

offices to ask their sources whether they were aware of the whereabouts of the two individuals, who later took part in the September 11 attacks. As one result, the San Diego counterterrorism informant who had numerous contacts with those two individuals during 2000 was never asked to help the FBI locate them in the last weeks before September 11].

12. Finding: During the summer of 2001, when the Intelligence Community was bracing for an imminent al-Qa'ida attack, difficulties with FBI applications for Foreign Intelligence Surveillance Act (FISA) surveillance and the FISA process led to a diminished level of coverage of suspected al-Qa'ida operatives in the United States. The effect of these difficulties was compounded by the perception that spread among FBI personnel at Headquarters and the field offices that the FISA process was lengthy and fraught with peril.

Discussion: In the summer of 2000, during preparation for the trial in New York of those involved in the bombing of the U.S. embassies in East Africa, prosecutors discovered factual errors in applications for FISA orders sanctioning electronic surveillance. The FISA Court found that these errors included an erroneous statement that a FISA target was not under criminal investigation, erroneous statements concerning overlapping intelligence and criminal investigations, and unauthorized sharing of FISA information with criminal investigators and prosecutors.

The FISA Court also determined that these errors called into question the certifications that had been made by senior officials that the FISA surveillances requested by the applications had as their purpose the gathering of foreign intelligence, rather than criminal-related information, as required by FISA. After being informed of additional errors in subsequent months, the FISA Court barred an FBI agent who had prepared one of the erroneous applications from appearing before the Court again.

The FBI and the Department of Justice's Office of Intelligence Policy and Review (OIPR) began a systematic review of the FISA application process in September 2000 to [page 102] ensure the accuracy of FISA Court filings. Some FISA surveillances targeting al-Qa'ida agents were allowed to expire while OIPR and the FBI investigated how the errors had occurred. These orders were not renewed until after the attack on *USS Cole* in October 2000. In April 2001, the Bureau promulgated procedures for the review of draft