

range of source information into their assessments – have been systematically separated from the raw material of their trade. “

Information sharing is also limited by the longstanding Intelligence Community practices of narrowly limiting disclosures of intelligence information outside normal channels in order to protect sources and methods. Disclosures to criminal investigators and prosecutors were intentionally limited to avoid having intelligence become entangled in criminal prosecutions. In deference to those kinds of restrictions, CIA did not provide the FBI New York field office criminal agents who were investigating the *USS Cole* bombing information regarding the al-Qa’ida meeting in Malaysia that was attended by hijackers-to-be al-Hazmi and al-Mihdhar.

A 1995 Department of Justice policy that established procedures -- often referred to as the “wall” -- governing FBI sharing of Foreign Intelligence Surveillance Act (FISA)-derived intelligence information with investigators handling parallel criminal investigations also prevented sharing of important intelligence. Under this policy, the FBI could share information from FISA surveillances with criminal investigators if the information was relevant to a crime under investigation and an attorney in an FBI field office or in the Office of Intelligence Policy and Review (OIPR) at the Department of [page 88] Justice authorized its release. In al-Qa’ida FISA cases, the FISA Court directed that the Court itself act as the “wall” and determine whether the information in question was relevant to a criminal investigation and, thus, could be shared.

Unfortunately, the Inquiry confirmed that the Intelligence Community agencies, perhaps overly “risk averse” in dealing with FISA-related matters, restricted the use of information far beyond what was required. The majority of FBI personnel interviewed in the course of the Inquiry incorrectly believed that the FBI could not share FISA-derived information with criminal investigators at all or that an impossibly high standard had to be met before the information could be shared. Most did not know that FISA-derived information could be shared with criminal investigators if it was simply relevant to the criminal investigation. Because of these misunderstandings, FBI intelligence investigators rarely sought approval to pass FISA-derived information to FBI criminal investigators.