

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

BASSEM YOUSSEF

Plaintiff,

v.

Civil Action No.
1:03CV01551 (CKK)

FEDERAL BUREAU OF

INVESTIGATION, et al.,

Defendants.

Tuesday,
November 30, 2004

ORAL DEPOSITION OF:

PASQUALE J. D'AMURO

called for examination by counsel for the Plaintiff, pursuant to notice of deposition, via telephone in the law offices of Kohn, Kohn & Colapinto, 3233 P Street, N.W., Washington, D.C., when were present on behalf of the respective parties:

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I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
PASQUALE D'AMICO	4	--	--	--

<u>Exhibit No.</u>	<u>Exhibit Description</u>	<u>Page</u>
Youssef 7	Page 2 of the Report to the National Commission on Terrorist Attacks Upon the United States, the FBI's Counter-Terrorism Program Since September 2001	101
Youssef 8	Sworn Statement of Pasquale D'Amuro (9 pages)	142

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P R O C E E D I N G S

10:11 A.M.

WHEREUPON,

PASQUALE D'AMURO

WAS CALLED FOR EXAMINATION BY COUNSEL FOR THE
PLAINTIFFS AND, HAVING FIRST BEEN DULY SWORN, WAS
EXAMINED AND TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. KOHN:

Q Mr. D'Amuro, good morning. My name is
Steve Kohn. I'm the attorney for Bassem Youssef. And
I thank you for coming to your deposition here. Have
you ever had your deposition taken before?

A Yes, I have.

Q On how many occasions?

A I've had one other deposition that comes to
mind and then I've also had the testimony on an EEO
matter, telephonically, with a Judge sitting. But only
one deposition.

Q What type of case was that in?

A It was in a civil matter against the
Government in which I testified for the Government. I

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1 was called by Plaintiff. It was on a freedom of speech
2 matter.

3 Q And you're represented by counsel there?

4 A Yes. Northern District of New York.

5 Q And just so you know is the fact that we're
6 doing this by telephone, you're aware that you're still
7 under an obligation to tell the complete truth?

8 A Yes sir.

9 Q And the fact that there's not a Court
10 Reporter, the Court Reporter is here. That does not
11 impact in any way your obligation to tell the truth?

12 A I understand. That's the only other
13 deposition I can remember. There may have been others.
14 I just don't remember them.

15 Q And if you ever have a problem
16 understanding one of my questions, you're free to ask
17 me to rephrase it and you're also free to get advice
18 from your attorney. Are you aware of that?

19 A Yes sir.

20 Q What documents have you reviewed for this
21 deposition?

22 A Basically, my statement.

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1 MS. WELLS: Steve, before you go any
2 further, can you please identify who is in the room
3 with you up there?

4 MR. KOHN: Sure, why don't we do that? We
5 have Matt Sorensen, who you know; Bassem Youssef is
6 here. And I have a law clerk. Will you identify?

7 MS. ANGUIN: Sarah Anguin.

8 MR. KOHN: Why don't you spell that?

9 MS. ANGUIN: S-A-R-A-H, last name, A-N-G-U-
10 I-N.

11 MR. KOHN: And she's a law student who is
12 helping on the case right now.

13 And the Court Reporter is from Neal Gross.

14 MS. WELLS: Thank you.

15 BY MR. KOHN:

16 Q Mr. D'Amuro, I understand that you
17 graduated with a Bachelor's degree in Business
18 Administration in 1978?

19 A That's correct.

20 Q Have you obtained any other degrees from a
21 university?

22 A No.

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1 Q And when you joined the FBI, what areas of
2 work were you initially assigned to?

3 A Initially, for the -- about the first year
4 and a half, I was assigned to white-collar crime
5 investigations. Shortly after that, I was assigned to
6 general property crimes; interstate transportation of
7 stolen property; theft from interstate shipment.
8 Shortly after that, I was assigned to violent crimes.
9 After the violent crimes, for about four years, I was
10 assigned as a -- I assume you want me to go through all
11 of this.

12 Q Yeah.

13 A Okay. After the violent crimes assignment
14 on the major case squad in New York here, I was
15 assigned as the Senior Resident Agent in Charge of the
16 Garden City Office, out in Long Island.

17 Q When you became the SRA in Garden City,
18 what GS level were you at?

19 A The supervisory position was a GS-14.

20 Q Okay, and then from there where did you go?

21 A From the supervisory spot in Garden City,
22 we consolidated both Hauppauge and Garden City, which

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1 were two offices we had on Long Island into one office
2 in Melville.

3 Q Okay. When you -- in the Garden City
4 office, were you doing counter-terrorism cases there?

5 A No. We did -- we had all other programs
6 except counter-terrorism was actually being worked in
7 the City, and at that particular time I believe it was
8 still part of the criminal division.

9 Q Okay. So, from Garden City where did you
10 go?

11 A From Garden City I went to Melville, which
12 I headed up a white-collar crime squad as the
13 supervisor and then I became the Senior Resident Agent
14 in charge of the Melville office. From Melville, I was
15 there for nine years as a supervisor and in 1995, I
16 went down to Washington as an Assistant Inspector in
17 the Inspection Division. And at the time it was a new
18 position being created. It was a 15. After 16 months
19 on the Inspection Division, I was assigned to the
20 Organized Crime Section as the program manager for a
21 national initiative into traditional organized crime
22 -- LCN, the Cosa Nostra -- and then a short time after

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1 that I was asked to be the acting unit chief of the
2 Russian Organized Crime unit.

3 Q So, you became a 15 in 1995?

4 A That's correct.

5 Q Okay. And, so where did you go from the
6 Russian Organized Crime unit?

7 A I came back to New York as the Assistant
8 Special Agent in charge of the terrorism branch --
9 counter-terrorism branch, the JPTF Joint Terrorism Task
10 Force for the New York office.

11 Q Now, what training did the FBI give you
12 that specifically related to counter-terrorism when you
13 became the ASAC in 1997?

14 A Basically working with John O'Neill, who
15 had been working counter-terrorism for some time. John
16 and I discussed the fact that I had no counter-
17 terrorism background. What he was looking for at the
18 time was someone that he thought was a good manager.
19 And he said "I can teach you the counter-terrorism
20 issues that you need to know".

21 Q And, did you, would it be fair to say --
22 and just correct me if I'm wrong -- at that time, when

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1 you were the ASAC that Mr. O'Neill did most of the
2 operational work and you did more of the managerial
3 part of it?

4 A No --

5 MS. WELLS: I'll object to the form of the
6 question.

7 BY MR. KOHN:

8 Q Sure. Okay. Just tell me what O'Neill was
9 essentially in charge of in doing and what was
10 delegated to you.

11 A John O'Neill was in charge of the national
12 security division. I was in charge of the counter-
13 terrorism branch which was one of three branches that
14 John was responsible for as the SAC, as the Special
15 Agent in Charge. My responsibilities as the ASAC was
16 program oversight of the counter-terrorism division, to
17 include oversight of the investigations.

18 Q And, how many agents were -- well, how many
19 squads were under you and how many actual agents?

20 A May I ask a question of the attorneys here?

21 Q Sure.

22 A We usually don't discuss the number of

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1 people assigned to counter-terrorism matters because of
2 national security. I have no problem saying what the
3 number was, because I do know what the numbers were.
4 We usually don't discuss --

5 MS. WELLS: We're not allowed -- we not
6 going to be able to provide those specifics numbers.

7 BY MR. KOHN:

8 Q Okay. That's fine. Can you tell me how
9 many squads?

10 MS. WELLS: Same issue.

11 MR. KOHN: Are you going to object to that.

12 MS. WELLS: Yes.

13 BY MR. KOHN:

14 Q Okay. And now specifically, so other than
15 whatever training Mr. O'Neill gave you, did the FBI
16 send you to like a university course or anything?

17 A For counter-terrorism?

18 Q Yeah.

19 A No. What was being relied upon was the
20 fact that I had extensive experience running
21 investigations. I had approximately in 1995 what,
22 close to 17 years in the Bureau. I came in in 1979.

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1 So, it was rather a long-term for me to be in the field
2 as long as I had been, running a squad. Most people go
3 -- can go to headquarters with much less supervisory
4 experience. I decided to get that experience in the
5 field.

6 Q Okay. But, so, they didn't offer any
7 formal educational programs for counter-terrorism
8 specifically?

9 A There were various conferences and things
10 that I went to, but I don't recall the specifics on
11 that now. But to say I received any formalized
12 training, you know, there were a lot of hours spent
13 with our office, our primary legal advisor talking
14 about FISA matters and learning those protocols and
15 those issues so there was a lot of reading and material
16 to go over, but any formalized training, no.

17 Q Now, in -- did you speak a foreign
18 language?

19 A No.

20 Q Have you ever taken a university -- like,
21 from an accredited university, or any accredited
22 program or course on like, Middle-Eastern culture or

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1 Middle-Eastern history?

2 A No.

3 Q Have you lived -- other than like travel --
4 but like lived abroad in a Middle-Eastern country?

5 A No.

6 Q Now, on your -- the counter-terrorism
7 branch -- when you were responsible for that, I'm
8 assuming that Middle-Eastern terrorism was part of the
9 subject area?

10 A It was a major part of the area because
11 this was the office of origin for al Qaeda.

12 Q And, which other -- were you also involved
13 in, say, the domestic terrorism, did that come under
14 your jurisdiction?

15 A Yes it did, but traditional domestic
16 terrorism issues were not prevalent in New York. The
17 main issue was international terrorism. The New York
18 office was actually the office that identified Osama
19 bin Laden and opened up the first intelligence case
20 into Osama bin Laden -- I believe it was late '94,
21 early '95 -- with respect to his activities with a
22 radical mosque here in New York.

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1 Q Ah --

2 A What I'm getting at is that the New York
3 office was the main office taking a look at the issues
4 of al Qaeda.

5 Q And, who was in charge of the al Qaeda
6 investigation?

7 A What do you mean by "in charge"?

8 Q In other words, was there like a squad with
9 a supervisor in charge of that?

10 MS. WELLS: I'm going to have to object to
11 that, Steve, same reason as before.

12 BY MR. KOHN:

13 Q Okay. In terms of your job as the ASAC, if
14 I can get percentages. You mentioned FISA. What was
15 your, like what did you do for FISA and how much of
16 that was your -- part of your job?

17 MR. ARMES: Same objection, Steve. The
18 question would require an answer that would contain
19 information that if disclosed could reasonably be
20 expected to damage the national security.

21 MR. KOHN: Of what, the percentage of work
22 he worked on FISA versus something else in 1997?

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1 MR. ARMES: Yes, I think so.

2 MR. KOHN: Okay. But, are you -- only one
3 lawyer is to raise objections, so if you could just
4 maybe forward that to Carlotta and let her raise the
5 objection?

6 MR. ARMES: No problem.

7 BY MR. KOHN:

8 Q How much -- Okay, what about in terms of
9 how much of your time was spent on, you know, human
10 resource matters? You know --

11 A What do you mean by human resource?

12 Q You know, doing performance reviews,
13 hiring, personnel issues, that type of thing.

14 A I did the performance reviews for the
15 supervisors. I did not do the performance reviews for
16 the agents or other investigators assigned to the task
17 force.

18 Q But you would then be second reviewer for
19 those reviews -- performance reviews? In other words,
20 would you be the person -- the second person or
21 someone else was the second signature?

22 A Well, I'd be the reviewing official. I

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1 would be the actual official producing the performance
2 appraisals for the supervisors and forwarding those to
3 John O'Neill.

4 Q Now, what percentage of your time -- and
5 I'm going to define "operational" as actually
6 conducting an investigation as opposed to supervising
7 the investigation. Approximately what percentage of
8 your time was operational vis-a-vis Middle-Eastern
9 terrorism?

10 A Well, that's a tough one. Operational, I
11 would say with all the deployments and everything that
12 I was involved in, operational issues were probably 70
13 percent of my time.

14 Q Now, excluding deployments from the
15 definition of operational, what percentage would have
16 been operational -- where you're actually conducting,
17 as they say, using my definition of it, which actually
18 conducting a, a counter-terrorism, Middle-Eastern
19 related investigation, as opposed to supervising it?

20 A Oh, actually conducting it?

21 Q Yeah.

22 A I didn't conduct investigations.

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1 Q Okay. So all your work was supervisory.

2 A Right.

3 Q And what percentage of your work was in
4 deployment? How much time did you spend in deployment?

5 A I'd, you know, I, I couldn't even
6 guesstimate. There were several trips overseas to
7 various countries. I deployed to East Africa, to head
8 up that investigation as the Assistant Special Agent in
9 Charge of the intelligence investigation portion of
10 that, and the operational portion of that.

11 Q Now, I understand you had some role with
12 the investigation of TWA 800?

13 A Small role, because I came in after that
14 investigation took place. My role as that, as I stated
15 earlier, was as the Assistant Special Agent in Charge
16 of the task force coming in it, I believe it was July
17 or August of '97 and by January or -- I think it was
18 January -- of '98, we had concluded that we could not
19 identify that a terrorist act had taken place. So we
20 actually turned over the primary role in that
21 investigation to the National Transportation Safety
22 Board.

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1 Q So, so approximately how long were you
2 involved in the TWA 800 investigation?

3 A Approximately August of '97 until January
4 of '98, I believe.

5 Q Now, then you -- it came to the point where
6 you left the counter-terrorism program?

7 A I left in January or February of '01.

8 Q When you left, what was your, were you,
9 what like GS level were you at at that time?

10 A I was a GS-15 and I was promoted in January
11 or February of '01 to an SES position.

12 Q That's when you left the counter-terrorism
13 program?

14 A Right. The actual position was the
15 Associate Special Agent in Charge of the criminal
16 division here in New York. That position no longer
17 exists.

18 Q And, why did you leave the -- as the, was
19 that position also related to the counter-terrorism
20 program?

21 A No it was not.

22 Q That was more traditional criminal

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1 activity?

2 A Correct, it was the number two position in
3 the criminal division in New York.

4 Q And why did you leave the counter-
5 terrorism program to go into the criminal division
6 program?

7 MS. WELLS: That's been asked and answered,
8 but he can go ahead.

9 THE WITNESS: It was a promotion. It was a
10 promotion into the SES, Senior Executive Service.

11 BY MR. KOHN:

12 Q And, how long did you hold that position
13 for?

14 A Well, actually, when I transferred over
15 into that position, we had a Special Agent in Charge of
16 the Special Operations Division here in New York that
17 was transferred to Newark. So I never actually
18 reported to the Criminal Division. I was made the
19 Acting Special Agent in Charge of the Special
20 Operations Division when that occurred. I was in that
21 position for about six or seven months and when the new
22 Special Agent in Charge for Special Operations arrived,

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1 then I went over to my position as the Associate
2 Special Agent in Charge for the Criminal Division. I
3 was there for approximately a week or two when John
4 O'Neill had announced his retirement. And when John
5 actually retired, which I believe was the end of August
6 -- either the 26th or 28th of August, somewhere around
7 the end of August, Gary Bald asked me to fill in as the
8 Acting Special Agent in Charge for the National
9 Security Division because of the background, the
10 previous four, four and a half, years that I had worked
11 with John on the counter-terrorism branch.

12 Q The Special Operations Division, was that
13 counter-terrorism related?

14 A Hang on a second.

15 MS. WELLS: I'm going to have to object to
16 that Steve on the basis that it could disclose national
17 security -- information that may harm national
18 security.

19 MR. KOHN: Okay, so you're instructing him
20 not to answer that question.

21 BY MR. KOHN:

22 Q Did you work on Middle-Eastern terrorism

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1 cases when you were the Acting SAC of the Special
2 Operations Division?

3 A Could you hold on a second?

4 Q Sure. No problem. Do you want to go off
5 the record for a moment?

6 A No. We're okay here. I think basically
7 what I can say about that is that, in the capacity in
8 Special Operations there was involvement in counter-
9 terrorism and national security investigations.

10 Q Oh, there was?

11 A Yes.

12 Q And, was that Middle-Eastern related?

13 A It was related to all national security
14 type investigations to include counter-intelligence and
15 counter-terrorism.

16 Q Okay. So in, around August you were named
17 the -- what position did you get in August of '01?

18 A In August, the end of August of '01 when
19 John O'Neill announced his retirement, Gary Bald asked
20 me to step into the position of Acting Special Agent in
21 Charge of the National Security Division.

22 Q And, is that a position out of New York?

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1 A Yes.

2 Q So, just to understand, so New York would
3 have more than one Special Agent in Charge out of the
4 New York Office?

5 A Yes.

6 Q And just, I mean just help me along on
7 that, would the SAC or the S-A-C for the National
8 Security Division, would they then report to an
9 Assistant Director in New York or would they report to
10 the SAC in New York?

11 A No. There's -- you would report to the
12 Assistant Director.

13 Q Okay. And, how long did you hold that
14 position?

15 A I held that position in the end of August
16 until 9/11 occurred. And the Director had travelled to
17 New York on two occasions for briefings. And, in one
18 of the briefings, I explained to the Director New
19 York's involvement in conducting investigations into al
20 Qaeda. It was the New York Division that first
21 identified Osama bin Laden through the first World
22 Trade Center bombing in 1993 and from that

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1 investigation learned about his activities in
2 recruiting Mujahedeen and soliciting funds from a
3 radical mosque in New York.

