

CHAPTER SIX

RECOMMENDATIONS AND CONCLUSIONS

Our review found many deficiencies in the FBI's handling of intelligence information related to the September 11 attacks. In addition to individual failures, which we detail at the end of each chapter, we found significant systemic problems that undermined the FBI's Counterterrorism Program. For example, before the September 11 attacks the FBI lacked an effective analytical program, failed to use the FISA statute fully, and was inadequately organized to disseminate timely and sufficient information within the Intelligence Community. As we detailed in this report, these systemic problems significantly affected the FBI's handling of the Phoenix Electronic Communication (EC), the Moussaoui investigation, and the pursuit of intelligence information relating to Hazmi and Mihdhar, two of the September 11 terrorists.

Since September 11, 2001, the FBI has taken numerous steps to reorganize and strengthen its Counterterrorism Program. In this report, we have not analyzed each of these changes, many of which are substantial, ongoing, and evolving. The National Commission on Terrorist Attacks Upon the United States (9/11 Commission), as well as other OIG and GAO reviews, is assessing the impact of the changes in the FBI since September 11, 2001.

In this chapter, we make broad systemic recommendations to address the specific problems examined in our review that we believe the FBI must address as it continues to change its Counterterrorism Program. Our recommendations flow from the analysis of the deficiencies that we found in the way the FBI handled information related to the September 11 attacks.²⁷⁵

²⁷⁵ Attached in the Appendix is the FBI's response to this report and our recommendations.

I. Recommendations

A. Recommendations related to the FBI's analytical program

Recommendation No. 1: Improve the hiring, training, and retention of intelligence analysts.

As discussed in Chapter Two, the FBI acknowledged shortly after the September 11 attacks that its analytical program was inadequate and in need of improvement. Since then the FBI has made important changes to attempt to address this deficiency. For example, the FBI has established the Office of Intelligence with separate management and career tracks for analysts. In addition, the FBI has created an analytical branch in the Counterterrorism Division and has established the College of Analytical Studies at the FBI Academy in Quantico, Virginia, with a 6-week training program for all analysts.

In addition to these important changes, the FBI must ensure that it hires, trains, and retains a sufficient number of skilled analysts. Hiring sufficient numbers of qualified analysts is a challenging task. As part of this effort, training for analysts must be improved. For example, we found that training for analysts prior to September 11 was infrequent and often did not occur until months after they began working in their analyst positions. While training for analysts has improved since September 11, the FBI needs to ensure that it provides comprehensive and timely training for all its analysts.²⁷⁶

To retain analysts, the FBI must ensure that it creates an attractive career path for analysts, with sufficient benefits and stature within the FBI. Analysts should have the opportunity to receive promotions to senior positions, such as assistant directors or deputy assistant directors, rather than being supervised solely by special agents who have risen to management positions within the FBI. Prior to September 11, 2001, the FBI did not sufficiently value or support the critical work of its analysts. The FBI must ensure that it elevates the importance of analysts and their work within the FBI.

²⁷⁶ The OIG is currently conducting an audit examining the FBI's efforts to hire and train intelligence analysts.

Recommendation No. 2: Ensure effective management of analysts.

Our review revealed problems in the management of analysts within the FBI, particularly the Intelligence Operations Specialists (IOSs) in the International Terrorism Operations Section (ITOS) at FBI Headquarters. Our review revealed that supervisory special agents in FBI Headquarters failed to provide consistent oversight and supervision of these analysts. Part of the problem was that the analysts were long-time FBI Headquarters employees with substantive expertise in terrorism matters, while their supervisors were agents who often lacked analytical expertise and rotated through FBI Headquarters on short assignments.

Moreover, prior to September 11, 2001, ITOS worked in crisis mode, with insufficient resources to respond its many tasks. Consequently, overwhelmed analysts had to respond to the emergency of the moment. They did not have sufficient time to conduct comprehensive, proactive analysis to assess the significance or the relationship of disparate pieces of intelligence information. Supervisors also allowed the analysts to make critical decisions independently, without requiring any supervisory consultation even on significant matters.

