

A Review of the FBI's Handling of Intelligence Information Related to the September 11 Attacks (November 2004)



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Office of the Inspector General

UNCLASSIFIED

NOTE

This report is an unclassified version of the full report that the Office of the Inspector General (OIG) completed in 2004 and provided to the Federal Bureau of Investigation (FBI), the Department of Justice, the Congress, the Central Intelligence Agency, the National Security Agency, and the National Commission on Terrorist Attacks Upon the United States. The OIG's full report is classified at the Top Secret/SCI level.

At the request of members of Congress, after issuing the full report the OIG created an unclassified version of the report. However, because the unclassified version included information about the FBI's investigation of Zacarias Moussaoui, and because of Moussaoui's trial in the United States District Court for the Eastern District of Virginia and the rules of that Court, the OIG could not release the unclassified version of the report without the Court's permission until the trial was completed.

In June 2005, the Court gave the OIG permission to release the sections of the unclassified report that did not discuss Moussaoui. Therefore, at that time the OIG released publicly a version of the unclassified report that did not contain Chapter 4 (the OIG's review of the Moussaoui matter), as well as other references to Moussaoui throughout the report.

The Moussaoui case concluded on May 4, 2006, when the Court sentenced Moussaoui to life in prison. The OIG then prepared this document, an unclassified version of the full report that includes the information related to Moussaoui.

On June 19, 2006, the OIG is releasing this full version of the unclassified report, which includes the Moussaoui chapter and other references to Moussaoui throughout the report, as well as the other chapters that previously were released publicly.

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CHAPTER ONE

INTRODUCTION

I. Introduction

On September 11, 2001, 19 terrorists hijacked 4 commercial airplanes as part of a coordinated terrorist attack against the United States. Two of the planes crashed into the World Trade Center Towers in New York City and one hit the Pentagon near Washington, D.C. The fourth plane crashed in a field in southwestern Pennsylvania. More than 3,000 persons were killed in these terrorist attacks.

On February 14, 2002, the House of Representatives Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence began a joint inquiry to address questions related to the September 11 attacks, such as “what the Intelligence Community knew prior to September 11 about the scope and nature of any possible terrorist attacks... what was done with that information” and “how and to what degree the elements of the Intelligence Community have interacted with each other, as well as with other parts of the federal, state, and local governments, with respect to identifying, tracking, assessing, and coping with international terrorist threats.”¹ This review became known as the Joint Intelligence Committee Inquiry or “the JICI review.”

One of the key questions arising after the attacks was what information the Federal Bureau of Investigation (FBI) knew before September 11 that was potentially related to the terrorist attacks. On May 21, 2002, Coleen Rowley, the Chief Division Counsel in the FBI’s Minneapolis Field Office,² wrote a 13-page letter to FBI Director Robert Mueller in which she raised concerns about how the FBI had handled certain information in its possession before the attacks. Among other things, Rowley discussed the FBI’s investigation of Zacarias Moussaoui, a French citizen who had been arrested in Minneapolis on

¹ The U.S. “Intelligence Community” is composed of 14 agencies responsible for collecting intelligence information on behalf of the government and includes the Federal Bureau of Investigation and the Central Intelligence Agency (CIA).

² The CDC provides legal counsel and advice to field office management, supervisors, and agents on administrative and operational matters.

August 16, 2001. The Minneapolis FBI Field Office had received a telephone call from a representative of a flight school reporting suspicions about Moussaoui, who was taking flying lessons at the school near Minneapolis. Acting on this information, FBI and Immigration and Naturalization Service (INS) agents in Minneapolis investigated Moussaoui for possible connections to terrorism and discovered that he was in violation of his immigration status. As a result, on August 16, 2001, Moussaoui was taken into custody on immigration charges.

The Minneapolis FBI became concerned that Moussaoui was training to possibly commit a terrorist act using a commercial airplane. It therefore attempted to investigate his potential links to terrorism. To pursue this investigation, the Minneapolis FBI sought a warrant to search Moussaoui's computer and other belongings. However, FBI Headquarters did not believe that a sufficient predicate existed to obtain the search warrant, either a criminal warrant or a Foreign Intelligence Surveillance Act (FISA) warrant. Moussaoui, who was in custody at the time of the September 11 attacks, later was indicted and charged as a co-conspirator in the September 11 attacks.

