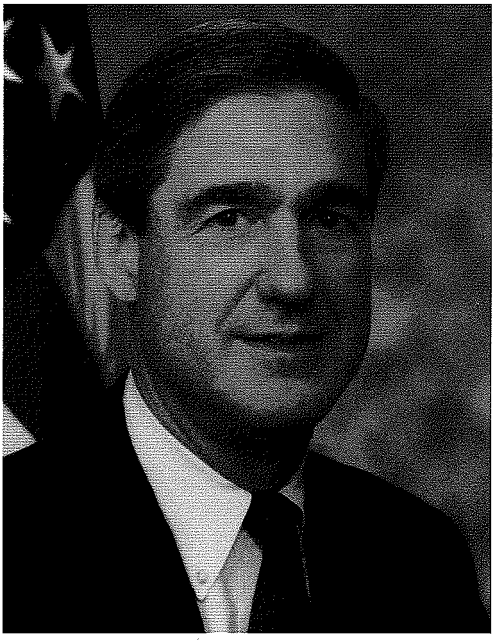
MILSTEIN CRIMINAL JUSTICE POLICY FORUM

FBI COUNTERTERRORISM MEASURES



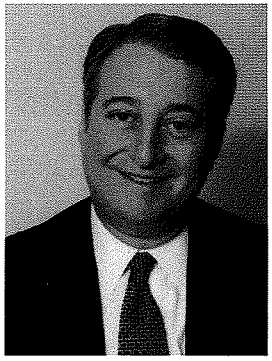
Remarks by Robert S. Mueller,
Director of the FBI

Introduction by Howard P. Milstein

December 19, 2002

Citizens Crime Commission
OF NEW YORK CITY, INC.

THE MILSTEIN CRIMINAL JUSTICE POLICY FORUM



HOWARD P. MILSTEIN

Since 2002, the Citizens Crime Commission of New York City has presented a series of Criminal Justice Policy lectures sponsored by Edward L. and Howard P. Milstein through the Milstein Brothers Foundation. Each event features a nationally prominent speaker who addresses the Commission on such issues as crime, criminal justice or terrorism. The formal remarks are followed by a question-and-answer period. Each meeting is open to the media.

Attendance is limited to 150 invited guests drawn from the top ranks of the New York City business and law enforcement communities. Each lecture is printed and distributed to top business, civic and law enforcement leaders.

The Citizens Crime Commission of New York City is an independent, non-profit organization working to reduce crime and improve the criminal justice system in New York City. The Commission is supported by the business community; its board of directors is drawn from top corporate executives and members of major law firms. The Commission was established in 1978.

Howard and Edward Milstein are prominent New York bankers and real estate owners. They have a long record of working with the New York City criminal justice system to create and support innovative programs. They are also active in national crime prevention issues.

Introduction by Howard P. Milstein

TOM REPPETTO: Good afternoon. My name is Tom Reppetto. I'm the president of the Citizen's Crime Commission of New York City. And I would like to welcome you to the Milstein lecture and to thank JP Morgan Chase and company for hosting this event.

For those of you not familiar with our format, after our speaker concludes his remarks, there will be an opportunity to ask questions, both by the audience and the press. And I will stand off to the side and signal to those who are asking questions to be recognized.

I would now like to call to the podium Howard Milstein, who is the sponsor of today's lecture. Howard is the founder of Milstein Brothers Capital Partners and Managing Partner of Milstein Properties, among many other successful business ventures. He is equally well known for his philanthropy and the special commitment he has made to law enforcement. He was recently honored with the Federal Law Enforcement Foundation's Humanitarian Award. And I have just learned that he has made a major grant to the National Crime Prevention Council to create a new child safety website. Howard, we're very proud to have you with us today.

Thank you for your kind words, Tom. My brother Edward and I are proud to support the great work you're doing with Citizen's Crime Commission of New York City. We've been honored to sponsor the Milstein Lectures since 1997.

Each year our speaker has been top-notch. But perhaps no speaker has been as timely as today's speaker and no speech more impor-

tant. The tragic events of September 11th changed our world in so many ways. We've experienced shock and loss and fear in ways never before experienced in America.

