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Collection Name NORTH, OLIVER: FILES

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File Folder RESPONSES TO ISSUE PAPERS (8 OF 9)

FOIA

F99-008/2

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ID Doc Type	Document Description	No of Pages	Doc Date	Restrictions
13955 MEMO	JOHN POINDEXTER TO ADM. J.L. HOLLOWAY, RE: COMMENTS ON TASK FORCE ISSUE PAPERS	11	11/4/1985	B1

Freedom of Information Act - [5 U.S.C. 552(b)]

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FBI



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

Date: November 5, 1985
To: Admiral J.L. Holloway, III
Executive Director
From:  Oliver B. Revell
Executive Assistant Director - Investigations
Subject: ISSUE PAPERS

Enclosed are the FBI responses to the thirty-eight issue papers submitted to members of the Senior Review Group.

FBI comments to issues' thirty-nine through forty-five will be forthcoming in a separate communication.

Enclosure



ISSUE PAPER NO. 1

PROPOSAL: A programming document should be established that incorporates all of the diverse elements and components of the National Program for Combating Terrorism.

RESPONSE: The FBI agrees.

ISSUE PAPER NO. 2

PROPOSAL: A policy statement should be formulated to serve as guidance in all national matters concerning terrorism.

RESPONSE: While the FBI agrees with the necessity for a national policy statement as guidance for the program to combat terrorism, etc., the proposal should include explicit language that U.S. responses should be in compliance with the existing U.S. law.

The language used in Ambassador Oakley's speech concerning no concessions to terrorists is perhaps too strong, as any successful negotiations with terrorists will necessitate some flexibility to bargain for tactical advantage without acceding to the terrorists demands.

ISSUE PAPER NO. 3

PROPOSAL: Within the existing interagency approach to dealing with terrorist incidents, a position of National Coordinator for Combating Terrorism in the National Security Council should be established.

RESPONSE: While the FBI concurs in the establishment of a position of National Coordinator for Combating Terrorism, the FBI would add additional clarification under the National Coordinator duties as noted in items number five and six of the issue.

In item number five "management coordination" would require careful definition. The management coordination should not involve line authority for operations or act in those areas assigned by law to others, i.e., the Attorney General, the Directors of the CIA, FBI, etc.

In item number six, the duty of the National Coordinator to provide a focal point for all matters concerning terrorism is too expansive. The powers and authorities of the National Coordinator should be agreed to by involved agencies or specifically assigned to the National Coordinator by the President. A protocol should be established to determine which agency will take the lead based on the major responsibilities that arise out of any terrorist incident. It should be stressed that while the National Coordinator would have a proper role in management coordination, this coordination cannot replace line authority.

ISSUE PAPER NO. 4

PROPOSAL: To establish a definition for terrorism.

RESPONSE: The FBI considers the shorter definition as worded in the option to be more appropriate and less restrictive or cumbersome. A definition which is useful to all agencies must be flexible enough to fit those unique circumstances that arise out of each agency's separate mission.

ISSUE PAPER NO. 5

PROPOSAL: TIWG should specify guidelines to be used by government spokesmen in connection with terrorist incidents at their initial stages.

RESPONSE: The FBI has no objections to this press responsibility by TIWG; however, the guidelines should only apply for terrorist incidents overseas and not domestic terrorist incidents. In addition, any overseas incidents in which the FBI investigates or which the Department of Justice must consider a legal issue, press responses should be addressed by Department of Justice/FBI. Domestic terrorist incidents should also be addressed by Department of Justice/FBI. This approach would ensure that press statements are not made which would jeopardize a criminal investigation or eventual prosecution.

ISSUE PAPER NO. 6

PROPOSAL: That a policy be established for active responses to terrorist threats and incidents.

RESPONSE: Any policy drafted by the National Coordinator for Combating Terrorism for submission to NSC for approval should be reviewed and approved by all cognizant agencies and the President. In addition, under the sample criteria proposed in this issue, the FBI would suggest an addition to the "status of forces for preemptions, reaction, or retaliation"; under this criterion, it would be important to add the possible use of assistance from indigenous forces to support preemptions, reactions, or retaliation. It is also in the U.S. interest to make available to foreign governments any technical assistance by the U.S. Government such as the use of the FBI Laboratory in the investigation of the killing of the four Marines in El Salvador and the General Dozier kidnaping case.

ISSUE PAPER NO. 7

PROPOSAL: The Department of State should initiate a two-track effort to secure international agreements for combating terrorism.

RESPONSE: The Department of Justice should be included in the cognizant activity list of this issue.