The FBI must ensure effective management of analysts. It must identify the priorities for analysts and ensure that their workload is reasonable enough for them to adequately perform the tasks assigned to them. The FBI should more clearly define supervisors' responsibilities in managing its analytical programs. On important decisions, including determination of the priority to assign analytical requests, analysts should be required to consult their supervisors. In addition, analysts should not be able to close leads by simply reassigning them, which also occurred with regard to the Phoenix EC.

We also believe that the analysts' supervisors must have greater experience and broader knowledge of the activities under their area of supervision. Moving supervisors rapidly through critical units dealing with counterterrorism undermines the management of the program and the FBI's critical need for continuity and expertise in these important units. Supervisory positions that oversee analysts should be filled by experienced and permanent personnel, not analysts in acting capacities or agents who rotate through the units for short periods of time.

Recommendation No. 3: Require greater coordination and consultation between the operational and analytical units.

Various FBI analysts and managers told us that, in the past, operational managers in the FBI frequently overruled the conclusions of analytical work products. Before information could be disseminated to the field, ECs containing the analytical information had to be approved by the operational unit with responsibility for the area. The witnesses stated that the job of operational personnel is to verify that the facts cited by analysts are correct, but that the expertise and judgment of analysts normally should be relied upon in deciding the conclusions to be drawn from those facts.

We agree that operational personnel generally should not alter or veto the conclusions of an analyst in an analytical product. At the same time, analytical products need the input and expertise of operational personnel. The FBI therefore should take steps to institutionalize the operational components' involvement in developing and reviewing analytical products and set up a process for ensuring that these products reflect the consensus of the FBI's analytical and operational components.

Because the FBI combines intelligence and law enforcement components, disputes inevitably will arise between the operational unit and the analytical unit over, among other things, whether certain information should be distributed to the field or should appear in a briefing document because of concerns that it could jeopardize a pending investigation or prosecution. We believe that the FBI should establish a more defined and efficient process for handling these types of conflicts. The process should involve discussions between the disagreeing components and the input of the FBI's Office of General Counsel in appropriate circumstances, with a decision resting with upper-level FBI management.

B. Recommendations related to the FISA process

Recommendation No. 4: Ensure adequate training of FBI employees involved in the FISA process and counterterrorism matters.

We found that many FBI employees who were assigned to counterterrorism work – whether analysts, special agents in field offices, or FBI Headquarters supervisory special agents – received little formal training

about counterterrorism matters in general or FISA in particular. Even in complicated matters, such as the intricacies of terrorist organizations such as al Qaeda, these FBI employees primarily received on-the-job training.

We found, in particular, that FBI employees' knowledge about FISA was limited and uneven. FBI Headquarters employees we interviewed generally were not even familiar with the 1995 Procedures. Although they were knowledgeable about basic steps required for obtaining a FISA warrant, they were not well versed in the requirements of the FISA statute, particularly when the facts of the case did not fit within a standard pattern. We also found that special agents in FBI field offices were not well informed about the FISA process, such as the steps needed to finalize a FISA request, or the types of information needed to meet the requirements for a FISA warrant.

After the September 11 attacks, the 1995 Procedures and other restrictions regarding FISA and the dissemination of intelligence information have dramatically changed. By many accounts, the FBI and the Office of Intelligence and Policy Review (OIPR) are now much more aggressive in their approach to obtaining FISA warrants than before September 11. In addition, we were informed that in the spring and summer of 2003, many FISA training sessions were provided for FBI and OIPR employees, as well as employees from other Department of Justice components and intelligence agencies working on counterterrorism matters. This type of training, in our view, should be expanded and provided regularly.

In addition, the FBI must ensure that its employees understand the requirements for opening intelligence and criminal investigations that relate to counterterrorism and the tools available to them to conduct these investigations. This training should include detailed information on FISA and how it can be used, even when the case does not fit a standard fact pattern.

FBI agents also should receive training about the restrictions on the use of information acquired in intelligence investigations. Formal training should be provided at all levels in FBI Headquarters and for all field office employees who are involved with counterterrorism investigations, including the Chief Division Counsels (CDC) in the field. Widespread and continual training on FISA and other counterterrorism issues is especially important given the increase in the number of FBI employees who, since September 11, 2001, have been reassigned to counterterrorism matters from other programs.