In her May 21, 2002, letter to the FBI Director, Rowley criticized the FBI Headquarters managers who were involved with the Moussaoui investigation prior to September 11. FBI Director Mueller subsequently referred Rowley's letter to the Inspector General and asked the Office of the Inspector General (OIG) to review the FBI's handling of the Moussaoui investigation. In addition, the Director asked the OIG to review the issues in an Electronic Communication (EC) written by an FBI Special Agent in Phoenix (known as the Phoenix EC), as well as "any other matters relating to the FBI's handling of information and/or intelligence before September 11, 2001 that might relate in some manner to the September 11, 2001 attacks."

The Phoenix EC was a memorandum sent by an agent in the FBI's Phoenix office in July 2001 to FBI Headquarters and to the FBI's New York Field Office.³ The Phoenix EC outlined the agent's theory that there was a

³ This document has commonly been referred to as "the Phoenix memo" or "the Phoenix EC." Throughout this report, we use the term "Phoenix EC" to refer to this document.

coordinated effort by Usama Bin Laden to send students to the United States to attend civil aviation universities and colleges for the purpose of obtaining jobs in the civil aviation industry to conduct terrorist activity. The EC also recommended that FBI Headquarters instruct field offices to obtain student identification information from civil aviation schools, request the Department of State to provide visa information about foreign students attending U.S. civil aviation schools, and seek information from other intelligence agencies that might relate to his theory. At the time of the September 11 attacks, little action had been taken in response to the Phoenix EC.

The OIG agreed to conduct a review in response to the FBI Director's request. In conducting our review, OIG investigators also learned that prior to the September 11 attacks the Intelligence Community had acquired a significant amount of intelligence about two of the hijackers – Nawaf al Hazmi and Khalid al Mihdhar.⁴ Well before September 11, 2001, the Intelligence Community had discovered that Hazmi and Mihdhar had met with other al Qaeda operatives in Malaysia in January 2000. The CIA also had discovered that Mihdhar possessed a valid U.S. visa and that Hazmi had traveled to the United States in January 2000. The FBI contended, however, that it was not informed of Mihdhar's U.S. visa and Hazmi's travel to the United States until August 2001, just before the September 11 attacks. At that time, the FBI had initiated an investigation to locate Mihdhar and Hazmi, but the FBI was not close to finding them at the time of the September 11 attacks. The OIG also learned that Hazmi and Mihdhar had resided in the San Diego area in 2000, where they interacted with a former subject of an FBI investigation and lived as boarders in the home of an FBI source. The OIG therefore decided to include in its review an investigation of the intelligence information available to the FBI about Hazmi and Mihdhar before September 11 and the FBI's handling of that intelligence information.

In December 2002, the JICI released its final report entitled, "Joint Inquiry into Intelligence Community Activities before and after the Terrorist Attacks of September 11, 2001." One of the report's recommendations was for the Inspectors General at the Department of Justice (DOJ), CIA, Department of

⁴ Mihdhar, Hazmi, and three others hijacked and crashed American Airlines Flight 77 into the Pentagon.

Defense, and Department of State to determine whether and to what extent personnel at those agencies should be held accountable for any acts or omissions with regard to the identification, prevention, and disruption of the September 11 terrorist attacks.

II. OIG investigation

The OIG's review focused on the FBI's handling of the Phoenix EC, the Moussaoui investigation, and the intelligence information about Mihdhar and Hazmi. To review these issues, the OIG assembled a team of four attorneys, three special agents, and two auditors. The team conducted 225 interviews of personnel from the DOJ, FBI, CIA, and other agencies. For example, we interviewed FBI personnel from FBI Headquarters; from FBI field offices in Minneapolis, San Diego, New York, Phoenix, and Oklahoma; and from FBI offices overseas. We also interviewed employees from the CIA, the INS, the National Security Agency (NSA), and the Federal Aviation Administration (FAA). We reviewed over 14,000 pages of documents we obtained from the FBI, the CIA, the NSA, and JICI.