4 And how that investigation tied in to the
5 Terror Stop investigation, which was the blind sheik,
6 Al-gama'a Al-Islamiyah was the organization he was
7 affiliated and how that investigation tied in with
8 Ramsey Youssef and the Bojinka or the Manila Air
9 investigation, in which Ramsey Youssef had planned to
10 secret explosive material into the body cavities of
11 dolls and blow up those jetliners, 11 jetliners over
12 the Pacific Ocean.

13 Then again, how that tied in East Africa
14 and New York's conducting that intelligence
15 investigation in bin Laden and how individuals were
16 identified in East Africa that were involved in that
17 particular investigation, how it tied into the Cole
18 investigation.

19 Based upon that, I was down in Washington
20 and the Director saw me in the hallway and wanted to
21 speak to me. So I went into his office the next day
22 and that's when he asked me if I would come down to

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1 Washington as an Inspector-in-Place and run the events
2 of 9/11 because of the involvement of New York into the
3 investigations and the intelligence-gathering into al
4 Qaeda. I told him I would do that.

5 I reported to Washington, I believe, early
6 October -- I believe it was around, I don't know, the
7 tenth or so, the eighth or tenth of October and brought
8 several -- I think there was almost 30 investigators --
9 that came with me from New York to begin running that
10 investigation down in Washington.

11 Q Okay. When you say "Inspector-in-Place" --

12 A Right.

13 Q So, was that essentially a position that
14 the Director established in response to the 9/11
15 attack?

16 A No. You can -- there have been other
17 situations in the Bureau where an Inspector-in-Place
18 has been named to head up an investigation. I can't
19 recall all of them, but it was not unique to that
20 particular situation.

21 Q And did that -- were you -- was that a TDY
22 assignment or were you promoted to that?

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1 A It was a TDY assignment in Washington, D.C.
2 It was the same level position that I had currently
3 maintained in New York, so it was not a grade raise.
4 It was not anything to do with that. It was simply a
5 title that they have you when you head up an
6 investigation, so that everyone knows that it's
7 supposed to flow through this particular group.

8 Q Now prior to this were you aware of
9 Bassem Youssef?

10 A I believe I met Bassem only once prior to
11 that, when I think he came over to New York with some
12 Saudi officials.

13 Q And do you what officials he had brought
14 over to the New York?

15 A Yes, there were some Generals, Colonels,
16 you know, some officials from the Saudi government.

17 Q Do you know why they were coming to New
18 York?

19 A Hold on a second.

20 MS. WELLS: Steve, can we go off the record
21 for just a second?

22 MR. KOHN: I'll just strike that question.

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1 MS. WELLS: Okay.

2 MR. KOHN: And make it easier.

3 BY MR. KOHN:

4 Q Did you ever discuss Mr. Youssef with Mr.
5 O'Neill?

6 A No, I don't recall.

7 Q Do you know if Mr. Youssef directly
8 interacted with Mr. O'Neill on various cases and
9 issues?

10 A You know, John interacted with a lot of
11 guys. I don't know. I don't specifically recall
12 anything in particular.

13 Q Were you aware that Mr. Youssef had a role
14 in the blind sheik investigation?

15 A No.

16 Q Were you aware of anything that -- were you
17 aware -- well, strike that.

18 You mentioned when you had your discussion
19 with the Director, it seemed as if there were a lot of
20 tie-ins with various investigations. The question is
21 was the Al-gama'a Al-Islamiyah, A-L-G-A-M-A apostrophe
22 A, capital A-L dash I-S-L-A-M-I-Y-A-H, better know as

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1 Islamic Group.

2 Are you aware of that investigation?

3 A Of the terrorist stop investigation?

4 Q Terrorist stop?

5 A Yes.

6 Q And was that at all related to Osama bin
7 Laden or the events of 9/11?

8 A Without going into --

9 Q I don't need any of the details.

10 A Without going into specifics, there are
11 relationships between Al-gamma'a and al Qaeda, yes.

12 Q Were you aware of Mr. Youssef's role in the
13 Al-gamma'a investigations?

14 A No.

15 Q In or about that time, this is the time
16 when you were named Inspector-in-Charge, what did you
17 know about Bassem Youssef?

18 A At that particular time, not much, only
19 that he was the Legat in Saudi Arabia.

20 Q Were you aware that he was fluent in
21 Arabic?

22 A You know, I don't recall. I may have been

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1 only because of the trip that he took to New York with
2 the Saudi officials. He may have spoken Arabic, but I
3 don't specifically remember being made aware of that.
4 I probably knew, yes.

5 Q Do you know what cases he was working as
6 Legat in Saudi Arabia?

7 A Specific cases, no.

8 Q Do you know what his office and what he was
9 personally doing vis-a-vis furnishing information about
10 Osama bin Laden to the New York office while he was
11 Legat?

12 A Well, that's what a Legat does. They
13 facilitate the investigations and information that is
14 sent over to them.

15 Q Are you aware of what information and
16 materials Mr. Youssef had cultivated or obtained in any
17 way in Saudi Arabia that he was then forwarding to
18 persons in the New York office?

19 A As I stated earlier, I wasn't the case
20 agent, so was I aware of specific information? I would
21 say no.

22 Q When you became the Inspector-in-Charge,

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1 you say you brought in approximately 30 people to help
2 with your investigation?

3 A It was probably around that number, yes.

4 Q Did you, at that time, make a survey of
5 agents employed by the FBI who had experience in
6 counter-terrorism, Middle Eastern matters, who may have
7 been able to help your investigation?

8 MS. WELLS: Object to the form. You can
9 answer it.

10 THE WITNESS: Okay, what we did was because
11 of the experience with respect to New York in
12 conducting investigations against al Qaeda, we brought
13 in the individuals we thought necessary to conduct that
14 investigation.

15 BY MR. KOHN:

16 Q But you were aware that there were
17 extensive investigations of al Qaeda-related activities
18 in other field offices, correct?

19 A That's correct.

20 Q And you were aware that perhaps the Legat
21 office in Saudi Arabia may have had some experience in
22 that?

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1 A They would have been following up on
2 requests from various field offices which most of it,
3 if not all of it, should have been run through New York
4 because New York was the office of origin and I knew
5 that there were other investigations in other field
6 offices with requests going to various Legats for
7 information. Yes.

8 Q Well, for example, the Khobar Towers was
9 not done in New York, was it?

10 A That's correct.

11 Q So my question is of the 30 people you
12 brought in, they were all from New York?

13 A No, I don't recall. I think there were
14 some brought in from Washington Field. In fact, I know
15 there were some brought in from Washington Field and
16 actually worked on that investigation. In fact, we
17 were bringing in people, eventually; we were bringing
18 in people TDY from across the country.

19 Q Now did you ever have a meeting with
20 anybody in which you discussed -- I'm talking say
21 within the first six months of being the Inspector-in-
22 Charge, where you sat down and said okay, I'm now the

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1 Inspector-in-Charge. I would like to know who out
2 there in the FBI has the experience I'm looking for.
3 Did you ever do that type of meeting?

4 MS. WELLS: Object to the form.

5 BY MR. KOHN:

6 Q You can still answer that.

7 A I think the point I'm trying to make is
8 yes, we did bring the people in that were most familiar
9 with al Qaeda because we believed al Qaeda was
10 responsible for 9/11.

11 Q So what screening process did you utilize
12 to bring in the people that you could learn were most
13 experienced with al Qaeda?

14 A The process of having worked with those
15 people for four and a half years. For example, Dan
16 Coleman, the original case agent on Osama bin Laden;
17 Debbie Doran, who was the original case agent on the
18 East African bombing investigation. There were
19 numerous individuals that had been working East Africa
20 and other al Qaeda-related investigations that were
21 brought now to assist in this particular investigation.

22 Q Would it be your testimony that you were

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1 familiar with all of the persons in the FBI who had
2 experience in counter-terrorism related to the Middle
3 East that would have the expertise that you were
4 looking for, were you personally aware of all these
5 people?

6 MS. WELLS: Is it possible to go off the
7 record for a minute, for just a second?

8 MR. KOHN: Sure.

9 MS. WELLS: Thanks.

10 (Off the record.)

11 THE WITNESS: Steve, could you repeat the
12 question one more time?

13 BY MR. KOHN:

14 Q Sure. Could you testify at the time --
15 okay, when you -- the people you brought in, were they
16 all TDY'd?

17 A Yes, there were other people that
18 eventually put in for permanent positions, but the
19 people that I brought in to initially set up that
20 investigation were TDYers. Understand now, there was
21 an investigation on-going that was actually being
22 handled by the Inspection Division, I believe, at the

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1 time.

2 When I came in, I brought in additional
3 people from New York. There were some brought in from
4 Washington Field and I think from other offices too, to
5 participate in that investigation.

6 Q Okay, so -- and those folks were -- now did
7 you have to get approval from anybody for these TDYs?

8 A I believe the process that we had to
9 utilize was going through the Transfer Unit. The
10 Transfer Unit actually set up and went out and I
11 believe -- I'm not a thousand percent sure on this, but
12 I believe they went out and asked for volunteers to
13 come in TDY to assist with the investigation.

14 Q I'm talking to the people that you selected
15 and brought into TDY for this. I could understand
16 there's probably thousands of agents probably worked on
17 9/11 case.

18 A Let me clarify that. Did I go out and
19 handpick every person that participated in that TDY,
20 no. I had asked a specific few that I knew had been
21 involved in significant al Qaeda investigations to come
22 down. But did I handpick every person, no.

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1 Q So of the ones that you selected to TDY,
2 did you, once you made that selection, did you have to
3 get that approved say by who was your boss, who was
4 your supervisor over this investigation?

5 MS. WELLS: Object to the form. Are you
6 just asking the last part of the question?

7 BY MR. KOHN:

8 Q Yes. Was Dale Watson the person you
9 reported to on this TDY assignment?

10 A Initially, yes.

11 Q Okay, so when you decided to do other TDYs
12 that you wanted, would you go to Mr. Watson and have
13 him approve them?

14 A I don't know if he specifically approved
15 them. I think I did inform him that we wanted to bring
16 additional people in, but as I said, there were
17 numerous people being brought in TDY to Headquarters,
18 and that's why we utilized the Transfer Unit.

19 Q And did you have any discussions with Mr.
20 Watson about who should be TDY'd in positions of
21 significant responsibility for this investigation?

22 MS. WELLS: I'm going to object to the

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1 form. What time frame are we talking about?

2 BY MR. KOHN:

3 Q At the time you became the Inspector-in-
4 Charge, you testified that you brought in about 30
5 people, primarily from the New York office and some
6 from Washington Field Office, as I understand it. They
7 were all TDY'd.

8 My question is at the time you were doing
9 that, essentially staffing up your investigation that
10 you've now been Inspector-in-Charge of --

11 A Right.

12 Q Did you discuss your staffing needs with
13 Dale Watson?

14 A I had numerous discussions with Dale Watson
15 about staffing needs and Dale Watson did make some
16 recommendations as to individuals that could be brought
17 in for TDY positions. Are we talking, what, the first
18 six months?

19 Q Yes.

20 A Okay, yes. And Dale Watson did bring up
21 Bassem Youssef to me and getting him involved in the
22 Doc Ex situation that we had which was significant to

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1 the intelligence that we were trying to develop.

2 Q Now when did that happen? When did Dale
3 Watson discuss the Doc Ex with you?

4 A I'm trying to remember specific dates
5 because the way that Doc Ex initially came in to play
6 was in -- and I need to be a little careful here
7 because it's going into some operational information,
8 so I'm looking at the attorneys here.

9 It was in a briefing to the Director where
10 when I learned that the military was in Afghanistan, I
11 believe there was going to be significant intelligence
12 that could be derived from that arena to include
13 documents, to include trying to identify individuals
14 that we knew were affiliated with al Qaeda, were they
15 still alive, were they killed in the War on Terrorism?

16
17 We didn't want to be investigating
18 individuals that were no longer living for the next 20
19 years. So I commented to the Director that we should
20 prepare to have a team ready to deploy with the
21 military to be able to collect that intelligence and he
22 agreed.

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1 And then once that was set up, we needed to
2 set up a facility back in Washington to be able to
3 analyze the information and intelligence coming back.

4 And that's where Dale Watson mentioned Bassem with his
5 language ability and getting him involved in the Doc Ex
6 project.

7 Q Okay, so is that the first time that you
8 remember Mr. Youssef being brought up by Mr. Watson
9 regarding involvement in the 9/11 case you were now in
10 charge of?

11 A I believe so. I believe that was the
12 conversation we had where we were bringing people in
13 TDY because Doc Ex was not an approved unit and the
14 communication exploitation or the Communication
15 Analysis Section wasn't an approved section, so
16 everybody being brought in was being brought in TDY.
17 And it was Dale that first identified bringing Bassem
18 into that particular function.

19 Q And how did you react to Mr. Watson's
20 recommendation or suggestion?

21 A We brought him in TDY.

22 Q To do Doc Ex?

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1 A Did I what?

2 Q For Doc Ex?

3 A For Doc Ex, yes.

4 Q Now were you aware at the time that he was
5 a GS-15?

6 A I don't recall knowing what position or
7 what grade Bassem had. The Doc Ex situation was one of
8 numerous activities we had on-going.

9 Q But you were aware he was a Legat to Saudi
10 Arabia, correct?

11 A Yes.

12 Q So you knew a Legat would be a GS-15,
13 correct?

14 A I don't believe all Legat's are GS-15s.

15 Q But in any event, do you remember any
16 discussions of him being named the Unit Chief or the
17 potential Unit Chief of that Unit?

18 A Of Doc Ex?

19 Q Yes.

20 A Well, he was brought in, I believe as the
21 TDY Program Manager because there was no unit actually
22 formed at that particular time. We were just in the

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1 process of putting that unit together as well as many
2 other units and sections in the Counter-Terrorism
3 Division. We were going through a whole revamping of
4 the counter-terrorism program.

5 Q So were you essentially looking at people
6 and looking at the positions that were opening and then
7 matching them on a TDY bases?

8 A In that particular situation which I can
9 comment on, Dale identified that Bassem had the
10 language ability and would be useful in helping set up
11 the Doc Ex. I didn't disagree with him. As far as I
12 know, Bassem was brought in very shortly after that.

13 And then I recall another conversation
14 outside of Dale's office which I believe is in my
15 statement and I believe involved Dave Szady which he
16 raised the issue that we should make that transfer
17 permanent. And my understanding is that it was made
18 permanent.

19 Q That was for Doc Ex?

20 A That was to permanently assign him to the
21 Counter-Terrorism Division. There was no actual
22 formation, I don't believe even at that point of the

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1 Doc Ex as a unit. That was one unit that we were
2 proposing to become a permanent facility at FBI
3 headquarters among many other units and sections that
4 were being created.

5 Q At the time you had this discussion with
6 Mr. Szady, was it your understanding that that transfer
7 would be made permanent because he was going
8 essentially to the Doc Ex position or was it being made
9 permanent for some other position?

10 A Well, you couldn't make it permanent for
11 the Doc Ex because it wasn't in existence formally. We
12 were working it, but it wasn't an approved unit, so you
13 couldn't make it a permanent position at that
14 particular time.

15 Q So it would be your --

16 A If I'm explaining myself well enough --

17 Q No, no, that's fine. So your testimony is
18 he was TDY'd to Counter-Terrorism and approximately how
19 much time went by before then it became a permanent
20 transfer?

21 A I don't know even the approximate time. It
22 was months, but how many months, I don't recall.

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1 Q And prior to Watson recommending him for
2 the Doc Ex position, do you remember any discussions
3 regarding Mr. Youssef for any other job in any way
4 related to the 9/11 attack?

5 A I believe he was assigned at the time to
6 NCIS. But I'm not aware of what other jobs he was
7 putting in for or --

8 Q No, but my question is like in other words,
9 you didn't have a meeting with someone other than
10 Watson where Youssef's name came up?

11 A That meeting I'm commenting on was with
12 Dale Watson and Tim Caruso.

13 Q Okay. Do you remember any other meetings
14 with anyone before that meeting in which Youssef's name
15 came up for a position?

16 A I don't believe so, no.

17 Q Now did you have -- I understand that other
18 persons were TDY'd placed -- I'm trying to explain
19 this, but it's kind of hard. As you've testified, the
20 Doc Ex Unit didn't exist at the time of the TDY, but
21 you understood that that job needed to be performed,
22 correct? In other words, it was functional, as opposed

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1 to an actual position.

2 A Exactly, because what the Director wanted
3 to do was to get the approval of Congress. He wanted
4 to run by Congress the reorganization that we were
5 proposing. The positions didn't actually exist to fill
6 officially, however, there was a need for that function
7 to take place so people were brought in on temporary
8 duty to perform the function.

9 Q Exactly and as I understand it, when you
10 went with Mr. Watson or the Director, you essentially
11 had identified functions which there was a likelihood
12 would develop into positions and you then through TDY
13 filled these various functions. Is that how it
14 happened?

15 A That's correct.

16 Q And for example, Mr. Fedarcyck testified
17 last week that I think that you had asked him to come
18 in for a function also related to document
19 exploitation, but other things in that area, and that
20 eventually he became the Section Chief of that new
21 division?

22 A Right. I believe we called it at the time,

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1 the Communications Exploitation or Communications
2 Analysis Section.

