

IN THE UNITED STATES OF AMERICA
BEFORE THE FEDERAL DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

-----+
BASSEM YOUSSEF,

Plaintiff,

v.

FEDERAL BUREAU OF
INVESTIGATION,
et al.,

Defendants.
-----+

Civil Action No.
1:03CV01551 (CKK)

Tuesday, April 26, 2005

Washington, D.C.

DEPOSITION OF:

ROBERT S. MUELLER

called for examination by counsel for the Plaintiff,
pursuant to notice of deposition, in the Office of
General Counsel Conference Room, FBI Headquarters, J.
Edgar Hoover Building, 935 Pennsylvania Avenue, N.W.,
Washington, D.C., when were present of behalf of the
respective parties:

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Robert Mueller

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EXHIBITDESCRIPTIONMARKED

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P-R-O-C-E-E-D-I-N-G-S

(9:34 a.m.)

Whereupon,

ROBERT S. MUELLER

was called as a witness by counsel for the Plaintiff,
and, having been first duly sworn, was examined and
testified as follows:

BY MR. KOHN:

Q Mr. Mueller, would you please state your
name and address for the record?

A Robert S. Mueller, M-u-e-l-l-e-r. Hoover
Building, Washington, D.C.

Q And you are currently employed as the
director of the FBI?

A Yes.

Q Prior to becoming FBI director, what was
your background in Middle Eastern counter-terrorism?

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

THE WITNESS: Relatively limited.

BY MR. KOHN:

Q And you're an attorney?

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1 A Yes.

2 Q And are you familiar with the rules
3 governing depositions?

4 A Yes.

5 Q Do you have any documents in your personal
6 possession related to Mr. Youssef that you know of?

7 A The only thing I think I have was a page
8 of notes.

9 Q And has anyone ever given you a briefing
10 book with contents related to Mr. Youssef?

11 MS. WELLS: Object to the form.

12 THE WITNESS: I've seen them but have not
13 reviewed them.

14 BY MR. KOHN:

15 Q I'd like to call your attention to
16 September 11, 2001, when the terrorist attacks
17 occurred. In the time period immediately thereafter ?
18 and when I refer to 9/11, I'm referring to those
19 attacks and incidents related thereto ? after the 9/11
20 attacks are you aware that FBI personnel was what's
21 known as TDY'ed to perform assignments related to
22 9/11?

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1 A Yes.

2 Q And what was your involvement in the TDY
3 process, selecting people to be assigned temporarily
4 to help on that case?

5 A I did not have involvement generally. I
6 mean maybe an occasional discussion was had with me,
7 but generally was not involved in it.

8 Q And who were the managers with the primary
9 responsibility for the personnel matters, assigning
10 people, to work on the 9/11 investigation?

11 A Well, that would be the deputy at the
12 time, which was Picard, and the head of counter-
13 terrorism at the time, which was Dale Watson.

14 Q And do you know if Mr. D'Amouro also
15 engaged in that process?

16 A Well, the immediate ? my best memory is,
17 in the immediate days after September 11th that
18 D'Amouro wasn't at headquarters. He may have been,
19 but my best recollection is that he was still in New
20 York.

21 Q And what about say in the 90 days
22 following the attack, do you know who was involved?

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1 A No.

2 Q Do you remember appointing Mr. D'Amouro as
3 essentially the inspector in charge of that
4 investigation?

5 A I don't remember any sequencing of events
6 that may have led to that. I'm not certain that ? I'm
7 not certain as to the timeframe. At some point in
8 time he had a substantial role in that investigation,
9 but I cannot recall the sequence of when or how he
10 took over or fit into that position.

11 Q Did you give any of your subordinates, and
12 specifically Dale Watson or Mr. D'Amouro ? or anyone
13 else, but those two names specifically ? direction as
14 to the qualifications that you ? that they should look
15 for in TDY'ing people to work on the 9/11 attack?

16 A No. No.

17 Q Did you instruct anyone after 9/11 to
18 canvas current FBI personnel to determine who had
19 Arabic language ability?

20 A I don't recall that. May have, but I
21 don't recall it.

22 Q And during the TDY process, when you were

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1 temporarily assigning people to the 9/11 investigation
2 and its immediate aftermath, did you expect that those
3 who were doing the personnel assignments would review
4 FBI personnel and determine who had experience in
5 Middle Eastern counter-terrorism operations?

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

8 THE WITNESS: I didn't. I have an
9 expectation one way or the other that that was being
10 handled by persons in counter terrorism. I expected
11 them to utilize their best efforts to build up the
12 personnel handling the investigation. It was in their
13 hands as to how they did that.

14 BY MR. KOHN:

15 Q What was your understanding, at the time
16 of 9/11 and the immediate aftermath ? I'm talking the
17 90 days following the attack ? as to the human
18 resource pool within the FBI of Arabic language
19 speakers?

20 A I don't know that I concentrated on that.
21 So much was happening in the months after September
22 11th, I don't have any particular recollection of

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1 concentrating on that.

2 Q Do you believe that for persons to work
3 effectively as supervisors at the GS-15 or above level
4 in counter-terrorism fluency in Arabic would be
5 helpful?

6 MS. WELLS: Object to the form.

7 THE WITNESS: It depends on what the
8 position is. It depends on what the person would be
9 doing. There would be circumstances, in other words
10 if you were going to utilize ? if the job required
11 some utilization of that skill, absolutely.

12 But there are a number of qualifications
13 that are important to any particular position.

14 BY MR. KOHN:

15 Q Do you know if the FBI ? because you
16 review all appointments at the GS-15 and above level.

17 A SES.

18 Q SES, but do you also review unit chief
19 appointments?

20 A No.

21 Q Okay. But you do review the SES
22 appointments?

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1 A Only SES.

2 Q Do you know of any SES appointment done
3 under your administration for which knowledge of
4 Arabic was a requirement?

5 A Could you repeat the question?

6 Q Do you know of any appointments to the SES
7 since you've been director of the FBI in which
8 knowledge of Arabic was a requirement for that job?

9 A Not a prerequisite or a requirement of a
10 particular job, in other words if you do not have it
11 you could not apply.

12 Q And within the counter-terrorism division
13 do you --

14 A Except for ? I take that back, because
15 quite obviously ? I presume you're excluding linguists
16 and those who you either had on board or have on board
17 who's responsibility was to do translations and the
18 like.

19 Q I'm talking about a person at the senior
20 executive service level, not the contract linguists.

21 A Okay.

22 Q My next question is, within the counter-

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1 terrorism division of the FBI, do you know of any
2 positions for which knowledge of Arabic was a
3 prerequisite at the SES level?

4 A I don't know all of them. No.

5 Q In regards to the SES level at the FBI, do
6 you know any positions within the counter-terrorism
7 division in which knowledge of Middle Eastern culture
8 and history was a prerequisite?

9 MS. WELLS: Object to the form. Those are
10 pretty broad terms.

11 THE WITNESS: I don't understand what you
12 mean in terms of a prerequisite.

13 MR. KOHN: In other words it was a
14 requirement for the job. In other words, in order to
15 have that job at the SES level the applicant would
16 have to demonstrate knowledge of Middle Eastern
17 culture and history.

18 MS. WELLS: Object to the form.

19 THE WITNESS: I'd have to say that I'm not
20 certain, because there may be analysts who ? or
21 positions in the analytical cadre as it's been
22 developed where I'm not sure it would be a

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1 prerequisite but maybe important.

2 BY MR. KOHN:

3 Q And analysts, they would be generally non-
4 agents?

5 A Yes, generally.

6 Q Again, in regard to the SES counter-
7 terrorism division, do you know of any positions in
8 which experience ? excuse me ? in which international
9 experience within the Middle East doing liaison with
10 Middle Eastern nations was a requirement for the
11 position?

12 MS. WELLS: Object to the form.

13 THE WITNESS: No.

14 BY MR. KOHN:

15 Q Do you believe that the failure of the FBI
16 to have at the senior executive service within the
17 counter-terrorism division jobs that require any of
18 those characteristics ? fluency in Arabic, experience
19 with liaison, experience in culture and history of the
20 Middle East ? is a deficiency within the FBI that
21 should be improved?

22 MS. WELLS: Object to the form of the

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1 question.

2 THE WITNESS: That's an awfully broad
3 question, and wide ranging. Can you repeat it and
4 simplify it?

5 MR. KOHN: Sure

6 BY MR. KOHN:

7 Q What I'm saying is, do you believe that it
8 would be better for the FBI to have a labor pool in
9 which it could promote into the senior executive
10 service in the counter-terrorism divisions persons who
11 had those skills that we referenced before?

12 A That's speculation.

13 MS. WELLS: Object to the form.

14 THE WITNESS: It's speculation.

15 BY MR. KOHN:

16 Q Do you have any plans in the immediate
17 future or long-range future to require SES employees
18 in the senior executive ? excuse me, Senior Executive
19 Service employees in the counter-terrorism division to
20 have qualifications in those areas that we just
21 mentioned?

22 A What were those areas?

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1 Q Knowledge of Middle Eastern culture and
2 history, Arabic language, international liaison
3 experience within the Middle East?

4 A Let me tell you that we want to develop
5 that within the bureau, but making that an absolutely
6 requirement, if you do not have it you would be
7 precluded from advancing in the counter-terrorism, no.

8 Q What steps --

9 A Counter-terrorism division, no.

10 Q What steps is the FBI taking now to
11 develop those three qualification areas in SES
12 employees?

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

15 BY MR. KOHN:

16 Q For recruitment purposes?

17 A Well, we are recruiting Arabic speakers.
18 We are outreaching ? have outreach programs to the
19 Muslim community. We are sending agents to language
20 school. We are hiring persons with backgrounds in
21 different areas including the Middle East but also
22 Southeast Asia and elsewhere. We have handled ? or

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1 hired not only agents but also substantial numbers of
2 analysts with diverse backgrounds.

3 Q In regards to your last answer, in terms
4 of Arabic speakers and background in the Middle East,
5 in the future will that become more ? something that
6 you would be looking for in SES executives?

7 A That's speculation.

8 MS. WELLS: Object to the form. Asked and
9 answered.

10 BY MR. KOHN:

11 Q Do you know what efforts were taken in the
12 ? and when I say aftermath of 9/11, we're talking a
13 90-day period, from the minute of the attack 90 days
14 thereafter ? what efforts were taken within the FBI to
15 determine which agents had skills necessary to conduct
16 counter-terrorism investigations regarding Middle
17 Eastern subjects?

18 MS. WELLS: Object to the form of the
19 question.

20 BY MR. KOHN:

21 Q Did you give any instruction to your
22 subordinates that they should in some way canvas or

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1 survey the FBI labor pools to see who out there had
2 experience, say, with al Qaeda, Middle Eastern
3 counter-terrorism, to get them involved in 9/11?

4 MS. WELLS: Object to the form.

5 THE WITNESS: As you are undoubtedly aware
6 I was ? I started a week before September 11. And
7 consequently I relied heavily on the acting deputy, or
8 actually the deputy, he wasn't acting, the deputy and
9 the head of the counter-terrorism to handle those
10 matters.

11 BY MR. KOHN:

12 Q In terms of your office, in other words
13 people that you would be tasking to do work directly
14 for you, either on a temporary or permanent basis,
15 have you ever recruited or tasked someone to be your
16 assistant or work with you on counter-terrorism
17 matters? In other words instead of just relying on
18 another office, did you ever bring someone in to you
19 as a direct report on a temporary or permanent basis
20 to give you advice on how to manage the FBI's counter-
21 terrorism program?

