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Comments:

Dan: Here are proposed additions (in bold) and deletions (in brackets) from the Kuala Lumpur section of Staff Statement No 10. Please call me to discuss. [9/11 Closed by Statute]

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COMMISSION STAFF STATEMENT #10 p. 6.

In early January 2001 two photographs from the Kuala Lumpur meeting were shown to the source. One was a known photograph of Mihdhar, the other a photograph of an unknown subject. The source did not recognize Mihdhar. But he was ninety percent certain that the other individual was Khallad.

This meant that Khallad and Mihdhar were two different people, but it also meant that there was a link between Khallad, a suspected leader in the Cole bombing, the Kuala Lumpur meeting, and Mihdhar. Despite this new information, we found no effort by the CIA to renew the long abandoned search for Mihdhar or his travel companions.

In addition, we found that there is conflicting evidence as to whether the CIA ~~did not~~ notified the FBI of this identification. [DCI Tenet and Cofer Black testified before the Joint Inquiry that the FBI had access to this identification from the beginning. But based on an extensive record, including documents that were not available to CIA personnel who drafted that testimony, we ~~conclude~~ they were may have been in error.] FBI investigators including the FBI Director knew about the Kuala Lumpur meeting and, as of at least June 2001, an FBI analyst had possession of the photographs and believed they were relevant to the Cole investigation. In addition, CIA disseminated information about the photo identification to Aden, Yemen where the Cole investigation was centered and FBI and CIA officers were working hand-in-hand. On the other hand, the FBI's primary Cole investigators say that they had no knowledge of the Kuala Lumpur meeting at all, let alone Khallad's possible participation in it, until after the September 11 attacks.

This ~~incident~~ is an example of how day-to-day gaps in information sharing can emerge even in a situation of goodwill on ~~both~~ all sides. The information was from a joint FBI/CIA intelligence source. The source spoke essentially no English. The FBI person on the scene overseas did not speak the languages the source spoke. Due to travel and security issues the amount of time spent with the source was necessarily kept short. As a result, the CIA officer usually did not simultaneously translate either the questions or the answers for his accompanying FBI

colleague, and friend. On the other hand, less than a month earlier the CIA officer had taken the time to have a different photo identification by the source repeated, solely for the benefit of the FBI representative.

For interviews without ~~such~~ simultaneous translation, the FBI agent on the scene received copies of the report that the CIA disseminated to other agencies, but he was not given access to the CIA's internal operational traffic that contained more detail. The information regarding the January 2001 identification of Khallad was only reported in operational traffic to which the ~~relevant~~ FBI criminal investigators did not have access. Complicating the picture, there were questions within the FBI as to whether FBI intelligence officers could permissibly share the information with the criminal investigators involved in the Cole. The CIA officer does not recall this particular identification and ~~this cannot say~~ can think of no reason why it was not would not have been shared with his FBI colleague. [But he may have misunderstood the possible significance of the new identification.]

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*FBI analyst who brought***Comment**

We strongly disagree with the statement concerning FBI access to the information from the photographs. The statement suggests that FBI was not informed about or aware of the KL meetings. While the evidence is contradictory, we believe that suggestion is incorrect. In fact, the FBI was received intelligence and operational information from the beginning.

1. In December 1999, FBI Headquarters, FBI Washington Field Office and, most importantly, FBI New York Field Office received reporting about the impending travel of al Qa'ida operatives to Kuala Lumpur. The New York Field Office was the office of origin for terrorist investigations at that time and would become the office of origin for the Cole investigation.

2. Records available to the Commission establish that appropriate FBI CT officials were briefed about the KL operation as it was in progress. In addition, according to a Commission Staff statement, the Director of the FBI was also briefed at the time the KL operation was in progress.

3. As the Cole investigation began, a joint FBI-CIA source was asked to identify an individual in photo from the KL surveillance. [REDACTED]

[REDACTED] According to the contemporaneous cable, the ALATT was present for the meeting with the asset. Contrary to the staff's assertion that meeting times were kept short, this meeting lasted 90 minutes.

4. The staff statement correctly asserts that the ALATT did not speak the appropriate language and that the case officer did not provide simultaneous translation. However, the staff statement omits the fact that during the previous photo ID session at which the asset identified a different photo of Khallad, the case officer reported that he asked

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the asset to repeat the ID of Khallad so the ALATT would be clear about the identification.

5. The staff statement speculates that the case officer "...may have misunderstood the possible significance of the new identification." In fact, the whole purpose of showing the photo to the asset was, in the words of the message to the case officer, "to confirm/rule out this particular Khalid (in the KL photo) as a match for Muhammad Bin 'Atash (Khallad the Cole bombing suspect)." The purpose was to support the Cole bombing investigation.

6. The report from the case officer about the identification of Khallad was disseminated to, inter alia, Aden Station in Yemen. The only purpose of dissemination to Aden would have been to aid the Cole investigation. Aden was the center of the investigation of the Cole bombing. FBI investigators and CIA officers were meeting daily to work on the Cole case. They had pledged to share their information and were doing so.

7. We find no reason to believe that CIA officers did not share the report that the joint asset had identified Khallad in a KL surveillance photo. The record indicates that CIA officers fully understood the significance of Khallad in the Cole investigation. Both FBI and CIA suspected that he was involved in the Cole bombing within a week or two after the event. They had been in at least two meetings with liaison in which senior FBI investigators, including NYFO SAC John O'Neill and the senior FBI investigator on scene, specifically asked liaison for additional information about Khallad.

8. As of June 2001, an FBI analyst had possession of the photographs and understood their connection to the Cole Investigation. Indeed the FBI analyst brought them to a meeting with the Cole criminal investigators.

9. Any issue about sharing within FBI is an issue relating to FBI.

1. FBI photos in
2. ~~photos~~
3. ~~photos~~
4. photos
for not putting
into Jan. memo?

Get
from
sold
she told
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I'll try
to get them
over
wall.