3 Q And --

4 A But Mike was not the first individual that
5 was overseeing the Doc Ex in a Section Chief capacity.

6 Q I'm going to show you a document -- just of
7 the folks that you TDY'd for the 9/11 investigation,
8 the position you're talking about where you were made
9 Inspector-in-Charge, how many of those persons were
10 fluent in Arabic?

11 A I think we had several people coming in.
12 We had several people coming in, not only from the
13 Bureau but who were from the agency. I can recall only
14 one off the top of my head that I know I brought in TDY
15 to participate with some activities down at
16 Headquarters.

17 Q And who was that?

18 A Ali Soufan.

19 Q And what did he do?

20 A Ali Soufan was the case agent on the Cole
21 investigation.

22 Q And what did he do on the TDY?

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1 A He was involved in several activities. He
2 was involved in reviewing some material in Doc Ex. He
3 was involved in interviews. He was involved in a lot
4 of different functions.

5 Q Do you know how many years experience he
6 had with the Bureau?

7 A At that particular time?

8 Q Yes.

9 A He probably had about I'm guessing around
10 five years experience.

11 Q And just out of curiosity, did you ever
12 think of putting Mr. Youssef into the position or the
13 function you had given Ali Soufan?

14 A Ali Soufan was an agent. He wasn't
15 managing anybody. Bassem was actually in a higher
16 position managing employees of the Bureau. Ali was not
17 managing anybody. He was simply conducting
18 investigation.

19 Q I understand, but did you ever -- my
20 question is did you ever think of using any of Mr.
21 Youssef's skills to perform any of the functions that
22 Mr. Soufan was performing?

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1 MS. WELLS: I'm going to object to the
2 question. There's a whole lot of lack of foundation in
3 there.

4 BY MR. KOHN:

5 Q I'm just going to repeat it. In other
6 words, did the thought enter his mind that maybe should
7 Youssef being doing some of this versus Soufan? It's
8 just a simple question. There's no trick or anything.

9 A I think my only comment to that was that
10 Bassem was being utilized as a program manager, as an
11 acting type Unit Chief which is much higher than an
12 actual investigator. You wouldn't use your managers as
13 your front line investigators.

14 Q Okay. Do you know what functions Mr.
15 Youssef was perform in Doc Ex?

16 A Well, let me say this. I did not have
17 direct supervision over the specific functions of
18 Bassem Youssef. At the time, when it was first
19 created, when Bassem was brought in, I believe Tom
20 Kinnally was the Section Chief that was moved over to
21 oversee the forming of Doc Ex.

22 I remember having discussions with Tom

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1 saying listen, you've got take this off my plate
2 because at the time not only was I conducting the
3 oversight of the 9/11 investigation, but it also began
4 involvement of running down all the different threats
5 that were coming in to the Bureau at that particular
6 time.

7 So I asked Tom to take over the management
8 of the Doc Ex program and to work with whomever he
9 brought in to make sure it was getting staff and so on.

10 Q Do you know if the function that Mr.
11 Youssef was performing in Doc Ex, was functionally
12 equivalent to the work of a GS-15 or was functionally
13 equivalent to the work of say someone at a GS-12/13
14 level?

15 A As I can only restate again, I did not have
16 direct oversight of the day to day functions of Bassem
17 Youssef.

18 Q So you wouldn't know?

19 A I wouldn't know.

20 Q Okay, that's fine.

21 A I just want to add to that that the Doc Ex
22 project was extremely important and there was

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1 significant intelligence coming out of that function.
2 But as far as the managing of the day to day
3 operations, I had no involvement. Very little
4 involvement, I'll say that.

5 Q For the 9/11 investigation that you're now
6 Inspector-in-Charge of, did you take anyone who was in
7 a management position and ask them to perform work that
8 would say be more operational as I previously defined
9 it?

10 MS. WELLS: Can you define it again?

11 BY MR. KOHN:

12 Q In other words, were you actually doing the
13 work, the investigatory type work as opposed to
14 overseeing it?

15 A I don't recall. I don't recall ever doing
16 that, no. I mean the people that were actually
17 conducting the investigations were the investigators.
18 I don't recall -- I just don't recall doing that.

19 Q Now going back a little in the testimony,
20 as I understand it, after 9/11 the Director in
21 conjunction with you and others, had wanted to
22 reorganize Counter-Terrorism within the FBI, correct?

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1 A Correct.

2 Q And essentially functions were identified
3 which you then wanted to get formal approval and create
4 actual positions, correct?

5 A Correct.

6 Q And as I understand it, there were then
7 persons were then TDY'd to perform the relevant
8 functions that you had identified, correct?

9 A There were probably people performing TDY
10 positions already.

11 Q Okay, so some there were people already in.

12 A Others were brought in, yes, I believe so,
13 yes.

14 Q Okay. Now as I understand it, the position
15 that you were in, did that then become like an
16 Assistant Director position?

17 A What occurred is that in January of '02,
18 end of January or early February, I was promoted, I
19 think it was early February, to the position of
20 Assistant Director for the Counter-Terrorism Division.

21 Q Did you go through an official promotional
22 board for that?

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1 A Yes.

2 Q And did other people apply for that
3 position?

4 A You know, I don't know who else put into
5 that position. I have no knowledge of that.

6 Q Do you know if it was posted and you filled
7 out an application like positions are filled?

8 A I believe at that particular level all you
9 have to do is let the -- I'm trying to remember the
10 exact terminology here, the Career Board, know of your
11 interest in a particular position. You didn't have to
12 fill out any paperwork.

13 Q Were you asked by somebody to become the
14 Assistant Director for Counter-Terrorism or did you see
15 it posted somewhere and apply for it?

16 A I knew the position was open and I called
17 the Career Board and I believe this is what happened.
18 I'm trying to remember. I believe I called the Career
19 Board and told them that I was interested in that
20 position.

21 Q Did you have any role in creating that
22 position?

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1 A No, it was already in existence. Dale
2 Watson was the Assistant Director and then he was
3 promoted to the Executive Assistant Director, leaving
4 the Assistant Director spot vacant.

5 Q And so did anyone ask you before you
6 formally applied, whether you wanted that position or
7 did you learn of it from like a posting that other
8 persons could have access to?

9 A I don't recall how I first learned that it
10 was open. I mean obviously with Dale being promoted I
11 knew the position was going to be open. I don't recall
12 how I first learned of it. I'm trying to remember if
13 there were individuals that asked me if I was
14 interested. I mean you always -- there's always talk
15 about positions when they first come open.

16 I was interested, in at that particular
17 time, one of two positions, either the Assistant
18 Director in charge of Counter-Terrorism in Washington
19 or filling the permanent spot back here in New York as
20 Special Agent in Charge for the National Security
21 Division.

22 Q And when did you become the Assistant

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1 Director of Counter-Terrorism?

2 A I believe I was named in February or March
3 of '02.

4 Q Now who then become the Inspector-in-Charge
5 for the 9/11 investigation?

6 A I'm thinking. I'm not sure. I think what
7 we did was we didn't fill the Inspector-in-Charge
8 position. We didn't -- I don't think we filled that
9 particular position as an official title of Inspector-
10 in-Charge.

11 What we did was we took the 9/11
12 investigation and brought it back into the IT1 Section
13 which was the section responsible for investigating
14 Sunni extremism and al Qaeda in particular. So it was
15 brought back in under the Section Chief for him to
16 oversee that also. I believe that's the way we did it.

17 Q So who was the Section Chief of IT1?

18 A At that particular time, I think -- I'm
19 trying to remember if Mike Mullins was still there. I
20 think he was gone. And I believe Andy Arena was named
21 as Section Chief.

22 Q And who was Andy Arena?

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1 A Andy Arena is an agent who is an ASAC in
2 the Detroit Office.

3 Q Do you know when he came from Detroit into
4 D.C.?

5 A He was brought in temporary duty to work
6 the 9/11 investigation.

7 Q Do you know who had asked him to come in?

8 A I did.

9 Q How did you know him?

10 A I knew him from working with him before in
11 the Organized Crime Section.

12 Q And do you know what his -- how do you
13 spell his last name?

14 A A-R-E-N-A.

15 Q And prior to being, getting the TDY, what
16 was his background and experience in counter-terrorism,
17 do you know?

18 A He was the Assistant Special Agent in
19 Charge of the Counter-Terrorism program in Detroit.

20 Q Do you know how long he held that for?

21 A I'm not sure of the exact time frame, but
22 it was one of the more substantial programs in the

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1 Bureau, very much involved with Hizbollah-type
2 investigations.

3 Q And when did you know him from Organized
4 Crime?

5 A He was a supervisor in the Organized Crime
6 Section at FBI Headquarters.

7 Q How long had you worked with him for?

8 A I was there for I'm thinking approximately
9 a year.

10 Q When was that? When did you work with him?

11 A Back in 1996 into 1997.

12 Q Do you know if he speaks Arabic?

13 A I do not believe he speaks Arabic.

14 Q And at the time that you asked him, you had
15 him TDY'd, was he TDY'd to a functional -- strike that.

16 Tell me precisely your understanding of his
17 background in counter-terrorism at the time you made
18 the decision to TDY him. In other words, I'm not
19 asking what you may have learned subsequently through a
20 Career Board or a notice or a conversation. To the
21 best of your recollection, what did you know about his
22 background in counter-terrorism in or about the time

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1 you TDY'd him.

2 A As I said, he was the Assistant Special
3 Agent in Charge of a major program in a large office
4 that involved counter-terrorism investigations. Now
5 specifically what cases, there had been cases that New
6 York and Detroit had been working that we were familiar
7 on. Now that's my knowledge of his counter-terrorism
8 experience in Detroit.

9 What I was looking for at the time we were
10 conducting an investigation, I needed people that I
11 knew to manage people and good lead in investigation.
12 I knew that Andy had that capability.

13 Q And how did you know that?

14 A Because I saw him perform as a supervisor
15 in the Organized Crimes Section for over a year and I
16 know he went out to Cleveland as a Senior Resident
17 Agent in Charge. And I know that he went up to Detroit
18 after that as the Assistant Special Agent in Charge.

19 Q Do you know what he did in Cleveland?

20 A I know that he had one major public
21 corruption investigation in Cleveland which ended up
22 with a successful prosecution, but all the

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1 investigations, no.

2 Q And did you discuss that TDY with anyone
3 before you did it?

4 A I usually discussed the TDYs with
5 individuals with Dale, usually, with people that I was
6 looking to bring in, yes.

7 Q Now as I understand --

8 A I don't recall discussing any specifics or
9 discussing any one person. I had numerous
10 conversations with Dale and Tim about bringing people
11 in TDY.

12 Q Okay, so -- do you know as an ASAC for
13 where he was, do you know at the time you TDY'd him,
14 what his level was, SES, GS-15, 14, whatever? Do you
15 know what it was?

16 A Well, as an ASAC, he would have been a
17 GS-15.

18 Q And do you know when, approximately when
19 that TDY was then -- he then became the Section Chief
20 for ITOS?

21 A I believe it was some time in the summer of
22 2002, June, July, somewhere around that time frame.

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1 I'm not sure, specifically, but I think it was in that
2 time frame.

3 Q Do you know if in between the time you
4 TDY'd him and the time he applied for that position
5 whether he then had become SES?

6 Or whether by taking that position, he
7 became SES?

8 A By taking the position, he became SES.

9 Q What about ITOS II, I understand a whole
10 new ITOS was developed.

11 A That's correct. I told the Director that I
12 thought we needed two international terrorism sections
13 because I didn't want all of our resources being put
14 into al Qaeda and not pay attention to groups like
15 Hizbollah and the Shiite side of radical extremism. So
16 I told the Director that I wanted to create -- and Dale
17 -- that I wanted to create a second ITOS section to
18 handle Shiite extremism and the rest of the world, all
19 other types of terrorism.

20 Q And was someone TDY'd for the functional
21 equivalent of the Section Chief of that?

22 A I don't recall if it was a TDY. I don't

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1 know how that -- it was Chuck Frahm eventually obtained
2 that position. Chuck was an individual that was
3 actually over at the CIA. He worked as a Deputy, to
4 me, here in New York, he was a supervisor in New York
5 and he was a coordinating supervisor in New York. Then
6 he went to Langley to work with the Agency for a period
7 of time and then came back in as the Section Chief for
8 ITOS II.

9 Q Was he TDY'd do you know, before that?

10 A I don't recall. I -- he may have been, I
11 just don't remember.

12 Q -- TESTIMONY REMOVED, SUBJECT TO PROTECTIVE ORDER
13 --
14
15

16

17 Do you know if he would have -- if that was -- in other
18 words, was that section functionally operational before
19 it became an official section, or was this something
20 that became an official section and then became
21 functional?

22 A There were -- that particular section was -
23 - there was only one section at the time at

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1 Headquarters and that was International Terrorism
2 Section. That contained all the components that I told
3 you about. Now what we did was when we created the
4 separate section for that we pulled out the Shiite
5 side, groups like the IRA, terrorism throughout the
6 rest of the world and put that into a separate section
7 and then built that section.

8 Q Maybe this will help trigger your memory.
9 Wasn't he made an Acting -- wasn't he the Acting DAD in
10 the Counter-Terrorism Division at the time he was then
11 appointed to Section Chief?

12 A He may have been. He may have been. I
13 don't -

14 -- TESTIMONY REMOVED, SUBJECT TO PROTECTIVE ORDER --
15
16

17 A He may have been. Yeah, I think I --

18 Q He says "before my appointment as Section
19 Chief, I was acting DAD/CTD and assisted in building
20 the foundation for the current CT Division structure."

21 A I believe that's correct.

22 Q So did he work with you in identifying
23 various functional needs?

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1 A Yes.

2 Q And one of those functional needs was the
3 creation of a second ITOS?

4 A Well, I believe that myself. I'm the one
5 that wanted that created.

6 Q Okay. Do you know if you would have
7 discussed it with Mr. Frahm as part of what he's
8 identifying as his working with the creation of this
9 new structure?

10 A Yes, I would have discussed that with him.

11 Q As an Acting DAD CTD in the Counter-
12 Terrorism, would that have made him go from a 15 into
13 the SES at all?

14 A I don't understand the question.

15 Q Okay, do you know how Mr. Frahm became an
16 Acting DAD in the Counter-Terrorism Division?

17 A I believe it's because I asked him to come
18 in and fill that position. I needed some assistance.
19 I knew Chuck has a history in counter-terrorism, so he
20 came in and assisted with many functions of the
21 Counter-Terrorism Division.

22 He did not -- he was not named the actual

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1 Deputy Assistant Director. That was John Pistole.
2 Chuck was there in an acting capacity to help out.

3 Q And becoming acting is that similar to a
4 TDY assignment?

5 A Not necessarily because I don't think he
6 was getting per diem or anything because he already
7 lived in the Washington area because he was working
8 over at Langley.

9 TDY usually involves per diem and other
10 costs associated.

11 Q When you named him acting, you could do
12 that like without going through a Career Board or a
13 formal promotional process, correct?

14 A That's correct.

15 Q And did you discuss naming him the Acting
16 DAD with anybody?

17 A I'm sure I did. I'm sure I discussed that
18 with Dale and possibly Tim.

19 Q And do you remember now the role that Mr.
20 Frahm played in creating the functional
21 responsibilities for ITOS II?

22 A Are you talking about program management

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1 roles?

2 Q Yes, when you're trying to figure out, you
3 know, what the qualifications for the new Section Chief
4 should be, what the new Unit Chiefs should be
5 responsible for, what should go to ITOS II versus ITOS
6 I, you know, when you're discussing the actual
7 functions, duties and responsibilities of who will be
8 in that, do you know if Mr. Frahm participated in that
9 process?

10 A When he went over as the Section Chief,
11 yes, he would have participated in that process.

12 Q I'm talking about in the creation of the
13 Section Chief position. I'll just give you, what I'm
14 getting to is when I deposed Mr. Fedarcyck who became
15 Section Chief in the Counter-Terrorism Analysis
16 Section, he testified that he held that as a functional
17 position TDY, that he essentially wrote up or assisted,
18 excuse me, I don't want to mischaracterize testimony.
19 He had some input in writing up the position
20 description for the Section Chief and then he applied
21 for that Section Chief position.

22 My question is did a similar process happen

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1 with Mr. Frahm in ITOS II?

2 A It's possible. I don't recall the
3 specifics on it. We had various meetings as to what
4 functions ITOS II should have over ITOS I. It's
5 possible that that occurred there also that he wrote
6 that up, yes.

7 Q And there also, as I understand it, was
8 created a -- this is under Operations. Who became
9 under the Counter-Terrorism Division, as I understand
10 it, it has three major groups, Operations, Operational
11 Support and Counter-Terrorism Analysis. Correct?

12 A I believe that's still the structure, yes.

13 Q Okay. And at the time when you created,
14 did that -- was that the structure you created or was
15 that in existence before you got there?

16 A That was the structure that we created, and
17 when I say "we" -- Dale Watson was involved, Tim Caruso
18 was involved, you know, the Director was involved in
19 some of the structure. That was not the structure
20 prior.

21 Q Okay. Now, was there an Assistant Director
22 Counter-Terrorism Division before you took that

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1 position?

2 A Yes.

3 Q That was Mr. Watson?

4 A Right.

5 Q And then, what, in terms of the -- I'm
6 looking now at the Deputy Assistant Director positions.

7 A Right.

8 MS. WELLS: Steve, are you looking under
9 the, the --

10 BY MR. KOHN:

11 Q Oh yeah. Why don't you look at -- it might
12 be helpful -- if you can pull up page -- it, it's from
13 the -- it's page 21 of the FBI's Counter-Terrorism
14 Program Report from 2001.