Our review of the FBI's handling of the Hazmi and Mihdhar matter required us to obtain a significant amount of information from the CIA regarding its interactions with the FBI on that matter. To conduct our review, we thus had to rely on the cooperation of the CIA in providing us access to CIA witnesses and documents. We were able to obtain CIA documents and interviewed CIA witnesses, but we did not have the same access to the CIA that we had to DOJ information and employees. We also note that the CIA OIG is conducting its own inquiry of the CIA's actions with regard to the Mihdhar and Hazmi matter.

III. Organization of the OIG report

This report is organized into six chapters. Chapter One contains this introduction. Chapter Two provides general background on the issues discussed in this report. For example, it contains descriptions of key terminology, the FBI's organizational structure, the so-called "wall" that separated intelligence and criminal investigations in the FBI and the DOJ, the process for obtaining a FISA warrant, and other legal background issues related to how the FBI investigated terrorism and intelligence cases before September 11, 2001. Because the background chapter contains basic terminology and

concepts, those with more extensive knowledge of these issues may not need to read this chapter in full.

Chapter Three evaluates the FBI's handling of the Phoenix EC. As an initial matter, we provide background on how "leads" were assigned in the FBI before September 11, 2001, and we summarize the contents of the Phoenix EC. We then describe in detail how the Phoenix EC was handled within the FBI before September 11. In the analysis section of Chapter Three, we examine problems in how the Phoenix EC was handled, first focusing on the systemic problems that affected the way the FBI treated the EC and then discussing the performance of the individuals involved with the EC. At the end of the chapter we discuss several other pieces of information in the possession of the FBI before September 11 that also noted connections of potential terrorists to the aviation industry or the use of airplanes.

Chapter Four examines the FBI's investigation of Moussaoui, including allegations raised by Rowley. In this chapter, we describe in detail the facts regarding the FBI's investigation of Moussaoui, the interactions between the Minneapolis FBI and FBI Headquarters on the investigation, the request to seek a criminal warrant or a FISA warrant to search Moussaoui's belongings, and the plans to deport Moussaoui. We then provide our analysis of these actions. This analysis discusses systemic problems that this case revealed, and it also assesses the performance of the FBI employees who were involved in the Moussaoui investigation.

In Chapter Five, we examine the FBI's handling of intelligence information concerning Hazmi and Mihdhar. We found that, beginning in late 1999 and continuing through September 11, 2001, the FBI had at least five opportunities to learn of intelligence information about Mihdhar and Hazmi which could have led it to focus on them before the September 11 attacks. In this chapter, we describe each of these five opportunities in detail. We describe the intelligence information regarding Hazmi and Mihdhar that existed at the time, whether the information was made available to the FBI, and what additional information about Hazmi and Mihdhar the FBI could have developed on its own. In the analysis section of this chapter, we evaluate the problems that impeded the FBI's handling of the information about Hazmi and Mihdhar before September 11, and we also address the performance of the individuals involved in the Hazmi and Mihdhar case.

In Chapter Six, we set forth our recommendations for systemic improvements in the FBI and we summarize our conclusions.

The OIG completed a 421-page classified version of this report in July 2004. At that time, the OIG provided the report, which was classified at the TOP SECRET/SCI level, to the National Commission on Terrorist Attacks Upon the United States (9/11 Commission). The 9/11 Commission used certain information from our report in its final report. In July 2004, we also provided our classified report to certain congressional committees with oversight of the Department of Justice, including the House of Representatives and Senate Committees on the Judiciary, the Senate Select Committee on Intelligence, and the House Permanent Select Committee on Intelligence.

At the request of the Senate Judiciary Committee, the OIG has created this 370-page unclassified version of the report. To do so, we worked with the FBI, the CIA, and the NSA to delete classified information from our full report. However, the substance of the report has not changed, and we believe that this unclassified version fairly summarizes the findings of the full report.