used along the drug route. 'It is unfeasible to think that carriers are paid in dollars', explains an Italian anti-drug covert agent, 'when the sales and the money laundering in Europe is conducted in euros.' The agent also confirmed that the bulk of the drugs sold in Europe comes from Afghanistan and Central Asia, but there is an increasing amount of Colombian cocaine which also finds its way into the Old Continent, and that drug smuggling is an area where crime and terror have forged a joint-venture. In December 2003, for example, the US navy blocked a cargo sailing in the Persian Gulf. When they inspected it they discovered that it was carrying two tons of hashish and that it was operated by suspected al Qaeda's affiliates. The drug was stored in 54 bags, which weighted about 70 pounds each. Its street value ranges from \$8 to 10 million dollars.<sup>34</sup>

### **New Developments, the case of gold from Congo**

There is mounting evidence that the 'war on terror' has not reduced the volume and the profits generated by drug smuggling. It has also failed to curb the amount of drug profits which benefit armed organizations. Afghanistan poppy crop, for example, is significantly higher than before 11 September 2001. Since 2002 it has increased sevenfold and now constitutes 60 percent of the country's gross domestic product.<sup>35</sup> The links between poppy growers, war lords and Pakistani intelligence have also remained unchanged, as confirmed last December by the yearly UN report on drugs and crime. The report specifically talks about a growing evidence of a nexus between terror finances and opium profits. Unofficially, British military intelligence admits that very little is done to control a booming poppy industry because the territory is in the hands of war lords and tribal leaders which are 'protected' by the Pakistani secret services. Corruption within the Pakistani and Afghan army and the police is widespread.

The 'war on terror' has equally failed to curb terror profits generated by drugs and partnership with organised crime in other parts of the world, Latin America and the Middle East. These failures are due to several factors: the low priority given to the interdependencies between terror, crime and the illegal economy; the lack of cooperation between countries, weak coordination among international agencies, inadequate compliance by many states, failure to get the private sector engaged. However, what is needed is something more, a forward looking compliance, a policy aimed at preventing terror financing described in the appendix.

Smuggling remains the most profitable business of terror group and one which can be easily infiltrated and where joint-venture with criminal organizations can be achieved. A forward looking compliance approach will involve the analysis of potential smuggling products and routes which can be infiltrated by armed groups. The example of gold smuggling from Congo may illustrate such approach.

Congo's gold production has been traditionally smuggled via its neighbouring countries into the world market benefiting mostly shadowing networks of war lords, criminals business men and local armed groups. Gold in Congo is mined by an army of small miners; it is very much an artisan type of industry. Intermediaries purchase small quantities of gold from the miners and then consolidate it in large lots. These lots are then smuggled to neighbouring countries. All these activities take place in territories controlled by war lords and terror groups.

Uganda is one of Congo neighbouring countries through which smuggling of gold takes place. Gold trade has been liberalised. In Kampala the gold is often consolidated in 100 kg and larger units. As the market is liberalised, no controls are levied on the origins of gold which is exported as if of Ugandan origins. Shipping documents contains only the names of the trading companies, mostly trading companies operating in East Africa. Every year 3,500-6,000 kg of gold are shipped from Uganda which does not produce such amount. Countries which have gold refineries, Switzerland, South Africa, United Arab Emirates and the US, purchase the gold from Kampala and other neighbouring countries without truly questioning its origins. For years, companies which own the refineries have accepted gold from Congo under the pretence that it comes from neighbouring countries and they still do it.

Smuggling of gold has trapped Congo inside a parasitical barter economy. Payment for gold smuggled often takes place in products, supplied by the same trading companies who purchase the gold. These products are then smuggled back to Congo and are sold in the black market by the same smugglers who control the gold trade. These are war lords and local armed organizations which control part of the territory. Thus gold smuggling has become an integrated part of the local economy which depends upon it for its sustenance.

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A Human Rights Watch report published in June 2005 has denounced the Congo's gold smuggling. A UN panel of experts is at the present working on a set of sanctions related to smuggling of gold from Congo. Thought, neither the Human Rights Watch report nor the UN panel of experts have found al Qaeda or other Islamist group have infiltrated this business, this is distinct possibility. Privately a member of the UN panel has admitted that gold smuggling could offer a great vehicle for terror's sponsors to raise money and to move funds without being detected. Osama bin laden has often spoken of the importance to use gold instead of currencies as a means of exchange. More than diamonds and other precious stones, gold is an ideal asset for terror groups. He has advised his followers to use gold instead of currencies. Gold is more liquid than diamonds, whose price is controlled by a cartel of producers, it can be melted easily, it is widely traded and its value is linked to world's currencies. The *hawala*, the informal banking system widely used in the Muslim world operated with gold, gold can be transfer as well as currencies. Gold also offers tremendous opportunities for speculation in today's world, where instability and volatility are the main characteristics of world's stock markets.

The nature of the gold smuggling chain inside Congo and neighbouring countries is such that international terror groups could easily infiltrate it at any level, the closer to the source the easier it is as intermediaries are willing to do businesses with anybody who offers them higher profits.

To prevent terror sponsors from infiltrating the gold market through smuggling from Congo, governments' must adopt a forward looking compliance approach. This will require an in depth analysis of the functioning of the smuggling of gold and a policy to destroy this business or monitoring it. Ad hoc legislations and mechanism must be put in place inside the industry which involved the full support of the private sector.

### **Conclusion**

The example of smuggling of gold from Congo illustrates the problems we are facing when dealing with terrorism financing via smuggling. Gold from Congo is traded through Uganda into the world markets. Refineries have accepted that gold without seriously questioning the real source, while it should have been clear to them that checking the origins would have been safer and probably the most prudent business decision. In a similar fashion Western based trading companies have conducted no due diligence. Finally banks who while they buy and trade huge amounts of gold they apply the know your customers rule only to their immediate client, but not to the previous owners / traders of the gold in question. This gold could have come into the world market at the end of a chain of transactions that has terrorism interests intermingled somewhere along the way. Gold can not be easily traced, it can be melted and mixed with other gold consignments but it retains its value.

A changed culture, where one anticipates a problem and does not denies the existence of a problem is at the core of a solid forward looking compliance stance.

Obviously, the specific mechanisms to establish good practices depend on the circumstances of each industry. Senior management should not longer pretend that to have a couple of compliance "specialists" in their back office is sufficient. They need to encourage an environment where real specialists can explore real problem areas in order to inoculate a business from transgressions.

What we find out with the gold from the Congo, we will also find out with many other precious natural resources from many different countries. All of these commodities are traded daily at significant quantities with very little controls. And we know that the originating countries and their neighboring trans-shipment points do not have the means to conduct proper due diligence. All of commodities, worth millions and billions of dollars eventually land on our shores where we then, finally begin with a somewhat half-assed effort compliance mechanism.

Obviously, that is not good enough, at the very least when it comes to terrorist funding issues, but also to prevent other sanction violations, and human rights abuses.

Compliance officers can no longer just follow a couple of rules (even if they are as sophisticated as the FATF 49), they have to invest real brain power to understand the economic chains, detect the weak spots and counteract them with appropriate measures.

Notes

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- <sup>1</sup> Peter Harclerode, *Fighting Dirty*, p. 108-109
- <sup>2</sup> Ahmed Rashid, 'The Taliban: Exporting Extremism', *Foreign Affairs*, November 1999
- <sup>3</sup> Arundhati Roy, 'The Algebra of Infinite Justice', Source: <www.nation-online.com>
- <sup>4</sup> In 1984 alone, 13 majors and 2 brigadiers were charged with drug-related crimes.
- <sup>5</sup> Alfred Mc. Coy, 'Drug fallout, the CIA's forty year complicity in the narcotics trade', *The Progressive*, 1 August 1997
- <sup>6</sup> With the exception of the North-West Frontier territories.
- <sup>7</sup> Banerjee Dipankar, 'Possible Connections of ISI with the Drug Industry', *India Abroad*, 2 December 2000
- <sup>8</sup> Source: United Nations Office on Drugs and Crime, global drugs trend report 2000
- <sup>9</sup> 'Spring to Fall 2000: News from the people's War in Peru', *Revolutionary Worker*, no. 1082, December 10 2000. Source: <www.rwor.org>
- <sup>10</sup> Alison Jamieson, *Terrorism and Drug Trafficking in the 1990s* (Dartmouth: Research Institute for the Study of Conflict and Terrorism, 1994) p. 86
- <sup>11</sup> Philippe Le Billon, *The Political Economy of War*, p. 8
- <sup>12</sup> Ibid.
- <sup>13</sup> Gabriela Tarazona Sevillano, *Sendero Luminoso and the Threat of Narcoterrorism*, (New York: Praeger, 1990) chap. 6
- <sup>14</sup> Associated Press file, 20 March 1984. See also *New York Times*, 21 March 1984, *Washington Post*, 21 March 1984
- <sup>15</sup> '2500 metric tons of cocoa leaf', *Financial Times*, 13 June 1985
- <sup>16</sup> Alison Jamieson, *Terrorism and Drug Trafficking in the 1990s*, p. 82
- <sup>17</sup> *The Times*, 30 May 1984; see also *International Herald Tribune*, 23 June and 26 July 1984
- <sup>18</sup> Adams, *The Financing of Terror*, p. 218
- <sup>19</sup> Ibid. p. 245
- <sup>20</sup> 'The Cuban Government Involvement in facilitating International Drug Traffic', US Government Printing Office, serial no. J-98-36, 1983
- <sup>21</sup> Adams *The Financing of Terror*, p. 223
- <sup>22</sup> He was in power from 1982 to 1986
- <sup>23</sup> Adams, *The Financing of Terror*, p. 226
- <sup>24</sup> 'Colombia-weapons, Colombian arms dealer who purchased arms for FARC arrested', *Financial Times*, 8 May 2002
- <sup>25</sup> *Small Arms Survey, 2001*, Graduate Institute of International Studies, p. 187
- <sup>26</sup> Ibid.
- <sup>27</sup> 'A Colombian', *Washington Post*, 17 March 1983
- <sup>28</sup> Oriana Zill and Lowell Bergman, *The Black Peso Money Laundering System*, www.pbs.org
- <sup>29</sup> *The Black Market Peso Exchange*, Underworld Economy, , 12 November 2001
- <sup>30</sup> Black Market Peso Exchange: two women jailed, 22 January 2003, <www.forum.transnationale.org>
- <sup>31</sup> ibid
- <sup>32</sup> Ibid
- <sup>33</sup> Money Laundering: Vigna on Counterstrategies, Agenzia Giornalistica Italia, 5 April 2004, www.agi.it
- <sup>34</sup> *Navy Makes Persian Gulf Drug Blast*, CBS News, 19 December 2003
- <sup>35</sup> Maia Szalavitz, Let a Thousand Licensed Poppies Bloom, *the New York Times*, 13 July 2005

### NEOCONSERVATISM

by Anne Norton, University of Pennsylvania

Neoconservatives aren't conservative. Neoconservatism is a radical departure not only from fundamental American principles, but from traditional American conservatism.

Conservatives revered custom and tradition, resisted change, and distrusted abstract principles, grand theories, utopian projects. Neoconservatives seek radical change at home and abroad.

Conservatives, especially American conservatives, wanted a small government. Neoconservatives want a larger, stronger, more active state. They advocate big government.<sup>1</sup>

Conservatives were frugal. Neoconservatives favor increased government spending.

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Conservatives favor balanced budgets. Neoconservatives favor deficit spending to increase military power.

Europeans distrust American neoconservatism because they recognize the shadow of fascism in it.

- expansionist foreign policy not based on defense but on an opportunity to reshape the world.
- a more authoritarian Executive<sup>2</sup>
- an economic rhetoric speaking to the concerns of small business, small property owners, and working people, but allied to large corporations
- rhetoric of moral purpose and family values (for women a return to “children, cooking, and the church”, for men a return to war as “manly”)
- profusion of flags and patriotic public spectacles
- refusal to be bound by treaties
- development of a security state with more surveillance of the people, more secrecy in the government
- deliberate policies of lying in government<sup>3</sup>
- use of a “providential enemy”

Neoconservative project of “reconfiguring the Middle East” feeds (and is fed by) a new antisemitism that takes the Arab and Muslim rather than the Jew as its target.<sup>4</sup>

Washington and the founding generation cautioned against military intervention. Neoconservatives favor preventive war, regime change and military actions to exploit “opportunities”.<sup>5</sup>

In the wake of the attacks in London and the continuing news from Iraq, it is evident that neo-conservative foreign policy has not spread democracy or diminished terror. It has diminished democracy at home while failing to extend it abroad.

### Notes

1. Irving Kristol, *Neoconservatism: Autobiography of an Idea* (New York: Free Press 1995)
2. Carnes Lord, *The Modern Prince* (New Haven: Yale University Press 2003)
3. See Hannah Arendt, *Crises of the Republic*, (New York: Harcourt, Brace Jovanovich 1972)
4. Mahmood Mamdani, *Good Muslim, Bad Muslim* (New York: Pantheon 2004); Rashid Khalidi, *Resurrecting Empire* (Boston: Beacon Press 2004), Anne Norton, *Leo Strauss and the Politics of American Empire* (New Haven: Yale University Press 2004)
5. Kagan and Kristol, *Present Dangers* (Encounter Books 2000) and the publications of the Project for a New American Century, available on the web.

9/11 IN HISTORICAL PERSPECTIVE: FLAWED ASSUMPTIONS  
DEEP POLITICS: DRUGS, OIL, COVERT OPERATIONS AND TERRORISM:  
A BRIEFING FOR CONGRESSIONAL STAFF, JULY 22, 2005  
by Peter Dale Scott, author of *Drugs, Oil, and War*

The American people have been seriously misled about the origins of the al Qaeda movement blamed for the 9/11 attacks, just as they have been seriously misled about the reasons for America’s invasion of Iraq.

The truth is that for at least two decades the United States has engaged in energetic covert programs to secure U.S. control over the Persian Gulf, and also to open up Central Asia for development by U.S. oil companies. Americans were eager to gain access to the petroleum reserves of the Caspian Basin, which at that time were still estimated to be “the largest known reserves of unexploited fuel in the planet.”[1]

To this end, time after time, U.S. covert operations in the region have used so-called “Arab Afghan” warriors as assets, the jihadis whom we loosely link with the name and leadership of al Qaeda.[2] In country after country these “Arab Afghans” have been involved in trafficking Afghan heroin.

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America's sponsorship of drug-trafficking Muslim warriors, including those now in Al Qaeda, dates back to the Afghan War of 1979-89, sponsored in part by the CIA's links to the drug-laundering Bank of Credit and Commerce International (BCCI).[3] It was part of CIA Director Casey's strategy for launching covert operations over and above those approved and financed by a Democratic-controlled Congress.

The most conspicuous example of this alliance with drug-traffickers in the 1980s was the Contra support operation. Here again foreign money and drug profits filled the gap after Congress denied funds through the so-called Boland amendments; in this case government funds were used to lie about the Contras to the American people.[4] This was followed by a massive cover-up, in which a dubious role was played by then-Congressman Lee Hamilton, later of the 9/11 Commission.[5]

The lying continues. The 9/11 Commission Report assures Americans that "Bin Ladin and his comrades had their own sources of support and training, and they received little or no assistance from the United States." [6] This misleading statement fails to consider that:

1) Al Qaeda elements received considerable indirect U.S. Government assistance, first in Afghanistan until 1992, and thereafter in other countries such as Azerbaijan (1992-95). Before 1992, for example, the Afghan leader Jallaladin Haqqani organized and hosted the Arab Afghan volunteers known later as al Qaeda; and Haqqani "received bags of money each month from the [CIA] station in Islamabad." [7] The Arab Afghans were also trained in urban terrorism, including car bombings, by Pakistani ISI operatives who were in turn trained by the CIA. [8]

2) Key members of the network which became al Qaeda, such as Sheikh Omar Abdel Rahman, Ali Mohamed, Mohamed Jamal Khalifa, and lead hijacker Mohammed Atta, were granted visas to enter the United States, despite being suspected of terrorism. [9] Al Qaeda foot soldiers were also admitted to the United States for training under a special visa program. [10]

3) At Fort Belvoir, Virginia, an al Qaeda operative was given a list of Muslim candidates for al Qaeda's jihad. [11]

4) When al Qaeda personnel were trained in the United States by a key al Qaeda operative, Sergeant Ali Mohamed of the U.S. Army Special Forces, Mohamed was still on the U.S. Army payroll. [12]

5) Repeatedly al Qaeda terrorists were protected by FBI officials from investigation and prosecution. [13]

In part America's limited covert assistance to al Qaeda after 1989 was in order not to offend al Qaeda's two primary supporters which America needed as allies: the intelligence networks of Saudi Arabia and Pakistan. But unquestionably the entry of United States oil companies into oil-rich Azerbaijan was achieved with the assistance of a U.S.-organized covert program using "Arab Afghan" operatives associated with bin Laden. Oil was the driving force of U.S. involvement in Central and South Asia, and oil led to U.S. coexistence with both al Qaeda and the world-dominating Afghan heroin trade.

This brings us to another extraordinary distortion in the 9/11 Report:

While the drug trade was a source of income for the Taliban, it did not serve the same purpose for al Qaeda, and there is no reliable evidence that Bin Ladin was involved in or made his money through drug trafficking. [14]

That drug-trafficking does support al Qaeda-connected operations has been energetically asserted by the governments of Great Britain and many other European countries, as well as the head of the U.S. Congressional Task Force on Terrorism. Heroin-trafficking has been a source of income in particular for al Qaeda-related warriors in Tajikistan, Uzbekistan, Azerbaijan, Chechnya, and Kosovo. Most recently it has supported terrorist attacks in the Netherlands and Spain.

U.S. support for al Qaeda elements, particularly in Azerbaijan and Kosovo, has increased dramatically the flow of heroin to Western Europe and the United States.

### **The Example of Azerbaijan**

## The 9/11 Commission One Year Later

In the former Soviet Republic of Azerbaijan, Arab Afghans clearly assisted this effort of U.S. oil companies to penetrate the region. In 1991-92, Richard Secord, Heinie Aderholt, and Ed Dearborn, three veterans of U.S. operations in Laos and Iran-Contra, turned up in Baku under the cover of an oil company, MEGA Oil.[15] MEGA never did find oil, but did contribute materially to the removal of Azerbaijan from the sphere of post-Soviet Russian influence.

As MEGA operatives in Azerbaijan, Secord, Aderholt, Dearborn, and their men engaged in military training, passed “brown bags filled with cash” to members of the government, and above all set up an airline on the model of Air America which soon was picking up hundreds of Mujahideen mercenaries in Afghanistan.[16] (Secord and Aderholt claim to have left Baku before the Mujahideen arrived.) Meanwhile, Mujahideen leader Gulbuddin Hekmatyar in Afghanistan, who at the time was still allied with bin Laden, was “observed recruiting Afghan mercenaries [i.e. Arab Afghans] to fight in Azerbaijan against Armenia and its Russian allies.”[17] At this time, heroin flooded from Afghanistan through Baku into Chechnya, Russia, and even North America.[18] It is difficult to believe that MEGA’s airline (so much like Air America) did not become involved.[19]

The triple pattern of drugs, oil, and al Qaeda was seen again in Kosovo in 1998, where the Al-Qaeda-backed Islamist jihadis of the Kosovo Liberation Army (KLA) received overt American assistance from the U.S. Government.[20] Though unmentioned in mainstream books on the war, both the al Qaeda and drug backgrounds of the KLA are recognized by experts and to my knowledge never contested by them.[21]

Though the origins of the Kosovo tragedy were rooted in local enmities, oil and drugs were prominent in the outcome. At the time critics charged that US oil interests were interested in building a trans-Balkan pipeline with US Army protection; although initially ridiculed, these critics were eventually proven correct.[22] BBC News announced in December 2004 that a \$1.2 billion pipeline, south of a huge new U.S. Army base in Kosovo, has been given a go-ahead by the governments of Albania, Bulgaria, and Macedonia.[23] Meanwhile by 2000, according to DEA statistics, Afghan heroin accounted for almost 20 percent of the heroin seized in the United States -- nearly double the percentage taken four years earlier. Much of it is now distributed by Kosovar Albanians.[24]

### **Sergeant Ali Mohamed and U.S. Intelligence Links to the Al Qaeda Leadership**

The Report describes Ali Mohamed as “a former Egyptian army officer who had moved to the United States in the mid-1980s, enlisted in the U.S. Army, and become an instructor at Fort Bragg,” as well as helping to plan the bombing of the U.S. Embassy in Kenya (68). In fact Ali Mohamed was an important al Qaeda agent who, as the 9/11 Commission was told, “trained most of al Qaeda’s top leadership,” including “persons who would later carry out the 1993 World Trade Center bombing.”[25] But the person telling the 9/11 Commission this, U.S. Attorney Patrick J. Fitzgerald, misrepresented Ali Mohamed’s FBI relationship. He told the Commission that, “From 1994 until his arrest in 1998, [Mohamed] lived as an American citizen in California, applying for jobs as an FBI translator and working as a security guard for a defense contractor.”[26]

Ali Mohamed was not just an FBI job applicant. Unquestionably he was an FBI informant, from at least 1993 and maybe 1989.[27] And almost certainly he was something more. A veteran of the CIA-trained bodyguards of Egyptian President Anwar Sadat, he was able, despite being on a State Department Watch List, to come to America around 1984, on what an FBI consultant has called “a visa program controlled by the CIA”, and obtain a job, first as a security officer, then with U.S. Special Forces.[28] In 1988 he took a lengthy leave of absence from the U.S. Army and went to fight in Afghanistan, where he met with Ayman al-Zawahiri (later bin Laden’s chief deputy in al Qaeda) and the “Arab Afghan” leadership.[29] Despite this, he was able to receive an Honorable Discharge one year later, at which point he established close contact with bin Laden in Afghanistan.

Ali Mohamed clearly enjoyed U.S. protection: in 1993, when detained by the RCMP in Canada, a single phone call to the U.S. secured his release. This enabled him to play a role, in the same year, in planning the bombing of the U.S. Embassy in Kenya in 1998.[30]

Congress should determine the true relationship of the U.S. Government to Ali Mohamed, who was close to bin Laden and above all Zawahiri, who has been called the “main player” in 9/11.[31] (Al-Zawahiri is often described as the more sophisticated mentor of the younger bin Laden.)[32] In particular Congress should determine why Patrick Fitzgerald chose to mislead the American people about Mohamed’s FBI status.

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In short, the al Qaeda terror network accused of the 9/11 attacks was supported and expanded by U.S. intelligence programs and covert operations, both during and after the Soviet Afghan War. Congress should rethink their decision to grant still greater powers and budget to the agencies responsible for fostering this enemy in the first place.

Sane voices clamor from the Muslim world that the best answer to terrorism is not war but justice. We should listen to them. By using its energies to reduce the injustices tormenting Islam, the United States will do more to diminish terrorism than by creating any number of new directorates in Washington.

### Endnotes

- [1] Michael Griffin, *Reaping the Whirlwind: The Taliban Movement in Afghanistan* (London: Pluto Press, 2001), 115. Exploration in the 1990s has considerably downgraded these estimates.
- [2] Western governments and media apply the term “al Qaeda” to the whole “network of co-opted groups” who have at some point accepted leadership, training and financing from bin Laden (Jason Burke, *Al-Qaeda: The True Story of Radical Islam* [London: I.B. Tauris, 2004], 7-8). From a Muslim perspective, the term “Al Qaeda” is clumsy, and has led to the targeting of a number of Islamist groups opposed to bin Laden’s tactics. See Montasser al-Zayyat, *The Road to Al-Qaeda: The Story of Bin Lāden’s Right-Hand Man* [London: Pluto Press, 2004], 100, etc.).
- [3] Peter Truell and Larry Gurwin, *False Profits: The Inside Story of BCCI, the World’s Most Corrupt Financial Empire* (Boston: Houghton Mifflin, 1992), 132; Peter Dale Scott, *Drugs, Oil, and War* (Lanham, MD: Rowman & Littlefield, 2003), 42.
- [4] Robert Parry, *Secrecy & Privilege: Rise of the Bush Dynasty from Watergate to Iraq* (Arlington, VA: Media Consortium, 2004), 213-28, 235-39, 245-47.
- [5] For Hamilton’s role on the conspiratorial whitewashing of contra drug activities, see Jonathan Marshall, Peter Dale Scott, and Jane Hunter, *The Iran-Contra Connection: Secret Teams and Covert Operations in the Reagan Era* (Boston: South End Press, 1987), 179-81. At least eight men in the current Bush Administration were criticized for their roles in Iran-Contra, including two (Poindexter and Abrams) who were convicted.
- [6] 9/11 Commission Report, 56.
- [7] Steve Coll, *Ghost Wars: The Secret History of the CIA, Afghanistan, and Bin Laden, from the Soviet Invasion to September 10, 2001* (New York: Penguin Press, 2004), 157 (hosted); George Crile, *Charlie Wilson’s War: The Extraordinary Story of the Largest Covert Operation in History* (New York: Atlantic Monthly Press, 2003), 521 (bags).
- [8] George Crile, *Charlie Wilson’s War* (New York: Atlantic Monthly Press, 2003), 335 (car bombings); Steve Coll, *Washington Post*, 7/19/92 (ISI/CIA).
- [9] Rahman was issued two visas, one of them “by a CIA officer working undercover in the consular section of the American embassy in Sudan” (Peter L. Bergen, *Holy War, Inc.: Inside the Secret World of Osama bin Laden* [New York: Free Press, 2001], 67; cf. 218 (Khalifa). FBI consultant Paul Williams writes that Mohamed “settled in America on a visa program controlled by the CIA” ((Paul L. Williams, *Al Qaeda: Brotherhood of Terror* [Upper Saddle River, NJ: Alpha/ Pearson Education, 2002], 117). Others allegedly admitted despite being on the State Department watch list include Mohammed Atta and possibly Ayman al-Zawahiri (Nafeez Mosaddeq Ahmed, *The War on Truth: 9/11, Disinformation, and the Anatomy of Terrorism* [Northampton, MA: Olive Branch Press, 2005], 205, 46).
- [10] Former State Department officer Michael Springmann, *BBC 2*, 11/6/01; Ahmed, *War on Truth*, 10.
- [11] *US v. Sheikh Omar Abdel Rahman et al*, Federal Court, SDNY, Testimony of Rodney Hampton-El, 8/3/95.
- [12] Peter Lance, *Cover Up: What the Government Is Still Hiding about the War on Terror* [New York: Regan Books/ HarperCollins, 2004], 25); Andrew Marshall, *Independent*, 11/1/98, <http://billstclair.com/911timeline/1990s/independent110198.html>: “Mr. Mohamed, it is clear from his record, was working for the U.S. government at the time he provided the training: he was a Green Beret, part of America's Special Forces.... A confidential CIA internal survey concluded that it was 'partly culpable' for the World Trade Centre bomb, according to reports at the time.” Williams writes that Mohamed’s “primary task as a U.S. soldier was to train Muslims to fight the Soviets in Afghanistan” (Williams, *Al Qaeda: Brotherhood of Terror*. 117). Cf. 9/11 Commission Report, 68.
- [13] The most prominent example was the blocking by David Frasca at FBI HQ of the investigation of Zacarias Moussaoui under the Foreign Intelligence Surveillance Act (FISA). Frasca also failed to act on the July 2001 request from the Phoenix FBI office urging a systematic review of Muslim students at U.S. flight schools (Ahmed, *War on Truth*, 251-57).
- [14] 9/11 Commission Report, 171. This statement is one-sided and misleading. But so is the opposite claim of Yossef Bodansky: “The annual income of the Taliban from the drug trade is estimated at \$8 billion. Bin Laden administers and manages these funds – laundering them through the Russian mafia...” (Bodansky, *Bin Laden*, 315).



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[15] Thomas Goltz, *Azerbaijan Diary: A Rogue Reporter's Adventures in an Oil-Rich, War-Torn, Post-Soviet Republic* (Armonk, NY: M. E. Sharpe, 1999), 272-75. A fourth operative in MEGA Oil, Gary Best, was also a veteran of North's Contra support effort. For more on General Secord's and Major Aderholt's role as part of Ted Shackley's team of off-loaded CIA assets and capabilities, see Marshall, Scott, and Hunter, *The Iran-Contra Connection*, 26-30, 36-42, 197-98.

[16] Goltz, *Azerbaijan Diary*, 272-75; Peter Dale Scott, *Drugs, Oil, and War* (Lanham, MD: Rowman & Littlefield, 2003), 7. As part of the airline operation, Azeri pilots were trained in Texas. Dearborn had previously helped Secord advise and train the fledgling Contra air force (Marshall, Scott, and Hunter, *The Iran-Contra Connection*, 197). Richard Secord was allegedly attempting also to sell Israeli arms, with the assistance of Israeli agent David Kimche, another associate of Oliver North. See Scott, *Drugs, Oil, and War*, 7, 8, 20. Whether the Americans were aware of it or not, the al Qaeda presence in Baku soon expanded to include assistance for moving jihadis onwards into Dagestan and Chechnya.

[17] Cooley, *Unholy Wars*, 180; Scott, *Drugs, Oil, and War*, 7. These important developments were barely noticed in the U.S. press, but a Washington Post article did belatedly note that a group of American men who wore "big cowboy hats and big cowboy boots" had arrived in Azerbaijan as military trainers for its army, followed in 1993 by "more than 1,000 guerrilla fighters from Afghanistan's radical prime minister, Gulbuddin Hekmatyar." (Washington Post, 4/21/94). The Azeri "Afghan Brigade" was formally dissolved in 1994, after which it focused more on sabotage and terrorism (Cooley, *Unholy Wars*, 181).

[18] Cooley, *Unholy Wars*, 176.

[19] As the 9/11 Commission Report notes (58), the bin Laden organization established an NGO in Baku, which became a base for terrorism elsewhere. It also became a transshipment point for Afghan heroin to the Chechen mafia, whose branches "extended not only to the London arms market, but also throughout continental Europe and North America (Cooley, *Unholy Wars*, 176).

[20] See Lewis Mackenzie (former UN commander in Bosnia), "We Bombed the Wrong Side?" *National Post*, 4/6/04: "Those of us who warned that the West was being sucked in on the side of an extremist, militant, Kosovo-Albanian independence movement were dismissed as appeasers. The fact that the lead organization spearheading the fight for independence, the Kosovo Liberation Army (KLA), was universally designated a terrorist organization and known to be receiving support from Osama bin Laden's al-Qaeda was conveniently ignored.... The Kosovar Albanians played us like a Stradivarius violin. We have subsidized and indirectly supported their violent campaign for an ethnically pure Kosovo. We have never blamed them for being the perpetrators of the violence in the early 1990s, and we continue to portray them as the designated victim today, in spite of evidence to the contrary. When they achieve independence with the help of our tax dollars combined with those of bin Laden and al-Qaeda, just consider the message of encouragement this sends to other terrorist-supported independence movements around the world." Cf. John Pilger, *New Statesman*, 12/13/04.

[21] "'Many members of the Kosovo Liberation Army were sent for training in terrorist camps in Afghanistan,' said James Bissett, former Canadian ambassador to Yugoslavia and an expert on the Balkans. 'Milosevic is right. There is no question of their participation in conflicts in the Balkans. It is very well documented'" (*National Post*, 3/15/02, <http://www.nationalpost.com/news/world/story.html?f=/stories/20020315/344843.html>). Cf. Frank Ciluffo of the Globalized Organized Crime Program, in testimony presented to the House of Representatives Judicial Committee (12/13/00): "What was largely hidden from public view was the fact that the KLA raise part of their funds from the sale of narcotics." Contrast e.g. Michael Ignatieff, *Virtual War : Kosovo and Beyond* (New York: Metropolitan/ Henry Holt, 2000), 13: "the KLA, at first a small band of poorly trained and amateurish gunmen." For the al Qaeda background to the UCK and its involvement in heroin-trafficking, see also Marcia Christoff Kurop, "Al Qaeda's Balkan Links," *Wall Street Journal Europe*, 11/1/01. "According to Michel Koutouzis, the DEA's website once contained a section detailing Kosovar trafficking, but a week before the U.S.-led bombings began, the section disappeared" (Peter Klebnikov, "Heroin Heroes," *Mother Jones*, January/February 2000, <http://www.motherjones.com/news/feature/2000/01/heroin.html>).

[22] George Monbiot, *Guardian*, 2/15/01.

[23] BBC News, 12/28/04. Those who charged that such a pipeline was projected were initially mocked but gradually vindicated (*Guardian*, 2/15/01; Scott, *Drugs, Oil, and War*, 34). See also Marjorie Cohn, "Nato Bombing of Kosovo: Humanitarian Intervention or Crime against Humanity?" *International Journal for the Semiotics of Law*, March 2002, 79-106.

[24] Klebnikov, "Heroin Heroes," *Mother Jones*, January/February 2000.

[25] Cf. 9/11 Commission Report, 68.

[26] Patrick Fitzgerald, Testimony before 9/11 Commission, June 16, 2004, <http://www.9-11commission.gov/hearings/hearing12.htm>, emphasis added.

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[27] Fitzgerald must have known he was dissembling. Even the mainstream account by Daniel Benjamin and Steven Simon (*The Age of Sacred Terror* [New York: Random House, 2002], 236) records that “When Mohamed was summoned back from Africa in 1993 [sic, Mohamed in his confession says 1994] to be interviewed by the FBI in connection with the case against Sheikh Rahman and his coconspirators, he convinced the agents that he could be useful to them as an informant.” Cf. Lawrence Wright, *New Yorker*, 9/16/02: “In 1989...Mohamed talked to an F.B.I. agent in California and provided American intelligence with its first inside look at Al Qaeda.” Larry C. Johnson, a former State Department and CIA official, faulted the FBI publicly for using Mohamed as an informant, when it should have recognized that the man was a high-ranking terrorist plotting against the United States. In Johnson's words, “It's possible that the FBI thought they had control of him and were trying to use him, but what's clear is that they did not have control” (*San Francisco Chronicle*, 11/04/01).

[28] Lance, *1000 Years*, 30 (Watch List); Williams, *Al Qaeda: Brotherhood of Terror*, 117 (visa program); Bergen, *Holy War, Inc.*, 128 (security officer).

[29] Yossef Bodansky, *Bin Laden: The Man Who Declared War on America* (New York: Random House/Prima, 2001), 106; cf. Richard H. Shultz, Jr. and Ruth Margolies Beitler, *Middle East Review of International Affairs*, June 2004, <http://meria.idc.ac.il/journal/2004/issue2/jv8n2a6.html>. In 1995 Mohamed accompanied Ayman al-Zawahiri of Islamic Jihad, already effectively merged with al-Qaeda, on a secret fund-raising trip through America (Bodansky, *Bin Laden*, 105; Peter L. Bergen, *Holy War, Inc.* [New York: Free Press, 2001], 201).

[30] Cf. 9/11 Commission Report, 68. The *Globe and Mail* later concluded that Mohamed “was working with U.S. counter-terrorist agents, playing a double or triple game, when he was questioned in 1993” (*Globe and Mail*, 11/22/01, <http://www.mail-archive.com/hydro@topica.com/msg00224.html>).

[31] al-Zayyat, *The Road to Al-Qaeda*, 98: “I am convinced that [Zawahiri] and not bin Laden is the main player in these events.” In contrast the 9/11 Commission Report (151) assigns no role to Zawahiri in the 9/11 plot. Was Mohamed in touch with Zawahiri at this time? The *San Francisco Chronicle* has written that “until his arrest in 1998 [by which time the 9/11 plot was already under way], Mohamed shuttled between California, Afghanistan, Kenya, Somalia and at least a dozen other countries” (*San Francisco Chronicle*, 10/21/01).

[32] Burke, *Al-Qaeda*, 150.

### BACKGROUND TO 9/11 AND OTHER MAJOR TERRORIST ACTIONS TO DATE STATEMENT TO JULY 22, 2005 CONGRESSIONAL BRIEFING by John K. Cooley, author of *Unholy Wars*

Nearly twenty years of research and reporting in the Mideast and South Asia show that the original culprit in the recent London bombings, 9/11 and a host of other attacks around the globe is the former Soviet Union.

Why? Because the USSR of Leonid Brezhnev and his predecessors, including Nikita Khrushchev, trained and supported various terrorist groups? No, although they certainly did so. What gave the decisive push and spawned the movements of Usama bin Laden, al-Qaeda and autonomous groups now seemingly holding an Al-Qaeda franchise, like the London bombers of July, and under their direct control, like the 9/11 airborne attackers, was the fateful Soviet decision to invade Afghanistan at Christmas 1979.

There is clear progression from that historical moment and the almost immediate covert and covert responses of the Carter administration to the present global terrorist threat. Once the crucial decision to invade was made by a narrow and contested majority vote in the Brezhnev inner politburo-- which declassified Russian documents clearly establish—Washington's policymakers took a series of equally fateful decisions. These were amplified and reinforced by President Reagan and his CIA director, William Casey, following Reagan's election in 1980.

These decisions began with a secret presidential finding which President Carter signed in January 1980. In the words of his National Security Advisor, Zbigniew Brzezinski to this reporter, “the President authorized use of any available means to defeat the Soviet Union and end its occupation of Afghanistan.”

This was considered at highest administration and congressional levels a major strategic objective of the US. It was preceded by an equally secret finding in 1979, months before Soviet tanks and paratroops seized Kabul and assassinated Afghan President Hafizullah Amin, replacing him with Moscow's puppet Babrak Kamal. That earlier finding authorized sending some old rifles and communications and medical supplies to militant Islamic fundamentalist

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Afghan tribes who were already in a state of virtual revolt against the secular and nominally socialist regime of Hafizullah Amin.

It was felt that this would help to discourage any tendencies in Kabul to show sympathy or hospitality to the Soviets, who had worked steadily for generations to increase influence in Afghanistan. The policy of aiding militant Islamists was supported and aided by Pakistani President Zia al-Haq's powerful covert action arm, Inter-Services Intelligence (ISI) was viewed with sympathy, which had long worked with the CIA and other friendly and allied services, including that of wealthy Saudi Arabia.

The US administrations of Carter, Reagan and finally the senior George H.W. Bush implemented early secret accords reached with Zia al-Haq in 1980 to support the Afghan resistance to the Soviets. Working mostly through front organizations, they recruited, funded, trained and armed young and radical Muslims from all over the world—especially from the Arab countries, but also from Iran, Turkey, China's Muslim Far West in Xinjiang, the Philippines and even the United States.

In Tunisia, for example, university students and others influenced by Muslim clerics, including prison inmates, were recruited by CIA intermediaries and given all-expense-paid trips for "religious studies" in the turbulent, fundamentalist madrasas or Islamic schools of Pakistan, especially in Lahore.

Those courses completed, ISI officers approached them, offering military training, which turned out to be in guerilla and terrorist tactics. (A former US Green Beret officer and trainer, later leading many in US anti-terrorist efforts in the 1980s and 1990s, told me: "We [this included both the Americans and the Pakistanis] taught them about 65 different skills, from how to strangle a man silently with a garrot, capturing an entire town with a small squad, to blowing up a rail line, a factory or an oil refinery.")

The "Arab Afghans," as the North Africans and others were often called, trained and seething with angry, Islamist zeal, returned home to foment revolt and civil war (Algeria from 1991 to the present, Egypt in the early 1990s and the Philippines are outstanding examples).

In New York, a group which congregated at Brooklyn mosques originally used to recruit the mujahidin to kill Russians in Afghanistan bombed the World Trade Center in February 1993, with a loss of several lives, injuries to hundreds and extensive property damage. New York's then regional FBI director, the late Robert Fox, indiscreetly commented at the time to ABC News' Nightline program, following the first arrests, "We know who these guys are...we trained 'em!" Fox was soon transferred out of New York. The CIA and FBI training, mostly of the ISI Pakistani trainers, had taken place in locations like Camp Perry, Va. Quantico Marine Base and Fort Bragg, North Carolina.

By 1993 the prime mover in the Al-Qaeda ("The Base") organization—originally formed as a recruiting, reception and initial training center for mujahidin in Pakistan, mainly in Peshawar-- was Usama bin Laden, the multi-millionaire Saudi construction tycoon. The CIA and the Saudi Arabian intelligence services of Saudi Prince Turki funded and helped bin Laden with construction of his extensive network of fortified surface and underground bases. Some he later shared with the ultra-Islamist Taliban when they took control of an Afghanistan, upon which Washington turned its back in disinterest and neglect, once the defeated Soviets evacuated Afghanistan in 1989.

In the meantime, large quantities of Stinger anti-aircraft missiles and other weapons, decisive in turning the tide against Soviet air power in Afghanistan 1979-89 (but which the CIA's efforts to buy back or otherwise recover largely failed), have since turned up in deadly Islamist guerilla actions by Al-Qaeda franchise-holders, anti-Russian rebels in Chechniya and probably against current US air operations, especially by helicopters, in President Hamid Karzai's US-sponsored Afghanistan in 2005.

Although the Saudi kingdom, spurred by the austere, Islamist and basically anti-Western Wahabi ideology dear to the Saudi royal family since the kingdom's founding in the 1920s, more than matched, dollar for dollar, the billions of US-supplied funds, other, local funding had to be found for the Afghan war.

The ISI was already by the mid-1980s diverting US flows of funds and weapons intended to fight Russians to the guerilla war against India in Kashmir. With apparent CIA consent (if not connivance), encouraged the opium trade out

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of Afghanistan, and even creation of heroin labs there and in Pakistan areas. While Mrs. Nancy Reagan led an anti-narcotics campaign in the US under the slogan “Just say no to drugs,” the late William Casey’s CIA apparently adopted advice given to President Reagan by France’s then external intelligence chief, Alexandre de Marenches: Use drugs as a weapon—by encouraging the lucrative traffic, and by planting opium, hashish and harder drugs among Soviet troops. These took them home and weakened Soviet society by a huge wave of addiction. Addiction also grew astronomically in Afghanistan and Pakistan as a result: UN and other. Independent, statistics tell the story.

Today, Afghanistan, after a brief curtailment by the ex-Taliban regime, is the world’s leading producer of opium, surpassing even the “Golden Triangle” in southeast Asia—which also has a French and subsequently CIA-associated past. Many of the most anti-American zealots among mujahidin leaders, such as Gulbuddin Hekmetyar, once a favorite of Pakistan’s ISI and now an ally of the resurgent Taliban fighting US and Allied troops in Afghanistan, have been involved.

In the United States, there is a zig-zag but clear line between the first, 1993 attempt to destroy the World Trade Center and the 9/11 attacks on New York and Washington. This story, which as a Pakistani taxi driver in New York hinted to me in 1995 to me would take the form of “jihad in America,” is familiar by now, told by such authors as Pakistan’s Ahmed Rashid, Peter Bergen, the *Washington Post*’s Steve Cull, and ex-CIA operatives themselves. Space and time limit repetition here.

In the area of ignored or mislaid intelligence warnings about 9/11, as well as the false (and probably in some cases, falsified) intelligence about Saddam Hussein’s supposed Wads and terrorist links, I can attest to personal experience: Myself and other working reporters often described Saddam Hussein’s early support of notorious Palestinian guerilla groups, such as Abu Nodal, but also his quarrels with them, often resulting in their expulsion and/or assassination of their leaders.

We reported how bin Laden, during his 1990s operations in the Sudan and later, denounced Saddam and offered to turn his volunteer Islamist legions against in him in the Kuwait war of 1991. This was rejected by the Saudi royals. They preferred to accept then US Defense Secretary Dick Cheney’s offer of a 400,000- plus, US-led expeditionary force, an idea excoriated by bin Laden as “an infidel presence” at sacred Muslim holy places; a main cause of bin Laden’s break with the Saudi regime.

During the summer of 2001, this reporter received directly from Jordanian intelligence in Amman information already passed to the United States, both in Jordan and Germany: communications intercepts of messages between terrorist operatives referring to an imminent operation, code -named in Arabic “The Big Wedding, ” in the continental US, using aircraft. Similar warnings were passed to Rabat and doubtless onward to Washington, by a Moroccan intelligence operative who infiltrated bin Laden’s immediate circle. Suspected by bin Laden and frozen out, he escaped. He was eventually given a new identity and existence in the United States.

Americans have to hope that apparent ignorance of, or failure to properly evaluate such signals, will never be repeated. Current and future reforms, such as the new umbrella organization headed by John Negroponte, could remedy this.

Let us hope so. If not, we are all in for future, bigger terrorist disasters which could dwarf even 9/11, London in July 2005, or others such as the USS *Cole*, Bali, Jakarta, or East Africa in 1998.

Thank you for hearing my viewpoints.

STATEMENT OF FORMER CONGRESSWOMAN MARY ROSE OAKAR  
Mary Rose Oakar, President of the American-Arab Anti-Discrimination Committee (ADC)

Congresswoman McKinney, and distinguished Members of the Panel:

My name is Mary Rose Oakar and I am the President of the American-Arab Anti-Discrimination Committee (ADC), a national grassroots civil rights organization that is dedicated to protecting the civil rights of Arab Americans, and indeed all Americans and promoting our rich cultural heritage. This year marks ADC’s 25<sup>th</sup> Year Silver Anniversary, and ADC was founded by former United States Senator James Abourezk in 1980. As you know, Madam Chair, ADC

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condemns all terror attacks, and advocates the Dr. Martin Luther King, Jr. philosophy. As a former 16-year member of this great legislative body, I am very honored to be here today and delighted as part of a Congressional briefing chaired by Congresswoman Cynthia McKinney. My remarks today will deal with insights on post 9-11 civil liberties concerns and their impact on the Arab-American community and many other people.

The Arab-American, Muslim and South Asian communities have faced extraordinary difficulties in the days, weeks and months following the terrorist attacks of Sept. 11. The anxiety created in the community by hate crimes and discrimination was compounded by serious civil liberties concerns regarding aspects of the investigation into the terrorist attacks and new “homeland security” polices and regulations. The atmosphere was exacerbated by a campaign in American popular culture, some members of the media, some elected officials of vicious defamation and vilification against Arabs and Islam. Just the other day a member of Congress indicated that a possible solution to certain terrorist attacks could be to “nuke Mecca.” This type of inflammatory rhetoric only feeds fuel to the fire because you can be sure that his words were broadcast throughout the more than 1.2 billion Muslims throughout the world.

Certainly, there have been many administrative policies and actions taken by the executive branch since 9-11, which have served to curb our rights and due process, undermine fundamental constitutional protections, and profile communities and target them for heightened security.

This targeting has focused on the Arab and Muslim communities, and those perceived to be as such, and includes among other measures, detentions without charges, closed hearings, interview of Arab and Muslim men by the FBI (form of racial and ethnic profiling), secrecy regarding immigration detainees, and the registration and monitoring of Arab males under a very controversial and discriminatory program, called the National Security Entry Exit Registration System (NSEERS) and also known as the Special Registration Program.

The program is aimed exclusively at men over the age of 16 who entered the US before Sept. 2002 on non-immigrant visas from 25 countries, all of which are Arab or Muslim with the exception of North Korea. These men were required to register (the men were fingerprinted, photographed and interviewed) with local immigration offices by a specified deadline date and were also required to register at designated points of departure prior to leaving the United States. Failing to do any of the requirements under the program resulted in criminal charges and deportation. Although certain elements under the program have been terminated (re-registration requirements) other requirements (registration at points of departure, notification of change of address, etc.) are still in effect, and ADC continues to advocate for the termination of the program. Certainly, NSEERS should be terminated since the U.S. Visit Program covers VISA holders throughout the world.

While the program was advertised as a national security tool, it proved to be an ineffective tool of law enforcement and a waste of valuable resources. No terrorists were apprehended as a result of this failed program.

Certainly, there is no greater government responsibility today than to work to prevent future terrorist attacks. But instead of a focused and effective law enforcement investigation the government turned to broad measures that threatened basic rights. Hundreds have been jailed for months and years when it appears without the government openly giving evidence linking them to terrorism. Many of those detained have been held “incommunicado.” Once behind bars, many do not know the reasons for their detention. Most are held on immigration violations and are not served with notices on time, so they are denied their fundamental due process rights.

Even when the government selectively targeted thousands of Arab and Muslim men for the so-called “voluntary interviews”, federal terrorism investigators continued to insist that none of the 8,000 men targeted were suspected terrorists. Investigators also acknowledged that they had no reason to believe that those selected for interviews had any useful knowledge regarding terrorist activities. Thus, these interviews were driven by the interviewee’s ethnicity, gender and countries of origin.

This country’s experiences with terrorism demonstrate the ineffectiveness of using racial or religious markers as keys to finding terrorist suspects, both potential and actual. Americans of non-Arab descent such as John Walker Lindh and José Padilla, Richard Reid, British national of English and Jamaican heritage are all examples of how neither ethnicity nor national origin are consistent characteristics of potential Al-Qaeda operatives. Then of course, there is Timothy McVeigh, who committed the second worst terrorist act—I do not believe we racially profiled blond hair / blue-eyed American men.

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We believe that the 9-11 attacks on our nation require some reconsideration of the balance between security and liberty. We understand the need to have increased security... but when it is based solely on national origin and ethnicity, or other criteria that does not make us safer. The kind of prioritizing or selective enforcement of the immigration laws based on country of origin is essentially no different from the racial profiling that too many law enforcement agencies across the country have engaged in on the nation's highways where they have prioritized stopping of black motorists for speeding and other routine motor vehicle violations.

This is to say that bad law enforcement does not make us safer. We need to be mindful of what the 9-11 commission stated regarding the protections of civil liberties, "while protecting our homeland, Americans should be mindful of threats to vital personal and civil liberties. This balancing is no easy task. But we must strive to keep it right." These civil liberties concerns should be alarming to all Americans; but there can be little doubt that it is the Arab American and Muslim communities who are facing the gravest threats to their rights and that these communities will continue to bear the brunt of any diminution of civil liberties in the United States if nothing is done. In fact, 75% of all complaints filed across the nation with the Department of Homeland Security's (DHS) Office of Civil Rights were filed by ADC attorneys, and many of these cases were resolved.

That is why the 9-11 Commission needs to be commended for certain observations in its report. We agree with the Commission that any reform in our intelligence or law enforcement communities must reflect the values and ideals of our constitution, including privacy concerns. We believe that the report is right in recommending congressional oversight on these matters. We also applaud the Commission for rejecting any border security scheme, such as NSEERS, that singles visitors out based on national origin or other categorical criteria. The report says: "We advocated a system for screening, not categorical profiling." While the report discusses the detentions related to the 9-11 investigations, it also mentions how the inspector general's report of the Justice Department found significant problems in the way that 9-11 detainees were treated and represented concern regarding allegations that the US is abusing prisoners. The report fails to discuss whether these policies were effective.

But although the report speaks about protection of civil liberties and the need "to bring justice to immigrant communities," regrettably the report from our perspective, does not go far enough in addressing directly problematic programs and ineffective policies mentioned in my presentation, such as the detentions without charges, how law enforcement questioning of Arabs and Muslims and other immigration-related policies. Nor does it analyze how war and extreme policies can lead moderate people to become violent.

ADC has been working on many levels to reach out to the US government as well as to our community. After 9-11, ADC compiled incidents of hate crimes directed at the community and has shared this report with Congress and members of the Administration. ADC has worked and established ties with government officials on a national and local level to regain and build trust in our community and we have been meeting with DHS and DOJ officials to discuss community concerns as well as review various policy matters. The Civil Rights Division at the U.S. Department of Justice, and the Office of Civil Rights at the U.S. Department of Homeland Security have been cooperative.

ADC has established the Law Enforcement Outreach Program (LEOP), which is a cultural awareness program, aimed at working with law enforcement and education programs such as ADC's "Reaching the Teachers Campaign," which is aimed at providing educational tools about Arab-American culture and concerns. On a national policy level, we continue to advocate for open government and the preservation of due process and other constitutional protections. (I am providing a list of suggested changes to the Patriot Act, our support for the McCain-Kenney Immigration Bill, and our concerns about the Education Reauthorization Bill which has a provision which would inhibit academic freedom concerning International Studies Programs. We also believe a fair and balanced policy in the Middle East by Congress and the Administration would be extremely important in letting moderate voices abroad know that the United States respects their civil and human rights.

We at ADC are proud of the United States Constitution and certain laws such as the Civil Rights Act passed in the 1960's which respects the civil rights of women and men of all faiths, races, and ethnicities. Finally, we need to emphasize a message of tolerance, and we need to be committed to the foundations of freedom, liberty and democracy that we all cherish.

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Thank you for your time and we appreciate your efforts.

### STATEMENT FOR CONGRESSIONAL BRIEFING

Rebecca Daugherty, Reporters Committee on Freedom of the Press

Thank you for the opportunity to present our views on the secrecy surrounding the events of September 11, 2001.

At the Reporters Committee for Freedom of the Press we are concerned with increasing government secrecy every day. The findings of the 9/11 Commission that government secrecy prior to the 9/11 tragedy was so pervasive that the failure of government agencies to share information may have contributed to the failure of our government to detect and prevent those events.

The commission found that the failure to share information constituted the single most important reason that government failed to detect and disrupt the 9/11 plot. This was not the first of the tragedies in our life time found in retrospect to have been exacerbated by secrecy.

Although the government had committed no “evil acts” in its handling of the 1993 raid on the Branch Davidian compound at Waco, Texas, its failure to be candid with the public caused untold damage to the public’s confidence in government, according to the report issued in 2000 by Special Counsel, former Senator John Danforth. He noted inexplicable government secrecy about the use of pyrotechnic devices at Waco—uses found not to have ignited the tragic fires that consumed the compound. The government’s “bunker mentality” wronged the public.

The 9/11 Commission wrote at some length about the failure of the government prior to 9/11 to share information between agencies. But it also acknowledged that the national news media had nothing to report. The secrecy that occurred before 9/11 was pervasive—information was just withheld.

The Commission found that the events of 9/11 were a shock, but should not have been a surprise. They were preceded by a decade of rapidly escalating Islamic terrorism—of attacks foiled and of less successful attacks. The system, the report said, was “blinking red.” There were many indicators that Bin Laden was “planning something big.”

But those indicators never got the attention in the media that would give the public any idea of the breadth of the escalating problem. The Report notes the comparison to the fears of the millennium changes where government worked regularly with news media to make the public aware of the dangers that could occur as system designed for one country would be called upon to accommodate another.

The Commission found that 9/11 was preceded by failures of imagination. With too few minds devoted to the consideration of too few facts. Islamic terrorism was simply not a matter of vigorous and informed debate among the public, the media or Congress.

So it is a major irony that a tragedy that in retrospect is attributable in pertinent part to secrecy has spawned incredible new efforts by the federal and state governments to keep more information secret.

Virtually every state has either adopted or proposed new secrets as a result of the events of 9/11. For the most part these have to do with keeping secret vulnerabilities in the infrastructure.

The 9/11 Commission found that 85 per cent of the critical infrastructure is privately owned but there is government oversight of most of the infrastructure—of the transportation system, of the communication system, of water and lights, dams and bridges.

In the bunker mentality we saw after Waco, the government has tried hard to make weaknesses a secret. Here there is a thought that if the infrastructure is weak, has weaknesses, then it will be vulnerable to terrorists—and if they know of the weaknesses, they will be able to capitalize on them.

But far scarier is the thought that the infrastructure could be secretly weak. If no one knows of the weaknesses, who is going to demand that it be stronger?

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We have heard government attorneys refer to the “alphabet soup” of new labels for government information—SBU (Sensitive but Unclassified), FOUO (For Official Use Only), SSI (Sensitive Security Information), etc. etc. Clearly those labels are not intended to displace the disclosure requirements of the Freedom of Information Act, but we believe that many in the federal workforce believe that they do, that information that does not fall within one of the nine exemptions to the act can be protected simply because it bears a protective label.

In addition, information on vulnerabilities that has been available on federal web sites has been removed, even where public notification is required, as by the Clean Air Act. This month the Environmental Protection Agency gave OMB Watch the risk management plans filed by chemical plants which notify communities what risks exist and what they are doing to protect against worst case scenarios. The delivery of that information came only after OMB Watch filed a Freedom of Information Act lawsuit.

We have seen the Executive Order on Classification changed after 9/11 to permit reclassification of records. It provides for new categories of information to be classified involving infrastructure vulnerabilities or capabilities, protection services relating to national security and weapons of mass destruction. And it now gives the director of the Central Intelligence Agency the power to block declassification decisions by the Interagency Security Classification Appeals Panel.

In addition we have seen new information protected from disclosure by agency FOI policies which have been upheld in the courts.

In *Living Rivers, Inc. v. the U.S. Bureau of Reclamation*, decided March 25, 2003, the U.S. District Court in Salt Lake City allowed law enforcement maps of flood areas below Hoover and Glen Canyon dams to be withheld because they might aid terrorists in carrying out an attack. The loss of that information to the thousands of people living downstream—who may or may not be vulnerable to flooding—is immeasurable.

The U.S. Court of Appeals (D.C. Circuit) in *Center for National Security Studies v. Department of Justice* allows the government to keep secret the names of the hundreds of detainees held in domestic jails after the events of 9/11, saying that release of that information could assist terrorists. Only aggressive reporting by the news media without the benefit of knowing who was locked up has brought to light any of the troubling personal plights of many of these detainees.

In *Coastal Delivery Corp. v. U.S. Customs Service*, the U.S. District Court in Los Angeles allowed the U.S. Customs Service to protect internal documents to deny information on its inspections of seaport operations because “terrorists” could learn how often inspections occurred and send their containers to “vulnerable ports.” The decision meant that the public could exercise no oversight over the way in which the government conducts these inspections, and make no insistence that vulnerable ports be made less so.

The Reporters Committee empathizes with the increased need to protect this country in the wake of 9/11. However, we believe that greater protection comes from better and more widely dispersed knowledge and that, certainly with exceptions where disclosures could clearly compromise national security, a public that is better informed is safer and better able to protect itself in the future, not only from terrorists but from the dark underside of activity kept secret when sunshine could and should have illuminated it.

We greatly appreciate your interest in our views.

STATEMENT, CONGRESSIONAL BRIEFING OF 22 JULY 2005

John Jacob Nutter

### **Introduction**

My name is John Nutter. I am the author of *The CIA's Black Ops: Covert Action, Foreign Policy, and Democracy*. I have been a scholar of terrorism, conflict, and intelligence activities for over twenty-five years. In the course of my research on both terrorism and intelligence operations, I have carefully studied most of the post mortems on intelligence failures, and the recommendations that have come out of those analyses. These have included the Tower Commission Report on Iran-Contra, the Church and Pike Committees, and the Taylor Commission Report on the Bay



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of Pigs. As I first read the report of the 9/11 Commission, I was reminded of a line from the movie Casablanca, where the police chief, Louie, says, "Major Stroesser's been shot. Round up the usual suspects."

This came to mind because the recommendations of these commissions and committees have been virtually interchangeable. One could cut and paste the recommendations from one report into another, and it would be almost impossible to tell.

Today, I'm going to comment on recommendations made by the 9/11 Commission, especially those regarding intelligence reform and covert action. My research has largely focused not on specific covert operations, but rather on the larger pattern of covert operations, the results they have attained, and the kind of world they have produced. I look more at the forest than the individual trees.

One of the fundamental conclusions of the 9/11 report is that there are certain kinds of intelligence activities the United States should undertake more of, especially covert operations against terrorists, their bases, and the governments and countries that harbor them. Cognizant of the so-called "abuses" that occurred historically as a result of covert operations and covert operators, the commission report admits that congressional oversight has been dysfunctional. It calls for a re-organization of intelligence oversight and enhancement to prevent these negative consequences from recurring. As a result of my research, I have concluded that any reform will be purely cosmetic.

Congressional oversight of covert action is a chimera. Congressional oversight of covert action is a chimera - an illusion. No matter how carefully we restructure congressional committees and oversight mechanisms, covert action will only be accountable to the extent that the president and the DCI (Director of Central Intelligence) want it to be. This is so for several reasons.

First, covert operations are intended to be "deniable," so that responsibility does not fall on the United States. The requirement for covert operations was viewed as necessary even by founding fathers like Washington and Madison, both of whom employed such activities, and both of whom acknowledged the concept of "plausible deniability." Plausible deniability originally meant that an operation (e.g. assassination, coup, guerrilla war) would be carried out in a way that United States involvement could not be proven. Plausible deniability, however, has evolved from that concept to one which says, "You can't prove the president knew about it." In other words, it has come to be way for the chief executive to carry out foreign policy and even conduct war with little or no accountability.

Why does plausible deniability virtually eliminate oversight and accountability? We can ferret this out with another question. How does a congressional oversight committee learn of (and therefore "oversee") covert operations? By the mechanism of having the DCI appear before the oversight committee and disclose covert activities. This works well when the DCI is an honorable and law-abiding individual who respects the role of congress in foreign policy and the nature of accountability in a democratic state. If, however, another kind of individual occupies the office of DCI, he may choose to omit or misrepresent covert operations that the committee might disapprove of. In this case, how can Congress find out about the omissions? Who will perform the "audit" to verify complete and accurate disclosure? Must Congress rely on CNN?

In the past, the United States has experienced numerous DCIs who believed Congress had no oversight authority, and therefore even testimony under oath held no binding power to compel the truth. William Casey mumbled, misrepresented and outright lied to Congress about Iran-Contra activities. Richard Helms lied to Congress about the CIA role in the murder of Salvador Allende and the resulting coup in Chile. This happens for two reasons. In many cases, especially recently, the DCI has been a political appointee who perceives his first loyalty to the president, and conceives his role as both doing what the president wants, while at the same time evading accountability to the republic. Casey fits this mold. In other cases, the DCI understands his role as protecting the institution he sits atop of, the Central Intelligence Agency. Allen Dulles and Richard Helms have both lied to congressional oversight committees are examples of DCIs who sought to head off congressional inquiries into CIA covert operations to protect the agency and its operators.

Another motivation often cited by those who seek to evade accountability and conduct their own private foreign policy under the guise of patriotism is a distrust of congress. Oversight committees, it is often charged, simply leak vital information to our country's enemies. While there have been occasional leaks from congressional oversight committees, there is no evidence that these leaks prevented the attainment of American foreign policy objectives, nor

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seriously endangered U.S. operatives. Nonetheless, we have witnessed defiant witnesses charging it was their obligation to lie to oversight committees, because the choice was between "lies and lives." This is nonsense. During covert operations in Iran, Lebanon, Honduras, El Salvador, and Nicaragua, U.S. covert operators entrusted highly sensitive information and ran covert operations through drug smugglers, terrorists, gun runners, bandits, and all manner of cutthroats. Are we to believe that these are more trustworthy than United State senators and representatives? The targets of U.S. covert action already know the United States is involved. The real purpose of the "lies" is to avoid accountability.

Finally, even if oversight committees discover violations of U.S. law, what are they to do? It is virtually impossible to successfully prosecute covert operators, because they simply know too much. As part of discovery, they can subpoena classified documents that the executive or intelligence agencies will not or cannot release, either because the information would prove embarrassing, or because it would reveal ongoing operations, intelligence sources, methods, or the identity of covert or clandestine agents. Because of the potential revelation (or "leaking") of damaging information, covert operators essentially have a "get out of jail free" card. In the 1980's, we even coined a term for this sort of immunity from prosecution: "graymail."

### **Covert Operations Often Produce Unintended Consequences**

Aside from the inability to institutionalize oversight of covert operations, it is vital to understand that covert operations often produce unintended consequences. The arming and training of the mujahedin and the role that played in creating the Taliban and Al Qaeda, is one example, but there are many others in history: the rise of the Islamic state in Iran as a reaction to U.S. intervention, the strengthening of the Castro regime in reaction to Operation ZAPATA (the Bay of Pigs), and so on.

I'm going to briefly discuss two dynamics that seem to come into play frequently when one engages in covert operations: backblast from proxy forces, and the creation of private intelligence agencies and armies.

Governments use proxy forces, that is, armies comprised of foreign citizens, because it's always better to spill other people's blood than our own. Proxy forces are always more deniable as well. Some examples of this include the Kurds in Iraq and Iran, the Hmong in Laos, the Montagnards in Vietnam, the Contras and Miskitos in Nicaragua. One thing often happens with proxy forces - they get abandoned and slaughtered. For United States foreign policy, that's a moral problem, which is to say, not a problem at all. But proxies can become a real problem when one arms native people and trains them in the most modern methods of warfare and covert operations. For these peoples, United States support is often a marriage of convenience, and they hold no particular admiration or loyalty to the United States. When the immediate conflict is over, they may come looking for other targets. On September 11, 2001, the offspring of one of these operations came looking.

It is also quite common that merely engaging in covert operations produces a class of operators who are highly skilled in covert, or "black," operations, and who choose to pursue such activities whether or not they are employed by the government. The unintended consequence of this is that there are individuals and organizations running around the world intervening in foreign nations, and often carrying out activities that are immoral, violent, and harmful to United States foreign policy and the American people. Moreover, such organizations frequently choose to carry out actions like gun running, paramilitary training and organization, kidnapping, assassination, and terrorism precisely because such actions have been prohibited by the United States Government. Examples of such activities include the private war waged against the Castro regime in the wake of OPERATION MONGOOSE, the Iran-Contra operations, the activities of Edwin Wilson in support of the Khadaffy regime in Libya, a little known private army within the United States Army called the "Intelligence Support Activity" which operated under the code name YELLOW FRUIT.

As one examines these "private" covert organizations, there are two serious problems that emerge for our republic. First, because covert operations have a revolving door in which one can work for the government one day, and not the next, it is almost impossible to tell when an individual or organization is carrying out an activity in on behalf of United States foreign policy, and when they are not. Operating in this gray area, covert agents can draw upon official government resources, such as personnel, intelligence, training, allies and foreign intelligence assets, and even weaponry simply because they once worked for our intelligence community. They can often produce what seem like official authorizations long after they are formally separated. This is exacerbated by the process called "sheep dipping," wherein U.S. intelligence or military personnel assigned to official covert operations are formally and publicly

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separated from government service in order to show the world that they are not working for the United States, yet secretly remain on Uncle Sam's payroll. Finally, because the United States has engaged in so much covert activity, the government often gets blamed for private actions carried out by "former" covert operators. Or are they "former?" Who can tell? Where does this leave deniability?

More importantly, these private covert action groups often become "off the books" organizations that establish permanent ways of funding private foreign policies that are often illegal or unconstitutional. When Congress cut off funding to El Salvador because of its government sanctioned death squads, YELLOW FRUIT provided cash, weapons, and training, all outside Army control, but supported by Army personnel and money. When Congress passed the Boland Amendments, self-styled "patriots" evaded the law by obtaining U.S. weapons and selling them for windfall profits, diverting part of the profit to support of the contras. With the contras, of course, there is a clear record of various drug importing operations being used to support covert activities opposed by both United States law and its people. When Congress clamped down on covert operations in the wake of the Church and Pike Committees, the Nugan-Hand Bank was created to support ongoing private covert operations. These are described at length in CIA's Black Ops.

It is vital to realize that these kinds of outcomes are not aberrations, as they are often explained away. They recur so frequently in the history of American covert action that they cannot be anything other than pattern. As we leap into the brave new world of the "War on Terror," we must understand that these outcomes will occur. There will only be oversight when it is "permitted." There will be the formation of private armies fighting private wars in the name of the United States - in my name and in yours.

### **Conclusions**

Intelligence plays a critical role in statecraft and foreign policy, and it is essential that the United States have top notch intelligence collection and analysis services. This is not only to protect ourselves, but also to protect the rest of the world from American mistakes. The United States is like Godzilla. If we simply turn the wrong way, one sweep of our tail can destroy an awful lot.

When it comes to covert action, however, we should exercise extreme caution, because whether or not such activity is good or bad, it has clearly established tradeoffs. We the people lose control over our government. Accountability is a chimera. Moreover, simply engaging in covert operations creates professionals, both foreign and American, who will continue to pursue their black operations, with or without government sanction.

Finally, it is important to remember that, to the rest of the world, our covert operations seem a lot like other people's terrorism, and if we do it, how can we condemn it? While terrorism is not something that can be "defeated," it is a problem we can manage. But only if the world can tell the difference between the good guys and the bad. Thank you.

### ESSAYS SUBMITTED FOR THE RECORD

“THERE WAS NO MECHANISM” – THE FAILURE TO DEFEND THE PENTAGON ON 9/11  
by John Judge

Having grown up in the Washington, DC area as part of a family of civilian employees of the Department of Defense, I know that there have always been many layers of defense in place around the White House, Capitol and Pentagon.

The area around these critical headquarters is perhaps the most restricted air zone on earth. It is called P-56, and though rarely discussed, its rules and parameters have been made clear in times of crisis over the years both in action and in the press.

Prior to 9/11, the Secret Service and the Federal Aviation Administration employed a special team of air traffic controllers in the Virginia suburbs to radar scan and protect a 50-mile Air Defense Identification Zone (ADIZ) meant to pick up any unauthorized flights or flight paths that might lead into the protected outer P-56 A circle, which extends for 17 miles around the Washington Monuments and includes the Pentagon. The ADIZ has expanded over the years into overlapping radar circles, and allows traffic controllers as well as military responders enough time to assess a problem,

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attempt to identify, communicate with and correct the off-course flight or to intercept it before it enters the even more restricted P-56 B circle that includes the Capitol, White House and Vice Presidential residence.

Andrews Air Force base, which sits within 10 miles south of the District of Columbia, as well as the 113th Wing of the Air National Guard at Anacostia Naval Air Station have planes on scramble-ready status for emergency interceptions. I have seen these fighter jets go up over DC to challenge and re-route errant pilots in small private planes. These interceptions are routine and required to protect the space.

On the morning 9/11, there were announcements on local television news (Channel 8) that one of the hijacked planes was headed toward Washington, made about 20 minutes before American Airlines Flight 77 struck the Pentagon. A close reading of the testimony of Secretary of Transportation Norman Minetta to the 9/11 Commission, it is clear that the Regional Air Defense Center was picking up the radar image of the flight as it entered the ADIZ on 9/11. Minetta describes a “young man” in the White House special operations center who remarks to Vice President Cheney “the plane is 50 miles out, do the orders still stand?” He returns to ask the same question at both 30 and 10 miles out, according to Minetta. This can only be a reference to Flight 77, since no other hijacked plane came that close to DC. Despite this, as well as air traffic controllers in Indianapolis and Herndon FAA Centers tagging the radar image of that flight even after the transponder was shut down, the standard operating procedures for defending P-56 inexplicably did not go into effect. At the same time, there was an advance warning at some level, which caused the Pentagon, White House and Capitol to be evacuated before the plane exploded into the Pentagon wall.

This Washington area defense response functions in addition to other standard procedures for air emergencies that air traffic controllers nationwide follow to alert FAA, the National Military Command Center and NORAD to activate scramble-ready planes from selected bases in the air defense sector (in this case NEADS) to intercept and investigate the problem. In fact, any military commander has the authority to scramble planes from a local base during an air emergency according to DoD regulations.

On the morning of 9/11, those standard procedures broke down as well, despite air emergencies that were apparent as early as 8:14 am, and NORAD failed to scramble fast enough to intercept any of the hijacked planes in New York and DC until at least as late as 9:45 am, when jets from Langley, AFB, 130 miles south of DC were asked to confirm on their way to New York that the Pentagon had been hit. The only local jets scrambled went up from Andrews AFB on orders of the Secret Service just before United Flight 93 crashed into a field in Spottsville, Pennsylvania. During 2001, in the months preceding 9/11, the FAA/NORAD response to air emergencies had happened in a timely and routine manner in much less critical circumstances a total of 67 times.

There were two additional recent violations of the P-56 air space in which local defenses did not function properly, one before and one after 9/11.

In 1994, a small private plane flew from Baltimore and crossed through all three layers of the air zone in the early morning hours, crashing on the White House lawn just outside the bedroom of President Clinton. The Regional Air Defense Center traffic controllers gave inadequate and contradictory statements about the failure to intercept the plane, first claiming that it had not been visible to radar because it was below tree level, and then admitting that radar logs showed the plane’s approach but it was at a time when the controllers have other duties. The pilot, who died in the attempt, was identified later as a patient at the Baltimore VA hospital on 100% psychiatric disability who, according to his son, “had keys to lots of planes.”

More recently, in March of 2005, a student pilot and his flight instructor plotted a flight plan directly through the ADIZ on the way from Pennsylvania to North Carolina, failed to properly set their transponder and turned off their radio contact. In the post-9/11 period a whole new air defense center was established in Herndon, Virginia, including Secret Service, FAA, Customs and Border Patrol and the Department of Homeland Security. Together they can employ fighter jets, Blackhawk helicopters and a smaller jet plane. The unidentified and off-course plane was picked up entering the ADIZ at 11:38 am, but it was inexplicably not intercepted until 12:05 pm, and the pilot ignored the multiple warnings until the plane was within two minutes of the Capitol. At that point Secret Service and Capitol Police ordered an evacuation. He flew into P-56 B and A before a combination of jet maneuvers, flares and helicopter engagements finally got them to restore radio contact within seconds of being shot down. The Capitol and the White House were evacuated, but the Pentagon was not. There was no explanation for the long delay, again unprecedented except on 9/11.

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Since 9/11, authorization to shoot down planes in the P-56 ADIZ or inner zones as well as automatic evacuation orders for the White House and Capitol were put into place as well. These kicked into place during the first major incident inside the ADIZ on the weekend of the funeral of former President Ronald Reagan. The pilot was flying a private plane, bringing in the Governor of Kentucky, and arranged for special permission to land at DC National Airport (now called Reagan) with the FAA. However, his transponder was working intermittently, and when the Herndon center picked him up entering the ADIZ as an unidentified “bogie” and initiated the scramble/intercept response. Two F-15 jets roared up from Andrews AFB, along with a Blackhawk and a small jet to intercept the flight. This also triggered an automatic evacuation alarm at the major buildings, including the Capitol and the Rotunda where people were viewing Reagan lying in state. They were told to take off their shoes and run outside by the Capitol Police. Rather than ask why at least elements of such a response did not happen in response to the bogie with no transponder coming into the ADIZ on 9/11 well after both Twin Towers had been hit by planes being used as weapons, the 9/11 Commission members and the press focused on this response as an embarrassment and as yet another example of the poor communication between FAA and air defense responders, since the FAA had not told Herndon Center about the incoming flight or its transponder problem. However, the air defense response was exactly what should have happened in the case of an intrusion. In the ensuing fallout, the air traffic controller who did his job was fired.

Beyond all those defenses failing that morning, yet another layer was apparently not activated despite the clear danger the incoming flight posed. At a young age in the 1950s, having lunch with my parents in the inner courtyard of the Pentagon, I sat on a silver metal box and was warned by my father not to sit on it. It was, he informed me, a surface-to-air missile port. One of the survivors of the attack, April Gallop informed me that when she was hired at the Pentagon she was told it was the most secure building on earth, and given a classified briefing about some of those defenses. Following the 1994 incident at the White House described above, a surface-to-air missile port was reportedly installed on the lawn. And in 1998, the head of security at the Pentagon told me that they were on Delta alert, their highest level, due to daily bomb threats by Muslims. He then pointed up to the roof of the building and said, “And we have cameras and radar up there to make sure they don’t run a plane into the building.” The statement was incomprehensible to me at the time, but unlike US intelligence I hadn’t seen the *Bojinka* plan, discovered in the computer confiscated from alleged 9/11 plotter Ramsi Yousef, which outlined the scenario of using hijacked planes inside the US to attack the Twin Towers, the Pentagon, the White House and the CIA headquarters in Langley, Virginia. The Pentagon had even conducted a first responder exercise with the Arlington Fire Department in October of 2000 to simulate a plane crashing into the building. NORAD had also drawn up plans for an exercise later in 2001 called Amalgam Virgo 2, which simulated scramble responses to incoming commercial planes being used to attack targets inside the US. And yet, on 9/11 the Pentagon failed to react to the incoming attack they had so long anticipated.

In press statements afterwards, Pentagon spokesmen said they didn’t respond because “We didn’t have a mechanism.” I am sure that the head of security did not mean that the cameras and radar alone would stop an attack by a plane. There must have been a “mechanism” by which this ultra-secure building could defend itself, but it was not used. The *Washington Post* reported that the Pentagon went to Alpha alert, its lowest level, after the second Twin Tower had been attacked. A query in response to the news of both Twin Towers being hit, by a staff member of the Marine Corps Judge Advocate General’s office, led to a response that there was no change in alert status just moments before the crash happened. After the Pentagon was hit, the alert level was elevated to Charlie, but never went to Delta that day. The headquarters of the national agency tasked with defending the country from attack could not defend itself, or did not. To date, not a single line of duty inquiry or courts martial action has ensued holding anyone in the chain of command responsible for this failure.

For the plot on 9/11 to succeed, layers and layers of functional and standard defensive procedures were stripped away and broke down on that day alone. Not only were fighter jets scrambled later than they should have been, they were sent to staging points and given no “bogie dope” or destination point for an intercept until it was too late. In some instances they were turned back from interception, as when the pilots from Otis AFB, Connecticut turned over New York to intercept Flight 77 coming towards DC and were told to stay in the NYC airspace. Jet pilots on the runway and ready for bombing run exercises out of Pomona AFB in Atlantic City, NJ with the 177th Air Wing of the National Guard were called back off the runway while United Flight 175 literally flew over them on its way back toward New York City. Available jets at Andrews AFB and the 113th Air Wing were not sent airborne until after the Pentagon was hit. Fighter jets scrambled too late from Langley AFB, Virginia were heading toward New York, not DC. FAA never cleared paths for them to intercept Flight 77. The only successful defense was the passenger revolt on Flight 93, which seems to have led to a premature downing of the plane before it turned toward the Capitol or other targets in DC.

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The 9/11 Commission's Final Report never addresses the issue of P-56 or other defenses inside the DC area that failed that day in tandem with the FAA/NORAD breakdown. All the agencies involved were on a massive phone bridge as well as a teleconference regarding the unfolding events, and the pilots of the scrambled planes were plugged in as well. All had timely real time information that could have and should have allowed interception or other responses.

Representative Minetta assumed that the order the young man in the White House situation room was referring to was a shoot down order. The third time he asked the question, with the plane only 10 miles out, he got a sharp response from Vice President Cheney who "whipped his neck around" and asked the as yet unidentified young man, "Of course the order still stands, have you heard anything different?" But, with nothing in the air to shoot it down with, how could it have been? There is no plane in hot pursuit or even being given coordinates to reach it, though by this time it is suspected to be a hijacking. What was the real order about?

### 9-11 COMMISSION—THE GOOD, THE BAD AND THE UNTIMELY

Speech 9/2004 given at Milton Eisenhower Foundation's Press Breakfast, Washington D.C.

by Coleen Rowley

One of the most astute observations I saw concerning the 9-11 Commission Report was made by the mother of one of United Flight 93's heroic passengers, Tom Burnett, who said simply, "thank goodness our government has been moving forward in the meantime. If we were sitting waiting for this report, we're in bad shape." The comment is all the more meaningful coming from the no-nonsense Minnesotan whose son's voice is heard on the cockpit recording encouraging other passengers to overtake their terrorist hijackers shortly before the plane crashed into a Pennsylvania field, killing all on board but sparing the White House or the Capitol and thereby, in effect, preventing a large portion of the 9-11 attacks. Ironically, the 9-11 Commission's misplaced focus upon whether the terrorist attacks could have been "prevented" (as well as, in all fairness, the national discussion's up to this point), not only serves to obscure the real significance of these otherwise ordinary citizens' quick-wittedness and bravery, but also fails to appreciate that the effective fighting and preventing of terrorism is not a one-time, all or nothing, proposition, but is instead an ongoing, long-term process. The prevention question had some significance early on, in a legalistic sense, as the best line of defense to shield the myriads of government actors, everyone from lowly airport screeners and visa stampers to mid-level governmental managers and lawyers to the highest agency heads and presidents, whose intertwined mistakes, along with over-complacency on the part of the public, all played a role in allowing 9-11 to happen. But both the 9-11 Commission, and the Joint Intelligence Committee Inquiry which preceded it, have done a pretty good job of breaking through that blanket defense and unraveling most of the mistakes. In moving past the blame game, however, we must also move past this type of overly simplified and overly idealistic thinking that prevents us from doing our best in the long, sustained and intelligent effort that will be necessary in this new "war." We must first disavow all notions of any quick return to our prior "green" state of blissful unawareness through such naïve and ill-considered post 9-11 approaches as duct tape, color-coded alerts, round-ups and "shock and awe" campaigns.

It's important for starters, (and getting back to Mrs. Burnett's comment), to remember that the 9-11 Commission's most critical findings (for example, about the FBI's failures), apply to the way things were three years and one large sea change ago, when the whole country was at "green" and among other things, before the country's laws were so drastically changed to allow the FBI to more effectively gather intelligence on individuals in the name of national security. Of course it is not the Commission's fault that it took so long for it to be formed and do its work, but it is unfortunate that its findings are so delayed time-wise because so much has happened in the meantime. Some of what has transpired has been good, - for example the FBI's ability, with all "walls down," and its new pro-active mindset, to gather, compile, analyze and disseminate intelligence in order to effectively disrupt and dismantle terrorist and other threats. The commentators and talking heads out there whose criticisms of the FBI remain fixated on the situation that existed during and before the summer of 2001 are simply not aware of the momentous changes/improvements in intelligence gathering/dissemination that have been and are still being implemented. If there's one thing I can speak with some authority about, as perhaps one of the more strident critics of the FBI in terms of lack of effectiveness pre 9-11, it is to note that the pendulum has swung, really swung, in that respect. Lack of aggressiveness/pro-activeness in addressing terrorism, is no longer the problem! In fact, the teacher of constitutional rights side of me (which was a large part of my job as an FBI legal counsel for 13 years), has become more than a little worried that in the frenzy of trying to prevent all future terrorist attack, the pendulum may well, without more effective oversight, balance of individuals' civil and privacy rights and reduced secrecy, swing too far in the other direction. And a widely swinging,

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over-correcting pendulum (which history has unfortunately documented all too often) will not serve anyone's interest in what ideally should be an ever constant, sustained, judicious effort.

We must also recognize that despite good progress in many areas, not everything that has happened in the interim since 9-11 has been in the right direction. The government's post 9-11 "round-up" and intelligence-driven decisions to engage in torture or near-torture of detainees for purposes of interrogation, are perhaps just two of the more significant problem areas that have surfaced but which appear to have been outside the scope of the Commission's (essentially pre 9-11) mandate. It is incumbent upon us, as we proceed into the uncharted waters of an ongoing "war" on terrorism, to find and deal with all of the mistakes that have occurred and will occur, sooner rather than later, and ideally before they result in another 9-11 failure or an Abu Ghraib prison torture scandal. The process of prevention means staying a step ahead of the terrorists, not three years behind. For anytime a terrorist act is thwarted on any given day, they just go back to the drawing board to come up with a way around the defenses or to obtain more terrorist recruits for another day. In this attempt to stay a step ahead, we really don't have the luxury of waiting years to get bi-partisan commissions so we can go back to our own drawing board to fix errors and do the job better.

Sadly, none of the 9-11 Commission recommendations call for sorely needed reform of the Whistleblower Protection Act (WPA), the key to enabling our American intelligence and law enforcement agencies to be as nimble as the terrorist adversary. For without any statutory protection whatsoever of, for example, disclosures of FBI and CIA agents/operatives, how can we expect those in a position to know of errors to speak up so the problems can be addressed in a timely manner? Unfortunately bureaucratic career incentives and the current message being sent by the high visibility firings of certain government employees (like, most recently, U.S. Parks police chief Teresa Chambers for speaking out about problems in protecting our national parks and monuments) is clearly to keep one's head down and see/hear no evil despite the potential negative consequences to the public. My awareness of this perverse situation and the gaps and flaws in the current WPA law was gained through my own personal experience in disclosing some of the mistakes and problems that preceded the 9-11 terrorist attacks that kept us from investigating in a more effective manner and, ironically, paved the way to some extent for the 9-11 Commission's work.

On the civil libertarian end of the balance, WPA reform could also serve the purpose of avoiding real abuse of some of the more potentially intrusive investigative authorities of the Patriot Act and other new laws so that "we can have our cake and eat it too" in terms of balancing civil liberties with the need for effective investigation. The current flawed law which does not even cover agencies like the FBI and CIA whose agents and operatives are leading the charge in the use of these necessarily secretive intelligence-gathering and investigative initiatives means that we're moving fairly aggressively into uncharted territory with respect to use of the authorities, but unfortunately a failure of imagination accompanies this march as to what necessary reforms/initiatives could be put into place at the same time so as to ensure that we're able to use the authorities correctly and as they were intended. I'm afraid that if we don't become proactive on both fronts: the protection of civil liberties along with the more aggressive intelligence collection, we will just see another counter-productive pendulum swing down the road, something we obviously don't need at this critical juncture. If we avoid addressing these critical issues now, we may put the public at greater peril at some future point.

Hopefully I have not conveyed the wrong impression of finding fault with the bulk of the 9-11 Commission's findings and recommendations. Most of the Commission's recommendations seem to encourage a more deliberate thought process, addressing the root causes of terrorism and suggesting a whole range of available fronts which might be used over and above the obvious law enforcement and military means. I do have reservations, however, about one of the Commission's main recommendations for the creation of a cabinet level "intelligence czar" for several reasons, including the lessons gleaned from the pre 9-11 mistakes, the faulty intelligence debacle leading to the Iraq War and my own personal law enforcement experiences. After all, who caught Ahmed Ressam, the so-called "millennium bomber," as he tried to cross into the U.S. from Canada to bomb the LA airport a few years back? - (a low-level customs employee). Who stopped the "Trench robbers" who for almost two decades, the 1980-90's, pulled off one mega bank robbery after another throughout the nation with impunity, their last one netting \$4 million? - (a Nebraska highway patrolman). Who interdicted Yu Kikumura, believed to be a Japanese Red Brigade member, as he drove an explosives-laden car destined in all probability for a New York City target in 1988? - (a New Jersey state trooper). Who uncovered and arrested the only Al Qaeda operative in the U.S. to be connected to the 9-11 conspiracy? - (two flight school instructors, and a FBI and INS agent in Minnesota). Who prevented a significant portion of the 9-11 attacks? - (the courageous Flight 93 passengers). Who thwarted terrorist Richard Reid's attempt to blow up a transatlantic airliner? - (flight attendants and fellow passengers). You know I didn't have to think too hard in coming

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up with these recent examples of stellar interdiction/prevention efforts on the part of first-line law enforcement officers and ordinary citizens. I would have to really rack my brain, however, to come up with an example in history of a cabinet level official pulling off any similar feat. The bureaucrats at the top of government agencies and institutions eagerly take a lot of the credit for the good work of their agencies' lowliest employee(s) and distance themselves immediately from the same employees' mistakes, but in reality, the head honchos just don't matter as much as they think they do. We can keep rearranging the deck chairs of these directors, czars and other bureaucrats all we want and it might give everyone an illusion of accomplishing something, but it's not going to solve much when the Titanic hits another iceberg.