22 A Since I've been on board I've had a number

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1 of special assistants. I don't think any of them,
2 some of them have had some background in terrorism,
3 but none of them were specifically brought on board to
4 focus solely on terrorism.

5 Q Were you aware that the FBI fills TDY
6 positions on a noncompetitive basis?

7 MS. WELLS: Object to the form.

8 THE WITNESS: Yes.

9 BY MR. KOHN:

10 Q And were you aware that they fill those
11 TDY positions on a noncompetitive basis within the
12 Senior Executive Service?

13 MS. WELLS: Object to the form.

14 MR. KOHN: In other words, someone could
15 be TDY to perform an SES job.

16 THE WITNESS: Yes.

17 BY MR. KOHN:

18 Q And are you aware that if someone is TDY
19 to an SES position, that their performance, while on
20 the TDY, can be used as part of the promotional
21 process in justifying them either getting the job?

22 A I'm not that knowledgeable of the

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1 specifics.

2 Q Are you aware when you review SES
3 promotion packages that often employees point to the
4 fact that they had held a position in a temporary or
5 acting manner nad had performed well?

6 MS. WELLS: Object to the form.

7 THE WITNESS: I don't understand what you
8 mean.

9 BY MR. KOHN:

10 Q In other words, when the SES promotional
11 package comes to you for approval, do you remember
12 ever seeing it where applicants who ? or the
13 discussion of the applicants in which they said, Joe
14 Smith was TDY or placed in an acting position to this
15 SES job, performed well, we'd like to hire him.

16 A Probably have seen that. I don't have a
17 specific recollection. But I believe that I have seen
18 it.

19 Q Do you believe that by placing ? by giving
20 an SES manager the ability to TDY or place in an
21 acting position an applicant without any screening,
22 just the manager wants that person to have the job,

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1 that that could result in an unfair hiring process
2 eventually?

3 MS. WELLS: Object as to the form.

4 THE WITNESS: That's speculation.

5 BY MR. KOHN:

6 Q Are you aware that within the counter-
7 terrorism section that some positions at the SES level
8 have been filled on a noncompetitive basis?

9 MS. WELLS: Object to the form.

10 MR. KOHN: In the counter-terrorism
11 division.

12 BY MR. KOHN:

13 Q Are you aware that some positions within
14 the counter-terrorism division have been filled at the
15 SES level on an noncompetitive basis?

16 MS. WELLS: Object to the form of the
17 question.

18 THE WITNESS: Off the top of my head, no.
19 It may have happened, but I frankly don't have any --

20 BY MR. KOHN:

21 Q Are you aware that within the senior
22 executive service some of those managers would contact

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1 potential applicants and essentially tell them, hey,
2 I'm putting you in for this job and you're going to
3 take that job whether you want it or not, that type of
4 dialogue occurs on an SES promotional level.

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

7 THE WITNESS: Could you repeat it?

8 MR. KOHN: And again, the question here is
9 more to the culture of SES hiring as opposed to a
10 specific candidate. But are you aware that within the
11 hiring process at the Senior Executive Service level
12 managers select potential applicants, either ask ? and
13 them to apply for the position knowing that then
14 they're going to promote them to that position?

15 MS. WELLS: I'm going to object to the
16 form of the question. There is no foundation to that
17 on the record, certainly not in this deposition or
18 anywhere in the case.

19 MR. KOHN: I'd just refer you to the
20 deposition of Art Cummings, page 56, line ? through
21 17.

22 MS. WELLS: But that's not before us now.

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1 THE WITNESS: What's he say?

2 MR. KOHN: He says that Mr. D'Amouro
3 called him and told him he was going to become a
4 section chief in the counter-terrorism division, a
5 specific section, whether he liked it or not.

6 MS. WELLS: I object to the statement out
7 of context.

8 THE WITNESS: I am aware of occasions
9 where persons have been ? have been requested to apply
10 for positions, whether they got it or not is somewhat
11 different than wehtehr they had been requested to
12 apply for the position.

13 BY MR. KOHN:

14 Q And what would be positions within the
15 Senior Executive Service?

16 A Yes.

17 Q And you were also aware that within the
18 counter-terrorism division of the FBI employees now
19 can move from a GS-14 level --

20 A Let me go back one second and say, within
21 the SES, Senior Executive Service, I am aware of
22 circumstances where there will be an SAC or there will

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1 be an office that is open, and there has been no SAC
2 applying for a particular office, and I know that
3 people have been recruited to apply for a particular
4 office.

5 I'm not so certain that I am that familiar
6 with a circumstance where somebody who is not in the
7 SES has been asked to apply for an SES position.

8 Q Assume ? and I believe the record will
9 reflect this did occur ? that a person who was not in
10 the SES was specifically recruited to apply for an SES
11 position, would that ? in your mind would that be any
12 violation of any FBI policy, procedure or protocol or
13 stipulation?

14 MS. WELLS: Object to the form.

15 THE WITNESS: Speculation.

16 BY MR. KOHN:

17 Q So there wouldn't be anything wrong in
18 your mind --

19 A No, that's not what I'm saying. I'm
20 saying you're asking a speculative hypothetical
21 question, and I'm not prepared to answer it.

22 Q Well, in your mind, as the selecting

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1 official for SES applicants, if you learned that a
2 non-SES employee was asked by an SES employee to apply
3 for a job and that same SES employee then shared the
4 board and recommended that employee, would that in
5 your mind raise any issues?

6 A I'm not going to answer on that. It's
7 totally hypothetical and speculative.

8 MR. KOHN: Well, let's say that the record
9 reflects ? and I'll just put ? you know Mr. D'Amouro,
10 correct?

11 THE WITNESS: Yes, yes.

12 BY MR. KOHN:

13 Q And are you aware that Pat D'Amouro
14 contacted Mr. Art Cummings who at the time was a GS
15 employee and asked him to apply for a section chief
16 position in the counter-terrorism division?

17 A No.

18 MS. WELLS: I'm going to object to the
19 form of the question.

20 BY MR. KOHN:

21 Q And if during the hiring process of Mr.
22 Cummings ? and you're aware, you offered Mr. Cummings

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1 his position as section chief, correct?

2 A If he became section chief then I probably
3 did call him. I have no recollection of it.

4 Q And just for the record on page 53 of his
5 deposition he does testify that you did call him.

6 And my question is, if Mr. D'Amouro ? if
7 you were aware at the time you were reviewing the
8 promotional package for Mr. Cummings that D'Amouro had
9 recruited him for that position, would that have
10 raised any issue for you in terms of going back and
11 relooking at the past?

12 MS. WELLS: Object to the form.

13 THE WITNESS: I'm not going to answer
14 because it's speculative, hypothetical.

15 BY MR. KOHN:

16 Q And you know Mr. Gary Bald?

17 A Yes.

18 Q And are you aware that he was drafted into
19 his position within the counter-terrorism division?

20 MS. WELLS: Object to the form.

21 THE WITNESS: I'm not certain of the
22 circumstances in which Bald took over at counter-

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1 terrorism. I know he had been an inspector handling
2 the Boston case, and then became SAC in Baltimore.

3 I'm not certain, I don't recall the
4 circumstances of him coming to Baltimore to counter-
5 terrorism, whether it was a call made to him or he
6 applied.

7 BY MR. KOHN:

8 Q And if he was recruited for that position
9 would that raise any concerns to you?

10 A Again, it's speculative.

11 MS. WELLS: Object to the form.

12 BY MR. KOHN:

13 Q Were you aware that at the time Mr. Bald
14 took his position in the counter-terrorism division he
15 had no background or experience in counter-terrorism?

16 MS. WELLS: Object to the form of the
17 question.

18 THE WITNESS: I don't think that's
19 accurate. He was the SAC of Baltimore for a period of
20 time.

21 MR. KOHN: I'm just going to call the
22 witness ? for the record ? to Ball deposition page 9,

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1 lines 13 through 17. I'd just ask if this meets with
2 your recollection:

3 Up through your assignment as the DAD
4 counter-terrorism, can you describe in which of these
5 offices ? he talked about his prior work history ? did
6 you perform substantive operational counter-terrorism
7 work? Answer: none.

8 Were you ever assigned with primary duties
9 for counter-terrorism like a CT desk or something like
10 that? No.

11 Does that ? is that consistent with your
12 understanding of his testimony?

13 THE WITNESS: That testimony goes to
14 sitting on a desk or being primarily assigned or
15 principally assigned to counter-terrorism. Certainly
16 as SAC he had some familiarity with terrorism, because
17 he ran the Baltimore terrorism program for a period of
18 time, during which he was SAC.

19 BY MR. KOHN:

20 Q So your understanding of Mr. Bald is, his
21 knowledge and background in counter-terrorism was as
22 an SAC?

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1 A Based on what you read to me from his
2 deposition, my knowledge of Mr. Bald's exposure to
3 counter-terrorism would have been running an office in
4 which counter-terrorism was a substantial program.

5 Q And are you --

6 A I might also add, he had ? during the time
7 he was there he had the sniper case, which ? I don't
8 know whether it was actually documented as a domestic
9 terrorism program, but certainly it could fall under
10 the category of domestic terrorism.

11 So running the office gave him some
12 exposure to terrorism matters.

13 Q In terms of the sniper case, do you think
14 background experience running the sniper case would
15 provide a manager with the expertise they would need
16 to manage an intelligence-based counter-terrorism
17 operation?

18 MS. WELLS: Object to the form. What do
19 you mean by intelligence and counter-intelligence?

20 MR. KOHN: In other words as opposed to
21 law enforcement where you're prosecuting a crime, I'm
22 talking about when I say counter-terrorism

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1 intelligence --

2 THE WITNESS: Yes, I think absolutely it
3 would give, contribute to his ability to handle
4 counter-terrorism, whether it be intelligence based or
5 responsive to an act, absolutely.

6 BY MR. KOHN:

7 Q Are you aware that some applicants for the
8 Senior Executive Service have been able to assist in
9 the writing of the position description for the job
10 for which they would apply?

11 A No.

12 MS. WELLS: Object to the form.

13 BY MR. KOHN:

14 Q If that was the case would that raise any
15 issues?

16 A Speculation.

17 Q I want to call your attention to Mr.
18 Bassem Youssef. And do you remember meeting with Mr.
19 Youssef with Congressman Wolff in or about June 28,
20 2002?

21 A Yes.

22 Q Okay, how did you learn that that meeting

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1 was going to happen?

2 A My best recollection is that I had a
3 meeting with Congressman Wolff, and Congressman Wolff
4 towards the end of the meeting indicated he had an
5 individual with whom he had talked, and he wanted me
6 to talk to the individual. And I came to find out
7 that it was Mr. Youssef, although I didn't recognize
8 when I came in ? when I came in the room today.

9 Q And in terms ? did you know, when you
10 found out it was Mr. Youssef, what did you do in terms
11 of just learning about who he was or what his
12 background was?

13 A I don't think ? I don't have any
14 recollection of being alerted that I would be meeting
15 with Mr. Youssef on that day. Consequently I had done
16 nothing.

17 Q So on the day when you actually met that
18 came as a surprise?

19 A I don't have any recollection. Now maybe
20 somebody alerted me that I was and I've forgotten it.

21 But I don't have any recollection right now of
22 expecting to meet Mr. Youssef.

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1 Q And to the best of your recollection can
2 you explain to the record what happened during that
3 meeting when you met Mr. Youssef?

4 A Mr. Youssef was brought in. I can't
5 remember, I believe there were other people in the
6 room, I'm not certain who it was. And he discussed
7 with me his concerns, and I don't really recall what
8 the concerns were at this juncture.