The whole concept of domestic security has changed and with it the role of the FBI. The FBI, through its capacity to both detect terror threats and to arrest those involved, is in a unique position to protect us.

But it cannot do the job alone. As a citizen and businessman I think I speak for many in the private sector when I say that 280 million Americans stand ready to help the FBI and all our law enforcement agencies. As a citizen and businessman, I'm ready to put my time and resources into creating the kind of public/private partnerships that give every American ways to participate in homeland defense.

Giving ordinary citizens a useful role will strengthen the bonds of community and shared national commitment to our great country. Individual participation not only bolsters our effectiveness against terrorism, it also serves as an antidote to the fear and uncertainty that can be so corrosive.

The time is right for community service for homeland defense. And the time is right to mobilize volunteers to work with government agencies to respond to the threat of terrorism. These are my thoughts as an amateur but concerned individual.

Now let's turn to a more refined view. I take great pleasure in introducing today's speaker, the honorable Robert S. Mueller, Director of the FBI.

Director Mueller was named to his current post by President George Bush and confirmed by the Senate in August 2001, just before the terrible attacks of 9/11. Mr. Mueller's career in public service began in 1976 with a long stint at the US Attorney's office in Northern

California and in Massachusetts. He prosecuted fraud, narcotics, corruption and racketeering cases. But most important for our situation, he worked major terrorism cases.

Bob Mueller moved to the Department of Justice in 1989 where he served as an assistant to then Attorney General Richard Thornburgh. By 1990 he was placed in charge of the Department of Justice criminal division.

Director Mueller earned his spurs in the private sector as well, where he was associated with several leading law firms. A Princeton graduate with an MA in international studies from NYU and a JD from the University of Virginia, Bob Mueller was elected a Fellow of the American College of Trial Lawyers.

And I shouldn't leave out that he is a hero. He served in Vietnam as an officer in the Marines, earning a Bronze Star, two Navy commendation medals, the Purple Heart and the Vietnamese Cross of Gallantry. It's an impressive record Bob. And I'm sure you'll need to draw on every bit of it as you steer the FBI through these difficult times. Ladies and gentlemen, please welcome Director Robert S. Mueller.

Remarks by Robert S. Mueller

I want to welcome you all here and say good afternoon to you. It's a pleasure to be here. It's a pleasure to be here amongst colleagues and friends. I'd particularly like to thank Howard for the invitation, but also for your leadership in the community.

Commissioner Kelly, to my former colleagues in the US Attorney's office, and I see judges here also. Although I don't believe I practiced before any of you, it's a pleasure to see you here. It's a pleasure to see the District Attorneys here, particularly Bob Morgenthau, from whom I have learned so much over the years. And Tom and everyone at the Citizen's Crime Commission thank you so much for hosting this event today.

With the end of the year coming upon us, I thought it might be useful, it might be a good time to take an accounting of where we are in our mission to protect the country against terrorism. And given the events of September 11th and the inspirational leadership that we've seen from all New Yorkers since that terrible day, there is no better place than New York City.

Someone once said that at moments of crisis, words are hollow vessels. And once again as I was coming in this morning, remembering 9/11, I understood the truth of those words. For those of us who've seen a lot, even something like Vietnam, the day of September 11th is seared into our memories as a day that none of us will ever forget, one of the saddest days of our lives. And my heart and the heart of every FBI agent, every FBI support personnel around this country and around the world remains with the victims and the victims' families and with the citizens and the people of this great city.

Remembering September 11th, we know how all of us individually and collectively have been changed by the events that occurred here not too far away. We've all been changed. But nowhere is that change I think more apparent than in the FBI.

Let me start if I could with an update on our war on terror. This is truly a war. And it is a global war. It is a war that is fought from Kabul to Karachi. From Bali to Mombasa. To Sana, Yemen to New York City. And preventing terrorism in the course of this war requires us to identify cells and disrupt their operations no matter where they might be, whether it be in the United States or around the world.

And it requires all of us together, crippling and dismantling those terrorist networks. And we have to do it country by country, operative by operative, dollar by dollar, so that these networks no longer pose a threat to the United States. Now reflecting back on 2002, we understand that in the first full year of the war, much has been accomplished.