Even worse than causing misplaced reliance upon a solution that really is not one, there is the danger that the concentration of "intelligence authority" in the hands of one particular czar could further politicize and corrupt what, in order to have any hope of accuracy, must produce completely independent and objective analysis. Richard Clarke has noted that of the 15 or so intelligence agencies, the one that was geared to independent thinking and not to spying or policy making, the State Department's Bureau of Intelligence and Research, was the one entity that got it right on Iraq's weapons of mass destruction. Additionally, one does not need to be a card-carrying member of the ACLU to agree with that group's analysis of the danger of a cabinet-level spymaster in the White House quickly falling into the hip pocket of the president.

(The above constitutes the personal views of the author, Coleen Rowley, FBI Agent in the Minneapolis Division of the FBI, and are not necessarily the views of the FBI.)

### THE HIDDEN STORY OF 9/11: EXERCISES, OPERATIONS, AND THE ROLE OF THE SECRET SERVICE By Matthew Everett and Paul Thompson, Center for Cooperative Research

#### Part 1: Ground Exercises, and Aviation Exercises Before 9/11

Were the branches of the US government responsible for defending the country actually prepared for the 9/11 attacks? Surprisingly, in many respects the answer is yes. This essay will describe a remarkable number of war games and exercises leading up to 9/11 that prepared the military and government agencies for attacks very much like those that happened on September 11, 2001.

But if this is so, why weren't the attacks stopped? The 9/11 hijackings began with the hijacking of Flight 11 around 8:13 a.m. and ended with the crash of Flight 93 into the Pennsylvania countryside around 10:06 a.m. So the attack lasted nearly two hours, and yet, according to official accounts, no fighters got near any of the hijacked planes. Armed fighters at certain air force bases in the US were supposed to be on constant alert, able to get into the air within minutes of being ordered to do so. There should have been more than enough time to intercept and if necessary shoot down the hijacked aircraft.

There are several possible reasons why the planes weren't able to be stopped. But one factor that has been overlooked by the mainstream media is the role of war games and exercises. It's not widely known, but there were several military operations and training exercises being run on the morning of 9/11 which may have used up limited resources, sown confusion, thus hindering any timely fighter response to the hijacked planes.

This topic is quite complicated, so we've divided this essay into three parts. The first section looks at the ground exercises before and on 9/11, and aviation exercises that took place before 9/11. Together, these show that, contrary to popular belief, US emergency responders had prepared for exactly the type of attack that occurred on 9/11. There is especially strong evidence for preparations against a kamikaze-styled attack on the Pentagon. And NORAD, the part of the US military tasked with defending the skies over the US, had frequently simulated attacks using planes as weapons, sometimes even specifically targeting the Pentagon and World Trade Center.

Yet despite these preparations, none of the hijacked planes were stopped. We will look into why in part two of this series, which focuses on the aviation war games and exercises taking place on 9/11. Finally, in part three we will examine the role of the Secret Service and how their preparations may have affected the response to the attacks. Our



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main goal is not to draw any definite conclusions but, rather, to make this information better known. However, part three ends with a brief examination of what others have theorized about these topics.

### **Introduction: Were US Emergency Responders Prepared for the 9/11 Attacks?**

In May 2002, National Security Adviser Condoleezza Rice famously stated, “I don’t think anybody could have predicted that these people would take an airplane and slam it into the World Trade Center, take another one and slam it into the Pentagon, that they would try to use an airplane as a missile.” Rice added that “even in retrospect” there was “nothing” to suggest such an attack. [White House, 5/16/02 <<http://www.whitehouse.gov/news/releases/2002/05/20020516-13.html>> ] In July 2004, President George W. Bush stated, “Had we had any inkling whatsoever that terrorists were about to attack our country, we would have moved heaven and earth to protect America.” [New Jersey Star-Ledger, 7/22/04 <<http://www.cooperativeresearch.org/timeline/2004/newjerseystarledger072204.html>> ] He made nearly the exact same statement about planes as weapons: “Had I any inkling whatsoever that the people were going to fly airplanes into buildings, we would have moved heaven and earth to save the country.” [White House, 4/13/04 <<http://www.whitehouse.gov/news/releases/2004/04/20040413-20.html>> ; New York Times, 4/18/04 (C) <<http://www.nytimes.com/2004/04/18/weekinreview/18lich.html>> ] Almost every major Bush Administration official, including CIA Director George Tenet and FBI Director Robert Mueller, has made similar statements.

As we will see, these claims are completely false. While the general public remained largely unaware of the threat posed by al-Qaeda before 9/11, the Bush Administration had received numerous warnings. For instance, the essay “They Tried to Warn Us <<http://www.cooperativeresearch.org/essay.jsp?article=essaytheytriedtowarnus>> ” lists more than a dozen foreign governments, most of them close US allies, which gave the US strong warnings of an upcoming al-Qaeda attack on the US. These detailed warnings often specified simultaneous attacks, planes being used as weapons, and/or the targeting of the US’s most prominent buildings. In addition, there were an even greater number of similar warnings that came from the US’s own intelligence gathering.

So many warnings were coming in that on July 5, 2001, White House Counterterrorism Coordinator Richard Clarke convened a meeting to alert top officials from many of the US’s domestic agencies. Two attendees recall that Clarke stated, “Something really spectacular is going to happen here, and it’s going to happen soon.” One who attended the meeting later said the evidence of an upcoming al-Qaeda attack was “very gripping.” [Time, 8/4/02 <<http://www.cooperativeresearch.org/timeline/2002/time080402.html>> ; Washington Post, 5/17/02 <<http://www.washingtonpost.com/ac2/wp-dyn/A30176-2002May16?language=printer>> ] The following day, Clarke e-mailed National Security Adviser Condoleezza Rice, outlining a number of steps agreed on at the meeting. He wrote that the Pentagon (and several other agencies) had been directed to develop “detailed response plans in the event of three to five simultaneous attacks.” [New York Times, 4/4/04 (B) <<http://911citizenswatch.org/print.php?sid=184>> ] Clarke later claimed that when he warned other agencies in similar meetings, “I told them that although the CIA thought it was only going to happen overseas, that I thought it was going to happen here.” [ABC News, 3/22/04 <<http://www.cooperativeresearch.org/timeline/2004/abcnews032204.html>> ]

The CIA also had reason to believe an imminent attack would hit the US. A week before the above-mentioned meeting, CIA Director George Tenet wrote in an intelligence summary for Rice, “It is highly likely that a significant al-Qaeda attack is in the near future, within several weeks.” [Washington Post, 5/17/02 <<http://www.washingtonpost.com/ac2/wp-dyn/A30176-2002May16?language=printer>> ] A highly classified US intelligence analysis at this time added, “Based on a review of all source reporting over the last five months, we believe that [bin Laden] will launch a significant terrorist attack against US and/or Israeli interests in the coming weeks. The attack will be spectacular and designed to inflict mass casualties against US facilities or interests. Attack preparations have been made. Attack will occur with little or no warning.” [9/11 Congressional Inquiry, 7/24/03 (B) <<http://www.cooperativeresearch.org/timeline/2003/congressreportpartb072403.html>> ] This warning was shared with “senior Bush administration officials” in early July. [9/11 Congressional Inquiry, 9/18/02 <<http://www.cooperativeresearch.org/timeline/2002/congressionalinquiry091802.html>> ] Richard Clarke also asserted that Tenet told him around this time, “It’s my sixth sense, but I feel it coming. This is going to be the big one.” [Against All Enemies, by Richard Clarke, 3/04, p. 235 <<http://www.amazon.com/exec/obidos/ASIN/0743260457/centerforcoop-20>> ]

Congressman Porter Goss, appointed as CIA Director in 2004, stated that the terrorist chatter went “way off the charts” around this time and stayed high until 9/11. [Los Angeles Times, 5/18/02

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<<http://www.latimes.com/news/nationworld/nation/la-051802strike.story>> ] Two counterterrorism officials later called the alerts around this time “the most urgent in decades.” [9/11 Congressional Inquiry, 9/18/02

<<http://www.cooperativeresearch.org/timeline/2002/congressionalinquiry091802.html>> ] In early August, while on vacation, President Bush was given a CIA briefing entitled “Bin Laden Determined to Strike in US.” In mid-August, Cofer Black, head of the CIA’s Counter Terrorism Center, said in a speech to the Department of Defense’s annual Convention of Counterterrorism, “We are going to be struck soon, many Americans are going to die, and it could be in the US.” [9/11 Congressional Inquiry, 9/26/02 (B) <[http://www.fas.org/irp/congress/2002\\_hr/092602black.html](http://www.fas.org/irp/congress/2002_hr/092602black.html)> ]

So, given these warnings that a major attack could hit the US within weeks, the Pentagon should have quickly made contingency plans for three to five simultaneous attacks. However, it’s not known if it responded to Richard Clarke’s directive, and if so, what preparations were in motion by 9/11.

There had long been concerns that airplanes would be used as weapons. For instance, in 1994 alone, a passenger jet was hijacked by a group linked to al-Qaeda in an attempt to crash it into the Eiffel Tower; a disgruntled Federal Express worker tried to crash a DC-10 into a company building in Memphis, Tennessee; and a pilot did crash a small plane into the White House grounds, just missing President Clinton’s bedroom. [New York Times, 10/3/01 <<http://www.nytimes.com/2001/10/03/national/03WARN.html>> ] In 1995, the Philippine government foiled plots by Ramzi Yousef, one of the main plotters behind the 1993 bombing of the World Trade Center, which would have destroyed a dozen passenger jets over the ocean and also crashed a plane into CIA headquarters. [Insight, 5/27/02 <[http://www.timmerman2000.com/news/insight\\_bluemarlin.htm](http://www.timmerman2000.com/news/insight_bluemarlin.htm)> ] In 1996, hijackers attempted to crash a passenger jet into a popular tourist resort in the Indian Ocean, and while they missed the resort, they did crash the plane and kill over 100 passengers. [New York Times, 11/25/96 <<http://www.cooperativeresearch.org/timeline/1990s/nyt112596.html>> ; Australian, 11/26/96 <<http://www.cooperativeresearch.org/timeline/1990s/australian12696.html>> ]

Furthermore, according to two FBI translators, around April 2001 the FBI learned from a reliable informant that his sources in Afghanistan had heard of an al Qaeda plot to attack the US in a suicide mission with planes. [WorldNetDaily, 4/6/04 <[http://worldnetdaily.com/news/article.asp?ARTICLE\\_ID=37903](http://worldnetdaily.com/news/article.asp?ARTICLE_ID=37903)> ; Village Voice, 4/14/04 <[http://www.villagevoice.com/news/0415\\_mondo10\\_52696\\_6.html](http://www.villagevoice.com/news/0415_mondo10_52696_6.html)> ; Salon, 3/26/04 <<http://www.salon.com/news/feature/2004/03/26/translator/>> ] One of these translators, Sibel Edmonds, specifically claims the warning made clear that the target was “Major cities with skyscrapers.” [Independent, 4/2/04 <<http://news.independent.co.uk/world/americas/story.jsp?story=507514>> ] In June 2001, German intelligence warned the CIA that Middle Eastern terrorists were planning to hijack commercial aircraft to use as weapons to attack “American and Israeli symbols, which stand out.” [Frankfurter Allgemeine Zeitung, 9/11/01 <<http://www.cooperativeresearch.org/timeline/2001/faz091101.html>> ; Fox News, 5/17/02 <<http://www.foxnews.com/story/0,2933,53065,00.html>> ] And two senior Israeli agents reportedly came to Washington in August 2001 and warned the FBI and CIA of up to 200 terrorists who had slipped into the US, and were planning “a major assault on the United States.” [Telegraph, 9/16/01 <<http://portal.telegraph.co.uk/news/main.jhtml?xml=/news/2001/09/16/wcia16.xml>> ] In the classified intelligence briefing he received on August 6, President Bush himself read of a call to the US Embassy in the United Arab Emirates that May, “saying that a group of Bin Ladin supporters was in the US planning attacks with explosives.” [Washington Post, 4/14/04 <<http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&contentId=A2285-2004Apr10>> ]

Given all these warnings and many more that cannot be detailed here, it’s understandable that the military and other emergency responders began training for such an attack long before September 2001. However, the remarkable similarity of some of these exercises to the actual 9/11 attacks on the Pentagon and WTC raises some disturbing questions. At the very least, they show that both Washington and New York were considered as potential targets, as were landmark buildings such as the Pentagon. Other aspects of their possible significance will become more apparent in part three of this series, when we consider some theories that have been put forward about what these training exercises mean.

Keep in mind that the exercises outlined below are only the ones that have been leaked to the press; doubtless there were more. In part two of our series, we will examine aviation exercises that happened to be in progress at the exact same time as the 9/11 attacks began.

### Ground Exercises

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**The Pentagon.** Despite claims that what occurred on 9/11 was unimaginable, several training exercises were conducted in the twelve months before September 11 that bore an uncanny resemblance to what actually happened at the Pentagon that morning. Some of the individuals who participated in these exercises later said that their emergency response to the attack benefited as a result. Furthermore, some army bases nearby the Pentagon happened to be in the middle of training exercises at the time the Pentagon was hit, at 9:37 a.m. on 9/11.

### 1) Mass Casualty Exercise (Mascal) (October 24-26, 2000): Emergency Responders Practice Reaction to a Passenger Airline Crash into Pentagon

In late October 2000, Pentagon and Arlington County emergency responders assembled in the office of the Secretary of Defense's conference room in the Pentagon for a Mass Casualty Exercise ("MASCAL"). The exercise practiced three mock-scenarios. One was of a passenger aircraft crashing into the Pentagon; the other two were a terrorist incident at the Pentagon subway stop and a construction accident. The airplane exercise practiced for a disaster with 341 victims. (This was close to the number of Pentagon victims on September 11: 64 people on the plane and 125 in the Pentagon killed, plus 106 people seriously injured--a total of 295.) Responders practiced around a large-scale model of the Pentagon with a model airplane literally on fire in the central courtyard of the building. An Army medic who participated called it "a real good scenario and one that could happen easily." A fire chief said: "You have to plan for this. Look at all the air traffic around here." [MDW News Service, 11/3/00 <[http://www.mdw.army.mil/news/Contingency\\_Planning.html](http://www.mdw.army.mil/news/Contingency_Planning.html)> ; Daily Mirror, 5/24/02 <<http://www.mirror.co.uk/news/allnews/page.cfm?objectid=11897568&method=full&siteid=50143>> ; UPI 4/22/04 <<http://washingtontimes.com/upi-breaking/20040422-090447-8354r.htm>> ; 9/11 Commission Final Report, 7/04, p. 314 <<http://www.9-11commission.gov/report/index.htm>> ]

### 2) Medical Emergency Exercise (May 2001): Medical Services Respond to Mock Airplane Crash into Pentagon

In May 2001, according to US Medicine newspaper, the Tri-Service DiLorenzo Health Care Clinic and the Air Force Flight Medicine Clinic--both housed within the Pentagon--trained for the scenario of a hijacked 757 airliner being crashed into the Pentagon. Two doctors who participated in the exercise later said it prepared them well to deal with the attack on 9/11. [US Medicine, 10/01 <<http://www.usmedicine.com/article.cfm?articleID=272&issueID=31>> ; US Medicine, 1/02 <<http://www.usmedicine.com/article.cfm?articleID=329&issueID=34>> ]

Early in the morning of 9/11, Sergeant Matthew Rosenberg, an army medic at the Pentagon, was studying "a new medical emergency disaster plan based on the unlikely scenario of an airplane crashing into the place." [Washington Post, 9/16/01 (D) <<http://www.washingtonpost.com/ac2/wp-dyn/A38407-2001Sep15>> ] Rosenberg says: "Believe it or not, the day prior to the incident, I was just on the phone with the FBI, and we were talking 'so who has command should this happen, who has the medical jurisdiction, who does this, who does that,' and we talked about it and talked about it, and he helped me out a lot. And then the next day, during the incident, I actually found him. He was out there on the incident that day." [Office of Medical History, 9/04, p. 39 <<http://history.amedd.army.mil/memoirs/soldiers/toc.htm>> ] Lorie A. Brown, Chief Nurse of the DiLorenzo Health Care Clinic, said that on the morning of 9/11, "We actually had our MASCAL equipment out of the storage areas because we were doing an inventory. So there were many pieces that just fell into place and worked so well on that day. It was just fortuitous. It was just amazing that way that things kind of happened the way they did." [Office of Medical History, 9/04, p. 7 <<http://history.amedd.army.mil/memoirs/soldiers/toc.htm>> ] Lieutenant General Paul K. Carlton Jr., the surgeon general of the US Air Force, was also at the Pentagon the morning of 9/11. He says that as he was rushing to the Pentagon's central courtyard after it was hit, one young "three-striper" with him was under the impression that the crash was yet another exercise. Carlton told him: "I think this one's for real, my friend. Just do what you practiced." [September 11: An Oral History, by Dean E. Murphy, 8/02, p. 222]

### 3) Defense Protective Service Drills (Summer 2001): Various, Unknown Emergency Drills

The Defense Protective Service (DPS)--the Pentagon's own police force--had reportedly been conducting emergency drills throughout the summer of 2001. Some members of the DPS subsequently assisted in directing rescue efforts at the Pentagon on 9/11. [Los Angeles Times, 9/13/01 (C) <<http://web.archive.org/web/20030727062125/http://www.newsday.com/news/nationworld/nation/la-091301pent,0,5807563.story>> ]

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### 4) Evacuation Exercise (August 2001): Mass Evacuation Following a Mock Airplane Crash into Pentagon

General Lance Lord of US Air Force Space Command reported that just a month before 9/11 he had been involved in a practice evacuation of the Pentagon during another mass casualty exercise. Lord writes: “Purely a coincidence, the scenario for that exercise included a plane hitting the building.” He mentions that on 9/11, “our assembly points were fresh in our minds” thanks to this practice. [Air Force Space Command News Service, 9/5/02 <[http://www.peterson.af.mil/hqafspc/News/News\\_Asp/nws\\_tmp.asp?storyid=02-214](http://www.peterson.af.mil/hqafspc/News/News_Asp/nws_tmp.asp?storyid=02-214)> ]

### 5) Fort Myer Training Exercise (Early September 2001, including 9/11): Weeklong Aircraft Crash Refresher Class

On the morning of 9/11, at the Education Center at Fort Myer, an army base 1.5 miles northwest of the Pentagon, the base’s fire fighters were undertaking training variously described as “an airport rescue firefighters class”; “an aircraft crash refresher class”; “a week-long class on Air Field Fire Fighting”, and a “training exercise in airport emergency operations.” Despite hearing of the first WTC crash during a break, with no access to a TV, the class simply continued with its training. Bruce Surette, who attended the session, said: “We had heard some radio transmissions from some other units in Arlington about how they thought they had a plane down here or a plane down there. So you’re thinking, ‘Hey this could be real.’ But it really didn’t strike home as being real until our guy came on the radio and said where the plane crash was.” The Fort Myer fire fighters then immediately headed for the Pentagon, arriving there at 9:40 a.m., only three minutes after it was hit, and subsequently participated in the fire fighting and rescue effort. The fire station at the Pentagon heliport was actually operated by the Fort Myer Fire Department, and was manned that morning by three Fort Myer fire fighters who had already undertaken the airfield firefighting training. [MDW News Service, 10/4/01 <[http://www.mdw.army.mil/news/Belvoir\\_firefighter\\_among\\_first\\_responders.html](http://www.mdw.army.mil/news/Belvoir_firefighter_among_first_responders.html)> ; Pentagonam, 11/2/01 <[http://www.dcmilitary.com/army/pentagram/6\\_44/local\\_news/11746-1.html](http://www.dcmilitary.com/army/pentagram/6_44/local_news/11746-1.html)> ; JEMS, 4/02 <<http://www.jems.com/911/pdf/jems0402.pdf>> ; Arlington County After-Action Report, 7/02, p. A-20 <[http://www.hrsa.gov/bioterrorism/resources/ArlingtonCountyAfterActionReport9\\_11.htm](http://www.hrsa.gov/bioterrorism/resources/ArlingtonCountyAfterActionReport9_11.htm)> ; First Due News, 2003 <<http://web.archive.org/web/20030417074321/http://www.oapff.com/first-due.htm>> ]

The Fort Myer military community, which includes Fort Myer and Fort Lesley J. McNair--another army base, just two miles east of the Pentagon--had been scheduled to hold a “force protection exercise” the following week. However this had just been cancelled, so prior to the attacks the morning of September 11, “some of its participants were breathing a sigh of relief.” [Pentagram, 9/14/01 <[http://www.dcmilitary.com/army/pentagram/6\\_37/local\\_news/10386-1.html](http://www.dcmilitary.com/army/pentagram/6_37/local_news/10386-1.html)> ] Interestingly, six days before 9/11 both Fort Myer and Fort Lesley J. McNair implemented “full access control,” which meant increasing the level of military police surveillance of those who entered these installations. These measures, which were being taken throughout the Army, allowed commanders to know who was entering their installations 24 hours a day and adjust their security measures immediately as needed. [MDW News Service, 8/3/01 <<http://www.mdw.army.mil/content/anmviewer.asp?a=609&amp;z=13>> ]

### 6) Fort Belvoir Security Exercise (September 11, 2001): Terrorist Attack Exercise

On the morning of 9/11 at Fort Belvoir, an army base 10 miles south of the Pentagon, Lt. Col. Mark R. Lindon reportedly conducted a “garrison control exercise.” The object of this exercise was to “test the security at the base in case of a terrorist attack.” Lindon later said, “I was out checking on the exercise and heard about the World Trade Center on my car radio. As soon as it was established that this was no accident, we went to a complete security mode.” Staff Sgt. Mark Williams of the Military District of Washington Engineer Company at Fort Belvoir said: “Ironically, we were conducting classes about rescue techniques when we were told of the planes hitting the World Trade Center.” Williams’s team was one of the initial response groups for the Pentagon crash and one of the first to enter the building following the crash. [Connection Newspapers, 9/5/02 <<http://www.connectionnewspapers.com/article.asp?archive=true&article=9181&paper=69&cat=104>> ] A previous MASCAL training exercise had been held at Fort Belvoir little over two months earlier, which was “designed to enhance the first ready response in dealing with the effects of a terrorist incident involving an explosion.” [MDW News Service, 7/5/01 <[http://www.mdw.army.mil/news/Exercise\\_tests\\_Belvoirs\\_first\\_responders.html](http://www.mdw.army.mil/news/Exercise_tests_Belvoirs_first_responders.html)> ]

Shortly after 9/11, a Pentagon spokesperson claimed, “The Pentagon was simply not aware that this aircraft was coming our way, and I doubt prior to Tuesday’s event, anyone would have expected anything like that here.” [Newsday, 9/23/01 <<http://www.newsday.com/ny-uspent232380681sep23.story>> ] Air Force General and acting Chairman of the Joint Chiefs of Staff on 9/11 Richard Myers claimed: “It was initially pretty confusing. You hate to

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admit it, but we hadn't thought about this.” [Armed Forces Radio And Television Service, 10/17/01 <[http://www.dtic.mil/jcs/chairman/AFRTS\\_Interview.htm](http://www.dtic.mil/jcs/chairman/AFRTS_Interview.htm)> ; Armed Forces Press Service, 10/23/01 <[http://www.defenselink.mil/news/Oct2001/n10232001\\_200110236.html](http://www.defenselink.mil/news/Oct2001/n10232001_200110236.html)> ] We now know this is untrue.

### **New York City and Somerset County, Pennsylvania (Site of the Flight 93 Crash)**

To date, we know of only one military exercise preparing for an airplane crash into the World Trade Center, and this will be described later. But there were several other important exercises taking place on 9/11 or being prepared for that day that may have influenced the emergency response in New York.

#### 1) Timely Alert II (September 11, 2001): Terrorist Chemical Attack Drill

On the morning of 9/11, staff at Fort Monmouth, an Army base in New Jersey, about 50 miles south of New York City, were preparing to hold a “disaster drill” to test emergency response capabilities to a fake chemical attack from terrorists. The exercise, called Timely Alert II, involved various law enforcement agencies and emergency personnel, including Fort Monmouth fire fighters and members of the New Jersey State Police. Personnel were to be deployed and measures taken as in a real emergency. A notice was sent out, warning that anyone not conducting official business would be turned away from Fort Monmouth during the exercise. Soon after 9 a.m. on 9/11, the exercise director told a group of participating volunteers that a hijacked plane had crashed into the World Trade Center. The participants pretended to be upset, believing this was just part of the simulation. Some people at the base said that when they saw the live televised footage of the WTC attacks they thought it was an elaborate training video to accompany the exercise. One worker told a fire department training officer: “You really outdid yourself this time.” Interestingly, the follow up exercise held in July 2002 (Timely Alert III) did incorporate simulated television news reports to give participants the impression that the emergency was real. And in the first Timely Alert exercise, held on the base in January 2001, a call had come through of a supposed “real” bomb situation, but this “fortunately turned out to be a report related to a training aid being used during the exercise.” On 9/11, Fort Monmouth was geared to go into high-alert status as part of Timely Alert II. The exercise was called off once they were alerted to the real attacks. [Monmouth Message, 2/9/01

<<http://web.archive.org/web/20020311191426/www.monmouth.army.mil/monmessg/newmonmsg/feb092001/m06force.htm>> ; The Hub, 9/21/01 <[http://hub.gmnews.com/News/2001/0921/Front\\_Page/008.html](http://hub.gmnews.com/News/2001/0921/Front_Page/008.html)> ; Monmouth Message, 9/21/01

<<http://web.archive.org/web/20020816130710/www.monmouth.army.mil/monmessg/newmonmsg/sep212001/m38front.htm>> ; Asbury Park Press, 7/24/02 <<http://thejamesthomasgroup.com/app-07-24-2002.html>> ; Monmouth Message, 8/23/02 <<http://www.thejamesthomasgroup.com/mm-08-23-2002.html>> ; US Army CECOM, 8/03, p. 71 <<http://www.thejamesthomasgroup.com/mm-08-23-2002.html>> ; Monmouth Message, 9/12/03 <<http://www.monmouth.army.mil/monmessg/newmonmsg/sep122003/m37police.htm>> ]

Fort Monmouth is home to various Army, Department of Defense (DoD), and other government activities. The largest of these is the US Army’s Communications-Electronics Command (CECOM). CECOM serves to “develop, acquire, field and sustain superior information technologies and integrated systems for America’s warfighters.” It is tasked with the “critical role of command, control, communications, computers, intelligence, surveillance and reconnaissance (C4ISR).” [CECOM website, 12/20/02 <<http://www.monmouth.army.mil/cecom/newmission.htm>> ; GlobalSecurity.org CECOM page, 8/02/04 <<http://www.globalsecurity.org/military/agency/army/cecom.htm>> ; CECOM brochure, 1/03 <<http://www.monmouth.army.mil/cecom/pao/infofacts/cecombroschure.pdf>> ] So, presumably it had an important role to play on 9/11.

Fort Monmouth services also directly assisted in the emergency response on 9/11. Its fire department deployed to Atlantic Highlands to assist passengers coming from Manhattan by ferry, and members of its Patterson Army Health Clinic were also sent out to help. Teams of CECOM experts from the base were deployed to ground zero in New York with equipment capable of locating cellular phone transmissions within the ruins of the collapsed World Trade Center. Its explosive ordnance company was also deployed to assist authorities should they come across anything they thought might be explosives, while digging through the debris in search of victims. [The Hub, 9/21/01 (B) <[http://hub.gmnews.com/News/2001/0921/Front\\_Page/007.html](http://hub.gmnews.com/News/2001/0921/Front_Page/007.html)> ; Monmouth Message, 9/21/01 <<http://web.archive.org/web/20020816130710/www.monmouth.army.mil/monmessg/newmonmsg/sep212001/m38front.htm>> ]

#### 2) Tripod (September 12, 2001): Biological Terrorist Attack Drill

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A major exercise was actually scheduled to take place in New York, in a large commercial warehouse on the Hudson River on the day after 9/11. Called Tripod, it was intended to test how well the city's Office of Emergency Management (OEM) could administer treatment in the event of a biological-terrorism attack. Due to the 9/11 attacks, Tripod was called off, but Mayor Giuliani used Pier 92, where it was to have taken place, as a command center to coordinate the real 9/11 emergency responses. [New York Magazine, 10/15/01 <<http://www.newyorkmetro.com/nymetro/news/sept11/features/5270/>> ; 9/11 Commission hearing, 5/19/04 <[http://www.9-11commission.gov/archive/hearing11/9-11Commission\\_Hearing\\_2004-05-19.htm](http://www.9-11commission.gov/archive/hearing11/9-11Commission_Hearing_2004-05-19.htm)> ] Tripod was the follow-up to a bio-terrorism drill held in New York on May 11, 2001, called RED Ex. [New York City Government, 5/11/01 <<http://www.nyc.gov/html/om/html/2001a/pr149-01.html>> ; New York City Government, 9/5/01, p. 74 <[http://web.archive.org/web/20031017213927/www.nyc.gov/html/charter/pdf/report\\_090501\\_full.pdf](http://web.archive.org/web/20031017213927/www.nyc.gov/html/charter/pdf/report_090501_full.pdf)> ; New York Sun, 12/20/03 <<http://web.archive.org/web/20030126104200/http://www.nysun.com/sunarticle.asp?artID=418>> ; 9/11 Commission hearing, 5/18/04 <[http://www.9-11commission.gov/archive/hearing11/9-11Commission\\_Hearing\\_2004-05-18.htm](http://www.9-11commission.gov/archive/hearing11/9-11Commission_Hearing_2004-05-18.htm)> ] In his prepared testimony before the 9/11 Commission, former New York Police Commissioner Bernard Kerik stated, "The City, through its OEM, had coordinated plans for many types of emergencies; and those plans were tested frequently." These many emergencies, he stated, included "building collapses" and "plane crashes." [Kerik Testimony, 5/18/04 <[http://www.9-11commission.gov/hearings/hearing11/kerik\\_statement.pdf](http://www.9-11commission.gov/hearings/hearing11/kerik_statement.pdf)> ]

Flight 93 crashed in Shanksville, Pennsylvania, a place of presumably little strategic importance. Yet even here we know of a relevant exercise nearby only a few months earlier: On June 16, 2001, a major training exercise based upon a simulated terrorist attack involving weapons of mass destruction was held in Westmoreland County, Pennsylvania, which neighbors Somerset County, where Flight 93 crashed on 9/11. [Westmoreland County Annual Financial Report for 2001 <<http://www.co.westmoreland.pa.us/westmoreland/lib/westmoreland/cntrl/forms/01cafr.pdf>> ; Connellsville Daily Courier, 9/11/02 <[http://www.pittsburghlive.com/x/tribune-review/terrorism/oneyearlater/pittsburghlive.com/tribune-review/terrorism/oneyearlater/s\\_90895.html](http://www.pittsburghlive.com/x/tribune-review/terrorism/oneyearlater/pittsburghlive.com/tribune-review/terrorism/oneyearlater/s_90895.html)> ]

### **Relevant Aviation Exercises Before 9/11**

Ground rescue personnel were powerless to stop the hijacked planes, no matter how well trained they were. So a more important issue to investigate is the training and preparations of the nation's air defenses.

NORAD (North American Aerospace Defense Command) is the military agency tasked with defending the skies over the US and Canada. NORAD and the rest of the military perform training exercises on a regular basis. Although the Bush Administration claimed that no one could have imagined planes being flown into buildings, this section highlights certain military exercises that prepared US air forces for the type of attack that occurred on September 11.

Certain important military terminology will be defined later, when it is more directly applicable. But for the moment, keep in mind the crucial difference between "live-fly" exercises, which are those involving actual planes flying in the air, versus other exercises that are computer simulations or ground simulations only.

#### 1) Unnamed Regional NORAD Exercises (2000-2001): Simulated Crashes into the World Trade Center, Other Targets

According to USA Today: "In the two years before the Sept. 11 attacks, the North American Aerospace Defense Command conducted exercises simulating what the White House says was unimaginable at the time: hijacked airliners used as weapons to crash into targets and cause mass casualties." One of their imagined targets had been the World Trade Center.

NORAD stated that these scenarios were regional drills, rather than regularly scheduled continent-wide exercises. They utilized "[n]umerous types of civilian and military aircraft" as mock hijacked aircraft, and tested "track detection and identification; scramble and interception; hijack procedures; internal and external agency coordination and operational security and communications security procedures." The main difference between these drills and the 9/11 attacks was that the planes in the drills were coming from another country, rather than from within the US.

NORAD also stated that, until 9/11, at headquarters level they normally conducted four major exercises each year, "most of which included a hijack scenario." [USA Today, 4/18/04 <[http://www.usatoday.com/news/washington/2004-04-18-norad\\_x.htm](http://www.usatoday.com/news/washington/2004-04-18-norad_x.htm)> ; CNN, 4/19/04 <<http://www.cnn.com/2004/US/04/19/norad.exercise>> ]

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### 2) Unnamed Regional NORAD Exercise (1991-2001): Exercise Simulates Crash into Famous US Building

In addition to the exercise in which the WTC was a mock target, some time between 1991 and 2001 a regional NORAD sector held an exercise simulating a foreign hijacked airliner crashing into another building in the United States. Although the identity of this target building is classified, according to military officials it would be recognizable if identified, but was not the WTC or the Pentagon. The exercise involved some flying of military aircraft, plus a “command post exercise” where communications procedures were practiced in an office environment. [CNN, 4/19/04 <<http://www.cnn.com/2004/US/04/19/norad.exercise>> ]

### 3) Positive Force (April 17-26, 2001): Proposal to Simulate a Commercial Airliner Crash into Pentagon is Rejected

Positive Force is a large, worldwide exercise run by the Joint Chiefs of Staff that focuses on the Department of Defense’s ability to conduct large-scale military operations and to coordinate these operations. [CJCSI 3500.02C, 8/14/00 <[http://www.dtic.mil/cjcs\\_directives/cdata/unlimit/3500\\_02.pdf](http://www.dtic.mil/cjcs_directives/cdata/unlimit/3500_02.pdf)> ] In 2001, NORAD was invited to participate along with over a dozen other government agencies. The exercise prepared these organizations for various scenarios, including non-combatant evacuation operations, cyber attacks, rail disruption, and power outages. [Provider Update, 10/01 <<http://www.dscp.dla.mil/corpcomm/oct01/story24.htm>> ; GlobalSecurity.org Positive Force page, 6/09/02 <<http://www.globalsecurity.org/military/ops/positive-force-ex.htm>> ] NORAD confirmed that the 2001 exercise had been a “continuity of operations exercise,” meaning it dealt with government contingency plans to keep working in the event of an attack on the US. In Spring 2001, some Special Operations personnel trained to think like terrorists unsuccessfully proposed adding a scenario simulating “an event having a terrorist group hijack a commercial airliner and fly it into the Pentagon.” Military higher-ups rejected this additional scenario as being too disconnected to the original intent of the exercise. Interestingly, considering how many warnings that planes could be used as weapons reached the White House before 9/11, White House officials rejected the scenario as “too unrealistic.” The proposal for this addition came shortly before April 2001, when the exercise was performed. [Air Force Times, 4/13/04 <<http://www.airforcetimes.com/story.php?f=1-292925-2819359.php>> ; Boston Herald, 4/14/04 <<http://www.911citizenswatch.org/modules.php?op=modload&name=News&file=article&sid=224&mode=thread&order=0&thold=0>> ; Guardian, 4/15/04 <<http://www.guardian.co.uk/september11/story/0,11209,1192226,00.html>> ; Washington Post, 4/14/04 (G) <<http://www.cooperativeresearch.org/timeline/2004/wpost041404g.html>> ; New York Times, 4/14/04 <<http://www.nytimes.com/2004/04/14/politics/14PENT.html>> ]

### 4) Amalgam Virgo 01 (June 1-4, 2001): Live-Fly Mock Shootdown of a Cruise Missile

Amalgam Virgo is an annual, small-scale, live-fly, multi-agency exercise sponsored by NORAD, involving a simulated terrorist attack. In 2001 it was held in early June at Tyndall Air Force Base, Florida. It involved the firing of eleven MQM 107 drones (remotely piloted aircraft, about the size of a cruise missile) off a ‘rogue’ merchant ship in the Gulf of Mexico and into the US mainland. No live ordnance was fired in response to these drones--which represented cruise missiles--but instead radar lock-ons, indicating kills, were obtained. [GlobalSecurity.org Amalgam Virgo page, 12/21/04 <<http://www.globalsecurity.org/military/ops/amalgam-virgo.htm>> ; Associated Press, 6/6/01 <<http://www.sun-sentinel.com/news/local/southflorida/sfl-606cruisedefense.story?coll=sfla-home-headlines>> ; National Defense Magazine, 11/01 <[http://www.nationaldefensemagazine.org/issues/2001/Nov/Lack\\_of.htm](http://www.nationaldefensemagazine.org/issues/2001/Nov/Lack_of.htm)> ; Department of Defense, 5/31/02 <[http://www.defenselink.mil/releases/2002/b05312002\\_bt279-02.html](http://www.defenselink.mil/releases/2002/b05312002_bt279-02.html)> ; 9/11 Commission hearing, 5/23/03 <[http://www.9-11commission.gov/archive/hearing2/9-11Commission\\_Hearing\\_2003-05-23.htm](http://www.9-11commission.gov/archive/hearing2/9-11Commission_Hearing_2003-05-23.htm)> ]

### 5) Unnamed Regional NORAD Exercise (2000-2001): Live-Fly Mock Shootdown of a Poison-Filled Jet

At some point in the two years before 9/11, NORAD fighters performed a mock shootdown over the Atlantic Ocean of a jet loaded with chemical poisons headed toward the US. [USA Today, 4/18/04 <[http://www.usatoday.com/news/washington/2004-04-18-norad\\_x.htm](http://www.usatoday.com/news/washington/2004-04-18-norad_x.htm)> ]

### 6) Amalgam Virgo 02 (planned before 9/11, performed in June 2002): Live-Fly, Simultaneous, Mock Airplane Hijackings Inside the US Are Planned

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In June 2002, Amalgam Virgo 02 was based around an airborne terrorism scenario over the US and Canada. It had been planned prior to 9/11 and involved the simulated hijacking of two commercial aircraft from Utah and Washington State and the immediate launching of fighters to intercept them. Real aircraft were used to play the hijacked planes: a Delta Air Lines 757, and a Navy C-9 airlifter. Approximately 1,500 people participated, with military personnel playing the parts of plane passengers. [Department of Defense, 5/31/02 <[http://www.defenselink.mil/releases/2002/b05312002\\_bt279-02.html](http://www.defenselink.mil/releases/2002/b05312002_bt279-02.html)> ; CNN, 6/4/02 (C) <<http://transcripts.cnn.com/TRANSCRIPTS/0206/04/lt.10.html>> ; Associated Press, 6/5/02 (B) <[http://seattlepi.nwsource.com/local/73287\\_hijack05.shtml](http://seattlepi.nwsource.com/local/73287_hijack05.shtml)> ] Describing Amalgam Virgo 02 to the 9/11 Commission, NORAD's Major General Craig McKinley said: "Threats of killing hostages or crashing were left to the script writers to invoke creativity and broaden the required response for players." [9/11 Commission hearing, 5/23/03 <[http://www.9-11commission.gov/archive/hearing2/9-11Commission\\_Hearing\\_2003-05-23.htm](http://www.9-11commission.gov/archive/hearing2/9-11Commission_Hearing_2003-05-23.htm)> ] USA Today noted that this exercise was an exception to NORAD's claim that before 9/11 they focused only on external threats to the US and did not consider the possibility of threats arising from within the US. [USA Today, 4/18/04 <[http://www.usatoday.com/news/washington/2004-04-18-norad\\_x.htm](http://www.usatoday.com/news/washington/2004-04-18-norad_x.htm)> ] 9/11 Commissioner Richard Ben-Veniste similarly noted that the exercise showed that despite frequent comments to the contrary, the military had considered simultaneous hijackings before 9/11. [9/11 Commission Report, 5/23/03 <<http://www.cooperativeresearch.org/timeline/2003/independentcommission052303.html>> ]

### 7) Other Exercises?

The odds are there are yet more exercises that remain classified. For instance, the existence of Positive Force was only revealed in 2004 because of an e-mail message leaked by a government watchdog group, POGO (the Project on Government Oversight). [POGO, 4/13/04 <<http://www.pogo.org/p/homeland/ha-040401-homelandsecurity.html>> ; Washington Post 4/14/04 (G) <<http://www.washingtonpost.com/wp-dyn/articles/A9449-2004Apr13.html>> ; Guardian 4/15/04 <<http://www.guardian.co.uk/september11/story/0,11209,1192226,00.html>> ] There are tantalizing clues of other exercises. For instance, New Yorker magazine reported shortly after 9/11, "During the last several years, the government regularly planned for and simulated terrorist attacks, including scenarios that involved multiple-plane hijackings." [New Yorker, 9/24/01 <[http://www.newyorker.com/fact/content/?010924fa\\_FACT](http://www.newyorker.com/fact/content/?010924fa_FACT)> ] Presumably this reference to exercises actually carried out before 9/11 cannot refer to just Amalgam Virgo 02, but additional details remain unknown.

### Exercises, but No Real Preparations

Given all of the above exercises, and the fact that in early July 2001 Richard Clarke directed the US military to prepare for three to five simultaneous terrorist attacks, the Bush Administration's claim that the kinds of attacks that occurred on 9/11 were completely unexpected is obviously false. At first glance, one might expect that such preparations would be loudly trumpeted by government officials and official investigations as a proud example of foresight and competence. But in fact, this hasn't happened.

Since something along the lines of the 9/11 attacks was apparently expected, the fact that all these exercises did occur make it that much more difficult to understand why the attacks succeeded. Defenses were stepped up in other periods where the threat of terrorist attack was heightened. For instance, Time reported that "During the [1991] Gulf War, uniformed air-defense teams could be seen patrolling the top floor [of the White House] with automatic rifles or shoulder-mounted ground-to-air missiles" to protect from a kamikaze air attack. [Time, 9/26/94 <<http://web.archive.org/web/20001017175409/http://www.time.com/time/magazine/archive/1994/940926/940926.whitehouse.html>> ]

Yet, even though the threat of such an attack was much greater in the months before 9/11 than during the Gulf War (recall the description of the pre-9/11 threat by counterterrorism experts as "the most urgent in decades"), there were no corresponding real world preparations to match all the emergency response exercises. For instance, airlines were given no special warnings in the months before 9/11; nor were commercial pilots; nor were airport security personnel; nor did the military devote any extra resources to protect the country from terrorist attack; nor did the military raise its alert level. In fact, when Transportation Secretary Norman Mineta was asked if the high threat level before 9/11 resulted "in any action across the government," he answered no. [Associated Press, 5/23/03 (C) <<http://www.cooperativeresearch.org/timeline/2003/ap052303c.html>> ] Remarkably, in the summer of 2001, not only did the Pentagon apparently fail to prepare for three to five simultaneous attacks, as directed, but they were actually



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planning to reduce the number of fighters on alert defending the US from a mere 14 to an even lower number. [Los Angeles Times, 9/15/01 <<http://www.latimes.com/news/nationworld/nation/la-091501patrols,0,891325.story>> ]

Even so, NORAD had made some preparatory exercises anticipating planes used as weapons, and on 9/11 some of the remaining 14 alert fighters were in range to get airborne within minutes, and reach the hijacked planes in an additional ten minutes or so. But no fighters came close to any of the hijacked planes. In the second part of this series, we will investigate the most important military exercises of all: the aviation exercises that took place on the morning of September 11. Can these exercises help explain why the fighters failed to stop the hijacked planes?

### Part 2: Aviation Exercises and Operations on 9/11

Part one of this three-part series documented a number of training exercises that showed how many US emergency responders had prepared for events remarkably similar to the 9/11 attacks. However, the aviation exercises we described all took place before 9/11. This part focuses on the much more vital issue of aviation exercises being held on the morning of September 11, 2001.

There has been some public exposure of Vigilant Guardian, which was mentioned by the 9/11 Commission. Yet, even when this was briefly discussed at the Commission's final hearing, its name wasn't mentioned once. [9/11 Commission hearing, 6/17/04 <[http://www.9-11commission.gov/archive/hearing12/9-11Commission\\_Hearing\\_2004-06-17.htm](http://www.9-11commission.gov/archive/hearing12/9-11Commission_Hearing_2004-06-17.htm)> ] But there were other exercises, aside from Vigilant Guardian, taking place the morning of 9/11. Together, these various exercises may have used up limited resources and sown confusion, thus hindering any timely fighter response to the hijacked planes.

It should have been possible to stop at least some of the four hijacked planes. The hijackings began around 8:13 a.m. and ended around 10:06, nearly two hours later. There were fighters in the region on 24-hour armed alert, able to get airborne within minutes of receiving an order to do so. However, shortly before 9:00 a.m. Indianapolis flight control had already lost radio contact with Flight 77, and seen it going off course then disappearing from radar. [Newsday, 9/23/01 <<http://web.archive.org/web/20011118025609/http://www.newsday.com/ny-uspent232380681sep23.story>> ; New York Times, 10/16/01 <<http://billstclair.com/911timeline/2001/nyt101601.html>> ; Boston Globe, 11/23/01 <[http://www.boston.com/news/packages/underattack/news/planes\\_reconstruction.htm](http://www.boston.com/news/packages/underattack/news/planes_reconstruction.htm)> ; 9/11 Commission Report, 6/17/04 <<http://www.msnbc.msn.com/id/5233007/>> ] Yet still it flew into the Pentagon unimpeded at 9:37 a.m., about forty minutes later. Similarly, Cleveland flight control clearly heard the hijackers take over the cockpit of Flight 93 at 9:28 a.m. [Guardian, 10/17/01 <<http://www.guardian.co.uk/wtccrash/story/0,1300,575518,00.html>> ; MSNBC, 7/30/02 <<http://www.msnbc.com/news/787018.asp?pne=msn>> ; 9/11 Commission Report, 6/17/04 <<http://www.msnbc.msn.com/id/5233007/>> ], yet that flight supposedly flew unimpeded until it crashed into the ground around 10:06 a.m.

One might have thought that the skies over major US cities (certainly New York City and Washington, DC) would have been full of fighters long before 10:00 a.m. Yet the 9/11 Commission speculated that even if Flight 93 hadn't crashed but arrived in Washington, DC, about 15 minutes later, fighters still wouldn't have been close enough to shoot it down. [9/11 Commission Report, 6/17/04 <<http://www.msnbc.msn.com/id/5233007/>> ]

How could NORAD--the part of the US military tasked with defending the nation's skies--have performed so poorly? This question is doubly puzzling given the number of training exercises and warnings before 9/11 (mentioned in part one of this series) that specifically anticipated planes being used as weapons. Despite these warnings, the military did not raise its alert status before 9/11, nor had it taken any steps to pass warnings to its first response defenders, nor provided any extra equipment or personnel to defend the country. Instead, on 9/11, the military was busy with vast, nationwide training exercises, one of them described as "an air defense exercise simulating an attack on the United States," and another described as a "practice Armageddon."

These exercises remain almost entirely unknown to the general public. This essay more typically quotes the likes of Air Force Weather's Observer magazine than the New York Times, because the mainstream media has failed to investigate the topic. The 9/11 Commission hardly mentioned any of these exercises. But over time, many Internet researchers and bloggers have dug deep into obscure sources and uncovered new details. This second part of our series brings all the

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previously known information on these 9/11 exercises together for the first time, and adds much that has remained buried until now.

Taken together, the below information depicts a virtually unknown story of events on 9/11. One simply cannot understand what happened that day and why the attacks weren't stopped without looking at these exercises and deciphering what they mean.

### Terminology

First, it's necessary to understand certain terminology the military, including NORAD, uses. Oftentimes, so much information is classified about certain military activities that we have little more to go on than the name of the activity. But luckily, the names can reveal much about the activity's functions, so please bear with this next section and try to understand these confusing terms.

The US military uses a computer system to automate the assignment of terminology to military activities. This system is called the "Code Word, Nickname, and Exercise Term System," shortened to "NICKA." NICKA is an automated process for submitting, validating, and storing nicknames. [Parameters, Autumn 1995 <<http://www.globalsecurity.org/military/library/report/1995/sieminsk.htm>> ; Code Names, by William M. Arkin, 1/05, p. 15 <<http://www.amazon.com/exec/obidos/ASIN/1586420836/centerforcoop-20>> ]

A 1998 military manual sets out the standard policy for NICKA. There's an important distinction between the military definitions of code word, nickname, and exercise term. A code word is a single word with a classified meaning that is used to safeguard information regarding a classified, real-world plan or operation. A nickname is a combination of two unclassified words with an unclassified meaning that is used solely for unclassified purposes such as administration or public information. Nicknames "may be assigned to actual, real-world events; projects; movement of forces; or exercise activities involving elements of information of any classification category." An exercise term is usually an unclassified nickname used to identify a particular activity such as a test, drill, or exercise. "An exercise term is employed to prevent confusion between exercise directions and actual operations." The code words for any military exercises remain secret, so nicknames and exercise terms are what is important here. [CJCSM 3150.29A, 4/23/98 <[http://www.fas.org/irp/doddir/dod/cjcsm3150\\_29a.pdf](http://www.fas.org/irp/doddir/dod/cjcsm3150_29a.pdf)> ]

Nicknames and exercise terms must be selected using particular criteria. They must consist of two separate words. The first word must begin with a combination of two letters of the alphabet that have been allocated to the using agency. [CJCSM 3150.29A, 4/23/98 <[http://www.fas.org/irp/doddir/dod/cjcsm3150\\_29a.pdf](http://www.fas.org/irp/doddir/dod/cjcsm3150_29a.pdf)> ] Furthermore, nicknames and exercise terms must not include the words operation or exercise, because those words have very special meanings. An operation is "a military action or the carrying out of a strategic, operational, tactical, service, training, or administrative military mission." So it is not a war game or exercise, it is a real world action. An exercise is "a military maneuver or simulated wartime operation involving planning, preparation, and execution. It is carried out for the purpose of training and evaluation." Exercises can be further broken down into a command post exercise, which is "an exercise in which the forces are simulated, involving the commander, the staff, and communications within and between headquarters. Also called CPX." Alternately, an exercise can be a field training exercise, which is "an exercise in which actual forces are used to train commanders, staffs, and individual units in basic, intermediate, and advanced-level warfare skills. Also called FTX." [Department of Defense, 11/30/04 <<http://www.dtic.mil/doctrine/jel/doddict/>> ]

So why does all of this matter? We can learn from a nickname or exercise term if a particular military event is a real world "operation" or merely a practice "exercise," and also if the headquarters is involved or not. For example, part one of this series mentioned Amalgam Virgo 01 and 02. According to a 1989 NORAD regulation available on the Internet, exercise terms beginning with the word "Amalgam" are NORAD headquarters exercises. The second word of the exercise term can describe "the specific exercise function (exercise, test, evaluation, inspection, and so forth)." The same regulation defines "Virgo" as a "Special Exercise or Test" field training exercise (FTX). [NORAD Regulation 11-3, 8/25/89 <<http://www.fas.org/spp/military/docops/norad/reg11003.htm>> ] So just from the name we can figure out that Amalgam Virgo was a NORAD headquarters exercise that used actual forces in the real world and wasn't just a paper exercise conducted entirely inside an office. And since it is referred to as an exercise, we know it was merely a practice, which in the case of Amalgam Virgo 01 happened to be a simulation on how to react to stop cruise missiles targeting the US. If it were called an operation, then it would have involved activities to stop real cruise missile threats.

### NORAD's Posture on 9/11

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With this background information in mind, let us examine the most important section of this series, which is the aviation exercises and operations occurring on the day of 9/11. Again, there may have been other similar activities taking place, but these are just the relevant ones we can glimpse at through the heavy screen of secrecy and classification.

The Continental US NORAD Region (CONR) is divided into three sectors. All direct military response to the 9/11 hijackings occurred over its Northeast Air Defense Sector (NEADS), based in Rome, New York. NEADS covers a vast area that not only includes New York City and Washington, DC, but also goes west well past Chicago. During the Cold War, NORAD used to have thousands of fighters on alert throughout the US. [Los Angeles Times, 9/15/01 <<http://www.latimes.com/news/nationworld/nation/la-091501patrols,0,891325.story>> ] As late as 1998, there were 175 fighters on alert status. But by September 2001, there were as few as 14 fighter planes on active alert to defend the continental US (and six more defending Canada and Alaska). [Bergen Record, 12/5/03 <<http://www.cooperativeresearch.org/timeline/2003/bergenrecord120503.html>> ] These 14 fighters were the ones that would respond first to any threats. In the year 2000, there were 425 “unknowns”--pilots who didn’t file flight plans or diverted from them or used the wrong frequency. In many cases issues would get quickly resolved, but in 2000 fighters had to take off and investigate these “unknowns” 129 times. [Calgary Herald, 10/13/01 <<http://www.cooperativeresearch.org/timeline/2001/calgaryherald101301.html>> ] There hadn’t been any actual hijackings in the US for years (the last one in the NEADS sector was in 1993 [Utica Observer-Dispatch, 8/5/04 <<http://www.uticaod.com/archive/2004/08/05/news/4739.html>> ]), but sometimes the “unknowns” would be planes attempting to smuggle drugs or other contraband into the US. [Calgary Herald, 10/13/01 <<http://www.cooperativeresearch.org/timeline/2001/calgaryherald101301.html>> ] According to a NORAD spokesman, NORAD had launched fighters or diverted combat air patrols 67 times between September 2000 and June 2001. [Associated Press, 8/13/02 <<http://www.southcoasttoday.com/daily/08-02/08-13-02/a02wn013.htm>> ] A GAO report in May 1994 stated: “Overall, during the past 4 years, NORAD’S alert fighters took off to intercept aircraft 1,518 times, or an average of 15 times per site per year. Of these incidents, the number of suspected drug smuggling aircraft averaged one per site, or less than 7 percent of all of the alert sites’ total activity. The remaining activity generally involved visually inspecting unidentified aircraft and assisting aircraft in distress.” [General Accounting Office, 5/94, p. 4 <<http://archive.gao.gov/t2pbat3/151250.pdf>> ] So clearly, the launching of fighters to intercept suspicious or wayward aircraft was a well-practiced, routine procedure prior to 9/11.

Out of NORAD’s 14 ‘alert’ fighters, only four were based in the NEADS sector on 9/11. [BBC, 8/29/02 <<http://news.bbc.co.uk/2/hi/americas/2222205.stm>> ; BBC, 8/30/02 <<http://news.bbc.co.uk/1/hi/world/americas/2224245.stm>> ; Associated Press, 8/31/02 <<http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A18114-2002Aug30>> ; 9/11 Commission Report, 6/17/04 <<http://www.msnbc.msn.com/id/5233007/>> ] NORAD claims that on 9/11 these fighters had up to 15 minutes to get airborne. [9/11 Commission hearing, 5/23/03 <[http://www.9-11commission.gov/archive/hearing2/9-11Commission\\_Hearing\\_2003-05-23.htm](http://www.9-11commission.gov/archive/hearing2/9-11Commission_Hearing_2003-05-23.htm)> ] However, the above-mentioned 1994 GAO report stated that, at that time, NORAD was planning to reduce the number of alert sites in the US, but each would have two fighters “ready to [launch] within 5 minutes.” [General Accounting Office, 5/94, p. 16 <<http://archive.gao.gov/t2pbat3/151250.pdf>> ] News articles just days after 9/11 stated that Otis Air National Guard Base--from where two F-15s were reportedly launched in response to the first hijacking--“keeps two pilots on 24-hour alert,” which, “if needed, must be in the air within five minutes.” [Cape Cod Times, 9/15/01 <<http://www.capecodonline.com/special/terror/terrornews/localreservists15.htm>> ; Cape Cod Times, 9/21/01 <<http://www.capecodonline.com/special/terror/terrornews/otisforce21.htm>> ] Furthermore, the F-20 “Tigershark” fighter, which has a maximum speed the same or slower than that of the F-16s and F-15s that were supposedly launched in response to the 9/11 hijacks [NORAD, 9/18/01 <[http://web.archive.org/web/20031205163916/http://www.norad.mil/index.cfm?fuseaction=home.news\\_rel\\_09\\_18\\_01](http://web.archive.org/web/20031205163916/http://www.norad.mil/index.cfm?fuseaction=home.news_rel_09_18_01)> ], is able to go from “[launch] order to 29,000 feet” in just 2.5 minutes. [Federation of American Scientists, 6/7/99 <<http://www.fas.org/man/dod-101/sys/ac/f-20.htm>> ; GlobalSecurity.org F-20 page, 8/9/04 <<http://www.globalsecurity.org/military/systems/aircraft/f-20-specs.htm>> ] So we might assume that fighters would usually have been able to get airborne in significantly less than the 15 minutes cited by NORAD.

Besides the two alert sites (with the four alert fighters mentioned above), there were also dozens of other air force bases in the NEADS sector and, as we shall see, fighters from some of these did get involved in responding to the hijacked planes. For example, just 10 miles southeast of Washington, DC is a massive military installation called Andrews Air Force Base. Andrews is the home of Air Force One--the presidential jet--and also the District of Columbia Air National

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Guard (DCANG). The day after the attacks, the San Diego Union Tribune stated: “Air defense around Washington is provided mainly by fighter planes from Andrews Air Force Base.” [San Diego Union Tribune, 9/12/01 <<http://billstclair.com/911/timeline/2001/sandiegouniontribune091201.html>> ] Prior to 9/11, the website of the DC Air National Guard stated that its mission was to “provide combat units in the highest possible state of readiness.” [DCANG website, 4/19/01 <<http://web.archive.org/web/20010408230859/www.dcandr.ang.af.mil/hq/index.htm>> ] And in summer 2001, the 113th Wing, based at Andrews, was described as providing “capable and ready response forces for the District of Columbia in the event of a natural disaster or civil emergency.” [DC Military website, Summer 2001 <<http://web.archive.org/web/20011117002146/http://www.dcmilitary.com/baseguides/airforce/andrews/partnerunits.html>> ] Considering this stated mission and the fact that it was home to Air Force One, surely we might assume there should have been alert fighters always available at Andrews, even if they weren’t part of the NORAD air defense mission? Yet, F-16s from Andrews were reportedly only launched to protect Washington after the Pentagon was hit. [San Diego Union Tribune, 9/12/01 <<http://billstclair.com/911/timeline/2001/sandiegouniontribune091201.html>> ; Daily Telegraph, 9/16/01 <<http://news.telegraph.co.uk/news/main.jhtml?xml=/news/2001/09/16/wcia16.xml>> ; 9/11 Commission Report, 6/17/04 <<http://www.msnbc.msn.com/id/5233007/>> ]

In the summer of 2001 there was an unprecedented level of evidence suggesting an imminent attack. [9/11 Congressional Inquiry, 9/18/02 <<http://www.cooperativeresearch.org/timeline/2002/congressionalinquiry091802.html>> ] For instance, CIA Director George Tenet was said at the time to have been “pounding on desks,” and called the evidence suggesting an imminent terrorist attack as strong as it had ever been. [9/11 Congressional Inquiry, 7/24/03 <<http://www.cooperativeresearch.org/timeline/2003/congressreportparta072403.html>> ] Out of the FAA’s daily briefings during this period, about half mentioned Osama bin Laden or al-Qaeda. Five specifically mentioned al-Qaeda training for hijackings. [Associated Press, 2/10/05 <<http://www.washingtonpost.com/wp-dyn/articles/A13203-2005Feb10.html>> ] One even mentioned an al-Qaeda plot to crash an airplane into a Genoa, Italy, G-8 summit that President Bush attended in July 2001. [New Jersey Star-Ledger, 2/11/05 <<http://www.nj.com/news/ledger/index.ssf?/base/news-20/1108103870208160.xml>> ] Knowledge of that Genoa plot was so widespread that even Time magazine mentioned the potential of bin Laden using planes as weapons in a June 2001 article. [Time, 6/20/01 <<http://www.time.com/time/world/article/0,8599,131866,00.html>> ] President Bush later stated that it was partly because he was preparing for this summit that he had asked for the briefing he famously received on August 6 that year, which was titled “Bin Laden Determined to Strike in the US.” [MSNBC, 4/13/04 <<http://www.msnbc.msn.com/id/4734348/>> ] Newsweek noted that the state of alert was particularly high in the two weeks before 9/11. In fact, “a particularly urgent warning may have been received the night before the attacks, causing some top Pentagon brass to cancel a trip” scheduled for the morning of 9/11. [Newsweek, 9/13/01 <<http://www.msnbc.com/news/627963.asp?cp1=1>> ; Newsweek, 9/17/01 <<http://www.msnbc.com/news/629606.asp>> ] Author Salman Rushdie, who has been the target of death threats from radical Muslims, was banned by the FAA from flying inside the US just days before 9/11, a fact the FAA confirmed. Rushdie claims the FAA told his publisher the reason was that it had “intelligence of something about to happen.” [London Times, 9/27/01 <<http://www.cooperativeresearch.org/timeline/2001/londontimes092701.html>> ]

This is merely the tip of the iceberg regarding evidence that should have caused the US to take precautionary measures. But despite all these warnings, nothing was done. As mentioned in the first part of this series, when Transportation Secretary Norman Mineta was asked if this high threat level resulted “in any action across the government,” he answered no [Associated Press, 5/23/03 (C) <<http://www.cooperativeresearch.org/timeline/2003/ap052303c.html>> ], and in the summer of 2001, the Pentagon was actually planning to reduce the number of fighters on alert to defend the continental US from a mere 14 to an even lower number. [Los Angeles Times, 9/15/01 <<http://www.latimes.com/news/nationworld/nation/la-091501patrols,0,891325.story>> ]

Given that there were indications of an attack, why didn’t the military raise its alert level? Why was it conducting major training exercises that appear to have made the US even more vulnerable to an aerial attack? One question to keep in mind while reading the below is: did the military activities described draw a significant number of fighters away from the northeast coast where they could have helped the response from the NEADS bases? And were fighters from the NEADS bases drawn away or otherwise hindered in their response by the training exercises taking place at the exact same time as the attacks began?

1) Operation Northern Guardian

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Operation Northern Guardian is based at Naval Air Station Keflavik, Iceland, the host command for the NATO base in that country. The US sometimes assists Iceland with extra military forces in reaction to Russian military maneuvers in the region. Approximately 1,800 US military personnel and 100 Department of Defense civilians are involved with it. [Flyer, 6/4/04 <[http://www.militarynews.com/flyer/arc\\_pages/Arc06\\_04\\_04.html](http://www.militarynews.com/flyer/arc_pages/Arc06_04_04.html)> ; GlobalSecurity.org Keflavik page, 4/10/02 <<http://www.globalsecurity.org/military/facility/keflavik.htm>> ; Iceland Defense Force website <<http://www.nctskef.navy.mil/IDF/>> ] Note that the word “operation” specifies that Operation Northern Guardian is not an exercise. Rather it is an actual specific military action or mission. [CJCSM 3150.29A, 4/23/98 <[http://www.fas.org/irp/doddir/dod/cjcs3150\\_29a.pdf](http://www.fas.org/irp/doddir/dod/cjcs3150_29a.pdf)> ]

This operation may have impacted the readiness of Langley Air Force Base, one of only two NORAD/NEADS bases on constant alert status in the region where the hijackers struck. The “host unit” at Langley AFB is the 1st Fighter Wing. This includes three F-15 fighter squadrons: the 27th, the 71st, and the 94th Fighter Squadrons. [1st Fighter Wing fact sheet, 11/03 <<http://www.langley.af.mil/staff/ho/1fw.shtml>> ; GlobalSecurity.org 1st Fighter Wing page, 8/02/04 <<http://www.globalsecurity.org/military/agency/usaf/1fw.htm>> ] During September 2001, two-thirds of the 27th Fighter Squadron was deployed overseas. Six of their fighters and 115 people went to Turkey to enforce the no-fly zone over northern Iraq as part of Operation Northern Watch. Another six fighters and 70 people went to Iceland to participate in Operation Northern Guardian. Both groups of fighters were deployed in late August, and returned in early December. [Flyer, 7/1/03 <<http://www.1stfighter.org/f15s/27FSHughesTrophy2003.html>> ] Langley’s 71st Fighter Squadron also participated in Operation Northern Watch and Operation Northern Guardian at some (unstated) time during 2001. [Air Combat Command News Service, 6/13/02 <<http://www2.acc.af.mil/accnews/jun02/02265.html>> ] Whether this deployment of fighters diminished Langley’s ability to respond on 9/11 is unknown. However, Air Force units are cycled through deployments like operations Northern and Southern Watch by the AEF (Aerospace Expeditionary Force) Center, which is at Langley Air Force Base. [Airman, 06/00 <<http://www.af.mil/news/airman/0600/consumer.htm>> ; GlobalSecurity.org Aerospace Expeditionary Force page, 04/26/05 <<http://www.globalsecurity.org/military/agency/usaf/aef-intro.htm>> ] And according to NORAD Commander Larry Arnold, “Prior to Sept. 11, we’d been unsuccessful in getting the AEF Center to be responsible for relieving our air defense units when they went overseas.” [Air War Over America, by Leslie Filson, 1/04, p. 99 <<http://www.amazon.com/exec/obidos/ASIN/0756739594/centerforcoop-20>> ]

### 2) National Reconnaissance Office Exercise on 9/11

One “emergency response exercise” scheduled for 9 a.m. on the morning of 9/11 actually involved the simulated crash of a small corporate jet plane into a government building. The exercise was to be conducted by the National Reconnaissance Office (NRO) in Chantilly, Virginia--just four miles from Washington Dulles International Airport, from where Flight 77 (the third hijacked plane) took off, and 24 miles from the Pentagon. The NRO draws its personnel from the CIA and the military. The exercise was to involve the jet experiencing mechanical problems then crashing into one of the four towers at the NRO. In order to simulate the damage from the crash, some stairwells and exits were to be closed off, forcing NRO employees to find other ways to evacuate the building. According to an agency spokesman: “As soon as the real world events began, we cancelled the exercise.” After the attacks, most of the agency’s 3,000 staff were supposedly sent home. [National Law Enforcement and Security Institute, 8/6/02 <<http://www.nlsi.net/news/HS-ALC Chicago Press Release 8-6-02.pdf>> ; Associated Press, 8/21/02 <[http://www.boston.com/news/packages/sept11/anniversary/wire\\_stories/0903\\_plane\\_exercise.htm](http://www.boston.com/news/packages/sept11/anniversary/wire_stories/0903_plane_exercise.htm)> ; UPI 8/22/02 <<http://www.cooperativeresearch.org/timeline/2002/upi082202.html>> ]

### 3) Global Guardian

One major 9/11 military training exercise that has, incredibly, remained largely unknown until now is Global Guardian. In 2001 this annual exercise started the week before 9/11 and was, according to briefers, “in full swing” when the 9/11 attacks began. [Omaha World-Herald, 2/27/02 <<http://www.cooperativeresearch.org/timeline/2002/omahaworldherald022702.html>> ; Omaha World-Herald, 9/10/02 <<http://www.cooperativeresearch.org/timeline/2002/omahaworldherald091002.html>> ] Global Guardian is sponsored by the US Strategic Command (Stratcom) in cooperation with US Space Command and NORAD. One military author defines Stratcom as “the single US military command responsible for the day-to-day readiness of America’s nuclear forces.” [Code Names, by William M. Arkin, 1/05, p. 59 <<http://www.amazon.com/exec/obidos/ASIN/1586420836/centerforcoop-20>> ]

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Global Guardian is a global readiness exercise involving all Stratcom forces and aims to test Stratcom's ability to fight a nuclear war. It is one of many "practice Armageddons" that the US military routinely stages. [Bulletin of the Atomic Scientists, 11-12/97; Associated Press, 2/21/02 (B)

<[http://web.archive.org/web/20030526050118/http://theindependent.com/stories/022102/new\\_stratcom21.html](http://web.archive.org/web/20030526050118/http://theindependent.com/stories/022102/new_stratcom21.html)> ; Omaha World-Herald, 2/27/02 <<http://www.cooperativeresearch.org/timeline/2002/omahaworldherald022702.html>> ; Omaha World-Herald, 9/10/02 <<http://www.cooperativeresearch.org/timeline/2002/omahaworldherald091002.html>> ] It links with a number of other military exercises. [Department of Defense, 5/97 <<http://www.defenselink.mil/pubs/dswa/document.html>> ; GlobalSecurity.org Global Guardian page, 10/10/02 <<http://www.globalsecurity.org/military/ops/global-guardian.htm>> ]

Global Guardian is both a command post and field training exercise, and is based around a fictitious scenario designed to test the ability of Stratcom and its component forces to deter a military attack against the United States. Hundreds of military personnel are involved. [Collins Center Update, 12/99

<<http://www.carlisle.army.mil/usacsl/Publications/vol1iss3.pdf>> ; Times-Picayune, 9/8/02 <<http://www.cooperativeresearch.org/timeline/2002/timespicayune090802.html>> ; Committee on Armed Services, undated <[http://commdocs.house.gov/committees/security/has062030.000/has062030\\_2t.htm](http://commdocs.house.gov/committees/security/has062030.000/has062030_2t.htm)> ]

Barksdale Air Force Base in Louisiana was an important node of this exercise on 9/11. Colonel Mike Reese, director of staff for the 8th Air Force, was monitoring several television screens at the base as part of the exercise when he saw CNN cut into coverage of the first World Trade Center crash at 8:48 a.m., two minutes after the crash happened. He watched live when the second plane hit the World Trade Center at 9:03 a.m. Reese says that at that point, "We knew it wasn't a mistake. Something grave was happening that put the nation's security at risk." [Times-Picayune, 9/8/02 <<http://www.cooperativeresearch.org/timeline/2002/timespicayune090802.html>> ]

An article in the New Orleans Times-Picayune explains how awareness of the real attacks impacted those participating in the exercise: "Immediately [the Barksdale staff's] focus turned to defense, securing Barksdale, Minot [North Dakota], and Whiteman [Missouri] air force bases, where dozens of aircraft and hundreds of personnel were involved in the readiness exercise 'Global Guardian.' The exercise abruptly ended as the United States appeared to be at war within its own borders. Four A-10s, an aircraft not designed for air-to-air combat, from Barksdale's 47th Fighter Squadron, were placed on 'cockpit alert,' the highest state of readiness for fighter pilots. Within five minutes, the A-10s, equipped only with high intensity cannons, could have been launched to destroy unfriendly aircraft, even if it was a civilian passenger airliner." [Times-Picayune, 9/8/02 <<http://www.cooperativeresearch.org/timeline/2002/timespicayune090802.html>> ]

Lt. Col. Edmund Walker, commander of the 47th Fighter Squadron, a novice pilot still in training, was sitting in his fighter along with other pilots in other fighters, ready to take off, when they were ordered back to the squadron office. They were told they were no longer practicing. Walker recalls, "We had to defend the base against any aircraft, airliner or civilian. We had no idea. Would it fly to the base and crash into the B-52s or A-10s on the flight line?" [Times-Picayune, 9/8/02 <<http://www.cooperativeresearch.org/timeline/2002/timespicayune090802.html>> ] \*

The probable headquarters of Global Guardian that day was Offutt Air Force Base, near Omaha, Nebraska. At least the director of the exercise, Admiral Richard Mies, commander in chief of Stratcom, was at Offutt that morning. [Omaha World-Herald, 9/10/02] On 9/11, because of Global Guardian, bombers, missile crews, and submarines around America were all being directed from Stratcom's command center: a steel and concrete reinforced bunker below Offutt. [Bulletin of the Atomic Scientists, 11-12/97; Associated Press, 2/21/02 (B)

<[http://web.archive.org/web/20030526050118/http://theindependent.com/stories/022102/new\\_stratcom21.html](http://web.archive.org/web/20030526050118/http://theindependent.com/stories/022102/new_stratcom21.html)> ; Omaha World-Herald, 2/27/02 <<http://www.cooperativeresearch.org/timeline/2002/omahaworldherald022702.html>> ; BBC, 9/1/02 <<http://web.archive.org/web/20030820163524/mnet.co.za/CarteBlanche/Display/Display.asp?Id=2063>> ; Omaha World-Herald, 9/10/02 <<http://www.cooperativeresearch.org/timeline/2002/omahaworldherald091002.html>> ] This bunker was staffed with top personnel and they were at a heightened security mode because of the exercise. [Associated Press, 2/21/02 (B) <[http://web.archive.org/web/20030526050118/http://theindependent.com/stories/022102/new\\_stratcom21.html](http://web.archive.org/web/20030526050118/http://theindependent.com/stories/022102/new_stratcom21.html)> ; Air Force Weather Observer Magazine, 7-8/2/02 <[https://afweather.afwa.af.mil/observer/JUL\\_AUG\\_2002/rsrvart.html](https://afweather.afwa.af.mil/observer/JUL_AUG_2002/rsrvart.html)> ]

Because of Global Guardian, three special military command aircraft with sophisticated communications equipment, based at Offutt, were up in the air the morning of 9/11. These E-4B National Airborne Operations Center planes--

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nicknamed “Doomsday” planes during the Cold War--are intended to control nuclear forces from the air in times of crisis. They are capable of acting as alternative command posts for top government officials from where they can direct US forces, execute war orders and coordinate the actions of civil authorities in times of national emergency. The Federal Advisory Committee (whose chairman was retired Lt. Gen. Brent Scowcroft) were aboard one of these Doomsday planes that morning, being brought to Offutt to observe the exercise. Just as at Barksdale, media accounts indicate Global Guardian was cancelled at Offutt shortly after the second WTC tower was hit (at 9:03 a.m.), with staff switching to “real-world mode.” [Department of Defense, 1/9/02  
<[http://www.defenselink.mil/transcripts/2002/t02052002\\_t0109wp.html](http://www.defenselink.mil/transcripts/2002/t02052002_t0109wp.html)> ; Air Force Weather Observer Magazine, 7-8/02 <[https://afweather.afwa.af.mil/observer/JUL\\_AUG\\_2002/rsrvart.html](https://afweather.afwa.af.mil/observer/JUL_AUG_2002/rsrvart.html)> ; Omaha World-Herald, 9/8/02 <<http://www.cooperativeresearch.org/timeline/2002/omahaworldherald090802.html>> ] However, even after Global Guardian was called off, all three E-4Bs remained airborne. [Omaha World-Herald, 2/27/02 <<http://www.cooperativeresearch.org/timeline/2002/omahaworldherald022702.html>> ; BBC, 9/1/02 <<http://web.archive.org/web/20030820163524/mnet.co.za/CarteBlanche/Display/Display.asp?Id=2063>> ] \*\*

What is interesting is that, according to a 1998 Internet article by the British American Security Information Council--an independent research organization--Global Guardian is held in October or November each year. [BASIC, 10/98 <[http://www.basicint.org/pubs/Research/taking\\_pulse-3.htm](http://www.basicint.org/pubs/Research/taking_pulse-3.htm)> ] In his book Code Names, NBC News military analyst William Arkin dates this exercise for October 22-31, 2001. [Code Names, by William M. Arkin, 1/05, p. 379 <<http://www.amazon.com/exec/obidos/ASIN/1586420836/centerforcoop-20>> ] And a military newspaper reported in March 2001 that Global Guardian was scheduled for October that year. [Space Observer, 3/23/01, p. 2 <<http://www.peterson.af.mil/21sw/observer/23mar01.pdf>> ] If this is correct, then at some later date it must have been rescheduled for early September.

If Global Guardian involved dozens of aircraft at three air bases alone (and presumably other bases were part of this large exercise), were any fighters consequently unavailable to effectively respond to the actual 9/11 attacks? As will be explained later, fighters involved in exercises are sometimes loaded with dummy weapons, and in the cases we know about, by the time these dummy weapons had been replaced with real ones, the 9/11 attacks were nearly over.

### 3B) Computer Network Attack?

There may have been yet another important facet to Global Guardian. A 1998 Department of Defense newsletter reported that for several years Stratcom had been incorporating a computer network attack (CNA) into Global Guardian. This attack involved Stratcom “red team” members and other organizations acting as enemy agents. It included attempts to penetrate the Command using the Internet and a “bad” insider who had access to a key command and control system. The attackers had “war dialed” the phones to tie them up and sent faxes to numerous fax machines throughout the Command. They had also claimed they were able to shut down Stratcom’s systems. Reportedly, Stratcom planned to increase the level of computer network attack in future Global Guardian exercises. [Anewsletter, Summer 1998, pp. 1 & 4 <[http://www.iwar.org.uk/infocon/dtic-ia/Vol2\\_No1.pdf](http://www.iwar.org.uk/infocon/dtic-ia/Vol2_No1.pdf)> ] Was a computer attack incorporated into Global Guardian in 2001? Was it taking place on 9/11? If so, what did it involve? And did it have any adverse effects?

One unexplained aspect of the 9/11 attacks is whether or not there was a real or perceived threat to Air Force One that day. On September 12, 2001, White House Press Secretary Ari Fleischer explained that President Bush went to Offutt in Nebraska because “[t]here was real and credible information that the White House and Air Force One were targets.” The next day, William Safire of the New York Times wrote, and Bush’s political strategist Karl Rove asserted, that the Secret Service believed “‘Air Force One may be next,’ and there was an ‘inside’ threat which ‘may have broken the secret codes [i.e., showing a knowledge of Presidential procedures].’” [New York Times, 9/13/01 <<http://www.cooperativeresearch.org/timeline/2001/nyt091301.html>> ] By the end of the month, Fleischer back-pedalled on these original claims, and news stories flatly contradicted them. [Washington Post, 9/27/01 <<http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A32319-2001Sep26>> ]

A well-informed, anonymous Washington official speculated that the Air Force One threat was a smokescreen designed by Vice President Dick Cheney: “It did two things for [Cheney]. It reinforced his argument that the President should stay out of town, and it gave George W. an excellent reason for doing so.” [Daily Telegraph, 12/16/01 <<http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2001/12/16/wbush16.xml>> ] In early 2004, it was reported that a Bush spokesperson said there was no threat, but Cheney continued to maintain that there may have been. Cheney

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also claimed the Secret Service passed him word of the threat, but two Secret Service agents working that day deny their agency played any role in receiving or passing on such information. The threat was allegedly based on the use of the word “Angel,” the code word for Air Force One, but Secret Service agents later noted that the code word was not an official secret, but a radio shorthand designation that had been made public well before 2001. [Wall Street Journal, 3/22/04 <<http://www.smirkingchimp.com/print.php?sid=15469>> ]

However, if Global Guardian incorporated “bad” insiders staging computer attacks, could this have been the source of Cheney’s supposed “inside threat”? Might a message that “Air Force One is next,” backed up by “American code words,” [New York Times, 9/13/01 <<http://www.cooperativeresearch.org/timeline/2001/nyt091301.html>> ] have in fact been made by “red team” members acting as enemy agents, as part of Global Guardian? At the very least, could there have been confused perceptions of a threat? Much remains speculative, but the mere possibility that Stratcom’s computer systems could have been shut down, their phones “war dialed,” or there being any other kind of “bad” attack as part of an exercise on 9/11 is frightening, and deserves further investigation.

### 4) Vigilant Guardian

Vigilant Guardian was a large-scale, weeklong NORAD exercise that was also taking place on 9/11. Accounts by participants vary on whether 9/11 was the second, third, or fourth day of the exercise. [Newhouse News, 1/25/02 <<http://www.newhousenews.com/archive/story1a012802.html>> , Ottawa Citizen, 9/11/02 <<http://www.cooperativeresearch.org/timeline/2002/ottawacitizen091102.html>> , Code One magazine, 1/02 <[http://www.codeonemagazine.com/archives/2002/articles/jan\\_02/defense/](http://www.codeonemagazine.com/archives/2002/articles/jan_02/defense/)> ] Vigilant Guardian is described as being held annually and is one of NORAD’s four major annual exercises. [GlobalSecurity.org Vigilant Guardian page, 4/14/02 <<http://www.globalsecurity.org/military/ops/vigilant-guardian.htm>> ; Air War Over America, by Leslie Filson, 1/04, p.41 <<http://www.amazon.com/exec/obidos/ASIN/0756739594/centerforcoop-20>> ; Code Names, by William M. Arkin, 1/05, p. 545 <<http://www.amazon.com/exec/obidos/ASIN/1586420836/centerforcoop-20>> ] However, another report says it takes place semi-annually. [Aviation Week and Space Technology, 6/3/02 <[http://web.archive.org/web/20020917072642/http://www.aviationnow.com/content/publication/awst/20020603/avi\\_story.htm](http://web.archive.org/web/20020917072642/http://www.aviationnow.com/content/publication/awst/20020603/avi_story.htm)> ] It is a command post exercise (CPX) and in at least some previous years was conducted in conjunction with Stratcom’s Global Guardian exercise and a US Space Command exercise called Apollo Guardian. [Committee on Armed Services, undated <[http://commdocs.house.gov/committees/security/has062030.000/has062030\\_2t.htm](http://commdocs.house.gov/committees/security/has062030.000/has062030_2t.htm)> ; GlobalSecurity.org Vigilant Guardian page, 4/14/02 <<http://www.globalsecurity.org/military/ops/vigilant-guardian.htm>> ; Code Names, by William M. Arkin, 1/05, p. 545 <<http://www.amazon.com/exec/obidos/ASIN/1586420836/centerforcoop-20>> ] All of NORAD, including NEADS, was participating in Vigilant Guardian on 9/11. Senior officers involved with the exercise were manning NORAD command centers throughout the US and Canada that morning. [Aviation Week and Space Technology, 6/3/02 <[http://web.archive.org/web/20020917072642/http://www.aviationnow.com/content/publication/awst/20020603/avi\\_story.htm](http://web.archive.org/web/20020917072642/http://www.aviationnow.com/content/publication/awst/20020603/avi_story.htm)> ]

Vigilant Guardian is described as “an exercise that would pose an imaginary crisis to North American Air Defense outposts nationwide”; as a “simulated air war”; and as “an air defense exercise simulating an attack on the United States.” According to the 9/11 Commission, it “postulated a bomber attack from the former Soviet Union.” [Newhouse News, 1/25/02 <<http://www.newhousenews.com/archive/story1a012802.html>> ; Air War Over America, by Leslie Filson, 1/04, p.55 & p. 122 <<http://www.amazon.com/exec/obidos/ASIN/0756739594/centerforcoop-20>> ; 9/11 Commission Final Report, 7/04, p. 458 <<http://www.9-11commission.gov/report/index.htm>> ] At NEADS headquarters in Rome, New York, most of the dozen or so staff on the operations floor the morning of 9/11 had no idea what the exercise that day was going to entail and were ready for anything. [Utica Observer-Dispatch, 8/5/04 <<http://www.uticaod.com/archive/2004/08/05/news/4739.html>> ]

After the second hijacked plane hit the second World Trade Center tower at 9:03 a.m., NORAD Commander Larry Arnold says, “I thought it might be prudent to pull out of the exercise, which we did.” [Air War Over America, by Leslie Filson, 1/04, p. 59 <<http://www.amazon.com/exec/obidos/ASIN/0756739594/centerforcoop-20>> ]

### 5) Vigilant Warrior or Amalgam Warrior?

According to a December 2003 news report, “NORAD also has confirmed it was running two mock drills on Sept. 11 at various radar sites and command centers in the United States and Canada,” and one of these was Vigilant Guardian.



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[New Jersey Star-Ledger, 12/5/03

<<http://www.northjersey.com/page.php?qstr=eXJpcnk3ZjczN2Y3dnFlZUVFeXkyNjMmZmdiZWw3Zjd2cWVIRUV5eTY0NTk1MDUmeXJpcnk3ZjcxN2Y3dnFlZUVFeXk5>> ] If this report is correct then there must have been another, unknown, NORAD exercise on 9/11. What could it have been?

In his 2004 book *Against All Enemies*, former counterterrorism “tsar” Richard Clarke recalls how, just before 9:28 a.m. on 9/11, acting Chairman of the Joint Chiefs of Staff Richard Myers told him via video link: “We are in the middle of Vigilant Warrior, a NORAD exercise, but... Otis [Air National Guard Base] has launched two birds toward New York.” [*Against All Enemies*, by Richard Clarke, 3/04, p. 5.

<<http://www.amazon.com/exec/obidos/ASIN/0743260457/centerforcoop-20>> ] However, no other references have been found to this exercise, “Vigilant Warrior.” Considering that exercise terms are “normally an unclassified nickname,” [CJCSM 3150.29A, 4/23/98 <[http://www.fas.org/irp/doddir/dod/cjcs3150\\_29a.pdf](http://www.fas.org/irp/doddir/dod/cjcs3150_29a.pdf)> ] this is perhaps a little odd. Could Richard Clarke have mistakenly referred to a different exercise? Vigilant Guardian, perhaps? But the publication of Clarke’s book was delayed for three months while government censors examined it closely and removed any classified material [PBS, 3/22/04 <[http://www.pbs.org/newshour/bb/terrorism/jan-june04/clarke\\_03-22.html](http://www.pbs.org/newshour/bb/terrorism/jan-june04/clarke_03-22.html)> ], and considering that the existence of Vigilant Guardian was already public knowledge, it seems odd that this correction wasn’t made if indeed Clarke did mean Vigilant Guardian.

