

Written Questions of Senator Russell D. Feingold  
to the Honorable Robert S. Mueller, III  
Before the Senate Judiciary Committee  
"Oversight Hearing on Counterterrorism"  
JUNE 6, 2002

1. Do the new domestic surveillance guidelines authorize FBI agents to attend political demonstrations and worship services for the purpose of detecting or preventing terrorist activities, even if there is no evidence that such activities will be discussed at the demonstration or church, synagogue, or mosque? Please explain.

The type of investigative activity to which your question refers is governed by the Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Terrorism Enterprise Investigations. Those guidelines state that, for the purpose of detecting or preventing terrorist activities, the FBI is authorized to visit any place and attend any event that is open to the public, on the same terms and conditions as members of the public generally. The guidelines further provide that no information obtained from such visits shall be retained unless it relates to potential criminal or terrorist activity.

2. Do the new guidelines permit an FBI agent, for example, to continuously and repeatedly monitor a chat room in which no criminal activity has ever been discussed, and in which there is no evidence that criminal activity ever will be discussed? Please explain.

This type of investigative activity is also governed by the Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Terrorism Enterprise Investigations. Those guidelines state that, for the purpose of detecting or preventing terrorism or other criminal activities, the FBI is authorized to conduct online search activity and to access online sites and forums on the same terms and conditions as members of the public generally.

3. During the hearing I asked you whether, under the authority of the Attorney General Guidelines for Foreign Intelligence Collection and Foreign Counterintelligence Investigations, the FBI can initiate surveillance of political meetings or religious services without suspicion of criminal activity. You said that you were unfamiliar with those guidelines.

(a) Now that you have had a chance to review them, please tell me whether you believe that this authority can be used to initiate surveillance of political or religious activities without suspicion of criminal activity.

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Please see response to 3(b).

(b) Please describe the standard for initiation of surveillance of political or religious activities under these guidelines.

The Attorney General Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations allow for any asset or employee acting for or on behalf of the FBI to join or participate in any organization in the United States without disclosing his affiliation to appropriate officials of the organization for the purpose of establishing, enhancing or maintaining cover, or for the purpose of collecting information concerning a member of the organization when it is determined by the Special Agent in Charge or other appropriate supervisory personnel that the information pertains to activity that is or may be a violation of federal, state, or local law; or is relevant to the conduct of a full foreign counterintelligence investigation being conducted under the guidelines or is to be used as the basis for instituting a preliminary inquiry or full investigation. Participation of this nature that will influence right is protected by the First Amendment may be approved if the Director or the Acting Director of the FBI has determined that there is probable cause to believe the organization is engaged in espionage, sabotage or intelligence activity for or on behalf of a foreign power or international terrorism; or the undisclosed participation is essential to establish, enhance or maintain cover and the effect on the activities of the organization is incidental to the purpose.

4. Have the AG Guidelines for Foreign Intelligence Collection and Foreign Counterintelligence Investigations been modified since May 1997?

a. If yes, please provide a redacted copy of the modified guidelines.

The guidelines were modified on March 8, 1999 and at present are undergoing review within the Department of Justice.

b. If no, are there any plans to modify these guidelines?

Please see response to 4(a).

c. If there are plans to modify these guidelines, what is the current status of your deliberations or modifications to these guidelines?

As stated above, the guidelines are currently under review by the Department of Justice.

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d. Will you consult with Congress before modifying these guidelines?

The Department of Justice is coordinating the process of revising the guidelines. Any inquiry about the Department's approach to consulting with Congress on the guidelines review process should be directed to the Department.

In response to a question about whether the previous guidelines on domestic surveillance inhibited FBI investigations that might have prevented the September 11th attacks, you stated that you were aware of "anecdotal evidence" related to using websites and databases. Please describe specific examples of actions that were prohibited under the previous guidelines but that are now permitted under the revised guidelines and that might have prevented the September 11th attacks.

