

PREPARED STATEMENT OF
A NEW YORK SPECIAL AGENT

BEFORE THE

SELECT COMMITTEE ON INTELLIGENCE
UNITED STATES SENATE

AND THE

PERMANENT SELECT COMMITTEE ON INTELLIGENCE
HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 2002

Messrs. Chairmen, Vice Chairman Shelby, Ranking Member Pelosi, and Members of the Committees:

I am a Special Agent of the Federal Bureau of Investigation (FBI) assigned to the New York Field Office. I appreciate your invitation to appear before your Committees today in connection with your Joint Inquiry into the tragic events of September 11, 2001. I fully understand the responsibility with which you have been charged. I intend to cooperate with you and answer your questions to the best of my ability.

I am speaking to you today as an individual agent. The views I express, therefore, are my own, not necessarily those of the FBI, although I believe that my concerns are shared by many fellow agents. I hope by appearing here today I might help in a small way to assure that the men and women of the FBI and others in the Intelligence Community, have access to the information necessary to carry out their sworn duty to protect the people of the United States.

I have no wish in the remarks that follow to be critical of any person. Whether they are at (FBI) Headquarters or in the field, FBI personnel work their hearts out to perform our mission. I am before you today to address practices that frustrate us all. Much has been written about how the FBI does not share information with local law enforcement agencies, but the American people must realize that the FBI does not always have access to the information itself, nor is all information the FBI possesses available to all of its agents. It is my belief that the former problem is due to fear that the Bureau may "run ahead" or "mess up" a current or future operation of one of our sister agencies -

and the latter primarily due to decisions that have snowballed out of the Foreign Intelligence Surveillance Act (FISA) Court. A concept known as "The Wall" has been created within the Law Enforcement and Intelligence Communities. From my perspective, and in its broadest sense - "The Wall" is an information barrier placed between elements of an intelligence investigation and those of a criminal investigation. In theory - again same perspective - it is there to ensure that we, the FBI, play by the rules in our attempts to gather evidence in a criminal case and Federal prosecution.

I have tried to write this statement knowing full well that its contents and my testimony will be studied by the enemy. Along those lines - much detail has been left out and if I may, humbly remind everyone that questions regarding sources, other possible operations, and investigative methods in this forum should be approached with extreme caution.

As an aside, may I say I firmly believe prevention is best served by allowing the Law Enforcement Community- Federal and local - to conduct sound, sometimes exigent investigations, with access to all information that the US Government and Liaison Governments possesses. These investigations build sources, evidence, connections and information - and are not simply reactive. I would like to assure the American people that in my almost seven (7) years in the Bureau, the FBI has always been in the Prevention - if I may - "Game".

Before going further, I would like to offer a few words of introduction so that you are aware of the background that I bring to the questions before the Committees. Between 1985 and 1993, I served in the military. After a brief stint in the private sector, I joined the FBI in December 1995, and was assigned to the New York Field Office's Joint Terrorism Task Force in July 1996. From July 1996 through October 1997, I worked on the TWA Flight 800 investigation. In October 1997, I was assigned to the squad that had responsibilities for Taliban and Pakistan matters. Following the East Africa Embassy bombings in August 1998, I was part of the first team on the ground, spending a cumulative total of over 30 weeks abroad investigating the bombings.

In early 1999, I joined the New York Field Office's Usama Bin Laden (UBL) case squad, which is responsible for the overall investigation of UBL and Al-Qaeda. Immediately after the attack on the USS Cole in Aden, Yemen on October 12, 2000, I was assigned as one of the case agents and worked on that case - Adenbom - until the attacks of September 11, 2001. Since then I have also worked on general UBL matters and have been deployed 12 weeks overseas, working along side other Intelligence Community components. I mention this fact because, although there are issues about the sharing of information with FBI investigators by the CIA -- my experience is the FBI and the Intelligence Community have worked successfully together. The people of the United States should take great pride in the service and sacrifice of the men and women of all the US Agencies and DOD deployed overseas - many of whom I have had the privilege of working with overseas.