Recommendation No. 5: FBI attorneys should be better integrated into counterterrorism investigations.

Our review found that the FBI lacked an effective system for ensuring that FBI lawyers were sufficiently integrated into the FISA process or other legal issues arising in counterterrorism investigations. For example, the FBI Headquarters supervisor most involved with the Moussaoui case had to consult with four different National Security Law Unit (NSLU) attorneys about the Moussaoui FISA request because FISA requests were not assigned to a single NSLU attorney who was responsible for seeing it through the process. In addition, none of the NSLU attorneys consulted with anyone from OIPR about the Moussaoui FISA request, despite its unusual nature, partly because one NSLU attorney never was completely responsible for the matter.

We believe that one NSLU attorney normally should be assigned to handle a particular FISA request or other legal matter arising in a counterterrorism investigation. This would ensure that an NSLU attorney is familiar with the facts and legal issues from beginning to end of the case, and it would give the attorney greater responsibility for a particular matter. In addition, we believe that NSLU attorneys should have more contact with field agents in important cases. None of the NSLU attorneys in the Moussaoui case spoke with the field agents, or even were provided the underlying documents drafted by the field agents.

On the other hand, we found that the Minneapolis field agents in the Moussaoui case did not consult fully with their CDC about what was needed to support their FISA request, despite their frustration and disagreement with the advice they received from FBI Headquarters. Field agents should be encouraged to consult with CDCs about FISA requests or other legal issues that arise out of counterterrorism investigations. CDCs also should be more involved in the FISA process and better trained to be in a position to provide useful guidance to field agents and represent the field office on a particular FISA request.

Recommendation No. 6: Ensure closer consultation between the FBI and OIPR, particularly on important or unusual cases.

In the Moussaoui case, the FBI never consulted OIPR about the possibility of obtaining a FISA warrant, despite the strong disagreements about

the case between FBI Headquarters and the field office. The chief of the NSLU told us 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. We believe that in unusual cases, like in the Moussaoui case where the evidence did not fit a standard fact pattern for FISA and strong disagreement existed within the FBI about the strength of the evidence, FBI lawyers should consult with OIPR about the issues involved in the case. OIPR is responsible for implementing FISA and is the Department's expert on the requirements of the statute, and the FBI should discuss with it the important and contentious issues involved in such a FISA request.

Since the September 11 attacks, much has changed about the requirements and use of FISA, including the legal framework and the way the Department uses the statute. We also understand that OIPR and the FBI now consult more closely on the use of FISAs in particular cases, as well as on the requirements of the statute. We recommend that this closer consultation be enhanced and promoted, and that the FBI be encouraged to seek assistance and advice from OIPR at early stages of investigations involving the use of FISA.

C. Recommendations related to the FBI's interactions with the Intelligence Community

Recommendation No. 7: Ensure effective management of FBI detailees.

Our review found that the FBI detailees to the CIA's Counterterrorist Center (CTC) lacked defined responsibilities. The detailees told us they were not given specific instructions about their responsibilities and each detailee defined the job individually. As a result, they, as well as the FBI and the CIA, had significant misperceptions and inconsistent expectations about their roles. For example, the detailees did not believe they were to act as "backstops" to ensure that CIA information was passed to the FBI, and they did not scour CIA cable traffic for this purpose. Yet CIA employees believed that at least one of the FBI detailees had been assigned to the CTC specifically for this purpose.

The FBI and the CIA did not have any memoranda of understanding describing the detailees' functions. Moreover, the detailees were not even evaluated based upon what they did at the CTC. Instead, their performance

appraisals were based on what they did as FBI employees, not as detailees to the CTC.

The FBI needs to formally describe the roles and responsibilities of detailees and communicate this to the detailees and to the CIA. To avoid misunderstandings and ensure continuity in the program, the FBI should document these responsibilities in a formal memorandum of understanding with the CIA. In addition, the performance work plan of each detailee should be revised to reflect the critical elements of the job being performed by the detailee at the CIA, and someone who oversees their daily work should evaluate them.