I am unaware of any investigative activity which, if permitted by the guidelines, may have prevented the September 11th attacks. With regard to websites and databases, the old Attorney General Guidelines on General Crimes, Racketeering, Extortion, and Terrorism Enterprise Investigations allowed for use of the Internet to support existing investigations, including preliminary investigations and the prompt and extremely limited checking out of leads. While the new guidelines provide expanded authority to visit public events and places for the purpose of detecting and preventing terrorist activity, the previous rules governing undercover activity to infiltrate a religious or political group are still in place. These previous rules permit infiltration of such a group only upon a showing that they are engaged in criminal or terrorist activities, a requirement that has not been changed by the new guidelines. Furthermore, the new guidelines impose an additional requirement that a constitutional analysis be completed weighing the advantages of the undercover operation with the potential impact on constitutionally protected rights before any such operation is approved.

Last October, after the September 11th attacks, you called for increased hiring of Arabic, Persian, Pashto and other foreign language speakers. In response to a question by Senator Schumer about Arabic, Urdu and Farsi translations, you stated that the FBI has hired over 100 specialists in these areas. Since October:

(a)(i) How many personnel have been hired with linguistic or cultural expertise? How many personnel with linguistic or cultural expertise have been transferred to the FBI and from which agencies? Please provide a breakdown of these numbers by language, country or region-specific type of expertise (e.g., 8 agents hired with Farsi language skills).

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Even prior to 09/11/2001, the FBI was actively engaged in the recruitment and processing of individuals claiming both as English and foreign language proficiency for our Special Agent, Language Specialist, and Contract Language positions. During the five year period that ended 09/30/2001, the FBI brought on board 122 Special Agents, 445 Contract Linguists, and 144 Language Specialists with a professional-level proficiency or higher in both English and a foreign language.

Since 09/11/2001, the FBI has received more than 20,000 applications for its Contract Language position and more than 2,500 applications for its Special Agent position from individuals claiming a proficiency in both English and a foreign language. On the basis of careful workforce planning, the FBI has been able to selectively screen and expedite the processing of the best qualified candidates in order to meet current and projected FBI needs.<sup>1</sup>

The processing of each candidate involves proficiency testing, a polygraph examination, and an FBI-conducted background investigation. Special Agent candidates are also subject to a panel interview. Despite the rigors of this process, thus far in FY 2002, the FBI has hired 235 Contract Linguists, 16 Language Specialists, and 25 Special Agents with at least a professional level proficiency in English and a foreign language. Several hundred more candidates remain at various stages of processing and are being expedited to the maximum extent possible.

It is anticipated that a sufficient number of Arabic, Farsi, Pashto, and Urdu-proficient Language Specialists and Contract Linguists will be approved for hire or contract by the end of calendar year 2002 to address current and projected demand for services in these languages. Be assured that the FBI will continue to direct its recruitment and applicant processing resources towards those critical skills needed by the FBI, including foreign languages, as it adapts to its evolving investigative mission.

The following table presents the number of Contract Linguists, Language Specialists, and Special Agents (Language Program) approved for hire or contract with the FBI since 10/01/2002, by foreign language proficiency:

<sup>1</sup> The FBI's workforce planning in this area was recently the subject of significant praise by the General Accounting Office within its January 2002 report to Congress, titled, "Foreign Languages: Human Capital Approach Needed to Correct Staffing and Proficiency Shortfalls."

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Foreign Language Program - FY 2002 Hiring/Contracting		
Language	Type of Position	Number Approved for Hire/Contract Since 10/01/99
Arabic	Contract Linguist	97
	Language Specialist	4
	Special Agent	0
Farsi	Contract Linguist	14
	Language Specialist	4
	Special Agent	0
Pashto	Contract Linguist	5
	Language Specialist	1
	Special Agent	0
Urdu	Contract Linguist	3
	Language Specialist	1
	Special Agent	0
All Other Languages	Contract Linguist	116
	Language Specialist	6
	Special Agent	25

- c. How many technical, scientific, computer and analytical specialists have been hired? How many have been transferred to the FBI and from which agencies? Please provide a breakdown of these numbers by area of expertise.

