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## Wary of Risk, Slow to Adapt, F.B.I. Stumbles in Terror War

By DON VAN NATTA Jr. and DAVID JOHNSTON

**W**ASHINGTON, June 1 — When the director of the F.B.I., Robert S. Mueller III, acknowledged on Wednesday that the agency had missed warning signals on terrorism, he stunned many Americans. But his statement was not news to some veterans of the agency — or lawmakers who now say they treated the F.B.I. with too much deference for too many years.

These officials say the F.B.I., despite efforts to strengthen its counterterrorism programs over the last decade, and despite hefty increases in its budget, never developed a nimble enough structure, analytic capability or sense of mission to foil terrorist plots before they were carried out.

Interviews with nearly two dozen current and former F.B.I., Justice Department and intelligence officials, many of them at a senior level, suggest that Mr. Mueller faces many hurdles in fulfilling his promise to transform the agency's rigid, risk-averse culture into the kind of terror prevention agency he foresees. Some officials even question whether the bureau can be salvaged, or whether it should be broken apart so that the government can create a domestic intelligence agency separate from the F.B.I.

"There's got to be follow-through on this reorganization," said Robert S. Bryant, a former deputy F.B.I. director. "This isn't a law enforcement issue. We are at war. We've got to get more information. There has to be discipline to stay at it and pull it all together from the F.B.I. and other sources in the government."

In announcing the reorganization this past week, Mr. Mueller said the bureau would hire 400 more analysts, including 25 officers to be borrowed from the Central Intelligence Agency. He also announced plans to establish "flying squads" of terrorism experts based at F.B.I. headquarters, who would feed intelligence to field offices.

In an interview today, Mr. Mueller said the changes would vastly enhance the F.B.I.'s ability to thwart terrorists. He offered no assurance that the bureau would ever eliminate all terrorist threats.

Still, he said his reorganization proposal — unlike past restructuring efforts

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— had a better chance of success because the hijackings drove home the realization that change cannot wait.

"It's a combination of circumstances, but I'm certain that Sept. 11 has had a dramatic effect on every member of the F.B.I. to do everything we can to prevent any additional terrorist attacks," he said. "So there is an openness and willingness to change and a new understanding of the threats we face in the future."

Agents realize, Mr. Mueller said, that the old criteria for success within the F.B.I. no longer apply.

"We've come to understand that we are not going to be judged in the future by how many successful prosecutions we have of terrorists, but will be judged by our capacity to prevent additional terrorist attacks," he said. "It's picking up information that may assist in preventing terrorist attacks and moving it to where it can help."

Hiring hundreds more agents, analysts and linguists may be the easiest fix. Far more difficult, many officials say, is the challenge of remaking the F.B.I.'s dysfunctional bureaucracy.

"Twenty-five years ago, the thought was you had to tame down the F.B.I., they were out of control," one retired senior F.B.I. official said.

"But in the last 15 years, we have become a very docile, don't-take-any-risks agency, particularly at headquarters. And if you make a mistake and it blows up in your face, then your career is shot, because basically it's one strike and you are out of the F.B.I. All that has to change."

One indicator of the paralytic fear of risk-taking was how F.B.I. headquarters responded to the memorandum written last July by an agent from Phoenix. The agent, Kenneth J. Williams, urged a broad survey of American aviation schools based on his concern that Middle Eastern men, possibly connected to Osama bin Laden, were training at a flight school in Arizona.

But officials at headquarters rejected his proposal. Mr. Mueller has said that the plan was deferred for lack of resources. But other officials pointed to another reason: the worry that such an effort might be criticized in Congress as racial profiling. Mr. Williams's idea died, until after the Sept. 11 terrorist attacks.

The problems have been apparent for years. In 1999, the chief of the F.B.I.'s counterterrorism unit, Dale Watson, concluded that too few agents around the country were working to thwart terrorism. In March 2000, he convened a meeting at headquarters of the agents in charge of all 56 field offices. Some agents called the meeting "Terrorism 101" or "Terrorism for Dummies."