We have taken the fight to al Qaeda. To where they train, to where they recruit. To where they plan and to where they live. And we have taken away their safe haven. We have taken into custody more than 3,000 al Qaeda leaders and foot soldiers worldwide.

And here in the United States we have charged nearly 2,000 suspected terrorist associates with a variety of crimes. And worldwide, we have come to understand that we have prevented any number of terrorist attacks on United States facilities, some of them within the United States.

And I must say that these successes have come because of the singular, united focus of virtually everyone engaged in this war. Law enforcement, intelligence, the military, our diplomatic community and, I might add, the private sector. Every level.

Federal, state, local, international has contributed its unique set of skills. Perhaps nowhere is that more evident than here in

New York. And I must say that as it is in finance, as it is in business, the city of New York has been a leader in the war against terror since the 1920 bombing of the JP Morgan building located near here.

And that tradition of leadership continues today under the auspices of Commissioner Kelly, who has done just an outstanding job leading the New York Police Department since 9/11. And I also might add that the new Counter Terrorism division that's headed up by Frank Libutti and the newly revamped Intelligence division headed up by David Cohen are models for the rest of the country.

Commissioner, my thanks to you, my thanks to Frank, my thanks to David. And most particularly, my thanks to the 40,000 officers and detectives who serve this city so well. And New York's leadership also includes the men and women of the FBI. And I have with me today Kevin Donovan, who was picked up as the assistant director in charge. He picked up where the tireless Barry Mawn, who many of you have known, left off in the war on terror.

September 11th made prevention of terrorist attacks the FBI's top priority and its over-riding focus. While we remain committed to our other important national security and law enforcement responsibilities, the prevention of terrorism takes precedence in our thinking and planning. It takes precedence in our hiring now and in our staffing. And it takes precedence in our training and technologies.

And with this shift in priorities has come a major shift in allocation of resources within the bureau. We have doubled the number of agents who are now devoted to terrorism. We've hired nearly 300 new counter terrorism translators, specializing in Middle Eastern languages. And we have completely overhauled our counter-terrorism program at headquarters. Centralizing coordination and

accountability, beefing up existing units, and adding new capabilities.

But essentially to preventing future terrorist attacks is improving our intelligence analysis and predictive capability. Well, the FBI has always been a collector of intelligence in pursuing its criminal cases. With a mandate of prevention, we now have to restructure ourselves to provide the proper analysis and dissemination of intelligence to all of our partners in the war on terror.

We have taken a number of steps to build that capacity within the FBI. Soon after September 11th, we established the Counter-Terrorism Watch, a 24/7, 365 day a year clearing house for every terrorist threat that we receive. And we have received and fielded more than 3,000 threats since 9/11.

We have set up a National Joint Terrorism Task Force, a FBI headquarters staffed by representatives from 30 different federal, state and local agencies. And this national task force coordinates the two-way information flow of intelligence between headquarters and the joint terrorism task forces located around the country. And we have quadrupled the number of strategic analysts at headquarters hoping to build to a coterie of more than 700 analysts nation-wide in the next year.

And as a result of these efforts, we are now able to produce a greater quantity and a greater quality of analytical product, and to share that product more effectively with policy makers, with the intelligence community and with our law enforcement partners.

We're also completely upgrading our information technology capability in the bureau. It's sad to say, but our longstanding problems with information technology are relatively well known. What is less well known at this point is what we are doing to fix these problems and what we are doing to add a whole new set of capabilities to FBI operations.

And we have brought in some of the best and brightest from private industry. These individuals, along with a range of outside experts, are bringing the bureau into the digital age. From the roll out of the new hardware to the upgrade of critical networks, to the re-design of investigative applications, we are making progress. And thanks to these new initiatives, we will soon have a system that we can mine for data and analysis. And that will allow agents to manage their case files electronically for the first time in history.

In step with these institutional changes have come important legal and cultural changes that are enhancing our ability to fight terrorism. Principal among these is the manner in which September 11th has torn down the legal walls between intelligence and law enforcement agencies.