9 I know, I think he discussed with me the
10 fact that he was an Arabic speaker. I can't recall, I
11 know he had a complaint about not being used to his
12 full capacity. And beyond that, on the details, I
13 don't have many.

14 Q And when you say not being used to his
15 full capacity, do you remember what type of capacity
16 he wanted to be used in?

17 A I don't.

18 Q Do you remember him telling you and Mr.
19 Wolff together at that meeting that he had had some
20 counter-terrorism experience within the Middle East?

21 A He might have.

22 Q And do you remember any discussions that

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1 he was the Legat in Riyadh, Saudi Arabia?

2 A I don't have any recollection of that now.

3 Q And do you remember him telling or
4 explaining at the meeting that he was a polygraph
5 examine, qualified, who could do examinations in
6 Arabic?

7 A That I don't remember.

8 Q Do you remember him telling you he was the
9 recipient of what's known as the DCI award?

10 A No.

11 Q Do you know what the DCI award is?

12 A No.

13 Q Director of Central Intelligence award?

14 A I presume it's an award that's given by
15 the Director of Central Intelligence. But beyond that
16 I don't know the agency awards.

17 Q And do you remember him talking about how
18 he felt his skills had not been properly utilized
19 since the 9/11 attack?

20 A I do remember that. That's what I do
21 remember as the reason for his being there is that he
22 felt that his skills had not been utilized.

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1 Q And do you remember telling Mr. Youssef
2 and/or Mr. Wolff at that meeting that you would look
3 into this matter?

4 A Yes.

5 Q Exactly what --

6 A I would have said that. I don't
7 specifically today recall that, no. But I would hope
8 that I would have said that, yes.

9 Q And to the best of your recollection,
10 exactly what did you do to look into the matter?

11 A I think I came back and talked to somebody
12 about it. It could have been the head of
13 congressional affairs, it could have been the deputy
14 at the time, and asked somebody to follow up on it. I
15 can't recall the person.

16 Q And did that person ever come back to you
17 and tell you what happened in the follow up?

18 A I have a vague recollection of somebody
19 telling me that they had looked into it, that Mr.
20 Youssef's complaint was known and that it was being
21 handled in the ordinary course by the Bureau.

22 Q Do you remember being informed of anything

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1 else?

2 A I don't have any recollection at this
3 point of being informed of much else.

4 Q Okay.

5 MR. KOHN: I'm going to show the witness
6 now an Exhibit that we will mark as Mueller Deposition
7 No. 1. And we'll give you that one there.

8 (Whereupon, the aforementioned
9 document was marked for
10 identification as Mueller
11 Exhibit Number 1.)

12 MR. KOHN: And for the record, Exhibit No.
13 1 is a three-page document to Director Mueller from a
14 Herbert L. Jackson dated September 30, 2002.

15 And my simple question is, did you ever
16 read this letter or get it?

17 (Witness reviews document.)

18 THE WITNESS: And your question is?

19 BY MR. KOHN:

20 Q Do you remember getting a copy or
21 reviewing this letter?

22 A I don't recall seeing it. I may have, but

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1 I don't recall.

2 Q Do you remember at the meeting with Wolff
3 tell me Youssef that he would not be subject to
4 retaliation for that meeting?

5 A I don't recall.

6 Q Is that something that you think you would
7 have said?

8 A If it was raised.

9 Q Do you remember after that meeting that
10 Mr. Youssef did complain about retaliation?

11 A I don't recall that.

12 MS. WELLS: Object to the form.

13 THE WITNESS: I see it in the letter, but
14 I do not recall hearing that.

15 BY MR. KOHN:

16 Q Did you discuss Mr. Youssef with Dale
17 Watson?

18 A I may have.

19 Q Do you have any recollection?

20 A No.

21 Q With Mr. Szady?

22 A Again, I may have.

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1 Q And Mr. Caruso?

2 A May have. I don't have a recollection of
3 the conversations.

4 Q Did you have any follow up conversations
5 with Mr. Wolff after that meeting about Mr. Youssef?

6 A Can't recall. I may have.

7 Q Did there ever come a time where you
8 learned that Mr. Youssef had extensive involvement
9 with an ? a terrorist group or an organization
10 commonly referred to as the Islamic Group, also known
11 by the official name of al-gamma'a al-islamiyah?

12 A Could you repeat the question?

13 Q Were you aware that Mr. Youssef had
14 extensive investigatory experience with, pre 9/11,
15 with an organization commonly know as the Islamic
16 Group?

17 MS. WELLS: Object to the form.

18 MR. KOHN: Al-gama'a al-islamiyah. For
19 the record that is a-l space g-a-m-a dash a a-l i-s-l-
20 a-m-i-y-ah.

21 MS. WELLS: Object to the form of the
22 question.

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1 THE WITNESS: No.

2 BY MR. KOHN:

3 Q Do you know the relationship between that
4 organization and al Qaeda?

5 A I do know there is a relationship, yes.

6 Q Do you know what that was or is?

7 A I wouldn't get into it here. There was a
8 relationship, or has been a relationship.

9 Q And in your mind would someone who had
10 extensive experience with investigating the Islamic
11 Group be in a good position to assist in
12 investigations, all things being equal --

13 A Again, that's speculation. I'm not going
14 to opine on that.

15 Q Did anyone ever tell you what Mr.
16 Youssef's role was in developing one of the first
17 human sources within that organization?

18 A No.

19 MS. WELLS: Object to the form.

20 BY MR. KOHN:

21 Q And you're familiar with the blind sheikh,
22 Sheikh Omar Abdul Rahman?

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1 A I am.

2 Q And are you aware of his relationship with
3 bin Laden?

4 MS. WELLS: Object to the form.

5 THE WITNESS: I'm actually not. Let me
6 answer if I could. Not with any specificity inasmuch
7 as that prosecution and those events happened in New
8 York way before I became director.

9 BY MR. KOHN:

10 Q Were you aware that the blind sheikh was
11 Mr. bin Laden's spiritual leader?

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

14 THE WITNESS: Again, I am not certain of
15 the role played between the blind sheikh and bin
16 Laden.

17 BY MR. KOHN:

18 Q Did anyone ever inform you of Mr.
19 Youssef's role in obtaining one fo the original FISAs
20 on the blind sheikh?

21 A No.

22 Q Did you ever solicit the views of former

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1 Director Freeh regarding personnel that he may want ?
2 that you may want to use for counter-terrorism?

3 A No.

4 Q And did you ever discuss with Mr. Freeh
5 Mr. Youssef's prior role as the Legat in Saudi Arabia?

6 A No.

7 Q Have you ever heard anything that I'll
8 call a rumor about Mr. Youssef from any source formal
9 or informal?

10 MS. WELLS: Object to the form.

11 THE WITNESS: No.

12 BY MR. KOHN:

13 Q Did you ever hear anything about Mr.
14 Youssef like he had problems with the former director,
15 problems with liaison, anything like that?

16 A No, but as I told you before, I had heard
17 at some point in time that he had a complaint that he
18 was pursuing with the Bureau that was going through
19 the ordinary channels.

20 Q Would it be your testimony that no one
21 ever gave you any negative information about Mr.
22 Youssef as rumor or otherwise?

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1 MS. WELLS: Object to the form.

2 THE WITNESS: I cannot recall any person
3 doing so.

4 BY MR. KOHN:

5 Q What steps did you undertake or direct to
6 be undertaken to determine why Mr. Youssef was not
7 assigned to investigatory matters related to September
8 11 or its aftermath?

9 MS. WELLS: Object to the form.

10 THE WITNESS: As I testified before, I
11 know I would come back, I don't know who I would have
12 talked to. The letter that you showed me indicated
13 that I talked to Collingwood who presumably was the
14 legislative affairs, and apparently he had some role
15 in the follow up. But that I discerned from the
16 letter.

17 BY MR. KOHN:

18 Q Do you remember testifying in Congress in
19 the summer of 2003 about Mr. Youssef?

20 A No.

21 Q Do you remember responding to a question I
22 believe from Senator Grassley that Mr. Youssef had

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1 failed to avail himself of mediation process?

2 A I don't recall that testimony.

3 Q Did anyone ever talk to you or brief you
4 on Mr. Youssef and the mediation process?

5 A At some point.

6 Q And to the best of your recollection, who
7 was that and what did they say?

8 MS. WELLS: Object to the form.

9 THE WITNESS: The best I can remember is
10 that someone was going ? there was going to be a
11 mediation process, and hopefully they'd be able to
12 mediate Mr. Youssef's concerns.

13 BY MR. KOHN:

14 Q Did anyone ever make you aware that the
15 FBI cancelled a mediation session with Mr. Youssef?

16 A Not before I saw the letter that you just
17 showed me.

18 Q And in regards to a mediation process, are
19 you familiar with mediation at all?

20 A Yes.

21 Q And in your mind would it be a good idea
22 to appoint as the mediator the official for which the

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1 complainant had made the allegation?

2 MS. WELLS: Object to the form.

3 THE WITNESS: Again, that's pure
4 speculation.

5 MR. KOHN: Okay, well, as an attorney --

6 THE WITNESS: You are free to ask me
7 questions as director that bear on this, but I'm not
8 going to opine on legal matters in a vacuum.

9 MR. KOHN: Okay.

10 BY MR. KOHN:

11 Q As the director of the FBI would you
12 approve a mediation process, if they brought that to
13 you, in which the mediator was the supervisor who was
14 accused of the misconduct?

15 A I'm not going to speculate on it. I'm not
16 going to speculate on that.

17 Q These questions are all being asked in
18 your capacity as the selecting official for Senior
19 Executive Service positions within the FBI's counter-
20 terrorism division.

21 Question ? and I'm now going to read from
22 the deposition of Mr. Bald and ask if you agree or

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1 disagree with his answer, and I'm reading from page
2 21, lines 12 through 19 of the deposition ? to give
3 leadership in counter-terrorism as it relates to
4 Middle Eastern organizations, do you think having
5 detailed knowledge of Middle Eastern history and
6 culture is important? That's the question.

7 Answer: I think it's helpful, not
8 required. I wouldn't say it's important, although I
9 wish that I had it.

10 Would you agree or disagree with that
11 characterization of that skill?

12 A I'm not going to ? if you want to ask me a
13 question, ask me a question. But I'm not going to
14 comment on other persons testimony.

15 Q Okay. Then the question would be, to give
16 leadership in counter-terrorism as it relates to
17 Middle Eastern counter-terrorism, do you think having
18 detailed knowledge of Middle Eastern history and
19 culture is important for managers at the SES level in
20 the FBI?

21 MS. WELLS: Object to the form of the
22 question.

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1 THE WITNESS: I think it would be helpful.

2 But there are a number of qualities that go into
3 making a leader, a number of skillsets that are
4 necessary to be effective. But it certainly would be
5 helpful if one had background, if the focus was a
6 position that was focused on al Qaeda, and you had
7 some past familiarity with al Qaeda, certainly it
8 would be helpful.

9 BY MR. KOHN:

10 Q And would you say it would be important?

11 A I would say it would be helpful. I'm not
12 going to distinguish between that and the other
13 characteristics that are necessary to be a leader in
14 the Bureau.

15 Q And the next question is, do you think
16 that, again, a person within the counter-terrorism
17 division at the SES level that it would be to their
18 advantage to speak Arabic?

19 MS. WELLS: Object to the form.

20 THE WITNESS: Well, it depends on what
21 position it is in the SES as to whether it would be
22 helpful or not. There are circumstances where it

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1 wouldn't be helpful at all. There are other
2 circumstances where it might be helpful.

