

~~PROVISIONAL SECRET~~

DECLASSIFIED UNDER AUTHORITY OF THE
INTERAGENCY SECURITY CLASSIFICATION APPEALS PANEL,
E.O. 13526, SECTION 5.3(b)(3)

ISCAP APPEAL NO. 2012-048, document no. 14
DECLASSIFICATION DATE: July 8, 2015

Fitzgerald
3/11/04
Team 5 changes since 9/11:

the wall: pre 9/11, ~~it~~ he had to tell FSB
intel. agents not to tell him anything.

things were happening that effected law
been thrown over the wall - but the culture & complexity
of the rules led agents not to throw as what should
have been thrown over.

perception ^{SP} in NT: ^{the wall} ~~the~~ was not required -
but had to obey the rules.

Troing case was wrong (I think that's what
he's saying). Also, the wall was higher than it needed to
be even under the law then in effect.

intel. agents were frightened of prosecutors' view-accounts,
by contrast, were much more willing to talk to prosecutors.

After Hage exited 95, he wouldn't inquire whether a
FOIA was ~~going~~ up on him -

E.O. 13526, section 1.4(c)

^{part of}
The key to the Patriot Act was tearing down
the wall.

new domestic intel agency - a disaster.

the problem with the FBI was 2 different
age under 1 roof - you don't want to institutionalize
that system by creating a domestic intel agency
separate

even if there is no wall, separate agencies
still don't make sense.

when there was the wall - intel agencies often
didn't recognize crimes, & therefore didn't report them to
the criminal side.

best if everybody's informed, ^{to} make an
informed decision weighing criminal ^{vs} intel, e.g.,
when to shut down the FISA & arrest people.

g's is great investigative tool w. A.Q.
A.Q. people will talk (think they can outsmart
the prosecutors) - e.g., Hage.

have also immunized people & ^{jailed them} ~~spied them~~ if they
didn't testify.

- logic.
- synopsis
- law too restrictive
- culture even more restrictive

sunset provisions - what else needs to be kept?

- g's info being shared w/ intel.

~~from P1~~ - Title II info being shared

if people are in prison, DOJ policy is to get a
writestap to listen to all their conversation [& best that thread] -
difficulties in sharing the writestap info w/ intel agencies

- NSLs used to take 6 months to get.

o ~~is~~ ~~subpoena~~ much easier & faster.

o NSLs are much easier to get now, authority is delegated to field office.

- so Patriot Act ~~loosening~~ loosening ~~of~~ structures on collectin intel makes sense ~~(it's not)~~ (if it should be as easy as a ~~is~~ subpoena).

picking between FIPA & Title III - judgment

call

civil liberties concerns

FIPA wires used to take a very long time to get approval.

o ~~for~~ criminal wires could go up in a few days.

DoS policy (wisely) puts some extra protections in on Title III that the statute doesn't require.

there are times that FIPAs are used when Title III's aren't.

now, there are problems getting FIPAs because of large # of requests - translators are esp. a problem.

o requests have to be prioritized.

their financing hard to deal with.

AG guidelines were ^{bureaucratic} ~~restricted~~ & ~~unfair~~
can't legislate good faith.

PE → FBI - submission of LHM's -
not a good process. can't legislate good faith.

Crim. process does not have such restrictions

AG people have deliberately blended 1st
Amend. activity of their criminal activity - ^{to} make
it harder to investigate them.

add recommendations - need criminal
agents on these cases, also, we have a brain drain re:
experts on finance. USG needs more financial experts

not being hit again - we have to take a long-term
view. they think long-term. we have a short
attention span.

Dec. 1993 - they surveilled ~~at~~ 17 installations -
AG (+ Herz) surveil & put plane on the shelf

^{at Herz}
not assassination -

E.O. 13526, section 1.4(c)

E.O. 13526, section 1.4(c)

long-term threat.

we have weakened them, but we have to deal

in these ~~and~~ other, ~~new~~ networks/groups.

~~Successful~~

combination of good intel by us, good luck, &
but the threat is still there.

Death or capture of BL may not do that
much at this point.

(Classified?) surveillance by Ali Mohamed - his 302s.
also, Agency would have classified into the 93 plans.

internal assassin attempt - EIS (as part
of AQ network) -

Somalia:

~~the~~ AQ trained the trainers,
on Hussein's computer - details report on
training the trainers. (Harun report is
part of that).

Sudanese wouldn't want him to speak
out in Sudan. (see 96 BL declaration).

Iran/Hiz. - after return to Afghanistan -
~~the~~ Ahmad Aziza - leader of EIS - in Iran - AQ
people in touch with him.

believes Iran/Hiz. training helped AQ.
I encouraged suicide bombing techniques - in combat.

msg. - BL - we don't know how significant

This is (Ali Mohamed) analyzed accounts, wasn't that?

Why credit him in this? - ~~because~~
he had been corroborated on other things - ~~and~~
didn't know if other corroborations exist.

Countries -

Yemen -

E.O. 13526, section 1.4(c)

Some suspicion of involvement in 92 bombing in Aden.

Yemen PSO story - no knowledge of it

E.O. 13526, section 1.4(c)

Mardini al Taji Tajid - Saudis refused access
to him, & we got no helpful info.

Khalifa - ~~Excluded~~ has a flag - ~~Saudis are~~
~~not doing~~ but not clear Saudis not doing anything -
but maybe that's not their fault, ^{perhaps} not enough
evidence to do anything.

general sense that there's some penetration
of accounts service in the mid East

E.O. 13526, section 1.4(c)