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## F.B.I. Struggling to Reinvent Itself to Fight Terror

By SCOTT SHANE and LOWELL BERGMAN

WASHINGTON, Oct. 9 — Last February, top F.B.I. officers from across the nation gathered in a high-security auditorium for the latest plan to reinvent the crime-fighting agency to take on terrorism.

Philip Mudd, who had just joined the bureau from the rival Central Intelligence Agency, was pitching a program called Domain Management, designed to get agents to move beyond chasing criminal cases and start gathering intelligence.

Drawing on things like commercial marketing software and the National Security Agency's eavesdropping without warrants, the program is supposed to identify threats. Mr. Mudd displayed a map of the San Francisco area, pocked with data showing where Iranian immigrants were clustered — and where, he said, an F.B.I. squad was “hunting.”

Some F.B.I. officials found Mr. Mudd's concept vague and the implied ethnic targeting troubling. How were they supposed to go “hunting” without colliding with the Constitution? Would the C.I.A. man, whom some mocked privately as Rasputin, take the bureau back to the domestic spying scandals of the 1960's? And why neglect promising cases to, in Mr. Mudd's words, “search for the unknown”?

The skepticism is just one sign of unfinished business at the bureau. Five years after the Sept. 11 attacks spurred a new mission, F.B.I. culture still respects door-kicking investigators more than deskbound analysts sifting through tidbits of data. The uneasy transition into a spy organization has prompted criticism from those who believe that the bureau cannot competently gather domestic intelligence, and others, including some insiders, who fear that it can.

Eight months after his talk, Mr. Mudd admits that some in the bureau do not accept his guiding premise: that arresting bad guys is sometimes less important than collecting intelligence to uncover the next terrorist plot.

“There's 31,000 employees in this organization and we're undergoing a sea-change,” he said in an interview. “It's going to take a while for what is a high-end national security program to sink down to every officer.”

The top counterterrorism job has turned over repeatedly — seven people in five years — filled mostly by veterans with little expertise on Islamist movements and terrorist networks. Many counterterrorism agents have minimal specialized training. A National Security Agency executive brought in to reshape the bureau's intelligence capabilities, Maureen Baginski, departed after clashing with F.B.I. old-timers. The intelligence units Ms. Baginski created in the 56 field offices lack clear instructions and some are “struggling,” a recent Congressional study found.

And some bureau traditionalists believe that Mr. Mudd, too, will move on from his job as second in command of the bureau's new National Security Branch. "They'll just wait him out," a counterterrorism official said.

After interviewing more than 60 intelligence officials for a new book on counterterrorism, Amy Zegart, of the University of California, Los Angeles, reached a dismal verdict on the F.B.I.

"If you look at, for example, the four key ingredients for counterterrorism success — agents, analysts, managers and computers — the F.B.I. is struggling to get the basics right on all of them," Ms. Zegart said. "New agents still get more time for vacation than they do for counterterrorism training. Analysts are still treated as glorified secretaries."

In interviews by The New York Times and the Public Broadcasting System documentary series "Frontline," even critics acknowledged the sweeping structural changes at the bureau under Robert S. Mueller III, who took over as director a week before the Sept. 11 attacks.

The number of Joint Terrorism Task Forces, in which F.B.I. agents collaborate with state and local agencies, has ballooned to 101, from 35. The number of intelligence analysts has doubled to 2,161, and the number of linguists has doubled to 1,371. And the F.B.I. points out that there has been no new terrorist attack.

Mr. Mudd said agents were encouraged to postpone the arrest of a terrorism suspect until his ties to other operatives, financial supporters and foreign networks were fully understood.

"I don't want to take him down too quickly," he said. "I want to understand what we know and what we don't know. If we're focused solely on cases, I can't have confidence that we know what's going on."

But the drive to bring criminal charges often eclipses the intelligence imperative. In cases from Lodi, Calif., where a 23-year-old man was convicted this year of training in a terrorist camp in Pakistan, to Miami, where seven Haitian men are charged with waging war against the United States government, defendants who seemed nowhere near ready to mount an attack were arrested with a news media splash rather than quietly kept under surveillance.

Christopher D. Hamilton, who retired last year after 22 years at the F.B.I., half of it working on counterterrorism, said agents still believed that their careers would rise or fall on the cases they brought.

"Supervisors will say, 'Why don't you have any cases?'" said Mr. Hamilton, now at the Washington Institute for Near East Policy. "Cases are good for getting resources, good for publicity and good for morale."

Even a Los Angeles case that federal officials describe as the most operationally advanced of post-2001 plots uncovered in the United States appears to show a gap between public relations and reality.

In that case, three men are charged with committing robberies to raise money for jihadist attacks on synagogues and military recruiting stations, in what Director Mueller has described as a bid to create "Al Qaeda in California." Their actions are said to have been directed by Kevin James, who headed a Muslim group behind bars.

But agents checked on more than 100 prisoners with links to Mr. James and charged none. And though Mr. James has been portrayed as the mastermind, reporters for The New York Times and "Frontline" were repeatedly able to visit him in jail in Santa Ana, Calif. Such access is almost never granted to people accused of terrorism because the authorities fear that they could direct a plot from prison.