#### SPECIAL AGENT

As of 7/23/2002, during Fiscal Year (FY) 2002, the FBI has hired 39 Special Agents with an expertise in Computer Science/Information Technology; 45 Special Agents with an Engineering background; 26 Special Agents with a Foreign Counterintelligence background; 10 Special Agents with an expertise

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in Terrorism or Explosives; 15 Special Agents with an expertise in Military Intelligence; 27 Special Agents who are pilots and 38 Special Agents with a Physical Science background. A total of 674 Special Agents have been hired through New Agents Class 82-15, which commenced on 6/7/14/2002. There have been no transfers of Special Agents from other Federal agencies to the FBI during FY 2002. All FBI Special Agent applicants are required to pass a series of tests, including a panel interview, and successfully complete a background investigation before they are hired.

#### PROFESSIONAL SUPPORT

To date, 130 FBI Professional Support employees have been hired (not transferred) during FY 2002 with technical, scientific, computer and analytical abilities including:

- 6 Physical Security Specialists (Explosives/Hazmat)
- 2 Security Specialists
- 1 Security Assistant
- 3 Intelligence Operations Specialists
- 15 Intelligence Research Specialists
- 1 Evidence Technician
- 4 Computer Specialists
- 1 Program Analyst
- 7 Biologist
- 1 Microbiologist
- 1 Accounting Technician
- 3 Budget Analysts
- 1 Occupational Health Nurse
- 1 Electronics Engineer
- 8 Electronics Technicians
- 11 Attorneys
- 1 Illustrator
- 1 Writer
- 12 Language Specialists
- 2 Financial Analysts
- 1 Physical Scientist
- 2 Physical Science Technicians
- 1 Computer Scientist
- 41 Investigative Specialists
- 1 Chief Information Officer (Policy and Planning)
- 1 Information Technology Manager
- 1 Supervisory IT Specialist (Data Management)

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- d. Have FBI recruiters found that an adequate number of qualified applicants exists to fill positions in all recruitment areas? If not, which areas of expertise lack qualified applicants? For those areas of expertise that lack qualified applicants, what steps has the FBI taken to ensure a qualified applicant pool?

FBI recruiters have found that an adequate number of qualified applicants exists to fill positions in all recruitment areas. In an effort to immediately solicit applications from candidates possessing the needed critical skills, starting on 01/23/2002, the FBI made several national public announcements and advertised our need for Special Agent candidates with those skills. To efficiently and immediately collect those applications, an on-line Internet preliminary Special Agent application system was created and went live on 02/08/2002. Applicants who claimed to possess one of the needed critical skills were drawn from the system and based on their residence, were provided to the FBI field office covering their home address for processing. As of 07/23/2002, over fifty-seven thousand Special Agent applications have been received through the on-line system. These are sorted into those who claimed a critical skill and by field office of residence. There were approximately 20,055 of those self claimed critical skill candidates provided to FBI field offices for processing.

In addition, during FY 2002, the FBI established the Computer Science/Information Technology (CS/IT) Special Agent Entry Program to enhance its ability to attract individuals from the CS/IT community. The program allows applicants who possess a CS/IT degree or certification as a Cisco Certified Network Professional or a Cisco Certified Networking Expert to apply without the work experience normally required of a special agent candidate.

The national public announcements noted above also advertised a similar need for numerous Professional Support positions in the FBI and we are aggressively recruiting to fill these positions using an on-line application system as well as targeted recruiting activities. As of 07/23/2002, the FBI has received more than 37,000 applications for support positions. The candidate pool continues to include highly qualified candidates for the advertised Professional Support positions.

Earlier this month, you announced a plan to hire approximately 900 new agents and analysts.

- a. How many agents and analysts does the FBI expect to hire with linguistic and cultural or other expertise?

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The FBI's critical need for additional translation support, particularly among Middle Eastern languages, received national attention following statements made by Director Mueller during a televised news conference on 09/17/2001. During this news conference, Director Mueller asked for assistance from United States citizens proficient in several critically-needed foreign languages to assist in the investigation into the September 11 terrorist attacks. Following this announcement, Director Mueller instructed all 56 field offices to reach out to immigrant communities to address concerns, build relationships and seek assistance.