15 MS. WELLS: Okay. Hold on. Could we go
16 off the record while we --

17 MR. KOHN: Why don't we take a 10-minute
18 break?

19 MS. WELLS: Okay.

20 MR. KOHN: Some people may want that, if
21 that's acceptable, and what I'll do is -- what I'm
22 looking at is -- we should have faxed this down to you,

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1 a couple pages, from that Report to the 9/11
2 Commission. And this would be page 21 is what I'm
3 looking at.

4 MS. WELLS: Okay.

5 MR. KOHN: Let's go off the record for ten
6 minutes. I will call you back.

7 MS. WELLS: Okay.

8 MR. KOHN: Thanks.

9 MS. WELLS: Bye.

10 (Off the record.)

11 BY MR. KOHN:

12 Q We're back on the record.

13 A Yes.

14 Q And you're still under oath -- you
15 understand that?

16 A I understand.

17 Q I believe your testimony was that before
18 you became the Assistant Director of the Counter-
19 Terrorism Division, Mr. Watson held that position?

20 A Correct.

21 Q Do you know what sections within Counter-
22 Terrorism existed before 9/11.

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1 A I believe it was the International
2 Terrorism Section and Domestic Terrorism Section.

3 Q So there were just two sections?

4 A I don't recall if there were -- I don't
5 recall any other ones, no.

6 Q Okay. And, when you get the flow chart it
7 might be helpful -- but, did, did you create draft flow
8 charts of what the Counter-Terrorism Division would
9 eventually look like, you know, before Congressional
10 authorization, you know, when it was in the planning
11 stage?

12 A There were numerous versions and then, yes,
13 there was a final version what the culture was to look
14 like.

15 Q And, did there ever come a time -- as I've
16 seen this with other companies in which in draft flow
17 charts, people's names would be pencilled-in or
18 written-in as you're trying to figure out who would
19 hold what position?

20 A Well then, I know the names that were put
21 in and the people that held the position or the people
22 that were possibly acting in the position -- the names

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1 might have been there, I don't recall specifically,

2 Q Okay. If I wanted to obtain copies of the
3 draft flow charts of the Counter-Terrorism Division,
4 including ones that may have had persons' names either
5 pencilled-in, written-in, typed-in -- you know with a
6 computer in some way -- do you know who may have
7 possession of that documentation?

8 A I don't know who would have specific -- I
9 guess you would go through General Counsel with the
10 Bureau.

11 Q Okay. Did you yourself keep any type of
12 file when you left the Counter-Terrorism Division
13 related to personnel, hiring or the TDYs, that type of
14 thing?

15 A I don't have any with me. I don't know if
16 there documents that were archived there that might
17 have some of that in there. I don't believe so, but
18 there may be documents that are archived down there.

19 Q Do you have any file related to Mr.
20 Youssef?

21 A No.

22 Q What did you think about Mr. Youssef filing

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1 a complaint in Federal Court alleging discrimination?

2 A Well, in all honesty, I believe he got the
3 position he was in for, so I didn't -- I was surprised.

4 Q Did you see The New York Times article
5 about that lawsuit?

6 A No, I didn't.

7 Q Did anyone talk to you about that?

8 A I don't recall discussing it with anyone,
9 no.

10 Q Did you ever see anything in the news media
11 about Mr. Youssef?

12 A No.

13 Q Did you discuss his lawsuit with anybody
14 other than that civil rights, the EEO investigator, who
15 talked with you?

16 A No. I don't believe I discussed it with
17 anyone.

18 Q When you say you were surprised, did you
19 have any other reactions to learning he filed that
20 suit?

21 A No.

22 Q Did you think it had merit to it?

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1 MS. WELLS: Object to the form.

2 THE WITNESS: Do I think the lawsuit had
3 merit?

4 BY MR. KOHN:

5 Q Yeah.

6 A Do you mean, do I believe he's been
7 discriminated against? No, I do not.

8 Q And what's your, why do you think he's not
9 been discriminated against? What's your knowledge of
10 that?

11 A My knowledge as to why -- well, my
12 knowledge is that in a discrimination suit, you have to
13 willfully and knowingly discriminate against somebody
14 because of their religion, their race, their sex, and
15 not afford them the opportunity based upon those
16 grounds.

17 Q And, how much did you actually know about
18 whether anyone had done that to Mr. Youssef?

19 A As I told you, I have no direct supervision
20 of Mr. Youssef. I am not aware of any of that taking
21 place.

22 Q Would it be, in all your years working for

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1 the FBI, have you ever witnessed what you thought was
2 discrimination against an employee on the basis of
3 their race?

4 A Have I ever personally witnessed it?

5 Q Yes.

6 A No.

7 Q And what about on the basis of -- have you
8 ever personally witnessed in your years at the FBI any
9 discrimination based on anyone's national origin?

10 A No.

11 Q And in your years at the FBI, did you ever
12 personally witness any discrimination against any
13 person based upon their sex?

14 A No.

15 Q Do you know what religion Mr. Youssef is?

16 A No, I do not.

17 Q Did you ever ask anybody?

18 A No, I did not.

19 Q If you had to guess his religion, what
20 would it be?

21 MS. WELLS: I'm going to object to the
22 form, it calls for speculation.

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1 MR. KOHN: I understand. That's what I'm
2 looking for.

3 BY MR. KOHN:

4 Q What's your speculation of what his
5 religion is?

6 A My speculation?

7 Q Yeah.

8 A My speculation would be that he would be
9 Muslim.

10 Q And did you ever hear of an incident in
11 Riyadh where an agent wanted to wear, you know, a
12 traditional Arab type of headdress and they were told
13 they couldn't do that, or that maybe they did it
14 anyway?

15 A I remember hearing something similar to
16 that.

17 Q Did -- in any event -- and I am looking for
18 the hearsay or, you know, talk in the hallway, whatever
19 -- did anyone ever tell you that that was Mr. Youssef?

20 A No.

21 Q Did you ever think it was Mr. Youssef?

22 A No.

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1 Q And did you ever hear about somebody not
2 wanting to wear a wire in a mosque?

3 A Yes.

4 Q And did anyone ever talk to you or ask you
5 whether that was Mr. Youssef?

6 A No.

7 Q Did you ever think it was him?

8 A No.

9 Q Do you know how many Muslims FBI agents
10 there are?

11 A No.

12 Q Do you know what country Mr. Youssef is
13 from?

14 A I believe Egypt.

15 Q Would his nation of origin have any
16 relevancy to potential assignments in Counter-
17 Terrorism?

18 A Not in my mind.

19 Q Would the fact -- assume for the sake of
20 argument, I think the record reflected that he's
21 Egyptian.

22 A Let me, let me rephrase that --

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1 Q Yeah.

2 A Not in my mind. I mean if we were, if
3 someone -- and I'm not saying Bassem, but if someone
4 was from a particular country, and we were looking at
5 getting them involved in counter-intelligence or with
6 information of a sensitive nature and sending them back
7 to that country, I don't know if I would recommend
8 that. But I would not have a problem with them being
9 involved in a program. I just don't know if I would
10 send them back to that particular country in any type
11 of a official position.

12 Q Did you -- in order to say, did you ever
13 try to find out what country Mr. Youssef was from in
14 order to say -- you know, for any reason, including but
15 not limited to, to make sure -- say that he wasn't
16 required to go back to that country on some type of
17 mission.

18 A No, I never did. I think I learned through
19 the EEO process that he was Egyptian when I was giving
20 my signed, sworn statement, I believe.

21 Q Okay. And is there any benefit to having
22 and agent involved in counter-terrorism with an ethnic

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1 heritage from a Middle-Eastern county?

2 MS. WELLS: I'm going to object to the
3 form.

4 BY MR. KOHN:

5 Q All right, let me rephrase that. In terms
6 of Middle-Eastern counter-terrorism, might there be any
7 benefit to having an agent from a Middle-Eastern nation
8 involved in counter-terrorism related to the Mid-East?

9 MS. WELLS: I'm going to object to the form
10 again. What do you mean by "involved"?

11 MR. KOHN: Working as an agent. We'll
12 start at that level.

13 MS. WELLS: As an investigator, as a what
14 kind of agent? I mean, there's a lot of variables here
15 --

16 MR. KOHN: Working in the Counter-Terrorism
17 Division, performing the type of work done in ITOS I or
18 II?

19 MS. WELLS: I'm going to object to the form
20 again, but Mr. D'Amuro can answer.

21 THE WITNESS: I'm not sure exactly what
22 function you're getting at, but is it beneficial at

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1 times to having somebody that understands the culture,
2 the background, involved in an investigation and
3 providing some input? Yes.

4 BY MR. KOHN:

5 Q Why?

6 A There can be a benefit from that.

7 Q Why? Based upon your knowledge, why might
8 there be a benefit to that?

9 A Well, I'll give you an example. One
10 investigator that I've worked very closely with, when I
11 was in a managerial position, was Ali Soufan -- we
12 talked about him earlier. Ali is very good at
13 conducting interviews and working to try to obtain
14 information from individuals that he's conducting those
15 interviews with. That's not to say that we haven't had
16 other investigators that have been involved in
17 obtaining signed statements that do not have a Middle-
18 Eastern background that have obtained confessions and
19 so on. But at times it has benefitted Ali recently in
20 going into some areas where the Bureau was not
21 conducting investigations and he was able to obtain
22 some intelligence.

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1 Q Do you know of Mr. Youssef's background was
2 in performing that type of function -- interrogation
3 and getting statements from persons of a Middle-Eastern
4 background?

5 A Well, no. I mean that's just one example
6 of an area that's beneficial.

7 Q I'm just wondering if you knew what Mr.
8 Youssef's background and experience was in that
9 capacity?

10 A No.

11 Q Okay. Do you have any other thought about
12 why it might be useful?

13 A Yes. You need the language ability to be
14 able to go through documents and determine what those
15 documents are stating, you know. And some
16 understanding of different, I want to say slangs, but
17 al Qaeda would use different code words and terms in
18 some of their communications, different names and that
19 is a benefit also.

20 Q Okay, so knowledge of Arabic language,
21 interrogation. Anything else you think may be
22 beneficial for someone with a Middle-Eastern heritage

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1 working on the ITOS types of functions in Middle-
2 Eastern work, Middle-Eastern counter-terrorism?

3 A Those are the functions that I think are
4 beneficial at times in conducting investigations. When
5 you look at, you know, you're talking about ITOS I and
6 II. That was more of some program oversight. That
7 wasn't actually going out and conducting the actual
8 investigations.

9 Q What about the level of knowledge you would
10 have as a Middle-Easterner from an Arab nation or
11 Middle-Eastern nation that is relevant to the work of
12 ITOS I or II other than that level? Do you think in
13 terms of being a manager of a counter-terrorism
14 program? Knowledge of that type of -- of those
15 countries, that you would get from having come from
16 there might be beneficial?

17 A I mean, it could be a benefit. When you
18 look for managers, you're looking for people that can
19 lead people, manage people, knows how to conduct an
20 investigation, knows how to collect certain
21 intelligence or information, you know. So could that
22 be a potential benefit? Yeah, I guess it could.

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1 Q Have you ever thought about that, about
2 whether that type of criteria, maybe not coming from
3 there but in-depth knowledge of Middle-Eastern heritage
4 and culture might be a criteria or something to look at
5 vis-a-vis promoting someone in a managerial position in
6 Counter-Terrorism?

7 A Well, I believe it has been looked at in
8 certain situations, and I believe that it was looked at
9 in this situation, where Bassem was brought over to the
10 Doc Ex.

11 Q Well, my --

12 A -- and was used in this particular
13 situation. I had a conversation with Dale and Tim in
14 which they commented that, because of his language
15 ability and his understanding, he would be useful in
16 setting up the Document Exploitation, so that's why we
17 did that.

18 Q What about any -- I'm talking now -- what,
19 did there come a time in terms of the career boards and
20 manager and hiring people in Counter-Terrorism that one
21 of the criterias became knowledge of either Arabic
22 languages or Middle-Eastern culture and heritage?

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1 MS. WELLS: I'm going to object to the
2 form.

3 BY MR. KOHN:

4 Q Did that ever become a criteria that you
5 would look at in judging the qualification of a
6 candidate?

7 A For a promotion, or for employment?

8 Q For promotion into a managerial position in
9 Counter-Terrorism.

10 A I'm not aware of that ever being a criteria
11 for promotion.

12 Q Based upon your knowledge of Counter-
13 Terrorism, do you believe that for persons who would be
14 working in a managerial capacity that would have
15 involvement in the Counter-Terrorism Division on
16 matters related to Middle-Eastern terrorism, that that
17 would be something that should be considered in the
18 promotional process?

19 MS. WELLS: I object to the form of the
20 question. It calls for speculation. You can answer
21 it.

22 THE WITNESS: Yeah. I'm not sure what

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1 you're, you're trying to --

2 BY MR. KOHN:

3 Q Okay. Are you aware -- are there -- when
4 someone is applying for a position, say at the Unit
5 Chief or higher level, do the career boards set forth
6 criteria, you know, objective things they're looking
7 at, to rate candidates?

8 A In a posting, yes, they would set forth
9 general and possibly specific criteria that they're
10 looking for individuals that are filling certain
11 positions.

12 Q And, in fact, that posting where they set
13 forth those criteria, that would be for -- that would
14 happen in a Section Chief position, correct?

15 A Yes.

16 Q And a Unit Chief position?

17 A Yes.

18 Q How about a Deputy Assistant Director
19 position?

20 A I'm trying to recall the specifics. When
21 you get into the SES level, it's different that the GS
22 levels in that you don't submit paperwork, you simply

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1 notify the career board of your desire to be considered
2 for a certain position. So, what --

3 Q My question is, would there be mandatory
4 qualifications for a position such as a Deputy
5 Assistant Director, Operations, Counter-Terrorism
6 Division?

7 A I don't know if there would be mandatory. I
8 think there would be skills and qualifications that
9 would be identified and, in my understanding is that
10 based upon the candidates that apply you might do a
11 matrix or look at the qualifications of the individuals
12 that applied pursuant to the qualifications that you
13 identified that you want in a person filling that
14 position.

15 Q Okay. So now my question is, you know, be
16 it a mandatory qualification or one that you would just
17 look at, I'm now talking about published qualifications
18 that would be on a position description or a position
19 announcement that people could look at to understand
20 the qualifications that could help you get that job.
21 Do you know, okay, are we on the same page?

22 A I think so.

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1 Q Okay. And I understand that in the FBI,
2 you don't have -- you, it's not mandatory that -- say
3 they list five qualifications, you don't have to be
4 rated number one in all five. You could be really high
5 in a couple and get the job, even if you're low in some
6 of the others. Isn't that correct?

7 MS. WELLS: Object to the form of the
8 question.

9 BY MR. KOHN:

10 Q Yeah. I can rephrase it if you didn't
11 understand it.

12 MS. WELLS: I mean, you're asking him to
13 speculate, and you mean, you have laid no -- with
14 respect to his familiarity with the actual hiring
15 process.

16 MR. KOHN: Well, I understand. If he can
17 answer the question; if not, I'll rephrase it.

18 BY MR. KOHN:

19 Q Did you understand the question?

20 A No.

21 Q My question is have you ever sat on a
22 career board?

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1 A Yes.

2 MS. WELLS: That was not your original
3 question.

4 MR. KOHN: I know, I'm just laying a little
5 foundation there.

6 BY MR. KOHN:

7 Q And were you involved in hiring decisions
8 when you were the Assistant Director for Counter-
9 Terrorism?

10 A In hiring qualifications of new people
11 coming aboard?

12 Q No. Of promotional -- excuse me --
13 promotional -- of people getting into positions of the
14 GS-15 or above level in the Counter-Terrorism Division.
15 Were you involved in any way in that process?

16 A Yes.

17 Q Okay. Based upon your knowledge and
18 experience, when you're looking at say the posted
19 qualifications, isn't it true that someone could be
20 rated low in one of the areas, high in another area,
21 and still get the job?

22 MS. WELLS: Object to the form. It calls

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1 for speculation. You can answer it.

2 THE WITNESS: Yeah. I, you know, I'm
3 trying to think of what you're saying --

4 BY MR. KOHN:

5 Q Okay.

6 A I guess you could, you could be rated an
7 "A" in four of five categories and an "B" in one and
8 somebody being rated, you know, so you're lower in one
9 category than another candidate, that's possible.

10 Q Yeah. Now, you mentioned matrixes -- how
11 did these matrix -- matrixes work in hiring, in
12 promotional decisions at the GS level or above -- if
13 you could just explain that.

14 MS. WELLS: Object to the form of the
15 question. Which GS level are you talking about?

16 MR. KOHN: GS-15 or above.

17 MS. WELLS: Also, just the fact that you're
18 asking about, sort of, the theory behind these matrices
19 -- which I'm not sure this witness is competent to
20 answer.

21 MR. KOHN: Well, I understand if he's not
22 competent, that's just fine, but he used that word in

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1 his testimony -- what, he can just describe to me what
2 he meant by these matrices.

3 THE WITNESS: Well, I think what I was
4 talking about was, based upon the qualifications, you
5 look at the candidates that have applied based upon the
6 written qualifications that you put in your
7 advertisement. And then, those individuals are rated
8 based upon those qualifications.

