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International Terrorism: Status of
GAO's Review of the FBI's International
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Statement of
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Rights
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INTERNATIONAL TERRORISM: STATUS OF GAO'S
REVIEW OF THE FBI'S INTERNATIONAL TERRORISM PROGRAM

SUMMARY STATEMENT BY
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GAO's review of FBI international terrorism investigations that were closed from January 1, 1982, to June 30, 1988, has progressed slowly because it has taken the FBI

- about 3 months to update its data base of closed investigations so that GAO could select a sample for review;
- about 6 months to complete the questionnaires GAO designed to profile international terrorism cases as a step in sample selection; and
- several months to review, edit, and provide GAO with the copies of selected case files.

GAO has now received almost all of the completed questionnaires and about half of the case files requested. All of the information obtained and reviewed relates only to closed investigations. The questionnaire responses and case files are still being reviewed and analyzed, and the final results may vary from the information presented in this statement.

Thus far, GAO's analysis of the files for 71 cases shows that the basis for opening cases varied. Cases were opened because (1) the subjects were believed to have been directly involved in terrorist acts (5 cases or about 7 percent); (2) the subjects were believed to be leaders or members of terrorist groups (19 cases or about 27 percent); and (3) the subjects were believed to be associated with or linked to terrorist groups (32 cases or about 45 percent). GAO was unable to determine why the remaining 15 cases (about 21 percent) were opened.

GAO has not yet analyzed the case files regarding the scope of the investigations. However, projecting the FBI's questionnaire responses, GAO estimates that (1) most investigations (about 17,500 cases or 99 percent) were not extensive; (2) the subjects of the investigations were U.S. persons in about 6,800 cases (38 percent); and (3) information on individuals was recorded (indexed) into FBI data bases in about 8,300 cases (47 percent). GAO also estimates that, for about 2,000 cases (11 percent), First Amendment activities (speeches, demonstrations, etc.) were monitored or observed.

In terms of investigation results, GAO's analysis of the case files is showing the cases were closed for a variety of reasons, with the most frequent reason being that no information was developed that linked the subject with terrorist activities.

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss the status of our review of the Federal Bureau of Investigation's (FBI) international terrorism program.

BACKGROUND

On March 8, 1988, more than 15 months ago, you asked us to review the FBI's international terrorism program. You were concerned that the FBI's international terrorism investigation of the Committee in Solidarity with the People of El Salvador (CISPES) was overly broad and not properly focused. You wanted us to review the FBI's other international terrorism cases to determine if the CISPES investigation was an aberration. Specifically, you wanted us to determine (1) the basis on which the FBI initiates international terrorism investigations; (2) the scope and results of these investigations; and (3) whether the FBI monitors First Amendment activities (speeches, marches, demonstrations, etc.) when making such investigations.

To respond to your request, we agreed with the subcommittee to select a random sample of cases closed from January 1982 to June 1988 and have FBI agents fill out a questionnaire on the cases. Using the questionnaire results, we are randomly selecting cases for detailed review.

Our progress in responding to your request has been slow, primarily because of delays in obtaining requested information and access to closed case files. After numerous meetings and correspondence with FBI officials, we have received responses for almost all of our questionnaires and are receiving copies of edited (redacted) files for closed cases. While the progress during this review has been slow, the officials with whom we have dealt have not been uncooperative.

The remainder of my statement will summarize the delays we have encountered and our preliminary observations based on the work we have done to date.

GAO's ACCESS HAS BEEN DELAYED

We held opening meetings with FBI officials on March 21, 1988, and through April reviewed procedures and interviewed FBI headquarters officials about the international terrorism program. Our access to information needed to respond to your request has been delayed because it has taken the FBI (1) about 3 months to update its data base of closed investigations, which we needed to select cases for review; (2) about 6 months to get the questionnaires for all but 38 of the 1,100 cases we randomly selected; and (3) several months to review, redact, and provide us with the copies of files received to date.

Data base incomplete

To gain overall knowledge about the FBI's international terrorism investigations, we planned to review a sample of cases. The first step in selecting a sample is to identify the universe of cases. The FBI maintains a computer data base of its international terrorism cases. However, FBI officials said that the data base was incomplete because it was not begun until September 1985 and cases completed before then had to be added.

To obtain a complete list of cases, on August 11, 1988, FBI headquarters instructed each field office to update their case information. Each office was to provide FBI headquarters with the updated information within 3 weeks; however, this effort took considerably longer. FBI officials provided us with updated lists of cases, by each of its 59 field offices, over a 3-month period. The first five lists of closed cases were given to us on September 2, 1988, and the last list was given to us on November 18, 1988.

Questionnaire returns were slow

The FBI's updated lists identified about 20,000 international terrorism cases that were closed between January 1, 1982, and June 30, 1988. We developed a questionnaire to gather overall

profile data on a projectable sample of these cases and to act as a screening document to select a smaller sample of cases for more detailed review. We designed our sample to produce a sampling error of less than plus or minus 5 percent. The questionnaires were to be completed by FBI field agents based on their review of the case files. The questionnaires requested such information as the name of the subject of the cases, the number of folders for each case, when and why the cases were opened and closed, and whether FBI officials monitored or observed First Amendment activities during the investigations.