Another possibility is whether Clarke was referring to Amalgam Warrior, which is a NORAD-sponsored, large-scale, live-fly air defense and air intercept field training exercise. It usually involves two or more NORAD regions and is held twice yearly, in the spring for the West Coast and in the autumn for the East Coast. [Airman, 1/96 <<http://www.af.mil/news/airman/0196/border.htm>> ; GlobalSecurity.org Amalgam Warrior page, 12/21/04 <<http://www.globalsecurity.org/military/ops/amalgam-warrior.htm>> ; Committee on Armed Services, undated <[http://commdocs.house.gov/committees/security/has062030.000/has062030\\_2T.htm](http://commdocs.house.gov/committees/security/has062030.000/has062030_2T.htm)> ; Code Names, by William M. Arkin, 1/05, p. 254 <<http://www.amazon.com/exec/obidos/ASIN/1586420836/centerforcoop-20>> ] Is it possible that in 2001 the East Coast Amalgam Warrior was held earlier than usual (like Global Guardian) and was taking place on 9/11?

In support of this possibility is a 1997 Department of Defense report that describes Global Guardian as having “links with other exercise activities sponsored by the Chairman, Joint Chiefs of Staff and the Unified Commands.” The exercises it links with are Crown Vigilance (an Air Combat Command exercise), Apollo Guardian (a US Space Command exercise), and--significantly--the NORAD exercises Vigilant Guardian and Amalgam Warrior. [Department of Defense, 5/97 <<http://www.defenselink.mil/pubs/dswa/document.html>> ; GlobalSecurity.org Global Guardian page, 10/10/02 <<http://www.globalsecurity.org/military/ops/global-guardian.htm>> ] Since in 2001 Vigilant Guardian was occurring the same time as Global Guardian, might Amalgam Warrior have been as well? In his book *Code Names*, William Arkin says that Amalgam Warrior is “sometimes combined with Global Guardian.” [*Code Names*, by William M. Arkin, 1/05, p. 254 <<http://www.amazon.com/exec/obidos/ASIN/1586420836/centerforcoop-20>> ]

Amalgam Warrior tests such activities as tracking, surveillance, air interception, employing rules of engagement, attack assessment, electronic warfare and counter-cruise-missile operations. A previous Amalgam Warrior in 1996 involved such situations as tracking unknown aircraft that had incorrectly filed their flight plans or wandered off course, in-flight emergencies, terrorist aircraft attacks and large-scale bomber strike missions. Amalgam Warrior 98-1 was NORAD’s largest ever exercise and involved six B-1B bombers being deployed to Eielson Air Force Base, Alaska, to act as an enemy threat by infiltrating the aerial borders of North America. [Airman, 1/96 <<http://www.af.mil/news/airman/0196/border.htm>> ; GlobalSecurity.org Amalgam Warrior page, 12/21/04 <<http://www.globalsecurity.org/military/ops/amalgam-warrior.htm>> ; Code Names, by William M. Arkin, 1/05, p. 254 <<http://www.amazon.com/exec/obidos/ASIN/1586420836/centerforcoop-20>> ] Another Amalgam Warrior in fall 2000 similarly involved four B-1 bombers acting as enemy forces trying to invade Alaska, with NORAD going from tracking the unknown aircraft to sending up ‘alert’ F-15s in response. [Eielson News Service, 10/27/00 <<http://www.eielson.af.mil/library/news/00nsvs/oct00/001027a.html>> ; Associated Press, 10/29/00 <[http://www.peninsulaclarion.com/stories/102900/ala\\_102900ala0130001.shtml](http://www.peninsulaclarion.com/stories/102900/ala_102900ala0130001.shtml)> ]

If either one (or both) of these exercises ending with the name “Warrior” occurred on 9/11, this could be very significant, because the word “Warrior” in an exercise term means it is a Joint Chiefs of Staff-approved, Commander in Chief, NORAD-sponsored field training exercise. [NORAD Regulation 11-3, 8/25/89

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<<http://www.fas.org/spp/military/docops/norad/reg11003.htm>> ] Real planes would have been pretending to be threats to the US and real fighters would have been deployed to defend against them.

### 6) Training Missions

Several reports describe fighters or other aircraft being on training missions on the morning of 9/11. These may have been routine exercises, but some of them could have been part of the major training exercises that day. It would have been fortunate to have these fighters already in the air, except, in some cases we know of, because they were conducting exercises they were armed with dummy weapons instead of real ones. In one instance, when they were eventually used that morning, the pilots were told they might have to crash into the hijacked plane to stop it.

1) Just before 9 a.m., a team in the 102nd Fighter Wing at Otis Air National Guard Base, Cape Cod, Massachusetts, was loading dummy missiles onto two fighters that were going to fly a training mission over the Atlantic. After the second WTC tower was hit, the pilots on training were recalled. [Cape Cod Times, 9/8/02

<<http://www.capecodonline.com/special/terror/capecodders8.htm>> ] Otis was the base from which the two F-15s supposedly sent in response to the first hijacking (Flight 11) were launched. [9/11 Commission Report, 6/17/04 <<http://www.msnbc.msn.com/id/5233007/>> ] One of the pilots of these F-15s--nicknamed 'Nasty'--was reportedly standing in for the usual "alert" pilot, who was "scheduled for training" on 9/11. [Cape Cod Times, 8/21/02 <<http://www.capecodonline.com/special/terror/ithought21.htm>> ]

2) At the time the first WTC tower was hit, three F-16 fighters from the 121st Fighter Squadron at Andrews Air Force Base--just 10 miles from Washington, DC--were 207 miles away from base, flying an air-to-ground training mission on a range in North Carolina. They returned to Andrews some time after the Pentagon was hit at 9:37 a.m. [Aviation Week and Space Technology, 9/9/02

<[http://www.aviationnow.com/avnow/news/channel\\_awst\\_story.jsp?view=story&id=news/aw090971.xml](http://www.aviationnow.com/avnow/news/channel_awst_story.jsp?view=story&id=news/aw090971.xml)> ]

3) Two Michigan Air National Guard F-16s flying a training mission near Detroit were eventually sent to intercept Flight 93. [ABC News, 8/30/02

<[http://web.archive.org/web/20031204092853/http://abcnews.go.com/sections/wnt/DailyNews/9/11\\_fighterjets020830.html](http://web.archive.org/web/20031204092853/http://abcnews.go.com/sections/wnt/DailyNews/9/11_fighterjets020830.html)> ; Associated Press, 8/30/02 <[http://www.usatoday.com/news/nation/2002-08-30-suicide-mission\\_x.htm](http://www.usatoday.com/news/nation/2002-08-30-suicide-mission_x.htm)> ; ABC News, 9/11/02 <<http://www.cooperativeresearch.org/timeline/2002/abcnews091102.html>> ]

4) Two F-16s from the 147th Fighter Wing, Ellington Air National Guard Base, Texas, were said to be already airborne on a local training mission when they were instructed to escort Air Force One after it departed Sarasota, Florida, with President Bush on board. [American Defender, 2001 Year in Review, p. 2

<<http://web.archive.org/web/20031216195034/http://www.1staf.tyndall.af.mil/defender/AMD2001.pdf>> ; Code One magazine, 1/02 <[http://www.codeonemagazine.com/archives/2002/articles/jan\\_02/defense/](http://www.codeonemagazine.com/archives/2002/articles/jan_02/defense/)> ]

5) At the same time the WTC towers were being hit, two unarmed F-16s were reportedly just eight minutes away, practicing bombing runs over an area of the Pine Barrens near Atlantic City designated for military drills. The two fighters belonged to the New Jersey Air National Guard's 177th Fighter Wing, based at Atlantic City International Airport. The pilots were unaware of what had happened in New York. They landed soon after the second tower was hit, were armed, and then relaunched more than an hour after the second Trade Center crash. [New Jersey Star-Ledger, 12/5/03

<<http://www.northjersey.com/page.php?qstr=eXJpcnk3ZjczN2Y3dnFIZUVFeXkyNjMmZmdiZWw3Zjd2cWVIRUV5eTY0NTk1MDUmeXJpcnk3ZjcxN2Y3dnFIZUVFeXk5>> ]

6) NORAD's Major General Larry Arnold has referred to an AWACS (Airborne Warning and Control System plane) flying a training mission near Washington, DC, that morning and another AWACS flying a training mission off the coast of Florida. Of this second AWACS, Arnold says: "I had set up an arrangement with their wing commander at Tinker [Air Force Base, Oklahoma] some months earlier for us to divert their AWACS off a normal training mission to go into an exercise scenario simulating an attack on the United States. The AWACS crew initially thought we were going into one of those simulations." [Code One magazine, 1/02

<[http://www.codeonemagazine.com/archives/2002/articles/jan\\_02/defense/](http://www.codeonemagazine.com/archives/2002/articles/jan_02/defense/)> ]

### 7) Operation Northern Vigilance

Two days before 9/11, NORAD deployed fighter aircraft to two bases in Alaska and one base in northern Canada to monitor a major exercise conducted by the Russian air force in the Russian Arctic and North Pacific Ocean, scheduled for September 10 to September 14. The NORAD fighters would stay in Alaska and Canada until the end of the Russian exercise. At some time between 10:32 a.m. and 11:45 a.m. on 9/11, Russian President Vladimir Putin called the White

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House to say the Russians were voluntarily halting their exercise. [Washington Post, 1/27/02 <<http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&contentId=A43708-2002Jan26>> ] It is unknown from which bases NORAD sent fighters for this task and how many US military personnel were involved. However, in December 2000, NORAD had taken similar action--called Operation Northern Denial--in response to a "smaller scale" Russian "long-range aviation activity in northern Russia and the Arctic." More than 350 American and Canadian military personnel had been involved on that occasion. [Canadian Chief of Defense Staff Annual Report, 5/30/01, p. 6 <[http://www.cds.forces.ca/00native/pdf/CDSreport\\_e.pdf](http://www.cds.forces.ca/00native/pdf/CDSreport_e.pdf)> ; NORAD, 9/9/01 <[http://www.norad.mil/index.cfm?fuseaction=home.news\\_rel\\_09\\_09\\_01](http://www.norad.mil/index.cfm?fuseaction=home.news_rel_09_09_01)> ; Washington Times, 9/11/01 <<http://web.archive.org/web/20010911200655/http://www.washtimes.com/national/20010911-581488.htm>> ]

If fighters were used to defend against a real Russian threat, then Northern Vigilance was an operation. The Toronto Star called it "Operation Northern Vigilance," and Richard Myers later confirmed that on 9/11, "there was an actual operation ongoing because there was some Russian bomber activity up near Alaska." [NORAD, 9/9/01 <[http://www.norad.mil/index.cfm?fuseaction=home.news\\_rel\\_09\\_09\\_01](http://www.norad.mil/index.cfm?fuseaction=home.news_rel_09_09_01)> ; Toronto Star, 12/9/01 <[http://www.911truth.org/readingroom/whole\\_document.php?article\\_id=92](http://www.911truth.org/readingroom/whole_document.php?article_id=92)> ; House Armed Services Committee, 3/11/05 <[http://www.fromthewilderness.com/free/ww3/031505\\_mckinney\\_transcript.shtml](http://www.fromthewilderness.com/free/ww3/031505_mckinney_transcript.shtml)> ] However, the Toronto Star also described Operation Northern Vigilance as partly real-world and partly "pure simulation." Yet the names of exercises cannot incorporate the word "operation." [CJCSM 3150.29A, 4/23/98 <[http://www.fas.org/irp/doddir/dod/cjcsm3150\\_29a.pdf](http://www.fas.org/irp/doddir/dod/cjcsm3150_29a.pdf)> ] So presumably the "simulation" the Toronto Star describes was part of an exercise occurring at the same time, such as Vigilant Guardian.

### False Radar Blips

What is particularly significant is that the Toronto Star article on Northern Vigilance states that shortly after CNN started broadcasting footage of the burning World Trade Center (in other words, about 8:50 a.m.), "In a flash, Operation Northern Vigilance is called off. Any simulated information, what's known as an 'inject,' is purged from the screens." [Toronto Star, 12/9/01 <[http://www.911truth.org/readingroom/whole\\_document.php?article\\_id=92](http://www.911truth.org/readingroom/whole_document.php?article_id=92)> ]

As mentioned before, if Northern Vigilance was an operation, then this simulated information must have been due to one of the exercises in progress--such as Vigilant Guardian. This "inject" of simulated material onto military radar had been used previously during a three-day NORAD exercise in December 1998 to check for vulnerabilities to the Y2K transition. NORAD had "injected 30 plus, well over 30 missile events into [their] sensors." Some of the simulations conducted on that occasion were mass attacks, others just single missile attacks. According to then Deputy Secretary of Defense Dr. John J. Hamre, "This was data that was injected as though it was being sensed for the first time by a radar site." [Department of Defense, 1/14/99 <[http://www.defense.gov/transcripts/1999/t01151999\\_ty2k.html](http://www.defense.gov/transcripts/1999/t01151999_ty2k.html)> ]

Whether any radar "inject" on 9/11 affected the military's ability to respond to the hijackings remains to be investigated. But the timing of events raises the possibility that false radar blips or other confusion caused by military exercises could have impaired the military's ability to stop the attacks.

### Assessing the Military Response to the Hijackings

Trying to assess what effect the various operations and training exercises had upon NORAD's response on 9/11 is very problematic. Much of the evidence we have to rely on comes from the military itself--and it is of course possible that some of these individuals might be lying, perhaps ordered to do so. Certainly there are many conflicting accounts of events on 9/11, indicating that some people indeed have not been telling the truth.

For example, as we previously mentioned, in his book *Against All Enemies* Richard Clarke describes speaking to acting Chairman of the Joint Chiefs of Staff Richard Myers via video link at just before 9:28 a.m. the morning of September 11. (This was the conversation where Myers referred to a NORAD exercise called Vigilant Warrior.) [Against All Enemies, by Richard Clarke, 3/04, p. 5.

<<http://www.amazon.com/exec/obidos/ASIN/0743260457/centerforcoop-20>> ] Yet, in an interview he gave a month after the attacks, Myers said that at this time he had in fact been on Capitol Hill, meeting with Senator Max Cleland, and only left there after the Pentagon was hit. [Armed Forces Radio And Television Service, 10/17/01 <[http://www.dtic.mil/jcs/chairman/AFRTS\\_Interview.htm](http://www.dtic.mil/jcs/chairman/AFRTS_Interview.htm)> ; Armed Forces Press Service, 10/23/01 <[http://www.defenselink.mil/news/Oct2001/n10232001\\_200110236.html](http://www.defenselink.mil/news/Oct2001/n10232001_200110236.html)> ] Senator Cleland confirmed this during a Congressional hearing, just days after 9/11, saying to Myers, "about the time you and I were having our visit ... at just about that very moment, the Pentagon was being hit." [Myers Senate Confirmation Hearing, 9/13/01

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<<http://www.cooperativeresearch.org/timeline/2001/myersconfirmation091301.html>> ] The 9/11 Commission also repeated this account, claiming that Myers only joined the video conference shortly before 10 a.m. [9/11 Commission Final Report, 7/04, p. 38 & p. 463 <<http://www.9-11commission.gov/report/index.htm>> ] Myers, though, has contradicted himself, in his recollections of when he first learned there was a national emergency going on that morning. In one account, he claimed he was first notified whilst still at the Capitol: Just after he heard the Pentagon had been hit, the commander of NORAD, General Ralph Eberhart, phoned him about what was happening. [Armed Forces Radio And Television Service, 10/17/01 <[http://www.dtic.mil/jcs/chairman/AFRTS\\_Interview.htm](http://www.dtic.mil/jcs/chairman/AFRTS_Interview.htm)> ; Armed Forces Press Service, 10/23/01 <[http://www.defenselink.mil/news/Oct2001/n10232001\\_200110236.html](http://www.defenselink.mil/news/Oct2001/n10232001_200110236.html)> ] However, Myers later claimed he had received this important phone call after leaving the Capitol, whilst travelling back to the Pentagon, and this had been shortly before the Pentagon was hit. [9/11 Commission, 6/17/04 (B) <<http://www.cooperativeresearch.org/timeline/2004/independentcommission061704b.html>> ]

This is just one example of such contradictory accounts put forth by different individuals and different agencies of what happened that morning. As another instance, it was reported that the FAA determined Flight 77 was off course at 8:55 a.m., yet they supposedly didn't notify NORAD about this until 9:24. The FAA claimed it had notified NORAD at 9:10, but when NORAD denied this, the FAA papered over the difference by claiming it had informally notified NORAD earlier, but only formally notified them at 9:24. [9/11 Commission, 5/23/03 <[http://www.9-11commission.gov/archive/hearing2/9-11Commission\\_Hearing\\_2003-05-23.htm](http://www.9-11commission.gov/archive/hearing2/9-11Commission_Hearing_2003-05-23.htm)> , FAA, 5/22/03 <<http://www.cooperativeresearch.org/timeline/2003/faa052203.html>> ] Then, inexplicably, the 9/11 Commission concluded that both NORAD and the FAA were wrong and announced that the FAA didn't notify NORAD about Flight 77 until after it crashed at 9:37. [9/11 Commission Report, 6/17/04 <<http://www.msnbc.msn.com/id/5233007/>> ]

As another example, a week after 9/11 CNN presented a timeline supposedly laid out to it by "informed defense officials," according to which the FAA had notified NORAD at 9:16 a.m. that Flight 93--the last of the four hijacked flights--had been hijacked. [CNN, 9/17/01 <<http://archives.cnn.com/2001/US/09/16/inv.hijack.warning/>> ] NORAD confirmed this account in a timeline presented to the 9/11 Commission in 2003. [9/11 Commission, 5/23/03 <[http://www.9-11commission.gov/archive/hearing2/9-11Commission\\_Hearing\\_2003-05-23.htm](http://www.9-11commission.gov/archive/hearing2/9-11Commission_Hearing_2003-05-23.htm)> ] Furthermore, a book published by the 1st Air Force early in 2004 contains several quotes from NORAD officials indicating early notification about Flight 93. For instance Major General Larry Arnold stated, "As we pulled out of the exercise [Vigilant Guardian, which apparently was cancelled shortly after 9:03 a.m.], we were getting calls about United Flight 93 and we were worried about that." [Air War Over America, by Leslie Filson, 1/04, p. 59 <<http://www.amazon.com/exec/obidos/ASIN/0756739594/centerforcoop-20>> ] Some time before 9:35 or 9:36 when it changed direction [Pittsburgh Post-Gazette, 10/28/01 <<http://www.cooperativeresearch.org/timeline/2001/pittsburghpostgazette102801.html>> ; Guardian, 10/17/01 <<http://www.guardian.co.uk/wtccrash/story/0,1300,575518,00.html>> ; MSNBC, 9/3/02 <<http://www.cooperativeresearch.org/timeline/2002/msnbc090302.html>> ], Flight 93 was flying directly over Cleveland, still headed west. NORAD Commander Robert Marr described how, at this time, "We [didn't] have fighters that way and we [thought Flight 93 was] headed toward Detroit or Chicago" so he contacted bases in the area "so they could head off 93 at the pass." But the fighters weren't mobilized when the flight abruptly made a 180-degree turn back east at about 9:35 a.m. [Air War Over America, by Leslie Filson, 1/04, pp. 68-70 <<http://www.amazon.com/exec/obidos/ASIN/0756739594/centerforcoop-20>> ] Not only did NORAD know about the flight, but also, according to Larry Arnold, "We watched the 93 track [on NORAD's own radar] as it meandered around the Ohio-Pennsylvania area and started to turn south toward DC." [Air War Over America, by Leslie Filson, 1/04, p. 71 <<http://www.amazon.com/exec/obidos/ASIN/0756739594/centerforcoop-20>> ]

Later in 2004, the 9/11 Commission's account concluded that Cleveland flight control clearly heard the hijackers take over the cockpit of Flight 93 at around 9:28 a.m. and Cleveland repeatedly notified FAA headquarters and the FAA Command Center about the hijacking from that point forward. Yet, according to this new account, no one told anyone at NORAD about Flight 93 until 10:07 a.m., after it had already crashed in Pennsylvania. [9/11 Commission Report, 6/17/04 <<http://www.msnbc.msn.com/id/5233007/>> ] The 9/11 Commission had moved the time NORAD learned about this hijacking by more than 50 minutes, but gave no explanation for the massive change and failed to note how this contrasted with all the previous accounts!

### **Contradictory Timelines**

What then did NORAD actually do with its fighters on 9/11? As mentioned previously, there were supposedly only two official NORAD bases in the northeast sector of the US that day. There were two fighters on permanent alert at

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Langley Air Force Base, Virginia (129 miles south of Washington), and two at Otis Air National Guard Base, Massachusetts (188 miles east of New York City). [BBC, 8/29/02 <<http://news.bbc.co.uk/2/hi/americas/2222205.stm>> ; BBC, 8/30/02 <<http://news.bbc.co.uk/1/hi/world/americas/2224245.stm>> ; Associated Press, 8/31/02 <<http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A18114-2002Aug30>> ; 9/11 Commission Report, 6/17/04 <<http://www.msnbc.msn.com/id/5233007/>> ]

Yet several conflicting timelines have been put forward attempting to explain what these fighters did and when. The original claim was that no fighters were launched the morning of 9/11 until after the Pentagon was struck. Acting Joint Chiefs of Staff Chairman Richard Myers stated this under oath in front of a Congressional committee just two days after 9/11, and NORAD spokesman Mike Snyder repeated the claim soon after. [Myers Senate Confirmation Hearing, 9/13/01 <<http://www.cooperativeresearch.org/timeline/2001/myersconfirmation091301.html>> ; Boston Globe, 9/15/01 (D) <<http://www.cooperativeresearch.org/timeline/2001/bostonglobe091501d.html>> ] Yet just days later, a second timeline was put forward in a NORAD news release, claiming that fighters had been ordered to launch in response to the hijackings as early as 8:46 a.m., being in the air by 8:52 a.m. [NORAD, 9/18/01 <[http://web.archive.org/web/20031205163916/http://www.norad.mil/index.cfm?fuseaction=home.news\\_rel\\_09\\_18\\_01](http://web.archive.org/web/20031205163916/http://www.norad.mil/index.cfm?fuseaction=home.news_rel_09_18_01)> ] So, by this account, fighters had supposedly been launched at least 45 minutes earlier than previously claimed.

Reports are consistent that the first hijacking, of Flight 11, occurred at around 8:13 or 8:14 a.m., and that flight controllers had numerous reasons to suspect the hijacking by 8:20 a.m. According to the New York Times, controllers in New England knew about this time that Flight 11 had “probably been hijacked.” [New York Times, 9/15/01 (C) <<http://www.cooperativeresearch.org/timeline/2001/nyt091501c.html>> ; Newsday, 9/23/01 <<http://web.archive.org/web/20011118025609/http://www.newsday.com/ny-uspent232380681sep23.story>> ] At 8:25, Boston flight control notified several other air traffic control centers of the hijacking. [Guardian 10/17/01 <<http://www.guardian.co.uk/wtccrash/story/0,1300,575518,00.html>> ] Yet, according to most accounts, it was around 8:40 before they first notified NEADS. [8:40, NORAD, 9/18/01 <[http://web.archive.org/web/20031205163916/http://www.norad.mil/index.cfm?fuseaction=home.news\\_rel\\_09\\_18\\_01](http://web.archive.org/web/20031205163916/http://www.norad.mil/index.cfm?fuseaction=home.news_rel_09_18_01)> ; 8:40, Aviation Week and Space Technology, 6/3/02 <<http://www.cooperativeresearch.org/timeline/2002/aviationweekspacetechnology060302.html>> ; 8:40, Newsday, 9/10/02 <<http://www.cooperativeresearch.org/timeline/2002/newsday091002.html>> ; 8:37:52, 9/11 Commission Report, 6/17/04 <<http://www.msnbc.msn.com/id/5233007/>> ] According to the NORAD timeline published the week after 9/11, it therefore took until 8:46 for fighters to be ordered to intercept this plane. Although in the air by 8.52, these were reportedly still 71 miles from Manhattan when the second hijacked plane--Flight 175--hit the WTC, around 9:03 a.m. [NORAD, 9/18/01 <[http://web.archive.org/web/20031205163916/http://www.norad.mil/index.cfm?fuseaction=home.news\\_rel\\_09\\_18\\_01](http://web.archive.org/web/20031205163916/http://www.norad.mil/index.cfm?fuseaction=home.news_rel_09_18_01)> ] As we will later describe, in 2003 NORAD offered an interesting explanation as to why these fighters took so long to reach New York.

There are also huge discrepancies between the different accounts of when flight controllers suspected Flight 77 was hijacked and when they notified NORAD. Accounts of when fighters at Langley Air Force Base were given the order to go to battle stations and be prepared to launch vary from 9:09 to 9:24 a.m. [9:09, Aviation Week and Space Technology, 6/3/02 <<http://www.cooperativeresearch.org/timeline/2002/aviationweekspacetechnology060302.html>> ; 9:09, 9/11 Commission Report, 6/17/04 <<http://www.msnbc.msn.com/id/5233007/>> ; 9:21, BBC, 9/1/02 <<http://www.cooperativeresearch.org/timeline/2002/bbc090102.html>> ; 9:24, Among the Heroes, by Jere Longman, 8/02, p. 64 <<http://www.amazon.com/exec/obidos/ASIN/0743230981/centerforcoop-20/002-2843951-6514419>> ] But, since the NORAD timeline released a week after the attack, accounts have consistently reported fighters being launched from Langley at 9:30 a.m. [NORAD, 9/18/01 <<http://www.cooperativeresearch.org/timeline/2001/norad091801.html>> ; ABC News, 9/11/02 <<http://www.cooperativeresearch.org/timeline/2002/abcnews091102.html>> ; Washington Post, 9/12/01 <<http://www.washingtonpost.com/wp-srv/nation/articles/timeline.html>> ; 9/11 Commission Report, 6/17/04 <<http://www.cooperativeresearch.org/timeline/2004/independentcommission061704.html>> ] These fighters were F-16s, with maximum speeds of 1,500 mph. [Associated Press, 6/16/00 <<http://www.cooperativeresearch.org/timeline/2000/ap061600.html>> ] NORAD commander Major General Larry Arnold admitted in 2003 that, given their launch time of 9:30, it was possible they could have reached Washington before Flight 77 did. [9/11 Commission, 5/23/03 <[http://www.9-11commission.gov/archive/hearing2/9-11Commission\\_Hearing\\_2003-05-23.htm](http://www.9-11commission.gov/archive/hearing2/9-11Commission_Hearing_2003-05-23.htm)> ]

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However, apparently they weren't even close. The pilots claim they were ordered to fly subsonic speeds (much slower than the speed the Otis fighters had flown a similar distance earlier in the crisis), and in fact didn't arrive over Washington until about 10:00 a.m. (although no precise time has ever been given in any official account). [Air War Over America, by Leslie Filson, 1/04, pp. 63-65

<<http://www.amazon.com/exec/obidos/ASIN/0756739594/centerforcoop-20>> , 9/11 Commission Report, 6/17/04 <<http://www.msnbc.msn.com/id/5233007/>> ] Even the subsonic speed of about 660 mph at which NORAD claims they were travelling should have put them over Washington well before 10:00 a.m. [9/11 Commission, 5/23/03 <[http://www.9-11commission.gov/archive/hearing2/9-11Commission\\_Hearing\\_2003-05-23.htm](http://www.9-11commission.gov/archive/hearing2/9-11Commission_Hearing_2003-05-23.htm)> ] At this speed, it should have taken about 12 minutes to fly the 130 miles from Langley to the Pentagon, so they should have been there by around 9:42 a.m.

In the pre-2003 accounts, no explanation existed as to why both the Otis and Langley fighters took so long to reach their targets. However, in 2003, NORAD claimed that both the Otis and Langley fighters didn't reach their target cities quickly because in fact they were not directed to fly there. [9/11 Commission, 5/23/03 <[http://www.9-11commission.gov/archive/hearing2/9-11Commission\\_Hearing\\_2003-05-23.htm](http://www.9-11commission.gov/archive/hearing2/9-11Commission_Hearing_2003-05-23.htm)> ] Supposedly NEADS did not know where to send the F-15s sent in response to Flight 11, so they were directed towards military-controlled airspace off the Long Island coast and remained there until 9:13--ten minutes after Flight 175 hit the second WTC tower. The F-16s launched from Langley also flew east over the ocean. [9/11 Commission Report, 6/17/04 <<http://www.msnbc.msn.com/id/5233007/>> ] According to the 9/11 Commission's final report, these fighters were about 150 miles away from the Pentagon when it was hit, a greater distance from it than they had been before taking off. [9/11 Commission Final Report, 7/04, p. 27 <<http://www.9-11commission.gov/report/index.htm>> ; Minneapolis Star Tribune, 7/31/04 <[http://www.911truth.org/readingroom/whole\\_document.php?article\\_id=306](http://www.911truth.org/readingroom/whole_document.php?article_id=306)> ]

These are but a small sample of the many inconsistent and contradictory accounts of the military response to the 9/11 hijackings. Senator Mark Dayton (D) is one of the few elected officials to even realize there should be a controversy. After having read the 9/11 Commission's report, he called the FAA's and NORAD's failures on 9/11 "the most gross incompetence and dereliction of responsibility and negligence that I've ever, under those extreme circumstances, witnessed in the public sector." [Minneapolis Star Tribune, 7/31/04 <[http://www.911truth.org/readingroom/whole\\_document.php?article\\_id=306](http://www.911truth.org/readingroom/whole_document.php?article_id=306)> ]

In the following sections we will describe some evidence suggesting that confusion caused by the 9/11 training exercises may have hindered the military in their response to the attacks.

### **Too Many Possible Hijackings?**

One theory that has been suggested, as to why NORAD completely failed to intercept any of the four hijacked planes is that, because of the training exercises taking place the morning of 9/11, there were too many potential threats and not enough fighters to respond.

The 9/11 Commission wrote: "During the course of the morning, there were multiple erroneous reports of hijacked aircraft in the system." [9/11 Commission Report, 6/17/04 <<http://www.msnbc.msn.com/id/5233007/>> ] Around 9:09 a.m., soon after the second WTC tower was hit, the FAA Command Center reported that 11 aircraft were either not communicating with FAA facilities or flying unexpected routes. [Aviation Week and Space Technology, 6/3/02 <[http://web.archive.org/web/20020917072642/http://www.aviationnow.com/content/publication/awst/20020603/avi\\_stor.htm](http://web.archive.org/web/20020917072642/http://www.aviationnow.com/content/publication/awst/20020603/avi_stor.htm)> ] NORAD's Major General Larry Arnold claims that during the "four-hour ordeal" of the attacks, a total of 21 planes were identified as possible hijackings. [Air War Over America, by Leslie Filson, 1/04, p. 71 <<http://www.amazon.com/exec/obidos/ASIN/0756739594/centerforcoop-20>> ; Code One magazine, 1/02 <[http://www.codeonemagazine.com/archives/2002/articles/jan\\_02/defense/](http://www.codeonemagazine.com/archives/2002/articles/jan_02/defense/)> ] Colonel Robert Marr, head of NEADS on 9/11, says that "at one time I was told that across the nation there were some 29 different reports of hijackings." [Newhouse News Service, 3/31/05 <<http://www.newhousenews.com/archive/baker033105.html>> ] Military officials who were involved have claimed that these false reports caused considerable chaos. Larry Arnold has said that particularly during the time between the Pentagon being hit at 9:37 and Flight 93 going down at around 10:06, "a number of aircraft [were] being called possibly hijacked... There was a lot of confusion, as you can imagine." [Air War Over America, by Leslie Filson, 1/04, p. 73 <<http://www.amazon.com/exec/obidos/ASIN/0756739594/centerforcoop-20>> ] He said: "We were receiving many reports of hijacked aircraft. When we received those calls, we might not know from where the aircraft had departed. We also didn't know the location of the airplane." [Code One magazine, 1/02

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[http://www.codeonemagazine.com/archives/2002/articles/jan\\_02/defense/](http://www.codeonemagazine.com/archives/2002/articles/jan_02/defense/) ] According to Robert Marr, “There were a number of false reports out there. What was valid? What was a guess? We just didn’t know.” [Air War Over America, by Leslie Filson, 1/04, p. 73 <http://www.amazon.com/exec/obidos/ASIN/0756739594/centerforcoop-20> ] While the attacks were occurring, there were also “frightening rumors of bomb threats and airplane crashes that really never happened.” [Air War Over America, by Leslie Filson, 1/04, p. 71 <http://www.amazon.com/exec/obidos/ASIN/0756739594/centerforcoop-20> ]

It was previously mentioned that most NORAD exercises before 9/11 “included a hijack scenario.” [CNN, 4/19/04 <http://edition.cnn.com/2004/US/04/19/norad.exercise/> ] And, according to New Yorker magazine, for several years prior to 9/11 the US government had “planned for and simulated terrorist attacks, including scenarios that involved multiple-plane hijackings.” [New Yorker, 9/24/01 [http://www.newyorker.com/fact/content/?010924fa\\_FACT](http://www.newyorker.com/fact/content/?010924fa_FACT) ] Is it possible that some of these false reports were actually issued as part of a training exercise taking place that morning?

### **Radar Problems?**

There are also accounts suggesting there may have been difficulties with NORAD’s radar system during the attacks. Lt. Col. Dawne Deskins of NEADS says that when the FAA first called and reported the first hijacking, “He [FAA] gave me the latitude and longitude of that track...[but] there was nothing there.” [Fox News, 9/8/02 <http://www.foxnews.com/story/0,2933,62359,00.html> ] Master Sergeant Kevin Foster and Staff Sergeant Mark Rose, also working at NEADS that morning, have complained about their inability to locate the hijacked planes on their radar screens. After being informed of the first hijacking, reportedly, “As they had practiced countless times before, the NEADS team quickly began searching their screens for the plane. Because they had been informed its transponder was off, they knew to look for a tiny dash instead of the usual dot. But radar systems also use such lines to indicate weather patterns, so NEADS personnel began urgently clicking their computer cursors on each stray line to see if information indicating an aircraft would appear.” Yet, after receiving further calls indicating more hijackings, “the inability to find the hijacked planes on the radar, despite their best efforts, was difficult.” According to Kevin Foster, “We were trying to find the tracks, and not being able to was very frustrating.” [Utica Observer-Dispatch, 8/5/04 <http://www.uticaod.com/archive/2004/08/05/news/4739.html> ]

It only took Boston flight control “several minutes” to report to NORAD that Flight 11 was responsible for the first World Trade Center crash. [New York Times, 9/13/01 (F) <http://www.nytimes.com/2001/09/13/national/13AVIA.html> ] ; Newhouse News Service, 1/25/02 <http://www.cooperativeresearch.org/timeline/2002/newhousenews012502.html> ] But at 9:21 a.m., the FAA’s Boston Center apparently called NEADS and reported that Flight 11 was “still in the air, and it’s on its way towards--heading towards Washington.” The FAA added: “it was evidently another aircraft that hit the tower.” Yet Flight 11 had hit the World Trade Center 35 minutes earlier. The 9/11 Commission quoted a 9:24 entry in a NEADS event log: “American Airlines #N334AA hijacked.” That was the tail number of Flight 11. The 9/11 Commission says: “Two planes had struck the World Trade Center, and Boston Center had heard from FAA headquarters in Washington that American 11 was still airborne. We have been unable to identify the source of this mistaken FAA information.” [9/11 Commission Report, 6/17/04 <http://www.msnbc.msn.com/id/5233007/> ]

Of course, some confusion may have simply been the result of the usual ‘fog of war.’ But when NEADS Tech. Sgt. Jeremy Powell asked, “Is this real-world or exercise?” and other reports say that “everybody” thought initial hijack reports were part of an exercise [9/11 Commission Report, 6/17/04 <http://www.msnbc.msn.com/id/5233007/> ; BBC, 9/1/02 <http://www.cooperativeresearch.org/timeline/2002/bbc090102.html> ] ; Newhouse News Service, 1/25/02 <http://www.cooperativeresearch.org/timeline/2002/newhousenews012502.html> ], surely we must question what effect the training exercises had that morning. Could the mistaken reports of Flight 11 still in the air have been due to false radar blips or other aspects of exercises that morning? We simply don’t know the answers because official investigations and the mainstream media haven’t looked into these exercises and so much information remains classified.

### **Not Enough Fighters?**

As mentioned above, there were only four fighters on alert at the two NORAD-affiliated bases on 9/11 (although one extra fighter happened to be ready to launch at Langley when the call for help came). Colonel Robert Marr, the head of NEADS that morning, later explained, “I have determined of course that with only four aircraft, we cannot defend the whole north eastern United States. That was the sensation of frustration of - I don’t have the forces available to do

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anything about this.” [BBC, 9/1/02

<<http://web.archive.org/web/20030820163524/mnet.co.za/CarteBlanche/Display/Display.asp?Id=2063>> ]

But these were hardly the only fighters in the area. Shortly after the second WTC crash at 9:03 a.m., calls from fighter units began “pouring into NORAD and sector operations centers, asking, ‘What can we do to help?’” For instance, the commander of the Syracuse, New York, Air National Guard base told NEADS Commander Robert Marr that he could have a fighter armed with “hot guns” in ten minutes or heat-seeker missiles in thirty minutes. [Aviation Week and Space Technology, 6/3/02 <[http://www.aviationnow.com/content/publication/awst/20020603/avi\\_stor.htm](http://www.aviationnow.com/content/publication/awst/20020603/avi_stor.htm)> ]

Reportedly, Marr said, “Get to the phones. Call every Air National Guard unit in the land. Prepare to put jets in the air. The nation is under attack.” [Newhouse News Service, 1/25/02

<<http://www.cooperativeresearch.org/timeline/2002/newhousenews012502.html>> ] Canadian Major General Eric Findley, based in Colorado and in charge of NORAD that day, reportedly had his staff immediately order as many fighters in the air as possible. [Ottawa Citizen, 9/11/02

<<http://www.cooperativeresearch.org/timeline/2002/ottawacitizen091102.html>> ]

NORAD didn’t actually accept the help from these other bases until much later. The 9/11 Commission concluded that a command for other bases to prepare their fighters to launch didn’t come until 9:49 a.m., and another account put it just after 10:00 a.m. [9/11 Commission Report, 6/17/04 <<http://www.msnbc.msn.com/id/5233007/>> ; Toledo Blade, 12/9/01

<<http://www.toledoblade.com/apps/pbcs.dll/article?Date=20011209&Category=NEWS28&ArtNo=112090036&Ref=AR>> ]

The previously mentioned fighters in the air on training missions also weren’t recalled from their missions until quite late, generally after 10:00 a.m. It has never been explained why it took NORAD almost an hour to utilize the fighters from other bases. Even if the fighters in the air were only armed with dummy weapons, they could have followed standard identification procedures to determine if the planes were hijacked. And not all were armed with only dummy weapons. For instance, the two Michigan fighters mentioned in the “Training Missions” section above were in the air on a training mission since the time of the first World Trade Center attack, but were only directed from their training just after 10:00 a.m., and only after they’d used up all their live “hot guns” ammunition. [Associated Press, 8/30/02 <[http://www.usatoday.com/news/nation/2002-08-30-suicide-mission\\_x.htm](http://www.usatoday.com/news/nation/2002-08-30-suicide-mission_x.htm)> ; 9/11 Commission Report, 6/17/04 <<http://www.msnbc.msn.com/id/5233007/>> ; Air War Over America, by Leslie Filson, 1/04, pp. 68-70 <<http://www.amazon.com/exec/obidos/ASIN/0756739594/centerforcoop-20>> ]

### Further Questions

There are many, many questions about how soon NORAD was warned about each hijacking, what they did when warned, and so forth, and such issues are beyond the scope of this essay. For instance, if NORAD needed more fighters, it’s unclear why it took them so long to accept offers of help from other bases, and didn’t issue a command for other bases to prepare their fighters to launch until around 10:00 a.m., when the crisis was nearly over. How many more fighters might have been in position to change history if they hadn’t been sent to Iceland for Operation Northern Guardian, to Northern Canada for Operation Northern Vigilance, to the Midwest for Global Guardian, or to various other exercise destinations armed only with dummy weapons?

Additionally, even with the confusion and limited number of readily available fighters, much more could have been done. For instance, why weren’t the Langley fighters 129 miles south of Washington sent to defend the obvious target of Washington immediately after the second crash into New York City? And when they were finally launched, why were they specifically ordered to fly at subsonic speeds? The explanation is quite simply bizarre, in light of the national emergency that was going on. According to NORAD, “Once they got in the air, the Langley fighters observed peacetime noise restrictions requiring that they fly more slowly than supersonic speed and takeoff over water.” [Wall Street Journal, 3/22/04] Major General Larry Arnold claimed that NORAD didn’t have clearance from law enforcement agencies to fly at supersonic speeds over land. He further implied that the whole hijacking problem wasn’t really NORAD’s to deal with: “Anything that takes off in the United States is considered a law enforcement issue -- or was considered a law enforcement issue, prior to Sept. 11.” [Associated Press, 5/23/03 (C)] Arnold added, “And, of course, [the fighters were] out over water because our mission, unlike law enforcement’s mission is to protect things coming towards the United States.” [9/11 Commission, 5/23/03 <<http://www.9-11commission.gov/archive/hearing2/9->



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11Commission\_Hearing\_2003-05-23.htm> ] Defense Secretary Rumsfeld also called hijackings “a law enforcement issue.” [9/11 Commission, 3/23/04 <<http://www.washingtonpost.com/wp-dyn/articles/A17798-2004Mar23.html>> ] Arnold further implied that even thirty minutes after the second World Trade Center crash NORAD didn't realize there was a national emergency, stating: “it is through hindsight that we are certain that this was a coordinated attack on the United States.” [9/11 Commission, 5/23/03 <[http://www.9-11commission.gov/archive/hearing2/9-11Commission\\_Hearing\\_2003-05-23.htm](http://www.9-11commission.gov/archive/hearing2/9-11Commission_Hearing_2003-05-23.htm)> ]

Clearly, these answers are unacceptable. It stretches all credulity and insults our intelligence to claim that in the middle of such a crisis NORAD would have been more concerned about peacetime noise restrictions than defending the major targets in Washington.

We don't even know who was in charge. For instance, who planned and/or managed all the training exercises that were taking place simultaneously on 9/11? Whoever these people were would surely bear significant responsibility, were it to transpire that these exercises had in any way hindered the successful interception of any of the four hijacked planes that day. But when Congresswoman Cynthia McKinney asked Richard B. Myers: “Who was in charge of managing those wargames?” Myers refused to name the relevant individual. All he said was: “The important thing to realize is that North American Aerospace Defense Command [NORAD] was responsible.” [House Armed Services Committee, 3/11/05 <[http://www.fromthewilderness.com/free/ww3/031505\\_mckinney\\_transcript.shtml](http://www.fromthewilderness.com/free/ww3/031505_mckinney_transcript.shtml)> ]

When military forces all over the US were engaged in a “practice Armageddon” (Global Guardian) at the same time as the real 9/11 attacks, there are naturally questions over how much the various training exercises might have heightened confusion, especially if there were false radar blips, computer network attacks, live-fly field exercises, and presumably other effects from these exercises. We need to know the answers to these questions, as well as many others, in order to understand why NORAD failed to stop the hijacked planes.

Another major question that has been largely overlooked is what possible role the Secret Service might have played in the air defenses of the US. We will investigate this issue in the third and final part of this series, and will also examine what others have theorized about the meaning of the 9/11 military operations and training exercises.

### Notes

\* When President Bush's Air Force One took off from Sarasota, Florida, at approximately 9:55 a.m. on 9/11, it had no destination, and circled over Florida aimlessly. But around 10:35 it began heading towards Barksdale Air Force Base. [CBS News, 9/11/02 <<http://www.cbsnews.com/stories/2002/09/11/60II/main521718.shtml>> , Washington Post, 1/27/02 <<http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&contentId=A43708-2002Jan26>> ] It finally arrived at Barksdale around 11:45 a.m. [Daily Telegraph, 12/16/01 <<http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2001/12/16/wbush16.xml>> , CBS News, 9/11/02 <<http://www.cbsnews.com/stories/2002/09/11/60II/main521718.shtml>> ] It's never been explained exactly why Bush traveled from Florida to Barksdale. The Daily Telegraph has reported, “The official reason for landing at Barksdale was that President Bush felt it necessary to make a further statement, but it isn't unreasonable to assume that - as there was no agreement as to what the President's movements should be - it was felt he might as well be on the ground as in the air.” [Daily Telegraph, 12/16/01 <<http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2001/12/16/wbush16.xml>> ] But could it have been in any way related to Barksdale's involvement in the massive Global Guardian exercise?

\*\* President Bush left Barksdale around 1:30 p.m. on 9/11 and arrived at none other than Offutt Air Force Base around 2:50 p.m. [Daily Telegraph, 12/16/01 <<http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2001/12/16/wbush16.xml>> ; Salon, 9/12/01 (B) <<http://archive.salon.com/politics/feature/2001/09/11/bush/>> ] He spent time in the underground command center from where Global Guardian had been directed, being brought up to date on the attacks and their aftermath. He then went to another room--the Joint Intelligence Center--and held a meeting of the National Security Council via secure videoteleconference. While Bush communicated with Cheney, Rumsfeld, CIA Director George Tenet, and other top leaders, his chief of staff Andrew Card sat on one side of him and Admiral Mies, the director of Global Guardian, sat on the other. Bush left Offutt soon after 4:30 p.m. [Daily Telegraph, 12/16/01 <<http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2001/12/16/wbush16.xml>> ; Omaha World-Herald, 2/27/02

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<<http://www.cooperativeresearch.org/timeline/2002/omahaworldherald022702.html>> ; Washington Times, 10/8/02  
<<http://web.archive.org/web/20021008145051/http://www.washtimes.com/national/20021008-21577384.htm>> ]

Also, that morning a small group of business leaders had arrived at Offutt Air Force Base for a charity fund-raiser event due to take place there later that day, hosted by the multi-billionaire Warren Buffett. When the attacks began, these visitors were having breakfast with Admiral Mies, the director of Global Guardian. After the second WTC tower was hit, Mies excused himself from the group, presumably to assist in canceling the exercise. [San Francisco Business Times, 2/1/02 <<http://www.bizjournals.com/sanfrancisco/stories/2002/02/04/story3.html?t=printable>> ; Omaha World-Herald, 2/27/02 <<http://www.cooperativeresearch.org/timeline/2002/omahaworldherald022702.html>> ; Omaha World-Herald, 9/10/02 <<http://www.cooperativeresearch.org/timeline/2002/omahaworldherald091002.html>> ]

### Part 3: The Secret Service

When people think of the Secret Service, they tend to imagine burly men dressed in sunglasses and suits protecting the president from a gun-wielding assassin. While this is true, the mandate of the Secret Service extends to not only protecting the US president, but also the vice president, visiting foreign heads of state, and the White House complex from any kind of threat, including attacks from the sky. [Journal of Homeland Security, 9/01 <<http://www.homelandsecurity.org/journal/articles/displayArticle.asp?article=19>> ; US News and World Report, 6/17/02 <<http://www.srslawfirm.com/news/ss/unwr061702/secretsoftheservice.htm>> ; Secret Service website <<http://www.ustreas.gov/usss/mission.shtml>> ] For instance, in 1994 a suicidal pilot crashed into the White House grounds, landing just short of President Clinton's bedroom. The Secret Service had already been working with air traffic controllers since a similar incident in the 1970s. It was their responsibility to stop such an attack. Although they failed to stop the 1994 incident, they had been practicing and preparing for this type of attack for years, and presumably worked on new strategies in the wake of their 1994 failure. [Time, 9/26/94 <<http://web.archive.org/web/20001017175409/http://www.time.com/time/magazine/archive/1994/940926/940926.whitehouse.html>> ]

So, when it comes to the issue of exercises and preparations to defend against a 9/11-styled attack, one cannot look just at the US military: one must look also at the Secret Service. As will be discussed later, the Secret Service actually had their own means to directly defend the skies of Washington. Yet this is a very little reported, little investigated topic.

In parts one and two of this three-part series, we investigated training exercises that prepared for attacks sometimes remarkably similar to those that occurred on 9/11, and other exercises that actually occurred the morning of September 11 and which might have affected the government's response to the attacks. After we analyze the role of the Secret Service, we will conclude with theories others have made regarding the role of the training exercises that morning: Were they unimportant, as the 9/11 Commission claims? Were they hijacked by the hijackers? Might they even have been a deliberate attempt to paralyze America's air defenses, thus helping to facilitate the attacks? Or is there some other explanation?

### **NSSes: The Secret Services Defends Against Air Attacks**

As mentioned above, the Secret Service began defending the White House from possible aerial terrorist attacks in the 1970s, but in the 1990s they began protecting major US events from such attacks. The 1996 Olympics in Atlanta, Georgia, took place one year after the Oklahoma City bombing, and there was considerable concern a terrorist incident could ruin the games. Counterterrorism "tsar" Richard Clarke said: "I was afraid, beginning in 1996, not that the Cessna would fly into the Olympics but that any size aircraft would be put into the Olympics. And during my inspection of the Atlanta Olympic security arrangements a month or two before the games, I was shocked that the FBI hadn't put into effect any aircraft air defense security arrangements." [9/11 Commission hearing, 3/24/04 <[http://www.9-11commission.gov/archive/hearing8/9-11Commission\\_Hearing\\_2004-03-24.htm](http://www.9-11commission.gov/archive/hearing8/9-11Commission_Hearing_2004-03-24.htm)> ] Consequently, as Clarke explained in his book *Against All Enemies*, "The Secret Service and Customs...teamed up...to provide some rudimentary air defense against an aircraft flying into the Olympic Stadium." [*Against All Enemies*, by Richard Clarke, 3/04, p. 131 <<http://www.amazon.com/exec/obidos/ASIN/0743260457/centerforcoop-20/102-7559678-6900947>> ] They banned planes from getting too close to Olympic events. During the games, they deployed Black Hawk helicopters and US Customs Service jets to intercept suspicious aircraft over the Olympic venues. Agents monitored crop-duster flights within hundreds of miles of downtown Atlanta. They placed armed fighters on standby at local air bases. Flights to Atlanta received special passenger screening. Law enforcement agents fanned out to regional airports

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throughout northern Georgia to make sure nobody hijacked a small aircraft and tried to attack one of the venues. [Chicago Tribune, 11/18/01 <http://www.chicagotribune.com/search/chi-0111180092nov18.story>> ; Wall Street Journal, 4/1/04 <http://online.wsj.com/article/0,,SB108077920066470982,00.html>> ; *Against All Enemies*, by Richard Clarke, 3/04, pp. 108-109 <http://www.amazon.com/exec/obidos/ASIN/0743260457/centerforcoop-20/102-7559678-6900947>> ]

Following the 1996 Olympics, the power of the Secret Service over major event security slowly increased. In 1998, PDD-62, a directive signed by President Bill Clinton, gave the National Security Council the authority to designate any important upcoming events a National Special Security Event (NSSE). [Secret Service website <http://www.secretservice.gov/nsse.shtml>> ] Once an event has been designated as an NSSE, the FBI becomes lead agency for crisis management, intelligence, and federal criminal investigation; FEMA becomes lead agency for consequence management; and the Secret Service becomes lead agency for designing, planning, and implementing security operations. [Journal of Homeland Security, 10/00 <http://www.homelandsecurity.org/journal/articles/displayArticle.asp?article=10>> ; CJCSI 3125.01, 8/3/01 [http://www.dtra.mil/press\\_resources/publications/deskbook/full\\_text/Agencies\\_Documents/CJCSI\\_3125.01.doc](http://www.dtra.mil/press_resources/publications/deskbook/full_text/Agencies_Documents/CJCSI_3125.01.doc)> ; Department of Homeland Security, 7/9/03 [http://www.dhs.gov/dhspublic/interapp/press\\_release/press\\_release\\_0207.xml](http://www.dhs.gov/dhspublic/interapp/press_release/press_release_0207.xml)> ; Secret Service website <http://www.secretservice.gov/nsse.shtml>> , Public Law 106-544, 12/19/00 <http://www.usdoj.gov/marshals/investigations/regional/pl106.pdf>> ] Secret Service authority over NSSEs was further strengthened and clarified by a presidential act in December 2000. [Public Law 106-544, 12/19/00 <http://www.usdoj.gov/marshals/investigations/regional/pl106.pdf>> ; Secret Service website <http://www.secretservice.gov/history.shtml>> ]

When the Secret Service is put in charge of planning and implementing security at a special event, it becomes involved in the provision of air defense over that event. As then Director of the Secret Service Brian Stafford pointed out in March 2000: “PDD-62 mandates the Secret Service to create additional capabilities that ‘achieve airspace security’ for designated ‘National Special Security Events (NSSE).’ This air security program utilizes air interdiction teams to detect, identify, and assess any aircraft that violates, or attempts to violate, an established Temporary Flight Restricted Area (TFR) airspace above an NSSE.” [Senate Committee on Appropriations hearing, 3/30/00] So, at the 2002 Winter Olympics in Salt Lake City, Utah, which had been given NSSE status, the Secret Service was responsible for “air interdiction”; and for President Bush’s 2004 State of the Union address—another NSSE—they were described as being “in overall charge of all security, including flight restrictions.” [Security Management, 2/02 <http://www.securitymanagement.com/library/001184.html>> ; Aircraft Owners and Pilots Association, 1/16/04 <http://www.aopa.org/whatsnew/newsitems/2004/04-1-038x.html>> ]

Contrary to what Condoleezza Rice has said, the possibility of planes being used as weapons was an important security concern long before 9/11. (Examples of some warnings and exercises anticipating this are described in part one of this series.) The defense against suicide air attacks used at the 1996 Atlanta Olympics was used at later NSSEs, under the nickname the “Atlanta Rules.” [Chicago Tribune, 11/18/01 <http://www.chicagotribune.com/search/chi-0111180092nov18.story>> ; Wall Street Journal, 4/1/04 <http://online.wsj.com/article/0,,SB108077920066470982,00.html>> ] So when Bill Clinton was re-inaugurated as president in 1997, an extensive set of security measures to prevent airplanes as weapons crashing into the inauguration was used. These measures included the closing of nearby airspace, the use of intercept helicopters, the basing of armed fighters nearby, and more. This plan was later used for other events such as the 1999 North Atlantic Treaty Organization’s 50th anniversary celebration in Washington, the 2000 Republican convention in Philadelphia, the 2000 Democratic convention in New York, and George W. Bush’s inauguration in 2001. [*Against All Enemies*, by Richard Clarke, 3/04, p. 110 <http://www.amazon.com/exec/obidos/ASIN/0743260457/centerforcoop-20/102-7559678-6900947>> ; Wall Street Journal, 4/1/04 <http://online.wsj.com/article/0,,SB108077920066470982,00.html>> ]

At some point near the end of the Clinton administration, the Secret Service and Customs Service actually agreed to create a permanent air defense unit to protect Washington. According to Richard Clarke: “[T]hat system would have been run by the Secret Service. It would have involved missiles, anti-aircraft guns, radar, helicopters. Secret Service developed all the plans for that. Secret Service was a big advocate for it.” However, the Secret Service and Customs are part of the Treasury Department, and the leadership there refused to fund the project. “I thought I had made a persuasive case that we needed an air defense system, as well as an airport system, not just to stop hijackers at baggage inspection, but to deal with them if they got through that and were able to hijack an aircraft,” Clarke explained to the

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9/11 Commission in March 2004. "I thought we needed an air defense system. And we got a little of that air defense system implemented, but only a little." The permanent unit was not created until after 9/11. [9/11 Commission hearing, 3/24/04 <[http://www.9-11commission.gov/archive/hearing8/9-11Commission\\_Hearing\\_2004-03-24.htm](http://www.9-11commission.gov/archive/hearing8/9-11Commission_Hearing_2004-03-24.htm)> ; Wall Street Journal, 4/1/04 <<http://online.wsj.com/article/0,,SB108077920066470982,00.html>> ]

### **National Special Security Events Were Scheduled in New York and Washington for September 2001**

Approximately four or five events per year are designated as National Special Security Events. [Department of Homeland Security, 7/9/03 <[http://www.dhs.gov/dhspublic/interapp/press\\_release/press\\_release\\_0207.xml](http://www.dhs.gov/dhspublic/interapp/press_release/press_release_0207.xml)> ; Department of Homeland Security, 6/6/04

<[http://www.dhs.gov/dhspublic/interapp/press\\_release/press\\_release\\_0428.xml](http://www.dhs.gov/dhspublic/interapp/press_release/press_release_0428.xml)> ] On 9/11, one or possibly both the cities targeted--Washington and New York--appear to have been less than three weeks from major events that were given NSSE status: First, the annual World Bank/International Monetary Fund (IMF) global meeting was scheduled for September 29-30, 2001, in Washington, DC. This was reported *prior to 9/11* to have been designated as a National Special Security Event. [Euromoney, 9/1/01

<<http://www.cooperativeresearch.org/timeline/2001/euromoney090101.html>> ; UPI, 9/6/01

<<http://www.cooperativeresearch.org/timeline/2001/upi090601.html>> ] In other words, it was not an NSSE simply due to the attacks. And second, in New York the 2001 United Nations General Assembly was designated as a National Special Security Event. [New York Times, 11/10/01

<<http://www.cooperativeresearch.org/timeline/2001/nyt111001.html>> ; House Subcommittee on Crime, Terrorism and Homeland Security hearing, 7/9/02 <<http://judiciary.house.gov/legacy/stafford070902.htm>> ; Department of Homeland Security, 7/9/03 <[http://www.dhs.gov/dhspublic/interapp/press\\_release/press\\_release\\_0207.xml](http://www.dhs.gov/dhspublic/interapp/press_release/press_release_0207.xml)> ; Homeland Security Subcommittee Hearing, 5/1/03 <<http://appropriations.senate.gov/subcommittees/record.cfm?id=203414>> ]

It appears that the UN General Assembly, beginning in September 2001, may also have received NSSE status before 9/11. The 2000 General Assembly had been given NSSE status. [House Report 106-710, 6/29/00

<[http://thomas.loc.gov/cgi-bin/cpquery/?&db\\_id=cp106&r\\_n=hr710.106&sel=TOC\\_385206&](http://thomas.loc.gov/cgi-bin/cpquery/?&db_id=cp106&r_n=hr710.106&sel=TOC_385206&)> ; Department of the Treasury FY 2000 Program Performance Report, p. 177

<<http://www.treas.gov/offices/management/budget/performance/2000/2000rpt.pdf>> ; Department of the Treasury FY 2000 Accountability Report, 3/1/01, p. 31

<<http://web.archive.org/web/20030427044131/www.treasury.gov/offices/management/dco/accountability-reports/fy2000report.pdf>> ; Senate Appropriations Subcommittee hearing, 5/10/01; White House, 1/10/02

<<http://www.whitehouse.gov/news/releases/2002/01/20020110-7.html>> ; House Subcommittee on Crime, Terrorism and Homeland Security hearing, 7/9/02 <<http://judiciary.house.gov/legacy/stafford070902.htm>> ] In 2003, Secret Service Director Ralph Basham stated, "[E]ach year, the UNGA [United Nations General Assembly] is a manpower and resource intensive effort for the Secret Service." [Homeland Security Subcommittee Hearing, 5/1/03

<<http://appropriations.senate.gov/subcommittees/record.cfm?id=203414>> ] And one Secret Service agent, Craig Miller, who died on 9/11, was "temporarily assigned to New York [that day] in preparation for the United Nations General Assembly." [Secret Service, 4/29/02 <<http://www.secretservice.gov/press/pub1202.pdf>> ; Secret Service, 8/12/02 <<http://www.secretservice.gov/press/pub1602.pdf>> ; Boston Herald, 6/3/04

<<http://news.bostonherald.com/localRegional/view.bg?articleid=30392>> ] Furthermore, "four communications soldiers from the 1108th Signal Brigade were on temporary duty to New York City Sept. 11 to support the Secret Service in preparing for the United Nations General Assembly 56." [DC Military, 10/18/01 <[http://www.dcmilitary.com/army/standard/6\\_21/local\\_news/11338-1.html](http://www.dcmilitary.com/army/standard/6_21/local_news/11338-1.html)> ]

(Both the United Nations and the IMF/World Bank events were cancelled due to the attacks, but the UN General Assembly's gathering of world leaders subsequently took place that November. [CBS News, 9/17/01 (B)

<<http://www.cbsnews.com/stories/2001/09/17/world/main311599.shtml>> ; CBS News, 9/19/01 (B)

<<http://www.cbsnews.com/stories/2001/09/18/world/main311726.shtml>> ; BBC News, 11/10/01

<<http://news.bbc.co.uk/1/hi/world/americas/1649067.stm>> ; Guardian, 11/10/01

<<http://www.guardian.co.uk/international/story/0,,591063,00.html>> ])

Assuming the UN General Assembly had been designated an NSSE before 9/11, one important question is how much of it was so designated? The General Assembly typically lasts for several months, and the level and importance of activity varies considerably during that time. The highlights of the 2001 assembly would have been the Session on Children, set for September 19-21, for which more than 80 heads of state were scheduled to attend [USINFO, 9/12/01 <[http://usinfo.state.gov/is/international\\_security/terrorism/sept\\_11/sept\\_11\\_archive/UN\\_General\\_Assembly\\_Pledges\\_Solidarity\\_Against\\_Terrorists.html](http://usinfo.state.gov/is/international_security/terrorism/sept_11/sept_11_archive/UN_General_Assembly_Pledges_Solidarity_Against_Terrorists.html)> ; Associated Press, 9/12/01 (F)

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<http://www.usatoday.com/news/nation/2001/09/12/un-evacuation.htm> ] and/or the annual gathering of world leaders, scheduled for September 24 to October 5, with President Bush due to address the assembly on September 24. [Reuters, 9/12/01 <http://www.nytimes.com/2001/09/12/international/12UN-WIRE.html> ; Associated Press, 10/29/01 [http://www.washingtonpost.com/wp-srv/aponline/2001/10/29/aponline134749\\_000.htm](http://www.washingtonpost.com/wp-srv/aponline/2001/10/29/aponline134749_000.htm) ] Craig Miller, the Secret Service agent mentioned above who died on 9/11, was, according to one report, in New York on 9/11 “to do advance security work for President Bush’s then upcoming visit to the United Nations General Assembly.” [American Rifleman, 2/02 [http://www.findarticles.com/p/articles/mi\\_qa3623/is\\_200202/ai\\_n9080390](http://www.findarticles.com/p/articles/mi_qa3623/is_200202/ai_n9080390) ]

But is it possible that Secret Service security for the UN extended to the day of September 11 itself? The opening of the 56th session of the General Assembly was actually scheduled for 9/11 but was postponed by one day due to the attacks. However, it appears no world leaders of any significance were planning on attending, as the opening sessions are in fact not very important affairs. [United Nations, 2/01

<http://web.archive.org/web/20010913000814/www.un.org/events/ref40.htm> ; Reuters, 9/12/01

<http://www.nytimes.com/2001/09/12/international/12UN-WIRE.html> ; USINFO, 9/12/01

[http://usinfo.state.gov/is/international\\_security/terrorism/sept\\_11/sept\\_11\\_archive/UN\\_General\\_Assembly\\_Pledges\\_Solidarity\\_Against\\_Terrorists.html](http://usinfo.state.gov/is/international_security/terrorism/sept_11/sept_11_archive/UN_General_Assembly_Pledges_Solidarity_Against_Terrorists.html) ; United Nations, 9/12/01

<http://www.un.org/News/Press/docs/2001/ga9903.doc.htm> ] Congresswoman Cynthia McKinney (D) asked Chairman of the Joint Chiefs of Staff Richard Myers in a congressional hearing on March 11, 2005, “Was September Eleventh declared a National Security Special Event day?” Myers responded: “I have to look back; I do not know. Do you mean after the fact, or...” McKinney clarified, “No. Because of the activities going on that had been scheduled at the United Nations that day.” Myers responded again, “I’d have to go back and check. I don’t know.” Defense Secretary Donald Rumsfeld was sitting next to Myers during the hearing, also giving answers, but didn’t have anything to say on this question. [House of Representatives hearing, 3/11/05

<http://www.cooperativeresearch.org/timeline/2005/househearing031105.html> ]

If the NSSE hadn’t begun on 9/11, it is still possible that the Secret Service had some related operations up and running on 9/11, as is suggested by the personnel in place in New York on 9/11 for the UN General Assembly.

### **The Secret Service Prepared Extensively for Planes-as-Weapons Attacks**

Even if an NSSE wasn’t beginning in New York on 9/11, there are questions about how preparations for NSSEs could have affected security there and in Washington. According to the Secret Service’s own website, when it comes to preparing for NSSEs, “there is a tremendous amount of advance planning and coordination in the areas of venue and motorcade route security, communications, credentialing, and training.” Therefore, “[a] variety of training initiatives are conducted to include simulated attacks and medical emergencies, inter-agency tabletop exercises, and field exercises.” [Secret Service website <http://www.secretservice.gov/nsse.shtml> ] Furthermore, in his testimony before the 9/11 Commission, Louis Freeh--director of the FBI for much of the 1990s until June 2001--was asked if the subject of “planes as weapons” had come up in the planning of security for the 1996 Atlanta Olympics. Freeh replied: “Yes. I believe it came up in a series of these, as we call them, special events. These were intergovernmental planning strategy sessions and operations. And I think in the years 2000, 2001, even going back maybe to the 2000 (sic) Olympics, that was always one of the considerations in the planning, and resources were actually designated to deal with that particular threat.” He added that the use of airplanes by terrorists in suicide missions “was part of the planning for those events.” [9/11 Commission hearing, 4/13/04 [http://www.9-11commission.gov/archive/hearing10/9-11Commission\\_Hearing\\_2004-04-13.htm](http://www.9-11commission.gov/archive/hearing10/9-11Commission_Hearing_2004-04-13.htm) ]

Might the Secret Service have carried out “simulated attacks” in New York and Washington, in preparation for the UN General Assembly and the IMF/World Bank meeting, as they did for other NSSEs? And considering Louis Freeh’s statement that the subject of “planes as weapons” was, in the years 2000 and 2001, “part of the planning” for NSSEs, what systems to defend Washington and New York did the Secret Service set up as part of their NSSE preparations?

(Incidentally, the Secret Service’s New York field office was in Building 7 of the World Trade Center, which collapsed late in the afternoon on 9/11. This was the Secret Service’s largest field office, with more than 200 employees. [Tech TV, 7/23/02 [http://www.g4techtv.com/techtv/vault/features/27904/Ground\\_Zero\\_for\\_the\\_Secret\\_Service.html](http://www.g4techtv.com/techtv/vault/features/27904/Ground_Zero_for_the_Secret_Service.html) ]

Later in the week of 9/11, US Ambassador to the United Nations James Cunningham said that the destruction of the New York headquarters of the Secret Service was “an obvious factor” in the postponement of the UN General Assembly. [CBS News, 9/19/01 (B) <http://www.cbsnews.com/stories/2001/09/18/world/main311726.shtml> ])



### **The Secret Service has Air Surveillance Capabilities**

The Secret Service apparently had good air surveillance capabilities on 9/11, at least around Washington, DC. For example, in his book *Against All Enemies*, Richard Clarke describes the goings on in the White House situation room just before the Pentagon was hit: “[Brian Stafford, director of the Secret Service] slipped me a note. ‘Radar shows aircraft headed this way.’ Secret Service had a system that allowed them to see what FAA’s radar was seeing.”

[*Against All Enemies*, by Richard Clarke, 3/04, p. 7

<<http://www.amazon.com/exec/obidos/ASIN/0743260457/centerforcoop-20/102-7559678-6900947>> ] That the Secret Service possessed a system that allowed them to see “what FAA’s radar was seeing” would seem a crucial detail. Yet Richard Clarke is the only person so far to have mentioned this.

Also, a September 2000 publication described the Secret Service already using an “air surveillance system” called Tigerwall. Tigerwall is used “to ensure enhanced physical security at a high-value asset location by providing early warning of airborne threats. The Tigerwall program provides the Secret Service with a geographic display of aircraft activity and provides security personnel long-range camera systems to classify and identify aircraft. Sensor data from several sources are fused to provide a unified sensor display.” [SSC San Diego, 9/00, p. 28

<<http://www.spawar.navy.mil/sti/publications/pubs/td/3105/td3105.pdf>> ; Department of Defense In-House RDT&E Activities Report, 2000 <<http://www.scitechweb.com/inhousereport/00navy/00spawar.html>> ]

Furthermore, since 1974 the Secret Service operations center has possessed a special communications line from the control tower of nearby Ronald Reagan Washington National Airport. Installed after a US army private had landed a stolen helicopter on the White House grounds without authorization, the purpose of this hotline was for air traffic controllers who monitor local radar to inform agents at the White House if any planes were off course or appeared to be on a “threatening vector.” [Time, 9/26/94

<<http://web.archive.org/web/20001017175409/http://www.time.com/time/magazine/archive/1994/940926/940926.whitehouse.html>> ] This hotline is mentioned in the 9/11 Commission Report: “At 9:33, the tower supervisor at Reagan National Airport picked up a hotline to the Secret Service and told the Service’s operations center that ‘an aircraft [is] coming at you and not talking with us.’” [9/11 Commission Final Report, 7/04, p. 39 <[http://www.9-](http://www.9-11commission.gov/report/index.htm)

<<http://www.9-11commission.gov/report/index.htm>> ] However, Chris Stephenson, the head flight controller at the airport towers, says this notification happened the other way around. He claims that he was called by the Secret Service and told an unidentified aircraft was headed his way. [USA Today, 8/12/02 <[http://www.usatoday.com/news/sept11/2002-08-11-voices\\_x.htm](http://www.usatoday.com/news/sept11/2002-08-11-voices_x.htm)> ] This suggests the Secret Service may have been using Tigerwall or another similar system, as well as the hotline, on 9/11.

### **The Secret Service Has Shoot Down Capability**

The Secret Service also had the direct means to stop any hijacked planes attacking Washington. Shortly after 9/11, the *Daily Telegraph* reported: “If [Flight 77, which subsequently hit the Pentagon] had approached much nearer to the White House it might have been shot down by the Secret Service, who are believed to have a battery of ground-to-air Stinger missiles ready to defend the president’s home.” [Daily Telegraph, 9/16/01

<<http://portal.telegraph.co.uk/news/main.jhtml?xml=%2Fnews%2F2001%2F09%2F16%2Fwcia16.xml>> ] There has been some dispute as to whether or not Flight 77 technically entered the prohibited airspace zone around the White House or not. [CBS News, 9/21/01 <<http://www.cbsnews.com/stories/2001/09/11/national/main310721.shtml>> ] But given the way it flew in a 270-degree circle over Washington, it presumably would have been in range of the Secret Service’s missiles. Yet neither the media nor any official commission have ever explored the question of why these missiles weren’t fired.

It has also been reported that the Secret Service was defending President Bush’s hotel in Sarasota, Florida, with ground-to-air missiles the night before the 9/11 attacks, which certainly raises the question of how much they may have been concerned before 9/11 that he could be attacked from the air. [Sarasota Herald-Tribune, 9/10/02

<<http://www.cooperativeresearch.org/timeline/2002/sarasotaheraldtribune091002.html>> ]

In fact, the military and the Secret Service may not have been the only agencies theoretically capable of shooting down hijacked aircraft. *USA Today* reported that on 9/11, “a joint FBI/CIA anti-terrorist task force that specifically prepared for this type of disaster was on a training exercise in Monterey, Calif. As of late Tuesday, with airports closed around the country, the task force still hadn’t found a way to fly back to Washington.” [USA Today, 9/11/01

<<http://www.usatoday.com/news/nation/2001/09/11/security.htm>> ] The US politics website *evote.com* added that the FBI had deployed “all of its anti-terrorist and top special operations agents at a training exercise (complete with all

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associated helicopters and light aircraft) in Monterey, California.” So when the 9/11 attacks occurred, “the chief federal agency responsible for preventing such crimes was being AWOL.” [Evote.com, 9/11/01 <http://www.evotecom/features/2001-09/091101attack.asp>] Note that, as previously mentioned, helicopters and light aircraft owned and manned by the Customs Service and other agencies had been used to defend NSSEs such as the 1996 Olympics from kamikaze air attacks.

### A Parallel Chain of Command?

Military regulations issued in June 2001 are clear that requests for military assistance to deal with hijackings must be forwarded to the defense secretary for approval. (Defense Secretary Donald Rumsfeld claims to have been effectively out of the loop during the entire crisis.) In the case of “immediate responses,” other military leaders may also make the decision. However, the Secret Service plays no official role in this chain of command. [New York Observer, 6/17/04 <http://www.cooperativeresearch.org/timeline/2004/nyobserver061704.html>]; CJCSI 3610.01A, 6/1/01 [http://www.dtic.mil/doctrine/jel/cjcsd/cjcsi/3610\\_01a.pdf](http://www.dtic.mil/doctrine/jel/cjcsd/cjcsi/3610_01a.pdf)]

But in fact it appears that the Secret Service did give orders directly to fighter pilots during the morning of 9/11. For example, shortly after the second World Trade Center crash at 9:03, the Secret Service began informally communicating with a fighter pilot at Andrews Air Force Base, just ten miles outside Washington, DC, and the Secret Service requested that some fighters get prepared to fly. A “flood” of calls from the Secret Service and local flight control centers was said to have come into the base. Fighter pilot Lt. Col. Marc Sasseville, stationed at Andrews, has said that some time after the Pentagon was hit he received a call from the Secret Service, ordering: “Get in the air now!” The article describing this call continues: “The Andrews-based F-16s were launched by the Secret Service and someone in the White House command center, not NORAD.” This was despite the fact that, “At the time, there was no standing agreement between the Secret Service and the 113th Wing [based at Andrews] for the latter to provide fighters in response to an attack on Washington.” [Aviation Week and Space Technology, 9/9/02 [http://www.aviationnow.com/avnow/news/channel\\_awst\\_story.jsp?view=story&id=news/aw090971.xml](http://www.aviationnow.com/avnow/news/channel_awst_story.jsp?view=story&id=news/aw090971.xml)]

It also seems the Secret Service was relaying orders issued by Vice President Cheney. The 9/11 Commission describe conversations between Brigadier General David Wherley--commander of the 113th Wing at Andrews Air Force Base--and the Secret Service: “A Secret Service agent had a phone in each ear, one to Wherley and one to a fellow agent at the White House, relaying instructions that the White House agent said he was getting from the Vice President. The guidance for Wherley was to send up the aircraft, with orders to protect the White House and take out any aircraft that threatens the Capitol.” [9/11 Commission Report, 6/17/04 <http://www.msnbc.msn.com/id/5233007/>] Reportedly, Wherley made several phone calls that morning, “desperately seeking airborne authorization for his fighters.” He describes calling the White House and speaking to a woman at the Joint Operations Center (JOC)--the Secret Service command and control center there--and asking her what they wanted him to do. According to Wherley: “She was standing next to the vice president (Dick Cheney) and she said, ‘They want you to put the CAP [combat air patrol] up.’ Basically what they told me... ‘We want you to intercept any airplane that attempts to fly closer than 20 miles around any airport around the Washington area.... Attempt to turn them away, do whatever you can to turn them away and if they won’t turn away use whatever force is necessary...to keep them from hitting a building downtown.’” [Air War Over America, by Leslie Filson, 1/04, p. 79 <http://www.amazon.com/exec/obidos/ASIN/0756739594/centerforcoop-20>]

Major Dan Caine, a weapons officer at Andrews AFB, describes receiving a phone call prior to this from someone in the White House, requesting armed fighters over the White House. Caine says: “I could hear plain as day the vice president [Cheney] talking in the background. That’s basically where we got the execute order. It was ‘VFR (Visual Flight Rules) direct.’” [Air War Over America, by Leslie Filson, 1/04, p. 78 <http://www.amazon.com/exec/obidos/ASIN/0756739594/centerforcoop-20>]

As further evidence of possibly conflicting command systems that morning, Captain Craig Borgstrom--one of the Langley pilots scrambled over Washington--has said that he and the two other Langley pilots “were getting orders from a lot of different people.” [Air War Over America, by Leslie Filson, 1/04, p. 66 <http://www.amazon.com/exec/obidos/ASIN/0756739594/centerforcoop-20>]

If it was simply a matter of wanting more fighters in the air to protect Washington, one can hardly fault the Secret Service for being proactive if NORAD was not taking the steps to activate the Andrews fighters (and it appears NORAD was not). However, a more contentious issue is if the Secret Service gave the authority to shoot down

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hijacked passenger aircraft. The fighters launched from Langley Air Force Base at 9:30 a.m. received a call on their radio as they were, reportedly, flying over the Pentagon. According to Michael J. Haugen, adjutant general of the North Dakota National Guard, “A person came on the radio and identified themselves as being with the Secret Service, and he said, ‘I want you to protect the White House at all costs.’” [New York Times, 10/16/01 <http://www.nytimes.com/2001/10/16/national/16PLAN.html>] One of the Langley pilots recalls a more vague command to be aware that the White House was an important asset to protect, and told one of the other pilots, “I think the Secret Service told me this.” [*Among the Heroes*, by Jere Longman, 8/02, p. 76 <http://www.amazon.com/exec/obidos/ASIN/0743230981/centerforcoop-20>] ]

It has often been assumed that only the President had the authority to give such shoot down authorization. But it is questionable whether President Bush gave any pilots any such authorization on 9/11. Supposedly, Bush and Cheney conferred about a shoot down order just before 10:00 a.m., came to an agreement to give such authorization to the pilots, and passed this down the chain of command. [Washington Post, 1/27/02 <http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&contentId=A43708-2002Jan26>] ] However, the phone logs of this call don’t exist; the chairman and vice chairman of the 9/11 Commission doubted the call took place; and some staffers on the commission “flat out didn’t believe the call ever took place.” [9/11 Commission, 6/17/04 (C) <http://www.cooperativeresearch.org/timeline/2004/independentcommissionr061704c.html>]; 9/11 Commission Report, 6/17/04 <http://www.msnbc.msn.com/id/5233007/>; Newsweek, 6/20/04 <http://msnbc.msn.com/id/5251871/site/newsweek/>] ]

In any case, the 9/11 Commission concluded that this shoot down authorization never reached the fighter pilots. In fact, at 10:10 a.m. the Langley pilots were instructed by the NEADS mission crew commander that they had “negative clearance to shoot” aircraft over Washington. Shoot down authorization only reached NEADS at 10:31 a.m., but still was never passed on to the pilots. [9/11 Commission Report, 6/17/04 <http://www.msnbc.msn.com/id/5233007/>] ] Yet, these were the same pilots that were apparently told by the Secret Service before 10:00 a.m. that they did have authorization. So who was in charge? And were pilots being given contradictory orders?

### The Mystery of Cheney’s Role Deepens

In May 2003, Bush’s Transportation Secretary Norman Mineta described to the 9/11 Commission one as yet unexplained incident. He described a situation that occurred the morning of 9/11 soon after he arrived at the Presidential Emergency Operations Center (PEOC), an underground shelter below the East Wing of the White House. At around 9:25 a.m., according to Mineta, “There was a young man who had come in and said to the vice president, ‘The plane is 50 miles out. The plane is 30 miles out.’ And when it got down to, ‘The plane is 10 miles out,’ the young man also said to the vice president, ‘Do the orders still stand?’ And the vice president turned and whipped his neck around and said, ‘Of course the orders still stand. Have you heard anything to the contrary?’” This was referring to the flight that hit the Pentagon. Mineta told the Commission he believed this order was a “shoot-down” order. However, when Commissioner Lee Hamilton suggested to him, “[T]here was an order to shoot that plane down,” Mineta replied: “Well, I don’t know that specifically, but I do know that the airplanes were scrambled from Langley or from Norfolk, the Norfolk area. But I did not know about the orders specifically other than listening to that other conversation.” [9/11 Commission hearing, 5/23/03 [http://www.9-11commission.gov/archive/hearing2/9-11Commission\\_Hearing\\_2003-05-23.htm](http://www.9-11commission.gov/archive/hearing2/9-11Commission_Hearing_2003-05-23.htm)]; St Petersburg Times, 7/4/04 [http://www.sptimes.com/2004/07/04/news\\_pf/Worldandnation/Of\\_fact\\_fiction\\_Bus.shtml](http://www.sptimes.com/2004/07/04/news_pf/Worldandnation/Of_fact_fiction_Bus.shtml)] ] But, as explained above, most accounts have this “shoot-down” authorization given some time after 9:55 a.m., when Air Force One took off from Sarasota Airport with the president aboard. [Washington Post, 1/27/02 <http://www.washingtonpost.com/ac2/wp-dyn/A42754-2002Jan26>] ] (An exception is the account of Richard Clarke, which says this authorization was given slightly earlier, as Air Force One was “getting ready to take off.” [*Against All Enemies*, by Richard Clarke, 3/04, p. 8 <http://www.amazon.com/exec/obidos/ASIN/0743260457/centerforcoop-20/102-7559678-6900947>] ])

Two years later, it is still not known to what order the young man and Cheney were referring. Could it have been an order to respond, or not respond, to Flight 77 with fighter jets or the Secret Service’s surface-to-air missiles on the White House? The 9/11 Commission apparently never asked Cheney or the aide giving him updates for clarification about Mineta’s comments.

Assessing Dick Cheney’s actions the morning of 9/11 is made difficult because--as with the NORAD response to the hijackings--there are contradictory accounts of what he did and when. According to the 9/11 Commission, Cheney



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learned of the first WTC crash just before 9 a.m. while in his office at the White House. [9/11 Commission Final Report, 7/04, p. 35 <<http://www.9-11commission.gov/report/index.htm>> ] He subsequently saw the second WTC crash on live TV. Then, just before 9:36, he was “propelled...out of his chair” by Secret Service agents who then told him to go down to the Presidential Emergency Operations Center below the White House. “The Vice President entered the underground tunnel leading to the shelter at 9:37.” While in this tunnel, he supposedly spoke over the phone with President Bush, “advising that three planes were missing and one had hit the Pentagon,” and didn’t enter the shelter conference room until after 9:55 a.m. [9/11 Commission Final Report, 7/04, pp. 39-40 <<http://www.9-11commission.gov/report/index.htm>> ] According to this account, the vice president appears pretty much ‘out of the loop’ during the critical 9:00-10:00 hour.

Yet, according to some accounts, Cheney was evacuated from his office to the PEOC about half an hour earlier than the 9/11 Commission claims. [New York Times, 9/16/01 (B) <<http://www.cooperativeresearch.org/timeline/2001/nyt091601b.html>> , Telegraph, 12/16/01 <<http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2001/12/16/wbush16.xml>> ] For example, Richard Clarke met with Cheney in Cheney’s office right after the second World Trade Center crash. Clarke claims that after a brief conversation, he agreed with Cheney that Cheney should go directly to the PEOC. As Clarke left, he saw Cheney gathering his papers to go, and eight Secret Service agents standing waiting to escort him there. [*Against All Enemies*, by Richard Clarke, 3/04, p. 2 <<http://www.amazon.com/exec/obidos/ASIN/0743260457/centerforcoop-20/102-7559678-6900947>> ] David Bohrer, a White House photographer who spent the day with Cheney, was standing next to the vice president at the time of the evacuation and claims it took place shortly after 9 a.m. [ABC, 9/14/02 (B) <<http://www.cooperativeresearch.org/timeline/2002/abcnews091402.html>> ] Norman Mineta claims the conversation he observed in the PEOC between Cheney and the young man who had reported the plane approaching the White House took place around 9:25 a.m. All this is inconsistent with the claim that Cheney was not evacuated from his office until around 9:36. These conflicting timelines only seem to make the vice president’s actions during the 9 o’clock hour appear more mysterious.

### Conclusions

The role of the Secret Service on 9/11 has been little explored and certainly deserves further investigation. What preparations did the Secret Service have to defend against planes as weapons, and were any of these defenses in place by 9/11? What radar information did they have access to, and with whom else did they share it? Why didn’t the Secret Service shoot down Flight 77 with available surface-to-air missiles? Was this possibility even discussed as Flight 77 approached Washington? Where were they in the chain of command, and did they give any shoot down authorizations before President Bush did? What planning, if any, for “planes as weapons” did they undertake, as part of their preparations for the UN General Assembly and the IMF/World Bank meeting? At present, we have few answers.

### Theories About the Significance of the Military Exercises

Looking at all of the information presented in this three-part series, with all the secrecy that has surrounded 9/11, and the failure of official investigations to consider the possibility of US military and government complicity in the attacks, it is difficult for us to properly assess the significance of the 9/11 training exercises and military operations. However, others have proposed several theories. We will examine some of the most prominent of these.

#### 1) The 9/11 Commission’s Theory: It Doesn’t Matter

The official theory, endorsed by the 9/11 Commission, is that the training exercises were unimportant and if anything sped up responses. However, the only exercise the 9/11 Commission discusses is Vigilant Guardian, which is covered in a few short sentences in the endnotes of their final report. They say: “We investigated whether military preparations for the large-scale exercise [Vigilant Guardian] compromised the military’s response to the real-world terrorist attack on 9/11. According to General Eberhart, ‘it took about 30 seconds’ to make the adjustment to the real-world situation.... We found that the response was, if anything, expedited by the increased number of staff at the sectors and at NORAD because of the scheduled exercise.” [9/11 Commission Final Report, 7/04, p. 458 <<http://www.9-11commission.gov/report/index.htm>> ] At the final hearing of the Commission, Richard B. Myers said: “at the Northeast Air Defense Sector [NEADS], Southeast, the CONR region at NORAD, there are people that are always on duty to respond, and whether or not we’d had the exercise or not, people would have responded.” General Ralph Eberhart of NORAD, when asked about Vigilant Guardian, replied: “my belief is that it helped because of the manning, because of the focus, because the crews -- they have to be airborne in 15 minutes. And that morning, because of the exercise, they were airborne in six or eight minutes.” He added: “it became painfully clear...that this was not an

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exercise.” [9/11 Commission hearing, 6/17/04 [http://www.9-11commission.gov/archive/hearing12/9-11Commission\\_Hearing\\_2004-06-17.htm](http://www.9-11commission.gov/archive/hearing12/9-11Commission_Hearing_2004-06-17.htm)] ]

Because of Vigilant Guardian, NORAD was fully staffed and alert on 9/11, and senior officers were manning stations throughout the US. The entire chain of command was in place and ready when the first hijacking was reported. An article later said, “In retrospect, the exercise would prove to be a serendipitous enabler of a rapid military response to terrorist attacks on September 11.” [Aviation Week and Space Technology, 6/3/02 [http://www.aviationnow.com/content/publication/awst/20020603/avi\\_stor.htm](http://www.aviationnow.com/content/publication/awst/20020603/avi_stor.htm)] ; Bergen Record, 12/5/03 <http://www.cooperativeresearch.org/timeline/2003/bergenrecord120503.html>] ] NEADS headquarters had about 12 people on the operations floor that morning instead of the usual eight to ten, as well as several higher-ranking military and civilian observers. [Utica Observer-Dispatch, 8/5/04 <http://www.uticaod.com/archive/2004/08/05/news/4739.html>] ] Colonel Robert Marr, in charge of NEADS, said, “We had the fighters with a little more gas on board. A few more weapons on board.” [ABC News, 9/11/02 <http://www.cooperativeresearch.org/timeline/2002/abcnews091102.html>] ]

However, it had been reported in late 2003 that investigators at the 9/11 Commission were “investigating whether [because of the exercise] NORAD’s attention was drawn in one direction - toward the North Pole - while the hijackings came from an entirely different direction.” [New Jersey Star-Ledger, 12/5/03 <http://www.northjersey.com/page.php?qstr=eXJpcnk3ZjczN2Y3dnFIZUVFeXkyNjMmZmdiZWw3Zjd2cWVIRUV5eTY0NTk1MDUmeXJpcnk3ZjcxN2Y3dnFIZUVFeXk5>] ] No mention is made in the Commission’s final report of what, if anything, they found.