9 BY MR. KOHN:

10 Q Exactly, and then you -- and then, would
11 it, would it be typical to count up how people did and
12 then see who got the highest score?

13 A I'm not quite sure if all the different
14 qualifications weigh as heavy. I mean there's a lot of
15 different factors that can come into that.

16 Q Exactly, okay, good, so, within the matrix
17 some may be weighted more heavily than others?

18 A It's possible, yeah.

19 Q Okay. Now, my question now is when you're
20 looking at qualifications for persons working in the
21 FBI Counter-Terrorism Division, I'm looking for your
22 opinion here, who would be working on matters related

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1 to Middle-Eastern terrorism, do you think that one of
2 the qualifications, regardless of how heavily weighted
3 it is, should be familiarity with Middle-Eastern of
4 Central Asian culture and language?

5 MS. WELLS: Object to the form, but the
6 witness can answer.

7 THE WITNESS: I'm not sure it's an absolute
8 necessity. I'm not sure it's a qualification that I
9 would necessarily put into a posting. Would it be a
10 benefit? At times it might be. It depends on what
11 you're looking for in a manager.

12 BY MR. KOHN:

13 Q Okay.

14 A So, could it be a potential benefit?
15 Possibly, yes.

16 Q Which units, well let's go see -- let's
17 talk about ITOS Section I. Would it be a benefit in
18 ITOS Section I?

19 MS. WELLS: Object to the form.

20 THE WITNESS: I mean, you're asking me to
21 speculate. I don't know if it would be. Possibly.
22 I've already said possibly, it could be.

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1 BY MR. KOHN:

2 Q Okay. What about ITOS Section II?

3 A Possibly, it could be.

4 Q Okay. And, is there one Senior Executive
5 Service employee in the FBI who's fluent in Arabic?

6 MS. WELLS: Object to the form of the
7 question --

8 BY MR. KOHN:

9 Q That you know of?

10 A Is there, that I know of?

11 Q Yeah.

12 A There's one that might be, but I'm not
13 sure.

14 Q And who's that?

15 A Zahm. I don't know what nationality Zahm
16 is. I don't know if he speaks any foreign languages.
17 I mean, I don't know.

18 Q Okay. And, next question, do you think
19 there could be a benefit to having someone at the
20 Senior Executive Service level in the Counter-Terrorism
21 Division of the FBI fluent in at least the level four
22 in Arabic?

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1 A No, I don't.

2 MS. WELLS: Object to the form --

3 THE WITNESS: No, I don't think it's
4 necessary, no.

5 BY MR. KOHN:

6 Q I did not ask if it's necessary.

7 A You asked me my opinion, and my opinion is
8 no, I don't think it's, I don't think that it's a major
9 qualification for an executive manager in the Federal
10 Bureau of Investigation. That's my opinion.

11 Q Do you think it would be helpful to an SES
12 employee in the Counter-Terrorism Division, to be
13 fluent in Arabic?

14 MS. WELLS: Object to the form. It's been
15 asked and answered.

16 THE WITNESS: No, I think it's more
17 important that if you had somebody fluent, I would try
18 to put that person in a Legat position. Unfortunately,
19 we don't have that luxury.

20 BY MR. KOHN:

21 Q In terms of extensive, I'll say the word,
22 extensive familiarity with Middle Eastern culture, do

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1 you believe that that is an important, could be an
2 important attribute to someone at the Senior Executive
3 Service level in the FBI's Counter-Terrorism Division

4 MS. WELLS: Object to the form. It calls
5 for speculation and also how are you defining
6 "extensive knowledge of Middle Eastern culture"?

7 MR. KOHN: Well, I'll define it in the
8 following way. Well, I think it's a straight up. I
9 think that's an understandable question.

10 MS. WELLS: I'll object to the form, but
11 the witness can answer.

12 MR. KOHN: Sure.

13 THE WITNESS: You're asking me if I think
14 it's --

15 BY MR. KOHN:

16 Q Would be a benefit, a significant benefit
17 for a person in the SES positions in the Counter-
18 Terrorism Division of the FBI to have a significant
19 familiarity or background in Middle Eastern culture.

20 MS. WELLS: Object to the form. You can
21 answer.

22 THE WITNESS: I'm not sure that would be --

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1 is it a benefit. At times it could be, but what do you
2 do with that person when they're going and working in
3 another country where they don't speak that language?
4 I don't understand --

5 BY MR. KOHN:

6 Q I'm not talking language now. You don't
7 have to be fluent in the language.

8 A Culture.

9 Q I'm talking about knowledge of the culture.
10 Is that something you would want in a Senior Executive
11 Service employee in the Counter-Terrorism Division of
12 the FBI?

13 A Okay. I think the best way for me to state
14 this is to say to say that I know of no one person that
15 has an understanding of all world cultures to be able
16 to be put into a senior management position in the FBI.

17 You're asking just because someone has familiarity in
18 one specific area, is that going to cover that person
19 from being a good manager in all areas that they cover?

20 Executive positions in the FBI cover many different
21 areas, not just one specific area.

22 Q No, I understand that and I understand

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1 also, I think it was your earlier testimony that often
2 in terms of qualifications, there's often a number,
3 there's not just one qualification, they sometimes have
4 five, six, four, five, six, seven different criteria,
5 correct?

6 A Correct.

7 Q And my question then, so I'm not asking it
8 as narrow as I think you're defining it. I'm talking
9 about the Counter-Terrorism Division of the FBI, not
10 the other divisions, okay? And I understand that you
11 were the Assistant Director of Counter-Terrorism, so
12 you do have knowledge of that division, correct?

13 A Yes, that's correct.

14 Q So that's the division we're looking at.

15 A Okay.

16 Q And I'm not talking, you've already
17 answered my question on language. I'm now talking
18 culture. And I'm specifically talking Middle Eastern
19 culture, not world cultures, just Middle Eastern
20 culture. Is that an asset that would be valuable not
21 to all the SES employees, but to one or more SES
22 employees in the Counter-Terrorism Division?

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1 MS. WELLS: Object as to the form.

2 THE WITNESS: Let me answer this, could it
3 be? Yes. Would it mean that it would be? No.
4 Because, for example, ITOS II, you have Irish
5 terrorism. How would a Middle Eastern culture help you
6 with Irish terrorism?

7 BY MR. KOHN:

8 Q I understand.

9 A Could it be? Could it be beneficial?
10 Possibly.

11 Q Why could it possibly be beneficial?

12 MS. WELLS: Object to the form, you're
13 asking for speculation.

14 MR. KOHN: Well, he just said it could be
15 potentially beneficial. Now I'm asking him why.

16 MS. WELLS: Okay, well, it still is asking
17 for speculation.

18 BY MR. KOHN:

19 Q Okay, that's fine. You're permitted to
20 answer that question.

21 A Okay, it could be possibly beneficial in
22 dealing possibly with people from that country. It

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1 would not necessarily be a necessity for an executive
2 level position.

3 Q And why would it not be a necessity for an
4 executive level position that has oversight or
5 extensive oversight over that Middle Eastern region?

6 A In my opinion, it's not a necessity.

7 Q Why would it not be a necessity for that
8 manager who has extensive oversight of a Middle Eastern
9 region to be significantly well versed in Middle
10 Eastern culture, why?

11 MS. WELLS: I'm going to object to the
12 form, but he can answer it.

13 THE WITNESS: Because we conduct
14 investigations in collection of intelligence. You
15 don't necessarily have to have that qualification in
16 one specific area to be able to do that.

17 BY MR. KOHN:

18 Q Who did you recommend for a TDY position
19 when you were the Inspector-in-Charge of the 9/11
20 Division who had extensive background and experience in
21 Middle Eastern culture?

22 A I brought down people on a TDY position

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1 that had been involved in the investigation into al
2 Qaeda for a number of years out of the New York
3 Division. One particular individual, for example, was
4 Dan Coleman who had been work al Qaeda for a number of
5 years who was the original case agent on Osama bin
6 Laden and al Qaeda who had traveled extensively in
7 collection of intelligence and information regarding al
8 Qaeda and that's basically why I brought down
9 individuals to work TDY. They had conducted.

10 As I said before, conducting investigations
11 on numerous occasions into al Qaeda, into Osama bin
12 Laden, were knowledgeable about those investigations
13 and that's why I asked certain people to come down TDY.

14 Q In your mind, is the fact that someone
15 conducted an investigation into a Middle Eastern
16 terrorist organization the same as having extensive
17 knowledge or background in Middle Eastern culture?

18 A I believe it's more important.

19 Q That's not my question whether it's more or
20 less important. Is it the same?

21 A In conducting those investigations they
22 learn of certain cultures and certain Middle Eastern

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1 culture, so they would pick up some of that information
2 at the same time, I don't know what you're trying to
3 get at here. Is it the same as --

4 Q I'm just trying to get at, do you think the
5 mere fact that somebody conducts an investigation into
6 a Middle Eastern terrorist group that they then become
7 an expert or develop an expertise in the culture of the
8 Middle East?

9 MS. WELLS: Object to form.

10 BY MR. KOHN:

11 Q That's my simple question. Are those two
12 synonymous or are those two different?

13 A I don't think it necessarily makes you an
14 expert in culture, but I think you pick up and derive
15 some knowledge of the culture through conducting an
16 investigation.

17 Q You mentioned Dan Coleman. Did he get
18 TDY'd -- did he end up working in the Counter-Terrorism
19 Division?

20 A He was TDY'd down to Washington also.
21 Also, I believe he was also TDY'd to Doc Ex for a
22 period of time.

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1 Q Do you know what his GS level was at the
2 time he was TDY'd?

3 A He was a GS-13.

4 Q Do you know where he's working now?

5 A He retired.

6 Q Do you know when he retired?

7 A A few months ago.

8 Q Do you know what his position was when he
9 retired?

10 A He was a GS-13.

11 Q And do you know how long he worked there in
12 Washington?

13 A On and off over the two years, Dan was
14 actually as the first case agent into al Qaeda,
15 actually was assigned for a while down to a joint
16 facility with the CIA, prior to 9/11.

17 Q And I don't want to get into anything
18 touchy or anything, but when -- and please don't take
19 this the wrong way, but when 9/11 happened in New York
20 and however many of those terrorists got on those
21 planes and destroyed those buildings and killed those
22 people, has to the best of your knowledge, has any FBI

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1 agent been held accountable for a performance failure
2 related to al Qaeda being able to successfully carry
3 out those attacks?

4 MS. WELLS: I'll object to the form. I
5 mean you're asking -- there's no foundation for that
6 question. It's totally coming out of the blue. And
7 it's totally irrelevant to this lawsuit.

8 MR. KOHN: I think it comes down to the
9 witness's knowledge of performance.

10 BY MR. KOHN:

11 Q First is a question. Based upon your
12 background, experience and knowledge of the FBI and you
13 testified to the positions you've held which have been
14 quite significant, do you believe an FBI agent should
15 have been subject to some form of disciplinary action
16 for a performance failure related to any al Qaeda-
17 related investigation?

18 MS. WELLS: Object to the form.

19 THE WITNESS: If what you're asking me is
20 did any agent fail to conduct something that could have
21 significantly caused 9/11 to happen and been held
22 accountable for that? Is that what you're asking me?

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1 BY MR. KOHN:

2 Q Yes.

3 A I know of no failures within the FBI that
4 you could point to that could have prevented the cause
5 of 9/11. So therefore, I don't know how you could hold
6 somebody accountable for that.

7 Q Well, isn't it true that the FBI failed and
8 I'm not talking about a case agent now because these
9 performance failures may have been higher up, isn't it
10 true that the FBI failed to put adequate resources on
11 counter-terrorism prior to 9/11?

12 MS. WELLS: Object to the form of the
13 question.

14 THE WITNESS: And my answer to that would
15 be no because I know that there was a request that went
16 over to Justice asking for significant enhancements to
17 the counter-terrorism program prior to 9/11 that
18 somewhere along the line, where, I don't know, were
19 denied.

20 BY MR. KOHN:

21 Q Isn't it true that prior to 9/11,
22 management within the FBI had not developed the

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1 institutional structure necessary for a fully
2 functioning intelligence operation that could have
3 prevented 9/11?

4 MS. WELLS: Object to the form of the
5 question.

6 THE WITNESS: Again, there was a request
7 for additional enhancements to the counter-terrorism
8 program that somewhere along the line were denied
9 outside of the FBI. I know of no specific information
10 or I know of no specific structure that would have
11 prevented 9/11.

12 BY MR. KOHN:

13 Q Well, isn't it true that prior to 9/11 the
14 FBI had failed to develop an institutional structure
15 necessary for a fully functioning intelligence
16 operation?

17 MS. WELLS: Object to the form.

18 THE WITNESS: I think my answer to that
19 would be that based upon my experience in New York,
20 because I was not down in Washington, so I can't answer
21 about all of Washington's structure and so forth prior
22 to 9/11, based upon what we were doing in New York, no.

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1 We provided the resources necessary to conduct
2 counter-terrorism investigations and those
3 investigations were conducted appropriately.

4 BY MR. KOHN:

5 Q Do you have that flow chart now?

6 MS. WELLS: Hold on, we're going to go
7 check.

8 MR. KOHN: Thanks.

9 (Pause.)

10 MS. WELLS: No.

11 MR. KOHN: It still didn't come in?

12 MS. WELLS: It still hasn't come in.

13 MR. KOHN: What number should it go to? I
14 don't understand. Let's just go off the record for a
15 second here.

16 (Off the record.)

17 BY MR. KOHN:

18 Q Mr. D'Amuro, you understand you're still
19 under oath?

20 A Yes.

21 Q Okay, we'll mark as Youssef Deposition
22 Exhibit 7, of course, we're doing this in an order,

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1 just a continuing order and numbers 1 through 6 were in
2 prior depositions. So Youssef Deposition Exhibit No. 7
3 will be page 21 of the Report to the National
4 Commission on Terrorist Attacks Upon the United States,
5 the FBI's Counter-Terrorism Program Since September
6 2001.

7 (Whereupon, the above-referred
8 to document was marked as
9 Youssef Deposition Exhibit No. 7
10 for identification.)

11 And my first question for the witness, are
12 you familiar with this report, the actual FBI Counter-
13 Terrorism Program report that was submitted to the 9/11
14 Commission?

15 A No, I'm not.

16 Q And I'd like you to look at page 21.

17 A Okay.

18 Q And we're looking at, if you see on the top
19 of that page, is a flow chart that says Counter-
20 Terrorism Division?

21 A Correct.

22 Q Is this the structure that you helped

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1 design after 9/11?

2 A This is not -- I don't ever remember seeing
3 this particular final version, no.

4 Q Do you remember seeing versions similar to
5 this?

6 A Some of it looks pretty different.

7 Q And --

8 A But I'm not familiar with a lot of this.

9 Q And when exactly did you step down as
10 Assistant Director of Counter-Terrorism?

11 A I never stepped down. I was promoted from
12 Assistant Director of Counter-Terrorism to Executive
13 Assistant Director for Counter-Terrorism and Counter-
14 Intelligence in November of '02 and then I left
15 Washington to come back to head the New York Office in
16 August of '03.

17 Q And the position, Executive Director --

18 A Executive Assistant Director.

19 Q Oh, okay. EAD?

20 A Right.

21 Q Was that a newly created position?

22 A No. Dale Watson held that position prior

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1 to myself.

2 Q And do you know when the EAD for Counter-
3 Terrorism, Counter-Intelligence was formed?

4 A It was in the fall of '01.

5 Q So that position, what shortly after 9/11,
6 was created?

7 A I know it was after 9/11. It was between
8 9/11 and in January when -- or February time frame. So
9 it was prior to January that that position was created,
10 January of '03.

11 Q And Mr. Watson was the first person to hold
12 that position?

13 A Correct.

14 Q And before Mr. Watson held that position,
15 was he the AD, Counter-Terrorism?

16 A Yes.

17 Q And the EAD position you've testified to,
18 that would have been essentially now become a one level
19 promotion?

20 A I believe it was the same grade, but it was
21 considered a promotion, yes.

22 Q So when you became the EAD, the Assistant

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1 Director, Counter-Terrorism then reported to you?

2 A That's correct, although it was much less
3 on the operational side. The EAD for Counter-Terrorism
4 and Counter-Intelligence at that time handled a lot of
5 testimony before Congress, a lot of the -- some of the
6 liaison functions of people coming into Headquarters
7 and really Assistant Director with that type of
8 assistance and strategic planning and so on. But it
9 was less of an operational role.

10 Q Okay. And who became at that point the AD
11 for Counter-Terrorism when you became the EAD?

12 A Larry Mefford.

13 Q How do you spell his last name?

14 A I believe it's M-E-F-F-O-R-D. I believe.
15 I could be incorrect.

16 Q And do you know what this -- and do you
17 know what position he held before he became the AD?

18 A He was the Assistant Director for Cyber,
19 the Cyber Division.

20 Q And do you know when he became that?

21 A No, I don't recall.

22 Q In the organizational chain of command, Mr.

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1 Mefford would have reported to you?