Mr. Watson and other senior officials were startled to learn how little some

bureau offices around the country, operating independently of headquarters, had done to investigate terrorism.

Even after the meeting, in the months before Sept. 11, senior agents at headquarters were reduced to repeatedly cajoling the special agents in charge of the field offices to work harder on counterterrorism inquiries. They even threatened to withhold managers' raises and bonuses if they did not pay more attention to the problem.

Beyond the issue of whether the agency can fix itself is a political question.

Will Mr. Mueller, a former United States attorney, and his top deputies maintain the support of the Bush administration, particularly in the face of skeptical Congressional inquiries into what they knew and when they knew it in the weeks and months before Sept. 11?

The F.B.I.'s current state — so unready, so unprepared and so unable to assess the accumulating warning signs of the hijackings — is the result of years of neglect by the successors to J. Edgar Hoover, who ran the agency for 48 years. Each director missed repeated opportunities to change a law enforcement agency that many critics believe was better suited to catching criminals of the Bonnie and Clyde era than trying to prevent crimes plotted by Osama bin Laden's terrorism network.

Current and former F.B.I. agents have long believed that one of the bureau's great weaknesses is its failure to properly analyze the immense amount of information that it collects, and to share it among its field offices. That, too, must change, former agents say.

### **Counterterrorism**

#### *Warnings of Danger and a Step Not Taken*

The sweltering day in September 1993 that Louis J. Freeh was sworn in as director of the F.B.I. was triumphal. The agency had just emerged from one of the most wrenching periods in its history — marked by the fatal confrontations at Ruby Ridge, in Idaho, and the Branch Davidian compound near Waco, Tex. Now a former F.B.I. agent was taking over an agency that in the years after Hoover had been managed, and in some ways mismanaged, by outsiders.

Finally, agents in the field could look at their new boss as one of their own.

Eight years later, when Mr. Freeh stepped down, a stewardship that had begun in hope and jubilation ended in frustration. By the time he retired in the summer of 2001, Mr. Freeh had become the most powerful director since Hoover, but he left the F.B.I. badly damaged.

Lawmakers in both parties clamored for change at an agency they attacked as ineptly managed, resistant to change and unwilling to admit mistakes. Mr. Freeh also lost the confidence of some of his own troops.

The F.B.I. had been attacked as heavy-handed in its investigative tactics in the case of Wen Ho Lee, a nuclear scientist at the Los Alamos National Laboratory in New Mexico. The bureau was deeply embarrassed by the arrest of Robert P. Hanssen, a senior counterintelligence agent, as a Russian spy. It could not even keep track of its own records and disclosed that it had failed to turn over thousands of pages of internal documents to the defense team for Timothy J. McVeigh, the convicted Oklahoma City bomber who was executed last year.

Mr. Freeh tried to strengthen the agency's counterterrorism efforts. Throughout the 1990's, the F.B.I.'s spending on counterterrorism tripled and the number of agents assigned to terrorism cases increased 250 percent. The bureau established a counterterrorism center and created an operating division to combat domestic and international terror. In 1996, Attorney General Janet Reno ordered what officials said was the first full briefing on the threat posed by Osama bin Laden. At that time, the bureau was not qualified to deliver it. The briefing was given to Ms. Reno by the C.I.A. instead.

Last summer, Attorney General John Ashcroft rejected the bureau's plea for more money for counterterrorism. In a Sept. 10 submission to the Bush administration's budget office, Mr. Ashcroft refused to endorse an F.B.I. request for \$58 million for 149 new counterterrorism field agents, 200 additional analysts and 54 additional translators.

He also proposed a \$65 million cut for a program that would have given state and local counterterrorism grants for equipment and training. After Sept. 11, Mr. Ashcroft proposed \$2 billion for F.B.I. counterterrorism measures.