What is more, Vigilant Guardian is reported to have created at least some temporary confusion. NORAD officials were initially confused about whether the 9/11 attacks were real or part of the exercise. Lt. Colonel Dawne Deskins, the regional mission crew chief at NEADS headquarters for Vigilant Guardian, has said that when Boston flight control contacted NEADS about the first hijacking at around 8:37 a.m., she and “everybody” else there initially thought the call was part of the exercise. [Newhouse News, 1/25/02 <http://www.newhousenews.com/archive/story1a012802.html>] ] (According to one report, though, this important call took place six minutes earlier, at 8:31 [ABC News, 9/11/02 <http://www.cooperativeresearch.org/timeline/2002/abcnews091102.html>] ] ) NORAD Commander Larry Arnold said that when he first heard of the hijacking, the first thing that went through his mind was, “Is this part of the exercise? Is this some kind of a screw-up?” [ABC News, 9/14/01 [http://web.archive.org/web/20040206094137/http://abcnews.go.com/onair/DailyNews/sept11\\_moments\\_1.html](http://web.archive.org/web/20040206094137/http://abcnews.go.com/onair/DailyNews/sept11_moments_1.html)] ]

Robert Marr describes events at NEADS around 8:40 that morning: “[T]here was a huddle of people around one of the [radar] scopes. I’ve seen many exercises...and as I saw that huddle I said, ‘There’s got to be something wrong, something is happening here.’ You usually see that whenever they find a track on the scope that looks unusual; it’s usually an indicator that something is getting ready to kick off.” Supposedly Marr thought this hubbub was part of the exercise. He sent Lt. Colonel Dawne Deskins to check it out. “She came running back, Marr says, with urgency in her voice: the FAA needed help with a possible hijacking.” [Air War Over America, by Leslie Filson, 1/04, p. 55 <http://www.amazon.com/exec/obidos/ASIN/0756739594/centerforcoop-20>] ] Was much time wasted while Marr thought this hubbub was “part of the exercise”? Again, this account appears to contradict the claim of the 9/11 Commission that the exercise only helped the military respond to the hijackings.

Furthermore, Vigilant Guardian doesn’t seem to have actually increased the number of fighters available to respond. And if it was nothing but an enabler, it is even more difficult to understand why NORAD’s responses to the attacks were as slow as they were.

Besides Vigilant Guardian, the 9/11 Commission appear to have had no interest in any of the other exercises that were occurring on 9/11.

Thanks to a direct question to Joint Chiefs of Staff Chairman Richard Myers and Defense Secretary Donald Rumsfeld by Representative Cynthia McKinney about the impact of multiple exercises on 9/11, Myers at least acknowledged that there were multiple exercises on that day. But he also claimed that they only helped matters: “The answer to the question is no, it did not impair our response, in fact General Eberhart who was in the command of the North American Aerospace Defense Command as he testified in front of the 9/11 Commission I believe - I believe he told them that it

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enhanced our ability to respond, given that NORAD didn't have the overall responsibility for responding to the attacks that day. That was an FAA responsibility.... It actually enhanced the response; otherwise, it would take somewhere between 30 minutes and a couple of hours to fill those positions, those battle stations, with the right staff officers." [House of Representatives hearing, 3/11/05

<http://www.cooperativeresearch.org/timeline/2005/househearing031105.html> ]

### 2) Barbara Honegger's Theory: Hijackers Piggyback the Exercises

An early theory suggesting the 9/11 training exercises might have helped facilitate the attacks was proposed in 2002 by Barbara Honegger, a senior military affairs journalist with the Department of Defense and author of the 1989 book *October Surprise*, which claims the Republicans made a secret deal with Iran to release American hostages held there only after the 1980 presidential election. [*October Surprise*, by Barbara Honegger, 1989

<http://www.amazon.com/exec/obidos/ASIN/0944276466/centerforcoop-20/102-7559678-6900947> ]

Honegger pointed out that the military had nearly three-quarters of an hour to intercept Flight 77, "after all key decision makers were 100 percent certain the Twin Tower hits had been terrorist attacks and that Flight 77 had also been hijacked." She claimed this was incomprehensible "unless some previous piece of information or mental set led them to assume the Pentagon plane could not be a terrorist vehicle, or at least confuse them as to whether it was or not. If those looking on from inside the Pentagon as 9/11 unfolded believed Flight 77 was, or might be, part of a 'Red Team' counter-terror exercise set for that very morning, it would explain the otherwise incomprehensible delay, almost to the point of paralysis, in effectively scrambling interceptors." She therefore suggested that one of the hijackers had learned of a counter-terrorism exercise planned for the morning of 9/11 that was to be similar to the attack they intended to carry out. The hijackers then "piggybacked" their attack on top of this exercise. [People's Investigation of 9/11, 2002 <http://web.archive.org/web/20031008053102/http://www.911pi.com/honegger.htm> ]

Honegger referred to the National Reconnaissance Office exercise planned for 9 a.m. on 9/11, of a small corporate jet plane crashing into one of their buildings, saying this convinced her that there must have been other, as yet unknown, plane-into-building exercises scheduled to occur in the DC area that morning. This, she claimed, was why Dick Cheney was so infuriated when in 2002 it was leaked that the National Security Agency (NSA) had intercepted two messages in Arabic on September 10, 2001: "The match is about to begin," and "Tomorrow is zero hour." [Washington Post, 6/20/02 <http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&contentId=A12712-2002Jun19> ; Associated Press, 6/21/02 <http://www.cbsnews.com/stories/2002/06/06/attack/main511243.shtml> ] Finally, Honegger wrote that for this plan to have succeeded the terrorists must have had a 'mole'--an undercover spy--who had fooled US intelligence into believing he was "one of us." She theorized this person was alleged 9/11 mastermind Khalid Shaikh Mohammed--"the only person about whom all information is still classified." [People's Investigation of 9/11, 2002 <http://web.archive.org/web/20031008053102/http://www.911pi.com/honegger.htm> ]

### 3) Michael Ruppert: Cheney Controls the Exercises to Ensure the Attacks Succeed

Many skeptics of the official 9/11 accounts have speculated that the military may have been given direct orders not to respond to the hijacked planes. For instance, Michael Meacher, a British Member of Parliament and one of Tony Blair's cabinet ministers on 9/11, has asked, "Could US air security operations have been deliberately stood down on September 11? If so, why, and on whose authority?" [Guardian, 9/6/03 <http://politics.guardian.co.uk/iraq/comment/0,12956,1036687,00.html> ] Curiously, *Time* magazine reported that at 9:26 a.m. on 9/11, the FAA "initiated a national ground stop, which forbids takeoffs and requires planes in the air to get down as soon as is reasonable. The order...applied to virtually every single kind of machine that can takeoff--civilian, military, or law enforcement." With a few exceptions (unstated by the article, but presumably at least the Otis and Langley fighters), military and law enforcement flights were only allowed to resume at 10:31 a.m. [Time, 9/14/01 <http://www.time.com/time/nation/article/0,8599,174912,00.html> ] One could argue whether the motive behind this order was a benign attempt to thoroughly empty the skies or a sinister stand down order to keep the skies free of military aircraft.

In his 2004 book *Crossing the Rubicon: The Decline of the American Empire at the End of the Age of Oil*, author Michael Ruppert alleges massive US government complicity in the 9/11 attacks. However, he argues that if there was a deliberate stand down order, this alone would not have been sufficient to ensure the attacks were successful, as an independently acting commander or pilot might have decided to play a hero and ignore any stand down orders. He

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theorizes that military exercises were necessary to make sure that even such a rogue official who had truly wanted to stop the attacks wouldn't have known where a fighter should go.

Building upon the previous work of Barbara Honegger and prolific 9/11 researcher Nico Haupt, Ruppert discusses several of the training exercises and operations, including Vigilant Guardian, Vigilant Warrior, Tripod, and Northern Vigilance. He writes: "I believe that on the day of September 11th, while FAA and NORAD responses were paralyzed and confused by an unknown number of wargame exercises involving inserted radar blips and live-fly exercises, there were also contained within those drills an unknown number of commercial airliners (possibly surplus) being piloted by remote control." [*Crossing the Rubicon*, by Michael Ruppert, 10/04, p. 587 <http://www.amazon.com/exec/obidos/ASIN/0865715408/centerforcoop-20>] In other words, according to Ruppert the training exercises served both as a cover to facilitate the attacks and as a means to confuse the FAA and NORAD so as to disable the standard responses for dealing with air defense emergencies.

Regarding Northern Vigilance--the military activity that began on September 9 and involved NORAD deploying fighters to Alaska and northern Canada to monitor a Russian air force exercise--Ruppert claims the operation served to pull valuable fighters away from the northeast US just before 9/11, thus reducing the number available to respond that morning. [*Crossing the Rubicon*, by Michael Ruppert, 10/04, p. 342 <http://www.amazon.com/exec/obidos/ASIN/0865715408/centerforcoop-20>] ]

One of his main hypotheses regards the false reports of hijackings occurring during the 'four-hour ordeal' that morning. Ruppert accepts the view that there were only a limited number of fighters available to defend the skies over the US on September 11. Following the end of the Cold War, NORAD had reduced its number of alert sites around the US, so that by 9/11 it reportedly had only eight fighters available on the East Coast for emergencies. [New Jersey Star-Ledger, 12/5/03 <http://www.northjersey.com/page.php?qstr=eXJpcnk3ZjczN2Y3dnFlZUVFeXkyNjMmZmdiZWw3Zjd2cWVIRUV5eTY0NTk1MDUmeXJpcnk3ZjcxN2Y3dnFlZUVFeXk5>] ] For the northeast United States where the attacks all occurred, there were supposedly just four fighters on alert--fuelled up, armed and ready to fly within minutes. [BBC News, 8/29/02 <http://news.bbc.co.uk/2/hi/americas/2222205.stm>]; BBC News, 8/30/02 <http://news.bbc.co.uk/1/hi/world/americas/2224245.stm>]; Associated Press, 8/31/02 <http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A18114-2002Aug30>]; 9/11 Commission Report, 6/17/04 <http://www.msnbc.msn.com/id/5233007/>] ] So, with reports of as many as 29 suspected hijackings that morning [Newhouse News Service, 3/31/05 <http://www.newhousenews.com/archive/baker033105.html>] ], Ruppert asks, "How could a NORAD commander have known where to send fighters at that time? There were clearly many possible hijackings underway. No one knew the exact number. No one knew which were real. Sending fighters to a 'possible' hijacking was not acceptable. There weren't enough to go around. And if they were sent to an intercept that turned out not to have been a hijacking, they would have been in the wrong place to respond to a real one. This was exactly the kind of uncertainty that would paralyze eager and loyal pilots and commanders until uncertainty had been eliminated. By that time of course, it was too late." [*Crossing the Rubicon*, by Michael Ruppert, 10/04, p. 348 <http://www.amazon.com/exec/obidos/ASIN/0865715408/centerforcoop-20>] ]

During his investigation, Ruppert contacted Major Don Arias, the public affairs officer for NORAD on 9/11. Arias informed him of NORAD Instruction 33-7, which details the criteria for assigning nicknames to training exercises. (This is presumably an updated version of NORAD Regulation 11-3, described earlier in this article. [NORAD Regulation 11-3, 8/25/89 <http://www.fas.org/spp/military/docops/norad/reg11003.htm>] ] According to this instruction, "Vigilant or Amalgam means it is a HQ NORAD sponsored exercise. Guardian means it is a multi-command CPX, or command post exercise (no live-fly)." Therefore, Vigilant Guardian was "a NORAD-wide, multicommand, command post exercise with no live-fly." Arias added that if the second word of an exercise nickname is "Warrior," this means it is a "JCS/HQ NORAD sponsored FTX, or field training exercise (live-fly)." JCS is the Joint Chiefs of Staff. "The JCS Chairman Richard Myers had named Vigilant Warrior over a secure phone line as he talked to Richard Clarke early in the attacks." This was the conversation described by Clarke in his book *Against All Enemies*. [*Against All Enemies*, by Richard Clarke, 3/04, p. 5 <http://www.amazon.com/exec/obidos/ASIN/0743260457/centerforcoop-20/102-7559678-6900947>] ] Taking together the statements of Clarke and Arias, Ruppert concludes: "[T]he Joint Chiefs and NORAD were running a live-fly hijack drill on September 11th." [*Crossing the Rubicon*, by Michael Ruppert, 10/04, pp. 368-369 <http://www.amazon.com/exec/obidos/ASIN/0865715408/centerforcoop-20>] ] (Note that if the exercise described by



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Richard Clarke was actually Amalgam Warrior rather than Vigilant Warrior, as speculated in part two of this series, Ruppert's conclusion could still apply, since it is the word "Warrior" that specifies a live-fly exercise.)

Don Arias also stated, "[I]t's common practice, when we have exercises, to get as much bang for the buck as we can. So sometimes we'll have different organizations participating in the same exercise for different reasons." However, if there were multiple exercises running together, "they would have to be coordinated," and furthermore, "there is an exercise shop that is the maestro of that exercise." But Arias was unaware who this "maestro" was. [*Crossing the Rubicon*, by Michael Ruppert, 10/04, p. 367 <<http://www.amazon.com/exec/obidos/ASIN/0865715408/centerforcoop-20>> ] Michael Kane, a journalist for Michael Ruppert's *From The Wilderness* publication, attended the final hearing of the 9/11 Commission in June 2004. He asked General Ralph Eberhart, the man in charge of NORAD on 9/11, who was responsible for coordinating the training exercises that day? Eberhart replied: "No comment." [From *The Wilderness*, 7/9/04 <[http://www.copvicia.com/free/ww3/071204\\_final\\_fraud.shtml](http://www.copvicia.com/free/ww3/071204_final_fraud.shtml)> ]

However, Ruppert refers to a statement by President Bush on May 8, 2001. Bush said: "Today, numerous Federal departments and agencies have programs to deal with the consequences of a potential use of a chemical, biological, radiological, or nuclear weapon in the United States... But to maximize their effectiveness, these efforts need to be seamlessly integrated, harmonious, and comprehensive." Therefore, Bush said, "I have asked Vice President Cheney to oversee the development of a coordinated national effort so that we may do the very best possible job of protecting our people from catastrophic harm. I have also asked Joe Allbaugh, the Director of the Federal Emergency Management Agency, to create an Office of National Preparedness. This Office will be responsible for implementing the results of those parts of the national effort overseen by Vice President Cheney that deal with consequence management... The Office of National Preparedness will work closely with state and local governments to ensure their planning, training, and equipment needs are addressed." [White House, 5/8/01 <<http://www.whitehouse.gov/news/releases/2001/05/20010508.html>> ] Ruppert's conclusion therefore is that Dick Cheney was in direct command and control of the training exercises on or around 9/11. "Richard Cheney is the maestro." [*Crossing the Rubicon*, by Michael Ruppert, 10/04, pp. 591-592 <<http://www.amazon.com/exec/obidos/ASIN/0865715408/centerforcoop-20>> ]

Regarding the Secret Service, Michael Ruppert alleges that on 9/11 Cheney used them as a second command system running parallel to the usual military chain of command and superseding any orders issued by the National Military Command Center (within the Pentagon) or the White House Situation Room. [From *The Wilderness*, 8/31/04 <<http://www.fromthewilderness.com/PDF/CWspeech.doc>> ; *Crossing the Rubicon*, by Michael Ruppert, 10/04, p. 428 <<http://www.amazon.com/exec/obidos/ASIN/0865715408/centerforcoop-20>> ]

### 4) Webster Tarpley: Exercises a Smokescreen for Preparing the Attacks

Michael Ruppert's theory that 9/11 was a covert operation and that the training exercises helped facilitate the attacks, is echoed by Webster Tarpley in his 2005 book *9/11 Synthetic Terror: Made in USA*. Tarpley, like Ruppert, discusses several of the 9/11-related training exercises and operations, including Amalgam Virgo, Vigilant Guardian, Vigilant Warrior and Tripod. He repeats some of Michael Ruppert's claims, such as that "the maneuvers may have introduced confusion and scattered available resources," and gives direct credit to Ruppert for having "contributed much on the causes of the 'complete paralysis of fighter response on 9/11.'" [*9/11 Synthetic Terror: Made in USA*, by Webster Griffin Tarpley, 3/05, pp. 205-207 <<http://www.amazon.com/exec/obidos/ASIN/0930852311/centerforcoop-20>> ]

Tarpley makes an interesting claim about the National Reconnaissance Office plane-into-building drill that was scheduled for 9 a.m. the morning of 9/11: "The obvious effect of evacuating the NRO was at least temporarily to blind institutional US intelligence to events which could have been monitored from space. NRO could have provided a real-time view of the air space over North America; as a result of the evacuation, this may not have been available. The advantages for the perpetrators are obvious." [*9/11 Synthetic Terror: Made in USA*, by Webster Griffin Tarpley, 3/05, p. 211 <<http://www.amazon.com/exec/obidos/ASIN/0930852311/centerforcoop-20>> ]

Furthermore, Tarpley claims: "Staff exercises or command exercises are perfect for a rogue network which is forced to conduct its operations using the same communications and computer systems used by other officers who are not necessarily party to the illegal operation, coup or provocation as it may be. A putschist officer [i.e. a rogue officer] may be working at a console next to another officer who is not in on the coup, and who might indeed oppose it if he knew

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about it. The putschist's behavior is suspicious: what the hell is he doing? The loyal officer looks over and asks the putschist about it. The putschist cites a staff maneuver for which he is preparing. The loyal officer concludes that the putschist's activities are part of an officially sanctioned drill, and his suspicions are allayed. The putschist may even explain that participation in the staff exercise requires a special security clearance which the loyal officer does not have. The conversation ends, and the putschist can go on with his treasonous work." [9/11 Synthetic Terror: Made in USA, by Webster Griffin Tarpley, 3/05, pp. 204-205  
<<http://www.amazon.com/exec/obidos/ASIN/0930852311/centerforcoop-20>> ]

Tarpley speculates that, in particular, the exercise Amalgam Virgo acted as a smokescreen for the planning of the 9/11 attacks. As we mentioned in the first part of this article, the Amalgam Virgo exercise held in June 2002 was being planned before 9/11, and was based around an airborne terrorism scenario over the US and Canada, involving the simulated hijacking of two commercial aircraft from within the US and the immediate launching of fighters to intercept them.

Tarpley suggests: "The best working hypothesis is that Amalgam Virgo was the cover story under which the 9/11 attacks advanced through the bureaucracy. Preparations for carrying out 9/11 were conducted under the cover of being preparations for Amalgam Virgo. Most of those who took part in Amalgam Virgo could hardly have been aware of this duplicity.... Here was an exercise which included many of the elements which were put into practice on 9/11. Amalgam Virgo thus provided the witting putschists with a perfect cover for conducting the actual live fly components of 9/11 through a largely non-witting military bureaucracy." [9/11 Synthetic Terror: Made in USA, by Webster Griffin Tarpley, 3/05, pp. 205-206 <<http://www.amazon.com/exec/obidos/ASIN/0930852311/centerforcoop-20>> ]

As pointed out throughout this essay, there were numerous training exercises before and actually on 9/11, some of which bore a remarkable similarity to the actual attacks. So these could also, plausibly, fit this theory of training exercises serving as a smokescreen for a covert operation. However, without proper investigation, much remains speculative.

### **Other Theories**

It should be noted that the four theories mentioned above do not exhaust all logical probabilities. For instance, one might argue that the 9/11 Commission was wrong to conclude that the exercises helped speed the defensive response, yet Ruppert and Tarpley are also wrong to conclude there was some degree of government complicity. In other words, government incompetence in holding the exercises at the height of a grave terror threat helps explain why the attacks succeeded. However, no prominent author or commentator we are aware of has yet argued this position.

As stated at the beginning of this essay, our main goal has not been to draw any definite conclusions ourselves, but rather, to make the information about the 9/11-related training exercises better known. Readers can decide for themselves which of the theories we describe they believe is most likely, or come up with their own theories. Clearly though, there are still many crucial unanswered questions about the events of 9/11. Unfortunately, the contradictory timelines, and the possibility that some individuals have been lying about what happened or withholding important information, makes it very difficult to determine exactly what was going on that morning. There is a need for a proper investigation, and the possibility of US government complicity or foreknowledge of the attacks should not be ruled out before the investigation begins. As it is, the 9/11 Commission failed to address the issues we raise in this three-part essay, and in fact almost completely failed to acknowledge the existence of any of these military exercises in the first place.

We hope this series will inspire others to conduct their own research and add their own input into the significance and meaning of the 9/11 training exercises, military operations, and the role of the Secret Service. We maintain that these are among several key areas of utmost importance in truly understanding what happened on 9/11. The veil of national security secrecy needs to be lifted because the public has the right to know the full truth about the 9/11 attacks and why the military and Secret Service failed to stop them.

*Thanks to Andreas Westphalen for his assistance. Thanks also to the numerous individuals who gave us feedback on this essay, in particular: David Ray Griffin, Kyle Hence, Derek Mitchell, and Allan Wood. Special thanks to all the other researchers who laid the groundwork for this series with their own research discoveries into these topics.*

## The 9/11 Commission One Year Later

9/11: A FAILURE OF THE INTELLIGENCE COMMUNITY, OR OF STATE POLICY?  
WRITTEN TESTIMONY SUBMITTED IN ADVANCE FOR CONGRESSIONAL BRIEFING  
(c) Nafeez Mosaddeq Ahmed

Obviously, given the limited time available, it is impossible to cover in sufficient depth the vast amount of data on this – and other subjects – relevant to developing an impartial understanding of 9/11, its context, and its aftermath.

What I will attempt to do here is, drawing on my latest research most of which has been published in my new book, *The War on Truth*, present to you as concisely as possible, some of the most prominent facts – based on multiple, cross-referenced, reliable sources – indicating unequivocally that whatever one’s overall opinion about 9/11, the official narrative of the 9/11 intelligence failure does not withstand even minimal impartial scrutiny.

I will divide this presentation into the following sections:

1. Specific Advanced Intelligence Warning of the 9/11 Plot
2. Long-Term Intelligence Surveillance of the 9/11 Hijackers
3. Inaccuracies in the 9/11 Commission’s Account of the Alleged Structural, Institutional and Logistical Deficiencies Cited to Explain the 9/11 Intelligence Failure

Each section will deal fairly briefly with the relevant issues by highlighting prominent examples, rather than conducting a comprehensive survey - and therefore I would urge you to refer to my book for further detailed information and documentation.

1. Specific Advanced Intelligence Warning of the 9/11 Plot

The available data demonstrates that the intelligence community was for several years in receipt of increasingly precise advanced warning of the 9/11 attacks, and that this information was circulated widely in the community. I will examine some of this data here in the following order: the method of attack; the targets of attack; the timing of the attack. Inevitably, there will be some overlap here.

### **Method**

It is conventionally argued that the substance of the 9/11 plot – civilian airliners being hijacked by terrorists and used to bomb major landmarks or symbolic structures in the United States – was not anticipated by the intelligence community prior to 9/11. This is simply false.

The Pentagon commissioned an expert panel in 1993 to investigate the possibility of an airplane being used to bomb national landmarks. Retired Air Force Col. Doug Menarchik, who organized the \$150,000 study for the Defense Department’s Office of Special Operations and Low-Intensity Conflict. Although senior officials decided against a public release, a draft document detailing the results of the investigation circulated throughout the Pentagon, the Justice Department, and the Federal Emergency Management Agency.<sup>1</sup>

The particular vulnerability of New York City’s Twin Towers to just such an attack was, in fact, specifically noted. In 1994, one year after the first World Trade Center bombing, one of the experts on the aforesaid Pentagon panel wrote in *Futurist* magazine that the World Trade Center was an extremely likely target of such an “airplanes as weapons” terrorist attack:

Targets such as the World Trade Center not only provide the requisite casualties but, because of their symbolic nature, provide more bang for the buck. In order to maximize their odds for success, terrorist groups will likely consider mounting multiple, simultaneous operations with the aim of overtaxing a government’s ability to respond, as well as demonstrating their professionalism and reach.<sup>2</sup>

By 1995, the US intelligence community became aware that al-Qaeda was planning exactly such an operation to target not only the World Trade Center, but a wide number of other key US buildings. Federal investigative sources confirmed that Abdul Hakim Murad—“a close confidant and right-hand man” to Ramzi Yousef, “who was convicted

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of crimes relating to the 1993 bombing of the World Trade Center”—“detailed an entire plot to dive bomb aircraft in the headquarters of the Central Intelligence Agency in Langley, VA” along with other US buildings. “Yousef independently boasted of the plot to US Secret Service agent Brian Parr and FBI agent Charles Stern on an extradition flight from Pakistan to the United States in February 1995,” according to Washington DC’s Public Education Center. “The agents later testified to that fact in court... [T]he plan targeted not only the CIA but other US government buildings in Washington, including the Pentagon.”<sup>3</sup>

Western intelligence sources confirm that plan was discovered in January 1995 by Philippine police investigating a possible attack against Pope John Paul II on a visit to Manila. Rafael M. Garcia III, Chairman/CEO of the Mega Group of Computer Companies in the Philippines, who often works with the National Bureau of Investigation (NBI) in his field of expertise, was involved in the intelligence operation that uncovered Project Bojinka. Garcia was responsible for the decoding of Yousef’s computer: “... we discovered a second, even more sinister plot: Project Bojinka.” Project Bojinka aimed to crash “planes into selected targets in the United States” including “the CIA headquarters in Langley, Virginia; the World Trade Center in New York; the Sears Tower in Chicago; the TransAmerica Tower in San Francisco; and the White House in Washington, DC.” These findings were submitted to NBI officials, “who most certainly turned over the report (and the computer) either to then Senior Superintendent Avelino Razon of the PNP [the Philippine National Police] or to Bob Heafner of the FBI... I have since had meetings with certain US authorities and they have confirmed to me that indeed, many things were done in response to my report.”<sup>4</sup>

In 1999, an extensive report prepared by the National Intelligence Council (NIC) highlighted the likelihood of a Project Bojinka operation. It “warned that terrorists associated with bin Laden might hijack an airplane and crash it into the Pentagon, White House or CIA headquarters.” In support of its conclusions, the NIC report:

... recounts well-known case studies of similar plots, including a 1995 plan by al Qaeda operatives to hijack and crash a dozen US airliners in the South Pacific and pilot a light aircraft into Langley. “Suicide bomber(s) belonging to al-Qaida’s Martyrdom Battalion could crash-land an aircraft packed with high explosives (C-4 and semtex) into the Pentagon, the headquarters of the Central Intelligence Agency (CIA), or the White House,” the September 1999 report said.<sup>5</sup>

“Whatever form an attack may take,” the report concludes, “bin Laden will most likely retaliate in a spectacular way for the cruise missile attack against his Afghan camp in August 1998.”<sup>6</sup> This report was highly significant because the NIC is the US government’s “center of strategic thinking... reporting to the Director of Central Intelligence (DCI) and providing coordinated analyses of foreign policy issues for the President and other senior policymakers.”<sup>7</sup> Moreover, the NIC’s products are:

... the DCI’s most authoritative written judgments concerning national security issues. They contain the coordinated judgments of the Intelligence Community regarding the likely course of future events. The NIC’s goal is to provide policymakers with the best, unvarnished, and unbiased information—regardless of whether analytic judgments conform to US policy.<sup>8</sup>

The NIC report—which was “widely shared within the government”<sup>9</sup>—therefore clarifies beyond doubt that in September 1999, the US intelligence community, senior government officials, and the President were aware that a Project Bojinka operation was the most probable method of a future al-Qaeda terrorist attack.

Project Bojinka was therefore extremely well-known among the highest echelons of the US intelligence community. According to Professor John Arquilla, an information warfare and Special Operations expert at the Naval Postgraduate School: “The idea of such an attack (like 9-11) was well known. It had been wargamed as a possibility in exercises before Sept. 11, 2001.”<sup>10</sup>

German intelligence officials have revealed that some of this information warned specifically of a Project Bojinka operation. Six months before 9/11 (May 2001), they report, US agencies became aware that Osama bin Laden was planning to implement an “airplanes as weapons” attack. Then three months prior to 9/11 (July 2001), these warnings were repeated, and the US intelligence community considered them reliable. These revelations were carried by *Newsbytes*, an online division of the *Washington Post*, a few days after 9/11:



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US and Israeli intelligence agencies received warning signals at least three months ago that Middle Eastern terrorists were planning to hijack commercial aircraft to use as weapons to attack important symbols of American and Israeli culture, according to a story in Germany's daily *Frankfurter Allgemeine Zeitung* (FAZ).

The FAZ, quoting unnamed German intelligence sources, said that the Echelon spy network was being used to collect information about the terrorist threats, and that UK intelligence services apparently also had advance warning. The FAZ, one of Germany's most respected dailies, said that even as far back as six months ago western and near-east press services were receiving information that such attacks were being planned. Within the American intelligence community, the warnings were taken seriously and surveillance intensified, the FAZ said.<sup>11</sup>

The last comment—"Within the American intelligence community, the warnings were taken seriously"—is highly significant. It demonstrates that due to the ECHELON warnings, the entire US intelligence community was alerted to an imminent Project Bojinka operation and consequently intensified surveillance. This is important for one key reason—it means that in the months preceding 9/11, the intelligence community was fully aware of an impending al-Qaeda attack and was actively escalating intelligence efforts to discern its nature. All new intelligence on al-Qaeda would have been collected and assessed against this background of awareness. A CIA intelligence briefing for senior government officials cited by Eleanor Hill suggests that this information was speedily passed on to the White House. Only the following excerpt has been declassified:

A briefing prepared for senior government officials at the beginning of July 2001 contained the following language, "Based on a review of all-source reporting over the last five months, we believe that UBL will launch a significant terrorist attack against US and/or Israeli interests in the coming weeks. The attack will be *spectacular* and designed to inflict mass casualties against US facilities or interests. Attack preparations have been made. Attack will occur with little or no warning."<sup>12</sup>

This depiction of the impending attack as "spectacular" has also been used by the National Intelligence Council report describing the distinct possibility of a Project Bojinka operation. There can be no doubt in this context that the information summarized in July 2001 concerned exactly this.

### Targets

Indeed, the US intelligence community was long aware that al-Qaeda saw the 1993 World Trade Center bombing plot as a failure, and therefore planned to target the Twin Towers again. According to the Associated Press:

After the 1993 attack on the World Trade Center, investigators discovered that conspirator Nidal Ayyad had left behind a chilling computer message: "Next time, it will be very precise." The note along with evidence from past cases of terrorism gives insight into a more than decade-long learning curve that culminated in the devastating Sept. 11 attack.<sup>13</sup>

In other words, US investigators knew with certainty there would be another al-Qaeda attempted terrorist attack on the World Trade Center.

By the year 2000, Pentagon policy clearly indicated that military intelligence officials anticipated an "airplanes as weapons" attack. The London *Mirror* reports that in October that year: "Military chiefs were so convinced terrorists could fly a plane into the Pentagon that they planned for an attack." Only 11 months prior to 9/11, the Pentagon "carried out a detailed emergency exercise." *The Mirror* cites a report in "an internal Pentagon newspaper" showing that between the 24<sup>th</sup> and 26<sup>th</sup> of that month, "military planners held an exercise to prepare for 'incidents including a passenger plane crashing into the Pentagon.'" The report "reads like an account of what actually happened." A Pentagon emergency planning spokesman, Glen Flood, told *The Mirror*: "We had been aware there could be possible aeroplane accidents and we have had various tabletop exercises."<sup>14</sup>

### Timing

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Eleanor Hill's Joint Inquiry statement refers to several reports "widely disseminated within the Intelligence Community" in every month between March and August 2001 which were considered credible warnings of al-Qaeda preparations for an attack.<sup>15</sup> As the *Los Angeles Times* noted:

American intelligence agencies, as well as other governments' spy services, were picking up a crescendo of threats of possible terrorist strikes last summer. "The chatter level went way off the charts," Rep. Porter J. Goss (R-Fla.), chairman of the House Intelligence Committee, recalled recently, "and had been for several months."<sup>16</sup>

These escalating alerts of an impending al-Qaeda attack during this entire period were almost all viewed with utmost seriousness. Two US counterterrorism officials have described the warnings received by the intelligence community in early and mid-summer 2001 as "the most urgent in decades."<sup>17</sup>

Additionally, the *New Yorker* cites Richard A. Clarke—former US National Coordinator for Counterterrorism in the White House—confirming that about 10 weeks before 9/11, the US intelligence community was convinced that an al-Qaeda terrorist attack on US soil was imminent. Seven to eight weeks prior to 9/11—coinciding with the second ECHELON warning cited above—Clarke issued an urgent warning to all internal US security agencies. "Meanwhile, intelligence had been streaming in concerning a likely Al Qaeda attack," reported the *New Yorker*. "It all came together in the third week in June," Clarke said. "The CIA's view was that a major terrorist attack was coming in the next several weeks." Then on July 5, just as an all-source intelligence briefing warned the government of a spectacular imminent attack, "Clarke summoned all the domestic security agencies—the Federal Aviation Administration, the Coast Guard, Customs, the Immigration and Naturalization Service, and the FBI—and told them to increase their security in light of an impending attack."<sup>18</sup> According to the *Washington Post*, on the same day Clarke stated that "something really spectacular is going to happen here, and it's going to happen soon."<sup>19</sup>

According to *USA Today*, recently released CIA documents reveal the existence of "Electronic intercepts as late as Sept. 10 of al-Qaeda members speaking cryptically of a major attack. Two US intelligence officials, paraphrasing highly classified intercepts, say they include such remarks as, 'Good things are coming,' 'Watch the news' and 'Tomorrow will be a great day for us.'"<sup>20</sup>

The NSA had also recorded "September 10 intercepts" of other "conversations in Arabic between individuals in Afghanistan and Saudi Arabia that US officials believe were connected to al Qaeda. . . . Congressional and other sources said that in one communication intercepted by the NSA, a person said, 'The match begins tomorrow.' In another intercept that same day, a different person said, 'Tomorrow is zero hour.'"<sup>21</sup>

The official explanation of the failure to act on such revealing intercepts is the notion that they were never translated in time, due to the lack of qualified analysts. No specific evidence for this claim has been presented. Utah Senator Orrin Hatch, a conservative Republican with wide contacts in the national security establishment. On the day of the attacks, Hatch stated that the government had been monitoring al-Qaeda's communications electronically, and had thus intercepted two bin Laden aides celebrating the attacks: "They have an intercept of some information that included people associated with bin Laden who acknowledged a couple of targets were hit."<sup>22</sup> In an interview with ABC News the same day, Hatch elaborated that his information originated from CIA and FBI officials.

Senator Hatch's report of a celebration of the attack by bin Laden's aides, based on an intercept on the very day of 9/11, is a specific instance demonstrating this capability. That information—picked up by the NSA that was clearly monitoring Al-Qaeda's electronic communications extensively—was immediately translated, disseminated to the CIA, FBI, and probably other relevant agencies, which then informed Senator Hatch who released the data to the public on the same day. If the NSA was suffering from structural, bureaucratic, and logistical deficiencies such as lack of translators and so on, such rapid communication would never have been possible. Evidently, the NSA easily had the capabilities to intercept, translate, and disseminate information to the intelligence community *in a matter of hours*.

Indeed, the evidence cited by the British government to demonstrate bin Laden's guilt is in fact based directly on intercepts of electronic communications pertaining to al-Qaeda planners, including bin Laden himself—indicating that British intelligence had the terrorist plotters behind 9/11 under extensive surveillance before 9/11. The *Sunday Times* cites "an informed Whitehall source" revealing that among the proof of al-Qaeda's planning of the attacks collected before 9/11 "were intercepted exchanges between Bin Laden and his lieutenants, made shortly before September 11 . . .

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Two are of overriding significance. In one exchange, Bin Laden is said to have contacted an associate thought to be in Pakistan. The conversation referred to an incident that would take place in America on, or around, September 11 and discussed possible repercussions. In a separate instance Bin Laden contacted another associate, thought to have been in Afghanistan. They discussed the scale and effect of a forthcoming operation; Bin Laden praised his colleague for his part in the planning.

Importantly, this information was not collected directly. Elements of the evidence “were obtained not by British or US intelligence, but by a Middle Eastern country whose identity is not revealed for security reasons.” That country’s intelligence services passed on the information to both the CIA and MI6. Sources “at both MI6 and the CIA independently revealed to *The Sunday Times* that ‘technical intelligence’—believed to be intercepted telephone conversations and electronic bank transfers” implicated one of bin Laden’s top military planners in the 9/11 attacks.<sup>23</sup>

In a statement before the House of Commons, British Prime Minister Tony Blair referred to a British intelligence dossier based on telephone intercepts and other sources showing that:

Shortly before the September 11 bin Laden told associates that he had a major operation against America under preparation, a range of people were warned to return back to Afghanistan because of action on or around September 11, and, most importantly, one of bin Laden's closest lieutenants has said clearly that he helped with the planning of the September 11 attacks and admitted the involvement of the al Qaida organisation.<sup>24</sup>

According to *Time Magazine*: “The British document... also reveals that orders were sent to a number of the network’s key operatives to return to Afghanistan by September 10.”<sup>25</sup> Officials have incoherently claimed that this information was only gleaned after 9/11—but clearly, the evidence cited by British authorities as evidence of bin Laden’s guilt is based on intensive round-the-clock surveillance by a network of Western and allied intelligence services prior to 9/11, not only of Osama bin Laden himself, but of the principal planners of the 9/11 attacks. As already documented, al-Qaeda communications were monitored extensively by US intelligence agencies all the way through the 9/11 attacks—and even afterwards.

For example, 350,000 pages of documents turned over by the CIA to US investigators working with the Joint Congressional Inquiry into 9/11 reveal that “US intelligence overheard al-Qaeda operatives discussing a major pending terrorist attack in the weeks prior to Sept. 11 and had agents inside the terror group.” The agents and electronic intercepts discovered crucial data leading them to transcribe “[r]eports discussing the possibility of suicide bombings, plots to fly planes into buildings and strikes against the Pentagon, World Trade Center and other high-profile targets” well in advance of the attacks. On September 10, 2001, the same US intelligence officers intercepted al-Qaeda members speaking of a major attack with the words, “Tomorrow will be a great day for us,” among others.<sup>26</sup>

### **Anticipations of the Emergency**

There were other curious developments elsewhere around the same time. A former member of the 1/118th Infantry Battalion of the South Carolina National Guard in the District of Columbia (D.C.) told US attorney Tom Turnipseed:

My unit reported for drill in July 2001 and we were suddenly and unexpectedly informed that all activities planned for the next two months would be suspended in order to prepare for a mobilization exercise to be held on September 14, 2001. We worked diligently for two weekends and even came in on an unscheduled day in August to prepare for the exercise. By the end of August all we needed was a phone call, which we were told to expect, and we could hop into a fully prepared convoy with our bags and equipment packed.<sup>27</sup>

This account undoubtedly suggests that DC’s emergency National Guard activities were inexplicably placed on hold in anticipation of a crisis that they “were told to expect” would occur mid-September 2001. This precise information was available as early as July 2001.

*Newsweek* reported that on September 10, 2001, the day before the attacks, “a group of top Pentagon officials suddenly canceled travel plans for the next morning, apparently because of security concerns.”<sup>28</sup> An earlier report by *Newsweek*, published two days after the attacks, referred to the same event in more detail:

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... the state of alert had been high during the past two weeks, and a particularly urgent warning may have been received the night before the attacks, causing some top Pentagon brass to cancel a trip. Why that same information was not available to the 266 people who died aboard the four hijacked commercial aircraft may become a hot topic on the Hill.<sup>29</sup>

Apparently, top officials in the US Department of Defense had known not only of an imminent threat to “security” in relation to their “travel plans,” but had even anticipated its exact date—the morning of 9/11—and taken measures to protect themselves, but yet again not the general public. In other words, the US government pursued preventive emergency security measures to protect top US government officials from the threat of terrorism based on credible intelligence warnings—but did nothing of the sort in relation to US citizens, contrary to its public responsibility.

### 2. Long-Term Intelligence Surveillance of the 9/11 Hijackers

In my book, I discuss how, at least, the following 9/11 hijackers were under intensive surveillance by the intelligence community, far beyond what has been officially admitted: Mohamed Atta, Khalid Sheikh Mohammed, Nawaf Alhazmi and Khalid Almihdhar, Ziad Samir Jarrah, and Hani Hanjour.

Here, I will discuss only the case of Ziad Samir Jarrah. Al-Qaeda hijacker Ziad Samir Jarrah was on board the United Airlines jet that crashed in Pennsylvania. Two days before 9/11, Jarrah was stopped for speeding on Interstate 95 in Maryland, ticketed, and released. The Maryland State Police reportedly ran his name through their computers and found nothing untoward or suspicious. FBI and CIA officials explain this anomaly by claiming that the US intelligence community was completely clueless about Jarrah prior to the 9/11 attacks, and therefore had never placed him on a terrorist watch list.

But the official account is highly questionable. United Arab Emirates (UAE) officials acknowledge that Jarrah arrived in the UAE on January 30, 2001, after spending two months in Afghanistan and Pakistan. The officials confirm that he was questioned for several hours at Dubai International Airport, at the explicit instruction of the US government. Clearly, to have been aware of his arrival in the UAE, US intelligence services must have been monitoring his prior activities for a significant time—and it is a rational inference that such monitoring would only have occurred due to highly suspicious behavior connected to criminal or terrorist activities.

Jarrah was then permitted to leave, whereupon he traveled to Hamburg via Amsterdam, and later flew to the United States. Despite the US government’s urgent interest in Jarrah eight months earlier, enough to have him detained in the UAE, he was permitted to enter the country and then enroll in a flight school. US intelligence officials claiming to have never known of Jarrah’s existence at all prior to 9/11 are clearly being economical with the truth. The question, of course, is: Why? The answer perhaps lies in the following detailed testimony of a UAE official cited in the *Chicago Tribune*:

Jarrah, who with Mohamed Atta and Marwan Al-Shehhi is considered one of the hijacking plot’s three main instigators, was detained, the source said, because his name previously had been placed on an Emirati “*watch list*” of terrorist suspects at the request of the US.... “The Americans told us that he was a *supporter of terrorist organizations*, that he had connections with terrorist organizations,” the source said. “His name was given to us as someone to check. The US said he should be questioned. He was questioned at the request of the US.”

During questioning by Emiratis, Jarrah, 26, divulged that he had spent the previous “two months and five days” in Pakistan and Afghanistan—the *only known acknowledgment of an Afghan visit by any of the hijackers*—and that he was returning to Florida, where he had been living and *taking flying lessons for more than six months*. “He had a visa to the US, so he was allowed to proceed,” the source said.<sup>30</sup>

A CNN investigation of these reports provided further corroboration and some specific details. “One of the September 11 hijackers was stopped and questioned in the United Arab Emirates in January 2001 at the request of the CIA,” CNN concluded, “nearly nine months before the attacks,” according to “sources in the government of the UAE, and other Middle Eastern and European sources.... The CIA suspected Ziad Jarrah had been in Afghanistan and wanted him questioned because of ‘his suspected involvement in terrorist activities,’ UAE sources said.” Both US and UAE officials revealed that he was stopped “after the CIA notified UAE officials that he would be arriving from Pakistan on

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his way back to Europe. UAE sources say the CIA wanted to know where he had been in Afghanistan and how long he had been there.” The CIA was also informed of the results of the interrogation “while Jarrah was still at the airport,” said a senior UAE source.

Both US and UAE officials acknowledge the relationship between the two country’s intelligence services is extremely close. But the CIA says that the first time it learned that Jarrah had been stopped was in a cable from CIA officers in the UAE after September 11. Told of the CIA’s denial, UAE government officials repeated to CNN that Jarrah was questioned at the request of the United States. Senior UAE sources said they had no reason to question him for their own purposes because he was in transit....

Jarrah was questioned after he had already spent six months in the United States learning to fly. He had a valid US multiple-entry visa in his passport, a fragment of which was found at the Flight 93 crash site. Investigators have confirmed that Jarrah had spent at least three weeks in January 2001 at an al Qaeda training camp in Afghanistan. He was released because US officials were satisfied, according to sources.<sup>31</sup>

This sequence of events is quite extraordinary. American, UAE and European intelligence sources confirm that the CIA had been monitoring Ziad Jarrah for nearly a year (at least) prior to the 9/11 terrorist attacks. Indeed, he had apparently been on a CIA terrorist watch list, since the agency had requested that the UAE place him on a watch list, considered him a “supporter of terrorist organizations,” and believed he “had connections with terrorist organizations.”

Most significantly, according to US investigators, Jarrah had already spent three weeks training at an al-Qaeda terrorist camp while in Afghanistan prior to his arrival at Dubai. But as CNN noted citing official sources, it was the CIA that had informed UAE officials of Jarrah’s arrival “from Pakistan,” and asked officials to interrogate him on “where he had been in Afghanistan.” The CIA had therefore been monitoring Jarrah’s activities since January 2001, including his stay with al-Qaeda in Afghanistan, and was cognizant of his terrorist connections. The unnerving implication is that the CIA knowingly allowed an al-Qaeda operative, already on a terrorist watch list and under surveillance for terrorist activities, into the United States.

Intelligence sources disclose that the CIA’s surveillance of Jarrah was part of a long-established surveillance policy:

UAE and European intelligence sources told CNN that the questioning of Jarrah fits a pattern of a CIA operation begun in 1999 to track suspected al Qaeda operatives who were traveling through the United Arab Emirates. These sources told CNN that UAE officials were often told in advance by US officials which persons were coming through the country and whom they wanted questioned.

One source provided CNN a drawing of the Dubai airport and described how people wanted for questioning were intercepted, most often at a transit desk. US officials declined to comment on whether the CIA operated this way at the Dubai airport.<sup>32</sup>

The plot only thickens. CNN throws further light on what happened to Jarrah on September 9, 2001, when a Maryland state trooper stopped Jarrah “for speeding on Interstate 95 in Cecil County, near the Delaware state line.” After 9/11, Jarrah’s car was found at the airport with the speeding citation still in the glove box. “Baltimore Mayor Martin O’Malley has said local law enforcement officials should have been told by the FBI that Jarrah was on a CIA watch list... [H]is criticism... came during O’Malley’s testimony at a Senate Judiciary Committee hearing last fall.”<sup>33</sup> Even after the FBI’s official denial, Mayor O’Malley firmly repeated his allegation “during remarks at a US Conference of Mayors meeting in Washington.”<sup>34</sup> The Mayor’s criticism suggests specifically that this was also an FBI failure—the FBI had been privy to the CIA’s information on Jarrah, but failed to disseminate the information.

Why was Ziad Jarrah, despite being under CIA surveillance on a CIA terrorist watch list, permitted to move in and out of the United States without problems on a multiple-entry US visa? And worse still, why was his inclusion on a CIA-FBI watch list not disseminated to local law enforcement? The CIA is undoubtedly aware of the damaging import of these questions, which is why a CIA spokesman “vigorously denied that the CIA knew anything about Jarrah before September 11 or had anything do with his questioning in Dubai. ‘That is flatly untrue,’ the spokesman said.”<sup>35</sup>

This official position, parroted by the 9/11 Commission, is clearly untenable. The most important point is that this type of bizarre intelligence policy was replicated with all the 9/11 hijackers, not merely Jarrah.

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### 3. Inaccuracies in the 9/11 Commission's Account of the Alleged Structural, Institutional and Logistical Deficiencies Cited to Explain the 9/11 Intelligence Failure

#### **The FBI's Blind Eye?**

The 9/11 Commission has offered nothing new by way of explanation for the failure to act on these warnings. Rather, it has largely parroted the claims of senior government officials that no credible, explicit, and sufficiently precise information on the attacks was ever received by the US intelligence community and that the community was unable to react to information that was received due to structural inter-agency communication problems. Indeed, if the Commission is to be believed, the FBI was fundamentally lacking in funding, staff, and competence for the entire decade before 9/11 occurred—and somehow only 9/11 spurred the government to take notice and transform the Bureau in a matter of years.

In Staff Statement No. 9, for example, the Commission argues that “the FBI did not have a process in place to effectively manage its intelligence collection efforts. It did not identify intelligence gaps.” Moreover, it suffered from a “wall” between “criminal and intelligence investigations” that apparently “caused agents to be less aggressive than they might otherwise have been in pursuing Foreign Intelligence Surveillance Act (FISA) surveillance powers in counterterrorism investigations.”<sup>36</sup> That claim is incommensurate with the actual record which demonstrates not that FBI agents were “less aggressive” in pursuing FISA applications, but that the government was “less aggressive” in granting leave even though the evidence of a serious terrorist threat/connection was overwhelming. The prime example of this is the Moussaoui case, discussed in greater detail later on in this study, where the Justice Department rejected a FISA request in a decision that has been criticized as unjustifiable by FISA experts. Given that since 1978, 12,000 FISA applications for covert search warrants have been approved and only one (presumably Moussaoui's) rejected, it is absolutely clear that the Commission's narrative of “the wall” is demonstrably false.<sup>37</sup>

Nevertheless, the FBI, claims the Commission, was so impotent that it “did not have an adequate ability to know what it knew. In other words, the FBI did not have an effective mechanism for capturing or sharing its institutional knowledge.” The Bureau had a sorely limited ability “to share its information internally and externally.” Amazingly, it even “lacked an effective system for storing, searching, or retrieving information of intelligence value contained in its investigative files.”<sup>38</sup> By this estimate, the FBI was supposedly virtually incapable of accessing its own intelligence files. But if that were the case, how would the FBI have been able to conduct a series of successful counterterrorist intelligence investigations resulting in prosecutions throughout the last decade? According to the Commission itself, these included: the World Trade Center bombing; the Landmarks plot; the Manila Airlines plot; the Khobar Towers bombing; the East Africa Embassy bombings; the Millennium plot; and the USS Cole bombing. And these are only “a few of the major episodes,” excluding a large number of unpublished successes.<sup>39</sup> By this standard, the FBI had a verifiable record of success. Moreover, the evidence on record discussed previously shows that problems faced by the FBI in such investigations had little to do with “inadequate resources” and other inherent bureaucratic problems, but rather resulted directly from high-level political obstruction.

The Commission also contradicts itself. Despite acknowledging that “information sharing between the FBI and CIA improved greatly when the agencies began exchanging senior counterterrorism officials in 1996,” the FBI was supposedly chronically unable to actually share information, to the point that the National Security Council never received any “relevant information” from the FBI *at all*—except once during Millennium crisis.<sup>40</sup> Simultaneously, the Commission acknowledges that:

The Justice Department representative on Clarke's interagency group, the Counterterrorism and Security Group, has told us, however, that—to his knowledge—neither Clarke nor anyone else at the NSC raised any systemic issue of FBI information sharing as a policy issue or a matter to be considered by the Attorney General.<sup>41</sup>

If a systemic FBI failure to share information was really a significant problem, senior government and intelligence officials working with the FBI from a variety of agencies and departments—not merely the NSC—would no doubt have raised the matter. But none of them did for over a decade. This is simply unbelievable. The implications here are critical—if the Commission's narrative is correct, then it in no way absolves senior government officials of responsibility. By failing to do anything about this alleged problem for more than a decade, they tacitly consented to it and in fact demonstrated their approval that this is how they wished the FBI to function: as a chronically “hobbled,”

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inefficient, under-resourced agency. The question would then arise as to why the government connived in the emasculation of its own domestic law enforcement arm. And in that case, government officials are guilty of criminal negligence. However, given the resounding silence of so many officials from so many different agencies for so long, it is far more plausible to conclude that no such problem existed on such an absurd scale.

Indeed, even the Commission's claim that the FBI did not receive sufficient funding is questionable. While noting, for instance, that in 2001 the government did not include specific "counterterrorism enhancements" in that year's budget proposal, it did "include an enhancement for the FBI's information technology program intended to support the collection, analysis, and rapid dissemination of information pertinent to FBI investigations." Most crucial is the Commission's admission that "the FBI's counterterrorism budget tripled during the mid-1990s." Thus, the FBI had received a massive increase in funding. But the Commission complains that "FBI counterterrorism spending remained fairly constant between fiscal years 1998 and 2001" despite the tripling of its budget. This fact demonstrates clearly that funding itself has never been a problem—the FBI counterterrorism budget was so huge *it was not even being spent*. At the same time, the Commission insists that the FBI did not receive all the funds it requested from the Justice Department<sup>42</sup> and that then FBI Director Louis Freeh was "begging and screaming" for funds to spend on counterterrorist information technology.<sup>43</sup>

Indeed, according to the Center for American Progress in Washington DC, not only did the budget of the DCI's Counter Terrorism Center (CTC) *double* between 1996 and 2000, but furthermore, "Attorney General Janet Reno ensured that the *FBI's counterterrorism budget increased annually* between 1999 and 2001 by an average of 14.5 percent."<sup>44</sup> According to the Congressional Research Service (CRS), Congress "consistently granted the FBI huge amounts of money for its counterterrorism mission, often at levels more than the administration was requesting." The CRS study found that "from fiscal years 1993 to 2003, total FBI appropriations increased from almost \$2 billion to \$4.6 billion, or by 132 percent." An October 2002 report of the Justice Department Office of Inspector General (OIG) similarly found that FBI resources dedicated to counterterrorism and counterintelligence from 1995 to 2002 "have increased dramatically – about threefold... With the exception of 1996, appropriations for counterterrorism and counterintelligence *increased each year*." During the same period, "the number of agents assigned to counterterrorism nearly *tripled* during the last seven years."<sup>45</sup> This demonstrates clearly that funding itself has never been a problem. The FBI counterterrorism budget was so huge that despite an exponential growth in available resources, spending remained constant – in other words, the available budget *was not even being spent*.

Indeed, the Commission is significantly incoherent on this point. While citing then Attorney General Janet Reno opining that FBI Director Freeh was "unwilling to shift resources to terrorism from other areas such as violent crime," the Commission seems to not recognize that by its own admission, the FBI counterterrorism unit had tripled its budget but was still not utilizing its own funds to the full. Obviously, with that amount of resources at its disposal, the FBI's terrorism departments had no need to take resources from other departments. And anyhow, if Director Freeh had such powerful, unchecked discretion to resist the Justice Department's instructions on resource allocation, why did he not use that power to ignore his bosses by spending the considerable unused excess in his counterterrorism budget on the counterterrorist information technology he supposedly required so urgently? With these inconsistencies, the credibility of the Commission's narrative collapses. Based as it clearly is on endless "interviews"<sup>46</sup> with various "officials" rather than an in-depth critical analysis of FBI records, the Commission ends up simply parroting an inconsistent politically-motivated picture constructed to legitimize an ever increasing influx of funds.

Another motive of the Commission's unsubstantiated portrayal is with regard to the FBI's investigations of terrorist financing on US soil:

FBI offices had been able to gain a basic understanding of some of the largest and most problematic terrorist financing conspiracies that have since been identified. The agents understood that there was a network of extremist organizations operating within the United States supporting a global Islamic jihad movement.

On the one hand, the Commission says that the FBI "did not know the degree to which these extremist groups were associated with al Qaeda. It was also unclear whether any of these groups were sending money to al Qaeda." On the other hand, the Commission firmly concludes that field offices in "New York, Chicago, Detroit, San Diego, and Minneapolis, had significant intelligence investigations into groups that appeared to be raising money for Islamic extremist groups" many of whom "appeared to the FBI to have some connection to either al Qaeda or Usama Bin Ladin." The Commission cannot have it both ways. Either the FBI had significant intelligence on al-Qaeda fundraising

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in the US, or it did not. As documented in previous chapters, it is a matter of public record that the FBI and wider intelligence community had extensive detailed intelligence on al-Qaeda's fundraising activities, both in the US and abroad—but these investigations were inexplicably ignored and/or blocked by senior officials. That is why, in the Commission's words: "FBI agents simply kept tabs on these fundraisers, even as millions of dollars flowed to foreign Islamic extremists."<sup>47</sup>

### **The Intelligence Community's Blind Eye?**

In its transparent efforts to depict the US intelligence community as a collection of unremittingly constrained, frustrated, under-funded and structurally impaired organizations incapable of developing integrated, all-source, and strategic analysis for government policymakers, the Commission has no qualms about brazenly lying. For example, the Commission goes so far as to claim that: "While we now know that al Qaeda was formed in 1988, at the end of the Soviet occupation of Afghanistan, the Intelligence Community did not describe this organization, at least in documents we have seen, until 1999."<sup>48</sup> At face value, this statement is absurd. Ironically, the dishonesty of this claim is confirmed by the Commission itself in its earlier Staff Statement No. 5, as follows:

By early 1997 intelligence and law enforcement officials in the US government had finally received reliable information disclosing the existence of al Qaeda as a worldwide terrorist organization. That information elaborated a command-and-control structure headed by Bin Ladin and various lieutenants, described a network of training camps to process recruits, discussed efforts to acquire weapons of mass destruction, and placed al Qaeda at the center among other groups affiliated with them in its "Islamic Army."<sup>49</sup>

The Commission's penchant for being distinctly economical with the truth is so flagrant that serious contradictions are rife within and among its own Staff Statements. This incoherence clarifies the extent to which the Commission's narrative as a whole has little credibility. Thus, the Commission says that the intelligence community simply "lacked a common information architecture that would help to ensure the integration of counterterrorism data across CIA, NSA, DIA, the FBI, and other agencies." The community consisted of "loosely associated agencies and departmental offices that lacked the incentives to cooperate, collaborate, and share information."<sup>50</sup> If this image of a thoroughly blind, incapable, and fundamentally fragmented intelligence community was true, the community would never be able to produce any meaningful intelligence on any threat whatsoever.

But the Commission's claims do not fit with testimonials from the intelligence community itself. In his 1998 Congressional testimony, quoted below extensively, FBI Director Freeh confirmed that the US intelligence community was distinctly conscious of the domestic threat posed by international terrorism; had already developed highly sophisticated legal, investigative, and interagency information sharing structures and mechanisms; and was in the process of actively pursuing several new programs to upgrade these mechanisms and introduce new ones. Overall, this picture is in flat contradiction to the one offered by the Commission:

[T]he trend toward more large-scale incidents designed for maximum destruction, terror, and media impact actually places an increasing proportion of our population at risk... this threat confronts Americans both here and abroad.... And as the trend toward more destructive terrorist plots continues, the threat to Americans will increase.... Today, Americans engaged in activities as routine as working in an office building or commuting home during the evening rush hour can become innocent victims to the aims of international terrorists....

The FBI counterterrorism center [established in 1995] represents a new direction in the FBI's response to terrorism. Eighteen federal agencies maintain a regular presence in the center and participate in its daily operations. These agencies include the central intelligence agency, the defense intelligence agency, and the United States secret service, among others. This multi-agency arrangement provides an unprecedented opportunity for information sharing, warning, and real-time intelligence analysis.

... This sense of cooperation also has led to other important changes. During the past several years, the FBI and CIA have developed a closer working relationship that has strengthened the ability of each agency to respond to terrorist threats and has improved the ability of the US Government to respond to terrorist attacks that do occur. An element of this cooperation is an ongoing exchange of personnel between the two agencies. Included among the CIA employees detailed to the FBI's national security division is a veteran CIA case officer who serves as the deputy section chief for international terrorism. Likewise, FBI agents are detailed to the CIA, and several serve in comparable positions.



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... Because warning is critical to the prevention of terrorist acts, the FBI also has expanded the terrorist threat warning system first implemented in 1989. The system now reaches all aspects of the law enforcement and intelligence communities. Currently, more than 45 federal agencies involved in the US Government's counter terrorism effort receive information via secure teletype through this system. The messages also are transmitted to all 56 FBI field offices and 32 foreign liaison posts.

If threat information requires nationwide unclassified dissemination to all federal, state, and local law enforcement agencies, the FBI transmits messages via the national law enforcement telecommunications system. In addition, the FBI disseminates threat information to security managers of thousands of US Commercial interests around the country through the awareness of national security issues and response (ANSIR) program....

The FBI's counter terrorism capabilities also have been enhanced by the expansion of our legal attaché—or LEGAT offices—around the world. These small offices can have a significant impact on the FBI's ability to track terrorist threats and bring investigative resources to bear on cases where quick response is critical. As I've mentioned, the FBI currently has 32 such LEGAT offices....

[Interagency] cooperation assumes its most tangible operational form in the joint terrorism task forces that exist in 16 cities across the nation. These task forces are particularly well-suited to responding to international terrorism because they combine the international investigative resources of the FBI with the street-level expertise of local law enforcement agencies. This cop-to-cop cooperation has proven highly successful in preventing several potential terrorist attacks.... Due to the measures I've discussed and several other initiatives, we are much better prepared to address the international terrorist threat than we were just a few years ago.... The United States must continue to move toward strengthening its capabilities to confront this threat.<sup>51</sup>

So extensive was the FBI's interagency mechanisms by the following year that in his 1999 testimony before the Senate, Director Freeh noted that the Bureau had "identified as our highest priority foreign intelligence, terrorist, and criminal activities that directly threaten the national or economic security of the United States." He noted that the FBI Counterterrorism Center by then encompassed "nineteen other federal agencies," including:

... the Diplomatic Security Service... the Air Force Office of Special Investigations, the Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Prisons, the Central Intelligence Agency, the Defense Intelligence Agency, the Department of Commerce, the Department of Defense, the Department of Energy, the Department of Transportation, the Environmental Protection Agency, the Federal Aviation Administration, the Federal Emergency Management Agency, the Immigration and Naturalization Service, the Internal Revenue Service, the National Security Agency, the Naval Criminal Investigative Service, the United States Customs Service, the United States Marshals Service, and the United States Secret Service.

The FBI had also set up a new "mechanism for promoting coordination"—the Strategic Information and Operations Center:

Congress provided funding for this project beginning in 1995. The new Strategic Information and Operations Center allows us to handle multiple incidents simultaneously. It also provides us with greatly enhanced communications capabilities between FBI Headquarters and field offices, as well as between the FBI and other federal agencies.

Freeh also notes the Senate's "extraordinary support for the FBI's counterterrorism programs and initiatives...

Over the past several years, you have generously provided us with additional agents, technicians, and analysts, as well as the technical and forensic tools, that allow us to respond quickly and effectively to acts of terrorism against the United States and its citizens wherever they occur.... Annual funding for the FBI's Counterterrorism program has grown from \$78.5 million in 1993 to \$301.2 million in 1999. The number of agents funded for counterterrorism investigations has grown from 550 in 1993 to 1,383 in 1999.<sup>52</sup>

## Conclusions

In other words, contrary to what the Commission has claimed, the intelligence community did not suffer from funding shortages, fatal interagency deficiencies, the logistical and technological inability to collect and share information, or unwillingness to coordinate investigations. Rather, wide-ranging structures and mechanisms for these purposes including the introduction of advanced information technologies had long been established and were actively being reviewed and improved. The Commission's narrative, therefore, not only completely ignores overwhelming evidence of the obstruction of successful legitimate counterterrorist investigations by Washington, but fails entirely to account for how such high-level politicized obstructionism systematically undermined the operations of a capable intelligence community.

Indeed, the authoritative British intelligence analysis newsletter *Jane's Intelligence Digest* argues that the 9/11 "intelligence failure" was not in reality the result of mere structural incompetence among US intelligence agencies, but rather of explicit political decisions made by the political echelons of Washington, i.e. the highest levels of the Bush administration:

... as more evidence emerges about the type of intelligence which was available—and those who had access to this material, but failed to make use of it—the politicians are going to have to answer some very awkward questions.... It seems apparent, however, that although this intelligence was being received by the CIA and other US agencies, there was a distinct lack of enthusiasm within political—as opposed to military—circles for the launch of pre-emptive strikes against either the Taliban or Al-Qaeda.

However, given the detailed intelligence [available]... and the fact that Bin Laden was making very clear threats to launch further strikes against US targets—it seems bizarre, to say the least, that no high-level political decision was taken to focus US intelligence efforts on Al-Qaeda and its international network.<sup>53</sup>

## Notes

<sup>1</sup> Warrick, Jo and Stephens, Joe, 'Before Attack, US Expected Different Hit, Chemical, Germ Agents Focus of Preparation,' *Washington Post*, 2 October, 2001.

<sup>2</sup> Ibid.

<sup>3</sup> PEC Report, 'Terrorist Plans to Use Planes as Weapons Dates to 1995: WTC bomber Yousef confessed to US agents in 1995' Public Education Center, Washington DC, <http://www.publicedcenter.org/faaterrorist.htm>.

<sup>4</sup> Garcia, Raphael M., 'Decoding Bojinka,' *Newsbreak Weekly*, 15 November 2001, Vol. 1, No. 43. Also see Cooley, John, *Unholy Wars: Afghanistan, American and International Terrorism*, Pluto Press, London, 1999, p. 247.

<sup>5</sup> Woodward, Bob and Eggen, Dan, 'Aug. Memo Focused on Attacks in US', *Washington Post*, 18 May 2002, <http://www.washingtonpost.com/wp-dyn/articles/A35744-2002May17.html>.

<sup>6</sup> Hudson, Rex A., Report Prepared for the National Intelligence Council, *The Sociology and Psychology of Terrorism*, Federal Research Division, Library of Congress, Washington DC, September 1999, p. 8, [http://www.loc.gov/rr/frd/pdf-files/Soc\\_Psych\\_of\\_Terrorism.pdf](http://www.loc.gov/rr/frd/pdf-files/Soc_Psych_of_Terrorism.pdf).

<sup>7</sup> National Intelligence Council website (viewed 9 July 2004), [http://www.cia.gov/nic/NIC\\_home.html](http://www.cia.gov/nic/NIC_home.html).

<sup>8</sup> National Intelligence Council website, NIC Mission (viewed 9 July 2004), [http://www.cia.gov/nic/NIC\\_about.html](http://www.cia.gov/nic/NIC_about.html).

<sup>9</sup> Shenon, Philip, 'Traces of Terrorism: The Warnings: FBI Knew for Years About Terror Pilot Training', *New York Times*, 18 May 2002.

<sup>10</sup> *Monterey Herald*, 18 July 2002.

<sup>11</sup> Stafford, Ned, 'Newspaper: Echelon Gave Authorities Warning of Attacks,' *Newsbytes*, 13 September 2001, <http://www.newsbytes.com/news/01/170072.html>. ECHELON is a vast intelligence information collection system capable of monitoring all the electronic communications in the world. It is operated by the US, UK, Canada, Australia and New Zealand. While no government agency has ever confirmed or denied its existence, an EU committee that investigated ECHELON for more than a year confirmed that the system does exist in early September 2001. The EU committee reported that Echelon sucks up electronic transmissions "like a vacuum cleaner", using keyword search techniques to sift through enormous amounts of data. The system covers the whole world's electronic communications with 120 satellites. For more on ECHELON see Bamford, James, *Body of Secrets: Anatomy of the Ultra-Secret National Security Agency*, Doubleday, 2001.

<sup>12</sup> Hill, Joint Inquiry Staff Statement Part I, op. cit. [emphasis added]

<sup>13</sup> Neumeister, Larry, 'Trade Center Bomber's Threat Foreshadowed September Terrorist Attacks,' Associated Press, 30 September 2001.

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<sup>14</sup> Lines, Andy, 'Pentagon Chiefs Planned for Jet Attack,' *The Mirror*, 24 May 2002, <http://www.intellnet.org/news/2002/05/24/9488-1.html>. Also see Ryan, Dennis, 'Contingency planning Pentagon MASCAL exercise simulates scenarios in preparing for emergencies', Military District of Washington News Service, 3 November 2000, [http://www.mdw.army.mil/news/Contingency\\_Planning.html](http://www.mdw.army.mil/news/Contingency_Planning.html).

<sup>15</sup> Hill, Joint Inquiry Staff Statement Part I, op. cit. "In March 2001, an intelligence source claimed a group of Bin Ladin operatives were planning to conduct an unspecified attack in the United States in April 2001. One of the operatives allegedly resided in the United States;

In April 2001, the Intelligence Community obtained information that unspecified terrorist operatives in California and New York State were planning a terrorist attack in those states for April;

Between May and July, the National Security Agency reported at least 33 communications indicating a possible, imminent terrorist attack... These reports were widely disseminated within the Intelligence Community;

In May 2001, the Intelligence Community obtained information that supporters of Usama Bin Ladin were reportedly planning to infiltrate the United States via Canada in order to carry out a terrorist operation using high explosives. This report mentioned an attack within the United States...

In July 2001, this information was shared with the FBI, the Immigration and Naturalization Service (INS), US Customs Service, and the State Department and was included in a closely held intelligence report for senior government officials in August 2001;

In May 2001, the Department of Defense acquired and shared with other elements of the Intelligence Community information indicating that seven individuals associated with Usama Bin Ladin departed various locations for Canada, the United Kingdom, and the United States;

In June 2001, the DCI's CTC had information that key operatives in Usama Bin Ladin's organization were disappearing while others were preparing for martyrdom;

In July 2001, the DCI's CTC was aware of an individual who had recently been in Afghanistan who had reported, 'Everyone is talking about an impending attack.' The Intelligence Community was also aware that Bin Ladin had stepped up his propaganda efforts in the preceding months."

<sup>16</sup> Drogin, Bob, 'US Tells of Covert Afghan Plan Before 9/11,' *Los Angeles Times*, 18 May 2002, <http://www.latimes.com/news/nationworld/nation/la-051802strike.story>.

<sup>17</sup> Breitweiser, Kristen, Statement Concerning the Joint 9/11 Inquiry, op. cit.

<sup>18</sup> Wright, Lawrence, 'The Counter-Terrorist,' *New Yorker*, 14 January 2002. Under pressure from Congress, the White House has finally officially admitted that the US intelligence community had information that Al-Qaeda was planning an imminent attack through hijacking. However, National Security Adviser Condoleezza Rice has gone on record denying that US intelligence had any other specific information, such as that the planes might be used as missiles (BBC Newsnight, 16 May 2002). This denial, however, is patently false, as demonstrated by the reports on the public record discussed here.

<sup>19</sup> *Washington Post*, 17 May 2002.

<sup>20</sup> Diamond, John, 'US had agents inside al-Qaeda,' *USA Today*, 4 June 2002, <http://www.usatoday.com/news/attack/2002/06/03/cia-attacks.htm>.

<sup>21</sup> Ensor, David, et. al., 'Justice may probe leaked pre 9-11 intercepts,' CNN, 21 June 2002.

<sup>22</sup> Crary, David and Schwartz, David, 'World Trade Center collapses in terrorist attack,' Associated Press, 11 September 2001.

<sup>23</sup> 'The Proof They Did Not Reveal: Two key pieces of evidence were missing from the government's dossier on the US attacks, made public last week. Now full details of the case against Bin Laden can be disclosed', *Sunday Times*, 7 October 2001, <http://www.sunday-times.co.uk/news/pages/sti/2001/10/07/stiusausa02012.html>.

<sup>24</sup> CNN, 'Blair's full statement', 4 October 2001,

<http://edition.cnn.com/2001/WORLD/europe/10/04/gen.blair.statement>.

<sup>25</sup> Waller, Douglas, 'Was Hijack "Ringleader" in Bin Laden Orbit?', *Time Magazine*, 5 October 2001, <http://www.time.com/time/nation/article/0,8599,178228,00.html>.

<sup>26</sup> Diamond, John, 'US had agents inside al-Qaeda,' *USA Today*, 4 June 2002, <http://www.usatoday.com/news/sept11/2002/06/03/cia-attacks.htm>.

<sup>27</sup> Turnipseed, Tom, 'The Fear Factor to Promote War and Trample the Truth,' Common Dreams News Center, 14 June 2002, <http://commondreams.org> and <http://www.turnipseed.net>.

<sup>28</sup> Thomas, Evan, *Newsweek*, 24 September 2001.

<sup>29</sup> Hirsh, Michael, 'We've hit the targets,' *Newsweek*, 13 Sept. 2001.

<sup>30</sup> Crewdson, John, 'Hijacker Held, Freed Before Sept. 11 Attack,' *Chicago Tribune*, 13 December 2001, <http://www.chicagotribune.com/search/chi-0112130293dec13.story>. Also see *Baltimore Sun*, 14 December 2001.

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<sup>31</sup> MacVicar, Sheila and Faraj, Caroline, 'September 11 Hijacker Questioned in January 2001,' CNN, 1 August 2002, <http://edition.cnn.com/2002/US/08/01/cia.hijacker/index.html>.

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

<sup>34</sup> CNN, 'Another hijacker was stopped for traffic violation', 9 January 2002, <http://edition.cnn.com/2002/US/01/09/inv.hijacker.traffic.stops/>.

<sup>35</sup> MacVicar and Faraj, 'September 11 Hijacker Question', op. cit.

<sup>36</sup> Staff Statement No. 9, *Law Enforcement, Counterterrorism, and Intelligence Collection in the United States Prior to 9/11*, National Commission on Terrorist Attacks Upon the United States, Washington DC, April 2004, p. 7.

<sup>37</sup> Gordon, Greg, 'FAA security took no action against Moussaoui,' *Corpus Christi Caller Times*, 13 January 2002.

<sup>38</sup> Staff Statement No. 9, op. cit., p. 9.

<sup>39</sup> Ibid., p. 2.

<sup>40</sup> Ibid., p. 10.

<sup>41</sup> Ibid., p. 10.

<sup>42</sup> Ibid., p. 4.

<sup>43</sup> Ibid., p. 9.

<sup>44</sup> CAP report, 'The Blame Game Continues: Intelligence and the 1990s', Center for American Progress, Washington DC, 18 February 2004, <http://www.americanprogress.org/site/pp.asp?c=biJRJ8OVF&b=33582>. [emphasis added]

<sup>45</sup> Cited in Letter by Senator Charles E. Grassley to the Honourable Robert S. Mueller, Director, Federal Bureau of Investigation, 12 April 2004, <http://grassley.senate.gov/releases/2004/p04r04-12.htm>.

<sup>46</sup> Ibid., p. 4.

<sup>47</sup> Ibid., p. 11.

<sup>48</sup> Staff Statement No. 11, *The Performance of the Intelligence Community*, National Commission on Terrorist Attacks Upon the United States, Washington DC, April 2004 p. 3.

<sup>49</sup> Staff Statement No. 5, *Diplomacy*, National Commission on Terrorist Attacks Upon the United States, Washington DC, March 2004, p. 6.

<sup>50</sup> Staff Statement No. 11, op. cit., p. 12.

<sup>51</sup> Statement for the Record, FBI Director Louis J. Freeh before the Senate Judiciary Committee, 3 September 1998, archived at [http://www.fas.org/irp/congress/1998\\_hr/98090302\\_npo.html](http://www.fas.org/irp/congress/1998_hr/98090302_npo.html).

<sup>52</sup> Statement for the Record, FBI Director Louis J. Freeh before the Senate Committee on Appropriations, Subcommittee for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies, 4 February 1999, archived at [http://www.fas.org/irp/congress/1999\\_hr/990204-freehct2.htm](http://www.fas.org/irp/congress/1999_hr/990204-freehct2.htm).

<sup>53</sup> 'Avoiding the real questions,' *Jane's Intelligence Digest*, 28 May 2002.

### THE 9/11 TERRORISTS: CONTRADICTIONS AND ANOMALIES IN THE OFFICIAL NARRATIVE WRITTEN TESTIMONY SUBMITTED IN ADVANCE FOR CONGRESSIONAL BRIEFING (c) Nafeez Mosaddeq Ahmed

An accurate understanding of the history of US relations with the Afghan mujahideen who went on to join al-Qaeda's international terrorist network is crucial to understand the anatomy of international terrorism today.

I will attempt here to condense this history in order to capture some of its most striking and significant features. In doing so, I hope to demonstrate as fact a hypothesis that flies entirely in the face of the official narrative – that US relations with the mujahideen did not end with the Cold War, but on the contrary have continued to this day in the post-Cold War era; and that this subtle, hidden relationship contributes directly to the systematic undermining of national security, through the cultivation of the sources of international terrorism. Most importantly, I will show that this conclusion is based on reliable, credible sources from the public record. And further, I must emphasize, I will not delve into any form of theoretical speculation, but will concentrate solely on alerting you to verifiable information that can be subject to further investigation.

I will divide this presentation into the following sections:

1. The Formation of al-Qaeda
2. The Utility of al-Qaeda Beyond Afghanistan
3. Al-Qaeda in the Balkans

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4. Al-Qaeda in North Africa
5. Al-Qaeda in the Asia-Pacific
6. Al-Qaeda in the Caucasus
7. Conclusion

In the interests of being both as concise and comprehensive as possible, I will cite a very limited amount of data for each section as necessary to articulate the main substance of my research. For further in-depth understand of the issues raised here, I recommend referring to my book, *The War on Truth*.

### 1. The Formation of al-Qaeda

As early as June 1979, and perhaps earlier, the United States had already commenced a series of covert operations in Afghanistan designed to exploit the potential for social conflict. According to Zbigniew Brzezinski, former National Security Adviser under the Carter Administration, US involvement had begun long before the Soviet Union invaded Afghanistan on December 27, 1979.<sup>1</sup> Brzezinski's revelations have been corroborated by former CIA Director Robert Gates in his memoirs *From the Shadows*, where he writes that US intelligence began sponsoring an Afghan rebellion in Afghanistan six months before Soviet intervention.<sup>2</sup>

According to *Janes Defense Weekly*, the ISI operatives in contact with al-Qaeda had received assistance from "American Green Beret commandos and Navy SEALs in various US training establishments." Over 10,000 mujahideen were "trained in guerrilla warfare and armed with sophisticated weapons." By 1988, *Janes* reports that "with US knowledge, Bin Laden created Al Qaeda (The Base): a conglomerate of quasi-independent Islamic terrorist cells in countries spread across at least 26 countries." But in the meantime, "Washington turned a blind eye to Al-Qaeda."<sup>3</sup>

### 2. The Utility of al-Qaeda Beyond Afghanistan

After the departure of Soviet troops from Afghanistan and the collapse of the Soviet Union in 1989, the anti-Soviet Afghan factions began competing for power. Although in 1991 the US and the USSR formally agreed to jointly cease aiding any faction in Afghanistan, the US Department of State had remained anxious about who might emerge as the winner of this competition. According to Labeviere, European intelligence sources reveal that the CIA and the Saudis—intent on securing a regime commensurate with their joint regional interests—agreed that they did not want to give up "the assets of such a profitable collaboration," referring to the Cold War Afghan-US alliance controlled significantly by Osama bin Laden. Accordingly, in 1991, the CIA, Saudi intelligence, and bin Laden held a series of meetings. Although exactly what was agreed upon remains secret, Labeviere reports that the CIA remained determined to maintain its influence in Afghanistan, "the vital route to Central Asia where the great oil companies were preparing the energy eldorado for the coming millennium." The Saudis were also intent on preserving the bin Laden-Pakistan alliance "at all costs," which was agreeable for the US in order to ensure a regional stalwart against influence from Shi'ite Iran.<sup>4</sup>

Labeviere's findings are corroborated by other credible sources. After the Soviet withdrawal from Afghanistan in 1989, Osama bin Laden "returned for a short period to Saudi Arabia to tend to the family construction business at its Jeddah head office."<sup>5</sup> Even after 1991 when Saudi security held on to bin Laden's passport purportedly "to prevent or at least discourage his contact with extremists he had worked with... during the Afghan jihad," he had considerable influence in Saudi royal circles: "After Iraq's invasion of Kuwait he lobbied the Saudi royal family to organize civil defense in the kingdom and to raise a force from among the Afghan war veterans to fight Iraq."<sup>6</sup>

The Saudi regime turned down his offer, instead accepting the influx of 300,000 US soldiers. According to Gerald Posner—a leading investigative journalist who contributes regularly to NBC's TODAY Show—this was the key point at which bin Laden decided to become an enemy of the Saudi regime. But in April 1991, according to a classified US intelligence report, then head of Saudi intelligence services Prince Turki al-Faisal struck a secret deal with bin Laden—despite his being under house arrest for his opposition to the presence of US soldiers. Under the deal, although the regime would publicly disown him, bin Laden was permitted to leave Saudi Arabia with his funding and supporters. Moreover, the regime would continue to fund his activities on condition that he does not target the Saudi kingdom itself.<sup>7</sup> Posner's account of a secret agreement between bin Laden and Saudi intelligence known to US intelligence confirms the general tenor of Labeviere's findings. Citing European intelligence sources, however, Labeviere, goes

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further in suggesting that the CIA was integrally involved in the 1991 Saudi-bin Laden agreement. Even by Posner's account though, it is difficult to avoid the conclusion of at least tacit US connivance in the agreement since US intelligence was clearly aware of the deal but did nothing about it.

According to a former CIA analyst cited by Labeviere in his *Dollars for Terror*: "The policy of guiding the evolution of Islam and of helping them against our adversaries worked marvelously well in Afghanistan against the Red Army. The same doctrines can still be used to destabilize what remains of Russian power, and especially to counter the Chinese influence in Central Asia."<sup>8</sup>

In other words, the CIA had always seen vast potential to use the terrorist network established by bin Laden during the Cold War in an international framework in the post-Cold War era against Russian and Chinese power, i.e. in Eastern Europe, the Balkans, and Central Asia.

### 3. Al-Qaeda in the Balkans

Successive US administrations have used al-Qaeda to pursue strategic interests in the Balkans. A further examination of this issue, however, reveals that the US-al-Qaeda alliance in the Balkans has been instrumental in facilitating successive terrorist attacks against US targets. Nevertheless, the alliance continues to exist to this day. As the London *Spectator* noted:

America's role in backing the Mujahideen a second time in the early and mid-1990s is seldom mentioned.... From 1992 to 1995, the Pentagon assisted with the movement of thousands of Mujahideen and other Islamic elements from Central Asia into Europe, to fight alongside Bosnian Muslims against the Serbs.... If Western intervention in Afghanistan created the Mujahideen, Western intervention in Bosnia appears to have globalised it.<sup>9</sup>

This secret US-backed conduit between Iran, Turkey, Saudi Arabia, and the Bosnian Muslims was also used to fly in al-Qaeda mujahideen forces connected to Osama bin Laden from Afghanistan, Algeria, Chechnya, Yemen, Sudan, and elsewhere. The US played a very direct role in facilitating this influx. According to one authoritative report from London's International Media Corporation affiliated to Washington DC's International Strategic Studies Association: "The Mujahedin landing at Ploce are reported to have been mujahideen accompanied by US Special Forces equipped with high-tech communications equipment." Intelligence sources indicated that "the mission of the US troops was to establish a command, control, communications and intelligence network to coordinate and support Bosnian Muslim offensives—in concert with Mujahideen and Bosnian Croat forces." The US military, in other words, was actively coordinating on the ground with several thousand members of bin Laden's al-Qaeda network in Bosnia.<sup>10</sup>

According to Yossef Bodansky, Director of the Congressional Task Force on Terrorism and Unconventional Warfare, most reliable intelligence estimates indicate that the number of al-Qaeda affiliated mujahideen operating in Bosnia at this time was more than 10,000.<sup>11</sup>

The policy of connecting with al-Qaeda in the Balkans continued in relation to the Kosovo conflict. As early as 1998, the US State Department listed the KLA as a terrorist organization connected to al-Qaeda.<sup>12</sup> Other US intelligence reports prove that not only is the KLA funded from afar by al-Qaeda, numerous KLA fighters have trained in al-Qaeda camps in Afghanistan and Albania, and numerous al-Qaeda mujahideen have joined the ranks of the KLA. The reports substantiate a "link" between bin Laden and the KLA, "including a common staging area in Tropoje, Albania, a center for Islamic terrorists." KLA-sponsored border crossings into Kosovo from Albania of hundreds of foreign fighters include "veterans of the militant group Islamic Jihad from Bosnia, Chechnya and Afghanistan," carrying forged Macedonian Albanian passports.<sup>13</sup>

As Ralf Mutschke, Assistant Director of Interpol's Criminal Intelligence Directorate, testified before Congress in December 2000: "In 1998, the US State Department listed the KLA as a terrorist organization, indicating that it was financing its operations with money from the international heroin trade and loans from Islamic countries and individuals, among them allegedly Osama bin Laden." Mutschke also confirmed that Osama bin Laden sent one of his top military commanders to Kosovo to lead "an elite KLA unit during the Kosovo conflict."<sup>14</sup>

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While much of the KLA's funds came from Osama bin Laden as reported by Mutschke, and while KLA fighters were trained in al-Qaeda camps, US and British military intelligence personnel actively mingled with the al-Qaeda backed KLA, providing them further extensive training and assistance. The *Sunday Times* reported that since March 1999: "American intelligence agents have admitted they helped to train the Kosovo Liberation Army before NATO's bombing of Yugoslavia." CIA officers were "developing ties with the KLA and giving American military training manuals and field advice on fighting the Yugoslav army and Serbian police" under the cover of ceasefire monitors. The US military gave KLA commanders—including no doubt Osama's own military commander in Kosovo—"satellite telephones and global positioning systems." KLA commanders also "had the mobile phone number of General Wesley Clark, the NATO commander."<sup>15</sup> *The Herald* also disclosed that:

Both the UK and the US set up clandestine camps inside Albania to teach the KLA effective guerilla tactics.... Despite government denials on both sides of the Atlantic, SAS [British Special Forces] and US Delta Force instructors were used to train Kosovar Volunteers in weapons handling, demolition and ambush techniques, and basic organization.<sup>16</sup>

The same has been noted by Yousef Bodansky, director of the Congressional anti-terrorism task force, who also notes that the KLA and its Albanian mafia allies constitute a vital arm of Osama bin Laden's terrorist network within the US, providing broad financial and logistical support for operations. "The role of the Albanian Mafia, which is tightly connected to the KLA, is laundering money, providing technology, safe houses, and other support to terrorists within this country..."