For those of you who followed the September 11th hearings in Congress this Fall, you may recall the meetings being held between the CIA and the FBI where it was unclear what information on a hijacker could be legally shared under the arcane set of rules and laws that was known in the trade as the wall. And since September 11th, that wall has been breached.

First, thanks to the Patriot Act. And secondly thanks to the recent FISA appeals court ruling, we no longer have the legal obstacles to the coordination and information sharing between the law enforcement community and the intelligence agencies. And law enforcement officers can now coordinate their approach to terrorist targets without running afoul of the law.

In addition to the collapse of the legal wall, we have also seen a collapse of the cultural and the operational wall between the FBI and the CIA. Those who focus on stories of the feuding between the agencies in the era of J. Edgar Hoover and Allen Dulles

are overlooking the increased operational integration between the two agencies since September 11th.

For my daily morning briefings with CIA officers and George Tenent and to the widespread assignment of executives, agents and analysts between the two agencies since September the 11th, the FBI and the CIA have become integrated at virtually every level of our operations.

And the third wall we are tearing down is the one between us and our state and local partners. We recognize that our 11,500 FBI agents are a small coterie compared to the nation's 670,000 state and local law enforcement officers. We need every one of those officers to be fully integrated into the war on terror.

That's why we created the National Joint Terrorism Task Force. And that is why we've established joint terrorism task forces in all of our field offices. And it's also why we are standing up regionally in favor of sharing operations that will revolutionize the way we work together. And these efforts are opening doors to cooperation that simply did not exist prior to September 11th.

Now the crumbling of these pre-9/11 walls brings us to the issue of whether America should create a new domestic intelligence agency similar to MI5, an issue that is being discussed in Washington today. And I'll say in my mind the idea is based on a faulty understanding of counter-terrorism that sees a dichotomy between intelligence operations and law enforcement operations.

This misunderstanding has led some to conclude that we should separate these two functions and create a new domestic intelligence agency. Now let me start by saying we have just discussed how important it is to break down the walls to enable the sharing of information.

Building new walls is going in the wrong direction. There is no reason to separate the two functions of law enforcement and intelligence. On the contrary, combining law enforcement and intelligence, as is being done in the NYPD, grants us ready access to every weapon in the government's arsenal against terrorists. We can now make strategic and tactical choices between our law enforcement options of arrest and incarceration and our intelligence options of surveillance and source development.

And the wisdom of this approach has been clearly borne out. Over the last year, the FBI along with its state and local counterparts has identified, disrupted and neutralized a number of terrorist threats and cells. Not only here in the United States but overseas as well. And we have done so in ways that an intelligence-only agency such as MI5 could not.

Now why is this? Why is this? Because I believe the FBI is uniquely situated for the counter-terrorism mission. We have the personnel. And we have the tools and assets needed to perform this mission. We have a worldwide network of highly trained and dedicated special agents. And we have the intelligence tools to collect and analyze information. And they are improving daily.

We have the law enforcement tools to act against and neutralize these threats. And we have the expertise in investigations and in the recruitment and cultivation of human sources of information. And we have long-standing and improving relationships with state and local law enforcement. And they, state and local law enforcement, are the intelligence gatherers closest to the information we seek from each of our communities.

And finally, the FBI has nearly a century of experience in working within the confines, within the bounds of the Constitution. For these reasons, I'm convinced that the people

of the United States are better served by enhancing the FBI's dual capacity for law enforcement and intelligence gathering and analysis than by creating a new agency from whole cloth.

And it is for these reasons that I believe that at the same time in our history, establishing a new domestic intelligence agency would constitute a step backward in the war on terror, not a step forward. Now there will come a time, and perhaps it is happening today, when the majority of Americans will move on to other concerns, dreams, fears and challenges. And that is understandable.

But for those of us, many of this room, who are fighting the war on terror, such a lapse would be a disaster. We are in a war. And we will prevail over our foe only if we are more determined, more relentless and more resourceful.

It's a challenge that demands dedication. It demands sacrifice. And I have to say that I am tremendously proud of every man and woman in the FBI who is working so hard to meet this challenge. And the longer I'm with the bureau, the more I appreciate how privileged I am to call them my colleagues. And how privileged I am to call not only the FBI agents my colleagues, but my counterparts in state and local law enforcement my colleagues as well.