In a statement today, Barbara Comstock, the Justice Department's director of public affairs, said that the rejected \$58 million request represented "only a little over 1 percent" of the Justice Department's recommended \$3.8 billion for the F.B.I. in the fiscal year, and was "only a fraction of the budget which aids in preventing terrorism."

She said that the Sept. 10 memorandum, a preliminary submission on the budget for the fiscal year that will begin next October 1, included "an overall \$660 million increase in funding for items that assist in combating terrorism," such as technology to improve the analysis of intelligence.

By the mid-1990's, a few voices in the F.B.I. were warning that the United States faced a grave danger. Intelligence reports indicated that veterans of Afghanistan's war to expel the Russians had spawned a new generation of Islamic militants financed by anti-American extremists like Mr. bin Laden. These young men were unfazed by the threat of prosecution and imprisonment.

In 1998, Robert S. Bryant, then the deputy director, wrote a report titled "F.B.I. Strategic Plan: 1998-2003, 'Keeping Tomorrow Safe.'" In the report,

Mr. Bryant declared that counterterrorism was a "tier one" program that needed to get the highest priority and the most resources within the F.B.I. The bureau, he said, must focus its efforts on "foreign intelligence, terrorist and criminal activities that directly threaten the national or economic security of the U.S."

"These offenses fall almost exclusively within the jurisdiction of the F.B.I.," Mr. Bryant wrote. "Issues in this area are of such importance to U.S. national interests that they must receive priority attention."

The bureau's leaders tried to get up to speed on the terrorism threat, but officials say several restructuring plans failed to make the bureaucracy more adept or responsive.

One idea was to establish an office of intelligence at F.B.I. headquarters. "This will send an important signal to F.B.I. managers at all levels and assist in the development of an F.B.I. culture that values and effectively uses intelligence," one report said. But the proposed consolidation of power in Washington alienated and angered many agents from field offices around the country, where the power had resided.

"More and more authority was taken over by headquarters, less and less was given to the field agents, and more and more field agents resented headquarters and believed they didn't support them," a former F.B.I. official said.

### **Cultural Collisions**

#### *A Growing Budget, but No Strategy*

Another former top F.B.I. official said counterterrorism was always seen as secondary to more glamorous bank robbery and public corruption cases. "The counterterrorism guys never arrested anyone, never stopped anything," the official said. "It was hard to keep score on their effectiveness."

In private memorandums, some obtained this week by The New York Times, senior F.B.I. officials acknowledged that their counterterrorism program was deeply troubled and largely ineffective.

An internal memorandum, dated Aug. 22, 2000, from Mr. Watson, then in charge of counterterrorism, to Thomas J. Pickard, the deputy director at the time, acknowledged the F.B.I.'s lack of coherent prevention strategy.

"While the F.B.I. has traditionally relied on an approach that focused generally on the identification, penetration and neutralization of terrorist organizations," Mr. Watson wrote, "the bureau has not developed a 'grand strategy' in which resources and programs are systematically directed toward progressively reducing and neutralizing and ultimately eliminating the terrorist threat to U.S. interests."

Officials in the administration of President Bill Clinton said that the F.B.I.

under Mr. Freeh was difficult to manage because he took the bureau's traditional independence too far. His effort to forge alliances with Republicans in Congress, a step that angered Mr. Clinton, drove a wedge between the president's national security staff and the F.B.I.

At the same time, the F.B.I. clung to its old case-by-case operational methods, which meant that counterterrorism agents operated in much the same way they had during the Hoover era. Agents prevented unfolding plots on occasion, but only if investigators stumbled across a lead in the course of a specific case.

Mr. Freeh did not respond to a request for an interview this week.