But if making arrests is no longer the top priority, many agents fear that an ill-defined quest for domestic intelligence is likely to lead to political trouble, as the hunt for Communists in the 1960's led to surveillance on the Rev. Dr. Martin Luther King Jr. and John Lennon. Michael Rolince, a veteran F.B.I. counterterrorism official who retired last year, said the attorney general's investigative guidelines, first imposed as a reform in 1976, "are absolutely necessary to keep F.B.I. agents out of trouble."

But the guidelines, largely classified, have been loosened repeatedly in the last 30 years, most recently in 2003 to permit "threat assessments" without evidence of a crime. Officials say uncertainty in field offices about how the rules apply today has slowed the move to intelligence. They plan to issue new instructions to top agents from each field office this month.

Mr. Mudd said he knew that concern about civil liberties was "in the DNA" at the F.B.I., and he recently read a biography of J. Edgar Hoover, whose long tenure as director was marred by abuses, to recall the dangers of uncontrolled domestic spying.

Still, he said, "I do bristle a bit at people saying, 'You want to just go back to the 60's and 70's.' "

Intelligence on the terrorist threat involves not just spying, Mr. Mudd said, but also building a close relationship with leaders in Muslim communities.

To help agents and analysts distinguish genuine threats from routine Islamist rhetoric, the bureau has just doubled its basic training on counterterrorism to about 80 hours. Skeptics note, however, that more time is devoted to firearms training.

"The F.B.I. needs to follow the lead of the small group of agents who've made themselves experts," said Evan F. Kohlmann, a consultant to the bureau and Scotland Yard and author of a book and Web site devoted to Al Qaeda.

Mr. Kohlmann said the dozen agents who knew international terror networks best were rarely brought in on local cases.

Knowledgeable employees say Muslim agents number no more than a dozen of the bureau's 12,664 agents. (The bureau says it does not track employees by religion.) And an F.B.I. tradition that values leadership and personal connections more than specialized knowledge has resulted in counterterrorism bosses with minimal background.

"You need leadership. You don't need subject-matter expertise," said Gary M. Bald, whom Mr. Mueller named last year as the first head of the National Security Branch, admitting in a 2005 deposition that he knew little about Islam. Mr. Bald has since left for a security job with a cruise line.

The awkward tension between intelligence and prosecution was on vivid display in the Lodi case. The

investigation began in late 2001 as an intelligence operation to size up two imams from Pakistan whom the authorities believed had ties to extremists.

After four years of surveillance, agents had found no evidence of terrorism-related crimes by the imams, who were deported to Pakistan. Instead, the government prosecuted Hamid Hayat, 23, who faces a maximum sentence of 39 years in prison for attending a terrorist training camp in Pakistan. His father, Umer Hayat, 48, is free after a mistrial and a guilty plea to making a false statement.

The Lodi case produced worldwide headlines about an "Al Qaeda cell" in California, and John D. Negroponte, the director of national intelligence, called it the prime example of a "homegrown jihadist cell" in Congressional testimony. But critics of the case, including several former agents, say it has serious and revealing shortcomings.

The informant in the case, a convenience store clerk who was paid more than \$200,000 over four years in salary and expenses, could be heard on tape angrily ordering Hamid Hayat to seek terrorist training. His claim that he saw Ayman al-Zawahri, Al Qaeda's second in command, at the Lodi mosque in 1998 or 1999 was admitted by the government to be inaccurate.

The video of Hamid Hayat's confession showed agents prompting his answers and sometimes insisting on their own version. And his account of the camp bore no resemblance to that of his father, who said it was an underground facility where would-be terrorists dressed as "Ninja turtles" and practiced pole-vaulting.

The interrogation tapes so outraged James J. Wedick, who retired in 2004 after 35 years as an F.B.I. agent, that he worked for the defense without charge. "It's shameful, because I've never seen the department do this before," Mr. Wedick said.

The Hayats, he concluded, were saying whatever they thought the agents wanted to hear, and little effort was made to corroborate their confessions.

The case also raised questions about agents' familiarity with Islam, as some scholars say agents misinterpreted a scrap of paper with a Muslim prayer as a jihadist vow.

Finally, several other Pakistani Americans whom the Hayats said had visited terrorist camps have not been charged, suggesting that the F.B.I. does not believe at least some parts of the Hayats' confessions. The management of the case appears at odds with the new philosophy of following up all leads before any public charges are brought.

A lingering question in the Lodi case is the effect on Pakistanis in the area. Some mosque leaders who saw the Pakistani imams as militant interlopers are glad they are gone. But few believe that the Hayats ever posed a threat.

Taj Khan, a retired engineer and leader among the Pakistanis in Lodi, said the Hayats' experience had made residents more reluctant to cooperate with the F.B.I.

"Everybody's clear that as soon as they talk to the F.B.I.," Mr. Khan said, "they might be, you know, put in the slammer."

There is, he added, “not much trust at all.”

Drew S. Parenti, the special agent in charge of the Sacramento office of the F.B.I., defended the case, saying, “Everything we did in this case was lawful, ethical, proper, was reviewed by a judge and was determined by a jury of peers to be sufficient evidence to sustain conviction.”

But Mr. Scott, the United States attorney, now says it was a mistake to label the case as a Qaeda plot.

“We probably, at the end of the day, should not have used that term,” he said. “One of the biggest mistakes that we can make is to overhype these cases on the front end. And if it is a widely held perception out there that we did that in this case, then I regret that, because that was never our intent.”

*Jordan deBree, Rob Harris and Jeff Kearns contributed reporting from Lodi, Calif.*

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