

## Appendix IV: Wall Memo

The infamous "wall memo: Deputy Attorney General Jamie Gorelick's memo regarding "Separation of Certain Foreign Counterintelligence and Criminal Investigations." Though ignored by units like the FBI's Squad I-49, after 9/11 the memo gave FBI and DOJ officials an excuse for their failures to stop al Qaeda.



~~SECRET~~

Office of the Deputy Attorney General  
Washington, D.C. 20530

### MEMORANDUM

TO: Mary Jo White  
United States Attorney  
Southern District of New York

Louis Freeh  
Director  
Federal Bureau of Investigation

Richard Scruggs  
Counsel of Intelligence Policy and Review  
Office of Intelligence Policy and Review

Jo Ann Harris  
Assistant Attorney General  
Criminal Division

FROM: Jamie S. Gorelick *JSG*  
Deputy Attorney General

RE: Instructions on Separation of Certain Foreign  
Counterintelligence and Criminal Investigations

The United States Attorney's Office for the Southern District of New York and the FBI have been conducting criminal investigations of certain terrorist acts, including the bombing of the World Trade Center, and potential obstruction of the indicted case of United States v. Rahman, et al. During the course of those investigations significant counterintelligence information has been developed related to the activities and plans of agents of foreign powers operating in this country and overseas, including previously unknown connections between separate terrorist groups. Although information and evidence relevant to possible future criminal prosecutions is still being

~~SECRET~~

Classified by: Deputy Counsel for Intelligence Operations,  
Office of Intelligence Policy and Review, Department of  
Justice  
Declassify on: OADR

Declassified by James A. Baker  
Counsel for Intelligence Policy  
OIPR/USDOJ  
Date: April 10, 2004

## 550 • APPENDIX IV

~~SECRET~~

- 2 -

sought, it has become overwhelmingly apparent that there is a compelling need to further develop and expand that foreign counterintelligence information. Consequently, the FBI has initiated a separate full field counterintelligence investigation.

Although the counterintelligence investigation may result in the incidental collection of information relevant to possible future criminal prosecutions, the primary purpose of the counterintelligence investigation will be to collect foreign counterintelligence information. Because the counterintelligence investigation will involve the use of surveillance techniques authorized under the Foreign Intelligence Surveillance Act (FISA) against targets that, in some instances, had been subject to surveillance under Title III, and because it will involve some of the same sources and targets as the criminal investigation, we believe that it is prudent to establish a set of instructions that will clearly separate the counterintelligence investigation from the more limited, but continued, criminal investigations. These procedures, which go beyond what is legally required, will prevent any risk of creating an unwarranted appearance that FISA is being used to avoid procedural safeguards which would apply in a criminal investigation.

- (1) The focus of the Foreign Counterintelligence (FCI) investigation will be on preventing future terrorist acts and obtaining foreign counterintelligence information about the individuals and groups engaging in, or preparing to engage in, terrorist activities in the United States and abroad.
- (2) The criminal investigations will focus on the indicted cases of United States v. Yousef, et al. and United States v. Rahman, et al., and the potential obstruction of the Rahman case. The criminal investigations will also focus on the conspiracy to bomb United States airlines recently uncovered in the Philippines and the bombing of a Philippine airliner.
- (3) No "pro-active" investigative efforts or technical coverages are presently contemplated in any of the ongoing criminal investigations, which primarily focus on past criminal conduct, with the exception of the obstruction investigation. If in the future, the criminal investigations develop information requiring "pro-active" efforts or technical coverages, the United States Attorneys Office (USAO) and the criminal agents will consult with the Office of Intelligence Policy and Review (OIPR), and the FCI agents before undertaking such efforts, absent exigent circumstances, in order to determine the impact, if any, on the FCI investigation.

~~SECRET~~