I want to close with a story that says a great deal about the intangibles of teamwork and courage that are so important to defeating terrorism. I've told this story before, but it bears repeating, particularly here in New York. And it is a story of Lenny Hatton, special agent of the FBI who was one of the many law enforcement officers who lost their lives on September 11th.

Lenny was an exceptional agent and a remarkable man. He was on his way to

work on September 11th when he saw the World Trade Center on fire. He went straight to the scene and started working with police and fire fighters to evacuate the buildings. Lenny was last seen helping a victim out of one of the buildings and then rushing back in to save more.

Several days after September 11th, I attended Lenny's funeral mass in his hometown in New Jersey. And the last speaker was a close friend and colleague of Lenny's, an individual by the name of Chris O'Connell. Chris talked about how Lenny devoted his life to serving as a Marine, as a volunteer fire fighter, as an FBI agent and as a husband and a father.

And he recounted how Lenny had served until his last breath trying to evacuate people from the World Trade Center. And at the end, in tears, he saluted his friend, Agent Hatton, with the words, "Until we meet again. My partner. My friend."

And Chris O'Connell, you see, was Lenny's partner. And Chris was and is a detective with the New York City Police Department. Lenny and Chris cared for each other. It didn't matter that one worked for the FBI and one worked for the New York Police Department. They were a team.

Were he alive today, I think Lenny would be proud to see the team that has come together since September 11th. The team is strong and is unified. And it is single-minded in its determination to prevent a 9/11 from ever happening again.

I'm proud to be part of that team. And I thank all of you here today for your hard work, your sacrifices and your dedication to the cause of justice. Thank you for having me today. Thank you for your leadership. And God bless.

Questions & Answers Robert S. Mueller

Q. Mr. Mueller. Barry Cunningham, Fox 5 television. Do you have any security concerns over the architect's proposed plans for rebuilding the World Trade Center, particularly the height of some of these proposed skyscrapers? And will the Bureau be reviewing the architect's plans for possible security risks?

A. I must confess that the only knowledge I have of the plans is what I saw portrayed on the front page of the New York Times today. We are generally not in the business of reviewing architectural plans. However, as it goes down the road, to the extent that the Bureau could help in any way, shape or form, we would be certainly willing to do so. I know I've followed from afar the debate on what should replace the World Trade Center. But I really am not familiar with the various proposals that have been made.

Q. Mr. Mueller, you mentioned over the weekend that the FBI has broken up 100 operations. Could you tell us, were those imminent and where were they being planned? In the US or elsewhere?

And if I could ask a second question, you talk about the wall having been breached. Could you mention a specific example of cooperation between the CIA and the FBI since that wall has come down?

A. Well, let me speak generally to the first question. I was quoted in the papers as saying that we have disrupted a number of plans, plots around the world. Several were within the United States, perhaps as many as 100. I have not totaled them all up.

But when you look at the plans thwarted by us - and by us I mean the FBI, the CIA, the Defense Department around the world -, but also by our counterparts, it would be at least 100. I can tell you in the last two days, we've seen the French authorities take down a cell. And yesterday, in the United Kingdom, in London, they also took down a cell.

Now where a particular group is in its planning process is often difficult to say. If you look at the hijackers of September 11th they had no explosives, they had no guns. So if you had arrested one of them you would find nothing except an innocuous box cutter. But across the world, all of us who are working together have disrupted any number of plots.

In terms of the breaking down of the walls, I'll tell you, 10 years ago when I was at the Department of Justice, I had occasion to travel overseas to I think it was Germany. I was in the embassy with the Attorney General at the time and the CIA was not speaking to the FBI legat.

And that kind of day-to-day not working together was somewhat prevalent amongst our agencies. Now you go overseas and the CIA and the FBI are working not only exceptionally closely together, but with our counterparts, whether it be in Pakistan or Egypt or Jordan or even Indonesia, Malaysia.