This isn't to say that the Albanians themselves would carry out the actual terrorist operations. But there are undoubtedly "sleeper" agents within the Albanian networks, and they can rely upon those networks to provide them with support. In any case, a serious investigation of the Albanian mob isn't going to happen, because they're "our boys"—they're protected.

The KLA/Albanian mafia network camouflages the "blonde-haired, blue-eyed Bosnians and Albanians who are bin Laden operatives. After the last attack we're all looking for Arab suspects, but it's not going to be that easy."<sup>17</sup>

### 4. Al-Qaeda in North Africa

#### **Algeria**

The Armed Islamic Group (GIA) is an al-Qaeda-affiliated terrorist group in Algeria. The group was first "created in the house of the Muhajirin in 1989 in Peshawar." From here, on the border of Pakistan and Afghanistan, "the first hard core of 'Algerian Afghans' launched their terrorist campaign against Algeria." The al-Qaeda veterans of the Afghan war against the Soviets, "trained in the Afghan militias, returned to Algeria with the help of international networks, via Bosnia, Albania, Italy, France, Morocco or Sudan."<sup>18</sup> According to *Jane's Defense Weekly*, in the late 1980s between 400 and 1,000 Algerians who trained as bin Laden's mujahideen in Afghanistan joined various armed groups in Algeria. By January 1993, most of these groups united under the banner of the GIA.<sup>19</sup> The latter forged close links to al-Qaeda "in the early 1990s," reports the Office of the Attorney-General in Australia, when the UK-based Abu Qatada "was designated by bin Laden as the spiritual adviser for Algerian groups including the GIA."<sup>20</sup> Afghan veteran Khamareddine Kherbane was close to both the GIA and al-Qaeda leaderships. Both the GIA and its sub-faction the Salafist Group for Preaching and Combat (GSPC) "developed ties with Al-Qaeda early on." From 1997 to 1998, al-Qaeda achieved further "large-scale penetration of Algerian groups."<sup>21</sup> So far the total civilian death toll from the GIA massacres in Algeria amounts to nearly 150,000.<sup>22</sup> The GIA is also implicated in terrorist atrocities outside Algeria and has been "linked to terrorist attacks in Europe."<sup>23</sup> According to Stephen Cook, an expert on Algeria at the Brookings Institute, "there are Algerian [terrorist] cells spread all over Europe, Canada, and the United States."<sup>24</sup>

In a detailed report, British journalists John Sweeney and Leonard Doyle interviewed "'Yussuf-Joseph' a career secret agent in Algeria's securite militaire until he defected to Britain." Algeria's secret police state, they conclude, "is indicted by one of its own members for crimes against humanity." "Joseph," who spent 14 years as an Algerian secret agent, told Sweeney and Doyle that: "The bombs that outraged Paris in 1995—blamed on Muslim fanatics—were the handiwork of the Algerian secret service. They were part of a propaganda war aimed at galvanising French public opinion against the Islamists."

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The massacres in Algeria, blamed on the GIA, are in fact “the work of secret police and army death squads.... The killing of many foreigners was organised by the secret police, not Islamic extremists.” GIA terror is, in fact, “orchestrated by two shadowy figures... Mohammed Mediane, codename ‘Tewfik,’ and General Smain Lamari, the most feared names in Algeria. They are, respectively, head of the Algerian secret service, the DRS, and its sub-department, the counter intelligence agency, the DCE.” According to Joseph:

The GIA is a pure product of Smain’s secret service. I used to read all the secret telexes. I know that the GIA has been infiltrated and manipulated by the government. The GIA has been completely turned by the government.... In 1992 Smain created a special group, L’Escadron de la Mort [the Squadron of Death]. One of its main missions to begin with was to kill officers, colonels. The death squads organise the massacres. If anyone inside the killing machine hesitates to torture or kill, they are automatically killed.... The FIS aren’t doing the massacres.

As for the Paris bombings, Joseph reveals that Algerian secret agents sent by Smain organized “at least” two of the bombs in Paris in summer 1995. “The operation was run by Colonel Souames Mahmoud, alias Habib, head of the secret service at the Algerian embassy in Paris.”<sup>25</sup>

Indeed, Western intelligence agencies know far more about the crisis than they have publicly conceded. In a remarkable report in *The Guardian*, Richard Norton-Taylor recorded that: “An unprecedented three-year terrorist case dramatically collapsed yesterday when an MI5 informant refused to appear in court after evidence which senior ministers tried to suppress revealed that Algerian government forces were involved in atrocities against innocent civilians.” The report further refers to “secret documents showing British intelligence believed the Algerian government was involved in atrocities, contradicting the view the government was claiming in public.” Attempting to suppress the evidence, three British Cabinet ministers—Jack Straw, Geoffrey Hoon and Robin Cook—“signed public interest immunity certificates.”<sup>26</sup>

The secret Foreign Office documents “were produced on the orders of the trial judge” 18 months late. But when they finally arrived, “they were in marked contrast to the government’s publicly-stated view, expressed by the Foreign Office in 1998, that there was ‘no credible, substantive evidence to confirm’ allegations implicating Algerian government forces in atrocities.” The documents, read out in open court, revealed that according to Whitehall’s Joint Intelligence Committee: “responsibility for violence cannot be conclusively laid in one place.... There is no firm evidence to rule out government manipulation or involvement in terrorist violence.” According to one document: “Sources had privately said some of the killings of civilians were the responsibility of the Algerian security services.” Another document from January 1997 cites a British source as follows: “military security [in Algeria] would have... no scruples about killing innocent people.... My instincts remain that parts of the Algerian government would stop at nothing.” Multiple documents, according to *The Guardian*, “referred to the ‘manipulation’ of the GIA being used as a cover to carry out their own operations.” A US intelligence report similarly confirmed that “there was no evidence to link 1995 Paris bombings to Algerian militants.” On the contrary, the US report indicates “that one killing at the time could have been ordered by the Algerian government.” Crucially, a Whitehall document cites the danger to British government interests if this information becomes public—“if revealed,” it warns, it “could open us to detailed questioning by NGOs and journalists.”<sup>27</sup>

The Algerian junta-GIA-al-Qaeda terror nexus has also received heavy Western financial assistance. In the late 1990s, for instance, the European Union released 60 million Euros—some \$65 million—to the Algerian generals. The total loan package was worth 125 million Euros.<sup>28</sup> Algeria has the fifth largest reserves of natural gas in the world, and is the second largest gas exporter, with 130 trillion proven natural gas reserves. It ranks fourteenth for oil reserves, with official estimates at 9.2 billion barrels. Approximately 90 per cent of Algeria’s crude oil exports go to Western Europe, including Britain, France, Italy, Germany, the Netherlands, and Spain. Algeria’s major trading partners are Italy, France, the United States, Germany, and Spain.<sup>29</sup>

ABC News correspondent John Cooley, a specialist in North Africa and the Middle East, further reports the presence of “500 to 600 American engineers and technicians living and working behind barbed wire” in a collection of “protected gas and oil enclaves in Algeria.” This little-publicized but heavy US commercial involvement in Algeria “began in earnest... in 1991.” At the end of that year, the regime “opened the energy sector on liberal terms to foreign investors and operators...”



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About 30 oil and gas fields have been attributed to foreign companies since then. The main American firms involved, Arco, Exxon, Oryx, Anadarko, Mobil and Sun Oil received exploration permits, often in association with European firms like Agip, BP, Cepsa or the Korean group Daewoo.... The majority of oil and gas exports go to nearby Europe... the main clients in the late 1990s [being] France, Belgium, Spain and Italy.<sup>30</sup>

In June 2000, US-based international banks and investment houses such as Chase Manhattan visited Algiers, along with then Under-Secretary of the Treasury Stuart Eizenstat. US private investments in Algeria were estimated at between \$3.5 and \$4 billion—almost entirely in oil and gas exploration and production.<sup>31</sup>

### Libya

Anas al-Liby is on the FBI's list of "Most Wanted Terrorists" "in connection with the August 7, 1998, bombings of the United States Embassies in Dar es Salaam, Tanzania, and Nairobi, Kenya.... The Rewards For Justice Program, United States Department of State, is offering a reward of up to \$25 million for information leading directly to the apprehension or conviction of Anas Al-Liby."<sup>32</sup>

Shayler worked for the international terrorism desk of MI5 for 6 years before resigning in 1997. In 1995, he obtained classified MI6 documents detailing a covert British intelligence plan to assassinate Libyan Head of State, Col. Mu'ammar Gaddafi. Most surprisingly, Shayler disclosed that as part of the plot, MI6 paid over £100,000 to the al-Qaeda network in Libya to conduct the assassination. The operation, however, failed. The al-Qaeda operatives working on the MI6 payroll placed a bomb under the wrong car, killing six innocent Libyan civilians.<sup>33</sup> In a press release on the subject, Shayler observed:

We need a statement from the Prime Minister and the Foreign Secretary clarifying the facts of this matter. In particular, we need to know how around £100,000 of taxpayers' money was used to fund the sort of Islamic Extremists who have connections to Osama Bin Laden's Al Qaeda network. Did ministers give MI6 permission for this? By the time MI6 paid the group in late 1995 or early 1996, US investigators had already established that Bin Laden was implicated in the 1993 attack on the World Trade Centre. Given the timing and the close connections between Libyan and Egyptian Islamic Extremists, it may even have been used to fund the murder of British citizens in Luxor, Egypt in 1996.<sup>34</sup>

In a further comment piece for *The Observer*, Shayler elaborated on these concerns. The "real criminals," he argued, "are the British Government and the intelligence services. The Government has a duty to uphold the law. It cannot simply be ignored because crimes are carried out by friends of the Government." Noting his November 1999 dossier of evidence on the plot sent to Home Secretary Jack Straw, Shayler pointed out: "Although the assassination failed when attempted in 1996, innocent Libyan civilians were killed." In the face of such compelling evidence, "these very senior Ministers should, of course, have called in the police immediately.... The Government's failure to ensure that two MI6 officers are brought to justice for their part in planning a murder is what I would expect of despots and dictators."<sup>35</sup>

The British government's response was at first to completely deny the story. Then Foreign Secretary Robin Cook described Shayler's allegations as "pure fantasy."<sup>36</sup> The government then change tactic, accusing Shayler of breaching the 1989 Official Secrets Act—his revelations, officials claimed, were a threat to British national security—and subsequently pursued legal action against him to prevent further publication of his information. Reporting on the upcoming trial in October 2002, the *Evening Standard* observed that:

Michael Tugendhat, QC, appearing for various national newspapers, is expected to argue that the Government has provided no evidence that national security will be threatened by the trial and will underline the importance of open justice... Shayler will be defending himself during the trial. He is expected to claim that British secret service agents paid up to £100,000 to al Qaeda terrorists for an assassination attempt on Libyan leader Colonel Gaddafi in 1996. He is seeking permission to plead a defense of "necessity"—that he acted for the greater good by revealing wrongdoing by the security service.<sup>37</sup>

In further startling revelations supporting Shayler's allegations, French intelligence expert journalist Guillaume Dasquié and adviser to President Jaques Chirac, Jean-Charles Brisard, documented that among the members of the Libyan al-Qaeda cell hired by MI6 to assassinate Col. Gaddafi was one of Osama bin Laden's most trusted lieutenants Anas al-Liby, who as already noted was on the FBI's "Most Wanted Terrorist" list for his involvement in the 1998

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terrorist attacks on US embassies in Africa. London *Observer* home affairs editor Martin Bright reported in detail on Dasquie's and Brisard's devastating findings:

British intelligence paid large sums of money to an al-Qaeda cell in Libya in a doomed attempt to assassinate Colonel Gaddafi in 1996 and thwarted early attempts to bring Osama bin Laden to justice. The latest claims of MI6 involvement with Libya's fearsome Islamic Fighting Group, which is connected to one of bin Laden's trusted lieutenants, will be embarrassing to the Government...

The Libyan al-Qaeda cell included Anas al-Liby, who remains on the US government's most wanted list with a reward of \$25 million for his capture. He is wanted for his involvement in the African embassy bombings. Al-Liby was with bin Laden in Sudan before the al-Qaeda leader returned to Afghanistan in 1996. Astonishingly, despite suspicions that he was a high-level al-Qaeda operative, al-Liby was given political asylum in Britain and lived in Manchester until May of 2000.

A police raid at al-Liby's Manchester accommodation discovered a 180-page al-Qaeda "manual for jihad" containing instructions for terrorist attacks. According to Shayler, the plot came to his attention in formal meetings with his MI6 colleagues. *The Observer's* Bright revealed that the said officers involved in the plot were "Richard Bartlett, who has previously only been known under the codename PT16 and had overall responsibility for the operation; and David Watson, codename PT16B." The latter was the MI6 handler for Libyan al-Qaeda operative "Tunworth," who was providing information from within the cell. Eager to crush further damaging publicity on these issues emerging from the Shayler trial, Home Secretary David Blunkett and Foreign Secretary Jack Straw "signed Public Interest Immunity certificates to protect national security. Reporters were not able to report allegations about the Gaddafi plot during the course of the trial."<sup>38</sup>

### 5. Al-Qaeda in the Asia-Pacific

The roots of the Abu Sayyaf, the most prominent terrorist group in the Philippines, lead us straight back to al-Qaeda. In the mid-1980s, Professor Abdul Rasul Sayyaf nominally headed an alliance of extremist armed groups financed by Osama bin Laden, among others, and influenced by Saudi Wahabism. He established a notorious but secretive "university"—Dawal al-Jihad—in the north of Peshawar, which functioned as a major terrorist training camp. Roughly 20,000 mujahideen from 40 countries—including the Philippines—were trained there by Pakistani military intelligence (ISI) with extensive CIA support in the form of expertise, weapons, and funds. Many of these fighters were in search of "other wars to fight," including in the Philippines, the Middle East, North Africa, and New York. It was not long before "a nucleus of Abu Sayyaf fighters had moved to the Philippines and were operating there under that name." The Philippines division of the Abu Sayyaf group conducted "kidnappings and bomb attacks on Christian and government targets" in the south. Among those coordinating operations in the Philippines with Afghan veterans of Abu Sayyaf was al-Qaeda operative Ramzi Yousef, the mastermind of the 1993 World Trade Center bombing plot and an author of Project Bojinka. The first half of Bojinka was implemented by Abu Sayyaf on December 11, 1994, in the bombing of a Philippines Airlines flight between Manila and Tokyo, and the targeting of 11 other American airliners over the Pacific on the same day. The latter plot failed due to the FAA's tighter security measures, but the plot was traced back by Philippine police and the FBI to Abu Sayyaf/al-Qaeda operative Yousef. The other half of Bojinka was eventually implemented on 9/11, involving a scheme to fly civilian planes into key US buildings.<sup>39</sup> Another member of the Abu Sayyaf terror cell in Manila was 9/11 mastermind Khalid Shaikh Mohammed, a key al-Qaeda leader who participated in Yousef's Bojinka operation. He lived only a few floors from Yousef.<sup>40</sup>

According to Washington DC's Center for Defense Information: "Abu Sayyaf-*al Qaeda* links are strong. Many of its fighters claim to have trained in Afghanistan, including as many as 20 who were in the graduating class of a Mazar-e Sharif camp in 2001... Zamboanga City, a Mindanao Islamic hotbed, was frequented by members of *al Qaeda*." Janjalani forged a close relationship with Saudi businessman Mohammed Jamal Khalifa, Osama bin Laden's brother-in-law, who set up a network of Islamic charities used to fund Abu Sayyaf fighters. Khalifa's "main organization, the International Islamic Relief Organization, has an office in Zamboanga, as does a bin Laden foundation. Abu Sayyaf received training and money funneled through Khalifa's network."<sup>41</sup>

Clandestine official connivance in the activities of al-Qaeda's Abu Sayyaf group has also been documented by a leading member of the Philippine government, Senator Aquilino Q. Pimentel Jr. Former law professor Pimentel has been involved in Philippine politics for over 30 years, has been Senator of the Republic since 1998, and is a respected

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legislator. In a July 2000 speech before the Philippine Senate, he disclosed some startling evidence of joint US-Philippine government involvement in the emergence and activities of Abu Sayyaf:

Because the Abu Sayyaf was operating on the fringe of the Muslim insurgency in the country, its partisans were enticed by certain officers of the armed forces to serve as informers on the activities of the Muslim insurgents in Southern Mindanao... at least, three military and police officers [were] coddlers or handlers of the Abu Sayyaf.

These officers hold very high posts. "One was the commanding general of the Marines at that time, Brig. Gen. Guillermo Ruiz; the other two were police officers, Chief Supt. Leandro Mendoza and Chief Supt. Rodolfo Mendoza," continued Senator Pimentel:

My information is that the Abu Sayyaf partisans were given military intelligence services IDs, safe-houses, safe-conduct passes, firearms, cell phones and various sorts of financial support.

Edwin Angeles, a leader of the Abu Sayyaf in Basilan, told me after the elections of 1995, that it was the Abu Sayyaf that was responsible for the raid and the razing down of the town of Ipil, Zamboanga del Sur in early 1995. In that raid, Angeles told me that the Abu Sayyaf raiders were reportedly provided with military vehicles, mortars and assorted firearms. All this time, Angeles was "handled"—by police officer, now chief superintendent, Rodolfo Mendoza.

According to Senator Pimentel, these Philippine military and police "handlers" funneled CIA assistance in the form of both weapons and finances to Abu Sayyaf: "... these officers did not only 'handle' the Abu Sayyaf, they coddled them, trained them, protected them, passed on military equipment and funds from the CIA and its support network, and probably even from the intelligence funds of the armed forces to them.

... The evidence is now overwhelming—unassailable in my mind—that the CIA was the procreator of the Abu Sayyaf and that some of our own military officers acted as midwives at its delivery and who have nursed the hooligans under illegal, if not, at least, questionable circumstances that enabled the latter to pursue their criminal activities to this very day.<sup>42</sup>

The US military works extremely closely with the Philippine military, providing weapons, advice, and extensive training. For instance, nearly 1,000 US combat troops were sent to the southern islands of Mindanao, Basilan, and Jolo in 2002 to join with thousands of Philippine troops supposedly hunting Abu Sayyaf. So closely are US military officers and soldiers liaising with their Philippine counterparts that Operation Balikatan ("shoulder to shoulder") commands US troops to accompany Philippine military patrols with permission to fight in self-defense. According to US Major Cynthia Teramae: "We are here as counterparts. We will be working alongside each other. We have two co-directors and two co-generals. It shows the kind of relationship that we have."<sup>43</sup>

It is not a surprise then that the key US objective in the Philippines is not the elimination of terror. On the contrary, US-backed Philippine state-sponsored terror appears to have provided a crucial justification within the "War on Terror" narrative for the expansion of US military power in the region and the consolidation of US economic control. "The important thing is to have a safe and stable security environment for domestic and foreign investors, including US entrepreneurs," remarked US Assistant Secretary of Commerce, William Lash, in a January 2002 visit to Manila. Indeed, according to former Philippine President Fidel Ramos, the US aim in the Philippines "is to maintain a viable presence in Asia-Pacific as a means to secure their own interests and their huge investments."<sup>44</sup>

### 6. Al-Qaeda in the Caucasus

The Chechen resistance movement to Russian occupation has for some time been increasingly penetrated and manipulated by al-Qaeda. According to R. P. Eddy, former Director of Counterterrorism at the White House National Security Council, at the end of the Afghan war in 1989, "a multinational force of mujahadin slithered into Chechnya" led by "Omar Ibn al Khattab, who had trained in bin Laden's camps. Bin Laden and Khattab enjoyed an unusually close theological affinity, and exchanged personnel and resources." Khattab was appointed operations chief "under the overall commander, Shamil Basayev. Like Khattab, Basayev had trained in al Qaeda camps and was personally close to bin Laden."<sup>45</sup> Basayev himself has admitted to reporters that he "visited training camps in Afghanistan three times in

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the early 1990s to study the tactics of guerrilla warfare. In Chechnya, he and Khattab built their own training camp in the village of Serzhen-Yurt, complete with advanced communications equipment.”<sup>46</sup>

Since the mid-1990s, bin Laden has funded Chechen guerrilla leaders Shamil Basayev and Omar Ibn Khattab, sidelining the moderate Chechen majority, “to the tune of several millions of dollars per month” according to the *Asia Times*:

Khattab, after the outbreak of the second Chechen war in 1999, aligned ever more closely with the most radical Chechen elements around Shamil Basayev and Arbi Barayev, sidelining more moderate Chechen leader Aslan Maskhadov. Not only did significant funds and guns flow from al-Qaeda to Khattab; Chechens also received training in Afghanistan and an Islamic “learning center” preaching strict Wahhabism (and at one point counting 1,000 recruits to the Islamic jihad cause) was established in Chechnya.<sup>47</sup>

Indeed, Russian and US sources confirm that by 1999, al-Qaeda mujahideen from Afghanistan, Pakistan, Egypt, and Sudan, with heavy financing from bin Laden, were involved in Basayev’s insurrection. According to Bodanksy, the mujahideen force consisted of 10,000 fighters trained in al-Qaeda camps. Shortly before Basayev’s invasion of Dagestan, Osama bin Laden himself “made a weeklong visit to a training camp in the village of Serzhen-Yurt in Chechnya.”<sup>48</sup>

Russian co-optation of Basayev and the Chechen resistance is longstanding. Patrick Cockburn – visiting fellow at the Center for Strategic and International Studies in Washington DC - notes for instance that: “In 1992-93 [Basayev] is widely believed to have received assistance from the GRU when he and his brother Shirvani fought in Abkhazia, a breakaway part of Georgia. Russia did not want to act overtly against Georgia but covertly supported a battalion of volunteers led by Mr. Basayev.”<sup>49</sup>

*Forbes* senior editor and historian - the late Paul Klebnikov - in his book, *Godfather of the Kremlin*, notes the widely acknowledged fact that “Kremlin oligarch Boris Berezovsky gave the al Qaeda-connected Chechen terrorist leader Shamil Basayev \$1 million prior to the 1999 Dagestan incursion that triggered the latest Chechen conflict.” Klebnikov reports that “Berezovsky, together with other members of the Yeltsin inner circle, had long maintained a secret relationship with Chechen extremists...”

To the extent Berezovsky represented the interests of the Yeltsin regime in Chechnya, the Kremlin had been undermining the [Chechen] moderates, supporting the extremists financially and politically, and consequently sowing the seeds of conflict... the Berezovsky strategy with the Chechen warlords was a deliberate attempt to fan the flames of war.

According to Boris Kagarlitsky, a political scientist at the Russian Academy of Sciences who is also adviser to the Russian Parliament, writing in *Novaya Gazeta* (January 24, 2000), Shamil Basayev and his brother have long been special agents of the Main Intelligence Directorate of the Russian General Staff. In an article titled “Who Blew Up Russia” in the February 2000 edition of *Versiya*, another researcher Pyotr Praynishnikov reported that “Chechnya’s terrorists had been trained by the GRU—by Russia’s SPETSNAZ (special diversionary troops).” The Basayev brothers, Shamil and Shirvani, were “both recruited as agents by the Main Intelligence Directorate of the Russian General Staff (GRU) in 1991-2.” Indeed, Basayev was initially recruited by the GRU to “organize kidnappings, bombings and airline hijackings in Russia and Abkhazia.” In 1992, Basayev and his men were allowed by Russian guards to travel freely across the borders into Chechnya.<sup>50</sup>

Ironically, the Russians are not the only ones who have co-opted the al-Qaeda guerrillas in Chechnya. US Congressional intelligence and security analyst Yossef Bodanksy reports that the US government was actively involved in “yet another anti-Russian jihad” in the “Summer of 2000.” The end of the Cold War, it seems, did not mean the end of the US alliance with the mujahideen:

As if reliving the “good ol’ days” of Afghanistan of the 1980s, Washington is once again seeking to support and empower the most virulent anti-Western Islamist forces. The US crossed the line in mid-December 1999, when US officials participated in a formal meeting in Azerbaijan in which specific programs for the training and equipping of mujahedin from the Caucasus, Central/South Asia and the Arab world were discussed and agreed upon. This meeting led to Washington’s tacit encouragement of both Muslim allies (mainly Turkey, Jordan and Saudi Arabia) and US “private security companies” (of the type which did the Clinton

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Administration's dirty job in the Balkans while skirting and violating the international embargo the US formally supported) to assist the Chechens and their Islamist allies to surge in the Spring of 2000 and sustain the ensuing jihad for a long time.

Thus, the al-Qaeda affiliated Chechen guerrillas have been jointly manipulated by both Russian and US intelligence services, although it seems that the two powers have varying interests for doing so. While Russia sees the war with Chechnya as an opportunity to militarize Russian foreign policy and forcefully maintain its military occupation of the region to protect strategic and oil pipeline routes, the US sees the ongoing conflict as a way to do the opposite by "depriv[ing] Russia of a viable pipeline route through spiraling violence and terrorism... US-assisted escalation and expansion of the war in Chechnya should deliver the desired debilitation of Russia." Thus, the US was "fanning the flames of the Islamist jihad in the Caucasus through covert assistance [and] tacit encouragement of allies to actively support the mujahedin."<sup>51</sup>

### 7. Conclusion

At every major strategic point in the world, we find that US and Western power is symbiotically melded - through financial, military and intelligence connections - with al-Qaeda; and further that al-Qaeda has in certain cases been explicitly used as a military- intelligence asset by Western powers, particularly the United States and United Kingdom. This documentation indicates that international terrorism in the form of al-Qaeda is not merely an enemy to be fought, but rather an unruly asset to be, when possible, controlled and manipulated in the pursuit of quite specific strategic and economic interests. Worse still, it is difficult to avoid the conclusion that certain elements of the policy-making establishment are perfectly cognizant that as a direct result of such policies, national security is being fundamentally and continuously undermined with repeatedly fatal consequences. Yet the same brand of policies persists. Without dwelling unnecessarily on the possible theoretical ramifications of this phenomenon, it is sufficient for me to note that these facts fundamentally challenge the entire paradigm of the 'War on Terror' as articulated and legitimized by the official narrative.

### Notes

<sup>1</sup> Warrick, Jo and Stephens, Joe, 'Before Attack, US Expected Different Hit, Chemical, Germ Agents Focus of Preparation,' *Washington Post*, 2 October, 2001.

<sup>2</sup> Ibid.

<sup>3</sup> PEC Report, 'Terrorist Plans to Use Planes as Weapons Dates to 1995: WTC bomber Yousef confessed to US agents in 1995' Public Education Center, Washington DC, <http://www.publicedcenter.org/faaterrorist.htm>.

<sup>4</sup> Garcia, Raphael M., 'Decoding Bojinka,' *Newsbreak Weekly*, 15 November 2001, Vol. 1, No. 43. Also see Cooley, John, *Unholy Wars: Afghanistan, American and International Terrorism*, Pluto Press, London, 1999, p. 247.

<sup>5</sup> Woodward, Bob and Eggen, Dan, 'Aug. Memo Focused on Attacks in US', *Washington Post*, 18 May 2002, <http://www.washingtonpost.com/wp-dyn/articles/A35744-2002May17.html>.

<sup>6</sup> Hudson, Rex A., Report Prepared for the National Intelligence Council, *The Sociology and Psychology of Terrorism*, Federal Research Division, Library of Congress, Washington DC, September 1999, p. 8, [http://www.loc.gov/rr/frd/pdf-files/Soc\\_Psych\\_of\\_Terrorism.pdf](http://www.loc.gov/rr/frd/pdf-files/Soc_Psych_of_Terrorism.pdf).

<sup>7</sup> National Intelligence Council website (viewed 9 July 2004), [http://www.cia.gov/nic/NIC\\_home.html](http://www.cia.gov/nic/NIC_home.html).

<sup>8</sup> National Intelligence Council website, NIC Mission (viewed 9 July 2004), [http://www.cia.gov/nic/NIC\\_about.html](http://www.cia.gov/nic/NIC_about.html).

<sup>9</sup> Shenon, Philip, 'Traces of Terrorism: The Warnings: FBI Knew for Years About Terror Pilot Training', *New York Times*, 18 May 2002.

<sup>10</sup> *Monterey Herald*, 18 July 2002.

<sup>11</sup> Stafford, Ned, 'Newspaper: Echelon Gave Authorities Warning of Attacks,' *Newsbytes*, 13 September 2001, <http://www.newsbytes.com/news/01/170072.html>. ECHELON is a vast intelligence information collection system capable of monitoring all the electronic communications in the world. It is operated by the US, UK, Canada, Australia and New Zealand. While no government agency has ever confirmed or denied its existence, an EU committee that investigated ECHELON for more than a year confirmed that the system does exist in early September 2001. The EU committee reported that Echelon sucks up electronic transmissions "like a vacuum cleaner", using keyword search techniques to sift through enormous amounts of data. The system covers the whole world's electronic communications with 120 satellites. For more on ECHELON see Bamford, James, *Body of Secrets: Anatomy of the Ultra-Secret National Security Agency*, Doubleday, 2001.

<sup>12</sup> Hill, Joint Inquiry Staff Statement Part I, op. cit. [emphasis added]

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<sup>13</sup> Neumeister, Larry, 'Trade Center Bomber's Threat Foreshadowed September Terrorist Attacks,' Associated Press, 30 September 2001.

<sup>14</sup> Lines, Andy, 'Pentagon Chiefs Planned for Jet Attack,' *The Mirror*, 24 May 2002, <http://www.intellnet.org/news/2002/05/24/9488-1.html>. Also see Ryan, Dennis, 'Contingency planning Pentagon MASCAL exercise simulates scenarios in preparing for emergencies,' Military District of Washington News Service, 3 November 2000, [http://www.mdw.army.mil/news/Contingency\\_Planning.html](http://www.mdw.army.mil/news/Contingency_Planning.html).

<sup>15</sup> Hill, Joint Inquiry Staff Statement Part I, op. cit. "In March 2001, an intelligence source claimed a group of Bin Ladin operatives were planning to conduct an unspecified attack in the United States in April 2001. One of the operatives allegedly resided in the United States;

In April 2001, the Intelligence Community obtained information that unspecified terrorist operatives in California and New York State were planning a terrorist attack in those states for April;

Between May and July, the National Security Agency reported at least 33 communications indicating a possible, imminent terrorist attack... These reports were widely disseminated within the Intelligence Community;

In May 2001, the Intelligence Community obtained information that supporters of Usama Bin Ladin were reportedly planning to infiltrate the United States via Canada in order to carry out a terrorist operation using high explosives. This report mentioned an attack within the United States...

In July 2001, this information was shared with the FBI, the Immigration and Naturalization Service (INS), US Customs Service, and the State Department and was included in a closely held intelligence report for senior government officials in August 2001;

In May 2001, the Department of Defense acquired and shared with other elements of the Intelligence Community information indicating that seven individuals associated with Usama Bin Ladin departed various locations for Canada, the United Kingdom, and the United States;

In June 2001, the DCI's CTC had information that key operatives in Usama Bin Ladin's organization were disappearing while others were preparing for martyrdom;

In July 2001, the DCI's CTC was aware of an individual who had recently been in Afghanistan who had reported, 'Everyone is talking about an impending attack.' The Intelligence Community was also aware that Bin Ladin had stepped up his propaganda efforts in the preceding months."

<sup>16</sup> Drogin, Bob, 'US Tells of Covert Afghan Plan Before 9/11,' *Los Angeles Times*, 18 May 2002, <http://www.latimes.com/news/nationworld/nation/la-051802strike.story>.

<sup>17</sup> Breitweiser, Kristen, Statement Concerning the Joint 9/11 Inquiry, op. cit.

<sup>18</sup> Wright, Lawrence, 'The Counter-Terrorist,' *New Yorker*, 14 January 2002. Under pressure from Congress, the White House has finally officially admitted that the US intelligence community had information that Al-Qaeda was planning an imminent attack through hijacking. However, National Security Adviser Condoleezza Rice has gone on record denying that US intelligence had any other specific information, such as that the planes might be used as missiles (BBC Newsnight, 16 May 2002). This denial, however, is patently false, as demonstrated by the reports on the public record discussed here.

<sup>19</sup> *Washington Post*, 17 May 2002.

<sup>20</sup> Diamond, John, 'US had agents inside al-Qaeda,' *USA Today*, 4 June 2002, <http://www.usatoday.com/news/attack/2002/06/03/cia-attacks.htm>.

<sup>21</sup> Ensor, David, et. al., 'Justice may probe leaked pre 9-11 intercepts,' CNN, 21 June 2002.

<sup>22</sup> Crary, David and Schwartz, David, 'World Trade Center collapses in terrorist attack,' Associated Press, 11 September 2001.

<sup>23</sup> 'The Proof They Did Not Reveal: Two key pieces of evidence were missing from the government's dossier on the US attacks, made public last week. Now full details of the case against Bin Laden can be disclosed', *Sunday Times*, 7 October 2001, <http://www.sunday-times.co.uk/news/pages/sti/2001/10/07/stiusausa02012.html>.

<sup>24</sup> CNN, 'Blair's full statement', 4 October 2001,

<http://edition.cnn.com/2001/WORLD/europe/10/04/gen.blair.statement>.

<sup>25</sup> Waller, Douglas, 'Was Hijack "Ringleader" in Bin Laden Orbit?', *Time Magazine*, 5 October 2001,

<http://www.time.com/time/nation/article/0,8599,178228,00.html>.

<sup>26</sup> Diamond, John, 'US had agents inside al-Qaeda,' *USA Today*, 4 June 2002.

<http://www.usatoday.com/news/sept11/2002/06/03/cia-attacks.htm>.

<sup>27</sup> Turnipseed, Tom, 'The Fear Factor to Promote War and Trample the Truth,' Common Dreams News Center, 14 June 2002, <http://commondreams.org> and <http://www.turnipseed.net>.

<sup>28</sup> Thomas, Evan, *Newsweek*, 24 September 2001.

<sup>29</sup> Hirsh, Michael, 'We've hit the targets,' *Newsweek*, 13 Sept. 2001.

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- <sup>30</sup> Crewdson, John, Hijacker Held, Freed Before Sept. 11 Attack,' *Chicago Tribune*, 13 December 2001, <http://www.chicagotribune.com/search/chi-0112130293dec13.story>. Also see *Baltimore Sun*, 14 December 2001.
- <sup>31</sup> MacVicar, Sheila and Faraj, Caroline, 'September 11 Hijacker Questioned in January 2001,' CNN, 1 August 2002, <http://edition.cnn.com/2002/US/08/01/cia.hijacker/index.html>.
- <sup>32</sup> Ibid.
- <sup>33</sup> Ibid.
- <sup>34</sup> CNN, 'Another hijacker was stopped for traffic violation', 9 January 2002, <http://edition.cnn.com/2002/US/01/09/inv.hijacker.traffic.stops/>.
- <sup>35</sup> MacVicar and Faraj, 'September 11 Hijacker Question', op. cit.
- <sup>36</sup> Staff Statement No. 9, *Law Enforcement, Counterterrorism, and Intelligence Collection in the United States Prior to 9/11*, National Commission on Terrorist Attacks Upon the United States, Washington DC, April 2004, p. 7.
- <sup>37</sup> Gordon, Greg, 'FAA security took no action against Moussaoui,' *Corpus Christi Caller Times*, 13 January 2002.
- <sup>38</sup> Staff Statement No. 9, op. cit., p. 9.
- <sup>39</sup> Ibid., p. 2.
- <sup>40</sup> Ibid., p. 10.
- <sup>41</sup> Ibid., p. 10.
- <sup>42</sup> Ibid., p. 4.
- <sup>43</sup> Ibid., p. 9.
- <sup>44</sup> CAP report, 'The Blame Game Continues: Intelligence and the 1990s', Center for American Progress, Washington DC, 18 February 2004, <http://www.americanprogress.org/site/pp.asp?c=biJRJ8OVF&b=33582>. [emphasis added]
- <sup>45</sup> Cited in Letter by Senator Charles E. Grassley to the Honourable Robert S. Mueller, Director, Federal Bureau of Investigation, 12 April 2004, <http://grassley.senate.gov/releases/2004/p04r04-12.htm>.
- <sup>46</sup> Ibid., p. 4.
- <sup>47</sup> Ibid., p. 11.
- <sup>48</sup> Staff Statement No. 11, *The Performance of the Intelligence Community*, National Commission on Terrorist Attacks Upon the United States, Washington DC, April 2004 p. 3.
- <sup>49</sup> Staff Statement No. 5, *Diplomacy*, National Commission on Terrorist Attacks Upon the United States, Washington DC, March 2004, p. 6.
- <sup>50</sup> Staff Statement No. 11, op. cit., p. 12.
- <sup>51</sup> Statement for the Record, FBI Director Louis J. Freeh before the Senate Judiciary Committee, 3 September 1998, archived at [http://www.fas.org/irp/congress/1998\\_hr/98090302\\_npo.html](http://www.fas.org/irp/congress/1998_hr/98090302_npo.html).
- <sup>52</sup> Statement for the Record, FBI Director Louis J. Freeh before the Senate Committee on Appropriations, Subcommittee for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies, 4 February 1999, archived at [http://www.fas.org/irp/congress/1999\\_hr/990204-freehct2.htm](http://www.fas.org/irp/congress/1999_hr/990204-freehct2.htm).
- <sup>53</sup> 'Avoiding the real questions,' *Jane's Intelligence Digest*, 28 May 2002.

TIES WITH TERROR: THE CONTINUITY OF WESTERN-AL-QAEDA RELATIONS  
IN THE POST-COLD WAR PERIOD  
WRITTEN TESTIMONY SUBMITTED IN ADVANCE FOR CONGRESSIONAL BRIEFING  
(c) Nafeez Mosaddeq Ahmed

Here, I will attempt to present a number of important facts and reports that fundamentally challenge the official account of the nature and identities of the alleged 9/11 hijackers, their relationship to al-Qaeda, and their activities as Islamic extremists. While no alternative theoretical explanation is offered, it must be noted that these facts constitute as yet unresolved anomalies that strike at the core of the official narrative.

### **Islamic Fundamentalists?**

A variety of reports based on journalistic investigations and eye-witness testimonials provide a bizarre picture at odds with the conventional portrayal of the 9/11 hijackers as Islamic fundamentalists. Two key hijackers, Mohamed Atta and Marwan al-Shehhi, visited the popular Woodland Park Resort Hotel in the Philippines several times between 1998 and 2000 according to numerous local residents and hotel workers who recognized them from news photographs. They reportedly "drank whiskey with Philippine bargirls, dined at a restaurant that specializes in Middle Eastern cuisine and visited at least one of the local flight schools." Al-Shehhi threw a party with six or seven Arab friends in December 2000 at the Hotel according to former waitress Gina Marcelo. "They rented the open area by the swimming pool for



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1,000 pesos,” she recounts. “They drank Johnnie Walker Black Label whiskey and mineral water. They barbecued shrimp and onions. They came in big vehicles, and they had a lot of money. They all had girlfriends.” But one big mistake they made was that unlike most foreign visitors, “[t]hey never tipped. If they did, I would not remember them so well.” Victoria Brocoy, a chambermaid at the Woodland, recalls: “Many times I saw him let a girl go at the gate in the morning. It was always a different girl.”

According to US investigators, five of the hijackers including Atta, Al-Shehhi, Nawaq Alhamzi, Ziad Jarrah, and Hani Hanjour visited Las Vegas at least six times between May and August 2001. The *San Francisco Chronicle* reports that here, they “engaged in some decidedly un-Islamic sampling of prohibited pleasures in America’s reputed capital of moral corrosion,” including drinking alcohol, gambling, and visiting strip-clubs.<sup>2</sup> As the *South Florida Sun Sentinel* observed, the hijackers’ frequent debauchery was at odds with the most basic tenets of Islam:

Three guys cavorting with lap dancers at the Pink Pony Nude Theater. Two others knocking back glasses of Stolichnaya and rum and Coke at a fish joint in Hollywood the weekend before committing suicide and mass murder. That might describe the behavior of several men who are suspects in Tuesday’s terrorist attack, but it is not a picture of devout Muslims, experts say. Let alone that of religious zealots in their final days on Earth.

For instance, specialist in Islamic and Middle East studies Mahmoud Mustafa Ayoub, Professor of Religion at Temple University in Philadelphia, noted that the prohibition of alcohol, gambling, and sex outside marriage are Islam’s most fundamental precepts: “It is incomprehensible that a person could drink and go to a strip bar one night, then kill themselves the next day in the name of Islam. People who would kill themselves for their faith would come from very strict Islamic ideology. Something here does not add up.”<sup>3</sup>

Similar reports abound regarding other al-Qaeda terrorists connected to 9/11. Even alleged 9/11 mastermind Khalid Sheikh Mohammad reportedly “met associates in karaoke bars and giant go-go clubs filled with mirrors, flashing lights and bikini-clad dancers,” according to evidence collected by Philippine investigators:

He held meetings at four-star hotels. He took scuba-diving lessons at a coastal resort. When he wasn’t engaged with the go-go dancers, he courted a Philippine dentist. Once, to impress her, he rented a helicopter and flew it over her office, then called her on his cell phone and told her to look up and wave.

Mohammad’s al-Qaeda associates engaged in much the same behavior. They had local girlfriends and held a drinking party “to celebrate the anniversary of the 1988 Pan Am Flight 103 explosion over Lockerbie, Scotland.”<sup>4</sup>

Clearly, this pattern of debauchery is not by any standard commensurate with the strict requirements of al-Qaeda’s brand of Islamic fundamentalism. As Professors Quintan Wiktorowicz and John Kaltner point out, al-Qaeda is “a radical tendency within a broader Islamic movement known as the Salafi movement...”

The term Salafi is derived from the Arabic salaf, which means “to precede” and refers to the companions of the Prophet Muhammed. Because the salaf learned about Islam directly from the messenger of God, their example is an important illustration of piety and unadulterated religious practice. Salafis argue that centuries of syncretic cultural and popular religious rituals and interpretations distorted the purity of the message of God and that only by returning to the example of the prophet and his companions can Muslims achieve salvation. The label “Salafi” is thus used to connote “proper” religious adherence and moral legitimacy, implying that alternative understandings are corrupt deviations from the straight path of Islam.

Thus, although there are various schools of thought within Salafism—including al-Qaeda’s violent jihadist interpretation—they all emphasize and indeed attempt to derive their legitimacy from the Salafist goal of “piety and unadulterated religious practice” based directly on the piety and practice of the Prophet.<sup>5</sup> In this context, the depraved conduct of the 9/11 hijackers in terms of their routine violation of the most basic Islamic precepts contradicts al-Qaeda’s strictly puritan Salafist philosophy.

### **The Takfir Paradigm**

How to explain this anomaly? Western intelligence agencies have come up with one attempt at an answer. *Time Magazine* reports that intelligence officials claim that many al-Qaeda terrorists are “followers of an extremist Islamic ideology called Takfir wal Hijra (Anathema and Exile). That’s bad news: by blending into host communities, Takfiris



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attempt to avoid suspicion. A French official says they come across as ‘regular, fun-loving guys—but they’d slit your throat or bomb your building in a second.’” Another French official says that the goal of Takfir “is to blend into corrupt societies in order to plot attacks against them better. Members live together, will drink alcohol, eat during Ramadan, become smart dressers and ladies’ men to show just how integrated they are.”<sup>6</sup>

However, this depiction of al-Qaeda and Takfir wal Hijra is thoroughly inaccurate. Takfir wal Hijra was the title given to a radical Islamic movement known as the Society of Muslims. The latter was founded in Egypt by Muslim Brotherhood member Shukri Mustafa after his release from prison in 1971. The group disintegrated after Mustafa was arrested and executed by the Egyptian government, but some of its followers went on to join other radical groups such as al-Jihad and/or fled to North Africa. Rather than attempting to integrate into modern society to carry out attacks as intelligence officials now claim, Takfiri ideology advocated the very opposite: “As contemporary society was infidel, he argued, Takfir would set up its own alternative community that would work, study and pray together.... Takfir declared that not only the regime but the society itself was infidel and under excommunication. This entailed... a personal withdrawal from society.” Even Takfir’s rival radical Islamic group in Egypt, Jama’at al-Jihad, known as the Society of Struggle, espoused such a harsh perspective of Islamic practice that it advocated as Islam’s top priority “jihad against unbelievers—including ‘Muslims’ who did not observe the religion’s requirements properly”—let alone endorsing in any manner a violation of those requirements.<sup>7</sup>

Indeed, according to the *South Asia Analysis Group (SAAG)*, the fact that “some analysts treat the Takfirees as no different from the Al-Qaeda” is a mistake. Citing religious sources in Pakistan, *SAAG* observes that Takfir wal Hijra as it exists now “is one of the very few jihadi groups in the Pakistan-Afghanistan region which has refused to accept the leadership and the modus operandi of Osama bin Laden and his Al-Qaeda...

According to them, it had unsuccessfully tried to assassinate him when he was living in the Sudan before the middle of 1996 when he shifted to Afghanistan. It had also reportedly issued a fatwa in 1999 calling for his assassination. Even though it’s religious ideology is as extreme as that of bin Laden, if not more, its modus operandi differs in the sense it believes that before getting involved in a head-on confrontation with the US one should get rid of all US surrogates in the Islamic countries through targeted assassinations. It feels that bin Laden weakened the cause of the jihad against the US by prematurely taking the US head-on on 9/11 without first eliminating its surrogates in Pakistan and other countries of the Islamic world.<sup>8</sup>

The *Sunday Times* similarly reported a month after 9/11 that Takfir “regards Osama bin Laden as an infidel who has sold out.” The group’s fundamentalism is so extreme that its members “have embarked on killing sprees in mosques against fellow Muslims in the belief that a pure Islamic state can be built only if the corrupt elements of the last one are wiped out.” Takfir’s enmity toward al-Qaeda is based on the perception that Osama bin Laden is “excessively liberal.” In 1995, four Takfir members attempted to assassinate bin Laden at his home in Khartoum. Takfiris continue to be “angered” at bin Laden’s leadership of a “compromised jihad.” According to the *Times*, “Takfir denounces all but those who copy the behaviour of the prophet Muhammad as infidels and promises to kill them.” One senior Sudanese government source confirmed that Takfir “regard [bin Laden] as a sellout... the Takfir think that everything in contemporary Muslim society is corrupt and should be destroyed.” Both Abu Hamza and Omar Bakri Mohammed, London-based clerics allegedly linked to al-Qaeda, have condemned Takfir and distanced al-Qaeda from the former.<sup>9</sup>

Djamel Beghal and Kamel Daoudi—alleged UK-based terrorists arrested in September 2001 for plotting a series of spectacular terrorist assaults on Europe—were both supposed to be members of Takfir wal Hijra. But according to one Algerian in London who knew Beghal, integrating into Western culture by engaging in various acts of debauchery in violation of Islamic tenets was the last thing this alleged Takfiri would ever do: “Believe me, you do not want these people in your country... they will kill anybody, including their own family, if they are caught smoking or drinking.”<sup>10</sup>

Thus, the new scenario being proposed by Western intelligence officials to explain the patently un-Islamic behavior of the 9/11 hijackers is largely incoherent. Despite claims to the contrary, Takfir wal Hijra is aggressively opposed to al-Qaeda and its strict ideology is fundamentally incommensurate with the prospect of permitting defiance of Islamic rules under any circumstances. Furthermore, al-Qaeda is in turn staunchly opposed to Takfir. Therefore, the anomaly of the 9/11 hijackers persists: They clearly did not possess the conduct of hardened Islamic fundamentalists connected to al-Qaeda. So, who were they?

### The State Department’s Green Light for Terrorists

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Al-Qaeda operatives were able to repeatedly leave and enter the United States despite being known terrorists. But according to journalist Joel Mowbray, they should have been fully barred from the country on the basis of their suspicious visa applications alone:

... expert analyses of the visa-application forms of 15 of the 9/11 terrorists (the other four applications could not be obtained), [show] all the applicants among the 15 reviewed should have been denied visas under then-existing law. Six separate experts who analyzed the simple, two-page forms came to the same conclusion: All of the visa applications they reviewed should have been denied on their face.

Among the experts who independently examined the terrorist visa applications of 14 Saudis and one from the UAE were four former consular officers, a current consular officer stationed in Latin America, and a senior official at the State Department's office of Consular Affairs (CA). All six experts "strongly agreed that even allowing for human error" the visa lapses were "inexplicable," and all the more so because "the State Department claims that at least 11 of the 15 were interviewed by consular officers." According to former consular officer Nikolai Wenzel, the State Department's issuance of the visas "amounts to criminal negligence." The terrorists' applications were "littered with red flags" and "significant amounts of missing information"—all of which were simply ignored. "Even to the untrained eye, it is easy to see why many of the visas should have been denied," observes Mowbray. "If the US State Department had followed the law, at least 15 of the 19 'dots' should have been denied visas — and they likely wouldn't have been in the United States on September 11, 2001."<sup>11</sup>

How to explain this pattern of State Department law-breaking? Michael Springmann—former head of the Visa Bureau at the US Consulate in Jeddah, Saudi Arabia, between 1987 and 1989—has thrown significant light on this phenomenon. Springmann, who has had 20 years of experience in the US government and is now a practicing lawyer in Washington DC, told BBC's *Newsnight* that: "In Saudi Arabia I was repeatedly ordered by high level State Dept officials to issue visas to unqualified applicants. These were, essentially, people who had no ties either to Saudi Arabia or to their own country."<sup>12</sup>

In another interview with CBC's Radio One, he stated that CIA officials had consistently violated State Department regulations to issue visas to terrorists recruited to "fight against the then Soviets." There were "as many as a hundred" recruits, people "with no ties to any place in particular... Afghanistan was the end user of their facilities. They were coming to the US for training as terrorists. The countries that had supplied them did not want them back."

CBC: Does this demonstrate a relationship between the CIA and Osama Bin Laden dating back as far as 1987?

SPRINGMANN: That's right, and as you recall, they believe that this fellow Sheikh Abdurrahman who was tied to the first New York World Trade Center bombing had gotten his visa from a CIA case officer in the Sudan. And that the 15 or so people who came from Saudi Arabia to participate in the attacks on the WTC and the Pentagon had gotten visas through the American consulate general in Jeddah.

CBC: So what does that suggest, that this pipeline was never rolled up, that it's still operating?

SPRINGMANN: Exactly. I thought that it had been, because I'd raised sufficient hell that I thought that they'd done it. I had complained to the Embassy in Riyadh, I had complained to diplomatic security in Washington, I had complained to the General Accounting Office, I had complained to the State Department Inspector-General's Office, I had complained to the Bureau of Consular Affairs at the State Department and apparently the reverberations from this were heard all over the State Department.

CBC: If what you say may be true, many of the terrorists who allegedly flew those planes into those targets, got their US visas through the CIA and your US consulate in Jeddah. That suggests a relationship ongoing as recently as obviously September. But what was the CIA presumably recruiting these people for as recently as September 11th?

SPRINGMANN: That I don't know. And that's one of the things that I tried to find out through a series of Freedom of Information Act requests starting ten years ago. At the time the State Department and the CIA stonewalled my requests. They're still doing so.

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CBC: If the CIA had a relationship with the people responsible for September 11th, are you suggesting therein that they are somehow complicit?

SPRINGMANN: Yes, either through omission or through failure to act.... By the attempts to cover me up and shut me down, this convinced me more and more that this was not a pipedream, this was not imagination.

(...)

CBC: But you're quite sure that Mohamed Atta and others had their visas issued in Jeddah?

SPRINGMANN: Well this is what I was told by reading an article in the Los Angeles Times.<sup>13</sup>

Indeed, between April 23 and June 29, 2001, thirteen of the hijackers obtained visas to come to United States based on identities they presented at the US Consulate in Jeddah, Saudi Arabia.<sup>14</sup> But as noted by the former chief of the US Visa Bureau in Jeddah:

I had not been protesting fraud. What I was protesting was, in reality, an effort to bring recruits, rounded up by Osama bin Laden, to the US for terrorist training by the CIA.... *The State Department did not run the Consulate in Jeddah. The CIA did.* Of the roughly 20 Washington-dispatched staff there, I know for a certainty that only three people (including myself) had no ties, either professional or familial, to any of the US intelligence services.<sup>15</sup>

It appears that the US government responded to Springmann's complaints not by rolling up the pipeline, but by widening it, despite increasing evidence of a Saudi connection to al-Qaeda. The *St. Petersburg Times* reports that although: "FBI agents complained that their Saudi counterparts hampered investigations into terror attacks, including a 1996 bombing on Dhahran that killed 19 US servicemen," rather than "tightening visa requirements, the US government made it easier for Saudi visitors to come to America." Only four months prior to 9/11 a new program "called US Visa Express" was introduced allowing Saudis "to arrange visas through 10 travel agencies—often without coming to the US Embassy or consulate for interviews."<sup>16</sup>

These preposterous and illegal measures were instituted the same time that the intelligence community was on alert for an imminent al-Qaeda attack. Indeed, as Mowbray reports, at least 3 Saudis "among the last of the Sept. 11 homicide hijackers to enter this country didn't visit a US embassy or consulate to get their visas; they went to a *travel agent*, where they only submitted a short, two-page form and a photo," a method made possible by "Visa Express." One senior Consular Affairs official described the program as "an open-door policy for terrorists," since "Saudi Arabia... is the only country with such special visa privileges whose citizens pose a known terrorist risk."<sup>17</sup>

While the government has exploited this phenomenon to argue for the necessity of pushing through draconian legislation to tighten borders, in fact existing law was perfectly capable of protecting the United States—but was violated with impunity by the State Department. The continuation of such policies is hard to understand given that Springmann himself had warned the State Department repeatedly that unqualified applicants were being issued US visas by the CIA.

### **US Military Training: Atta, Abdulaziz Alomari, Saeed Alghamdi, and Others**

Not only did the State Department seem to go out of its way to allow the hijackers to enter the United States, many of them went on to gain access to secure US military installations, where they received various forms of training. According to reports in *Newsweek*, the *Washington Post*, and the *New York Times*, US military officials confirmed to the FBI "that five of the alleged hijackers received training in the 1990s at secure US military installations."<sup>18</sup> *Newsweek* further notes that US military training of foreign students is routine, but occurs with the authorization of both the US military and the respective government, as well as on condition of the latter's payment:

US military sources have given the FBI information that suggests five of the alleged hijackers of the planes that were used in Tuesday's terror attacks received training at secure US military installations in the 1990s. Another of the alleged hijackers may have been trained in strategy and tactics at the Air War College in Montgomery, Ala., said another high-ranking Pentagon official. The fifth man may have received language instruction at Lackland Air Force Base in San Antonio, Tex. Both were former Saudi Air Force pilots who had

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come to the United States, according to the Pentagon source.... NEWSWEEK visited the base early Saturday morning, where military police confirmed that the address housed foreign military flight trainees.... It is not unusual for foreign nationals to train at US military facilities. A former Navy pilot told NEWSWEEK that during his years on the base, “we always, always, always trained other countries’ pilots. When I was there two decades ago, it was Iranians. The shah was in power. Whoever the country du jour is, that’s whose pilots we train.”

Candidates begin with “an officer’s equivalent of boot camp,” he said. “Then they would put them through flight training.” The US has a long-standing agreement with Saudi Arabia—a key ally in the 1990-91 gulf war—to train pilots for its National Guard. Candidates are trained in air combat on several Army and Navy bases. Training is paid for by Saudi Arabia.<sup>19</sup>

*Knight Ridder* news service provided more specific details of the findings. Mohamed Atta had attended International Officers School at Maxwell Air Force Base in Montgomery, Alabama; Abdulaziz Alomari had attended Aerospace Medical School at Brooks Air Force base in Texas; and Saeed Alghamdi had been to the Defense Language Institute in Monterey, California. Citing sources in the US Defense Department, the *New York Times* confirmed the same.<sup>20</sup> A Washington Post report further revealed that as many as “four of 19 suspected hijackers may have participated during the 1990s” in a “flight training program for foreign military trainees” at Pensacola Naval Air Station. “Two of 19 suspects named by the FBI, Saeed Alghamdi and Ahmed Alghamdi, have the same names as men listed at a housing facility for foreign military trainees at Pensacola. Two others, Hamza Alghamdi and Ahmed Alnami, have names similar to individuals listed in public records as using the same address inside the base.”<sup>21</sup>

The key problem here is that the hijackers would have required a certain degree of high-level security clearance to train at these military installations, and would have had their backgrounds thoroughly checked. But Mohamed Atta, for example, was on a terrorist watch list since 1986. How could this lapse have occurred?

Not long after these embarrassing reports of US military ties to al-Qaeda terrorists, the US Air Force issued an official statement of denial, arguing that “the name matches may not necessarily mean the students were the hijackers because of discrepancies in ages and other personal data.” Although some terrorists “had similar names to foreign alumni of US military courses,” these biographical discrepancies “indicate we are probably not talking about the same people.” But the government has refused to substantiate the denial, by preventing the publication of the relevant biographical data that would actually prove the discrepancies. On September 16, 2001, news reports asserted that: “Officials would not release ages, country of origin or any other specific details of the three individuals”—and have refused to do so to date.

The most pertinent illustration of the duplicity of official explanations, however, is that even Senate inquiries were simultaneously stonewalled by government officials from three agencies and departments—the Department of Justice, the Department of Defense, and the FBI. When *Newsweek* reported that three of the hijackers were trained at the secure Pensacola Naval Station in Florida, Senator Bill Nelson faxed Attorney-General John Ashcroft demanding to know if it was true. On September 17, 2001, Senator Nelson also “asked the Pentagon to confirm or refute reports that two of the terrorists were listed at a housing facility for foreign military officers at a Pensacola Florida Air Base.”<sup>22</sup> By September 21, Senator Nelson “was informed that the FBI could neither say ‘yes’ or ‘no,’” according to Nelson’s press office. Apparently, the bureau was still “investigating any connection to the military facility.”<sup>23</sup> By October 30, 2001, journalist Daniel Hopsicker—who has been a producer at PBS *Wall Street Week*, an executive producer of NBC TV’s *Global Business*, and an investigative reporter for NBC News—contacted Senator Nelson’s office and was told that: “In the wake of those reports we asked about the Pensacola Naval Air Station but we never got a definitive answer from the Justice Department. So we asked the FBI for an answer ‘if and when’ they could provide us one. Their response to date has been that they are trying to sort through something complicated and difficult.”<sup>24</sup> What was so complicated and difficult about confirming the identity of the military trainees?

Curiously, in complete contradiction to the stance of other federal agencies, the US Air Force’s public position was that the matter was in fact solved, case closed. Hopsicker subsequently queried a major in the US Air Force’s Public Affairs Office who “was familiar with the question.” She explained: “Biographically, they’re not the same people. Some of the ages are 20 years off.” But when questioned to substantiate the specific discrepancy, she was forced to admit that *there was no discrepancy*. According to Hopsicker: “‘Some’ of the ages? We told her we were only interested in Atta. Was she saying that the age of the Mohamed Atta who attended the Air Force’s International Officer’s School at Maxwell Air Force Base was different from the terrorist Atta’s age as reported? Um, er, no, the major admitted.” Hopsicker

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asked if he could contact the other alleged “Mohamed Atta” at the International Officer’s School at Maxwell Air Force Base, who was purportedly confused with the chief 9/11 hijacker, so that he could confirm that they were indeed two different individuals. The major declined without explanation, stating that she did not “think you’re going to get that information.”<sup>25</sup>

But Hopsicker was not finished. In an interview with the Pentagon, Hopsicker was told by a spokesman for the US Defense Department that some terrorists did attend US military installations, but declined to release any further details:

Despite earlier denials, terrorists in the Sept. 11 attacks received training at secure US military bases, a Defense Department spokesman admitted.... In an interview with a reporter questioning the vaguely-worded Sept 16 Pentagon denial, the Defense Dept spokesman was asked to explain the particulars of fuzzy statements in which officials said “name matches *may not necessarily* mean the students were the hijackers,” and that discrepancies in biographical data indicate “we are *probably* not talking about the same people.”

Pressed repeatedly to provide specifics, the spokesperson finally admitted, “I do not have the authority to tell you who (which terrorists) attended which schools.” So it appears certain that at least some of the previous denials have been rendered inoperative, and that a list exists in the Defense Dept which names Sept 11 terrorists who received training at US military facilities, a list the Pentagon is in no hurry to make public.<sup>26</sup>

How did al-Qaeda terrorists receive clearance for training at secure US military facilities and for what purpose?

### **Mohamed Atta**

The US response to Mohamed Atta, the lead 9/11 hijacker, is an extraordinary example of the extent to which all the 9/11 hijackers were under the extensive surveillance of the US intelligence community. The German public TV channel, ARD, reported on November 23, 2001, that Mohamed Atta was subject to telephone monitoring by the Egyptian secret service, thus discovering that Atta had made at least one recent visit to Afghanistan from his home in Hamburg, Germany. The FBI had also been monitoring Atta’s movements for several months in 2000, when he traveled several times from Hamburg to Frankfurt and bought large quantities of chemicals potentially usable for building explosives. Atta’s name had also been mentioned in a Hamburg phone call between Islamic fundamentalists monitored by the German police in 1999.<sup>27</sup>

In January 2001, Atta was permitted reentry into the United States after a trip to Germany, despite being in violation of his visa status. He had landed in Miami on January 10 on a flight from Madrid on a tourist visa—yet he had told immigration inspectors that he was taking flying lessons in the US, for which an M-1 student visa is strictly required. Jeanne Butterfield, Executive Director of the American Immigration Lawyers Association, points out that: “Nine times out of 10, they would have told him to go back and file [for that status] overseas. You’re not supposed to come in as a visitor for pleasure and go to work or school.”<sup>28</sup> PBS’ *Frontlines* also takes note of “The failure of the INS to stop the attack’s ringleader, Mohamed Atta, from entering the US three times on a tourist visa in 2001, even though officials knew the visa had expired in 2000 and Atta had violated its terms by taking flight lessons.”<sup>29</sup>

This failure should be evaluated in context with the fact that Atta had been under FBI surveillance for stockpiling bomb-making materials. Furthermore, Canadian TV reported that Atta had already been implicated in a terrorist bombing in Israel, with the information passed on to the United States before he was first issued his tourist visa.<sup>30</sup> As Ken Garcia of the *San Francisco Chronicle* notes:

I realize that many people can fly under the radar of the nation’s security network, but I didn’t really think that they would include a number of international terrorists who were known to the FBI, the CIA, the State Department, the Immigration and Naturalization Service as well as numerous police agencies in the ballot-challenged state of Florida... at least one of the suicidal hijackers, Mohamed Atta, managed to travel in and out of the United States on an expired visa. *This despite the fact that Atta was on the government’s watch list of suspected terrorists and had been since 1986 when he was implicated in a bus bombing attack in Israel.*

Since Atta apparently flew under his own name on his many jaunts to Spain and Germany and back to the United States, you’d presumably think that someone in the FBI, CIA, State Department or the INS might have noticed his comings and goings.<sup>31</sup>

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Yet despite his terrorist connections—and despite being on a US government terrorist watch list since 1986—Atta was still allowed into the United States freely, and made repeated trips to Europe, each time returning to the US to be admitted by US customs and immigration without obstruction—not because visa regulations were lax, but because they were simply repeatedly violated. The London *Observer* notes in surprise that Atta:

... was under surveillance between January and May last year after he was reportedly observed buying large quantities of chemicals in Frankfurt, apparently for the production of explosives and for biological warfare.... The US agents reported to have trailed Atta are said to have failed to inform the German authorities about their investigation. The disclosure that Atta was being trailed by police long before 11 September raises the question why the attacks could not have been prevented with the man's arrest.<sup>32</sup>

In summary, despite being well known to authorities, Mohamed Atta seems to have led a rather charmed life. Although listed since 1986 on the State Department's terrorist watch list, he was repeatedly permitted to enter, leave, and return to the US freely. He had been under surveillance by US agents between January and May 2000 due to his suspicious purchase of large amounts of chemicals, which might be used to make explosives. In January 2001 he was detained by INS agents at Miami International Airport for 57 minutes due to previously overstaying a visa and failing to produce a proper visa to enter the US to train at a Florida flight school. But that did not stop him. Despite the FBI's longstanding concern that terrorists might be attending flight schools in the US, Atta was allowed to enroll in the Florida flight school. By April 2001, he was stopped by police for driving without a license. He failed to show up in court in May and a bench warrant was issued for his arrest. But that did not stop him either, because the warrant was never executed—although he was subsequently arrested for drunk driving on two more occasions. Throughout this period in the US, Atta never made any attempt to operate under an alias, traveling, living, and studying at the flight school under his real name.<sup>33</sup> Stranger still, Atta was in regular email contact with current and former employees of major US defense contractors, as revealed by a regular email list of some 40 individuals he maintained, discovered by the FBI in September 2001. One of the defense contractors is “a Canadian company called Virtual Prototypes, whose website touts the fact that the firm helped prototype the avionics instruments in the F-15 jet fighter, the F-22 Raptor, the B2 bomber and the Apache Longbow, among others.”<sup>34</sup>

It is hard to interpret this sequence of events in a benign light. In short, it seems to be an unavoidable—if inexplicable—conclusion that the US government knowingly and repeatedly granted free passage to a confirmed terrorist to enter the United States and undergo flight training. As the BBC observed: “The evidence... reinforces concerns that the international intelligence community may have known more about Atta before September 11 than was previously thought, but had failed to act.”<sup>35</sup> The BBC's conclusion is buttressed by revelations that US intelligence had *not* ceased monitoring Mohamed Atta's activities when he entered the United States. According to the *Miami Herald*: “A secretive US eavesdropping agency monitored telephone conversations before Sept. 11 between the suspected commander of the World Trade Center and Pentagon attacks and the alleged chief hijacker.” According to anonymous US officials “the conversations between Khalid Shaikh Mohammed and Mohamed Atta were intercepted by the National Security Agency, or NSA, an intelligence agency that monitors and decodes foreign communications...

The officials declined to disclose the nature of the discussions between Mohammed, a known leader of Osama bin Laden's al Qaeda network who is on the FBI's Most Wanted Terrorists list, and Atta, who is believed to have piloted one of the planes that hit the World Trade Center after honing his flying skills at a Venice, Fla., aviation school. Khalid Shaikh Mohammed is believed to be hiding in Pakistan.... The senior intelligence official said that when the NSA monitored their conversations, Mohammed was overseas and Atta was in the United States.

Mohammed was included on the FBI's Most Wanted Terrorist List when it was published in October because he had been indicted on charges of being involved in a failed 1995 plot [i.e. Project Bojinka] to bomb 11 US airliners flying over the Pacific Ocean on a single day. The US Justice Department has offered a \$25 million reward for him.<sup>36</sup>

Notably, the *Herald* also points out that: “The NSA is prohibited by law from monitoring calls to and from the United States without special court orders.”<sup>37</sup> In other words, the monitoring of Atta's communications could only occur with special high-level legal approval sought by either the CIA or the FBI.

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It should be noted that according to US counterterrorism officials, Khalid Sheikh Mohammed—on the most wanted list—was the key operational planner behind the 9/11 attacks. His conversations with Atta, monitored by the NSA, presumably would have revealed extensive details of the unfolding terror plot. Indeed, the London *Independent* reports that: “Officials say that Mr. Mohammed received a telephone call from Mohammed Atta, the hijackers’ ringleader, on 10 September. Intelligence officials who monitored and then translated that conversation believe that using coded language, Mr. Mohammed gave Mr. Atta the final approval to launch the strikes.”<sup>38</sup>

### Conclusions

The 9/11 hijackers were clearly not Islamic extremists. It is difficult to see how this fact fits with the conventional assumption that they were devout members of Osama bin Laden’s al-Qaeda. Furthermore and/or alternatively, it is difficult to see how, if they indeed *were* members of al-Qaeda, how the conventional depiction of al-Qaeda as a network of devout, militant Islamic extremists can be maintained given their distinctively un-Islamic conduct.

The question arises as to who these people were, and/or alternatively what was the nature of this apparent al-Qaeda cell? The official narrative as it stands cannot resolve this problem. The question is exacerbated in light of the fact that the majority of the 9/11 hijackers repeatedly entered and re-entered the United States on blatantly fraudulent visas, supplied by the US consulate in Jeddah, which has according to reliable sources been traditionally used by the CIA. Worse still, many of these hijackers while in the United States somehow managed to obtain high-level security clearance to train at several US military installations. This occurred even though most of the hijackers – I have given only one example here that of Mohamed Atta - were known to the US intelligence community, placed under extensive surveillance, and even placed on terrorist watch lists. For further examples of other hijackers, please see my book, *The War on Truth*. In summary, then, these individuals were simultaneously connected to both the US military and al-Qaeda, moved in and out of the United States on fraudulent and invalid visas with impunity while often on terrorist watch lists, were almost continuously monitored by intelligence agencies, and conducted themselves in a manner in flat contradiction to the strict precepts of al-Qaeda puritanism.

### Notes

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CONFRONTING TERROR FINANCING THROUGH MULTILATERAL ORGANIZATIONS—WG9 REPORT  
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I	Summary and Recommendation
II	Confronting Terrorism Financing in the Muslim World
III	Assessment of the "War against Terror-Funding"
IV	A new multilateral approach in the fight against terrorism
V	Conclusion
VI	Final Summary, 8 <sup>th</sup> March, 2005

Note: Annexes not included here.

### I. Summary and Recommendation

More than three years after the attacks of 11 September 2001, and after diligent efforts by multilateral organizations, terrorist funding mechanisms and their networks remain obscure, the flow of money poorly understood, and no credible



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and effective interdiction strategy to prevent future attacks has emerged. Most members of WG9, (with the exception of one annexed dissent) attribute this failure in confronting terrorism financing to the inability of the international community to adhere to and apply universally acceptable governance principles solidly based upon democratic principles.<sup>[1]</sup> Instead of pursuing a unified strategy under the umbrella of the United Nations, contradicting national efforts have fractured the UN Security Council's lead-role into paralyses. Responding to this harmful dissent by intensifying the search for common ground is one of the recommendations unanimously embraced by WG9.

While WG9 understands that confronting terrorist activities will always be first the responsibility of States, critical responsibilities should and must be delegated to appropriately structured multilateral bodies and to the private sector. While the precise nature of responsive political initiatives still offers ground for disagreement, it is agreed that the grave and urgent character of global terrorist financing needs to be met by a bold and comprehensive agenda that breaks with outdated conventions when necessary.

Recognizing limitations imposed by time constraints and analytical means, the members of the WG9 recommends to the Members of the Club of Madrid that three Panels of individuals with significant technical and practical experiences (Annex 1) are appointed to further develop the following three initiatives:

1. The creation of an independent International Anti-terrorism Financing Centre supervised by the UNSC, with a mandate to lead and coordinate all multilateral anti-terrorism funding activities. (Annex 3 and 4)
2. The creation of an International Judicial Review Process that will strengthen sound democratic principals in the fight against terrorism funding networks. Mandated by the UNSC, a judicial body will serve as the ultimate review instance to which cases may be referred to by nations or to which suspects may appeal for a final review of the evidence against them. The court might also serve as an alternative process in the freezing of alleged terrorist assets, and the administration and distribution of confiscated terrorist funds. (Annex 5)
3. The definition and integration of preventive Forward-Looking Compliance methods involving carefully maximized information sharing schemes that are suitable for adaptation into the West's and the Muslim world's fight against terrorist financing (Annex 2).

## II. Confronting Terrorism Financing in the Muslim World

Up to date, studies have not resulted in a coherent understanding of the origins of Jihadist funding networks. A synthesized explanation of its mechanisms is not available either, and consequently, efforts to confront terrorist financial networks rest on anecdotal and isolated accounts. The current understanding stops at the point where various factors are perceived to contribute to independent growth of funding sources. There is growing certainty that these funding sources are interlinked with regional grievances, anti-western sentiments, and pan-Islamist aspirations.<sup>[2]</sup>

The analysis of the main characteristics of global and regional terrorist funding shows that: Jihadist funding networks have no or little formal structures in a Western sense and that informal, personal initiatives are the bloodlines of terrorist funding.

Moreover, confronting terrorist financing in the Muslim world has been an uphill struggle. Only 25% of the total amount of terror money frozen since 9/11 was seized in the Muslim world. WG9 believes that this was a major failure in countering terrorism financing since Jihadist groups appear to continue their sourcing in Muslim nations through the Islamic economic system, i.e. using financial entities based in this part of the world. In addition to the ideological motives discussed above, economic and institutional weaknesses in the Muslim world seem to be at the root of this phenomenon.<sup>[3]</sup>

Other factors have hindered strategies to counter terrorism financing in the Muslim world. WG9 strongly believes that the poor results relate also to the following additional factors:

- The lack of technical and institutional capacities has been insufficiently compensated by international aid and assistance programs most importantly in failed or nearly-failed States whose financial systems continue to operate in a regulatory vacuum;

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- Lack of independence and transparency in judicial and political entities as well as in the financial structures obstruct monitoring and enforcement of good governance and compliance;
- Absence of accepted financial standards in the Muslim world and not imposed by the West.<sup>[4]</sup>

### III. Assessment of the “War against Terror-Funding”<sup>[5]</sup>

Having established the causes of the poor results of confronting terror financing in the Muslim world, WG9 has assessed Western actions. Efforts to combat terrorism predate the attacks of 11 September 2001.<sup>[6]</sup> However, they failed to generate a coherent global strategy to counter the informal nature of Jihadist funding mechanisms. Opportunities were also missed to assist weak governments in order to enhance their capacities to respond to terrorism.

11 September 2001 did not prompt a new strategy to confront terror financing. UNSC Resolution 1373<sup>[7]</sup> (2001) contained no new sanctions, but it strengthened UNSC Resolution 1267 from October 1999 whose smart sanctions against the Taliban and al Qaida involved the freezing of financial assets. The 11 September attacks did speed up the activation of the Monitoring Group whose principal mandate was to report on member state’s compliance with UNSC resolutions. In response to these measures, some UN member states submitted a significant number of terrorist suspects and terrorist funding networks for inclusion into the UN’s consolidated lists of Taliban and Al-Qaida associates. However, this mechanism was soon perceived to be flawed. Lack of evidentiary standards allowed blacklisting of financial entities such as Al-Barakat or Al-Taqwa. Even after more than 3 years these standards have not successfully passed tests in court of laws. Their premature black-listings pre-empted potentially critical intelligence gains that might have resulted from more orderly investigative efforts. In addition, UN-Member states used the excuse of insufficient due process procedures for their lack of compliance with UNSC Resolutions.

Lack of unity, in turn, undermined the credibility of the UNSC and its role in confronting terrorism financing.<sup>[8]</sup> Against this background, countries are left with no other choice but to pursue their unilateral initiatives to confront terrorism financing.

### IV. A new multilateral approach in the “Fight against Terrorism-Funding”

#### A. Democratic principles for multilateral efforts

WG9 members believe that while terrorism will likely remain the primary responsibility of States, supporting multilateral efforts should be undertaken. However, to sustain the expected long-term confrontation with terror financing, new initiatives must be based on democratic principles to guarantee the necessary stability and cohesion. While differences in the exact interpretation of these supporting multilateral efforts must be worked out, the Group is united in proposing two initiatives:

- The first aims at the establishment of a centre that will have overall responsibility in multilateral counter-terrorism activities as explained in two alternative conceptual papers (Annex 3 and 4).
- With the second initiative, WG9 wishes to provide a practical path to the democratic grounding of the fight against terrorism by establishing a judicial review process (Annex 5).

WG9 believes that the democratic principles to confront terror financing must include the following elements:

1. All multilateral efforts against terrorism funding networks should be undertaken under the direct supervision of the UNSC.
2. All multilaterally endorsed punitive actions against terror funding networks should be based on verifiable evidence, that lives up to internationally well established prima-facie evidentiary standards, and that can be challenged in a specially designated judicial review process.
3. Evidentiary standards that allow punitive actions, the procedures under which a court reviews accusations, and other internationally compatible due process standards have to be defined by a panel of globally respected

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legal experts, taking into account not only Western, but also other legal philosophical principals such as the *Sharia* law.

### **B. Enhance compliance methods as part of a preventive strategy**

If confronting terrorists and preventing terror attacks has challenged even the most sophisticated defences modern nations have at their disposal, then confronting terrorism funding networks and preventing funds from reaching terrorists has proven to be an impossible task. The fact that terror attacks continue at a nearly unabated pace and that most intelligence indicates growth in terrorist recruiting, supports the view of many WG9 experts that terrorism funding can not be stopped, but at best, be curtailed or made more difficult. Only the removal of the root causes of terrorism, and the removal of the disorder in preventive counter-terrorism strategies will end terror financing.

Improved provisions in counter terrorism funding should for example address the most urgent and obvious lack of defences, which is the use of legitimate funds and legitimate financial institutions for terrorist attacks. The 9/11 attackers operated with seemingly legitimate money. They opened accounts at over a dozen reputable international banks, and transferred, deposited and withdrew funds without triggering any alarms in the compliance and security centres of these banks.

That these gap have to be closed should be evident, even if one accepts as WG9 members do, that most Western nations have adopted adequate legislations and regulations to confront terror funding networks. The greater challenge appears to be the effective implementation of these rules and regulations. Is the “Know your customer” rule adequately complied with, if a prospective terrorist can open an account and transfer funds? And how can services be denied to clients, who may use funds in the future for illegitimate acts, if the true intention of the client is not known to the financial institution?

While these questions present impossible challenges, WG9 believes that responses can be optimized, and results maximized within the existing regulatory and legal means if the information gap that exists between relevant private sector partners (banks, fiduciaries, incorporation services, etc) and government entities with the responsibility to combat terrorism is reduced. It no longer suffices for governments to accumulate vast, secret intelligence files, without carefully determining where, how and when to best utilize this information in partnership with the private sector to enhance the prevention of terrorist acts. In an enhanced information sharing scheme with those who have a demonstrable need to know, the established network of Financial Intelligence Units as defined under the Egmont Group<sup>[9]</sup> could take responsibility for disseminating critical information to private sector compliance officers (Annex 2).

### **V. Areas of disagreements**

After intense debates over more than two months, WG9 has not come to a unanimous consensus on the questions whether “the War on Terrorism” has been a success or a failure. Disagreements pertaining to the statement that there is “no credible and effective interdiction policy” and that this failure is due to the lack of democratic principles” were most vigorous. In some cases, disagreements over interpretative issues were resolved, for example in the definition of functions of a proposed Anti-Terrorism Financing Center. In this case, WG9 decided to present the two competing viewpoints.

The proposed repositioning of counter-terrorism assets for the purpose of enhancing prevention efforts, found equally strong, and well reasoned rejections. While the importance of enhanced sharing of individual sensitive information where necessary was underscored by all members of WG9, a few well informed individuals of the Group warn about security risks of private sector actors, the integrity of classified information. Serious doubts were raised about a possible partnership with a financial industry that already stands accused of frequent disregard for its compliance obligations.

The core of disagreements among WG9 members is an emotional confrontation over actions taken after 11 September. Both, those who oppose and those who support these strategies express strong views and appear to have little flexibility in accepting opposing views. This observation appears significant because it reflects controversies observed at the UNSC as well as the stalemating of possible advances in counter-terrorism funding efforts. The overarching observation that is supported by all members of WG9 must be that the most urgent issue facing not only WG9 but the

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world is the ongoing need to build consensus and a common agenda under which all democracies can work in a united way towards a safer world.

### **V. Conclusion**

Proposals by WG9 are mostly focused on enhancing the role of the multilateral role in counter-terrorism funding efforts. Broadly speaking, they aim at the establishment of a centre for anti-terrorism, and at the creation of a judicial adjunct in charge of reviewing terrorism related issues under the umbrella of the UN. The third initiative attempts to formulate a comprehensive strategy of terrorism funding prevention and is suited for adaptation in a national as well as multinational context.

The complexities of these three initiatives are commensurate with the nature of the present global threat and the international community should follow precedents, that is has established with specialized agencies dedicated to the fight against drugs, AIDS, or hunger. As these cases have demonstrated, global solutions to global threats require adjustments in the way nations relate to each other and these adjustments should not be avoided merely because of potentially far reaching ramifications. Conscious of the difficulty of this challenge, WG9 does not recommend a one-step path to the solution but encourages further explorations by Panels of individuals with appropriate expertise. WG9 views one of its responsibilities in preparing the path that these Panels must walk (Annex 1).

### **VI. Final Summary, 8<sup>th</sup> March 2005**

The international community needs urgently to address terrorist financing as a fundamentally new problem that requires new solutions. The international community should not divert existing resources from organized crime and in this context we propose a series of interlinked measures that will prevent the further degradation of democratic rule, while offering the best possible chance of disrupting or preventing efforts by terrorist organizations to utilise their financial and economic resources.

We recognize that terrorist finance is not to be confused with financial criminality, typically associated with offshore tax havens and tax evasion. While recognizing that terrorists have become remarkably innovative in the way they handle, distribute and conceal their financial arrangements, with much of their activity taking place in the informal sector, we are aware that they make extensive use of formal financial institutions in both the east and the west.

Second, we believe strongly in an international and multilateral approach to this problem. Ad hoc arrangements made by individual states are not enough to combat this extremely serious threat. We are very conscious of the fact that prevention requires forward looking measures and extensive sharing of information.

Our proposal encompass three components: the creation of an independent terrorist finance centre mandated under Chapter 7 of the UN Charter whose aim would be the collection, analysis and dissemination of information on the ways in which terrorists acquire and use their access to financial resources; the creation of a judicial review process to put onto a legal footing the anti-terrorist measures already taken by the international community; and the creation of forward compliance mechanisms as a means to institutionalize measures to prevent the spread of terrorist activity.

#### **Terrorist Finance Centre**

Specifically, the terrorist finance centre would be of particular importance to countries that lack the resources to fully monitor the activities and behaviour patterns of terrorists. It would aim to research new ways in which terrorists seek to raise and move money, to offer substantial training – particularly to banking and financial staff, enforcement officials and others - and to disseminate this information to a wide range of recipients. The aim of this centre would be to create a body of knowledge from first principles on how terrorist financing actually works.

The centre would not be a prosecuting body, but in certain cases would refer material to an independent tribunal, such as that mentioned below, or to domestic legal authorities.

#### **Judicial Review**

We are also particularly concerned that the fight against terrorist finances should be on a legal footing. Decisions taken by the international community to act against institutions and individuals must be subject to legal oversight. This must

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be done through a mixture of cooperation between domestic legal tribunals and an international body, sanctioned by the UNSC or an international treaty.

For example, the blacklisting or freezing of terrorist assets at an international level is presently subject to no kind of legal oversight. In contrast we believe that even if measures have to be taken as a matter of urgency to prevent terrorists obtaining access to funds, anyone affected should still have a legal right to challenge such a decision.

We recognize that prosecution of those involved in financing terrorism will continue to be primarily a duty of every state. However, in some cases we recognize that it will be appropriate for prosecution to take place through an international legal tribunal set up specifically for the purpose. This will particularly apply in cases where a state refuses or is unable to prosecute. In these cases an independent international tribunal should act under authority conferred on it by the UNSC or another treaty.

### **Forward Compliance**

In relation to forward compliance measures, we are referring to opportunities to utilise all available and relevant information from the private and public sectors. In this context, financial intelligence units (FIUs) organized under the Egmont group appear to be best suited to assume the burden of implementing these measures. However, the mandates of the FIUs should be expanded to include information sharing procedures, not only with the financial institutions but also with all supporting agencies and industries such as corporate registers and incorporation services, fiduciary and legal services.

### Notes

[1] Some members of WG9 believe that a specialized ad-hoc organization, within the UN, such as a forum for informed discussions about counter-terrorism financing strategies and international policies might have contributed to achieve better results.

[2] Examples for such linkages are:

1) In its efforts to counter Western influence on Muslim countries globally operating terrorist organizations such as Al-Qaida or the Abu Nidal Organization have in the past obtained funding from Libya, Syria and Iran and are now presumably receiving funds from a widely diversified group of constituencies and supporters.

2) Palestinian liberation movements like Al Aqsa Martyrs Brigades, Palestinian Islamic Jihad, Palestine Liberation Front or the Popular Front for the Liberation of Palestine sometimes combined with Islamic fundamentalism as pursued by Hamas, are sponsored by expatriate Palestinians, private donors of Saudi-Arabia and the Gulf States, as well as Iran and Muslim charities.

3) Shiite militants opposed to Western influence in Lebanon such as Hezbollah obtain funding from Syria and Iran.

4) Dreams of a united Malay archipelago, or “Nusantara” that go back to the early part of the 20th, spurred South-East Asian terrorism represented by Jemaah Islamiyah or the Abu Sayyaf Group. They obtain funding through charities, ransom payments and promotion of a regional Islamist economy. These efforts are strengthened by the regimes in Malaysia and Indonesia who have pan-Islamic aspirations that are in alignment with the Jemaah Islamiyah, the Al-Qaeda client in South East Asia. This phenomenon further facilitates terrorism funding in these countries.