2 MS. WELLS: Object to the form. At what
3 point in time?

4 MR. KOHN: When he became the EAD.

5 MS. WELLS: When Mr. D'Amuro became EAD?

6 MR. KOHN: Yes.

7 THE WITNESS: Yes and no. Larry oftentimes
8 would go to the Deputy Director or go directly to the
9 Director.

10 BY MR. KOHN:

11 Q And who was the Deputy Director at that
12 time?

13 A Chris Gephardt.

14 Q And as EAD, did the Assistant Director for
15 Counter-Terrorism also report to you or partially?

16 A Yes, partially. Same type of situation.

17 Q And going out, looking at this flow chart,
18 I understand that you've now testified that you don't
19 really recognize this chart.

20 A I don't think I've ever seen this one
21 before.

22 Q Okay, but let's look at some of the

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1 positions that are in it. We've testified about some.

2 I see Domestic Terrorism Operations?

3 A Right.

4 Q Was that in existence before 9/11?

5 A There was a Domestic Terrorism Section. I
6 don't remember just the specific Domestic Terrorism
7 Operations.

8 Q Do you know who the Section Chief was
9 there?

10 A When?

11 Q When you became the AD for Counter-
12 Terrorism?

13 A Tom Carey became the Section Chief for the
14 DT Section.

15 Q And was he TDY'd before he got that
16 position?

17 A Yes, he was.

18 Q And do you know where he came from?

19 A Washington Field.

20 Q And do you know what position he held at
21 the Washington Field Office?

22 A He was the Assistant Special Agent in

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1 Charge of the Counter-Terrorism Branch.

2 Q As an ASAC, he would have been a GS-15?

3 A Correct.

4 Q And do you know who was responsible in
5 TDY'ing him into the Counter-Terrorism Division?

6 A I believe Dale Watson first mentioned his
7 name to me and I had worked with Tom because I was the
8 ASAC in New York and I thought he was a good candidate
9 for that.

10 Q And so were you then responsible for
11 TDY'ing him?

12 A Yes, and then Tom branched off and he was
13 overseeing the Amerithrax investigation, so he broke
14 off the 9/11 investigation and went over to Amerithrax.

15 Q That's also known as anthrax?

16 A The anthrax investigation, yes.

17 Q And who assigned him to the anthrax
18 investigation?

19 A I believe it was Dale Watson who came to me
20 and said they wanted to put Tom as the Inspector in
21 Place over the anthrax investigation.

22 Q When he became Inspector in Place on that -

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1 -

2 A I'm not sure it was called an Inspector in
3 Place. I don't recall the exact title of that.

4 Q Do you know if he would have gone to the
5 Senior Executive Service at that time or not until he
6 became a Section Chief?

7 A No, I don't know.

8 Q I believe we've testified about ITOS I and
9 II already.

10 What about the next one here, the Terrorism
11 Reports and Requirements Section. Do you know who was
12 Section Chief of that?

13 MS. WELLS: Object to the form. What time
14 frame are we talking about?

15 MR. KOHN: At the time the witness was
16 Assistant Director of Counter-Terrorism.

17 THE WITNESS: It wasn't actually called
18 that. I'm not sure it was called the Reports and
19 Requirements Section when I was there. We had a
20 separate analytical section, so I'm not familiar with
21 this particular flow chart, as I said before.

22 BY MR. KOHN:

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1 Q So --

2 A I'm not sure who would have had that
3 particular position. There were three different people
4 that were involved in the analytical portion that I had
5 helped create and at the time the Reports and
6 Requirements Section I think may have been Don van Duyn
7 who was a detailee from the Agency, I think, to the
8 best of my knowledge. I think that's what this became.

9 I'm not sure. It could have also been -- we brought
10 over somebody from Reports. I'm just not familiar with
11 this. I'm sorry.

12 Q That's okay, but you mentioned there were
13 three people?

14 A There were more than three people. We had
15 brought over Don van Duyn was there, detailed from the
16 Agency. Mark Miller came over as a Deputy Assistant
17 Director over the analytical piece. Art Cummings was
18 brought in. Helen -- I'm trying to remember Helen's
19 last name -- came in from the Agency to help on the
20 Reports side of things.

21 Q In terms of -- so Mr. Miller --

22 A Let me just make it clear, as I said, there

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1 were numerous individuals that were brought in, not
2 just those three. There were numerous people coming in
3 and out all the time.

4 Q In terms of Art Cummings, was he TDY'd?

5 A Yes.

6 Q Do you know from where?

7 A From the Richmond Division.

8 Q And was that -- were you involved in that
9 decision also?

10 A Yes.

11 Q And why was he TDY'd?

12 A He had been in the Counter-Terrorism
13 Section. Prior to that -- well, let me say that I
14 wasn't responsible for first bringing Art back TDY.
15 Art was there in a TDY position when I came in.

16 Q Okay.

17 A And he had gone back and then we brought
18 them back in again.

19 Q Do you know, was he TDY'd into Counter-
20 Terrorism before 9/11, do you know?

21 A It's possible. I know they had some people
22 that were there TDY. I don't know.

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1 Q And at the time he was TDY'd, do you know
2 what his GS level was? Do you know if he was a 15 or
3 already in the SES?

4 A No, I believe at the time he first came in
5 as a TDY and that was prior to my arrival, he was a 14,
6 I believe.

7 Q And do you know when -- do you know if he
8 ever became a 15?

9 A I believe Art was in for the ASAC position
10 at Richmond and was -- are we supposed to talk about
11 how rankings were before the Career Board because I
12 wasn't on that Career Board, but I do know --

13 Q I don't think he became the ASAC in
14 Richmond.

15 A No, he didn't. He was made a Section Chief
16 at FBI Headquarters.

17 Q And do you know what section he became a
18 chief of?

19 A I'm trying to remember the name of the
20 section right now, but it was the section dealing with
21 Homeland Security and dealing with all those issues as
22 to how the Bureau was going to proceed with Homeland

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1 Security.

2 Q And was that not in Counter-Terrorism?

3 A It was in the Counter-Terrorism Division.

4 Q Okay. And so do you know did he go from
5 being a 14 to becoming the Section Chief?

6 A I believe he did.

7 Q And do you know, were you involved at all
8 in his promotion to a Section Chief?

9 A Yes, I was.

10 Q What was your role in that?

11 A I was the, I believe I was the Assistant
12 Director at the time.

13 Q And what was his background experience in
14 counter-terrorism?

15 A He was assigned, prior to going to
16 Richmond, I know he was assigned in the Counter-
17 Terrorism Section at FBI Headquarters.

18 Q Was that the TDY you mentioned?

19 A No, no. He was assigned there.

20 Q Do you know what he did when he was
21 assigned there?

22 A I believe he was a supervisor there.

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1 Q Do you know what he was supervising?

2 A No.

3 Q And so when he was TDY'd, as I understand
4 it, that would have been -- was he serving in a TDY
5 capacity while you were still the Inspector-in-Charge?

6 A When I went to FBI Headquarters, Art
7 Cummings was there in a TDY capacity.

8 Q Do you know what he was doing in that
9 capacity?

10 A He was working in the Counter-Terrorism
11 Division. Specifically what he was doing, I don't
12 recall. I think he was -- I'm trying to remember
13 specifically what he was doing and I just don't recall
14 it. I know he was working with Cathy -- I can't
15 remember Cathy's last name. I don't recall
16 specifically.

17 Q Okay, what about Mr. Mark Miller? Do you
18 know if he was TDY'd?

19 A Mark Miller was brought over from the
20 Agency.

21 Q Oh, so he's CIA also?

22 A Yes. Well, Art Cummings is not CIA.

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1 Q I know, but okay, you mentioned someone
2 else, I think.

3 A Yes, Don Van Duyn.

4 Q Yes. Did they ever become FBI employees or
5 did they go back to the Agency?

6 A I believe Don Van Duyn may have become an
7 FBI employee.

8 Q And do you know where he's working now?

9 A He's the Section Chief, I believe of that
10 Reports and Requirements Section.

11 Q And do you know what his background was?

12 A He's an analyst.

13 Q He was a CIA analyst?

14 A Correct.

15 Q And do you know at the time he was TDY'd
16 what GS equivalent he had?

17 A I believe, I'm guessing here, if you want
18 me to guess, I'll guess.

19 Q Yes.

20 A I believe he was a 15.

21 Q So when he was initially TDY'd at some
22 point he was TDY'd as an Acting DAD?

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1 A I don't know when he was -- no, no. Are
2 you talking about Mark Miller or are you talking about
3 Don Van Duyn?

4 Q Don Van Duyn.

5 A Don Van Duyn was never the Acting DAD.

6 Q Oh, that was Mark Miller. What position
7 does Don Van Duyn hold now?

8 A Section Chief.

9 Q Are you aware that he became a DAD?

10 A No, I'm not.

11 Q And were you involved at all in his
12 selection as a Section Chief?

13 A I believe I was the -- either the AD or the
14 EAD when he was being brought over -- we were trying to
15 get him as an FBI employee. I don't know if that was
16 ever finalized while I was there or not. I don't
17 recall.

18 Q Okay, and Mark Miller, did he ever become
19 an FBI employee?

20 A No.

21 Q Do you know what position, like GS or SES
22 equivalent he had? I think you testified he was made

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1 an Acting DAD?

2 A That's correct.

3 Q Do you know what his level was at that
4 time?

5 A I believe he was SES, but I don't know the
6 level.

7 Q And then you mentioned someone named Helen?

8 A Helen, oh gosh, I can't remember her last
9 name.

10 Q Was it Shimek?

11 A Yes. Helen Shimek.

12 Q And was she FBI?

13 A She was CIA.

14 Q Did she become an FBI employee?

15 A I don't believe so. I think she's back at
16 the Agency. I'm not sure.

17 Q And do you know what her GS level was when
18 she was TDY'd?

19 A No, I do not. I don't recall it. I may
20 have known back then, but I don't recall.

21 Q Okay, and again, looking at back to Youssef
22 Exhibit 7, the page 21?

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1 A Right.

2 Q Do you see the one that says Terrorism
3 Financing Operations Section?

4 A Yes.

5 Q Do you know who eventually got that
6 position?

7 A That was Dennis Lormel when I was there.

8 Q And was he a TDY?

9 A No. Dennis Lormel was the Section Chief of
10 the Financial Crimes Section and was brought over to
11 head up the Terrorism Financial Operations Section.

12 Q And I see Operational Response, the next
13 column. Do you know who had that?

14 A No.

15 Q Does that ring a bell to what that was?

16 A No.

17 Q In looking at the different categories
18 underneath that, does that ring a bell at all to who
19 may have been a Section Chief over that, those
20 functions?

21 A No. When I was there, the National Joint
22 Terrorism Task Force was actually under Art Cummings,

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1 so things have moved around here. So I don't know who
2 heads that section right now.

3 Q Okay. What about the National Threat
4 Center, did that exist?

5 A That was not there when I was there.

6 Q So do you know if anybody was TDY'd to the
7 functions either in the National Threat Center or the
8 things you see underneath that?

9 A There were people that were TDY'd to CT
10 Watch. SIOC is a function that's been there for a
11 while. That's obviously been brought back into
12 Counter-Terrorism. That was not under Counter-
13 Terrorism when I was there. That Monitoring Unit was
14 not there when I was there.

15 Q And in terms of Counter-Terrorism Analysis
16 Section?

17 A Right.

18 Q Do you know who became the Section Chief of
19 that, of those functions?

20 A Well, the Reports and Requirements, now
21 that I'm looking at this, may have been Helen Shimek
22 and the Counter-Terrorism Analysis Section may have

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1 been the Deputy AD or the DAD, the Acting DAD would
2 have been Mark Miller. The Acting Section Chief would
3 have been Don Van Duyn.

4 Q Okay.

5 A Again, these have changed around since I've
6 been there, so I'm not sure.

7 Q And Communications Exploitation that was
8 Mr. Fedarcyck?

9 A Fedarcyck?

10 Q Fedarcyck, yes.

11 A Yes.

12 Q And he testified that you called him and
13 asked him to come to perform the functions of
14 Communications Exploitation and then eventually
15 developed that as a section. Is that accurate?

16 A That's possible. I thought he was coming
17 in for something else and we asked him to perform TDY
18 at that particular section.

19 Q What was it in Mr. Fedarcyck's background
20 and experience that you thought gave him expertise in
21 counter-terrorism?

22 A He formerly was assigned to the National

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1 Security Law Unit which had involvement with a lot of
2 our FISA application and was involved in that type of
3 collection. So he brought some experience as to how we
4 could expand upon that area. It wasn't just Doc Ex, we
5 were looking at exploitation of communications, FISA,
6 revamping of the FISA process, so he brought experience
7 in that realm.

8 Q At the GS-15 and above levels, are you
9 aware if any persons of an Arab ancestry, essentially
10 Arab-Americans, were TDY'd into Counter-Terrorism while
11 you were either the Inspector-in-Charge or the
12 Assistant Director for Counter-Terrorism?

13 A I don't know. I know there was one
14 individual that had been there before that was TDY'd
15 from the Agency. I don't know what level he was, but I
16 think he came back in on a TDY. I'm just not sure.

17 Q And did that person become an FBI employee,
18 do you know?

19 A No. To my knowledge, no.

20 Q Were you the one who recruited that person
21 for a TDY?

22 A No. And as I said, I'm guessing. I don't

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1 know for sure.

2 Q Did you ask any African-Americans to come
3 over in a TDY position at the GS-15 or above level?

4 A Yes, I did.

5 Q Who was that?

6 A I asked if -- I believe it was Willie
7 Hulond was interested in coming in as a Deputy
8 Assistant Director.

9 Q For what -- DAD of what?

10 A Counter-Terrorism.

11 Q Which section of Counter-Terrorism? In
12 other words, Operations, Operational Support, Analysis?

13 A At that particular time, I don't think we
14 had the Operational Support position. I think it was
15 Operations.

16 Q Okay, and did he take that job?

17 A No.

18 Q When you say you asked him, how did that
19 happen? Did you like call him and ask him if he wanted
20 to come?

21 A If I recall, I think he was at Headquarters
22 and I had a conversation because we were passing in the

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1 hall and I had a conversation with other people about
2 the same position also.

3 Q When you say a conversation with him about
4 that position, you passed him in the hall and you --
5 tell me about that conversation?

6 A I don't recall specifically if it was
7 telephonic or if it was in the hall. There were other
8 individuals that I had spoken to and asked if they had
9 any interest in that type of position.

10 Q And who else had you spoken to?

11 A Gary Bald, John Pistole. There may have
12 been others. I just don't recall.

13 Q And did you -- to the best of your
14 recollection, what did you say to Willie Hulond?

15 A Would you be interested in being the Deputy
16 Assistant Director? Would you be interested in a
17 Deputy Assistant Director position?

18 Q And what did he say?

19 A I think he'd rather go out to the field.

20 Q And what position did he hold at the time
21 you asked him that?

22 A I believe he was the Inspector-in-Charge.

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1 Q Of what?

2 A Inspection Division.

3 Q Did you know him --

4 A Chief Inspector of the Inspection Division.

5 Q Do you know what level he was -- was he SES
6 already or was he GS-15?

7 A He was SES already.

8 Q Did you know him at all?

9 A I had worked with him in the Inspection
10 Division. He came into the Inspection Division, I
11 don't know, several months before I left, as an
12 Assistant Inspector.

13 Q What was his background and experience in
14 counter-terrorism?

15 A I'm not sure at that particular time what
16 his background was. I knew he was in the San Antonio
17 Division. He had come into Headquarters. He had gone
18 to an office, I think it was St. Louis, I'm not sure,
19 where he would have had some oversight. And he
20 eventually became the SAC Detroit.

21 I'm not -- as I said, he wasn't selected.
22 I was just looking to see if people were interested in

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1 that position that I knew were good managers.

2 Q Okay. So at the time you asked him if he
3 would be interested, you were not aware of what his
4 background and experience in counter-terrorism was?

5 A The specifics, I knew he had some ASAC
6 experience from being in the field and may have had
7 some counter-terrorism experience there. I was looking
8 for somebody familiar with FBI operations,
9 investigations, intelligence collection.

10 Q But just as a yes or a no, when you had
11 that conversation and asked, at the time you did that,
12 you did not know what his background in counter-
13 terrorism was, correct?

14 A Specifics, no.

15 Q Okay, you mentioned another person you had
16 inquired about this position with, who was that?

17 A John Pistole.

18 Q There was Pistole. There was someone else
19 also.

20 A Gary Bald.

21 Q Bald, and I have a little note here, COMM
22 or something, C-O-M-M. Was there another person?

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1 A C-O-M-M?

2 Q Are those the three you remember, Hulond,
3 Pistole and Bald. Did you ask -- okay. So with Bald,
4 what job had he held?

5 A I'm not sure when that actually occurred.
6 Gary was also in the Inspection Division. I'm not sure
7 if at the time he was the SAC Baltimore or if he was in
8 Inspections.

9 Q Would that be Bald, B-A-L-D?

10 A Yes.

11 Q Okay. And do you believe he was SES at the
12 time you asked him about that?

13 A Yes, he was.

14 Q And do you know what his background and
15 experience was in counter-terrorism?

16 A As I said, I don't recall specifically when
17 we had that conversation. Prior to his assignment as
18 the SAC Baltimore, I don't know of his counter-
19 terrorism experience.

20 Q And do you know as SAC Baltimore, what
21 specifically he did on counter-terrorism?

22 A Yes, he was in charge of that office which

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1 had a Joint Terrorism Task Force and a fairly active
2 Joint Terrorism Task Force.