And so that sharing of information, working together, I think it started with Louie Freeh way prior to September 11th, but has advanced substantially since September 11th. In terms of the legal walls, the sharing of information that is allowed now or has been allowed by the Patriot Act, has allowed us now to take the benefits of our criminal investigations where we convict somebody and they become a cooperator. When we have grand jury testimony, there are now provisions whereby we can integrate that intelligence information that the CIA

may have on the same subject on a same terrorist group in ways that we could not do it before.

Q. Mr. Mueller, when you talk about the war on terrorism and you mention the other countries, one area that you didn't talk about was South America. I'm reading a lot about the tri-border region and how it may be where a lot of al Qaeda may go, were they to hide out. Is that an area of concern? Is that on your radar screen?

A. We've got our eye on it. Yes, sir. I didn't mean to take it from you Tom.

Q. Alvin Bessent with Newsday. Congressional intelligence committees not so long ago recommended a cabinet level post be created for intelligence to coordinate the efforts of all of the intelligence agencies. I wonder what your view of the wisdom of that kind of move?

A. Well, yeah I've been in Washington for a year and a half, and I've picked up some things in that period of time. But I don't purport to be an expert in the intelligence community.

And not being an expert in the intelligence community, I'm somewhat reluctant to opine as to the best structure for the intelligence community. Suffice to say that I think we have to improve our intelligence, analytical and dissemination capability to be a bigger part of that intelligence community, regardless of the structure that is ultimately decided for the intelligence community.

I think around the country, we and our state and local counterparts are reaching out to business, particularly businesses that represent part of the backbone of the country. Whether it be financial, the rail system, or chemical manufacturers.

Particularly those businesses that perhaps could be targets. We have developed tremendously close relationships, particularly since September 11th. In terms of others where the information from private citizens is important, we have tried to develop mechanisms so that we can get that information in.

Whether it be hotlines. Whether it be meetings with security officers. I venture to say that FBI agents have talked to the security officers on any number of occasions since September 11th. With just about every large corporation and many of the smaller corporations around the country.

In order to develop that liaison so if something comes to your attention, it is brought to us. And if there is an episode or an attack, we then have that liaison in place so that we can react quickly. So I think that's happening around the country in ways that are truly remarkable.

Q. Robert Laird from the Daily News. There were certain things in the 1970s that became issues. You know there were objections to having your agency being involved in gathering intelligence in operations in certain cases that could infringe upon civil rights. Can you comment?

A. Since the 1970's there have been a number of changes in the way the FBI does its business. We now have a FISA court, Foreign Intelligence Surveillance Act court. We cannot, do not, go out and utilize technical surveillance without the approval of that court.

We have the Attorney General's guidelines that have been instituted that gives us guidance, which we do follow with, in how we conduct our investigations. And it is a completely different world for the FBI now than it was back in the '70s.

I may also add, many of you can recognize it. There is Congressional oversight. And so it is not that we do not go without scrutiny. And consequence-- consequently it is a different world in terms of the bureau today in terms of the guidance that we receive and the oversight that we receive from the days of the '70s.

Let me also say that FBI agents are tutored at length as to the importance of performing an investigation according to the guidelines. The average age in our incoming class is about 30. The reason for that is we want persons who have judgment and experience. If you give those individuals a badge and a gun, and the power to arrest somebody, we want to make certain that those individuals have the maturity and the judgment to undertake that responsibility within the Constitution, and appropriately.

The other thing I will say is one of the things that Louie Freeh instituted. I think it is tremendously important for every agent to go to the Holocaust Museum for the purpose of understanding what can happen if you don't understand the limits of the power that you have. And so the Bureau today I think is a far different bureau than you saw in the '70s.

But by the same token it is an aggressive bureau. It is a changing bureau. And is a bureau, it's not just agents, but every person in the FBI I think understands now that our principal role is to protect the United States from the next terrorist attack. And we will be aggressive and we will be hard charging, but we will do it within the constraints of the Constitution and the guidelines.

Q. Senator Shelby in Washington recently said that the FBI's organizational institutional culture is terribly flawed. And that it's fundamentally incapable of protecting Americans from terrorism. How can the FBI

go forward when it has lost the trust and faith of the senior government officials?

A. Well, I would respectfully differ with Senator Shelby's characterization. The people talk about the culture of the FBI. The fact of the matter is the culture of the FBI is hard work and dedication and excellence.