[3] Traditionally, Malaysia and Indonesia have weak corporate governance systems. This shortcoming came to light in 1997 during the Asian Crisis. Lack of compliance with UN sanctions as well as reluctance in the policing of terrorist financing activities indicate a persistent and greater problem. Malaysia and Indonesia also rely heavily on foreign capital, even more so since the Asian Crisis. They have lax legislations, or in some regions none at all, to identify the origins of capital inflows. Sheik Yassin Al Qadi, who was put on the UN list of terror financiers in 2001, owns a company in Malaysia, Abrar Group International Sdn Bhd, which is a major lender to both private and public projects. This may explain why he is allowed to continue in business in Malaysia, despite the freeze on his funds elsewhere in the world and why he has been granted Malaysian citizenship back in the mid 1990s.

Finally, an international regime that allows for that somewhat artificial distinction between legal tax avoidance as opposed to an illegal tax evasion industry gives comfort to both countries that an excuse can always be found for their inaction. Often in both countries investigations into corporate crimes invariably come to nothing for the reasons of “insufficient evidence due to privacy laws”, and “banking secrecy” etc. Malaysia is a common law country and the tricks of the common law have been well learnt. The identity of the actual beneficiaries of shares in a number of Malaysian companies is not known. Malaysian company and security laws and regulations require disclosure of the identity of persons holding more than 2% of issued capital.

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However-there is an exception where the shareholder is a trustee who holds as bare trustee ( these are usually companies that provide trustee services; including the major banks). Then disclosure of the ultimate beneficiary is not required. Needless to say, very many companies listed on the Kuala Lumpur Stock Exchange have trustees who hold as bare trustees among their shareholders. In the event that the shares are held via a number of bare trustees so that the 2% threshold is not breached, even the identity of the bare trustee would not be known.

ii) The use of orphan companies -i.e. companies in which the shareholder on record is itself a company ,but which holds on trust for a charitable purpose-thus the identity of the actual shareholders is not disclosed. This was the case with the recent high-profile Initial Public Offering and listing of Air Asia Bhd, operator of the largest budget airline in South East Asia. A Cayman Island company was among the offerors. The company's ultimate beneficiaries were unnamed charities. This Cayman Island company in turn was said to be funded by DVB Bank of Germany, but DVB has refused to say if it is the ultimate beneficiary.

The other major shareholders are of Middle Eastern origin, i.e. Crescent Venture Partners-which is controlled by Sami A. Sindi; (former son in-law of Nemir Kirdar who controls Investcorp S.A. of Bahrain) and the Islamic Development Bank (IDB) Infrastructure Fund .

iii) Malaysia only taxes income received in Malaysia. Thus, most Malaysian exporters have their earnings deposited in Singapore. Therefore, for example, a terrorist linked company (here we know that bin Laden operated a number of businesses in Malaysia) could export Malaysian resources or produce (say timber) to anywhere in the world, have the proceeds deposited in Singapore; and then from Singapore sent to any part of the world desired. The Malaysian authorities would not mind-the arrangement is legal and does not evade tax-it legally avoids tax. And should the Singapore authorities ask, the explanation that these are the export earnings of a Malaysian company being invested elsewhere can easily be provided and verified.

[4] The (organised and official) Muslim world financial industry, for the most part, does not operate on sharia-based mores – it operates mostly according to Western norms, and mostly as part of the global system (the major players do anyway – I'm referring mostly to the banking sector here). Even the Saudi Arabian financial industry is not particularly Islamic. However, 'Islamic banking' is a growing sub-sector of the industry in the Muslim world.

As far as I know, there should not be a big philosophical obstacle in coordinating Islamic banking with global standards of regulation and monitoring, and there should be much to be gained by including representatives from the Islamic banking sector in any body charged with tightening/improving global financial standards with countering terror financing in mind.

[5] To distinguish between current anti-terrorism activities from enhanced future ways, WG9 juxtaposes the colloquial terms "War against Terrorism-Funding" versus "Fight against Terrorism-Funding". WG9 advocates less biased and more illustrative terms such as "Confronting Terrorism Financing", or "Attacking Terrorism Funding Networks".

[6] Beginning in September 1963 the international community covered with successive 12 UN Conventions terrorist threats ranging from attacks against civilian passenger aircrafts to funding. The latter was addressed with the 1999 UN-Convention for the Suppression of the Financing of Terrorism.

[7] UNSC Resolution 1373 (2001) was adopted, under Chapter VII of the UN-Charter, that among other provisions, called upon all states to implement appropriate legislation concerning countering terrorist financing

[8] When effective sanction compliance was structurally flawed, the credibility of UNSC was further undermined, when two of its "P/5" members "brushed aside" the UNSC in order to prosecute the invasion of Iraq. By end of 2004 the UNSC efforts faltered on many fronts:

- By the end of 2003, only US\$75 million of Al-Qaeda related assets had reportedly been frozen, most of it by the middle of 2002;
- Compliance with reporting obligations by UN member States under Resolution 1373 was fading rapidly;
- Mandated reporting by UN member states of investigative results revealed less and less useful information;
- Mandated reporting by UN member states of terrorist suspects were minimal;
- Evidence in support of suspects' UN listings did not withstanding serious judicial tests;
- Too many states have insufficient means to comply with UNSC Resolutions, and promised financial and technical assistance remains insignificant;
- The Monitoring Group, which had aggressively pursued non-compliant States was disbanded, and replaced with a toothless analytical support team.
- Bureaucratizing UN anti-terrorism measures with three Committees leaves no confidence in improvements.

[9] The Egmont Group as initiator of national Financial Intelligence Units as elements of enhanced international co-operation in all matters related to money laundering and other financial crimes, has provided invaluable pioneer services to the international community. The network serves as a two-way exchange where financial institutions can report relevant information as do government agencies. With currently 94 countries operating Financial Intelligence

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Units, and others in various stages of development, the Egmont Group's initiative is well on its way to become the authority in the field of sharing methods for sensitive information. Unfortunately, many governments have neglected to sufficiently integrate this system into an advanced international scheme to prevent terrorism financing.

### USA PATRIOT ACT: OVERVIEW OF STATUTE AND SUMMARY OF KEY SECTIONS

by C. William Michaels, Esq., author of *No Greater Threat* (see [www.nogreatertreat.com](http://www.nogreatertreat.com)).

[revised as of 12/30/04]

USA PATRIOT Act: "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism" P.L. 107-56 [H.R. 3162] October 26, 2001

Note: *Vast majority of PATRIOT Act is permanent and does not sunset. Some Title II Sections scheduled to go inactive in 12/31/05; Title III in its entirety could have been inactivated if Congress passed joint resolution so stating, by 10/1/05, BUT a provision in Intelligence Reform and Terrorism Prevention Act of 2004 eliminated Title III section to invalidate it by resolution.]*

#### **TITLE I: ENHANCING DOMESTIC SECURITY AGAINST TERRORISM**

[Creates or expands federal government offices for investigating terrorism, provides new or increased funding, sets tone for Sections to come]

- Sec. 101            counterterrorism fund  
(to assist with bringing back to operation any government office damaged by a terrorist attack, support in investigating and prosecuting international or domestic terrorism, conducting threat assessments)
- Sec. 103            FBI tech support center  
(originally established under Antiterrorism and Effective Death Penalty Act of 1996, with declining appropriations, now gets \$200 million for each of fiscal years 2002, 2003, and 2004, likely to continue afterwards).
- Sec. 105            electronic crimes task force  
(further establishes government policy to be more aggressive in electronic crimes, task force to be part of Secret Service or Treasury, to establish a network to assist in preventing, detecting, and investigating "various forms of electronic crimes, including potential terrorist attacks against critical infrastructure and financial payment systems")

#### **TITLE II: ENHANCED SURVEILLANCE PROCEDURES**

[Establishes ongoing policy throughout Act of new or expanded information *gathering* authorities for federal investigative agencies (often without court order) coupled with new or expanded information *sharing* mandates between such agencies. Generally involves "foreign intelligence" or "foreign intelligence information" (see FISA) although these definitions can have wide interpretations. Objective: federal investigative agencies should be able to gather what they need, right away, and share terrorist-related information with other agencies, right away.]

- Sec. 203            note definition of "foreign intelligence information"  
has basically two definitions: 1) information that "relates to" the ability of the United States to protect against actual or potential attack or grave hostile acts, sabotage or international terrorism, or clandestine intelligence activities of "a foreign power or agent of a foreign power," OR 2) information "with respect to a foreign power or foreign territory" that "relates to" the "national defense or the security" of the United States or "the conduct of the foreign affairs" of the United States. First part of definition is specific, second part is potentially very broad.  
This section establishes new levels of information sharing that are a part of the general policies or themes of the Act, *including sharing of grand jury information or testimony* (the grand jury information sharing DOES NOT SUNSET), and sharing of all types of information with wide range of government agencies so long as it involves "foreign intelligence"  
(see new 18 U.S.C. 2517(6), USAPA at Sec. 203(b)(1) adding this section-- very educational as to scope)

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"Any investigative or law enforcement officer, or attorney for the Government, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents to any other Federal law enforcement, intelligence, protective, immigration, national defense, or national security official to the extent that contents include foreign intelligence or counterintelligence...or foreign intelligence information...to assist the official who is to receive that information in the performance of [his] official duties."

- Sec. 218 increase in scope of warrants under Foreign Intelligence Surveillance Act (1978) (FISA) (changing from "the purpose" to "a significant purpose", as the basis or rationale for seeking a FISA warrant, expands warrant reach)
- Sec. 207\*, 208 increased duration of FISA warrants and increase in FISA judges (adds other FISA judges--from 7 to 11 judges--these are federal judges appointed by Chief Justice. Function of FISA court is to review FISA warrant and surveillance applications. Much of this process and the details of the FISA warrant applications are either highly confidential or classified. [Sec. 207 as to duration of FISA warrants, DOES SUNSET])
- Sec. 209 voice mail treated like e-mail, that is, taking voice mail out of requirements of certain wiretap statutes (and see also, Sec. 505 as to telephone and transaction records). This begins another theme of the PATRIOT Act to streamline and simplify warrant and surveillance requirements in other forms of criminal investigation, and reduce court involvement or scrutiny. [NO SUNSET]
- Sec. 215\* access to "any tangible thing" in investigating terrorism, including that of US citizen (with 1<sup>st</sup> Amendment exception). [this amends FISA but could be viewed as going beyond FISA-type investigation], note that DOJ is to report to Congress on extent of these activities [NOTE: This Section has received much of the attention that has been devoted to Title II. The access to any tangible thing is as broad as a statute can get, and the court "order" that is to be issued for such access, is not a standard warrant based on probable cause, but under other guidelines developed by FBI and upon certification that the information is needed. There also appears to be no allowance for court scrutiny, the section says that upon receiving the application, the court "shall" issue the order. Although bookstores and libraries are not specifically mentioned, it has been pointed out that this Section would conceivably allow government access to records of library and bookstore patrons.] [DOES SUNSET]
- Sec. 213 delayed notification of "non-physical search warrants" (sneak and peek warrants [does not appear to be restricted to FISA although ordinarily used in FISA investigations]) There have been attempts in Congress to restrict or de-fund this Section (see "Otter Amendment"). Although "sneek and peak" warrants have been upheld by some federal courts as within Fourth Amendment scope, this is the first instance of a federal statute that acknowledges, recognizes, and plainly permits use and execution of these warrants. [NO SUNSET]
- Sec. 212\* voluntary and required disclosures by ISPs of customer information Allows ISPs to provide information relating to e-mails that may indicate activity of an emergency or harmful nature, directly to federal investigators. [DOES SUNSET]
- Sec. 215\*/216 expanded authorities as to electronic surveillance and investigation of communication networks and ISPs ("Carnivore" program?) FBI's "Carnivore" program (see DCS 1000), extensive computer program to track/monitor or read e-mails, technically was suspended due to public concern, but through this Section, investigative programs or methods of this type are clearly permitted. [Sec. 215 will sunset, but Sec. 216 DOES NOT SUNSET].
- Sec. 219/220\* single jurisdiction search warrants, nationwide service of warrants



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[Sec. 219 DOES NOT SUNSET, but Sec. 220 DOES SUNSET]

Sec. 223\* (civil action provision, suits OK'd for violations of civil rights, but such actions even if brought, can be stayed, see new 21 U.S.C. 2712(e))  
[Sec. 223 DOES SUNSET (although that seems illogical)]

Sec. 225\* immunity for compliance with FISA wiretap order, amends FISA Sec. 105 (50 U.S.C. Sec. 1805)  
[Sec. 225 DOES SUNSET]

### ***TITLE III: INTERNATIONAL MONEY LAUNDERING ABATEMENT AND ANTI-TERRORIST FINANCING ACT OF 2001***

[Longest PATRIOT Act Title, *bulk of Act Sections*, rewrites federal banking law, provides broader and in some instances, unprecedented investigative authority as to bank and bank records for particular accounts, establishes "minimal" and "enhanced" due diligence requirements for bank procedures as to certain types of accounts, essentially enlists banks as "partners" with government in tracking and investigating wide range of accounts in effort to prevent, detect or prosecute suspected terrorist financing. Expanded or new forfeiture and jurisdictional powers. Little public or media attention paid so far to this Title. A "sleeper" Title of Act. NO LONGER CAN BE INVALIDATED BY CONGRESS 10/1/05 BY JOINT RESOLUTION, by virtue of provision in Intelligence Reform and Terrorism Prevention Act of 2004]

[Note that amendment to Intelligence Authorization Act of 2003 (signed December, 2003), further expands "financial institution" to include, among other things: securities broker or dealer, currency exchanges, entity that issues or redeems cashier's checks or traveler's checks or money orders, insurance companies, dealers of precious metals or precious stones (jewelers), pawnbrokers, travel agencies, telegraph companies, retail dealers of cars or planes or boats, (potentially) real estate brokers, casinos with annual revenue exceeding \$1 million, Post Offices, and any other business designated by the Treasury Department "whose cash transactions have a high degree of usefulness in criminal, tax, or regulatory matters."]

Sec. 311 (money laundering/terrorist financing): "special measures" as to financial entities  
[note also expanded definition of "domestic financial institution", see Sec. 321]  
applies to any sort of account, although focused generally on payable-through and correspondent accounts

Sec. 312 (money laundering/terrorist financing):  
minimal and enhanced due diligence for certain accounts  
(these procedures are quite complex and involve various details such as Treasury regs., OFAC, FATF. See also, IRS' Operation Green Quest, DHS' Operation Cornerstone in DHS/BICE Office of Intelligence, etc)

Sec. 319 (money laundering/terrorist financing):  
120-hour rule for information (of almost any kind) sought from a domestic financial institution by federal authorities relating to compliance with new anti money laundering requirements (new 31 U.S.C. 5318(k))  
[Note: special measures order, 120-hr order, etc. *are NOT court orders*]

Sec. 319 (money laundering/terrorist financing):  
immediate access by federal authorities of records of foreign bank accounts regarding a correspondent account in domestic financial institution (no restriction as to account balance, etc., extreme non-compliance penalties)

Sec. 326 new or expanded requirements to verify identities of persons  
applying for new accounts (appears to apply to any person, any account)  
Many of these requirements have to do with what is called "minimal" and "enhanced" due diligence for banks and financial institutions regarding accounts of various types or descriptions. These are more specifically detailed in Treasury Department regulations that have been issued since the Act. The overall effect of these provisions, the regulations, and new policies are to make banks and domestic financial institutions essentially "partners" with federal investigators in tracking suspicious accounts or transactions and investigating money laundering or terrorist financing activities. Much of these provisions or language is not specifically restricted to terrorism.

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- Sec. 326 study to be done for new system of tracking foreign nationals, similar to social security numbers (see Sec. 326(b))
- Sec. 355 allowing information on suspicious activities of a bank employee to be included in employment reference
- Sec. 358 information as to consumer records to be revealed by consumer reporting agency (does not appear to be restricted to FISA investigations)
- Sec. 36 1/Sec. 362 new FinCEN office in Treasury, duties and powers, increased funding, new or expanded "highly secure network" for including or sharing information (this "network" to have been ready 9 mos. from date of Act)
- Sec. 316 long arm jurisdiction, new and expanded US District Court jurisdiction  
These new jurisdiction provisions allow for expanded federal court jurisdiction beyond what had been available in criminal law of this sort.
- Sec. 316/319 forfeiture provisions including forfeitures of interbank account funds, and also of "substitute property" which may not have had anything to do with crime involved (possible unconstitutional extension of forfeiture authority as a violation of ancient prohibition against "corruption of blood")
- [other Title III sections as to increased penalties, etc. expanded requirements in currency reporting--such as expanded requirements of Suspicious Activity Reports which will identify suspicious financial activity to government agents]

### ***TITLE IV: PROTECTING THE BORDER***

[Much of what has been written and discussed about PATRIOT Act has focused on Title II, Title IV, and some of Title VIII. Title IV takes immigration law to its outer limits with respect to seizure and detention of aliens suspected to be terrorists, identifies three types of terrorist groups (designations are left solely to the government and appears to be not subject to challenge), shifts border security policy with Canada and Mexico, sets up new guidelines or mandates for border security and entry-exit points including renewed commitment to machine-readable passports and biometric identification, and provides new or expanded information gathering authorities.]

- Sec. 403 new information system and access system between State, FBI, DOJ, as to NCIC-III and related files, with respect to visa applicants, etc.
- Sec. 403 new technology standard including use of biometric technology for obtaining and tracking information on visa applicants, etc. (and see related Sec. 1008)
- Sec. 414, 415, 417 new entry and exit system data system for entry points, machine-readable passports, etc. (obviously will link w/ Sec. 403 info) [new technologies]  
These new technologies are now being rapidly implemented, especially as part of new systems designed and installed through the Department of Homeland Security. Databases are being developed, such as through the Special Registration program, and persons are now being photographed and fingerprinted. These new systems will electronically link databases of various types to immigration authorities in reviewing visa applications, granting applications, monitoring entry and exit at border points, and if necessary tracking individuals. Even minor visa violations are being given increased or enhanced immigration emphasis. Much of these requirements are in place and were part of the Special Registration Program conducted by "INS" in 2002 and 2003--"database" is thus being "constructed."  
[Note: Many of these mandates are in programs now being managed chiefly by DHS, including NSEERS, US-VISIT, and other security or border protection initiatives]

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- Sec. 411 new definitions of "terrorism" for purposes of Title IV, *three* types of terrorist organization including (type III) (special note): **"a group of two or more individuals, whether organized or not"** that "engages in" certain terrorist activities (total latitude for federal authorities to identify such groups, including type III group, need not be restricted to aliens)
- Sec. 412 mandatory detention of certain aliens, seven bases for such detention, including that alien has "engaged in any other activity that endangers the national security of the United States."
- limited court review under *habeas corpus* or appeal, virtually indefinite "administrative" detention, person can be held for seven days without any charge or action (amend Immigration and Nationality Act for new 8 U.S.C. Sec. 1226A)
- [Note: This mandatory detention can be under conditions that are very suspect. The Office of Inspector General of the Department of Justice issued a report on the more than 1,200 detainees swept up immediately after September 11--although these actions were not under this Section--severely criticizing agency communication difficulties and processing delays in addressing those detained, and pointing out the often extreme conditions of confinement endured by the detainees, in some cases for 90 days or more. A follow up OIG Report added to this criticism. A limited number of the detainees may still be in custody. Note: to date, DOJ has said that it has not yet made use of this Section.]
- Sec. 412(c) reports by INS/DOJ to Congress on detentions under this Section, but report noteworthy for information *not* required or specified  
Reports do not have to state *exact names, locations of confinement, charges pending, names of counsel, date of detention, and the like.*  
[Note: A decision by the Court of Appeals for the District of Columbia Circuit approved a government policy of declining to release information of individuals detained under suspicion of terrorism, under an exception to the Freedom of Information Act. Supreme Court declined review. This basically allows for *secret arrests* in cases of aliens suspected of terrorism.]
- Sec. 416 expansion and increased funding of foreign student monitoring program (increased funding for this monitoring)

### ***TITLE V: REMOVING OBSTACLES TO INVESTIGATING TERRORISM***

[Continues with Act objectives of providing for new information gathering authorities. Notably, greatly expands DNA information bank, allows for government access to financial, educational and other records (upon certification by federal agent, without court order, and in secret), reaffirms commitment to coordination with law enforcement agencies.]

- Sec. 503 expanded DNA information bank (very greatly expanded under Act)  
Was a databank for crimes of violence or certain specific other crimes, but now the databank can include terrorist crimes--and if that includes material support for terrorism, the databank therefore would be expanded for various crimes that are not crimes of violence.
- Sec. 504 links investigation *of any crime* with information on foreign intelligence or terrorism, for purposes of information sharing.  
Again, expanded information sharing is part of the overall plan and approach for the PATRIOT Act, and will continue to be a new emphasis in government law enforcement policy.
- Sec. 505(c) expands Fair Credit Reporting Act to allow information access to

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consumer reports [not restricted to FISA-type investigation]

Sec. 507/508 disclosure of educational records [not restricted to FISA-type investigation] (note that in many of these sections, court order is not required and information can be obtained upon "certification" by an appropriate federal official that information is needed in particular investigation, there appears to be no opportunity for party who is to provide information to challenge "certification," and disclosure is secret and not subject to civil liability)

### ***TITLE VI: PROVIDING FOR VICTIMS OF TERRORISM, PUBLIC SAFETY OFFICERS, AND THEIR FAMILIES***

[Not of overall concern, many of these sections are finite and very specific, several of them are directed to addressing situations of aliens whose applications of one sort or another were in process during September 11. Note: victims' fund set up here is not the same compensation fund for September 11 victims and families now being administered through Special Master, that was established in another statute.]

### ***TITLE VII: INCREASED INFORMATION SHARING FOR CRITICAL INFRASTRUCTURE PROTECTION***

[Single-section "Title." Reaffirms infrastructure protection as major theme of governmental policy and one of the centerpieces of anti-terrorism investigation and planning. Establishes and funds a new "secure information sharing system" which apparently will be accessible to ALL law enforcement agencies (federal and State)]

Sec. 701 major initiative for "secure information sharing systems" to assist (apparently ALL law enforcement agencies) to investigate and prosecute "multi-jurisdictional" terrorist "conspiracies" AND "activities" (gets significant funding: \$50 M in FY '02, \$100 M in FY '03)

### ***TITLE VIII: STRENGTHENING CRIMINAL LAWS AGAINST TERRORISM***

[New federal crime of "domestic terrorism," revised expanded definition of existing "federal crime of terrorism," changes and for some crimes eliminates s/l, increased penalties, among them providing for possible LIFE in supervised release (see Sec. 812)]

Sec. 801 expanded definitions of terrorist attack against mass transport systems  
[Note: further expansion of these Sections in other statutes, including Homeland Security Act, amendments to other Acts, and Intelligence Reform and Terrorism Prevention Act of 2004].

Sec. 802 definition of new crime of "domestic terrorism"  
1--act dangerous to human life  
2--violation of Federal or State law  
3--"appear to be intended" to intimidate or coerce a civilian population, influence government policy by intimidation or coercion, or affect government conduct by "mass destruction, assassination or kidnapping," and  
4--occur primarily in United States.  
First requirement would take ordinarily political protest, marches, and rallies, etc. out of scope of domestic terrorism, but scenarios could be imagined where protest activity could technically be in the definition.  
[Note: Although this cannot be stated with certainty, to date it appears that there have been no federal prosecutions directly utilizing this statute.]

Sec. 803, 805 expands or clarifies crime of harboring or concealing, or providing material support for, terrorists, including expert advice or assistance

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This expansion of the material support for terrorism is also under criticism, for it includes a wide range of activity. "Material support" for terrorism as a separate crime was part of the Antiterrorism and Effective Death Penalty Act of 1996, but has been given a new emphasis with the PATRIOT Act. Further investigations and prosecutions of those supposedly linked to terrorism have been under these "material support" provisions and this will be expected to continue. Federal courts will be asked to look carefully at what is protected and private activity and what is actually material support for a terrorist act or terrorist group.

[Note: so far, at least one federal district court (in California) has struck down the "material support" language as too vague, so far the only successful challenge to the Act. A previous federal district court (in California) had struck down or criticized a similar "material support" provision in the AEDPA and this (appeared to be) affirmed by the Ninth Circuit--*Humanitarian Law Project v. Reno*--but provisions in Intelligence Reform and Terrorism Prevention Act of 2004 seek to clarify the scope and effect of "material support for terrorism" language.]

- Sec. 808 expanded "federal crime of terrorism," adding several new crimes to already very long list of crimes of violence against certain identified persons, entities, properties (government officials, mass transit systems, airlines, trains, government buildings and installations, etc.), also computer crimes (and see Sec. 814 as to cyberterrorism) (NOTE: as in all crimes, "attempt to commit" and "conspiracy to commit" are also crimes).
- Sec. 809, 810, 812 no S/L for certain terrorist crimes, increased penalties, including supervised release of up to life (unheard-of in fed. system until now)
- Sec. 816 new computer forensic laboratories and increased funding

### ***TITLE IX: IMPROVED INTELLIGENCE***

[Sets as new and public objective more direct information sharing between agencies such as FBI and CIA than has previously existed as a matter of plainly-stated statutory authority or governmental policy, establishes cross-agency training program to recognize "foreign intelligence information," in one rather dramatic section "deputizes" nearly every employee at any level of "intelligence community" (13 agencies) to aid in investigating terrorism, establishes or expands "foreign terrorist asset tracking center."]

- Sec. 901 mandates CIA to share "foreign intelligence" information with DOJ/FBI or similar federal law enforcement agency
- Sec. 903 "deputizes" all officers and employees (no restriction as to employment level) of the "intelligence community" (which is 13 agencies) and turns them into mini-CIA
- Sec. 905 the reverse of Sec. 901, mandates DOJ/FBI and similar federal law enforcement agencies to share "foreign intelligence" information with CIA (agencies "shall expeditiously disclose" such information)
- Sec. 908 cross-agency training to help all agents of various law enforcement to recognize "foreign intelligence information" when they see it in their investigations (links to Secs. 901 and 905) (Note: this training expressly is to include officials of *State and local governments*) [and see HSA]
- Sec. 906 potential new duties of Foreign Terrorist Asset Tracking Center  
This adds additional emphasis to the concern and government attention to financial activities and domestic bank accounts when it involves supposed terrorists, as well as adds international emphasis and authority to track assets and activity of suspected terrorists. Overall, these provisions and similar provisions through the Act, close any loopholes and provide greater governmental authority to investigate and monitor this activity.

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### ***TITLE X: MISCELLANEOUS***

[A grab-bag of Sections with varying effects: new DOJ office to investigate complaints of civil rights abuses (which is supposed to be widely advertised but is still virtually unknown), more authorities in infrastructure protection, sense of Congress as to bioterrorism (see later Act)]

- Sec. 1001 mandates special office in DOJ-OIG to "receive complaints alleging abuses of civil rights and civil liberties by employees and officials of" DOJ, which office is to make itself known through various Internet, radio, tv, and print advertisements (and so far appears still to be virtually unknown)  
Note: to date, little appears to have been done to meet the statutory requirement that this office make its existence known to the public.
- Sec. 1005 "First Responders Assistance Act" with considerable funding, allowing various "first responders" including those at State and local level, funds for among other things, terrorism investigation and anti-terrorism training
- Sec. 1008 Study for use of fingerprint/biometric i.d. at entry-exit points  
Further emphasis on biometrics, a new age is dawning for monitoring and entry-exit systems through the United States and possibly internationally
- Sec. 1013 Bioterrorism preparedness (and see recent statute passed by Congress)  
Much more on this is found in other statutes and in the Homeland Security Act through the Department of Homeland Security
- Sec. 1016 (mention): critical infrastructure protection, new studies, duties, funding (note: "infrastructure" includes computers, etc. and see Sec. 701)

### **SOME OVERALL THEMES OF USA PATRIOT ACT OF 2001:**

New technologies in investigation, surveillance, tracking, visa applications, biometrics, etc.

New law enforcement emphasis across the board (federal, State, local, esp. FBI-CIA-SecrServ)

New or expanded definitions (domestic terrorism, federal crime of terrorism, terrorist activity)

Greater use of current definitions under, until now, rather obscure Foreign Intelligence Surveillance Act of 1978 (FISA) (foreign intelligence, clandestine intelligence activities)

Greater use of and expanded purpose of FISA investigations ("significant purpose")

New or expanded definition of terrorism and terrorist groups as to aliens/foreign nationals

New or expanded authorities for investigation, surveillance, and information gathering (sneak and peek warrants/delayed notice, pen register and trap and trace devices, Carnivore-type computer investigative programs, single jurisdiction search warrants, national service of search warrants, voice mail treated like e-mail, much information gathering such as consumer records, educational records, business records, tangible objects not requiring a search warrant or any similar court order under standards of probable cause)

Greatly expanded authorities, investigation, and requirements as to domestic financial institutions with respect to money laundering/terrorist financing, but this clearly goes far beyond just foreign nationals or aliens with bank accounts, and reaches various other accounts and transactions as well as affecting virtually every bank in the U.S. (and international)

New information data banks, such as FinCEN, information sharing systems

Information sharing of incredibly wide variety, especially dealing with "foreign intelligence"

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(but note how broad that definition is) even as to grand jury testimony

Increased law enforcement cooperation between federal and State and local governments, including new law enforcement mandates and cross-agency training

Reduced role of courts in information gathering (and even if court order were required, search warrant applications are routinely granted and FISA court has turned down perhaps one)

New emphasis on infrastructure security, with wide definitions of infrastructure

Extremely expanded federal agency powers to seize and detain suspected aliens (*habeas corpus* relief may be available but *habeas corpus*, such as with its history in the past 10 to 15 years with inmate petitions (and see AEDPA), has limited utility in federal system--in any case chances are slim of federal court granting *habeas corpus* and ordering release of alien detained under these provisions, given political climate and PATRIOT Act)

Increased penalties/terrorist acts--conspiracy, attempt, and material support can be terrorist act

### **SOME OVERALL PUBLIC POLICY AND LONG TERM EFFECTS/PATRIOT ACT**

A new emphasis and greatly increased governmental and public attention to law enforcement, including a greater sense of legitimacy of pronouncements of FBI, CIA, White House

State statutes similar to PATRIOT Act in various ways, considered or passed in various States (with respect especially to search and seizure, investigation, law enforcement, information sharing, and terrorism), with similar long term effects and little or no sunset provisions (this is also happening on an international basis, especially with laws in Britain, Canada, Australia).

Long term effects on public sense of and concern about "national security"

Moving the goal posts as to what is and is not acceptable law enforcement and investigatory behavior (law enforcement conduct that tries to push the boundaries, and it often does, will NOW be operating in ways hardly imagined on "Sept. 10")

New or expanded industries in computers, information, surveillance, etc., especially considering funds provided by PATRIOT Act, training mandated, new information systems

Domestic financial institutions have been made partners with federal government in investigating terrorism especially as to finances

Greater sense of need to track population, movements and whereabouts of people

Tremendous resources and governmental attention to investigation of "terrorism"

Operating under new or expanded definitions of crimes, increased sense of propriety purposefulness of investigatory activity (suppression motions will be a waste of time)

Significant, profound, and permanent effects upon 1<sup>st</sup>, 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup> Amendments  
Erosion of due process to which aliens are entitled

### **OTHER AREAS AND POTENTIAL ISSUES WHICH BEAR MENTIONING**

Private sector and corporations, which often take their cues from government conduct, statutes, and regulations as to what is and is not acceptable in society, will find it easier to conduct surveillance of employees, monitor computer activity, track movements, request personal information, conduct background checks, review employee behavior, and monitor activity

Linked with many other things: aviation security legislation, Av&TrSA, Executive Orders, Department of Homeland Security (through HSA), bioterrorism statutes, revised FBI guidelines, military tribunals, war in Afghanistan, war in Iraq, other likely military activity, infrastructure protection, threat levels, operation Noble Eagle, operation Liberty Shield, CAPPs, VISIT, Special Registration, and several White House POLICY DOCUMENTS: *National Strategy on Homeland*

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*Security* (July, 2002), *National Security Strategy of United States* (September, 2002), *National Strategy for Combating Terrorism* (February, 2003), *The National Strategy for Protection of Critical Infrastructures and Key Assets* (February, 2002), and *The National Strategy to Secure Cyberspace* (February, 2003).

*Government agencies will be more inclined to operate without deference to checks and balances, often in secret, and their activities could be less subject to challenge by public or courts*

### **SOME RECENT COURT DECISIONS** (with citation where available, not exclusive list)

--UNITED STATES SUPREME COURT--

***Rasul v. Bush***. US Supreme Court (No. 03-334) 542 U.S. \_\_\_\_ (2004). (June 28, 2004) (And *Al Odah v. United States*, 03-343). REVERSED the United States Court of Appeals for the District of Columbia Circuit. (This decision would have affirmed the Ninth Circuit's decision in a related case, but the Ninth Circuit case is not expressly made part of this decision). *This is the "Guantanamo Bay" case.*

The Supreme Court decides that US federal courts have jurisdiction over (can consider) a claim by detainees in Guantanamo Bay challenging the conditions of their confinement or the legality of their confinement at Camp Delta. This claim would be the traditional *habeas corpus* petition that is filed in federal courts (and sometimes in State courts) by someone, usually inmates, claiming that they are being detained illegally. With this Supreme Court decision that detainees can file their *habeas corpus* claims in federal court, the detainees now will have an opportunity in a court to state that their detention is unlawful or unconstitutional, or that the conditions of their confinement violate whatever constitutional rights would apply to them.

The case is a rather involved and detailed discussion of the background of the *habeas corpus* petition and how it can be available to persons like the Camp Delta detainees. A major concern of the other federal courts is the fact that the Guantanamo Bay base, technically, is not US "soil" but actually belongs to Cuba and is leased by the US from Cuba (in a lease agreement that is more than 100 years old and dates back to the Spanish-American war). If federal courts only have jurisdiction over US sovereign territory, perhaps they do not have jurisdiction over persons in areas "controlled" or managed by the US but not part of the "sovereign territory" of the US (unless Congress authorizes it by statute, such as in situations like Puerto Rico, Guam, or other US island territories). The Supreme Court decided that the lease document gave the US such total control over the Guantanamo Bay base, that the base can be considered within the reach of US courts. The Supreme Court also said that history of the *habeas corpus* petition was significant enough to allow the petition to be available to persons detained there. Also, the federal courts have jurisdiction over the persons in charge of the detainees (Secretary of Defense and Defense Department and Base Commander) and so should have jurisdiction over the detainees. "We therefore hold that §2241 [habeas corpus statute] confers on the District Court jurisdiction to hear petitioners' habeas corpus challenges to the legality of their detention at the Guantanamo Bay Naval Base." (pp. 15-16). [The Court also said that there may be jurisdiction under the federal question statute, 18 U.S.C. §1350, and the Alien Tort Statute, 18 U.S.C. §1350.]

The Supreme Court said that "military necessity" did not require that federal courts remain on the sidelines in this situation, especially when the Government is saying that it has the military authority to hold the detainees indefinitely and in conditions that the military decides for itself. "Indefinite detention without trial or other proceeding presents altogether different considerations. It allows friends and foes alike to remain in detainment. It suggests a weaker case of military necessity and a much greater alignment with the traditional function of habeas corpus. Perhaps, where detainees are taken from a zone of hostilities, detention without proceedings or trial would be justified by military necessity for a matter of weeks; but as the period of detention stretches from months to years, the case for continued detention to meet military exigencies becomes weaker." (Kennedy, J., concurring).

It is not clear what happens next, however. The Supreme Court did not decide whether the Guantanamo Bay detainees actually can prove that their detentions violate the Constitution or that their conditions would violate any Constitutional right they would have. The Supreme Court did not order the release of the detainees. And the Supreme Court did not say when a petition should be filed by the detainees, or in what federal district court. These results are unclear. It should be noted that the actual petitions involved in the Supreme Court case were brought on behalf of persons in Camp Delta who are not from Afghanistan and who are claiming that they were not involved in any hostilities against the US and were wrongfully captured. The Supreme Court mentioned this, perhaps hinting that habeas corpus claims by those who clearly were involved in hostilities might not be successful in their claims.



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It is possible also, that different claims could be filed on behalf of different detainees (there are already nearly 650) in different federal courts and that the results might be different court decisions, on certain parts of the Camp Delta detainees. Those decisions then might be appealed to the federal Circuit Courts, also with different results, and perhaps again reach the Supreme Court. Time will tell what would be the ultimate results. Still, the Supreme Court did say that federal courts can consider the petitions--a decision that the US Court of Appeals for the District of Columbia Circuit had declined to make.

***Hamdi v. Rumsfeld*** US Supreme Court (No. 03-6696) 542 U.S. \_\_\_\_ (2004) (June 28, 2004).  
*This is the "enemy combatants" case.*

The Supreme Court in this case decides that the "enemy combatants" being held by the Department of Defense can petition federal courts (*habeas corpus*) to challenge the legality of their detention and the conditions of their detention. These persons are being held in places in the United States (not Guantanamo Bay) and have been held indefinitely and without criminal charges. Two of these persons are US citizens: Yaser Esam Hamdi was seized on the battlefield in Afghanistan but happens to have been born in the US of Saudi parents, moved with his family out of the United States when he was young, and eventually made his way to Afghanistan where supposedly he was seized there during the initial fighting. Originally, he was brought to Guantanamo Bay but was moved to Navy brig in Norfolk, Virginia and then South Carolina. Jose Padilla was seized at Chicago O'Hare Airport on suspicion of ties to Al Qaida and of being involved in a "dirty bomb" plot (a claim that the government later withdrew but Padilla has not been released--see case discussed below).

The Court said that the Government may have the authority to declare a person, even a US citizen as an enemy combatant. "There is no bar to this Nation's hold one of its own citizens as an enemy combatant." p. 11). The Court also said that the President and the Department of Defense had the Congressional authority to make these seizures through Congress' authorization of the use of military force in Afghanistan (and also later in Iraq). (Authorization for Use of Military Force 115 Stat. 224). This Congressional authority gives the President and the Executive Branch the justification to use military authority under Constitutional provisions making the President the Commander-in-Chief of the military. Hamdi had challenged his detention and sought the reasons for his detention. He claimed among other things that he was not engaged in any hostilities when he was captured and poses no threat to the United States. In various decisions, the United States Court of Appeals for the Fourth Circuit said that the Government's evidence, which was little more than a declaration that Hamdi is dangerous (Mobbs Declaration) was enough to support the Government's claim that he was an "enemy combatant." The Fourth Circuit said that the District Court did not have the authority to inquire further into the Government's evidence.

The Supreme Court said that more evidence than has been provided by the Government would be needed to justify the indefinite detention of a person as an enemy combatant. But the Court did not prohibit the government from detaining a US citizen as an enemy combatant. The Court said that any review of a habeas corpus petition in these situations requires "meaningful judicial review" of the circumstances. The Government's evidence does not have to be accepted without question, but there does not have to be a full scale trial just on the enemy combatant situation. There must be "some opportunity" for the petitioner to present and rebut facts and the courts should have "some ability" to consider comprehensive evidence. Because as a US citizen, Hamdi has Constitutional rights, those rights cannot be violated without due process.

The federal courts also have authority to review the situation because of the Government's claim that an "enemy combatant" can be held indefinitely. The Government has said that an "enemy combatant" can be held until the end of "hostilities"--which might mean the end to the "war on terrorism." The Court said, "If the Government does not consider this unconventional war won for two generations, and if it maintains during that time that Hamdi might, if released, rejoin forces fighting against the United States, then the position it has taken throughout the litigation of this case suggests that Hamdi's detention could last for the rest of his life." (p. 12). The Court was also concerned that the Government has not established who can be considered an "enemy combatant" and in what situations that label can apply.

The Court said, "Moreover, as critical as the Government's interest may be in detaining those who actually pose an immediate threat to the national security of the United States during ongoing international conflict, history and common sense teach us that an unchecked system of detention carries the potential to become a means of oppression and abuse of others who do not pose that sort of threat." (p. 23) "It is during our most challenging and uncertain moments that our Nation's commitment to due process is most severely tested; and it is in those times that we must preserve our commitment at home to the principles for which we fight abroad." (p. 25).

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The Court said, "We therefore hold that a citizen-detainee seeking to challenge his classification as an enemy combatant must receive notice of the factual basis for his classification, and a fair opportunity to rebut the Government's factual assertions before a neutral decisionmaker." (p. 26). The Court said that this could be a military tribunal type arrangement or some other shortened version of a federal evidentiary trial. "Any process in which the Executive's factual assertions go wholly unchallenged or are simply presumed correct without any opportunity for the alleged combatant to demonstrate otherwise falls constitutionally short." (p. 30).

The next step is not very clear. Hamdi and Padilla would receive the hearings that the Supreme Court requires, but that does not mean that they would be released. The Supreme Court did not order their release. The Supreme Court did not say that the Government had no right to hold Hamdi. So it cannot exactly be predicted what the result of these "hearings" will be.

***Rumsfeld v. Padilla***. US Supreme Court (No. 03-1027) 542 U.S. \_\_\_\_ (2004) (June 28, 2004). This is the other "enemy combatant" case.

The Supreme Court did not decide this case on the actual issues. Instead, the Supreme Court said that Padilla's *habeas corpus* petition was not filed in the correct court. After Padilla was seized at Chicago Hoare Airport, he was taken to New York on a material witness warrant and held there. He challenged his material witness warrant in New York federal court, and before that challenge could be decided by that Court, the Government claimed he was an "enemy combatant" and then took him to South Carolina. Because he was originally brought to the New York courts, he filed his petition there. It was appealed to the United States Court of Appeals for the Second Circuit, which found generally in his favor.

However, the Supreme Court did not discuss the details of his case because the Supreme Court said that once Padilla had been moved to South Carolina, he was in a different federal court area and should have filed his petition there. The appeal in that situation would have been to the Fourth Circuit.

The Supreme Court was rather involved in its discussion of which court the petition should be filed in, and its discussion takes up 23 pages of opinion, without counting concurring opinions. Still, the Court decides the issue on procedure alone, and says that Padilla must file his petition in a federal court where he is now located.

The petition will be filed in that court and then the federal court would need to have the sort of hearing that the Supreme Court had discussed in the *Hamdi* decision. However, the result of that hearing cannot be predicted. It could still occur that in either of these cases (and there is at least one other enemy combatant case) the court could have a full due process hearing and still allow the Government to continue to hold the individual. There is no guarantee that the hearing will result in release of the individual. The Supreme Court did not order release of Hamdi or of Padilla.

\*\*The Supreme Court in these three cases, did give a complete victory to those concerned about civil liberties or to the Government. In the Guantanamo Bay case, the Supreme Court said that the detainees could be held under military authority and said only that the federal courts have jurisdiction to hear the habeas corpus claims. It did not order the detainees released and made no indications of what the result of the hearings should be. In the enemy combatant cases, the Court said that the Government can hold a person, even a US citizen, as an enemy combatant and can continue to do so under Congressional authority. The Court required a procedure to challenge that detention in which an impartial tribunal would consider evidence and the Government's evidence does not have to be considered at face value, but the Court did not say that the Government could never prove its case.

More will have to take place in the federal courts on these developments before the situation of the Guantanamo Bay detainees is clearer and before it can be said what kind of evidence the Government needs to support an enemy combatant designation.

*Note: to date the US Supreme Court has take no case on the USA PATRIOT Act and has not decided that any part of the USA PATRIOT Act is unconstitutional.*

--FISA COURT AND SPECIAL FISA CASES--

***In re: Sealed Case***. FISA Court of Review (Foreign Intelligence Surveillance Act Court of Review). 310 F.3d 717 (2002). Reportedly, only decision ever by the FISA Court of Review.

[REVERSED the FISA Court decision which had criticized government activity in FISA warrants and had expressed doubt as to whether results of FISA investigations can be used in standard criminal cases. The FISA Court of Review suggested that there is little actual and practical constitutional distinction between FISA-type investigations and surveillance and

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information obtained by federal agencies through other warrant or wiretap authorities. *The FISA Court therefore found that there is little restriction on the use of information from FISA investigations.* Overrules years of Federal Court interpretation of FISA, to the contrary. Makes it much easier for FISA warrant information to be used in standard criminal cases. The decision stands as the ruling decision in FISA cases and is not subject to any further appeal. Specifically mentions PATRIOT Act. Little attention paid by the FISA Court of Review's decision to the FISA Court's criticism of inaccurate or misleading warrant information supplied by FBI in numerous cases.]

*In re: All Matters Submitted to Foreign Intelligence Surveillance Act Court*, FISA Court, (May 17, 2002, No. 02-424) [no citation available] REVERSED by Court of Review (see above).

[Decision by U.S. Foreign Intelligence Surveillance Act Court (in rare action, released by Court and through Senate Judiciary Committee), notes the expanded authorities for FISA investigation and warrants (although does not directly mention PATRIOT Act), casts doubt on the propriety of current FBI minimization procedures, modifies, on its own, those procedures in certain respects, *comments on the incomplete or misleading information provided by FBI in seeking FISA warrants in more than 70 cases* (which supposedly came to light through FBI admissions as to such conduct), and criticizes any FBI approach to using information from FISA investigations for standard criminal investigation and prosecution. Did not specifically mention or extensively discuss the PATRIOT Act. (*Reversed* by FISA Review Court--see above notation)]

--D.C. CIRCUIT--

***Khaled A.F. Al Odah, et al. v. United States***, 355 U.S.App. D.C. 189, 321 F.3d 1134 (D.C. Cir. 2003). [REVERSED BY U.S. SUPREME COURT]

[Consolidated three separate cases seeking relief on behalf of Guantanamo Bay detainees (see *Rasul v. Bush*, noted below--in each instance the federal District Court stated that it did not have jurisdiction to review the cases). Decided that the federal government under military power and authority can detain persons as enemy combatants or otherwise captured in field of conflict, and can do so outside the boundaries of the United States, and *federal courts do not have appropriate jurisdiction or review power to consider issues of legality of detention*, so long as that legality is sufficient demonstrated on its face, or the conditions of detention. Legal action was brought by "next friends" of various detainees under the Great Writ (28 U.S.C. 2241-2242), Alien Tort Act (28 U.S.C. 1350), and *habeas corpus* provisions. In some instances the detainees contended that they are not combatants at all of any sort but nevertheless were seized by military forces and transferred to Guantanamo Bay, where they remain. The court did not dismiss on the basis that there was no "next friend" status, but still determined that the government had authority to hold the detainees. It said of the detainees, "they too were captured during military operations, they were in a foreign country when captured, they are now abroad, they are in the custody of the American military, and they have never had any presence in the United States." Therefore, there is no availability for habeas corpus relief. Also, there is no Fifth Amendment due process right available to the detainees. "If the Constitution does not entitle the detainees to due process, and it does not, they cannot invoke the jurisdiction of our courts to test the constitutionality or the legality of restraints on their liberty." (pp. 10-12 of Opinion). The Court also stated that the Guantanamo Bay facility is not within the territory of the United States because it is actually on land belonging to Cuba and leased by the United States. That also affects the federal court's jurisdiction over the detainees. In a more complex discussion (see concurring opinion), the Court found that there is no jurisdiction under other statutes, such as the Alien Tort Act, to review detainee claims. There is no waiver of sovereign immunity in the Alien Tort Act or under the Administrative Procedure Act (military ordinarily exempt from any blanket waiver of sovereign immunity) that would allow federal court jurisdiction. Result: *No federal court can even consider legal claims made by the detainees regarding their detention or conditions of detention.*

*Rasul, et al. v. Bush*, 215 F.2d 55 (D.D.C. 2002) (Kollar-Kotelly, J.) [REVERSED]

[No trial rights for Cuban detainees, Court finds no jurisdiction to consider merits of case, and indicates that aliens held by United States but outside U.S. sovereign territory might not be able to make use of U.S. courts to challenge confinement justifications or conditions. (Affirmed)]

***Center for National Security Studies v. United States*** (D.C. Cir. 2003, No. 02-5254--June 17, 2003) 356 U.S.App.D.C. 333, 331 F.3d 918, 189 ALRFed 541 (D.C. Cir. 2003)[CERT DENIED]

[REVERSED the decision of the United States District Court for the District of Columbia (Kessler, J.) which had ruled that information about post September 11 detainees, including name, location, and counsel, must be released by the federal government. (See 215 F.Supp.2d 94). The Court of Appeals found that the government's "national security interests" and rationale were sufficient to entitle the government to claim an exception to the Freedom of Information Act. Therefore, the government can refuse to disclose information on these detainees. This was under exemption 7(A) of the Freedom of

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Information Act. District of Columbia Court of Appeals approves government secrecy of arrests and detentions of persons suspected of terrorist acts. Court declares that government is in best position to determine whether national security will be implicated or damaged by release of information involving detainees who are suspected of terrorist offenses.] NOTE: Strong dissent (Tatel, J.) severely criticizes opinion.

*CMSS v. DOJ* (Center for National Security Studies v. Department of Justice), U.S. District Court, District of Columbia (Gladys Kessler, J.) 217 F.Supp.2d 58 and 94 (August 2002). REVERSED BY District of Columbia Circuit (see above). [Ruling, 47 pages in slip opinion, that government cannot keep secret, names of remaining detainees seized or detained by INS and DOJ during post-September 11 and post-PATRIOT Act arrests of suspected aliens or terrorists. Excellent decision but did not survive on appeal]

*National Council of Resistance of Iran v. Department of State*, 251 F.3d 192 (D.C. Cir. 2001). Confirms that group which is about to be designated by State Department as "terrorist organization" and therefore may be affected in terms of property, bank accounts, and so forth, is entitled to due process. State Department must give group reasonable notice that designation is impending and must give group opportunity to present evidence in any challenge to the designation. (However, Administration is challenging this approach and wishes to limit all judicial review of its designations of groups as terrorist organizations.)

--SECOND CIRCUIT--

*Padilla v. Rumsfeld*, 352 F.3d 695 (2<sup>nd</sup> Cir. 2003). Considers Padilla's *habeas corpus* petition challenging his status as "enemy combatant" (upon certified question by US District Court). (Text opinion is more than 50 pages, and is typical of the length and detail of discussion, of these opinions). *Court finds that Congressional authorization is required before President or Executive Branch can detain American citizens on American soil.* Therefore, Padilla's designation of "enemy combatant" and his detention do not have valid authorization. Notes the "Non Detention Act" (see 18 U.S.C. Sec. 4001(a)), and finds that Congress' authorization to use military force (Pub.L. No. 107-40, 115 Stat. 224 (2001)) is not such an authorization. President's inherent Constitutional powers under Art. II do not incorporate such designations and detentions. The court said, "we find that the President lacks inherent constitutional authority as Commander-in-Chief to detain American citizens on American soil outside a zone of combat." The Non-Detention Act confirms this. However, whether there is an "undeclared war" between the U.S. and Al Qaeda is a political question which the Court will not review. Even if so, the President cannot "lay claim" to powers that belong only to Congress (such as suspension of writ of *habeas corpus*). Congress has taken no action to define "enemy combatant" or to determine how and when a President may so designate and detain such a person. Prior Supreme Court cases authorizing military tribunals to try enemy combatants arose from declared wars and Congressional action, and also in different circumstances (such as there was no "Non Detention Act"). Distinguishes the Fourth Circuit decision of *Hamdi v. Rumsfeld*, 316 F.3d 450 (4<sup>th</sup> Cir. 2003) (Hamdi III), because Hamdi was seized in Afghanistan during combat and then taken to U.S. The Court found that the petition could be filed on Padilla's behalf by "next friend," that Rumsfeld was proper respondent, and that U.S. District Court in New York had jurisdiction. [JURISDICTION]

*United States v. Awadallah*, [cite] (No. 02-1269) (2<sup>nd</sup> Cir. April 10, 2003). REVERSES U.S. District Court decision that indictments against Awadallah must be dismissed due to abuse of material witness warrant and improper search and seizure and obtaining of statements by Awadallah at time of his arrest (see 173 F.Supp.2d 186 (S.D.N.Y. 2001), 202 F.Supp.2d 17 (S.D.N.Y. 2002), 202 F.Supp.2d 55, and 202 F.Supp.2d 96, and noting related case of *In re Material Witness Warrant*, 213 F.Supp.2d 287 (S.D.N.Y. 2002)). Court found that material witness warrant statutes allow for arrest and detention of witnesses, although it said that "it would be improper for the government to use Sec. 3144 for other ends, such as the detention of persons suspected of criminal activity for which probable cause has not yet been established." It found the affidavit for the warrant appropriate and not misleading by the FBI, and otherwise found the warrant valid, despite supposed FBI threats and harassment to obtain the warrant or any other consent by Awadallah to searches. It also found that evidence from these seizures need not be suppressed. (Reversal of U.S. District Court opinion. No word on any further review).

*United States v. Awadallah*, 202 F.Supp.2d 55 (S.D.N.Y. 2002) (Scheidlin, J.) (May 13, 2002). REVERSED--SEE ABOVE

[Finding that defendant who was held as material witness in investigation of suspected terrorist crime--September 11 attacks--cannot be continually detained under material witness statute, finding violation of statute in several respects, granting suppression of grand jury testimony (strong language, very detailed decision)]

*United States v. Awadallah*, 202 F.Supp.2d 82 (S.D.N.Y. 2002) (Scheidlin, J.) (April 30, 2002)

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REVERSED--SEE ABOVE

[Granting suppression motion as to defendant seized and detained and then charged with perjury as to grand jury testimony with respect to investigation of September 11 attacks. Court finds government's affidavit did not support arrest under material witness statute, defendant "seized" in violation of Fourth Amendment when questioned by FBI, "consent" to search of apartment and vehicles was involuntary and cannot be used to justify search, etc. (very extensive)]

--THIRD CIRCUIT--

*North Jersey Media Group v. Ashcroft*, 308 F.3d 198 (3<sup>rd</sup> Cir. 2002), *cert.denied* No. 02-1289 (May 27, 2003). REVERSED District Court and allowed closed immigration hearings.

[Third Circuit decides that closed immigration hearings can be held, due to the potential harm to national security or ongoing investigations that, according to the government, may result if the hearings were open to the public. The court said that it was "quite hesitant" to review the security concerns stated by the government and that "national security is an area where courts have traditionally extended great deference to Executive expertise." To the extent that national security concerns of the government "seem credible" the court will not "second-guess" them.

*North Jersey Media Group v. Ashcroft*, 205 F.Supp.2d 288 (D.N.J. 2002) (Bissell, C.J.) (May 28, 2002)

[Granting preliminary injunction preventing government from denying press and public access to deportation hearings in "special interest" cases, extensive decision discussing First Amendment issues] [BUT U.S. Supreme Court stayed preliminary injunction pending appeal to 3<sup>rd</sup> Circuit--and 3<sup>rd</sup> Circuit REVERSED the District Court.]

--FOURTH CIRCUIT--

*Hamdi v. Rumsfeld*, 316 F.3d 450 (4<sup>th</sup> Cir. 2003). [REVERSED BY SUPREME COURT]

[Fourth Circuit considered the *habeas corpus* petition of Hamdi, the so-called "dirty bomber" who is being held in military detention under "enemy combatant" status by the federal government. Supposedly under this status, the government can hold the individual indefinitely without charge or trial and with no or limited access to family or to counsel. Hamdi has not been charged with any crime. He submitted his petition challenging his military detention and his designation as an enemy combatant. The Court dismissed the petition, ruling that the government had authority to make this designation. The court did not strike down "enemy combatant" status.

*Hamdi v. Rumsfeld*, 296 F.3d 278 (4<sup>th</sup> Cir. 2002) [ALSO REVERSED BY SUPREME COURT]

[United States citizen held as "enemy combatant," court remands to U.S. District Court for Eastern District of Virginia, various issues related to "enemy combatant" status--court stating, however, that "It has long been established that if Hamdi is indeed an 'enemy combatant' who was captured during hostilities in Afghanistan, the government's detention of him is a lawful one." Court also remands District Court's order allowing Hamdi free and unmonitored access to counsel, mandating further review by District Court of "implications" of such order].

--SIXTH CIRCUIT--

*Detroit Free Press, et al. v. Ashcroft*, 303 F.3d 681 (6<sup>th</sup> Cir., August 25, 2002)

[Affirms District Court in Michigan that immigration hearings cannot be held in secret, subject of considerable press reports, see case. Good decision on general concerns about secrecy in these hearings and constitutional protections. However, it appears to now be one of the few federal appeals cases which have ruled against government efforts to reaffirm powers granted to it in post September 11 environment and have criticized government secrecy. Review of decision recommended.]

*Detroit Free Press, et al. v. Ashcroft*, 195 F.Supp.2d 937 (E.D.Mich. 2002) (April 3, 2002) (Edmunds, J.)

[Decision (affirmed by 6<sup>th</sup> Circuit, see above) stating that hearing in question, which involved Rabih Haddad, native of Lebanon, detained and subject of immigration proceedings following September 11 investigations, cannot be declared closed. Court grants preliminary injunction against government and finds that proceedings must be open, that government's interest in closing proceedings was not compelling, press and others seeking access demonstrated bases for injunction including irreparable harm if access were not granted, etc.]

*Detroit Free Press, et al. v. Ashcroft*, 195 F.Supp.2d 948 (E.D.Mich. 2002) (April 3, 2002) (Edmunds, J.)

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[Decision which was affirmed by 6<sup>th</sup> Circuit--denying government's motion to dismiss action brought by press, detainee, and others against closing immigration proceedings to public. Court finds that plaintiffs were not required to exhaust administrative review, action brought was not barred by existing statute such as Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), judicial review was otherwise available]

--SEVENTH CIRCUIT--

***Global Relief Foundation v. O'Neill***, 315 F.3d 748 (7<sup>th</sup> Cir. 2002)

[Determined that a portion of the USA PATRIOT Act was not subject to constitutional challenge. The challenged provisions allow for the *ex parte* use of classified evidence in proceedings to freeze the assets of a terrorist organization. Federal agents had raided offices of the Foundation and arrested or detained several of its corporate managers or members, claiming that the Foundation was not a charity but actually was a front to funnel financial assistance to terrorist organizations in the Middle East. The *ex parte* use of classified evidence, approved by the Court, allows the government to present this evidence without opportunity by the defendant to review it or challenge it.]

--NINTH CIRCUIT--

***Gherebi v. Rumsfeld*** [cite] (No. 03-55785) (9<sup>th</sup> Cir., Dec. 18, 2003). [UNDER U.S. SUPREME COURT REVIEW]. Also on the Guantanamo Bay detainees. Modifies *Coalition of Clergy v. Bush* and finds that there IS federal court jurisdiction to consider petitions on behalf of Guantanamo Bay detainees. Government position that there is no jurisdiction is rejected: "we simply cannot accept the government's position that the Executive Branch possesses the unchecked authority to imprison indefinitely any persons, foreign citizens included, on territory under the sole jurisdiction and control of the United States, without permitting such prisoners recourse of any kind to any judicial forum, or even access to counsel, regardless of the length or manner of their confinement. We hold that no lawful policy or precedent supports such a counter-intuitive and undemocratic procedure, and that, contrary to the government's contention, *Johnson* [*Johnson v. Eisentrager*] neither requires nor authorizes it. In our view, the government's position is inconsistent with fundamental tenets of American jurisprudence and raises most serious concerns under international law." (And see fn.7). Court finds that Guantanamo Bay is within US sovereign authority even if the actual base is on Cuban soil, since under terms of that arrangement, US has complete jurisdiction and control of the area (under a 1903 lease agreement and 1934 treaty continuing the lease--see detailed discussion of the lease agreements, noting that under the agreements, sovereignty over Guantanamo Bay base, "vests in the United States" and comparing these lease agreements also with the Panama Canal Zone agreements). Court finds the *Johnson* situation too different from present matter, to allow *Johnson* to control decision of jurisdiction now. (And see discussion at fn. 12 of other S.Ct. cases). The Court said, "we conclude that by virtue of the United States' exercise of territorial jurisdiction over Guantanamo, habeas jurisdiction lies in the present case). (See fn. 12 distinguishing or declining to follow *Al Odah* from D.C. Circuit). The Court found support for its view of the sovereign situation not only in the lease agreement but also in respective conduct of the nations involved, stating that in this circumstance "our sovereignty over Guantanamo is complete." Therefore, the sovereignty allows federal court jurisdiction regarding detainees. (See also comment by court at 18082). (Dissent by Graber, J. (at 18094 et seq.)).

***Coalition of Clergy, et al. v. Bush***, 310 F.3d 1153 (9<sup>th</sup> Cir. 2002). AFFIRMED the decision of the United States District Court (Matz, J.) and determined that the persons who had petitioned the District Court under *habeas corpus* on behalf of Guantanamo Bay detainees did not have "standing" and were not proper "next friends" of the detainees. Therefore, they had no basis to present the petition challenging legality of confinement or conditions of confinement. The Court also affirmed the decision that the federal courts have no jurisdiction to review conditions of persons under military detention and held outside the boundaries of the United States. This marks a significant decision from an appeals court often considered "liberal" or "progressive" which effectively shut down any attempt to bring *habeas corpus* petitions in any federal district court in any State that is within this Circuit, on behalf of the Guantanamo Bay detainees. However, the Court decided that the District Court might have jurisdiction under another basis, such as its interpretation of *Johnson v. Eisentrager*, 339 U.S. 763 (1950) (no U.S. court jurisdiction over petition by German prisoners detained there after being tried and sentenced by military commission in Nanking, China for offenses supposedly committed by prisoners after German surrender at end of WW II).

***Coalition of Clergy, et al. v. Bush***, 189 F.Supp.2d 1036 (C.D.Cal. 2002) (Matz, J.) (February 21, 2002)

[Denying action by group of individuals and clergy seeking *habeas corpus* on behalf of detainees at "Camp X-Ray" in Guantanamo Bay (Cuba). Groups alleged that *habeas corpus* was available because conditions of detention are unconstitutional and violate other laws and treaties. Court finds that group lacked standing to bring action and that "next

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friend" standing is rarely if ever appropriate in such cases, that in any event Court lacked jurisdiction to issue writ, and that further detainees under their justification and conditions of detention are not otherwise entitled to *habeas corpus*. (Later affirmed, see above notation as to Ninth Circuit)]

### ***Humanitarian Law Project v. Ashcroft*** (D.Ca. 2004)

[Finding portion of USA PATRIOT Act involving "material support for terrorism" *unconstitutional* as being too vague (much of this language in statute was borrowed in turn from Anti Terrorism and Effective Death Penalty Act).

### ***United States v. Rahmani***, 209 F.Supp.2d 1045 (D. Cal. 2002) (Takasugi, J.) (June 21, 2002)

[Among other things, holds as unconstitutional certain procedures for designating terrorist groups under existing law, finding insufficient due process protections. Although not expressly mentioning PATRIOT Act, to extent that PATRIOT Act adopts and expands these procedures for designating terrorist groups, decision casts constitutional doubt on those provisions] (It does not appear that this decision was affirmed but given trend of federal courts on the question, this decision may not be viewed as persuasive by other courts.)

### ***United States v. Mohammad Hammoud***, (North Carolina) [no citation available]

[Found guilty by jury in June 2002, Court refuses to consider due process arguments against terrorist designation]

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TO DATE, *EIGHT* FEDERAL APPEALS CASES IN FAVOR OF GOVERNMENT IN ITS "WAR ON TERRORISM," *FOUR* FEDERAL APPEALS CASE AGAINST, *NO* FEDERAL APPEALS COURT RULING THAT ANY PART OF PATRIOT ACT IS UNCONSTITUTIONAL.

*Foreign Intelligence Surveillance Act Court of Review* (FISA Review Court): Decided in favor of Justice Department new guidelines and regulations regarding post-PATRIOT Act authorities and decided that information obtained through FISA-type surveillance can be used in standard criminal prosecutions, eliminating "wall" that was viewed by many federal courts to have existed between these two types of investigation and uses of evidence.

*CNNS v. United States* (D.C. Circuit): Decided that government cannot be required under Freedom of Information Act to release names or other pertinent information of individuals detained under suspicion of terrorism if national security could be at risk--a decision which if it is applied broadly to all subsequent such government activity, might allow for secret arrests.

*Al Odah, et al. v. United States* (D.C. Circuit): Decided that federal courts do not have any *jurisdiction* under *habeas corpus*, Fifth Amendment, Alien Tort Act, or other statutes, to review any claims of Guantanamo Bay detainees concerning legality or conditions of their confinement.

*U.S. v. Awadallah* (2<sup>nd</sup> Circuit)--Upholds FBI conduct in search and seizure and Government and FBI use of material witness warrants to detain suspects.

*New Jersey Media Group v. Ashcroft* (3<sup>rd</sup> Circuit): Allows for government to hold secret immigration or deportation hearings, if government deems closed hearings to be necessary.

*Hamdi v. Rumsfeld* (4<sup>th</sup> Circuit): Various decisions in general affirming the use of "enemy combatant" status, although it is possible that detained person could have access to counsel.

*Global Relief Foundation v. O'Neil* (7<sup>th</sup> Circuit): Approved use of ex parte classified evidence.

*Coalition of Clergy v. Bush* (9<sup>th</sup> Circuit): Finding no *habeas corpus* jurisdiction in federal courts for "next friend" petition on behalf of Guantanamo Bay detainees. Courts cannot review claims.

COMPARE:

*National Council of Resistance of Iran* (D.C. Circuit): Finding due process requirements applicable and must be followed in situations of designations of certain groups as "terrorist organizations."

*Padilla v. Rumsfeld* (2<sup>nd</sup> Circuit): Finding no Congressional or other authorization for President or Executive Branch to hold American citizen seized on American soil, as "enemy combatant"

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*Detroit Free Press v. Ashcroft* (6<sup>th</sup> Circuit): Ruling AGAINST closed immigration hearings.

*Gherebi v. Bush* (9<sup>th</sup> Circuit): Finding that there IS jurisdiction in US federal courts to consider *habeas corpus* petition on behalf of Guantanamo Bay detainees, challenging legality and conditions of confinement.

### DOMESTIC SECURITY ENHANCEMENT ACT OF 2003: OVERVIEW OF STATUTE AND SUMMARY OF KEY SECTIONS by C. William Michaels, author of *No Greater Threat*

#### **DOMESTIC SECURITY ENHANCEMENT ACT OF 2003 (Proposed)**

##### **Overview of Statute and Summary of Key Sections** (revised as of 5/1/04)

By C. William Michaels, Esq. author *No Greater Threat* (see [www.nogreaterthreat.com](http://www.nogreaterthreat.com)).

*Note:* As of mid-2004, the Domestic Security Enhancement Act (DSEA) *is not an actual statute*. It is a proposed bill that is apparently not in final form, and has not yet been submitted by the Administration to Congress for consideration.

The DSEA was leaked from within the Department of Justice, in early February, 2003 to a DC advocacy group, the Center for Public Integrity. The whos and whys of that leak are not clear. The Center sent an alert out about it immediately through its website and others. It also passed the information to PBS "Now With Bill Moyers," which did a segment on the proposed bill around February 7, 2003. PBS and the Center made the bill and its Department of Justice section-by-section analysis, available in full text on their websites.

Since then, the proposed statute has been the subject of considerable commentary and analysis. It has made its way to various websites. There is no question that it would go considerably beyond the USA PATRIOT Act. So the proposed DSEA has quickly been called "PATRIOT Act II."

After the proposed bill was leaked, the Department of Justice issued a press release stating that there are many bills which the Department considers or drafts and which might not be submitted to Congress. Attorney General John Ashcroft has had little to say on the proposed DSEA and has declared in testimony to Congress that there is no such thing as a "PATRIOT Act II," although he recently declared that additional authority beyond the PATRIOT Act is needed to further meet the demands of the Justice Department's "war on terrorism" mission.

(This present review is taken to some degree from the DOJ analysis of the proposed bill and from some Internet articles or commentary. There are various Internet resources or commentary on the DSEA. Among them are websites for: ACLU, Center for Constitutional Rights, Friends Committee on National Legislation, Cato Institute, and Center for National Security Studies.)

#### **TITLE I: ENHANCING NATIONAL SECURITY AUTHORITIES**

##### **Subtitle A: Foreign Intelligence Surveillance Act Amendments**

The Foreign Intelligence Surveillance Act of 1978 (FISA) was designed to describe methods of governmental investigation of "agents of a foreign power" operating in the United States who may be engaging in activities threatening national security. The USA PATRIOT Act considerably expands these authorities and also allows wide sharing between federal government agencies of "foreign intelligence information." The DSEA would go beyond this in several ways:

Sec. 101        Would *change the FISA definition of "foreign power" to include individuals*, not at present part of that definition. This means investigations of individuals who are not "*agents* of a foreign power" must proceed under other federal statutes, such as federal wiretap statutes with more requirements than FISA warrants. The DOJ states this change will allow FISA investigation of "sleeper cells" or "lone wolf" terrorists. But it would also allow complete FISA authority over any individual whether or not the person is an "agent" of a foreign power or affiliated with any terrorist group.

Sec. 102        Under FISA, an "agent of a foreign power" is defined as someone who "knowingly" engages in clandestine intelligence activity and this activity also must involve a federal crime. This Section would



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eliminate the federal crime aspect of the definition. An "agent of a foreign power" could engage in clandestine intelligence activity *even if not a crime*.

- Sec. 103 Under FISA, certain emergency surveillance powers can be conducted for 15 days after Congress declares a war, without approval from the FISA Court. These emergency powers include special surveillance, physical searches, and telephone monitoring. This Section would change the requirement from declaration of war *to any time Congress authorizes the use of military force* (such as the recent authorization of use of force in Iraq).
- Sec. 104 Changes an emergency Presidential authorization for electronic surveillance of foreign powers for up to a year, *by eliminating the restriction on spoken communications*. Spoken communications could be part of the surveillance.
- Sec. 105 At present, certain information obtained by FISA surveillance can be used in a criminal case only by approval of the Attorney General. This broadens the approval *to be required to be given by other Justice Department officials in addition to the Attorney General*.
- Sec. 106 Would allow the "good faith" defense in unauthorized surveillance or searches in those special situations where FISA Court approval for the surveillance or search was not required so long as the activity was approved by the President or Attorney General.
- Sec. 107 Would allow telephone monitoring methods on American citizens to obtain "foreign intelligence information," *eliminating the requirement that for American citizens, this surveillance can only be used regarding international terrorism or clandestine intelligence activity*.
- Sec. 108 Allows appointment by the FISA Court of counsel on behalf of the Court to defend a FISA decision should that decision be appealed by the government.
- Sec. 109 Would allow the FISA Court, a secret court that issues secret surveillance or investigation orders, *to enforce those orders against anyone who does not cooperate with execution of a FISA order*. This enforcement would include a hearing and contempt (most likely any such hearing would be conducted in secret, due to the sensitive or classified nature of these investigations).
- Sec. 110 *Takes Section 204 of the PATRIOT Act out of sunset provision*.
- Sec. 111 Allows for FISA to *treat terrorist organizations as foreign powers*, bringing longer surveillance activities and other conduct that is now allowed under FISA for certain foreign powers. This change would also appear to specifically include American citizens.

### **Subtitle B: Enhancement of Law Enforcement Investigative Tools**

- Sec. 121 Clarifies that "terrorist activities" can be treated as a "criminal activity," for areas of federal law allowing for electronic surveillance for crimes.
- Sec. 122 Terrorist activities are added to the list of crimes that are likely to be committed by terrorists (18 U.S.C. §930, §956). The authorization would include electronic surveillance without a court order in emergency situations, which would also include telephone monitoring methods.
- Sec. 123 Makes changes in electronic monitoring and other search methods in situations of domestic terrorism or other similar terrorist activity, *eliminating requirements that this surveillance activity conform to federal wiretap laws* that are potentially more exacting than FISA warrants and orders. The changes would also give these warrants longer time periods and lessen requirements of reporting to the court of surveillance activity.
- Sec. 124 In the case of multi-function electronic devices, such as a cell phone with various capabilities, a warrant for a particular cell phone could only relate to the one aspect of the devices' capabilities, namely receiving or transmitting a telephone call. This change allows a warrant for any multi-function *device to*

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*extend to information available through any function of that device. (e.g. "Blackberry" devices that hold or store information, etc.)*

- Sec. 125 Nationwide search warrants or multi jurisdiction search warrants are now allowed under the PATRIOT Act, for investigation of terrorist crimes. But terrorism is in turn defined as involving violent acts or acts dangerous to human life. Other forms of terrorism such as conspiracy or terrorist financing are not included. This Section would change that definition to allow for these search warrants for investigations of computer crimes, attacks on infrastructure, and "providing material support" to terrorism.
- Sec. 126 Allows equal *access by government investigators to consumer credit reports as quickly and easily as such reports are available to credit agencies or banks*. This would eliminate warrant requirements or subpoenas to obtain these reports, which according to the DOJ can be time consuming and can take up to three months "to learn where a terrorist keeps his accounts." However, there is no mention here of existing USA PATRIOT Act Title III authority for federal investigators to conduct wide ranging review of suspect bank accounts regarding terrorism, without a court order, or of other PATRIOT Act sections already extending some government investigation into credit reports. *The Section would prohibit the consumer credit agency from disclosing to the person involved that law enforcement authorities have sought or obtained the credit report.*
- Sec. 127 Would allow *the federal government to order an autopsy immediately of a US citizen who was the fatal victim of a terrorist crime, especially one occurring overseas*. Some other offenses including acts of terrorism would come under this new provision, although the provision mentions only "criminal investigation" and not specifically terrorism. This eliminates any supposed difficulty of requiring that the victim's body be transported to the US for autopsy, which according to the DOJ adds to investigative delay. The Attorney General's authority to order such an autopsy could be delegated to other federal officials. The autopsies would be conducted by local or private parties.
- Sec. 128 *Expands the use of administrative subpoenas to terrorism investigations*, eliminating the requirement that these subpoenas may be issued only by a grand jury or other similar methods. This use of the administrative subpoena would extend to investigations of domestic and international terrorism. These subpoenas can be enforced as with any other subpoena.
- Sec. 129 In addition to the use of administrative subpoenas is a "*national security letter*" issued by certain officials to obtain certain information in a national security investigation such as involving international terrorism or espionage. At present, information to be obtained in this way includes: 1) electronic transaction records by communication service providers, 2) consumer information, 3) consumer reports, 4) financial records, and 5) information on persons with access to classified information. The changes would: 1) provide for a penalty for unlawful disclosure that the information has been sought, 2) allow for court enforcement of national security letters, 3) extend to all types of terrorist activity, 4) allow for broader information sharing of this material.

## TITLE II: PROTECTING NATIONAL SECURITY INFORMATION

- Sec. 201 Allows for, essentially, *secret detentions or arrests*. According to the DOJ analysis, "the release of information about persons detained in connection with terrorism investigations could have a substantial adverse impact on the United States' security interests, as well as the detainee's privacy." According to the DOJ, releasing such information could also allow co-conspirators to flee, hide, or destroy evidence. Under this Section, the DOJ states, "the government need not disclose information about individuals detained in investigations of terrorism until disclosure occurs routinely upon the initiation of criminal charges." So, if the detained person is not criminally charged, information concerning this detention--which would include, for example, where the person is held--would be secret. ***THIS IS AN UNPRECEDENTED SECTION.*** (However, it appears to already be an existing practice under D.C. Circuit Court of Appeals opinion which ruled that government need not provide such information through an FOIA request.)

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- Sec. 202 Under the Clean Air Act, certain companies using dangerous chemicals are to submit to the EPA a "worst case scenario" report about community effects from the release of that chemical. According to the DOJ, these reports are "a roadmap for terrorists." *The Section would allow these reports to be shared among particular federal or state agencies but otherwise they would essentially be secret.* A "whistleblower" revealing this information would commit a federal crime in doing so.
- Sec. 203 This is a similar provision that makes information about *government buildings, such as blueprints and charts, secret, that is, exempt from being obtained by the Freedom of Information Act.*
- Sec. 204 Under the Classified Information Procedures Act, if a court is reviewing an investigation that supposedly involves classified material, the *court can decide if it wishes to grant* a government request to review sensitive material only in closed court chambers. If the court decides to review the material in open court, according to the DOJ, this sensitive material could be compromised. This Section would *require* that if the government requests court review of classified information, the court's review of this material *must be* in closed court chambers (without access by the defendant or counsel). That is, discretion by the court as to how the material can be reviewed, would be eliminated. DEFENDANT WOULD HAVE NO ACCESS TO THIS INFORMATION OR MATERIAL.
- Sec. 205 Security provided to certain officials would not be considered a value or income to be taxed.
- Sec. 206 Extends grand jury secrecy requirements to a broader class of subpoenas including danger to national security, flight of individual, danger to life or safety of a person, destruction of evidence, witness intimidation, or jeopardy to investigation. Secrecy can be imposed in all these situations.

### TITLE III: ENHANCING INVESTIGATIONS OF TERRORIST PLOTS

#### Subtitle A: Terrorism Identification Database

- Sec. 301 The USA PATRIOT Act expanded the DNA database for crimes, to include those convicted of a long list of terrorist crimes. This Section would change "convicted" to "*suspected*," allowing DNA database information for those suspected of terrorist crimes, including detainees at Guantanamo Bay. Specifically, these persons would be: *1) suspected of engaging in terrorism, 2) "enemy combatants," 3) suspected of being in a terrorist organization, or 4) aliens including those engaging in activity that endangers national security.* No federal law currently requires DNA sampling or DNA databank for a person who is merely "suspected" of a crime. **THIS WOULD BE AN UNPRECEDENTED SECTION.**
- Sec. 303 This would create what appears to be a separate DNA databank for terrorism. All federal agencies would contribute to this databank. The Justice Department could use the information to "detect, investigate, prosecute, prevent, or respond to" terrorist activities. Information could be shared with federal, state, local, or foreign agencies.
- Sec. 304 Defines suspected terrorists and expands on other similar definitions.
- Sec. 305 Allows these powers to be used in addition to any other authorities available.
- Sec. 306 Extends this DNA databank to persons under conditional release, parole, or other form of federal custody besides incarceration.

#### Subtitle B: Facilitating Information Sharing and Cooperation

- Sec. 311 Would expand information sharing under the PATRIOT Act to extend *to state and local law enforcement and law enforcement agencies of foreign governments.* This is similar to many such provisions in the Homeland Security Act. The provision also extends to visas, educational records, and consumer credit information. (Note: under HSA, the DHS or other similar agency can under certain circumstances, share classified information on terrorist individuals or activities with local law enforcement officers, upon signing of a non-disclosure agreement.)

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- Sec. 312 *Would end the "consent orders" that eliminated or minimized the "Red Squad" practices certain State or City law enforcement agencies of the 50s, 60s, and 70s.* Due to certain excesses in the 1970s and 1980s of surveillance and investigation authorities by many state and municipal law enforcement agencies as well as the FBI, including keeping secret files, infiltration, and illegal surveillance, many "consent decrees" were entered to settle litigation over these excesses. The consent decrees limit police authority to conduct these sorts of investigation and keep such files. The DOJ contends that these consent decrees "handicap" and "frustrate" law enforcement and terrorism investigation. The Section would *invalidate them*. According to the DOJ, the Section "would discontinue most consent decrees that could impede terrorism investigations conducted by federal, state or local law enforcement agencies. It would immediately terminate most decrees that were enacted before September 11, 2001. All surviving decrees would have to be necessary to correct a current and ongoing violation of a Federal right, extend no further than necessary to correct the violation of the Federal right, and be narrowly drawn and the least intrusive means to correct the violation." (Modeled after the Prison Litigation Reform Act which did the same thing to prison related consent decrees.) *This is a substantial change in the long process of imposing these decrees to curb law enforcement surveillance and investigation excesses. It strikes down 30 years of organizing and court battles over these activities.*
- Sec. 313 Provides protection from or immunity for businesses and personnel who voluntarily provide information to federal agents "to assist in the investigation and prevention of terrorist activities."

### **Subtitle C: Facilitating International Terrorism Investigations**

- Sec. 321 Allows electronic surveillance of various kinds to be conducted in the US and possibly involving US citizens, at the request of foreign governments. According to the DOJ, "Doing so will enhance our ability to assist foreign law enforcement investigations, as well as promote better cooperation from foreign allies when we seek evidence from within their borders."
- Sec. 322 Changes certain extradition and treaty arrangements to "update" them and permit extradition or *other acts allowed by the treaty for crimes that might not have been listed in the treaty* because the treaty was old or outdated. That is, a person could be sent to trial in a foreign court, even a dictatorship, to be prosecuted despite that there may be defects or other problems or other reasons for the extradition request. The court would not have the authority to review and consider challenges to extradition.

## **TITLE IV: ENHANCING PROSECUTION AND PREVENTION OF TERRORIST CRIMES**

### **Subtitle A: Increased Penalties and Protections Against Terrorist Acts**

- Sec. 401 Creates a new prohibition or crime against "terrorism hoaxes," such as deliberately false reports of a terrorist activity or deliberate attempt to fake a terrorist crime (letter made to look like it contains powdered anthrax but does not). A civil action for such hoaxes is allowed.
- Sec. 402 *Expands the crime of material support for terrorism* including international terrorism, and does not require a showing of intent if the act is sufficient enough to suggest intent to provide this material support. This also includes "training" or "instruction." This is a significant expansion because the definition of terrorism is so expanded, that material support to terrorism can now encompass a wide range of activities, many of which may appear to be without criminal intent or purpose. (Note: constitutionality of this section would be seriously in doubt, given that one federal court has struck down the existing "material support" language of the USA PATRIOT Act as too overbroad and vague.)
- Sec. 403 Expands terrorism, or federal court jurisdiction of terrorism, when the situation involves a weapon of mass destruction, to include 1) use of mails or other interstate commerce, 2) any property in interstate or foreign commerce, and 3) travel in interstate or foreign commerce. Also, attacks on foreign government property in US are included. And "chemical weapons" has an expanded definition, changing what DOJ believes was too-restrictive language in the Chemical Weapons Convention of 1998.

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- Sec. 404 *Makes it a crime to use a computer with encryption technology in the furtherance of a federal felony or "to conceal any incriminating communication or information relating to" that felony.* This is not restricted to a terrorist offense. Basically, any use of computer encryption is suspect.
- Sec. 405 Under current federal law, those charged with certain crimes are not allowed pretrial release. The list of crimes includes drug offenses with a term of 10 years or more. *The Section would DENY pretrial release to those charged with terrorism offenses.* According to the DOJ, this is necessary "because of the unparalleled magnitude of the danger to the United States and its people posed by acts of terrorism, and because terrorism is typically engaged in by groups--many with international connections--that are often in a position to help their members flee or go into hiding."
- Sec. 406 Makes technical corrections in the definition of "mass transportation vehicle" concerning terrorist crimes. (Responding to certain court cases.)
- Sec. 407 Expands federal jurisdiction over someone who travels in interstate or foreign commerce in furtherance of a terrorism offense or criminal offense.
- Sec. 408 The PATRIOT Act permits post-supervision release of a person convicted of a terrorist crime in federal court to be up to life. *This Section would expand certain classifications as to post-supervision release and set a minimum of such release of 10 years for conviction of certain terrorist offenses.* This Section includes "all offenses in the standard list of crimes likely to be committed by terrorists and supporters of terrorism."
- Sec. 409 Allows for denial, suspension, or revocation of civil aviation certificates for national security reasons. This is at the discretion of the government and does not require suspicion or conviction of any terrorist crime.
- Sec. 410 Eliminates statutes of limitations for certain terrorist offenses. This goes beyond the expansion of statutes of limitation in the USA PATRIOT Act. For example, it eliminates the "death or serious injury" requirement and includes computer crimes which might not result in injury but can cause disruption and economic damage.
- Sec. 411 *Imposes the death penalty for terrorist murders or certain terrorist crimes that result in fatalities.* This in effect creates 15 new death penalties. Some of these crimes could include certain protest activities that could be considered a criminal offense. (USA PATRIOT Act increased penalties for certain terrorist crimes, including up to life sentence, but did not impose death penalty.)

### **Section B: Incapacitating Terrorism Financing**

- Sec. 421 Increases penalties for violations of the International Emergency Economic Powers Act, from \$10,000 per violation to \$50,000 per violation.
- Sec. 422 Expands terrorist investigation or crime involving financing of terrorism to different sorts of financial transactions and also extends the federal jurisdiction to "all constituent parts" of a given transaction.
- Sec. 423 Eliminates tax-exempt status for a group classified as a "terrorist organization."
- Sec. 424 Extends the denial of "federal benefits" (such as government contracts, loans, licenses) to those convicted of terrorism.
- Sec. 425 Amendments or technical corrections to USA PATRIOT Act sections involving terrorist financing investigations. (NOTE: Some of these provisions have already been passed by Congress, in legislation signed by Bush in December, 2003, that expanded significantly, the definition of "financial institution" covered by existing Title III of PATRIOT Act.)

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- Sec. 426 Adds other aspects of terrorist financing to government investigations. (NOTE: Some of these provisions have been passed by Congress, in legislation signed by Bush in December, 2003, expanding definition of "financial institution" covered by existing Title III of PATRIOT Act.)
- Sec. 427 Expands forfeiture provisions of PATRIOT Act, which related to crimes committed against the US or within the US, to crimes or acts of terrorism "against a foreign state or international organization" if this is in US jurisdiction.
- Sec. 428 Adds certain conspiracies and makes other technical corrections to USA PATRIOT Act involving money laundering and forfeiture.