Recommendation No. 8: Ensure FBI employees who interact with other intelligence agencies better understand their reporting processes.

As we discussed in Chapter Five of this report on the Hazmi and Mihdhar matter, FBI employees we interviewed did not fully understand the CIA's system for reporting intelligence information. For example, the FBI's Assistant Legal Attaché (ALAT) who dealt with the source mistakenly believed that the CIA's TDs he received contained all source reporting that was available from the CIA. In fact, other operational cables contained significant CIA information about the source, including that the source had identified Mihdhar in the Malaysian meeting photographs. We found that other experienced FBI agents who interacted frequently with the CIA also were unaware of CIA procedures and important ways to obtain additional intelligence information from the CIA.

We believe that FBI employees who interact with the CIA should be more familiar with CIA and other intelligence agencies' processes for reporting intelligence information. Even if FBI employees do not have full access to the reports of other intelligence agencies or the systems from which these intelligence reports are produced, the FBI employees should be aware of the processes and reporting by other intelligence agencies to avoid the misunderstandings that occurred in the Mihdhar matter.

Recommendation No. 9: Provide guidance for how and when to document intelligence information received from informal briefings by other intelligence agencies.

The FBI lacked clear policies and procedures for how and when to document intelligence information received from the CIA, particularly intelligence communicated in an informal manner. For example, FBI employees received verbal briefings on Mihdhar from CIA employees in the FBI's Strategic Information Operations Center (SIOC) around the time of the Millennium threat. One of the reasons the SIOC was activated during this period was to obtain and coordinate the response to threat information from various sources. Yet, the information the FBI received about Mihdhar in the SIOC was never documented in a way that was accessible to other FBI employees.

We are not suggesting that every informal communication from the CIA to the FBI must be documented. However, the FBI should establish better guidance for its employees as to how and when such information from such informal briefings should be documented.

Recommendation No. 10: Ensure that the FBI's information technology systems allow FBI employees to more readily receive, use, and disseminate highly classified information.

The FBI has acknowledged for several years that its information technology systems are not adequate. The FBI is in the process of implementing widespread changes to its systems, and the upgrading of its information technology systems is one of the highest priorities of the FBI. The OIG and others have monitored and reported extensively on the progress of the upgrade to the FBI's systems, particularly the FBI's Trilogy project.²⁷⁷

In this review, we found many examples of how the FBI's poor information technology systems hindered the handling and use of intelligence information. For example, most of the persons listed on the attention line of the Phoenix EC never saw it. Unless a lead is "set" for a specific person in the

²⁷⁷ The Trilogy project is the largest FBI information technology project, and has been recognized as essential to upgrading the FBI's archaic and inadequate computer systems. Trilogy's three main components involve upgrading the FBI's hardware and software; upgrading the FBI's communications networks; and upgrading the FBI's most important investigative applications, including its Automated Case Support (ACS) system and the introduction of the Virtual Case File system.

FBI's ACS system, the system does not notify the person that a document is addressed to them. While it was possible for the addressees to access the document in ACS by searching for documents containing their names, the system was so cumbersome that FBI employees usually did not do this.

As the FBI moves forward in upgrading its information technology systems, it must ensure that it is able to disseminate electronically throughout the FBI intelligence information, regardless of the classification level. Agents and analysts at FBI Headquarters and in the field should be able to access intelligence information readily to enable them to adequately perform their jobs. They should also be able to communicate electronically with their counterparts at other intelligence agencies. The FBI's upgrade of information technology must take into account the needs for access and use of highly classified information.

Recommendation No. 11: Ensure appropriate physical infrastructure in FBI field offices to handle highly classified information.

In our review, we found that the FBI's field offices generally lacked the necessary physical infrastructure to readily use highly classified intelligence information from the CIA and NSA. For example, the workspaces in the FBI's New York and San Diego Field Offices did not permit FBI personnel to handle SCI information at their desks. In addition, the FBI's sensitive compartmented information facilities (SCIFs) in those offices were not large enough or adequate enough to permit agents to regularly access or handle highly classified information. In addition, many field agents did not have sufficient access to secure telephones. For example, in the New York Field Office, the office most responsible for counterterrorism investigations before the September 11 attacks, an entire squad with as many as 25 individuals shared one secure phone. In order to successfully carry out its counterterrorism functions, the FBI must provide its personnel with adequate infrastructure to handle highly classified information.