Any one of you who know FBI agents know that that is what you see when you talk to, when you meet, when you work with an FBI agent. Part of the argument is that, "Okay, we are investigators. And we cannot shift." The argument is that we look at everything through the prism, as if it is a piece of information admissible in court.

And the fact of the matter is often we do, but we cannot afford to in the future. We are, I think, some of the best information gatherers in the world. In terms of going out and interviewing people, pulling in records, reviewing information. And that is information. It can be used as intelligence or it can be used as evidence in a courtroom.

And we have to understand that when we are pulling in information, there are those tool objectives down the road. Part of doing that, if you think up to the intelligence side between collection and analysis, I think we've always been superbly trained investigators and collectors of intelligence.

What we have not always had is the analytical capability, but centralization of that information, and the infrastructure to take that information, analyze that information and then disseminate it around the country, and particularly within the intelligence community.

And that is what we have to change. We have to build up that analytical capability that is in the CIA, that is in the military, that will enable us to take that information collected, distill it, and be more predictive about where the next attack may come

from. And we are, so I respectfully, as I say, disagree with the good Senator.

TOM REPPETTO: That is the more typical type of question that is asked at the Crime Commission.

A. It's a more typical type of question to ask on the Hill.

Q. Since the creation of Homeland Security, are there more walls and is the FBI seeking to bring down the walls?

A. No, since Tom Ridge has been in, we meet every morning. That will probably continue, although he'll now be a cabinet officer and the like. But the exchange of information with Homeland Security as long as it has been an office in the White House has I think been very good.

There are meetings every day. And that will continue. People will ask, "Well, what is the role of the intelligence analysts at the CIA versus FBI versus Homeland Security." And the fact of the matter is, going back to your question, we have the responsibility of gathering information within the United States. CIA is barred from doing that.

But we have that responsibility. CIA has the responsibility overseas. We need the intelligence analysis so we can take our information, distill it, and send out leads as that piece of information comes in. You may need to interview somebody. You may have to pull records. So it has to be a continuous process of intelligence development. And we need the analysts of the FBI to do that and be more predictive within the FBI and put out reports.

That will then go to Homeland Security. And Homeland Security's responsibility principally is to match the intelligence,

whether it comes from CIA or FBI, with what it knows and understands about the infrastructure in the United States and the targets. And to match the intelligence that we provide with what they know and what they are doing in order to harden, whether it be New York City or Washington, D.C. or the electrical infrastructure.

And they need from their perspective, the capability of assimilating what we have, being together more predictive in a unified fashion as to where those attacks might come. But most particularly what we're doing to protect against those attacks if it did happen in a particular segment of the economy in the United States.

TOM REPPETTO: There are other people in the room who have responsibility for counter-terrorism. With your permission, I would like to know, if any of them have any comments.

Q. Director Mueller, what are the FBI's restrictions in a terrorism investigation?

A. We are not precluded from going in. The guidelines do not require that we have reason to believe that a crime is imminent in order for us to conduct further investigation. The critical part of any investigation in my mind is having the predication for the next step of the investigation. And what the Attorney General guidelines focus upon is that as we go forward in an investigation we have adequate predication for the next step in the investigation, and appropriately so. Sam?

Q. The FBI had a senior Hammas leader in custody in 1997 and let him go saying it was better to track his activities. Now he's been indicted for financing terrorism and one of your own agents says letting him go was a significant failure. How do you respond to this criticism and was it a mistake to let him go?

A. Well, I've got a number of judges here who would understand when I say that because the case is in the courts, I can't comment on it. Right?

GROUP: Right.

DIRECTOR MUELLER: I could expect that response. And not only right, but so ordered. But generally speaking, one of the most difficult things you have to do is determine whether or not you detain somebody. Whether it be on some criminal charge or an immigration charge. Or you let the person run for a while because you want to determine whether or not that person has other associates out there.

That is a very difficult question, and it comes up in many of our investigations. What you want to have under one roof as I was trying to articulate earlier is the one person looking at the advantages of either side. If you believe that an individual or a group of individuals are getting near to committing some sort of terrorist attack, then there has to be the one person. You can have all of the intelligence in the world, but there has to be a mechanism for neutralizing them. Incapacitating them.