### TITLE V: ENHANCING IMMIGRATION AND BORDER SECURITY

- Sec. 501 Provides that a US citizen *can be considered to have forfeited US citizenship by serving in a hostile terrorist organization or providing material support to terrorism*. According to the DOJ, under this Section, "Specifically, an American could be expatriated if, with the intent to relinquish nationality, he becomes a member of, or provides material support to, a group that the United States has designated as a 'terrorist organization,' if that group is engaged in hostilities against the United States." *An actual showing of intent or spoken intent is not required*. The act *itself* will suffice to provide the necessary intent, that is, this intent "can be inferred from conduct." So, "service in a hostile army or terrorist group" would be sufficient evidence of "an intent to renounce citizenship." This Section appears to go beyond what the Constitution allows for removal of citizenship and eliminates government's burden to prove intent. It is especially disturbing given that "material support for terrorism" can be very broadly defined. **THIS WOULD BE AN UNPRECEDENTED SECTION.**
- Sec. 502 Increases penalties for certain immigration crimes, including unlawful entries, alien smuggling, fraud, and failures to depart.
- Sec. 503 The Justice Department would have authority to *deny admission into the US or remove from the US any alien "whom the Attorney General has reason to believe would pose a danger to the national security of the United States, based on the statutory definition of 'national security' under the Act in connection with the designation of foreign terrorist organizations."* This authority would extend to situations where the alien's presence in the US would have "potentially serious adverse foreign policy consequences." What this Section essentially does is allow for summary deportations.
- Sec. 504 Allows for *expedited removal* of criminal aliens, including all aliens not just nonpermanent residents, expands offenses for expedited removal, and eliminate "contested judicial removal," in favor of expedited removal. Again, the Section allows for essentially summary deportations of aliens, and eliminates due process requirements. These authorities were sought in the PATRIOT Act but were not permitted, now DOJ seeks them again. (However, it is difficult to imagine a swifter deportation or removal process or one with less due process guarantees and administrative attention or judicial review, than the process currently in place.)
- Sec. 505 Eliminates statutes of limitation for "failure to depart" as to an alien under a deportation or departure order, making it a continuing offense. An alien must depart 90 days from a final order requiring departure. *The authority of the court to suspend this requirement for good cause also is eliminated.*
- Sec. 506 Adds to places where an alien can be sent who is being removed from US if alien cannot be removed to a country stated in existing federal statute.

NOTE: Whether the DOJ and Administration ever intended actually to submit all or part of the DSEA to Congress as a proposed bill, is not known. Attorney General John Ashcroft and the DOJ public information office shrugged off the outcry after this text was leaked, by saying that this was merely draft language under discussion and such activity goes on all the time in various legal areas. (However, by the time it was leaked, the text already had been sent to offices outside DOJ for comment, including the office of the Vice President, indicating that this was more than a mere draft). Nevertheless, the public reaction after this text was leaked to the Center for Public Integrity and PBS' "NOW with Bill Moyers" certainly

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affected whatever plans DOJ and the Administration did have concerning all or part of these proposed sections. That situation definitely shows the effect of public reaction to proposed legislation of this type. While it is unlikely now, that the DSEA will ever be proposed as an entire piece of legislation as a whole, it still could be passed in pieces or discrete sections, through other legislations or as amendments. Thus, there still must be watchfulness for such activity. (*It is also likely to get attention in the event of another major terrorist attack on US soil*). What is even more significant is that this proposed statute, much of which contains sections that are more extreme than anything ever seen, represents the "next step" thinking in DOJ and shows just how far this Administration is willing to go in the name of the "war on terrorism."

### PREVIOUSLY PUBLISHED ARTICLES SUBMITTED FOR THE RECORD

FBI & 9/11

[published June 20, 2005 on *Buzzflash.com*]

by Sibel Edmonds

Over four years ago, more than four months prior to the September 11 terrorist attacks, in April 2001, a long-term FBI informant/asset who had been providing the bureau with information since 1990, provided two FBI agents and a translator with specific information regarding a terrorist attack being planned by Osama Bin Laden. This asset/informant was previously a high-level intelligence officer in Iran in charge of intelligence from Afghanistan. Through his contacts in Afghanistan he received information that: 1) Osama Bin Laden was planning a major terrorist attack in the United States targeting 4-5 major cities, 2) the attack was going to involve airplanes, 3) some of the individuals in charge of carrying out this attack were already in place in the United States, 4) the attack was going to be carried out soon, in a few months. The agents who received this information reported it to their superior, Special Agent in Charge of Counterterrorism, Thomas Fields, at the FBI Washington Field Office, by filing "302" forms, and the translator, Mr. Behrooz Sarshar, translated and documented this information. No action was taken by the Special Agent in Charge, Thomas Fields, and after 9/11 the agents and the translators were told to 'keep quiet' regarding this issue. The translator who was present during the session with the FBI informant, Mr. Behrooz Sarshar, reported this incident to Director Mueller in writing, and later to the Department of Justice Inspector General. The press reported this incident, and in fact the report in the Chicago Tribune on July 21, 2004 stated that FBI officials had confirmed that this information was received in April 2001, and further, the Chicago Tribune quoted an aide to Director Mueller that *he (Mueller) was surprised that the Commission never raised this particular issue with him during the hearing*.<sup>1</sup> Mr. Sarshar reported this issue to the 9/11 Commission on February 12, 2004, and provided them with specific dates, location, witness names, and the contact information for that particular Iranian asset and the two special agents who received the information. I provided the 9/11 Commission with a detailed and specific account of this issue, the names of other witnesses, and documents I had seen. Mr. Sarshar also provided the Department of Justice Inspector General with specific information regarding this case.

For almost four years since September 11, officials refused to admit to having specific information regarding the terrorists' plans to attack the United States. The Phoenix Memo, received months prior to the 9/11 attacks, specifically warned FBI HQ of pilot training and their possible link to terrorist activities against the United States. Four months prior to the terrorist attacks the Iranian asset provided the FBI with specific information regarding the 'use of airplanes', 'major US cities as targets', and 'Osama Bin Laden issuing the order.' Coleen Rowley likewise reported that specific information had been provided to FBI HQ. All this information went to the same place: FBI Headquarters in Washington, DC, and the FBI Washington Field Office, in Washington DC.

In October 2001, approximately one month after the September 11 attack, an agent from (city name omitted) field office, re-sent a certain document to the FBI Washington Field Office, so that it could be re-translated. This Special Agent, in light of the 9/11 terrorist attacks, rightfully believed that, considering his target of investigation (the suspect under surveillance), and the issues involved, the original translation might have missed certain information that could prove to be valuable in the investigation of terrorist activities. After this document was received by the FBI Washington Field Office and retranslated verbatim, the field agent's hunch appeared to be correct. The new translation revealed certain information regarding blueprints, pictures, and building material for skyscrapers being sent overseas (country name omitted). It also revealed certain illegal activities in obtaining visas from certain embassies in the Middle East, through network contacts and bribery. However, after the re-translation was completed and the new

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significant information was revealed, the unit supervisor in charge of certain Middle Eastern languages, Mike Feghali, decided **NOT** to send the re-translated information to the Special Agent who had requested it. Instead, this supervisor decided to send this agent a note stating that the translation was reviewed and that the original translation was accurate. This supervisor, Mike Feghali, stated that sending the accurate translation would hurt the original translator and would cause problems for the FBI language department. The FBI agent requesting the retranslation never received the accurate translation of that document. I provided this information to the 9/11 Commission on February 13, 2004, and to the Department of Justice Inspector General in May 2002.

The latest buzz topic regarding intelligence is the problem of sharing information, intelligence, within intelligence agencies and between intelligence agencies. To this date the public has not been told of intentional blocking of intelligence, and has not been told that certain information, despite its direct links, impacts and ties to terrorist related activities, is not given to or shared with Counterterrorism units, their investigations, and countering terrorism related activities. This was the case prior to 9/11, and remains in effect after 9/11. If Counterintelligence receives information that contains money laundering, illegal arms sale, and illegal drug activities, directly linked to terrorist activities; and if that information involves certain nations, certain semi- legit organizations, and ties to certain lucrative or political relations in this country, then, that information is not shared with Counterterrorism, regardless of the possible severe consequences. In certain cases, frustrated FBI agents cited '*direct pressure by the State Department*,' and in other cases '*sensitive diplomatic relations*' is cited. I provided the Department of Justice Inspector General and the 9/11 Commission with detailed and specific information and evidence regarding this issue, and the names of other witnesses willing to corroborate this, and the names of certain U.S. officials involved in these transactions and activities.

Now, after almost 4 years, we get to hear new bits & pieces: FBI & Midhar's Case; FBI & Abdel-Hafiz Case; FBI & Saudi planes leaving just days after 9/11 without having the passengers questioned; FBI & Youssef Case;... and the list goes on.

Today, after nearly four years since 9/11, the American people still do not know that thousands of lives can be jeopardized under the unspoken policy of '*protecting certain foreign business relations*.' The victims family members still do not realize that information and answers they have sought relentlessly for almost 4 years has been blocked due to the unspoken decisions made and disguised under '*safeguarding certain diplomatic relations*.'

Where is the so-called congressional oversight? Why the 9/11 Commission intentionally omitted this info; although they've had it all along? Where is accountability?

Note

<sup>1</sup> Please refer to *Chicago Tribune* article, dated July 21, 2004.

This article can be found on the web at: <http://www.buzzflash.com/contributors/05/06/con05208.html>

THE MISSING PATRIOT DEBATE  
[from the May 30, 2005 issue of *The Nation*]  
by David Cole, author of *No Equal Justice*

The Patriot Act debate is on--sort of. Congress has until the end of the year to decide whether to reauthorize sixteen "sunsetting" provisions of the act that would otherwise expire on December 31. It is holding hearings, and even inviting civil liberties advocates to some of them. Six states and more than 370 cities and towns have adopted resolutions condemning the act's civil liberties abuses. Courts have declared some of its provisions unconstitutional. An impressive coalition of conservative and liberal groups, featuring the likes of former Republican Congressman Bob Barr and the ACLU's Anthony Romero, has vowed to restore checks and balances to a law passed in haste and fear just six weeks after 9/11. And one of the most powerful lobbies in the country is on the case--librarians.

But if Patriot Act opponents are expecting great things, they will be disappointed. Many of the worst provisions of the act are not even up for discussion. The disputes regarding the few provisions that are actually in play often concern only marginal details, while skirting more fundamental issues. And the whole debate is largely a diversion, because the



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worst civil liberties abuses since 9/11 have been achieved without reliance on the Patriot Act, as they are based on executive initiatives that Congress has no will to challenge.

To begin to understand just how limited the Patriot Act debate is, consider that the sixteen provisions at issue probably take up no more than twenty-five of the original act's 342 pages. Most of those sixteen provisions are now considered "noncontroversial," and are virtually certain to be reauthorized. The real battles are likely to focus on just two sections. One, popularly known as the "libraries provision," allows the government secretly to obtain records of any person from any business, regardless of wrongdoing; and the other authorizes secret "sneak and peek" searches of homes without promptly informing the homeowner. These two measures undoubtedly raise real concerns, but they hardly warrant the kind of mass rallying that both sides have mustered since the Patriot Act was passed.

Among the most troubling provisions not sunsetted are those on immigration. They authorize the government to deny entry to foreigners because of speech rather than actions, to deport even permanent residents who innocently supported disfavored political groups and to lock up foreign nationals without charges.

Patriot Act proponents often insist that there have been no abuses of the act, but the law's immigration provisions have clearly been abused. In one case, the government ordered an Indian man deported for having set up a tent for religious prayer and food, simply because unnamed members of a "terrorist organization" were allegedly among those who came to services at the tent. In a case I am handling for the Center for Constitutional Rights, the government is seeking to deport two longtime permanent residents for having distributed PLO magazines in Los Angeles in the 1980s, and for having organized two Palestinian community dinners at which they raised money for humanitarian causes [see Cole, "9/11 and the LA 8," October 27, 2003]. The government considers it irrelevant that distributing magazines and raising humanitarian aid was entirely lawful, even constitutionally protected, at the time.

The government has also used the Patriot Act's immigration provisions to revoke the visa of Tariq Ramadan, a Swiss professor and a leading thinker on Islam's relation to modernity. Ramadan, one of the first prominent Muslim scholars to condemn the 9/11 attacks, had been offered a prestigious chair at Notre Dame. Yet the government revoked his visa on the basis of something he said, without ever informing him of what it was. More recently, the government denied a visa to Dora Maria Tellez, a Nicaraguan invited to teach at Harvard, solely because of her association with the Sandinistas in the 1980s.

Not only are these aspects of the Patriot Act not subject to debate, but Congress has just passed still more onerous immigration provisions as part of the Iraq War appropriations bill. This legislation makes the Patriot Act look humane. It makes deportable any foreign national who ever joined or made a donation to any organization of two or more people that ever used or threatened to use a weapon. It is no defense to prove that one's support or membership was not intended to further terrorism or violence. This law would retroactively make deportable every foreign national who ever donated to the African National Congress, the Israeli military, Afghanistan's Northern Alliance, the Nicaraguan *contras* or the Irish Republican Army. It would fully resurrect the "guilt by association" approach of the 1952 McCarran-Walter Act. So, far from checking abuse of the immigration power, Congress has done its best to encourage it still further.

Also not up for reconsideration is a Patriot Act section that authorizes the Treasury Secretary to freeze the assets of any entity in the United States without evidence of wrongdoing, simply by claiming that it is "under investigation" for potential violations of a law barring material support to groups or individuals designated as "terrorist," a term not defined in the law, meaning it is whatever the Treasury Department says it is. The same provision also says that if an entity challenges a freeze order in court, the government can defend it by presenting secret evidence to the judge behind closed doors. The Treasury Department has used this power to freeze the assets of a half-dozen Muslim charities. It's possible that all were actually fronts for terrorism; but it's equally possible that all were legitimate humanitarian organizations. We'll never know, because the Patriot Act shields the government's action from any challenge in open court.

Still another Patriot Act provision criminalizes speech by making it illegal to provide "expert advice" to designated "terrorist organizations." It is no defense under the law that one's advice had no connection to terrorism, or even that one's advice was designed to discourage the use of violence. I represent a human rights organization in Los Angeles, the Humanitarian Law Project, which had been providing human rights training and advice to a Kurdish group in Turkey until the group was designated as "terrorist." It then became a crime, the government argues, for my clients to

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continue to advise the Kurdish group to use lawful, nonviolent human rights advocacy to resolve their disputes with the Turkish government. This provision, too, is not subject to sunset, even though a US district court has declared it unconstitutional. (In the national intelligence law enacted in December, Congress amended this provision, but only to define "expert advice" as advice based on "specialized knowledge"--a standard that continues to criminalize human rights training.)

So the Patriot Act imposes guilt by association, punishes speech, authorizes the use of secret evidence and allows detention without charges--yet none of that will be subject to the Patriot Act debates. Nor will the debates address the civil liberties abuses committed by US law enforcement agencies or the military outside the Patriot Act--such as the incommunicado detention, without charges or hearings, of hundreds of "enemy combatants" around the world; the use of immigration law to launch a nationwide campaign of ethnic profiling and to detain more than 5,000 foreign nationals, virtually all Arabs or Muslims, none of whom have been convicted of a terrorist crime; the development and application of computer data-mining programs that afford the government ready access to a wealth of private information about all of us without any basis for suspicion; the FBI's monitoring of public meetings and religious services without any grounds for suspecting criminal activity, under guidelines written by John Ashcroft; and, of course, the use of "coercive interrogation" to extract information from suspects in the war on terror, including such tactics as "waterboarding," in which the suspect is made to fear that he is drowning.

Even with regard to the handful of Patriot Act sections that are actually being reviewed, the debate is sharply limited, and fails to confront fundamental civil liberties questions. Consider Section 218, which allows the government to obtain warrants for wiretaps and searches in criminal investigations without showing probable cause of criminal behavior, so long as the investigation also has a "significant [foreign intelligence] purpose." "Foreign intelligence" wiretap warrants have increased by 74 percent over the past four years, and now annually outstrip criminal wiretap warrants. In no other area have the courts permitted criminal search or wiretap warrants on less than probable cause of crime. Yet because the government credits this provision with collapsing "the wall" between law enforcement and intelligence agents, and everyone seems to agree that the wall was a bad thing, this section is almost certain to be made permanent.

In fact, federal law never barred intelligence agents conducting a foreign intelligence investigation from sharing evidence of crime with prosecutors. Many defendants were successfully prosecuted using information obtained during foreign intelligence searches before the Patriot Act was enacted. But the myth of "the wall" is so widely accepted that there's hardly room for disagreement.

The more fundamental myth is that "foreign intelligence" investigations are about terrorism. The government repeatedly claims, for example, that the Patriot Act merely extended to terrorism investigations various tools--such as roving wiretaps, telephone traces and document subpoenas--previously available for drug crimes. But such tools have long been available for investigation of terrorist *crimes*. What the Patriot Act did was to extend them to "foreign intelligence" investigations, which may have nothing whatsoever to do with terrorism or crime. A "foreign intelligence" investigation need only concern foreign-policy-related information about an agent of a foreign power--defined so broadly that it includes any foreign national employee of any organization not composed substantially of US citizens.

Thus, the Patriot Act permits tools previously limited to criminal investigations to be used to investigate, say, a British lawyer working for Amnesty International who is not suspected of any involvement in terrorism or crime. Yet no one has suggested limiting the definition of an agent of a foreign power to "terrorists and spies," the examples the government invariably uses when it defends the law.

The same point applies to Section 215, the libraries provision. The government claims that the power to demand records from libraries or other business entities established in Section 215 already existed before the Patriot Act, in the guise of a grand jury subpoena. But a grand jury subpoena is available only when the government has sufficient grounds to believe a crime has been committed to go to the trouble of empaneling a grand jury. Section 215 can be triggered without any evidence of wrongdoing whatsoever--the law would justify a search of library records to see who has checked out the same books as the Amnesty International lawyer, for example. The critical shift is from an investigation focused on crime to one focused on *political activity* of foreign agents. Yet critics of Section 215 have not suggested narrowing the expansive definitions of "agent of a foreign power" or "foreign intelligence," which are at the root of the problem.

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So the Patriot Act debate will focus on at most a handful of provisions in a sweeping law. It will not address many of the most troubling provisions of that law, or other practices of the Administration that raise far more substantial constitutional questions. And even with respect to the few provisions that will be addressed, the most fundamental issues will be skirted. This is attributable to two factors. First, many of the most pernicious aspects of the Patriot Act, and of the "war on terror" generally, affect foreign nationals exclusively, or nearly exclusively. The act's immigration provisions haven't generated the same concern as the surveillance provisions, not because they are less problematic but because they apply only to "them," not "us." The same is true with respect to practices like torture and rendition, tactics largely reserved for foreign nationals, which have failed to generate the kind of grassroots concern that the libraries provision has.

This double standard also infects the surveillance provisions. The foreign-intelligence-gathering powers apply very differently to visiting foreign nationals (those who come to this country to work, study or visit) than to "U.S. persons" (citizens and permanent residents). In order to invoke these powers against the latter, the government must show something much closer to criminal probable cause and may not rely solely on First Amendment-protected activity. There is no logical or legal reason why a foreign student living here should have fewer privacy or speech rights than her US citizen classmate. The reason is political--it is always easier to impose such burdens on the most vulnerable. The second reason for the inadequate debate is less deeply rooted, but no less troubling. These days it seems that the only issues on which the current national political stage offers liberals any traction are those of mutual concern to conservatives. Understanding this, the ACLU has entered into an alliance, called Patriots to Restore Checks and Balances, with conservative groups such as Grover Norquist's Americans for Tax Reform, Phyllis Schlafly's Eagle Forum and the Citizens Committee for the Right to Keep and Bear Arms. Members of the House of Representatives have similarly formed a "tripartisan" "Patriot Act Reform Caucus" featuring unlikely bedfellows Bernie Sanders, a Vermont Independent; Butch Otter, an Idaho Republican; and John Conyers, a Michigan Democrat.

In the short term, such alliances may well be necessary. It's hard to see how else to get anything done in Congress. But the cost of this compromise has been to submerge significant parts of the liberal reform agenda. The ACLU's brief on what Congress should do about the Patriot Act does not mention the immigration provisions detailed above, nor the use of secret evidence to close down charities. Material support is buried at the end of the memo. The memo does not even take on the double standard embedded in foreign intelligence law. These are not issues that conservative groups have championed, and therefore the ACLU's focus has become the conservatives' focus--the surveillance provisions that might be used against American citizens.

Balancing short-term gains against long-term costs is never easy. Were I in the ACLU's shoes, I might do the same thing. With the conservatives, liberals have a chance of achieving some reform; without them, there might well be no chance. But we should not ignore the long-term costs associated with such an approach--we reinforce the notion that the rights conservatives care about are somehow more important.

A more promising strategy for the long haul, particularly given the anti-alien character of so many initiatives in the war on terror, would be to emphasize a human rights approach. Human rights, after all, are owed to every person, by virtue of their human dignity, irrespective of the passport they carry. As a strategic matter, human rights campaigns can tap into the power of world opinion and bring it to bear at home, especially when the United States selectively abuses the rights of other countries' nationals. By shrinking the world, the Internet has made international mobilization far more efficient and effective. Such a human rights strategy has proved particularly successful, for example, with respect to Guantánamo Bay, where the Bush Administration has been forced from confident assertions of literally unchecked power to a search for a face-saving exit strategy. Critical voices from abroad, especially Europe, mobilized by human rights concerns, created pressure that forced the Administration to negotiate and likely led the Supreme Court to take the legal challenges more seriously than it otherwise would.

One of my favorite postelection maps showed the United States divided along the traditional, and increasingly ossified, red and blue state lines. But it was a map of the world, not only of the United States--and the rest of the world was blue. That may not be entirely accurate, but it does suggest that we might find more fruitful allies by appealing to international human rights and principles of human dignity than by joining forces with progun, antitax conservatives.

This article can be found on the web at: <http://www.thenation.com/doc/20050530/cole>

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WHAT AN ACLU SUIT CHALLENGING AN IMPORTANT SECTION OF  
THE USA PATRIOT ACT TELLS US ABOUT SURVEILLANCE AND SECRECY  
[published Jun. 09, 2004 on *Findlaw's Legal Commentary*]  
by Elaine Cassel

In April of this year, the American Civil Liberties Union (ACLU) and a "John Doe" Internet Service Provider (ISP) sued Attorney General John Ashcroft and FBI Director Robert Mueller. The suit was brought in the U.S. District Court for the Southern District of New York. (The case is *ACLU v. Ashcroft et al.*)

The plaintiffs challenge a portion of Section 215 of the notoriously controversial USA Patriot Act. The provision allows the FBI to access your personal financial, medical and business records, along with emails and logs of computer use.

In particular, in this suit, the plaintiffs challenge the provision insofar as it grants the government power to obtain subscriber information, billing records, and "electronic communication transactional records" from electronic communications providers. ("Electronic communication providers" are defined to encompass anyone who provides services for the receipt and transmission of electronic or wire communications.)

### **The Progress of The Case: Initially, Everything Was Under Seal**

The ACLU filed the complaint under seal, for fear that doing otherwise *itself* would be a Patriot Act violation. And indeed, Judge Victor Marrero subsequently ruled that not only the complaint, but also everything in the case must be kept under seal.

In addition, the parties and their attorneys were under a blanket "gag" order, and warned not to discuss anything about the case. ACLU Associate Legal Director Ann Beeson noted at the time that as a result, ironically, "President Bush can talk about extending the life of the Patriot Act, but the ACLU is still gagged from discussing details of our challenge to it."

After three weeks of legal wrangling, Judge Marrero allowed the plaintiffs to post some redacted documents on the ACLU website, and to discuss, only generally, the legal aspects of the case.

### **Shedding Light on National Security Letters**

Here is what we have learned so far from those documents that have been made public, and discussions that have taken place:

According to an internal FBI memo filed in the case, National Security Letters (NSLs) are "powerful investigative tools, in that they compel the production of significant amounts of information." Several people and departments in the FBI are authorized to issue NSLs.

The issue of the NSL must only allege that the information being sought is related to ongoing "terrorism" investigations. It does not require any probable cause or individualized suspicion about persons or their activities. It need not show that the person is involved in terrorism in any way. The recipient of the NSL must comply without even contacting an attorney or corporate counsel.

(Prior to the Patriot Act, such information could only be gotten pursuant to an NSL letter when the purpose was to engage in counterintelligence measures against non-citizens who were associated with a "foreign power.")

Recipients of NSLs are under a blanket gag order never to talk about receiving the NSLs and, of course, they must never disclose to clients or patients that their email, medical records, or retail records have been handed over to the FBI. This gag order is not time-limited--supposedly it continues in perpetuity.

The law places no restrictions on how the government uses the information and records obtained. In theory, the NSL must *seek* information in the context of fighting terrorism. But once the information is procured, *it can be used* for any purpose, including prosecution for other crimes, for data-mining (for a description of what "data mining" is, see Anita Ramasastry's earlier article for this site), for creating profiles of "suspicious" persons, and more.

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There are no limits on how long the government can keep the information.

### **The John Doe ISP Provider's Affidavit: Why He Decided to Sue**

Last week, Judge Marrero allowed the release of a heavily-redacted summary judgment affidavit filed by the president of the John Doe plaintiff ISP. The company provides web consulting, and email and Internet access to individuals and political associations that "engage in controversial political speech."

The ISP's president is troubled by the law's requirement that, upon receipt of an NSL, he must give the FBI client usage logs, passwords, names and address.

He is concerned because some of his clients use pseudonyms or post viewpoints anonymously on websites hosted by his company. He does not want to invade client privacy or aid the government in violating client civil liberties.

The ISP's president also takes issue, in the affidavit, with both the USA Patriot Act's automatic gag order, and the court's gag order in this case. He says that his inability to talk about the case not only harms his clients, but harms him personally.

In particular, he contends that his free speech rights are not just "chilled," but stopped dead in its tracks. The gag order only allows him to talk about dates and legal generalities; he cannot express his thoughts and feelings about any aspect of the litigation. He cannot commiserate with friends and family or debate the issues.

### **The Heart of the Case: Constitutional Claims About the USA Patriot Act**

In addition to these serious secrecy and First Amendment issues, the case itself raises - and indeed, is based on - other important issues. The complaint charges that the law at issue is a violation of the First, Fourth, and Fifth Amendments.

A NSL to an ISP can be used to ascertain the identity of an anonymous writer's criticism of administration policies or support for unpopular political causes--such as the rights of Palestinians. (NSL letters can be used to obtain library records, as well.) Although the statute says that "records" of citizens cannot be sought solely because they have engaged in "protected" First Amendment activities, non-citizens can be.

Moreover, the government can say anything about you in an NSL letter to justify asking your ISP for your password. Keep in mind that there is no one can challenge the contents of the NSL, which is a demand letter from an FBI office. No judge or magistrate has approved what amounts to an order from the government.

The target of the NSL will never know of its existence, and the recipient of the letter can tell no one. (This permanent gag order on the recipient is a violation of free speech rights as well.)

Section 215 is a blatant violation of the Fourth Amendment's protection against unreasonable searches and seizures. A hard-fought history of search-and-seizure jurisprudence has protected the right to challenge searches and seizures and to require that there be no searches without probable cause or particularized suspicion that a person is engaging in wrongdoing. Section 215 does away with this expectation entirely--a victim of so-called national security interests.

Fourth Amendment violations go hand in hand with procedures that break faith with the Fifth Amendment, which promises that life and liberty cannot be sacrificed without due process and, further, that we cannot be compelled to incriminate ourselves. These promises likewise have fallen victim to Section 215.

NSLs infringe on due process by denying the ability to defend ourselves against government snooping. There is no opportunity to object to a NSL or to exclude evidence obtained under it--because there is no judicial oversight. There is literally nothing a citizen can do to stop the government before it does its mischief or even to challenge it after the fact.

If and when we are prosecuted--for any crime, recall, not just a crime related to national security--the information and records obtained can be used as evidence against us. There can be no challenge that the evidence was obtained in violation of the Fourth Amendment.

### **The Provision the ACLU and the John Doe ISP Are Challenging Should Be Repealed**

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Ashcroft promises, of course, that he is targeting "terrorists," not "innocent" people. But if the USA Patriot Act were really to be used only for this purpose, why isn't that limitation built into the law itself? Without such limitations, abuse is inevitable.

With an NSL, and *a simple allegation (unreviewed by any judge) that national security is at issue*, the agencies that can invoke the USA Patriot Act provision at issue to profile virtually any citizen's reading habits, websites visited, and emails sent - by simply, quickly and now, legally getting this information from your ISP. What in the world did Congress have in mind when it granted such unbridled power to the Executive branch?

At the end of 2005, the relevant section of the USA Patriot Act - Section 215 - will face automatic repeal. But that is not soon enough. Even now, Americans should be inundating their senators and representatives with demands to repeal it.

President Bush has vowed to veto any such repeal, while Democratic nominee John Kerry favors the demise of an odious law that not only permits, but invites, serious violations of constitutionally guaranteed civil liberties.

This article can be found on the web at: <http://writ.news.findlaw.com/cassel/20040609.html>

THE STRANGE CASE OF AHMED OMAR ABU ALI:  
TROUBLING QUESTIONS ABOUT THE GOVERNMENT'S MOTIVES AND TACTICS  
[published Mar. 07, 2005 on *Findlaw's Legal Commentary*]  
by Elaine Cassel

Twenty-three-year-old, Houston-born American citizen Ahmed Omar Abu Ali has been returned to Virginia after twenty months in solitary confinement in a Saudi Arabian prison. But he returned only to face arraignment, on February 22, in U.S. District Court in Alexandria, Virginia.

The charge is that he conspired to commit terrorism- and, indeed, the FBI says that he admitted as much in the course of interrogations in Saudi prison. He is alleged to have plotted to assassinate President Bush - but is not charged with that conspiracy.

The case is far from as open-and-shut as the FBI might suggest. Indeed, a number of aspects of the prosecution are deeply troubling.

### **The Early History of Abu Ali's Case: The Government Reverses Itself**

At the end of the 2003 academic year at the Saudi university he was attending, Abu Ali failed to return home to the U.S. As a result, his family - Jordan-born, naturalized U.S. citizens living in Northern Virginia where I practice - contacted me to see if I could help.

In August 2004, attorneys filed suit in the U.S. District Court of the District of Columbia, on behalf of Abu Ali's parents, in order to obtain his release. Among the attorneys was renowned constitutional rights scholar and Georgetown University law professor David Cole.

The day the suit was filed, the State Department - which had previously refused to provide information to Abu Ali's parents - notified them that their son would be charged with crimes of terrorism in Saudi Arabia. But that never happened. Instead, the question of whether Abu Ali could be returned to the U.S. was litigated.

Before U.S. District Judge John Bates, the government took the position that Abu Ali was far too dangerous to ever be returned to the United States, *and* that the reason was so serious that it could not be disclosed even to the family's attorneys. In other words, the government sought to proceed on secret evidence.

Then, the government reversed itself dramatically. It transported Abu Ali to the United States itself - thus mooted the question before Judge Bates of whether the government could proceed upon secret evidence to block his return.

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In 2004, when Abu Ali's parents had been begging the U.S. government to intervene, it had refused - claiming it was up to the Saudis whether he was released. With his return, however, it began to seem evident that the Saudis had been holding Abu Ali with U.S. consent - indeed, even at the U.S.'s behest. It now appears that FBI agents had the Saudis remove Abu Ali from his university class and take him to a Saudi facility for questioning in the summer of 2003.

It also became apparent that the U.S. could, all the time, have ensured Abu Ali's return to the U.S. whenever it felt like it. After all, federal prosecutors had, during this time, extradited from Saudi Arabia to Alexandria another man in Saudi custody who was alleged to be (and acquitted of being) a terrorist and involved in the case of the Alexandria 11.

Apparently, however, the U.S. had taken advantage of this U.S. citizen's choice to attend school abroad, to make sure he was held in prison there - where torture would be permitted, and counsel would not be provided. Indeed, unidentified sources have been quoted in the *Washington Post* and *New York Times* as saying that the government certainly would have preferred to have left Abu Ali in Saudi Arabia.

It was only Judge Bates's interest in Abu Ali's case that changed the government's mind. Laudably, Bates was concerned - as we all should be--about the potentially indefinite imprisonment of a U.S. citizen, with the U.S.'s consent, in a foreign prison where due process is ignored and torture is common.

With Judge Bates perhaps unwilling to proceed against Abu Ali in absentia, the government felt it had to bring him home. To do so, they had to charge him with something--something that would at least sound serious, even if the underlying indictment (as I will explain below) fell far short of the media headline.

### **The Government Argues Abu Ali Ought to Be "Presumed Dangerous"**

Abu Ali was arraigned, as noted above, on February 22. On February 24, a hearing on whether he would be released prior to trial was to occur. But the government managed to delay that hearing. It did so by arguing that the usual standard for pre-trial release should not apply.

Typically, in a criminal case, to block a defendant's release on bail, the government must prove the defendant's dangerousness or his likelihood of fleeing. But here, the government took the position that *the defendant*, Abu Ali, had the burden of proving to the court that he would not be a danger to national security, before being released on bail. It did so based on 2004 federal legislation stating that people charged with terrorism-related crimes were presumed to be too dangerous to be released unless they proved otherwise.

The Eighth Amendment requires that "excessive" bail shall not be required, and constitutional due process applies to federal pre-trial criminal proceedings. Moreover, two centuries of law have mandated that the government has to prove that a defendant would be a flight risk or danger to the community if not released on the condition he pay bail and/or comply with other requirements.

More fundamentally, our system depends on the idea that we jail people for criminal conduct, not merely the government's insistence that they are "dangerous." In order to honor this principle, we have made sure that we have no common law crimes - only those specifically defined by statute.

The importance of this principle simply cannot be overstated. Without it, governments could simply lock up unpopular minorities, political opponents, and political dissidents--and as South American and Eastern European history shows us, they have.

### **The Government Relies on a U.S. Citizen's Saudi-Prison Confession**

At the hearing on the bail motion, an FBI agent testified that Abu Ali had confessed to Saudi officials that he associated with persons involved with al-Qaeda, received things of value from them, and talked with one or more of them about how to assassinate President Bush, whether by car bomb or shooting. (These persons are named in the indictment as unindicted co-conspirators.) The government also claims to have a videotape of this confession.

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Abu Ali's attorneys argued that if Abu Ali indeed confessed, he did so under extreme conditions of confinement - conditions that included torture. Confessions under such circumstances are not only deeply inhumane; they are also notoriously unreliable.

They also pointed out that Abu Ali had repeatedly been denied the right to an attorney. Abu Ali's parents had asked the U.S. consulate in Saudi Arabia—who had infrequently sent an employee to visit Abu Ali in prison -- to provide their son with an attorney. They were told the Saudis would not allow it. Accordingly, no attorney ever met with Abu Ali while he was incarcerated and doubtless tortured in Saudi Arabia.

Hopefully, the Alexandria judge will exclude the confession from evidence to be heard at Abu Ali's trial. He could do so on the ground that Abu Ali was, in effect, in U.S. custody - and thus, his Fifth Amendment rights were violated. Or, the judge could do so on a simpler ground: that the prejudicial effect of coerced confessions outweighs their probative value. (Federal trial judges may make this prejudicial effect/probative value balance for any piece of evidence the government seeks to offer.)

### **The Government Searches Abu Ali's Parents Home pursuant to the USA PATRIOT**

The government also admitted at the bail hearing that it had secretly raided Abu Ali's parents' home in 2003 - apparently pursuant to the USA PATRIOT Act—and found what it deemed to be "radical" Islamic writings. It also found a gun magazine—hardly unusual for Virginia.

This search had occurred incident to the prosecution of the "Alexandria 11." I have written about this group in an earlier column. Abu Ali and his parents were certainly not among them - but because they lived in the same community, apparently they fell under suspicion anyway.

In Abu Ali's case, the government was able to use two arguably unconstitutional laws—the USA PATRIOT Act, which allows secret, warrantless searches, and the law the government invoked, which allows pre-trial dangerousness to be presumed. Through the combination of these laws, it was able to search secretly for supposed evidence of dangerousness, craft an overblown indictment, flood the media with dramatic press releases, and then dare the defendant to prove his innocence.

### **The Government's Indictment: Where's the Conspiracy?**

When the indictment was made available to the public, it raised an even larger question about the entire prosecution. Nowhere in the indictment is Abu Ali tied to any terrorist event or action. So what is his crime?

Plainly, there was not enough support for a charge of conspiracy to assassinate President Bush. Conspiracy requires an agreement, and an overt act in furtherance of the agreement. Nothing in the indictment suggests that Abu Ali either agreed to attempt to assassinate Bush, or took any action as a step to doing so.

So, instead, the indictment simply charges Ali with having "associated" with alleged terrorists. Specifically, it claims that he talked about wanting to kill Bush with these persons, and that he received money from one or more of them - for what purpose, it is unclear.

The very reason that the law of conspiracy requires an agreement and an overt act is to prevent prosecutions like this one - based on alleged, vague discussions that supposedly took place, but were never acted upon.

### **What Abu Ali's Case Signifies for America and the Rule of Law**

The next development in the Abu Ali case may be a plea agreement. The government's case is obviously weak, and its evidence depends on conduct that many view as unconstitutional - even appalling.

The government will be in the same bind it is in the Zacarias Moussaoui case. There, it has successfully argued that it cannot produce witnesses because they are of such high intelligence value to the government that they have to be kept in secret. It has also argued that given that this is the case, the defendant can't subpoena these witnesses because their appearance, pursuant to Moussaoui's Sixth Amendment right to face his accusers, would be a grave threat to national security.



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If prosecutors offer Abu Ali a deal and he refuses, he will sit in jail for years as the case winds its way through appeal after appeal, as his occurred in the Moussaoui saga.

If Abu Ali pleads guilty, he will no doubt be placed under a gag order, like that imposed on John Walker Lindh. It will require, most certainly, that he never speak in public about anything related to the court case, or about what happened to him while he was in Saudi custody.

The plea agreement may also require that Abu Ali return to Saudi Arabia—as the agreement the government entered into with U.S. citizen Yaser Hamdi did—even though that means he will be separated from his family. (The agreement followed upon Hamdi's victory in his Supreme Court case.)

Speaking of his family, Abu Ali's family have not been able to visit him since his return because they refused to agree to the government's rules: An FBI agent had to be present during the visits, all their communications had to be in English, and they could make no comment to anyone, including the press of course, about any aspect of their visit. Is it any wonder they refused?

To add insult to injury, the family has been ordered not to "communicate" with their son in the courtroom. Did this extend to a smile, a loving glance, they asked the magistrate?

If Abu Ali's case does end in a plea agreement - or, worse, in a precedent blessing this prosecution as constitutional - Americans' rights will have been very significantly diminished.

Such a result will mean that this nightmare is viewed as *an entirely legal* reality: The U.S. can work with a foreign government to arrest and imprison a U.S. citizen and torture him. It can allow the imprisonment to go on indefinitely; Abu Ali's took over twenty months.

Citizens of U.S. allies, too, should beware: Canadian citizen Maher Arar was kidnapped by CIA operatives from New York's Kennedy airport, and taken to Syria for "questioning." There he remained for a year, until Syria got annoyed with the United States and returned Arar to Canada.

Then, if the U.S. (or allied country) citizen confesses under torture - and virtually everyone does, even if the confession is a lie - the U.S. may try to use the confession against him in a U.S. court, as well in a foreign court. (We don't know why the intended Saudi prosecution of Abu Ali got sidetracked. Could it be because the Saudis thought, as did the Syrians about Maher Arar, that no crime had been committed?)

But, readers may object, what if the U.S. really thinks Abu Ali is a terrorist? The answer is that the U.S. can still protect its citizens from him - consistent with the Constitution.

How? The U.S. could have promptly extradited him from Saudi Arabia to face charges here. Once he was here, it could have honored his right, as a U.S. citizen, to an attorney, a speedy trial, and a right to pretrial release unless the government proved that he was a danger or a flight risk.

This is not too much to ask. And it is what the Constitution requires.

This article can be found on the web at: <http://writ.news.findlaw.com/cassel/20050307.html>

## Congressional Briefing, July 22, 2005

IS PLAYING PAINTBALL AND FIRING LEGAL GUNS TERRORISM?  
THREE DISTURBING CONVICTIONS STRONGLY SUGGEST DISCRIMINATION  
AGAINST MUSLIM AMERICANS  
[published Mar. 25, 2004 on *Findlaw's Legal Commentary*]  
by Elaine Cassel

On March 5, in federal district court in Alexandria, Virginia, Judge Leonie Brinkema delivered her verdict in the case of three American citizens—Masoud Khan, 32, Seifullah Chapman, 31, and Hammad Abdur-Raheem, 35—who were charged with participating in a conspiracy to aid and abet terrorism. (The three had waived their right to a jury trial.)

Brinkema found the three men guilty. As a result of the finding of being labeled "terrorists," the men now face prison terms of fifty to one hundred years.

Yet plainly, these men are no terrorists, as I will explain below. Instead, defense attorneys have made a convincing case that the men were indicted and convicted primarily because they are Muslims.

### **Even the Government Did Not Initially See This as a Terrorism Case**

You need not take my word for the fact that these men weren't terrorists. Take the government's word, instead.

According to a report in a June 28, 2003 *Washington Post* article, Michael E. Rolince, in charge of the Washington FBI field office, conceded that the government had no evidence of specific plots against U.S. targets at home or abroad. "A lot of this is about preemption," he said.

A lot? How about the entire case? And since when is "preemptive" prosecution constitutional? Apparently, when you are a Muslim in post-September 11-America.

The government did not initially charge these men with terrorism. Instead, the government charged the three men, along with eight others, with conspiracy to violate the Neutrality Acts—obscure, longstanding, yet rarely-enforced laws that make it a crime for Americans to attack countries with which the United States itself is at peace.

The basis for these charges was that all eleven men were, in the past, supporters of Lashkar-i-Taiba—an Islamic group that would like to oust India from Kashmir, and that has been accused by India of mass killings of Sikhs, and of partial responsibility for a December 2001 attack on India's Parliament.

In late 2001, the U.S. declared Lashkar-i-Taiba a terrorist organization. However, at the time the eleven men were alleged to have plotted to support the group, the organization was *not yet on the list*.

Nor did the men "attack" anyone, or any country—as the Neutrality Act requires. Instead, prosecutors alleged that they played paintball, and fired legally owned firearms in the Virginia countryside, in order to prepare to someday help Lashkar-i-Taiba if necessary. (Two of the men also admitted to being in a training camp in Pakistan, and one of said he helped to recruit others to join in support of Lashkar-i-Taiba. But again, these activities preceded Lashkar-i-Taiba's designation as a terrorist organization.)

Prosecutors called these activities "paramilitary training" and "preparation for violent jihad"—although both playing paintball and firing a gun are perfectly legal in Virginia.

To shoehorn these facts into a Neutrality Act prosecution, the prosecution also had to insinuate that this "training," alone, was in effect an attack on India. Indeed, the government's whole case was based on speculation that these men *might someday* go to fight on the side of Pakistan—ironically, an American ally. That's a far cry from actually going right now to fight for a U.S. foe—the kind of conduct the Neutrality Act seeks to punish.

Plainly, the Neutrality Act charges were not strong. After all, the Neutrality Act generally allows prosecutions of Americans who go to war to fight against American allies—not Virginians who play paintball and politics in their own backyards, imagining they may someday aid a political organization they support.

### **The Terrorism Charges Were a Coercive Plea Bargaining Tactic**

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Perhaps realizing the weakness of the Neutrality Act charges, the government offered three-to-eleven-year sentences to the 11 men, if they would plead guilty. Of course, these are hardly the harsh sentence we would expect the Bush Administration to mete out to true terrorists.

Unsurprisingly, four of the 11 pled guilty early on. Even innocent persons may rationally choose a three-year prison term over the chance of a 50-year sentence. And Muslims, after September 11, may have seen a 50-year sentence as a certainty.

The remaining seven men were then the subjects of superseding indictments in which new charges of conspiracy to aid and abet terrorism were added. And this was not terrorism by Lashkar-i-Taiba, but terrorism by the Taliban and Al Qaeda.

Such charges, of course, made it even less likely that the seven men could receive a fair trial—especially in the conservative Eastern District of Virginia. So, not surprisingly, two more men—including the two who actually went to the training camp—pled guilty shortly after the superseding indictments were handed down. For their cooperation, they too received promises of sentences of 3 to 11 years.

That left five men. Charges against two were completely dropped. Three insisted on going to trial—the three that were just convicted by Judge Brinkema.

Why did these three Americans insist on going to trial? My guess is that they were innocent. Why else would they fight what they knew to be an uphill battle, at great risk, rather than accept a few-year plea bargain, as others in a similar situation had done?

### **Discriminatory Prosecutions**

Consider the following hypotheticals: Would Irish Americans who played paintball and played with guns in order to support the IRA have been similarly treated?

What about Jewish Americans who played paintball and engaged in target practice to train to support the Israeli army's actions in the Palestinian territories?

And even if these Irish and Jewish Americans *were* charged, would anyone possibly suggest that they were terrorists who might someday attack the United States as well?

Judge Brinkema suggested exactly this with respect to the three Muslim American defendants. She said she believed that those convicted might someday take up arms against the United States.

Yet the defendants' only proven animosity—if any—was toward India, over its actions in Kashmir. There was no evidence to support the claim that they had *any* political animosity toward the U.S.—let alone that they would ever violently attack their own country.

### **A Prejudiced Verdict? Using Religious Belief As a Sword Against Defendants**

The evidence against the three men came from three basic sources, all of which are troubling.

One source was the testimony of their co-defendants who had pled guilty in exchange for light sentences, based on their willingness to give this very testimony. Again, these co-defendants had been under tremendous pressure to take these plea bargains, regardless of their own guilt or innocence—and to testify in support of the government, regardless of the guilt or innocence of the men they were testifying against. Can testimony be truly credible when it is given in exchange for freedom?

Another source was the three men's political beliefs: They thought India ought to get out of Kashmir, and said as much. But of course, that was their right, as Americans protected by the First Amendment's free speech clause.

Another source was the three men's place of worship. They attended a Virginia mosque in which the Kashmir issue was discussed, and India's actions criticized. But of course, that was their right, as Americans protected by the First Amendment's free exercise clause.

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Three tainted sources of evidence led to three convictions.

Obviously, the government does not—and cannot—prosecute every supporter of a cause of which it does not approve. But Muslims today are easy targets. The evidence suggests that these prosecutions and convictions were motivated by discrimination and a desire to send a message to Muslims, not out of concern for national security or justice.

The evidence also suggests that the three men who exercised their right to a trial will serve long prison terms--what in effect will be life sentences--not for their actions, but rather for their insistence on exercising that constitutional rights.

The prosecutorial strategy of "Plead guilty or be labeled a terrorist" is coercive, and wrong for our government to employ in any case, terrorism or no terrorism.

This article can be found on the web at: <http://writ.news.findlaw.com/cassel/20040325.html>

THE LYNNE STEWART CASE: WHEN REPRESENTING AN ACCUSED TERRORIST CAN  
MEAN THE LAWYER RISKS JAIL, TOO  
[published Oct. 08, 2002 on *Findlaw's Legal Commentary*]  
by Elaine Cassel

As every lawyer knows, client confidentiality is the very foundation of the attorney-client relationship. Attorney Lynne Stewart certainly believed that to be true, but her principles and zealous representation have landed her a four-count criminal indictment for aiding and abetting terrorism.

Without warning, Stewart was taken out of her home and arrested. Attorney General Ashcroft then staged a press conference within hours of her arrest. The same night, he appeared on David Letterman's show, to assure viewers (and potential jurors, it seems) that the "terrorist" lawyer was guilty as charged.

The basis for the prosecution? Communications Stewart made with and about her client, a convicted terrorist for whom she was court-appointed counsel for his trial and whom she continued to represent in post-conviction matters.

### **Surveillance of Attorney-Client Communication Before 9/11**

Readers may wonder how Ashcroft learned of Stewart's supposedly confidential attorney-client communications in the first place. It may surprise some readers, but even before 9/11 the government had authority to wiretap attorney-client communications if it had reason to think that the attorney and client were complicit in criminal behavior.

This is the so-called "crime-fraud" exception to the attorney-client privilege. As in other wiretap orders issued by a federal judge, piercing this ancient privilege requires a showing of reasonable suspicion that a crime is being committed.

But there are other ways in which the government can be privy to attorney-client communications. Under a set of regulations called Special Administrative Measures (SAM), some incarcerated persons are forbidden from communicating not only with the outside world, but also with their lawyers on any topic that DOJ deems to be outside the scope of "legal representation."

What is outside the scope of legal representation? No one knows, and the DOJ is not saying, as the SAM's are vaguely worded. But attorneys are not only allowed, but also *duty-bound* to provide broad services to their clients, as advisor, counselor, and intermediary between the client and the government.

According to Rule 1.2 of the ABA's Model Rules of Professional Conduct, lawyers have a duty to render "candid" advice not only about the law, but also about "economic, social, and political factors that may be relevant to the client's situation."

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Thus, for example, while DOJ might believe it is improper for a lawyer to tell a client the Treasury Department may be about to seize the assets of his organization, the model rules may require that a lawyer provide the client with this information in order to protect his interests.

### **FISA Warrants**

In addition to monitoring attorney-client communications by means of SAM's, the government could (and no doubt did, in the Stewart case) conduct surveillance under authority of a Foreign Intelligence Surveillance Act (FISA) warrant.

To get the warrants, DOJ must convince the special FISA court (a rotating panel of federal district court judges) that it needs to conduct counter-intelligence on people or organizations allegedly engaging in terrorism or secret intelligence activities against the United States. (However, FISA warrants cannot be used to target Americans except in the "national interest" or to protect against acts of terrorism.)

Taken together, Title III wiretap warrants, FISA warrants, and SAM's did not, in Ashcroft's opinion, give him enough leverage to interfere in the attorney-client relationship. So, after the 9/11 attacks - on October 31, 2001 - the Attorney General promulgated new, and far broader, wiretap regulations aimed squarely at criminal defense attorneys.

### **How the New Regulation Broadly Extended Wiretap Authority**

The new regulation became effective immediately, without the usual opportunity for prior public comment, no doubt to foreclose what should have been outrage from lawyers and the public. (For a thorough analysis of the problems with the regulation, see the column by Akhil and Vikram Amar on this subject.)

Unlike FISA and Title III, the new regulation allows *warrantless* wiretaps - requiring only that "notice" be provided to the attorney and client that they "may" be monitored. And, unlike FISA, the new regulation can be used to target American citizens, even without the suspicion that they are involved in acts that threaten national security.

Under the new regulation, the status of the client's confinement is irrelevant. He may be a detainee with no pending charges, a defendant awaiting trial, or someone serving a sentence. (Even convicted persons have legitimate needs to work with their lawyers on appeals, habeas corpus petitions, and to improve conditions of their prison confinement.)

DOJ determines the scope of the "monitoring." According to the regulation, surveillance is allowed "to the extent determined to be reasonably necessary for the purpose of deterring future acts of violence or terrorism."

What's more, there is no provision for judicial oversight of the decision to conduct surveillance, the nature and extent of the surveillance, or DOJ's determination of the boundaries of "legal" representation. Imagine leaving it up to DOJ to tell you what you can and cannot do for your client. Presumably, doing any thing more than pleading the client guilty could create grounds for accusing an attorney of aiding and abetting terrorism.

### **The Lynne Stewart Indictment: Directly Based Upon Attorney-Client Communications**

U.S. citizen and New York City attorney Lynne Stewart is a criminal defense attorney with a career-long history of representing unpopular clients. For many of them, she is their court-appointed attorney.

Stewart does the kind of work, in short, that the ABA's Model Rules state that lawyers have a duty to do. As the Rules note, "[a]ll lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel."

Stewart was a member of the court-appointed defense team for Sheik Abdel Rahman. Rahman is serving a life sentence in connection with the 1993 World Trade Center bombing. (His sentence was challenged on appeal, but affirmed.) Stewart continued to act as one of Rahman's attorneys after his incarceration.

Rahman is connected with the Islamic Group, which is on the Secretary of State's list of terrorist organizations. For this reason, as well as for the bombing, he is a person of intense interest to the government. Accordingly, for over two years, his conversations with Stewart were wiretapped.

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The surveillance began in early 2000, presumably pursuant to Title III or FISA warrants. It continued through October 31, 2001, when the new regulation went into effect and it could legally have been warrantless. And it did not end until about six months more, in early 2002. What ended them was an indictment.

On April 9 of this year, Ashcroft and his Justice Department issued the indictment. In addition to charging Stewart, it also charged a number of others: Mohammed Yousry, the Arabic language interpreter for communications between Stewart and Rahman; Ahmed Abdel Sattar, a resident of Staten Island, New York and described in the indictment as a "surrogate" for Rahman; and Yassir Al-Sirri, currently in custody in the United Kingdom.

### **The Specific Charges Against Stewart**

Stewart is charged, under the 1996 Antiterrorism Act, with four counts of aiding and abetting a terrorist organization. If convicted, she faces 40 years in prison.

Specifically, the indictment alleges that Stewart allowed Yousry to communicate with Rahman in Arabic regarding nonlegal matters, and that she purposely made extraneous comments in English that would mask and conceal the Arabic conversation.

The indictment also poses charges with disturbing First Amendment implications. It alleges that Stewart violated the SAM by responding to a media question about Rahman's position on a "terrorist" cease-fire and that she lied to the government by agreeing to the SAM measures, as the government required her to do in 2000, before she could see her client.

Besides raising First Amendment issues, this last charge seems particularly troublesome for other legal reasons. Predicating a fraud charge on a defendant's intent to violate a contract is unusual, for it is very hard to show such pre-contract intent. Many people enter into agreements in good faith but later break them, and the law recognizes that.

### **Why the Regulation Puts the Right to Counsel In Jeopardy**

The indictment claims that Stewart did these and other acts in order to help Rahman maintain his influence over the terrorist activities of the Islamic Group.

An indictment like Stewart's sends a clear warning to attorneys: Don't represent accused terrorists, or you could be our next suspect.

It may also make conscientious lawyers worry that they will not be able to do their job properly with such clients. A lawyer may wonder if she can be zealous when torn between avoiding her own prosecution and representing his client. ("Zealousness," too, is a duty under the Model Rules). Indeed, a lawyer may be unavoidably caught in a conflict of interest trap with her own client.

The fear of a conflict of interest, in such circumstances, would be a very real one. As the Stewart indictment shows, an attorney can be now charged with aiding and abetting terrorism simply for engaging in everyday acts of lawyering. For example, responding to press queries, unless the subject of court gag orders imposed during trials, is a normal part of being a lawyer in a controversial case. (The lawyer may choose not to speak, but the choice is the lawyer's, not the government's.) Yet for Stewart, it is a crime.

Of course, it is certainly possible Stewart should not have spoken when she did, given the agreement she signed. But that agreement itself may be unconstitutional as a violation of both the First Amendment and the Sixth Amendment right to counsel.

Moreover, the violation may have been inadvertent; even if it was not, there are many sanctions that can be imposed upon a lawyer short of a criminal charge - from disqualification, to disbarment before the relevant court, to money sanctions, and so on. That the government is trying to put Stewart in jail for her remark is, given the alternatives, alarming.

In light of the new regulation, a lawyer may also worry that he or she will be forced to do the unthinkable: Testify against a client and disclose the content of their communications - with the only alternative being the attorney's own

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prosecution for contempt of court. Again, the conflict of interest is clear. No one wants his lawyer to also be his or her potential co-defendant - for one co-defendant will often cooperate with the government against another.

A lawyer familiar with the Stewart case may also worry about exposing other clients to risk. FBI agents seized files and computer disks from Stewart's office that related to clients other than Rahman.

Asking a lawyer to represent a client under all these circumstances is like asking a surgeon to only do surgery one-handed, and risk jail time if she uses the other hand. The surgeon may reasonably refuse to do it at all, feeling that she would be betraying her profession if she provided sub-standard care.

And what happens when the client charges the attorney with ineffective assistance of counsel or malpractice (the client may perhaps be a wrongly accused terrorist suspect who is later exonerated)? The government won't be the one paying the judgment or suffering the judicial rebuke if the attorney fails to walk the perfect line between "acceptable" representation and zealous advocacy.

In a very real sense, the surveillance itself flings open the window to government knowledge of every aspect of the case, every communication with the client, every legal and factual argument, every case read. In effect, the defense attorney may become the prosecutor's paralegal and research assistant - allowing him to anticipate every defense argument and counter them long ahead of time, even though the defendant does not know ahead of time what the prosecution will argue. What conscientious defense attorney would open his or her files to the government?

### **A Convenient Way For the Government to Scare Off Competent Counsel**

Ending, for all practical purposes, the right to counsel may be exactly what the Administration wants. After all, the Administration has expressly denied counsel even to U.S. citizens Yaser Hamdi and Jose Padilla.

The Supreme Court, however, may well rule those actions, unconstitutional. But, in the meantime, how convenient for the Administration if, rather than denying counsel outright, it can instead intimidate attorneys from accepting the cases from the outset.

But Stewart is fortunate in that her attorney, Michael Tigar, is not dissuaded by the government's tactics. He has been appointed by U.S. District Judge John Koeltl (of the Southern District of New York) to lead Stewart's defense team.

Tigar, well known for convincing a jury not to impose the death penalty on Oklahoma City conspirator Terry Nichols (Tigar was court-appointed in that case as well), is no stranger to unpopular causes and clients.

Tigar is mounting a vigorous defense of his client, even though Judge Koeltl has refused to require the Justice Department to disclose whether or not it is conducting surveillance on Stewart-Tigar communications.

But not every lawyer is - or should need to be - as brave as Tigar. And many lawyers will no doubt think twice about tempting fate and risking their livelihoods--and their bar licenses--in order to represent an alleged terrorist or terrorist sympathizer.

### **A Chilling Effect that Will Linger**

Tigar has said to the press simply that Stewart will be exonerated. But we will not know until the end of her trial (set for October 7, 2003) whether he is prescient or just optimistic. Meanwhile, irreparable damage will likely be done to Stewart and her legal practice, and to other lawyers and their clients, such as those in pending cases in Buffalo and Portland.

Perhaps they are all guilty as Ashcroft assures us that they are. But, then again, maybe they are not. That is what trials are for. And a defendant facing the awesome powers of the federal government, especially in these times where branding and labeling one a "terrorist" puts one in a danger of loss of life and freedom, cannot effectively defend himself without competent counsel at his side.

Clarence Gideon sensed this when, from his jail cell, he asked the Supreme Court of the United States to make Florida give him an attorney if they insisted on depriving him of his freedom. The Supreme Court agreed, holding, in *Gideon v.*

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*Wainwright*, that "The Sixth Amendment stands as a constant admonition that if the constitutional safeguards it provides be lost, justice will not . . . be done."

This principle, the core of our criminal justice system, is jeopardized by the government's post-9/11 regulations and the pernicious precedent of the Stewart prosecution.

This article can be found on the web at: <http://writ.news.findlaw.com/cassel/20021008.html>

### THE LYNNE STEWART GUILTY VERDICT: STRETCHING THE DEFINITION OF "TERRORISM" TO ITS LIMITS

[published Feb. 14, 2005 on *Findlaw's Legal Commentary*]

by Elaine Cassel

On February 10, after thirteen days of deliberations, a federal jury in New York City returned a guilty verdict in the case of 65-year-old attorney Lynne Stewart. The jury found Stewart guilty on five counts of defrauding the government, conspiracy, and providing support for terrorism.

Stewart will be sentenced on July 15. She may serve up to thirty years in prison. Appeals are expected to consume years. In the meantime, Stewart will lose her right to practice law and face hard prison time.

The eavesdropping on attorney-client communications that led to this prosecution would have been unimaginable before September 11. I will argue that this eavesdropping has a serious cost in inhibiting defense attorney's ability to zealously represent their clients. This cost is of a constitutional dimension: The Sixth Amendment's right to counsel cannot be served while the government is a third party present at attorney-client meetings.

Another problematic aspect of the Stewart prosecution is how far the definition of support for terrorism was stretched. Stewart never provided any financial support, weaponry—or any other concrete aid—for any act of terrorism. No act of terrorism is alleged to have resulted from her actions.

Stewart's supposed support for terrorism instead consisted of aiding her client in 2000 by giving a press release to Reuters News Service in Cairo, Egypt, and of being present when her co-defendants allegedly aided her client in writing a series of letters.

#### **The Facts of the Case**

Stewart was appointed by a federal court to represent Egyptian Sheik Omar Abdel Rahman. Rahman was convicted of conspiring to commit acts of terrorism in New York City in the months after the 1993 World Trade Center bombings. But Stewart had nothing to do with that conspiracy.

Rahman is currently serving a life sentence in federal prison hospital in Colorado (previously, he was serving his sentence in Minnesota).

Stewart continued to represent Rahman, after he was convicted, and his appeals were denied. She has said that her representation had two main purposes. One was trying to improve the terms of the blind and diabetic Sheik's confinement. Another was to try to convince the U.S. to return him to his home country, Egypt.

The government, however, claimed that her continued representation was a ruse so that she could aid the Sheik in getting messages out to his followers, members of the Islamic Group, an organization tied to terrorism.

For a time, the government simply denied Stewart access to her client. But in 2000, the Justice Department said that visits could resume if Stewart would agree to certain restrictions on their meetings.

As I explained in an earlier article, these restrictions are known as Special Administrative Measures (SAMs). Pursuant to regulations enacted in 1996, these restrictions can be placed on a federal prisoner's communications or contacts with the outside world - including visitors, and the media -- when the government believes "that there is a substantial risk



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that a prisoner's communications or contacts with persons could result in death or serious bodily injury to persons, or substantial damage to property that would entail the risk of death or serious bodily injury to persons."

The SAMs prohibited Stewart from having any contact with her client that the Department of Justice deemed to be outside the scope of "legal representation" and prohibited Rahman from having contact with anyone outside prison walls except his wife. The SAMs specifically restricted his access to the media.

Stewart agreed to the SAMs - having little choice, as it was the only way she could visit her client.

What Stewart did not know what that after she signed the SAMs, the government began surveillance of her visits, first under the 1994 Foreign Intelligence Surveillance Act warrant targeting her client, and then under specific regulations that allowed them to target her.

### **The Eavesdropping Regulation: How the Government Made Its Case**

On October 31, 2001, Attorney General John Ashcroft, secretly amended the SAM regulations - without notice to the public. As amended, the regulations allow the Bureau of Prisons to conduct videotape and audiotape surveillance with respect to attorneys' communications with people in federal custody.

There is no exception for attorney-client privileged communications; indeed, the regulations contemplate that these sacrosanct conversations will be the very ones surveilled. Moreover, the regulations apply not only to convicted persons, but also to defendants awaiting trial - and even detainees against whom no charges are even pending. Finally, the surveillance can be broad: It can done "to the extent determined to be reasonably necessary for the purpose of deterring future acts of violence or terrorism."

No warrant is necessary for the surveillance to occur. Nor is specific notice to the attorney or the client that they will be monitored; according to the regulations. Rather, routine notice that their communications "may" be monitored is enough.

The government eavesdropped on Stewart's communications with Rahman - and these communications, along with her subsequent communications with the media, are the sole basis for her conviction.

The government alleges that Stewart never intended to abide by the SAMs, and that - as, it say, it discovered by eavesdropping - she violated them in several ways.

Along with Mohammed Yousry, an interpreter, and Ahmed Abdel Sattar who sometimes acted in the role of a law clerk, the government alleges, Stewart tried to thwart the government's surveillance. At trial, the government introduced surveillance tapes intending to demonstrate that Stewart served as a willing conduit for the Sheik, using her position as a lawyer as a smokescreen for illegal communications and conspiracies by people whose agenda she shared.

In particular, the government charges, Stewart violated the prohibition on outside contacts in two ways. First, it alleged in 2000, she released to Reuters News Service a statement from the Sheik to his followers saying that he was "withdrawing his support for a ceasefire that currently exists" with respect to violence that his followers in Egypt were engaged in (the cease-fire was declared after 58 tourists were slain in Luxor, Egypt, in a bid to win the sheik's release). The government charged that the press release was a veiled message for the shiek's followers to engage in violence. Reuters ran a story about the statement in Arab newspapers.

Second, the government says Stewart was present when Yousry and Sattar allegedly helped the Sheik compose letters that served as communications to his followers. (Notably, though, while Yousry and Sattar speak Arabic, it is undisputed that Stewart neither speaks nor understands Arabic.)

In closing arguments, Prosecutor Andrew Dember argued that Stewart and the co-defendants effectuated a virtual "jail-break," in which Rahman did not actually get sprung from prison, but did get his messages of violence out to the world.

Yet no actual act of violence, terroristic or otherwise, has ever been linked to either the letters to the Sheik's followers, or the statement by the Sheik given to Reuters.

Yousry was convicted on the same charges as Stewart; Sattar was convicted of conspiracy to murder civilians.

**The Constitutional Issues: The Eavesdropping Regulations Raise**

Stewart herself was represented by famed civil rights and criminal defense attorney Michael Tigar. Tigar argued, on her behalf that the surveillance regulation was unconstitutional - and thus that evidence procured as a result of surveillance should not be admissible at Stewart's trial. Although Tigar and Stewart lost their motion, their argument was a strong one.

The Sixth Amendment guarantees a criminal defendant's right to counsel. The Ashcroft eavesdropping regulations are unprecedented in the way they interpose the government between a client and his or her attorney - and thus violate this right. How can a defendant be expected to speak openly and candidly with counsel, and contribute to his own defense, when the government is listening on every conversation, recording every gesture, following every move?

The trial judge in the case, John G. Koeltl, should have suppressed the eavesdropping evidence, but instead, he ruled against Stewart. He did, however, rule for her on another constitutional claim.

**Judge Koeltl's Rulings on the Terrorism Claims**

Remember, Stewart was convicted of defrauding the government, conspiracy, and providing support for terrorism.

The "defrauding the government" charge was weak: It was based on the government's allegation that Stewart never intended to abide by the SAMs, as she had agreed to do. But it seems likely that Stewart's intention, instead, was to abide by the SAMs in order to continue to represent her client.

Moreover, the original terrorism charge against Stewart was unconstitutional, as Judge Koeltl held. Initially, Stewart was charged under a federal statute that prohibited providing "material support" for terrorism - regardless of one's intent in doing so.

The government said Stewart violated the statute by making Rahman's message available to the press. (Where was the "material" support? The government said it came in the form of "personnel" - meaning, Stewart herself.)

Judge Koeltl wisely reasoned that to prosecute Stewart under this theory was unconstitutional. She lacked sufficient notice that the statute would be applied this way - to prohibit a news release, rather than, say, the provision of weaponry. He ruled that the statute applied to the facts of Stewart's case was too vague to satisfy Due Process requirements.

So the government, as it explained in a press release, then indicted Stewart for the same acts again, under another federal statute - one that, unlike the first statute, requires intent.

Passed in 1994, after the 1993 bombing of the World Trade Center, the statute prohibits defines a violation as giving material support to anyone while intending or knowing that the support will be used in connection with any one of a list of violent crimes.

What violent crime did the government cite? It claimed Sattar was alleged to have been conspiring to commit terrorism abroad, urging Rahman's followers to kill Jews. But again, no such crimes have ever been linked to the Reuters news release.

This time, Judge Koeltl found the statute, as applied, to be constitutional. But in doing so, he interpreted the intent standard to require very specific proof: proof that

Stewart knew she was providing resources to carry out a *specific* violent crime.

**The Stewart Conviction is a Warning to Defense Attorneys**

Stewart's defense team had doubts that the prosecution could carry this strong burden of proof. Though the facts were basically not in dispute, Tigar argued that Stewart was acting as a zealous advocate.

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The ABA's Code of Professional Conduct demands zealotry of lawyers. It also mandates that lawyers make their services available to unpopular causes. Stewart was fulfilling both duties by agreeing to serve as court-appointed attorney for Rahman, the defense argued.

Stewart admitted she violated the SAMs, but she was duty-bound to do so, she said. What self-respecting defense attorney, she contended, would let a government restriction stand in the way of the confidential attorney-client relationship?

Through helping with the news release, Tigar maintained, Stewart, as his lawyer, was trying to keep her client's case before the public and the government, and ultimately hoping to gain his release to Egypt.

The government countered, and the jury agreed, that when she so spoke, and aided her co-defendants in speaking, she was no longer acting as a lawyer. She was aiding and abetting terrorism.

Prior to September 11, 2001, many attorneys might have sided with Stewart. They would certainly have seen a blatant Sixth Amendment violation in both the SAMs and the eavesdropping regulations - and possibly seen First Amendment violations when it came to the SAMs. And they might also have agreed that to honor the right to counsel, an attorney ought to try to resurrect the traditional attorney-client relationship despite these unconstitutional constraints.

Now, however, the First and Sixth Amendments have been gutted—at least in terms of the attorney-client relationship. Indeed, as I argued in the first article I wrote about Stewart, the government seems to be conducting an all-out assault on the right to counsel.

Defense attorneys who represent alleged terrorists - or even detainees who are merely suspected of some connection to terrorism -- now know that the government may listen in on their attorney-client communications. They also know that this eavesdropping may give rise to evidence that may be used in their *own* prosecution for terrorism if they cross the imaginary line drawn by the government.

How can these attorneys be zealous advocates with this government-inspired fear overshadowing their every word?

If the attorneys are prosecuted, they can expect, at trial, to be conflated with their clients - just as Stewart was. The prosecution showed an old tape of Osama bin Laden promising revenge if Rahman were not released. In a courtroom only a short distance from Ground Zero, the tape must have meant a great deal. But it related to Rahman, not Stewart. Though Rahman may be a Bin Laden confederate, that does not mean his attorney is.

The larger issue here is not whether Stewart "stepped over the line" from lawyer to criminal co-conspirator, as the jury verdict implies. Nor is it whether terrorism fears caused the jury to reach an irrational verdict—as may well be the case. The larger issue is that those who face terrorism-related charges will now be entitled to a government-crippled defense.

The Ashcroft Justice Department showed disdain for attorneys—save its own. Unfortunately, the Gonzales Justice Department likely will be even worse on this score. Referring to the Stewart verdict, Gonzales was quick to warn that he would "pursue both those who carry out acts of terrorism *and those who assist them with their murderous goals.*" (Emphasis added.)

This is pure hyperbole—treating Stewart's willingness to assist her client in putting out a press release as the moral equivalent of financing or arming terrorists. It furthers the lie that a terrorist's lawyer, by zealously representing her client, at the same time aids and abets terrorism.

Hundreds of prisoners alleged to be terrorist combatants sit in cages and cells in Guantanamo Bay, Cuba. Every one, according to the Supreme Court, has the right to challenge his detention in federal court, through the ancient writ of habeas corpus.

What attorneys will risk their licenses—and life in prison—in order to protect their rights?

This article can be found on the web at: <http://writ.news.findlaw.com/cassel/20050214.html>

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### TAKING LIBERTIES

[from the October 4, 2004 issue of *The Nation*]

by David Cole, author of *No Equal Justice*

On September 2 a federal judge in Detroit threw out the only jury conviction the Justice Department has obtained on a terrorism charge since 9/11. In October 2001, shortly after the men were initially arrested, Attorney General John Ashcroft heralded the case in a national press conference as evidence of the success of his anti-terror campaign. The indictment alleged that the defendants were associated with Al Qaeda and planning terrorist attacks. But Ashcroft held no news conference in September when the case was dismissed, nor did he offer any apologies to the defendants who had spent nearly three years in jail. That wouldn't be good for his boss's campaign, which rests on the "war on terrorism." Here, as in Iraq, Bush's war is not going as well as he pretends.

The Detroit case was extremely weak from the outset. The government could never specify exactly what terrorist activity was allegedly being planned and never offered any evidence linking the defendants to Al Qaeda. Its case consisted almost entirely of a pair of sketches and a videotape, described by an FBI agent as "casing materials" for a terrorist plot, and the testimony of a witness of highly dubious reliability seeking a generous plea deal. It now turns out that the prosecution failed to disclose to the defense evidence that other government experts did not consider the sketches and videotape to be terrorist casing materials at all and that the government's key witness had admitted to lying.

Until that reversal, the Detroit case had marked the only terrorist conviction obtained from the Justice Department's detention of more than 5,000 foreign nationals in antiterrorism sweeps since 9/11. So Ashcroft's record is 0 for 5,000. When the Attorney General was locking these men up in the immediate wake of the attacks, he held almost daily press conferences to announce how many "suspected terrorists" had been detained. No press conference has been forthcoming to announce that exactly none of them have turned out to be actual terrorists.

Meanwhile, despite widespread recognition that Abu Ghraib has done untold damage worldwide to the legitimacy of the fight against terrorism, the military has still not charged any higher-ups in the Pentagon, and the Administration has shown no inclination to appoint an independent commission to investigate. It prefers to leave the investigation to the Justice Department and the Pentagon, the two entities that drafted secret legal memos defending torture.

And in late July, resurrecting the ideological-exclusion practices so familiar from the cold war, the Department of Homeland Security revoked a work visa for a prominent Swiss Islamic scholar who had been hired by Notre Dame for an endowed chair in its International Peace Studies Institute. DHS invoked a Patriot Act provision that, like the McCarran-Walter Act of the cold war, authorizes exclusion based purely on speech. If a person uses his position of prominence to "endorse" terrorism or terrorist organizations, the Patriot Act says, he may not enter the United States. The McCarran-Walter Act, on the books until its repeal in 1990, was used to exclude such "subversives" as Czeslaw Milosz and Graham Greene. This time the man whose views are too dangerous for Americans to hear firsthand is Tariq Ramadan, a highly respected intellectual and author of more than twenty books who was named by *Time* magazine as one of the hundred most likely innovators of the twenty-first century.

Notre Dame is not known as a hotbed of Islamic extremism--and Ramadan is no extremist. He argues for a modernized version of Islam that promotes tolerance and women's rights. Two days after 9/11 he called on fellow Muslims to condemn the attacks. In short, Ramadan is precisely the kind of moderate voice in Islam that the United States should be courting if it hopes to isolate Al Qaeda. The barring of Ramadan reinforces the sense that the Administration cannot or will not distinguish between moderates and extremists and is simply anti-Muslim.

What is most troubling is that none of these developments--the revelation of prosecutorial abuse in the interest of obtaining a "win" in the war on terrorism; the continuing failure to hold accountable those most responsible for the torture at Abu Ghraib; and the exclusion of a moderate Muslim as too dangerous for Americans to hear--is an isolated mistake. Rather, they are symptoms of a deeper problem. The President thinks he can win this war by "acting tough" and treating the rule of law and constitutional freedoms as optional. With enough fearmongering, that attitude may win him the election. But it will lose the war. Bush is playing right into Al Qaeda's hands by further alienating those we most need on our side.

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This article can be found on the web at: <http://www.thenation.com/docprint.mhtml?i=20041004&s=cole>

HAIL, HAIL THE GANG'S ALL HERE  
[published February 18, 2005 on *TomPaine.com*]  
by Ray McGovern, ex-CIA

The nomination of John Negroponte to the new post of director of National Intelligence (DNI) caps a remarkable parade of Bush administration senior nominees. Among the most recent:

- Alberto Gonzales, confirmed as attorney general: the lawyer who advised the president he could ignore the US War Crimes Act and the Geneva Conventions on torture and create a “reasonable basis in law...which would provide a solid defense to any future prosecution.”
- Michael Chertoff, confirmed as Secretary of Homeland Security: the lawyer who looked the other way when 762 innocent immigrants (mostly of Arab and South Asian descent) were swept up in a post-9/11 dragnet and held as “terrorism suspects” for several months. The dictates of PR trumped habeas corpus; the detentions fostered an image of quick progress in the “war on terrorism.”
- John Negroponte: the congenial, consummate diplomat now welcomed back into the brotherhood. Presently our ambassador in Baghdad, Negroponte is best known to many of us as the ambassador to Honduras with the uncanny ability to ignore human rights abuses so as not to endanger congressional support for the attempt to overthrow the duly elected government of Nicaragua in the '80s. Negroponte's job was to hold up the Central American end of the Reagan administration's support for the Contra counterrevolutionaries, keeping Congress in the dark, as necessary.

### **Introducing...Elliot's Protégé**

Stateside, Negroponte's opposite number was Elliot Abrams, then assistant secretary of state for Inter-American affairs, whose influence has recently grown by leaps and bounds in the George W. Bush administration. Convicted in October 1991 for lying to Congress about illegal support for the Contras, Abrams escaped prison when he was pardoned, along with former Defense Secretary Casper Weinberger (also charged with lying to Congress), former National Security Adviser Robert McFarlane and three CIA operatives. Indeed, their pardons came *cum laude*, with President George H. W. Bush stressing that “the common denominator of their motivation...was patriotism.” Such “patriotism” has reached a new art form in his son's administration, as a supine Congress no longer seems to care very much about being misled.

President George W. Bush completed Elliot Abrams' rehabilitation in December 2002 by bringing him back to be his senior adviser for the Middle East, a position for which the self-described neoconservative would not have to be confirmed by Congress. Immediately, his influence with the president was strongly felt in the shaping and implementation of policy in the Middle East, especially on the Israel-Palestine issue and Iraq. Last month the president promoted him to deputy national security adviser, where he can be counted on to overshadow—and outmaneuver—his boss, the more mild-mannered Stephen Hadley.

It is a safe bet that Abrams had a lot to do with the selection of his close former associate to be director of National Intelligence, and there is little doubt that he passed Negroponte's name around among neocon colleagues to secure their approval.

As mentioned above, like Abrams, Negroponte has a record of incomplete candor with Congress. Had he been frank about serious government-sponsored savagery in Honduras, the country would have forfeited U.S. aid—thwarting the Reagan administration's use of Honduras to support the Contras. So Negroponte, too, has evidenced Abrams-style “patriotism.” Those in Congress who still care, beware.

### **Civil Liberties At Stake**

The liberties that Gonzales, Chertoff and Negroponte have taken with human rights are warning signs enough. The increased power that will be Negroponte's under the recent intelligence reform legislation makes the situation still more worrisome.

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How many times have we heard the plaintive plea for better information sharing among the various intelligence agencies? It is important to understand that the culprit there is a failure of leadership, not a structural fault.

I served under nine CIA directors, four of them at close remove. And I watched the system work more often than malfunction. Under their second hat as director of Central Intelligence, those directors already had the necessary statutory authority to coordinate effectively the various intelligence agencies and ensure that they did not hoard information. All that was needed was a strong leader with integrity, courage, with no felt need to be a “team player,” and a president who would back him up when necessary. (Sadly, it has been 24 years since the intelligence community has had a director—and a president—fitting that bill.)

Lost in all the hand-wringing about lack of intelligence sharing is the fact that the CIA and the FBI have been kept separate and distinct entities for very good reason—first and foremost, to protect civil liberties. But now, under the intelligence reform legislation, the DNI will have under his aegis not only the entire CIA—whose operatives are skilled at breaking (foreign) law—but also a major part of the FBI, whose agents are carefully trained not to violate constitutional protections or otherwise go beyond the law. (That is why the FBI agents at Guantanamo judged it necessary to report the abuses they saw.)

This is one area that gives cause for serious concern lest, for example, the law enjoining CIA from any domestic investigative or police power be eroded. Those old enough to remember the Vietnam War and operation COINTELPRO have a real-life reminder of what can happen when lines of jurisdiction are blurred and “super-patriots” are given carte blanche to pursue citizen “dissidents”—particularly in time of war.

Aware of these dangers and eager to prevent the creation of the president’s own Gestapo, both the 9/11 Commission and Congress proposed creation of an oversight board to safeguard civil liberties. Nice idea. But by the time the legislation passed last December, the powers and independence of the “Privacy and Civil Liberties Oversight Board” had been so watered down as to be a laughingstock. For example, the Board’s access to information from government agencies requires the approval of the DNI and the attorney general, who can withhold information from the Board for a variety of reasons—among them the familiar “national security interests.” In addition, the Board lacks subpoena power over third parties. Clearly, if the Board does not have unfettered access to information on sensitive law enforcement or intelligence gathering initiatives, the role of the Board (primarily oversight and guidance) becomes window dressing. In short, the Board has been made lame before it could take its first step.

“What the hell do we care; what the hell do we care” is the familiar second line of “Hail, Hail, the Gang’s All Here.” Suffice it to say that, with Chertoff, Abrams and now Negroponte back in town, those concerned to protect civil liberties here at home and to advance them abroad need to care a whole lot.

### **Corruption, Politicization of Intelligence**

Gen. William Odom, one of the most highly respected and senior intelligence professionals, now retired, put a useful perspective on last summer’s politically driven rush into wholesale intelligence reform. In a *Washington Post* op-ed on Aug. 1, he was typically direct in saying, “No organizational design will compensate for incompetent incumbents.” I believe he would be the first to agree that the adjectives “careerist and sycophantic” should be added to “incompetence,” for incompetence often is simply the handmaiden of those noxious traits. And the failure of the 9/11 Commission and the Congress to insist that real people be held accountable is a major part of the problem.

Intelligence reform in a highly charged political atmosphere gathers a momentum of its own, and the reform bill Congress passed late last year is largely charade. The “reforms” do not get to the heart of the problem. What is lacking is not a streamlined organizational chart, but integrity. Character counts. Those who sit atop the intelligence community need to have the courage to tell it like it is—even if that means telling the president his neocon tailors have sold him the kind of suit that makes him a naked mockery (as with the fashion designed by Ahmed Chalabi).

Is John Negroponte up to that? Standing in the oval office with Gonzales and Chertoff, will Negroponte succumb to being the “team player” he has been...or will he summon the independence to speak to the president without fear or favor—the way we used to at CIA?

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It is, of course, too early to tell. Suffice it to say at this point that there is little in his recent government service to suggest he will buck the will of his superiors, even when he knows they are wrong—or even when he is aware that their course skirts the constitutional prerogatives of the duly elected representatives of the American people in Congress. Will he tell the president the truth, even when the truth makes it clear that administration policy is failing—as in Iraq? Reports that, as ambassador in Baghdad, Negroponte tried to block cables from the CIA Chief of Station conveying a less rosy picture of the situation there reinforces the impression that he will choose to blend in with the white-collar, white, White House indigenous.

The supreme irony is that President Bush seems blissfully unaware that the politicization that Vice President Dick Cheney, Defense Secretary Donald Rumsfeld, and he have fostered in the intelligence community has lost them an invaluable resource for the orderly making of foreign policy. It pains me to see how many senior careerists at CIA and elsewhere have made a career (literally) of telling the White House what they think it wants to hear.

If that proves just fine with the new DNI and he contents himself with redrawing wire diagrams, the security of our country is in greater danger. If, on the other hand, Negroponte wants to ensure that he and his troops speak truth to power—despite the inevitable pressure to fall in line with existing policy—he has his work cut out for him. At CIA, at least, he will have to cashier many careerists at upper management levels and find folks with integrity and courage to move into senior positions. And he will have to prove to them that he is serious. The institutionalization of politicization over the last two dozen years has so traumatized the troops that the burden of proof will lie with Negroponte.

### **The President's Daily Brief**

The scene visualized by President Bush yesterday for his morning briefing routine, once Negroponte is confirmed, stands my hair on end. I did such morning briefings for the vice president, the secretaries of State and Defense, the chairman of the Joint Chiefs of Staff, and the National Security Assistant from 1981 to 1985—each of them one-on-one. Our small team of briefers was comprised of senior analysts who had been around long enough to earn respect and trust. We had the full confidence of the CIA director; when he was in town we would brief him just before lunch, hours after we had made the rounds downtown.

When I learned a few years ago that former director George Tenet was going down to the oval office with the briefer, I asked myself, “What is that all about?” The last thing we wanted or needed was the director breathing down our necks. And didn't he have other things to do?

We were there to tell it like it is—and, in those days, at least, we had career protection for doing so. And so we did. If, for example, one of those senior officials asked if there was good evidence of weapons of mass destruction in Iraq, and we knew that the serious, honest analysts thought not, we would say “No sir.”

But you ask, “Even if the director has said it was a ‘slam dunk?’” Yes. Even after the director had said it was a slam dunk! But bear in mind that in those days the task was not so heroic. We did not have the director standing behind us to “help.”

From what President Bush said yesterday, John Negroponte, the man farthest removed from substantive intelligence analysis—not to mention the background and genesis of the briefing items chosen for a particular day—will be the president's “primary briefer.” I am told that President Bush does not read the President's Daily Brief, but rather has it read to him.

Who will do the reading? Who will attempt to answer the president's questions? Will there be a senior analyst there in a supporting role? Will s/he have career protection, should it be necessary to correct Negroponte's answers? Will Negroponte ask CIA Director Porter Goss to participate as well? Will the briefer feel constrained with very senior officials there? Will s/he be able to speak without fear of favor, drawing, for example, on what the real experts say regarding Iran's nuclear capability and plans? These are important questions. A lot will depend on the answers.

We had a good thing going in the '80s. Ask those we briefed and whose trust we gained. It is hard to see that frittered away. Worst of all, the president appears oblivious to the difference. I wish he would talk to his earthly father. He knows.

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This article can be found on the web at: [http://www.tompaine.com/articles/hail\\_hail\\_the\\_gangs\\_all\\_here.php](http://www.tompaine.com/articles/hail_hail_the_gangs_all_here.php)

9/11 COMMISSION CHIMERA

[published August 02, 2004 on *TomPaine.com*]

by Ray McGovern, ex-CIA

*There they go again*, I thought to myself while listening Friday to 9/11 Commission Chair Gov. Tom Kean tell senators for the umpteenth time, “I do not find today anyone really in charge of the intelligence community.” Kane’s colleagues have been singing from the same sheet of music. Jamie Gorelick: “The authorities to act cohesively do not exist.”

Commission Vice Chair Lee Hamilton shared with the senators his frustration at the answer he got when he kept asking intelligence community officials who is in charge. The president, they said. Hamilton branded this response: “not a very satisfactory answer.” And added, “No one would say that the Director of Central Intelligence is in charge.”

It need not be so. During my 27 years at the Central Intelligence Agency I served under nine directors and worked closely with four of them. They were in charge.

One of them, Admiral Stansfield Turner, came to the Agency from his post as commander of the Sixth Fleet, with a keen appreciation of the need for the authority necessary to carry out his responsibilities. Recognizing that his authority over the intelligence community was largely ad referendum to the president, he went to President Carter and obtained what was needed. Writing in yesterday’s *Washington Post*, Turner recounted that Carter issued a presidential executive order giving DCI Turner authority over all 15 intelligence agencies “to reallocate funds and people among them and to set priorities for both collecting and analyzing intelligence.” Turner notes, “This enabled a far greater degree of coordination than we have today.”

So it need not be the case that “no one is in charge.” Mr. Hamilton’s comment notwithstanding, in my view saying the president is in charge is a completely satisfactory answer—and that the president need only empower the DCI by executive order to enable him to get the job done.

Did the commission seek out Admiral Turner’s views during its long investigation? Is it a totally new concept to the commission that, as Turner puts it, “the recommended position of National Intelligence Director (NID) already exists? It is the director of central intelligence, created by the National Security Act of 1947, with responsibility for coordinating the nation’s 15 intelligence agencies.”