Briefly, "The Wall," and implied, interpreted, created or assumed restrictions regarding it, prevented myself and other FBI Agents working a criminal case out of the New York Field Office

from obtaining information from the Intelligence Community, regarding Khalid Al-Mihdhar and Nawaf Al-Hazmi in a meeting on June 11, 2001. At the time, there was reason to believe that Al-Mihdhar and Al-Hazmi had met with a suspect connected to the attack against the USS Cole. The situation came to a head during the fourth week of August 2001, when, after it was learned that Al-Mihdhar was in the country, FBI HQ representatives said that FBI New York was compelled to open an "intelligence case" and that I nor any of the other "criminal case" investigators assigned to track Al-Qaeda could attempt to locate him. This resulted in a series of e-mails between myself and the FBI HQ analyst working the matter.

In my e-mails, I asked where this "The New Wall" was defined. I wrote on August 29, 2001: "Whatever has happened to this - someday someone will die - and wall or not - the public will not understand why we were not more effective and throwing every resource we had at certain 'problems'. Let's hope the National Security Law Unit will stand behind their decisions then, especially since the biggest threat to us now, UBL, is getting the most 'protection.'" I was told in response that "we [at Headquarters] are all frustrated with this issue," but "These are the rules. NSLU does not make them up."

I hope, Messrs. Chairmen, these proceedings are the time to break down the barriers and change the system which makes it difficult for all of us, whether we work at FBI HQ or in the field, at the FBI or elsewhere, to have and be able to act on the information that we need to do our jobs.

Personally, I do not hold any US Government affiliated individual or group of individuals responsible for the attacks on September 11, 2001. I truly believe that if given a chance, anyone of them would give or sacrifice anything to have prevented what occurred. Then, and now, I hold the system responsible. Information is power in this system of Intelligence and Law Enforcement. This will never change - nor could or should it. In addition to "The Wall", the system as it currently exists, however, seduces some managers, agents, analysts, and officers into protecting turf and being the first to know and brief those above. Often these sadly mistaken individuals, use "The Wall" described here in, and others - real and imagined - to control that information.

I, myself, still have two key questions today that I believe are important for this committee to answer. The detailed answers to them will deserve, and be afforded, the scrutiny of a nation, and must stand the test of time and exhaustive investigation. First, if the CIA passed information regarding Al-Mihdhar and Al-Hazmi to the FBI prior to the June 11, 2001 meeting - in either January 2000 or January 2001 - then why was that information not passed, either by CIA or FBI Headquarters personnel, immediately to the New York case agents, criminal or "Intel", investigating the murder of 17 sailors in Yemen when more information was requested? A simple answer of "The Wall" is unacceptable. Second, how and when did we, the CIA and the FBI, learn that Al-Mihdhar came into the country on either or both occasions, in January 2000 and/or in July 2001 and what did we do with the information?

On September 11, 2001, I spent the morning on the streets with other agents and Joint Terrorism Task Force (JTTF) personnel around the World Trade Center, providing whatever help we could. I and several of my co-workers were within blocks when both towers came down. Within minutes of the second strike on the Southern Tower, we asked a senior fireman heading towards the South Tower what we could do. At the time, he was getting out of his fire truck and looking at the towers. By the Grace of God he turned to us and replied that he did not know what we could do - but that we were not going anywhere close to the buildings without a respirator. I do not know who he was but I truly believed he saved our lives. I also believe that based on the direction that he was looking, towards the Southern Tower, that moments later he entered that tower and perished in the attack. It's taken a while for his response, but I believe that the task before this committee, and in some small way - me being here today - is what that brave fireman is telling us, all of us, "what we can do".

If we do not change the system - if I may say again - "someday someone will die - and wall or not - the public will not understand why we were not more effective and throwing every resource we had at certain 'problems'."

Thank you for this opportunity and privilege of appearing before you today. I would, of course, welcome your questions.