3 BY MR. KOHN:

4 Q Okay, which circumstances would it be
5 helpful for an SES employee in the counter-terrorism
6 division to speak Arabic?

7 A Well, if you're translating documents, for
8 instance. If you are required to translate documents.

9 Q Do SES employees generally engage in
10 translation of documents?

11 A No. You didn't say that in the question,
12 I don't think. If you can read the last question
13 back, the question said an employee in the counter-
14 terrorism division.

15 Q I'll just rephrase. At the SES level.
16 I'll just rephrase the question. For an employee at
17 the SES level, would it be to their advantage to speak
18 Arabic?

19 A It might be helpful.

20 Q Why?

21 A There may come across his or her desk a
22 document that is in original Arabic and one would not

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1 necessarily have to rely on the translation or the
2 work of a translator but would have an additional
3 insight if you spoke Arabic.

4 It also might be helpful in terms of
5 liaison with persons from the Middle East.

6 In those two instances it would be
7 helpful.

8 Q Are you aware ? does the current executive
9 assistant director for counter-terrorism have a role
10 in the promotional process within the SES?

11 MS. WELLS: Object to the form.

12 MR. KOHN: Mr. Gary Bald, does he have a
13 role in that process?

14 THE WITNESS: Yes.

15 BY MR. KOHN:

16 Q What's his role in promotions into the
17 SES?

18 A Well, currently, I don't know what his
19 participation is to the boards that are established.
20 I presume he has some, but I'm not familiar with the
21 details of his particular participation in the SES
22 boards.

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1 Q With in the SES boards that relate to the
2 counter-terrorism division, do you know what his role
3 on those boards would be?

4 A I don't at this point, not the specific
5 point.

6 Q And when he was the ? and before he was
7 the executive assistant director, do you know what
8 position he held? He was the assistant director?

9 A He was the assistant director.

10 Q When he was the assistant director for
11 counter-terrorism, do you know what his role would
12 have been?

13 A He would have played some role. But on
14 specific boards, I'm not certain of the details. It
15 would depend presumably on the board.

16 Q Did you ever discuss with Mr. Bald his
17 idea of what type of qualifications he was personally
18 looking for to promote people into the SES and the
19 counter-terrorism division?

20 A I don't recall having such a discussion.

21 Q Were you aware that Mr. Bald was of the
22 opinion that a strong background in international

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1 terrorism was not essential for persons selected into
2 the SES in counter-terrorism?

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

5 THE WITNESS: I wasn't specifically aware
6 of that, but I do not disagree with that.

7 BY MR. KOHN:

8 Q You agree with that?

9 A I do not ? I mean I do not disagree with
10 what he said.

11 Q So you would agree that ? just so the
12 record is very clear. My question then is to you, not
13 to Mr. Bald now, in other words for you: Is a strong
14 background in international terrorism very important
15 for someone to be selected into a position of the SES
16 in the FBI's counter-terrorism division?

17 MS. WELLS: Object to the form.

18 THE WITNESS: It's helpful, not essential.

19 BY MR. KOHN:

20 Q Do you know Mr. John Picus?

21 A Yes.

22 Q Were you aware that the FBI, for the

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1 purposes of Mr. Youssef's case, appointed Mr. Picus as
2 the official representative of the FBI with regard to
3 all promotional activities concerning counter-
4 terrorism in which any employee for the FBI who had
5 the rank of a GS-15 or below was promoted into the
6 SES?

7 A Can you state that again? You lost me.

8 Q Okay. Were you aware that for the
9 purposes of this case ? strike that for a second. You
10 understand that in the Federal Rules of Civil
11 Procedure a corporation or a government agency can
12 appoint someone to become like an official
13 representative of that entity for a civil case?

14 A I mean in what context?

15 MS. WELLS: Is that 30(b)(6)?

16 THE WITNESS: Are you talking about the
17 receipt of service, that kind of thing?

18 MS. CAPRONI: I think the answer is no.

19 MR. KOHN: Let me just rephrase it again.

20 BY MR. KOHN:

21 Q The record in this case would reflect that
22 for purposes of this case Mr. Picus was appointed or

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1 assigned by the FBI to be their spokesperson on the
2 FBI promotional activities post-2001 for promotions
3 into the SES?

4 A Okay.

5 Q Okay?

6 A Yes.

7 Q Okay. And he testified to a question that
8 there were do discussions at the FBI about the need
9 for promoting Arabic speakers into the Senior
10 Executive Service.

11 My question: would you agree? Are you
12 aware of any discussions among anyone, formal or
13 informal, where people got down and said, should we
14 bring Arabic speakers into the Senior Executive
15 Service counter-terrorism division?

16 MS. WELLS: Object to the form of the
17 question.

18 BY MR. KOHN:

19 Q Has that ever happened?

20 A Well, we've had numerous discussions about
21 the necessity for diversity in SES, and promotions
22 within the Bureau.

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1 I do not recall any specific discussions
2 on Arabic speakers, but I would include Arabic
3 speakers as being part of the discussions when we
4 discuss about enhancing diversity within the Bureau.

5 Q Why would that be? Why would Arabic
6 speakers be related to --

7 A Different background.

8 Q But someone could speak Arabic and still
9 be a white Caucasian male.

10 A That's true.

11 Q Mr. Picus also testified on behalf of the
12 FBI that after the 9/11 attacks there were no
13 discussions within the FBI about those attacks should
14 force or have the FBI reexamine the skills and
15 qualifications necessary for a person to be promoted
16 into the SES counter-terrorism division.

17 My question for you is: since you have
18 been director, do you remember any discussions among
19 FBI managers or personnel about how 9/11 may impact
20 the way we have viewed promotions into counter-
21 terrorism SES?

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

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1 form of the question, and also, I'm going to object to
2 the characterization of the deposition testimony.

3 MR. KOHN: And I'll refer just for the
4 record --

5 MS. WELLS: I understand you're reading
6 from it.

7 MR. KOHN: --TR 89, lines 20 through 22.

8 MS. WELLS: I still object to the
9 characterization of the testimony.

10 THE WITNESS: What was the question again?

11 BY MR. KOHN:

12 Q The question is, since you've been
13 director of the FBI, have you participated in any
14 meetings or discussions in which you've looked at the
15 qualifications for promotion into the SES in the
16 counter-terrorism division in light of what occurred
17 on September 11, 2001, and its aftermath, and said,
18 should we change those criteria?

19 MS. WELLS: Object to the form of the
20 question.

21 THE WITNESS: Well, only as part of larger
22 discussions in terms of broadening the capabilities of

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1 the Bureau, bringing on board more Arabic speakers.
2 But it's not just Arabic speakers, it's Chinese
3 speakers, it's Pashtun, it's a number of different
4 skillsets, both in terms of new agents, analysts, and
5 the staff in broadening the FBI.

6 And so yes, there have been numerous
7 discussions about broadening the FBI and obtaining
8 those skillsets.

9 We've also gone out and attempted, and are
10 still in the process, of identifying the various
11 skills ? not just in Arabic but in these other
12 languages ? that we may have and have been untapped in
13 the past.

14 So there have been a broad range of
15 discussions about growing the FBI in these areas.

16 Now if the question is specifically on
17 changing that which it takes to get into the SES, no,
18 I don't recall any specific discussion. It ought to
19 be in the context of the changes we're undergoing at
20 the Bureau since September 11.

21 BY MR. KOHN:

22 Q I've reviewed the reports issued by the

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1 FBI, or many of them that have been published, and
2 they do talk as you've testified about new agents.
3 But I've seen no discussion in any of those reports
4 about qualifications for Senior Executive Service
5 managers. It's been absent.

6 Do you know of anything that the FBI has
7 produced in writing or even in a lecture that may
8 exist where anyone has talked about the SES and
9 applied those standards that are being talked about
10 for new agents to the SES?

11 A Well, I really don't understand the
12 question.

13 Q What I'm saying is, in other words, an
14 SESer is generally not a new agent, would you agree?

15 A Yes.

16 Q So I'm talking about, and I understand
17 that someone becomes a new agent, and let's say they
18 can speak Arabic, eventually they may get promoted
19 into the SES in a period of years, correct?

20 A Yes.

21 Q Through the process.

22 MS. WELLS: Object to the form.

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1 BY MR. KOHN:

2 Q So I'm not talking about that, I'm talking
3 about people who are currently eligible or close to
4 being eligible to the SES, and any discussions that
5 you participated in as the hiring official for the SES
6 about criteria for hiring those people into the
7 counter-terrorism division related to what lessons
8 were learned from 9/11?

9 MS. WELLS: Object to the form of the
10 condition.

11 THE WITNESS: Now you're adding another
12 condition, for those who were immediately available to
13 promotion to SES. You're talking about that narrow
14 band of persons?

15 MR. KOHN: Yes.

16 THE WITNESS: In the context of building
17 up our analytical cadre, there have been discussions
18 about having SES positions available for the
19 analytical cadre so that the analytical cadre can ?
20 has a career path that will enable the analytical
21 cadre to be promoted to SES positions and make use of
22 many of the skills that you describe.

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1 BY MR. KOHN:

2 Q And the analytical cadre are non-agents,
3 correct?

4 A Can be agents or non-agents.

5 MS. WELLS: Object to the form.

6 THE WITNESS: I'm talking about
7 intelligence. We're developing an intelligence cadre,
8 many of whom are analysts, but we're developing
9 intelligence officers. And an intelligence officer
10 could be an analyst or an agent.

11 And we're also developing career paths,
12 additional career paths, in the intelligence field
13 that will give a person who has some of these skills a
14 career path that in the intelligence ? the new
15 intelligence directorate.

16 So there have been discussions about that,
17 yes.

18 BY MR. KOHN:

19 Q And have policies actually been
20 implemented?

21 A No, they're being developed at this point,
22 and have been for the last several months.

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1 Q Who's in charge?

2 A Maureen Baginski.

3 Q And what is her position with the FBI?

4 A Executive assistant director, in charge of
5 the intelligence directorate.

6 Q Mr. Picus also testified in his official
7 capacity as the FBI representative that he was unaware
8 of any actions by the FBI to either recruit or
9 encourage persons with knowledge or experience of
10 Middle Eastern culture, heritage or history to apply
11 to the SES within the counter-terrorism division.

12 Are you aware of any steps being taken by
13 the FBI to encourage persons with that background to
14 apply to the SES positions?

15 MS. WELLS: Again I'm going to object to
16 the characterization and taking out of context the
17 statements from John Picus' deposition.

18 And I'm also going to object to the form
19 of the question.

20 THE WITNESS: Can you read it again?

21 BY MR. KOHN:

22 Q Yes. The question is, Mr. Picus has

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1 testified that he was aware of no steps to recruit or
2 encourage persons with experience in Middle Eastern
3 culture, history or heritage into the counter-
4 terrorism ranks at the SES level.

5 Are you aware of any efforts being taken
6 by the FBI to so recruit or encourage applicants with
7 that background into the SES counter-terrorism?

8 MS. WELLS: I still object for the same
9 reasons previously stated.

10 THE WITNESS: Well, I know there are
11 several individuals with that background who are very
12 effective and my expectation are of moving towards
13 advancement to the SES.

14 BY MR. KOHN:

15 Q At this time do you know if there have
16 been any --

17 A They may not want to. Not everybody wants
18 to be SES. Some people want to pursue cases.

19 Q But in terms of ? I understand some people
20 you know that may want to, but has there been any
21 actions by the FBI to essentially put the word out to
22 all of its agents that they'd like to recruit or

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1 encourage persons with that background to seek SES
2 positions?