We selected a sample of 1,100 cases for questionnaire completion. Because of the FBI's delay in updating its list of closed cases, we used a two-phased approach for sampling cases. The first phase included 42 field offices which had about half of the universe of international terrorism cases. We randomly selected 550 cases from these offices. We provided the list of cases to the FBI on October 12, 1988. On October 21, 1988, the FBI transmitted a copy of our questionnaire and the case listings to the field offices, and set a November 9, 1988, deadline to complete and return the questionnaires. The second sampling phase covered the remaining 17 field offices. We provided the FBI with our list of 550 randomly selected cases from this grouping on December 6, 1988. The FBI's December 14, 1988, communication to these field offices gave them until the end of the year to complete and return the questionnaires.

The FBI took longer to provide us with the completed questionnaires than originally planned. About 85 and 89 percent of the questionnaires for each group, respectively, were returned within 2 months. The remaining questionnaires were returned to us sporadically over the next 4 months. As of June 9, 1989, we had received the questionnaires for all but 38 cases. Of these 38, 26 are open cases, 8 are cases where the field offices could not locate the case files, and 4 are cases where the field office files had been sent to FBI headquarters.

Obtaining case files has slowed review

The FBI reviews case files before providing them to us, to assure that certain information is not revealed. Before giving us copies, the FBI redacts information they believe would identify or could potentially identify informants, ongoing investigations, and sensitive investigative techniques. In addition, they redact information received from other agencies because they believe that we should obtain the information from the source agency.

To get an idea of the type of information contained in international terrorism investigative files, on May 2, 1988, we requested access to the case files for six closed investigations. These files were redacted by the FBI's Legal Counsel Division. Two of the files were given to us on June 17, another on June 21,

and two more on July 26. On August 23 the FBI said the sixth case had been reopened and we would not be given access to it.

While the amount of information redacted from the five cases was not extensive, we believed that the process took too long. We discussed our concerns about the timeliness of this process with FBI officials and, on August 24, 1988, met with the FBI's Assistant Director, Criminal Investigative Division. To expedite the redaction process, FBI officials suggested that, rather than using the legal division's analysts, field agents be brought in to do the redaction of future case files. To test this approach, on August 31, 1988, we requested additional case files from the FBI's Washington Metropolitan Field Office. The redacted files for 18 cases were given to us on October 6, 1988, 5 weeks' later. Although this process was more timely, the redaction was much more extensive than that which had been done by the legal division. In many cases, so much information had been deleted that we could not determine the basis for, scope of, and/or results of the cases.

On November 9, 1988, we met with FBI officials to express our concerns about the redaction process. We were unable to resolve our differences, so we met with the FBI's Executive Assistant Director for Investigations on December 19, 1988. We were told that, if we acted quickly, the legal division had 10 to 12 people available to redact cases for us. The next day, we provided the

FBI a list of 42 cases we wanted to review. Our primary basis for selecting cases for detailed review was to sample cases where the FBI observed or monitored First Amendment activities. On January 24 and February 13, 1989, we gave the FBI lists of another 10 and 80 cases, respectively, that we wanted to review. We plan to select about 20 more cases for review.

Mr. Chairman, you may recall that we met with you on February 16, 1989, because we had not received copies of any of the files by that time and we were concerned about the progress of work in responding to your request. You met with Director Sessions on February 21 and he promised that the FBI would review the files and give them to GAO within 4 to 5 months. We were given the first 4 files on March 9, 1989. As of June 9, 1989, we had received the files for 84 of the 132 cases requested.

PRELIMINARY RESULTS OF OUR WORK

We are still analyzing the questionnaire responses and case files we have received to date. However, we are prepared to share with you some of our preliminary observations. We want to emphasize, however, that the final results may vary from any information we provide to the subcommittee today. We also want to emphasize that we have not yet evaluated the propriety of the actions taken by the FBI during the investigations.

Our review of the files for 71 cases shows that the basis for opening cases varied. Thus far, the files indicate that cases were opened because:

- for 5 cases (about 7 percent), the subjects were believed to have been directly involved in terrorist acts;
- for 19 cases (about 27 percent), the subjects were believed to be leaders or members of terrorist groups; and
- for 32 cases (about 45 percent), the subjects were believed to be associated with or linked to terrorist groups.

From the information provided, we were unable to determine why 15 cases (about 21 percent) were opened.

We have not yet analyzed the case files concerning the scope of the investigations. However, using the FBI's responses for 892 questionnaires, we estimate that, for an adjusted universe of about 17,700 closed cases:

- Most investigations were not extensive; about 17,500 cases (99 percent) had only 1 or 2 file folders. In contrast, the CISPEs case had 16 file folders.
- About 6,800 cases (38 percent) involved U.S. persons (U.S. citizens or permanent resident aliens) as subjects, about 9,000 cases (51 percent) involved non-U.S. persons, and about 400 cases (2 percent) involved groups or organizations. The remaining 1,500 cases (8 percent) were unknown or other subjects.
- Individuals were indexed (recording of information into an FBI data base for future retrieval) in about 8,300 cases (47 percent) and about 3,400 of those cases (41 percent) were known to be U.S. persons.

-- Groups or organizations were indexed in about 1,900 cases (11 percent) and known U.S. persons were part of these groups or organizations in about 800 cases (42 percent).

We also estimate that, in about 2,000 cases (11 percent), First Amendment activities (speeches, marches, demonstrations, etc.) were observed or monitored either directly by the FBI or indirectly through a secondary source.

The case file reviews show that the reasons cases were closed varied. The two most frequent reasons were (1) for 42 cases, no information was developed to indicate that the subject was involved in terrorist activities and (2) for 16 cases, the subject moved outside that field office's jurisdiction, left the United States, or could not be located.

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Mr. Chairman, this concludes my prepared statement. We would be pleased to answer any questions you may have.