Each terrorist act in the 1990's brought a renewed spate of high-level F.B.I. meetings and budget requests to Congress. The Oklahoma City bombing in 1995, the Khobar Towers attack in Saudi Arabia in 1996, the East Africa embassy bombings in 1998 and the suicide explosion on the Navy destroyer Cole in Yemen in October 2000 all led to new infusions of money from Congress. By the time Mr. Freeh retired, the F.B.I.'s budget had grown 58 percent, to \$3.4 billion during his tenure, but at its core the agency remained unchanged.

Still, associates of Mr. Freeh said he deserved credit for some changes. He traveled widely and increased the number of overseas F.B.I. offices to 44 from 22. These legal attachés made contacts with foreign security services that were invaluable after the hijackings, but were not given the job of gathering information about terror threats.

But even as Mr. Freeh extended the F.B.I.'s reactive ability around the world, associates said he focused on specific cases and paid too little attention to building the bureau's ability to collect and analyze intelligence.

He assumed direct responsibility for the F.B.I.'s investigation of the Khobar Towers bombing in Dhahran, Saudi Arabia, in July 1996, which killed 19 American airmen.

He flew frequently to Riyadh, often frustrated by the Saudis' lack of cooperation. The case seemed to fascinate him. He spent hours poring over interview reports and meeting with agents on the case. Some subordinates said it typified Mr. Freeh's willingness to immerse himself in specific cases, even if it meant paying too little attention to larger structural issues and law enforcement priorities.

Some analysts and linguists were hired, but in the macho culture of the F.B.I., they were dismissed as desk-bound pencil-pushers. They were passed over for promotions and wrote reports that often went unread. Unlike the C.I.A., the F.B.I. did not recruit a professional group of highly trained analysts with access to senior agency officials.

The agency also had serious cultural problems. Some agents complained

about Mr. Freeh's frequent lectures on personal conduct, saying it contributed to a risk-averse climate that discouraged innovation. The bureau's internal affairs unit, the Office of Professional Responsibility, became a much-feared inquisitor, sometimes damaging careers over minor offenses like using a bureau car for personal matters.

"He focused more on what agents were doing personally than on investigations," a former senior F.B.I. official said. "It became the Federal Bureau of Internal Investigation of its own people, as opposed to a bureau committed to investigating and stopping terrorism. The priorities were out of whack."

Officials at F.B.I. headquarters accepted promotions with mixed feelings, fearing that a mistake could mean a Congressional inquiry and a quick end to their careers. It was easier to reject an untested investigative proposal from a field office than to take the inevitable blame if the idea failed or was criticized by Congress.

Agents also complained that the agency's analytical problems were made worse by an antiquated computer system. For instance, agents cannot send e-mail messages from their desktop computers; they must use personal laptops to send them.

Year after year, senior officials said, Congress refused to spend the hundreds of millions needed to upgrade the F.B.I.'s computer system. Congress, wary after spending hundreds of millions on failed computer systems for other agencies, wanted the bureau to ensure that the system would work. Three years ago, the bureau hired a former I.B.M. executive to set up a system, but agents say it is still years away from completion.

## **Congress**

### *Kid-Glove Treatment on Capitol Hill*

For decades, the F.B.I. has held the upper hand as lawmakers, mindful of its public stature as well as the real power it can wield, have been reluctant to criticize its operations but eager to lavish spending on it.

The bureau's budget has more than doubled in less than a decade, from \$2.06 billion in 1994 to the \$4.2 billion it is requesting for 2003 — and, given the current climate, likely to get.

"It is an agency which, even when it has been severely criticized, almost routinely gets more budget appropriations than it asks for," said James X. Dempsey, deputy director of the Center for Democracy and Technology and a veteran observer of the F.B.I.'s operations on Capitol Hill. "And even serious problems like those revealed in the Waco and Ruby Ridge fiascos or the lab scandal yield no legislative limits or legislative reforms."