And generally you've got very limited choices. You arrest him, one, for the crime of say, material support to terrorism. You can arrest them on some other crime if statutes have been violated, whether it be state, local or federal. Or if they're out of status, you may be able to detain them on immigration detention. But there has to be some capacity to deter that activity.

It is a very difficult decision to make whether you go forward, if you think there are other co-conspirators out there, or you take the group off. What you do want to have in the hands of one decision maker is all of the facts. In the past, we've had in certain circumstances and because of some of the legal walls,

the facts, in terms of the intelligence side of the house, are on one side. Where the facts in terms of what has happened on the criminal investigation on the other. And they have not been exchanged.

And that, I think, has been beneficial since September 11th. Breaking down those walls so the decision makers can have the intelligence facts, or the facts from the intelligence side of the house together with the facts from the criminal side of the house to make an appropriate decision as to which way to go.

TOM REPPETTO: Have other cities in the United States organized their counter-terrorist operations in similar ways to the NYPD?

A. There are a couple of things. I think almost all of the cities in the United States are facing the same problems with budget as NYPD and other police agencies. Because of this, last year in particular, in terms of threats coming in and overtime and the like.

And so cities around the country are being constrained in terms of their development of, or reorganizations to address terrorism. I think it's fair to say that New York is on the cutting edge of setting up a counter terrorism division and an intelligence division. I think there are a number of police departments, and Ray Kelly would know better than I, that are wrestling with the necessity for gathering intelligence in ways that we have not been in the past because we need that intelligence to prevent the next terrorist attack. Although there are a number of communities and cities around the country who have disbanded police intelligence units a number of years ago because of perceived abuses.

I think New York is ahead of the game in establishing these two divisions. And in enlisting the support and the information from just about every officer out on the beat.

Q. Regarding the investigation, if I remember back, there was a secret subpoena of a reporter's home telephone records. I was wondering if in hindsight if you now still think that was the correct step to take when you conducted or helped conduct that leak investigation?

A. Now first of all, it's ancient history. And secondly, you know I can't answer that question. That was a nice try. And I know who you are by that question.

Q. Are you concerned about the security at these airports?

A. That's a good question as to what is being done with regard to general aviation. We have reached out a hand to each of our field offices, to airports and companies that provide charters and the like or provide haul freight by aircraft.

But TSA also is looking very closely at that. It has been working very closely with the network of the larger companies that either charter aircraft or move freight by aircraft, to assure that those who are let into the cockpits of these planes have some security check.

And we have to work closely with the TSA on that. It's an ongoing issue, an ongoing dialogue between us and TSA and an ongoing dialogue between TSA and the general aviation community.

Q. Sir, you said the FBI's top priority is preventing the next terrorist attack. We here in New York are waiting for the other shoe to drop for nearly three months. Thank God it hasn't happened. But we know we're at a heightened threat level here.

We're code orange, I guess it is, and the rest of the country is code yellow. Or maybe

it's the other way around. I don't know. But is there anything that would make you especially concerned that New York could get hit again? Are there any links in these recent terror risks to New York City? What about security here during the holiday season?

A. Well, it's yellow as far as I understand. In terms of specific threats, there are none that I am aware of. In terms of general threats, I think you have to be aware that al Qaeda's modus operandi is to go after targets that they've hit before. And I think you have to put that into your frame of reference.

But nonetheless, I think in general and New York in particular has made substantial strides in protecting the city in ways it was not protected perhaps prior to September 11th. I think we are much safer off, whether it be New York City, Washington, D.C. or in the country. We are much safer than we were prior to September 11th.

Now I cannot sit here and say there will be no further attacks, whether it be on New York City and Washington. But we are much safer. New York City is much safer. And I do not believe there is any reason to be concerned about an elevated risk of an attack on New York over the holiday season. Do you see it any differently?

Okay, thank you. Anything else?

TOM REPPETTO:

No further questions. We'd like to thank you very much.

ROBERT S. MUELLER:

Thank you. Thank you very much.