ISSUE PAPER NO. 8

PROPOSAL: The State Department should conduct a review of the U.S. situation with respect to extradition arrangements.

RESPONSE: The Department of Justice should be included in the cognizant activity list of this issue.

ISSUE PAPER NO. 9

PROPOSAL: The National Coordinator will maintain a list of current options for responses to terrorist threats or incidents.

RESPONSE: The FBI agrees.

ISSUE PAPER NO. 10

PROPOSAL: The Office of the Coordinator for combating terrorism will coordinate and oversee a program of simulating various realistic terrorist problems.

RESPONSE: The FBI supports this proposal, but points out that FBI participation in such exercises or crisis simulations is at the expense of operational activity. Continuous investigative responsibilities place a heavy burden on the Bureau's limited resources. For this reason, FBI participation in exercises is contingent upon careful preplanning so that the necessary budgetary and manpower allocation decisions can be made in a timely fashion.

ISSUE PAPER NO. 11

PROPOSAL: An intelligence fusion center for terrorism should be established under the Director of Central Intelligence.

RESPONSE: The FBI supports an intelligence fusion center for terrorism to which the FBI would have total access. However, the FBI has certain legal and policy prohibitions regarding the input of information relating to U.S. persons into a data base accessible to other agencies. The FBI, therefore, proposes that a second intelligence fusion center for domestic terrorism matters be created and managed by the FBI. It should be stressed that the proper function for an intelligence fusion center is analytical support and that such a center should not be confused with a command center for operational decision making.

ISSUE PAPER NO. 12

PROPOSAL: Hostage family liaison.

RESPONSE: The FBI agrees .

ISSUE PAPER NO. 13

PROPOSAL: To focus national and international attention on the actual nature of terrorist threats.

RESPONSE: The FBI agrees.

ISSUE PAPER NO. 14

PROPOSAL: The White House should establish a high-level panel to meet and negotiate with the media to formulate a system of voluntary restraint for the media during a terrorist incident.

RESPONSE: The FBI believes that the media must be persuaded to police itself and to set its own policies for self-imposed discipline. It is suggested that the President convene a panel of distinguished journalists for the purpose of creating a code of conduct, but that no effort be made by the Government to negotiate a system of voluntary restraint. The FBI does not believe that such negotiation would be acceptable to the media.

ISSUE PAPER NO. 15

PROPOSAL: The Department of Justice should pursue legislation which makes murder of U.S. citizens outside our borders a Federal crime under U.S. laws.

RESPONSE: The Senate currently has under consideration Bill S.1429 which addresses this issue.

ISSUE PAPER NO. 16

PROPOSAL: Early deployment of counterterrorist forces to a safe location near a terrorist incident.

RESPONSE: The FBI agrees.

ISSUE PAPER NO. 17

PROPOSAL: The National Coordinator for Combating Terrorism should develop an aggressive Public Affairs strategy designed to announce U.S. counterterrorist capabilities while stringently protecting particular missions, tactics, and procedures.

RESPONSE: The FBI agrees as long as the Public Affairs strategy does not compromise tactical abilities or sensitive techniques and methods. The FBI has used this strategy with regard to its Hostage Rescue Team, and it is thought that there has been some deterrent effect.

ISSUE PAPER NO. 18

PROPOSAL: That the Department of Justice and Department of State review the provisions of the ITAR and other Federal laws and statutes to determine if additional legislation is needed to ensure the training and support of terrorists is not permitted under U.S. law.

RESPONSE: The Department of Justice is currently trying to formulate a Memorandum of Understanding between the Department of Justice and the Department of State to address the concerns in this issue.

ISSUE PAPER NO. 19

PROPOSAL: That the National Coordinator for Combating Terrorism should convene a working group to develop legislative proposals for simplified consulting and reporting to the Congressional Oversight Committee.

RESPONSE: The FBI agrees.

ISSUE PAPER NO. 20

PROPOSAL: The CIA should undertake an expanded HUMINT collection effort against terrorism targets.

RESPONSE: The FBI agrees.

ISSUE PAPER NO. 21

PROPOSAL: The CIA should establish a paramilitary capability to be inserted into a location to prevent or preempt a terrorist incident.

RESPONSE: The FBI has no comment.

ISSUE PAPER NO. 22

PROPOSAL: The State Department in concert with the Department of Defense should develop a phased-program to explore the multilateral CT strike force concept.

RESPONSE: The FBI believes that if a multilateral CT strike force could be created, it would have to be through multinational organizations such as NATO, SEATO, or the U.N. which have the ability to support operational forces. The FBI notes that organizations such as INTERPOL or the TREVI Group collect and exchange information only and do not have operational capability.