3 Q Do you know what his actual -- what he did
4 on that? Do you know?

5 A Special Agent in Charge of the office. He
6 was in charge of the entire FBI Office in Baltimore.

7 Q I understand that, but my question is more
8 narrow. Do you know specifically what he did vis-a-vis
9 that Joint Task Force other than being the SAC of that
10 office?

11 A Yes, he was pretty involved with trying to
12 get information, dissemination of information and
13 working with other state and local entities in counter-
14 terrorism and making sure that the information was
15 getting out.

16 He oversaw the entire operations of that
17 Task Force which included responsibility for the
18 operations, dissemination of intelligence, logistical
19 support, running the office administratively, the
20 entire gamut.

21 Q And what did -- did Bald want that job, the
22 DAD?

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1 A At that particular time, I don't recall.

2 Q And then you mentioned it to Mr. Pistole?

3 A Right.

4 Q And what was his background and experience?

5 A Mr. Pistole was, I'm trying to remember his
6 particular position at that time. I know he was in the
7 Inspection Division. John had experience in organized
8 crime and running enterprise-type investigations. I do
9 not believe he had any specific counter-terrorism
10 experience.

11 Q And what did Mr. Pistole say when you
12 mentioned it?

13 A He said that he would prefer to go to New
14 York as a Special Agent in Charge, but that he would do
15 what the Bureau asked of him.

16 Q And did that DAD position ever get posted?

17 A Yes, it did.

18 Q Do you know who applied for it?

19 A I believe -- well, I don't recall all the
20 applicants, but I believe Mr. Pistole applied for it.
21 I do not believe Mr. Bald or Mr. Hulond applied for it.
22 I don't recall.

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1 Q Were you on that board that reviewed that
2 application?

3 A Those selections, I believe, are made by
4 the Director. I believe I was involved in that
5 process, yes.

6 Q Do you know who drafted the qualifications
7 for that position?

8 A It might have been -- I don't recall. I
9 don't recall. It might have been Chuck Frahm because I
10 had him in the acting position at that time.

11 Q And then did Mr. Pistole take that
12 position?

13 A Yes, he did.

14 Q Now you mentioned Chuck Frahm, so he was
15 Acting DAD?

16 A Yeah, we talked about that earlier.

17 Q So we have testimony on him already. Okay.
18 What about the Associate Deputy AD and I'm looking on
19 the flow chart here with the CT Operations, Associate
20 Deputy AD.

21 A Right.

22 Q Do you know who got that position?

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1 A Associate Deputy AD?

2 Q It's on --

3 A I see it. I have no familiarity with that
4 position.

5 Q Okay, and what about the DAD for
6 Operational Support?

7 A I believe I was either the AD at the time
8 or the Executive Assistant Director at the time that
9 that was filled and that was filled by Tom. You
10 probably have the name in front of you.

11 Q Tom. Okay, unfortunately, I don't.
12 Because I'm working off the same chart you have there.
13 And Tom, was he a TDY person?

14 A I don't know if he -- he was TDY'd at a
15 different location at Headquarters. He was, I believe,
16 the Assistant Special Agent in Charge in the
17 Philadelphia Division. I'm not sure where he was TDY'd
18 back at Headquarters. It was not to Counter-Terrorism.

19 Q Okay, so he was the ASAC in Philly before
20 9/11?

21 A I believe so, yes.

22 Q And then to the best of your knowledge, he

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1 was TDY'd at Headquarters after 9/11?

2 A Yes.

3 Q Do you know if that was --

4 A Let me correct that. He was TDY'd at
5 Headquarters either before, during or after 9/11. I'm
6 not sure exactly when it happened, but he was the ASAC
7 in Philly. He was TDY'd. Went back to Philly. Had
8 come back a couple of different times to help out.

9 Q I think his name was Tom Harrington?

10 A That's correct.

11 Q So at the time he applied for the DAD
12 position --

13 A Right.

14 Q Do you know if he was still a GS-15?

15 A You know, I don't know. I don't recall.

16 Q And do you know when he was TDY'd to
17 Headquarters if he was doing anything related to 9/11?

18 A As I said, I don't recall where he was at
19 Headquarters and what function he was performing TDY.

20 Q Okay, and now going to the Deputy -- on
21 this chart, the Counter-Terrorism Analysis DAD.

22 A Right.

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1 Q Do you know who got that position?

2 A Acting, that was Mark Miller while I was
3 there. I don't know who is there now.

4 Q And you've testified about him? I think.

5 A He was TDY'd from the Agency.

6 Q Okay, so he was there in that acting
7 position, but you don't know who eventually got that
8 position?

9 A No.

10 Q Okay. Now do you know who and looking at
11 any of these charts, who became the Unit Chiefs and I'm
12 looking at ITOS, it says, it says there's the
13 Regional/Extraterritorial Unit?

14 A I'm not familiar with that.

15 Q Okay, and then it says Conus 1, 2, 3 and 4.

16 A I'm not familiar with that.

17 Q And then on the ITOS Section 2, it just
18 mentions Units 1, 2, 3 and 4. Do you know who became
19 Unit Chiefs there?

20 A No, I'm not familiar with that. I mean
21 there were Unit Chiefs selected while I was there, but
22 I'm not familiar with structure, and I don't know who's

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1 in there now.

2 Q Do you know an Andrew Arena?

3 A Yes, we talked about him before.

4 Q Okay. Do you know a Maria Jocys, J-O-C-Y-
5 S?

6 A Maria Jocys?

7 Q Yes.

8 A Yes.

9 Q Was she a TDY?

10 A No. She was a supervisor at Headquarters
11 when I was there.

12 Q Do you know what her GS level was as a
13 supervisor, if you know?

14 A She was a 14 at the time.

15 Q And do you know what her background was in
16 counter-terrorism?

17 A All I know is that she was a supervisor in
18 the International Terrorism Section. She was there
19 when I got there.

20 Q In ITOS?

21 A Yes, International Terrorism.

22 Q And what about -- do you know a Ray

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1 Holcomb?

2 A Yes, I do.

3 Q Was he a TDY person?

4 A I believe he came down TDY for a while,
5 yes.

6 Q Do you know where he was TDY'd from?

7 A He was involved in helping establish what
8 we call the Fly Squads. These were individuals that we
9 were going to have come in to Headquarters and then fly
10 out to assist with various investigations.

11 Q And do you know what his GS level was when
12 he came in TDY?

13 A I don't remember. If I had to guess, if
14 you want me to guess, I will.

15 Q Your best guess.

16 A 13.

17 Q And do you know who asked him to come in on
18 a TDY?

19 A I believe there were postings that went out
20 asking for volunteers.

21 Q Okay, so he wasn't asked. He kind of self-
22 selected himself or made a phone call or something?

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1 A Yeah, I didn't call him. If somebody else
2 did, I'm not aware of that. There were a lot of
3 postings going out asking for volunteers to come in at
4 the time.

5 Q How about a Tim Bezick, B-E-Z-I-C-K?

6 A If I remember correctly, and if I'm
7 thinking of the right person, Tim Bezick was a
8 supervisor that was there when I came in as an
9 inspector.

10 Q And what about a Paul Geiger?

11 A Don't know him.

12 Q A Bradley Doucette?

13 A Doucette, Brad Doucette, I believe came in
14 as a Unit Chief in ITOS II when Chuck Frahm was the
15 Section Chief.

16 Q And was a TDY?

17 A I don't recall.

18 Q Were you the -- did you ask him to come in?
19 Did you have any role in that?

20 A I never had any contact with him, no.

21 Q Do you know a Tom Wilshere?

22 A Yes, he was a detailee from the Agency.

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1 Q Did he ever become FBI?

2 A No, he did not.

3 Q Robert Casey?

4 A Robert Casey?

5 Q Does that ring a bell?

6 A No. Robert Casey, no. That doesn't ring a
7 bell.

8 Q Now when you became the Assistant Director
9 for Counter-Terrorism, if you can look at that chart on
10 page 21, were there any like SES positions that would
11 have reported to you as the Assistant Director? I see
12 here it mentions Executive Staff, like as an executive
13 staff member or something like that?

14 A I don't know what they're referring to on
15 that -- there were some staff people that were there.
16 I had an executive assistant that was my secretary.
17 Most of the executive staff that was there when I was
18 there I had assigned to the Deputy Assistant Director.

19 Q Are you aware of any other persons at the
20 SES level who worked in the Counter-Terrorism Division?

21 A I'm sorry, can you repeat that again?

22 Q Anyone else at the SES level who worked in

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1 the Counter-Terrorism Division?

2 MS. WELLS: Object to the form, anyone
3 else?

4 BY MR. KOHN:

5 Q In other words, I'm looking at -- you
6 testified to a large number of people, so exclude them
7 and I'm looking at the chart on Exhibit 7 of page 21,
8 Counter-Terrorism Division chart?

9 A Right.

10 Q I'm wondering if there were, to the best of
11 your knowledge, would there have been any other SES
12 level employees working in Counter-Terrorism that held
13 a position that's not on this chart? If you can
14 remember.

15 A I'm just taking a moment to look at it.

16 Q Sure.

17 (Pause.)

18 A As I said, this chart has changed several
19 times. I don't recall any others, no.

20 Q Now I understand that after 9/11, the FBI
21 made a decision to reorganize the Counter-Terrorism
22 Division?

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1 A Correct.

2 Q And you were part of that -- of the
3 individuals who helped redesign that division?

4 A That's correct. I believe we stated that.

5 Q Who were the persons involved in
6 redesigning what the Counter-Terrorism Division would
7 look like?

8 MS. WELLS: Object to the form.

9 THE WITNESS: Yeah, there were numerous
10 people involved in redesigning the Counter-Terrorism
11 Division throughout a large period of time.

12 BY MR. KOHN:

13 Q Okay, so who would be --

14 A Let me finish.

15 Q I'm sorry.

16 A It started with me and it continued after I
17 left.

18 Q So in terms of you, who would be the people
19 that you worked with on developing the way the new
20 Counter-Terrorism Division would look?

21 MS. WELLS: Object to the form. Who are
22 you asking for?

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1 BY MR. KOHN:

2 Q In other words, Mr. D'Amuro, did you work
3 with Mr. Watson on this?

4 In other words, I just want to know who the
5 senior managers were that were discussing and giving
6 input and helping redevelop what the Counter-Terrorism
7 Division would eventually become?

8 A So you're saying who above me did I discuss
9 this with?

10 Q Okay, that's a good one, yes. Who above
11 you?

12 A Dale Watson, Tim Caruso, the Director,
13 other individuals on the Director's staff, other
14 individuals in Finance. I mean there were numerous
15 people that you had to discuss this with.
16 Administrative Services Division. Numerous
17 individuals.

18 Q Above you?

19 A Either at the same level or above me.

20 Q Who were at the same level?

21 A You had 13, 14 other ADs. I don't recall
22 who they all were at the time.

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1 Q Who were the persons that had the most
2 background and experience in counter-terrorism, Middle
3 Eastern, that had what I would call significant input
4 into this redesign?

5 MS. WELLS: Object to the form?

6 THE WITNESS: I think we just want over
7 that. Dale Watson, Tim Caruso and myself.

8 BY MR. KOHN:

9 Q Okay. Did you ever think of meeting with
10 and talking with Mr. Youssef to get his input as to how
11 the Counter-Terrorism Division should be restructured?

12 A No.

13 Q Was -- I have a question, why wouldn't you
14 talk to someone like Mr. Youssef for ideas on how the
15 Counter-Terrorism Division should be restructured?

16 MS. WELLS: Object to the form.

17 THE WITNESS: I was dealing with the
18 Executive Assistant Director and the Deputy Assistant
19 Director who had extensive knowledge of the operations
20 of Headquarters and the organizational structure.
21 That's what we were discussing.

22 BY MR. KOHN:

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1 Q I would like to know at this time, this is
2 I'm talking say from when you were the Inspector-in-
3 Charge of 9/11 --

4 A Right.

5 Q I would like to know the full extent of
6 your knowledge at that time of Mr. Youssef's background
7 and experience in counter-terrorism or matters related,
8 that would be relevant to counter-terrorism?

9 MS. WELLS: Object to the form. We went
10 over this extensively earlier.

11 THE WITNESS: Yes.

12 BY MR. KOHN:

13 Q So your prior testimony would stand on that
14 question?

15 A Yes.

16 Q Okay, it's now 1:30. I have another line
17 of questioning I'm going to go into now. We can go
18 into it or we can take a half hour lunch break?

19 A I'd rather continue. I have other meetings
20 to do this afternoon, so I really need to --

21 Q That's perfectly fine with me. And if
22 anyone there needs a break, don't be shy to ask for it.

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1 We'll just go off the record.

2 MS. WELLS: Okay.

3 MR. KOHN: If I need one, I'll let you
4 know, but if you guys need one, just let me know. We
5 can take a 5 or 10 minute break easily.

6 MS. WELLS: Okay.

7 BY MR. KOHN:

8 Q Now you remember signing a statement to an
9 EEO Investigator?

10 A Yes, I do.

11 Q And why don't we mark that as --

12 A I take it you're talking about this
13 particular situation?

14 Q Yes, and what I want to do is I think we're
15 now at Exhibit 8 and you should have it there. I'd
16 like to mark as Exhibit 8 a document that says sworn
17 statement of Pasquale J. D'Amuro, Executive Assistant
18 Director. It is nine pages. On the last page of it,
19 there's a signature of a Maximo M. Delancer,
20 Supervisory Special Agent.

21 Whereupon, the above-referred
22 to document was marked as

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1 out in a black inch, I guess for confidentiality
2 reasons.

3 A It appears to be the same.

4 Q Do you have any earlier drafts of this
5 document?

6 A No, I think I only have the one that you
7 have where there's some items that are struck out.

8 Q Was there ever a draft of this document
9 that changes were made on?

10 A I don't recall. Usually, when you give a
11 sworn statement there may be some things that are
12 changed in this. I don't recall if there were changes
13 in this specific one.

14 Q If you can please look at page 3.

15 A Okay.

16 Q And I want to say in the second full
17 paragraph it mentions that you first heard of Youssef
18 when he accompanied some Saudi Arabian officials. Do
19 you see that?

20 A Right.

21 Q You personally observed Mr. Youssef with
22 those officials?

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1 A I believe so, yes. I believe he came to
2 New York with those officials.

3 Q What did you observe? Did you observe any
4 problems? Was there no problem? I mean what did you
5 see with him with those officials?

6 A I had limited contact at the time. I think
7 there was a dinner and if I'm not mistaken, we may have
8 gone up to Camp Smith for DO Day. John O'Neill had
9 pretty much put that trip together.

10 Q Did Mr. O'Neill inform you of any problems
11 whatsoever with Mr. Youssef's performance?

12 A I don't recall discussing any, no.

13 Q Would it be accurate to say that Mr.
14 Youssef interacted with Mr. O'Neill on this particular
15 visit?

16 A I believe he did, yes.

17 Q Do you know if he interacted with Mr.
18 O'Neill on other matters?

19 A I don't know.

20 Q And at the time Mr. O'Neill was your
21 supervisor?

22 A He was the Special Agent in Charge, yes.

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1 He was my supervisor.

2 Q It also says here, and I'm just going to
3 read. It says "I had heard unknown individuals comment
4 about Youssef's job performance when he was assigned as
5 a Legat." Do you see that?

6 A Yes, I do.

7 Q When he was assigned as a Legat would that
8 be Legat Riyadh?

9 A Yes. I'm not sure. I don't recall. I
10 have seen that part of the statement. I believe my
11 knowledge of that comes from a conversation that was at
12 Headquarters and I don't recall if it was the Legat
13 position or in his position at NCIX, but I got the
14 impression that there were performance issues. What
15 they were specifically, I have no idea. That was prior
16 to my bringing to him coming over into the Program
17 Manager or the Acting Unit Chief spot for Doc Ex.

18 Q So would you have heard these comments at
19 the time you were the --

20 A The AD. Assistant Director.

21 Q Assistant Director of Counter-Terrorism?

22 A Right.

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1 Q Now when you say "I had heard unknown
2 individuals" would you please tell me who those people
3 were?

4 A I can only tell you what I think and the
5 reason it said "unknown individuals" -- I don't recall
6 if that was a conversation that I had with Dale and
7 Tim, Dale Watson and Tim Caruso, but the impression I
8 got was that there were performance issues there. What
9 they were, I don't know. We didn't have a conversation
10 about it. I don't know. And it says in here as Legat.

11 I don't know -- I can't specifically recall if it was
12 as Legat or if it was over at NCIX.

13 Q What did you do to determine what those
14 work-related problems were?

15 A I didn't do anything. He was not in my
16 division at the time. Then they came to me and wanted
17 to know if he could be brought over TDY into the Doc
18 Ex. I said fine.

19 Q Now I want to get back, why did -- so the
20 best of your recollection and I understand it might not
21 be a perfect recollection, it probably came up in a
22 conversation with Watson and Caruso?

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1 A Possibly.

2 Q And why did Youssef's name come up in that
3 conversation?

4 A I believe it was the conversation in which
5 they talked about him coming over TDY to the Counter-
6 Terrorism Division to Doc Ex.

7 Q So whatever those performance issues were,
8 it wasn't going to interfere with him?

9 A As I stated earlier, I do not know what the
10 specific performance issues were. I got the impression
11 that there were performance issues. I do not know the
12 specifics of what those performance issues were.

13 Q Have you ever learned what his performance
14 was as Legat?

15 A As I stated, I have no idea what the
16 performance issues were. I have no idea what the
17 performance was as Legat.