Even prior to 09/11/2001, the FBI was actively engaged in the recruitment and processing of individuals claiming both an English and foreign language proficiency for our Special Agent, Language Specialist, and Contract Linguist positions. During the five year period that ended 09/30/2001, the FBI brought on board 122 Special Agents, 445 Contract Linguists, and 144 Language Specialists with a professional-level proficiency or higher in both English and a foreign language.

Since 09/17/2001, the FBI has received more than 20,000 applications for its Special Agent Linguist position and more than 2,500 applications for its Special Agent position from individuals claiming a proficiency in both English and a foreign language. On the basis of current workforce planning, the FBI has been able to selectively screen and expedite the processing of the best qualified candidates in order to meet current and projected FBI needs. The processing of each candidate involves proficiency testing, a polygraph examination, and an FBI-conducted background investigation. Special Agent candidates are also subject to a panel interview. Despite the rigors of this process, thus far in FY 2002, the FBI has brought on board 235 Contract Linguists, 16 Language Specialists, and 25 Special Agents with at least a professional level proficiency in English and a foreign language. Several hundred more candidates remain at various stages of processing and are being expedited through the hiring process.

It is anticipated that a sufficient number of Arabic, Farsi, Pashto, and Urdu-proficient Language Specialists and Contract Linguists will be approved for hire or contract by the end of calendar year FY 2002 to address current and projected demand for services in these languages. Be assured that the FBI will continue to direct its recruitment and applicant processing resources towards those critical skills needed by the FBI, including foreign languages, as it adapts to its evolving investigative mission.

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- b. Please provide a breakdown of the target hiring goals by language, cultural, technical, scientific or analytic area of expertise and indicate whether they will be agents or analysts under the Director's proposed reorganization plan.

In January 2002, the FBI's Executive Assistant Directors and field offices identified the desired skill sets and approximate ratios needed in the 966 New Special Agents to be hired in FY 2002 as:

25%	(241) Law Enforcement, Attorney, Military, Fixed Wing Pilots, and others;
20%	(193) Computer Science, Information Technology;
20%	(193) Language (64% Spanish, 13% Chinese, 7% Russian, 4% Vietnamese, 3% Arabic, 2% Korean, and others);
10%	(97) Physical Sciences
10%	(97) Engineering
5%	(48) Military intelligence experience
5%	(48) Counter terrorism experience
5%	(48) Foreign counterintelligence experience
100%	(966) TOTAL

The FBI's hiring plan for Professional Support personnel requires that we hire over 1,400 employees. This number is comprised of funded positions from our FY 2002 Appropriations and the Counterterrorism (CT) supplemental as well as replacement of personnel lost through attrition. The majority of the new positions (204 from FY 2002 enhancements and 526 from the CT supplemental) are in specialized categories supporting our intelligence mission as well as our information technology, language and technical programs.

FY 2002 target hiring goals for Professional Support, which include specific Congressional enhancements, are as follows:

35	Language/Cultural
125	Technical
100	Scientific
300	Analytical
150	Investigative
100	Information Technology
100	Security
100	Clerical/General Support

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News reports indicated that when the US sent troops to Afghanistan last September, we had only a handful of speakers of the two main Afghan languages -- Pashto and Dari. But, this is not the first time that our country has suffered from a lack of expertise. When US troops were sent to Haiti in 1994, the National Security Agency had only one Haitian Creole linguist on staff. Recently in the *Washington Post*, James Bamford proposed the creation of a "linguistic reserve" analogous to our military reserves, in order to ensure that the right expertise is available instantly. What are your views on such an idea? What steps has the FBI taken to ensure that the linguistic and cultural specialists are available immediately now and will be available immediately in the future?

To ensure that present linguistic and cultural needs are met, the FBI has successfully directed its recruitment and applicant processing resources towards those skills needed by the FBI. In addition, the FBI is utilizing the services of the Foreign Service Institute to enhance the language and cultural training of FBI employees, especially those assigned to overseas locations.