Recommendation No. 12: Improve dissemination of threat information.

Prior to September 11, 2001, the FBI provided little guidance to its employees about what information constituted a "threat" and what threat information should be disseminated in the FBI, to the Intelligence Community,

or more widely. FBI employees told us that it was left to the judgment of the supervisory special agent or analyst in FBI Headquarters to decide what constituted threat information and what should be disseminated. For example, in the Moussaoui case the Minneapolis special agent drafted a detailed memorandum providing the facts of the Moussaoui case and an assessment of the threat the agent believed Moussaoui posed, including that his actions were "consistent with facilitating the violent takeover of a commercial aircraft." One of the purposes of the memorandum was to ensure that other agencies, such as the Federal Aviation Administration, were made aware of concerns about Moussaoui. However, the FBI Headquarters supervisory special agent who prepared a teletype to the Intelligence Community about Moussaoui did not include any assessment of whether he posed a threat, and the teletype omitted significant facts about the Moussaoui case. The teletype was not distributed to all FBI field offices or even to all Intelligence Community agencies.

We recognize that threat assessments require judgments, and not every piece of information suggesting some kind of harm should be disseminated throughout the FBI and the Intelligence Community. By necessity, FBI employees must exercise discretion in evaluating potential threat information. However, we believe the FBI should issue clear guidance for evaluating what type of threat information should be disseminated, within and outside the FBI, and how it should be disseminated.

D. Other recommendations

Recommendation No. 13: Evaluate the effectiveness of the rapid rotation of supervisory special agents through the FBI Headquarters' Counterterrorism Program.

Many FBI supervisory special agents rotate through important FBI Headquarters supervisory positions for a short time, often two years or less. Because of the rapid turnover, the supervisory positions can remain unfilled for months at a time. We believe this turnover of managers in the FBI Counterterrorism Program can harm the operation and management of the program. For example, we found that analysts, often long-time FBI Headquarters employees, were more knowledgeable than their supervisors about the operation of the unit and the substantive subject matter. Brief stints at FBI Headquarters can make it difficult for managers to become fully

conversant with the subject matter and procedures in the Counterterrorism Program at FBI Headquarters before they are sent to a new assignment.

Part of the job of a manager is to understand the context with respect to a particular terrorist organization or part of the world, and to use this knowledge when advising field offices about their various investigations. The rotation of special agents through supervisory positions in FBI Headquarters is so frequent and rapid that managers often do not have the time, ability, or incentive to acquire the expert knowledge related to their functions. As a result, we believe the FBI should evaluate the effectiveness of rotating supervisory special agents and unit chiefs so rapidly through FBI Headquarters.

Recommendation No. 14: Provide guidance on the type of information that agents should obtain for evaluating assets and for documenting the yearly check on assets.

In assessing the FBI's handling of an asset in San Diego with whom Hazmi and Mihdhar lived in 2000, we determined that the FBI control agent who handled the asset did not inquire about the individuals who the asset said was living with him. The asset told the control agent that two young men who recently came to the United States had moved in with him as boarders but the FBI agent did not obtain any additional information about the boarders, other than their first names. Had the control agent pursued information about the asset's boarders, he might have learned about the CIA information regarding Hazmi and Mihdhar and documented their presence in the United States.

We found little FBI guidance about what information the control agent should have obtained from an asset in circumstances such as this. We also found no consensus among the FBI agents we interviewed as to whether they would have requested additional information from an asset in these circumstances.

The FBI's policy at the time was that the FBI agent was required to "continually address" the asset's "bona fides" and provide a yearly evaluation report to FBI Headquarters. However, the policy did not specify how to assess the bona fides of the asset or what information should be contained in the yearly evaluation. The control agent's report on the San Diego asset used the same boilerplate language each year, with no substantive information provided about the asset or the checks done on the asset.