Did commission staff not uncover Turner’s thoughtful op-ed in the *Christian Science Monitor* of May 28, 2002, in which he emphasized that: “With a stroke of the pen tomorrow, the president could make the Director of Central Intelligence (DCI) responsible for ensuring coordination and give him/her the authority to do so...and thus move a good distance toward rectifying the failure last summer to deduce what would happen on Sept. 11.” Turner then added, “Without the president’s personal intervention and exercise of decisive leadership,” one cannot ensure that “future performance will be better.”

As for the commission’s recommended cabinet-level National Intelligence Director, Turner’s article yesterday reiterated what so many others have been saying—that we don’t need a new layer of bureaucracy. This truism, which should be self-evident, was spoken first by one who ought to know: Tom Ridge, head of the recently created Department of Homeland Security. I was struck by his very quick—and somewhat cryptic—comment on the NID proposal: “I don’t think you need a czar,” Ridge said on Fox News Channel. “We already have one level of bureaucracy that we don’t need.”

When the commission report was released on July 22, I ran into 9/11 Commissioner Slade Gorton at the BBC TV studio in Washington where we were each being interviewed. I used the opportunity to voice my skepticism regarding whether the proposed post of NID is really necessary, noting that the DCI can already discharge virtually all the tasks in the portfolio of the proposed NID. Gorton gave a wince/smile and then whispered in my ear, “Yes, but he didn’t use those authorities.” He was then called in for his live interview, so I was unable to ask the obvious follow-up question.



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This brief encounter came to mind as I read a short piece in yesterday's *Washington Post* by William Odom, the highly respected former director of the National Security Agency:

“No organizational design will compensate for incompetent incumbents...When we ask how to improve the intelligence community's performance, we must recognize that it cannot be much better than the performance of the policymakers and commanders who own it.”

I am certain that the 9/11 Commission means well. How it came up with the NID proposal may be explained by the hubris that clings to senior folks with titles, even when they wander far from their area of expertise and experience. The discussion of the NID proposal makes it clear that they lack a basic understanding of the intelligence community.

If that sounds harsh, I make no apology. Much is at stake; there has been enough pontificating. It is time for plain speaking—especially when so many influential people—who cannot be depended upon to take the time to study the commission's recommendations—are already fawning over them as a *deus ex machina*.

All 10 of the commissioners are either politicians or lawyers; some are both. Not one has worked in the intelligence community; only two have a modicum of experience in the executive branch of the federal government (John Lehman, who was secretary of the Navy for six years under President Ronald Reagan and Jamie Gorelick, who was deputy attorney general for three years under President Bill Clinton). Philip Zelikow, executive director of the commission, also lacks executive experience in the federal government.

Zelikow told an interviewer that the commission's recommendations are “not a panacea. We may not have the right answers.” He got that right.

The unseemly, “fast-track” haste to judgment is, in the well-chosen adjective used by former State Department intelligence director Phyllis Oakley, “wacky.” But the conventional wisdom is that as the election approaches, no candidate can risk appearing soft on terrorism by raising the necessary questions regarding how a reconfigured intelligence structure would really work. Even before hearing testimony at Friday's first hearing by the Senate Governmental Affairs Committee, Chairwoman Susan Collins of Maine and Vice Chairman Joe Lieberman of Connecticut expressed support for creating the post of national intelligence director. Committee members proceeded to fawn over Kean and Hamilton, upon whom they are relying for expertise on intelligence community issues that are as complicated as they are important.

### **Mischievous Commissions**

Warning: Intelligence and politics do not mix well. Congressionally mandated commissions often do more harm—serious harm—than good.

In 1996, for example, the Aspin-Brown “Commission on the Roles and Capabilities of the United States Intelligence Community” recommended transferring to the Defense Department the Director of Central Intelligence's responsibility for processing and disseminating satellite imagery. Understandably, the Senate Intelligence Committee expressed serious misgivings at this evisceration of the DCI's charter for all-source analysis but in the end acquiesced and the legislation passed.

The practical result? Defense Secretary Donald Rumsfeld has imagery interpretation under his aegis. Why do you suppose our incredibly sophisticated satellites and imagery analysts were unable to check and disprove the spurious reporting served up by imaginative Iraqi defectors regarding weapons of mass destruction? Giving imagery analysis to the Pentagon is now widely seen to have been an egregious mistake, but this seems to have escaped the attention of the 9/11 commission.

Now think back to 1998 when the congressionally mandated “Commission to Assess the Ballistic Missile Threat to the United States” led by Donald Rumsfeld succeeded in revising a 1995 intelligence community estimate in order to exaggerate the strategic threat from countries like North Korea. Key conclusions—since proven wrong—embodied in the Rumsfeld-revised estimate met his immediate need quite nicely by greasing the skids for early deployment of a multi-billion dollar, unproven anti-ballistic missile system.

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But the whole exercise wreaked havoc on morale among honest analysts—the more so as they watched the analyst who chaired the revised estimate go on to bigger and better things. A man who gets the desired results, he was also handpicked to chair the infamous estimate of Oct. 1, 2002, on Iraq's weapons of mass destruction.

Ironically, Congress never adopted the recommendations of the very successful Hart-Rudman “United States Commission on National Security/21st Century.” Had they been given appropriate attention, there might have been no 9/11.

### **9/11 Families**

What rankles most is the fraud being perpetrated on the families of the victims of 9/11, unintentional though it may be. The families pressed heroically for a nonpartisan, independent investigation; what they got was a bipolar panel, thoroughly partisan at each pole, who nonetheless grew to like one another and decided to settle for the lowest common denominator and hold no one accountable.

Many of the families evidenced a deep need for some reason to hope that, if they were tenacious enough, some good could be extracted from the experience of that horrible day; some reason to hope that by following up on their terrible loss they might contribute in some way to preventing similar tragedies in the future.

But it is as if their van breaks down on the New Jersey turnpike and another van with 10 well-meaning senior executives stops to help. Only two of the 10 have any experience with motor vehicles: One spent three years at an auto manufacturer's corporate headquarters; the other devoted six years to running a trucking enterprise. None had taken Automechanics 101. No matter. They fall to the task of diagnosing the van's problem and coming up with recommended solutions for getting the van back on the road.

### **Hope?**

There is always hope. Gradually the 9/11 families will begin to realize that treating merely the symptoms of terrorism is quixotic; that the soil and roots of terrorism must be dug and uncovered; that, as the 9/11 report acknowledges in a very subdued way, it is Washington's strong and uncritical bias toward Israel and its invasion of Iraq that produce the long lines at Al Qaeda recruiting stations; that our current approach to defeating terrorism by trying to kill all the terrorists is akin to trying to eradicate malaria by shooting as many mosquitoes as possible; that moving the intelligence director's chair one deck higher on the Titanic holds no promise.

No, we have to drain the swamp where the terrorists breed. Perhaps the families can now take a well-deserved break and save their energies to help bring that about.

This article can be found on the web at: [http://www.tompaine.com/articles/911\\_commission\\_chimera.php](http://www.tompaine.com/articles/911_commission_chimera.php)

WILL THE COMMISSIONERS CAVE?  
[published June 21, 2004 on *TomPaine.com*]  
by Ray McGovern, ex-CIA

Will the Sept. 11 Commission follow the example set by Congress and the Intelligence Community and let itself be intimidated by Vice President Dick Cheney?

Now that the commission's staff report has pulled the rug out from under the notion so successfully fostered by the administration that Iraq played a role in the attacks of 9/11, no one should be surprised if the commissioners pull the rug out from under the staff. There are disquieting signs that this has already begun to happen.

The stakes could not be higher for the president and vice president. Arguably, the commission is in position to play in 2004 a role analogous to that played by the Supreme Court in 2000 in ensuring the election of George W. Bush and Cheney. This, I believe, accounts for the dyspeptic reaction of the two to the staff report and the press play accorded it last week.

*New York Times* pundit William Safire is also outraged. In his column today he lashes out at the commission chairman, Republican Tom Kean, and the vice chairman, Democrat Lee Hamilton, for letting themselves be “jerked around by a

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manipulative staff.” Safire drives home the point that the staff conclusion concerning Iraq and 9/11 was “not a judgment of the panel of commissioners,” but rather “an interim report of the commission’s runaway staff.”

### **Republican Commissioners Fall Into Line**

Appearing Sunday on ABC’s *This Week*, Sept. 11 commission chairman Kean fell in line, saying repeatedly that the staff report is only an “interim report.” Not only did he note it is “not finished,” the commissioners themselves have not been involved in it so far and the final report will include whatever “new information” becomes available.

It is not hard to see what is coming. On Thursday Cheney told the press that he “probably” had more intelligence information than had been made available to the commission. Commissioner John Lehman, another Republican stalwart, told *Meet the Press* Sunday “the vice president was right when he said that he may have things that we don’t have. And we are now in the process of getting the latest intelligence.”

Flash back, if you dare, to other “intelligence” promoted by Cheney: the aluminum tubes that turned out *not* to be suitable for fashioning nuclear materials after all; the mobile “biological warfare labs” that produced *nothing more lethal* than hydrogen for weather balloons; the infamous report, based on forged documents, alleging that Iraq was seeking uranium in Africa.

### **The Perils Of Partisanship**

What is clear is that Washington is in for a month of partisan wrangling among the commissioners and staff before the July 26 deadline for the report—partisanship of the kind demonstrated at the grilling of former counter-terrorism chief Richard Clark. This time it will all take place behind closed doors. Lehman conceded on *Meet the Press*, “We’re under tremendous political pressure...in this election year.”

Indeed, the commission was highly politicized from the get-go, with its work carefully choreographed. Subpoena power, for example, requires a majority vote among the five Republican and five Democrat commissioners. And, as the public hearings have already shown, the White House can count on seasoned protection from heavy hitters like Fred Fielding, legal counsel to Presidents Nixon and Reagan, as well as from Lehman and the other Republican commissioners.

Once again, “intelligence” will be front and center, with Cheney in the background as super-analyst. CIA Director George Tenet is packing his bags for his July 11 departure, and there is zero chance his well-mannered deputy, John McLaughlin, will depart from what has become customary practice—at the CIA and elsewhere—and stand up to the vice president.

### **The Neuralgic Point**

When *Meet the Press*’ Tim Russert quoted *The New York Times*’ contention that the commission staff report “directly contradicts public statements by Bush and Cheney regarding Iraq and 9/11,” Lehman, borrowing from Cheney’s lexicon, branded the Times report “outrageously irresponsible journalism.” Echoing Kean’s remarks, Lehman added parenthetically, “And, again, this is a staff statement; the commissioners have not yet addressed this issue.”

Democrat Commissioner Richard Ben-Veniste had just told Russert, “There was no Iraqi involvement in 9/11. That’s what our commission found. That’s what our staff, which included former high-ranking CIA officials, who know what to look for (found).”

Interesting. Ben-Veniste saying it is what the commission found; Kean and Lehman saying the commissioners have not yet addressed the issue. A harbinger of the wrangling to come.

### **That Troublesome Constitution Again**

Most observers are familiar with the rhetorical landscape with which Bush and Cheney persuaded a large majority of Americans that Iraq played a role in the attacks of 9/11, and many shrug this off as familiar spin by politicians inclined to take liberties with the facts. So far little attention has been given to the fact that a constitutional issue is involved.

On March 19, 2002, the day the war began, President Bush sent a letter to Congress in which he said that the war was permitted under legislation authorizing force against those who “planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001.” If the staff’s finding that there is “no credible evidence that Iraq and Al

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Qaeda cooperated on attacks against the United States” is allowed to stand, the Bush administration will be shown to have gone afoul of the Constitution yet again.

### **Watch For New “Intelligence”**

So expect new “intelligence” (and hope against hope that there is time to give it the smell test). Lehman’s assurance that the commission report will be updated with new intelligence “right up until we go to press” is by no means reassuring. If it is the truth that is sought, there should by now be widespread awareness of the pitfalls of cherry-picking unevaluated, uncorroborated, “this-just-in” pieces of intelligence.

Also watch for administration attempts to change the final draft report, if the Republican commissioners do not succeed in neutralizing offending passages.

Tim Russert called attention Sunday to reports that the White House had been allowed to review the staff reports just made public, and asked if that was appropriate. Ben-Veniste indicated that the purpose of reviewing the reports is supposed to be to find and eliminate any classified information. He also said, though, that the White House “went somewhat beyond that and took issue with some of what the staff had concluded.”

Indeed, an early draft of one draft report was changed, according to Newsweek. A passage expressing skepticism about the account of Cheney getting Bush’s approval for the shoot-down order was reportedly removed after the White House objected.

Ben-Veniste told Russert that the White House will review the final report before it is made public. Thus, there will be considerable opportunity for the manufacture of “insurmountable” classification problems, for delay and for other mischief—given the potential political explosiveness of the commission’s final report.

It will not be surprising if the final report is not made public until well after the target date of July 26 (the same day the Democratic Convention opens in Boston). If the report does meet that target, it is likely that it will appear in significantly truncated form.

This article can be found on the web at: [http://www.tompaine.com/articles/will\\_the\\_commissioners\\_cave.php](http://www.tompaine.com/articles/will_the_commissioners_cave.php)

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### APPENDICES

#### STATEMENT AND QUESTIONS REGARDING THE 9/11 COMMISSION INTERVIEW WITH PRESIDENT BUSH from the Family Steering Committee

*Statement and Questions 1-23 submitted February 16, 2004*

*Questions 24-39 submitted March 18, 2004*

The Family Steering Committee believes that President Bush should provide sworn public testimony to the full ten-member panel of the *National Commission on Terrorist Attacks Upon the United States*. Collectively, the Commissioners are responsible for fulfilling the Congressional mandate. Therefore, each Commissioner must have full access to the testimony of all individuals and the critical information that will enable informed decisions and recommendations.

Before an audience of the American people, the Commission must ask President Bush in sworn testimony, the following questions:

1. As Commander-in-Chief on the morning of 9/11, why didn't you return immediately to Washington, D.C. or the National Military Command Center once you became aware that America was under attack? At specifically what time did you become aware that America was under attack? Who informed you of this fact?
2. On the morning of 9/11, who was in charge of our country while you were away from the National Military Command Center? Were you informed or consulted about all decisions made in your absence?
3. What defensive action did you personally order to protect our nation during the crisis on September 11th? What time were these orders given, and to whom? What orders were carried out? What was the result of such orders? Were any such orders not carried out?
4. In your opinion, why was our nation so utterly unprepared for an attack on our own soil?
5. U.S. Navy Captain Deborah Loewer, the Director of the White House Situation Room, informed you of the first airliner hitting Tower One of the World Trade Center before you entered the Emma E. Booker Elementary School in Sarasota, Florida. Please explain the reason why you decided to continue with the scheduled classroom visit, fifteen minutes after learning the first hijacked airliner had hit the World Trade Center.
6. Is it normal procedure for the Director of the White House Situation Room to travel with you? If so, please cite any prior examples of when this occurred. If not normal procedure, please explain the circumstances that led to the Director of the White House Situation Room being asked to accompany you to Florida during the week of September 11th.
7. What plan of action caused you to remain seated after Andrew Card informed you that a second airliner had hit the second tower of the World Trade Center and America was clearly under attack? Approximately how long did you remain in the classroom after Card's message?
8. At what time were you made aware that other planes were hijacked in addition to Flight 11 and Flight 175? Who notified you? What was your course of action as Commander-in-Chief of the United States?
9. Beginning with the transition period between the Clinton administration and your own, and ending on 9/11/01, specifically what information (either verbal or written) about terrorists, possible attacks and targets, did you receive from any source?

This would include briefings or communications from:

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- a.
  - Out-going Clinton officials
  - CIA, FBI, NSA, DoD and other intelligence agencies
  - Foreign intelligence, governments, dignitaries or envoys
  - National Security Advisor Condoleezza Rice
  - Richard Clarke, former counterterrorism czar
10. Specifically, what did you learn from the August 6, 2001, PDB about the terrorist threat that was facing our nation? Did you request any follow-up action to take place? Did you request any further report be developed and/or prepared?
11. As Commander-in-Chief, from May 1, 2001 until September 11, 2001, did you receive any information from any intelligence agency official or agent that UBL was planning to attack this nation on its own soil using airplanes as weapons, targeting New York City landmarks during the week of September 11, 2001 or on the actual day of September 11, 2001?
12. What defensive measures did you take in response to pre-9/11 warnings from eleven nations about a terrorist attack, many of which cited an attack in the continental United States? Did you prepare any directives in response to these actions? If so, with what results?
13. As Commander-in-Chief from May 1, 2001 until September 11, 2001, did you or any agent of the United States government carry out any negotiations or talks with UBL, an agent of UBL, or al-Qaeda? During that same period, did you or any agent of the United States government carry out any negotiations or talks with any foreign government, its agents, or officials regarding UBL? If so, what resulted?
14. Your schedule for September 11, 2001 was in the public domain since September 7, 2001. The Emma E. Booker School is only five miles from the Bradenton Airport, so you, and therefore the children in the classroom, might have been a target for the terrorists on 9/11. What was the intention of the Secret Service in allowing you to remain in the Emma E. Booker Elementary School, even though they were aware America was under attack?
15. Please explain why you remained at the Sarasota, Florida, Elementary School for a press conference after you had finished listening to the children read, when as a terrorist target, your presence potentially jeopardized the lives of the children?
16. What was the purpose of the several stops of Air Force One on September 11th? Was Air Force One at any time during the day of September 11th a target of the terrorists? Was Air Force One's code ever breached on September 11th?
17. Was there a reason for Air Force One lifting off without a military escort, even after ample time had elapsed to allow military jets to arrive?
18. What prompted your refusal to release the information regarding foreign sponsorship of the terrorists, as illustrated in the inaccessible 28 redacted pages in the Joint Intelligence Committee Inquiry Report? What actions have you personally taken since 9/11 to thwart foreign sponsorship of terrorism?
19. Who approved the flight of the bin Laden family out of the United States when all commercial flights were grounded, when there was time for only minimal questioning by the FBI, and especially, when two of those same individuals had links to WAMY, a charity suspected of funding terrorism? Why were bin Laden family members granted that special privilege—a privilege not available to American families whose loved ones were killed on 9/11?
20. Please explain why no one in any level of our government has yet been held accountable for the countless failures leading up to and on 9/11?
21. Please comment on the fact that UBL's profile on the *FBI's Ten Most Wanted Fugitives* poster does not include the 9/11 attacks. To your knowledge, when was the last time any agent of our government had contact

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with UBL? If prior to 9/11, specifically what was the date of that contact and what was the context of said meeting.

22. Do you continue to maintain that Saddam Hussein was linked to al Qaeda? What *proof* do you have of any connection between al-Qaeda and the Hussein regime?
23. Which individuals, governments, agencies, institutions, or groups may have benefited from the attacks of 9/11? Please state specifically how you think they have benefited.
24. After the first WTC building was struck, did you receive any information directly or indirectly from the Secret Service agents located in WTC 7?
  - If so, what information did you receive?
  - Did the Secret Service agents or anyone else accompanying you attempt to call the New York City Secret Service office for information?
  - Did the Secret Service agents or anyone else accompanying you attempt to call the Washington Secret Service office?
  - Who provided you information, directly or indirectly, and what exactly was that information?
25. Please describe the role and influence of the President's Foreign Advisory Council in establishing the administration's counterterrorism policies.
26. In Feb 28, 2001, you released your economic blueprint and stated "*to improve INS' focus on service and to reduce the delays in INS processing of immigration applications, the administration proposes a universal 6-month standard for processing all immigration applications.*" Prior to Sept. 11, 2001, did you or anyone else implement this processing goal in any way? Were any directives, orders or policy guidelines given to INS personnel relating to this issue by anyone?  
<http://www.whitehouse.gov/news/usbudget/blueprint/bud14.html>
27. During the second presidential debate on Oct. 11, 2000, as a Presidential candidate you responded to a question about racial discrimination and said that " *...there is other forms of racial profiling that goes on in America. Arab Americans are racially profiled in what's called "secret evidence"*.  
<http://www.pbs.org/newshour/bb/election/2000debates/2ndebate3.html>
28. On Feb 28, 2001, you issued a memorandum on racial profiling to Attorney General Ashcroft, stating: "*I hereby direct you to review the use by Federal law enforcement authorities of race as a factor in conducting stops, searches, and other investigative procedures.*"  
<http://www.whitehouse.gov/news/releases/2001/02/20010228-1.html>

To your knowledge, were directives or communications issued, through Attorney General Ashcroft or anyone else, to any federal agencies, or to any individuals or offices of any agencies, that concerned the racial profiling Arabs or Muslims? • Could prohibition of racial profiling have been a factor in the FBI Headquarters personnel continually and "inexplicably" throwing up "roadblocks" and even undermining the field agents' "*desperate efforts to obtain a FISA search warrant in the Moussaoui investigation.*"  
<http://www.time.com/time/covers/1101020603/memo.html>
29. In the first few weeks of the Bush administration it has been reported that Andrew Card, Chief of Staff required that all regulations (passed down by the Clinton administration) that had not yet been issued had to be reviewed anew by an official appointed by the new administration, generally, the department secretary.  
<http://www.whitehouse.gov/news/releases/20010123-4.html>
  - Before adopting this blanket policy that delayed the implementation of regulations, did anyone in your administration have any concerns about delaying those that related to security issues, such as National Security or aircraft/airport security?
  - Was any special course of action taken regarding these regulations?

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30. In July, 2001, an executive order was issued which “*blocks all property and interests in property of the Taliban and prohibits trade-related transactions by United States persons involving the territory of Afghanistan controlled by the Taliban.*”  
<http://www.whitehouse.gov/news/releases/2001/07/20010702-10.html>

Please discuss the American government’s role and position, either officially or unofficially in discussions/negotiations with the Taliban in 2001 and their timing and appropriateness with respect to the executive order of July 2, 2001 mentioned above. According to an article in Salon, 6-05-02:

*“The Bush White House stepped up negotiations with the Taliban in 2001. When those talks stalled in July, a Bush administration representative threatened the Taliban with military reprisals if the government did not go along with American demands.”*

[http://www.salon.com/news/feature/2002/06/05/memo/index\\_np.html](http://www.salon.com/news/feature/2002/06/05/memo/index_np.html)

- Who else was involved in those discussions/negotiations?
- What was the outcome?
- What promises or threats were made?

31. Please discuss the National Security Presidential Directive presented for your approval on September 9, 2001, which outlined plans for attacking al Qaeda in Afghanistan.

*“[Plans had been drawn up by the] Clinton administration to launch an attack on Al Qaeda in Afghanistan. Those plans were shelved when Bush took office, but were revived and accelerated in August 2001, following the breakdown of the pipeline negotiations. By the beginning of September 2001, the war plans had been approved by the Pentagon. On September 9 a National Security Presidential Directive outlining plans for an attack the following month, was presented to President Bush for approval.”*

<http://pmdtc.org/docs/frnotices/66FR23310.PDF>

<http://www.jimpivonka.com/unpublished/forbiddentruthrev.html>

<http://www.guardian.co.uk/wtccrash/story/0,1300,556279,00.html>

- Who else was involved in those discussions/negotiations?
- What was the outcome?
- What promises or threats were made?
- 

32. Please explain your 14 month opposition to the creation of an independent commission to investigate 9/11 and your request to Senator Daschle to quash such an investigation.

<http://www.rense.com/general25/ggg.htm>

33. Please explain the reasoning which prompted the Executive Order governing the release of Presidential Records, including those of previous administrations, which could conceivably include historically important documents pertinent to the September 11th investigation.

[http://www.house.gov/reform/min/pdfs/pdf\\_inves/pdf\\_admin\\_records\\_let.pdf](http://www.house.gov/reform/min/pdfs/pdf_inves/pdf_admin_records_let.pdf)

34. When did you first become aware of “Rebuilding America’s Defenses”( RAD) proposed by the New American Century’s (PNAC)? Who introduced it to you?

35. After September 11th, you seemed to have fully embraced the RAD plan. Please comment on these observations:

*“Bush has virtually used, word for word, the written statements by PNAC members when he speaks publicly about Iraq crisis”*

<http://www.globalpolicy.org/security/issues/iraq/attack/2003/0227hellbent.htm>

*“Already we are seeing evidence of PNAC influence on U.S. policy. For instance, the concept of “Homeland Defense” comes straight from “RAD.” Iran, Iraq and North Korea, nations that George Bush calls the “Axis of*



## The 9/11 Commission One Year Later

*Evil", are listed together in "RAD" several times as possible military threats to the U.S. There is a suggestion that military spending be increased to 3.8 percent of the GDP, exactly the amount (over and above present expenses for the Iraqi campaign) Bush has proposed for next year's budget. Its basic statement of policy bespeaks and advocates the very essence of the idea of preemptive engagement... Bush's National Security Strategy of September 20, 2002, adopted PNAC ideas and emphasized a broadened definition of preemption... There is even assertion of the necessity of American political leadership overriding that of the U.N. (p. 11), a policy that was sadly played out when the U.S. invaded Iraq without the approval of either the U.N. or the international community." <http://www.informationclearinghouse.info/article3249.htm>*

36. On February 29, 2004, the *Seattle Times* ran this headline "U.S. changes tactics, adds forces in hunt for bin Laden" and went on to say, "President Bush has approved a plan to intensify the effort to capture or kill Osama bin Laden..." Please explain why there has not been a consistently intense push since September 11th to capture or kill bin Laden.  
[http://seattletimes.nwsourc.com/text/2001867838\\_binladen29.html](http://seattletimes.nwsourc.com/text/2001867838_binladen29.html)
37. Why was author, Bob Woodward, author of *Bush at War* permitted access to confidential PDBs while the Joint Inquiry, and subsequently, the Commission, was not?  
<http://www.fas.org/sgp/news/secretcy/2003/03/030403.html>  
<http://video.msnbc.com/id/4304339>
38. Please explain why the White House has not demanded that the 19 recommendations made by the Joint Inquiry either be fully enacted or discussed via hearings?
39. What type of federal rescue measures are in place in the event of an attack on our nation, in terms of personnel and equipment?

These questions and many more can be found on the web at:  
<http://www.911independentcommission.org/questions.html>

LETTER TO CONGRESS, SEPTEMBER 13, 2004  
National Security Whistleblowers Coalition

To The Congress of The United States:

The National Commission on Terrorist Attacks upon the United States ended its report stating that "We look forward to a national debate on the merits of what we have recommended, and we will participate vigorously in that debate." In this spirit, we the undersigned wish to bring to the attention of the Congress and the people of the United States what we believe are serious shortcomings in the report and its recommendations. We thus call upon Congress to refrain from narrow political considerations and to apply brakes to the race to implement the commission recommendations. It is not too late for Congress to break with the practice of limiting testimony to that from politicians and top-layer career bureaucrats—many with personal reputations to defend and institutional equities to protect. Instead, use this unique opportunity to introduce salutary reform, an opportunity that must not be squandered by politically driven haste.

Omission is one of the major flaws in the Commission's report. We are aware of significant issues and cases that were duly reported to the commission by those of us with direct knowledge, but somehow escaped attention. Serious problems and shortcomings within government agencies likewise were reported to the Commission but were not included in the report. The report simply does not get at key problems within the intelligence, aviation security, and law enforcement communities. The omission of such serious and applicable issues and information by itself renders the report flawed, and casts doubt on the validity of many of its recommendations.

We believe that one of the primary purposes of the Commission was to establish accountability; that to do so is essential to understanding the failures that led to 9/11, and to prescribe needed changes. However, the Commission in its report holds no one accountable, stating instead "our aim has not been to assign individual blame". That is to play the political game, and it shows that the goal of achieving unanimity overrode one of the primary purposes of this

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Commission's establishment. When calling for accountability, we are referring not to quasi-innocent mistakes caused by "lack of imagination" or brought about by ordinary "human error". Rather, we refer to intentional actions or inaction by individuals responsible for our national security, actions or inaction dictated by motives other than the security of the people of the United States. The report deliberately ignores officials and civil servants who were, and still are, clearly negligent and/or derelict in their duties to the nation. If these individuals are protected rather than held accountable, the mindset that enabled 9/11 will persist, no matter how many layers of bureaucracy are added, and no matter how much money is poured into the agencies. Character counts. Personal integrity, courage, and professionalism make the difference. Only a commission bent on holding no one responsible and reaching unanimity could have missed that.

We understand, as do most Americans, that one of our greatest strengths in defending against terrorism is the dedication and resourcefulness of those individuals who work on the frontlines. Even before the Commission began its work, many honest and patriotic individuals from various agencies came forward with information and warnings regarding terrorism-related issues and serious problems within our intelligence and aviation security agencies. If it were not for these individuals, much of what we know today of significant issues and facts surrounding 9/11 would have remained in the dark. These "whistleblowers" were able to put the safety of the American people above their own careers and jobs, even though they had reason to suspect that the deck was stacked against them. Sadly, it was. Retaliation took many forms: some were ostracized; others were put under formal or informal gag orders; some were fired. The commission has neither acknowledged their contribution nor faced up to the urgent need to protect such patriots against retaliation by the many bureaucrats who tend to give absolute priority to saving face and protecting their own careers.

The Commission did emphasize that barriers to the flow of information were a primary cause for wasting opportunities to prevent the tragedy. But it skipped a basic truth. Secrecy enforced by repression threatens national security as much as bureaucratic turf fights. It sustains vulnerability to terrorism caused by government breakdowns. Reforms will be paper tigers without a safe channel for whistleblowers to keep them honest in practice. It is unrealistic to expect that government workers will defend the public, if they can't defend themselves. Profiles in Courage are the exception, not the rule. Unfortunately, current whistleblower rights are a cruel trap and magnet for cynicism. The Whistleblower Protection Act has turned into an efficient way to finish whistleblowers off by endorsing termination. No government workers have access to jury trials like Congress enacted for corporate workers after the Enron/MCI debacles. Government workers need genuine, enforceable rights just as much to protect America's families, as corporate workers do to protect America's investments. It will take congressional leadership to fill this hole in the 9/11 Commission's recommendations.

The Commission, with its incomplete report of "facts and circumstances", intentional avoidance of assigning accountability, and disregard for the knowledge, expertise and experience of those who actually do the job, has now set about pressuring our Congress and our nation to hastily implement all its recommendations. While we do not intend to imply that all recommendations of this report are flawed, we assert that the Commission's list of recommendations does not include many urgently needed fixes, and further, we argue that some of their recommendations, such as the creation of an 'intelligence czar', and haphazard increases in intelligence budgets, will lead to increases in the complexity and confusion of an already complex and highly bureaucratic system.

Congress has been hearing not only from the commissioners but from a bevy of other career politicians, very few of whom have worked in the intelligence community, and from top-layer bureaucrats, many with vested interests in saving face and avoiding accountability. Congress has not included the voices of the people working within the intelligence and broader national security communities who deal with the real issues and problems day-after-day and who possess the needed expertise and experience—in short, those who not only do the job but are conscientious enough to stick their necks out in pointing to the impediments they experience in trying to do it effectively.

We the undersigned, who have worked within various government agencies (FBI, CIA, FAA, DIA, Customs) responsible for national security and public safety, call upon you in Congress to include the voices of those with first-hand knowledge and expertise in the important issues at hand. We stand ready to do our part.

Respectfully,

1. Costello, Edward J. Jr., Former Special Agent, Counterintelligence, FBI

## The 9/11 Commission One Year Later

2. Cole, John M., Former Veteran Intelligence Operations Specialist, FBI
3. Conrad, David "Mark", Retired Agent in Charge, Internal Affairs, U.S. Customs
4. Dew, Rosemary N., Former Supervisory Special Agent, Counterterrorism & Counterintelligence, FBI
5. Dzakovic, Bogdan, Former Red Team Leader, FAA
6. Edmonds, Sibel D., Former Language Specialist, FBI
7. Elson, Steve, Retired Navy Seal & Former Special Agent, FAA & US Navy
8. Forbes, David, Aviation, Logistics and Govt. Security Analysts, BoydForbes, Inc.,
9. Goodman, Melvin A., Former Senior Analyst/ Division Manager, CIA; Senior Fellow at the Center for International Policy
10. Graf, Mark, Former Security Supervisor, Planner, & Derivative Classifier, Department of Energy
11. Graham, Gilbert M., Retired Special Agent, Counterintelligence, FBI
12. Kleiman, Diane, Former Special Agent, US Customs
13. Kwiatkowski, Karen U., Lt. Col. USAF (ret.), Veteran Policy Analyst-DoD
14. Larkin, Lynne A., Former Operation Officer, CIA
15. MacMichael, David, Former Senior Estimates Officer, CIA
16. McGovern, Raymond L., Former Analyst, CIA
17. Pahle, Theodore J., Retired Senior Intelligence Officer, DIA
18. Sarshar, Behrooz, Retired Language Specialist, FBI
19. Sullivan, Brian F., Retired Special Agent & Risk Management Specialist, FAA
20. Tortorich, Larry J., Retired US Naval Officer, US Navy & Dept. of Homeland Security/TSA
21. Turner, Jane A., Retired Special Agent, FBI
22. Vincent, John B., Retired Special Agent, Counterterrorism, FBI
23. Whitehurst, Dr. Fred, Retired Supervisory Special Agent/Laboratory Forensic Examiner, FBI
24. Wright, Ann, Col. US Army (ret.); and Former Foreign Service officer
25. Zipoli, Matthew J., Special Response Team (SRT) Officer, DOE

LETTER TO THOMAS KEAN, CHAIRMAN, 9/11 COMMISSION  
from Sibel Edmonds, National Security Whistleblowers Coalition

August 1, 2004

Thomas Kean, Chairman  
National Committee on Terrorist Attacks Upon the United States  
301 7<sup>th</sup> Street, SW Room 5125  
Washington, DC 20407

Dear Chairman Kean:

has been almost three years since the terrorist attacks on September 11; during which time we, the people, have been placed under a constant threat of terror and asked to exercise vigilance in our daily lives. Your commission, the National Commission on Terrorist Attacks upon the United States, was created by law to investigate "facts and circumstances related to the terrorist attacks of September 11, 2001" and to "provide recommendations to safeguard against future acts of terrorism", and has now issued its "9/11 Commission Report". You are now asking us to pledge our support for this report, its recommendations, and implementation of these recommendations, with our trust and backing, our tax money, our security, and our lives. Unfortunately, I find your report seriously flawed in its failure to address serious intelligence issues that I am aware of, which have been confirmed, and which as a witness to the commission, I made you aware of. Thus, I must assume that other serious issues that I am not aware of were in the same manner omitted from your report. These omissions cast doubt on the validity of your report and therefore on its conclusions and recommendations. Considering what is at stake, our national security, we are entitled to demand answers to unanswered questions, and to ask for clarification of issues that were ignored and/or omitted from the report. I, Sibel Edmonds, a concerned American Citizen, a former FBI translator, a whistleblower, a witness for a United States Congressional investigation, a witness and a plaintiff for the Department of Justice Inspector General investigation, and a witness for your own 9/11 Commission investigation, request your answers to, and your public acknowledgement of, the following questions and issues:

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After the terrorist attacks of September 11 we, the translators at the FBI's largest and most important translation unit, were told to slow down, even stop, translation of critical information related to terrorist activities so that the FBI could present the United States Congress with a record of '*extensive backlog of untranslated documents*', and justify its request for budget and staff increases. While FBI agents from various field offices were desperately seeking leads and suspects, and completely depending on FBI HQ and its language units to provide them with needed translated information, hundreds of translators were being told by their administrative supervisors not to translate and to let the work pile up (*please refer to the CBS-60 Minutes transcript dated October 2002, and provided to your investigators in January-February 2004*). This issue has been confirmed by the Senate Judiciary Committee (*Please refer to Senator Grassley and Senator Leahy's letters during the summer of 2002, provided to your investigators in January-February 2004*). This confirmed report has been reported to be substantiated by the Department of Justice Inspector General Report (*Please refer to DOJ-IG report Re: Sibel Edmonds and FBI Translation, provided to you prior to the completion of your report*). I provided your investigators with a detailed and specific account of this issue and the names of other witnesses willing to corroborate this. (*Please refer to tape-recorded 3.5 hours testimony by Sibel Edmonds, provided to your investigators on February 11, 2004*).

Today, almost three years after 9/11, and more than two years since this information has been confirmed and made available to our government, the administrators in charge of language departments of the FBI remain in their positions and in charge of the information front lines of the FBI's Counterterrorism and Counterintelligence efforts. Your report has omitted any reference to this most serious issue, has foregone any accountability what so ever, and your recommendations have refrained from addressing this issue, which when left un-addressed will have even more serious consequences. This issue is systemic and departmental. Why did your report choose to exclude this information and this serious issue despite the evidence and briefings you received? How can budget increases address and resolve this misconduct by mid- level bureaucratic management? How can the addition of a new bureaucratic layer, "*Intelligence Czar*", in its cocoon removed from the action lines, address and resolve this problem?

Melek Can Dickerson, a Turkish Translator, was hired by the FBI after September 11, and was placed in charge of translating the most sensitive information related to terrorists and criminals under the Bureau's investigation. Melek Can Dickerson was granted Top Secret Clearance, which can be granted only after conducting a thorough background investigation. Melek Can Dickerson used to work for semi- legit organizations that were the FBI's targets of investigation. Melek Can Dickerson had on going relationships with two individuals who were FBI's targets of investigation. For months Melek Can Dickerson blocked all- important information related to these semi legit organizations and the individuals she and her husband associated with. She stamped hundreds, if not thousands, of documents related to these targets as '*Not Pertinent*.' Melek Can Dickerson attempted to prevent others from translating these documents important to the FBI's investigations and our fight against terrorism. Melek Can Dickerson, with the assistance of her direct supervisor, Mike Feghali, took hundreds of pages of top-secret sensitive intelligence documents outside the FBI to unknown recipients. Melek Can Dickerson, with the assistance of her direct supervisor, forged signatures on top-secret documents related to certain 9/11 detainees. After all these incidents were confirmed and reported to FBI management, Melek Can Dickerson was allowed to remain in her position, to continue the translation of sensitive intelligence received by the FBI, and to maintain her Top Secret Clearance. Apparently bureaucratic mid- level FBI management and administrators decided that it would not look good for the Bureau if this security breach and espionage case was investigated and made public, especially after going through Robert Hanssen's case (FBI spy scandal). This case (Melek Can Dickerson) was confirmed by the Senate Judiciary Committee (*Please refer to Senator Leahy and Grassley's letters dated June 19 and August 13, 2002, and Senator Grassley's statement on CBS-60 Minutes in October 2002, provided to your investigators in January-February 2004*). This Dickerson incident received major coverage by the press (*Please refer to media background provided to your investigators in January-February 2004*). According to Director Mueller, the Inspector General criticized the FBI for failing to adequately pursue this espionage report regarding Melek Can Dickerson (*Please refer to DOJ-IG report Re: Sibel Edmonds and FBI Translation, provided to you prior to the completion of your report*). I provided your investigators with a detailed and specific account of this issue, the names of other witnesses willing to corroborate this, and additional documents. (*Please refer to tape-recorded 3.5 hours testimony by Sibel Edmonds, provided to your investigators on February 11, 2004*).

Today, more than two years since the Dickerson incident was reported to the FBI, and more than two years since this information was confirmed by the United States Congress and reported by the press, these administrators in charge of FBI personnel security and language departments in the FBI remain in their positions and in charge of translation quality and translation departments' security. Melek Can Dickerson and several FBI targets of investigation hastily left

## The 9/11 Commission One Year Later

the United States in 2002, and the case still remains uninvestigated criminally. Not only does the supervisor facilitating these criminal conducts remain in a supervisory position, he has been promoted to supervising Arabic language units of the FBI's Counterterrorism and Counterintelligence investigations. Your report has omitted these significant incidents, has foregone any accountability what so ever, and your recommendations have refrained from addressing this serious information security breach and highly likely espionage issue. This issue needs to be investigated and criminally prosecuted. The translation of our intelligence is being entrusted to individuals with loyalties to our enemies. Important 'chit-chats' and 'chatters' are being intentionally blocked. Why did your report choose to exclude this information and these serious issues despite the evidence and briefings you received? How can budget increases address and resolve this misconduct by mid- level bureaucratic management? How can the addition of a new bureaucratic layer, "Intelligence Czar", in its cocoon removed from the action lines, address and resolve this problem?

Over three years ago, more than four months prior to the September 11 terrorist attacks, in April 2001, a long-term FBI informant/asset who had been providing the bureau with information since 1990, provided two FBI agents and a translator with specific information regarding a terrorist attack being planned by Osama Bin Laden. This asset/informant was previously a high- level intelligence officer in Iran in charge of intelligence from Afghanistan. Through his contacts in Afghanistan he received information that: 1) Osama Bin Laden was planning a major terrorist attack in the United States targeting 4-5 major cities, 2) the attack was going to involve airplanes, 3) some of the individuals in charge of carrying out this attack were already in place in the United States, 4) the attack was going to be carried out soon, in a few months. The agents who received this information reported it to their superior, Special Agent in Charge of Counterterrorism, Thomas Frields, at the FBI Washington Field Office, by filing "302" forms, and the translator translated and documented this information. No action was taken by the Special Agent in Charge, and after 9/11 the agents and the translators were told to 'keep quiet' regarding this issue. The translator who was present during the session with the FBI informant, Mr. Behrooz Sarshar, reported this incident to Director Mueller in writing, and later to the Department of Justice Inspector General. The press reported this incident, and in fact the report in the Chicago Tribune on July 21, 2004 stated that FBI officials had confirmed that this information was received in April 2001, and further, the Chicago Tribune quoted an aide to Director Mueller that **he (Mueller) was surprised that the Commission never raised this particular issue with him during the hearing** (Please refer to Chicago Tribune article, dated July 21, 2004). Mr. Sarshar reported this issue to your investigators on February 12, 2004, and provided them with specific dates, location, witness names, and the contact information for that particular Iranian asset and the two special agents who received the information (Please refer to the tape-recorded testimony provided to your investigators during a 2.5 hours testimony by Mr. Sarshar on February 12, 2004). I provided your investigators with a detailed and specific account of this issue, the names of other witnesses, and documents I had seen. (Please refer to tape-recorded 3.5 hours testimony by Sibel Edmonds, provided to your investigators on February 11, 2004). Mr. Sarshar also provided the Department of Justice Inspector General with specific information regarding this issue (Please refer to DOJ-IG report Re: Sibel Edmonds and FBI Translation, provided to you prior to the completion of your report).

After almost three years since September 11, many officials still refuse to admit to having specific information regarding the terrorists' plans to attack the United States. The Phoenix Memo, received months prior to the 9/11 attacks, specifically warned FBI HQ of pilot training and their possible link to terrorist activities against the United States. Four months prior to the terrorist attacks the Iranian asset provided the FBI with specific information regarding the 'use of airplanes', 'major US cities as targets', and 'Osama Bin Laden issuing the order.' Coleen Rowley likewise reported that specific information had been provided to FBI HQ. All this information went to the same place: FBI Headquarters in Washington, DC, and the FBI Washington Field Office, in Washington DC. Yet, your report claims that not having a central place where all intelligence could be gathered as one of the main factors in our intelligence failure. Why did your report choose to exclude the information regarding the Iranian asset and Behrooz Sarshar from its timeline of missed opportunities? Why was this significant incident not mentioned; despite the public confirmation by the FBI, witnesses provided to your investigators, and briefings you received directly? Why did you surprise even Director Mueller by refraining from asking him questions regarding this significant incident and lapse during your hearing (Please remember that you ran out of questions during your hearings with Director Mueller and AG John Ashcroft, so please do not cite a 'time limit' excuse)? How can budget increases address and resolve these problems and failure to follow up by mid-level bureaucratic management at FBI Headquarters? How can the addition of a new bureaucratic layer, "Intelligence Czar", in its cocoon removed from the action lines, address and resolve this problem?

Over two years ago, and after two 'unclassified' sessions with FBI officials, the Senate Judiciary Committee sent

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letters to Director Mueller, Attorney General Ashcroft, and Inspector General Glenn Fine regarding the existence of unqualified translators in charge of translating high level sensitive intelligence. The FBI confirmed at least one case: Kevin Taskesen, a Turkish translator, had been given a job as an FBI translator, despite the fact that he had failed all FBI language proficiency tests. In fact, Kevin could not understand or speak even elementary level English. He had failed English proficiency tests and did not even score sufficiently in the target language. Still, Kevin Taskesen was hired, not due to lack of other qualified translator candidates, but because his wife worked in FBI Headquarters as a language proficiency exam administrator. Almost everybody in FBI Headquarters and the FBI Washington Field Office knew about Kevin. Yet, Kevin was given the task of translating the most sensitive terrorist related information, and he was sent to Guantanamo Bay to translate the interrogation of and information for all Turkic language detainees (Turkish, Uzbeks, Turkmen, etc.). The FBI was supposed to be trying to obtain information regarding possible future attack plans from these detainees, and yet, the FBI knowingly sent unqualified translators to gather and translate this information. Further, these detainees were either released or detained or prosecuted based on information received and translated by unqualified translators knowingly sent there by the FBI. Senator Grassley and Senator Leahy publicly confirmed Kevin Taskesen's case (*Please refer to Senate letters and documents provided to your investigators in January-February 2004*). CBS-60 Minutes showed Kevin's picture and stated his name as one of the unqualified translators sent to Guantanamo Bay, and as a case confirmed by the FBI (*Please refer to CBS-60 Minutes transcript provided to your investigators*). Department of Justice Inspector General had a detailed account of these problems (*Please refer to DOJ-IG report Re: Sibel Edmonds and FBI Translation, provided to you prior to the completion of your report*). I provided your investigators with a detailed and specific account of this issue and the names of other witnesses willing to corroborate this. (*Please refer to tape-recorded 3.5 hours testimony by Sibel Edmonds, provided to your investigators on February 11, 2004*).

After more than two years since Kevin Taskesen's case was publicly confirmed, and after almost two years since CBS-60 Minutes broadcasted Taskesen's case, Kevin Taskesen remains in his position, as a sole Turkish and Turkic language translator for the FBI Washington Field Office. After admitting that Kevin Taskesen was not qualified to perform the task of translating sensitive intelligence and investigation of terrorist activities, the FBI still keeps him in charge of translating highly sensitive documents and leads. Those individuals in the FBI's hiring department and those who facilitated the hiring of unqualified translators due to nepotism/cronyism are still in those departments and remain in their positions. Yet, your report does not mention this case, or these chronic problems within the FBI translation departments, and within the FBI's hiring and screening departments. The issue of accountability for those responsible for these practices that endangers our national security is not brought up even once in your report. This issue, as with others, is systemic and departmental. Why did your report choose to exclude this information and these serious issues despite the evidence and briefings you received? How can budget increases address and resolve the intentional continuation of ineptitude and incompetence by mid-level bureaucratic management? How can the addition of a new bureaucratic layer, "Intelligence Czar", in its cocoon removed from the action lines, address and resolve this problem?

In October 2001, approximately one month after the September 11 attack, an agent from a (city name omitted) field office, re-sent a certain document to the FBI Washington Field Office, so that it could be re-translated. This Special Agent, in light of the 9/11 terrorist attacks, rightfully believed that, considering his target of investigation (the suspect under surveillance), and the issues involved, the original translation might have missed certain information that could prove to be valuable in the investigation of terrorist activities. After this document was received by the FBI Washington Field Office and retranslated verbatim, the field agent's hunch appeared to be correct. The new translation revealed certain information regarding blueprints, pictures, and building material for skyscrapers being sent overseas. It also revealed certain illegal activities in obtaining visas from certain embassies in the Middle East, through network contacts and bribery. However, after the re-translation was completed and the new significant information was revealed, the unit supervisor in charge of certain Middle Eastern languages, Mike Feghali, decided **NOT** to send the re-translated information to the Special Agent who had requested it. Instead, this supervisor decided to send this agent a note stating that the translation was reviewed and that the original translation was accurate. This supervisor stated that sending the accurate translation would hurt the original translator and would cause problems for the FBI language department. The FBI agent requesting the retranslation never received the accurate translation of that document. I provided your investigators with a detailed and specific account of this issue, the name and date of this particular investigation, and the names of other witnesses willing to corroborate this. (*Please refer to tape-recorded 3.5 hours testimony by Sibel Edmonds, provided to your investigators on February 11, 2004*). This information was also provided to the Department of Justice Inspector General (*Please refer to DOJ-IG report Re: Sibel Edmonds and FBI Translation, provided to you prior to the completion of your report*).

## The 9/11 Commission One Year Later

Only one month after the catastrophic events of September 11; while many agents were working around the clock to obtain leads and information, and to investigate those responsible for the attacks, those with possible connections to the attack, and those who might be planning possible future attacks; the bureaucratic administrators in the FBI's largest and most important translation unit were covering up their past failures, blocking important leads and information, and jeopardizing on going terrorist investigations. The supervisor involved in this incident, Mike Feghali, was in charge of certain important Middle Eastern languages within the FBI Washington Field Office, and had a record of previous misconducts. After this supervisor's several severe misconducts were reported to the FBI's higher-level management, after his conducts were reported to the Inspector General's Office, to the United States Congress, and to the 9/11 Commission, he was promoted to include the FBI's Arabic language unit under his supervision. Today this supervisor, Mike Feghali, remains in the FBI Washington Field Office and is in charge of a language unit receiving those *chitchats* that our color-coded threat system is based upon. Yet your report contains zero information regarding these systemic problems that led us to our failure in preventing the 9/11 terrorist attacks. In your report, there are no references to individuals responsible for hindering past and current investigations, or those who are willing to compromise our security and our lives for their career advancement and security. This issue, as with others, is systemic and departmental. Why does your report choose to exclude this information and these serious issues despite all the evidence and briefings you received? Why does your report adamantly refrain from assigning any accountability to any individuals responsible for our past and current failures? How can budget increases address and resolve these intentional acts committed by self-serving career civil servants? How can the addition of a new bureaucratic layer, "Intelligence Czar", in its cocoon removed from the action lines, address and resolve this problem?

The latest buzz topic regarding intelligence is the problem of sharing information/intelligence within intelligence agencies and between intelligence agencies. To this date the public has not been told of intentional blocking of intelligence, and has not been told that certain information, despite its direct links, impacts and ties to terrorist related activities, is not given to or shared with Counterterrorism units, their investigations, and countering terrorism related activities. This was the case prior to 9/11, and remains in effect after 9/11. If Counterintelligence receives information that contains money laundering, illegal arms sale, and illegal drug activities, directly linked to terrorist activities; and if that information involves certain nations, certain semi-legit organizations, and ties to certain lucrative or political relations in this country, then, that information is not shared with Counterterrorism, regardless of the possible severe consequences. In certain cases, frustrated FBI agents cited 'direct pressure by the State Department,' and in other cases 'sensitive diplomatic relations' is cited. The Department of Justice Inspector General received detailed and specific information and evidence regarding this issue (*Please refer to DOJ-IG report Re: Sibel Edmonds and FBI Translation, provided to you prior to the completion of your report*). I provided your investigators with a detailed and specific account of this issue, the names of other witnesses willing to corroborate this, and the names of certain U.S. officials involved in these transactions and activities. (*Please refer to tape-recorded 3.5 hours testimony by Sibel Edmonds, provided to your investigators on February 11, 2004*).

After almost three years the American people still do not know that thousands of lives can be jeopardized under the unspoken policy of 'protecting certain foreign business relations.' The victims family members still do not realize that information and answers they have sought relentlessly for over two years has been blocked due to the unspoken decisions made and disguised under 'safeguarding certain diplomatic relations.' Your report did not even attempt to address these unspoken practices, although, unlike me, you were not placed under any gag. Your hearings did not include questions regarding these unspoken and unwritten policies and practices. Despite your full awareness and understanding of certain criminal conduct that connects to certain terrorist related activities, committed by certain U.S. officials and high-level government employees, you have not proposed criminal investigations into this conduct, although under the laws of this country you are required to do so. How can budget increases address and resolve these problems, when some of them are caused by unspoken practices and unwritten policies? How can a new bureaucratic layer, "Intelligence Czar", in its cocoon removed from the action lines, override these unwritten policies and unspoken practices incompatible with our national security?

I know for a fact that problems regarding intelligence translation cannot be brushed off as minor problems among many significant problems. Translation units are the frontline in gathering, translating, and disseminating intelligence. A warning in advance of the next terrorist attack may, and probably will, come in the form of a message or document in a foreign language that will have to be translated. That message may be given to the translation unit headed and supervised by someone like Mike Feghali, who slows down, even stops, translations for the purpose of receiving budget increases for his department, who has participated in certain criminal activities and security breaches, and who has been engaged in covering up failures and criminal conducts within the department, so it may never be translated in

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time if ever. That message may go to Kevin Taskesen, or another unqualified translator; so it may never be translated correctly and be acted upon. That message may go to a sympathizer within the language department; so it may never be translated fully, if at all. That message may come to the attention of an agent of a foreign organization who works as a translator in the FBI translation department, who may choose to block it; so it may never get translated. If then an attack occurs, which could have been prevented by acting on information in that message, who will tell family members of the new terrorist attack victims that nothing more could have been done? There will be no excuse that we did not know, because we do know.

I am writing this letter in light of my direct experience within the FBI's translation unit during the most crucial times after the 9/11 terrorist attacks, in light of my first hand knowledge of certain problems and cases within the Bureau's language units, and in light of what has already been established as facts. As you are fully aware, the facts, incidents, and problems cited in this letter are by NO means based upon personal opinion or un-verified allegations. As you are fully aware, these issues and incidents were found confirmed by a Senior Republican Senator, Charles Grassley, and a Senior Democrat Senator, Patrick Leahy. As you know, according to officials with direct knowledge of the Department of Justice Inspector General's report on my allegations, '**none of my allegations were disproved.**' As you are fully aware, even FBI officials '**confirmed all my allegations and denied none**' during their unclassified meetings with the Senate Judiciary staff over two years ago. However, neither your commission's hearings, nor your commission's five hundred sixty seven-page report, nor your recommendations include these serious issues, major incidents, and systemic problems. Your report's coverage of FBI translation problems consists of a brief microscopic footnote (Footnote #25). Yet, your commission is geared to start aggressively pressuring our government to hastily implement your measures and recommendations based upon your incomplete and deficient report.

In order to cure a problem, one must have an accurate diagnosis. In order to correctly diagnose a problem, one must consider and take into account all visible symptoms. Your Commission's investigations, hearings, and report have chosen not to consider many visible symptoms. I am emphasizing 'visible', because these symptoms have been long recognized by experts from the intelligence community and have been written about in the press. I am emphasizing 'visible' because the few specific symptoms I provided you with in this letter have been confirmed and publicly acknowledged.

During its many hearings your commission chose not to ask the questions necessary to unveil the true symptoms of our failed intelligence system. Your Commission intentionally bypassed these severe symptoms, and chose not to include them in its five hundred and sixty seven-page report. Now, without a complete list of our failures pre 9/11, without a comprehensive examination of true symptoms that exist in our intelligence system, without assigning any accountability what so ever, and therefore, without a sound and reliable diagnosis, your commission is attempting to divert attention from the real problems, and to prescribe a cure through hasty and costly measures. It is like attempting to put a gold-lined expensive porcelain cap over a deeply decayed tooth with a rotten root, without first treating the root, and without first cleaning/shaving the infected tooth.

Respectfully,

Sibel D. Edmonds

CC: Senate Judiciary Committee  
CC: Senate Intelligence Committee  
CC: House Government Reform Committee  
CC: Family Steering Committee  
CC: Press

NATIONAL SECURITY EXPERTS CENSORED BY THE 9/11 COMMISSION  
by Sibel Edmonds, National Security Whistleblowers Coalition

The Following National Security Whistleblowers were turned away, refused, or ignored by the 9/11 Commission, even though they had direct & relevant information related to the Commission's investigation:



## The 9/11 Commission One Year Later

**Mark Burton** (Senior Analyst- NSA) – Provided dozens of pages of information/testimony to the 9/11 Commission, but was completely ignored and never asked to testify.

Mark Burton served as an all-source threat analyst in NSA's Information Assurance Directorate (IAD) for most of his 16-year career. He was the editor of IAD's premier threat document; the 300+ page ISSO Global Threat Summary, and was an adjunct faculty member at NSA's National Cryptologic School. During a three-year ICAP tour at the Army's National Ground Intelligence Center (NGIC), he was treated so poorly that he chose to resign from public service. He later provided dozens of pages of draft testimony to the 9/11 Commission, but the Commission ignored him. He has since been blacklisted from Federal employment, apparently via the insertion of slanderous information into his official records. He has an MA in national security studies from Georgetown University.

**John M. Cole** (Senior Counterintelligence Operations Manager-FBI) – He notified the 9/11 Commission during its investigation and never received response; also his name & contact information were provided to the Commission as key witness (Program manager for Pakistan & Afghanistan; has relevant information to 9/11 terrorist attack) by others, but he was not contacted.

John M. Cole, Former Veteran Intelligence Operations Specialist, worked for 18 years in the FBI's Counterintelligence Division as an Intelligence Operations specialist. Beginning in 1999, he discovered and began reporting serious issues of mismanagement, gross negligence, waste of government funds, security breaches, cover-ups, and intentional blocking of intelligence that had national security implications. He wrote these issues in several letters to FBI management, to include Director Mueller to no avail. After he reported these acts to FBI management, he was retaliated against, suspended and ultimately left the FBI in March 2004.

**Bogdan Dzakovic** (Former Red Team Leader-FAA)- His testimony to the Commission was completely left out of the final report.

Bogdan Dzakovic is a former Coast Guard Officer, Federal Criminal Investigator and has a graduate degree in Security Administration. He has worked for the Security Division of the Federal Aviation Administration since 1987 as a Special Agent, as a Team Leader in the Federal Air Marshals, and from 1995 until September 11, 2001 was a Team Leader of the Red Team (terrorist team). He tried for several years prior to the 9-11 attacks to improve aviation security in the face of the ever-increasing terrorist threat. This included working through the established chain of command, with the Department of Transportation's Office of Inspector General, with the General Accountability Office, and with members of both the House and Senate of the Congress of the United States. He filed a Whistleblower Case against the Federal Aviation Administration and testified at the 9-11 Commission.

**Sibel Edmonds** (Language Specialist-FBI) - She was refused twice; was given interview only after the Jersey Moms intervened directly; however, her testimony was censored by the Commission.

Sibel Edmonds worked as a language specialist for the FBI's Washington Field Office. During her work with the bureau, she discovered and reported serious acts of security breaches, cover-ups, and intentional blocking of intelligence that had national security implications. After she reported these acts to FBI management, she was retaliated against by the FBI and ultimately fired in March 2002. Since that time, court proceedings on her issues have been blocked by the assertion of "State Secret Privilege" by Attorney General Ashcroft; the Congress of the United States has been gagged and prevented from any discussion of her case through retroactive re-classification by the Department of Justice. Ms. Edmonds is fluent in Turkish, Farsi and Azerbaijani; and has a MA in Public Policy and International Commerce from George Mason University, and a BA in Criminal Justice and Psychology from George Washington University. ([www.justacitizen.com](http://www.justacitizen.com) <<http://www.justacitizen.com/>> )

Mike German (Special Agent, Counterterrorism-FBI) - Contacted the Commission in spring 2004, but did not receive any response from them.

**Mike German** served sixteen years as an FBI Special Agent and is one of the rare agents credited with actually having prevented acts of terrorism before it became the FBI's number one priority. In the early 1990s, Mike successfully infiltrated a Los Angeles white supremacist group that was engaged in a bombing campaign against racial minorities. In the late 1990's, after the Oklahoma City bombing, he again went undercover against right-wing militia groups that were conspiring to harm federal agents. Both cases disrupted multiple terrorist cells and led to criminal convictions that

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prevented terrorist acts. In 2002 Mike reported gross mismanagement in a post 9/11 counterterrorism investigation, which included serious violations of FBI policy and federal law. Despite his record Mike was prevented from working on other terrorism investigations in retaliation. Mike chose to resign from the FBI rather than remain silent about continuing failures in the FBI counterterrorism program.

**Melvin A. Goodman** (Former Senior Analyst/ Division Manager-CIA)-

Melvin Goodman is senior fellow at the Center for International Policy in Washington, DC and adjunct professor of international relations at Johns Hopkins University. He served at the CIA as senior Soviet analyst from 1966-1990 and as professor of international security at the National War College from 1986-2004. He resigned from the CIA in 1990 to protest the politicization of intelligence on the Soviet Union and testified to the Senate Select Committee on Intelligence in 1991 against the confirmation of Robert M. Gates as director of central intelligence. At the time of his resignation, Goodman was a member of the Senior Intelligence Staff. He is the author and co-author of five books on international relations including "The Wars of Eduard Shevardnadze," "The Phantom Defense: America's Pursuit of the Star Wars Illusion," and "Bush League Diplomacy: How the Neoconservatives are Putting the World at Risk."

**Gilbert Graham** (Retired Special Agent, Counterintelligence-FBI) – His name & contact information were provided to the Commission as key witness in February 2004, although he was willing to provide the Commission with information he was never contacted

**Coleen Rowley** (Retired Division Counsel- FBI) – The commission chose to only rely upon transcripts from the Joint Senate-House Intel Inquiry FBI Minneapolis Field office – As far as Ms. Rowley is aware, no one from the FBI Minneapolis was asked to provide testimony/info to the 9/11 Commission

Joe Mansour (Federal Bureau of Prison) -

**Behrooz Sarshar** (Language Specialist-FBI) - He was refused twice; was given interview only after the Jersey Moms intervened directly; however, his testimony was completely removed from the commission's final report.

**John Vincent** (Retired Special Agent, Counterterrorism-FBI) – He was granted an interview but the commissioners' investigators refused to ask questions Re: info. Related to his case & 9/11 and insisted on asking only administrative and irrelevant questions.

John Vincent is a graduate of law school. He spent two years in the US Army, one year working for a US Congressman, and two years working in state government lawmaking. He joined the FBI in 1975 and worked there for 27 1/2 years before retiring in 2002. He worked his last 8 years in counter terrorism. Mr. Vincent, along with Robert Wright exposed the inefficiencies within the FBI in working counter terrorism cases.

**Robert Wright** (Veteran Special Agent, Counterterrorism-FB) - FBI refused to allow Wright to testify, but the Commission did not insist or attempted to subpoena Wright

### **About National Security Whistleblowers Coalition**

National Security Whistleblowers Coalition (NSWBC), founded in August 2004, is an independent and nonpartisan alliance of whistleblowers who have come forward to address our nation's security weaknesses; to inform authorities of security vulnerabilities in our intelligence agencies, at nuclear power plants and weapon facilities, in airports, and at our nation's borders and ports; to uncover government waste, fraud, abuse, and in some cases criminal conduct. The NSWBC is dedicated to aiding national security whistleblowers through a variety of methods, including advocacy of governmental and legal reform, educating the public concerning whistle-blowing activity, provision of comfort and fellowship to national security whistleblowers suffering retaliation and other harms, and working with other public interest organizations to affect goals defined in the NSWBC mission statement. For more on NSWBC visit [www.nswbc.org](http://www.nswbc.org) <<http://www.nswbc.org>>

## The 9/11 Commission One Year Later

ADC POLICY ISSUES 109<sup>th</sup> CONGRESS: CIVIL LIBERTIES  
American-Arab Anti-Discrimination Committee

### **Patriot Act Reauthorization**

ADC urges Congress to uphold civil liberties when considering and voting on legislation that would reauthorize the provisions of the *USA Patriot Act* subject to sunset.

We ask that Congress take this opportunity to restore privacy and due process rights, protect First Amendment rights to assemble and to petition (criticize) the government, limit the definition of “terrorism” to violent crimes perpetrated on human civilian targets for political gain, prohibit all authorized prisoner abuse, restore respect for the rule of law, decrease government secrecy, and assure the balance of power between the branches of government.

When considering reauthorization of sun-setting provisions of the *USA Patriot Act* we urge Congress to:

- restore personal privacy;
- restore due process;
- respect First Amendment rights to assemble and to petition (criticize) the government;
- limit the definition of “terrorism” to violent crimes perpetrated on human civilian targets for political gain;
- prohibit all authorized prisoner abuse;
- restore respect for the rule of law;
- decrease government secrecy; and
- respect the balance of power between the branches of government.

### **Civil Liberties Restoration Act**

ADC supports HR 1502 Civil Liberties Restoration Act (CLRA) (Berman /Delahunt)

The CLRA would roll back some of the most egregious post-9/11 policies to meet the new security demands while preserving fundamental liberties and American values of fairness and equal treatment for all.

CLRA would:

- end secret hearings
- end special registration
- ensure due process for detained individuals
- establish an independent immigration court\
- make penalties commiserate with violations
- require accurate criminal databases
- ensure access to evidence
- mandate reports on data mining
- limit secret seizures of records

### **Immigration**

#### **Comprehensive Immigration Reform**

ADC, along with a coalition of immigrant advocates, supports the Secure America and Orderly Immigration Act (S. 1033 [McCain/Kennedy] and HR 2330 [Kolbe/Flake/Gutierrez])

America’s immigration system is broken and needs to be fixed. Congress must pass comprehensive immigration reform in the 109<sup>th</sup> Congress. Legislation to reform our immigration system should include the following:

- reform should be comprehensive
- provide a Path to citizenship
- protect workers
- reunite families
- restore the rule of law and enhance security

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- promote citizenship and promote civic participation in local communities

### **Academic Freedom**

#### **HR 509 International Studies in Higher Education Act of 2005**

ADC supports funding of international studies and foreign language programs in American institutions of higher education to better educate and prepare American students for careers in diplomacy, military and public service.

However, ADC opposes the creation of a government advisory board (Sec. 6) in HR 509.

As constructed, this board would serve only one government-sanctioned point of view on US foreign policy and would set the precedent of allowing national security and intelligence agencies to monitor what is taught in our American universities and heretofore have been protected by the cherished American value of academic freedom.

This advisory board is being supported by individuals and self-appointed campus watchdog groups who aim to stifle academic debate in institutions across our nation.

While all area studies programs—Asian, African, European, Latin American—will be affected, the current target of this legislative effort is Middle East studies.

The movement to politicize the content of what is taught at our universities is incompatible with the cherished American values of free speech and academic inquiry.

We do not believe that appointees from our intelligence community should monitor the content and curricula of our classrooms.

We ask Congress to remove language (Sec 6) from HR 509 that would create the international studies advisory board.

## The 9/11 Commission One Year Later

### BIOGRAPHIES: INDIVIDUALS AND ORGANIZATIONS

**Nafeez Mosaddeq Ahmed** is Executive Director of the Institute for Policy Research & Development in London, England. He is author of the recently published book *The War on Truth: 9/11, Disinformation, and the Anatomy of Terrorism*, which deconstructs the findings of the 9/11 Commission Report and investigates the worldwide web of terrorist networks across space and time. This book is a sequel to his earlier bestseller *The War on Freedom: How and Why America was Attacked: September 11, 2001*, which won him the Naples Prize, Italy's most prestigious literary award. Ahmed holds a first-class masters degree in Contemporary War and Peace Studies from the University of Sussex, where he is currently a Doctoral Candidate at the Department of International Relations and Politics, researching genocide, imperialism, and structural violence.

**The American-Arab Anti Discrimination Committee (ADC)** is the nation's largest and oldest civil and human rights organization representing the Arab American Community. This year ADC celebrates its 25<sup>th</sup> anniversary. ADC is a nonpartisan, nonsectarian organization with headquarters in Washington, DC, thirty-eight chapters, and members in every state. To learn more about the American-Arab Anti-Discrimination Committee go to [www.adc.org](http://www.adc.org).

**Verna Avery-Brown** is Washington Bureau Chief for Pacifica Radio, working out of the offices of WPFW in Washington, DC. She anchors the daily news reports, and has served as the host of the nationally syndicated program *Peacewatch*, broadcast daily on all five Pacifica stations and affiliates from 2002 to 2004. Verna Avery-Brown's history with Pacifica dates back to 1988 when she covered Capital Hill as a Correspondent for the Pacifica Network News. A graduate of American University, Ms. Brown has worked in both public and commercial radio news for nearly three decades.

**Elaine Cassel** is the author of *The War on Civil Liberties* (2004), which documents the erosion of civil rights and liberties under the Bush administration and synthesizes the numerous instances in which Americans have surrendered liberty to purchase security to argue that it is a false tradeoff. She is an attorney, and a Professor of Law and Psychology at Concord and Marymount Universities. Cassel is a regular contributor for *Findlaw* and the blog *Civil Liberties Watch*, covering such issues as the (mis)use of torture to extract information, legal challenges to the Patriot Act, prosecutorial misconduct and other current issues involving the judicial system. She maintains a web site devoted to civil liberties issues, *Civil Liberties Watch*.

**David Cole** is legal affairs correspondent for *The Nation* and a professor at Georgetown University Law Center, is the author of *No Equal Justice: Race and Class in the American Criminal Justice System* (New Press), co-author, with James X. Dempsey, of *Terrorism and the Constitution: Sacrificing Civil Liberties for National Security* (New Press) and author of *Enemy Aliens: Double Standards and Constitutional Freedoms in the War on Terrorism* (New Press), forthcoming in a revised paperback edition in July.

**John K. Cooley** is an American journalist and author who specializes in terrorism and the Middle East. Based in Athens, he works as a radio and off-air television correspondent for *ABC News* and is a long-time contributing editor to the *Christian Science Monitor*. Cooley is one of only a handful of Western journalists widely regarded and trusted in the Middle East as experts on the area's history and politics. He has interviewed several of the region's heads of state and is personally acquainted with the senior leadership of the PLO. His many awards include the Council on Foreign Affairs' Foreign Correspondent Fellowship, and the coveted George Polk Memorial Award for distinguished career achievement in international reporting. He was a key part of the *ABC News Prime Time Live* team that won an Emmy in 1990 for its investigation into the December 21, 1988 bombing of Pan Am Flight 103.

#### **Matthew Everett**

**Monica Gabrielle** is the widow of Richard Gabrielle, killed on 9/11, as well as a member of the Family Steering Committee for the 9/11 Independent Commission and Co-Chairperson of the Skyscraper

**Kit Gage** is president and founder of the National Coalition to Protect Political Freedom ([www.ncppf.org](http://www.ncppf.org)) and has directed the First Amendment Foundation and the National Committee Against Repressive Legislation ([www.ncarl.org](http://www.ncarl.org)) since April 2001. She is a regular contributor to various journals on matters concerning freedom of speech and other civil liberties, immigrant rights, women's rights and other human rights issues. Gage was Executive Vice President, and earlier, the first Legal Worker Vice President of the National Lawyers Guild. She also served as a

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board member of the Guatemala Human Rights Commission/USA. A graduate of Grinnell College with an independent degree in Women, Socialization and Conflict, she is married and has two remarkable adult daughters.

**Mel Goodman** is a professor of International Security at the National War College and a Senior Fellow at the Center for International Policy. From 1966-1986 he was a senior CIA soviet analyst. IN 1991 he was one of three former CIA officials to testify before the Senate against the nomination of Robert Gates as Director of Central Intelligence on the grounds that he had slanted intelligence to suit policy. Goodman is co-author of *Bush League Diplomacy: How the Neoconservatives are Putting the World at Risk*. He recently joined the Center for International Policy to lead their Intelligence Reform Project.

**Mindy Kleinberg** is widow to husband Alan, killed in the attacks upon the World Trade Center on September 11<sup>th</sup>, 2001. Alan Kleinberg, 39, worked for Cantor Fitzgerald on the 104<sup>th</sup> floor of WTC Tower One. Kleinberg served as co-chair of the Family Steering Committee for the 9/11 Independent Commission. With fellow widows Lorie Van Auken, Kristen Breitweiser and Patty Cazassa, Ms. Kleinberg helped to found September 11<sup>th</sup> Advocates, setting out to discover the truth about why their husbands were killed on September 11<sup>th</sup>, and how and by whom. Together, these women put aside their grief, knocked on doors and twisted arms until Congress and the President agreed to form an independent commission to investigate how the attacks happened. The iron determination of the 'Jersey Girls,' as they are now widely known, earned them national and international notoriety. Unsatisfied with many aspects of the 9/11 Commission and its Report, they continue to press for accountability, and refuse to accept that what happened was simply a failure of processes and organizations, and not people. Kleinberg also served as co-chair of the Family Steering Committee for the 9/11 Independent Commission.

**Wayne Madsen** has some twenty-five years of experience in computer security and data privacy. As a U.S. Naval Officer he managed one of the first computer security programs for the U.S. Navy. He subsequently worked for the National Security Agency's National COMSEC Assessment Center, Department of State, RCA Corporation, and Computer Sciences Corporation. He has testified before the House International Relations Subcommittee on International Operations. He is also a freelance investigative journalist and a syndicated columnist. His columns have appeared in the *Miami Herald*, *Houston Chronicle*, *Philadelphia Inquirer*, and *Atlanta Journal Constitution*. He has appeared frequently as a guest commentator on television and radio. Mr. Madsen is the author of *The Handbook of Personal Data Protection* (London: Macmillan, 1992)

**Ray McGovern** was an analyst with the Central Intelligence Agency for 27 years and is co-founder of Veteran Intelligence Professionals for Sanity. He wrote "A Compromised Central Intelligence Agency: What Can Be Done?" in *Patriotism, Democracy, and Common Sense: Restoring America's Promise at Home and Abroad* to be published by the Milton Eisenhower Foundation in October. In January 2003, a handful of intelligence community alumni/ae, including Ray, created Veteran Intelligence Professionals for Sanity. VIPS now includes over 35 former professionals from CIA, the Defense Intelligence Agency, the Department of State's Bureau of Intelligence and Research, Army Intelligence, the FBI, and the National Security Agency. In addition to co-authoring some of VIPS' issuances, Ray has published some 20 op-eds over the past year on intelligence-related issues. These have appeared in newspapers and journals around the country like *The Birmingham News*, *The Boston Globe*, *The Christian Science Monitor*, *The Miami Herald*, *Die Sueddeutsche Zeitung*, *The International Herald Tribune*, and *Der Berliner Tagespiegel*.

**Bob McIlvaine** is father of Bobby McIlvaine, 26, Assistant VP of media relations at Merrill Lynch, who died on September 11<sup>th</sup>, 2001 in the attacks on the World Trade Center. Bobby did not work at the twin towers, so Bob and his wife Helen were not immediately worried and only found out his death later. A retired counselor to troubled teenagers and one-time tavern owner from Philadelphia, McIlvaine was at the hospital in suburban Philadelphia where he worked with teenagers when he heard the news of the attack. Bob never saw his son's body. Bobby was only positively identified by dental records. The effect of his son's death was traumatizing for Bob. However, after being laid off from his job in early 2003, McIlvaine did what many other families of 9/11 victims had done and got involved by joining September 11<sup>th</sup> Families for Peaceful Tomorrows, an advocacy group that opposes violence as a response to 9/11 and seeks dialogue between families of 9/11 victims and families of victims of the Afghan and Iraq wars.

**David MacMichael, Ph.D.** is a historian and former US Marine officer who served in the CIA as a senior estimates officer at the National Intelligence Center (NIC) specializing in Western Hemisphere Affairs. After leaving the CIA in 1983, MacMichael publicly charged that the Reagan administration was falsifying the so-called intelligence about arms shipments from Nicaragua to insurgent forces in El Salvador. He testified to this at the World Court in the trial of

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Nicaragua v. US. During the 1980s and early 1990s he was editor and publisher of the magazine UNCLASSIFIED opposing the use of covert intelligence operations. Currently he is a member of Veteran Intelligence Professionals for Sanity.

**C. William Michaels** is author of *No Greater Threat* (2002), an in-depth analysis of the Patriot Act that seeks to start an alternative, parallel dialog about the 'war on terrorism' and how to prevent it from becoming a war on ourselves and the Constitution. He is a Baltimore attorney with a solo appellate practice that involves writing appellate briefs for other attorneys. Michaels has an extensive background as an author and journalist, including serving as developer and producer of the award-winning weekly cable television program WorldViews, which aired in East Coast cities from 1994 to 1996, and as Legal Editor at the Bureau of National Affairs. Michaels is co-founder and coordinator of the Baltimore chapter of Pax Christi, and is a member of the Catholic Labor Committee. He graduated from Brandeis University *magna cum laude* and is also a graduate of the University of Maryland School of Law, where he held an editorial positions for the *Law Review* and *Law Forum*.

**Jumana Musa** is a human rights attorney and activist. She is currently the Advocacy Director for Domestic Human Rights and International Justice at Amnesty International, where she addresses the domestic and international impact of the Bush administration's "war on terror" on human rights. She has also served as Amnesty International's legal observer for the military commission proceedings at the US naval base in Guantanamo Bay, Cuba.

**Loretta Napoleoni** is author of *Terror Incorporated, tracing the dollars behind the terror networks* (2005) whose original title was *Modern Jihad*, the first book to tackle issues raised by the attacks of September 11th, 2001 from an economic perspective. In *Terror Incorporated*, she reveals how the 'new economy of terror' has evolved by proxy through various wars—from the Cold War to the 'war on terror'—and shifting the focus away from religious and cultural differences, argues that Islamic terror groups are driven by real economic forces in the Muslim world. Napoleoni has worked as a consultant for Homeland Security and was chairman of the countering terrorist financing group at the Madrid conference on Terrorism, Democracy and Security. She is an economist who has worked for banks and international organizations in Europe and the U.S. She is also a journalist and has worked as a foreign correspondent for several Italian financial papers. She has written novels and guidebooks in Italian, and has translated and edited books on terrorism. Her most recent novel, *Dossier Baghdad*, is a financial thriller set during the Gulf War. She was among the few people to interview the Red Brigades in Italy after three decades of silence.

**The National Security Whistleblowers Coalition** is an unprecedented group of national security whistleblowers have formed a united front to demand that Congress act to end government retaliation against those who expose national security blunders. The Coalition also wants Congress to hold hearings into the federal government's actions against whistleblowers, and to require individual accountability for retaliation against whistleblowers.

**John M. Newman** spent 21 years in Army Intelligence and served as Assistant to the Director of the National Security Agency. He also served as an attaché in China. He is a history professor at UMD, and has been teaching courses on counterterrorism for 10 years. Newman has written and published widely and is working on a manuscript about the events leading up to 9/11.

**Anne Norton, Ph.D.** is author of *Leo Strauss and the Politics of American Empire* (Yale University Press 2004), in which she traces the influence of German-Jewish emigré scholar Leo Strauss on the neoconservative movement and the bush administration. Norton, the Alfred Cass Term Chair Professor of Political Science and Comparative Literature at the University of Pennsylvania, has written numerous books, chapters and articles on American popular culture and political theory. These include *Republic of Signs: Liberal Theory and American Popular Culture*, and *Alternative Americas*.

**John Jacob Nutter, Ph.D.** is a political scientist and the author of *The CIA's Black Ops: Covert Action, Foreign Policy, and Democracy* (2000), which charts the CIA's secret operations and controversial plans, revealing a country fascinated by covert action. He has served as a faculty member at Michigan State University and Texas A&M University, where he taught courses on covert action, terrorism, guerrilla warfare, and international politics. As a consultant, he has instructed federal, state, and local law enforcement personnel on domestic terrorism, and has served as a security/anti-terrorism advisor to numerous organizations. Nutter has made hundreds of media appearances, including CNN, the BBC, TV-Tokyo, and NPR.

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**Mary Rose Oakar** is currently President of the American-Arab Anti-Discrimination Committee (ADC). A life-long resident of Cleveland, Ohio, she received her B.A. at Ursuline College and her M.A. at John Carroll University, both in Cleveland. A former professor, she has received several Honorary Doctorates. Oakar has served on the Cleveland City Council, the Ohio House of Representatives and, for sixteen years, in the United States House of Representatives. In Congress she advocated for peace and justice in the Middle East and for those of Middle East ancestry in the United States. In addition, she served as a monitor for the Palestinian elections and has attended Middle East Peace signings at the White House, in Egypt and Jordan, and once accompanied President Clinton to Syria. *McCall's Magazine* named Oakar "one of the ten best members of Congress for health and women's issues," and she has received numerous awards for her legislation concerning breast cancer and the elderly.

**William Pepper, Ed.D.** is an author and English barrister and an American lawyer with specialized training in international law and international human rights. He convened a seminar on International Human Rights at Oxford University. He maintains a practice in the U.S and the U.K.

**Marilynn M. Rosenthal** is the mother of Josh Rosenthal who was killed in the attack on the South Tower of the World Trade Center on September 11, 2001. She is currently editing her book *9/11: Searching for My Son and His Killers*. Since her son's death she has become an expert on warnings about and preceding the 9/11 attack. She is professor *emerita*, medical sociologist and Adjunct Professor in the Department of Internal Medicine at the University of Michigan Medical School. She is also an Associate Director of the UM Medical School's Program in Society and Medicine. She is the author of nine books, many dealing with issues of medical malpractice, including: *Medical Error* (2002) and *Medical Mishaps* (1997). Rosenthal is an elected Fellow of the British and Swedish Royal Societies of Medicine, and has received numerous grants and honors, including a Danforth Fellowship, UM Hopwood writing award, a Distinguished Faculty Research Award and a Fulbright Western European Research Award.

**Coleen Rowley** was determined that she would one day become an FBI agent from the time she was eleven years old. In January of 1981, she was appointed a Special Agent with the FBI and initially served in the Omaha, Nebraska and Jackson, Mississippi Divisions. In 1984, she was assigned to the New York Office where, for more than 6 years, she worked on Italian organized crime and Sicilian heroin drug investigations. She also served in Monterey, California; the embassy Paris, France; and the consulate in Montreal, Canada. In 1990, Coleen was transferred to Minneapolis and became the Principal Legal Advisor. In May of 2002, she brought some of the pre-9/11 lapses in the investigation of Zacarias Moussaoui to light. Her warnings about Moussaoui were quashed at FBI's headquarters in Washington. She stepped down from her FBI post in April 2003, and has since been giving free public lectures on ethics, protecting civil liberties and the need for effective investigation. A native of New Hampton, Iowa and a graduate of the University of Iowa's Law School, Coleen is presently running for Congress in Minnesota's second district.

**Michael C. Ruppert** is author of *Crossing the Rubicon: The Decline of the American Empire at the End of the Age of Oil*. He is also the Publisher/Editor of *From the Wilderness* or FTW, a newsletter he founded in March 1998. Through the newsletter and his website at [www.fromthewilderness.com](http://www.fromthewilderness.com), Mike has pioneered innovative analysis and groundbreaking stories on the multi billion dollar U.S. drug economy and the illegal covert operations which maintain control of that cash flow for US economic interests. Since 9-11-01 he has been the point man in breaking major stories involving government foreknowledge, corruption and violations of the Constitution. He has also pioneered the effort to educate the world about the consequences of Peak Oil. An Honors graduate of UCLA in Political Science, Mike is a former LAPD narcotics investigator who discovered CIA trafficking in drugs in 1977. After attempting to expose this he was forced out of LAPD in 1978 while earning the highest rating reports possible and having no pending disciplinary actions.

**Peter Dale Scott Ph.D.** is *professor emeritus* of English at the University of California, Berkeley. He is author of *Drugs, Oil and War* (2003), and seven other books including *Deep Politics and the Death of JFK* (1993, 1996) and *The Iran-Contra Connection* (in collaboration, 1987). He has also published award-winning poetry. Both his prose and poetry deal among other matters with U.S. covert operations, their impact on democracy at home and abroad, their relations to the John F. Kennedy assassination and their relations to the global drug traffic. Scott holds degrees from McGill University in Montreal, the city of his birth. Prior to having taught for thirty-four years at UC Berkeley, Scott was a Canadian diplomat and served at the United Nations and the Canadian Embassy in Warsaw, Poland.

**Wayne Smith** is Senior Fellow and Director, at the Center for International Policy, where he directs the Cuba Program and is a contributor to the National Security Program. He is a visiting professor of Latin American studies and Director



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of the University of Havana exchange Program at Johns Hopkins University. He is a former Senior Associate at the Carnegie Endowment for International Peace. During his twenty-five years with the State Department (1957-82), he served as executive secretary of President Kennedy's Latin American Task Force and chief of mission at the U.S. Interests Section in Havana. In addition, he served in Argentina, Brazil and the Soviet Union.

**Paul Thompson** is a freelance researcher and is the creator of the Center for Cooperative Research's Complete 9/11 Timeline ([www.cooperativeresearch.org](http://www.cooperativeresearch.org)), a compilation of over 5,000 articles and reports on 9/11. In the aftermath of the of September 11<sup>th</sup> attacks, Thompson found himself poring over news of the attacks on the internet, and growing increasingly frustrated with how incomplete the story of September 11<sup>th</sup> was. He began gathering and condensing every credible fact on 9/11, and posted these facts online in chronological order to build a 'terror timeline.' His site quickly grew to thousands of news items and what started as a hobby soon became Thompson's obsession. Thompson quit his San Francisco-based job with a California-based environmental protection group working to preserve the rainforest in Borneo and moved to New Zealand to go full-time with Cooperative Research. The timeline was made available online in a form that allowed visitors to make corrections to his data and add new information. Open-source historiography had arrived. The timeline is published in book form and has become a trusted source for reporters and researchers. Thompson now divides his time between California and New Zealand.

**Lorie Van Auken** is widow to husband Kenneth, killed in the attacks upon the World Trade Center on September 11<sup>th</sup>, 2001. Kenneth Van Auken, 47, worked for Cantor Fitzgerald on the 105<sup>th</sup> floor of Tower One. Van Auken served as co-chair of the Family Steering Committee for the 9/11 Independent Commission, and with fellow widows Mindy Kleinberg, Kristen Breitweiser and Patty Cazassa, Ms. Van Auken helped to found September 11<sup>th</sup> Advocates. Together, these women put aside their grief, knocked on doors and twisted arms until Congress and the President agreed to form an independent commission to investigate how the attacks happened. They refused to give up until even the most reluctant players bared their Presidential Daily Briefs. The iron determination of the 'Jersey Girls,' as they are now widely known, earned them national and international notoriety. Unsatisfied with many aspects of the 9/11 Commission and its Report, they continue to press for accountability, and refuse to accept that what happened was simply a failure of processes and organizations, and not people.