3 A Every place I go I talk about the
4 necessity of developing leaders in the Bureau. I do
5 not focus on persons with particular backgrounds, but
6 the necessity of developing leaders in the Bureau, and
7 to have the current leadership in the Bureau identify
8 persons by whom they would want to be led, encourage
9 them to advance through management in the Bureau.

10 Q Can someone be an effective leader without
11 extensive subject matter in the area for which they
12 will become a leader?

13 A Yes.

14 MS. WELLS: Object to the form.

15 BY MR. KOHN:

16 Q And would you say that's true at the
17 section chief level?

18 A Yes.

19 Q And at the assistant director level?

20 A Yes.

21 Q At the unit chief level?

22 A Yes. You often have persons moving

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1 between subject matter. You can have somebody who has
2 done organized crime for a number of years. They
3 become a unit chief in white collar crime; they do a
4 fantastic job.

5 I've had occasions where as a U.S.
6 Attorney I've taken somebody that's been a drug
7 prosecutor, I put him in charge of SEC prosecutions.
8 They've done a fantastic job.

9 I've never been an agent. I'm here as
10 director. You can question whether the job is being
11 done effectively. But it's not necessarily ? I mean
12 yes, I think leaders can ? leadership ability is
13 transferable, and often you can pick up the subject
14 matter if you've got the leadership skills.

15 Q Do you think that ? the type of leadership
16 skills you would need at say the director level, are
17 they the same type of leadership skills you'd be
18 looking for at a section chief level?

19 A To a certain extent, yes. Absolutely.

20 Q But to a certain extent no?

21 A Well, you have to have ? I mean you would
22 draw the distinction, some breadth of knowledge to

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1 what you're getting. But yes, the same type of
2 leadership skills, the ability to lead and motivate
3 people. The ability to convince them that you're
4 there to support them, to work as hard if not harder
5 than they, to never ask anybody to do what you're not
6 willing to do yourself. All of those skills, yes, are
7 important at every level of leadership.

8 Q No in terms of this transferrance of
9 skill, being an expert in white collar crime and then
10 coming over and being a leader in say drug
11 investigations, wouldn't it be true that although that
12 transferrance may be applicable on the typical
13 criminal investigation side of the FBI, its historic
14 mission of a crime is committed nad investigated, but
15 isn't it not true that those skills could be
16 transferable to counter-terrorism investigation?

17 MS. WELLS: Object to the form.

18 THE WITNESS: I don't understand the
19 question.

20 BY MR. KOHN:

21 Q In other words is it your testimony that
22 someone say experienced in white collar crime develops

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1 skills which would then be transferable to a
2 leadership position in counter-terrorism?

3 A Yes.

4 MS. WELLS: Object to the form.

5 BY MR. KOHN:

6 Q And what about in terms of bank robbers?

7 A Yes.

8 Q Okay.

9 A And in fact, I mean the fact of the matter
10 is, what you learn on the streets in terms of dealing
11 with informants, dealing with sources, developing
12 cases on the criminal side, is certainly a
13 transferable skill to counter-terrorism and counter-
14 intelligence.

15 Q Okay, isn't the ? aren't the skills that
16 one learns in terms of a ? this here is a question
17 that is going to deal with ? well, just strike all
18 that, because it's kind of complex.

19 You know, a crime is committed, and the
20 FBI investigates the crime, correct? I mean that can
21 happen?

22 A It does happen. But it's not the only

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1 thing we do.

2 Q I know. So I'm going to talk about that
3 is just your typical criminal case. Crime,
4 investigate, prosecute.

5 Now let's talk about an intelligence case
6 in which you're trying to prevent a crime, so you're
7 not ? you maybe will never prosecute --

8 A Crime hasn't been committed yet. Okay, go
9 ahead.

10 Q Are the skills from that criminal side
11 where you investigate, prosecute, transferable to the
12 skills where you would investigate to prevent a crime?

13 A Absolutely. Absolutely.

14 Q What is ? since you've been the director
15 of the FBI have you taken any courses in counter-
16 terrorism?

17 MS. WELLS: Object to the form.

18 THE WITNESS: You mean formal courses?

19 BY MR. KOHN:

20 Q Yes, sat down and studied it in a formal
21 way.

22 A I haven't gone to any schools. Yes, I

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1 spent a lot of time studying it.

2 Q And what type of studying have you done?

3 A Books, briefings, visits to foreign
4 countries.

5 Q But in terms of a formal course, you have
6 not done an in-service training or a university
7 course?

8 A No.

9 Q Are you aware that Mr. Youssef at one
10 point became the unit chief in the, what is known as
11 the documentation exploitation unit?

12 A I saw it in that letter. I'm not certain
13 when I became aware of that. I may at some point have
14 become aware of that.

15 Q And are you aware, do you have first-hand
16 knowledge of the qualifications for that position?

17 A No.

18 Q Do you know if Mr. Youssef for that
19 position needs to use his Arabic language skills?

20 A No, but I would think they would be
21 helpful in that position.

22 Q And do you know for that position whether

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1 he needs to use his background and knowledge of Middle
2 Eastern culture and history?

3 A Don't know.

4 Q And do you know if in that position he
5 needs to use his operational experience in counter-
6 terrorism?

7 A Don't know.

8 MS. WELLS: Object to the form.

9 BY MR. KOHN:

10 Q And do you know what his current position
11 is?

12 A No.

13 Q Mr. Youssef is currently the unit chief in
14 the communications analysis unit.

15 Do you know again for those three criteria
16 whether he needs to use those skills in that position

17 --

18 MS. WELLS: Object to the form.

19 MR. KOHN: -- language, culture, history,
20 counter-terrorism experience?

21 MS. WELLS: Object to the form.

22 THE WITNESS: I don't specifically,

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1 because I don't know what Mr. Youssef does day-in and
2 day-out in that unit. I can think that it would be
3 helpful however.

4 BY MR. KOHN:

5 Q The record in this case would reflect that
6 Mr. Youssef is a fluent Arabic speaker with extensive
7 background and experience in Middle Eastern culture,
8 history, that he did have extensive operational
9 counter-terrorism experience, that he served in Riyadh
10 as the First Legat, rated ? praised by former
11 Director Freeh for his liaison in that position with
12 the Minister of the Interior Mabath.

13 It would also reflect that the inspection
14 report for him, when he served in that position, was
15 extremely complimentary.

16 In your mind if that is all true do you
17 think Mr. Youssef should have been assigned to some
18 job related to the 9/11 terrorist attack in the
19 aftermath of 9/11?

20 MS. WELLS: I'm going to object to the
21 form of the question. I disagree with the
22 characterization of the record developed in the case.

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1 There are a number of terms in that question that are
2 ill-defined, and it's a very complicated long
3 question. So I object to the form of the question.

4 MR. KOHN: And if you want me to go
5 through that again, I will.

6 THE WITNESS: No, I can't say whether he
7 should or shouldn't have been assigned. He obviously
8 has skills that are beneficial to the FBI, and that
9 the FBI needs to use. In what capacity is I think one
10 of the things that I was concerned about after the
11 discussion with Mr. Youssef, to make use of those
12 capacities.

13 Now my understanding is that there are a ?
14 in the wake of my meeting with Congressman Wolff and
15 Mr. Youssef there were efforts made to utilize those
16 skills. And what you're at now is trying to I guess
17 better define that.

18 But certainly he has skills that are
19 beneficial. His background is beneficial to the
20 Bureau, and we would want to make use of them.

21 Where, is a question for others.

22 Q Did it cause you any concern when you

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1 learned that Mr. Youssef, with that skillset, had not
2 been called into service in the period following 9/11?

3 MS. WELLS: Object to the form.

4 THE WITNESS: No.

5 BY MR. KOHN:

6 Q Why not?

7 A Because the personnel decisions as to who
8 was going to participate in the days after September
9 11th were beyond me. I mean I don't spend each ?
10 certainly in the wake of September 11th I was not in a
11 position to determine who was going to serve in what
12 position. I left that up to others to decide, and to
13 use their best judgment as to who should go into what
14 position.

15 Q But you are a rating official, or you
16 participate in the evaluation of various FBI managers,
17 correct?

18 A Well, yes, one ? maybe a small handful,
19 yes.

20 Q Okay. Well my question is, did you ever,
21 did it strike you that there may be something wrong,
22 that someone may have had a performance failure

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1 because they did not utilize Mr. Youssef?

2 A No, that did not occur to me.

3 Q Why would that not occur to you?

4 A Look, I met with Congressman Wolff and Mr.
5 Youssef. I came back, was concerned, and followed up
6 on the matter, and did what I thought was appropriate
7 to try to advance Mr. Youssef's interests as well as
8 the interests of the Bureau in following up to
9 determine who to best utilize Mr. Youssef's skills.

10 Now, the way that was handled, I'm
11 comfortable with the way it has been handled since,
12 and I think I went out of my way, to follow up and to
13 give Mr. Youssef the opportunity of my following up on
14 his circumstance and situation and have persons look
15 into it in the wake of the meeting with Congressman
16 Wolff. And after that, the process has taken its
17 course.

18 MR. KOHN: I'm going to show the witness a
19 document, a one-page document marked as Mueller
20 Exhibit No. 2.

21 (Whereupon, the aforementioned
22 document was marked for

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1 identification as Mueller
2 Exhibit Number 2.)

3 MR. KOHN: For the record, it's dated
4 4/30/2002 DOJ Bates stamped 3960.

5 BY MR. KOHN:

6 Q And my first question to the witness is,
7 if he'd ever seen this document before?

8 A No, don't believe so.

9 Q And if you could look at the paragraph
10 that's marked, details. If you see a reference in
11 that to ITOS?

12 A Yes.

13 Q Do you know what ITOS is, or what type of
14 work it performs?

15 A I think it's International Terrorism
16 Operational Section.

17 Q And is that the section within the
18 counter-terrorism--

19 A Yeah, it says it above it, International
20 Terrorism Operational Section.

21 Q And are you familiar with the work of that
22 section?

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1 A Yes.

2 Q And if you can read where it says details,
3 they are talking about Youssef's relative overseas
4 operations, do you think that this directed transfer
5 makes sense to put him in ITOS?

6 MS. WELLS: Object to the form.

7 THE WITNESS: I don't know what went
8 behind it, so I'm really not in a position to
9 characterize it.

10 BY MR. KOHN:

11 Q Well, based on your knowledge of ITOS, and
12 the representations made in this paragraph --

13 A I'm not in a position to characterize
14 that. I don't know what generated that.

15 Q Do you know why this was never
16 implemented?

17 MS. WELLS: Object to the form.

18 THE WITNESS: I did not know it was not
19 implemented.

20 BY MR. KOHN:

21 Q Do you know ? did anyone ever discuss with
22 you the reasons why Mr. Youssef was not placed into

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1 ITOS?

2 A You're telling me he was not placed in
3 ITOS. I did not know he wasn't placed in ITOS, no.

4 Q Yes, I mean, this memo exists, but they
5 never put him there. And no one ever told you about
6 that.

7 A I didn't know that. But you're telling
8 me, I think you told me he's in counter-terrorism.

9 Q He's in the communications analysis
10 section as opposed to the operation section.

11 Were you aware that that at a point my
12 office wrote you a letter requesting Mr. Youssef's
13 permission to speak with the Senate Judiciary
14 Committee?

15 (Whereupon, the aforementioned
16 document was marked for
17 identification as Mueller
18 Exhibit Number 3.)