We believe the FBI should evaluate its policies regarding evaluation of assets and determine if agents are collecting and documenting sufficient information about its assets. For example, the FBI should consider the circumstances when FBI employees should seek information about persons living with or otherwise closely associating with an FBI asset. In addition, the FBI should consider detailing the minimum information an asset file must contain to verify that an adequate background check has been conducted. This information is necessary to allow the FBI to determine whether the control agent is continuing to assess each informational asset's credibility, as required. Moreover, information from an asset is only accessible and useful if documented. The FBI should evaluate its asset policies and consider what information it should require control agents to obtain and document about assets.

Recommendation No. 15: Improve the flow of intelligence information within the FBI and the dissemination of intelligence information to other intelligence agencies.

Prior to the September 11 attacks, sharing of intelligence information within and outside the FBI was piecemeal and ad hoc rather than systematic. The FBI's normal process for disseminating intelligence information was to route it primarily to analysts, who then used their judgment and experience to decide what needed to be disseminated further, and to whom. However, the analysts were overwhelmed and had to address crises and emergencies as they arose, with little time to conduct systemic evaluations or carefully consider what information should be provided throughout the FBI. As a result, information that did not demand immediate attention, such as the Phoenix EC, was not addressed thoroughly or timely.

Moreover, the FBI lacked clear priorities or requirements for the dissemination of information once it was collected. There was little guidance regarding the types of information that had to be disseminated or included in reports to other intelligence agencies. In addition, FBI procedures for disseminating intelligence information were cumbersome, requiring many levels of review just to distribute information, even within the FBI.

Since September 11, the FBI has made significant changes as to how intelligence is routed and shared, both within and outside the FBI, and we have not examined in detail each of these changes.²⁷⁸ But the FBI's evolution is a difficult and ongoing process. We believe that, as part of this process, the FBI should continue to examine its policies to ensure that it has clear guidance for its employees to identify what kind of intelligence information must be shared and how it must be shared, both within and outside the FBI.

Recommendation No. 16: Ensure that field offices allocate resources consistent with FBI priorities.

In 1998, the FBI elevated counterterrorism to a top agency priority. However, the FBI failed to ensure that resources in field offices were redirected to counterterrorism to reflect this change in priority. For example, in our review of the Hazmi and Mihdhar matter, we found that the San Diego Field Office did not shift its resources in response to changed priorities. As a result, the San Diego Field Office focused little attention on counterterrorism in general and al Qaeda in particular. The relatively low priority the San Diego FBI gave to the Counterterrorism Program was not atypical of FBI field offices before September 11.

After September 11, the FBI refocused its traditional crime-fighting orientation and placed its highest priority on terrorism prevention, dramatically shifting resources to the Counterterrorism Program. We believe the FBI must ensure that it systematically evaluates the allocation of resources by field offices to ensure that each field office directs its resources in accord with the FBI's priorities.²⁷⁹

II. Conclusions

Our review found significant deficiencies in the FBI's handling of intelligence information relating to the September 11 attacks. Shortly after the

²⁷⁸ For example, see the OIG report entitled "The Federal Bureau of Investigation's Efforts to Improve the Sharing of Intelligence and Other Information" (December 2003).

²⁷⁹ For an evaluation of the changes that the FBI has made in the allocation of its investigation resources, see the OIG report entitled "Federal Bureau of Investigation Casework and Human Resource Allocation" (September 2003).

attacks, the FBI indicated that it did not have any information warning of the attacks. However, information was soon discovered that had been in the possession of the FBI and the Intelligence Community before September 11 that related to the hijacking of airplanes by extremists or that involved the terrorists who committed the September 11 attacks.

At the request of the FBI Director, we examined what the FBI knew before September 11 that was potentially related to the terrorist attacks. We focused on the FBI's handling of the Phoenix EC, the Moussaoui case, and the information about Hazmi and Mihdhar, two of the September 11 terrorists.

Our review found that the FBI had failed to fully evaluate, investigate, exploit, and disseminate information related to the Phoenix EC, the Moussaoui case, and the Hazmi and Mihdhar matter. The causes for these failures were widespread and varied, ranging from poor individual performance to more substantial systemic deficiencies that undermined the FBI's efforts to detect and prevent terrorism.

