

For all of these reasons, I believe that a very strong argument can be made for removing the CI and CT portfolios from the FBI. Despite repeated reorganizations, the FBI has simply performed too poorly for the American people to have much faith in its ability to meet current and future challenges no matter *how* many aggressive “reform” plans are announced by FBI management. Even a year after September 11, in fact, the FBI’s deputy director sent angry e-mail messages to Bureau field offices declaring that he was “amazed and astounded” that the Special Agents in Charge (SACs) *still* refused to commit essential resources to the fight against terrorism and *still* refused to share information properly with Headquarters. “You need to instil a sense of urgency,” he told them, insisting that the SACs send their agents “out on the street and develop sources” and “demand that information is being sent” to headquarters.¹⁵⁸ If September 11 cannot persuade the existing FBI to focus properly upon terrorism, perhaps nothing can.

Some observers have thus suggested placing the Bureau’s CI and CT functions within their own separate agency, a stand-alone member of the Intelligence Community that would be responsible for domestic intelligence collection and analysis but would have no law enforcement powers or responsibilities. This would be, in effect, an American analogue to the British Security Service (a.k.a. MI-5) or the Australian Security Intelligence Organization (ASIO).

There is much to recommend such an approach. The FBI today performs the domestic intelligence role within the U.S. Intelligence Community. Its problem, however, is that it performs this task poorly – and arguably *cannot* be made to perform it well given the cultural and organizational chasm that exists between a “casefile” organization and a true intelligence organization. An MI-5 analogue would allow our domestic intelligence collection and analytical

¹⁵⁸ Eric Lichtblau, “FBI Officials Say Some Agents Lack a Focus on Terror,” *New York Times* (November 21, 2002), at 1 (quoting Deputy Director Bruce J. Gebhardt).