19 THE WITNESS: Why don't we take a short
20 break if we could.

21 (Whereupon, the aforementioned matter went
22 off the record at 10:48 a.m. to return on

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1 the record at 10:53 a.m.)

2 MR. KOHN: Back on the record.

3 BY MR. KOHN:

4 Q And my question simply is, do you remember
5 obtaining a copy of Exhibit No. 3, which is a one-page
6 document dated April 3rd, 2003, from Kohn to the
7 director?

8 A No.

9 (Whereupon, the aforementioned
10 document was marked for
11 identification as Mueller
12 Exhibit Number 4.)

13 BY MR. KOHN:

14 Q And if you can please look at what we have
15 marked as Exhibit No. 4. And for the record, that's a
16 three page letter of response to the Exhibit No. 3, to
17 Kohn from Patrick Kelly, acting General Counsel.

18 Did you ? do you remember ever receiving
19 or reviewing this document?

20 A No.

21 Q Do you remember a controversy concerning
22 whether Mr. Youssef could be interviewed by

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1 representatives of the Senate Judiciary Committee?

2 A I do not.

3 Q And on Exhibit No. 4, I'd like to call
4 your attention to the bottom of page two and the top
5 of page three. It's that last paragraph.

6 And just for the record, this letter is
7 concerning conditions for which the FBI was placing on
8 a requested interview between Mr. Youssef and staff
9 from the Senate Judiciary Committee.

10 And it says, with respect to his
11 anticipated disclosures, Youssef is referred to MAOP,
12 part one, section 1-24(5)(a)(2), which provides Bureau
13 policy concerning disclosure of information which
14 would adversely affect FBI to effectively and
15 efficiently fulfill its responsibilities, including
16 speech, concerning private grievances, or that impairs
17 harmony among coworkers.

18 Do you see that?

19 A Yes.

20 Q You have made many statements concerning
21 the right of FBI employees to be whistle-blowers or
22 raise concerns?

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1 MS. WELLS: Object to the form of the
2 question.

3 THE WITNESS: I've what?

4 BY MR. KOHN:

5 Q Have you made public statements regarding
6 the fact that FBI employees are permitted to blow the
7 whistle?

8 MS. WELLS: Object to the form.

9 THE WITNESS: I would have to look at what
10 I've said. I know that I've sent out rather strong
11 guidance prohibiting retaliation against whistle
12 blowers.

13 BY MR. KOHN:

14 Q And my question is, for you is, what is
15 your understanding of this FBI policy regarding
16 disclosures, in this context to members of the Senate
17 Judiciary Committee, which may impair discipline and
18 harmony among coworkers. What is that prohibition?

19 A The letter speaks for itself. I'm not
20 going to interpret.

21 Q Do you think that ? what is your
22 understanding of the impaired discipline or harmony

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1 among coworkers?

2 A Letter speaks for itself. I'm not going
3 to elaborate.

4 Q And would it be your position that if an
5 FBI agent made disclosures to the staff of the Senate
6 Judiciary Committee which impaired discipline or
7 harmony among coworkers within the FBI, that employee
8 could be subject to discipline?

9 MS. WELLS: Object to the form.

10 THE WITNESS: The letter speaks for
11 itself. I'm not going to interpret it.

12 BY MR. KOHN:

13 Q So if that section of the MAOP says that
14 an employee could be disciplined for that type of
15 speech, you stand behind that?

16 A I am ? the letter speaks for itself.

17 Q Do you know why that paragraph was
18 inserted into this letter regarding Mr. Youssef?

19 MS. WELLS: Object to the form. As he's
20 testified, he's never seen the letter before.

21 THE WITNESS: I had no role in the
22 preparation ? well, I had no role in the preparation

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1 of the letter. So I didn't know what was in the mind
2 of the person who did prepare it.

3 BY MR. KOHN:

4 Q Do you know of any other circumstance
5 where an FBI employee has been informed that they may
6 violate the MAOP if their disclosures to Capitol Hill
7 iimpair discipline or harmony among their coworkers?

8 A Yes, I think that's a rather standard
9 letter.

10 MS. CAPRONI: Can I just note for the
11 record that you're saying (pronouncing) MYOP and it's
12 actually a reference to the MAOP.

13 MR. KOHN: The MAOP, thank you very much,
14 M-A-O-P. Thank you.

15 BY MR. KOHN:

16 Q Does Mr. Youssef have the right, if he
17 wants to in his own personal capacity on his own time,
18 to visit with members of Congress and raise concerns
19 about the FBI?

20 A I'm not going to speculate. It depends on
21 the circumstance, it depends on the issue.

22 Q And does Mr. Youssef have the right to

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1 talk about his concerns and not release any classified
2 or sensitive information with representatives of the
3 news media?

4 MS. WELLS: Object to the form.

5 THE WITNESS: That's speculation. I'm not
6 going to speculate on it.

7 BY MR. KOHN:

8 Q Calling your attention once again to the
9 time period immediately following the September 11th
10 attacks, and I'm talking about that 90-day time
11 period, during that time period do you remember any
12 discussions that you participated in in which there
13 was expressed a need to improve liaison with Saudi
14 Arabia?

15 MS. WELLS: Object to the form of the
16 question. Could you provide a context?

17 THE WITNESS: Repeat the question, please.

18 BY MR. KOHN:

19 Q Within the immediate aftermath of 9/11 ?
20 I'm looking at that 90-day period following the attack
21 ? did you participate in any discussions in which it
22 was expressed that there was a need to improve the

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1 liaison between Saudi Arabia and the FBI, their
2 respective --

3 A I think in the wake of September 11th the
4 greatest concern was that 15 of the hijackers had come
5 from Saudi Arabia. So the king ? in the initial days
6 after September 11th, the thrust of any discussions
7 were on obtaining information from Saudi Arabia
8 relating to the individuals who were responsible for
9 September 11th.

10 Q And during those discussions, did people
11 raise a concern that there were liaison issues? Saudi
12 Arabia say wasn't fully cooperating?

13 A I'm sure there were discussions along
14 those lines. I don't have a specific memory of any
15 specific discussion.

16 Q During those discussions did anyone call
17 to your attention that Saudi Arabian officials to the
18 prior director, Director Freeh, had expressed a desire
19 to conduct liaison through Mr. Youssef?

20 MS. WELLS: Object to the form.

21 THE WITNESS: No. In fact my impression
22 at the time was that our liaison with Saudi Arabia was

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1 ? had not been good in the wake of the Khobar Towers
2 bombing, and that we did not get what we wanted in the
3 case of Khobar Towers, and that the Saudis would go
4 some of the ways, but would go no further, in the
5 context of providing information that would have been
6 helpful in the Khobar Towers bombing.

7 Q Who provided you with that information,
8 that the Saudis weren't cooperative on Khobar Towers?

9 A I think I had known that from the
10 investigation of the Khobar Towers bombing.

11 Q Did you have a role in that?

12 A No. I had an oversight role when I was
13 acting deputy in terms of oversight of the
14 investigation for a period of time.

15 Q Did you learn some of that, say, through
16 the news media accounts of the Khobar Towers, do you
17 believe?

18 A Some.

19 Q Are you aware that in the beginning of the
20 Khobar Towers investigation, those problems existed,
21 and that Bassam Youssef was assigned the job to fix
22 those problems?

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1 MS. WELLS: Object to the form.

2 THE WITNESS: No.

3 BY MR. KOHN:

4 Q Are you aware that Mr. Youssef was able to
5 obtain the cooperation with the Saudi Arabian
6 government on the Khobar Towers as desired by Director
7 Freeh?

8 MS. WELLS: Object to the form of the
9 question?

10 BY MR. KOHN:

11 Q Are you aware that the Saudi Arabian
12 officials ? do you know a Prince Muhammad van Naif?

13 A Yes.

14 Q He's the deputy minister of interior?

15 A Yes.

16 Q In terms of Saudi Arabia and its liaison
17 with the United States, how significant is he in terms
18 of having good rapport with him?

19 MS. WELLS: I'm going to object to the
20 form of the question. He can only speak to the FBI,
21 not the United States in general.

22 MR. KOHN: I'm sorry.

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1 THE WITNESS: I think it's important to
2 have a relationship with him.

3 BY MR. KOHN:

4 Q Are you aware, did anyone ever tell you
5 what Mr. Youssef's relationship was with him while he
6 was Legat?

7 A No.

8 Q Are you aware that Muhammad Van Naif had
9 praised Mr. Youssef and had delivered a message to the
10 director of the FBI that Saudi Arabia was very happy
11 cooperating with Mr. Youssef?

12 A No.

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

15 BY MR. KOHN:

16 Q And the next question is, Prince Naif bin
17 Abdel Aziz, the minister of interior of Saudi Arabia,
18 do you know who he is?

19 A Yes.

20 Q And how important is he in terms of
21 liaison with the FBI on law enforcement/terrorism
22 matters?

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1 A He's one of our counterparts.

2 Q And are you aware that he delivered a
3 message to Director Freeh requesting that liaison
4 between the two nations be carried on through Mr.
5 Youssef?

6 A No.

7 Q And are you aware ? do you know who a
8 Major General Abdul Aziz al-Huwairini, director
9 director, Mabahith for liaison?

10 A I believe I've met him.

11 Q And do you know what his relationship was
12 with Mr. Youssef?

13 A No.

14 Q Did anyone at headquarters handle any
15 contacts with these individuals, or persons acting on
16 their behalf, in the wake of 9/11? In other words
17 after the attack were there communications at
18 headquarters between the Ministry of Interior, the
19 Mabahith, and the FBI?

20 A Over what period of time?

21 Q The 90 days following the attack.

22 A I don't know. I can't be specific at 90

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1 days.

2 Q What about in the years after?

3 A Yes.

4 Q Who has been responsible for those
5 contacts at headquarters?

6 A Well, it'd be OIO, the Office of
7 International Operations. And there are other
8 individuals depending on the date, the time and the
9 circumstances.

10 Q And do you know, do you remember Mr.
11 D'amouro when he was the assistant director for
12 counter-terrorism, executive assistant director --

13 A Yes.

14 Q --whether he had contacts with them?

15 A I'm sure he did. He may have traveled
16 with me on at least one occasion to Saudi Arabia.

17 Q And in terms of the cooperation obtained
18 in the Khobar Towers, were you aware at any time that
19 Mr. Youssef was the Legat in Saudi Arabia during the
20 Khobar Towers investigation?

21 A No.

22 Q Did you ever ask anyone who had experience

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1 as a Legat before, during Khobar Towers?

2 A No.

3 Q Did you view the liaison on Khobar Towers
4 as ineffectual because the FBI was not able to get
5 what it wanted?

6 MS. WELLS: Object to the form.

7 THE WITNESS: I did not have any
8 understanding as to the reason why we were not getting
9 the cooperation that was requested in the Khobar
10 Towers investigation. It wasn't requested by me, but
11 either by the Bureau or the Justice Department in
12 handling the Khobar Towers investigation.

13 I did not know what the breakdown was.

14 BY MR. KOHN:

15 Q Do you remember what the FBI requested as
16 part of that Khobar Towers investigation?

17 A No. And you assume I had it at one point
18 in my mind. I don't think I ever knew with some
19 degree of specificity what we were seeking in that
20 investigation.

21 Q And this is a hypothetical question, but
22 if when you became the director of the FBI you had

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1 known that the minister of the interior of Saudi
2 Arabia had through his son, the deputy minister of
3 interior, had relayed a message to the director of the
4 FBI that they liked the liaison with Mr. Youssef and
5 would like to continue using him, do you think you may
6 have called upon or have asked someone to call upon
7 Mr. Youssef?