The FBI fully supports the creation of a "linguistic reserve" to ensure that the right linguistic expertise is available to support operational surge requirements. The Intelligence Community Foreign Language Committee has proposed a National Foreign Language Skills Registry that will capture this type of information through a self-nomination process over the Internet. Once implemented, individuals who would like to provide language support to the government may register their language skills through the National Foreign Language Skills Registry for use during times of crisis and to alleviate surge language requirements in the future.

The FBI established the FBI's Foreign Language Skills Registry in June 2000 as an extension of recruitment efforts through the *FBI.gov* website. Applicants who do not possess skills in the languages listed for immediate need are invited to register their skills in the FBI Language Skills Registry for possible future use by the FBI. Since its inception in 2000, over 31,000 individuals have registered their language skills in this manner.

Another initiative sponsored by the FBI to provide a "linguistic reserve" to the law enforcement and intelligence communities is the Law Enforcement Intelligence Linguist Access "LEILA" database. LEILA is the product of an interagency team that has established uniform language proficiency and security standards for linguists under contract to partner agencies. The goal of LEILA is to promote the sharing of language services available to the law enforcement and intelligence communities and to increase the availability of linguists across agency lines. The LEILA database is currently under development and will soon be available to member agencies through the Internet and Law Enforcement On-Line. Once online, LEILA will provide easy access to contract linguists who have been previously

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vetted by one of the partner agencies.

9. Geoff Porter, a Middle Eastern Studies professor at New York University, wrote in an op-ed in the *New York Times* (6/1/02) about the deficiencies in the FBI's ability to recruit and test for Arabic speaking agents. Porter noted that the written test focused exclusively on Modern Standard Arabic, even though such fluency would only enable a speaker to understand the more formal Arabic used in TV and print news media reports. Porter further contends that spoken colloquial Arabic varies widely from country to country, so much so that speakers of one Arabic dialect may not understand speakers of a different Arabic dialect. He even recounts how he spoke Moroccan Arabic to an Egyptian taxi driver who understood so little of the Moroccan dialect that the taxi driver mistakenly believed Porter was speaking German. Even more troubling in Porter's article is the claim that, when he voiced his concerns to FBI officials during the personal interview stage of the application process, they ignored or dismissed his concerns.

(a) Does the current application process test for spoken fluency and listening comprehension in colloquial Arabic dialects?

The FBI's language test measures proficiency in several Arabic language skills: listening and reading comprehension, Arabic to English verbalization, translation, and speaking proficiency in both Arabic and English. The listening and speaking portions of the examination are in Modern Standard Arabic. Inasmuch as the vast majority of immigrants tested and ultimately hired by the FBI are native speakers of Arabic, they are proficient in Modern Standard Arabic plus one or more of the five major dialectal variations: Egyptian, Gulf, Iraqi, Levantine, and North African. There is no dialect in the written language. Although the FBI does not currently test applicants in Arabic dialects, we are well aware of their existence and maintain a robust and native translation capability in all of the dialects. In addition, all of our Arabic language testers are educated native speakers of the language.

(b) What will you do to ensure that the FBI recruits and hires individuals who can understand both Modern Standard Arabic and colloquial forms of Arabic, including reading, writing, listening and speaking?

In early 2001, the FBI contracted with a language test development company to create a listening/summary/translation test in the five Arabic dialects. The new test will be available in late 2003 and will become a part of the language test battery once it is fully validated. In the meantime, we have been very successful in recruiting and hiring new Arabic linguists on contract. Since the beginning of this fiscal year, the FBI has hired over 100 Arabic linguists who are proficient in both Modern Standard Arabic and the many varieties

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of Arabic spoken on the streets.

Your reorganization plan seems to focus on terrorism threats posed primarily by Al Qaeda or terrorists from Arab or Muslim nations. That, of course, is an important priority, but we also know that our nation unfortunately has had home-grown terrorists. The anthrax attacks last fall appear to be among the most recent. But, we have also had attacks by terrorists like Ted Kaczynski and Timothy McVeigh, who were not Arab or Muslim, but white Americans.