18 Q Did those performance issues identified
19 here in some way interfere with your naming him as
20 whatever the position would have been in Doc Ex?

21 A As I stated earlier, I am unaware of any
22 specific performance issues. I got the impression

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1 there were performance issues and performance problems.
2 I do not know of any specific issues. It did not
3 affect my decision to bringing him in TDY in the
4 Counter-Terrorism Division.

5 Q If you'd please look at -- on the next
6 page, page 4.

7 A Okay.

8 Q At the very bottom, it says that "AD Szady
9 suggested that Youssef be permanently assigned to the
10 CT Division based on his language ability." Do you see
11 that?

12 A Yes.

13 Q And it says "everyone concurred."

14 A That was Dale Watson, Dave Szady and myself
15 in a conversation either inside or outside Dale's
16 office in which Dave said are we going to make the
17 transfer permanent? And we decided that the transfer
18 would be made permanent. He was brought in to the Doc
19 Ex, partially because of the language experience and
20 many of the documents were in Arabic.

21 Q Would it be your testimony then -- okay, in
22 terms of this where it says based on his language

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1 ability, what was it about his language ability that
2 would have justified him being permanently assigned to
3 the CT Division?

4 A He had been working there temporary duty
5 for a period of time and a decision needed to be made
6 whether he was going to be assigned there permanently.

7 I remember language ability being brought up. Quite
8 frankly, he was working in Doc Ex. We needed to keep
9 people in Doc Ex. We decided to make it permanent.

10 Q Didn't you actually want to bring him into
11 the ITOS Section?

12 A I don't recall.

13 Q Wouldn't his background and experience be a
14 better fit in ITOS than Document Exploitation?

15 MS. WELLS: Object to the form.

16 THE WITNESS: Yes, I think you're under
17 estimating the importance of the documents and the
18 intelligence we were getting out of Afghanistan. They
19 were doing weekly reports of intelligence that was
20 coming out that would go directly to the Director.

21 BY MR. KOHN:

22 Q Do you actually know if Mr. Youssef ever

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1 performed the work of a translator in Doc Ex?

2 A I don't know if he did or not.

3 Q Do you know if his language skills were
4 even relevant to the position he held?

5 A I think I've said this several times
6 already. I had no direct oversight of this operation.
7 I don't know how many times I have to say that, but I
8 had no direct supervision.

9 Q So your testimony would be you do not know
10 whether he actually needed to utilize his language
11 skills in Doc Ex, correct? That's a simple yes or no.

12 A Well, we talked a lot. I can't answer that
13 yes or no.

14 Q Well, my question is I want to know did you
15 specifically --

16 A Let me just say this. You've asked me
17 several times wouldn't language ability be helpful. I
18 think that language ability might be helpful in that
19 particular situation.

20 Q But what about -- and I understand that it
21 might be helpful. I understand all of that testimony,
22 but my question is extremely narrow.

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1 A All right, would it matter if he spoke
2 Arabic and he would have been acting in that position?

3 Would I still have brought him over full time,
4 assigned to the Counter-Terrorism Division, if he had
5 been acting in that capacity?

6 Q Yes.

7 A Yes.

8 Q And my next question which is equally as
9 narrow, and it's a simple yes or no. I think you've
10 already answered it, but you know, the problem is you
11 go back and read these transcripts and everybody says
12 he didn't answer it. So I'm sorry if it's a little
13 repetitive, but I would like a very specific yes or no,
14 and I think you can give it. If you can't, you can't.

15 But do you specifically know if Mr. Youssef
16 had to use his language ability in the functions he was
17 assigned at Doc Ex?

18 A I don't know.

19 Q Okay, thanks. And my next question is
20 based upon what you understood of Mr. Youssef's
21 background and experience when the decision was made to
22 permanently transfer him to the CT Division, do you

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1 believe he would have been a better fit in ITOS as
2 opposed to Document Exploitation?

3 MS. WELLS: Object to the form, if the
4 witness can answer.

5 THE WITNESS: I'm not sure Mr. Youssef ever
6 put in for a position at ITOS as a Unit Chief.

7 BY MR. KOHN:

8 Q That's not my question. I'm saying when
9 you made the decision to permanently transfer him to
10 the CT Division and I'm looking at what you knew at
11 that time, the conversation you had with the people you
12 spoke to, I'm not looking now, I'm not looking at what
13 made permanent or not permanent, at the time the
14 decision was made to permanently transfer Mr. Youssef
15 into Counter-Terrorism, based upon what you knew at
16 that time, would he have been a better fit in ITOS or
17 Document Exploitation?

18 MS. WELLS: Object to the form.

19 THE WITNESS: Well, again, Document
20 Exploitation was extremely important. I did not
21 consider him for other positions because quite frankly
22 his name never came to me that he was interested in the

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1 position.

2 BY MR. KOHN:

3 Q I'm just asking --

4 A The answer to the question is I never
5 considered it because his name was never brought to me
6 for another position.

7 Q So --

8 A Doc Ex was important and that's where he
9 was working and that's where we needed him.

10 Q I understand, but in terms of -- I'm not
11 asking about what he asked for, what he got. It's a
12 more narrow question. In other words, what I
13 understand is that there was a meeting and a decision
14 was made to permanently transfer him to the Counter-
15 Terrorism Division, correct?

16 A Right, to Doc Ex where he was working.

17 Q But when that decision was made to
18 permanently transfer him to Counter-Terrorism, it
19 wouldn't mean he'd end up in Doc Ex, would it?

20 A That's where he was working. That's where
21 we were transferring him to.

22 Q But he would then in the entire Counter-

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1 Terrorism Division, correct?

2 A But he was working on Doc Ex. That's where
3 we had him working.

4 Q So my question is based upon your knowledge
5 of his background and experience --

6 A I understand the question.

7 Q Would he have been better in an operational
8 side or on the operational support side?

9 MS. WELLS: Steve, we've been over and over
10 this. It's been asked and answered.

11 THE WITNESS: I'll try to answer it one
12 more time.

13 BY MR. KOHN:

14 Q Okay.

15 A Okay. It did not come to my knowledge that
16 he was interested in another position. I did not
17 consider him for another position because his name
18 never came to me for another position. He was needed
19 in Doc Ex. People were needed in Doc Ex and that's
20 where he was working and that's where we kept him. His
21 name never came to me for any other position.

22 Q But isn't it true, think back to this, that

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1 when you made the decision to permanently transfer him,
2 he was actually transferred into ITOS not to Doc Ex,
3 isn't that correct?

4 MS. WELLS: Object to the form of the
5 question.

6 THE WITNESS: I don't recall. What are you
7 talking about, transferred into ITOS?

8 BY MR. KOHN:

9 Q In other words, when you made the decision,
10 didn't you actually all agree to put him into ITOS?

11 A No, I do not recall that at all. I do not
12 recall that at all. The only discussion was to bring
13 him into the Counter-Terrorism Division permanently.
14 The question was he had been working there for a period
15 of time TDY.

16 Dave Szady wanted to be able to -- he was
17 responsible for the FSL. I was actually utilizing a
18 body off of Dave Szady's division. Dave wanted to fill
19 that position. He needed that position available. So
20 it was a matter of taking somebody that was TDY and
21 making it a permanent position.

22 Q Did you ever hear from anybody at anytime,

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1 this is an extremely broad question, that Mr. Youssef
2 may have communicated any information to anyone in
3 Capitol Hill, via a staffer or a Congressman or a
4 Senator, that was in any way critical of the FBI?

5 A Yes, I was called upon -- the specific
6 situation you're talking about, I was called by
7 staffers to come in to discuss with them the Doc Ex
8 procedure, that I had heard they had discussed with
9 some employees of the FBI that there were problems at
10 the Doc Ex location.

11 Q Okay, and were you told what those problems
12 were?

13 A I was not told by the staffers at the time.
14 That's why I called to try to find out what statements
15 were made to the staffers prior to my going to the Hill
16 to see what the problems were.

17 Q And you were aware that one of the
18 employees, the staffers had spoken to was Mr. Youssef?

19 A That's correct.

20 Q And then what did you do? Did you speak to
21 Mr. Youssef about it?

22 A Yes, I did.

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1 Q To the best of your recollection, what did
2 you say to Mr. Youssef?

3 MS. WELLS: Object to the form. You
4 haven't laid very much foundation here.

5 MR. KOHN: I'll rephrase.

6 BY MR. KOHN:

7 Q To the best of your recollection, please
8 describe your conversation with Mr. Youssef as you best
9 remember it about this congressional issue from start
10 to finish?

11 A I don't recall the specific conversation.
12 I was calling and asking what problems were identified
13 to the staffers that I was going to be asked questions
14 about when I got there. What were the problems that
15 were identified to the staffers?

16 Q And do you remember what Mr. Youssef said?

17 A I believe it was something along the lines
18 that the only problems he identified to the staffers
19 were that there were some problems between DOD and the
20 CIA with the actual formation of the Doc Ex procedures.

21 Q When you had this conversation with Mr.
22 Youssef, was there anyone present from Congressional

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1 Affairs?

2 A No, I don't believe so.

3 Q Do you know when Mr. Youssef spoke to
4 Members on the Hill, whether anyone from Congressional
5 Affairs was present?

6 A I don't recall.

7 Q Did you ever speak to anyone from
8 Congressional Affairs about what may have been
9 communicated to the Hill?

10 A I may have. I don't recall.

11 Q And who would that have been?

12 A It might have been Elaine Kalesh. I think
13 she went with me when I had to go to the Hill.

14 Q Do you know if she accompanied Mr. Youssef
15 when he went to the Hill?

16 A She may have. I don't recall.

17 Q And do you know if she had any note about
18 what Mr. Youssef had said?

19 A I don't recall.

20 Q And did you ever -- did you make any notes
21 about what you were going to say to the Hill?

22 A No, because I didn't know what specific

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1 questions they were going to be giving me.

2 Q Have you ever reviewed Mr. Youssef's
3 personnel file?

4 A No, I have not.

5 Q Other than what you have testified about,
6 did you ever make any other inquiries, formal or
7 informal, regarding Mr. Youssef's background,
8 experience or performance?

9 A Not that I recall, no. Let me just
10 clarify.

11 Q Sure.

12 A I may have had a conversation with
13 Fedarcyck because I learned that one of the problems
14 was that and this is coming from my statement again
15 also, that Debbie Doran felt that Mr. Youssef was never
16 around and did not provide assistance in getting TDYers
17 to stay there. So I may have had a conversation with
18 Fedarcyck that we needed to make sure that Doc Ex was
19 going to run appropriately.

20 Q And that, I believe, is reflected in your
21 statement?

22 A That's correct.

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1 Q So then just other than what's in your
2 statement and what you've already testified to, do you
3 remember any other informal or formal conversations or
4 inquiries into Mr. Youssef's background, experience or
5 performance?

6 A No.

7 Q What I would recommend, why don't we go off
8 the record for 10 minutes? I'm going to review my
9 notes. We may be getting close to being done. I can
10 only say that. I just want to look at my notes now. I
11 know there's going to be at least 10 or 15 more
12 minutes, but I want to just go see what I need to
13 cover.

14 So why don't we just take 10 and I'll call
15 back?

16 MS. WELLS: Okay.

17 THE WITNESS: Okay.

18 MR. KOHN: Thanks a lot.

19 (Off the record.)

20 MR. KOHN: Carla, are you there?

21 MS. WELLS: I'm here. Yes.

22 MR. KOHN: Are you going to have any

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1 questions, do you know?

2 MS. WELLS: I don't think so.

3 MR. KOHN: Okay.

4 BY MR. KOHN:

5 Q Would it be true that many field agents,
6 this would be say, in or about the time of the 9/11
7 attack, that field agents felt that the supervisory
8 agents in the Counter-Terrorism Division at
9 Headquarters lacked necessary experience in counter-
10 terrorism to guide their work?

11 MS. WELLS: Object to the form?

12 THE WITNESS: This is prior to 9/11?

13 BY MR. KOHN:

14 Q Yes. That would have been a complaint
15 among field agents that the supervisory agents in the
16 Counter-Terrorism Division at Headquarters lacked the
17 necessary experience in counter-terrorism to guide
18 their work?

19 MS. WELLS: Object to the form.

20 THE WITNESS: Yes, I don't recall that.

21 BY MR. KOHN:

22 Q Based upon your knowledge and experience,

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1 before you went to Headquarters, after 9/11, do you
2 believe that the Counter-Terrorism Division at
3 Headquarters lacked the necessary experience in
4 counter-terrorism to effectively guide the field agents
5 that were under your supervision in matters related to
6 counter-terrorism?

7 A No. I mean I think the only way I can
8 answer that is to say that I dealt a lot with Mike
9 Rollins and Mike Rollins had counter-terrorism
10 experience. Did we always agree with Headquarters on
11 operational issues? No. But I don't remember
12 discussing with anybody the fact that they lacked
13 experience. That's not one of the issues that come to
14 mind when I think about Headquarters prior to 9/11.

15 Q Is there any form or say at the time you
16 became the Inspector-in-Charge after the 9/11 attack,
17 would there have been any way -- strike that. Just
18 strike that.

19 What about this one? Would you agree that
20 prior to 9/11 the FBI's practices related to counter-
21 terrorism and specifically the administrative structure
22 was not adequate to support the counter-terrorism

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1 mission?

2 MS. WELLS: Object to the form.

3 THE WITNESS: As I stated earlier in my
4 testimony, I believe I stated that I was aware that
5 there was a request that went over to the Department of
6 Justice requesting an enhancement in personnel and
7 resources for counter-terrorism. We all believed more
8 was needed.

9 BY MR. KOHN:

10 Q I'm not talking about resources. I'm
11 talking about practices. In other words, the way you
12 were administering and running the counter-terrorism
13 resources that you had. Do you believe that prior to
14 9/11 that that was inadequate, your practices?

15 A I can only answer to New York and the only
16 practice that I thought was becoming unreasonable were
17 the Chinese walls that the FISA port was implementing
18 and that goes into operational issues which I really
19 don't want to get into.

20 Q Sure, that's fine.

21 A But as far as the practices that New York
22 maintained in conducting counter-terrorism

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1 investigations, yes, I think they were appropriate.

2 Q Did the FBI go through what something I
3 could just call like a lessons learned after 9/11 in
4 which there was an internal review highlighting
5 failures or potential deficiencies that had they been
6 in place may have prevented the attack?

7 A I don't know what you're talking --

8 Q Have you ever heard of a concept in
9 administrative review known as lessons learned?

10 A I don't recall that, no.

11 Q Well, then let me just bring up, in other
12 words, are you aware that sometimes in a -- they say
13 hindsight is 20/20.

14 A Right.

15 Q So it's not necessarily done as a way of
16 attacking anybody.

17 A Right.

18 Q But where an event, a tragic or an
19 unfortunate event may happen like in the Three Mile
20 Island accident they did it after that. When the
21 Challenger explosion happened, they did it at NASA.
22 I'm just wondering --

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1 A We've had more reviews on 9/11. We've had
2 the Joint Intelligence Committee. We've had the 9/11
3 Commission. There's been a lot of reviews.

4 Q Okay, now I understand those reviews, but
5 what I'm looking for is within the FBI, what's
6 generally called a lessons learned, in which I'll
7 define that, in which someone goes down and says what
8 were the specific failures or inadequacies?

9 A I don't recall that.

10 Q Okay.

11 A I don't recall seeing that before.

12 Q Or would there be a division -- strike
13 that. So do you know if the Inspection Division ever
14 came in and did an inspection of the Counter-Terrorism
15 Division after 9/11 with an eye towards the problems
16 that may have in any way contributed to 9/11?

17 A I know there was an inspection of the
18 Counter-Terrorism Division. It was after I had already
19 left and come back to New York and I don't know what
20 the specifics as to the requests were for the
21 Inspection Division to look for. So I'm not familiar
22 with their entire review.

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1 Q Okay, so in terms of an Inspection Division
2 review of the Counter-Terrorism Division, you know of
3 one after. Do you know when the one, the most recent
4 one before 9/11 occurred?

5 A No. I don't recall when it was. I know
6 they had one, obviously, but I don't know when it was.

7 Q Did you -- were you able to review the
8 Inspection Division report that dealt with the time
9 period that you were the Assistant Director of the
10 Counter-Terrorism Division?

11 A No, I have not. That inspection, as I
12 said, took place after I left and it would be up to the
13 Inspection Division to -- I'm sorry, the Counter-
14 Terrorism Division to implement whatever
15 recommendations that they saw fit based upon that
16 inspection. So I have not seen that report.

17 Q Okay, I don't have anything further.

18 MS. WELLS: Okay.

19 MR. KOHN: Okay, we're done.

20 MS. WELLS: Yes, and just for purposes of
21 the record, I'd like to state that the witness will
22 read and then sign the deposition.

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1 MR. KOHN: And also just again just for the
2 record, we'll hold on to these -- I guess we used two
3 exhibits in this deposition.

4 MS. WELLS: Okay.

5 MR. KOHN: And we'll hold on to those and
6 we'll continue the numerical ordering as we go on.

7 MS. WELLS: Okay.

8 MR. KOHN: Thank you very much.

9 THE WITNESS: Yes.

10 MR. KOHN: Bye. Thank you all very much.

11 (Whereupon, at 2:00 p.m., the deposition
12 was concluded. Signature was not waived.)

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