8 A I'm not going to answer a hypothetical. I
9 can't put myself back in that circumstance and give a
10 credible answer on it.

11 Q Assuming for the sake of this case the
12 record would reflect that Mr. Youssef did have the
13 relationship with these individuals as I said, would
14 that experience be significant in your making a
15 promotional decision within the Senior Executive
16 Service? In other words if that showed up in the SES
17 in counter-terrorism, that one of the applicants could
18 say they had direct rapport and a good working
19 relationship with those individuals, do you think that
20 would have an impact on their qualifications for any
21 position at the SES level in counter-terrorism?

22 MS. WELLS: Object to the form.

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1 THE WITNESS: Could you repeat -- I don't
2 understand the question.

3 BY MR. KOHN:

4 Q Okay, assuming that Mr. Youssef did have
5 relationships with these individuals as I said. What
6 ? would that experience be significant in your making
7 a promotional decision within the Senior Executive
8 Service? In other words if that showed up in the SES
9 in counter-terrorism, that one of the applicants could
10 say they had direct rapport and a good working
11 relationship with those individuals, do you think that
12 would have an impact on their qualifications for any
13 position at the SES level in counter-terrorism?

14 MS. WELLS: Object to the form.

15 THE WITNESS: Can you repeat ? I don't
16 understand the question.

17 MR. KOHN: Okay, in other words assuming
18 that Mr. Youssef did have those liaison contacts with
19 the persons from Saudi Arabia that I've referenced ?
20 minister of interior, son, Mabathith ? if that was
21 reflected in a promotional package being presented to
22 you for an SES position in counter-terrorism, any

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1 position, do you think that would weigh in your
2 decision as to whether to hire the person?

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

5 THE WITNESS: Not particularly in the way
6 you phrase it. The fact of a contact. I mean much of
7 what we do in the Bureau, liaison with police
8 officers, liaison with our counterparts in the law
9 enforcement community, liaison with our counterparts
10 overseas.

11 The mere fact of having a liaison
12 relationship probably would not bear ? would not carry
13 much, the mere fact of a liaison relationship would
14 not carry much weight.

15 BY MR. KOHN:

16 Q Okay, would this, if this was reflected ?
17 I'm just going to give you a question, I'm quoting now
18 from the inspection report from the Riyadh when Mr.
19 Youssef was the Legat. It's DOJ Page 7634. If this
20 was reflected, he, the applicant, was successful in
21 establishing an excellent relationship with Mabahith,
22 the Saudi Arabian counterpart to FBI. His efforts led

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1 to the establishment of direct communications with
2 senior officials of Mabahith, which had previously
3 been unavailable to any U.S. embassy personnel.

4 With those facts, for any position at the
5 SES level, would that in your mind weigh heavily?

6 MS. WELLS: Object to the form.

7 THE WITNESS: It would be a factor.

8 BY MR. KOHN:

9 Q And I'm going to read to you another thing
10 from the inspection report: His Arabic language
11 ability greatly enhanced his effectiveness in dealing
12 with officials in host countries in Legat territory.
13 Ambassador Wyche, W-y-c-h-e Fowler called Legat
14 Youssef a superior representative for the FBI, and
15 noted he's just the right man for the position.

16 Deputy chief of mission in Riyadh Albert
17 Thiebault (ph) stated that Legat Youssef had done a
18 great job, possessed excellent interpersonal skills,
19 and was very reasonable. If that was reflected in an
20 SES promotional package to the Senior Executive
21 Service, would that impact your decision?

22 A It'd be a factor, yes.

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1 MS. WELLS: Object to the form.

2 BY MR. KOHN:

3 Q Do you believe that in the aftermath of
4 9/11 anyone in the FBI should have called these
5 inspection ? or these performance standards to your
6 attention in regards to staffing issues?

7 A I'm not going to answer that. That's in
8 the head of somebody else.

9 Q This is another inspection finding on page
10 7639.

11 MS. WELLS: I'm going to object to that
12 characterization of that being a finding. Is this
13 from the narrative or is this from the findings?

14 MR. KOHN: Okay, this is a statement
15 contained in the inspection report. Major General
16 Abdel Aziz al-Huwairini, director of liaison,
17 Mabathith, indicated that the FBI was the only western
18 law enforcement agency having direct liaison with his
19 office, and characterized the relationship with the
20 FBI as exceptional. General al-Huwairini commented
21 that the minister of interior had instructed him to
22 cooperate fully with the Legat office.

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1 If Mr. Youssef was able to attain that
2 level of cooperation and liaison while Legat in Saudi
3 Arabia, would that weigh on your decision as to select
4 him into the Senior Executive Service?

5 MS. WELLS: Object to the form.

6 THE WITNESS: As I said with each one of
7 these, it would be a factor. Now you've got 15
8 minutes, and I think I've answered that series of
9 questions.

10 BY MR. KOHN:

11 Q After you were aware that there were
12 significant shortfallings in the Legat office in Saudi
13 Arabia in the post-9/11 time period, correct?

14 MS. WELLS: Object to the form of the
15 question.

16 THE WITNESS: At some point in time, I did
17 understand that there were issues relating to the
18 Legat office in Riyadh attributable to a number of
19 factors.

20 BY MR. KOHN:

21 Q And you're aware that in November, 2002,
22 an inspection report found operational management

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1 deficiencies in that office, correct?

2 A Generally, yes.

3 MS. WELLS: Object to the form.

4 BY MR. KOHN:

5 Q And I'd like to call your attention to a
6 meeting which occurred on or about December 3, 2002,
7 in which you met with Director Gephardt and SAC Beverly
8 to discuss serious problems in the Riyadh Legat
9 office.

10 Do you remember a meeting on or about that
11 time?

12 A I don't have a specific memory of that
13 meeting. I met often with both of those individuals.

14 Q Do you generally remember the types of
15 problems that were identified on that December 3 ? or
16 meetings about the Legat office in or about December,
17 2002?

18 A Generally I remember they were related to
19 the management of the office.

20 Q And during any of those meetings, did the
21 thought enter your mind to recommend Mr. Youssef,
22 knowing his background experience?

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1 A No. And it's ? the supposition of your
2 question is that I had in my mind his background and
3 experience.

4 MS. WELLS: Right, and that's why the
5 question is objectionable.

6 THE WITNESS: That's not accurate.

7 BY MR. KOHN:

8 Q Did anyone call to your attention that the
9 problems in that Legat office had resulted in
10 information that Saudi Arabia had provided ? Saudia
11 Arabian police departments, whoever they are, Mabahith
12 presumably, had provided information to that Legat
13 office which had not been properly shared with
14 Washington?

15 A I don't recall the specifics.

16 Q Do you remember if the failure of that
17 office to provide Washington with information in a
18 timely manner caused friction or any problems with the
19 liaison between the Saudis and the FBI?

20 MS. WELLS: Object to the form of the
21 question.

22 THE WITNESS: Could be, but I don't have a

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1 specific recollection of the details relating to the
2 management of the office.

3 BY MR. KOHN:

4 Q At any point did anybody suggest to you
5 that Mr. Youssef's services may be helpful dealing
6 with Saudi Arabia in any capacity?

7 A No.

8 Q Now, as I understand it, you approved
9 promotions in the Senior Executive Service?

10 A Yes.

11 Q What is the impact of inspection
12 certification in terms of qualification for the SES,
13 inspector certified?

14 MS. WELLS: Object to the form.

15 THE WITNESS: Well, generally, you need to
16 be inspection certified to obtain promotion in the
17 SES, to certain positions. There are other SES
18 positions that are not agent positions, or have been
19 agent positions and are no longer agent positions,
20 where special certification is not warranted or
21 required.

22 BY MR. KOHN:

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1 Q But for agent positions inspection
2 certification is ? in your mind is that a requirement?

3 A Yes.

4 Q So you would not approve someone into the
5 SES if they did not have inspection certification?

6 MS. WELLS: Object to the form.

7 THE WITNESS: The way it works is, the
8 system, the persons apply, they go before a board,
9 their qualifications are evaluated by the board.

10 By the time I approve it, I assume that
11 the preconditions to promotion have been
12 satisfactorily completed. And so I don't look and see
13 that a person is, has four, five, six or whatever
14 number of inspections it is, when the package comes to
15 me.

16 BY MR. KOHN:

17 Q It's just general, your understanding,
18 that's a requirement that would be fulfilled?

19 A Yes.

20 Q Have you ever heard of people being
21 essentially rushed through the inspection process in
22 order to qualify for a position for which they'd

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1 otherwise be qualified for in the SES?

2 MS. WELLS: Object to the form.

3 THE WITNESS: For which they'd otherwise
4 be qualified for --

5 BY MR. KOHN:

6 Q In other words, let me just rephrase it,
7 have you ever heard that people were provided the
8 opportunity to do like back-to-back inspections in
9 order to reach the number of inspections they would
10 need to be inspection certified, and then therefore
11 eligible for advancement to the SES?

12 A No.

13 Q Had you obtained any information about Mr.
14 Youssef's attempts to obtain his inspection
15 certification?

16 A No.

17 Q Did anyone ever make you aware that he has
18 a concern that his ? that his invitation by the
19 inspection division has been blocked to do
20 inspections, has been blocked by his management?

21 A No.

22 Q Did anyone ever give you any information

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1 whatsoever as to why Mr. Youssef has not been
2 permitted to complete his inspections?

3 A No. And again, the ? I don't want to by
4 answering your question affirm the predicate of the
5 question.

6 Q That that happened?

7 A That that has happened.

8 Q I understand that. And I'm going to show
9 the witness an exhibit I'm going to mark as No. 5.

10 (Whereupon, the aforementioned
11 document was marked for
12 identification as Mueller
13 Exhibit Number 5.)

14 MR. KOHN: And for the record, Exhibit No.
15 5 is documentation provided by the Department of
16 Justice concerning the DCI award that was given to Mr.
17 Youssef.

18 BY MR. KOHN:

19 Q And my first question, and there is no
20 need to read the whole document. I'm going to ask you
21 about specific things. But on page one, they're
22 talking about the National Intelligence Distinguished

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1 Service medal, and they're discussion it. Does this
2 call your attention ? remember, I asked you earlier
3 about the DCI award. Does this refresh your
4 recollection at all about something known as the ?
5 commonly known as the DCI award, but may have a
6 different formal name?

7 A That was back in 1994.

8 Q Is there still a process in which all
9 members of the intelligence community compete for an
10 award that's given out by the CIA?

11 MS. WELLS: Object to the form.

12 THE WITNESS: I don't, again, believe that
13 there is a competition. I believe that people are
14 selected by the DCI for awards.

15 BY MR. KOHN:

16 Q And that's something where all members of
17 the intelligence community are allowed to submit
18 nominations?

19 A I'm not familiar with the procedure. And
20 in fact I think there have been occasions where
21 nominations have not been submitted, but the DCI
22 reaches out and provides an award to the person.

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1 Q I'd like to call your attention to, in the
2 top right-hand corner, it has a page six on it. This
3 is again Exhibit No. 4.

4 A You want four?

5 MS. WELLS: Five?

6 MR. KOHN: Oh, it's five, I'm sorry. It's
7 five, it's the DCI award documentation. And I'm
8 calling your attention --

9 MS. WELLS: It's on what page?

10 MR. KOHN: It's on the top right-hand
11 corner, it has a fax number saying page six.

12 It begins with the words, due to his
13 Middle Eastern background and his inherent knowledge ?
14 do you see that? If you could read that paragraph
15 before the black, I'm going to ask you some questions
16 about that.