The FBI has an entire section, the Domestic Terrorism/Counterterrorism Planning Section (DT/CTS), that is dedicated to domestic terrorism detection, prevention, and investigations. This section was brought into existence in response to the 1995 bombing of the Murrah Federal Building. The DT/CTS is broken down into four units: the Domestic Terrorism Operational Unit (DTOU), Weapons of Mass Destruction Operations Unit (WMDOU), Weapons of Mass Destruction Countermeasures Unit (WMDCU), and the Special Events Management Unit (SEMU). DTOU manages domestic terrorist activity associated with right-wing extremist groups (Timothy McVeigh), left-wing extremist groups, or special interest terrorist group/one offenders (Ted Kaczynski). The WMDOU manages WMD investigations, operational response, and it routinely conducts WMD threat assessments. WMDCU is responsible for training, exercises, planning and policy related to WMD terrorism and response at the Federal level. Finally, the SEMU is responsible for assessing the risk of terrorist activity at major events. Joint Terrorism Task Forces (JTTF) have also been implemented nationwide. The function of the JTTF is to facilitate liaison and to share intelligence at the Federal, state, and local levels, as well as to conduct Federal investigations at the Direction of FBI Supervisory personnel. Subjects of FBI DT/CTS investigations may be associated with groups, may have an interest in the use of either conventional or unconventional weapons, and/or may be targeting a special event. The DT/CTS has supervisory agents and professional support personnel that are very well versed on these groups and the surrounding issues.

In the past September 11 environment, the DT/CTS has requested an increase in the number of Supervisory Special Agents and Professional Support Staff allocated to the section in order to address the increasing work load handled throughout the section and to help support the FBI's 56 field offices.

What are you doing to ensure that the FBI is prepared to detect and prevent future acts of anthrax terror or other domestic terror attacks committed by people not

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associated with Al Qaeda or a global terror network?

In response to WMD threats or incidents, FBI has successfully coordinated with local Hazardous Materials Teams (Hazmat), Emergency Medical Services, the Centers for Disease Control (CDC), and other Federal assets as required. This coordination effort ensures that WMD threats are handled properly, suitable screening takes place, and the response of law enforcement equals the perceived threat.

Centers for Disease Control (CDC) and Prevention established a laboratory protocol for examining biological and chemical samples. In accordance with CDC guidance, FBI has established laboratory protocols for approved local laboratories and veterinarian clinics. The local laboratories can then process WMD threat material and notify the FBI in a timely and efficient manner. Local laboratories have received equipment to test for Anthrax, Bacophyllis, Giardiasis, Plague, Q fever, and Botulinum Toxin, among others.

The FBI, in conjunction with other Federal, state and local first responders has engaged in training and live situations in order to better distinguish between the roles of an investigative agency versus agencies with public safety or hazardous materials functions.

Each field office is assigned a WMD coordinator - responsible for WMD investigations and liaison. New initiatives involving the coordinator include: liaison with the US Department of Agriculture, CDC, and the Public Health Department; identifying existing nuclear or chemical sites; reaching out to hazardous materials/chemical materials manufacturers and suppliers and educating the manufacturer/suppliers on the WMD threat as well as potentially suspicious inquiries or purchases.

The FBI has developed a series of "Special Bulletins" to inform first responders, Federal agencies, and medical personnel of current WMD issues and proper response measures. Some topics covered by the bulletin include chemical releases and exposure to biological agents, such as anthrax.

All 56 field offices have Incident Contingency Plans in place. These plans ensure that if a WMD incident were to occur, a proper coordinated response including Federal, state and local entities would be implemented. The FBI coordinates with local emergency planning committees and local and state government agencies in order to define each agency's role and responsibilities.

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b. Can you tell me how this priority is reflected in your reorganization plan?

In addition to the information provided above, the DTCPS is increasing its emphasis on prevention and intelligence sharing. Several FBI Supervisory Special Agents and Professional Support Staff are detailed to other Federal agencies in order to enhance the lines of communication between the FBI and its Federal counterparts. Renewed emphasis is being placed on the liaison function at headquarters and in the field. Additionally, the DTCPS is working to strengthen the relationship between its operational components and analytical assets. The above initiatives are designed to help successfully prevent WMD terrorist acts before they occur. This approach reduces the number of incidents the FBI reacts to which could pose substantial damage to property and loss of life.

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