

changes, for instance, the legally fallacious “Wall” previously assumed to exist between intelligence and law enforcement work has been breached and years of coordination-impeding Justice Department legal reticence has been overcome.

With luck, we will never again see the kind of decision-making exhibited when the CIA refused to share information with FBI criminal investigators about two known Al-Qa’ida terrorists (and soon-to-be suicide hijackers) in the United States, and when the FBI – only days before the September 11 attacks – deliberately restricted many of its agents from participating in the effort to track down these terrorists on the theory that this was work in which criminal investigators should play no role. Hopefully we will also no longer see the kind of fundamental legal misunderstanding displayed by FBI lawyers in the Moussaoui case, in which investigators in Minneapolis were led on a three-week wild goose chase by a faulty analysis of the Foreign Intelligence Surveillance Act (FISA). It will take sustained Congressional oversight in order to ensure compliance with the information-sharing authorities and mandates of the USA PATRIOT Act, but it is imperative that we ensure that such problems do not recur. To help achieve this, Congress should modify the Act’s “sunset” provisions and should approve legislation proposed by Senators Kyl and Schumer to modify FISA’s “foreign power” standard.

Domestic Intelligence. The story of September 11 is also replete with the FBI’s problems of internal counterterrorism and