Besides the coming Intelligence Committee hearings on the Sept. 11 attacks, the Senate Judiciary Committee this week will continue the F.B.I. oversight

hearings it began last summer. The latest session is scheduled for Thursday as the committee chairman, Senator Patrick J. Leahy, Democrat of Vermont, and Senator Charles E. Grassley of Iowa, a Republican critic of the bureau, seek to remedy what they contend is a failure by Congress to scrutinize the bureau.

Though Congress has initiated inquiries into specific F.B.I. actions in recent years — notably a series of hearings on the 1993 assault on the Branch Davidian compound and 1995 hearings investigating the shootings during the 1992 siege at Ruby Ridge — Mr. Leahy said regular oversight has been almost nonexistent.

"These are the first systematic oversight hearings there have been in decades," Mr. Leahy said, adding that the sessions had uncovered widespread F.B.I. computer inadequacies and found that the agency was "not used to anybody asking questions."

Mr. Leahy and Mr. Grassley have offered legislation that would institute significant changes at the F.B.I. and give its inspector general new power and resources to conduct internal investigations. The legislation was adopted by the Judiciary Committee, but Mr. Leahy said it was being blocked in the Senate by an anonymous "hold" placed on it by a Republican senator.

Mr. Grassley said Congress has had the bureau on a "long leash" for years, perhaps because of fear of retaliation. "If people believe it, you can see why there's not proper oversight," he said.

The roots of any fear — and of Congress's deferential treatment — date to the days of J. Edgar Hoover, who compiled files on members of Congress and did not hesitate to use the information as leverage to achieve his political and legislative ends.

William G. Hundley, a Washington lawyer who oversaw organized crime investigations at the Justice Department in the 1960's, said he witnessed that tactic. He said he once learned that two members of Congress had taken Cadillacs from men trying to promote their business interests, but Hoover told the lawmakers that they were about to be investigated, and the cars were returned before the investigation could begin.

In recent years, lawmakers and aides say, the bureau has had a more conventional approach, cultivating lawmakers through exclusive briefings or working publicly with a politician when constituents are victims of high-profile crimes.

Mr. Dempsey said another way the bureau ingratiates itself is to "detail" personnel to assist the staffs of Congressional committees, at the F.B.I.'s expense.

Mr. Freeh was popular with Republicans on Capitol Hill because of his support for a special prosecutor to look into allegations of fund-raising

improprieties at the Clinton White House. One lawmaker said Mr. Freeh's stature clearly "insulated" the F.B.I. from Congressional criticism.

Mr. Leahy said he was not certain whether the inquiries into the Sept. 11 attacks would be the genesis of a new relationship between Congress and the bureau but added that he hoped one was emerging.

"There is no institution of our government that should be above question," he said.

### **The Field Offices**

#### *Anger and Frustration Toward Headquarters*

Mr. Mueller is now trying to force the F.B.I. to shed its traditional case-oriented approach to its job. In its place, he hopes to build what amounts to a new agency, a Federal Bureau of Prevention whose central mission is to collect, analyze and act on information that will help prevent attacks.

But it is uncertain whether Mr. Mueller, or anyone, can reorganize an institution whose agents have been trained to solve crimes.

One of the most difficult challenges facing Mr. Mueller is a widespread perception in the bureau's 56 field offices that headquarters does not support their efforts.

That anger was seen last month when Coleen Rowley, the senior Minneapolis agent, wrote a letter to Mr. Mueller complaining that headquarters had repeatedly stymied requests from agents in her Minneapolis office who were seeking a search warrant to examine the contents of Zacarias Moussaoui's computer, in the weeks before Sept. 11. Ms. Rowley said the F.B.I. was hamstrung by a hypersensitive "circle the wagons" culture when responding to criticism.

This week, Mr. Ashcroft changed the attorney general's surveillance guidelines, which will allow special agents in charge of field offices to begin criminal investigations without the express approval of headquarters.