ISSUE PAPER NO. 23

PROPOSAL:

RESPONSE:

ISSUE PAPER NO. 24

PROPOSAL: To increase coordination with law enforcement elements domestically and overseas to combat terrorism.

RESPONSE: Liaison between the U.S. Government and law enforcement elements overseas should be handled by the FBI. The FBI believes that its system of Legal Attaches is capable of effecting the liaison necessary to obtain terrorist-related law enforcement intelligence needed by all U.S. agencies. Enhancement of this existing capability is the best answer to increasing the flow of intelligence. Any effort by intelligence agencies such as the CIA to cultivate relationships with foreign law enforcement officials could well work to the detriment of the entire community in that it could undercut the FBI's activities in this regard. The FBI's experience has been that law enforcement officials the world over are more comfortable cooperating with law enforcement agencies such as the FBI.

ISSUE PAPER NO. 25

PROPOSAL: The Department of State should expedite the authority for payment of rewards in cases involving terrorist incidents.

RESPONSE: This is no longer viewed by the FBI as a problem. Rewards have been offered for the apprehension of subjects in the TWA 847 hijacking case as in the case of four U.S. Marines killed in El Salvador.

ISSUE PAPER NO. 26

PROPOSAL: International informant incentives to support the program to combat terrorism should be implemented.

RESPONSE: The FBI agrees.

ISSUE PAPER NO. 27

PROPOSAL: That the Department of Justice should pursue legislation which makes terrorism a criminal offense.

RESPONSE: The FBI does not support the creation of legislation criminalizing terrorism, per se. We believe that such legislation would experience definitional problems and would also provide the terrorist with an opportunity to publicize his cause, since motivation would necessarily be an element of the offense. We have found it possible to prosecute terrorists effectively through the use of criminal statutes proscribing the types of activity normally engaged in by terrorists. Legislative efforts to strengthen our counterterrorism posture should be devoted to improving or adding statutes that pertain to specific criminal offenses.

ISSUE PAPER NO. 28

PROPOSAL: The Department of Justice should pursue legislation to enact a death penalty for hostage taking.

RESPONSE: In light of recent developments in terrorist incidents overseas, it would appear that a death penalty might complicate the process of extraditing terrorists from other countries to the U.S.

ISSUE PAPER NO. 29

PROPOSAL: Department of Justice should pursue legislation to modify the FOIA to exclude applicants who are non-U.S. citizens.

RESPONSE: The FBI defers response in this issue to Department of Justice.

ISSUE PAPER NO. 30

PROPOSAL: An interdepartmental career development program should be encouraged for intelligence analysts to devote themselves to addressing terrorism as a speciality.

RESPONSE: The FBI fully supports this proposal and has already created this career path within the FBI.

ISSUE PAPER NO. 31

PROPOSAL: To establish a national committee on psychological operations to combat terrorism.

RESPONSE: The FBI agrees.

ISSUE PAPER NO. 32

PROPOSAL: The State Department should take the lead in upgrading existing systems or recommending the development of a new computerized system to monitor cross-border people movements.

RESPONSE: The FBI agrees.

ISSUE PAPER NO. 33

PROPOSAL: The State Department should take the lead in an international review and reaffirmation of provisions of the Vienna Convention.

RESPONSE: The FBI defers to State Department.

ISSUE PAPER NO. 34

PROPOSAL: The Department of Transportation should draft an appropriate international treaty or other formal agreement which could prevent hijacked aircraft flyaway.

RESPONSE: The FBI agrees.

ISSUE PAPER NO. 35

PROPOSAL: The Department of State should arrange briefing for U.S. officials overseas on U.S. policy, resources and capabilities committed to combating terrorism.

RESPONSE: The FBI agrees.

ISSUE PAPER NO. 36

PROPOSAL: To direct FEMA to identify U.S. infrastructure vulnerabilities.

RESPONSE: Currently the FBI is conducting cooperative vulnerability studies with the Department of Defense, Department of Energy and others. While the FBI agrees that this type of study has value, and agrees that FEMA could have a role, the FBI does not agree that FEMA should take the lead role in this effort.

ISSUE PAPER NO. 37

PROPOSAL: The Department of Justice should pursue legislation that would make it a Federal offense to obstruct a DOE nuclear shipment.

RESPONSE: The FBI defers to the Department of Justice for comment.

ISSUE PAPER NO. 38

PROPOSAL: The Department of Justice should pursue legislation to permit nuclear reactor licensees access to FBI criminal history files.

RESPONSE: Currently the Department of Energy and the Nuclear Regulatory Commission does have access to FBI criminal and identification files through the executive agency name check process.

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NSC

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