By describing the action and inaction of individual FBI employees in this report, particularly the lower-level employees whose conduct we discuss in detail, we do not suggest that they committed intentional misconduct. Nor do we think that they are responsible individually for the FBI's deficiencies in handling the information related to the September 11 attacks. We believe it would be unfair to blame these individuals, who often worked with insufficient resources and with overwhelming impediments. Many pursued their duties in good faith, making difficult judgments about where to focus their efforts. Some performed aggressively and well. Others did not do all they could have and should have to respond to the information they received. While the FBI should examine the performance of the individuals who we describe in this report, we do not believe they are personally responsible for not preventing the attacks or should be blamed for the tragedy that occurred.

Rather, we believe that widespread and long-standing deficiencies in the FBI's operations and Counterterrorism Program caused the problems we described in this report. For example, the FBI did not handle the Phoenix EC appropriately or give it the attention it deserved. The FBI did little with the Phoenix EC before the September 11 attacks because of the FBI's inadequate analytical program, insufficient supervision of analysts in the program, the focus on operational priorities at the expense of strategic analysis, the failure to

adequately share intelligence information, and the lack of adequate tools to facilitate information sharing within and outside the FBI.

With regard to the Moussaoui case, the Minneapolis FBI agents deserve credit for their tenacity and instincts regarding Moussaoui's suspicious actions. These agents did not receive adequate support, either from field office managers or from FBI Headquarters. Although it is not clear that even if the FBI had pursued the case more aggressively it would have succeeded in obtaining a warrant to search Moussaoui's possessions before the September 11 attacks, the handling of this case illustrated systemic deficiencies in how the FBI handled intelligence cases. These deficiencies included a narrow and conservative interpretation of FISA, inadequate analysis of whether to proceed as a criminal or intelligence investigation, adversarial relations between the field and FBI Headquarters, and a disjointed and inadequate review of potential FISA requests by FBI attorneys.

With regard to Hazmi and Mihdhar, the FBI had at least five opportunities to uncover information that could have informed the FBI about these two terrorists' presence in the United States and led the FBI to seek to find them before September 11, 2001. But the FBI did not uncover this information until shortly before the September 11 attacks. The FBI's investigation then was conducted without much urgency or priority, and the FBI failed to locate Hazmi and Mihdhar before they participated in the attacks. Our examination of the five lost opportunities found significant systemic problems with information sharing between the CIA and the FBI, and systemic problems within the FBI related to its Counterterrorism Program. These problems included inadequate oversight and guidance provided to FBI detailees at the CIA, FBI employees' lack of understanding of CIA procedures, inconsistent documentation of intelligence information received informally by the FBI, the lack of priority given to counterterrorism investigations by the FBI before September 11, and the impact of the "wall" between criminal and intelligence investigations.

In evaluating the FBI's actions in the three matters examined in this report, we cannot say whether the FBI would have prevented the attacks had they handled these matters differently. Such a judgment would be speculative and beyond the scope of our inquiry. But while we cannot say what would have happened had the FBI handled the information differently or if the FBI had pursued these investigations more aggressively, the way the FBI handled

these matters was a significant failure that hindered the FBI's chances of being able to detect and prevent the September 11 attacks.

In this chapter, we make 16 recommendations to the FBI to address the problems we found in our review. In providing these recommendations, we recognize that the FBI has made significant changes since the September 11 attacks, and it is already addressing many of the matters that we describe in this report. But we believe that the FBI should know exactly what happened with regard to the Phoenix EC, the Moussaoui case, and the Hazmi and Mihdhar matter to ensure that it fully addresses the systemic failures we found in these matters. We believe that our detailed descriptions of the FBI's actions, together with our recommendations, can help the FBI improve its counterterrorism operations as it transforms itself to better address the threat of terrorism.

A handwritten signature in cursive script, reading "Glenn A. Fine". The signature is written in dark ink and is positioned above a horizontal line.

Glenn A. Fine
Inspector General