"Saying that the folks in the field are right, that they could have superior insight or knowledge, is a dramatic change," said David J. Garrow, a legal historian and professor at Emory Law School. "It's actually a revolution in transferring initiative in the F.B.I. to the field rather than the traditional way."

Sanford J. Ungar, the president of Goucher College and an authority on the F.B.I., said it was easier to change the bureau's priorities than its culture.

"The reason the F.B.I. is doomed to have this happen over and over again has something to do with this F.B.I. culture," Mr. Ungar said. "If you want to get ahead in the F.B.I. you don't rock the boat, you don't challenge headquarters, don't present a lot of new ideas."

Despite all the talk of counterterrorism efforts in recent years, a retired special agent in Phoenix, James H. Hauswirth, wrote to Mr. Mueller last December that counterterrorism was "the lowest investigative priority in the Phoenix division," government officials said.

A perceived lack of investigative zeal at headquarters has startled agents in field offices, around the country, several former F.B.I. officials said.

"These problems have become legendary — the lack of analysis by headquarters, the lack of support from headquarters, the lack of ability to get things approved by headquarters," one former official said. "Hopefully it will change, but the agents around the country are demoralized. It could take years to fix."

### **F.B.I. vs. C.I.A.**

#### *An Uneasy Alliance of Longtime Rivals*

When agents in the Minneapolis bureau last summer contacted the Central Intelligence Agency for help in evaluating whether Zacarias Moussaoui was a terrorist, they discovered this did not sit well with their superiors in Washington.

They were reprimanded by officials at F.B.I. headquarters, who said they had committed a breach of protocol.

But former Justice Department officials say that the reaction demonstrated as much as anything the difficulty the two agencies have long had in working with each other.

What really bothered F.B.I. headquarters, one law enforcement official said, was having agents cooperate with the C.I.A. in ways headquarters might not be able to control.

The two agencies have been across-the-river rivals for decades. The enmity dates to the creation of the C.I.A. in 1947.

In the early years, the rivalry was rooted in the starkly different cultures of the agencies. F.B.I. agents felt that they were looked down upon as policemen by the C.I.A. officers with their more worldly, sophisticated air.

In 1970, two years before his death, J. Edgar Hoover broke off all liaison with the C.I.A., insisting that his agents could communicate only by memorandums cleared by him. This breach was caused when the C.I.A. refused to tell the bureau the name of an F.B.I. agent who had talked to the C.I.A. without Hoover's permission.

Even so, the C.I.A., prohibited by its charter from conducting investigations in the United States, relied on the F.B.I. to help it with counterintelligence investigations.

Two modern spy cases embarrassed each agency in turn and gave the other a moment of triumph.

When Aldrich H. Ames, a C.I.A. officer, was arrested in 1994 for spying for the Russians, the F.B.I. officials were lauded for cracking the case. They said the insular atmosphere at the C.I.A. allowed Mr. Ames to get away with his betrayal, and they were confident they would no longer be excluded.

The wheel turned in February 2001 when Mr. Hanssen, a veteran F.B.I. agent, was arrested on charges of spying for the Russians for two decades.

In announcing changes at the bureau this week, Mr. Mueller became the latest director to promise cooperation between the two agencies. The first step, he said, would be to have 25 C.I.A. officers detailed to the bureau to help with intelligence analysis.

An autopsy on the performance of both agencies will begin on Tuesday inside S-407, the electronically impenetrable hearing room of the Senate Intelligence Committee, where, behind soundproof double doors, members of the House and Senate intelligence panels will begin their official inquiry into lapses before the Sept. 11 attacks.

The lawmakers will seek to unravel why the F.B.I., with telling clues in its possession, could not put together the Sept. 11 puzzle in time. Some bureau veterans say they already know at least part of the answer.

"The F.B.I. is the greatest in the world at investigating a crime after it happened, but it is not equipped to prevent crimes," one former senior official said. "It wasn't in the 90's, it wasn't on 9/11.

"We didn't know what we knew."