17 So the paragraph before the blackout.

18 THE WITNESS: Yes.

19 BY MR. KOHN:

20 Q Okay, my first question is asset
21 development, in terms of human assets, something that
22 is a major goal of the current operation, persons

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1 working counter-terrorism on the operational side?

2 A Yes.

3 Q Is experience in successfully developing a
4 human asset within the types of terrorist
5 organizations responsible for 9/11, at a high level,
6 would that be something that would weigh heavily in
7 your mind in terms of promoting an applicant to a
8 management position regarding counter-terrorism?

9 A Not necessarily.

10 MS. WELLS: Object to the form.

11 THE WITNESS: Not necessarily. It could.
12 But it'd depend on the circumstances.

13 BY MR. KOHN:

14 Q And if you could please look again at that
15 paragraph I'd asked you to look at, is there anything
16 in that paragraph, in reading it, that in weighing an
17 SES application for the counter-terrorism division,
18 if that appeared within that package, you'd say that's
19 a significant factor that this person may deserve a
20 close look for a promotion?

21 MS. WELLS: Object to the form.

22 THE WITNESS: Well, as I think I said

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1 before, not necessarily. You have persons, you have
2 agents who are exceptionally good at various skills,
3 and developing assets may be one of them.

4 But the skills that are developed, the
5 skills that are utilized in developing assets may not
6 translate into the skills that are necessary for a
7 management or leadership position. Which is why I
8 say, this does not necessarily translate into the type
9 of skill that we would want in a manager or a leader.

10 I say, not necessarily. It may well be,
11 depending on the circumstances and the person and the
12 position.

13 BY MR. KOHN:

14 Q Wouldn't the type of background and
15 experience reflected on this page, fax page number
16 six, and the knowledge it implies, be something
17 extremely important in any promotion to anyone with
18 responsibility of management of an operational
19 counter-terrorism --

20 A I disagree with you there.

21 MR. KOHN: I'm going to show the witness,
22 we'll mark another exhibit.

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1 (Whereupon, the aforementioned
2 document was marked for
3 identification as Mueller
4 Exhibit Number 6.)

5 MR. KOHN: And for the record, Exhibit No.
6 6 are excerpts from the deposition of Mr. Garry Bald.

7 And I'm just going to ask you to review
8 that. Because you gave testimony concerning the role
9 of the states in the current counter-terrorism mission
10 of the FBI.

11 MS. WELLS: I'm going to object to that
12 characterization of the document.

13 And again it's only, as I understand it,
14 two pages?

15 MR. KOHN: Yes, it's excerpted from page
16 51, line 22, through 53, line 15.

17 MS. WELLS: Right, and again, just let the
18 record reflect that this is an excerpt of a deposition
19 of Garry Bald taken out of context.

20 BY MR. KOHN:

21 Q My first question is, if you look on page
22 52, lines four through 10, I don't need to read them,

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1 is that your understanding of the position of the
2 White House-CIA-Homeland Security-FBI-NSA and
3 Department of Defense regarding states conducting
4 counter-terrorism?

5 A I don't understand this excerpt at all. I
6 don't understand the context. I don't understand what
7 the discussion was. I don't understand what Garry
8 Bald was being asked, and I don't understand what
9 these answers refer to.

10 Q Okay. But is there currently a policy
11 within the FBI that states, state homeland security or
12 law enforcement agencies should not conduct
13 independent counter-terrorism investigations?

14 MS. WELLS: Object to the form.

15 THE WITNESS: Say that again?

16 BY MR. KOHN:

17 Q Is there currently a policy within the FBI
18 that state law enforcement agencies should not
19 independently conduct counter-terrorism
20 investigations?

21 MS. WELLS: Object to the form?

22 THE WITNESS: Why is this relevant to

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1 anything?

2 MR. KOHN: Because Mister ? just so you
3 know, it's because Mr. Youssef was asked to come and
4 talk to the State of New Jersey's counter-terrorism
5 division personnel. That request was denied, and the
6 reason given for it, in part, was that policy to try
7 to have states not engage in this.

8 THE WITNESS: Well, I think, the policy is
9 to coordinate terrorism investigations. That doesn't
10 mean that states won't have their own terrorism
11 investigations. But we do want to be coordinated. So
12 the policy is coordination across the country.

13 I don't think anybody would say definitely
14 that a state cannot undertake its own counter-
15 terrorism investigation. But yes, we do want to be
16 coordinated, and yes, you do want the Joint Terrorism
17 Task Force to have the information relating to
18 terrorism investigations.

19 And I'm sure there are occasions where
20 terrorism investigations have been attempted solely by
21 the state. But it is our goal to coordinate with
22 them.

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1 BY MR. KOHN:

2 Q Do you know of any policy, be it of the
3 FBI, or the White House, or anyone else, which would
4 discourage the training of counter-terrorism officials
5 at the state level by experts within the FBI on that
6 subject matter?

7 MS. WELLS: Object to the form.

8 THE WITNESS: Not to discourage, although
9 you'd want the training coordinated. You'd want to
10 everybody to play on the same sheet, so to speak.

11 BY MR. KOHN:

12 Q I'd like to call your attention to
13 testimony you gave on June 6th.

14 MR. KOHN: We can mark this.

15 (Whereupon, the aforementioned
16 document was marked for
17 identification as Mueller
18 Exhibit Number 7.)

19 MR. KOHN: June 6, 2002, before the
20 oversight hearing on counter-terrorism. And I'm going
21 to call your attention specifically to the last two
22 pages of this exhibit. If you look at the very bottom

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1 of the second to last page, it's numbered five on the
2 bottom right-hand corner. It's the print 127. There
3 is a question, number five.

4 THE WITNESS: These are responses to
5 questions for the record. This isn't my testimony.

6 MR. KOHN: Okay. Would you ? in this type
7 of ?you're right, this is in response to question for
8 the record. Would you be responsible in reviewing and
9 approving --

10 THE WITNESS: No.

11 BY MR. KOHN:

12 Q So if you could just look at question
13 number five, the question and the answer, to the best
14 of your recollection you would not have reviewed and
15 approved this? Just question number five.

16 A I see the question. You want to read the
17 question and the answer?

18 Q You can just skip through. I just wanted
19 to know if you would have reviewed and approved this
20 text?

21 A Not necessarily. It's not testimony.
22 It's a response to questions for the record.

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1 Q Okay. And if you look at the question and
2 the answer, they're talking about a policy of
3 promoting persons from within the counter-terrorism
4 division. And you can look at that.

5 But my question is, for a GS-14 or a GS-15
6 --

7 MS. WELLS: Could you let him read the
8 answer? He has not gotten through this answer yet.

9 MR. KOHN: Sure.

10 THE WITNESS: Now, what is your question?

11 BY MR. KOHN:

12 Q My question is, you understand that in the
13 typical promotional process for an agent to go to the
14 Senior Executive Service, typically they serve in a
15 position known as a ASAC, assistant special agent in
16 charge?

17 A Yes.

18 Q And often if someone say held a position
19 at headquarters, as a GS-14 or 15, their next step
20 might ? is typically an ASAC position in the field and
21 then a promotion to SES?

22 MS. WELLS: Object to the form.

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1 MR. KOHN: Is that typical?

2 THE WITNESS: Sounds right to me, but I'd
3 have to go and check to be absolutely sure.

4 BY MR. KOHN:

5 Q Was there a policy change in regards to
6 the promotions in the counter-terrorism division in
7 which there would no longer be an emphasis, or
8 necessary emphasis, on an agent going from a counter-
9 terrorism division, say a GS-14 or 15 supervisory
10 position, into the field as an ASAC in order to be
11 promoted to the Senior Executive Service?

12 A I'm not familiar with that. Maybe.

13 MR. KOHN: Okay, why don't we just go off
14 the record for a moment. I'm just about through. If
15 I could have a minute to talk to my client.

16 (Whereupon, the aforementioned matter went
17 off the record at 11:32 a.m. to return on
18 the record at 11:34 a.m.)

19 MR. KOHN: And in this, in the answer to
20 that question, where it says, toward the middle, it
21 says, the decision to manage the counter-terrorism
22 program in a more centralized manner would provide

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1 extended promotional opportunities within headquarters
2 than previously existed. GS-14 and up enhanced
3 opportunities for advancement within the CTD.

4 BY MR. KOHN:

5 Q Do you know what that means?

6 A No.

7 Q So to your testimony you do not know what
8 the advanced promotional opportunities within the
9 counter-terrorism division?

10 A I'm not familiar with the specifics of
11 what is being discussed here.

12 MS. WELLS: Object to the form.

13 BY MR. KOHN:

14 Q Do you remember at one point giving
15 testimony saying that the new counter-terrorism
16 division of the FBI would operate like on a near-SIOC
17 type of capacity?

18 MS. WELLS: Object to the form.

19 THE WITNESS: You'll have to refresh my
20 memory in terms of exactly what I said. I rather
21 doubt that I used the word, near-SIOC. That's just
22 not a phraseology that I remember.

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1 MR. KOHN: That's going to be my last
2 question. I just have to find that exhibit. Could we
3 go off the record.

4 (Whereupon, the aforementioned matter went
5 off the record at 11:38 a.m. to return on
6 the record at 11:39 a.m.)

7 MR. KOHN: Okay, just back on the record.
8 This will be Exhibit No. 8.

9 (Whereupon, the aforementioned
10 document was marked for
11 identification as Mueller
12 Exhibit Number 8.)

13 MR. KOHN: And for the record Exhibit No.
14 8 is a statement of Robert Mueller dated June 6, 2002.

15 BY MR. KOHN:

16 Q I call your attention ? and this is your
17 testimony, correct, before the --

18 A Looks to be.

19 Q And if you could please look at committee
20 print page 312? That's on the top tape. On the
21 bottom it would have page 10 from the original
22 testimony.

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1 And it says here in the bottom paragraph,
2 and the second sentence, it says, preventing future
3 terrorist acts necessitates the counter-terrorism
4 division operate at a near-SIOC like capacity for the
5 foreseeable future.

6 Do you see that?

7 A Yes.

8 Q What did you mean by that?

9 A It means that we have to have a 24/7
10 capability in the counter-terrorism division which we
11 have. We have a CT watch that is 24/7, it's available
12 24 hours a day, 365 days a year, to address counter-
13 terrorism issues when they come up.

14 Q Did the fact that you wanted the counter-
15 terrorism division to operate on a near-SIOC like
16 capacity impact in any way the need to recruit
17 managers into the counter-terrorism division who were
18 experienced, subject matter experts in operational
19 counter-terrorism?

20 MS. WELLS: Object to the form.

21 THE WITNESS: No, I don't believe so.
22 Because what we've established, nad what I think I was

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1 referring to here, although it's hard to go back, is
2 that we needed a 24/7 capacity, agents standing by to
3 respond to any questions or issues from the field that
4 may arise.

5 And that's what we have established on the
6 Counterterrorism Watch. The Counterterrorism Watch quite
7 often will have TDY persons who are coming in to man
8 the Counterterrorism Watch. But it is ongoing 24/7, as
9 a SIOC would be in the course of an emergency.

10 MR. KOHN: Okay, nothing further.

11 MS. WELLS: No questions.

12 MR. KOHN: Okay, thank you very much,
13 Director. It was a pleasure to meet you.

14 THE WITNESS: Good to meet you.

15 (Whereupon, at 11:38 a.m. the
16 aforementioned matter was adjourned.)
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