

Testimony of  
**The Honorable Robert S. Mueller**

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PREPARED STATEMENT OF  
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Committee on the Judiciary

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Good morning Chairman Hatch, Senator Leahy, and Members of the Committee.

I am pleased to be here this morning to update you on the issues we discussed during my March 4th appearance before the Committee and to assure you that the FBI has been working hard to protect the American people from another terrorist attack. The FBI has continued to make significant progress in our reorganization, our ongoing efforts to improve our collection and use of intelligence, and our commitment to demonstrating our respect for Constitutional liberties in all our investigations and programs. I also want to thank you for your continued commitment and interest in ensuring the success of the FBI -- the men and women of the FBI appreciate that support and demonstrate daily their determination to fulfill the great responsibility that you, and the public, have entrusted to them.

#### Challenges and Progress Since March 2003

Even in the relatively short time since I appeared before this Committee in March, we have continued to make progress in improving and reorganizing the FBI so that we function more efficiently and are able to respond more rapidly to world events and changes in technology - both the technology available to us and that used by criminals to threaten our economic interests and infrastructure.

We are committed to using the authorities provided by the Patriot Act to protect the American people while continuing our commitment to honoring Constitutional protections, including First Amendment freedoms of speech, religion, and assembly.

Patriot Act

Our efforts to combat terrorism have been greatly aided by the provisions of the Patriot Act. Our success in preventing another catastrophic attack on the U.S. homeland would have been much more difficult, if not impossible, without the Act. It has already proved extraordinarily beneficial in the war on terrorism, and our opportunities to use it will only increase. I would like to take a minute to discuss how the USA Patriot Act has made the FBI more effective.

First, and foremost, the Patriot Act has produced greater collection and sharing of information within the law enforcement and intelligence communities.

As you know, prior to the USA Patriot Act, the Foreign Intelligence Surveillance Act (FISA) statute was interpreted as requiring that FISA surveillance was permitted only when the "primary purpose" of the FISA surveillance was to obtain foreign intelligence information. In order to ensure that the primary purpose of FISA surveillance did not shift during the investigation, criminal investigators were essentially walled off from intelligence investigations. A metaphorical "wall" was erected between intelligence and law enforcement out of concern that sharing of information between intelligence and criminal investigators would lead to coordination of intelligence investigations with criminal investigations and that the primary purpose of the FISA surveillance would become developing evidence for a criminal case.

Section 218 of the Act displaced the "primary purpose" standard, permitting the use of FISA when a "significant purpose" of the surveillance was to obtain foreign intelligence information. In addition, section 504(a) clarified that coordination between intelligence and criminal personnel was not grounds for denial of a FISA application. These changes, when combined with the 2002 FISA Court of Review decision interpreting the new language, effectively dismantled the wall between law enforcement and intelligence personnel. The resulting free flow of information and coordination between law enforcement and intelligence has expanded our ability to use all appropriate resources to prevent terrorism.

As a result, although the legal standard for obtaining a FISA warrant is still "probable cause" to believe that the target is a foreign power or an agent of a foreign power, we now have more opportunities to employ FISA and greater dissemination of the information that flows from FISA surveillance.

I should add that information is flowing more freely in both directions. Patriot Act Section 203 modified the rules governing the handling of information obtained through the grand jury or Title III surveillance, so that we may now disclose, without delay, any foreign intelligence information obtained through these criminal investigative tools to the Director of Central Intelligence and Homeland Security officials. In fact, Section 905 mandates these disclosures.

In addition, Section 219 gave federal judges the authority to issue search warrants that are valid outside the issuing judge's district in terrorism investigations. In the past, a court could only issue a search warrant for premises within the same judicial district. Our investigations of terrorist networks often span a number of districts, and this change, which is limited to terrorism cases, eliminated unnecessary delays and burdens associated with having to present warrants to different judges across the country.

Title III of the Act, also known as the International Money Laundering Anti-Terrorist Financing Act of 2001, has armed us with a number of new weapons in our efforts to identify and track the financial structure supporting terrorist groups. Past terrorist financing methods have included the use of informal systems for transferring funds in a manner that is difficult to detect and trace. The effectiveness of such methods should be significantly eroded by the Act, which establishes stricter rules for correspondent bank accounts, requires securities brokers and dealers to file Suspicious Activity Reports or SARS, and certain cash businesses to register with FinCEN and file SARS for a wider range of financial transactions.

There are other provisions of the Act that have considerably aided our efforts to address the terrorist threat including: strengthening the existing ban on providing material support to terrorists and terrorist organizations; the authority to seize terrorist assets; and the power to seize money subject to forfeiture in a foreign bank account by authorizing the seizure of a foreign bank's funds held in a U.S. correspondent account.

Mr. Chairman, it is important for the Committee and the American people to know that the FBI is using the Patriot Act authorities in a responsible manner. We are making every effort to effectively balance our obligation to protect Americans from terrorism with our obligation to protect their civil liberties.

## Intelligence

In addition to these areas, the Patriot Act also created new opportunities to strengthen and expand the FBI's long-standing intelligence capability and allowed us to move from thinking about "intelligence as a case" to finding "intelligence in the case" and sharing it broadly both within the FBI and with our Intelligence and Law Enforcement Community partners. Intelligence has always been a core competency of the FBI and organic to the FBI's investigative mission. The intelligence cycle of requirements, collection, analysis, dissemination and feedback always was and is now carried out across our extended investigative enterprise of Headquarters divisions, field offices, resident agencies and legal attaches. With the Patriot Act, we have been able to share the information resulting from those activities across the FBI enterprise to create a single information space for FBI analysts to assess the threat environment. Cases have always been and remain a viable organizing principle for FBI work. The Patriot Act has allowed us to ensure that the aggregate intelligence gleaned from those cases is analyzed for trends and for connections that might not be visible to us from a review of individual cases. This threat-based look at FBI intelligence has allowed us to uncover terrorist networks and connections within the United States that otherwise might not have been found.

Similarly, the Patriot Act has allowed FBI and our Intelligence and Law Enforcement Community partners to exchange information that previously was not shared. The wide availability of threat information from all sources has been key to our success in using intelligence to drive our investigations toward prevention. Today we view all cases as intelligence cases, and prosecution as only one tool in the available national toolkit for neutralizing threats to the homeland. Among the many lessons that September 11, 2001 taught us was that threats neither respect geographical boundaries nor the authorities of those charged with

acting to prevent them. Our ability to share threat information with all of our partners has been a key factor in neutralizing many threats through a variety of means.

To properly manage this expanded intelligence capability, I decided in January of this year to elevate intelligence to program status at the FBI. I made that decision because of the success we had achieved with intelligence in the counter-terrorism mission, thanks in large measure to help from our partners at the CIA. As we succeeded in doing strategic analysis and sharing raw intelligence with our partners, it became clear to me that we must take the lessons learned and apply them across the FBI. I wanted the same single focus on intelligence that I had created for our operational missions. To that end, I proposed the creation of an Executive Assistant Director for Intelligence and have undertaken a program to develop and implement concepts of operations for key intelligence functions.

The result of this program will be a strategic plan for intelligence at the FBI and the implementation of a series of pilots and high-leverage initiatives. The FBI has always been a great collector of information. With our new program and the Patriot Act, we have now become a great and powerful producer of information for the nation.

#### Information Technology Update

Finally, I would like to provide to the Committee an update concerning our progress in upgrading our Information Technology capabilities.

Since the 9/11 tragedy, the FBI has had a number of IT successes. The most significant of our system related successes is the upgrade of our data communications infrastructure. As part of the Trilogy program, the FBI's world wide high speed data communications network (the Trilogy Network) became operational on March 28, 2003. This network is a significant increase in capability to share all kinds of data, to include video and images, among all FBI locations throughout the world. It is a fully integrated modern data network utilizing leased lines and the TCP/IP communications protocols as well as state of the art switches, routers and encrypters. It is capable of being managed end-to-end from our new Enterprise Operations Center (EOC), also part of the Trilogy upgrade. The network at the SECRET level will be available to all FBI personnel worldwide. This network will be the backbone for the implementation of most of our IT systems for years to come.

In order to support our increased counterterrorism efforts and to support our efforts to share information with other agencies in the intelligence community, we have installed a Local Area Network that can carry compartmented intelligence information. This network is called SCION or SCI Operational Network. It was formerly called the TS/SCI LAN. It became operational to more than 100 analysts in January of 2003 and in June was extended to more than 500. At the present time, all users are located at Headquarters. This is being extended to the TTIC this month. It will also be extended to field locations as resources become available. It will be carried by our new data network but protected by its own separate encryption.

As part of the Trilogy upgrade, Bureau personnel throughout the world are having their desktop computers upgraded to state of the art. This upgrade is complete for all field locations and is

currently ongoing at headquarters. Additionally, all servers have been upgraded. The upgrades that have been completed are the Trilogy Fast Track effort that is a result of the 9/11 disaster. Additional upgrades, primarily in software are targeted for completion in November, 2003. All of these upgrades are necessary for the first implementation of the Virtual Case File, scheduled for December, 2003. The VCF is the result of a re-engineering of workflow processes and combines several existing databases into one and simplifies the workflow. Previous automation efforts in the FBI basically automated paper process, retaining all of the steps in those processes. The VCF development team took a hard look at those processes and with the involvement of agents and support personnel from the field, has re-engineered them to obtain significant efficiencies from our systems. The final version of VCF is targeted for delivery in June, 2004.

Mr. Chairman, we have developed an on-line information technology presentation at FBI Headquarters of the FBI's terrorism database and a demonstration of the analytical tools available to our analysts. In fact, many members of this Committee have been to Headquarters for the presentation. I would like to take this opportunity to reiterate the invitation to all members to come to Headquarters for a more in-depth discussion and demonstration of our enhanced information technology capabilities.

#### Conclusion

In closing, Mr. Chairman, I would like to thank this Committee for its continued leadership and support. The FBI's capabilities are improving daily in large part due to that support, and we will continue on this positive path with the benefit of your continued interest and leadership.

I am happy to respond to any questions you may have.